



DISCIPLINE CASE *DIGEST*

Case 15-17

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| Member: | Michele (“Michael”) Capozzi |
| Jurisdiction: | Winnipeg, Manitoba |
| Called to the Bar: | June 28, 1984 |
| Particulars of Charges: | Professional Misconduct (2 Charges): <ul style="list-style-type: none">▪ Breach of Rules 5-42(1) and 5-42(7) of the <i>Rules of the Law Society of Manitoba</i> [failure to maintain up-to-date trust records]▪ Breach of Rule 5-42(2) of the <i>Rules of the Law Society of Manitoba</i> [failure to produce monthly trust reconciliations] |
| Plea: | Guilty |
| Date of Hearing: | March 21, 2016 |
| Panel: | <ul style="list-style-type: none">▪ Wendy Stewart (Chair)▪ Donald Knight, Q.C.▪ Miriam Browne (Public Representative) |
| Date of Decision: | Oral Decision: March 21, 2016 |
| Counsel: | <ul style="list-style-type: none">▪ Danny Gunn for The Law Society of Manitoba▪ Member Self Represented |
| Disposition: | <ul style="list-style-type: none">▪ Fine of \$1,500.00▪ Costs of \$1,000.00 |

Breach of Trust Accounting Rules

Facts

From January 2014 until after a Law Society Spot Audit conducted on October 8, 2014, Mr. Capozzi failed to keep his trust accounting records current. Specifically, he did not make entries in his trust book of original entry on a current basis, though individual client trust ledgers were kept up to date. He had made no entries in his book of original entry after December 2013 despite the fact that there were transactions in 2014. During the same period of time Mr. Capozzi did not produce monthly trust reconciliations before the end of each following month as required. As of October 8, 2014 the last trust reconciliation he had produced was for the month of December 2013. He was, therefore, eight months behind. After the spot audit Mr. Capozzi immediately brought his records and reconciliations up to date and as of the date of the hearing advised the Panel that his records

continued to be up to date. Mr. Capozzi had previously (in 2009) been disciplined for, amongst other things, breach of trust accounting rules.

Plea

Mr. Capozzi entered a guilty plea to both charges.

Decision and Comments

The Panel accepted Mr. Capozzi's plea of guilty to both charges. They accepted a joint recommendation as to penalty.

Penalty

The Panel ordered that Mr. Capozzi be fined \$1,500.00 and that he pay a contribution to the Society's costs of \$1,000.00.