



DISCIPLINE CASE *DIGEST*

Case 16-02

Member:	Cameron Peter Wagner
Jurisdiction:	Minnedosa, Manitoba
Called to the Bar:	July 23, 2012
Particulars of Charges:	Professional Misconduct (4 Counts): <ul style="list-style-type: none">▪ Breach of Rule 2.1-1 of the <i>Code</i> [breach of integrity – misleading the Law Society and misleading client] [x2]▪ Breach of Rule 7.2-1 of the <i>Code</i> [duty to lawyers – failing to respond to communications]▪ Breach of Rule 3.2-1 of the <i>Code</i> [quality of service]
Plea:	Guilty
Date of Hearing:	August 26, 2016
Panel:	<ul style="list-style-type: none">▪ David Gray (Chair)▪ Lori Ferguson Sain▪ Keely Richmond (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for The Law Society of Manitoba▪ Gavin Wood for the Member
Date of Decision:	Oral Decision: August 26, 2016
Disposition:	<ul style="list-style-type: none">▪ Fine of \$2,500.00▪ Mr. Wagner's practising certificate, if and when he should ever apply for resumption of active practising status, shall be made subject to the restriction that he shall not practise family law (which shall include acting in any matter that would, if litigated, be a "family proceeding" as defined by s. 41 of The Court of Queen's Bench Act) except if:<ul style="list-style-type: none">(i) He has notified the Society of the date upon which he intends to begin to practise family law;(ii) He practises family law under the supervision of a lawyer approved by the Society for a period of one year from the date of such notification;(iii) He continues to practise family law under supervision after the completion of one year until the supervisor has advised the Society in writing that he or she is of the opinion that Mr. Wagner has demonstrated competency to practise family law;(iv) The supervisor has given his or her undertaking to meet regularly with Mr. Wagner while he remains under supervision to review his conduct of family law matters

and to evaluate Mr. Wagner's practise of family law and report his or her evaluation of Mr. Wagner's competence to the Society monthly, and at the end of the year;

(v) Within one year from such notification he shall participate in 3 hours of Continuing Professional Development activities approved by the Society as relevant to the practice of family law.

- Costs of \$3,500.00

Integrity / Duty to Lawyers / Quality of Service

Facts

Failure to Serve

Mr. Wagner was retained in August 2013 to act in a divorce matter, specifically to resolve property, child custody and support matters. The client believed that her spouse was not providing accurate financial information and instructed Mr. Wagner to formally examine for discovery. Mr. Wagner did not take any steps through to the termination of his retainer in June 2015 to examine for discovery, either orally or by interrogatories. In response to the complaint, Mr. Wagner told the Society that he did not have confidence in his ability to construct discovery questions. He had not, however, advised the client about his concerns and did not seek revised instructions.

On August 14, 2014 an interim consent order was pronounced. Mr. Wagner undertook to prepare the Order for signing. He did not provide a form of consent order for consideration by opposing counsel until October 2014. He received the comments of opposing counsel with suggested revisions on October 24, 2014 but had not responded to those comments and had not prepared a revised order, or otherwise taken steps to have the interim order completed and signed by the time his retainer was terminated in June 2015.

In October 2014, the client completed a form of Summary of Assets and Liabilities for use in a proposed accounting proceeding. The client completed a second such Summary in December 2014. Mr. Wagner did not, however, file either Summary. In response to the complaint, Mr. Wagner said that he considered the Summary deficient. He did not, however, advise the client of this, did not seek instructions for a revised Summary and did not advise the client that no Summary had been filed in court.

Failing to Respond to Opposing Counsel

Between March 2014 and April 2015, Mr. Wagner received 10 letters from opposing counsel that required a response. He responded in a timely fashion to only 2 of the letters. He responded to a third letter dated April 26, 2015 on June 16, 2015.

Inaccurate Reporting to Client

Between June 2014 and March 2015, Mr. Wagner provided to his client copies of letters that appeared to have been sent to opposing counsel and that made it appear that he was taking certain steps to pursue her case, when in fact, those letters had not been sent and he had not taken steps to which they referred. When questioned by his client as to why the opposing lawyer had not responded in a timely fashion to one of those letters, Mr. Wagner told her that his letter to opposing counsel had been lost in the mail when, in fact, he had never sent it. He also told her

that each of the two Summary of Assets and Liabilities forms that she had completed had been submitted to Court for filing when, in fact, they had not been submitted.

Inaccurate Responses to the Society

In his initial response to the Society, Mr. Wagner made 4 statements asserting facts as to his supposed communications with opposing counsel which were not true. He also enclosed copies of 3 letters that appeared to have been sent to opposing counsel and appeared to support his assertions when those letters had not been sent.

Plea

Mr. Wagner entered a guilty plea to all charges.

Decision and Comments

The Panel accepted the joint recommendation made by counsel for the Society and for Mr. Wagner. They considered that Mr. Wagner's conduct represented a serious ethical fault causing serious damage to the reputation of the profession. While the conduct was of a kind that might attract a more serious disposition, the Panel considered that in this particular case the recommendation was fair, reasonable and appropriate. They took into account Mr. Wagner's relative inexperience, that this appeared to be an isolated incident in a particular area of practice and that Mr. Wagner demonstrated an understanding of the seriousness of his misconduct and of its effects.

Penalty

The Panel accepted the joint recommendation and ordered that Mr. Wagner be fined \$2,500.00.

The Panel ordered that Mr. Wagner's practising certificate, if and when he should ever apply for resumption of active practising status, shall be made subject to the restriction that he shall not practise family law (which shall include acting in any matter that would, if litigated, be a "family proceeding" as defined by s. 41 of *The Court of Queen's Bench Act*) except if:

- (i) He has notified the Society of the date upon which he intends to begin to practise family law;
- (ii) He practises family law under the supervision of a lawyer approved by the Society for a period of one year from the date of such notification;
- (iii) He continues to practise family law under supervision after the completion of one year until the supervisor has advised the Society in writing that he or she is of the opinion that Mr. Wagner has demonstrated competency to practise family law;
- (iv) The supervisor has given his or her undertaking to meet regularly with Mr. Wagner while he remains under supervision to review his conduct of family law matters and to evaluate Mr. Wagner's practise of family law and report his or her evaluation of Mr. Wagner's competence to the Society monthly, and at the end of the year;
- (v) Within one year from such notification he shall participate in 3 hours of Continuing Professional Development activities approved by the Society as relevant to the practice of family law.

The Panel ordered that Mr. Wagner pay the sum of \$3,500.00 to the Society as a contribution toward the costs associated with the investigation, prosecution and hearing of the matter.