



DISCIPLINE CASE *DIGEST*

Case 16-03

Member:	Michael James Stienstra
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 17, 2004
Particulars of Charges:	Professional Misconduct (2 Counts): <ul style="list-style-type: none">▪ Breach of Rule 3.2-1 of the <i>Code</i> [quality of service]▪ Breach of Rule 7.2-5 of the <i>Code</i> [duty to lawyers]
Plea:	Guilty
Date of Hearing:	September 7, 2016
Panel:	<ul style="list-style-type: none">▪ Douglas A. Bedford (Chair)▪ Richard I. Good▪ Neil Cohen (Public Representative)
Date of Decision:	Oral Decision: September 7, 2016
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for The Law Society of Manitoba▪ Gavin Wood for the Member
Disposition:	<ul style="list-style-type: none">▪ Fine of \$1,500.00▪ Costs of \$3,500.00

Quality of Service / Duty to Lawyers

Facts

While acting for a client in a domestic matter, Mr. Stienstra received correspondence from opposing counsel that required a response, but he did not respond. Opposing counsel first wrote to Mr. Stienstra on July 29, 2014 requesting that he be provided with certain information that Mr. Stienstra's client had previously agreed to provide and proposed terms for the settlement of certain issues. Opposing counsel made follow up requests on August 15, 2014, September 4, 2014, September 22, 2014 and October 23, 2014 to which Mr. Stienstra did not respond. Opposing counsel received the information required and response to his proposal only in a Case Management Information Statement served on November 24, 2015, two days before a scheduled Case Conference.

On July 16, 2014, Mr. Stienstra's client advised him that she required either a completed separation agreement or a letter signed by her spouse in order to satisfy certain requirements of CRA as to child support claims. The client then scheduled a meeting with Mr. Stienstra on

August 7, 2014 at which time such a letter was prepared and Mr. Stienstra undertook to send it to opposing counsel, but he did not do so. In early November 2014, CRA gave notice that the letter was required no later than November 23, 2014 but despite being immediately informed of this, Mr. Stienstra advised leaving the matter to be dealt with at the November 26, 2014 Case Conference. As a result, CRA re-assessed the client's 2013 income tax return.

Agreement was reached at a Case Conference on November 26, 2014 as to the terms of a separation agreement and final order. The agreement addressed the issues relevant to CRA's requirements. The Order was to be prepared and submitted "forthwith". Mr. Stienstra's client asked that the separation agreement be finalized before she was required to file her 2014 tax returns in April 2015. The client followed up with telephone inquiries as to the status of the agreement in December 2014 and in January, February, March and April, 2015 but Mr. Stienstra took no steps to see to the preparation of the agreement or order during that time. A draft agreement was prepared by opposing counsel and provided to Mr. Stienstra on April 27, 2015 but Mr. Stienstra did not provide a copy to his client until May 7, 2015 and neither the separation agreement nor the final order had been finalized by the time the client discharged Mr. Stienstra in May 2015.

Plea

Mr. Stienstra entered a guilty plea to two charges of professional misconduct.

Decision and Comments

The Panel accepted Mr. Stienstra's guilty plea and based on his admissions contained in the agreed facts found him guilty of two counts of professional misconduct. He failed to move his client's matter along when it was clearly important to her that issues be addressed in a timely fashion. The Panel noted that Mr. Stienstra had voluntarily made contact with the Society's Practice Management Advisor and had received material and suggestions dealing with time management. They noted also, that Mr. Stienstra's firm had recently hired a junior lawyer whom Mr. Stienstra could call upon for assistance with his work.

Penalty

The Discipline Committee Panel accepted the joint recommendation of counsel for the member and for the Society and ordered that:

- (a) Mr. Stienstra be fined \$1,500.00; and
- (b) Mr. Stienstra pay \$3,500.00 to the Society as a contribution to the costs of the investigation and prosecution of the matter.