



DISCIPLINE CASE *DIGEST*

Case 16-04

Member:	Bonnie Lynne Gembey
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 15, 2000
Particulars of Charges:	Professional Misconduct (3 Counts): <ul style="list-style-type: none">▪ Breach of Rules 5-64(3) and 5-64(4) of the <i>Rules</i> [failure to respond to the Law Society]▪ Breach of Rule 7.1-1 of the <i>Code</i> and 5-72(2) of the <i>Rules</i> [failure to respond promptly and completely to the CIC of the Law Society]▪ Breach of Rule 7.1-1 of the <i>Code</i> and 5-64(3) and (4) of the <i>Rules</i> [failure to respond to the Law Society]
Plea:	Guilty
Date of Hearing:	September 6, 2016
Panel:	<ul style="list-style-type: none">▪ Anita Southall (Chair)▪ Donald Knight, Q.C.▪ Miriam Browne (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for The Law Society of Manitoba▪ Member Self Represented
Date of Decision:	Oral Decision: September 6, 2016
Disposition:	<ul style="list-style-type: none">▪ Reprimand (Count 1)▪ Fine of \$1,000.00 (Counts 2 and 3)▪ Ms Gembey's practising certificate be cancelled and a new one issued subject to the condition that for a period of 2 years, commencing no later than September 13, 2016 she may only practise law so long as there is in place an undertaking to the Society from a lawyer acceptable to the Society to:<ul style="list-style-type: none">(i) accept copies of all written communications from the Society to Ms Gembey;(ii) confirm with Ms Gembey that she has received and read each communication from the Society;(iii) communicate each such confirmation to the Society;(iv) monitor Ms Gembey's response to each such communication;(v) not withdraw from the undertaking except upon 30 days' notice to the Society and Ms Gembey.▪ Costs of \$2,500.00

Failure to Respond to the Law Society

Facts

The Society received a complaint from a client arising from Ms Gembey's handling of a domestic litigation matter, including a complaint that Ms Gembey had failed to deliver the client's file to the successor lawyer. On March 15, 2016, Ms Gembey received a "14 day letter" from Complaints Resolution Counsel seeking her response to the complaint. Ms Gembey did not respond within the time required but told the Complaints Resolution Counsel that she would respond by April 8, 2016. When Ms Gembey did not respond by April 8, 2016, she was sent a further letter requiring a response by April 20, 2016 to which she also did not respond.

Ms Gembey was then required to appear before the Complaints Investigation Committee on May 18, 2016. Upon that appearance, the Committee directed that Ms Gembey deliver the client's file to the Society by May 25, 2016 and directed that she provide her response to the substance of the client's complaint no later than June 20, 2016. Ms Gembey did not deliver the client file by May 25, 2016 and the Society obtained the file only on May 31, 2016, after follow up calls. Ms Gembey did not respond to the client's complaint by June 20, 2016.

On May 31, 2016 Complaints Resolution Counsel sent to Ms Gembey a letter seeking further information and requiring a response by June 20, 2016. Ms Gembey did not respond by June 20, 2016.

As a result of her failures to respond by June 20, 2016, Ms Gembey was required to appear before the Complaints Investigation Committee on July 6, 2016. The Society received her response to the complaint only upon that appearance.

Plea

Ms Gembey entered a guilty plea to all three charges of professional misconduct.

Decision and Comments

The Discipline Committee Panel accepted Ms Gembey's guilty plea and considered the agreed statement of facts. They accepted a joint recommendation as to disposition. The Panel emphasized the importance of the cooperation of members in the investigation of complaints and of compliance with governance obligations of the Society. The confidence of the public in lawyers and in the ability of the Society to protect the public interest is undermined when a member fails to comply with their obligations.

Penalty

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

1. be reprimanded on the first charge of failing to respond to the Society;
2. pay a fine of \$1,000.00 on the charge of failing to respond to the Complaints Investigation Committee and the second charge of failing to respond to the Society;
3. pay costs of \$2,500.00 to the Society as a contribution to the costs of the investigation and prosecution of the matter; and that,

4. Ms Gembey's practising certificate be cancelled and a new one issued subject to the condition that for a period of 2 years, commencing no later than September 13, 2016 she may only practise law so long as there is in place an undertaking to the Society from a lawyer acceptable to the Society to:
 - (i) accept copies of all written communications from the Society to Ms Gembey;
 - (ii) confirm with Ms Gembey that she has received and read each communication from the Society;
 - (iii) communicate each such confirmation to the Society;
 - (iv) monitor Ms Gembey's response to each such communication;
 - (v) not withdraw from the undertaking except upon 30 days' notice to the Society and Ms Gembey.