



DISCIPLINE CASE *DIGEST*

Case 17-03

Member:	Adeline Lorraine Degner
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 15, 2000
Particulars of Charge(s):	Professional Misconduct (5 Counts): <ul style="list-style-type: none">▪ Breach of Rule 7.2-5 of the <i>Code</i> [Duty to Lawyers – failure to respond to communications] [x2]▪ Breach of Rule 3.2-1 of the <i>Code</i> [Quality of Service] [x3]
Plea:	Guilty
Date of Hearing:	June 5, 2017
Panel:	<ul style="list-style-type: none">▪ Donald Douglas (Chair)▪ Richard Good▪ Susan Boulter (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for The Law Society of Manitoba▪ Steve Vincent for the Member
Date of Decisions:	Oral Decision: June 5, 2017 Reasons for Decision: July 14, 2017
Disposition:	<ul style="list-style-type: none">▪ Fine of \$1,500.00▪ Costs of \$6,500.00▪ Within one year, take and successfully complete a Time Management Course acceptable to the Law Society▪ Immediately consult with the Law Society's Practice Management Advisor for the purpose of seeking advice as to the management of her practice and the Advisor is to be asked to provide written recommendations which Ms Degner shall follow

Duty to Lawyers / Quality of Service

Facts

In a family law matter, Ms Degner's client and the opposing party reached an agreement pursuant to which, amongst other things, Ms Degner's client was to have transferred to her, the interest of her ex-spouse in the former marital home. This required that the client re-finance so as to end the other party's obligations under the existing mortgage. When Ms Degner received the new lender's

mortgage instructions, she advised opposing counsel that she was proceeding to file the necessary documents in court to complete the transfer and that she would confirm as soon as the new mortgage was registered. Having not heard further from Ms Degner for over a month, opposing counsel wrote to her on June 5, June 23 and July 21, 2015, but Ms Degner did not respond. Opposing counsel then wrote to a senior associate in Ms Degner's firm on August 13, 2015, but Ms Degner still did not respond until August 25, 2015 when she advised that she would not be completing the transfer.

In second family law matter, Ms Degner met with her client on May 21, 2015 and took instructions for the preparation of a certain court document. She told her client that she would be in contact the following week to arrange an appointment to review the document, but she did not contact the client when she said she would. The client then sent six emails to Ms Degner between June 8 and July 21, 2015 and made several calls to Ms Degner's office throughout June and July 2015, but Ms Degner did not respond to the client at all.

In an estate matter, Ms Degner obtained the grant of probate for her executor client on February 12, 2015 and in March and April 2015, she received and began acting on instructions as to administration of the estate. Beginning in May 2015 however, she ceased to communicate with the executor. The executor made repeated efforts to communicate with Ms Degner by email and by phone between May 21 and November 10, 2015, but received no response from Ms Degner

In a second estate matter, Ms Degner was retained by the widow of the deceased to apply for administration of the deceased's estate. Ms Degner received communication from a lawyer representing the deceased's first spouse and the children of the earlier marriage, who claimed to have rights in respect of the estate. Ms Degner was formally retained in early December 2015 and pursued the matter through late January 2016. Thereafter, she did not communicate with either her client or the lawyer for the other interested parties. She received emails from her client on February 25, April 7 and April 25, 2016 seeking information as to the progress of the matter, but she did not respond. The client also made several attempts to communicate with Ms Degner during this period by leaving phone messages, by attending at her office and by leaving messages in person, but Ms Degner did not communicate with the client. She also received communications throughout this period from the lawyer for the other parties including letters faxed on January 25, February 8 and March 3, 2016 and phone messages to which she did not respond. In early May 2016, the client retained other counsel who wrote to Ms Degner on May 10, 2016 requesting the client's file material. The new lawyer followed up with a telephone message May 16, 2016 and a fax and phone message on June 6, 2016, but Ms Degner did not respond. The new lawyer received the file only after a complaint was made to the Law Society.

Plea

Ms Degner entered a guilty plea to the five charges of professional misconduct.

Decision and Comments

In accepting the joint recommendation of counsel for the Law Society and counsel for the Member, the Panel took into account the extraordinarily difficult working circumstances the member faced during the relevant time and that she credibly expressed remorse for her conduct.

Penalty

The Panel accepted the joint recommendation and ordered that:

1. Ms Degner pay a fine of \$1,500.00;

2. Ms Degner pay \$6,500.00 to the Law Society as a contribution to the costs of the investigation and prosecution of these matters;
3. Ms Degner successfully complete, within one year, a Time Management Course acceptable to the Law Society; and
4. Ms Degner immediately consult with the Law Society's Practice Management Advisor for the purpose of seeking advice as to the management of her practice. The Advisor is to be asked for written recommendations and Ms Degner is to follow those recommendations.