



# DISCIPLINE CASE *DIGEST*

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Case 17-04

<b>Member:</b>	John David Laurence Soper
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 25, 1992
<b>Particulars of Charges:</b>	Professional Misconduct (4 Counts): <ul style="list-style-type: none"><li>▪ Breach of Rule 5-43(1) of the <i>Rules</i> [failure to deposit trust money into pooled trust account upon receipt]</li><li>▪ Breach of Rule 5-53.1(2) of the <i>Rules</i> [failure to issue and maintain receipt]</li><li>▪ Breach of Rule 3.7-1 of the <i>Code</i> [failure to notify client of firm change and advising client of their options]</li><li>▪ Breach of Rule 5-118(1) of the <i>Rules</i> [failure to make reasonable efforts to obtain and record client identification information]</li></ul>
<b>Plea:</b>	Guilty
<b>Date of Hearing:</b>	May 26, 2017
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Jacob Janzen (Chair)</li><li>▪ Irene Hamilton</li><li>▪ Carmen Nedohin (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Rocky Kravetsky for The Law Society of Manitoba</li><li>▪ Member Self Represented</li></ul>
<b>Date of Decision(s):</b>	Oral Decision: May 26, 2017 Written Reasons: July 19, 2017
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Fine of \$3,500.00</li><li>▪ Costs of \$3,500.00</li></ul>

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## Breach of Accounting Rules / Duty on Changing Firms / Client Identification Rules

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### Facts

In August 2015, Mr. Soper was retained by B.C. and J.C. on a municipal matter. On each of two occasions, Mr. Soper received \$250.00 towards fees and disbursements. On both occasions, the monies were deposited directly into his personal bank account rather than into his trust account.

On one of those occasions, the monies were paid in cash. On neither occasion did Mr. Soper issue a receipt. In particular, when cash was received he did not issue a receipt and retain a copy signed by the payer and himself. Mr. Soper did not obtain current personal contact information from B.C. and J.C. In October 2015, Mr. Soper left the firm with which he was then practising. He did not advise B.C. and J.C. of his departure. As a consequence, B.C. and J.C. had difficulty locating Mr. Soper. Draft correspondence Mr. Soper sent to B.C. and J.C. for review, did not reach them. Mr. Soper was finally discharged by B.C. and J.C. in January 2016.

### **Plea**

Mr. Soper entered a guilty plea to the four charges of professional misconduct.

### **Decision and Comments**

The Panel commented that there is no suggestion in this case of misappropriation or that the monies were unearned. There was no lasting effect on the clients. They were inconvenienced but not prejudiced.

The Panel was presented with a joint recommendation as to disposition and considered that they were obligated by the applicable public interest test to accept the recommendation. The Panel was satisfied in any event, that the joint recommendation was fair and balanced. They noted that after 20 years of practise unblemished by disciplinary offences, Mr. Soper has recently compiled an unenviable record of non-compliance. Mr. Soper's transgressions are of governance requirement and not integrity, but raise an apprehension as to whether he remains a governable member. The disposition took into account the need to protect the public interest, while extending to Mr. Soper the opportunity to demonstrate that he is able to comply with the governance requirements of the Law Society.

### **Penalty**

The Panel accepted the joint recommendation and ordered that Mr. Soper be fined \$3,500.00 and that he pay the sum of \$3,500.00 to the Law Society towards costs associated with the investigation and prosecution of this matter.