



DISCIPLINE CASE *DIGEST*

Case 18-03

Member:	Michael John Law
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 24, 1993
Particulars of Charges:	Professional Misconduct (3 Charges): <ul style="list-style-type: none">▪ Breach of Rule 5-43(1)(a) of the <i>Rules</i> [failure to deposit trust money into pooled trust account as soon as practicable after receipt]▪ Breach of Rule 3.6-1 of the <i>Code</i> [charged and accepted a fee not fully disclosed, in that a statement of account was not delivered to client]▪ Breach of Rules 5-48.1(1) and 5-48.1(3) of the <i>Rules</i> [received money that was not trust money in payment of accounts receivable and did not deposit that money into any general account or record payment in general book of original entry and in accounts receivable register]
Plea:	Guilty
Date of Hearing:	October 10, 2018
Panel:	<ul style="list-style-type: none">▪ Douglas Bedford (Chair)▪ Grant Mitchell, Q.C.▪ Maureen Morrison (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for The Law Society of Manitoba▪ Saul Simmonds for the Member
Date of Decision:	Oral Decision: October 10, 2018
Disposition:	<ul style="list-style-type: none">▪ Suspension (1 year)▪ Costs of \$6,000.00▪ Treatment, Monitoring and Reporting Conditions▪ Restrictions against handling trust funds or practising as a sole practitioner for first two years after return to active practising status

Breach of Trust and General Accounting Rules

Facts

While practising law as a partner and associate in a law firm, on 28 occasions between 2010 and June 2015, Mr. Law opened a file on the firm's accounting system for his client, obtained retainer funds from his client but did not deposit those funds into a pooled trust account. On 20 other occasions, Mr. Law accepted retainer funds from his client, but did not open a file on the firm's accounting system and did not deposit those funds into a pooled trust account. In each of those 48 instances, Mr. Law applied the retainer funds to fees and disbursements, but did not deliver a statement of account to the client. On four other occasions, Mr. Law received money to pay accounts receivable, which is to say that was not trust money, but he did not deposit that money in the firm's general account and did not record the account or the receipt in the firm's general book of original entry and its account receivable register.

Plea

Mr. Law entered a guilty plea to the three charges of professional misconduct.

Decision and Comments

The Panel accepted Mr. Law's guilty plea and accepted a joint recommendation as to disposition made by his counsel and counsel for the Law Society. In so doing, the Panel observed that joint recommendations should not be lightly ignored but commented that absent the joint recommendation, they would have considered a greater punitive aspect to the disposition. The Panel was satisfied that, in whole, the joint recommendation contained aspects that certainly met the public protection purpose of the disciplinary process. They took into account that Mr. Law had practised safely and with distinction for 20 years, had no discipline record and that he had been cooperative throughout the investigation. Where the clients had not received valuable services, he had made restitution. In addition, Mr. Law had come to terms with the law firm and they wished him well.

An important consideration was that Mr. Law had been under the influence of an addiction to cocaine that caused him to behave in a manner inconsistent with his otherwise good character and that he had, since being interim suspended in June 2015, taken significant steps toward recovery from that addiction, including both treatment and changes in his personal relationships.

Penalty

The Panel accepted the joint recommendation set out in detail in the appendix to their Reasons for Decision which consists of:

- a. A one year suspension from the date of the hearing;
- b. An order that Mr. Law pay the sum of \$6,000.00 as a contribution to the Law Society's costs;
- c. A requirement that Mr. Law be closely monitored by random testing for a period of one full year before returning to active practising status and one year after;
- d. A requirement that Mr. Law abstain from the non-medical use of drugs;
- e. A requirement that Mr. Law remain under treatment of an approved mental health professional for a full year before returning to active practising status and for one year after; and
- f. A requirement that for the first two years of continuous active practising status, Mr. Law may practise only in a firm or organization and may not handle money.