



DISCIPLINE CASE *DIGEST*

Case 19-01

Member:	Member A
Jurisdiction:	Manitoba
Called to the Bar:	June 24, 1982
Nature of Hearing:	Pardon Application
Date of Hearing:	May 9, 2019
Panel:	<ul style="list-style-type: none">▪ Richard Good (Chair)▪ Roberta Campbell▪ Neil Cohen (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for The Law Society of Manitoba▪ Member Self Represented
Date of Decision:	May 9, 2019
Disposition:	Pardon Granted

Pardon Application

Facts

In 2008, Member A was charged and pled guilty to two counts of professional misconduct. The Hearing Panel ordered that Member A be reprimanded for his conduct and that he pay costs.

Member A had represented himself on the sale of real property with a possession date of July 24, 2006. The solicitor for the purchaser imposed a trust condition whereby upon being advised that title had issued into the purchaser's name, Member A was obliged to immediately attend to the payment of an existing mortgage and to provide to the solicitor a registerable Discharge of Mortgage. Member A was advised on July 18, 2006 that title had issued into the purchasers' names. Member A failed to discharge the mortgage until March 23, 2007, notwithstanding numerous requests from the purchaser's solicitor that he do so.

In the same matter, the purchasers' solicitor advised on March 7, 2007 that unless Member A immediately provided a satisfactory response as to when he would receive a Discharge of Mortgage, the matter would be reported to the Law Society. In response, on that same day, Member A advised that the mortgage on the property had been paid out but not discharged. In fact, the mortgage was not paid out until March 23, 2007.

The member applied for a pardon from a conviction in sentencing pursuant to Law Society Rule 5-101.1(1)(b).

Decision and Comments

The Panel considered whether Member A met the required criteria for a pardon as per Rule 5-101.1(3). It also considered whether a pardon would be appropriate under all the circumstances, as per 5-101.1(5)(b). The Panel determined that the threshold criteria under Rule 5-101.1(3) had been met. The agreed statement of facts showed that Member A had not accepted a formal caution or been found guilty of any other charges of professional misconduct, conduct unbecoming, or incompetence since the date of his conviction in 2008. Ten years had passed since the date of the conviction. The agreed statement of facts disclosed no charges pending against the member and no complaints about the member under investigation. The member had paid the Law Society all money owing to it. Finally, there was no disclosure that a discipline panel had granted any previous application by the member under this rule. The Panel also placed significant weight on the fact that the Law Society did not oppose the Member's application. The Panel resolved that the application for pardon should be granted.