



# DISCIPLINE CASE *DIGEST*

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Case 11-03

<b>Member:</b>	Michele Lynn Madick
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 28, 1979
<b>Particulars of Charges:</b>	Professional Misconduct (2 Counts): <ul style="list-style-type: none"><li>▪ Breach of Chapter 1 of the <i>Code of Professional Conduct</i> [integrity]</li><li>▪ Breach of Chapter 11 of the <i>Code of Professional Conduct</i> [charging a fee that was not fully disclosed, fair and reasonable]</li></ul>
<b>Plea:</b>	Guilty
<b>Date of Hearing:</b>	June 9, 2011
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Ellen P. Leibl, Q.C. (Chair)</li><li>▪ Vivian E. Rachlis</li><li>▪ Marla Garinger Niekamp (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Darcia A.C. Senft for The Law Society of Manitoba</li><li>▪ Unrepresented</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Reprimand</li><li>▪ Costs of \$2,000.00</li></ul>

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## Breach of Integrity/Excessive Fees

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### Facts

In June, 2009, Ms Madick was retained by her clients with respect to the sale of their jointly owned apartment building. She did not advise her clients that she would be charging them fees based on a rate of \$300.00 per hour. Ms Madick charged her clients a block fee and sent them a statement of account seeking payment for legal fees in the sum of \$22,900.00. Her clients questioned her legal fees and made a complaint to the Society. Ms Madick subsequently agreed to have the fee issue resolved pursuant to a fee arbitration hearing.

A fee arbitration hearing was held on April 29, 2010. At the hearing, Ms Madick advised the arbitration panel that typically this type of legal matter would involve approximately 8 – 10 hours of time. Ms Madick provided an itemized list of activities to her clients and to the arbitration panel which demonstrated a total of 110 hours of time and legal fees of \$33,000.00 which was reduced to the sum of \$22,900.00 plus taxes and disbursements. The itemized list of activities was not a valid reflection of work done on the file and could not be substantiated by Ms Madick.

At the conclusion of the fee arbitration hearing, the arbitration panel reduced Ms Madick's legal fees to the sum of \$3,000.00 plus taxes and disbursements. Following the decision of the arbitration panel, Ms Madick forwarded to her clients a cheque in the sum of \$22,288.00 in compliance with the decision that had been rendered.

After the fee arbitration hearing and in response to inquiries from the Society, Ms Madick explained that the statement of account sent to her clients had been prepared in error, based upon her notes – an explanation that was not provided during the fee arbitration hearing where she attempted to justify her legal fees.

### **Plea**

Mr. Madick agreed to enter a guilty plea with respect to the 2 charges of professional misconduct that had been authorized.

### **Decision and Comments**

The panel found Ms Madick guilty of the charges based on her admissions and made a finding that she was guilty of professional misconduct.

### **Penalty**

The panel accepted the joint recommendation made by counsel for the Law Society and by Ms Madick. Accordingly, the panel ordered that Ms Madick be reprimanded and also ordered that she pay costs to the Society in the amount of \$2,000.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.