



DISCIPLINE CASE *DIGEST*

Case 12-02

Member:	Member A
Called to the Bar:	June 29, 1978
Nature of Hearing	Pardon Application
Date of Hearing:	June 19, 2012
Panel:	<ul style="list-style-type: none">▪ David Kroft (Chair)▪ Ellen Leibl, Q.C.▪ Neil Cohen (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ C. Kristin Dangerfield for The Law Society of Manitoba▪ Member Self Represented
Disposition:	Pardon Granted

Pardon Application

Facts

Member A was convicted in 1986 of two counts of professional misconduct. The member had represented both the vendor and purchaser of real property. At their request, the member drafted a Transfer of Land and Statement of Adjustments, and proceeded to register the Transfer of Land when the documents falsely understated the purchase price of the property in order to confer a tax benefit upon the vendor. In the Affidavit of Value in the Transfer of Land sworn by the member he deposed as to the value of the property, and stated that his opinion of value was based on the consideration paid at fair market value in an arm's length transaction. In fact, to the member's knowledge the consideration paid for the property was in excess of that stated in the Transfer of Land, the sale was not between arm's length parties, and the vendor and purchaser had agreed to understate the consideration. The member entered a plea of guilty for failing in his duty of candour and honesty and for failing to discharge his duties with integrity. The member was reprimanded and fined \$750.00 and ordered to pay costs in the amount of \$300.00.

The member applied for a Pardon from his conviction pursuant to Law Society Rule 5-101.1.

Decision and Comments

Member A met all of the criteria under Law Society Rule 5-101.1. The Law Society was therefore not opposed to the application. The Discipline Panel considered whether it ought to exercise its discretion under Rule 5.101(3)(b) to grant a Pardon and the Panel noted that every case must be considered on its facts. The Panel considered the relative seriousness of the offence, the fact that no suspension was imposed at the time, the fact there had been no publication of the member's name and the absence of any subsequent discipline convictions or other civil or criminal proceedings over the course of the member's 26 years of practise. In the circumstances, the Panel determined that it was appropriate to grant the member's request for a Pardon.