



DISCIPLINE CASE *DIGEST*

Case 12-03

Member:	Member B
Called to the Bar:	June 26, 1986
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

In 1998 Member B was convicted of one count of professional misconduct for failing to comply with an Order to Pay for which she was reprimanded and ordered to pay costs to the Society in the amount of \$1,135.00. Member B had been retained by a client concerning domestic proceedings involving the client and her former common-in-law spouse. Member B handled the sale transaction for their marital property. An Order to Pay was executed by the couple, one of the terms of which was that once the transaction was concluded all of the remaining net proceeds of the sale would be held in trust by Member B's firm until all property issues were resolved between them. At the conclusion of the transaction Member B reported that the remaining net proceeds were being held in her trust account until the property issues were settled. Prior to all of the property issues being resolved, Member B distributed the half share of the net proceeds to her client. Member B believed that as no property claims had been brought by the former common-in-law spouse there was no prejudice to him in releasing the client's share of the net proceeds. In addition, the former common-in-law spouse was in arrears in his support payments at the time which seriously affected the client and which in Member B's belief justified release of her half share of the net sale proceeds.

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

Decision and Comments

Member B 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 5-101.1(3)(b) to grant a Pardon. The Panel considered that Member B had practised for 14 years with no other disciplinary intervention and had no criminal convictions or income tax concerns. The Panel noted the member's submission that she had matured over the years and had acknowledged the significant importance of trust conditions generally in her practice. The Panel concluded in all of the circumstances it was appropriate to grant the Pardon.