



# DISCIPLINE CASE *DIGEST*

---

Case 12-05

<b>Member:</b>	Douglas Albert Mayer
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 30, 1988
<b>Particulars of Charges:</b>	Professional Misconduct (2 Counts): <ul style="list-style-type: none"><li>▪ Breach of Rules 5-64(3) and (4) of the <i>Rules of the Law Society of Manitoba</i> [failing to respond to the Society] [x2]</li></ul>
<b>Plea:</b>	Not Guilty
<b>Date of Hearing:</b>	January 13, 2012 & July 12, 2012
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ James Hedley (Chair)</li><li>▪ Lindy Choy</li><li>▪ Miriam Browne (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ C. Kristin Dangerfield for The Law Society of Manitoba</li><li>▪ Member Self Represented</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Fine of \$1,500.00</li><li>▪ The member is required to take and successfully complete at his own expense, the Time Management course offered by the Education and Competence Department of the Society.</li><li>▪ Costs of \$4,500.00</li></ul>

---

## Failure to Respond

---

### Facts

Mr. Mayer received a letter dated July 5, 2011 from Law Society Discipline Counsel and was directed to provide a response within 14 days. He did not respond to the letter nor did he respond to follow-up letters dated July 27, 2011 and August 23, 2011. He was therefore directed to attend a meeting of the Complaints Investigation Committee on October 12, 2011. Mr. Mayer ultimately provided a response to the letter of July 5, 2011 on September 27, 2011. He appeared before the Complaints Investigation Committee on October 12, 2011 at which time he provided a further verbal response to the letter of July 5, 2011.

In respect of another matter Mr. Mayer received a letter dated July 20, 2011 from Law Society Discipline Counsel requesting a signed and written undertaking or alternatively a detailed response within 14 days. Mr. Mayer did not respond nor did he respond to follow-up letters dated

August 11, 2011 and September 2, 2011. Mr. Mayer ultimately provided a response to the letter of July 20, 2011 on September 28, 2011.

Mr. Mayer was charged with two counts of professional misconduct for failing to respond in writing to correspondence from Law Society Discipline Counsel.

### **Plea**

Mr. Mayer entered a plea of not guilty.

### **Decision and Comments**

Mr. Mayer admitted that he had received the 14 day letters and had failed to respond to them within the time prescribed. He stated that he was either on holidays or ill with a virus and therefore had been unable to respond as required. The panel concluded that Mr. Mayer did not have a reasonable excuse for failing to respond to the correspondence. He had ample opportunity to respond and was neither on holidays nor ill at the relevant times. While the panel did not make a finding that Mr. Mayer's conduct was dishonourable, his failure to comply with the Law Society Rules without a reasonable excuse was found to constitute professional misconduct.

### **Penalty**

The panel found Mr. Mayer guilty of both counts of professional misconduct and ordered that he be:

- (a) Fined the sum of \$1,500.00;
- (b) Required to take at his own expense and successfully complete the Time Management course offered by the Education and Competence Department of the Society; and
- (c) Required to pay to the Society the amount of \$4,500.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of this matter by December 31, 2013.