



DISCIPLINE CASE *DIGEST*

Case 12-08

Member:	Member C
Called to the Bar:	June 26, 1973
Nature of Hearing:	Pardon Application
Date of Hearing:	September 26, 2012
Panel:	<ul style="list-style-type: none">▪ William Gange (Chair)▪ Grant Stefanson▪ Suzanne Hrynyk (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Leah Kosokowsky for The Law Society of Manitoba▪ Michael T. Green for the Member
Disposition:	Pardon Granted

Pardon Application

Facts

Member C was convicted in 1994 of two counts of professional misconduct. The member had acted on behalf of clients whose matter settled. After his clients received their settlement funds and statements of account, the member failed to transfer the monies left in his trust account on account of fees to his general account. After a year or so, he then transferred various amounts from his trust account to his general account in relation to fees. The member also opened specific trust accounts purporting to be in trust for his clients when his clients had received all monies owing to them. He also posted disbursements to the clients' ledger card after the completion of their matter, which disbursements were on account of personal expenses. He created statements of account and covering letters to the clients to support the disbursements, but these letters were never sent. Finally, the member misled the Law Society Auditor by providing false explanations for the various disbursements on the files.

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

Decision and Comments

Member C 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 first considered the original conduct and noted that there was no misappropriation, no harm to the public or to the Law Society. The panel also noted that the conduct arose in the context of a private dispute between the member and his then wife. In relation to the misleading of the Auditor, the panel noted that

the member had repented quickly and thereafter cooperated fully with the investigation and pleaded guilty. The second factor that the panel took into consideration was the disposition of the original panel to impose a reprimand and costs and to exercise its discretion not to publish the conviction. The third factor considered by the panel was that 18 years had passed since the conviction and that the member had practised for 39 years with no other disciplinary intervention. The panel concluded that in all of the circumstances it was appropriate to grant the pardon.