



# DISCIPLINE CASE *DIGEST*

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## **Case 02-05**

**GEORGE BERNARD SCHMIDT**  
Morris, Manitoba

**Called to the Bar**  
June 26, 1968

**Particulars of Charges**  
Professional Misconduct

- failure to serve clients in a conscientious, diligent and efficient manner
- breach of trust condition

**Date of Hearing**  
May 28, 2002

**Panel**  
W.W.A. Riedel, Q.C. (Chair)  
R.A. Dewar, Q.C.  
Wm. G. Burns

## **Disposition**

- fine of \$1,000.00
- ordered to take Remedial Trust Conditions and Undertakings course
- costs of \$1,500.00

**Counsel**  
C.K. Dangerfield for The Law Society of Manitoba  
G.M. Wood for the Member

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**Failure to Serve Client / Breach of Trust Condition**

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## **Facts**

Mr. Schmidt was retained on a real estate transaction by the vendor, the purchaser and the mortgagee. Under the terms of the offer to purchase prepared by Mr. Schmidt, the vendor was to obtain subdivision approval by March 31, 2000. The purchaser had an option to cancel the transaction if the subdivision was not tentatively approved by that date.

Prior to taking steps to obtain the subdivision approval, Mr. Schmidt received mortgage funds from the mortgagee in trust, on condition that he would register security documentation in favour of the mortgagee. Mr. Schmidt immediately forwarded the funds to the vendor. Prior to disbursing the funds, Mr. Schmidt failed to have the purchaser execute any security documentation in favour of the mortgagee and failed to take any reasonable steps to proceed with the subdivision application on behalf of the vendor. In fact, in May, 2001, when the mortgagee requested the funds be forwarded to new counsel for the parties, no subdivision approval had yet been obtained. When the mortgagee demanded the return of the funds, Mr. Schmidt was unable to comply with the demand and was thereby in breach of the trust condition.

## **Decision and Comments**

The Committee accepted Mr. Schmidt's admissions and found that his actions constituted professional misconduct.

## **Penalty**

The Committee accepted the joint submission of counsel and ordered that Mr. Schmidt pay a fine of \$1,000.00. The Committee ordered that Mr. Schmidt's practicing certificate be cancelled and re-issued on the condition that Mr. Schmidt take, at his own expense, and successfully complete the Remedial Trust Conditions and Undertakings course and attend at a related program offered by the Legal Studies department of The Law Society of Manitoba. The Committee considered submissions made by counsel and ordered that Mr. Schmidt pay costs to the Society in the amount of \$1,500.00.

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