



DISCIPLINE CASE *DIGEST*

[Discipline Case Digest Index](#) ❖ [Law Society Home Page](#)

Case 02-06

OTTO GEORG AMENT
Winnipeg, Manitoba

Called to the Bar
June 25, 1974

Particulars of Charges
Professional Misconduct

- failing to comply with a Court Order;
- failing to pass accounts in accordance with the Court's direction;
- misleading client and the Court of Queen's Bench;
- misappropriation (x2);
- breaching trust account rules;
- failing to respond to the Law Society (x3);
- failing to produce working papers and legal research;
- misleading the Complaints Investigation Committee (x2)

Date of Hearing
May 15, 2002

Panel
J.F.R. Taylor, Q.C., (Chair)
D.N. Abra, Q.C.
P.C. Suche, Q.C.

Disposition

- Disbarment
- Costs \$25,000.00

Counsel
C.K. Dangerfield for The Law Society of Manitoba
Member Unrepresented

Misappropriation

Facts

On March 15, 2000 Mr. Ament was suspended from the practice of law by the Complaints Investigation Committee pending an inquiry into his conduct.

In 1990 Mr. Ament was appointed the Committee of the Estate of a minor who was found by the Court to be incapable of managing his affairs by reason of medical infirmity. Mr. Ament was ordered to pass his accounts within one year, however he failed to do so until May 1995. When his accounts were approved he was reminded to maintain itemized statements of account for legal services and to obtain court approval prior to disbursing funds on account of his fees or compensation. Mr. Ament failed to maintain itemized statements of account for his legal services. He transferred the sum of \$2,025.00 on account of compensation for services provided as Committee and \$1,278.00 on account of fees for his legal services without prior court approval. He thereby failed to comply with the Court's earlier direction. In the same matter Mr. Ament swore an Affidavit setting forth a proposed fee of \$1,242.50 for legal services. In fact, Mr. Ament had already transferred \$1,278.00 from his pooled trust account on account of those services, without prior court approval. He thereby misled his client and the court.

In respect of the same Committeeship, Mr. Ament misappropriated the sum of \$21,548.50 from his client between July 1, 1996 and August 2, 1999 by withdrawing from his pooled trust account monies purportedly on account of fees and disbursements, when in fact there were no such fees and disbursements owing to him. He also withdrew funds from a specific trust investment account and on five occasions applied trust funds on account of mortgage payments.

Mr. Ament misappropriated the further sum of \$33,179.89 from his pooled trust account between March 1, 1998 and February 11, 2002. On seven client matters Mr. Ament misappropriated trust funds, primarily by transferring funds from his pooled trust account to his general account for fees and disbursements without having issued a statement of account to the client and without the authority of the client. Mr. Ament also withdrew funds from his pooled trust account which were not posted to any client trust ledgers and which were not related to fees or disbursements owed to Mr. Ament by any clients who had funds in his pooled trust account.

Mr. Ament failed to comply with the requirements of the rules respecting accounts, and specifically Rule 128 of the *Rules of the Law Society* with respect to maintaining records for the period from August 1999 through to and including March 2000.

Mr. Ament failed on three occasions to reply to letters from the Law Society. Mr. Ament misled the Complaints Department and the Complaints Investigation when he advised that

statements of account were mailed to the minor for whom he had been appointed Committee and to the minor's parents, when he knew those statements to be incorrect. Mr. Ament failed to comply with a request from the Complaints Investigation Committee to produce working papers and legal research in respect of the Committeeship.

Decision and Comments

Mr. Ament entered a plea of guilty to 12 charges and the Committee found Mr. Ament guilty of professional misconduct. The Committee accepted the joint recommendation made by Mr. Ament and counsel for the Law Society and ordered that Mr. Ament be disbarred and his name struck from the Rolls of the Society. With respect to costs, Mr. Ament and counsel for the Law Society made submissions with respect to an appropriate order of costs. The actual costs incurred by the Society as at the date of the hearing were \$45,167.18. The Committee ordered that Mr. Ament pay the sum of \$25,000.00 to the Society as a contribution to the costs of the investigation and hearing of the matter.

Penalty

- Disbarment
- Costs of \$25,000.00

[Top of page](#)

[Index](#)