



DISCIPLINE CASE *DIGEST*

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Case 02-09

PAUL VICTOR WALSH, Q.C.
Winnipeg, Manitoba

Called to the Bar
June 26, 1968

Particulars of Charges
Professional Misconduct

- failure to serve client in a conscientious, diligent and efficient manner
- failure to observe a proper standard of conduct

Date of Hearing
January 22, 2003

Panel
H. Leonoff, Q.C. (Chair)
A. Sweatman, Q.C.
R. Krause

Disposition

- Fine of \$4,000.00
- Costs of \$2,000.00

Counsel
D. Senft for The Law Society of Manitoba
D. Margolis, Q.C. for the Member

Failure to Serve / Failure to Observe a Proper Standard of Conduct

Facts

In April, 1997, a client retained Mr. Walsh on a civil litigation matter where previous counsel had retained a business valuator to provide expert advice. In September, 1997, the client sought assistance from Mr. Walsh in dealing with the business valuator's outstanding accounts for services rendered. During the period from July, 1997 to February, 1998, Mr. Walsh was involved in discussions with both the client and the business valuator regarding the outstanding accounts and he received some of the correspondence that had been exchanged between the two parties.

In February, 1998, the client faxed to Mr. Walsh a copy of a demand letter that had been received from the valuator's lawyer and sought Mr. Walsh's immediate attention and advice. In April, 1998, a Statement of Claim was filed between the business valuator and the client, seeking judgment for the outstanding accounts.

In June, 1998, an Order for Garnishment (Before Judgment) was granted by the Court of Queen's Bench and, a few days later, on June 29, 1998, Mr. Walsh's firm was served with a Notice of Garnishment (Before Judgment).

On or about July 24, 1998, the client terminated Mr. Walsh's retainer in the related civil litigation matter. As of that date, Mr. Walsh had not informed the client that his firm had been served with the Notice of Garnishment (Before Judgment).

At the time when Mr. Walsh's firm was served with the Notice of Garnishment (Before Judgment), Mr. Walsh was acting as counsel for the client in the related litigation matter. At the time of service of the Notice on Mr. Walsh's firm, the firm was holding funds to the credit of the client in its pooled trust bank account.

Mr. Walsh failed to comply with the requirements of Queen's Bench Rule 60.08(9) or 60.08(11), which are made applicable to garnishment (before judgment) by Queen's Bench Rule 46.14(5) when he did not pay to the plaintiff valuator or into the Court of Queen's Bench, within 7 days, the sum that he was holding in his trust bank account at the time his firm was served with the Notice. He also failed to file a Garnishee's Statement with the court.

As of April, 2000, the date when counsel for the valuator complained about Mr. Walsh's conduct to the Law Society, Mr. Walsh had neither paid the sum in his pooled trust bank account to the valuator or the court, nor had he filed a Garnishee's Statement in compliance with the Queen's Bench Rules.

Decision and Comments

Mr. Walsh entered a plea of guilty to the charges of professional misconduct. The Committee accepted Mr. Walsh's admissions and found that his actions constituted professional misconduct. The Committee noted a particular concern about the fact that Mr.

Walsh had a number of previous convictions for failing to serve clients in a conscientious, diligent and efficient manner.

Penalty

The Committee accepted the joint submission of counsel and ordered that Mr. Walsh pay a fine of \$4,000.00 and costs to the Society in the amount of \$2,000.00 as a contribution towards the cost of the investigation, prosecution and hearing of the matter.

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