



# DISCIPLINE CASE *DIGEST*

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## **Case 03-02**

**BRIAN DOUGLAS BOWMAN**  
Winnipeg, Manitoba

**Called to the Bar**  
June 25, 1987

**Particulars of Charges**  
Professional Misconduct (46 counts)

- misappropriation (x12)
- failure to deposit funds into trust
- taking fees without sending bill to client
- breaching conditions of practice (x2)
- misleading the Complaints Investigation Committee
- breach of trust condition
- failure to act with courtesy
- failure to meet financial obligations
- failure to make employee remittances
- failure to serve clients (x10)
- failure to respond to the Society (x15)

**Date of Hearing**  
September 8, 2003

**Panel**  
R.C.M. Krause (Chair)  
J.W. Hedley  
B.G. Lee, Q.C.

## **Disposition**

- disbarment
- costs of \$10,000.00

**Counsel**  
D. Senft for The Law Society of Manitoba

## Misappropriation

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### Facts

With respect to twelve client matters, Mr. Bowman received monies from clients on account of retainers. However, he failed to deposit the trust funds into his trust account and misappropriated or converted to his own use the funds in question. The total of such funds taken by Mr. Bowman amounted to \$12,677.00.

On ten occasions, Mr. Bowman failed to deposit a total of \$3,496.75 received in trust into a pooled trust account in breach of former Law Society Rule 129(1)(a).

On five occasions, Mr. Bowman took a total of \$555.53 from clients on account of fees without preparing and sending a bill for fees and disbursements in breach of former Law Society Rule 129(1)(c).

On two occasions, Mr. Bowman breached conditions of practice that were imposed on him by the Complaints Investigation Committee by failing to provide funds totalling \$720.00 to a member who had been approved to act as his supervisor and who was to deal with monies that related to Mr. Bowman's law practice.

In an appearance before the Complaints Investigation Committee, Mr. Bowman misled the Committee when he indicated that three statements of account had been prepared by his former legal assistant, when to his knowledge, the accounts had not been prepared by her.

Mr. Bowman failed to comply with three trust conditions that had been imposed upon him by another lawyer in the course of a real estate transaction. In particular, he failed to provide a certain sum to opposing counsel to pay for a required application and encroachment license fee, he failed to provide opposing counsel with a registerable discharge of his client's mortgage and funds to cover the related registration costs and the cost of obtaining a certified status of title, and he failed to pay an outstanding water account. In connection with the same real estate transaction, he failed to treat opposing counsel with courtesy in that he failed to answer professional letters sent to him by opposing counsel on three occasions.

While acting for his client in a domestic matter, Mr. Bowman failed in his professional duty to meet financial obligations incurred or assumed in the course of his practice in that he failed to attend to payment within a reasonable time of an account that was prepared in relation to a home study report that had been ordered.

Between January 1, 2000 to about June 21, 2001, Mr. Bowman failed to remit to Revenue Canada on behalf of his law practice employee source deductions for Income Tax, Canada Pension and Employee Insurance in an amount totalling \$6,964.07.

With respect to ten client matters, Mr. Bowman failed to serve his clients in a conscientious, diligent and efficient manner in that he failed to respond to client telephone messages or failed to respond to reasonable requests from his clients for information about their legal matters, or he failed to pursue his clients matters in a timely manner.

On fifteen occasions, Mr. Bowman failed to respond to 14-day letters that were sent to him by his governing body.

### **Decision and Comments**

Through a Statement of Agreed Facts, Mr. Bowman entered a plea of guilty to the counts. He did not attend the hearing.

The panel found Mr. Bowman guilty of professional misconduct based on his admission to the charges.

As part of the Statement of Agreed Facts, Mr. Bowman made a joint proposal with the Law Society that he be disbarred and struck from the rolls and that he be required to pay costs in the amount of \$10,000.00 as a contribution towards the cost of the investigation, prosecution and hearing of the matter.

### **Penalty**

The panel accepted the joint recommendation and resolved that Mr. Bowman be disbarred and his name struck from the Rolls of the Law Society as a Barrister and Solicitor. Mr. Bowman was ordered to pay costs in the amount of \$10,000.00.

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