



DISCIPLINE CASE *DIGEST*

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Case 04-02

REMI CECIL SMITH
Winnipeg, Manitoba

Called to the Bar
June 28, 1979

Particulars of Charges
Professional Misconduct (6 counts)

- failure to respond to the Society (x4)
- breach of trust condition
- failure to file Form D

Date of Hearing
March 2 and April 21, 2004

Panel
L. R. McInnes, Q.C. (Chair)
G. R. Gilmour
S. L. Chapman

Disposition

- member granted permission to resign pursuant to Section 72(1)(g) of the *Legal Profession Act*
- costs of \$1,500.00

Counsel
C. K. Dangerfield for The Law Society of Manitoba
R. Guay for the Member

Failure to Respond

Facts

Between March 20, 2003 and April 30, 2003, Complaints Investigators for the Law Society wrote four letters to Mr. Smith relating to investigations into four separate matters. Each of the letters required a response within 14 days, however, Mr. Smith did not respond to one of the letters until July 15, 2003 and in the case of the other three, he failed to respond until August 5, 2003.

In respect of one of these matters, Mr. Smith represented his clients on the purchase of real property from an estate. Documents were forwarded to him on trust conditions, one of which required that upon meeting certain conditions he would immediately proceed to register transfer documentation in the land titles office. Upon completion of the registrations, he was to apply to the mortgagee for the mortgage proceeds, and upon receipt immediately forward the unpaid balance to the solicitor for the vendor, together with interest. The member made no attempt to register the Transfer of Land for approximately 6 weeks, at which time it was rejected for containing the wrong legal description. He obtained authorization to amend the Transfer of Land, but failed to submit it for registration until some two months later. The member forwarded the mortgage proceeds to the vendor's solicitor two months after that, and failed to forward the interest on the unpaid balance as he was required to do. The interest was paid some months later.

The member's Annual Trust Account Report (Form D) for the period July 1, 2002 to June 30, 2003 was to be filed on or before October 31, 2003. At the date of the hearing, the Annual Trust Account Report (Form D) had yet to be filed.

Plea

The member entered a plea of guilty to each of the charges.

Decision and Comments

The Panel found Mr. Smith guilty of professional misconduct based on his admission to the charges. The member and the Society made a joint submission that the member be granted permission to resign pursuant to Section 72(1)(g) of the *Legal Profession Act*.

Penalty

The Panel accepted the joint recommendation and resolved that Mr. Smith be granted permission to resign from the Society. Mr. Smith was ordered to pay costs in the amount of \$1,500.00.

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