



# DISCIPLINE CASE *DIGEST*

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## Case 05-01

**JAMES RONALD NADEAU**  
Winnipeg, Manitoba

**Called to the Bar**  
June 28, 1990

**Particulars of Charges**  
Professional Misconduct (10 counts)

- Breach of Rule 5-47(2)(a) (failure to file Form D)
- Breach of Rule 5-42(2) (failure to produce monthly trust reconciliation for all pooled and specific trust investment accounts)
- Breach of Rule 5-42(1)(a) (failure to maintain up-to-date trust records and supporting documentation for all pooled trust accounts and specific trust investment accounts, including a book or books of original entry) (x2)
- Breach of Rule 5-42(1)(b) (failure to maintain up-to-date trust records and supporting documentation for all pooled trust accounts and specific trust investment accounts, including a client trust ledger for each client and each legal matter) (x2)
- Breach of Rule 5-64(4) (failure to respond to the Society) (x2)
- Breach of c. 9 and 2 of the Code (failure to treat the tribunal with courtesy and respect and failure to serve client in a conscientious, diligent and efficient manner by failing to attend court to represent the interests of his client) (x2)

**Date of Hearing**  
February 24, 2005

**Panel**  
Heather S. Leonoff, Q.C. (Chair)  
Bjorn Christianson, Q.C.  
Grant L. Mitchell, Q.C.

## Disposition

- Fine of \$2,500.00
- Costs of \$2,500.00

## **Counsel**

Darcia A.C. Senft for The Law Society of Manitoba  
Saul B. Simmonds for the Member

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## **Breach of Accounting Rules; Failing to Treat Tribunal with Courtesy and Respect**

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### **Facts**

Mr. Nadeau failed to file his Annual Trust Account Report (Form D) for the trust year ending June 30, 2003 on or before the due date of October 31, 2003. Mr. Nadeau sought an extension of time to file his Form D and an extension was granted until November 24, 2003.

Following his failure to file the Form D by the deadline, an inspection of Mr. Nadeau's accounts was authorized. The Society's review of Mr. Nadeau's records disclosed that Mr. Nadeau had acted contrary to the rules respecting accounts by failing to:

- a. produce monthly trust reconciliations;
- b. maintain up-to-date trust records and supporting documentation, including a book or books of original entry; and
- c. maintain up-to-date trust records and supporting documentation, including a client trust ledger for each client and each legal matter.

Mr. Nadeau's completed Form D was not received until January 19, 2004. Following the Society's review of his Form D, the Society requested further information from Mr. Nadeau by way of a 14 day letter. However, Mr. Nadeau failed to respond to the letter.

Mr. Nadeau was retained by two clients with respect to two separate criminal law matters. Trial dates were set for both matters. Prior to the trial dates, Mr. Nadeau advised crown counsel that one of his clients might be willing to enter a guilty plea and requested that the matter be adjourned for sentencing. He also sought an adjournment with respect to the other matter. However, crown counsel refused Mr. Nadeau's requests for adjournments. Mr. Nadeau subsequently advised crown counsel that he was not going to attend the trials and advised the crown to cancel the witnesses that had been scheduled to appear for each matter. Mr. Nadeau then failed to attend in court in order to represent the interests of his clients.

After he was found guilty of being in contempt of court, the Society wrote to Mr. Nadeau seeking his written response to concerns that had arisen as a result of his failure to appear in court on behalf of his clients. However, Mr. Nadeau failed to respond to the Society's 14

day letter relating to these matters.

### **Plea**

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

### **Decision and Comments**

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

### **Penalty**

The panel accepted a joint recommendation made by the Society and counsel for Mr. Nadeau and resolved that Mr. Nadeau be fined \$2,500.00 and ordered to pay costs in the amount of \$2,500.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.

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