



DISCIPLINE CASE *DIGEST*

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Case 06-05

JAMES RONALD NADEAU
Winnipeg, Manitoba

Called to the Bar
June 28, 1990

Particulars of Charges
Professional Misconduct (5 counts)

- Breach of Rule 5-47(2)(a) (failure to file Form D)
- Breach of Rule 5-42(2) (failure to produce monthly trust reconciliations 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)
- 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)
- Breach of Rule 5-43(1)(j) (retained money, other than trust money, in pooled trust bank account)

Date of Hearing
June 19, 2006

Panel
Douglas E. Finkbeiner, Q.C., Chair
Bruce M. Sychuk
Celia E. Gorlick, Q.C.

Disposition

- Fine of \$2,000.00;
- Costs of \$1,500.00; and
- Cancellation and re-issuance of practicing certificate subject to the following conditions:
 - i. That monthly trust reconciliations be provided to the Society for the current month

- and each succeeding month for a 6 month period;
- ii. That the monthly trust reconciliations be provided to the Society no later than the end of the following month;
 - iii. That the said monthly trust reconciliations must be balanced with any errors corrected prior to submission to the Society; and
 - iv. That failure to comply with any of these conditions will result in an automatic suspension, with no reinstatement until the Society certifies that the lack of compliance has been remedied.

Counsel

Darcia A.C. Senft for The Law Society of Manitoba
Member Unrepresented

Failure to File Annual Trust Account Report (Form D)

Facts

Mr. Nadeau's Annual Trust Account Report (Form D) for his trust year ending June 30, 2004 was to be filed on or before November 1, 2004 pursuant to Rule 5-47(2)(a) of the *Rules of The Law Society of Manitoba*. He failed to file his Form D within the time prescribed by the Rules.

While Mr. Nadeau requested an extension of time to file his Form D, he was advised by the Society that his request was being denied as his request had not been submitted prior to the deadline.

It became apparent that Mr. Nadeau's trust records had not been kept current and that he was in breach of a number of trust accounting rules. The Society requested that Mr. Nadeau provide his written explanation regarding the delay in filing his Form D and the various trust accounting rules that had been breached. Counsel for Mr. Nadeau responded to the questions posed to Mr. Nadeau and Mr. Nadeau's Form D accountant completed the field work that was required to complete his outstanding Form D. The accountant advised the Society that Mr. Nadeau's trust records were not up-to-date when she began her review of his records. The accountant further advised the Society that she brought the records up-to-date as part of her review.

Mr. Nadeau's completed Form D was not received by the Society until February 17, 2005.

Upon considering the information obtained through its investigation, the Law Society determined that, in addition to his failure to file his Form D within the time prescribed by the Rules of the Law Society:

- a. Mr. Nadeau failed to produce monthly trust reconciliations for all pooled and specific trust investment accounts, as required by Rule 5-42(2) of the *Rules of The Law Society of Manitoba*.
- b. Mr. Nadeau failed 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 with respect to trust money held by him, as required by Rule 5 42(1)(a) of the *Rules of The Law Society of Manitoba*.
- c. Mr. Nadeau failed 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 with respect to trust money held by him, as required by Rule 5-42(1)(b) of the *Rules of The Law Society of Manitoba*.
- d. Mr. Nadeau retained money other than trust money in his pooled trust account, contrary to the requirements of Rule 5-43(1)(j) of the *Rules of The Law Society of Manitoba*.

Plea

Mr. Nadeau entered a plea of guilty to each of the charges.

Decisions 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 Mr. Nadeau and ordered that Mr. Nadeau pay a fine to the Society in the amount of \$2,000.00. The Committee also ordered that Mr. Nadeau's current Practising Certificate be cancelled and that a new Certificate be issued subject to the following conditions:

- a. That monthly trust reconciliations be provided to the Society for the current month and each succeeding month for a 6 month period;
- b. That the monthly trust reconciliations be provided to the Society no later than the end of the following month;
- c. That the said monthly trust reconciliations must be balanced with any errors corrected prior to submission to the Society; and
- d. That failure to comply with any of these conditions will result in an automatic suspension of Mr. Nadeau's Practising Certificate, with no reinstatement until the Society certifies that the lack of compliance has been remedied.

The Committee also ordered that Mr. Nadeau pay costs to the Society in the amount of \$1,500.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.

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