



DISCIPLINE CASE *DIGEST*

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Case 06-09

PAUL VICTOR WALSH, Q.C.
Winnipeg, Manitoba

Called to the Bar
June 26, 1968

Particulars of Charges
Professional Misconduct (3 counts)

- Breach of Chapter 2 of the Code of Professional Conduct [failing to serve client in a conscientious, diligent and efficient manner]
- Breach of Chapter 16 of the Code of Professional Conduct [failing to act with courtesy and good faith]
- Breach of Chapter 3, Commentary 11 of the Code of Professional Conduct [failing to be honest and candid when advising client]

Date of Hearing
May 1, 2006

Panel
Bjorn Christianson, Q.C. (Chair)
William G. Haight
Lawrence R. McInnes, Q.C.

Disposition

- 6 mo. Suspension
- Fine of \$25,000.00
- Costs of \$3,910.52

Counsel
Darcia A.C. Senft for The Law Society of Manitoba
Neil H. Kravetsky for the Member

Failure to Serve Client / Breach of Professional Duties

Facts

Mr. Walsh was retained to represent his client with respect to a domestic matter. He attended with his client at a Case Conference in June, 2003, at which time the terms of a final order under the Divorce Act were agreed upon. The Respondent's counsel was responsible for preparing the Order and it was expected that the Consent Order would be filed before July 1, 2003.

In June, 2003, Mr. Walsh received from the Respondent's counsel a draft of a revised Final Order which was sent to his client for her review. Shortly thereafter, Mr. Walsh received from his client a letter expressing her concerns about the draft Final Order. The client requested that Mr. Walsh contact the Respondent's counsel as soon as possible to correct the Final Order. Mr. Walsh failed to convey his client's concerns respecting the form of the Final Order to the Respondent's counsel.

In early July, 2003, Mr. Walsh received a letter from the Respondent's counsel inquiring as to whether the Final Order was acceptable. The Respondent's counsel requested an immediate response from Mr. Walsh with respect to the draft order and advised of her intention to file the Order without Mr. Walsh's consent in the event that he did not provide his response by a given date. Mr. Walsh failed to respond to the said letter.

At the end of July, 2003, Mr. Walsh received a further letter from the Respondent's counsel as to whether the Final Order was acceptable. The Respondent's counsel advised Mr. Walsh of her intention to file the Final Order for signing, along with copies of her correspondence to Mr. Walsh and that she intended to do so on a given date. Mr. Walsh failed to respond to the further letter from the Respondent's counsel.

In early August, 2003, the Respondent's counsel filed the Final Order with the court, without the consent of Mr. Walsh. The said Final Order was signed by the Court in early September, 2003. Upon receipt of the Final Order from the Court of Queen's Bench, Mr. Walsh forwarded a copy to his client. Mr. Walsh failed to advise his client that the Final Order was filed and signed without her concerns having been addressed as a result of his error in failing to convey those concerns to the Respondent's counsel and in failing to respond to inquiries from the Respondent's counsel.

By way of a facsimile transmission, the client again advised Mr. Walsh of her concerns respecting the Order. The client also left telephone messages for Mr. Walsh requesting that he contact her. Mr. Walsh did not return the client's telephone calls.

Plea

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

Decisions and Comments

The panel found Mr. Walsh guilty of professional misconduct based on his admission to the charges. The panel noted that, standing in isolation, each charge might be characterized as falling on the scale somewhat closer to the "less serious" end of it. The panel recognized that it had a duty not to impose penalties that are disparate with penalties imposed in like situations. However, the panel further noted that overshadowing everything else on the issue of penalty was Mr. Walsh's prior discipline record. It was noted that Mr. Walsh had been disciplined by the Society, in some fashion, on 9 prior occasions. Significantly, many of these past convictions included similar breaches of the Code of Professional Conduct. The fact that Mr. Walsh's record had involved no greater penalty than a fine was the sole factor that dissuaded the panel from disbaring him.

Penalty

The panel ordered that Mr. Walsh be suspended from practising law for a period of 6 months for his conduct in this matter and that he pay a fine to the Society in the amount of \$25,000.00. An order for costs in the amount of 3,910.52 was also made.

Mr. Walsh filed an appeal to the Manitoba Court of Appeal from the panel's decision with respect to sentence. The appeal was dismissed on December 13, 2006.

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