



DISCIPLINE CASE *DIGEST*

Case 07-06

Member:	Eva Yee-Wah Luk
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 24, 1993
Particulars of Charges:	Professional Misconduct (14 counts): <ul style="list-style-type: none">▪ Breach of Rule 5-42(1) [failure to maintain up-to-date trust records and supporting documentation for all pooled and specific trust investment accounts, including a book or books of original entry and separate client trust ledgers]▪ Breach of Rule 5-42(2) [failure to produce a monthly trust reconciliation for all pooled and specific trust investment accounts]▪ Breach of Rule 5-42(3) [monthly trust reconciliations for all pooled and specific trust investment accounts were not printed for each month and were not supported by client lists showing the balance of trust money held in each client's trust ledger]▪ Breach of Rule 5-42(5)(a) [failed to produce a printed copy of the book or books of original entry immediately after each month]▪ Breach of Rule 5-42(7) [failed to enter and post the required transactions so that trust records were current at all times]▪ Breach of Rule 5-43(1)(b) [failed to make all withdrawals from a pooled trust account by consecutively numbered cheques]▪ Breach of Rule 5-43(1)(c) [withdrew money from pooled trust account for the recovery of fees or disbursements without statements of account being prepared and sent to each client at the time the funds were withdrawn]▪ Breach of Rule 5-43(1)(f) [various overdrawn client trust ledger accounts]▪ Breach of Rule 5-43(1)(h) [failing at all times to maintain sufficient balances on deposit in pooled trust bank account to meet all obligations with respect to trust money]▪ Breach of Rule 5-43(1)(i) [after obtaining verbal authority from the purchaser in a client matter, transferred funds to the vendor without subsequently confirming the purchaser's authorization in writing]▪ Breach of Rule 5-44(1)(b) [while a member of her former law firm, deposited funds belonging to clients into a specific trust investment account and after moving to a new firm and continuing to act for certain clients,

failed to record full details of the said funds in the trust records of the new firm]

- Breach of Rule 5-48.1(1)(a) and (b) [failed to maintain a general book of original entry and an accounts receivable ledger or other suitable system for the firm's general operating account]
- Breach of Rule 5-48.1(3) [failed to enter and post the firm's general operating accounts so that they were current at all times]
- Breach of Rule 5-53.1(2) [firm's book of duplicate receipts was not used in all cases where cash was received from or for a client; the name of the person from whom the cash was received was not always recorded in the book of duplicate receipts; and the persons who delivered the cash to the firm did not sign the receipts]

Date of Hearing: June 18, 2007

Panel:

- Joel A. Weinstein, Q.C. (Chair)
- Heather S. Leonoff, Q.C.
- Donna J. Miller, Q.C.

Disposition:

- Reprimand
- Costs of \$15,000.00

Counsel:

- Joe R. Gallagher for The Law Society of Manitoba
- Charles J. Phelan, Q.C. for the Member

Breach of Accounting Rules

Facts

In January, 2005, an auditor-inspector from the Society attended at Ms Luk's office to conduct an audit of the firm's trust account. The firm's trust records were not up-to-date in that the required monthly trust reconciliations had not been prepared and copies of the books of original entry had not been printed off and maintained. Following a letter from the Society and a response and an explanation from Ms Luk that her trust records were being maintained daily and were current, no further action was taken.

The auditor-inspector subsequently attended at the member's office in December, 2005 to conduct an audit of the firm's trust accounts. Serious deficiencies were found in Ms Luk's trust records including the fact that the latest trust reconciliation showed a negative balance exceeding \$4,000.00 in her trust account. While this trust audit was underway, a letter was received by the Society from a law firm advising that a trust cheque exceeding \$40,000.00, sent by Ms Luk to their firm in a real estate matter had been returned by her bank for insufficient funds. The cheque was replaced by a bank draft from the firm.

In December, 2005 Ms Luk provided an undertaking to the Society which provided, *inter alia*, that another member would conduct all trust transactions on her trust account, that Ms Luk would arrange for an operating line of credit in the event it was necessary to satisfy any cheques drawn on her trust account, that she would not sign any trust cheques, that she would hire an

accounting firm to bring her trust records up to date as soon as possible, that she would provide monthly trust reconciliations to the Society, that she would cooperate with the Society in the continuing investigation of the matter and that she would register for and complete the Society's remedial trust accounting course. A final reconciliation disclosed a shortfall of \$9,100.00 due to accounting errors which were corrected by Ms Luk.

Plea

Ms Luk entered a plea of guilty to the charges.

Decision and Comments

The Panel found Ms Luk guilty of professional misconduct based on her admission to the charges.

Penalty

The panel accepted a joint recommendation made by the Society and counsel for Ms Luk and ordered that:

- (a) Ms Luk be reprimanded for her conduct; and
- (b) Ms Luk pay \$15,000.00 to the Society as a contribution toward the costs of the investigation, prosecution and hearing of the matter.