



DISCIPLINE CASE *DIGEST*

Case 07-11

Member:	Gordon Walter Katelnikoff
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 24, 1975
Particulars of Charges:	Professional Misconduct (2 counts) <ul style="list-style-type: none">▪ Breach of Rule 5-42(2) [failure to produce a monthly trust reconciliation for all pooled and specific trust investment accounts]▪ Breach of Rule 5-43(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]
Date of Hearing:	December 18, 2007
Panel:	<ul style="list-style-type: none">▪ Bjorn Christianson, Q.C. (Chair)▪ Brian A. Pauls▪ Lori C. Ferguson Sain
Disposition:	<ul style="list-style-type: none">▪ Fine of \$1,500.00▪ Costs of \$1,500.00
Counsel:	<ul style="list-style-type: none">▪ C. Kristin Dangerfield for The Law Society of Manitoba▪ Member Unrepresented

Breach of Accounting Rules

Facts

In February 2005, Mr. Katelnikoff was involved in the purchase of real property for his own use. On February 10, 2005, Mr. Katelnikoff attended at his bank in order to have a bank draft drawn on his personal account in the amount of \$22,475.91, and then deposited into the pooled trust account. This represented his portion of the purchase price. The bank, in error, drew the bank draft on his pooled trust account. Accordingly, when the bank draft was deposited to the pooled trust account, it resulted in a nil change in the pooled trust account balance. On February 15, 2005, Mr. Katelnikoff prepared and forwarded a trust cheque in the amount of \$22,475.91 to the vendor's solicitor in order to complete his purchase.

As a result of the transaction, Mr. Katelnikoff's trust account was short in the amount of \$22,475.91. Mr. Katelnikoff was therefore in breach of Rule 5-43(1)(h) of the *Rules of The Law Society of Manitoba*.

Mr. Katelnikoff was unaware of the shortfall between February 15, 2005 and July 26, 2005 due to his failure to produce monthly trust reconciliations for his pooled trust account as was required by the end of March, April, May and June 2005. Mr. Katelnikoff was therefore in breach of Rule 5-42(2) of the *Rules of The Law Society of Manitoba*.

On July 26, 2005 Mr. Katelnikoff's accountant notified him of the error which was identified during the course of her year end review, and he immediately replaced the funds in his pooled trust account.

Plea

Mr. Katelnikoff entered a plea of guilty to the charges.

Decision and Comments

The panel found Mr. Katelnikoff guilty of professional misconduct based on his admissions to the charges.

Penalty

The panel ordered that Mr. Katelnikoff pay a fine of \$1,500.00 to the Society. The panel acknowledged that the initial shortfall in the trust account arose by virtue of a bank error. However, this was mitigated by the fact that Mr. Katelnikoff had previously taken a remedial trust accounting course, yet still hadn't fully appreciated his obligation to comply with the trust accounting rules.

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