



DISCIPLINE CASE *DIGEST*

Case 08-05

Member:	David Hirsch Davis
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 29, 1989
Particulars of Charges:	Professional Misconduct <ul style="list-style-type: none">▪ Breach of Rule 5-43(1)(f) [overdrew 33 individual client trust ledger accounts by failing to deposit or cause to be deposited into pooled trust account trust money as soon as practicable after receipt]
Date of Hearing:	January 8, 2008
Panel:	<ul style="list-style-type: none">▪ Robert A. Dewar, Q.C., Chair▪ William R. Johnston▪ Jon van der Krabben
Disposition:	<ul style="list-style-type: none">▪ Reprimand▪ Costs of \$2,500.00
Counsel:	<ul style="list-style-type: none">▪ Darcia A.C. Senft for The Law Society of Manitoba▪ Rocky Kravetsky for the Member

Failure to Deposit Funds to Trust Account

Facts

Over the course of 11 months from January 2005 through to and including November 2005, trust monies totalling \$29,471.79 were deposited in error into Mr. Davis' general account as a result of a problem with a service provider in respect of payments made through a credit card. The error was noted by Mr. Davis and he instructed his support staff to follow up on the matter. However, the problem with the service provider and the bank was not resolved and trust monies continued to be deposited into the general account.

As a result of Mr. Davis' failure to deposit or cause to be deposited into his pooled trust bank account the trust monies as soon as practicable, he overdrew 33 individual client trust ledgers. Mr. Davis reviewed and signed off on his monthly trust reconciliations and was in a position to take steps to rectify the errors that had been made. However, he failed to do so until the Law Society brought its concerns regarding the situation to his attention and directed that a specified sum be deposited into his pooled trust bank account. Upon transferring those monies, the problem occurred again and the Law Society again directed Mr. Davis to deposit a specified sum into his trust account. The situation was not fully rectified until December 16, 2005.

Plea

Mr. Davis entered a plea of guilty to the charge.

Decision and Comments

The Panel found Mr. Davis guilty of professional misconduct based on his admission to the charge. The Panel noted that an innocent error from a service provider was compounded by Mr. Davis' failure to correct it within a reasonable period of time. The conduct warranted a charge and a conviction.

Penalty

The Panel accepted the joint submission of counsel for the Law Society and counsel for Mr. Davis and ordered that:

- (a) Mr. Davis be reprimanded for his conduct; and
- (b) Mr. Davis pay \$2,500.00 to the Society as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.