



# DISCIPLINE CASE *DIGEST*

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Case 09-06

<b>Member</b>	Timothy Neil Taylor
<b>Jurisdiction</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 25, 1987
<b>Particulars of Charges:</b>	Professional Misconduct (4 counts): <ul style="list-style-type: none"><li>▪ Breach of Chapter 1 of the <i>Code of Professional Conduct</i> [misappropriation by accepting payment of fees personally, contrary to terms of partnership agreement]</li></ul>
<b>Date of Hearing:</b>	December 18, 2008
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Brian A. Pauls, Chair</li><li>▪ Roger B. King, Q.C.</li><li>▪ Karen L. Clearwater</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ 1 month Suspension</li><li>▪ Upon return to practice, the member will practice for a period of 18 months under the supervision of a member approved by the Society, and only in association with a law firm</li><li>▪ Costs of \$8,000.00</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Joe R. Gallagher for The Law Society of Manitoba</li><li>▪ William G. Haight for the Member</li></ul>

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## Breach of Integrity

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### Facts

Mr. Taylor was a shareholder in a law firm, and pursuant to a shareholders agreement, he was required to devote his full time and attention to the firm. He was also prohibited from retaining any remuneration received as a result of activities related to the practice of law outside of the law firm.

Over a period of time between March 2005 and November 2006, Mr. Taylor provided services to clients in return for which he collected payments which were properly the property of the law firm. In one instance, Mr. Taylor wrote off the sum of \$1,161.07 owing by the client to the firm, and then collected the sum of \$1,000.00 directly from the client, converting the funds to his own use. In a second matter, Mr. Taylor issued a statement of account in the name of his law corporation in which he wrote off time recorded by the firm, and accepted from the client a cheque in the

amount of \$339.00 payable to him personally. With respect to a third matter, Mr. Taylor prepared a statement of account for the law firm with respect to unbilled disbursements and applicable taxes. The account was paid by way of a cheque from the client to the law firm. Mr. Taylor also prepared and sent the client a statement of account for his unbilled time and applicable taxes, and requested that the client make the cheque payable to him personally. In a fourth matter, Mr. Taylor sent a statement of account to the client showing a reduction in legal fees from \$710.00 to \$60.00 plus disbursements and taxes for a total of \$150.00. He sent a separate bill on behalf of his law corporation in which he reduced his fees from \$650.00 to \$300.00, and requested that the client make the cheque payable to him personally. Mr. Taylor then directed an assistant to write off the unbilled time and disbursements owed by the client to the firm.

When the payments to Mr. Taylor came to the attention of the law firm, Mr. Taylor reimbursed the law firm for its share of all monies he actually received in respect of the statements of account issued by him.

### **Plea**

Mr. Taylor entered a plea of guilty to the four charges of professional misconduct.

### **Decision and Comments**

The Law Society sought a suspension of Mr. Taylor's practicing certificate for a period of six months and requested that his practising certificate be made subject to the condition that he be supervised for a period of eighteen months, during which time he would be required to practice in association with a law firm. Counsel for Mr. Taylor requested that the panel impose a fine in lieu of a suspension in the range of \$5,000.00 to \$10,000.00.

### **Penalty**

The panel was of the view that the protection of the public required that a suspension be imposed, and suspended Mr. Taylor's practising certificate for a period of one month. In addition, the panel imposed conditions upon Mr. Taylor's return to the practice of law that he practice under the supervision of another member of the Law Society for a period of eighteen months and that during that time he:

- (i) Practice only in association with a law firm;
- (ii) That he not have signing authority on any trust account; and
- (iii) That he seek medical treatment and follow any treatment plan that is recommended, and provide periodic reporting in respect of same.

In making its order, the panel took into account the fact that the four acts occurred over a very short time frame, a small amount of money was involved, full restitution had occurred immediately, the member had a clean record and a number of character references had been provided.

The panel also ordered that Mr. Taylor pay \$8,000.00 towards the costs associated with the investigation, prosecution and hearing of the matter.