



# DISCIPLINE CASE *DIGEST*

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Case 09-07

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| <b>Member:</b>                 | Harley Jerome Greenberg  |
| <b>Jurisdiction:</b>           | Winnipeg, Manitoba   |
| <b>Called to the Bar:</b>      | June 23, 1983  |
| <b>Particulars of Charges:</b> | Professional Misconduct (2 counts) <ul style="list-style-type: none"><li>▪ Breach of Chapters 1 and 6 of the Code of Professional Conduct (acting in breach of fiduciary obligation, conflict of interest and breach of integrity)</li><li>▪ Breach of Chapter 16 of the Code of Professional Conduct (failure to comply with trust condition)</li></ul> |
| <b>Date of Hearing:</b>        | May 25, 2009   |
| <b>Panel:</b>                  | <ul style="list-style-type: none"><li>▪ Robert A. Dewar, Q.C. (Chair)</li><li>▪ Lawrence R. McInnes, Q.C.</li><li>▪ Lori Ferguson Sain</li></ul>   |
| <b>Disposition:</b>            | <ul style="list-style-type: none"><li>▪ Reprimand</li><li>▪ 30 day suspension</li><li>▪ Costs of \$8,000.00</li></ul>  |
| <b>Counsel:</b>                | <ul style="list-style-type: none"><li>▪ Sandra L. Chapman for The Law Society of Manitoba</li><li>▪ Rocky Kravetsky for the Member</li></ul>   |

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## Conflict of Interest / Breach of Integrity

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### Facts

Mr. Greenberg was retained to represent a client with respect to her separation from her husband, and subsequently in respect of criminal charges arising from allegations that she harassed her husband. He was also retained with respect to the sale of the marital home. In the course of representing the client, Mr. Greenberg failed to conduct himself with integrity, acted in breach of the fiduciary obligation that was owed by him to his client, and acted when his personal interests and those of his client were in conflict.

While representing the same client, Mr. Greenberg received from her husband's counsel documents which were sent in trust on the condition that he would have his client sign an Order to Pay, and would pay the balance owing to the husband. In accordance with the trust condition, Mr. Greenberg forwarded to the other counsel a trust cheque in the amount of \$9,202.90, representing the balance owing to the client's husband. The trust cheque was subsequently

returned stale dated to him with a request that he provide a new cheque, in accordance with the trust condition. Mr. Greenberg failed to provide a new cheque and paid out from the funds \$2,189.94 on account of his fees and disbursements, and the balance was paid to his client. In doing so Mr. Greenberg breached a trust condition imposed upon him by another lawyer.

### **Plea**

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

### **Decision and Comments**

The panel found Mr. Greenberg guilty of professional misconduct based on his admission to the charges.

### **Penalty**

The panel accepted a joint recommendation made by the Society and counsel for Mr. Greenberg and suspended him for a period of 30 days, commencing on July 15, 2009 for having breached Chapters 1 and 6 of the Code of Professional Conduct. He was reprimanded for having breached the trust condition. Mr. Greenberg was also ordered to pay the sum of \$8,000.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.