



# DISCIPLINE CASE *DIGEST*

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Case 09-09

<b>Member:</b>	<b>Gerald Gregory Brodsky, Q.C.</b>
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	December 23, 1963
<b>Particulars of Charges:</b>	Professional Misconduct (2 counts) <ul style="list-style-type: none"><li>▪ Breach of Chapter 1 of the Code of Professional Conduct [failure to act with integrity by requesting and receiving payment for legal services without accounting for such payment to his law firm.]</li><li>▪ Breach of Rule 5-43(1)(a) of The Law Society Accounting Rules [failing to deposit retainer to pooled trust account on two occasions]</li></ul>
<b>Date of Hearing:</b>	August 17, 2009
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Roger King, Q.C. (Chair)</li><li>▪ Jon van der Krabben</li><li>▪ Malcolm McDonald</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Fine of \$20,000.00</li><li>▪ Costs of \$19,000.00</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Richard Deeley, Q.C. for The Law Society of Manitoba</li><li>▪ David Hill for the Member</li></ul>

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## Breach of Integrity / Breach of Accounting Rules

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### Facts

In December 2005, Mr. Brodsky was retained by his client to defend certain criminal charges laid against him. The client attended at his office and provided a cheque in the amount of \$5,000.00 which was made payable to Mr. Brodsky's law firm. In March 2006, the client again attended at his office and provided a second cheque in the amount of \$5,000.00, payable to Mr. Brodsky's law firm. In August 2006, Mr. Brodsky telephoned the client and requested an additional sum of \$10,000.00 to be paid to him personally, as opposed to his law firm, for professional legal services to be performed. On August 17, 2006, the client provided Mr. Brodsky with a cheque, payable to him personally, in the amount of \$10,000.00. The cheque was not deposited into the pooled trust account of Mr. Brodsky's law firm, and on November 7, 2006 while attending at court, Mr. Brodsky produced to his client the original cheque dated August 17, 2006 and directed that the client change and initial the date on the cheque to that of November 7, 2006. On

November 10, 2006 Mr. Brodsky personally deposited the cheque for \$10,000.00 into his personal bank account rather than the pooled trust account of his law firm.

On December 4, 2006, Mr. Brodsky's law firm rendered a statement of account to the client in the total amount of \$12,100.00, which showed a credit for a trust transfer in the amount of \$10,000.00 made up of the two separate \$5,000.00 retainers paid to him previously. The statement of account did not make any reference to the cheque for \$10,000.00 paid to him personally. The statement of account was personally signed by Mr. Brodsky. Following a complaint from the client to the Law Society, Mr. Brodsky provided a refund to the client in the amount of \$10,000.00.

### **Plea**

Mr. Brodsky entered a plea of guilty to having requested and received payment from his client for professional legal services without accounting for such payment to his law firm. He also entered a plea of guilty to failing to deposit the sum of \$10,000.00 received on August 17, 2006 in his pooled trust account, and further, failing to deposit the sum of \$10,000.00 to his pooled trust account on or about November 7, 2006 after having his client change and initial the date on the cheque.

### **Decision and Comments**

The Panel found Mr. Brodsky guilty of professional misconduct based on his admission to the charges.

### **Penalty**

The Panel considered the lengthy practice history of the member and his contribution to the profession and the community and accepted the joint recommendation made by the Society and counsel for Mr. Brodsky and ordered that he pay a fine in the amount of \$20,000.00. Mr. Brodsky was also ordered to pay the sum of \$19,000.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter within 12 months.