



DISCIPLINE CASE *DIGEST*

Case 10-03

Member:	Ranjit Singh Walia
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	May 15, 1997
Particulars of Charges:	Professional Incompetence <ul style="list-style-type: none">▪ Breach of Chapters 1, 2, 3, 5 and 6 of the <i>Code of Professional Conduct</i>
Plea:	Guilty
Date of Hearing:	February 23, 2010
Panel:	<ul style="list-style-type: none">▪ John E. Neufeld (Chair)▪ Richard Good▪ Brian Pauls
Counsel:	<ul style="list-style-type: none">▪ C. Kristin Dangerfield for The Law Society of Manitoba▪ Rocky Kravetsky for the Member
Disposition:	<ul style="list-style-type: none">▪ Cancellation of practicing certificate and issuance of new practicing certificate subject to the conditions that Mr. Walia:<ul style="list-style-type: none">(i) practice under the supervision of a member of the Law Society of Manitoba;(ii) retain an accountant to be approved by the Law Society who will certify to the Law Society on a monthly basis that Mr. Walia's trust reconciliations are complete;(iii) provide to the Law Society an Undertaking that he<ul style="list-style-type: none">(a) will not practice in the area of criminal and family law;(b) will not represent family members;(c) will not act for more than one party to a transaction, except where representing a mortgagor and mortgagee on a purchase, provided that the mortgagee is a person or corporation ordinarily engaged in the business of lending and granting mortgages.(iv) take, at his own expense, and successfully complete remedial education through the Law Society of Manitoba, and in particular:<ul style="list-style-type: none">(a) an effective legal writing program;(b) an intensive professional responsibility and ethics program focused on conflicts; and(c) the real estate module of the CPLED program.

Mr. Walia was ordered to pay costs to the Society in the amount of \$5,000.00 as a contribution towards the costs of the investigation, prosecution and hearing of the matter, at the rate of \$200.00 per month, commencing on March 1, 2010.

Breach of Integrity and Conflict of Interest

Facts

Mr. Walia acted on a sale of a marital home owned by a husband and wife, and the husband's father. During the course of the representation Mr. Walia failed to recommend that the wife seek independent legal advice or representation with respect to the sale of the property. Concurrently Mr. Walia acted for the husband in the preparation of a petition for non-cohabitation which Mr. Walia personally served on the wife when she attended Mr. Walia's office to receive her share of the proceeds of sale. In doing so, Mr. Walia acted when there was likely to be a conflicting interest contrary to Chapter 5 of the *Code of Professional Conduct*.

Mr. Walia was retained to represent a client in respect of the purchase of a new home to be constructed. He failed to make progress payments on a timely basis, as a result of which his client incurred unnecessary interest charges. Mr. Walia therefore failed to serve his client in a conscientious, diligent and efficient manner so as to provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation, contrary to Chapter 2 of the *Code of Professional Conduct*.

While acting for the same client, Mr. Walia paid funds to the builder's solicitor on December 4, 2006 which resulted in the trust ledger for the client being overdrawn by the sum of \$1,453.90, until December 11, 2006, when he obtained the funds from his client and deposited them to his pooled trust account. Mr. Walia acted contrary to the requirements of Rule 5-43 (1)(f) of the *Rules of The Law Society of Manitoba*.

Mr. Walia was retained to act for the purchaser and vendor of real property. The vendor was a widow in ill health who agreed to sell the property in which she resided for \$4,700.00, and to lease the property back from the purchaser. The vendor had purchased the property two years previously for \$22,000.00. After paying the outstanding utility bills, legal fees and a rent deposit and adjustments, Mr. Walia paid to the vendor the sum of \$809.52 from the sale proceeds. Mr. Walia knew or ought to have known, or acted with recklessness or was wilfully blind to the fact that the sale of property was not in the interests of the vendor. Mr. Walia failed to advise her of his long standing relationship with the purchaser, failed to advise her that it was not in her interest to enter into the transaction, and failed to advise her to obtain independent legal advice in respect of the transaction. By continuing to act in circumstances where there was, or was likely to be, a conflicting interest, Mr. Walia was in breach of Chapter 5 of the *Code of Professional Conduct*. In respect of the same client Mr. Walia charged a fee that was not fully disclosed, fair and reasonable when he withdrew from trust the sum of \$126.50 on account of fees for services without the authority of his client.

Mr. Walia acted for the purchasers and vendors of property owned jointly by a husband and wife. Mr. Walia determined on July 19, 2007 that the property was encumbered by a Caveat registered by the Trustee in Bankruptcy for the husband, who had declared bankruptcy on March 22, 2006. Mr. Walia proceeded to close the transaction on August 1, 2007 without (a) determining the effect of the bankruptcy on the husband's interest in the property and his ability to transfer his interest in the property, (b) obtaining the consent of the Trustee in Bankruptcy to the transaction, (c) notifying his purchaser clients of the husband's bankruptcy and the consequences thereof, or (d) advising the husband of the limitations on his ability to transfer his interest in the property to the purchasers. Mr. Walia provided a portion of the sale proceeds to a first mortgagee and to a creditor of the husband who had registered a mortgage on the property subsequent to the husband's bankruptcy. He did so without either determining the balance due to the creditor, or obtaining a Discharge of Mortgage from the creditor. Mr. Walia therefore failed to discharge the duty he owed to serve his purchaser clients in a conscientious, diligent and efficient manner so as to provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation, contrary to Chapter 2 of the *Code of Professional Conduct*.

In respect of the same matter, Mr. Walia acted contrary to Chapter 5 of the *Code of Professional Conduct* in that there was, or was likely to be a conflicting interest between his clients. In the same matter he failed to give notice as soon as practicable after becoming aware of acts or omissions that may give rise to a potential professional liability claim to the Director of Insurance of the Society, and failed to give notice as directed by the Law Society as required by Chapter 3 of the *Code of Professional Conduct*, and Rule 5-34 of the *Rules of The Law Society of Manitoba*.

In another matter Mr. Walia received net proceeds on the sale of his client's taxi, and was advised by his client that he did not wish to receive the proceeds of sale because of the tax consequences that he believed were associated with doing so. With that knowledge, Mr. Walia accepted and acted upon instructions to withhold the funds from his client and to invest the funds on his client's behalf, in order to assist him. Mr. Walia allowed his trust account to be used for an improper purpose by retaining the funds in trust and thereafter paying them out of trust as loans to three individuals. By accepting and acting upon instructions, when he knew his client was intending to avoid tax obligations, Mr. Walia failed in his duty to conduct himself with integrity, contrary to Chapter 1 of the *Code of Professional Conduct*, and Division 4 of the *Rules of The Law Society of Manitoba*.

While acting for the same client, Mr. Walia prepared an Authorization on July 25, 2007 permitting him to invest funds on behalf of his client, and absolving Mr. Walia of any responsibility for the investment of the said funds, contrary to Rule (c) Chapter 6 of the *Code of Professional Conduct*, in that his duty to his client and his own personal interests were in conflict.

Mr. Walia acted for the same client with respect to a loan made on July 31, 2007 to two other clients secured by a mortgage registered on real property owned by the borrowing clients. Mr. Walia failed to make any or any adequate disclosure to his clients of the conflicting interests, and failed to obtain their consents with respect to his representation of both parties to the transaction, contrary to Chapter 5 of the *Code of Professional Conduct*.

Mr. Walia acted for the same client with respect to a loan made to another client. The loan was secured by a Personal Money Security Interest registered against collateral owned by the borrowing client. Mr. Walia failed to make any or any adequate disclosure to his clients of the conflicting interests, and failed to obtain their consents with respect to his representation of both parties to the transaction contrary to Chapter 5 of the *Code of Professional Conduct*.

Mr. Walia acted for the same client with respect to a loan made by him to two other clients, one of which was Mr. Walis's son, for the purpose of financing their purchase of a taxi. Mr. Walia purported to be the guarantor of the loan. Mr. Walia failed to document the loan and failed to prepare any security for the loan on behalf of his lending client. Mr. Walia had therefore entered into a business transaction with a client, and failed to disclose the terms of the transaction in writing to his client, to advise his client in writing to obtain independent legal advice about the transaction, and to obtain the consent of his client in writing to the transaction, contrary to Rules (a), (b) and (c) of the *Code of Professional Conduct*.

Mr. Walia failed to comply with the trust accounting rules of The Law Society of Manitoba in that he failed to maintain general books and records in respect of his general operating account, and in particular, he failed to maintain a general account book of original entry for 2007 contrary to Rule 5-48.1, failed to enter and post transactions in his Book of Original Entry during the period from May 17, 2007 to June 11, 2007, failed to take steps to either reverse or cancel 17 stale-dated cheques issued between November 13, 2004 and December 4, 2006, failed to maintain up-to-date trust records and in particular, as of June 11, 2007, his computer generated client trust ledger balances did not agree with his manual client trust ledgers.

Plea

Mr. Walia entered a plea of guilty.

Decision and Comments

The panel found Mr. Walia guilty in respect of each of the charges and found that his conduct demonstrated incompetence.

Penalty

Cancellation of practicing certificate and issuance of new certificate subject to the conditions that Mr. Walia:

- (i) Practice under the supervision of a member of the Law Society of Manitoba, with such supervision to include the ongoing files and financial records pertaining to all files of Mr. Walia, including all ledger cards where entries have been made;
- (ii) Retain an accountant to be approved by the Law Society who will certify to the Law Society on a monthly basis that Mr. Walia's trust reconciliations are complete;
- (iii) Provide to the Law Society an Undertaking that he will:
 - (a) not practice in the area of criminal and family law;
 - (b) he will not represent family members, namely his spouse, parents, or their issue, and their spouses or common-law partners, and
 - (c) he will not act for more than one party to a transaction, except where representing a mortgagor and mortgagee on a purchase, provided that the mortgagee is a person or corporation ordinarily engaged in the business of lending and granting mortgages.
- (iv) Take, at his own expense, and successfully complete remedial education through the Law Society of Manitoba, and in particular:
 - (a) an effective legal writing program;
 - (b) an intensive professional responsibility and ethics program focused on conflicts; and
 - (c) the real estate module of the CPLED program, commencing on January 26, 2010.

Mr. Walia was required to pay to the Society the sum of \$5,000.00 as a contribution towards the costs of the investigation, prosecution and hearing of the matter, at the rate of \$200.00 per month, commencing on March 1, 2010.