



DISCIPLINE CASE *DIGEST*

Case 10-12

| | |
|--------------------------------|--|
| Member: | Joseph Jean Marcel Romuald Gregoire |
| Jurisdiction: | Roblin, Manitoba |
| Called to the Bar: | June 25, 1974 |
| Particulars of Charges: | Professional Misconduct (1 Count): <ul style="list-style-type: none">▪ Breach of Chapter 5 of the <i>Code of Professional Conduct</i> [conflict of interest] |
| Plea: | Guilty |
| Date of Hearing: | March 24, 2011 |
| Panel: | <ul style="list-style-type: none">▪ James W. Hedley (Chair)▪ Jon van der Krabben▪ Miriam Browne (Public Representative) |
| Counsel: | <ul style="list-style-type: none">▪ Darcia Senft for The Law Society of Manitoba▪ Gavin Wood for the Member |
| Disposition: | <ul style="list-style-type: none">▪ Reprimand▪ Costs of \$2,356.51 |

Conflict of Interest

Facts

Mr. Gregoire was retained by both the purchasers and the vendors with respect to the purchase and sale of a home and acreage (the "property") in Grandview, Manitoba.

The purchasers took possession of the property and shortly thereafter Mr. Gregoire learned that there was a shortfall in the sale proceeds to discharge encumbrances that were registered against title to the property.

Mr. Gregoire determined that the vendors, who resided in the United States, were unwilling or unable to pay the additional funds that were required to discharge the said encumbrances. At that point, a dispute arose between the vendors and the purchasers. However, Mr. Gregoire failed to withdraw as counsel for the purchasers and failed to advise the purchasers to retain new counsel in respect of the transaction.

Plea

Mr. Gregoire entered a plea of guilty to a breach of Chapter 5 of the *Code of Professional Conduct* in that he continued to act in a matter when a conflict of interest had arisen as between his clients.

Decision and Comments

Noting that Mr. Gregoire found himself in a conflict situation and that he failed to withdraw as counsel to two parties who had developed a dispute between them, the panel determined that the conduct proved amounted to professional misconduct. They noted that Mr. Gregoire was put into a situation that was not entirely his fault; however, they found that he left himself in the conflict situation too long. The panel took into consideration the fact that Mr. Gregoire had practised law for approximately 37 years and had no formal Law Society record as important factors for their consideration.

Penalty

The panel accepted the joint recommendation made by counsel for the Law Society and counsel for Mr. Gregoire and ordered that he be reprimanded and that he pay costs of \$2,356.51 towards the investigation and prosecution of the matter.