



DISCIPLINE CASE *DIGEST*

Case 10-16

Member:	Ralph Lawrence Gutkin
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 28, 1979
Nature of Hearing:	Reinstatement Application
Date of Hearing:	August 26 and 27, 2010 and October 25, 2010
Panel:	<ul style="list-style-type: none">▪ Christina V. Kopynsky, Q.C. (Chair)▪ Richard I. Good▪ Marston Grindey (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ C. Kristin Dangerfield for The Law Society of Manitoba▪ Dave G. Hill for the Member
Disposition:	Application Denied

Reinstatement Application

Facts

Mr. Gutkin was disbarred in 1997 after pleading guilty to 142 charges of professional misconduct. His offences spanned 10 years, from 1984-1994 and affected fifty-seven clients. The charges included failing to serve clients, misleading clients and misappropriating approximately \$86,000.00. Mr. Gutkin applied for reinstatement in 2010 pursuant to Rule 5-102(1) of The Law Society Rules.

Decision and Comments

As a preliminary issue the Panel considered whether an agreement between Mr. Gutkin and the Law Society whereby Mr. Gutkin had satisfied outstanding debts to the Law Society constituted a joint recommendation for reinstatement. The Panel concluded that it did not, and that the Society had only withdrawn its opposition to the application, while leaving the Panel to determine whether Mr. Gutkin met the requisite test for reinstatement.

The Panel denied the application for reinstatement, having found that Mr. Gutkin had failed to satisfy the necessary elements for reinstatement as set forth in *Watt v Law Society of Upper Canada*, 2004 ONLSHP 003.

The Panel concluded that the public would not be protected if Mr. Gutkin were to return to practice, even with restrictions. Mr. Gutkin failed to satisfy the Panel that he had shown by a long course of conduct that he was a person to be trusted and was in every way fit to be a lawyer. The panel was not satisfied either that he had provided substantial and satisfactory evidence that his underlying issues were resolved, or that he had discharged the onus of establishing that it was extremely unlikely that he would commit further misconduct if permitted to resume practice. He fell short of the required standard of unimpeachable conduct since his disbarment, specifically regarding his financial dealings and repayment of money owing to the Law Society. Although the Panel recognized his considerable efforts to rehabilitate himself, he did not meet the strict requirements for reinstatement.

One Panel member dissented, and found that Mr. Gutkin had met all of the required elements for reinstatement. He concluded that there was substantial evidence of Mr. Gutkin's improved well being over an extended period of time, and that this was a strong indicator that he would not misconduct himself again if readmitted.

Mr. Gutkin sought judicial review of the Panel's decision in the Court of Queen's Bench. The application for judicial review was dismissed with costs on June 30, 2011.