



DISCIPLINE CASE *DIGEST*

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Case 00-02

BARRY EUGENE KRAWCHUK
Winnipeg, Manitoba

Called to the Bar
September 2, 1959

Particulars of Charges
Professional Misconduct

- Breach of Chapter 6 of the *Code of Professional Conduct* (preparation of a will in which a testamentary gift was left to the member); and
- Breach of Practice Direction 94-05 (failure to provide client with an itemized statement of account notwithstanding a request for same).

Date of Hearing
August 14, 2000

Panel
Donna J. Miller, Q.C. Chair
Harvey L. Secter
Harold Buchwald, Q.C.

Disposition

- Reprimand
- Member to undertake to provide an itemized statement of account to client

Counsel
William S. Gange for The Law Society of Manitoba
David G. Hill for the Member

Conflict of Interest / Fees

Facts

Mr. Krawchuk was retained by Client A in November, 1995 to prepare a Will and a Power of Attorney. The client signed the power of Attorney naming Mr. Krawchuk as his attorney. The client gave instructions with respect to the Will. He wanted Mr. Krawchuk to act as executor of his estate. He wanted to leave Mr. Krawchuk a bequest of \$3,000.00. The total value of the assets in the estate was believed to be in excess of \$200,000.00. Mr. Krawchuk prepared the Will and acted as one of the witnesses to the execution of the Will. The Will contained a clause which left a bequest to Mr. Krawchuk in the amount of \$3,000.00. Shortly after the execution of the Will, the elderly client lost testamentary capacity. The Public Trustee was named Committee of the estate of Client A.

Mr. Krawchuk was charged with a breach of Chapter 6 of the *Code of Professional Conduct*. Mr. Krawchuk acknowledged that his conduct in preparing a Will in which he was left a testamentary gift amounted to professional misconduct.

Mr. Krawchuk acted for Client B with respect to a motor vehicle accident. Upon resolution of the claim, Mr. Krawchuk submitted a statement of account on June 10, 1998. The statement of account did not detail the legal services provided. Client B delivered to Mr. Krawchuk a written request for an itemized statement of account on October 21, 1999. Mr. Krawchuk did not provide an itemized statement of account to Client B.

Mr. Krawchuk was charged with a breach of Practice Direction 94-05. Mr. Krawchuk acknowledged that his conduct in failing to provide to Client B an itemized statement of account amounted to professional misconduct.

Decision and Comments

The Committee accepted the joint recommendation of counsel as to disposition and made a finding of professional misconduct in respect of each of the two counts.

Penalty

The Committee reprimanded Mr. Krawchuk for the two counts of professional misconduct. Mr. Krawchuk gave an undertaking to provide an itemized statement of account to Client B. No order as to costs was made.

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