



DISCIPLINE CASE *DIGEST*

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Case 00-08 (Amended)

THERESA MARIE MESTDAGH
Winnipeg, Manitoba

Called to the Bar
June 25, 1987

Particulars of Charges
Professional Misconduct (3 counts)

- failure to serve client in a conscientious, diligent and efficient manner (x2)
- interests conflicting with those of client

Date of Hearing
January 18, 2001

Panel
D.J. Miller, Q.C. (Chair)
P.J.E. Cole, Q.C.
C.E. Gorlick, Q.C.

Disposition

- fine of \$1,000.00;
- costs of \$500.00

Counsel
C.K. Dangerfield for The Law Society of Manitoba
W.E. Doyle for the Member

Failure to Serve Client

Facts

Ms. Mestdagh was retained by a client with respect to that client's separation from her husband and the purchase of her husband's interest in the marital home.

Ms. Mestdagh received a signed Transfer of Land from counsel for her client's husband. She failed to submit the Transfer of Land to the Winnipeg Land Titles Office for a period of five months. Once filed, the document was rejected the following day. Ms. Mestdagh failed to take any steps to correct the documents or submit new documents to the Land Titles Office for a further fourteen months. She then forwarded a new Transfer of Land for re-execution to counsel for her client's husband. The Transfer of Land was returned to her and Ms. Mestdagh failed to forward it to the financial institution's solicitor for registration for a further five months.

In connection with the same matter, the client obtained a mortgage on the marital home in an amount sufficient to satisfy an equalization payment due to the husband, an outstanding loan and a judgement obtained by a financial institution in respect of a credit card account. Ms. Mestdagh received the mortgage funds and thereafter issued cheques in respect of the equalization payment, the outstanding personal loan and fees of the Mestdagh Law Office. After paying her own fees, there were insufficient funds to pay the credit card debt. Ms. Mestdagh retained the balance of the funds in trust for some twenty-one months, during which time she failed to satisfy any portion of the credit card debt.

Decision and Comments

Ms. Mestdagh pled guilty to two counts of failing to serve her client in a conscientious, diligent and efficient manner, and one count of withdrawing funds from trust to pay for her fees and disbursements in lieu of satisfying her client's outstanding debt. In this instance, her duty to her client was in conflict with her personal interests. It was the view of the Committee that her conduct had fallen short of the standard expected of lawyers in the Province of Manitoba and reflected Ms. Mestdagh's inability to manage a law practice on her own.

Penalty

The Committee accepted a joint recommendation that Ms. Mestdagh pay a fine of \$1,000.00. The Committee recognized Ms. Mestdagh's financial circumstances and reduced the order of costs which had been agreed upon to \$500.00. As at the date of the hearing Ms. Mestdagh was serving an administrative suspension for failure to file her Form D. Accordingly the Committee ordered that in the event Ms. Mestdagh applies to resume practice, the decision of the Discipline Committee is to be provided to the Admissions and Education Committee.

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