



DISCIPLINE CASE *DIGEST*

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Case 00-10

PETER NGUYEN GWYN
Winnipeg, Manitoba

Called to the Bar
June 26, 1996

Particulars of Charges
Professional Misconduct (7 counts)

- breach of Accounting Rules
- failure to deposit trust money into pooled trust account
- failure to properly withdraw money from trust
- payment of fees and disbursements from trust account without rendering account to clients
- payment of fees and disbursements from trust account prior to performing significant legal services
- failure to serve client
- failure to recommend independent legal advice

Date of Hearing
February 14, 2001

Panel
D. Ward, Q.C. (Chair)
R. Krause
K. Williams

Disposition

- Fine \$1,500.00
- Costs \$4,000.00
- Member required to take remedial trust accounting course

Counsel
C. K. Dangerfield for The Law Society of Manitoba

Breach of Trust Accounting Rules

Facts

Mr. Gwyn failed to maintain up to date trust records and failed to keep and maintain a calculation of his control account balance, a list showing the balance in each client's account in the trust ledger and a bank reconciliation for his pooled trust account.

Mr. Gwyn improperly deposited funds received on behalf of a number of clients into his general bank account. He then issued cheques payable on the general bank account to the appropriate payees.

In other instances Mr. Gwyn properly deposited trust money into his pooled trust account. When he was obliged to make a specific payment on behalf of a client, he issued a cheque written against his pooled trust account payable to himself, deposited the funds into his general bank account and thereafter issued a cheque written against his general bank account to the appropriate payee.

On four occasions Mr. Gwyn withdrew money from his trust account for the payment of his fees and disbursements prior to sending a bill for such fees and disbursements to his client.

On three occasions Mr. Gwyn withdrew money from his trust account for the payment of his fees and disbursements prior to performing the legal services for which he had been retained.

Mr. Gwyn was retained by clients in respect of their purchase of real property. The transaction closed on or about June 30, 1998 and Mr. Gwyn failed to report to his clients in respect of the said purchase until July 30, 1999. In doing so he failed to serve his clients in a conscientious, diligent and efficient manner.

On two occasions Mr. Gwyn made a loan to clients without first recommending to his clients in writing that they obtain independent legal advice with respect to the said loan transaction.

Decision and Comments

Mr. Gwyn entered a plea of guilty to each of the counts alleged. The Committee accepted the joint recommendation of counsel for The Law Society and for Mr. Gwyn and imposed a fine of \$1,500.00 and costs of \$4,000.00. Mr. Gwyn will also be required to attend at his own expense the remedial trust accounting course provided by The Law Society of

Manitoba.

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