



DISCIPLINE CASE *DIGEST*

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Case 94-01

MANLY WILFRED ISRAEL

Winnipeg, Manitoba

Called to the Bar

November 9, 1953

Particulars of Charges

Professional Misconduct (4 counts)

- failure to obtain certificate of independent legal advice
- requesting another member to back date a certificate of independent legal advice
- breach of the accounting rules
- failure to serve client by improper handling of trust funds

Date of Hearing

January 12, 1994

Panel

G. Dangerfield, Q.C. (Chairperson)

J. Ginnel, Q.C.

A. Sweatman, Q.C.

C. MacArthur, Q.C. Mr.

D. Fjeldsted

Disposition

- five month suspension
- reprimand
- costs of \$7,800.00

Counsel

Daniel Dutchin for the Law Society of Manitoba

Robert Tapper, Q.C. for the Member

Failure to Act with Integrity by Seeking to Backdate a Document

Facts

Mr. Israel, who was called to the Bar on November 9, 1953, appeared before the Judicial Committee on January 12, 1994.

Mr. Israel appeared on two separate Citations on the date of hearing. The first Citation dealt with a situation wherein Mr. Israel had failed to obtain a certificate from a client that he had obtained independent legal advice prior to lending money to Mr. Israel. The fact that the client had loaned money to Mr. Israel was disclosed in his annual solicitor's report and it was at that time that a normal request was made to Mr. Israel to present the certificate of independent legal advice.

Mr. Israel, rather than indicating that no certificate had been obtained, attempted to get another member of the profession to execute a back dated certificate of independent legal advice. That member refused to do so and tape recorded the conversation with Mr. Israel. That member then reported the matter to the Law Society which proceeded with an investigation.

The second Citation involved Mr. Israel's handling of a particular file on behalf of a client. That client was an infant and had received a settlement from an accident claim. Mr. Israel deposited that money in a trust account as required by court order but when the trust company in which it had been deposited was liquidated he failed to properly recover the funds. When he finally did recover the funds he did not properly reinvest the money and in fact deposited it in a non-interest bearing account. The client finally received all of the money due and owing upon reaching their age of majority.

In the course of the investigation of the matter an audit revealed that Mr. Israel had failed to comply with *The Rules of The Law Society of Manitoba* in regard to the handling of his trust accounts. This failure to comply with the *Rules* was a major contributing factor to the mishandling of the client's trust monies.

Comments of the Judicial Committee

Mr. Israel admitted the above-noted charges before the Judicial Committee.

The Committee treated the second Citation involving the investment of client trust funds in a less serious manner. They imposed a reprimand and costs as the disposition.

However, with respect to the first Citation involving the certificate of independent legal advice, the Committee took a grave view of Mr. Israel's conduct. The Committee felt that the actions of Mr. Israel undermined the basic requirement of honesty and integrity required

of barristers and solicitors. They also viewed Mr. Israel's attempt to corrupt another member very seriously.

Findings and Penalties

As indicated, with respect to the second Citation the Committee imposed a reprimand and costs of \$300.00

With respect to the first Citation involving the certificate of independent legal advice, the Committee ordered that a suspension of five months be imposed to commence on January 17, 1994. Costs were also assessed of \$7,500.00. Initially there had been counsel retained from outside the Law Society to handle the matter, but then counsel to the Law Society took over the file.

In regard to the total costs of \$7,800.00, Mr. Israel was given time to pay by way of monthly instalments.

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