



# DISCIPLINE CASE *DIGEST*

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## **Case 94-02**

**JAMES MICHAEL DAVID BOMEK**  
Winnipeg, Manitoba

**Called to the Bar**  
June 26, 1986

**Particulars of Charges**  
Professional Misconduct (1 count)

- failure to disclose information to vendor

**Date of Hearing**  
January 17, 1994

**Panel**  
Brian Pauls (Chairperson)  
Gary Burnside  
Grant Mitchell

### **Disposition**

- fine \$2,500.00
- costs \$5,000.00

**Counsel**  
Donald Bryk, Q.C. for The Law Society of Manitoba  
Eleanor Dawson, Q.C. for the Member

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## **Breach of Duties of Candour, Honesty and Integrity**

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### **Facts**

Mr. Bomek, who was called to the Bar on June 26, 1986, appeared before the Judicial Committee on January 17, 1994.

On Friday, March 13, 1992, while acting on behalf of prospective purchasers of a business, Mr. Bomek represented to the vendor's lawyer that he had his client's cheque in the amount of \$53,000.00 representing the balance due on closing and that same would be paid to the vendor's lawyer on March 16, 1992, i.e. the following Monday.

Mr. Bomek failed to disclose to the vendors or their lawyer that his client's cheque was subject to conditions of financing, which could not be met by March 16, 1992, or perhaps at all. As a result of the representation, the vendors gave up possession of their business premises and ultimately, when the said conditions were not met, the transaction was aborted and the vendors were required to take possession of the business.

### **Comments of the Judicial Committee**

Mr. Bomek pled guilty to the above-noted matter.

### **Findings and Penalties**

The Committee fined Mr. Bomek \$2,500.00 and assessed costs at \$5,000.00. They indicated that the total amount was to be repaid within fifteen months by way of monthly payments of \$500.00.

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