



# DISCIPLINE CASE *DIGEST*

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Case 94-04 (AMENDED)

<b>Member:</b>	<b>Member C</b>
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 26, 1973
<b>Particulars of Charges:</b>	Professional Misconduct (2 Counts): <ul style="list-style-type: none"><li>▪ breach of accounting rules</li><li>▪ misleading a Law Society Auditor</li></ul>
<b>Date of Hearing:</b>	April 21, 1994
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Lewis Wasel (Chairperson)</li><li>▪ Lorne Campbell, O.C., Q.C.</li><li>▪ Brian Pauls</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Daniel Dutchin for The Law Society of Manitoba</li><li>▪ John Scurfield, Q.C. for the Member</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Reprimand</li><li>▪ Costs of \$300.00</li></ul>

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## Breach of Accounting Rules

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### Facts

Member C, who was called to the Bar on June 26, 1973, appeared before the Judicial Committee on April 21, 1994.

Member C acted on behalf of clients whose matter was completed in late November, 1990. After his clients received their settlement funds and statements of account, he failed to transfer the monies left in his trust account on account of his fees to his general account. For the next year or so, he then transferred various amounts to his general account in relation to his fees.

He also opened specific trust accounts purporting to be in trust for his clients when his client had received all monies owing to them and he also posted disbursements to their ledger card after completion of their matter when the disbursements were in fact on account of personal expenses.

Finally, he created statements of account and covering letters to the clients to support these disbursements when in fact they were expenses of a personal nature and the letters were never sent to the client.

Upon discovery of this by the Law Society Auditor, he misled the Auditor in providing explanations for the various disbursements of the file. It was later determined through further investigation that those explanations were false and were made in an effort to mislead the Auditor.

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

Member C pled guilty to the charges and the panel was satisfied that as a result there was professional misconduct. They noted that the two charges were fact related and that there was no misappropriation of client funds. It appeared that the scheme that Member C developed in regard to this particular file was to keep his funds secret from his spouse. The Committee also found that Member C continued the cover up by misleading the Auditor when she attended his office.

The Committee was of the view that misleading the Law Society Auditor was a serious matter which could not be condoned, but they did not feel that a severe penalty was warranted. They took into account that Member C had been practising for twenty years without incident and that the funds were not misappropriated nor any client harmed. They also noted that there were no client complaints and that the Auditor attended as a result of the complaint of the member's wife. They also took into account that Member C had been assessed auditing costs by the Discipline Committee of the Law Society.

### **Findings and Penalties**

The Committee reprimanded Member C and imposed costs of \$300.00 to be paid within one year.

### **Pardon**

Member C was granted a pardon on September 26, 2012. See Discipline Case Digest #12-08.