



DISCIPLINE CASE *DIGEST*

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Case 94-05

GARNET ORLANDO deLUCIA
Winnipeg, Manitoba

Called to the Bar
February 20, 1951

Particulars of Charges
Professional Misconduct (1 count)

- breach of trust condition

Date of Hearing
May 3, 1994

Panel
Laurie Allen (Chairperson)
Alexandra Morton, Q.C.
Douglas Yard, Q.C.

Disposition

- fine \$250.00
- costs \$650.00

Counsel
Daniel Dutchin for The Law Society of Manitoba
Greg Rodin for the Member

Breach of Trust Condition

Facts

Mr. deLucia, who was called to the Bar on February 20, 1951, appeared before the Judicial Committee on May 3, 1994.

Mr. deLucia acted on behalf of the vendor of a business operation. Mr. deLucia had a trust condition imposed upon him by the lawyer for the purchaser that he provide a vendor's consent and undertaking sufficient to register the business name within a reasonable time. Mr. deLucia failed to obtain a suitable consent and undertaking and as a result, the trust condition was not complied with. Numerous requests were made by the lawyer for the purchaser to Mr. deLucia for this material yet he failed to provide it.

Comments of the Judicial Committee

The Judicial Committee found that Mr. deLucia had not complied with the trust condition that was accepted by him. Having breached that trust condition, Mr. deLucia was found guilty of professional misconduct.

The Judicial Committee referred to Chapter 16 of *The Code of Professional Conduct* dealing with undertakings and trust conditions. They noted that it was fundamental to the practice of law that trust conditions and undertakings be complied with. Although in this particular case, Mr. deLucia may have accepted a trust condition that he could not personally fulfil, he was still obligated to comply with it once accepted.

Findings and Penalties

The Committee as a result imposed a fine of \$250.00 and costs of \$650.00.

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