



DISCIPLINE CASE *DIGEST*

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Case 94-08

JOHN LEVINE
Winnipeg, Manitoba

Called to the Bar
June 30, 1988

Particulars of Charges
Professional Misconduct (3 counts)

- withdrawing fees without statements of account
- failing to deposit money to trust
- transferring money from trust to general without a statement of account

Date of Hearing
July 7, 1994

Panel
J. F. Reeh Taylor, Q.C. (Chairperson)
E. Doreen Kelly
Hymie Wienstien, Q.C.

Disposition

- \$500.00 fine
- \$1,000.00 costs

Counsel
Daniel Dutchin for The Law Society of Manitoba
Member not represented

Improper Fees

Facts

Mr. Levine, who was called to the Bar on June 30, 1988, appeared before the Discipline Committee on July 7, 1994.

Mr. Levine had been retained to represent a client with respect to an application for custody. While acting for this client, Mr. Levine transferred funds from his trust account to his general account on account of fees and disbursements on five occasions without preparing a bill for such fees and disbursements and sending same to his client when the money was transferred. These transfers occurred between October 1990 and February 1991 and amounted to a total of \$5,054.00.

In August of 1990, Mr. Levine received a \$400.00 cheque from his client. He did not deposit that cheque to his trust account and therefore breached Rule 129(a) of *The Rules of The Law Society of Manitoba*.

Mr. Levine transferred \$1,750.00 from his trust account to his general account without providing interim statements of account to his client. It was determined from an audit that this resulted in an excess transfer of funds. If Mr. Levine had provided an interim statement of account to his client, that may have been determined earlier.

The client was unaware of the total amount of monies she had paid to Mr. Levine as retainers and amounts towards fees and disbursements. It was a lengthy and protracted family hearing, which did in fact entitle Mr. Levine to substantial fees, however, he had failed to properly handle the monies received from his client as required by *The Rules of The Law Society of Manitoba*.

Comments of the Discipline Committee

Mr. Levine admitted all three counts in the Citation. The Committee was satisfied that the breaches as admitted by Mr. Levine amounted to professional misconduct.

After hearing submissions, the Committee noted that these particular incidents occurred at a time when Mr. Levine was not practising in accordance with the Law Society's required accounting standards. The Committee viewed the Citation as a very serious matter.

Findings and Penalties

The Committee noted that Mr. Levine was still having financial difficulties. They determined that a suspension was not justified and imposed a fine of \$500.00 with costs of \$1,000.00 to be paid at the rate of \$200.00 per month to commence following the last instalment of a debt already owing by Mr. Levine to the Society.

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