



DISCIPLINE CASE *DIGEST*

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Case 95-02

WILLIAM ABRAMS
Winnipeg, Manitoba

Called to the Bar
December 20, 1954

Particulars of Charges
Professional Misconduct (5 counts)

- failure to keep proper books and accounts
- improper payments from trust account
- failure to honour a financial commitment (2 counts)
- failure to reply to the Law Society

Date of Hearing
November 22, 1994

Panel
Barbara Hamilton, Q.C. (Chairperson)
Eric Irwin
Heather Leonoff, Q.C.

Disposition

- six months suspension
- \$1,500.00 costs

Counsel
Daniel Dutchin for the Law Society
Member did not appear

Breach of Accounting Rules

Facts

Mr. Abrams, who was called to the Bar on December 20, 1954, did not appear before the Discipline Committee on November 22, 1994. The hearing proceeded in his absence.

Mr. Abrams failed to comply with the Rules of the Law Society with respect to his accounts. He failed to keep and maintain trust ledger balances prepared each month recording separate trust money balances on behalf of his clients. He also failed to complete reconciliations of his accounts for the 12-month period reviewed by the Law Society Auditor. No bank reconciliations were done for the invested funds for the same 12-month period. No reconciliations were done to show the differences between the monies held in trust and aggregate trust balances. There were discrepancies noted each month by the Auditor and no explanations were provided for these discrepancies.

Mr. Abrams also failed to deposit trust monies as soon as practicable after receipt as required by the Rules.

Mr. Abrams paid funds to a client from his trust bank account in an amount greater than that which the client had to his credit, which was a breach of the Rules. He also overdrew his trust bank account on one occasion.

Mr. Abrams also withdrew money from his trust bank account for the recovery of fees without sending a bill to his client. This is contrary to Rule 129(1)(c).

Mr. Abrams also failed to meet financial obligations with respect to two matters. In one case, he failed to pay the statement of account of another lawyer. The financial obligation was created by a trust condition that was imposed upon Mr. Abrams when a file was transferred to him. Attempts by the other lawyer to collect the fees were unsuccessful.

In the second case, a statement of account was received by Mr. Abrams from a land surveyor for work performed by that person for a client of Mr. Abrams. Although efforts had been made by the land surveyor to collect from Mr. Abrams, these efforts were unsuccessful. Mr. Abrams acknowledged both of these debts in a letter sent to the Law Society.

Mr. Abrams also failed to respond to letters sent to him by the Law Society concerning the non-payment of these accounts within the fourteen days required by the Rules.

Comments of the Discipline Committee

Although Mr. Abrams did not appear at the Discipline Hearing, the Committee was satisfied that he was properly served with the Citation and notice of the hearing. Mr. Abrams sent a letter to the Law Society providing some explanation to these charges which the Discipline Committee accepted and considered.

The Committee found that Mr. Abrams had committed the offences set out in the Citation and as a result, found him guilty of professional misconduct.

Findings and Penalties

The Committee considered the evidence heard at the hearing and also considered the fact that Mr. Abrams had been previously convicted for similar trust account breaches and a failure to respond to the Law Society in 1982 and had received a six-month suspension. The Committee was also aware that a caution had been given to Mr. Abrams in 1993 for failure to respond and communicate with other lawyers.

The Committee viewed the evidence before it and noted that it showed a disregard and disrespect by Mr. Abrams to the Law Society, the public, and to other members of the legal profession. They noted that although some of the matters were minor in nature, the cumulative effect was serious.

The Committee also noted that Mr. Abrams had rejected recommendations provided to him the previous year by the Auditors. The Committee determined that Mr. Abrams was the author of his own misfortune.

After considering these factors, the Committee found that an appropriate disposition was a six-month suspension and an order of costs in the amount of \$1,500.00. Costs were to be paid within thirty days of the hearing date.

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