



DISCIPLINE CASE *DIGEST*

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Case 95-03

JERRY GEORGE ROSS
Winnipeg, Manitoba

Called to the Bar
June 26, 1973

Particulars of Charges
Professional Misconduct (8 counts)

- excessive fees (4 counts)
- payment of fees without permission (3 counts)
- improper payments from trust account (1 count)

Date of Hearing
January 31, 1995

Panel
Reeh Taylor, Q.C. (Chair)
Doreen Kelly
Ron Toews

Disposition

- \$3,000.00 fine
- reprimand
- \$2,000.00 costs

Counsel
Daniel Dutchin for the Law Society
S. Vincent for the Member

Improper Fees

Facts

Mr. Ross, who was called to the Bar on June 26, 1973, appeared before the Discipline Committee on January 31, 1995.

Mr. Ross acted on behalf of four estates and on each of these files, he charged fees in excess of the amount provided pursuant to Queen's Bench Rule 74.14(4). He did not receive the consent of the beneficiaries to charge a sum greater than the allowable fee in any of those estates.

As of the date of the Discipline Hearing, Mr. Ross had refunded the appropriate excess fees to each of the estates in question. The fourth estate file had been arbitrated and Mr. Ross had been ordered to refund \$5,008.00.

On three of the estate matters, Mr. Ross also withdrew fees from his trust bank account without bills for such fees being prepared and sent to the client at the times the monies were withdrawn. This was contrary to Rule 129(c) of *The Rules of The Law Society of Manitoba*.

On a real estate transaction file, Mr. Ross appropriated monies held in trust on behalf of his clients on account of fees without the authority of his clients. This was in breach of Rule 137 of *The Rules of The Law Society of Manitoba*.

Comments of the Discipline Committee

Mr. Ross admitted the above-noted charges before the Discipline Committee

The Committee considered the circumstances giving rise to the charges and considered the fact that Mr. Ross had refunded the excess fees charged to the estates. The Committee did note, however, that the restitution probably would not have been made had the offences not been discovered by way of audit and complaint.

The Committee also considered that Mr. Ross had a clear record, but noted that the charges in this Citation arose with respect to Mr. Ross' estate practice.

Findings and Penalties

The Committee imposed a fine of \$3,000.00 and a reprimand. They also imposed costs of \$2,000.00.

Due to the Committee's concerns about Mr. Ross' estate practice, it placed a condition on the practising certificate of Mr. Ross that with respect to administration of estates, Mr. Ross not make trust transfers from his trust account, nor render bills to clients without having the trust transfer or bill approved by an independent solicitor approved by the Committee.

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