DISCIPLINE CASE *DIGEST*

Case 95-12

MEMBER D
Manitoba

Particulars of Charges
Professional Misconduct (2 counts)

- abuse of Legal Aid system
- misleading the Law Society

Date of Hearing
June 1, 1995

Panel
Chrys Pappas, Q.C. (Chairperson)
Donald Little, Q.C.
Garry Rainnie

Disposition

- acquitted

Counsel
Daniel Dutchin for the Law Society
Member was unrepresented

Improper Fees

Facts

Member D appeared before the Discipline Committee on June 1, 1995.

Member D submitted a Fast Track Account to Legal Aid Manitoba with respect to his

representation of a client on a domestic matter. In order to submit a Fast Track Account, the Member was to have worked on the client's file a minimum of three hours. It was alleged that he had not performed any work on behalf of the client other than meeting with her on one occasion and that he then lost contact with the client.

Member D wrote to The Law Society of Manitoba in response to a complaint made to the Law Society concerning this account. In his letter to the Law Society, he indicated that he had drafted documents on behalf of his client and had spent over three hours working on the file. It was alleged that he misled the Law Society in his response.

The successor lawyer to Member D did not receive any documents with the file when it was transferred and was advised that no work had been performed on behalf of the client. At the hearing, Member D was able to show that he had in fact prepared documentation on behalf of the client and had sent the documentation to Legal Aid together with his application for a certificate.

Comments of the Discipline Committee

The Committee acquitted Member D since evidence had been presented which showed that Member D had prepared documents on behalf of the client and had likely spent over three hours working on the file. The existence of the client's affidavit on the Legal Aid file supported the Member's position.

Findings and Penalties

The Committee acquitted Member D.