



# DISCIPLINE CASE *DIGEST*

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## **Case 95-15**

**RICHARD GEORGE STANTON SHEAD**  
Winnipeg, Manitoba

**Called to the Bar**  
September 15, 1967

**Particulars of Charges**  
Professional misconduct and conduct unbecoming (4 counts)

- defrauding investors
- conflict of interest
- misleading clients

**Date of Hearing**  
November 7-10, 1994  
February 6-9, 1995  
Written Decision - June 2, 1995

**Panel**  
George Bass, Q.C. (Chairperson)  
Gregory Hawrysh  
Lewis Wasel

### **Disposition**

- disbarment
- costs of \$155,000.00

**Counsel**  
R. Rees Brock, Q.C. for the Law Society  
Member did not appear

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**Defrauding Investors**

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## **Facts**

Mr. Shead, who was called to the Bar on September 15, 1976, did not appear before the Discipline Committee on November 7, 8, 9 and 10, 1994 nor on February 6, 7, 8 and 9, 1995.

### **Count No. 1**

Mr. Shead was charged with assisting Mr. T and his companies in deceiving or defrauding various people over the years 1986 to 1991. During the period in question, Mr. Shead represented Mr. T and his companies. Mr. Shead was responsible for all of the files opened by his firm for Mr. T and his companies and approved all payments from their trust accounts.

In addition, Mr. Shead was the trustee for investors under a mortgage (the Shead mortgage) on a commercial building in Winnipeg owned by one of Mr. T's companies and he signed all certificates of participation issued to investors in the Shead mortgage. A number of such certificates were signed by Mr. Shead when the aggregate participation exceeded the amount secured by the mortgage.

Mr. Shead was aware during the years 1986 to 1990 that Mr. T and his companies were insolvent, but he did not inform investors or potential investors of the nature or extent of Mr. T's financial position.

Mr. Shead did not inform participants in the Shead mortgage of the true facts before obtaining postponements in favour of other mortgages.

### **Comments of the Discipline Committee**

The Committee found that Mr. Shead permitted Mr. T to make free use of his name and that of his firm when he knew or was willfully blind to the fact that this would provide an atmosphere of respectability which Mr. T used to systematically lure investors.

The Committee also determined that Mr. Shead personally made representations to investors verbally or through documents to assist Mr. T in concealing his financial condition or to apply pressure to reluctant investors. The Committee determined that Mr. Shead knew or was willfully blind to the fact that such representations were false and misleading and would or might result in either investors proceeding to invest their money or in failing to act in their own best interest to obtain security or the return of their money.

The Committee also determined that Mr. Shead failed in his duty as trustee for the investors in the Shead mortgage and that Mr. Shead sought, accepted and acted upon consents to postponements from investors in the Shead mortgage without disclosing the true facts to the investors when he knew there was not benefit to them and the investment was not in their

best interests.

The Committee also found that Mr. Shead continued to be a party to and to assist in the taking of money from new investors when he knew that they were being solicited by Mr. T with no hope of repayment. Mr. Shead was found to be a party to and assisted Mr. T in using his firm's trust accounts to receive and distribute money from investors contrary to the purpose for which the monies were received. Mr. Shead was found to have used investment monies to pay unrelated outstanding legal accounts of Mr. T and his companies.

As a result, the Committee held that Mr. Shead was complicitous in deceiving investors. The Committee found that the conduct was clearly dishonest and disgraceful and that Mr. Shead was guilty of professional misconduct and conduct unbecoming a barrister and solicitor.

### **Count No. 2**

While representing Client A and A's company, Mr. Shead supplied false or misleading information to A. Mr. Shead acted in a conflict of interest by advising or representing A when he also represented Mr. T and his companies, and failed in his duty to advise and protect A's interests.

### **Comments of the Discipline Committee**

The Committee found that Mr. Shead's conduct was intentional, unprofessional and unethical and found him guilty.

### **Count No. 3**

Mr. Shead acted in a conflict of interest and failed to act in the best interest of Client B, who was an investor under the Shead mortgage. Mr. Shead also protected the interests of Mr. T and his companies and others in preference to B and failed to issue a participation certificate in the Shead mortgage to B contrary to an undertaking to do so. Mr. Shead also misled B in connection with a postponement of the Shead mortgage, which he knew or ought to have known, was contrary to B's interest.

### **Comments of the Discipline Committee**

The Committee held that Mr. Shead acted unethically and against his best interests of Client B and found him guilty.

### **Count No. 4**

Mr. Shead failed to obtain the consent of Client C to a postponement of the Shead mortgage in which it had invested, thereby causing prejudice to C. Mr. Shead also misled C and permitted the unauthorized use of C's investment monies. Mr. Shead failed to disclose material facts in connection with the investment by C and acted in a conflict of interest

between C and Mr. T and his companies.

### **Comments of the Discipline Committee**

The Committee found Mr. Shead guilty on this charge.

### **Findings and Penalties**

The Committee found Mr. Shead guilty of professional misconduct and conduct unbecoming a barrister and solicitor on all four counts.

The Committee emphasized that the practice of law is an honorable profession based on trust, honesty and integrity. The Committee further stressed the obligation of a lawyer to display good faith and openness not only to clients, but to other who rely on his or her reputation and position.

The Committee found that many investors were duped and that many investors relied on the reputation of Mr. Shead and his firm. The Committee determined that Mr. Shead's actions facilitated the ongoing fraud being perpetrated by Mr. T.

The Committee also noted that some investors risk losing their homes and funds set aside for retirement as a result of the conduct of Mr. Shead and Mr. T.

The Committee therefore found Mr. Shead guilty of willful conduct that was disgraceful and dishonourable and determined that he was unworthy to practise as a solicitor and directed that he be disbarred.

The Committee also ordered the payment of costs in the amount of \$155,000.00.

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