



DISCIPLINE CASE *DIGEST*

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Case 95-16

GEORGE FUNK
Winnipeg, Manitoba

Called to the Bar
June 29, 1978

Particulars of Charges
Professional Misconduct (1 count)

- failure to render final reports and account to clients

Date of Hearing
July 11, 1995

Panel
Reeh Taylor, Q.C. (Chairperson)
Donald Little, Q.C.
Ronald Toews

Disposition

- reprimand
- costs of \$200.00

Counsel
Daniel Dutchin for the Law Society
Eleanor Dawson, Q.C. for the Member

Breach of Accounting Rules

Facts

Mr. Funk, who was called to the Bar on June 29, 1978, appeared before the Discipline Committee on July 11, 1995.

The Law Society conducted a spot audit on the accounting practices of Mr. Funk in August of 1993 and discovered a listing of old trust balances attached to the client trust ledger sheet. This listing consisted of 110 entries dating back to 1985. It appeared that in all the these cases, the files had not yet been reported out to the clients and trust balances were being maintained by the firm. The Law Society required Mr. Funk to close out all of these trust balances and this was completed in May of 1994.

Comments of the Discipline Committee

Mr. Funk admitted the charge of professional misconduct.

The Committee noted that:

1. As of the hearing date, Mr. Funk had rendered final accounts and had reported to all 110 clients;
2. None of the monies were withheld or appropriated for any improper purpose;
3. No client complaints were received by the Law Society and the matter was discovered by an audit;
4. 71% of the monies held in trust was legitimately owing to the firm;
5. Where monies were finally paid out, Mr. Funk ensured that an appropriate amount of interest was paid to the client or to the person to whom the monies were owed;
and
6. Mr. Funk had paid the audit costs to the Law Society prior to the Discipline Hearing.

Findings and Penalties

The Committee found that Mr. Funk was guilty of professional misconduct on the basis of his admission to the charge. The Committee imposed a reprimand and ordered costs be paid in the amount of \$200.00.

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