



DISCIPLINE CASE *DIGEST*

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Case 95-24

JOHN GOTTLI
Winnipeg, Manitoba

Called to the Bar
June 30, 1977

Particulars of Charges
Professional Misconduct (8 counts)

- misappropriation of client trust funds (3x)
- misleading the Law Society
- forging an authorization
- authorization obtained without informed consent
- back-dating an authorization
- breach of trust condition

Date of Hearing
November 1 & 2, 1995

Panel
Douglas Yard, Q.C. (Chairperson)
Donald Knight, Q.C.
Reeh Taylor, Q.C.

Disposition

- disbarment
- costs of \$12,500.00

Counsel
Daniel Dutchin for the Law Society
Member did not appear

Misappropriation

Facts

Mr. Gottli, who was called to the Bar on June 30, 1977, did not appear before the Discipline Committee on November 1 or 2, 1995.

Mr. Gottli represented Clients A on the sale of a residence, and was holding the sale proceeds in trust. Without the authority of his clients, he transferred \$34,903.89 in trust funds to the account of a corporation in which he had a personal interest.

Mr. Gottli appeared before the Complaints Investigation Committee during the investigation and misled the Committee by advising that A had authorized the investment in his corporation and presented an authorization signed by A which was later confirmed to be a forgery.

Mr. Gottli also acted for Client B with respect to the sale of her property. B's nephew held a general Power of Attorney on behalf of his aunt, as she was elderly and unable to deal with her matters, and he retained Mr. Gottli. When the transfer documents were to be signed, Mr. Gottli had B signed the documents directly and also had her sign an authorization to loan her funds to another client. Mr. Gottli then transferred \$9,462.75 of B's funds to the trust account of another client.

Mr. Gottli acted for Client C with regard to the sale of property and transferred \$48,563.50 of C's money to the accounts of other clients without the authorization of C. The funds were transferred to other client accounts because Mr. Gottli had previously utilized their funds for an unauthorized purpose.

Mr. Gottli subsequently had C sign an authorization which was back-dated and purported to authorize the use of the funds.

Mr. Gottli, while acting for Clients D on the sale of property, received monies under a trust condition that he discharge a mortgage. Mr. Gottli failed to comply with the trust condition as he transferred the monies to the accounts of other clients.

Comments of the Discipline Committee

The Committee accepted the testimony of the Law Society Auditor/Inspector who reviewed Mr. Gottli's trust records and found that Mr. Gottli transferred client trust funds from the account of Client A to the account of the corporation in which he had an interest. The Committee was also satisfied that the authorization presented by Mr. Gottli was a forgery and that by presenting it to the Complaints Investigation Committee, he misled that

Committee.

With respect to Client B, the Committee accepted the testimony of B's nephew and doctor and determined that B was not capable of fully understanding the authorization she signed.

The Committee also determined that Client C had not authorized Mr. Gottli to use his trust funds. The Committee was satisfied that the authorization was signed by C on a date after the funds had been utilized.

The Committee found that with respect to Client D, Mr. Gottli received and accepted funds in trust from another lawyer for the purposes of discharging a mortgage. The Committee determined that Mr. Gottli breached the trust condition by paying the monies to other clients before discharging the mortgage.

Findings and Penalties

The Committee found that all eight counts in the Citation had been proven and that as a result, Mr. Gottli was guilty of professional misconduct.

The Committee was advised that Mr. Gottli had previously been convicted of similar offences in 1986 and had been fined and required to practise under supervision for three years. The Committee noted that the facts in the present case showed a pattern on Mr. Gottli's part of deceit and deception of both his clients and the Law Society. The facts revealed that Mr. Gottli had made multiple inter-file trust money transfers without authority, altered ledger cards during the course of the Law Society investigation and either falsified authorizations or received authorizations from persons unable to provide informed consent. It was noted by the Committee that the funds transferred on an inter-file basis benefited his corporate interest. However, the monies were replaced by Mr. Gottli so that the clients were not out any funds and the Law Society was not called upon to reimburse those monies.

The Committee noted that because of the conduct involved and the history of the member, the only reasonable disposition was disbarment and as a result, Mr. Gottli was disbarred and struck from the Rolls as a barrister and solicitor.

The Committee also ordered that costs be paid in the amount of \$12,500.00.

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