



DISCIPLINE CASE *DIGEST*

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Case 96-02

GEORGE JIRI FEDERSEL
Winnipeg, Manitoba

Called to the Bar
June 29, 1978

Particulars of Charges
Professional Misconduct (8 counts)

- payment of fees without permission (x6)
- failure to deposit client funds into trust account (x2)

Date of Hearing
October 12, 1995

Panel
Len Lucas, (Chairperson)
Heather Leonoff, Q.C.
Donald Little, Q.C.

Disposition

- fine of \$1,500.00
- costs of \$4,000.00

Counsel
Daniel Dutchin for the Law Society
Member did not appear

Payment of Fees Without Permission

Facts

Mr. Federsel, who was called to the Bar on June 29, 1978, did not appear before the Discipline Committee on October 12, 1995.

The Law Society conducted a spot audit on the accounting practices of Mr. Federsel in February of 1995. The audit discovered that on six files, Mr. Federsel withdrew funds from his trust account to pay himself for the recovery of fees and disbursements without a bill for the fees and disbursements being prepared and sent to the client at the time the monies were withdrawn. The Law Society's Auditor discovered that these withdrawals occurred from October 1991 through to January 1994. Mr. Federsel was unable to provide explanations for these transfers.

The Auditor also found that on two other files Mr. Federsel had received funds on behalf of the clients but failed to deposit those funds into his trust account. Again, Mr. Federsel did not provide any explanation for this.

Comments of the Discipline Committee

The Committee found that the evidence of breaches of the Accounting Rules demonstrated that Mr. Federsel's actions were grossly improper and he was careless in his accounting practices. It appeared to the Committee that Mr. Federsel was using funds from his trust account to offset either real or anticipated cash flow needs of his practice.

The Committee noted that Mr. Federsel did not appear at the hearing to explain any of the matters or contest the evidence, nor did he provide any clear explanations or records to the Auditor at the time of her audit. The Committee also noted that his was not an isolated incident or a simple technical error.

Findings and Penalties

The Committee found Mr. Federsel guilty of professional misconduct with respect to all eight counts in the Citation. The Committee imposed a fine of \$1,500.00 and ordered that costs be paid in the amount of \$4,000.00

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