



DISCIPLINE CASE *DIGEST*

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Case 96-03

GORDON BEAULIEU
Winnipeg, Manitoba

Called to the Bar
June 26, 1980

Particulars of Charges
Incompetence

Date of Hearing
December 11, 1995

Panel
Lewis Wasel (Chairperson)
Eric Irwin
Lori Spivak

Disposition

- Suspended until the member establishes to the Law Society that he is competent to practise as a barrister and solicitor
- Costs of \$600.00

Counsel
Daniel Dutchin for the Law Society
Member unrepresented

Incompetence

Facts

Mr. Beaulieu, who was called to the Bar on June 26, 1980, appeared before the Discipline

Committee on December 11, 1995.

Mr. Beaulieu represented Client A with respect to an insurance claim and in October of 1990, received a cheque in full and final settlement. His client was then deceased and he failed to negotiate the cheque on behalf of her estate. Mr. Beaulieu also misled a representative of the Department of Indian and Northern Affairs who was then administering the estate pursuant to Section 42 of *The Indian Act*, in that he advised the representative that no settlement monies had been received on behalf of the deceased, when in fact the monies had been received.

While acting for Client B with respect to domestic proceedings, he failed to transfer title of the marital home to B until May of 1994 even though an Order requiring the transfer was made by the Court of Queen's Bench in June of 1993.

While acting for Client C with respect to domestic proceedings, Mr. Beaulieu failed to provide the client with appropriate independent legal advice concerning a separation agreement in that he:

- (a) failed to make notes of the meeting with the client;
- (b) failed to discuss financial information with the client;
- (c) failed to provide his client with advice as to the maintenance she might have been entitled to and the sufficiency of the agreement; and
- (d) failed to determine the capacity of his client to understand the document in question.

Mr. Beaulieu also failed to conform with the Rules of the Law Society of Manitoba respecting accounts in that he:

- (a) failed to maintain and keep trust ledger balances and up-to-date reconciliations for each month;
- (b) transferred trust funds from one client trust account to another client trust account without appropriate authorization being obtained and being available for production on demand; and
- (c) withdrew monies for his trust account from the recovery of fees and disbursements without a bill for such fees and disbursements being prepared and sent to the client at the time the money was withdrawn.

Comments of the Discipline Committee

Mr. Beaulieu admitted the charges on the basis of incompetence. The Committee noted that Mr. Beaulieu admitted all charges and that there were no allegations that Mr. Beaulieu had converted any trust funds or client property to his own use. The Committee found that Mr.

Beaulieu's acts were due to carelessness, disorganization, and ignorance and not due to any deliberate intent on his part.

The Committee was advised that Mr. Beaulieu had practised for thirteen years before he began to encounter financial problems which put strains on his practice and office organization. He ceased active practice in October of 1994.

In arriving at it's decision, the Committee noted that:

1. Mr. Beaulieu recognized his problems in carrying on a law practice and voluntarily ceased practicing;
2. Mr. Beaulieu advised counsel for the Society in advance that he would be pleading guilty;
3. Mr. Beaulieu was cooperative with the Society;
4. Mr. Beaulieu did not gain any personal benefit from the acts which resulted in the charges; and
5. This was Mr. Beaulieu's third appearance before the Committee.

Findings and Penalties

The Committee imposed a disposition pursuant to Section 52(2) of *The Law Society Act* wherein Mr. Beaulieu was suspended from practising as a barrister and solicitor until he establishes to the Law Society or a committee thereof, that he is competent to practise. The Committee also ordered that costs be paid in the amount of \$600.00.

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