



DISCIPLINE CASE *DIGEST*

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Case 96-04

SAUL BENJAMIN ZITZERMAN
Winnipeg, Manitoba

Called to the Bar
June 8, 1960

Particulars of Charges
Professional Misconduct (2 counts)

- misappropriation
- failure to advise the Law Society of a trust account

Date of Hearing
January 24, 1996

Panel
Allan Sweatman, Q.C. (Chairperson)
John Menzies
Gordon Bates

Disposition

- Disbarment
- Costs of \$5,500.00

Counsel

Daniel Dutchin for the Law Society
Member did not appear

Misappropriation

Facts

Mr. Zitzerman, who was called to the Bar on June 8, 1960, did not appear before the Discipline Committee on January 24, 1996.

Mr. Zitzerman represented Client D with respect to refinancing of a mortgage. The mortgage was arranged for D by a business partner of Mr. Zitzerman. Mr. Zitzerman represented both the Mortgagee and D. Upon receipt of the mortgage proceeds, a portion of the funds was applied to the discharge of a prior mortgage. Mr. Zitzerman paid \$2,500.00 to his business partner and took \$1,000.00 for his fees. Mr. Zitzerman was to utilize the remaining \$6,500.00 to pay outstanding property taxes on behalf of D.

An Order to Pay was prepared by Mr. Zitzerman in his own handwriting which stated that the \$6,500.00 would be invested on behalf of D. The signature of D on the Order to Pay was found to have been forged. The \$6,500.00 was not used to pay D's property taxes and D did not authorize the payment of \$2,500.00 to the business partner of Mr. Zitzerman.

Prior to the receipt of the mortgage proceeds, Mr. Zitzerman opened a trust bank account and failed to notify the Law Society that he had opened such an account as required by the Rules of the Law Society. D's trust funds in the amount of \$6,500.00 were then paid out of the account by Mr. Zitzerman for his personal matters without the consent or authorization of D.

Comments of the Discipline Committee

The Committee found that Mr. Zitzerman had defrauded Client D of \$9,000.00. They noted that the signature on the Order to Pay was forged and that Mr. Zitzerman had lied to D. The Committee determined that Mr. Zitzerman was unworthy to practise law.

Findings and Penalties

The Committee found Mr. Zitzerman guilty of professional misconduct and unworthy to practise law and resolved that he be disbarred and his name struck from the Rolls of the Law Society as a barrister and solicitor. The Committee also ordered that costs be paid in the amount of \$5,500.00.

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