



DISCIPLINE CASE *DIGEST*

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Case 96-13

JOHN LEVINE
Winnipeg, Manitoba

Particulars of Charges Professional Misconduct

- failing to file an Accountant's Report (Form D)
- failing to pay penalties imposed for the late filing of an Accountant's Report (Form D)
- failing to deposit money to trust
- lack of courtesy towards another lawyer
- failing to hold in confidence information concerning a client by receiving correspondence at a facsimile number not belonging to the member's law firm
- failing to use funds received from Manitoba Public Insurance to pay for a medical report requested by the member
- failing to follow the instructions of a client
- failing to comply with a court order
- breach of the accounting rules
- failing to respond to a fourteen day letter (2 counts)

Date of Hearing
May 15 & 16, 1996

Panel
Lewis Wasel (Chair)
Norm Cuddy
Eric Irwin

Disposition

- Disbarment
- Costs of \$10,000.00

Counsel
Kristin Dangerfield for the Law Society

Member did not appear

Ungovernable Member

Facts

Mr. Levine did not file his Form D (Annual Trust Account Report) by the date required under Rule 133 of The Rules of the Law Society for his year ending January 31, 1995. Mr. Levine also failed to pay penalties owed to the Law Society that were imposed for his having filed his Form D 108 days late for his year ending January 31, 1994.

Mr. Levine represented the vendors of property. He requested that the solicitor for the purchaser retain the funds in an interest bearing account in the name of Mr. Levine's clients, as Mr. Levine no longer had signing authority on his own trust account. When the purchaser's solicitor refused to do so, and ultimately refused when title issued to provide a cheque made payable either to Mr. Levine personally, or in the name of Mr. Levine's clients, Mr. Levine used language which was discourteous and intemperate. When in due course a cheque was issued to John Levine, Barrister and Solicitor, Mr. Levine endorsed it to his clients at which time the funds were deposited directly into the clients own back account.

In respect of that same matter, Mr. Levine had provided to the purchaser's solicitor a facsimile number for use in sending correspondence to him, when the facsimile number did not belong to Mr. Levine's law firm but in fact belonged to a non-related business. It was alleged that in doing so Mr. Levine had failed to hold in strict confidence all information concerning the business and affairs of his clients.

In another matter Mr. Levine failed to pay for a chiropractor's report requested by him, notwithstanding the fact that Manitoba Public Insurance provided payment for that report in settling his client's claim for personal injuries. In doing so, Mr. Levine failed to follow written instructions from his client to pay for the medical report prior to disbursing the settlement funds to the client.

In another matter Mr. Levine had been retained by a client with respect to domestic proceedings. In due course the client retained new counsel and brought an application to The Court of Queen's Bench for an assessment of Mr. Levine's statements of account for fees and disbursements. Following a hearing, Mr. Levine was ordered by the Master to refund the sum of \$590.00 plus GST to his client and to pay costs of the application of \$600.00. Mr. Levine failed to do so.

A spot audit conducted on Mr. Levine's trust account records determined that he had failed to comply with the Rules of the Law Society. It was noted that he had failed to keep and maintain up-to-date control account balances, client trust listings and bank reconciliations

each month.

Mr. Levine also failed to respond to two fourteen day letters from the Law Society of Manitoba requiring a response.

Decision and Comments

Mr. Levine did not appear at the Discipline Committee hearing although he had been properly served with notice of the proceedings. As a result, the hearing took place in his absence, with witnesses being called and evidence produced by the Law Society. Upon completion of the hearing, The Discipline Committee found that all charges had been proved with the exception of the charge relating to the breach of confidentiality, for which Mr. Levine was acquitted. The Committee expressed the view that in the circumstances of this case, where no client had complained of any breach of confidentiality, utilizing a facsimile machine in an office other than that of the member did not amount to professional misconduct. The Discipline Committee found that with respect to the remainder of the charges Mr. Levine had committed professional misconduct.

The Committee further commented that Mr. Levine had failed in his obligations to his clients, to other lawyers and professionals, to the courts, and to the Law Society. It expressed the view that the present convictions, coupled with Mr. Levine's record, demonstrated a complete failing on his behalf to respect the most basic tenets of the practice of law. The Committee concluded that Mr. Levine was an ungovernable member.

Penalty

The Committee considered Mr. Levine's prior record and the circumstances of the present case, and resolved that Mr. Levine be disbarred and his name struck from the Rolls of the Law Society as a barrister and solicitor. It also ordered costs in the amount of \$10,000.00.

Note

Mr. Levine filed an appeal from his conviction to the Manitoba Court of Appeal on July 15, 1996.

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