



DISCIPLINE CASE *DIGEST*

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Case 96-19

CHRISTOPHER ANDREW BROCK
Winnipeg, Manitoba

Called to the Bar
June 27, 1985

Particulars of Charges
Professional Misconduct

- failure to deposit client funds into trust account (14 counts)
- submitting false petty cash vouchers to his firm for fictitious disbursements and retaining cash (8 counts)
- payment of fees from trust without rendering account to client (6 counts)
- rendering accounts for fees not yet earned (2 counts)
- taking fees without authorization (1 count)
- failing to prosecute client's claim in a prompt and efficient manner (1 count)

Date of Hearing
July 10, 1996

Panel
Eric Irwin (Chair)
Alan Sweatman, Q.C.
Douglas Yard, Q.C.

Disposition

- Six month suspension
- \$5,000.00 costs
- Cancellation of practising certificate and imposition of conditions on any practising certificate to be issued after serving period of suspension

Counsel
R.B. McNicol, Q.C. for the Law Society
R. Schwartz for the member

Misappropriation of Firm Monies

Facts

Mr. Brock appeared before the Discipline Committee on July 10th, 1996.

On fourteen occasions Mr. Brock received monies from his clients in respect of fees but failed to deposit those monies into the trust bank account of the firm where he practised and failed to account to his firm for those fees.

On eight occasions, Mr. Brock submitted false petty cash vouchers to his firm for reimbursement of petty cash disbursements which had not been incurred on the client files. Mr. Brock then kept the monies which he was reimbursed in respect of these false claims.

On six occasions, Mr. Brock withdrew monies from the firm's trust bank account for the recovery of fees and disbursements without a bill for such fees and disbursements being prepared and sent to his client at the time the monies were withdrawn. In each of these cases, however, the fees and disbursements were determined to be appropriate.

On two occasions, Mr. Brock accepted retainers from clients and provided no services.

On one occasion, Mr. Brock took client monies in payment of his fees and disbursements without the knowledge, permission or consent of the client. The work had, in fact, been completed and the fees charged appeared to be appropriate for the level of work.

On one occasion, Mr. Brock accepted instructions to prosecute a claim on behalf of a client against an insurance company and thereafter failed to take any steps or action to proceed with and advance the client's claim. As no limitation date was missed, the claim of the client was not statute barred.

Decision and Comments

Mr. Brock admitted the counts in the Citation.

The Committee determined that there was clearly a breach by Mr. Brock of the fiduciary obligations which he owed to his firm and a misappropriation of monies by him for his own purposes in an amount totalling approximately \$14,000.00. Accordingly, Mr. Brock was guilty of professional misconduct.

The Committee noted that Mr. Brock's misconduct continued over a lengthy period of time between April, 1991 and January, 1995, but accepted Mr. Brock's explanation that his

misconduct was a result of ongoing alcoholism.

The Committee noted that Mr. Brock admitted his culpability and co-operated with the Law Society in its investigation of the allegations against him and had voluntarily withdrawn from the practice of law pending the disposition of the complaints against him.

The Committee also noted that Mr. Brock had voluntarily sought help for his alcoholism, had appeared to make significant lifestyle changes, and had been sober for a period of seventeen months prior to his appearance before the Committee.

Penalty

The Committee found that Mr. Brock was guilty of professional misconduct on the basis of his admission to the charges.

The Committee suspended Mr. Brock for a period of six months and cancelled his practising certificate.

In the event Mr. Brock applies for a new practising certificate following his period of suspension, any new practising certificate is to be subject to the following conditions:

1. that Mr. Brock abstain from alcohol for a period of two years;
2. that for a period of two years, Mr. Brock submit quarterly reports to the Society from Alcoholics Anonymous confirming his attendance at their regular meetings and his current dry date;
3. that for a period of two years Mr. Brock practise under the supervision of a member of the Society approved by the Society and that such member provide written reports to the Society every six months confirming Mr. Brock's satisfactory performance.

The Committee also ordered that costs be paid in the sum of \$5,000.00 at the rate of \$250.00 per month for the first two months in which Mr. Brock resumes practice and thereafter at the rate of \$500.00 per month until paid in full. In the event Mr. Brock does not resume practice, the costs are payable 30 days after the expiration of Mr. Brock's period of suspension in the same manner.

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