



DISCIPLINE CASE *DIGEST*

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Case 96-21

RONALD KEITH BLACK
Flin Flon, Manitoba

Called to the Bar
June 28, 1972

Particulars of Charges
Professional Misconduct

- Failure to maintain up to date trust records (8 counts)
- Failure to properly operate trust account or general account (3 counts)
- Payment out of trust account of an amount greater than the client had to his or her credit (1 count - 31 payments)
- Transferring money from trust to general without preparing and sending a bill (1 count - 34 transfers)
- Charging fees to an estate in excess of the fees permitted by Rule 74.14 (4) without the consent of the beneficiaries (1 count)
- Failing to meet financial obligations incurred in the course of practice (1 count - 11 incidents)
- Breaching undertaking to the Complaints Investigation Committee (1 count)
- Misleading the Complaints Investigation Committee (1 count)

Date of Hearing
May 2 & 3, 1996

Panel
Robert Pollack, Q.C. (Chair)
Arthur Rich, Q.C.
Norman Sims, Q.C.

Disposition

- \$1,000.00 fine for misleading the Complaints Investigation Committee
- \$2,500.00 fine for all other matters
- \$5,000 costs

Counsel

S.F. Vincent for the Law Society

Member unrepresented

Failure to Maintain Up to Date Trust Records

Facts

Mr. Black appeared before the Discipline Committee on May 2 and 3, 1996.

Mr. Black admitted the following counts:

1. eight counts of failing to maintain up to date trust records;
2. three counts of failing to properly operate his general account or trust account; and
3. one count of paying out of his trust account an amount greater than his client had to his or her credit on 31 separate occasions.

Mr. Black disputed the other counts in the Citation.

Decision and Comments

The Discipline Committee accepted the member's admissions and made a finding of professional misconduct.

In dealing with the counts that were not admitted, the Discipline Committee found that Mr. Black had:

1. on 34 occasions transferred money from his trust account to his general account without preparing and sending a bill to the client;
2. charged a fee to an estate in excess of the fee permitted by the relevant Queen's Bench Rule without the consent of the beneficiaries;
3. failed to pay the statements of account of the professional surveyors some of which were three years old. The Committee noted that the member was placed in funds by his client or as a result of the transaction and the accounts ought to have been paid properly;
4. breached an undertaking given to the Complaints Investigations Committee of The Law Society of Manitoba by failing, on one occasion, to provide a copy of his monthly reconciliation on the first of the month; and
5. misled the Complaints Investigation Committee of The Law Society of Manitoba by providing it with copies of two signed letters to the firm of professional surveyors purporting to make payment of their accounts. In fact, the letters were not sent,

payment was not made and the member did not so advise the Committee.

Penalty

The Discipline Committee found the member guilty of professional misconduct and imposed a fine of \$2,500.00 for all matters except misleading the Complaints Investigation Committee, for which the Committee imposed an additional fine of \$1,000.00. The Committee also assessed costs in the amount of \$5,000.00. The Committee ordered that the fines and costs be paid at the rate of \$850.00 per month commencing October 15, 1996. The Committee commented that Mr. Black's lack of candour with the Law Society would result in a very high assessment of costs. The Committee also commented that in setting the amounts of the fines and costs, it had considered the gravity of the offences, the antecedents of the offender, the burden of this case on the Society and the totality principle. The Committee cancelled Mr. Black's Practising Certificate and issued a new Certificate upon the following conditions:

1. that the instalment payments ordered be made on time as specified;
2. that monthly trust reconciliations be provided to the Law Society auditor for the current month and each succeeding month until September 1997;
3. that the monthly trust reconciliations be provided no later than the 30th day of the end of the month following; and
4. that failure to comply with any of these conditions result in an automatic suspension of Mr. Black's Practising Certificate, with no reinstatement until the Law Society certified that the lack of compliance has been remedied.

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