



DISCIPLINE CASE *DIGEST*

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Case 98-01

BROCK GLOVER LEE, Q.C.
Carman, Manitoba

Called to the Bar
June 29, 1978

Particulars of Charges
Professional Misconduct

- stipulated, charged or accepted a fee which was not fully disclosed, fair and reasonable

Date of Hearing
May 14, 1998

Panel
L.P. Allen, Q.C. (Chair)
R.K. Deeley, Q.C.
J.E. Neufeld, Q.C.

Disposition

- Reprimand
- Costs of \$3,184.97

Counsel
S.F. Vincent for The Law Society of Manitoba
A.B. Graham, Q.C. for the Member

Unreasonable Fee

Facts

Mr. Lee appeared before the Discipline Committee on May 14, 1998.

Mr. Lee admitted that he charged a fee of \$2,200.00 in relation to the research and preparation of a legal opinion, which fee was not fully disclosed, fair and reasonable and could not be justified in light of all of the pertinent circumstances and was contrary to Rule 155 of the Law Society Rules and Chapter 11 of the Code of Professional Conduct.

Mr. Lee was retained by two residents of Germany who owned farm land in Manitoba to act for them on the sale of land, to pursue a tenant for rent and to advise them whether an agreement for the sale of land that had been executed was binding on them. A letter to the clients from Mr. Lee was intended to serve as his legal opinion in the matter. The letter advised that an early decision was required on whether the clients wished to abort the transaction and return the sale funds. The clients were further advised in the letter that, as it was not known what action the purchaser would take, it was important that the clients' conduct was consistent with the cancellation of the contract. The letter also informed the clients that while it was difficult to estimate the legal fees if the matter was litigated, the fees could range from \$5,000.00 to \$25,000.00.

Mr. Lee subsequently billed his client for services rendered including fees of \$2,200.00 on account of the legal opinion.

The clients proceeded to have the fees assessed by Master Lee who found that the legal opinion was devoid of the qualities that were required or expected in a legal opinion. Master Lee noted that there was no recitation of facts upon which the opinion was based, there was no reference to legal authority to support the position and there was no basis set out to support the advice given. In the circumstances, Master Lee found that the fee charged by Mr. Lee for the opinion was disproportionate to the services demonstrably rendered and the fee was reduced from \$2,200.00 to \$350.00.

Decision and Comments

The Committee accepted the joint submission of counsel that a reprimand was the appropriate penalty. The Committee considered that Mr. Lee had an unblemished reputation over 20 years of practice, that he had provided service to both his community and the profession, that his feelings of embarrassment and regret were obvious and genuine, that he had co-operated with The Law Society at all times and that he had promptly refunded the fees, interest and costs as ordered by Master Lee. The Committee indicated that it was satisfied that this matter represented an isolated error in judgement.

Penalty

In addition to imposing a reprimand, the Committee ordered Mr. Lee to pay the full costs of the prosecution in the sum of \$3,184.97 pursuant to Rule 64(7). Although the Committee acknowledged that it had discretion with respect to costs under that Rule, it did not see any particular circumstances in this case to reduce those costs as requested by the Member.

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