



DISCIPLINE CASE *DIGEST*

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Case 98-03

LAWRENCE BREMNER CHERRETT
Winnipeg, Manitoba

Called to the Bar
June 28, 1979

Particulars of Charges
Professional Misconduct

- Breach of trust condition

Date of Hearing
June 24, 1998

Panel
James W. Hedley, (Chair)
Celia E. Gorlick, Q.C.
Brian A. Pauls

Disposition

- Reprimand
- Costs of \$750.00

Counsel
J.R. Gallagher for The Law Society of Manitoba
Richard W. Schwartz for the Member

Breach of Trust Condition

Facts

In August, 1996 Mr. Cherrett terminated his association with his former firm and established a new law firm. Two months later, Mr. Cherrett met with the member of his former firm responsible for the transition of Mr. Cherrett's client files. A total of 79 client files were turned over to Mr. Cherrett on the trust condition that he would draft reporting letters to the clients and return the files and the draft reporting letters to his former firm by November 14, 1996. Alternatively, a file could be retained by Mr. Cherrett if he provided a signed authorization from the client. Mr. Cherrett acknowledged acceptance of the trust condition by signing a copy of a memorandum detailing the terms upon which the files were being released to him.

As of November 14, 1996, Mr. Cherrett had failed to provide the required reporting letters and files or the client authorizations to his former firm. On five occasions between November 27, 1996 and February 4, 1997, the former firm sent letters to Mr. Cherrett requesting that he comply with the trust condition and respond to their previous correspondence. There was some movement on the part of Mr. Cherrett, however, as of February 28, 1997 only ten of the client files and matters had been attended to by Mr. Cherrett.

Decision and Comments

Mr. Cherrett entered a plea of guilty to the charge of professional misconduct. The Committee expressed the view that Mr. Cherrett should not have accepted a trust condition with which he would predictably have a great deal of difficulty complying. The Committee also commented that trust conditions must be complied with to the letter.

Penalty

The Committee found Mr. Cherrett guilty of professional misconduct and accepted counsel's joint recommendation as to penalty by imposing a reprimand and also ordering that Mr. Cherrett pay costs in the amount of \$750.00 by way of three post-dated cheques commencing monthly on August 1, 1998. The Committee also accepted Mr. Cherrett's written undertaking that he would resolve any matters outstanding on the files to the satisfaction of his former firm and the Law Society.

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