



DISCIPLINE CASE *DIGEST*

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Case 98-04 (Amended)

LANCE ALEXANDER NORMAN
Winnipeg, Manitoba

Called to the Bar
June 29, 1989

Particulars of Charges
Professional Misconduct

- Failure to comply with trust condition
- Breach of trust accounting rules
- Failure to serve client in a conscientious, diligent and efficient manner (2 counts)
- Failure to show courtesy and good faith to fellow lawyer
- Misleading the Complaints Investigation Committee

Dates of Hearing
January 20, 1998
March 24, 1998
July 9, 1998

Panel
L.P. Allen, Q.C., (Chair)
D.F. Plett, Q.C.
J.W. Hedley

Disposition
Acquitted of 3 counts:

- Failure to comply with trust condition
- Failure to show courtesy and good faith to fellow lawyer
- Misleading the Complaints Investigation Committee

Guilty of 3 counts:

- Breach of accounting rules
- Failure to serve client in a conscientious, diligent and efficient manner (2 counts)

Fine of \$1,000
Costs of \$3,500.00

Counsel

J.R. Gallagher for The Law Society of Manitoba
Gerald E. Doak for the Member

Failure to Serve Clients

Facts

In October of 1993 Mr. Norman was retained by a client concerning domestic proceedings involving the client and her estranged husband. Over the course of the following eighteen months, the outstanding issues between the parties were negotiated between Mr. Norman and counsel for the husband. Agreement was reached as to an amount for child support, a payment to Mr. Norman's client in settlement of marital property and agreement that the husband would obtain an uncontested divorce based on the settlement terms.

The retainer agreement between Mr. Norman and his client provided that he would be paid for legal services once his client received her marital property settlement. On May 2, 1995, Mr. Norman received from opposing counsel the funds regarding the marital property settlement. The funds were deposited into Mr. Norman's trust account and on May 4, 1995 he transferred the sum of \$5,901.46 from his trust account to his general account for the recovery of fees and disbursements. The client later advised that she had received only one interim statement of account in the amount of \$1,648.14.

Mr. Norman's client file contained four statements of account totalling \$5,901.46. The client file also contained accompanying letters with three of the interim statements of account, which appeared to indicate that the three statements, totalling \$5,248.72, had been sent to the client. There was no accompanying letter with the fourth interim statement which was in the amount of \$652.74 and which brought the total fees and disbursements to \$5,901.46.

It was necessary for Mr. Norman to provide a current financial statement from his client before the Court would consider an uncontested divorce. Despite three written requests from opposing counsel, it took Mr. Norman two and a half months to provide the financial statement. After receiving the financial statement opposing counsel did not file it with the Court and the matter did not proceed. During the period October, 1995 to May, 1996, Mr. Norman failed to adequately follow up on the matter and also failed to take steps on behalf of his client to bring the matter on for a hearing. Mr. Norman wrote a letter to his client in late August, 1995 advising her that a divorce judgment had been granted when he knew or ought to have known that the Court had not yet dealt with the matter and no divorce judgment had been granted.

Decision and Comments

The Committee found Mr. Norman guilty of three charges of professional misconduct regarding one count of breach of the trust accounting rules and two counts of failure to serve his client in a conscientious, diligent and efficient manner. Mr. Norman was acquitted of the other three charges contained in the Citation. As to the charges for which he was found guilty, the Committee found that Mr. Norman's retainer meant that he was to represent his client to the conclusion of the file, which included ensuring that her divorce was granted. Consequently, Mr. Norman should have followed up with opposing counsel or with the Court on why the matter had not proceeded to a hearing and taken the necessary steps to ensure that the matter was concluded. The Committee found that Mr. Norman's conduct fell short of any reasonable standard of ethical behaviour and that Mr. Norman had failed in his ethical obligations to his client.

Penalty

The Committee imposed a fine of \$1,000.00 and also ordered that Mr. Norman pay costs in the amount of \$3,500.00. The total amount of \$4,500.00 was ordered to be paid at the rate of \$200.00 per month with an acceleration clause in the event that a payment was missed.

Note

Mr. Norman filed an appeal from his conviction to the Manitoba Court of Appeal on September 24, 1998. On March 30, 1999, Mr. Norman's appeal was deemed by the Court of Appeal to be abandoned as he had failed to perfect his appeal in accordance with the Court rules.

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