



DISCIPLINE CASE *DIGEST*

Case 20-01

Member:	Adeline Lorraine Degner
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 15, 2000
Particulars of Charge:	Professional Misconduct (1 Charge): <ul style="list-style-type: none">▪ Breach of Rule 7.1-1 of the <i>Code</i> and Rule 5-64(3), (4) & (5) of the <i>Rules</i> [failure to respond promptly and completely to the Law Society]
Plea:	Guilty
Date of Hearing:	August 11, 2020
Panel:	<ul style="list-style-type: none">▪ Sacha Paul (Chair)▪ Irene Hamilton, Q.C.▪ Sandra Oakley (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for the Law Society of Manitoba▪ Member Self Represented
Dates of Decisions:	Oral Decision: August 11, 2020 Written Reasons for Decision: September 25, 2020
Consequences:	<ul style="list-style-type: none">▪ Suspension for 30 days, but suspended so long as Ms Degner complies with a detailed Undertaking, including that she provide the outstanding response on August 12, 2020, that she is to withdraw from practice by September 15, 2020 and that if she should ever apply to resume practising, she must first satisfy the CEO of the Society that she is capable of responding to professional communications▪ Costs of \$2,600.00

Failure to Respond to the Law Society

Facts

Ms Degner was retained by a client in relation to completion of the administration of an estate. On several occasions during the course of the retainer, the client had contacted the Law Society with concerns about Ms Degner's failure to respond to him and to beneficiaries in a timely fashion. On the first two occasions, these concerns were dealt with informally after Ms Degner was contacted by the Law Society.

Beginning in March 2020, after similar concerns were raised by this client and two others, the Law Society made extensive attempts to contact Ms Degner but received no response. The client made a formal complaint on April 24, 2020 and the Law Society again made several attempts to make contact with Ms Degner. On April 30, 2020 Ms Degner responded that she would respond to the client by May 4, 2020, but she did not.

Ms Degner then received correspondence from the Law Society on May 5, 2020 to which a response was required by May 8, 2020. She responded by delivering the client's file and trust funds to new counsel as the client now required.

Ms Degner received follow up letters from the Law Society on May 21, 2020 and June 10, 2020, each of which required a response within 14 days. Ms Degner did not respond to those letters.

Plea

Ms Degner entered a guilty plea to one (1) charge of professional misconduct.

Decision and Comments

The Panel accepted Ms Degner's guilty plea. They expressed concern that Ms Degner had previously been disciplined on two occasions for failing to respond to professional communications and that in this case, she added failure to respond to the regulator. The Panel noted that the obligation to respond to the Law Society is not a mere technical requirement but an ethical duty and that the requirement to respond to investigations into complaints is so that the public will have confidence that their concerns will be investigated and so that appropriate action may be taken where necessary.

Consequences

The Panel was presented with a joint recommendation as to consequences. They considered the principles related to joint recommendations in light of the purposes of professional discipline and accepted the joint recommendation. They commented that Ms Degner's prior record warranted a 30 day suspension but, in accordance with the joint recommendation and having considered the full text of the Undertaking, ordered that the suspension itself be suspended if Ms Degner complied with the Undertaking.

Ms Degner was, therefore, ordered suspended for 30 days but the order was suspended provided that Ms Degner comply with the Undertaking.

The Panel ordered that Ms Degner pay costs in the amount of \$2,600.00 for the investigation and prosecution of this matter.

Note: Pursuant to the Undertaking, Ms Degner provided her response to the Society on August 12, 2020 and withdrew from active practice as of September 15, 2020.