

**IN THE COURT OF APPEAL OF MANITOBA**

*Coram:* Madam Justice Freda M. Steel  
Madam Justice Barbara M. Hamilton  
Mr. Justice Martin H. Freedman

***BETWEEN:***

<b><i>DONALD JOEL MACKINNON</i></b>	)	<b><i>G. M. Wood</i></b>
	)	<i>for the Appellant</i>
<i>Appellant</i>	)	
	)	<b><i>D. A. C. Senft</i></b>
<i>- and -</i>	)	<i>for the Respondent</i>
	)	
<b><i>THE LAW SOCIETY OF MANITOBA</i></b>	)	<i>Appeal heard and</i>
	)	<i>Decision pronounced:</i>
<i>Respondent</i>	)	<b><i>April 12, 2011</i></b>

**STEEL J.A.** (for the Court):

1 A panel of the Discipline Committee found the appellant guilty of six charges of professional misconduct, two of which involve the fabrication of 14 statements of account and the misapplication of trust funds to pay legal fees. They ordered that he be disbarred and pay a sum as a contribution toward the cost of the investigation and hearing.

2 Both parties agree that the standard of review for this court to apply to the panel's reasons, its outcome and its choice of penalty is that of reasonableness. See *Ritchot v. Law Society of Manitoba*, 2010 MBCA 13, 251 Man.R. (2d) 121, and *Guttman v. Law Society of Manitoba*, 2010

MBCA 66, 255 Man.R. (2d) 151. As such, this court must not interfere unless the party seeking review has positively shown that the reasons or the outcome of the conviction decision, or the disbarment decision, were unreasonable.

3           The appellant argues that given the long history between himself and his client and his position that the work was indeed done here, this “alleged” misappropriation does not make sense. Moreover, he submits that once the panel found that the statements of account were intentionally not sent, all other questionable acts that occurred after that were interpreted negatively by the panel and in corroboration of their finding of intentional wrongdoing, similar to the falling of a set of dominoes.

4           We see it in a different light. There were a number of questionable acts. While each one of them might be explained (as counsel attempted to do), the panel was entitled to make findings of credibility adverse to the appellant. They were also entitled to consider the cumulative impact of these incidents together as leading to a conclusion of intentional misleading of the client and professional misconduct.

5           Next, the standard of reasonableness contemplates more than one reasonable response. Even if these acts could have received a different interpretation, there is no question that the interpretation placed upon them by the panel was one of the possible outcomes, was reasonable and was supported by a “line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived” (*Law Society of New Brunswick v. Ryan*, 2003 SCC 20,

[2003] 1 S.C.R. 247 at para. 55).

6           The panel has a broad discretion under s. 72(1) of *The Legal Profession Act*, C.C.S.M., c. L107, with respect to the imposition of a penalty upon making a finding that a lawyer has committed professional misconduct.

7           In considering the issue of penalty, the panel noted that the appellant was convicted of six counts of professional misconduct, five of which dealt with acts of dishonesty.

8           They reviewed the facts, they gave their reasons, and they considered all factors. Based on the jurisprudence, it was a reasonable decision, and we see no basis to intervene. The appeal is dismissed with costs.

\_\_\_\_\_ J.A.

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