

April 10, 2018

The Law Society alleged that **Paul Thomas McEnery**, 1974, of Ottawa, committed professional misconduct.

The panel determined that the following allegations were established:

- the Respondent misapplied those funds given to him by or on behalf of his clients to be held in trust, totalling \$1,759,212.59, by paying them for the benefit of one or more other of his clients or otherwise in a manner not authorized by the client for whose benefit the funds were held, contrary to By-Law 9, Section 9, made pursuant to the *Law Society Act*, including the following amounts:
  - \$185,307.69, more or less, held on behalf of his client TF, between April 15, 2015 and May 26, 2015, or thereabouts;
  - \$175,000, more or less, held on behalf of his client TF, on or about May 26, 2015;
  - \$122,298.11, more or less, held on behalf of his client LC, between May 2, 2015 and July 31, 2015, or thereabouts;
  - \$130,000, more or less, held on behalf of his client BT, on or about August 17, 2015;
  - \$40,000, more or less, held on behalf of his client the estate of RAW, on or about November 6, 2014;
  - \$60,000, more or less, held on behalf of his client RNW, on or about November 14, 2014;
  - \$70,854.65, more or less, held on behalf of his client LB, on or about September 9 and 10, 2015;
  - \$195,752.14, more or less, held on behalf of his client JP, between April 27, 2015 and May 19, 2015, or thereabouts; and,
  - \$780,000.00, more or less, held on behalf of his client DW, between March 24, 2015 and September 1, 2015, or thereabouts;
- Between about July 20, 2010 and about April 30, 2011, the Respondent misapplied the sum of \$88,248.00, held in trust for his client CJ by paying that sum for the benefit of one or more other of his clients or otherwise in a manner not authorized by his client CJ, contrary to then By-Law 19, Section 4, made pursuant to the *Law Society Act*.
- The Respondent misappropriated \$296,960.59, more or less, of funds given to him by or on behalf of his clients to be held in trust, contrary to Rule 3.6-10 of the *Rules of Professional Conduct*, including the following amounts:
  - \$27,249.31, more or less, held on behalf of his client TF, on or about April 21, 2015;

- \$15,163.30, more or less, held on behalf of his client LB, on or about September 10, 2015;
  - \$547.98, more or less, held on behalf of his client BT, on or about October 23, 2015;
  - \$13,000.00, more or less, held on behalf of his client RNW, on or about November 14, 2014; and,
  - \$241,000.00, more or less, held on behalf of his client PB, on or about September 23, 2015.
- Between about March 11, 2010 and about April 22, 2010, the Respondent misappropriated \$32,287.50, more or less, of funds given to him by or on behalf of his client CJ to be held in trust, contrary to Rule 2.08(10) of the *Rules of Professional Conduct*, as they then were.
  - On or about October 23, 2015, the Respondent misappropriated \$27,950.00, more or less, of funds given to him by SW, on behalf of his client the estate of SB to be held in trust, contrary to Rule 3.6-10 of the *Rules of Professional Conduct*.
  - On or about July 31, 2015, the Respondent withdrew from his trust account \$398,787.04, more or less, held on behalf of his client the estate of SB, for the benefit of his client DW, contrary to By-Law 9, Section 9, made pursuant to the *Law Society Act*.
  - On or about September 10, 2015, the Respondent withdrew from his trust account \$10,000.00, more or less, held on behalf of his client LB, for the benefit of another client, contrary to By-Law 9, Section 9, made pursuant to the *Law Society Act*.
  - Since about April of 2015, the Respondent failed to be honest and candid with his client, TF, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust by TF in bridge financing loans on behalf of TF and maintained the position that funds were so invested when, to the Respondent's knowledge, the funds were not invested in such loans.
  - Since about March of 2015, the Respondent failed to be honest and candid with his client, DW, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust by DW in bridge financing loans on behalf of DW, when, to the Respondent's knowledge, the funds were not invested in such loans.
  - Since about May of 2015, the Respondent failed to be honest and candid with his client, LC, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust by LC in bridge financing loans on behalf of LC and maintained the position that funds were so

invested in all subsequent communications with LC, when, to the Respondent's knowledge, the funds were not invested in such loans.

- Since about August of 2015, the Respondent failed to be honest and candid with his client, BT, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust by BT in bridge financing loans on behalf of BT and maintained the position that funds were so invested in all subsequent communications with BT when, to the Respondent's knowledge, the funds were not invested in such loans.
- Since about November of 2015, the Respondent failed to be honest and candid with his client, RNW, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust by RNW in bridge financing loans on behalf of RNW and maintained the position that funds were so invested in all subsequent communications with RNW when, to the Respondent's knowledge, the funds were not invested in such loans.
- Since about September of 2015, the Respondent failed to be honest and candid with his client, LB, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust by LB in bridge financing loans on behalf of LB when, to the Respondent's knowledge, the funds were not invested in such loans.
- Since about April of 2015, the Respondent failed to be honest and candid with his client, JP, contrary to Rule 3.2-2 of the Rules of Professional Conduct, in that he represented that he would invest the funds provided to him in trust on behalf of JP when, to the Respondent's knowledge, he did not invest the funds.
- Since about July 20, 2010, the Respondent breached his undertaking, dated January 15, 2010, to withhold and hold in trust \$86,250.00 of the sale price of a specified property pending the delivery of the Certificate of Compliance issued by Canada Revenue Agency, in that he disbursed all of the funds in the absence of a Certificate of Compliance, contrary to subrule 6.03(10) of the *Rules of Professional Conduct*, as they were prior to October 1, 2014.
- Since July 20, 2010, the Respondent failed to account to his clients, for the funds that they provided to him in trust, contrary to By-Law 9, Section 9, made pursuant to the *Law Society Act*.
- Since September 23, 2015, the Respondent failed to serve his client, PB, contrary to Rule 3.1-2 of the *Rules of Professional Conduct*, in that he failed to complete the work he was retained to do by failing to discharge a mortgage against a property belonging to his client's corporation despite being provided with sufficient funds to do so in trust by his client.

- The Respondent failed to cooperate with twenty-three investigations, more or less, by the Law Society by failing to respond to correspondence from the Law Society and produce information and documents, including books and records of his law practice, contrary to section 49.3 of the *Law Society Act* and Rule 7.1-1 of the *Rules of Professional Conduct*.

The panel orders:

1. The Respondent's licence to practise law is revoked effective immediately.
2. The Respondent shall comply with the Law Society's *Guidelines for Former Lawyers Whose Licences Have Been Revoked or Who Have Been Permitted to Surrender Their Licences*.
3. The Respondent shall pay to the Compensation Fund any amount paid by the Compensation Fund after the date of this order in relation to:
  - a. Claim CF-2015-178873, claimant TF, to a maximum of \$387,000;
  - b. Claim CF-2015-179221, claimant the Estate of SB, to a maximum of \$445,950;
  - c. Claim CF-2016-193001, claimant DW, to a maximum of \$380,000; and,
  - d. Claim CF-2015-179439, claimants RNW and Estate of RAW, to a maximum of \$103,000.
4. There shall be no order as to the costs incurred by the Law Society.

*(Counsel for the Society, Glenn Stuart and Keith Crawford / Counsel for the Lawyer, William Trudell)*