

Communiqué

Number 120

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Convocation, on behalf of the profession, expressed its shock and sorrow at the tragic death of Oscar Fonseca, who was killed while carrying out his professional duties in Court in Osgoode Hall.

Retainers received for services to be performed are to be deposited into the lawyer's trust account to be transferred to the general account only after the work has been performed or the disbursements made and only then upon notification to the client. Some members, particularly some practising in the Criminal Law field, have interpreted Section 14(5)(a), formerly 18(5)(a) of the Regulation, to mean that a retainer for services to be performed may be deposited directly into the general account if the client so requests in writing. Convocation today, on the recommendation of the Discipline Committee, rejected that interpretation effective for retainers received on or after 1st January 1983.

Rule 10 in the Professional Conduct Handbook prohibits fee splitting, and the Benchers voted today to have paragraph 6 of the commentary amended to make it clear that a member must not enter into a lease or arrangement whereby the landlord directly or indirectly shares in the fees or revenues generated by his practice.

John Errol Farr of Orillia was found guilty of professional misconduct and disbarred. He had misappropriated over \$250,000 of trust monies.

Norman Aaron Mintzer of Toronto was found guilty of conduct unbecoming a Barrister and Solicitor and was disbarred. He had pleaded guilty and was convicted in Criminal Court of fraud involving over \$900,000 and sentenced to a term of imprisonment of 2 years less one day.

Eric Harvey Palmer of Hamilton was found guilty of professional misconduct and permitted to resign his membership in the Society upon undertaking never to apply to be readmitted. He had misapplied about \$13,000 of clients' funds which was later restored to them. He had failed to report on a real estate transaction and to obtain proper security for mortgage funds advanced in the transaction. The offences took place at a time when the Solicitor was under great stress, financially because he was called on to honour a guarantee he had made on behalf of a client, and emotionally because in the same period his son had suffered a very serious industrial accident, and these pressures caused the solicitor to drink to excess.

Kenneth Jarvis,
Secretary.