

***Rule 4-21 admission and undertaking not to apply for reinstatement for five years***

*Misappropriation of trust funds*

**MICHAEL DAVID LOKEN**

Calgary, Alberta (formerly of Vancouver, BC)

Called to the Bar: May 14, 1993

Voluntarily ceased membership: January 1, 2001

**Client A**

In 1997 Mr. Loken acted for client A in a collection matter against M. On August 8 Mr. Loken received in trust \$12,500 on behalf of A as settlement proceeds from M.

Between August 9 and 18, 1997 Mr. Loken misappropriated a total of \$12,500 by transferring from his trust account to his general account the sums of \$2,500, \$6,000, \$3,000, \$500 and \$500 from money held in trust for A, without A's consent.

In June, 1998 Mr. Loken forwarded a money order for \$7,652.44 to a third party on behalf of A. Mr. Loken and A disputed whether this sum was the amount then owed to A after deduction of proper disbursements.

**Client M and H**

In 1997 Mr. Loken represented M and H in their sale of a property and their purchase of another. In June Mr. Loken issued an account to his clients for \$500 in fees and \$428.45 in disbursements, a total of \$928.45.

Mr. Loken misappropriated \$25,000 held in trust for M and H by transferring funds from his trust account to his general account on 18 different occasions between February 4 and April 1, 1997, without the knowledge or consent of his clients. On April 1, 1997 he deposited \$25,000 to his trust account to replace the money he had removed.

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Mr. Loken relocated to Alberta and began practising law in that province. He voluntarily ceased membership in the Law Society on January 1, 2001 for failure to pay fees.

In June, 2003 Mr. Loken admitted to the Discipline Committee, pursuant to Rule 4-21, that he had misappropriated funds held in trust for clients and that his conduct constituted professional misconduct. The Committee accepted Mr. Loken's admission and his undertakings:

1. not to apply for reinstatement in the Law Society for five years;

2. to advise the Law Society of Alberta of his Rule 4-21 admission;
3. not to apply for reinstatement in any other law society without first advising the Law Society in writing;
4. not to permit his name to appear on the letterhead of any lawyer or law firm without the written consent of the Law Society;
5. to obtain the written consent of the Law Society before working for any other lawyer or law firm in BC; and
6. to pay \$2,000 towards the costs of this matter within six months.

*Discipline Digest — 2003: No. 2 June (Loken)*