

Formerly of Victoria, B.C.  
Called to the Bar: June 28, 1973  
Became non-practising member: January 1, 1999  
Suspended: December 7, 1999  
Voluntarily ceased membership: January 1, 2000

**Discipline hearing date:** December 7, 1999

**Discipline hearing panel:** Peter J. Keighley, Chair, Jo Ann Carmichael and Anita Olsen

**Counsel:**

James A. Doyle, for the Law Society  
Gail M. Dickson, Q.C., for Mr. Mah Ming

**Discipline hearing report:** January 24, 2000  
Indexed as [1999] LSBC 48

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**Summary**

Mr. Mah Ming submitted to the Legal Services Society (LSS) accounts that he failed to ensure were true and accurate and that included legal aid tariff items to which he was not entitled. He submitted these accounts through error, in part based on his misunderstanding of the tariff and in part based on his failure to attend to his office accounting during a period of heavy workload and personal stress. As a result of his lack of care, he in fact also underbilled LSS a significantly greater amount than he overbilled during this period. The Legal Services Society was reimbursed \$19,310.45 resulting from these overbillings, some of which Mr. Mah Ming agreed to reimburse and some of which LSS offset against future accounts. Mr. Mah Ming admitted that his conduct constituted professional misconduct. The Discipline Committee and discipline hearing panel accepted his admission and his proposed disciplinary action. The panel accordingly ordered that Mr. Mah Ming, then a non-practising member, be suspended for two months, undergo a practice review within three to six months of resuming practice and pay costs of the discipline proceedings. Mr. Mah Ming voluntarily ceased membership in January, 2000.

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**Facts**

In 1994 the Legal Services Society (LSS) began reviewing bills submitted by Mr. Mah Ming as a result of the unusual frequency with which he billed certain legal aid tariff

items. A review of some of Mr. Mah Ming's accounts to LSS revealed several billing discrepancies:

- On more than 50 legal aid criminal files, Mr. Mah Ming represented the accused on guilty pleas and on sentencing. He subsequently billed LSS for "split" fees under the legal aid tariff, which were additional fees available when counsel was required to attend both a morning and an afternoon session in court in order to represent the accused on the plea and on sentencing. In relation to Mr. Mah Ming's representation on these files, however, split fees could not be justified and were billed in error.
- On five files, Mr. Mah Ming had submitted duplicate billings in error.
- On three files, Mr. Mah Ming billed LSS on the tariff on the basis that his clients changed counsel on the day of trial. At that time, the tariff provided a higher fee when the client changed counsel on the day of trial. In the circumstances, however, Mr. Mah Ming's clients did not change counsel; rather, Mr. Mah Ming himself arranged for other counsel to take his place because of his own busy schedule. The billing could therefore not be justified. On another eight files on which he had billed for a change of counsel, Mr. Mah Ming provided LSS with no explanation for his billings.
- In relation to two complex trials in which Mr. Mah Ming represented two accused, he failed to attend at times during the trial of one accused, billed two sets of trial fees for trials being held concurrently and attended trial intermittently while dealing with other matters.

As a result of billing discrepancies, LSS suspended Mr. Mah Ming's billing number from September 30, 1994 to September 25, 1995. Mr. Mah Ming reimbursed LSS a total of \$19,310.45 in relation to all these matters; some of this money he agreed to reimburse and some of it LSS charged against his future billings when Mr. Mah Ming failed to provide documentation to support his past billings. Some of the overbillings resulted from non-negligent errors on Mr. Mah Ming's part, in particular his misunderstanding of the tariff respecting change of counsel and a lack of clarity between him and LSS on billing procedures respecting the concurrent trials.

Other errors were caused by negligence by Mr. Mah Ming. During this period, he was under considerable personal stress resulting from marital difficulties and was working excessively long hours. Under the demand of his heavy workload, he failed to adequately attend to office accounting.

### **Admission and penalty**

Under Law Society Rule 4-22, Mr. Mah Ming admitted to the Discipline Committee and a discipline hearing panel that his conduct constituted professional misconduct.

Given the repetitive nature of Mr. Mah Ming's billing discrepancies, the hearing panel noted it would not likely have characterized his conduct as merely careless were it not for the fact that Mr. Mah Ming over the same period had underbilled LSS a significantly greater amount than he had overbilled. In the circumstances, the panel accepted that the billing discrepancies resulted from carelessness, not greed, and that Mr. Mah Ming was incompetent at that time in relation to his office systems and office administration.

The panel also noted that Mr. Mah Ming was remorseful and had resigned his practising status in December, 1998.

The Discipline Committee and discipline hearing panel accepted Mr. Mah Ming's admission of professional misconduct and his proposed disciplinary action. The panel accordingly ordered that he:

1. be suspended for two months;
2. undergo a practice review within three to six months of resuming practice; and
3. pay costs of the discipline proceedings.

Mr. Mah Ming voluntarily ceased membership at the end of 1999.

*Discipline Case Digest — 2000: No. 9 June (Mah Ming)*