

THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

SONIA S. HAYER

(a member of the Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT

1. On March 5, 2021, the Chair of the Discipline Committee accepted a proposal submitted by Sonia S. Hayer (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (“Rules”).
2. Under the proposal, the Lawyer admitted that she committed the following misconduct:
 - a. in or about October 2016, by disbursing funds from her trust account without first making reasonable inquiries to obtain information about her client and about the subject matter and circumstances of the retainer, she engaged in an activity that she ought to have known assisted in dishonesty, crime, or fraud, contrary to rule 3.2-7 of the *Code of Professional Conduct for British Columbia* (the “Code”);
 - b. in or about October 2016, she failed to properly obtain, record, and verify client identification information contrary to Rules 3-100, 3-102, 3-103, and 3-106 of the Rules;
 - c. in or about November 2016, she discovered a trust shortage of \$150,000, but failed to immediately make a written report of the trust shortage to the Executive Director of the Law Society, contrary to Rule 3-74(2)(a) of the Rules;
 - d. between approximately October 2016 and August 2018, she improperly handled client trust funds by permitting a non-lawyer to sign trust cheques on her behalf, contrary to Rule 3-64(5)(c) of the Rules;
 - e. between approximately October 2016 and August 2018, she caused or permitted a member of her law firm staff to use her Juricert password and affix her digital signature to electronic instruments, contrary to Rule 3-96.1 of the Rules and rule 6.1-5 of the *Code*; and

- f. in July 2020 and December 2020, she made representations to the Law Society that she knew were false or misleading, contrary to rules 2.2-1 and 7.1-1 of the *Code*, by:
 - i. stating that she signed all of her trust cheques;
 - ii. stating that she had not shared her Juricert password with anyone else; and
 - iii. altering and providing the Law Society with three pleadings that were not the same as those filed with the Supreme Court of British Columbia and provided to opposing counsel.
3. Under the proposal, the Lawyer agreed to be suspended from the practice of law for a period of six (6) months, commencing June 1, 2021. She also provided an undertaking that she would cease working with her designated paralegal, SZ, forthwith, and never work with him in any professional capacity again.
4. In making its decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated February 26, 2021, and a letter to the Chair of the Discipline Committee. The Chair also considered that the Lawyer did not have a prior Professional Conduct Record.
5. This consent agreement will now form part of the Lawyer's Professional Conduct Record.
6. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
7. The admitted facts were set out in an Agreed Statement of Facts dated February 26, 2021. The facts are summarized below.

I. Summary of Facts

Member Background

8. The Lawyer was called and admitted as a member of the Law Society on December 1, 2012. Currently, she is a part-time practising member of the Law Society.
9. The Lawyer practises primarily in the areas of family law and real estate law, through her firm Superwit Law Corporation ("Superwit").

Superwit

10. Superwit has offices in Richmond and Vancouver. Superwit employed SZ as a designated paralegal, and two assistants. SZ worked at the Richmond office, primarily on residential real estate files.
11. The Lawyer also rents office space in Vancouver, and attends her Vancouver office approximately two to three days per week. She runs a busy family law practice there.

Client Identification and Verification Breach, and Failure to Report a Trust Shortage

12. Between October and November 2016, the Lawyer was the unwitting victim of a fake bank draft scam.
13. In October 2016, Superwit received an email, purportedly from PH, President/CEO of the H Group in the Netherlands (the “H Group”), seeking assistance to draft a purchase and sale agreement. A letter of intent indicated that the purchase and sale agreement involved a company called DD buying equipment from the H Group. DD was to provide a deposit of \$150,000, which was to be disbursed within three to four business days.
14. The Lawyer checked the websites of the H Group and DD, and found that such companies did exist. She concluded that they were legitimate companies and felt comfortable proceeding with a consultation.
15. Superwit responded to the email, and a meeting was arranged. On October 23, 2016, an Asian male with a Chinese passport in the name of PS attended at the Richmond Address for the meeting.
16. PS completed a Client Identification Form, which indicated he was a sales manager with a business address in the Netherlands and an H Group email address.
17. On October 24, 2016, Superwit sent a retainer agreement to what was purportedly PH’s email address.
18. The retainer agreement was signed as accepted by “PH”, and returned to Superwit by email, with a photograph below the signature. However, the photograph was of a Caucasian man, who was not the same man as the Asian man who had attended Superwit’s Richmond office and identified himself as PS. The Lawyer did not see the photograph at the time the retainer was returned to Superwit.
19. On or about October 27, 2016, Superwit received a bank draft in the amount of \$150,000, from the H Group’s purported broker. It appeared to the Lawyer to be a legitimate bank draft

and included two bank officers' signatures. The Lawyer deposited the bank draft into her trust account on November 2, 2016.

20. Subsequently, the Lawyer received phone calls from PS, encouraging her to wire the monies within three days. The Lawyer waited five days to allow time for the bank draft to clear, and called the Bank to confirm whether the draft had cleared. At the time, she was informed that the Bank does not normally place a hold on bank drafts and that no hold had been placed on the deposited draft.
21. The Lawyer has since learned that 10 days are required to clear out of jurisdiction drafts. Neither the Lawyer nor her staff were aware of that at the time.
22. On November 8, 2016, the Lawyer arranged for \$144,299.25 to be sent to a bank in Japan, and transferred an additional amount to her general account for payment of legal fees.
23. The next day, the Lawyer noticed the bank draft had been returned. The Lawyer called PS but was informed that there was no such person at the H Group. As a result, the Lawyer learned that she had been the victim of a fraud.
24. The Lawyer notified the bank of the fraud and asked them to freeze the funds, but the bank was unable to do so. She also reported the matter to the RCMP but was later informed that the RCMP was not able to locate the person who had sent the fraudulent bank draft, and was not able to get back the funds. The Lawyer also telephoned the Lawyer's Insurance Fund.
25. The fraudulent bank draft caused a trust shortage of \$150,074.25 in the Lawyer's pooled trust account.
26. The Lawyer borrowed money to fully cover the trust shortage within seven days.
27. The Lawyer did not report the trust shortage to the Executive Director of the Law Society.
28. A few days later, Superwit received a further bank draft in the amount of \$150,500, but the Lawyer did not deposit the second bank draft because she knew that it was fraudulent.
29. In 2016, the Lawyer thought that if a trust shortage was covered within seven days she was not required to report it to the Law Society.
30. This file ought to have raised several "red flags" for the Lawyer, including that:
 - a. there was no apparent connection between DD, the H Group, and British Columbia;
 - b. although the Lawyer received an email from the CEO of a company in the Netherlands, she met with a man with a Chinese passport in Richmond;

- c. PS did not show the Lawyer any government issued documents that included the names “P” or “H”;
 - d. PS identified himself as a sales manager when the email Superwit first received had described PH as the President and CEO of the H Group;
 - e. had she reviewed the retainer agreement when it was returned to her, she ought to have recognized that the photograph of PH on the retainer agreement was not the same person as the man who had attended at her office;
 - f. the Lawyer received telephone calls from PS, pressuring her to send the monies;
 - g. the funds were to be wired to a company in Japan that had no apparent connection to the H Group; and,
 - h. the Lawyer was only required to perform minimal legal services on the file.
31. The Lawyer admits that she did not follow the Law Society’s client identification and verification rules in this case.
32. As a result of this incident, the Lawyer is now very cautious about what types of work and which clients she takes on, and has tightened up her office procedures and ensures that she and her staff follow the Law Society’s client identification and verification rules.

Juricert and Trust Cheques

33. Lawyers can use Juricert certificates to digitally sign any document. A password is required to use a Juricert certificate, and holders of Juricert certificates are required to keep their passwords confidential.
34. Between 2016 and December 2020, the Lawyer had three active Juricert certificates.
35. The Lawyer permitted her assistant and her paralegal to use her Juricert certificates to digitally sign letters and submit documents to the Land Title Office (“LTO”).
36. Initially, the Lawyer explained to the Law Society that she had met with clients for transactions that had completed while she was in trial in Vancouver and New Westminster. She confirmed that she affixed her digital signature to letters and documents submitted to the LTO, and that she signed the related trust cheques. She also explained that when she was in trial, she asked SZ or her assistant to attend at the courthouse so that she could review the documents before she applied her Juricert. She said that her assistant submitted the documents only after the Lawyer had reviewed them and affixed her Juricert digital signature. She confirmed that only she had access to her Juricert, which was kept on her laptop, and that she had not provided the password to anyone.

37. The Law Society subsequently obtained log-sheets for the Lawyer's trials, which indicated the exact time that court was sitting and when breaks were taken. The Law Society also obtained from the Land Title and Surveying Authority all documents bearing the Lawyer's Juricert and submitted to the LTO during her trials.
38. On numerous occasions documents were digitally signed during court breaks. However, the documents indicated that on five occasions, the Lawyer's digital signature was affixed while court was in session, using two different Juricert certificates.
39. In addition, Superwit client files contained letters that indicated they had been digitally signed with the Lawyer's Juricert certificates while court was in session, using two different Juricert certificates.
40. In a further response to the Law Society dated November 17, 2020, the Lawyer confirmed that her usual practice while she was in court was to meet conveyancing clients before or after court, during court breaks at her Richmond or Vancouver office, at the courthouse, or at a client's home. She also explained that on some occasions she attached her digital signature while court was in session if she had forgotten or did not have enough time to do so during the break.
41. The Lawyer's signature on various documents was different from the signature on Superwit trust cheques.
42. The Lawyer was asked to explain the different signatures. She said it was because she suffered from severe and chronic tendonitis and ulnar nerve compression in her dominant hand and that she used both hands to execute documents. She said that she signed all trust cheques with her non-dominant, left hand for consistency.
43. A Form A obtained by the Law Society from the LTO, dated July 26, 2018, attached a document signed by SZ. SZ's signature was the same signature as those on the trust cheques. SZ had signed the trust cheques.
44. In a February 1, 2021 letter to a Law Society investigator, the Lawyer admitted that she allowed SZ to sign trust cheques on her behalf, and that she permitted SZ and her assistant to apply her Juricert when she was in trial.
45. In the February 1, 2021 letter, the Lawyer admitted that she was:

... not truthful about these matters to you during your investigation which I deeply regret. While I appreciate there is no excuse for being dishonest. I was embarrassed of my mistakes and my lack of knowledge of the rules. I was scared to admit this to the Law Society and of the consequences of my mistakes.

Misleading the Law Society

46. In her February 1, 2021 letter, the Lawyer also wrote:

As admitted above, I have been dishonest with you in this investigation which I deeply regret. My dishonesty has included denying the allegations that I allowed my paralegal to apply my juricert and my staff to sign trust cheques. In maintaining those denials I provided explanations that were not wholly truthful including that I had applied the juricert during trial and that I signed the cheques with my left hand.

Unfortunately, once I provided those untruthful explanations, I felt increasing pressure as a result of the stress of the investigation to maintain those explanations. This led to me making significant errors in judgement in a desperate attempt to avoid further consequences. This included putting a copy of a pleading in a file for disclosure to you with the electronic signature of my paralegal applied which signature I had earlier told the investigator was my left hand signature.

47. During the investigation, the Lawyer had been asked to produce her original file for a client for whom she had conducted a trial in July 2018.

48. The Lawyer produced the documents to the Law Society in November 2020. Included in the file were three pleadings bearing the same signature that had been used to sign trust cheques.

49. Copies of the same pleadings obtained from the court file at the New Westminster registry, and from opposing counsel's file all contained the Lawyer's regular signature.

50. The Lawyer admitted that she electronically applied SZ's signature to electronic copies of the three pleadings, and that she provided them to the Law Society.

51. The Lawyer has acknowledged her wrongdoing, recognized the gravity of her actions, and has expressed her sincere remorse for her misconduct.