

THE LAW SOCIETY OF BRITISH COLUMBIA

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

AND

RICHARD LIU

(A member of the Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT SUMMARY

1. On December 14, 2022, the Chair of the Discipline Committee of the Law Society of British Columbia (“Law Society”) approved a consent agreement proposal submitted by Richard Liu (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules.
2. Under the proposal, the Lawyer admits that he committed the following misconduct, and that his misconduct constitutes professional misconduct pursuant to s.38(4) of the *Legal Profession Act*:
 - (i) Between March 2016 and November 2019, in relation to nine files (nos. 16-1335, 16-1344, 16-1379, 16-1395, 17-1415, 18-1483, 18-1505, 19-1537, 19-1555), he acted for clients and permitted his trust account to be used in circumstances that triggered a positive duty to make reasonable inquiries to obtain information about the clients, subject matter, and objectives of the retainer, but he failed to make adequate inquiries.
 - (ii) Between March 2016 and November 2019, in relation to six files (nos. 16-1335, 16-1344, 16-1379, 17-1415, 18-1483, 19-1555), he permitted his trust account to be used without providing any or sufficient legal services in connection with his receipt of funds into his trust account and disbursement of funds out of his trust account.
 - (iii) Between June 2016 and June 2020, in relation to three files (nos. 16-1335, 16-1379, 18-1483), he acted in a conflict of interest by loaning funds to his clients as part of the

transaction, and he used his trust account for these loans rather than a personal or business bank account.

(iv) Between December 2016 and May 2018, in relation to three files (nos. 16-1398, 17-1461, 17-1462), he acted for lender clients without disclosing their identities to the borrowers by using his own numbered company as nominee lender.

(v) Between March 2016 and November 2019, in relation to twelve files (nos. 16-1335, 16-1344, 16-1379, 16-1395, 16-1398, 17-1415, 17-1461, 17-1462, 18-1483, 18-1505, 19-1537, 19-1555), he did not comply with client identification and verification requirements set out in the Rules.

3. Under the proposal, the Lawyer agreed to be suspended from the practice of law for a period of three (3) months, commencing on February 1, 2023.
4. In making his decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated 2 December 2022, and a letter dated 2 December 2022 to the Chair of the Discipline Committee from the Lawyer. In approving the consent agreement, the Chair considered that although the misconduct was very serious, there was no evidence the Lawyer committed or facilitated any crime or fraud. The Chair also considered that the Lawyer does not have a prior professional conduct record and that the Lawyer had indicated his willingness to admit his misconduct relatively early in the process. The Lawyer fully cooperated with the Law Society, which saved time and resources. The Chair also considered that the Lawyer is remorseful, has apologized for his misconduct, and has committed to making changes to his practice to ensure he remains in compliance with his professional obligations going forward.
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. Below is a summary of the Lawyer's background and misconduct based on admissions made in the Agreed Statement of Facts.

Summary of Lawyer's Background and Misconduct

The Lawyer's Background and Practice Overview

8. The Lawyer was called and admitted as a member of the Law Society in 1992. Since 1996, he has practiced as a sole practitioner. The Lawyer's practice consists mainly of solicitors' work in the real estate area. In addition to his law practice, the Lawyer operates a property management business.
9. The Lawyer operates a trust account to which he is sole signatory. He authorizes all payments in and out of his trust account. The Lawyer uses his trust account to receive and disburse funds in connection with his law practice, including private lending transactions described in the Agreed Statement of Facts in which his own numbered company is identified as client in his file tracking system.

Law Society Investigation and Summary of Admitted Discipline Violations

10. In March 2019, the Law Society Trust Assurance Department conducted a compliance audit of the Lawyer's practice for the period January 1, 2017 to March 25, 2019. The auditor referred several concerns regarding the Lawyer's practice to the Professional Conduct Department of the Law Society for investigation.
11. The Law Society investigation revealed that the Lawyer's practice was contrary to standards expected of lawyers in respect of twelve client files:
 - a) Nine files in which the Lawyer took instructions from an individual, TL, in which the Lawyer identified his client as an individual or entity other than TL (the "TL Files").
 - b) Three other files involving loan transactions in which the Lawyer acted for lenders using his own numbered company as nominee lender so that his lender client could remain anonymous (the "Other Files").

12. The Law Society investigation revealed, and the Lawyer admits, that:
- a) The Lawyer acted for clients and permitted his trust account to be used in connection with the TL Files in circumstances that triggered a positive duty to make reasonable inquiries to obtain information about the clients, subject matter, and objectives of the retainer, but he failed to make adequate inquiries.
 - b) In six of the nine TL Files, the Lawyer permitted his trust account to be used without providing any or sufficient legal services in connection with his receipt of funds into his trust account and disbursement of funds out of his trust account.
 - c) In three of the nine TL Files, the Lawyer acted in a conflict of interest by loaning funds to his clients as part of the transaction, and he used his trust account for these loans rather than a personal or business bank account.
 - d) In the Other Files, the Lawyer acted for lender clients without disclosing their identities to the borrowers by using his own numbered company as nominee lender.
 - e) The Lawyer did not comply with client identification and verification requirements set out in the Law Society Rules in respect of his involvement in the TL Files and Other Files.

(Collectively, the “Discipline Violations”).

13. The Lawyer admits that his conduct in respect of each Discipline Violation constitutes professional misconduct.

The TL Files and Discipline Violations Associated with Trust Account Gatekeeper Duties

14. The Lawyer had a duty to make, but did not make, reasonable inquiries regarding the nature of the transactions and use of his trust account in the TL Files, before agreeing to act.

15. The Lawyer admitted facts which the Chair of the Discipline Committee considered gave rise to the Lawyer's duty to inquire, including the following facts:
- a) The Lawyer was retained to act on multiple real estate transactions on instructions from an individual, TL, who was not his client or a party to the transactions. The Lawyer understood that TL, members of TL's family, and their associates (one of whom is resident in Hong Kong), identified as his "clients" in these transactions, were part of the same "group" (the "TL Group"). The Lawyer took specific instructions from TL pursuant to blanket instructions from other members of the TL Group directing him to take instructions from TL.
 - b) The Lawyer was introduced to TL by TL's father. At some point during the retainer, the Lawyer received some information from TL and his father about their background and business activities, including that they are investors originally from Malaysia. The Lawyer did not make inquiries to verify the information.
 - c) The Lawyer understood that the members of the TL Group had common business interests and many of the agreements that are the subject of the TL Files were between members of this group, which he therefore considered non-arm's length and not unusual. The Lawyer made limited inquiries regarding the nature or membership of the TL Group, or the nature of their business interests.
 - d) The Lawyer did not verify the identities of members of the TL Group as required by the Law Society Rules in connection with the financial transactions in the TL Files.
 - e) In September 2013, approximately three years prior to retaining the Lawyer, TL pled guilty to eight counts under the *Income Tax Act* of failing to file personal and corporate income tax returns and was ordered to pay a fine of \$8000 and file the outstanding returns.
 - f) Prior to and during the Lawyer's retainer between 2007 and 2018, TL was named as a defendant in at least 30 civil actions containing allegations against TL and SKT, another member of the TL Group. Some of the actions alleged fiscal

impropriety against TL and misappropriation by TL and SKT. Some actions also alleged that TL directed funds due to him be paid to others, including his father because he and his company were under investigation by CRA.

- g) The Lawyer did not know or make inquiries regarding the source of all funds deposited to his trust account for the transactions, or the specific source of wealth of the members of the TL Group involved in the TL Files.
 - h) The Lawyer was retained to act and received funds into trust in connection with some transactions which did not proceed.
 - i) The Lawyer was instructed to pay funds out of trust to various third parties, including persons in Malaysia, instead of his client.
 - j) For some transactions and payments out of trust, the Lawyer did not have sufficient knowledge of the purpose or objectives of the underlying transaction and payments out of trust.
16. The Lawyer did not conduct background due diligence on TL. He was not aware of the civil actions described above until learning of them in the Law Society investigation. However, the Lawyer did receive in August 2017 by email from counsel for plaintiffs in several actions against TL, a copy of a *Mareva* injunction dated November 18, 2016 that restrained TL from disposing of or dealing with his assets unless his assets in British Columbia remain above \$2,081,026.29. The *Mareva* injunction was filed in an action against TL and other persons and entities for whom the Lawyer was acting or to whom the Lawyer paid funds in connection with the TL Files. The Lawyer read the *Mareva* injunction when he received it but did not make inquiries regarding the underlying circumstances and did not otherwise act on it. The Law Society does not have evidence of a breach of the *Mareva* injunction. The Lawyer also received a settlement agreement that referenced a tax judgment against TL in connection with one of the TL Files.

17. In the TL Files, the Lawyer took instructions from TL to act for, receive funds from, or pay funds out of trust for members of the TL Group, including:
- a) TL's elderly grandmother who was named in her personal capacity as the Lawyer's client in three TL Files and was the sole director and shareholder of two numbered companies named as clients of the Lawyer in three other TL Files. The Lawyer incorporated these companies on TL's instructions so that the grandmother would be the "owner", but the Lawyer did not inquire as to reasons for the grandmother's ownership.
 - b) TL's mother, who was also named as a defendant in the civil action in which the *Mareva* injunction described above was ordered. The Lawyer received funds into trust and paid funds out of trust to TL's mother in several TL Files.
 - c) Mr. B.S., a resident of Hong Kong, who was the sole director and shareholder of a numbered company named as client of the Lawyer in some TL Files. The Lawyer also received funds into trust from, or paid funds out of trust to, Mr. B.S. in other TL Files. The Lawyer knew this person was a business associate of TL's family but did not know any details or specifics of their business arrangements. The Lawyer knew this person to be in the "logistics business" but did not know the person's specific background, details of the logistics business or source of the person's wealth.
 - d) SKT, another defendant in the civil actions described above. SKT is described in the civil actions as TL's "agent", "personal friend and business partner" and "assistant, spouse or girlfriend". SKT is the sole director and shareholder of a numbered company named as the Lawyer's client in one TL File. The Lawyer received funds into trust from, and paid funds out of trust to, SKT in other TL Files. The Lawyer obtained some information about SKT's background and source of wealth but only after the Law Society investigation.
18. In six of the TL Files, the Lawyer used his trust account to receive and disburse funds totaling \$10,190,000 without providing any or sufficient legal services connected to all

payments into and out of trust. The trust transactions took place between March 2016 and November 2019. The six files are summarized below. In each of the six files, the Lawyer provided some legal services in connection with payments received in trust but did not provide legal services in connection with all payments out of trust.

Client File #18-1483

19. In client file #18-1483, the Lawyer used his trust account to receive and disburse \$6,200,000 in connection with a share purchase transaction. The Lawyer was retained on TL's instructions to incorporate and act for Company A (the sole director and shareholder of which was TL's grandmother) in Company A's sale of shares in Company B that Company A had acquired from Mr. B.S. Company B was under contract to purchase lands known as the "Fraser River Lands".
20. The Lawyer agreed to act in this transaction, received funds into his trust account, and paid funds out of his trust account in the following circumstances:
 - a) The Lawyer knew the circumstances in which his client acquired the Fraser River Lands, and those circumstances required inquiries that he did not make. Those circumstances related to litigation involving the Fraser River Lands, a court order approving a sale of these lands to Mr. B.S.'s company for \$27,800,000, sale of Mr. B.S.'s company to TL's grandmother's company for a nominal price of \$10, and TL's grandmother's company's subsequent sale of the shares for \$34,000,000 (a premium of \$6,200,000 over the price of the court-ordered sale).
 - b) The Lawyer paid the funds out of his trust account to persons other than his client without providing any legal services in connection with the payments out of trust, and in some cases without making adequate inquiries regarding the underlying transaction for which he made the payments.
21. The Lawyer provided legal services consisting of drafting the share purchase agreement and other related documents for TL's grandmother's company's sale of the shares. The purpose or objective of Mr. B.S. selling shares of his company to TL's grandmother's company at a nominal price was to permit the latter to profit from the re-sale, but the

Lawyer did not know why Mr. B.S. wanted to transfer profit. The Lawyer did not have direct instructions from TL's grandmother or Mr. B.S. on this matter. His instructions were through TL.

22. In June and August 2018, the Lawyer deposited into trust \$6,200,000 received from counsel for the purchasers of the shares. Between June 2018 and March 2019, the Lawyer paid these funds, less \$33,600 for his fees, to various third parties (22 recipients) pursuant to verbal instructions from TL. After the Law Society commenced the investigation, the Lawyer obtained a director's resolution dated March 27, 2019, signed by TL's grandmother, ratifying instructions regarding payments out of his trust account.
23. Several payments out of trust were described in the Lawyer's client trust ledger as "*Repayment of loan*" or "*Wire Repayment of loan*", based on information from TL regarding the purpose of the payments. The Lawyer had no knowledge of any related loans and did not receive any loan documents. The Lawyer did not make any inquiries regarding repayments.
24. The Lawyer described in his client ledger three payments out of trust as "*Wire living expense*". The Lawyer did not make any inquiries about these payments, and he did not know who the recipients were.
25. The Lawyer did not make any inquiries regarding the nature or purpose of the payments out of his trust account, and he did not provide any legal services in connection with any payments, including payments described as loan repayments and living expenses.

Client Files #16-1335, #16-1344, #17-1415

26. In three files, described below, the Lawyer received funds in respect of contemplated real estate transactions but paid funds out to third parties when the deals fell through. The Lawyer did some legal work on the files before the deals collapsed.
27. In file #16-1335:
 - a) The Lawyer used his trust account to receive and disburse \$1,410,000. The Lawyer was retained to act for Mr. B.S. in an assignment of a contract to purchase

lands in Sechelt, incorporate a new company for purposes of the assignment and complete the purchase on behalf of the newly incorporated company (the directors of which were SKT and another person, EYH). The Lawyer incorporated the new company, and the contract was assigned to the new company. The Lawyer says Mr. B.S. assigned the contract to transfer control of the property to SKT and EYH but he did not know why Mr. B.S. wished to transfer control. The Lawyer assumed it was because Mr. B.S. is a non-resident. The Lawyer understood the land was being purchased to generate profit by way of sale of burial plots.

- b) The Lawyer received funds for the contemplated transaction totaling \$1,260,000 into his trust account on separate occasions and from different individuals or entities without knowing or making any inquiries regarding the source of funds. Some of the funds were provided by individuals loaning funds to the Lawyer's client(s) where the Lawyer provided no legal services in relation to the loans. The purchase did not complete because the vendor reneged. The Lawyer's client commenced legal action for breach of contract which was settled with a payment of \$150,000 that was also deposited to the Lawyer's trust account. The Lawyer disbursed some of the purchase and settlement proceeds held in trust to persons other than his client without providing any legal services in connection with the payments out of trust. One of the payments (\$100,000) was made to a law firm in Malaysia and the Lawyer did not know why the funds were being sent to Malaysia or the law firm's connection to his client.
28. In file #16-1344, the Lawyer used his trust account to receive and disburse \$160,000. The Lawyer was retained to act for TL's grandmother in the purchase of property pursuant to an assignment. The funds received by the Lawyer into trust represented deposits, not total purchase proceeds. The Lawyer received funds into trust without knowing or making any inquiries regarding the source of funds. Ultimately the assignment did not proceed because the subjects to the initial contract were not removed. The Lawyer paid the deposit amounts held in trust to persons other than his client without providing legal services in connection with the payments out of trust.

29. In file #17-1415, the Lawyer used his trust account to receive and disburse \$200,000. The Lawyer was retained to act for Mr. B.S.'s company in that company's assignment of a contract to purchase property. This assignment was the second assignment of the contract and Mr. B.S. entered into an agreement to further assign the contract to TL's mother. The Lawyer received funds into trust "to confirm holding of sufficient funds representing the deposit as required by the solicitor for the assignor" but he did not know or make adequate inquiries regarding source of funds. The Lawyer was retained only in respect of one assignment to his client's company, not his client's subsequent assignment to TL's mother or the mother's ultimate purchase if the matter proceeded. The deal collapsed and ultimately the Lawyer provided limited legal services. The Lawyer paid funds out of trust to persons other than his client without providing any legal services in connection with the payments out of trust.

Client File #16-1379

30. In file #16-1379, the Lawyer used his trust account to receive and disburse \$1,220,000 in connection with the Lawyer's representation of Mr. B.S.'s company in an assignment of a contract to purchase three residential lots in Burnaby. The Lawyer provided considerable legal services in this transaction which did complete. The Lawyer received funds into his trust account that were connected to the legal services provided but he paid \$310,000 out of trust to a law firm in Malaysia without providing legal services in connection with this payment out of trust. The Lawyer understood the funds were sent to Malaysia for a transaction TL's family was entering into in Malaysia, but he did not know the specifics of the transaction.

Client File #19-1555

31. In file #19-1555, the Lawyer used his trust account to receive and disburse \$1,000,000 in connection with partial repayment of private loan made by his client, TL's grandmother, pursuant to a promissory note that related to one of the payments out of trust on client file #18-1483. The Lawyer believed the funds should go through his trust account rather than directly to his client because he was required to review transaction documents, review the amended promissory note, and attend to its execution. The funds deposited to the

Lawyer's trust account came from a law firm. The Lawyer paid \$700,000 out of trust to his client's daughter's account in Malaysia for their family business in Malaysia but the Lawyer did not know the specifics of the business and did not provide any legal services in connection with this payment out of trust.

Conflict of Interest Discipline Violations Related to Loans on TL Files

32. Trafalgar is a company owned and operated by the Lawyer for his private lending. The Lawyer maintains a client trust ledger for Trafalgar (the "Trafalgar Ledger") for his private lending activity.
33. The Lawyer loaned funds to his clients as part of the transaction in three TL Files and used his trust account for the loan transactions:
 - a) He loaned \$270,000 loan to his clients (SKT and one other member of the TL Group) in file #16-1335.
 - b) He loaned \$10,000 to his client (Mr. B.S.), which was repaid by TL's mother in file #16-1379, and
 - c) He loaned \$45,899.86 loan to his client, TL's grandmother, in file #18-1483.
34. The other parties to the transactions in which the Lawyer loaned funds to his clients were not aware that purchase proceeds for the transactions included funds loaned by the Lawyer to his clients.
35. In the Law Society investigation, the Lawyer stated that he used his trust account rather than a business or personal bank account because he did not have a business bank account at that time, and he did not turn his mind at the time to the appropriateness of using his trust account.
36. The Lawyer's loans to clients gave rise to conflicts of interest. The Lawyer did not comply with his professional obligation not to act in a conflict of interest, except as permitted by the *Code of Professional Conduct for BC*. When the matter was brought to

his attention in the Law Society investigation, the Lawyer stated he stopped making loans to clients.

Discipline Violations Associated with Transactions in Other Files

37. All three Other Files concern loan transactions in which the Lawyer identified his own numbered company as his client and lender in the transaction, but the client and lender were a different individual or entity.
38. In these files, the Lawyer structured the loan transactions as a loan from his company to the borrower because the lenders wished to remain anonymous. The Lawyer believed that the lenders wished to remain anonymous for their own privacy reasons and to facilitate the registration and subsequent discharge of the mortgage, but he did not make any inquiries with every lender in this regard.
39. The Lawyer provided legal services to his lender clients, but he did not disclose the lenders' true identities to the borrowers.
40. The Lawyer did not comply with client identification and verification requirements in the Law Society Rules respecting his involvement in the three Other Files.
41. The Lawyer did not consider conflict of interest implications of his involvement in the three Other Files.

Mitigating Factors

42. The Lawyer and the Law Society agree that the Lawyer's misconduct is very serious but there is no evidence that the Lawyer committed or facilitated any crime or fraud by his involvement and use of trust account in the TL Files and Other Files.
43. The Lawyer does not have a prior professional conduct record. The Lawyer indicated willingness to admit his misconduct relatively early and fully cooperated in efforts to resolve this matter. The Lawyer's cooperation saved the Law Society time and resources that would have been required to prove the misconduct at a hearing. The Lawyer's admissions and consent to a three-month suspension permits the Law Society to publish

the misconduct and outcome for the benefit of the profession and public much earlier than a hearing outcome.

44. The Lawyer is remorseful and has apologized to the Law Society for his misconduct.
45. The Lawyer has sincerely acknowledged his misconduct and assured the Law Society that he will take steps to comply with his professional obligations going forward, including the following:
 - a) Through this process, he has come to understand and appreciate the importance of lawyers' gatekeeper duties related to use of trust accounts and will continue reviewing Law Society decisions and publications that provide guidance to the profession in this area.
 - b) He will change his practices to ensure he (i) makes required inquiries in respect of clients, source of funds deposited to his trust account, and subject matter and objectives of his retainer, and (ii) uses his trust account only as permitted by Rule 3-58.1 of the Law Society Rules.
 - c) He will implement systems to ensure compliance with client identification and verification requirements set out in Part 3, Division 11 of the Law Society Rules.
 - d) He has already ceased making loans to clients and will continue to refrain from loaning funds to clients.
 - e) He has ceased taking instructions from TL.