

Admission to Discipline Committee

AGREED STATEMENT OF FACTS

1. Shannon M. Barber completed her articles at Ladner Downs. She was called to the British Columbia Bar on May 21, 1999 when she became a member of the Law Society. She ceased the practice of law on or before July 30, 2004. Following contact with the Law Society she formally became a non practicing member in the Law Society Report November 24, 2004. She ceased to be a member on January 1, 2005 (the " Respondent").
2. The Respondent worked at Ladner Downs for five months and then moved to Prince George, British Columbia. She worked at Heather Sadler Jenkins in Prince George for seven months and then returned to Borden Ladner Gervais LLP (the " Firm"). She worked at the Firm from June 5, 2000 to October 5, 2003.
3. At the time of her departure from the Firm, the Respondent's practice was primarily in the areas of Corporate/Commercial law and Immigration.

Client - P.G.

4. P.G. asked the Respondent to review a substantially completed Permanent Resident Application for his wife, J.G. The Respondent was left with the completed Application for filing with Citizenship and Immigration Canada (" CIC").
5. The Respondent confirmed to P.G., on a number of occasions, that she had submitted the Application to CIC. P.G. contacted CIC directly and was informed that there was no record of the Application being received. P.G. advised the Respondent of this and she told him that CIC must have lost the Application. She later confirmed that another copy had been faxed to CIC. In fact, the Respondent did not submit the Application of P.G.'s wife at any time.

Client - J.L.

6. On or about December 12, 2002, a Firm client instructed the Respondent to prepare and file a Permanent Resident Application on behalf of an employee, J.L. J.L. provided the required information to complete the Application, on or about June 16, 2003.
7. On August 4, 2003, the Respondent advised J.L., in writing, that his Application had been submitted to Canadian Consulate in Buffalo, New York. In fact, J.L.'s Application was not submitted to the Canadian Consulate.

Client - A.G.

8. A.G. asked the Respondent to assist in the preparation and filing of a Permanent Resident Application for A.G.'s wife, B.E.

9. The Respondent advised A.G. that the completed Application had been submitted to CIC in October 2002. She subsequently informed A.G. that she had received notification from CIC confirming its receipt of the Application.

10. In fact, the Application was never submitted to CIC.

Client - J.A.

11. In mid-July 2003, the Respondent was instructed by a Firm client to renew the Work Permit for J.A. This required renewal of J.A.'s underlying Human Resources Development Canada (" HRDC") Labour Market Opinion.

12. On July 23, 2003, J.A. provided the Respondent with the completed Labour Market Opinion Application.

13. In or about August 2003, the Respondent advised J.A., in writing, that his Application had been filed by her with HRDC three days after it had been received, and she was following up on the Application from time to time.

14. The Respondent subsequently advised J.A. that the Labour Market Opinion had been obtained and an Application to renew his Work Permit had been filed with CIC.

15. In fact, the Respondent did not file the Labour Market Opinion Application with HRDC, nor did she file the Work Permit Renewal Application with CIC.

Misappropriation of Funds

16. On April 30, 2003, the Respondent requested \$1,500.00 (the " Funds") from the Firm on an urgent basis, for " immigration fees" for the A.G. file, immediately prior to leaving for a Continuing Legal Education Conference on Immigration Law in Montréal, Québec. The Respondent's intention in requesting the funds was that she would temporarily use the funds to cover her hotel costs in Montréal and maintain enough in her personal bank account to cover to her residential rent.

17. The Respondent's intention was that when she returned from Montréal, and was reimbursed by the Firm, she would use those funds for their intended purpose for the A.G. and other immigration files.

18. The Funds were used to pay her Montréal hotel costs and residential rent. The Funds were never used for immigration fees for the A.G. matter or any other immigration file.

Misleading Her Law Firm and the Law Society

19. The Respondent's employment with the Firm terminated on or about October 10, 2003. Her last working day was October 3, 2003. Following the Respondent's departure, the Firm learned that documentation was missing from several of the files for which she had conduct. By letter dated November 5, 2003 the Firm wrote to the Respondent requesting, among other things, that she

immediately return all Firm files and contents of all files in her possession.

20. On November 25, 2003, the Firm received a box from the Respondent containing over 60 items of Firm and client documents. Among the documentation were the unsubmitted Applications for the clients, P.G., J.L., A.G. and J.A.

21. By letter dated January 22, 2004 the Firm wrote to the Respondent asking her, among other things, about the \$1,500.00 disbursement on the A.G. file.

22. By letter dated February 9, 2004, the Respondent wrote advising that " With respect to your questions regarding funds I may have requested for immigration fees, I certainly do not have any such funds in my possession or control." With respect to A.G.'s file, she wrote that she " assumes that fee receipts were obtained for [A.G.'s] wife's immigration fees" or that " [she] used the funds for other files and that it was not recorded on the accounting ledger."

23. There was no CIC fee receipt for this disbursement on the file, and the Firm could not locate the funds.

24. By letter dated March 25, 2004, the Firm wrote to the Law Society reporting the Respondent for a number of matters, outlined above, as well as in relation to the missing funds.

25. In response to inquiries from K.K., Professional Conduct - Staff Lawyer (the " Staff Lawyer"), the Respondent sent a letter, by email, on June 8, 2004, responding to the Staff Lawyer's inquiry about the Funds. She wrote:

" With respect to the funds, I certainly do not have any idea as to the location of the funds. Given the nature of the immigration law work I did at the firm, cash funds were often required urgently from the accounting department with respect to various matters, including work permits, visitor records, student permits, and the like. As a result, I would often request funds for a non-urgent matter and then transfer them to another file for an urgent matter, depending on the nature of the matters I was dealing with at the time. I am assuming that is what occurred in this case, but I have no recollection of this particular case and so cannot provide any insight into where the funds may be, but can certainly advise that I do not possess them *[sic]* any such funds."

26. A signed copy of the letter was received by the Law Society on June 28, 2004.

27. The Respondent wrote a further letter on July 13, 2005, at which time she outlined the steps she had taken to obtain the Funds, the details of which are more particularly described in paragraphs 16, 17 and 18.

ALCOHOL AND PSYCHOLOGICAL ISSUES

28. The Respondent's letters to the Law Society of July 28, 2004 and July 13, 2005 accurately outline the circumstances of her alcoholism, treatment for alcohol addiction and other psychological issues that explain but do not excuse her misconduct described in paragraph 29. The Respondent's letters of July 28, 2004 and July 13, 2005 are attached as Appendix 1 and Appendix 2, respectively.

ADMISSIONS

29. The Respondent admits the following:

(a) On April 30, 2003, she obtained \$1,500.00 (the " Funds") from her law firm's general account when she requested the Funds in cash on an urgent basis for disbursements on a client file, knowing that she intended to use the Funds for her personal expenses. She did use the Funds for her personal expenses.

(b) By letter dated February 9, 2004, she attempted to mislead Respondents of her law firm when she advised that she did not have the Funds in her possession and control and she provided explanations with respect to the Funds that she knew were not true.

(c) By letter sent June 8, 2004, she attempted to mislead the Law Society when she responded to an inquiry about the Funds, by writing: " I certainly do not have any idea as to the location of the funds," when she knew that she had used the Funds for her personal expenses.

(d) On numerous occasions in 2003, she misled her client, P.G., when she advised him that she had submitted an application to CIC when she knew she had not done so.

(e) In 2003, she misled her client, J.L., when she advised him that she had submitted a Permanent Resident Application to the Canadian Consulate in Buffalo, New York, when she knew she had not done so.

(f) In 2002, she misled her client, A.G., when she advised him that she had submitted his wife's Permanent Resident Application to CIC, and that she had received notification from CIC confirming receipt of the application, when she knew she had not submitted the application nor had she received confirmation of receipt from CIC.

(g) In 2003, she misled her client, J.A., when, as part of his Work Permit Renewal Application (" WPR Application") to CIC, she advised him that she had submitted a Labour Market Opinion Application (" LMO Application") to HRDC and, further, that the LMO Application had been obtained and the WPR Application had been filed with CIC, when she knew she had not filed the LMO Application with HRDC, nor had she filed the WPR Application with CIC.

34. The Respondent further admits that the conduct outlined in the preceding paragraph, subparagraphs (a) through (g), amounts to professional misconduct.