

2006 : No. 4 September-October

Zahra Jenab

West Vancouver, BC

Called to the bar: September 1, 1995

Discipline hearing : July 26, 2006

Panel : Leon Getz, QC, Chair, Kathryn A. Berge, QC and Michael J. Falkins

Report issued : August 2, 2006 (indexed as 2006 LSBC 30)

Counsel : Herman Van Ommen for the Law Society; Jerome Ziskrout for Ms. Jenab

Facts

Ms. Jenab acted for Mr. and Mrs. K and a number of companies controlled by one or both of them. Ms. Jenab engaged in an intimate relationship with Mr. K, without the knowledge of Mrs. K.

In July 2002, Mr. K arranged for a \$3 million mortgage to be secured against a property in Coquitlam. Company S owned the property. Ms. Jenab was aware that Mrs. K was the sole shareholder, director and officer of S, but Ms. Jenab was not aware there was an agreement between Mr. and Mrs. K that the property in Coquitlam was intended as security for Mrs. K's financial future. Ms. Jenab attended to the execution of the mortgage documents by Mrs. K, but did not explain the significance of the mortgage or advise her to get independent legal advice or counsel.

Ms. Jenab took instructions from Mr. K on how the mortgage funds should be applied. She believed he had signing authority for Company S, but could not find any written authorization to that effect. Ms. Jenab made a number of payments with the mortgage funds she received in trust. She believed, at the time, that Mrs. K knew how the funds were being disbursed; however, she acknowledged that Mr. K may not have disclosed everything to Mrs. K, and therefore Mrs. K may not have known some of the funds were used to purchase equipment for a company controlled by Mr. K and to pay amounts owing on credit cards jointly held by Mr. and Mrs. K.

In November 2002, a numbered company controlled by Mr. K arranged for a loan that included a term assigning life insurance on the lives of both Mr. and Mrs. K to the credit union making the loan. Mr. and Mrs. K signed joint and several personal indemnities for all losses, costs, expenses and damages related to or arising out of the credit union's past, present and future dealings with the numbered company. Mrs. K alleged Ms. Jenab never explained the significance of the personal indemnity. Ms. Jenab said she reviewed the documents with Mrs. K, explained their legal significance and believed Mrs. K knew what she was signing. Ms. Jenab acknowledged that she did not advise Mrs. K to get independent legal advice or counsel on the matter.

In June 2003, Mrs. K found out about the relationship between her husband and Ms. Jenab.

Admission and penalty

Ms. Jenab admitted that she failed to advise Mrs. K of the conflict of interest arising from acting for both Mrs. K, her company and Mr. K while she was involved in an intimate relationship with Mr. K. She also acknowledged that she disbursed funds belonging to Mrs. K's company with respect to the mortgage on the Coquitlam property, without instruction from Mrs. K and without notifying her. Ms. Jenab admitted she acted

for Mr. and Mrs. K and Mrs. K's company while an actual or potential conflict existed. She acknowledged she did so without advising the parties of the conflict, or telling them to seek independent legal advice.

Ms. Jenab admitted that she had engaged in dishonourable or questionable conduct, which could cast doubt on Ms. Jenab's professional integrity or competence and which could reflect adversely on the integrity of the legal profession, contrary to Chapter 2, Rule 1 of the *Professional Conduct Handbook*.

Under Rule 4-22, the Committee and the discipline hearing panel accepted Ms. Jenab's admission of professional misconduct and her proposed penalty. The hearing panel accordingly ordered that she:

1. be suspended for one month commencing August 4, 2006; and
2. pay costs in the amount of \$3,000.