

2008 : No. 1 March

## **Sabrina Ann Sheherazade Ali**

Formerly of Vancouver, BC

Called to the bar: September 4, 1997

Ceased membership: January 1, 2007

Disbarred: December 20, 2007

**Discipline hearings** : February 20-21 (facts and verdict) and November 20, 2007

**Panel** : David Renwick, QC, Chair, Robert Punnett and Brian Wallace, QC

**Reports issued** : April 11 (2007 LSBC 18), June 14 (2007 LSBC 33) and December 20, 2007 (2007 LSBC 57)

**Counsel** : Maureen Boyd for the Law Society and no-one appearing for the respondent

### **Facts**

Between January 2002 and March 2004 four separate clients gave Sabrina Ann Sheherazade Ali funds, which Ali then transferred from her pooled trust account to her personal or general account. In the case of funds from one additional client, she deposited them directly into her general account. In all cases, she proceeded to use those funds even though she was not entitled to them.

Ali used a personal float trust ledger account between January 2002 and February 2003 and withdrew funds from her pooled trust account for her own use even though the account did not hold sufficient funds.

On several occasions Ali also deposited trust funds to her general account, rather than her trust account.

In addition, she withdrew fees when she had not prepared a bill. And on at least three occasions Ali did not immediately pay sufficient funds into trust to eliminate trust shortages.

In 2002 Accounting Firm A did Ali's bookkeeping and prepared her Accountant's Report. Ali did not pay A's invoices and A subsequently obtained a default judgment. In January 2005 Ali claimed that she was neither aware of the judgment nor of having been served with anything. Ali failed to satisfy the judgment within seven days and did not immediately notify the Executive Director in writing of her proposal to do so. When Ali did not pay the judgment, A complained to the Law Society. Staff wrote to Ali in February and March 2006 regarding the complaint but she did not respond.

In 2003 and 2004 Accountant B prepared Ali's Accountant's Reports. B was paid for the 2003 work, but had trouble collecting for 2004. In September 2005 Ali provided B with two cheques to pay B's invoice. B cashed the first one for just over half of the amount owing, but the second one for the remaining \$400 did not clear.

A part-time employee worked for Ali in January and February 2003. In December 2003 Ali told an auditor that she had remitted all payroll withholdings for that year; however, on January 12, 2004 Ali wrote to the Canada Revenue Agency to advise that she had in fact not done so, and she therefore included two post-dated cheques to cover the amount owing.

As of December 2004 Ali had several practice debts totaling \$9,790.86, which were many months in arrears.

Ali owed more than \$4,000 in unpaid GST remittances as of August 8, 2005.

In 2006 Ali became a non-practising member. She chose not to attend any of the hearings concerning the citations against her and resigned as a member of the Law Society by letter in November 2007, but had in

fact ceased to be a member on January 1, 2007 for failing to pay her fees.

## **Verdict**

The panel took into account the overall series and pattern of transactions when assessing whether Ali misappropriated her clients' funds. The panel noted a fundamental principle governing the conduct of lawyers is that "trust funds are sacrosanct." They concluded that Ali deliberately misappropriated funds for personal purposes on six occasions and found it irrelevant that the amounts involved were relatively small. They found her guilty of professional misconduct in relation to the misappropriations.

The panel also found Ali had breached Chapter 2, Rule 2 of the *Professional Conduct Handbook* by failing to pay several practice debts in a timely fashion and breached Chapter 13, Rule 3 by failing to respond to Law Society correspondence.

The panel further found Ali breached Part 3, Division 7 of the Law Society Rules when she failed to properly maintain her books, records and accounts. She was also found in breach of Rule 3-44 for failing to satisfy the default judgment against her within seven days and failing to notify the Executive Director of her proposal for satisfying the judgment.

In addition, the panel found her failure to pay practice debts and her personal use of funds held for payment of GST, PST and employee income tax exhibited a disregard for her professional obligations and amounted to professional misconduct.

The panel dismissed Ali's suggestion that her practice was so small and financial dealings with clients so simple that she could keep track of them by memory without written records; thus, the panel found her failure to keep adequate trust records was also professional misconduct.

## **Penalty**

The panel noted that, in most cases where disbarment is not imposed in relation to misappropriation of trust funds, there are significant mitigating factors. Ali's evidence by way of letters or statements made to Law Society staff, or through her then counsel, was that her actions were a result of "mistakes." The panel stated that Ali's decision not to participate in the hearings meant there was no evidence from which to draw comfort that the conduct would not occur again, making it impossible to assess the possibility of remediation or rehabilitation on the part of Ali. The panel further said that, in cases of misappropriation, disbarment is the appropriate remedy unless there is evidence that it is not required to protect the public. In the absence of such evidence the panel ordered that Ali:

1. be disbarred; and
2. pay costs of \$2,500.