

2010 : No. 2 Summer

Kheng-Lee Ooi

Surrey, BC

Called to the bar: February 15, 1991

Discipline hearing : March 23, 2010

Panel : Leon Getz, QC, Chair, Patricia Bond and Robert Brun, QC

Report issued : March 31, 2010 (2010 LSBC 06)

Counsel : Maureen Boyd for the Law Society and Richard Fernyhough for Kheng-Lee Ooi

Facts

In September 1996, Kheng-Lee Ooi represented a client in the purchase of a property. In July 2007, the client was in arrears of \$61,155 on mortgage payments, owed \$16,668 in unpaid property taxes and \$21,000 in credit card debt.

At her client's request, Ooi contacted the bank to obtain the amount required to reinstate her client's accounts in good standing and avoid foreclosure on the mortgages. As her client did not qualify for a loan from a trust company, a loan from a private investor was necessary to pay the bank.

In August 2007, Ooi advised her client about a company offering a \$150,000 loan, with a \$10,000 administration fee and 10% interest per annum. Ooi prepared the loan documents in English even though her client could only speak Mandarin. The client believed that the term of the loan was for one year.

Ooi did not disclose to her client that the principal of the company loaning the funds was Ooi's husband. She failed to explain the principle of undivided loyalty and the effect of joint representation. Ooi also failed to obtain the informed consent of each client for continued representation or recommend that her client obtain independent legal advice.

Through August and September 2007, the loan funds were used to pay the client's debts. On November 30, 2007, the full amount of the loan was due and payable, under the written terms of the promissory note. The client did not repay any part of the principal of the loan.

Ooi's husband commenced an action against her client in December 2007. She subsequently referred her husband to another lawyer and a Notice of Change of Solicitor was filed in the action. Ooi faxed documentation containing confidential information about her client to her husband's new lawyer.

On May 6, 2008, Ooi, her husband and a company employee went to her client's home to serve her with a Writ of Summons and other legal documents. When no one answered, they entered the home through the garage. A confrontation ensued with the client who then learned about the source of the loan.

On June 10, 2008, the client hired a lawyer who made a complaint about Ooi to the Law Society.

Admission and Penalty

Ooi admitted that her clients' interests in the loan transaction were adverse to each other and her own interests and that her conduct in acting in a conflict of interest without the required disclosures and consents constituted professional misconduct. She also admitted that disclosing confidential information concerning the business affairs of her former client and entering the former client's residence without invitation constituted conduct unbecoming a lawyer.

The panel accepted her admissions and proposed penalty. The panel ordered that Ooi:

1. be suspended for six weeks; and
2. pay \$2,500 in costs.