2010 LSBC 24
Report issued: October 8, 2010
Oral Reasons: September 22, 2010
Citation issued: August 19, 2009

The Law Society of British Columbia
In the matter of the *Legal Profession Act*, SBC 1998, c.9
and a hearing concerning

Angela Marie Ross

Respondent

Decision of the Hearing Panel

Hearing date: September 22, 2010

Panel: Gavin Hume, QC, Single Bencher Panel

Counsel for the Law Society: Gerald A. Cuttler
Counsel for the Respondent: Patrice Abrioux

Background

[1] The facts that gave rise to this decision and the admission of professional misconduct of the Respondent, Angela Ross, illustrate the need for members of the Law Society to be cognizant of the admonition contained in Footnote 3 to the *Professional Conduct Handbook*, Chapter 4, Rule 6. That admonition, in part, reads as follows:

> 3. A lawyer has a duty to be on guard against becoming the tool or dupe of an unscrupulous client or of persons associated with such a client and, in some circumstances, may have a duty to make inquiries.

[2] The citation approved of and issued by the Discipline Committee reads as follows:

> 1. In the course of representing your client, BL, in a purchase of shares in a company from GW and SW, you provided to BL trust cheques dated October 8, 2002 payable to GW in the amount of $458,450.16 and SW in the amount of $458,450.17 for BL to show GW, when you knew that the funds necessary to complete the transaction had not been deposited into your trust account.
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> 2. In the course of representing your client, BL, in a purchase of shares in a company from GW and SW, on October 18, 2002 you provided to GW a trust cheque in the amount of $457,855.85 payable to him and provided to SW a trust cheque in the amount of $458,426.25 payable to her, both of which were post-dated to October 22, 2002, for the completion of the share purchase, when you knew that the funds necessary to complete the transaction had not been deposited into your trust account.
>
> 3. You continued to act for BL in connection with his purchase of shares in a company from GW and SW in circumstances where you ought to have known by October 18, 2002 at the latest that BL did not intend to provide the funds necessary to complete the transaction.

Facts

[3] An extensive Agreed Statement of Facts was entered into. In part, the Agreed Statement of Facts provided as follows:

Respondent's Background

1. Angela Ross (formerly Gibson) (the "Respondent") was called to the Bar of British Columbia on May 12, 1992.

Facts

2. In 2002 SW and GW, who are mother and son, owned all of the shares in G Inc.

3. SW and GW were the sole shareholders and officers of G Inc. G Inc. owned a Victorian mansion located in Grand Forks, British Columbia. It had purchased the building and adjoining 3½ acre property in 1995. GW and SW had restored the building and its grounds, and in 1998 they began operating it as an inn and restaurant.

4. In the summer of 2002, the SW and GW entered into an agreement to sell their shares to a numbered company, whose principal was BL.

5. BL represented to SW and GW that he was the confidant and former employee of DW, a prominent American businessman, and that DW and his company, W Corp., were providing BL with funds to purchase G Inc. for $1.8 million. This representation was false. In fact, neither DW nor W Corp. knew anything of BL's purchase of G Inc.

6. SW and GW relied on BL's false representations.

7. In July 2002, SW and GW retained Daniel Geronazzo, a Grand Forks lawyer, to prepare purchase and sale documents. Initially the parties contemplated an asset purchase. Ultimately, it was decided to proceed by way of a Share Purchase Agreement.

8. By the summer of 2002, the Respondent and her husband had been practising together in Grand Forks since 1996. However, at the time of the G Inc. transaction, the Respondent and her husband were in the process of a difficult and less than amicable separation.

9. On or about August 21, 2002, BL retained the Respondent to act for him on the transaction.

10. At the outset of the retainer, BL told the Respondent that money to complete the transaction was coming from DW or W Corp., and that DW was a wealthy businessman with whom he had a father/son relationship.

11. BL initially asked the Respondent to review the then existing Share Purchase Agreement that Mr. Geronazzo had prepared.

12. After reviewing the proposed documentation, the Respondent concluded that the existing Share Purchase Agreement was not appropriate for the transaction. On August 23, 2002, she sent BL a detailed letter setting out her criticisms of the proposed agreement.

13. During the last week of August, the Respondent had numerous meetings with BL. On August 29, 2002, she incorporated a numbered company, which was intended to be the company BL would use to

complete the purchase.

14. On August 26, 27 and 30, 2002, BL told the Respondent that W Corp.'s "lawyers" would fax the clauses they wanted in the agreement. However, the Respondent never received any such fax. The Respondent did not attempt to find out who the purported W Corp. lawyers were or to contact them to find out when such clauses would be forthcoming.

15. On September 3, 2002, she prepared a Letter of Intent for execution by BL and SW and GW.

16. After the letter of intent was signed, the Respondent set about drafting a Share Purchase Agreement and preparing all the documents that would be required to close the transaction. The proposed Share Purchase Agreement was forwarded to Mr. Geronazzo and went through several drafts before it was finalized.

17. By about September 13, 2002, BL told the Respondent that Russell & DuMoulin, a Vancouver law firm, had been retained to protect DW's interest in the transaction. However, the Respondent made no effort to contact Russell & DuMoulin.

18. By September 16, 2002, SW and GW had dismissed Mr. Geronazzo as their solicitor.

19. On September 16, 2002, the Respondent provided a letter to SW and GW enclosing for signature a Share Purchase Agreement and numerous other documents that needed to be signed to complete the transaction. The opening paragraph of the letter read:

> We confirm that you have terminated the services of Mr. Geronazzo and are now acting on your own behalf. We act only for the purchaser in this matter.

20. It [the Share Purchase Agreement] provided that all accounts were to be adjusted as of August 1, 2002 and BL was responsible for all liabilities accruing after that date, including interest accruing on G Inc.'s liabilities. It also provided that on closing, the purchaser's solicitor (i.e., the Respondent) was to pay from the purchase price the outstanding encumbrances and charges with the balance being paid to the vendors (i.e., SW and GW) once the liabilities had been discharged. There were three mortgages on the G Inc. property.

21. The Respondent's September 16, 2002 letter to SW and GW also included an account from her to SW and GW for the services she agreed to provide to them (i.e., for the Respondent paying from the purchase price the outstanding encumbrances and charges with the balance being paid to the vendors (i.e., SW and GW) once the liabilities had been discharged).

22. The Respondent's September 16, 2002 letter to SW and GW concluded as follows:

> When we receive these documents back, fully executed and fully completed, we will then be in a position to disburse purchase proceeds pursuant to the terms of the Share Purchase Agreement.

23. When the Respondent sent the September 16, 2002 letter to SW and GW, she had no money in her trust account in respect of this transaction and was not in a position to disburse purchase proceeds pursuant to the terms of the Share Purchase Agreement.

24. The Respondent did not advise SW and GW to obtain independent legal advice.

25. The Respondent admits that in agreeing to act for SW and GW for the limited purpose set out in

paragraphs 19 to 21 above, she had a duty to advise SW and GW in respect of matters that might affect their interests related to that limited retainer.

26. SW and GW signed the various documents prepared by the Respondent that were necessary for them to sign to complete the transaction and returned them to the Respondent, together with an initialled copy of the September 16, 2002 letter. Thereafter, all that was needed to complete the transaction was the funds to pay the outstanding encumbrances and charges and pay the balance of the purchase price to SW and GW.

27. The funds to pay the outstanding encumbrances and charges and pay the balance of the purchase price to SW and GW never arrived.

28. Initially, BL told the Respondent that he was going to obtain the money directly from DW or W Corp. and he would then forward the funds to her. BL then told her that the money would be wired to her account from a bank in the United States. BL then told her that a W Corp. representative would personally deliver a bank draft to Grand Forks for deposit. Each time the money was supposed to arrive, it did not, and BL always had an explanation.

29. Despite BL's statements to her about W Corp. and its lawyers, the Respondent never attempted to call DW, W Corp. or Russell & DuMoulin to confirm if what BL was saying was true, the conditions upon which the alleged funds were being advanced, or how W Corp.'s investment would be protected.

30. Nevertheless, during September and October 2002, the Respondent made statements to SW and GW that she had "spoken to the W Corp. representative", that funds were on their way and that the transaction would be completing shortly. The Respondent says she made these statements because BL told her that he was DW or W Corp.'s representative in the transaction and that information and instructions from W Corp. would be conveyed through him. The Respondent never told SW and GW that, when she advised them that she had "spoken to the W Corp. representative", she was referring to having spoken with BL, and no one else.

31. On October 1, 2002, the Respondent forwarded G Inc. cheques signed by BL to two of G Inc.'s mortgage holders, being I Co. and a Canadian bank.

32. On or about Tuesday, October 8, 2002:

(a) G Inc. received a registered letter from an insurance company, notifying it that its commercial policy number [number] would be cancelled in 30 days unless the balance owing of $4,611 was paid.

(b) The registered letter was also faxed to the Respondent's office and I Equities;

(c) BL advised the Respondent that he received a notice of cancellation of the insurance policy on G Inc. (the "Insurance") that day. He said he would make necessary payments to retain the policy, but he advised her that he had problems with available funds and with GW and instructed her to call GW to reassure him that the funds would arrive;

(d) The Respondent advised GW that the Insurance issue was or would be sorted out and reassured him that the money was forthcoming and would be available for closing;

(e) The Respondent was advised by I Co. that the cheque which had been provided was returned NSF and that they required full payout by the following day as well as a $150 charge for the NSF cheque;

(f) I Co. also faxed the Respondent regarding the cancellation of the Insurance.

The October 8, 2002 Trust Cheques

33. Later on October 8, 2002, BL told the Respondent that the funds necessary to close the transaction had been deposited in the Central B.C. Credit Union for transfer to her account in the local credit union. The Respondent advised GW that the money was in transit and she would call him as soon as it arrived. BL told the Respondent that GW was insisting on seeing evidence that the cheques were physically ready. The Respondent then had two trust cheques prepared in favour of SW and GW (the "October 8, 2002 Trust Cheques"), which she gave to BL to show to SW and GW.

34. At the time the Respondent gave the October 8, 2002 Trust Cheques to BL, the Respondent knew that:

(a) She did not have the necessary funds in her trust account for the October 8, 2002 Trust Cheques to be honoured;

(b) She did not tell SW and GW that she did not have the necessary funds in her trust account for the October 8, 2002 Trust Cheques to be honoured;

(c) She did not tell SW and GW that the only purpose of her preparing the cheques and providing them to BL was to assure SW and GW that she was ready to close the transaction as soon as the money was received.

(d) She did not take any steps to control what BL might do with the October 8, 2002 Trust Cheques and in particular to prevent BL from delivering the October 8, 2002 Trust Cheques to SW and GW or to prevent SW and GW from presenting the October 8, 2002 Trust Cheques for payment.

35. By Thursday, October 10, 2002, the funds had not arrived. However, the Respondent advised Ms. S of I Co. that funds had been transferred from the US bank on the preceding Friday and would require 72 hours to arrive at the Credit Union.

36. Ms. S told the Respondent that the transfer should not require 72 hours as she, in her capacity at I Co., transfers funds every day. Ms. S asked for an activity report from the US bank as to when it received and forwarded funds. Ms. S also said that, if she did not get evidence that the transfer had occurred, I Co. would be forced to move to the next step. The Respondent did not request an activity report from the US bank as to when it received and forwarded funds.

37. On October 10, 2002, the Respondent also spoke with GA of the Canadian bank. She advised GA that money had left the United States and she was waiting for it to arrive and that the money might not arrive before Tuesday.

The October 16, 2002 Meeting

38. By mid-October some of the mortgages were in arrears and the mortgage holders were threatening to foreclose, including I Co. The Respondent was constantly speaking to the mortgage holders and assuring them that the sale would close shortly. BL's cheque to I Co., which the Respondent sent to I Co. on October 1, 2002, had been dishonoured.

39. By October 16, 2002, the Respondent knew that BL's cheque to I Co. had been dishonoured.

40. On October 16, 2002, the Respondent met with BL and GW (the "October 16, 2002 Meeting"). Before the October 16, 2002 Meeting, BL told the Respondent that he did not want GW to know that the I Co. cheque had been dishonoured.

41. During the October 16, 2002 Meeting, GW wanted to know what money had been paid to the mortgage holders. The Respondent showed him the letters to I Co. and the Canadian bank that enclosed BL's cheques, but she did not disclose that the cheque to I Co. had been dishonoured. She did this even though she knew that BL had issued at least one cheque (to I Co.) that was dishonoured and that this was related or was relevant to the limited services she had agreed to perform for SW and GW. The Respondent says she felt that, in the context of the meeting, with the deal near collapse, she had to follow BL's instruction not to disclose the bounced cheque.

42. BL promised delivery of the funds on October 18, 2002. The Respondent arranged for a meeting to take place between BL and her and SW and GW that day for the purpose of closing the transaction. The documents necessary to close had already been long signed, with the exception of an updated statement of adjustments. What was necessary to close was the money to pay out the various encumbrances and SW and GW.

43. The evidence of the Respondent and GW regarding what transpired at the October 18, 2002 meeting and thereafter is in dispute. Some of this evidence is set out in Reasons for Judgment of Mr. Justice Goepel in subsequent litigation.

44. The Respondent admits that, by October 18, 2002, there were several "red" or "warning" flags that she ought to have appreciated, pertaining to BL's intentions and his ability to close the transaction. The Respondent had lost her objectivity concerning the transaction. She was most anxious for the sale to complete and was prepared to go to almost any length to facilitate that result. By this time, she had a significant personal financial stake in the transaction. Her pre-billing summary indicates potential fees in excess of $50,000.

45. The Respondent expected BL to bring a bank draft to the meeting. However, at the beginning of the meeting BL said he had not yet received the bank draft.

46. GW then became very angry as he wanted his cheque. BL was also upset and told the Respondent she should give SW and GW cheques to hold.

47. The Respondent gave SW and GW two trust cheques post-dated to Tuesday, October 22, 2002.

48. The Respondent knew when she signed the post-dated Trust Cheques that there was no money in her trust account. She believed BL when he said the money was coming on Saturday morning. She believed that there was little risk in giving the post-dated Trust Cheques to SW and GW because she intended to stop payment on them if the funds did not arrive.

49. The Respondent prepared no notes of the October 18 meeting. She did not put any conditions on the delivery of the post-dated Trust Cheques to SW and GW in writing.

50. The Respondent recorded an attendance for October 18, 2002 that was entered into the pre-bill summary, which references preparing the post-dated Trust Cheques and attending the October 18, 2002 meeting.

51. At the time the Respondent gave the post-dated Trust Cheques to SW and GW, she knew that:

(a) She did not have the necessary funds in her trust account for the post-dated Trust Cheques to be honoured;

(b) She had not taken steps to ensure that the post-dated Trust Cheques would not be presented for payment on October 22, 2002 or that a stop payment order would be placed on them in the event she was unable to do so.

52. BL assured the Respondent that the W Corp. representative was coming to Grand Forks on Saturday October 19, 2002 with a bank draft. The Respondent arranged to meet BL at the credit union to deposit it. The credit union closed at 12:00 p.m. After several telephone calls that day, BL advised the Respondent that the representative would not arrive before the credit union closed. They agreed that BL, the W Corp. representative and the Respondent would meet at the Respondent's office first thing on October 22, 2002.

53. On October 22, 2002, BL informed the Respondent that the W Corp. representative had not arrived. The Respondent put a stop payment on the post-dated Trust Cheques.

54. Although no W Corp. representative arrived, there were no funds to complete the transaction and the Respondent put a stop payment on the post-dated Trust Cheques, the Respondent accepted BL's instructions to call GW and tell him that everything was in order for the transaction to complete by Wednesday morning and that she would wait to hear from BL regarding the arrival of the funds.

Epilogue re: Facts

55. After October 22, 2002, BL continued to represent that the funds would be forthcoming and tentative closing dates were arranged. However, the agreement never closed.

56. On or about November 1, 2002, the Respondent received a telephone call from a lawyer at Bull Housser & Tupper who represented DW. He advised her that DW knew nothing of the transaction. Shortly thereafter, the mortgage holders of G Inc. commenced foreclosure proceedings and ultimately went into possession. SW and GW lost their entire investment.

October 8, 2002 Trust Cheques

57. The Respondent admits that her conduct as set out herein related to the October 8, 2002 Trust Cheques constitutes professional misconduct.

58. The Respondent admits that, regarding the October 8, 2002 Trust Cheques:

(a) She failed to speak with SW and GW at all regarding them;

(b) She failed to advise SW and GW that she did not have the necessary funds in her trust account for the October 8, 2002 Trust Cheques to be honoured;

(c) She failed to advise SW and GW that the only purpose of her preparing the cheques and providing them to BL was to assure SW and GW that she was ready to close the transaction as soon as the money was received.

(d) She failed to take any steps to control what BL might do with the October 8, 2002 Trust Cheques and in particular to prevent BL from delivering the October 8, 2002 Trust Cheques to SW

and GW or to prevent SW and GW from presenting the October 8, 2002 Trust Cheques for payment;

(e) Her failure to advise SW and GW and take the steps referred to above assisted BL in continuing to deceive SW and GW and attempting to defraud them, contrary to Chapter 1, Ruling 1(1)and 3(5) (Canons of Legal Ethics) and Chapter 4, Ruling 6 of the *Professional Conduct Handbook*. However, the Respondent says she did not knowingly assist BL in this regard, and the Law Society does not challenge this evidence.

The October 16, 2002 Meeting

59. The Respondent admits that her conduct as set out herein relating to the October 16, 2002 Meeting constitutes professional misconduct.

60. The Respondent admits that, regarding the October 16, 2002 Meeting:

(a) By the time of the October 16, 2002 Meeting, she knew that BL had issued at least one cheque that was dishonoured and that related or was relevant to the limited services she had agreed to perform for SW and GW, but she agreed to follow the instructions from BL to conceal this fact from SW and GW while showing GW the letter to I Co. that enclosed BL's dishonoured cheque;

(b) She failed to keep her limited retainer clients, SW and GW, reasonably informed and she failed to disclose all relevant information to them and failed to candidly advise SW and GW about the position of the matter, contrary to Chapter 3, Rulings 3(a) and (k) of the *Professional Conduct Handbook*;

(c) Her conduct assisted BL in continuing to deceive SW and GW and attempting to defraud them contrary to Chapter 1, Rulings 1(1) and 3(5) (Canons of Legal Ethics) and Chapter 4, Ruling 6 of the *Professional Conduct Handbook*. However, the Respondent says she did not intend to assist BL in this regard and the Law Society does not challenge this evidence;

(d) She acted in a conflict of interest in a manner that was contrary to Chapter 1, Ruling 3(2) of the *Professional Conduct Handbook* (Canons of Legal Ethics).

The post-dated Trust Cheques

61. The Respondent admits that her aforesaid conduct relating to the post-dated Trust Cheques constitutes professional misconduct.

62. The Respondent admits that, regarding the post-dated Trust Cheques:

(a) At the time the Respondent gave the post-dated Trust Cheques to SW and GW, she knew that she did not have the necessary funds in her trust account for the post-dated Trust Cheques to be honoured;

(b) She failed to take steps to ensure that the post-dated Trust Cheques would not be presented for payment on October 22, 2002 or that a stop payment order would be placed on them in the event she was unable to do so;

(c) She assisted BL in continuing to deceive SW and GW and attempting to defraud them, contrary

to Chapter 4, Ruling 6 of the *Professional Conduct Handbook*. However, the Respondent says she did not knowingly assist BL in this regard, and the Law Society does not challenge this evidence.

[4] SW and GW commenced a lawsuit against the Respondent and her law corporation. The trial of the matter was heard in July of 2008 with judgment rendered later in 2008. The litigation turned on whether or not cheques described above constituted in law an unconditional undertaking with respect to which the Respondent had assumed a personal obligation. SW and GW sought to recover the amount of the cheques. The defence was that the cheques were submitted on the condition that SW and GW would only present them for payment if the appropriate proceeds of the sale were received. That defence was successful and the action was dismissed. The judgment contains a detailed analysis of the circumstances that gave rise to the cheques provided to the Plaintiffs. Paragraph 8 of the Judgment reads as follows:

> [8] At the outset, it is important to know that BL, who is now deceased, was in fact a con man. He represented that he was the confidant and former employee of DW, a prominent businessman, and that DW and his company, W Corp., were providing BL with the funds to purchase G Inc. Neither DW nor W Corp. knew anything of BL's purchase of G Inc. and when that became known on or around November 1, 2002, the sale collapsed.

[5] It is clear on reading the Judgment that both SW and GW and the Respondent were duped by BL. It was common ground that SW and GW had handed over the day-to-day operation and management of the Inn that was the subject matter of the sale, to BL for a period of several months. That was the case until BL was evicted late October when the deal collapsed.

Issue

[6] The issue to be determined is whether or not I accept the conditional admission of a discipline violation and the proposed disciplinary action.

Analysis and Decision

[7] The panel, in *Law Society of BC* v. *Martin*, 2005 LSBC 16 described professional misconduct, in part, as "a marked departure from the standard expected of a competent solicitor acting in the course of his profession."

[8] The Canons of Legal Ethics (Chapter 1) of the *Professional Conduct Handbook* became a part of the Code of Ethics in British Columbia in 1921. It remains a useful guide to the standards and obligations that lawyers must maintain. Chapter 1, Rule 1(1) reads as follows:

> **1. To the state**
>
> (1) A lawyer owes a duty to the state, to maintain its integrity and its law. A lawyer should not aid, counsel, or assist any person to act in any way contrary to the law.

[9] Chapter 1, Rule 3(5) reads as follows:

> **3. To the client**
>
> (5) A lawyer should endeavour by all fair and honourable means to obtain for a client the benefit of any and every remedy and defence which is authorized by law. The lawyer must, however, steadfastly bear in mind that this great trust is to be performed within and not without the

bounds of the law. The office of the lawyer does not permit, much less demand, for any client, violation of law or any manner of fraud or chicanery. No client has a right to demand that the lawyer be illiberal or do anything repugnant to the lawyer's own sense of honour and propriety.

[10] Chapter 4, Rule 6 reads as follows:

Dishonesty, crime or fraud of client

6. A lawyer must not engage in any activity that the lawyer knows or *ought to know* assists in or encourages any dishonesty, crime or fraud, including a fraudulent conveyance, preference or settlement.
[Emphasis added]

Footnote 3 to Chapter 4, Rule 6 reads as follows:

3. A lawyer has a duty to be on guard against becoming the tool or dupe of an unscrupulous client or of persons associated with such a client and, in some circumstances, may have a duty to make inquiries. For example, a lawyer should make inquiries of a client who:

(a) seeks the use of the lawyer's trust account without requiring any substantial legal services from the lawyer in connection with the trust matters, or

(b) promises unrealistic returns on their investment to third parties who have placed money in trust with the lawyer or have been invited to do so.

[11] Chapter 4, Rule 6, specifically provides that a lawyer must not engage in any activity that he or she ought to know assists in a fraud. The expression "ought to know" was specifically introduced into the *Handbook*, along with Footnote 3 set out above, to alert lawyers to the need to view objectively, and perhaps from time to time, depending on the circumstances, with some scepticism, representations and actions of a client. In this instance, despite a number of incidents that should have triggered some inquiry, the Respondent continued to act for her client and to interact with SW and GW with respect to the proposed sale of their business. A review of the Judgment clearly indicates that the "red flags" for the Respondent were also "red flags" for SW and GW. SW and GW also failed to recognize that the Respondent's client was, in fact, a con man, until it was too late.

[12] I was told by counsel for the Law Society that there was no evidence that established that the Respondent knowingly participated in the fraudulent efforts to acquire SW and GW's business. The findings of fact in the lawsuit are also consistent with that assertion.

[13] Under the circumstances, I accept the admission of professional misconduct as set out above. The Respondent's failure to view the actions of BL over a significant period of time as suspicious, requiring some investigation and corroboration, is a failure to exercise the appropriate level of objectivity. Under the circumstances I conclude that she ought to have known that her client was engaged in a fraudulent activity with respect to the potential acquisition of SW and GW's business.

[14] The next issue is whether or not I accept the penalty consented to by the Respondent. The penalty consented to includes a one-month suspension and costs of $10,500.

[15] In *Law Society of BC* v. *Ogilvie*, [1999] LSBC 17, the factors that are normally considered with respect to penalty are set out.

(a) the nature and gravity of the conduct proven;

(b) the age and experience of the respondent;

(c) the previous character of the respondent, including details of prior discipline;

(d) the impact upon the victim;

(e) the advantage gained, or to be gained, by the respondent;

(f) the number of times the offending conduct occurred;

(g) whether the respondent has acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances;

(h) the possibility of remediating or rehabilitating the respondent;

(i) the impact on the respondent of criminal or other sanctions or penalties;

(j) the impact of the proposed penalty on the respondent;

(k) the need for specific and general deterrence;

(l) the need to ensure the public's confidence in the integrity of the profession; and

(m) the range of penalties imposed in similar cases.

[16] Bearing in mind those factors, I have concluded that a one month suspension is appropriate. SW and GW, as set out in the Agreed Statement of Facts, lost the investment they had put into their business in Grand Forks. If the Respondent had investigated the assertions of her client at an earlier stage, that loss might have been avoided. However, SW and GW also accepted the assertions of her client and, as indicated, permitted BL to operate their business. There was no suggestion that the Respondent was wilfully blind. Clearly the Respondent did not profit from her dealings in this matter.

[17] The Respondent clearly acknowledges the error of her ways and appreciates that she should have been more vigilant with respect to the activities of her client. The Respondent does not have a discipline record. She has practised competently since her call to the Bar in 1992. She is currently employed as Administrative Crown Counsel in Vanderhoof. The Deputy Crown Counsel commented favourably on her professionalism and integrity. When this matter first came to the attention of the Law Society, the Respondent fully co-operated with the Law Society in its investigation. The complaint to the Law Society resulted in an audit of the Respondent's banking and accounting records and her practice. The audit concluded that there were no improprieties.

[18] In *Law Society of Upper Canada* v. *Di Francesco*, [2003] LSDD No. 44, a member of the Law Society of Upper Canada was found to have professionally misconducted himself by allowing money to pass through his trust account, his bank account and the bank account of a company controlled by him, which money was obtained through a fraudulent scheme. He was found to have breached certain rules of the Law Society of Upper Canada and that this was professional misconduct. In the end result, the lawyer was suspended for one month as a result of the finding. The decision comments on the one month suspension as at the low end of the range. The panel reached that decision because, amongst other reasons, it concluded that there was a lack of wilful blindness by the lawyer and the lawyer did not profit from the actions of his unscrupulous client. The lawyer was of good character and fully understood the mistake that he had made. While there is some inconsistency between this case and the *Law Society of Upper Canada* v. *Di Francesco,* the circumstances in this case are very similar.

[19] In addition, I have reviewed the claim for costs. The costs are approximately 30% of the actual costs incurred by the Law Society. The Respondent has asked for time in which to pay. The Respondent and the Law Society agree that the payments should be paid over a 36 month period with a monthly payment in the amount of $291.66.

[20] Given the Respondent's financial circumstances, I agree with the payment of $10,500 spread over a 36 month period.

[21] I accept the admission that the activities of the Respondent constitute professional misconduct and order that the Respondent be suspended from practice for one month commencing on December 11, 2010.

[22] I further order that the Respondent pay costs in the amount of $10,500, consisting of payments to be made on a monthly basis in the amount of $291.66 per month commencing November 1, 2010 until the full amount is paid.

[23] The Executive Director is instructed to record the Respondent's admission on her professional conduct record.