Angela Marie Ross

Grand Forks, BC
Called to the bar: May 15, 1992

Discipline hearing : September 22, 2010
Panel : Gavin H.G. Hume, QC (single-Bencher panel)
Report issued : October 8, 2010 (2010 LSBC 24)
Counsel : Gerald A. Cuttler for the Law Society and Patrice Abrioux for Angela Marie Ross

Facts

In July 2002 the sole shareholders of a company that operated an inn and restaurant entered into an agreement to sell their shares to the principal of a numbered company. The purchaser falsely told the shareholders that he had $1.8 million from a "prominent American businessman" for the transaction. The shareholders relied on the purchaser's false representations and decided to proceed with a share purchase agreement.

In August 2002 the purchaser retained Angela Marie Ross to act for him on the transaction. He told her that the money was coming from a wealthy businessman with whom he had a father/son relationship. Ross prepared a letter of intent, which was signed by both parties.

On September 13, 2002 the client advised that a large Vancouver law firm had been retained to protect the wealthy businessman's interest in the transaction. Ross made no effort to contact this law firm.

On September 16 the shareholders dismissed their lawyer. Ross provided the shareholders with a share purchase agreement for signature with a covering letter which included an account of the services she agreed to provide them once the liabilities had been discharged. However, she had no money in her trust account for this transaction and was not in a position to disburse purchase proceeds. She did not advise the shareholders to obtain independent legal advice.

On October 8, 2002 Ross provided her client with trust cheques payable to the shareholders in the amounts of $458,450.16 and $458,450.17. Her client wanted to show the shareholders evidence that the cheques were ready. She signed the cheques knowing that the funds had not been deposited into her trust account.

On October 10 Ross' client advised that the funds had been transferred from a US bank to a local credit union. Ross did not request an activity report from the US bank when the funds did not arrive.

On October 18 Ross provided the shareholders with two trust cheques, post-dated to October 22, 2002, in the amounts of $457,855.85 and $458,426.25. She knew that there was no money in her trust account to complete the share purchase.

By mid-October some of the mortgages for the restaurant/inn were in arrears. Ross assured the mortgage holders that the sale would close shortly.

On October 16 Ross met with her client and one of the shareholders. She knew that her client had issued at least one dishonoured cheque that was relevant to the limited services she had agreed to perform for the shareholders. However, she agreed to follow her client's instructions to conceal this fact from the shareholders.

Ross' client continued to represent that the funds would be forthcoming and tentative closing dates were arranged. Ross continued to act for her client in circumstances in which she ought to have known he did not

intend to provide the funds necessary to complete the transaction.

On November 1, 2002 a lawyer who truly represented the "wealthy American businessman" advised Ross that his client knew nothing of the transaction. The sale collapsed and the mortgage holders of the restaurant/inn commenced foreclosure proceedings. The shareholders lost their entire investment.

The shareholders commenced a lawsuit against Ross and her law corporation. The defence was successful and the action was dismissed.

Admission and Penalty

Ross admitted that her conduct constituted professional misconduct. She failed to keep her limited retainer clients, the shareholders, reasonably informed and she failed to disclose all relevant information to them. Her conduct assisted her client in continuing to deceive the shareholders in attempting to defraud them. Ross, however, stated that she did not knowingly participate in the fraudulent efforts to acquire the shareholders' business.

Ross admitted that there were several "red flags" that she ought to have recognized, pertaining to her client's intentions and his ability to close the transaction. She was anxious for the sale to complete and was prepared to go to almost any length to facilitate that result. She had a significant personal financial stake in the transaction. Her pre-billing summary indicated potential fees in excess of $50,000.

The panel referred to the *Professional Conduct Handbook*, Chapter 4, Rule 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," and the footnote to that rule, which sets out a lawyer's "duty to be on guard against becoming the tool or dupe of an unscrupulous client" and the obligation to make appropriate inquiries when required. The panel found that Ross' failure to view the actions of the purchaser over a significant period of time as suspicious, requiring some investigation and corroboration, was a failure to exercise the appropriate level of objectivity. The panel concluded that she ought to have known that her client was engaged in a fraudulent activity.

The panel noted that Ross did not have a discipline record and had practised competently since her call to the bar. She fully cooperated with the Law Society investigation and the Society's audit concluded that there were no improprieties.

The panel accepted Ross' admission that her conduct constituted professional misconduct and ordered that Ross:

1. be suspended for one month; and
2. pay $10,500 in costs.