

Wallace Moon Wong

Richmond, BC

Called to the bar: September 13, 1983

Discipline hearing : February 6, 2012

Panel : Thelma O'Grady, Chair, Glenys Blackadder and John M. Hogg, QC

Report issued : May 4, 2012 (2012 LSBC 15)

Counsel : Carolyn Gulabsingh for the Law Society and Henry Wood, QC for Wallace Moon Wong

FACTS

Wallace Moon Wong acted for a client in divorce proceedings. Wong had to prepare an affidavit and financial statement, a sworn document to be completed by each party in a divorce action. Wong's client was out of the country at the time, and he instructed his associate to prepare what he called a "take-out affidavit."

Before the financial statement was prepared, and on the instructions of Wong, the associate sent the client the document with the jurat blank. Once the financial statement was completed, the associate administered the oath over the phone. The client then sent the signature page back to Wong's associate where the jurat was completed with the date of swearing being the day the associate administered the oath over the phone. The "sworn" or signature page was then inserted into the completed financial statement.

The facts in the financial statement were correct, but the jurat and body of the financial statement were done separately. Most importantly, the client was never physically present before the lawyer to allow the lawyer to see the client personally sign and to be able to properly satisfy the requirements of swearing an affidavit.

There had been other occasions when Wong took this approach to affidavits. This was corroborated by the fact that he had a special name for the procedure, "take-out affidavit."

The Professional Conduct Handbook specifically states that a lawyer must not swear an affidavit or take a solemn declaration unless the deponent "is physically present before the lawyer." Wong stated in a letter that he was not aware of this requirement and that he considered it proper for the associate to complete the jurat of an affidavit when the well-known deponent had not signed the affidavit in her actual physical presence, but had sworn it was true over the phone.

ADMISSION AND DISCIPLINARY ACTION

Wong admitted that his conduct constituted professional misconduct.

The panel found Wong's conduct serious and a clear breach of his professional responsibility. On the other hand, the panel took into consideration that lengthy discipline proceedings were not required since Wong admitted the facts at an early date.

Although Wong's conduct had occurred before, it was not prevalent. The facts and figures set out in the financial statement in this case were apparently accurate in every respect, even though the client's oath was taken in a wholly inappropriate manner.

The panel also took into consideration Wong's age and his professional conduct record, which included one conduct review for an unrelated issue. Wong gained nothing from his "take-out affidavit" procedure, and no harm was suffered by any person as a result of his actions.

The panel accepted Wong's admission and ordered that he pay:

1. a \$3,500 fine; and
2. \$3,000 in costs.