

Admission to Discipline Committee

AGREED STATEMENT OF FACTS

Grant Qing-nan Meng

Called to Bar: August 27, 1993

Ceased membership: September 1, 2013

Admission accepted: July 11, 2013

Counsel: Alison Kirby for the Law Society, Henry Wood, QC for Grant Meng

Member Background

1. Qing-Nan Meng, also known as Grant Q.N. Meng, (the “Respondent”) was called and admitted as a member of the Law Society of British Columbia on August 27, 1993. He is currently 67 years of age.
2. The Respondent initially studied international law Peking University in China. He came to Canada from China in 1981 on scholarship to attend Dalhousie University where he studied international law. He received the degree of Masters in International Law in 1982 and Doctor in Judicial Sciences in 1986.
3. Between 1986 and 1990, the Respondent worked at the Vancouver law firm then known as Ladner Downs as a foreign legal consultant.
4. The Respondent thereafter sought accreditation to practice law in Canada. He pursued the accreditation process by enrolling in the law faculties of the Universities of Saskatchewan and British Columbia.
5. After his call to the bar, the Respondent practised with Chu & Meng until July 1995 in Vancouver, British Columbia. In July 1995, the Respondent commenced practising as a sole practitioner. He practices primarily in the area of residential real estate law and corporate law through his law corporation Grant Q.N. Meng Law Corporation.
6. In the period of January 1, 2009 to March 31, 2011, the Respondent was involved in approximately 750 real estate transactions. The total value of funds that passed through the Respondent’s trust account in the same period was \$669,954,128.28, approximately 90% of which was related to real estate transactions.

Citation and Service

7. The citation in this matter was authorized by the Discipline Committee on March 1, 2012 and issued on March 22, 2012 (the “Citation”).
8. The Respondent admits that on April 12, 2012, he was served through his counsel with the Citation and waives the requirements of Rule 4-15 of the Law Society Rules.
9. On June 5, 2013, the Citation was amended pursuant to Rule 4-13 of the Law Society Rules. The Respondent admits delivery of a copy of the Amended Citation.

Attachments

10. Except where otherwise stated or proved to the contrary, it is agreed in respect of each document

10. Except where otherwise stated or proved to the contrary, it is agreed in respect of each document attached to this Agreed Statement of Facts that it:

- (a) is a true copy of the original document,
- (b) was written or created on the date on the face of the document,
- (c) where by the content or nature of the document it was intended to be sent or delivered, that it was sent or delivered on the date it bears on its face and was subsequently received by the intended recipient,
- (d) where on its face the document purports to have been written or created under the instructions of the person who signed it or where on its face the document's creation was authorized by the person who signed it, that it was so written, created or authorized,
- (e) where the document purports on its face to have been received on a particular date or time, that it was so received, and
- (f) is admitted into evidence to prove that the statements were made and not for the proof of the truth of the matters recorded in it.

The Complaint and Investigation

11. On September 1 to 3, 2010 and October 4 to 6, 2010, the Law Society conducted a compliance audit of the Respondent's practice pursuant to Rule 3-79 (the "Compliance Audit"). The Compliance Audit was conducted by Brenda Hersh, an auditor in the Law Society's Trust Assurance Department. The Compliance Audit period covered was July 1, 2009 to September 1, 2010.

12. On or about December 1, 2010, Ms. Hersh prepared a Rule 3-79 Compliance Audit Referral Report to the Professional Conduct Department (the "Complaint").

13. On March 14, 2011, the Chair of the Discipline Committee of the Law Society ordered an investigation of the books, records and accounts of the Respondent pursuant to Rule 4-43 of the Law Society Rules.

14. Andrea Chan commenced the 4-43 Investigation on April 14, 2011. Ms. Chan is employed as a forensic accountant with the Law Society. The period under investigation was from January 1, 2009 to March 31, 2011. Ms. Chan attended at the Respondent's place of business, reviewed client files and electronic records and took copies of client trust ledgers, trust bank statements, cancelled cheques, and other accounting and client documents. Ms. Chan also met with the Respondent and JL, CGA, an accountant employed by the Respondent, to discuss the Respondent's practice with respect to client trust accounting, preparation of invoices, and all other aspects of the bookkeeping and monthly accounting, including entering time, preparing cheques and deposits.

15. On August 24, 2011, Ms. Chan provided a report to the Law Society with respect to the concluded 4-43 Investigation (the "Law Society Audit").

16. The Law Society had previously conducted a compliance audit of the Respondent's practice in October 2006 through January 2007

17. In accordance with the recommendations arising from the 2006 - 2007 compliance audit, in or about January 2007, the Respondent upgraded his accounting system from Excel spreadsheets to specialised accounting software, QuickBooks.

18. At that time, the Respondent carried over from the Excel spreadsheets all outstanding trust balances as

at the end of 2006, but did not reconstruct the client ledgers into QuickBooks. Accounts affected by this conversion include those referred to in Allegations 1, 2, 3, 4, 5, and 9. For such trust balances, it would be necessary to consult records from his old accounting system or the client files themselves to determine to whom the funds belonged.

19. In November 2008, at the conclusion of the Law Society's investigation of the 2007 audit results, the Law Society wrote to the Respondent and specifically addressed the Respondent's aging trust balances as follows:

"Aging Trust Balances: ..., your history of holding client trust balances for a significant period of time during which there is no activity on the associated client file has been a concern for the Law Society. I think it may be important for you to indicate your intention, on an ongoing basis, to return such unused balances to your clients unless you can obtain their written instructions to continue to hold the funds, that such instructions be updated at least annually, and kept in the relevant client file".

20. Since the Law Society's previous compliance audit, the Respondent from time to time retained an external accountant to audit his accounts. The Respondent was advised by his accountant to clear aging trust balances over two years old. The Respondent endeavoured to do so, particularly on March 13, 2009, July 12, 2009, March 14, 2010 and April 28, 2010.

21. At the time of reviewing the outstanding trust balances, the Respondent had not reconstructed the ledgers of client files closed as at the end of 2006 that still had trust balances. He relied upon his recollection regarding the source and entitlement to the funds and failed to confirm, with records from his old accounting system or from the client files themselves (all of which were in off-site storage at the time) whether he had previously billed the clients, whether he had performed additional services for which he was entitled to bill his clients or whether the amounts remaining in trust were impressed with any specific purpose.

22. Prior to the 4-43 Investigation, the Respondent also failed to maintain any form of a diary or bring forward system for his files nor, prior to closing the file and sending it to storage, did he ensure that all outstanding undertakings had been paid and trust balances had been cleared.

Allegation 1: Clients WX and HC

23. In or about April 2006, the Respondent was retained by WX and HC in connection with the purchase of a residential property in Burnaby, British Columbia. The transaction was to close on or about May 29, 2006.

24. G Mortgage Corp., a mortgage brokerage company, arranged for the total sum of \$472,500 to be advanced to the Respondent's clients and secured by way of first and second mortgages against the property. G Mortgage Corp. was to receive a brokerage fee in the amount of \$2,360 for the services it rendered in connection with the mortgages. The brokerage fee was to be paid from the proceeds of the mortgages immediately upon closing.

25. By facsimile dated May 26, 2006, the Respondent undertook to pay an insurance binder fee of \$35 to A Insurance Services (1996) Ltd.

26. On or about May 25, 2006, the Respondent prepared a Purchaser's Statement of Adjustments and a Cash In-Out Statement with respect to the transaction. Both the Purchaser's Statement of Adjustments and the Cash In-Out Statement included the payments to be made in connection with the mortgage broker fee and the insurance binder fee. Both documents also included the sum of \$1,150 for legal fees,

disbursements and taxes.

27. On or about May 29, 2006, the Respondent received from or on behalf of his client the total amount of \$623,578.75 to complete the transaction. The funds were deposited into the Respondent's trust account and included the \$2,360 that his clients had agreed to pay to G Mortgage Corp. on closing and \$35 that the Respondent had undertaken to pay to A Insurance for the insurance binder.

28. On or about May 29, 2006, the Respondent disbursed \$619,876.26 to close the transaction. On August 5, 2006, he disbursed a further \$179 to F Title. The Respondent did not disburse the \$2,360 brokerage fee to G Mortgage Corp. or the \$35 insurance binder fee to A Insurance.

29. On October 6, 2006, the Respondent withdrew the sum of \$1,128.49 from his trust account to pay his legal fees and disbursements with respect to the purchase. On November 30, 2006, the Respondent withdrew a further \$21.50 as a filing fee for the registration of a power of attorney in the Land Title Office.

30. As of November 30, 2006, the Respondent held a balance of \$2,373.50 in trust on behalf of his clients. He held this amount until March 13, 2009.

31. There were no requests between October 6, 2006 and March 2009 related to outstanding payments on the file, including the brokerage fee and the A Insurance matter.

32. On March 13, 2009, the Respondent prepared a second statement of account purportedly for his fees and disbursements and withdrew \$2,373.50 from trust in payment of that account.

33. The Respondent did not deliver a copy of the statement of account dated March 13, 2009 to his clients nor did he provide any additional legal services to the clients with respect to this matter or incur any further disbursements on behalf of the clients after November 30, 2006.

34. Between November 30, 2006 and March 13, 2009, the Respondent did not contact any of his clients, G Mortgage Corp. or A Insurance with respect to the \$2,373.50 remaining in trust.

35. In December 2009, when the Respondent did a year end review, he thought that he might have made an error in withdrawing these funds from trust. The Respondent requested that the file be retrieved from storage but then failed to review the file.

36. On October 30, 2011, the Respondent paid the sum of \$2,360 to G Mortgage Corp.

37. The Respondent states that he contacted A Insurance in October 2011 with respect to the \$35 insurance binder fee but was told that they had no record of any amounts owing. On November 15, 2011, he paid the \$35 to his clients.

Allegation 2: CG

38. In or about December 2003, the Respondent was retained by CG in connection with his purchase of a residential property in Vancouver, British Columbia. The transaction was to close on January 5, 2004.

39. The realtor on the purchase and sale of the property was AL of AL Realty Ltd. AL was owed a balance of her real estate commission of \$243 on the transaction.

40. On or about January 4, 2004, the Respondent prepared the Purchaser's Statement of Adjustments and a Cash In-Out Statement with respect to the real estate transaction. Both documents included the \$243 to be paid to AL. Both documents also included the sum of \$650 for legal fees, disbursements and taxes.

41. On or about January 5, 2004, the Respondent received the funds necessary to complete the transaction

including the sum of \$243 as the balance due AL.

42. On or about January 5, 2004, the transaction closed.

43. On March 15, 2004, the Respondent withdrew the sum of \$597.10 from trust in payment of his legal fees and disbursements in connection with the purchase, leaving a balance in trust of \$243.

44. There were no intervening requests from AL between March 2004 and July 2009 for the \$243 owed to her.

45. In or about March 2009, the Respondent was retained to sell Mr. CG's residential property. The transaction closed on March 30, 2009 and an account for his services was rendered to the client on July 6, 2009.

46. On July 10, 2009, the Respondent spoke with CG. Based upon his mistaken belief that the trust balance represented funds belonging to the client, he obtained instructions to use the \$243 to pay himself for miscellaneous services he had provided from time to time without previous billing. At the time of receiving these instructions, the Respondent had not reviewed the client's purchase file and failed to appreciate that he lacked authority to transfer the funds.

47. On July 12, 2009, the Respondent withdrew the sum of \$243 from trust to pay for fees and disbursements incurred in connection with an online filing of an annual report for the client's company.

48. The Respondent did not prepare or deliver a statement of account to his client prior to withdrawing the trust funds. The Respondent did not keep any records of providing legal services to the client with respect to a corporate online filing of an annual report.

49. Between March 2004 and July 2009, the Respondent did not contact AL about outstanding amounts owed to AL Realty Ltd.

50. On or about October 22, 2011, the Respondent obtained the written consent of his client to the withdrawal of \$243 from trust to pay his legal fees.

51. On November 15, 2011, the Respondent paid the sum of \$243 to AL Realty Ltd.

Allegation 3: SL and KL

52. In or about May 2005, the Respondent was retained by SL and KL in connection with their purchase of a residential strata property in Vancouver, British Columbia. The transaction was to close on June 6, 2005. Throughout the matter, the Respondent typically communicated with and received instructions from the KL's daughter, SL, who operated a flower shop in the same building where the Respondent had his office.

53. On or about June 6, 2005, the Respondent received a Form F - Certificate of Payment from Century 21, the strata property manager. The Form F was provided to the Respondent on his undertaking, amongst other things, to pay Century 21 the sum of \$216.81 owed for the June 2005 strata maintenance fees. The Respondent was also to pay Century 21 a move-in fee of \$50.

54. On or about June 6, 2005, the Respondent prepared the Purchaser's Statement of Adjustments and Cash In-Out Statement with respect to the property. Both the Purchaser's Statement of Adjustments and Cash In-Out Statement included the total sum of \$266.81 to be paid to the strata corporation for the June 2005 maintenance fee and move-in fee. Both documents also included the sum of \$650 for legal fees, disbursements and taxes. The Cash In-Out Statement also showed a \$1,200 holdback from the purchase price. In accordance with an addendum to the Contract of Purchase and Sale dated April 28, 2005, a

\$1,200 holdback was to be deducted from the purchase price in the event that certain deficiencies were not completed prior to closing.

55. On or about June 6, 2005, the Respondent received from or on behalf of his clients the total amount of \$349,758.76 to complete the transaction. The funds were deposited into the Respondent's trust account and included the \$266.81 that his clients had agreed to pay to the strata corporation.

56. On or about June 6, 2005, the Respondent disbursed \$347,316.45 to close the transaction. In July 2005, the Respondent disbursed a further \$317.86 from trust with respect to the transaction including a trust cheque dated July 29, 2005 to the strata corporation in the amount of \$266.81 to cover the June 2005 Strata Fees and the move-in fee. On August 29, 2005, the Respondent disbursed the sum of \$216.81 to the strata corporation in payment of the July 2005 strata fees. On October 21, 2005, the Respondent disbursed \$83.19 to the clients.

57. The Respondent's trust cheque dated July 29, 2005 payable to Century 21 in the amount of \$266.81 was not negotiated and became stale-dated.

58. On or about January 15, 2006, the Respondent prepared a statement of account in the total amount of \$624.54 for his legal services rendered in connection with the purchase. The Respondent withdrew that sum from trust leaving a balance of \$1,199.91 in trust (relating to the deficiencies holdback of \$1,200). In addition, there was a further unrecorded \$266.81 remaining in pooled trust account as a result of Century 21's failure to negotiate the July 29, 2005 cheque for the June maintenance and move-in fees. The Respondent did not maintain adequate records that would have permitted him to reconcile the \$266.81 in his trust bank account with his client ledgers.

59. On May 1, 2007, the Respondent reversed the stale dated cheque originally dated July 29, 2005 and reinstated the sum of \$266.81 onto the client trust ledger. To that point there had been no requests or other contact from Century 21 or anyone else to suggest that they were awaiting payment or that there was any obligation outstanding. However, the Respondent kept no records or diary system that would permit him to track outstanding undertakings or payments. The Respondent did not reissue the trust cheque or contact Century 21 with respect to this matter.

60. On May 8, 2008, the Respondent contacted SL, about the deficiencies holdback. On the same day, he received a written note from her in response, instructing him to "keep the holdback in your trust account. I will give you further direction later".

61. On June 19, 2008, the Respondent issued a trust cheque payable to SL and KL in the amount of \$1,200 (relating to the holdback) leaving a balance in trust of \$266.63.

62. The Respondent held \$266.63 in trust for his clients until July 12, 2009, at which time he prepared a second statement of account purportedly for his fees and disbursements and withdrew \$266.72 from trust in payment of that account.

63. The Respondent did not deliver the statement of account dated July 12, 2009 to his clients nor did he perform any legal services for his clients or incur any disbursements on behalf of his clients after January 15, 2006.

64. On November 15, 2011, in response to the comments expressed in the Law Society Audit concerning this matter, the Respondent paid the sum of \$266.72 to SL and KL.

Allegation 4: BZ

65. In or about August 2005 the Respondent was retained by B7 in connection with her purchase of a

65. In or about August 2005, the Respondent was retained by BZ in connection with her purchase of a residential strata property in Richmond, British Columbia. The transaction was to close on September 16, 2005.

66. On or about September 8, 2005, the Respondent undertook to A Real Estate Group Ltd. that he would pay their fees of \$26.75 and that he would hold back the sum of \$136.50 for the September monthly strata fees and would remit the same to the strata corporation if the payment for the September maintenance fees did not clear.

67. On or about September 16, 2005, the Respondent prepared the Purchaser's Statement of Adjustments and the Cash In-Out Statement with respect to the property. Both the Purchaser's Statement of Adjustments and Cash In-Out Statement showed the holdback of \$136.50 with respect to the September 2005 strata maintenance fees. Both documents also included the sum of \$650 for legal fees, disbursements and taxes.

68. On or about September 16, 2005, the Respondent received the necessary funds to complete the transaction. The trust funds included the \$136.50 holdback.

69. On or about November 17, 2005, the Respondent prepared a statement of account in the amount of \$650.07 for his legal services rendered in connection with the purchase. The Respondent then withdrew the sum of \$650.05 in payment of his legal fees leaving a balance of \$136.50 in trust.

70. There were no requests for payment received in relation to these funds.

71. In late 2009, another individual also named BZ approached the Respondent for legal advice on immigration matters, at which time the Respondent mistakenly advised her that he held \$136.50 in trust from her previous real estate transaction. The Respondent says that the client instructed him to use the trust balance as payment for the advice she was seeking.

72. On March 14, 2010, the Respondent prepared a statement of account for his fees and disbursements and withdrew \$136.50 from trust in payment of that account.

73. The Respondent did not deliver the statement of account dated March 14, 2010 to his client nor did he perform any legal services for his client or incur any disbursements on behalf of his client after November 17, 2005.

74. On November 16, 2011, in response to the concern expressed in the Law Society Audit, the Respondent attempted to return the \$136.50 to BZ. The cheque was not deposited and became stale-dated.

75. As a result of a recent conversation with the second BZ, the Respondent discovered that he confused her with this client of the same name. In consequence, he acknowledges that he did not have his client's authority to apply the trust balance as he did.

76. By letter of May 15, 2013, the Respondent forwarded a cheque in the amount of \$136.50 to the solicitor for the Vendor.

Allegation 5: YL

77. In or about September 2005, the Respondent was retained by YL in connection with YL's purchase of a residential property in Richmond, British Columbia. The transaction was to close on October 24, 2006.

78. YL's brother, KL, was the client's Power of Attorney. He acted for his sister in this transaction.

79. On or about October 24, 2006, the Respondent prepared the Purchaser's Statement of Adjustments and the Cash In-Out Statement with respect to the property. Both documents included the sum of \$750 for legal

fees, disbursements and taxes.

80. On or about October 24, 2006, the Respondent received the funds necessary to complete the transaction.

81. On December 18, 2006, the Respondent prepared a statement of account in the amount of \$651.09, which was less than the \$750 allowed for in the Purchaser's Statement of Adjustments.

82. On or about March 7, 2007, the Respondent received the sum of \$491.71 from VL, the solicitor for the vendor, as the accrued interest on a deposit made by the purchaser in connection with the purchase of the property.

83. On or about March 7, 2007, the Respondent deposited the sum of \$491.71 into his pooled trust account to the credit of his client.

84. Upon receiving the \$491.71, the Respondent contacted KL who instructed him to keep the funds in trust until YL returned from Taiwan.

85. On March 15, 2007, the Respondent received three T5 Statements of Investment Income totalling \$491.71 from VL.

86. The Respondent held the \$491.71 in trust for his client until July 12, 2009, at which time he prepared a second statement of account purportedly for his fees and disbursements in connection with mortgage charges and withdrew \$491.71 from trust in payment of that account.

87. The Respondent did not deliver the statement of account dated July 12, 2009 to his client nor did he perform any legal services for his client or incur any disbursements on behalf of his client after October 24, 2006 relating to a mortgage.

88. The Respondent says that KL and YL are the partial owners of a company for which the Respondent did corporate work. In or about July 2009, the Respondent contacted KL who instructed him to apply the trust balance to legal fees incurred in connection with this legal work. The Respondent says that the statement of account dated July 12, 2009 rendered to YL purportedly for mortgage charges was in fact for corporate work performed for the company.

89. On November 16, 2011, in response to the concern expressed in the Law Society Audit, the Respondent paid the sum of \$491.71 to YL.

Allegations 6 and 7: CB

90. In or about April, 2008, the Respondent was retained by CB in connection with her sale of a residential property in North Vancouver, British Columbia. The transaction was to close on May 15, 2008.

91. On or about May 13, 2008, the Respondent received a Seller's Statement of Adjustments prepared by PW, a notary public, with respect to the purchase and sale of the property. As set out in the Seller's Statement of Adjustments, the purchaser was to hold back the sum of \$398.63 with respect to the May 2008 strata fees.

92. On or about May 15, 2008, the Respondent prepared a Cash In-Out Statement with respect to the real estate transaction. The Cash In-Out Statement included the sum of \$774 for legal fees and estimated disbursements and taxes.

93. On or about May 15, 2008, the Respondent received the net sale proceeds in trust from the solicitor for the purchasers, less the \$398.63 holdback.

94. On or about June 25, 2008, the holdback was released and the Respondent received the sum of \$398.63 from PW by way of a cheque dated June 25, 2008.
95. On or about July 14, 2008, the Respondent withdrew from trust the sum of \$774 in payment of his statement of account for legal services rendered in connection with the sale of the property.
96. On September 26, 2008, the Respondent deposited the cheque dated June 25, 2008 in the amount of \$398.63 from PW into his trust account.
97. On or before July 12, 2009, the Respondent spoke with his client about preparing a power of attorney for use on another real estate transaction which was anticipated to close in January 2010. The Respondent was instructed to apply the holdback to his fees in that regard.
98. The Respondent held the \$398.63 in trust for his client until July 12, 2009, at which time he prepared a statement of account in the amount of \$402.55 purportedly for his fees and disbursements in relation to the preparation of a Power of Attorney and withdrew \$398.63 from trust in payment of that account.
99. The Respondent did not deliver the statement of account dated July 12, 2009 to his client.
100. On or about July 15, 2009, the Respondent noted on the Cash In-Out Statement that the \$398.63 holdback was "to be credit to client for further work". As matters developed, a power of attorney was in fact not required in due course as the transaction was completed directly through a Canadian lawyer in Beijing. The client file did not contain a copy of a power of attorney or evidence that legal services were rendered after July 2008.
101. On or about April 7, 2011, in response to a request from the client for a copy of the statement of adjustments prepared for a sale in August 2010 for one of her other properties, the Respondent reviewed the May 2008 file and noted that the \$398.63 should have been credited to the client for the August 2010 sale. On April 8, 2011, the Respondent wrote to the client as follows:
- By the way, there was a holdback release when you sold a property in May 2008 in the amount of \$398.63. I accidently charged you as my fee and should be credit to you. Please remind me when you come back to Canada.

Allegation 8: GG

102. In or about April 2009, the Respondent was retained by GG in connection with his purchase of a residential strata property in Vancouver, British Columbia. The transaction was to close on May 5, 2009.
103. On or about May 1, 2009, the Respondent received a Form F- Certificate of Payment from the strata manager on his undertaking to holdback the sum of \$540.50 for the May 2009 strata fees "until May 31, 2009 and a payment has cleared the bank".
104. On or about May 5, 2009, the Respondent prepared the Cash In-Out Statement with respect to the property. The Cash In-Out Statement included the holdback of \$540.50. The Cash In-Out Statement also included the sum of \$750 for legal fees, disbursements and taxes.
105. On or about May 5, 2009, the Respondent received from or on behalf of his client the total amount of \$671,790.05 to complete the transaction. The funds were deposited into the Respondent's trust account and included the \$540.50 holdback. On or about May 5, 2009, the Respondent disbursed \$670,352.30 to close the transaction leaving a balance in trust of \$1,437.75.
106. On September 17, 2009, the Respondent withdrew the sum of \$897.25 from trust in payment of his

legal fees, leaving a balance in trust of \$540.50.

107. The Respondent held the \$540.50 in trust until April 28, 2010. There had been no intervening requests for payment out of the holdback from the vendor or his notary. At that time he prepared a second statement of account for the "HB release" as a non-taxable disbursement and withdrew \$540.50 from trust in payment of that account.

108. The Respondent did not deliver the statement of account dated April 28, 2010 to his client nor did he perform any legal services for his clients or incur any disbursements on behalf of his clients after May 5, 2009.

109. On January 13, 2012, in response to the information disclosed in the Law Society Audit, the Respondent forwarded payment to the Vendor's notary.

Allegation 9: HG and XL

110. In or about September 2006, the Respondent was retained by HG and XL in connection with their purchase of a residential strata property in Burnaby, British Columbia. The transaction was to close on October 25, 2006.

111. On or about October 10, 2006, the Respondent received a Form F- Certificate of Payment from the property manager, on his undertaking to issue a cheque payable to the Strata Corporation in the amount of \$124.45 for the November 2006 strata fees within 14 days after completion.

112. On or about October 25, 2006, the Respondent prepared the Purchaser's Statement of Adjustments and Cash In-Out Statement with respect to the transaction. Both the Purchaser's Statement of Adjustments and the Cash In-Out Statement showed that \$124.45 would be collected from the clients and paid out by the Respondent to cover the November 2006 strata fees. Both documents also included the sum of \$780 for legal fees, disbursements and taxes.

113. On or about October 25, 2006, the Respondent received from or on behalf of his clients the total sum of \$325,851.14 to complete the transaction. The funds were deposited into the Respondent's trust account and included the \$124.45 November strata fee and an amount of \$780 for legal fees, disbursement and taxes. On or about the same date, the Respondent paid from trust the sum of \$324,947.49 in order to complete the transaction, leaving a balance in trust of \$903.65.

114. On the morning of the closing, the Vendor's lawyer revised the Vendor's Statement of Adjustments to include a readjustment of the amount of the GST new housing rebate, necessitating revisions by the Respondent of both the Purchaser's Statement of Adjustments and the new housing rebate application form. The client agreed to pay an additional \$200 for the additional legal work involved. Notes to that effect were made by the Respondent upon both the GST/HST Rebate Application form for new housing and the Conveyancing Instruction Report.

115. The Respondent held \$903.65 in trust for his clients until February 1, 2007 at which time he rendered an account in the amount of \$603.65 and withdrew that amount from trust. That left a balance of \$300 in trust, which was available to cover potential obligations to the strata management company for the November 2006 strata fees. There were no subsequent requests for payment in relation to the November strata fees.

116. The Respondent continued to hold the balance of \$300 in trust for his clients until July 12, 2009 at which time he withdrew \$300 from trust. The \$300 included the \$124.45, the Respondent had undertaken to pay to the strata for the November 2006 strata fees.

117. The Respondent did not prepare or deliver a second statement of account to his client for the balance of his legal fees and disbursements.

118. On November 15, 2011, in response to the concern expressed in the Law Society Audit, the Respondent paid the sum of \$300 to GM and XL.

Responses to the Law Society

119. In the course of investigating the Complaint, the Law Society received a letter dated October 29, 2011 from the Respondent enclosing a document prepared by the Respondent entitled "Reply to Questions from Paula H. Kalsi". The letter was sent in reply to a letter dated September 20, 2011, from Ms. Kalsi on behalf of the Law Society to the Respondent.

120. With respect to the aged trust accounts generally, the Respondent wrote in a "General Explanation #1" attached to his letter of October 29, 2010:

6.1 Files before July 2007

In the client ledger, there are a few ledgers having a balance less than \$300. They were balance carried over from the old spread sheet system which was converted into Quickbook. These files are in the storage. Because I was over extending myself with legal work I did not make the time to pull the files from storage to investigate the reason for these balances.

121. With respect to the billing for work not performed, the Respondent wrote in a "General Explanation #2" attached to his letter of October 29, 2010:

Rush Billing Without Checking

On two occasions after being told by my external auditors that I needed to clean up the old, old balances in my trust accounts. I attempt to clean then up. One occasion was in July 2009 and the other was in March 2009. These dates are mentioned frequently in Ms. Chan's report. Without consulting my client files I assumed that the residual trust balances represented legal fees not billed. I rendered a bill and closed out the accounts. On March 12, 2009, I closed 48 accounts after rendering 48 bills for a total of \$11,508.11 I transferred the money to my general account ... This was NOT an attempt to misappropriate client trust funds it was an attempt to clean up and close some of my old trust balances. I should have consulted my client files to determine why the money was still in the trust account, not assume they represented unbilled legal fees. ...

122. The Respondent says that he has now changed his accounting practices and takes steps to verify payments out of trust by consulting, among other things, in/out statements, trust ledgers, statements of adjustments, bank statements where necessary, BC Online payment statements and all copies of cheques in the relevant client files. The Law Society has not audited the Respondent's practice since the 4-43 investigation performed by Ms. Chan for the period ending March 31, 2011.

Admission of Misconduct

123. With respect to allegations 1, 3, 4, 7, and 8 of the Amended Citation, while denying any dishonest intent or mala fides, the Respondent admits that his failure to comply with his professional obligations relating to trust accounting and the handling of trust funds involved a sufficient degree of carelessness and/or recklessness as to amount to misappropriation and that his conduct as described constitutes professional misconduct.

124. With respect to allegations 2, 5, 6 and 9 of the Amended Citation, the Respondent admits the conduct described, admits that this conduct was contrary to the Law Society Rules and the Professional Conduct Handbook provisions referenced in the Amended Citation and admits that such conduct constitutes professional misconduct.

Undertaking

125. As a result of this admission the Respondent has undertaken:

1. To retire effective September 1, 2013 and in conjunction with that to cease membership in the Law Society of British Columbia on September 1, 2013;
2. Never to apply for reinstatement to the Law Society of British Columbia;
3. Not to apply for membership in any other law society (or like governing body regulating the practice of law) without first advising in writing the Law Society of British Columbia; and
4. Not to permit his name to appear on the letterhead of, or otherwise work in any capacity whatsoever for, any lawyer or law firm in British Columbia, without obtaining the prior written consent of the Discipline Committee of the Law Society of British Columbia.