

2014 : No. 03 Fall

Tim Yao-Yuan Xia

Vancouver, BC

Called to the bar: May 20, 1994

**Discipline hearing** : March 27, 2014

**Panel** : David Mossop, QC, Chair, Jasmin Ahmad and Clayton Shultz

**Decision issued** : June 11, 2014 (2014 LSBC 24)

**Counsel** : Kieron Grady for the Law Society; Henry Wood, QC for Tim Yao-Yuan Xia

## Facts

On October 31, 2008, Tim Yao-Yuan Xia met with a new client and was asked to draft a marital separation agreement. The client advised Xia that his wife was in agreement with the terms.

Xia prepared the separation agreement. His client signed it and Xia witnessed his signature. The client told Xia that he would arrange for his wife's signature on the separation agreement in the presence of another lawyer.

On November 8, 2008, the client requested that Xia prepare the necessary paperwork to effect a transfer of property to his son. Based on his client's instructions, Xia prepared a transfer document, which was signed by his client and witnessed by Xia.

The client also presented copies of two one-page agreements between him and his son, both dated March 31, 2004. One agreement was signed by the son and witnessed by a notary public.

The other agreement only had the signatures of the son and client and did not indicate that it had been witnessed by anyone. Xia was asked to witness the signatures of the client and his son that were already on this agreement.

Xia advised the client that the agreement was legally binding without witnesses to the signatures. However, the client was insistent and requested that Xia "formalize" the agreement by signing it as a witness. Xia signed the agreement as witness to the signatures contained in it and affixed his stamp.

Xia did not witness the signature of either his client or the son contained on the agreement, nor did he affix a date when he purported to witness the two signatures. By signing as a witness, Xia confirmed that the signatures were genuine.

## Admission and disciplinary action

Xia admitted that his conduct in affixing his signature as a witness to the agreement when he had not witnessed either of the signatures constituted professional misconduct.

By affixing his signature to the agreement, Xia falsely represented that he witnessed the parties' execution of the agreement on the date specified. This false statement cast doubt on Xia's professional integrity and reflected adversely on the integrity of the legal profession.

There was no evidence that the signatories to the agreement signed the documents for any improper

purpose or that Xia's conduct caused any direct harm or resulted in any adverse consequences to any party. There was also no evidence that Xia or his client gained any advantage as a result. The agreement did not require a witness to the signatures and was valid even without Xia purporting to witness it.

Xia's professional conduct record disclosed a history of involvement with the Practice Standards Committee that indicated that he had, at least in the past, struggled with practice standards. At the time of the hearing, he was conducting his practice under a practice supervision agreement.

The panel considered Xia's early admission of wrongdoing as a mitigating factor.

The panel accepted Xia's admission of professional misconduct and ordered that he pay:

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