



DISCIPLINE CASE *DIGEST*

[Discipline Case Digest Index](#) ❖ [Law Society Home Page](#)

Case 02-07

ABRAHAM ANHANG
Winnipeg, Manitoba

Called to the Bar
September 21, 1964

Particulars of Charges
Professional Misconduct (7 charges)

- misappropriation (x2)
- failure to act with integrity (x2)
- payment of fees without authority of client
- charge a fee in excess of Queen's Bench Rule 74.14 tariff without consent of beneficiaries (x2)

Date of Hearing
July 24 and July 31, 2002

Panel
D.G. Ward, Q.C., (Chair)
P.L. Jensen
J.W. Hedley

Disposition

- Disbarment
- Costs of \$18,000.00

Counsel
J.R. Gallagher for The Law Society of Manitoba
D.G. Hill for the Member

Misappropriation

Facts

In May, 1995, Mr. Anhang was retained by one of 25 investors who had made investments of \$250,000.00 each in a company through the Federal Immigrant Investor Program. The company had failed and Mr. Anhang negotiated a settlement whereby all of the investors were eligible to receive shares and a convertible debenture in a new company which would purchase the assets of the failed corporation. Twelve of the investors who agreed to the settlement retained Mr. Anhang as their trustee for the purpose of monitoring their shares in the new company.

Mr. Anhang and the new company executed a trust agreement which named Mr. Anhang as the trustee and named the investors as the beneficiaries of the trust. The investors did not execute or receive copies of the trust agreement. An article in the trust agreement provided that the trustee could employ such experts or agents as might reasonably be required for the purpose of discharging his duties. Mr. Anhang then entered into a consulting agreement with a company which he had incorporated many years before for estate planning purposes. He was the controlling mind of the company and personally carried out the duties of the company under the consulting agreement. The consulting agreement provided that for its services the company would receive a fee equal to 15% of the selling price of the shares of the investors.<

In early 2000, the shares of the 12 investors were sold and the proceeds deposited to the pooled trust account of Mr. Anhang's firm. Mr. Anhang then paid the sum of \$246,460.26 to his company as its fee for monitoring the shares of the investors. This amount represented 15% of the total selling price of the shares of the 12 investors. At no time had Mr. Anhang advised or revealed to the investors that a fee would be paid to his company on the sale of the shares.

After deducting the fees of his company, Mr. Anhang remitted the balance of the sale funds to the 12 investors by mailing them cheques. One of the investors wrote and asked for a breakdown of the expenses as the cheque reflected a sale price less than Mr. Anhang had quoted. Mr. Anhang responded by advising the investor that there was a 3% fee charged by the brokerage firm on the sale and a 15% withholding tax charged by Canada Customs and Revenue Agency when, in fact, neither of these statements was accurate. He made no mention that a 15% fee had been paid to his company.

Two of the cheques were returned as the investors had left Canada for Southeast Asia some time earlier, leaving no forwarding addresses. Mr. Anhang attempted to contact the two investors, but without success. Their funds were placed in specific trust investment accounts in order that interest accrued to their credit. Four months later, Mr. Anhang wrote to his accountant and advised that as the two investors had still not been located, their funds would be released to Mr. Anhang's company and the accountant should set up a liability in the books of the company until the limitation period of six years expired, at which point if the investors had still not been located, the funds would be shown as additional income into

the company.

On July 4, 2000, in accordance with the letter he had written to his accountant, Mr. Anhang paid to his company from trust the sum of \$194,300.88 and used the funds as bridge financing on a real estate matter. The \$194,300.88 represented the capital sums of the two investors, plus the interest that had accrued while the funds were in the specific trust investment account. Mr. Anhang issued preferred shares in his company in the names of the two investors.

In two other unrelated estate matters, Mr. Anhang took fees in excess of the allowable Queen's Bench tariff without obtaining the consent of the beneficiaries. In one case the fees were \$5,455.93 over the allowable tariff, while in the other case the fees were \$15,000.00 over tariff. In addition, in one of the estates Mr. Anhang prepared a statement of account in the amount of \$10,700.00 for fees and G.S.T. owed to his company for services provided in the estate matter. Neither the executors nor the beneficiaries had authorized Mr. Anhang to retain his company. The statement of account was not sent to the executors or beneficiaries. Mr. Anhang paid the account from estate funds in his firm's trust account.

In December, 2001 an auditor from the Society commenced a spot audit on the trust accounts of Mr. Anhang's firm and the aforementioned conduct came to light.

Decision and Comments

Mr. Anhang admitted the charges of professional misconduct. The Committee noted that Mr. Anhang had repaid the \$194,300.88, had an exemplary career and had given much of his time back to his profession and to his community. The Committee found, however, that over a period of 18 months, Mr. Anhang had suffered a serious lapse in his ethics, his integrity and his honesty which resulted in the misappropriation of client monies. It was the view of the Committee that his conduct was calculated and premeditated; he prepared and deliberately executed a scheme to overcharge his clients and misappropriate and convert to his own use monies he was holding in trust on behalf of clients. The Committee was of the view that there were no mitigating or exceptional circumstances in this case.

Penalty

The Committee ordered that Mr. Anhang be disbarred as a barrister and solicitor and that his name be struck from the Rolls of the Society. The Committee also ordered that Mr. Anhang pay costs in the amount of \$18,000.00, which costs were to be paid forthwith.

[Top of page](#)
[Index](#)