

CANADA / JUDGMENT

Huang v. Li

2020 BCSC 1727

COURT

Supreme Court of British Columbia

DECIDED

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2020 BCSC 1727 Huang v. Li

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Huang v. Li,

2020 BCSC 1727

Date: 20201116

Docket: S173324

Registry: Vancouver

Between:

Dongdong Huang

Plaintiff

And:

Peipei Li a.k.a. Zoe Peipei Li and Peipei Zoe Li, LPP Properties Inc., Guihong Wang, Xueming Li, Daqi Li, Qin Li and Zhenmin Chen a.k.a. Jimmy Chen

Defendants

Before: The Honourable Madam Justice Adair

Reasons for Judgment

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Place and Date of Trial:

Vancouver, B.C.

May 6-10, 13-17, August 26-30, September 3-6, 23-27, October 4 and November 5, 2019, and
February 7, 2020

Place and Date of Judgment:

Vancouver, B.C.

November 16, 2020

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1. Introduction

[1] The plaintiff, Dongdong Huang, is a very well-educated man, a lawyer called to the Bar in British Columbia and a published poet. He is now in his early 60s. The plaintiff has a doctorate in Law from the University of Ottawa, and during the trial he was referred to as "Dr. Huang." I will do likewise in these Reasons.

[2] The defendant Peipei Li is now in her mid 30s. She has a Master's degree in media from Wuhan University. After coming to Canada and settling in the Lower Mainland in 2009, Ms. Li pursued some further education, and, in 2014, she obtained a diploma from BCIT. In 2015, she was working as an office administrator for a group of companies (the "Sun Group") that included a company engaged in real estate investment.

- [3] Dr. Huang and Ms. Li first encountered one another at an event in June 2015 held for local alumni of Wuhan University. At the time, Dr. Huang had been separated from his second wife for about a year, although they were not divorced. Unbeknownst to Ms. Li, when she stood up at the event to introduce herself, Dr. Huang took a picture of her on his cell phone. After the dinner, the two of them chatted briefly. In July 2015, Dr. Huang contacted Ms. Li through "WeChat," and they exchanged some communications.
- [4] Dr. Huang and Ms. Li then met one another again in October 2015. They discussed Dr. Huang possibly being retained to do some legal work for Ms. Li and the defendant LPP Properties Ltd. ("LPP"), which had recently been incorporated (under another name). Dr. Huang was not retained. In January 2016, Dr. Huang and Ms. Li ran into one another by chance in downtown Vancouver, and then (at Dr. Huang's invitation) had dinner together. They exchanged some more messages on WeChat. However, the messages were of the type exchanged between acquaintances who went to the same university. Dr. Huang sent similar messages to other Wuhan University alumni acquaintances.
- [5] In March 2016, Dr. Huang invited Ms. Li to a dinner for the Chinese Canadian Writers Association, of which Dr. Huang was a member, and to play golf with him. Ms. Li accepted the invitations. The two of them had some meals together. Dr. Huang began to assist Ms. Li with some business matters related to LPP. By this time, Dr. Huang was seriously interested in pursuing a romantic relationship with Ms. Li.
- [6] Dr. Huang says that, by the end of March 2016, Ms. Li had, by words and conduct, led him to believe that she was available for a long-term romantic and spousal relationship with him, and that she intended to be his romantic and business partner. He says that Ms. Li did so intending to deceive him and to acquire from him financial assets and other benefits, including personal labour and professional legal services. Dr. Huang says that, based on Ms. Li's false representations that she was single, in love with him, from a wealthy, propertied family and was available for a long-term spousal relationship, he was induced to transfer money amounting to the majority of his life's savings to Ms. Li (or to others for her benefit), in addition to other assets.
- [7] In this action, Dr. Huang asserts that he has been the victim of Ms. Li's deceit and fraudulent misrepresentations. He asserts further that Ms. Li has been unjustly enriched. Dr. Huang seeks to recover as damages more than \$1.1 million from Ms. Li.
- [8] Ms. Li and LPP say that they have no liability to Dr. Huang, on any basis. Ms. Li says that there was never any romantic or physical relationship between her and Dr. Huang, and at no time did she harbour any romantic feelings toward him. Ms. Li says that Dr. Huang's claims about a romantic relationship are simply the product of his own fantastical hopes and desires.
- [9] Ms. Li says further that, in his capacity as a lawyer acting on her behalf and on behalf of LPP, Dr. Huang owed fiduciary duties to both of them. Ms. Li says that Dr. Huang breached those duties by (among other things): attempting to pressure and coerce Ms. Li into a sexual

relationship; harassing Ms. Li after she made it clear to him that she was not interested in such a relationship; and allowing his own interest in and desires to pursue a romantic relationship with Ms. Li to conflict with his duties to her and to LPP as their lawyer. Ms. Li and LPP have brought a counterclaim against Dr. Huang in which they seek remedies for breach of fiduciary duty, together with aggravated and punitive damages.

- [10] At trial, Dr. Huang did not pursue claims against the named defendants Guihong Wang (Ms. Li's mother), Xueming Li (Ms. Li's father), Qin Li (Ms. Li's sister), and Zhenmin Chen (also known as Jimmy Chen), who worked in LPP's office. During his opening, Mr. McLeod, counsel for Dr. Huang, advised that these defendants had never been served with the notice of civil claim. In closing argument, Mr. McLeod submitted that, in the circumstances, Dr. Huang should be granted leave to discontinue the proceedings against those defendants.
- [11] In addition, Dr. Huang abandoned conspiracy claims against Ms. Li and others. Dr. Huang also abandoned a claim against LPP for breach of an alleged contract (referred to as the "Equity Agreement") whereby Dr. Huang asserted he was to receive no less than 10% of the shares of LPP. In closing submissions, Dr. Huang confirmed that he was not advancing any claim for compensation for legal services he provided in the period March to August 2016.
- [12] With respect to Daqi Li, Dr. Huang abandoned a claim that Daqi Li was liable to him for "knowing participation" in what Dr. Huang alleged was Ms. Li's "fraudulent scheme." However, Dr. Huang says that Daqi Li should be found liable for damages for unjust enrichment, and for trespass and conversion. For his part, Daqi Li says that he has no liability to Dr. Huang.
- [13] In these Reasons, I will first review the evidence, which (given the issues in the case) I do in some detail. I will then discuss the credibility and reliability of Dr. Huang and Ms. Li. Their credibility and reliability are critical issues in this action. Next, I will address Dr. Huang's fraud claims against Ms. Li and LPP. I will then turn to Dr. Huang's other claims against Ms. Li, LPP and Daqi Li. Finally, I will address the matters raised in Ms. Li's and LPP's counterclaim against Dr. Huang.
2. Review of the evidence
- (a) Dr. Huang's education and background
- [14] Dr. Huang was born in the People's Republic of China in September 1958. After completing high school, he attended Wuhan University from 1978 to 1982, where he excelled academically. Dr. Huang described Wuhan University as one of the oldest universities in China and one of the most prestigious. He also described it as academically selective. According to Dr. Huang, as an undergraduate, he was awarded the "gold prize," only one of which is given at the University in any year. Thus, as Dr. Huang explained, that year he was the winner of the "gold prize" for the entire University. Dr. Huang received his Bachelor of Arts degree in 1982. That same year, he was selected to study abroad and also took the national examination for graduate studies. Dr. Huang enrolled in Wuhan University's

Department of Law and received a Bachelor of Laws degree in 1984. In 1982, he began studying English at the Szechwan Foreign Language Institute. When Dr. Huang took the "TOEFL" ("Test of English as a Foreign Language") exam in 1983, he did very well and came at the top of the class, even though, as of that date, he had never lived in an English-speaking country.

- [15] In 1984, Dr. Huang moved to Ottawa, Ontario. This was the first time he had been out of China. He attended the University of Ottawa, where he was enrolled as a graduate student in the Faculty of Law. Dr. Huang received his LL.M. degree from the University of Ottawa in 1986. He began working at the law firm now known as Faskens, where he was employed full-time as a legal consultant. In 1988, Dr. Huang worked in Toronto at the Torys law firm, where he was employed as a Chinese law consultant. He was enrolled in both the doctoral program at the Faculty of Law at the University of Ottawa, and the LL.B. program at Osgoode Hall Law School at York University. In 1991, when he received his LL.B., Dr. Huang moved to Vancouver. He articulated with the Guild Yule law firm, before being called to the Bar in B.C. in 1992. That same year, he received his doctorate in Law from the University of Ottawa.
- [16] After being called to the Bar, Dr. Huang practiced corporate and commercial law with the Smith Lyons law firm before he started his own practice ("D.D. Huang & Associates") in 1994. Dr. Huang explained that he rejoined Faskens in 1998, where he practiced as associate counsel until 2002. Dr. Huang then joined a public company, Spur Ventures, as a director and vice-president. Dr. Huang explained that Spur was engaged in phosphate mining and fertilizer production and, in addition to his positions at Spur, he was also president of a joint venture that Spur had in China. Dr. Huang explained that he was working as an executive with Spur, and practicing as a lawyer part-time. In addition to Spur, Dr. Huang's resumé lists (under "Business Experience") executive positions (including general counsel) and work at a number of other companies.
- [17] As of 2015, Dr. Huang was a partner in the "Times Jusers" law firm, which Dr. Huang described as one of the top ten law firms in Beijing, and which he joined in June 2004. He was continuing to practice law part-time in Vancouver and in Canada through his own firm, D.D. Huang & Associates. Dr. Huang was also an adjunct professor at both Wuhan University and Qingdao University.
- [18] Dr. Huang explained that, as a lawyer, he maintained his focus on corporate and commercial law. Part of his practice was working for clients who were engaged in business between Canada and China, and he was serving largely Canadian, United States and Chinese clients.
- [19] As of 2015, in addition to his professional achievements, Dr. Huang was also a published poet in both Chinese and English. Locally, he was a member of the Canadian Chinese Writers Association, which Dr. Huang described as one of the oldest literary associations in Vancouver.

- [20] Dr. Huang acknowledged that he is confident in his skills as both a lawyer and a poet, and he is proud of his achievements in both. He observed that many people have commented to him that lawyer and poet are a rare combination, and that they have been impressed that he has that combination of skills. He acknowledged that he likes to be referred to as "Doctor" Huang.
- [21] As I noted above, when Dr. Huang first met Ms. Li in June 2015, he had been separated from his second wife ("Ms. Lu") for over a year, although they were not divorced. Dr. Huang testified that he believed he and Ms. Lu (who was 17 years his junior) fell in love with one another at their first face-to-face meeting. He and Ms. Lu married in July 2000, the same month Dr. Huang was divorced from his first wife. Dr. Huang and Ms. Lu are the parents of two children (both sons) born in 2002 and 2005. Dr. Huang also has a daughter from his first marriage. After Dr. Huang and Ms. Lu separated, their children lived primarily with Dr. Huang at his home in Coquitlam.
- (b) Ms. Li's background
- [22] Ms. Li was born in 1985. Her birthdate recorded on her passport is in February 1985, although she believes that her actual birthdate is in May 1985, based on what her mother has told her. She has two younger siblings, a sister, Qin Li, and a brother, the defendant Daqi Li. According to Ms. Li, her parents were and are involved in the real estate and construction business in China.
- [23] Ms. Li received a Bachelor's degree from Hubei University. She then attended Wuhan University, where, in 2008, she received a Master's degree in media. Ms. Li has an interest in fashion, and her thesis topic concerned advertising research on the consumption and sale of luxury goods. Her interest in luxury goods is not merely academic.
- [24] Ms. Li explained that, after completing her Master's, she then came to Canada in 2009 to attend school. At first, she attended the University of British Columbia, pursuing what she described as prequalifying courses, to improve her English language skills (both written and oral). Ms. Li explained that, in addition to UBC, she also attended Simon Fraser University, where she completed a second degree. She then attended BCIT, where, in 2014, she obtained a diploma with a major in international business management. Ms. Li explained that, after graduating from BCIT, she began looking for work. Ms. Li explained that, between her arrival in Canada in 2009 and her graduation in 2014, she had been supported by her parents and had no other source of income. She acknowledged that between 2009 and 2014, her parents provided her with about \$400,000 for school tuition and living expenses.

- [25] While Ms. Li was a student, she purchased two pieces of real estate in the Lower Mainland, using money sent to her by her parents. The first was a condominium in Burnaby. The second was a single family home on East 40th Avenue in Vancouver ("E. 40th"), which she purchased in January 2014. As Ms. Li recalled, in total, her parents sent her about \$1 million for the house purchase, maintenance and renovations. When Ms. Li met Dr. Huang, Ms. Li and Daqi Li were living at E. 40th, which was undergoing substantial renovations.
- [26] In 2015, Ms. Li was working as an office administrator for Sun Oil. One of the other businesses in the Sun Group of companies was Sun Commercial Real Estate. Her boss oversaw both businesses. Ms. Li explained that she (among the other staff at Sun) was being strongly encouraged by her boss to identify any personal contacts who might be interested in investing in real estate with Sun Commercial Real Estate. Ms. Li explained that she had introduced friends as investors in one of Sun Commercial Real Estate's projects, for which she had received compensation. She explained that, although her knowledge of the Vancouver real estate industry was very limited, she felt under pressure from her boss to try to locate more friends or former classmates who were or might be interested in investing.
- (c) The June 2015 Alumni event and the months after
- [27] Dr. Huang and Ms. Li met for the first time at the Wuhan University Alumni dinner held in Richmond, B.C. in June 2015.
- [28] As Ms. Li recalled, one of the reasons she went to the event was that she was homesick, and this was (so far as she was aware) the first local event held for alumni of Wuhan University. A further reason was to see if she could do some business development, as she was being encouraged by her boss at Sun to do.
- [29] As Ms. Li recalled, at the event, each table identified a person to introduce himself or herself to those attending. Her table selected her. As she recalled, she stood up and, with a microphone, introduced herself. After giving her name, she stated the year she graduated, what her major was at Wuhan University, when she came to Vancouver and what she was doing in Vancouver. As Ms. Li recalled, she mentioned that she was in the oil, gas and real estate industry. As she recalled, she did not say anything more specific than that, as she was very nervous and the introductions were supposed to be brief.
- [30] While Ms. Li was introducing herself, and before he had introduced himself or even spoken to her, Dr. Huang took a photograph of her on his cellphone. That he took this photograph was something that, at trial, Dr. Huang was very reluctant to admit until evidence he had given on his examination for discovery was put to him. Ms. Li did not learn that he had taken the photograph until after this litigation was started.
- [31] Dr. Huang and Ms. Li introduced themselves to one another after the dinner. As Ms. Li recalled, Dr. Huang told her that he was a lawyer and practiced in both Canada and China. As Ms. Li recalled, her first impression of Dr. Huang was very positive. She concluded that he was very well respected and knew many important people. She was hopeful that he might

be able to introduce her to some of those people, so that she could build up her network of useful business contacts, which, at the time, were quite limited. Ms. Li explained that she had finished school only a year before and knew very few people. As Ms. Li recalled, her conversation that evening with Dr. Huang was quite brief.

[32] Dr. Huang recalled speaking to Ms. Li after the dinner, and recalled that they exchanged "WeChat" contact information. Dr. Huang explained that WeChat is a social media application similar to Facebook, and that it is very popular in China and among Chinese smart-phone users. Dr. Huang described WeChat as allowing users to communicate and connect with one another instantly through text and voice messages, and to send photographs. Indeed, Dr. Huang and Ms. Li exchanged a few brief WeChat messages shortly after the dinner, adding one another as WeChat "friends." They exchanged a few more WeChat messages of a social nature over the next few days.

[33] As far as Dr. Huang could recall, he did not maintain contact with Ms. Li after the Alumni dinner. However, in mid-July, Dr. Huang sent Ms. Li several WeChat messages. The first of these messages read [in translation; all sic]:

Have a very solid understanding of marriage, have terminated a lifelong tenure or the expectation for a lifelong tenure.

[34] Another of Dr. Huang's messages read [in translation; all sic]:

Have faith in love, but do not make fetish of love; own your marriage, but do not get suffocated by your marriage.

[35] Dr. Huang explained that in these messages about love and marriage, he was not talking about his own situation; rather, the messages were more of an exploration of an idea, how to look at marriage as a system in society. When asked at trial why he decided to raise this with Ms. Li in July 2015, Dr. Huang said that he did not know and had no idea.

[36] Ms. Li's responses to Dr. Huang's messages were brief and non-committal. At trial, she explained that she felt the messages were strange and she was reluctant to respond. However, she explained that Dr. Huang was well-respected in the Alumni association and she responded out of politeness.

[37] Dr. Huang and Ms. Li had no contact with one another until mid-October 2015.

[38] In the meantime, in early August 2015, a friend invited Ms. Li to go golfing at the course at UBC. There, Ms. Li met Mr. Luhua Rao, a wealthy businessman from China. Ms. Li and Mr. Rao played a round of golf together. As Ms. Li recalled, Mr. Rao played golf very well, and he helped her with her golf-game. According to Ms. Li, Mr. Rao was a very patient teacher, and he had a very good sense of humour. According to Ms. Li, while playing golf, she and Mr. Rao discussed many things, although not his financial or his marital status. As Ms. Li recalled, after they finished golf, Mr. Rao invited her to lunch and then to dinner. Then he wanted to see her every day that he was in Vancouver.

- [39] Beginning August 9, 2015, Ms. Li and Mr. Rao communicated frequently with one another over WeChat. Their personal relationship developed very rapidly, although, because of Mr. Rao's travels, it was often a long-distance relationship. By August 11, 2015, Mr. Rao was declaring his love for Ms. Li. According to Ms. Li, by mid-September, Mr. Rao was back in Vancouver, and he proposed marriage to Ms. Li. As Ms. Li recalled, Mr. Rao told her that he was separated from his spouse. She explained that, when Mr. Rao told her that he was separated, she accepted that and did not investigate further. The two of them went shopping together at Tiffany's for Ms. Li's engagement ring. According to Ms. Li, she chose a ring with a very large diamond and that was very expensive, thus demonstrating her fondness for luxury goods. She estimated the cost of the ring at between US\$30,000 and US\$40,000. According to Ms. Li, after Mr. Rao purchased the ring, she wore it every day, and only took it off when she went swimming or played sports such as golf. According to Ms. Li, she never made any effort to hide the ring from anyone, including Dr. Huang.
- [40] According to Ms. Li, after she and Mr. Rao became engaged, he told her something about his financial status. As she recalled, Mr. Rao told her that he had a publicly listed company in China called (in English) Kelu Electronics. As she recalled, Mr. Rao told her not to worry about life in general, that he would provide for her and take very good care of her.
- [41] Ms. Li explained that, at the end of September 2015, and with Mr. Rao's support, she incorporated the company now known as LPP. Ms. Li explained that, originally, Mr. Rao wanted her to quit her job in Vancouver and return to China to work at Mr. Rao's company there. However, Ms. Li did not want to leave Canada, and Mr. Rao then encouraged her to run her own business and be her own boss. She explained that, originally, she wanted to run a fashion business or a food business, such as a vegetarian restaurant. However, Mr. Rao was not interested in any of that, and suggested that LPP be in the commercial real estate business. As Ms. Li recalled, she mentioned to Mr. Rao that running a commercial real estate business required considerable capital and that she would have to deal with bankers and others in an area where she had little experience. However, as Ms. Li recalled, Mr. Rao told her that he would teach her. Ms. Li then felt reassured, and she accepted Mr. Rao's suggestion, even though, at this time, her experience in commercial real estate was very limited. According to Ms. Li, LPP was to be essentially a family company, with her and Mr. Rao as the only shareholders, and Mr. Rao was going to teach her how to run the business.
- [42] According to Ms. Li, Mr. Rao also reassured her about where and how LPP would get the money to run a commercial real estate business. As Ms. Li recalled, Mr. Rao told her that he would arrange to wire \$20 million to LPP as capital for the business. Indeed, between January and May 2016, Mr. Rao arranged to send about \$17.65 million to LPP.

[43] In mid-October 2015, Dr. Huang contacted Ms. Li through WeChat. He inquired whether she had been to the Caribbean, and she told him she had been in Varadero. At trial, Dr. Huang acknowledged that he had guessed Ms. Li had been on a trip because he had been looking at photographs Ms. Li had posted to her friends' circle on WeChat and noticed that she was somewhere tropical.

[44] Dr. Huang explained that he initiated contact with Ms. Li because he had friends who wanted to look at a Sun Realty project, and he thought of her. In a message sent on October 16, 2015, Dr. Huang said [translation; all sic]:

I have a client who wants to invest in Sun project. When you are free, I would like to talk with you. Thanks.

[45] Dr. Huang made arrangements to meet Ms. Li the following day at Shaughnessy Restaurant in Van Dusen Gardens. In messages arranging the meeting, Dr. Huang provided his full contact information, including that he was "Dr. D.D. Huang, University of Ottawa," qualified and licensed as a lawyer in both Canada and China. He also included the traditional Chinese character for "Law."

[46] Dr. Huang and Ms. Li then met for lunch on October 17, 2015. As Dr. Huang recalled, he told Ms. Li about his friend who was interested in investing in real estate. As Dr. Huang recalled, Ms. Li told him that she was starting her own business in commercial real estate investing and had incorporated a company for that purpose. According to Dr. Huang, Ms. Li indicated that perhaps his friend could invest through her company rather than through Sun Realty. As Dr. Huang recalled, he and Ms. Li also discussed the possibility of him providing some legal services relating to the share structure of LPP, and he gave her a quote on the cost of the work. According to Ms. Li, she told Dr. Huang that LPP was going to have two shareholders, and that the other shareholder was going to invest \$20 million in the company.

[47] In my view, the only reasonable characterization of this lunch, at least from Ms. Li's side, was that it was about business. Dr. Huang initiated an approach to Ms. Li based on a possible business opportunity related to her association with Sun Realty. That, at least objectively, was the reason for his messages to Ms. Li in October. For her part, at the restaurant, Ms. Li inquired whether Dr. Huang was in a position to provide some legal services for her new company. In his communications to her setting up the lunch, Dr. Huang had emphasized his professional qualifications and standing as a lawyer.

[48] After the lunch, Dr. Huang sent Ms. Li a short message that said [translation]: "Very happy that I really got to know you today." On October 19, 2015, Ms. Li sent a message back to Dr. Huang [translation; all sic]:

Hi my senior alumnus! Regarding the lawyer's document for the company, I'm in the process of drafting it. As we are at the stage of building the platform, I'll try to save as much as possible, the capital from China has not arrived yet, I'll try to do it myself first. I will ask you for help, my senior alumnus, if necessary.

- [49] Ultimately, Ms. Li did not ask Dr. Huang for any assistance. Nothing came of any potential real estate investment by Dr. Huang's "client."
- (d) January 2016 - Dr. Huang and Ms. Li meet by chance
- [50] The next time Dr. Huang and Ms. Li saw one another was on January 8, 2016. The two of them ran into one another by chance in downtown Vancouver late in the afternoon. At trial, Dr. Huang had a very precise recollection of this meeting, explaining (among other things) that it was at the north-east corner of Burrard and West Georgia Streets. As Dr. Huang recalled, he asked Ms. Li if she was free for dinner, and she told him that she was on her way to the Louis Vuitton store.
- [51] As Ms. Li recalled, she had just finished looking at office space for LPP when she ran into Dr. Huang. When Dr. Huang asked her what she was doing, that is what she told him. As she recalled, he also asked her whether the company documents had been prepared, and whether money had arrived from China, and she responded "yes" to both. Then Dr. Huang asked her if she had time for dinner that evening, and Ms. Li agreed to have dinner with Dr. Huang.
- [52] Dr. Huang and Ms. Li went to the Salmon House on the Hill in West Vancouver. Dr. Huang testified that he paid for the dinner, although he explained that was something he expected to do as a courtesy, since he was the senior alumni and many years older than Ms. Li.
- [53] At trial, Dr. Huang produced the receipt for this and many other meals and activities he and Ms. Li had and did together, until their relationship came to an end in September 2016. Dr. Huang explained that he kept these receipts because they were important because of the relationship developing with Ms. Li, as well as the money spent. During his evidence-in-chief, Dr. Huang regularly used such documents to testify and refresh his memory on dates and events.
- [54] As Dr. Huang recalled, over dinner at the Salmon House, he and Ms. Li spent time talking about business. Dr. Huang recalled Ms. Li observing that he was very senior, had been in Canada for a long time and knew many people, and he recalled that she asked him to introduce good business opportunities to her and the company she had set up. On the other hand, Ms. Li recalled that Dr. Huang offered to do this for her, as one alumnus helping another. As Dr. Huang recalled, Ms. Li mentioned that she had a very wealthy and powerful partner in the company, someone with a great deal of money to invest. This was Mr. Rao. As Ms. Li recalled, she had told Dr. Huang about Mr. Rao back in October, when she inquired about Dr. Huang preparing legal documents for her new company. Dr. Huang recalled that Ms. Li also mentioned that she was looking for office space downtown for the company, and that, once she found suitable space, she may ask him to look at the lease.

- [55] According to Dr. Huang, he and Ms. Li exchanged some personal information that evening, but nothing memorable. However, as Dr. Huang recalled, from that night on, he had a "very good impression" of Ms. Li. As Ms. Li recalled, neither of them discussed their personal lives over dinner. As she also recalled, she was wearing her engagement ring.
- (e) March 2016 - some social events, and Dr. Huang begins writing poetry about Ms. Li
- [56] Dr. Huang and Ms. Li did not see one another again until early March 2016. In February 2016, Dr. Huang went to China with his sons for about three weeks. Apart from sending Ms. Li greetings on February 8 for Chinese New Year (which Dr. Huang also sent to a number of other contacts and friends) and on February 14 for Valentine's Day (which, again, Dr. Huang also sent to others), there is no evidence that Dr. Huang and Ms. Li were in contact with one another while Dr. Huang was away.
- [57] Then, in March, Dr. Huang invited Ms. Li to attend the Chinese Canadian Writers Association annual gala dinner with him on March 11, 2016 as his guest. She accepted his invitation. At the dinner, Dr. Huang won a prize. Rather than collect it himself, he asked Ms. Li to collect it for him. He explained that he did that, not because it would have been awkward for him to collect the prize himself, but because Ms. Li was young and his guest, and that it was "convenient" for her to go up to the podium. When Ms. Li did so, she was mistakenly introduced by the presenter as Dr. Huang's wife. Dr. Huang did not know whether Ms. Li heard what had happened, but, in any event, he did nothing to correct the mistake. At trial, he described his feelings at the mistake as surprise and then joy. According to Dr. Huang, as of this dinner on March 11, he was not interested in Ms. Li romantically. However, he repeated that he had formed a "very good impression" of her.
- [58] A photograph taken of Ms. Li at this dinner shows that she is not wearing her engagement ring.
- [59] On March 15, 2016, Dr. Huang contacted Ms. Li. He was on his way to Van Dusen Gardens and asked if she was free, which she said she was. At trial, Dr. Huang recalled that he paid for the ticket for them to enter the Gardens, that Ms. Li was wearing a long red skirt, and that the two of them spent time walking through the Gardens. As Dr. Huang recalled, at one point, as they were crossing a bridge, Ms. Li asked him to hold her hand, which he did. As Dr. Huang recalled, while they were together, Ms. Li shared some personal information about why she was unable to play golf with him, and he was shocked that she was so personal. This is another event for which Dr. Huang kept the receipt.
- [60] Events on March 15 inspired Dr. Huang as a poet. Later that day, he began writing a poem entitled "Long-awaited Puppy Love" (also translated as "Long-lost first love"). The poem is about Ms. Li. The poem was completed on March 25, 2016.
- [61] Dr. Huang and Ms. Li next saw one another a few days later, on March 19. In the meantime, Ms. Li's assistant at LLP, Jimmy Chen, sent Dr. Huang a copy of documents for LPP's new office lease for Dr. Huang to review, which he did.

- [62] On March 19, Dr. Huang invited Ms. Li to play golf with him at Queen Elizabeth Park. While the two of them were playing, they took pictures of one another. Dr. Huang later used one of the pictures of Ms. Li in the introduction to a new collection of his poetry. He used more pictures of Ms. Li, which he had downloaded without asking her, to illustrate this collection.
- [63] According to Dr. Huang, on March 19, after they were finished playing golf, Ms. Li suggested a place where they could go for a meal, a restaurant near UBC named Baru Latino. At trial, Dr. Huang recalled precisely where he and Ms. Li were seated in the restaurant. As Dr. Huang recalled, over this meal, Ms. Li pressed him to speak about his marriage and family situation. As Dr. Huang recalled, he was reluctant to discuss these topics and to share this private information. However, he said that "finally I gave up," and described his situation to Ms. Li, including that it was very difficult for him. As Dr. Huang recalled, after this, Ms. Li reached out her hands to him. As Dr. Huang recalled, Ms. Li let him touch her hands, and let him look at the whorls on her fingertips. At trial, Dr. Huang described these events as very touching and very important, because it was the first time Ms. Li had done something like this. Dr. Huang took it as a romantic, encouraging gesture on Ms. Li's part. A more objective observer, someone less infatuated with Ms. Li, might have seen it as simply a demonstration of compassion for Dr. Huang's situation. Dr. Huang paid for the meal, and, again, produced the receipt at trial. After they finished dinner, Dr. Huang drove Ms. Li home.
- [64] Dr. Huang incorporated events on March 19, 2016 into his "Long-awaited Puppy Love" poem.
- [65] For her part, at trial, Ms. Li had no recollection of a meal at Baru Latino. She volunteered that she did not think that she and Dr. Huang would have gone to a restaurant so far away from where they had been playing golf.
- (f) Late March - Dr. Huang introduces the Low Wind Energy Project to Ms. Li as a possible investment for LPP
- [66] According to Dr. Huang, Ms. Li had asked for his help in identifying possible projects and investments for LPP. A project that he raised with her in late March was the "Low Wind Energy Project." As Dr. Huang described it, the Low Wind Energy Project involved technology invented by an American inventor, Richard Sutz, to harness wind blowing on the earth's surface and turn that into energy. Low Wind Energy was looking for an investor. According to Dr. Huang, he learned of the project through a local friend, Nick Laroche. According to Dr. Huang, he, Ms. Li, Mr. Chen and Mr. Laroche gathered on March 30 for a breakfast meeting at the Fairmont Hotel Vancouver to discuss planning for a meeting in April to which Mr. Sutz and Mr. Rao would also be invited, and at which a possible business investment concerning Low Wind Energy would be discussed.
- [67] According to Ms. Li, the Low Wind Energy Project was not the type of project she was interested in having LLP pursue, and she communicated as much to Dr. Huang. Rather, she was interested in potential commercial real estate projects. However, Dr. Huang essentially ignored her.

[68] A few days before the March 30 breakfast meeting, Mr. Laroche sent an e-mail message to Dr. Huang, on which Mr. Sutz was copied, but Ms. Li was not. Mr. Laroche's e-mail reads in part [all sic; underlining in original]:

By this email will introduce you to Richard Sutz, I have spoken openly regarding our conversations about Low Wind LLC Turbine project, and you may do so as well, with the prospect of moving forward with a suitable investor client. . . .

Further to our last conversation March 24th by phone, you asked the following:

1. Do we have a buyout figure? Yes we do, but this figure would also relate to how we structure the deal moving forward and the client's current position of their thoughts assuming they like the project technology; and the synergy is mutual. . . .

You and I can discuss the approach you feel is appropriate to structure the win, win deal. . . .

2. In regards, to your position as you outlined to me, yes we can negotiate a fair and equitable equity position, and yes we can proceed with a legal billing procedure as required with position of CLO (Director of legal counsel), and would need to assume at this point the equity investor would be in agreement too, . . . I'm assuming a deal takes place; we would need to work with the existing patent attorney for LW LLC, in the interim, this area of your expertise would interface with them and be a great asset. . . .

In our discussions, you asked what equity would be available; I said 45% investor and 55% LW-LLC, however we need to adjust the percentage structure to include your equity position, . . .

[69] On March 30, 2016, Dr. Huang exchanged e-mail with Mr. Sutz and Mr. Laroche regarding the April meeting. A message from Mr. Sutz read in part [all sic]:

DD [i.e., Dr. Huang] I look forward to meeting you . . . and being part of our team; you, Nick, Peter, and me, to make our alliance happen and be mutually beneficial for us all.

[70] Dr. Huang responded [all sic]:

Dear Richard and Nick:

Please go ahead to confirm the booking. Mr. Rao, the boss will be coming to Vancouver on April 6-8, so we book April 7, in the morning for two hours already for us to meet.

I appreciate very much the trust Nick and Richard placed upon me and I will do my best to make this deal happen.

[71] There is no indication Ms. Li was copied on any of these communications, even though LPP - with whom the proposed "deal" was to be done - was Dr. Huang's client.

(g) Dinner at Ms. Li's on March 30, and the trip to West Vancouver on March 31

[72] Dr. Huang acknowledged that, by the time he began doing legal work for Ms. Li and LPP in March 2016, he was already interested in Ms. Li romantically, and wanted to pursue a long-term relationship with her. He had been inspired to write poetry about her.

[73] As Dr. Huang recalled, on March 30, 2016, he was reviewing documents for LPP's office lease. According to Dr. Huang, from his perspective, the work he was doing negotiating LPP's lease was both "as a lawyer and an intimate lover."

[74] Ms. Li invited Dr. Huang to her home (at E. 40th) for dinner later that day. As Dr. Huang recalled, Ms. Li cooked dinner and he washed the dishes. Then, as he recalled:

we had exchanged a lot of personal and family information. And she told me that she came to Canada in 2009 and she was single; she never married and she had a boyfriend for seven years -- it's all finished -- .

[75] As Dr. Huang recalled, Ms. Li also told him about her parents and siblings, and her three birthday dates: one on February 14, one on May 9, which was the day Ms. Li actually celebrated her birthday, and one in March calculated according to the Chinese Lunar calendar. According to Dr. Huang, he considered that, on this occasion, he and Ms. Li were sharing "very personal information: her zodiac -- Chinese zodiac, her astrology, her three birthdays. All that very -- I wouldn't share things with other people."

[76] At trial, Dr. Huang recalled that, on this occasion:

[W]e had dinner at her house, and she said to me that -- Dongdong, you know, you are very special because you are the first person I invited into my house for dinner and also you are the first person I cooked for in my house; you should be -- you should feel honoured. That's what she said.

[77] On the other hand, Dr. Huang acknowledged on cross-examination that, on this evening, Ms. Li never said to him that she was available for a long-term spousal relationship with him:

Q She did not say she was available for a relationship?

A Oh, she didn't say she's available for a relationship. She said she's single, never married and she had a boyfriend for seven years. It's all finished. That's her words.

Q She certainly didn't say she was available to have a relationship with you?

A Oh, she didn't say that specifically, no.

Q She didn't tell you she was interested in a relationship with you?

A No, she didn't say that either.

...

Q Ms. Li wasn't saying to you on the 30th of March, 2016, I'm available for a long-term spousal relationship with you?

A On March 19th?

Q March 30th?

A Oh, March 30th. No. She didn't say that words, no.

[78] On March 31, 2016, and with a view to introducing Ms. Li to local business people, Dr. Huang took Ms. Li to West Vancouver to meet with Mr. Huabin Yu. Dr. Huang described Mr. Yu as a high-ranking alumnus from Dr. Huang's time at York University. He was someone Dr. Huang had known for many, many years, and the two of them had been very good friends. Dr. Huang understood Mr. Yu to be the president of the international section of a well-known private bank in China.

[79] As Dr. Huang recalled, he and Ms. Li drove to West Vancouver in his car, had a short introductory meeting with Mr. Yu at his home, and then the three of them went to the Bene Sushi restaurant in West Vancouver for a meal. According to Dr. Huang, at one point, Mr. Lu said to Ms. Li: "you know, Dongdong is a person that can persist, pursue his life and love targets." At trial, Dr. Huang described Mr. Yu's comments about him as being directed to Ms. Li, and he was not really paying attention, although he also said that Mr. Yu's comments about him were true. As Dr. Huang recalled, Ms. Li did not respond to Mr. Yu's comments.

[80] I pause here to note that Mr. Yu's comments to Ms. Li appear odd, given that they had just been introduced to one another in a business context. An explanation would be that Mr. Yu was giving Ms. Li a soft warning about Dr. Huang, and that she should expect him to be persistent in pursuing what he wanted - his "targets," including romantic targets - based on his long acquaintance with Dr. Huang. I also note that, even though Dr. Huang said he was not really paying attention to what Mr. Yu said to Ms. Li about him, he professed at trial to quote Mr. Yu's exact words. In my opinion, Dr. Huang's recollection of Mr. Yu's words belies his assertion that he was not paying attention. I find that Dr. Huang was in fact paying attention to what Mr. Yu said about him to Ms. Li, and that he was pleased and took pride in being described in this way to her.

[81] As Ms. Li recalled, on the drive to West Vancouver to meet Mr. Yu, Dr. Huang indicated to her that he was interested in her romantically. According to Ms. Li, when Dr. Huang told her this, she was very surprised and asked him to pull the car over. As Ms. Li recalled at trial:

I said, "Mr. Dongdong Huang, please pull over there, stop." And he did not pull over and stop. He just slowed down. And then I said to him, I said, "Mr. Dongdong Huang, I do not have any feelings between a man and a woman like that toward you." And then I waved my hand to him like that and I looked at the ring and said, "I'm engaged, and I hope you don't have that kind of feelings for me. If you continue like this, there's no way I can do business with you, and then I'll have to get out of the car now."

- [82] As Ms. Li recalled, Dr. Huang promised her that he would not have those kinds of feelings toward her, and he apologized to her. According to Ms. Li, that was why they continued on to the meeting with Mr. Yu. Ms. Li did not recall Mr. Yu saying anything to her about Dr. Huang being persistent in pursuit of his life and love targets, although she confirmed that the three of them went to Bene Sushi Restaurant for a meal.
- [83] A photograph of Ms. Li was taken that day at the restaurant, and was marked as Exhibit 6. The photograph was taken on Dr. Huang's phone, although he strongly - but not credibly - resisted the suggestion that he was the one who took the picture. At trial, Ms. Li said that she had not known her photograph had been taken. The photograph shows that Ms. Li is wearing a large diamond ring on the ring finger of her left hand. According to Dr. Huang, he did not notice Ms. Li's ring, either on this occasion or ever. Dr. Huang professed not to know which finger of a woman's left hand was her ring finger. However, at trial, a photograph was produced, taken in 2017, showing Dr. Huang and his then fiancée, in which his fiancée was proudly displaying an engagement ring on that finger.
- [84] Dr. Huang paid for the meal at Bene Sushi. During his evidence in chief, he was taken to the receipt to confirm that fact and the date.
- (h) April: the Low Wind Energy Project meeting with Mr. Rao
- [85] Although Ms. Li told him that she was not interested in the Low Wind Energy Project for LPP, Dr. Huang went ahead and made arrangements for a meeting in early April with representatives of Low Wind (Mr. Sutz and Mr. Laroche) and Mr. Rao. Dr. Huang did not explain why, since the focus of LPP's business was commercial real estate, he thought the Low Wind Energy Project might have been an appropriate business opportunity for LPP. On the other hand, it was much more compatible with Mr. Rao's other business interests, and there was something in it personally for Dr. Huang if the Project went ahead.
- [86] On April 7, 2016, Ms. Li, Mr. Rao, Dr. Huang and Mr. Chen met with Mr. Laroche and Mr. Sutz to discuss the Low Wind Energy Project. According to Dr. Huang, the meeting took place in a boardroom he had booked for that purpose at his then office in Park Place in downtown Vancouver. As Dr. Huang recalled, at the meeting, Mr. Rao mentioned that one of his U.S. companies might be interested in investing in Low Wind's technology.
- [87] At trial, Dr. Huang identified some photographs that were taken of the group (excluding Mr. Chen) at the end of the meeting. In one of them, Mr. Rao is shown beside Mr. Sutz. In another, this time of the group, Ms. Li, who is standing beside Dr. Huang, is shown wearing her engagement ring. According to Dr. Huang, he again did not notice that she was wearing a ring.
- [88] After the meeting, Ms. Li left with Mr. Rao. As Dr. Huang recalled, Ms. Li told him to take Mr. Chen, Mr. Sutz and Mr. Laroche to Kirin Restaurant for a meal, which he did. At trial, Dr. Huang made a point about a phone call he received later that afternoon from Ms. Li, in which she inquired about locations for "strip dancing."

- [89] At trial, Dr. Huang denied that Mr. Rao was the true target of Low Wind's pitch for a investor. Rather, he insisted that everything was being channelled through Ms. Li. He denied that he was using Ms. Li's connection with Mr. Rao to make a pitch (together with Mr. Sutz and Mr. Laroche) to Mr. Rao. However, Dr. Huang's e-mail communications with Mr. Sutz and Mr. Laroche after the meeting cast serious doubt on his denials. Moreover, the communications Dr. Huang exchanged with Mr. Sutz and Mr. Laroche show that he was aligned with Low Wind, and stood to gain personally if the Low Wind Energy Project went ahead. Dr. Huang did not disclose the nature of his communications with Mr. Sutz and Mr. Laroche to Ms. Li, and did not disclose that she essentially was being used as a conduit to Mr. Rao. Dr. Huang appeared to be unaware that his personal interests in seeing the Low Wind Energy Project proceed were potentially in conflict with his duty to his client LPP, and that the circumstances required that he make full disclosure to LPP (and Ms. Li).
- [90] In the end, nothing came of the Low Wind Energy Project.
- (i) Ms. Li's and Mr. Rao's Las Vegas wedding
- [91] After the meeting with the Low Wind Energy Project group on April 7, Ms. Li and Mr. Rao flew to Las Vegas. They had a wedding ceremony there on April 10, 2016. However, unbeknownst to Ms. Li, Mr. Rao was still married to another woman. Ms. Li acknowledged that, since they met one another in late August 2015, she and Mr. Rao had not spent much time face-to-face with one another. She explained that, although she was hesitant, she married Mr. Rao because she loved and trusted him, and he asked her to marry him. According to Ms. Li, after she and Mr. Rao were married, she told only her younger sister about it, who in turn told her brother, Daqi Li. As Ms. Li recalled, Mr. Rao had specifically asked her not to tell her parents about the marriage. Ms. Li did as Mr. Rao asked. Ms. Li said nothing to Dr. Huang about her personal relationship with Mr. Rao.
- [92] As Dr. Huang recalled, after April 7, 2016, he tried to reach Ms. Li by phone, WeChat and Telegram. However, he could not. According to Dr. Huang, he was next in contact with Ms. Li on April 12. As he recalled, Ms. Li said to him that she was "tired like a dog," and that Mr. Rao was going to be leaving the following day.
- (j) In April, more outings; Dr. Huang's legal work
- [93] According to Dr. Huang, he resumed frequent contact with Ms. Li on April 16, 2016. He recalled that he and Ms. Li went to the UBC Golf Course with the intention of playing golf. As Dr. Huang recalled, the course was closed that day, so he and Ms. Li had an early dinner at 5 Taste Chinese Bistro. At trial, Dr. Huang related details of a strange conversation that, according to Dr. Huang, was initiated by Ms. Li and that involved reference to intimate parts of a woman's body. According to Dr. Huang, this conversation occurred while he and Ms. Li were in the waiting lounge at the UBC Golf Course. When asked how he felt when Ms. Li raised this topic, Dr. Huang said:

I feel that I am the -- quite her -- have a quite intimate relationship with her. She's not hiding anything from me; I'm part of her private world.

[94] When asked about this on cross-examination, Dr. Huang acknowledged that he did not tell Ms. Li what he was thinking at this time. He acknowledged that he did not know whether Ms. Li spoke in this fashion to others, such as Mr. Chen. Dr. Huang acknowledged that he just assumed and believed that the nature of the discussion meant that Ms. Li was making him a part of her private world. Dr. Huang also acknowledged that he did not say to Ms. Li that the two of them were in quite an intimate relationship, and Ms. Li did not say that to him.

[95] At trial, Dr. Huang described in detail activities with Ms. Li on April 17, 2016. According to Dr. Huang, the two of them went golfing at the Musqueam Golf Driving Range. Without asking Ms. Li's permission, Dr. Huang took a number of photographs of Ms. Li there, but stopped when she asked him. As Dr. Huang recalled, the two of them then went back to Ms. Li's house. As Dr. Huang recalled, among other things, Ms. Li told him that he had done so much for her and her company that he should be getting compensation. During his examination-in-chief, Dr. Huang was asked whether, on this occasion, he and Ms. Li had any discussion about any projects they would be building. He responded:

A Oh, yes. She -- Peipei Li described her blueprint plan. She said that she would build a big mansion and -- with a specific hall named Dongdong Hall for poem writing and reading. And then she asked me, what is a percentage of the finders fee in business. I told her it's roughly between 7 to 15 percent. Then she said, you have done so much and you are so valuable, and you will get 10 percent of the company. That's the conversation.

[96] As Dr. Huang recalled, that evening, he and Ms. Li had wine and tea at Ms. Li's house. Then, when Dr. Huang was asked during his evidence-in-chief about whether there were any dumplings, he said:

A Oh, yes -- the dumplings. Before I left her house she gave me a hug, and she told me she put - take out some frozen dumplings from her refrigerator, and she told me it was cooked by her mom when her mom visited Vancouver. And also she gave me half a chicken in a casserole, then put into a bag. She said she cooked it yesterday and asked me to bring those two with me for home.

[97] The detail provided by Dr. Huang is remarkable. Dr. Huang took Ms. Li's actions - giving him some dumplings and half a chicken - as a sign from her that his strong romantic feelings about her were being reciprocated. It never occurred to Dr. Huang that these could be simple acts of friendship or courtesy or generosity, and nothing more than that. For Dr. Huang, everything Ms. Li did was now imbued with deep meaning, and consistent with his desires.

[98] At this time, Dr. Huang was providing legal services to Ms. Li and LLP. As I noted above, Dr. Huang reviewed the lease for LLP's new office space. He prepared some corporate resolutions for LPP. When Ms. Li received correspondence from the B.C. Securities

Commission, she asked Dr. Huang to help her deal with it. Dr. Huang agreed to do so, and, specifically, he agreed to help find a lawyer with the necessary expertise. In that regard, on April 21, 2016, he sent an e-mail to a former colleague at Faskens, referring to Ms. Li as "a client who has some securities law issues."

[99] On April 22, 2016, Dr. Huang sent an e-mail from his law office address to the property manager for Bentall Four, where LPP was leasing office space, copying Ms. Li. The subject was: "Urgent!!! Sublease of [suite no.] at Bentall Four." The text of the message read [all sic]:

We are the lawyers for Zoe Commercial Real Estate Inc. According to the terms of the Offer to Sublease, my client is entitled to take possession and have key to the Properties at any time after April 11, 2016. Please arrange a time for possession of the Property and walk through with my client.

You may contact me at my cell number at [cell number given] at any time.

[100] As Dr. Huang recalled, on April 23, he arranged to introduce a business associate, Mo Ibrahim, to Ms. Li at a business lunch he arranged at the Seasons in the Park Restaurant. Dr. Huang recalled that he joined the meeting later, and, after the meeting, he took Ms. Li to the Richmond Golf Range. Then, as Dr. Huang recalled, Ms. Li said that she wanted vegetarian food and knew a very good vegetarian restaurant in Richmond, the Evergreen Vegetarian Restaurant. So, as Dr. Huang recalled, he drove them there for a meal. As Dr. Huang recalled, at the restaurant, he and Ms. Li discussed their "life targets."

[101] As Dr. Huang recalled, on April 24, 2016, he and Ms. Li went to the Westwood Plateau Golf Course. During his evidence-in-chief, Dr. Huang was asked:

Q When you were driving to Coquitlam Westwood Plateau Golf Course on April 24th did you have any discussions with her about real estate deals?

A Yes. Peipei Li and I drove to Westwood Plateau Golf Course. On the way she told me that she's heavily involved in that deal through Sun Realty and she had a lot of experience in real estate. And she also said to me that you don't have any real estate or business experience, and in the future I focus on business and you focus on law.

[102] Dr. Huang said that he and Ms. Li played golf that day. He produced the receipt, confirming that he paid.

[103] Dr. Huang recalled that, after playing golf, he and Ms. Li then went for a meal at the Insadong Restaurant. As Dr. Huang recalled, over dinner, he and Ms. Li discussed his assets, and he described the discussion in this way:

A Yes. At the restaurant Insadong -- at the beginning -- the reason we go to Insadong was the previous day we went to the vegetarian restaurant in Richmond, and I said to her that I needed to have meat every day. And then she was sort of -- to compensate me -- she said she wanted to compensate me for not having meat the previous day. That's why we went to Insadong. And for my assets she said, real estate is a very good business, and I know how to invest, and there's lots of opportunity -- and bring the money to Canada and I can invest.

Q And did she say anything else to you about how important or unimportant you were to her?

A Oh, yes. She said I'm the only person that she will be [with] down the road and she trusts me, and she said, you are very special; it's like a gift from god to me.

[104] Rather than asking whether Ms. Li said anything to him "about how important or unimportant you were to her," a better, less leading question for Dr. Huang would have been: "did she say anything else to you?" Moreover, if genuine and reliable, this is another display of remarkable memory on Dr. Huang's part. However, as I discuss below, I have concluded Dr. Huang's memory of words spoken by Ms. Li and events involving her is fundamentally unreliable.

(k) The dinner at Hawksworth on April 25

[105] Dr. Huang described April 25 as "a day of significance for me." He explained that it was one of Ms. Li's birthday dates, and he had plans to celebrate her birthday with her. As Dr. Huang recalled, he invited Ms. Li to celebrate by having dinner at the restaurant Hawksworth. However, apart from that, I conclude that Dr. Huang did not share the broader nature of his plans with Ms. Li in advance.

[106] As Ms. Li recalled, she had had no plans for a birthday celebration on April 25, because she celebrated her birthday on May 9. She said she had no idea why Dr. Huang wanted to celebrate her birthday on April 25.

[107] In anticipation of the dinner at Hawksworth, Dr. Huang went to Tiffany's. There he purchased a black pearl necklace and earrings for Ms. Li, costing thousands of dollars. He bought Ms. Li flowers. He had written the poem "Long-awaited Puppy Love" for her, although he had not yet told her he had done so.

[108] As Dr. Huang recalled, at Hawksworth, he presented the flowers and jewellery to Ms. Li, and said "Happy birthday." As Ms. Li recalled, she was surprised that Dr. Huang, whom she considered to be her lawyer, was giving her an expensive gift from Tiffany's, and she did not want to accept it. However, she did accept it.

[109] As Dr. Huang recalled, he read "Long-awaited Puppy Love" out loud to Ms. Li and gave her the paper it was written on. The English translation of the Introduction to the poem reads:

In the winter night, your slender figure under the candle light in the restaurant rendered my dream. In the early spring afternoon, you roamed on the course wearing sporty black. At the Latin dinner, your bright eyes shone and lit me up, for a very long time.

[110] The English translation of the poem reads:

My heart has turned into an ocean, but I don't know when

Wishing that you are the hopeful shore

The Spring flowers blossom day and night

And shine brightly in your eyes

Never imagine that a morning in March

Under the intense gaze of your eyes

My dust-laden desire, buried for decades

Will flourish in Spring like the cherry blossoms

Just like the constant rain that pours through Winter

My dry heartland is moistened and drenched

Through your never ending words

That nourish my long lost first love

Like the roaring river

The waves have reached Wuhan

Go further, the scenery is even better

It only takes an aspiration, set free and unfettered

Even the starless night

Cannot curb the yearning descending from heaven

As if everything is no longer everything

And the past is past no more.

[111] A note at the bottom of the poem reads [translation]:

First drafted at the Shaughnessy Restaurant inside the Van Dusen Garden on March 15, 2016.

Finalized at my Burke Mountain home in Coquitlam, Metro Vancouver on March 25, 2016.

[112] At trial, Dr. Huang explained that the poem referred to the first time he and Ms. Li went golfing at Queen Elizabeth Park, and the "Latin dinner" was the dinner on March 16 at Baru Latino. The "winter night" was the dinner at the Salmon House in January. As Dr. Huang recalled, when he read the poem to Ms. Li, she responded by saying "how wonderful, I'm really thrilled, I'm very, very happy."

[113] According to Dr. Huang, Ms. Li reciprocated by composing her own poem on her phone, which she presented to Dr. Huang. In translation, this poem reads:

Thank you for the encounter

Thank God

That I came across you

Since then I understand the meaning of living

Thank Life

That created so much hardship

Since then I understand what does it mean by hard

to come by

Thank Fate

That played a joke on me

Since then I understand what does it mean by

cherish

Thank them [women]

Because of them [women] that you have now become rich,

colourful and ripe

Thank WuDa [Wuhan] Alumni Association

The luck to meet the right one does not come easy

Thank Fate, Thank for the encounter

Thank you for such a life full of troubles and

misfortunes!

[114] According to Dr. Huang, at this dinner, he told Ms. Li that he felt the two of them were "in a lovers relationship." When he was asked at trial whether Ms. Li agreed, he said, she did, and that "she wrote me back a poem." Dr. Huang considered that, in writing the poem, Ms. Li was expressing herself to him, and expressing that she felt the same as he did. He explained

that, through Ms. Li's words in the poem, "I know that her heart is with me." This is certainly a hopeful interpretation. However, in my view, it is not an obvious one looking at the actual words in Ms. Li's poem, especially the last lines.

[115] As Dr. Huang recalled, after Ms. Li presented her poem to him:

A She said Dongdong, I'm very, very grateful, and you are the right person, and at the right time we meet; it's so fortunate for me to have you and to encounter you to meet with you in my life; and from now on you will be treated as my own family member, and from that time on I -- from this time on I will no longer call you "school brother."

Q Did you have any discussions with her about your plans for your poem?

A Yes. At that night -- restaurant -- at that dinner I told her Peipei, this is my poem - first poem to you, but I will write a complete poem collection specifically for you composing 100 poems, and it will be jointly authored. My poem will be the first poem and your poem will be the second in my poem collection book. And the poem collection book is entitled in Chinese Pei Rai Sin Dong [phonetic]. In English translation it's "rain creates love."

[116] Again, I note the quite remarkable detail from Dr. Huang.

[117] In fact, as of April 25, Dr. Huang had written at least three other poems (in addition to "Long-awaited Puppy Love") about Ms. Li. Dr. Huang explained that, at this time, he was in the process of publishing his third poem collection book, titled "Born for Love." He explained that he inserted four poems specifically written for Ms. Li (English translations were: "Long-awaited Puppy Love," "You Oh You," "The Bright Night at Queen Elizabeth Park," and "Let Loose the Mind") into that collection, and included photographs of her. Dr. Huang explained that he also specifically designed the dedication page to Ms. Li, as well as the four chapter starting pages.

[118] According to Dr. Huang, what he considered to be his and Ms. Li's "spousal and lover relationship" was consummated at the time of Hawksworth dinner.

[119] On the other hand, Dr. Huang also acknowledged that he and Ms. Li never had sexual relations at any time, nor did he ever kiss Ms. Li (except on the forehead).

[120] Ms. Li had a very different perspective on the dinner at Hawksworth. She did not recall Dr. Huang reading her the poem "Long-awaited Puppy Love" or presenting it to her. She recalled that at some point in the spring of 2016, Dr. Huang showed her some of his poems, but, as she recalled, she did not pay much attention to the content of the poems. With respect to what Dr. Huang described as the poem she composed at Hawksworth, as Ms. Li recalled, she had commented to Dr. Huang at dinner that he was "amazing" to have collections of poetry published, and he told her that she could write poetry too. As she recalled, when she said that she did not have that kind of talent, Dr. Huang responded that he would teach her. As she recalled, he said that he would teach her "right now" how to write, and told her to take out her cellphone. As she recalled, he told her that she could

write about anything, that she could just pick a topic randomly, and that it did not have to be real but could be a dream. As Ms. Li recalled:

Then all of a sudden it came to me the songs we sang at the church, you know, the Bible songs praising God. I said, "Okay, so let's talk about gratefulness and thankfulness." But I still didn't know how to start. And he said, "Okay, I'll say and you'll write, and I'll teach you." And so that's how it happened.

[121] According to Ms. Li, the poem she wrote that evening was not a poem she wrote to or meant for Dr. Huang. Ms. Li explained that Dr. Huang was teaching her how to write a poem, and she thought of a subject. She then wrote down what Dr. Huang said.

[122] According to Dr. Huang, after he and Ms. Li left Hawksworth, they went back to Ms. Li's house and spent some more time there together before he went home to Coquitlam. Dr. Huang described how, at Ms. Li's house, they had tea, juice and some wine. According to Dr. Huang, he and Ms. Li discussed their plan to form a family together, and what to do in the future with investments and with life. During his evidence-in-chief, Dr. Huang was asked whether he and Ms. Li discussed Mr. Rao, and he said:

A Yes. She told me in very clear terms, Dongdong, you are now with me; you know my partner, Mr. Rao, is very powerful; he is the chairman of a public company, and I will be very successful, and my company will be very successful, so your reliance and investment in me will be very successful because I'm the principal operator of the company.

[123] Dr. Huang was also asked whether he and Ms. Li discussed the age difference between them, and he said:

A The age gap -- what I said is that I'm older than you and -- but she -- actually she asked me a question -- is that -- she said Dongdong, would you still love me if I'm not young and beautiful? And I said to her, I love your elegance, I love your style, and I love your mind, and it doesn't matter whether you are young or old. And she answered, that's what I thought.

[124] Dr. Huang recalled that he stayed at Ms. Li's house for a while. As he recalled, he sat on a two-person couch in the living room facing the corner TV screen in the centre of the room, and the two of them watched some television and movie series, the latter on Netflix. As Dr. Huang recalled, Ms. Li asked about subscribing to Netflix, so he immediately got out his credit card, and on the screen, subscribed for the \$9 monthly fee. According to Dr. Huang:

A After we watched the movie we lied down together at the couch and her -- I was sitting on the south end of the couch, and she was lying on the north end of the couch. And her legs are in perpendicular direction with me and put on my leg. I was sitting; she was lying.

Q Did you have any other contact that night -- physical?

A Yes -- and while her legs are on my leg, the upper part, I massaged her foot and my hands touched her leg and up to the thigh area.

- [125] Once again, the sheer detail is remarkable.
- [126] As Dr. Huang recalled, Ms. Li gave him a hug when he left, told him to drive safely and let her know when he arrived home.
- [127] According to Ms. Li, she did not spend any time alone with Dr. Huang after the Hawksworth dinner, and did not invite him back to her home.
- [128] Dr. Huang identified Exhibit 18, Tab 74, pp. 579-658 as a collection of messages between him and Ms. Li, originally sent on Telegram, that he copied into a separate, stand-alone document. The English translations of these messages begin at p. 659. None of the messages is dated. Dr. Huang identified p. 713 as English translations of messages he and Ms. Li exchanged after he arrived at his home in Coquitlam following the Hawksworth dinner. Ms. Li had little recollection of these messages, although she commented that, sometimes, after Midnight, Dr. Huang would send her messages like some of them.
- [129] Dr. Huang identified the communicators as follows [English translation; all sic; notes omitted; italics in original]

Ms. Li: Hello.

Dr. Huang: Arrived.

Dr. Huang: send the poems you wrote and photo(s) to me.

Ms. Li: They are not well-written.

Ms. Li: Thank you for giving me an unforgettable birthday.

Ms. Li: Feel spoiled.

Ms. Li: It is a birthday that [I] can't forget and won't allow myself to forget.

Dr. Huang: For you, anything I do is worthwhile.

Ms. Li: I don't want to mention it originally.

Dr. Huang: Thank you for your delight.

Dr. Huang: I hope you can settle, no longer indecisive, no longer uneasy. Remember that happiness is yours, but the comments are others'.

Dr. Huang: Pei, can you hear the cry from my heart? Can you hear the pounding of my heart, which beats for you?

Dr. Huang: Send me the poems, quickly. I can help you polish.

Dr. Huang: Fabulous, Pei Babe. You really should live out your full self, your strong self and I will follow and protect; your fragile self and I will shelter you from the wind and rain.

Dr. Huang: This is the second poem in "Pei Euphoria" that we co-author. I will introduce the first one and lay the groundwork.

Dr. Huang: Also send me some of the photos, OK?

Dr. Huang: Only with fate's twists and turns that life is so wonderful.

Dr. Huang: Good night, the birthday baby, Pei Babe. I love everything about you.

Ms. Li: Thank you.

[130] I would describe Ms. Li's messages in this series as neutral, although she is gracious in her thanks for the evening. Dr. Huang's messages, on other hand, have a relentless, obsessive quality, consistent with someone who is blindly infatuated with Ms. Li.

(l) After the Hawksworth dinner

[131] According to Dr. Huang, on April 27, 2016, he took Ms. Li to see several securities lawyers, in relation to her matter concerning the B.C. Securities Commission, after which, as Dr. Huang recalled, the two of them had dinner at Ms. Li's house. Dr. Huang recalled that he saw Ms. Li the following day, April 28, at her home. As Dr. Huang recalled, Ms. Li asked him to do gardening, clean her house, and do the dishes and the laundry. For Dr. Huang, being asked to do such chores was another sign from Ms. Li that she felt the same way for him as he did about her, and that they were in a romantic relationship.

[132] According to Dr. Huang, on April 29, he was again with Ms. Li. He explained that during the day, he spent time at her home, reviewing the furniture for LPP's office and considering an appropriate new name (ultimately LPP) for Ms. Li's company.

[133] However, the reason they were working at Ms. Li's home was because LPP's office space was not yet ready. Ms. Li's home was her (and LPP's) work space.

[134] As Dr. Huang recalled, late in the afternoon, the two of them decided to go out for dinner, and, as he recalled, Ms. Li suggested that they go and see a movie. As he recalled:

We quickly dressed up, and she asked me to buckle the necklace for her and - at the back - touching her neck and her shoulder.

Dr. Huang attached deep meaning to these small events.

[135] As Dr. Huang recalled, they had dinner at Jitlada. Dr. Huang recalled that, at dinner, Ms. Li had some salad left over and she gave it to him, and that they shared plates and dishes. As Dr. Huang recalled, he and Ms. Li often did that at meals. Dr. Huang paid for dinner, and he produced the receipt at trial.

[136] As Dr. Huang recalled, he and Ms. Li then went to the Fifth Avenue Cinema for the movie. Dr. Huang described the evening as "a very big thing in my mind." He purchased two tickets for the movie, and, once again, produced the receipt at trial. Dr. Huang described how:

Then we walked in -- she hold her arm on my arm, and we walked in -- into the movie theatre. And we -- I commented -- I said well, we are entering the -- to see the movie just like a young couple. And she said, don't you like it? I said yes, I enjoy it very much.

[137] As Dr. Huang recalled, after the movie, he and Ms. Li went back to her house. During his examination-in-chief, Dr. Huang was asked whether anything happened there:

A We -- yes, we talked about things, but I think we mostly talked about my poem publication plan, and I told her that it's very -- I will dedicate to her my dedication of the publishing -- of the books to be published.

Q Did you touch each other in any way?

A Yes, very much so. We -- you know, we went to her home. She has a habit of eating fresh juices from the -- a blender with carrots, celery, cucumber -- celery, juices -- and apple. Then we blended. Then after drink the juices -- then while I was washing the cups and dishes, she hold me from behind in the kitchen saying oh, dear, you are so nice, and I love you -- from behind she hugged me.

[138] For her part, Ms. Li had no recollection of going to a movie with Dr. Huang, and did not believe she had done so.

[139] Dr. Huang recalled going to dinner with Ms. Li in early May, at the Shanghai River Restaurant. He recalled that, on the way there, Ms. Li asked him what his life target was in terms of money, and asked him how much money he had. As he recalled, he told her that he estimated his assets at \$3 million, and that his target was \$10 million. According to Dr. Huang, Ms. Li told him that her life target was \$100 million and she wanted to retire at age 40. He recalled:

And I said oh, this is so amazing, and I'm truly surprised and moved by your ambitious goal, and I really like it and I think you can achieve it. That's my comments.

Q And did she say anything to you about you and her future success?

A Yes -- and she said Dongdong, with your capable assistance -- and you are a well-known poet, a long-time Canadian-Chinese lawyer and also a university professor for several universities teaching, and you could do a lot for me, and combined -- together we will do -- we will have a great future together.

[140] The content of what Dr. Huang recalled Ms. Li saying - essentially describing and praising accomplishments of which Dr. Huang was very proud - is odd and unnatural. They are the kind of words Dr. Huang would use to describe himself.

[141] According to Dr. Huang, in the first part of May, Ms. Li began discussing making a trip to China, and buying gifts for her family members. He recalled Ms. Li saying to him that she was very busy, and she asked him both to come up with gift ideas and to purchase the gifts. As Dr. Huang recalled, he and Ms. Li were also continuing to discuss an appropriate new name for her company. Dr. Huang explained the origins of the name LPP:

She wanted to change to LPP because "LPP" stands for her name initials, Li Peipei, and she -- also I explained the LPP is short for her. I said L could also - means luxury, P means private, the second P means privileged because she likes very much -- told me many times elite -- she is from an elite, wealthy family; she likes very high-end consumption; she likes expensive, famous brands. And that's what LPP also stands for.

[142] According to Dr. Huang, around this time, he was also doing considerable yard work around Ms. Li's house. As he recalled, he had to shovel and remove construction debris from the backyard, and trim trees. As Dr. Huang recalled, Ms. Li asked him to plant seeds and vegetables, which he duly bought and planted. As he recalled, he was working on Ms. Li's yard almost daily. Dr. Huang explained that he left a change of clothes at her house, and, at Ms. Li's invitation, treated her home as if it were his.

(m) Another birthday dinner on May 8, and the red Ferrari

[143] According to Dr. Huang, on May 8 (a Sunday), after a day of working at Ms. Li's house, the two of them decided to celebrate Ms. Li's birthday (although it was a day early). The destination was Market Restaurant in the Shangri-La Hotel. Dr. Huang described events on the trip over the Cambie Street bridge into downtown Vancouver. He recalled:

So just across the bridge and coming down, she asked me the question, why you give your ex-wife's parents a 1 million house, and you don't give me anything? And I answered, my ex-wife's parents, they only have one child; my wife - my ex-wife and I -- at the time of our separation in 2014 I -- of June 2014 I was thinking that -- I was led to believe -- I was thinking that it would eventually belong to our family because I never thought it would -- we would go through separation and divorce. Then she said, I -- you didn't give me anything, but I love Ferrari car -- and at this age I love a Ferrari car very much, and maybe later years I don't love -- I don't like it, so this is a time that I love it, and why don't you buy me a car.

Q Just --

A That's her words.

[144] As Dr. Huang recalled, when they arrived at Market, there was a slight problem because they did not have a reservation. However, they accepted the offer of a table near the entrance. As Dr. Huang recalled, the discussion about the Ferrari then continued:

A We then -- we discussed about -- continued the topic of buying -- she said, you know, I like to have -- you know, I like luxury cars. Ferrari is one of her favourites, and she especially wanted to have the red Ferrari. And she told me it was very hard to book -- to reserve a red Ferrari. It takes a

year to arrive, she told me, and I didn't know. So she -- then she said, the red Ferrari would be good, and I said sure, red -- you know, after thinking a red Ferrari would be a very good thing for me to give to you because it will show my heart. And she said she -- once she heard my -- what I said she was deeply moved --

...

Okay. When she heard my -- what I said she said Dongdong, it's -- you enhanced our relationship to a new level and you'll be my life partner, and we'll be spending time together for the rest of our life, and we will be doing things together forever, and there's no doubt about this. And then she said, you give a Ferrari car -- so we talk about how much. She said -- I asked how much, and then she answered roughly \$400,000 Canadian. Then she said, if -- with add-ons -- like the luxury features -- you know, automatic window, sky window and all those luxury add-ons -- after will be \$450,000 Canadian. Then I said, I need -- maybe I need 50,000 for my new law office to open, and maybe if we spent like this, I need another 20,000. So I said maybe it's equivalent to 2.6 million RMB -- once translated into RMB. I said okay, I'll give you this. And she said, if you want to give me this and -- you should express your Ferrari is like an engagement scene in a movie, and you should kneel down in front of me and give very -- give the gift to me. And I kneel down -- I knelt down, and then she stick out her hands. Then -- and I stood up, and we -- that's the ceremony. And then we started eating.

[145] The detail in Dr. Huang's recitation, including exact words spoken, is, again, remarkable.

[146] On cross-examination, Dr. Huang recalled further that Ms. Li said to him: "Sometimes the right gift will give rise to a new level of relationship, so it's fate."

[147] According to Dr. Huang, he viewed purchasing a Ferrari for Ms. Li as akin to an engagement, and the purchase would indicate that he was betrothed to be married to Ms. Li. He described it as "a modern way of expression of love."

[148] Ms. Li had a very different recollection of events that evening.

[149] As Ms. Li recalled, on May 8, Dr. Huang said to her that she would be very busy on May 9 - her birthday - and so he wanted to invite her to dinner on May 8. At trial, she explained that she did not know why her birthday was being celebrated twice within the space of a few weeks, but that Dr. Huang invited her to dinner and so she said yes. Ms. Li explained that at this time she was busy with many things. Her house was being renovated, the office space for LPP was being renovated, and there was work being done on LPP's marketing brochure. She said that she also had two disputes with her project manager, and that Dr. Huang, "as my lawyer," was trying to deal with those matters for her. She also had the matter with the B.C. Securities Commission. In addition, as Ms. Li recalled, she was busy preparing for a trip to China, where she was going to be spending time with Mr. Rao and also with her family.

[150] At Market, according to Ms. Li:

A Well, we were at the Market Restaurant, and Mr. Dongdong Huang all of a sudden said to me he would like to gift me with a Ferrari, a car. At the time I was shocked.

Q There were no discussions leading up to that; is that what you're saying?

A He had just made some comments like he felt driving a Ferrari would be more suitable for me. And so on that day and all of a sudden he said at the restaurant that he would like to give me a Ferrari car as my birthday gift, and he would like me to accept it. And then I was shocked, very shocked. And I felt that a vehicle was too expensive, I could not accept. So I told him, I said, "Mr. Huang, I made it clear earlier on our way to West Vancouver when you told me that you liked me, and I told you that I did -- I did not have any -- that kind of affection between a man and a woman, and that kind of affection towards you. And you also promised me that you would have a good control of yourself and that you would not bear the same kind of idea toward me.

Q Do you recall how Mr. Huang responded to that, Ms. Li?

A He said yes. He said, "I recall, yes. I did make the promise." Then he said, "Gifting you with the vehicle because I want you to be happy. I want you -- I would like you to accept it." And then I said, "That vehicle is too expensive."

[151] During her evidence-in-chief, Ms. Li was asked whether, during the dinner at Market, she had any discussions with Dr. Huang about having a romantic relationship with him. She said:

A No. I made it very clear and very specifically I refused him, I turned him down at the restaurant. And I told him, I said, "I will never be together with you." And I said, "I do not bear any affection that happens between men and women toward you. And you already promised that you would control yourself and not to offend -- offend." Then he said, "No, no, no, me giving you a gift is just because I want you to be happy. I don't want you to have any pressure."

Q Ms. Li --

A "This is just my gift to you. I hope you would accept it.' I turned him down. I refused to accept it. Then he came down on his knee.

Q And what did Mr. Huang say when he was on his knee?

A When he came down on his knee I was in a daze. I -- a daze. I did not know what to do. I was shocked. Everybody was looking at me, because it was a very high-end restaurant. Everybody was looking at me when he came down on his knee.

Q How did that make you feel, Ms. Li?

A I felt it was embarrassing. I feel awkward. I asked him to stand up, and he said, "If you don't accept it will not stand up." I said, Stand up. Stand up. First then we talk about it. Everybody is watching." And I said, "Stand up first, we talk about it later." So -- so he -- his other leg also came down, like other knee also came down. And then he said, "If you do not agree to accept it I will not stand up." I said, "Okay, okay, okay, I'll accept it. Can you stand up, please." And then he stood up.

Q Ms. Li, did this behaviour strike you as odd?

A Yes, it was odd. So we quickly -- quickly finished the dinner and shortly after left the restaurant. I did not want to stay there any longer.

[152] On cross-examination, Ms. Li acknowledged that, after she and Dr. Huang left the restaurant, she did not tell him that she would not accept a Ferrari from him. Rather, according to Ms. Li, after she told Dr. Huang she would accept the Ferrari, he appeared to be very happy, and she did not say anything further because she did not want to disappoint him. As Ms. Li recalled, the next day, when Dr. Huang asked her for the information for her mother's bank account in China, so he could transfer funds for the car, she told him that she thought he had been joking the prior evening. Even so, Ms. Li gave Dr. Huang her mother's bank account information.

[153] May 11 was another memorable day for Dr. Huang. He recalled that he and Ms. Li had lunch together at the Italian Kitchen, and he used the receipt to pin-point the date. As Dr. Huang recalled, over lunch, he and Ms. Li discussed his plan for his poetry. As he recalled, he told Ms. Li that he was going to have three books of poetry published, and all the dedication pages were in Ms. Li's name. Further, as Dr. Huang recalled, he told Ms. Li that he was going to have a fourth book published, which was specifically written for her.

[154] As Dr. Huang recalled, much later in the evening that day, he received a phone call from Ms. Li. She was at her house with Mr. Chen. She told him that she had locked her keys in her car, which was in her locked garage, and she was unable to get into her house. As Dr. Huang recalled, he was at home in Coquitlam, and he had already gone to bed. Despite that, he volunteered to drive over to Ms. Li's house in response to her request for his help. According to Dr. Huang, when he arrived, the decision was made not to try to break into either the garage or the house. Instead, according to Dr. Huang, he and Ms. Li decided that Ms. Li would go back to Coquitlam and then spend the night at Dr. Huang's house.

[155] Although Ms. Li was unable to recall the date, I find that Ms. Li spent the night of May 11 at Dr. Huang's house in Coquitlam. Dr. Huang made up the bed for Ms. Li in the master bedroom, and he shared a bedroom with one of his sons. There is no dispute that Ms. Li had the master bedroom to herself, and she and Dr. Huang slept in completely separate parts of the house.

[156] Dr. Huang had a detailed recollection of what happened the following morning, May 12:

A Next morning I got up very early because the house -- my kitchen downstairs didn't have breakfast bread or croissants. So I rushed to the nearby superstore and -- to buy some croissants and also some fresh milk. I went there - and when I came back to her room -- and then she said, where were you -- to me she said, where were you? She said, I was scared. I said why. She said, your son came into your room to -- you know, open the door and to look for you, and he saw me. I said, don't be scared. Then I hugged her while she was lying on the bed. I also lying on top of her on the bed. And I said don't worry, dear, I'm here; I'm always -- I won't go far; I just went to superstore to get something for our breakfast for you to eat.

Q What did she say?

A She said, please dear, don't leave me; you know, I will be yours; you know, you don't leave me. I said no, I won't leave you.

Q After breakfast did you drive Zoe Li back from Coquitlam?

A Yes, I drove --

Q What happened in the car? Did you have a conversation?

A Yes, I had a conversation -- but driving back to her house.

Q Yes, did you discuss at any time with her the transfer of the 2.6 million renminbi --

A Oh, yes. Yes.

Q -- that you had spoken of?

A Yes.

Q Let me ask you this: had you by this time transferred -- taken steps to have transferred the 2.6 million renminbi?

A Not yet. I -- it's -- that's May 11th, and the next day is May 12th. So it's -- at that time I did not transfer the 2.6 million in my China account to her account yet.

Q Did she raise that topic in the car?

A Yes. She asked -- she said, why not transfer it yet; so if you don't transfer the money, then you don't talk to me anymore. I said why; it's just take -- I will do it right away.

[157] In her evidence, Ms. Li denied that she was the one who contacted Dr. Huang when she was locked out of her house. Rather, according to Ms. Li, Dr. Huang phoned her and told her that he was in her neighbourhood and he would come over. As she recalled, she told him that was unnecessary, as Mr. Chen lived nearby, but Dr. Huang was insistent. As Ms. Li recalled, Dr. Huang arrived a few minutes after Mr. Chen. According to Ms. Li, after she and Dr. Huang arrived at Dr. Huang's house and he showed her to the master bedroom where she was to sleep, he asked to stay with her. According to Ms. Li, when she told him no and threatened to leave, Dr. Huang relented and left the room. She then closed the door and

went to sleep.

[158] As Ms. Li recalled, her first encounter with Dr. Huang the following morning was downstairs in the house. Ms. Li denied that Dr. Huang had ever lain on top of her. According to Ms. Li, in the car back to her house, Dr. Huang mentioned the events the prior evening in the master bedroom. As she recalled, Dr. Huang said that he was sorry, that in a moment of emotion he had been unable to control himself, and he begged her forgiveness. Ms. Li explained:

I was concerned. But he apologized, you see, because I did not want to talk to him. I remained silent, and I appeared to be very indifferent. I mean cold. And then he promised he would not cross the boundary again. So I forgive him. I trusted him.

[159] According to Ms. Li, this was a consistent pattern on Dr. Huang's part. Late at night, he would not be able to control his emotions and feelings toward her. He would act out and send her messages during the night. However, when day came, Dr. Huang was contrite and apologetic for his behaviour, and promised not to cross boundaries.

[160] When, on cross-examination, Ms. Li was asked to confirm Dr. Huang's version of events of May 12, and that, while in the bedroom, she had held him and said "I'm your's Dongdong, you know that," her response was "No, no, that's ridiculous." Ms. Li denied that there was any discussion on the car ride from Coquitlam to her home about the transfer of 2.6 million RMB for the Ferrari.

[161] There is no dispute that, on May 12, 2016, Dr. Huang (with the assistance of his nephew, Ming Sun) arranged to have 2.6 million RMB transferred to Ms. Li's mother in China.

[162] At trial, Ms. Li confirmed that her mother received these funds. According to Ms. Li, when her mother asked Ms. Li about the money, Ms. Li rebuffed her inquiries. No Ferrari was ever purchased.

[163] According to Dr. Huang, he received a phone call from Ms. Li about 2:30 a.m. on May 13, after the transfer had been done. During his evidence in chief, Dr. Huang was asked what he could recall of this conversation:

A The conversation -- she said she's -- she said, the money's received; I'm so happy to see that the transfer is done and mother said thank you. Then also she said, it's a -- this is done, and we are going -- we are going to do a great life together in the future.

Q And to the best of your recollection the words -- English -- what did she say about the future?

A The future -- she said, you -- I have -- now I have this -- received this Ferrari, and I will drive the Ferrari and you will drive my BMW convertible, and I will focus on business and you will focus on law.

Q Was there any reference to the -- being down the road in life?

A Yes. Oh, down the road -- yes, down the road in life. She said, dear, down the road I will be always with you and you will always be with me, and we will be forming a family together. Yes, that's the exact words.

[164] Like the dumplings, or "spotted shrimp," the phrase "down the road" was necessary to prompt Dr. Huang's memory. Thus prompted, he recalled more about what Ms. Li said about "the future." Dr. Huang then incorporated the phrase in a statement he asserted was made by Ms. Li, her "exact words."

[165] I discuss the credibility and reliability of Dr. Huang and Ms. Li later in these reasons. However, I am going to pause here to say that I find Dr. Huang's evidence about such a conversation with Ms. Li on May 13 completely implausible. Of course, Ms. Li had not received a Ferrari, and for her to say to Dr. Huang that she had makes no sense. Since all that had happened was that RMB had been transferred to her mother in China, Ms. Li had not even come close to receiving a Ferrari, certainly not one she could drive in Canada. That, in the middle of the night, Ms. Li would speak in such terms or use the words Dr. Huang asserts she used, is, in my view, simply not credible.

[166] I note as well that none of this discussion about "the future" or "down the road in life" is pleaded as part of Dr. Huang's fraud claim against Ms. Li. It is not unique in that respect, as many of the discussions Dr. Huang recalled at trial, and words he claimed Ms. Li said to him, were not pleaded as part of his case.

[167] Ms. Li continued with the preparations for her trip to China later that month. Dr. Huang also made arrangements to go to China, and, although he was not travelling with Ms. Li, they were going to be in China at the same time. Dr. Huang assumed that, while in China, he would be introduced to Ms. Li's parents. When Ms. Li mentioned that she wanted him to buy gifts for her to take, he concluded that they were gifts he would present to Ms. Li's parents, on meeting them for the first time as a prospective son-in-law.

[168] Dr. Huang recalled that, around this time, he and Ms. Li went into the Lao Feng Xiang jewellery store on Alberni Street in Vancouver. Dr. Huang recalled Ms. Li saying that her mother would like to have a jade bracelet and that something in the range of \$20,000 would be fit for her mother. At trial, Dr. Huang recalled more details about the visit to the store, including the name of the saleswoman, and that he thought he and Ms. Li had been holding hands. During his evidence-in-chief, Dr. Huang was asked whether he discussed with Ms. Li why a gift should be made to her mother. He answered:

Well, she said that it is the first time meeting. And I said sure, it will be a first time for a prospective son-in-law to meet a mother-in-law; it should be something quite outstanding. So I agreed that 20,000 would be a good range to be presented very -- as a decent gift.

[169] Ms. Li's recollection was quite different. As she recalled, one day, before she left on her trip to China, she and Dr. Huang were walking downtown and passed by Lao Feng Xiang. As she recalled, Dr. Huang said that they should go inside and take a look. As Ms. Li recalled, Dr.

Huang said that he wanted to give Ms. Li's mother a jade bracelet, and that he wanted Ms. Li to take it back to China with her. As Ms. Li recalled, she told Dr. Huang that it was not necessary to buy anything for her mother, but they went inside the store and looked around. Ms. Li's recollection was that everything was very expensive. As Ms. Li recalled, she said to Dr. Huang "It's too expensive. Let's go." They left the store, and nothing was purchased.

[170] Ms. Li acknowledged that later, while in China, she accepted money from Dr. Huang to purchase a jade bracelet for her mother. She explained that she did so because "he repeatedly, repeatedly urged me to accept it, to buy it."

[171] At trial, Dr. Huang described how, when he was leaving for China on May 29, 2016, he had packed all of the gifts he had purchased - a leather jacket at Harry Rosen for Ms. Li's father, Godiva chocolates, wine, North American ginseng, juice - in his luggage.

(n) The trip to China in June and warning signs from Ms. Li

[172] Ms. Li left for Hong Kong on May 24. According to Ms. Li, before she left, Dr. Huang pressed her repeatedly to take one of his bank cards, and she said no, it was unnecessary. However, as Ms. Li recalled, when she was at the airport waiting for her flight, she found the bank card in her purse.

[173] On the other hand, according to Dr. Huang, before Ms. Li left for China, the two of them discussed his credit and bank cards [redactions added]:

Q Before she left did you have any discussions about credit card use?

A Yes, at the evening of May 23rd at Peipei Li's home after a long day of shopping at Pacific Centre -- at Harry Rosen and at BCBG and other places -- after eating we finally got to her home, and while lying on the couch -- and she was tired and she asked -- she told me she hasn't been in -- with -- back to China for two years and she didn't have China bank cards. She asked me whether I have any bank cards for her to use in China. I said sure, I have.

Q And as a result of that conversation what did you do?

A I gave her my two bank cards.

Q Which banks were they with?

A One is the debit card from China Everbright Bank with the ending number [redacted].

Q What is the other card?

A The other card is a credit card from Bank of China with the ending number [redacted].

Q Did you give them to her -- and you gave them to her?

A Yes, I gave those cards to her, and also I - she asked what about ID to prove -- to cash - for bank to see. I gave my social insurance card of China to her.

- [174] According to Dr. Huang, while Ms. Li was in China, she used his debit card to make cash withdrawals, and also to purchase goods at two high-end retailers, Van Cleef & Arpels and Dior.
- [175] Ms. Li acknowledged that she used Dr. Huang's bank card while she was in China. Her evidence was to the effect that Dr. Huang encouraged and pressured her to do this, and so, rather than argue with him, she did.
- [176] Ms. Li explained that Mr. Rao had arranged for a car to pick her up on her arrival in Hong Kong and take her to him. As Ms. Li recalled, she and Mr. Rao then spent their honeymoon near Shenzhen. Unfortunately, as Ms. Li recalled, she became seriously ill while on her honeymoon.
- [177] Ms. Li then parted company with Mr. Rao and went to Yunmeng to visit with her parents and sister, Qin Li. She did not tell her parents about Mr. Rao or their marriage. Once in Yunmeng, she continued to feel quite unwell.
- [178] On May 30, 2016, Dr. Huang arrived in Ghangzhou from Vancouver. He explained that, after Ms. Li left on May 24, he had to attend to various tasks she had left for him to handle in Vancouver. As Dr. Huang recalled, Ms. Li asked him to look after paying for some of the work being done on her house, to look after watering her yard and garden, and work with Mr. Chen on the office furniture for LPP's new office. As Dr. Huang recalled, although he tried, he was unable to reach Ms. Li for several days. According to Dr. Huang, he then received a phone call from Ms. Li on May 27 or 28, complaining that he was not paying sufficient attention to the office renovations and not doing things properly. However, according to Dr. Huang, during the call, Ms. Li suddenly changed her tone. She was much sweeter and understanding, and said she would invite him to a big dinner at her home in China.
- [179] Dr. Huang arrived in Yunmeng on June 4 and left on June 9. While there, he stayed at a hotel. The visit did not go as he had planned or hoped. He never went to Ms. Li's parents home and never met her parents, although he spent some time with Ms. Li and her sister, Qin.
- [180] While in China, Dr. Huang and Ms. Li were in communication with one another on WeChat. The WeChat messages in evidence show that, as Ms. Li described in her evidence, in the early morning hours, Dr. Huang often struggled to control his feelings about Ms. Li and his behaviour toward her. For example, in a message he sent to Ms. Li at 1:44 a.m. on June 1, 2016, Dr. Huang said [English translation; all sic]:

My dear, I long for you so much. Good night, my baby Pei babe.

[181] According to Ms. Li, Dr. Huang would send such messages to her when she was asleep, and she would find them when she awakened in the morning. As Ms. Li recalled, she complained to Dr. Huang many times about what he was doing, and he would apologize to her and say he was sorry. Ms. Li described how Dr. Huang was fine or "normal" during the daytime. However, late at night, he would be unable to control his emotions. According to Ms. Li, these late-night messages from Dr. Huang made her feel very worried.

[182] After Midnight on June 8, 2016, Dr. Huang sent a series of messages to Ms. Li. The first, sent about 1:57 a.m., reads [English translation; all sic; ellipsis in original]:

[I] am leaving Yunmeng tomorrow, but there are still some expectations floating in my heart. [I] want to meet [your] Mom and Dad. To tell [your] Mom in my own words about my wish to buy her the jade bracelet(s). I particularly want to hear [your] Mom inquire after my well-being, even for just one sentence, because my own Mom has already been in heaven. [I] want to see [your] Dad try to put on the European-styled leather jacket from Canada and his look of satisfaction. [I] want to discuss with [your] Dad the affairs of the state, affairs about the world and about life. [I] want to take a look at the school(s) you have studied, to touch the classroom that you had your classes and [I] want to imagine how you looked and felt when you were young. [I] want to sit at your home, to take a sip of water, to feel the warmth of home. [I] want . . .

[183] Messages sent by Dr. Huang between 4:39 a.m. and 4:56 a.m. read [English translations; all sic; ellipsis in original]:

About to leave your native place. There seems to be a mountain of culminative words with a flood of love like the Yangtze River that I want to tell you about. Furthermore, during this time of the Dragon Boat Festival, I want to ask your Dad and Mom, seriously, the permission to have your hand and to propose engagement to you. This is because I am not going to marry anyone else except you.

We have been together 10 months earlier than [your] younger sister has been with her boyfriend. The day before, June 6, is the first anniversary of the day we first met and got to know each other. Originally, I had wanted to treat you and [your] sister to karaoke singing . . .

. . . with a good celebration, but considering your health, [I] have to give up everything. But now that [I am] leaving Yunmeng soon, I have to tell you my real thinking with words.

[184] Dr. Huang's next messages, timed at 5:27 a.m., read [English translation; all sic; ellipsis in original]:

Peipei: My love for you is way, way beyond the love of Wei Wei to Andy in "Ode to Joy" It is the kind [of love] unprecedented in history and will never be matched in future. It is the kind of love that is intense and earthshaking and the kind of love that only occurs once in a thousand years. We mutually admire each other's knowledge from the heart, and be mutually complementary in our careers by bringing out the best in each other. We care for and be attentive to each other in every possible way in our daily life. On the emotional level we also have heart-throbbing interactions with each other. Financially we have high and stable income. We also have a

romantic and sentimental residence to live in. We have the Common folks' . . . resignation to life, and the temperaments and distance unique to us. My dear, no matter how tall your order is, it can be met. What else do you need? What makes you still hesitate? What else are you waiting for? I admit that I am an older man, but I am not aged, and I have never felt myself old. By now, I can only face up to my own feelings truthfully. I have tried to control my feeling, you know it, but in vain at the end. There is no way I could stop this "flood of love, just like the roaring waves of the Yangtze River." I firmly believe that I would be able to provide you premium happiness that you have longed for. I firmly believe that I will be able to walk a bright and dazzling life with you until the end.

[185] Dr. Huang's next messages were sent about 7:20 a.m. [English translation; all sic]:

It is nearly dawn. I don't want to say goodbye, Yunmeng.

Among all mortal beings, you and I met particularly each other by chance. Round the street corner, you and I ran precisely into each other. Celebrating your birthday with you, my heart throbbed [for you]. Celebrating your birthday with you the second time, I held up the red and red Ferrari with both hands. I have to say it loud, Peipei, I love you.

[186] At this point, there was a response from Ms. Li, which read [English translation; all sic]:

Seems every one of us are in a rush. In a rush to meet the right person, in a rush to fall in love. Then when the feeling turns sour, [we are] in a rush to hate. Therefore, many people part ways in a haste. It's only after some quiet time that [we] realize we have been rushing too hastily in the beginning. Perhaps we all should slow down a bit and not be led by emotions. [Illegible] Many things will then be not that difficult.

[187] At trial, Dr. Huang said that he was "shocked" at Ms. Li's response, and that Ms. Li had never said anything to him before about slowing down. However, at the time, he sent a reply to her at 7:37 a.m. that said [English translation; all sic]

In my relationship with you, it is always you who controls the rhythm. I am not in a rush and don't want to rush. I am all yours.

[188] Ms. Li then replied [English translation; all sic; ellipsis in original]:

On my birthday that day, at the Market Restaurant of Shangri-la, I have clearly expressed my thoughts that I will not be with you. At least not now. I admire you, I respect you, and it is a pleasure to chat with you. To me, you are like an elder brother, an elder, like a father or an elder brother. I never dare or think of crossing beyond this level of relationship. But if you repeatedly overstep like this and pressure me, I will be afraid, I will flee, I will . . . Disappear . . .

[189] Notably, and rather than asking Ms. Li what she was talking about or telling her she had done no such thing, Dr. Huang simply responded [English translation; all sic]:

I will accept whatever your decision is. Need me to withdraw from your life?

[190] Ms. Li replied [English translation; all sic]:

I have indicated clearly very early on regarding [my] decision about love. If you decide to withdraw from my life now, I will respect.

[191] I note that Ms. Li's statement to Dr. Huang is consistent with her evidence at trial concerning what she told Dr. Huang in the car on the way to see Mr. Yu in West Vancouver on March 31.

[192] At trial, Dr. Huang said that Ms. Li's statement in this message - about what she had clearly indicated very early on - did not "ring any bells" with him. As I discuss below, this lack of memory on Dr. Huang's part is, in my view, an illustration of Dr. Huang's denial about his relationship with Ms. Li. It is entirely consistent with Dr. Huang remembering only what he wanted to hear from Ms. Li, interpreting her words in a way that was consistent with his desires and being blind to everything else. In his reply at the time, Dr. Huang did not disagree with what Ms. Li said. Rather he said [English translation; all sic]:

I don't have any decision and will not make such a decision. I will wait for you, wait for you for 10 years [until] after you turn 40 years old. OK?

[193] Ms. Li replied [English translation; all sic; ellipsis in original]:

No one will know what the future holds, and I don't even know if I will live tomorrow. The future is unpredictable. After 40 years, maybe you would not even remember my name . . .

[194] Dr. Huang then said [English translation; all sic]:

I [will] have dementia. Would it be possible ten years after? With the poems that I crafted with painstaking effort, will I ever forget you? Are you feverish [out of your mind] or what?

[195] Ms. Li sent two short, non-committal messages back to Dr. Huang. At 8:34 a.m., Dr. Huang then responded in part [English translation; all sic]:

. . . Letting go of me, your heart will also break, your tears will also fall, and you will also regret for your entire life. This is because in this world, it would be difficult to find another guy so attentive to you in so many ways.

[196] On June 9, 2016, Dr. Huang spent time in Wuhan with Ms. Li and her sister. While there, they went to the Tongji Hospital for what Dr. Huang described as a "check-up." Dr. Huang paid for the visit and, at trial, produced the receipt. At the hospital, and within earshot of Dr. Huang, Ms. Li and one of the nurses discussed Ms. Li getting a pregnancy test. At trial, Dr. Huang acknowledged that he overheard Ms. Li speaking about pregnancy. Indeed, he agreed that, while at the hospital, Ms. Li was not trying to hide anything from him and he was with her most of the time. Dr. Huang acknowledged that he and Ms. Li had never had intercourse. He said that Ms. Li's discussion with a nurse about pregnancy "sounds very strange to me because, you know, she - I understand she's single, unmarried." He said that the trip to the hospital, and her having "this kind of feminine test," was the starting point of

when he started to have doubts about Ms. Li, and it created "a big doubt" for him. However, at the time, he never asked her why she was having a pregnancy test.

[197] I note Dr. Huang did not say Ms. Li told him that she was single and unmarried, rather that he understood she was single and unmarried. This casts further doubt on the reliability of Dr. Huang's evidence concerning his discussions with Ms. Li at her home on March 30, and supports the view that Dr. Huang essentially leapt to conclusions, consistent with his desires, from what Ms. Li said. He deduced her intentions from his dreams about her, rather than from anything she said.

[198] On June 9, Dr. Huang sent Ms. Li a message that said [English translation; all sic]:

Still longing for you. Can't help it. What's to be done?

[199] Then about 2:48 a.m. on June 10, Dr. Huang sent this message to Ms. Li [English translation; all sic]:

I longed for you so much that I flustered. I had a dream, then woke up. Longing even more.

[200] In a message Dr. Huang sent to Ms. Li about 9:00 a.m. a day or two later, he told her [English translation; all sic]:

[I] met with my client last night. Income \$4,000 Canadian dollars. Give it to you to spend.

[201] In my opinion, the only reasonable interpretation of Dr. Huang's message is that he is making a gift to Ms. Li of this money. It provides support for Ms. Li's evidence that other money from Dr. Huang during the China trip was also being given as gifts to her and her sister, and that he pressed the use of his bank and credit cards on her.

[202] Dr. Huang described a visit he, Ms. Li and Qin Li made to Wuhan University. That visit inspired Dr. Huang to write another poem, the English translation of which is "Encountering You on the Lover's Slope," which he dedicated to Ms. Li. Dr. Huang also composed the poem titled [in English translation] "A Tribute to Red Ferrari." The last verse of that poem reads [English translation]:

Every detail is created with perfection

Making all parts so attractive

And you are the one who controls it

How much I'd love to make my wish come true in my dream.

[203] In my view, these poems, especially the latter, are in the language of a hopeful suitor, rather than someone who considers Ms. Li has promised him a long-term spousal relationship, and they are engaged. Dr. Huang's 8:34 a.m. message to Ms. Li, where he tries to persuade her that she should pick him over anyone else, because "it would be difficult to find another guy so attentive to you," is in the same vein. Dr. Huang is pursuing Ms. Li as his romantic partner, and his pursuit is ongoing.

[204] At trial, Dr. Huang acknowledged that, for a time when both he and Ms. Li were in China, she blocked or "blacklisted" him on WeChat, and that she told him she was doing so because he was sending her increasingly inappropriate messages. As the June 8 messages illustrate, Dr. Huang's messages of love and longing for Ms. Li, sent during the night, were inappropriate and, as she told him, unwanted. In an early morning message sent on June 19, when Dr. Huang was trying to persuade Ms. Li to cancel the blacklisting, he said [English translation; all sic]:

Please don't let me walk in the dark

Because you are my eyes

Please don't blindfold my eyes

Because you are my light

[205] Later that day, and after more messages from Dr. Huang asking her to do so, Ms. Li unblocked Dr. Huang, just before he returned to Vancouver.

[206] According to Dr. Huang, he asked Ms. Li several times when she was returning to Vancouver. The date she eventually provided was June 20. Dr. Huang returned to Vancouver on June 19. On June 20, he went out to the Vancouver Airport to meet what he believed was Ms. Li's plane. However, Ms. Li's actual return date was June 21. Dr. Huang again went out to the Vancouver Airport to meet the June 21 flight. He had flowers - roses - for Ms. Li. As he recalled, when Ms. Li arrived and saw him there, she said to him, "What are you doing here?" At trial, Dr. Huang acknowledged that Ms. Li was not happy to see him. She then left the airport with her brother.

(o) In late June and early July, Dr. Huang's funds in China are transferred to Ms. Li's family members there; another US\$148,910 is transferred to Canada

[207] As Dr. Huang recalled, toward the end of June, once he and Ms. Li were both back in Vancouver, they discussed what should be done with the money he had back in China. As Dr. Huang recalled, Ms. Li told him to bring all of it to Canada and to invest in real estate. According to Dr. Huang, Ms. Li told him that she would invest his money for him, because he knew nothing about real estate.

- [208] At trial, Dr. Huang described how, when he and Ms. Li were at Ms. Li's home, they signed onto Dr. Huang's internet banking and mobile phone banking for two of his accounts in China, and, while they sat at a table in Ms. Li's living room, Ms. Li performed the transfers. According to Dr. Huang, Ms. Li said that things had to be done quickly because Daqi Li was going back to China, he had "lots of experience" converting RMB to hard currency such as US or Canadian dollars, and the conversion and transfers had to be done while Daqi Li was in China. According to Dr. Huang, after Ms. Li told him that Daqi Li, when in China, could do the conversion and transfer, he decided to transfer his money to the accounts of Ms. Li's family members, and then Daqi Li could do the conversion and transfer. He repeated this on cross-examination.
- [209] Dr. Huang was then taken to documents to confirm the dates and amounts of the transfers.
- [210] On June 27 and June 28, 2016, Dr. Huang made separate arrangements through his own contacts in China to have 1,002,000 RMB that had originally been transferred to Ms. Li's mother converted in China to US dollars. That money was then transferred to Canada, in two tranches of US\$49,970 each and a final tranche of US\$48,970, and deposited on June 28, 2016 to a joint US Dollar account in the names of Ms. Li and Daqi Li at CIBC (the "CIBC Account").
- [211] The CIBC Account was opened on June 27, 2016 at a branch in Kerrisdale in Vancouver. According to Ms. Li, it was opened for the convenience of transferring money from China and paying her and Daqi Li's living expenses. The implication was that this was more or less how her parents had handled paying their children's living expenses in Vancouver in the past. As Ms. Li recalled, although her brother came with her to the bank to open the account, she never told him about the deposits made to the account.
- [212] On cross-examination, Dr. Huang was challenged on his evidence that he needed Ms. Li's help in transferring money from China to Canada and that he had been persuaded Daqi Li was the appropriate person to accomplish this. Dr. Huang repeated a number of times during his testimony that Ms. Li told him he knew nothing about business and she would invest his money in real estate. That Dr. Huang would meekly accept such a judgment from Ms. Li seems unlikely. Dr. Huang acknowledged that he did not ask Ms. Li anything about whether the methods Daqi Li would use to convert RMB into hard currency were legal or illegal. He knew that there were legal ways to convert RMB into hard currency to be brought to Canada, but he did not make any inquiries whether any conversion would be done in accordance with the law in China. According to Dr. Huang, when Ms. Li told him that Daqi Li knew how to convert currency, he did not give it any further thought. Dr. Huang confirmed that he knew the limit on transfers out of China as of June 2016 was US\$50,000 per person per year, and the amount he was proposing to transfer was substantially more than that. Dr. Huang acknowledged that, as a lawyer, he did not do any due diligence, and said that he relied on what Ms. Li was telling him about Daqi Li. Dr. Huang said that, although he knew that Daqi Li was an auto mechanic, Ms. Li told him that Daqi Li was an overseas student and had "many years" of experience on how to convert

RMB and transfer money.

[213] According to Dr. Huang, the total amount transferred to Ms. Li's mother, her brother Daqi and her sister Qin between June 28 and July 4, 2016 was about 3.9 million RMB. This included 400,000 RMB transferred to Daqi Li on July 1, 2016. There is no dispute that Daqi Li used that money to purchase a Mercedes in China. Except for the money deposited to the CIBC Account, none of the money was ever transferred to Canada.

[214] In the early morning of July 1, 2016, and in the middle of the transfers to Ms. Li's family members, Dr. Huang sent the following message to Ms. Li [English translation; all sic]:

Stingy men do not deserve to be in a relationship. Stay away from those stingy men because they do not want to make any contribution in a relationship.

[215] Dr. Huang rejected the suggestion put to him on cross-examination that, by his message, he was intending to say to Ms. Li that he was not a stingy man and to emphasize his generosity:

A No, that's not my intending or not. That's what my -- in my reply for -- I find another WeChat article or essay that -- talking about those -- you know, the different kinds of men to be married. You know, what kinds of men are classified into and what types of men are available.

Q This was around the time when you were sending the 3.9 million renminbi or asking Ming Sun to send it to her --

A Yes, yes.

Q To Ms. Li's relatives?

A Yes.

[216] Against the background of events during the China trip, the messages Dr. Huang was sending to Ms. Li and her responses, and her blacklisting of him, Dr. Huang's explanation is feeble and unconvincing. A more reasonable conclusion is that Dr. Huang was doing everything he could to persuade Ms. Li to accept him as a romantic partner, and make his dreams come true.

[217] At trial, Ms. Li said that all of the money Dr. Huang transferred to her family members at this time were gifts. Dr. Huang had her mother's bank information because he had arranged to transfer 2.6 million RMB to her in May. As of the end of June, Dr. Huang already had Qin Li's bank information because he sent money to her while in China earlier in the month. According to Ms. Li, Dr. Huang told her that he had sent money to her sister and brother, and that the money was for her to spend, as a gift. Ms. Li denied that she had any discussions with Dr. Huang about investing the money for him. She explained that she told Dr. Huang that she did not want the gifts, but "he insisted on giving it to me. And, since the money had been sent, so I just accepted it."

[218] On July 1, 2016, Dr. Huang took Ms. Li out to dinner at the restaurant, "Gotham." During his examination-in-chief, Dr. Huang described in detail what he recalled:

Q And what do you recall discussing at that dinner with Peipei Li?

A She -- we discussed about the investment but also the -- our love and relationship.

Q And with respect to the love and relationship, what do you recall? Does anything stand out?

A Yes. Peipei Li asked me to become his - her soulmate, her lover.

Q And what did you say to her?

A I said no, I want to be a full spouse to you, not just a lover.

Q Did she say anything directly in response?

A No, she didn't say.

Q Did you pay for the dinner?

A Yes, I paid for the dinner.

Q Could you please turn to volume 3, tab 156.

A 1- ...

Q 156, please, sir.

A 156.

Q And did you pay this receipt? \$414.48 for dinner?

A Yes, I paid.

Q You said you also talked about investments at that dinner. Does anything stand out in your recollection?

A She said that you don't know anything about investment; leave it -- let me invest for you; it will make incredible returns.

[219] For Ms. Li's part, a dinner with Dr. Huang on July 1 at Gotham was not a memorable event, and she did not recall it happening. She denied ever saying to Dr. Huang that she hoped he would be her soulmate or lover. In response to the suggestion that Dr. Huang told her that he wanted to be a full spouse and partner with her, Ms. Li responded that he would send her strange messages in the middle of the night. She described herself as feeling very seriously verbally harassed by Dr. Huang.

[220] At trial, Dr. Huang mentioned a number of times that many of his WeChat messages had been deleted from his phone by Ms. Li. He described in vivid detail his recollection of a lunch he had with Ms. Li at the Italian Kitchen in downtown Vancouver on July 6, 2016, when he said this occurred. During his evidence-in-chief, Dr. Huang explained:

Q After these transactions -- the cash transfers by internet banking and mobile phone transfer had completed, do you recall whether you had a meal at the Italian Kitchen on Alberni Street --

A Yes.

Q -- with Zoe Peipei Li?

A Yes. There's -- it's in lunch hour. It's - the office was newly opened in July 2016, and at lunch hour we walked over from Bentall 4 to Alberni Street Italian Kitchen restaurant.

Q And did you pay for that?

A Yes, I paid.

Q And did you keep a receipt?

A Yeah. Yes, I think --

Q Please turn in volume 3 to tab 168. Is this the Italian Kitchen receipt for the lunch you had with Zoe Peipei Li?

A Yes.

Q And the date is July 6th, 2016?

A Yes.

Q And do you recall where you sat?

A Yes, very clearly. We sat at the upper floor, the south -- southwest corner table.

Q At that lunch -- at the Italian Kitchen on July 6th, what happened?

A We ordered the lunch, and then she said, give me your phone, and she take my phone to -- from my hand to her hand.

Q Did she say anything else?

A She didn't say, but she started to operate my phone and to -- because I had my phone - the screen opened, so she doesn't need to have access code, so it's -- my phone is like the first page of the opening.

Q And what happened?

A Then she started to delete the WeChat and Telegram messages and also some other stuff.

Q How did you respond?

A I respond -- I said stop; don't delete because that will be showing our -- the record of our history and our love -- and don't delete. And she -- and I said, give the phone back to me, and she refused. She's turning her hand this way and turning her hand this way and didn't give to me, and she's still deleting. And finally I said, I beg you; please give me back my phone.

Q Did she return your phone?

A After a while -- and then she gave back to me, and I immediately went to the WeChat and see my conversation. My history is all gone; it's all deleted.

[221] However, Dr. Huang told a different version of these events when he was examined for discovery. There, he said at first that Ms. Li "grabbed my cellphone and deleted a lot of my WeChat information." Dr. Huang said that Ms. Li did not delete all of the WeChat messages, but "a lot" of them, and that this took her about 15 or 20 minutes. Dr. Huang said that he sat and watched as Ms. Li was doing this. He said that he did not try to get the phone back from her because he felt "overpowered" and "dominated" by Ms. Li. He said that he had given Ms. Li his password so that she could access his WeChat account on his phone. He said that when Ms. Li took his phone, the phone was locked. He agreed that if Ms. Li unlocked his phone, she could access his e-mail, including confidential and privileged communications from clients. When Dr. Huang's evidence on discovery was put to him on cross-examination, Dr. Huang said that his discovery evidence was true.

[222] When it was put to him on cross-examination that his telling of these events at Italian Kitchen had changed over time, Dr. Huang said:

A You know, the sequence, I don't remember that so clearly, but she had the phone. The phone was eventually unlocked. Which happened first, which happened second, I -- my recollection -- I don't remember clearly, you know. What I remember is a lot of things were deleted, and it happened at the Italian Kitchen. It was on July 6th, and she had my phone and she deleted a lot of things. That's all -- that's most important -- like, that's really deeply in my recollection. But as soon as you ask, what's the sequence -- whether you gave the password or I put in the password -- you know, I don't -- I may be confused; I may be, you know, not specific -- not remember so clearly which way it happened, but the result is that she had my phone, the phone was unlocked, and she get -- deleting things.

[223] For her part, Ms. Li recalled having meals with Dr. Huang at the Italian Kitchen. When she was asked whether, on one of those occasions, she took Dr. Huang's phone from him, she said she did not. She said she never accessed his WeChat messages and never deleted any messages from Dr. Huang's phone.

[224] At trial, Dr. Huang mentioned a number of times that Ms. Li had deleted messages from his phone. However, it was never clear why this appeared to be a matter of such importance to Dr. Huang. He testified, for example, that Ms. Li could only delete his messages from his phone. On the other hand, Ms. Li produced her WeChat records in this litigation. Dr. Huang was never able to explain, certainly not in any satisfactory way, what the deleted messages would have shown that would have made a difference to the issues in this case.

[225] On cross-examination, Dr. Huang also recalled other events at this lunch, when he was describing conduct of Ms. Li's part that he considered showed they had an intimate relationship:

A Yes. There is another incident, which is very intimate. There's -- on July 6, 2016, at the Italian Kitchen Restaurant she told me that she was from a well-heeled family and there would be huge success if I invest in her -- through her into her company and to her, and there will be great future. What -- there's one thing -- okay. It's the payment of mortgage. She said -- not to me -- she said to herself, but I heard at the table, that she might use the money to pay off the mortgage.

Q What money, sir?

A The money I transferred. That's July 6, just two days after my roughly 4 million RMB transferred -- she said on the table that -- while playing my cellphone, that she might use the money to pay off the -- just -- the money to pay off the mortgage. That's the word.

[226] Dr. Huang's evidence that, on this occasion, Ms. Li repeated information that (according to Dr. Huang) she had already communicated to him about her family, makes little sense and is not credible. I note in addition that there was no evidence at trial that Ms. Li used any of the money Dr. Huang transferred to her family members to pay off a mortgage. Ms. Li speaking to herself about paying off a mortgage is nonsensical, and Dr. Huang's recounting of such a thing is not credible. Moreover, Dr. Huang's description of events at Italian Kitchen as "very intimate" is strange indeed, and, objectively, disconnected from reality.

(p) The Gift Note

[227] Late in the evening on July 15, 2016, Dr. Huang and Ms. Li exchanged messages on WeChat. Dr. Huang's message read [English translation; all sic]:

I'm reflecting on my shortcomings. I'm watching "Song of Happiness" 40 episodes. The scene before Andy and Mr. Wei dies of a car crash. If that was me, I would be very grateful to be killed by someone I love. Life ends at such a beautiful poetic peak. I'm doing some laundry upstairs while ironing clothes.

[228] Ms. Li's response was translated into English as "Incorrigible." At trial, Dr. Huang did not agree with that translation. Rather, he thought Ms. Li's response should be translated as: "After trying to educate or instruct you repeatedly you haven't corrected yourself." That was his understanding of what Ms. Li said to him.

[229] Dr. Huang responded to Ms. Li [English translation; all sic]:

Nothing can stop a beating heart, except death. I will try to sort out myself thoroughly by getting into details in order to live a fine and exciting life that I should have been living. If in your view, my speech tomorrow is a successful one, I'll be down on my knees to ask for forgiveness from your highness, please forgive me for changing my way of doing things for the sake of sacred love, including my expression and approach of love.

[230] This exchange further supports Ms. Li's evidence that, late in the evening or in the early hours of the morning, Dr. Huang would send her inappropriate, emotional messages, for which, in the bright light of day, he was apologetic. However, his behaviour did not change. "Incorrigible" would be an apt description.

[231] During Dr. Huang's examination-in-chief, he was asked about events on July 17, 2016, a Sunday. He said that he and Ms. Li were together that day and were at her house late into the evening. When Dr. Huang was asked what he recalled of that evening, he said:

A That evening, she -- we had lots of talk, but she said to me -- one of the topic that came out is the -- she said that she has a powerful partner, and she's from a wealthy, real estate family. And she said she's quite smart and very successful in real estate, and she knows a lot about real estate. She says, you know nothing about real estate or business; you are not good at business. And she said, to show your genuine love to me and also to show -- also for the benefit of the investment success, why don't you give the money to me.

Q And what money did you discuss? Which specific money?

A We talk -- the money we referred to is starting -- regarding the 2.6 million for the Ferrari purchase and also the -- all the transfers -- the -- in the end of June and early July.

[232] I am going to pause here. This evidence is another example where, according to Dr. Huang, Ms. Li repeated statements she had made in previous conversations, when, in the circumstances, doing so makes little if any sense. According to Dr. Huang, on this occasion, Ms. Li repeated that she had a powerful partner. This was something that Ms. Li communicated to him at the Salmon House dinner, and Dr. Huang met Mr. Rao at the April 7 meeting. According to Dr. Huang, Ms. Li repeated information about her family, the same information that, according to Dr. Huang, she had stated at the Italian Kitchen on July 6 and on other occasions. Giving money directly to Ms. Li (rather than to LPP) for investment in real estate in Vancouver also makes little sense, which Dr. Huang, as a lawyer and general counsel for LPP, must have recognized. In my opinion, these features further damage the credibility and reliability of Dr. Huang's evidence.

[233] I note as well the odd - and out of place - reference to the "2.6 million for the Ferrari purchase." Based on Dr. Huang's evidence concerning events at Market, the Ferrari was always intended as a gift to Ms. Li, akin to an engagement ring.

[234] I continue with Dr. Huang's recollection of events:

Q That evening, had there been any alcohol consumed?

A Yes.

Q How did that happen?

A She has alcohol -- Chinese hard liquor is on the top cupboard of her chicken -- her kitchen, not chicken -- kitchen. She -- and with a chair, and she specially get it out. She said, Dongdong, I want you -- to teach you very special -- this is a very special liquor left over from my previous very important occasions; this is very special liquor -- Chinese liquor. Then we had wine, which is purchased by me at the store -- you know, left at her home. And then we had beer, and we had actually red and white wines.

Q After the conversation where she referred to -- that you've referred to, did she say anything else about the funds?

A Yeah. She said, to prove you're giving, just put it down -- write it down. She grabbed the paper right away, and put it in front of the -- on the table and asked me to write it down.

Q And did you write anything down?

A Yes. I write down -- I said -- I write down a very -- I was a little bit drunk and very scratched [sic] saying that I give you 6.6 million RMB.

[235] Dr. Huang identified a note in his handwriting as what he wrote down and signed. The note reads [English translation; all sic]

I gave PeiPei Li CNY 6.6. million Yuan. I will never go back on my word and never ask for repayment. This is the proof.

Dongdong Huang

July 17, 2016.

[236] I will refer to what Dr. Huang wrote and signed that evening as the "Gift Note."

[237] According to Dr. Huang, Ms. Li was standing beside him when he wrote the Gift Note. She told him the amount and said to him: "You are not asking for return."

[238] As Dr. Huang recalled, by this time, it was past Midnight. He and Ms. Li hugged each other and said goodbye. He then drove home to Coquitlam. Ms. Li kept the original of the Gift Note. According to Dr. Huang, he then forgot about it, at least until it was produced in this litigation.

[239] On cross-examination, Dr. Huang denied that he wrote and signed the Gift Note in the context of Ms. Li's earlier reprimand of him as "incorrigible." When Dr. Huang was asked whether he was saying that he was impaired by alcohol when he wrote and signed the Gift Note, he said that he was not, although he said that he and Ms. Li had had a lot to drink that evening. However, he also said that he drove home from Ms. Li's house, and that he was not driving drunk.

[240] On the other hand, Dr. Huang denied that he wrote the Gift Note of his own free-will, and said, essentially, that Ms. Li was dictating to him what to write and he was merely writing it down. However, he agreed that he did not need Ms. Li to tell him how much money he had

transferred. Dr. Huang denied that he meant the words "I will never go back on my word and never ask for repayment." This was contrary to the evidence he had given on his examination for discovery, when he said that the words "never go back on my word" and "never ask for repayment" expressed his true intention at the time. When asked at trial why he wrote the Gift Note, Dr. Huang said:

A I don't know at the time. She asked me to write, and I just write it.

Q Sir, you're a lawyer --

A Yes, I'm a lawyer.

Q -- with a doctorate in laws.

A Yes.

Q You surely understood if you did not intend to give those moneys to Ms. Li, that this was a very bad idea, to write this down.

A I didn't think of -- at that time I didn't think of.

[241] Dr. Huang denied that Ms. Li did not ask him for the Gift Note, and denied that he volunteered to give it to her.

[242] Ms. Li had quite a different recollection of how the Gift Note came into existence.

[243] As Ms. Li recalled, she and Dr. Huang were in the living room of her house. It was afternoon. She had just dealt with some business and had some other business to attend to. As Ms. Li recalled, she told Dr. Huang that he could go. However, he expressed a wish to stay, and to stay the night with her. As she recalled, he approached to hug her, and she stepped back. As she recalled, Dr. Huang said that, every night, he missed her so much that he could not sleep. According to Ms. Li, she told Dr. Huang that she did not think of him in that way, and asked him whether he was trying to buy sex with money. Dr. Huang told her that was not what he was trying to do. According to Ms. Li, she was very, very upset, and she continued to complain about Dr. Huang's behaviour. As Ms. Li recalled, Dr. Huang apologized to her. However she told him that she did not trust him, because he had said this kind of thing, and said that he would not cross boundaries, many times before. At that point, according to Ms. Li, Dr. Huang got up, went over to the table and grabbed a pen and paper. As Ms. Li recalled, Dr. Huang was speaking as he was writing. According to Ms. Li, Dr. Huang said that he had given her the gifts, was not expecting anything in return and was not trying to buy sex with money. He said that he truly wanted her to be happy, he was not expecting anything in return, and just hoped that she would forgive him. She never told Dr. Huang what to write.

(q) Dr. Huang continued to do legal work for Ms. Li, and continued as LPP's general counsel

- [244] In June and July 2016, Dr. Huang was continuing to do legal work for Ms. Li personally. Based on the written record, Dr. Huang's legal work is of poor quality and at times unhelpfully aggressive. The written communications contain baseless threats, and the legal judgment is questionable. However, the documents are consistent with Dr. Huang trying to impress and win Ms. Li's favour.
- [245] As Dr. Huang recalled, he accompanied Ms. Li to traffic court in relation to a ticket for distracted driving. According to Dr. Huang, he spoke briefly to the judge on Ms. Li's behalf and the charge ended up being dropped.
- [246] In late June and into July, Dr. Huang exchanged e-mail correspondence with Melissa King, in connection with an ongoing dispute concerning some of the renovations to Ms. Li's home. In an e-mail sent to Ms. King on June 30, 2016, Dr. Huang advanced claims of breach of fiduciary duty, alleged Ms. Li was being cheated and threatened to "report yourself and your company to professional organization for disciplinary action." Dr. Huang used his law-firm e-mail address, and his firm's office address was the same as the LPP office in Vancouver. Dr. Huang described himself as "counsel for Ms. Li," and described Ms. Li as "my client." In one of his messages, Dr. Huang informed Ms. King that "all communications will need to be addressed to me from now on."
- [247] Dr. Huang also took on collecting a loan of \$2,500 Ms. Li claimed to have made to Gisella Marrello in 2010. On July 15, 2016, acting as Ms. Li's lawyer, he sent an e-mail message (stated to be "Without prejudice") to Ms. Marrello, threatening to report her to "various agencies, including credit bureau and banks and police department for fraud." He also threatened to file a lawsuit against her unless she paid the principal amount of \$2,500, \$1,467.19 in interest (stated to be calculated at 8% compounded yearly for 6 years), \$5,000 in legal costs (which he must have known could not be justified), and "Penalties imposed by the Court."
- [248] Dr. Huang prepared a notice of claim against Ms. Marrello for filing in B.C. Provincial Court. It showed Ms. Li's address as "c/o" Dr. Huang's address at the LPP office. In the notice of claim, Ms. Li claimed \$3,854 in interest (stated to be "interest for prevailing private loan at 8% compounded monthly for 72 months", something else Dr. Huang must have known could not legally be justified) on the \$2,500 debt, and \$5,000 in legal costs, for a total claim of over \$11,500. A copy of the unfiled notice of claim was sent by Dr. Huang to Ms. Marrello by e-mail on July 21, 2016, demanding payment that day. The notice of claim was filed on July 22, 2016. Dr. Huang said that he paid the filing fee, although he could not recall whether he paid it personally or by a law firm cheque.
- [249] According to Dr. Huang, he was able to resolve the claim against Ms. Marrello. He identified an e-mail dated August 2, 2016 as one that he sent, as Ms. Li's lawyer, to Ms. Marrello. The message began [all sic]:

Further to our telephone call this morning, you promised to make a first payment of \$300 towards the debt you have owed to Cloris (Zoe) Li and you will deliver the cheque to our office or wire transfer the \$300 to my firm's trust account as follows:

Dr. Huang then set out the details of his law firm's trust account.

[250] Dr. Huang's message concluded [all sic]:

Upon receiving this first installment payment, we will make arrangement for you to pay the rest of the money owing and you will strictly follow the payment schedules.

[251] On August 5, 2016, Dr. Huang then sent a letter by e-mail to Ms. Marrello, confirming the settlement terms. The letter was on his law firm's letterhead. The address shown for the law firm on both the e-mail and the letter was LPP's office address in Vancouver. The letter read in part [all sic]:

This is to follow up on the telephone conversation with you today about the repayment by you to Cloris Li on the principal loan you owe to her since April 2010.

1. The loan principal from Zoe Li . . . will be paid in full together with the registration filing fee under this action;
2. We will pursue to vigorously and define the position accordingly.

...

[252] The same day, Dr. Huang also sent a copy of the letter by e-mail to Ms. Li.

[253] On August 29, 2016, Dr. Huang forwarded to Ms. Li a series of e-mail messages, beginning with the covering e-mail for his August 5, 2016 letter to Ms. Marrello. The next message was an e-mail from Ms. Marrello to Dr. Huang dated August 12, 2016, in which Ms. Marrello said:

Deposit of \$500 made today. Next payment will be September 10th for \$500.

[254] The next, and last, message forwarded to Ms. Li by Dr. Huang was again from Ms. Marrello and dated August 29, 2016. Ms. Marrello said [all sic]:

Good morning. As I previously emailed, next payment will be September 10th however I will have to change my September payment date to September 29.

\$500 will be paid on September 29.

If I can also get a letter from you confirming no further action will be taken upon payment of loan in full - \$2500 and filing fees - \$156.00.

[255] During his cross-examination at trial, Dr. Huang confirmed that he received settlement funds from Ms. Marrello. When asked what he did with the money, he said that it was in his trust account, and that Ms. Li told him to use the money for meals. Then, when asked if he had a trust account for Ms. Li, Dr. Huang said:

A I don't have a trust account. I just receive it -- and it's in my trust account. And she told me any money received for the 2,500 will be used for the meals.

Q But did you account -- in your trust account for Ms. Li -- was that money allocated to her?

A No. It's allocated under my general receipt of my own -- owners, and then immediately took out to spend for the meals.

Q So you treated it as your money?

A Yes. Because she said any money received will be spent -- will be used for meals.

Q Did you get those instructions in writing, sir?

A No. She told me -- she told me any money - this money -- anything received will be used for the meals.

[256] This evidence prompted an amendment to Ms. Li's counterclaim, whereby Ms. Li alleged that Dr. Huang had breached his fiduciary duties to her by misappropriating funds held in trust for Ms. Li for his own use.

[257] On September 24, 2019, toward the end of the trial, Dr. Huang was then recalled to address the new allegation in the amended counterclaim.

[258] According to Dr. Huang, he had discussed with Ms. Li what would be done with the money paid by Ms. Marrello. With the aid of a receipt for a meal at Prestons Restaurant, Dr. Huang identified the date of the discussion as July 29, 2016. As he recalled, the discussion occurred after they had left the restaurant and while the two of them were walking back to the car. As Dr. Huang recalled, Ms. Li was walking a few feet ahead of him and was very happy. He even recalled that she was snapping her fingers. As he recalled, he caught up with her and asked her what she wanted him to do with the "debt collection." As Dr. Huang recalled, Ms. Li told him to use it for meals.

[259] At trial, when he was recalled, Dr. Huang was taken to bank statements that he identified as statements for his trust account. According to Dr. Huang, these statements showed deposits on August 12 and September 26, 2016 for money (totalling \$1,000) paid by Ms. Marrello. Dr. Huang identified an item he recorded on his trust account balance as of September 30, 2016 as a deduction of \$1,000 to the owner's account. The notation for this item says: "To owner per July 29 talk." This was the transfer of the settlement funds received in trust for Ms. Li from trust to his own, general, account. There is a further notation which reads [all sic]:

Debt payment by Marrelo. Pursuant to the talk with Peipei Li on July 29, 2016 after dinner at Prestons Restaurant, she said any money received would be given to me for reimbursement of dinner expenses.

[260] I note that this does not reflect the settlement terms in Dr. Huang's communications with Ms. Marrello, whereby money being paid by Ms. Marrello was also to cover the filing fee of \$156. In this action, Dr. Huang is advancing a claim against Ms. Li for that amount.

[261] Dr. Huang was also taken to a document titled "Client Trust Ledger 2016", which has a subtitle [all sic]: "Dongdong Huang (Gisello Marrello) Debt Matter (payment of meals with Peipei Li)." This also shows payments by Ms. Marrello of \$500 on each of August 12 and September 26, 2016. For September 30, 2016, "Particulars" are stated: "Deducted for meals expenses as per conversation on July 29, 2016 at Prestons Restaurant." The document shows a disbursement from trust on September 30, 2016 of \$1,000.00, and a zero balance remaining in trust.

[262] On cross-examination, Dr. Huang was unable to recall whether, on July 29, he had reached any formal settlement agreement with Ms. Marrello. He was unable to recall whether, as of that date, he had an agreement with Ms. Marrello concerning payment of any particular amount to Ms. Li to settle Ms. Li's claim. It was put to Dr. Huang that it was not until he sent his August 5 letter that he and Ms. Marrello had any agreement on settlement. Even with the aid of documents, Dr. Huang was unable to remember. He was unable to say whether he and Ms. Marrello reached an agreement during the phone call on August 5, or before or after that. Dr. Huang resisted calling the arrangement with Ms. Marrello a settlement, and preferred to describe it as a payment schedule. Dr. Huang agreed that he never confirmed in writing with Ms. Li the arrangement he described concerning the use of money paid by Ms. Marrello, and the only records reflecting that arrangement were his internal records, produced as part of Exhibit 15. Dr. Huang confirmed that he had no file note or e-mail to file made at or around July 29.

[263] Ms. Li denied that any discussion such as Dr. Huang had described after a dinner at Prestons had ever taken place, and denied that Dr. Huang had ever asked her what should be done with any money collected from Ms. Marrello.

[264] Dr. Huang also continued to hold the position of "general counsel" for LPP, for which he received free office space in LPP's office.

(r) The end of the relationship

[265] In early August 2016, Dr. Huang's dreams of a long-term romantic relationship with Ms. Li began seriously to unravel. His behaviour toward Ms. Li became more desperate as it became harder to deny reality.

[266] According to Dr. Huang, one evening in early August, he was working late at LPP's office. He described this evening as "unforgettable." As he recalled, he and Mr. Chen were still at the office about 11:00 p.m. Ms. Li came into the office with another man, a realtor named Dwight Chan. As Dr. Huang recalled, Ms. Li and Mr. Chan went into Ms. Li's office and closed the door. They then came out of Ms. Li's office, and Mr. Chan left.

[267] According to Dr. Huang, seeing Ms. Li with Mr. Chan so late in the evening was "a very big disappointment" for him. He explained:

A Because before that I was, you know, in love with her, and I didn't know that she was going out with people, like, that late at night.

[268] Shortly thereafter, Dr. Huang discovered that Ms. Li was planning a trip with Mr. Rao to San Francisco. Without permission, and in a gross invasion of Ms. Li's privacy, Dr. Huang copied pages from a notebook Mr. Chen kept (as Ms. Li's assistant) that contained details of the planned itinerary, including hotels, and that showed destinations that included Victoria and Banff. Dr. Huang explained he became concerned because, based on what he was seeing in the notes, this was not a business trip but a pleasure trip. The notes showed, for example, that Ms. Li and Mr. Rao were going to be staying in a deluxe room at the Empress Hotel in Victoria.

[269] As Dr. Huang recalled, he made the discovery about the type of hotel accommodation Ms. Li and Mr. Rao were going to be sharing on August 3 or 4. During his evidence-in-chief, Dr. Huang explained what he did next:

A I phoned the Empress Hotel in Victoria and then asked about the hotel rooms.

Q And what were you -- what did you hear?

A I hear it's -- the booking is a deluxe room -- deluxe room for the booking, and it's for one bed. A one bedroom deluxe room for -- one bedroom with -- even the deluxe, it's one bedroom. It's one bed -- a one bedroom.

Q Yes. Dr. Huang, did you make any inquiries of the Banff or Jasper?

A Yes.

Q And what's that?

A It's the same thing. It's one bedroom for the two.

Q After you heard that what did you do?

A Then I searched the internet, Mr. Luhua Rao, and I found all those -- like, tons of information about Mr. Luhua Rao.

Q And just with respect to what you obtained, what did you do with that?

A I find those internet information from the publicly -- documents of the public company of Clou Electronics -- Shenzhen Clou Electronics. That's the company of Luhua Rao. There's a disclosure of Luhua Rao and his wife Yuzhen Yan together.

Q And did you share any of this information that you had obtained about Mr. Rao with Zoe Peipei Li?

A Yes, I did.

[270] According to Dr. Huang, he felt betrayed by Ms. Li, and that she had acted towards him in a way that was dishonest. According to Dr. Huang, once he uncovered Ms. Li's plans to travel with Mr. Rao, and made the phone calls to the hotels, in his mind, there was no prospect of any relationship between him and Ms. Li.

[271] Despite that, according to Dr. Huang, he and Ms. Li shared a romantic (at least for him) dinner on August 9, 2016 - Chinese Valentine's Day - at Bacchus Lounge. At trial, Dr. Huang recalled that there was a singer at the restaurant, singing "Can't help falling in love with you," and Dr. Huang sang along. Dr. Huang confirmed the date of the meal by producing the receipt. Around the same time, Dr. Huang paid over \$6,000 for a Dior bag for Ms. Li, as well as paying for about \$5,000 for clothing purchased at Nordstrom.

[272] The first of the communications about Mr. Rao that Dr. Huang sent to Ms. Li is dated August 10, 2016, and his communications continued steadily over the next couple of days, as Dr. Huang tried to persuade Ms. Li that Mr. Rao, a married man, was only using her and was not worthy of her. When she responded, Ms. Li was angry at Dr. Huang's interference in her private life. After a lengthy exchange on the morning of August 12, Ms. Li finally said [English translation; all sic]:

Dr. Dongdong Huang, either you present your evidence or you just shut up. Don't continue your fantasy with me here. The things you talked about are made out of nothing. They came out from your mouth, it's so obscene.

[273] That did not stop Dr. Huang, who continued to send communications about Mr. Rao to Ms. Li on August 13. However, Dr. Huang knew that Ms. Li was very annoyed with his behaviour. During the day, Dr. Huang wrote out by hand Ms. Li's directions to him in his capacity as LPP's general counsel [English translation; all sic]:

1. Send business stuff only.
2. Learn to speak with numbers.
3. Learn to influence others with positive spirit.
4. Learn not to judge others.
5. Do not bring negative attitude to the company.

In the event that any of the above is breached, the relation will be totally broken off.

Dongdong Huang 2016.8.13

6. Without permission, do not come alone to the home of Peipei Li, the President.

[274] However, Dr. Huang's messages to Ms. Li about Mr. Rao did not stop. That evening, in response, Ms. Li sent a message to Dr. Huang [English translation; all sic]:

Are you crazy? Have nothing else to do? Keep sending that stuff to me all day long?

[275] Within minutes, and in response to another message from Dr. Huang about Mr. Rao, Ms. Li sent three short messages to Dr. Huang [English translation; all sic]:

Why don't you send me the info of your two ex-wives?

And the current one

Are you sick?

[276] However, Dr. Huang was undeterred.

[277] According to Dr. Huang, on August 16, 2016, he and Ms. Li had a late lunch together at the Ho Yuen Kee Restaurant, where he confronted Ms. Li about Mr. Rao's marriage to another woman. According to Dr. Huang, over that meal, he said to Ms. Li "let's go back to square one," and she responded with words to the effect that if money could resolve the problem, then it was a non-issue. According to Dr. Huang, as of the meal at Ho Yuen Kee, his only interest was in getting his money and goods safely back from Ms. Li, and he had no interest in trying to win her over from Mr. Rao.

[278] However, Dr. Huang's evidence at trial - that he was interested only in trying to get his money and goods back - is at odds with Dr. Huang's behaviour at the time.

[279] Ms. Li and Mr. Rao travelled to San Francisco for a few days, and returned to Vancouver on August 19. Because of what he had seen in Mr. Chen's notes, Dr. Huang knew the return date and their flight number. That evening, he went out to Vancouver Airport and met the flight. Dr. Huang acknowledged that his purpose was to see if Ms. Li was arriving with Mr. Rao. He waited at the arrivals area until he saw Ms. Li and Mr. Rao coming out, making sure that they did not see him. He saw them go to get a taxi. As Dr. Huang recalled, he then left the airport and drove to Ms. Li's house, "to see what was going on." It was now quite late, just before Midnight. Dr. Huang parked his car on the street. Ms. Li and Mr. Rao had already arrived at Ms. Li's house and were inside. Dr. Huang described how, from where his car was parked, he could hear Ms. Li and Mr. Rao talking to one another in the house and making fresh juice. Dr. Huang described how, earlier in the day, he had purchased fresh fruit and vegetables for Ms. Li and left the bag on her doorstep. He concluded that his purchases were now being used to make juice. Dr. Huang denied ever getting out of his car and approaching the house to hear what was going on inside. However, he recalled that, as he was listening outside Ms. Li's house that evening, in addition to conversation, he could hear what he believed was the scratching of clothing; he thought the sound was perhaps

from hugging. Based on what Dr. Huang said he was able to hear, his denial that he got out of his car and approached the house is not credible. As Dr. Huang recalled, he stayed outside Ms. Li's house for about half an hour before going home.

[280] Dr. Huang retrieved the airline luggage claim tags for this trip from Ms. Li's garbage. He said that he did this when Ms. Li asked him to dump a bag of garbage from her house, and the claim tags were on the top. When asked why he kept the tags, Dr. Huang said that he thought "it's interesting and will show the travel." On cross-examination, he denied that he was stalking Ms. Li.

[281] When these events occurred, Dr. Huang continued to hold the position of LPP's general counsel, and he was using LPP's office as his law office. He was also acting for Ms. Li personally in relation to the Marrello claim.

[282] A few days later, Ms. Li told Dr. Huang that Mr. Rao had left Vancouver.

[283] On August 24, 2016, Dr. Huang and Ms. Li had dinner together at Vij's Restaurant on Cambie Street. Once again, at trial, Dr. Huang was taken to the receipt to confirm the date and the location, and he also confirmed that he paid. The receipt shows that two bottles of Sauvignon Blanc were purchased, along with food.

[284] In my opinion, Dr. Huang's behaviour that evening illustrates how desperate he was to recover his dream of a romantic relationship with Ms. Li, and show her that he - not Mr. Rao - deserved her love.

[285] During his evidence-in-chief, Dr. Huang was asked what happened that evening:

A That's a story. It was a very crowded restaurant, and it is very popular, and we -- I -- first time I was there, so we were put into the waiting area. At waiting area the waitress or waiter - waitress gave us some glasses of drinks. Then I confronted her -- Peipei Li again on the -- that Luhua Rao is a married man with a wife, and there's some -- there is -- Peipei Li is sleeping with Luhua Rao together. I told her about that, and then she smashed -- you know, this is a -- kind of wine glass -- she smashed on the table, and the glass fall, and the waiter had --

Q What do you mean by "fall"?

A The glass broke and has -- the waiter has to come out to clean up.

Q What did she say? Did you say anything to her after that? After the wine glass was broken?

A I said it's over, and I want to go back to square one, and you give me back my money and goods; I have nothing to do with it, and whatever you do is your business.

Q Did you stay in the lounge waiting area for --

A No. We were --

Q -- the entire evening?

A -- seated, like -- a half an hour later to the second floor seat.

Q While you were upstairs on the second floor, did you at any time go down to Cambie Street?

A Yes.

Q What happened before you went down to Cambie Street? What was said?

A I said -- I told Peipei Li -- I said, I'm very genuine feeling with you; I feel betrayed, and I want to -- at that moment she said, can you prove to me? I said how? She said, go -- if you can go down to Cambie Street in front of the car flow traffic and if you are not here -- if you can -- you have the courage or the guts to stand at the traffic flow, she said, I will -- I can watch you from the upstairs. So I walked down, and I stood -- sadly stood up in the centre of the traffic flow from the northbound traffic, and there's two or three cars that squeee [phonetic] -- squeak to a stop.

Q Yes. On their brakes?

A And one of the drivers there -- through the window says, are you crazy. Then I saw upstairs, she's -- she look at -- and I walk back to the restaurant.

Q So did you see her watching you?

A Yes.

Q You mentioned the wine glass that was broken in the lounge area. Was anything else broken?

A Yes. There's -- a second glass at the dinner table was broken by her.

[286] On cross-examination, Dr. Huang was less certain about what he and Ms. Li actually said to one another before he ran into the street. However, he repeated that, once he and Ms. Li were seated on the upper floor, Ms. Li asked him to go and stand in the traffic to prove that he was honest and genuine. He said that he did it because he wanted to prove that he was those things. Dr. Huang explained that: "I wanted to prove that everything I said is true and to my heart. To the -- every sense of the word -- truthful." When it was suggested to Dr. Huang that standing in the middle of a busy street was not a reasonable thing to do, and it would have been preferable to try to reason with Ms. Li, Dr. Huang said that, at the time, he did not think of doing this. He denied that it was his idea, not Ms. Li's, to stand in the middle of a busy street.

[287] Not surprisingly, the dinner at Vij's was also memorable for Ms. Li, although the memories were not pleasant ones. She recalled that she became angry with Dr. Huang when he continued to speak to her about Mr. Rao. As she recalled, Dr. Huang, in turn, became very angry that she would trust Mr. Rao and not him. As she recalled, he told her that he was the person in the world who loved her the most, and said that he would prove it. As Ms. Li recalled, Dr. Huang then ran out of the restaurant, saying that he was willing to die for her, and into Cambie Street. As Ms. Li recalled, she was able to see Dr. Huang standing in the middle of the street with vehicles around him. She was very frightened, and, at trial, she was unable to recall what either of them said when Dr. Huang finally returned to the table.

[288] After the events on August 24, Dr. Huang and Ms. Li continued to have some contact with one another. As Dr. Huang recalled, on August 26, he and Ms. Li had a meal together at "Banana Leaf" (for which Dr. Huang produced the receipt).

[289] On August 27, 2016, Dr. Huang sent Ms. Li a message that said [English translation; all sic]:

From now on, I'll just do my best as the lawyer for Pei-Ran-De-Ze, and will not have any improper thoughts about you.

"Pei-Ran-De-Ze" was LPP. This message amounts to an acknowledgement on Dr. Huang's part that his behaviour towards Ms. Li was not appropriate, and unwanted.

[290] Ms. Li responded later that evening: "Thank you."

[291] However, within a few minutes, Dr. Huang sent Ms. Li another hyperlink, again about Mr. Rao. Ms. Li responded [English translation; all sic]:

Your conduct has constituted serious harassment. Please do not send me these things anymore. This is the last warning.

Dr. Huang responded [English translation]: "Okay."

[292] On August 29, 2016, Dr. Huang sent Ms. Li a message with a link about very expensive women's shoes. He explained that, in sending Ms. Li this link, he was trying to keep the dialogue going so that he could get his money and goods back from her. Dr. Huang denied that, in sending her the link, his intention was, not to get his money back, but to suggest ways Ms. Li could spend the money, so that he could gain her favour. However, in my opinion, Dr. Huang's explanation makes little sense, and it is more likely that he was still trying to win Ms. Li's favour.

[293] Later that day, Ms. Li sent Dr. Huang an e-mail, with the subject line (in English) [all sic] "Requesting for Chinese Bank Account info." The message read [all sic]:

Dear Dr. HUANG,

Please send me your Chinese bank account information please.

Thanks.

Dr. Huang provided the information by return message.

[294] According to Ms. Li, she asked for Dr. Huang's Chinese bank account information because he had told her that he had a child starting school and he needed money, and she intended to transfer money to him in China. Ms. Li also said that, at this time, she was afraid of Dr. Huang. According to Ms. Li, she was worried and scared that Dr. Huang, "my lawyer," knew many things about her, and she was afraid of doing something that would offend him.

[295] However, according to Ms. Li, Dr. Huang then told her that he wanted money in Canadian dollars. Ms. Li explained that she arranged to obtain a bank draft, drawn on the CIBC Account, and payable to Dr. Huang. The draft was for US\$148,000, and left about US\$917 in the Account. The bank draft was the first time that money had been withdrawn from the CIBC Account since it was opened on June 27. On August 31, 2016, Dr. Huang went to Ms. Li's house to pick up the bank draft. As Dr. Huang recalled, earlier in the day, he had received a message from Ms. Li telling him the money was ready for him to pick up.

[296] The Tiffany pearl necklace and earrings were also returned to Dr. Huang.

[297] In early September, Dr. Huang was still acting as LPP's general counsel, and, as he recalled, was still working on a potential investment in property in Kamloops. However, on September 6, 2016, Dr. Huang arranged to collect all of his belongings from the LPP office. Then, on September 7, 2016, LPP (under Ms. Li's name) sent a letter to Dr. Huang terminating his services immediately [all sic]:

Re: Termination Letter

Dear Mr. Huang,

We would like to immediately terminate the legal relationship with you since we have obtained other legal counsel. You are required to return all properties and materials belongs to LPP Properties and not to retain copies of such materials & documents.

We sincerely appreciate your business. Thank you kindly for your cooperation.

[298] At this time, there was also an issue concerning seven pairs of Ms. Li's shoes that Dr. Huang had taken in for repair in August. According to Ms. Li, she had asked Mr. Chen to handle this for her, and she did not know how Dr. Huang became involved. In any event, Dr. Huang had the receipt for the shoes, but, when Mr. Chen asked for it, Dr. Huang refused to give it up. Ms. Li's shoes remained at the shoe repair store.

[299] Moreover, Daqi Li's Lincoln SUV was being stored temporarily in the garage at Dr. Huang's home in Coquitlam. This came about when Ms. Li purchased a Rolls Royce earlier in the summer, and there was no longer room for the SUV in the garage at E. 40th. Daqi Li wanted to retrieve the SUV. According to Daqi, he called Dr. Huang's phone number many times to make arrangements, but Dr. Huang did not answer. So, according to Daqi, he sent text messages to Dr. Huang in which he tried to make an appointment to pick up the SUV. However, Dr. Huang did not respond to those either.

[300] Dr. Huang acknowledged that he received repeated messages from Daqi Li, saying that he wanted to come to Dr. Huang's house to pick up his car. Dr. Huang agreed that he did not respond to any of these.

[301] Dr. Huang and Mr. Chen also exchanged messages concerning the receipt for Ms. Li's shoes.

- [302] According to Dr. Huang, late in the evening on September 10, 2016 (a Saturday), he was at home with his younger son. As Dr. Huang recalled, he was upstairs and his son was downstairs. As Dr. Huang recalled, he heard a loud banging on the door, and, although he told his son not to answer, by the time Dr. Huang got downstairs, his son was opening the door. Dr. Huang recalled that his son seemed to fall, and the door opened. As Dr. Huang recalled, two men were standing there: Daqi Li and Mr. Chen. Dr. Huang described them as standing inside the house, and saying that they wanted their car. According to Dr. Huang, he told them to leave, but they refused to. Dr. Huang then called the police.
- [303] According to Daqi Li, he and Mr. Chen went to Dr. Huang's house to pick up the SUV and the receipt for Ms. Li's shoes. He recalled that he either rang the doorbell or knocked on the front door, and a child came and opened the door. As Daqi Li recalled, both he and Mr. Chen remained outside of the house. As he recalled, he and Mr. Chen told the child why they were there. At that point, according to Daqi Li, Dr. Huang came downstairs, became angry and lost his temper. As Daqi Li recalled, he told Dr. Huang that he was there to pick up his SUV and Mr. Chen was there to pick up the receipt for Ms. Li's shoes. According to Daqi Li, Dr. Huang then said that Ms. Li owed him money and there was no way that he was going to give Daqi Li the SUV. He and Dr. Huang then argued about Daqi Li getting his vehicle back. Then, as Daqi Li recalled, Dr. Huang said that he was going to call the police. According to Daqi Li, he and Mr. Chen remained outside and Dr. Huang closed the door on them. He recalled hearing Dr. Huang on the phone to the police.
- [304] As Daqi Li recalled, he and Mr. Chen then waited in the yard until the police officers arrived. The officers interviewed both him and Mr. Chen, and also Dr. Huang. As Dr. Huang recalled, after he described to the officers what was happening, one of the police officers asked if he had any objection to the SUV being removed from his garage, and Dr. Huang said no. As Daqi Li recalled, an officer then went with him to Dr. Huang's garage, and he drove the SUV out of the garage and parked it on the street. As Daqi recalled, he picked up the SUV the following day.
- [305] On September 12, 2016, Dr. Huang contacted Mr. Rao. As Dr. Huang recalled:
- A I said to Mr. Luhua Rao -- I said your partner, Peipei Li, took money from me and defrauded me for roughly \$7 million -- 7 million RMB, and your -- she and your company and yourself will be responsible to pay me back.
- Q And do you recall Mr. Rao's response?
- A Mr. Rao's response was -- is -- she's -- he said on the phone, I don't know this; I have nothing to do with this, and it's -- if you want to seal it, you will go ahead. That's roughly his words, I remember.
- [306] Within a week or so, both Dr. Huang and Ms. Li had retained legal counsel, and were on the road to this litigation.

3. Credibility and reliability of Dr. Huang and Ms. Li

- [307] The credibility and reliability of Dr. Huang and Ms. Li are critical issues in this case. Dr. Huang's fraud claim against Ms. Li depends heavily on his credibility and the reliability of his evidence about statements he asserts Ms. Li made to him. While there is a great deal of documentary evidence, a good portion of it confirms what I would describe as incidental facts or facts that are not seriously in dispute, for example: when Dr. Huang and Ms. Li had dinner at Baru Latino and how much the dinner cost; that the transfer of 2.6 million RMB was made to Ms. Li's mother on May 12, 2016.
- [308] On the other hand, as can be seen from the review of the evidence above, there are important exchanges of e-mail and other messages between Dr. Huang and Ms. Li, especially when both of them were in China in June 2016. There are other important messages exchanged between them in July and August 2016, even after Dr. Huang says that he no longer had any romantic interest in Ms. Li. The documentary evidence includes the Gift Note, and the directions Dr. Huang was given by Ms. Li on August 13, which he wrote out by hand.
- [309] The documentary evidence also includes poems written by Dr. Huang at the relevant time. Of course, these are not factual records, but provide insight into what Dr. Huang was thinking and feeling at the time.
- [310] On behalf of Dr. Huang, Mr. McLeod argues that, in general, Dr. Huang's evidence is to be preferred, and that there are many problems with Ms. Li's evidence. Mr. McLeod argues that Ms. Li's memory is not as firm as Dr. Huang's, and that Dr. Huang consistently gave detailed evidence including specific locations, dates, words spoken and by whom.
- [311] Mr. McLeod argues that Ms. Li attended most of the trial, and he submits that she therefore had the opportunity to tailor her evidence based on what Dr. Huang and his witnesses said. However, I note that, although Ms. Li was intensively cross-examined, this proposition was never put to her directly.
- [312] In Mr. McLeod's submission, Ms. Li's evidence was inconsistent with evidence she had given on her examination for discovery, and in affidavits previously sworn in this action and in litigation between Ms. Li and Mr. Rao. In Mr. McLeod's submission, Ms. Li's evidence that she always wore her engagement ring was shown to be wrong by the photograph taken of Ms. Li at the Chinese Canadian Writers Association dinner. In Mr. McLeod's submission, much of Ms. Li's description of events was improbable and unlikely in context and in the circumstances. He submits further that Ms. Li was argumentative on cross-examination, and that she has a motive to lie, as she faces a possible judgment of over \$1 million.
- [313] On the other hand, on behalf of Ms. Li, Mr. Olthuis argues that Dr. Huang is neither a credible nor reliable witness, and that, where there are conflicts, Ms. Li's evidence is to be preferred. In Mr. Olthuis's submission, when asked about what words Ms. Li said to him, Dr. Huang would often respond with words like "we discussed," eliding the distinction

between what he said and what Ms. Li said. Mr. Olthuis argues that there were many occasions when Dr. Huang gave answers that were at odds with evidence he had given on his examination for discovery.

[314] Further, in Mr. Olthuis's submission, when answering, Dr. Huang frequently included unrelated and distracting details, as if they were mnemonic devices to keep himself on track. Mr. Olthuis submits that Dr. Huang was often verbally theatrical in his responses, with the object of deflecting inferences that would be drawn from a more focussed and plain recital of the facts. Mr. Olthuis argues that, when asked to testify about the specifics of a conversation, Dr. Huang professed to have a detailed recollection. However, in Mr. Olthuis's submission, Dr. Huang's tendency to repeat almost robotically phrases that he said were uttered, although at different times, is highly suggestive of a rehearsed witness, seeking to hit his cues, rather than someone honestly recounting what he can remember of the specific times and events in question.

[315] I turn then to the applicable legal principles.

[316] The art of assessment of credibility involves examination of various factors such as: the witness's ability and opportunity to observe events; the firmness of the witness's memory; the witness's ability to resist the influence of interest to modify his or her recollection; whether the witness's evidence harmonizes with independent evidence that has been accepted; whether the witness changes his or her testimony during direct and cross-examination; whether the witness's testimony seems unreasonable, impossible, or unlikely; whether a witness has a motive to lie; and the demeanour of a witness generally. See *Gichuru v. Smith*, 2013 BCSC 895, at para. 129 (citing *Bradshaw v. Stenner*, 2010 BCSC 1398, at para. 186).

[317] Moreover, the assessment of a witness's credibility must reasonably subject the witness's story to an examination of its consistency with the probabilities of the surrounding conditions or circumstances. The real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those circumstances. See *Faryna v. Chorny*, [1952] 2 D.L.R. 354 (B.C.C.A.), at pp. 356-357.

[318] Credibility and reliability are different, as Watt J.A. explained in *R. v. H.C.*, 2009 ONCA 56, at para. 41:

[41] Credibility and reliability are different. Credibility has to do with a witness's veracity, reliability with the accuracy of the witness's testimony. Accuracy engages consideration of the witness's ability to accurately

i. observe;

ii. recall; and

iii. recount

events in issue. Any witness whose evidence on an issue is not credible cannot give reliable evidence on the same point. Credibility, on the other hand, is not a proxy for reliability: a credible witness may give unreliable evidence: [citation omitted].

- [319] In assessing credibility and reliability, a court should not be overly focused on the demeanor of a witness (that is, the person's attitude, appearance or disposition) or the smoothness of the witness's presentation: see *Youyi Group Holdings (Canada) Ltd. v. Brentwood Lanes Canada Ltd.*, 2019 BCSC 739, at para. 93. As Levine J. (as she then was) observed in *Genesee Enterprises v. Rached*, 2001 BCSC 59, at para. 33, a witness's demeanour is only one factor in determining the witness's credibility; it creates the "first impression." That said, it is my role as the trial judge to analyse the testimony of witnesses, and observing their demeanour is a part of that role.
- [320] The ability or willingness of a witness to respond to questions adds to the impression of the capacity of the witness to recall events and provide accurate testimony. A witness's credibility may be adversely affected if he or she is imprecise, evasive, long-winded or argumentative in response to questions: *Youyi Group*, at para. 92. Where a witness has a clear recollection of events that may be helpful to his or her case, but no or only a poor recollection of other contemporaneous events, this militates against the witness's credibility: *Craiggs v. Owens*, 2012 BCSC 29, at para. 29.
- [321] Of course, as the trial judge, I decide how much weight to give to any evidence, and I can accept some, all or none of the evidence of a witness. I am not obliged to reject all of a witness's evidence simply because I have concluded that, generally, the witness is neither credible nor reliable.
- [322] For the vast majority of individuals, testifying at a trial is a very stressful experience. Here, both Dr. Huang and Ms. Li were subjected to lengthy and probing cross-examinations by experienced counsel. Dr. Huang is obviously very proud of his accomplishments in life. However, he found himself in the position where his self-image was under very close scrutiny, and having to answer uncomfortable questions about his conduct and actions. Ms. Li, likewise, was having to tell strangers in open court about very personal events, and her motivations and character were under vigorous attack.
- [323] Both Dr. Huang and Ms. Li are witnesses with significant flaws. They share some of the same flaws. For example, both made speeches when a simple, brief response would have answered the question posed. Both showed a strong tendency to evade and deflect uncomfortable topics, rather than answer a question directly. On cross-examination, Ms. Li was frequently argumentative. Often, Dr. Huang would provide an avalanche of irrelevant details in his answers, burying the relevant in the irrelevant, but perhaps hoping to demonstrate an impressive memory. Both Dr. Huang and Ms. Li attempted to distance themselves from evidence previously given under oath, particularly in their respective family law cases.

- [324] As can be seen from the review of the evidence above, Dr. Huang professed to have a detailed and remarkable memory of exact words spoken by Ms. Li at the relevant times, and of other events. Indeed, Mr. MacLeod argues that Dr. Huang's ability consistently to give detailed evidence including specific locations, dates, words spoken and by whom, should be a reason to prefer Dr. Huang's evidence.
- [325] I do not agree.
- [326] Dr. Huang did display an apparently keen recall for details, including (in his recounting) exact words spoken by Ms. Li at critical times and essential to support his claims against her. In other words, Dr. Huang's memory for details that supported his claims was remarkable and striking. However, the contrast between what Dr. Huang was able to remember when it mattered most for his case, and other things that he could not or struggled to recall was also striking. It made Dr. Huang's apparent ability to remember precise details suspicious, and, ultimately, unconvincing. It made him, in my view, a less credible and less reliable witness, not a more credible or reliable one.
- [327] I am not criticizing Dr. Huang for having a good memory. Given Dr. Huang's significant academic achievements, it is very likely he has a good memory, as well as good study habits. Rather, I have concluded that Dr. Huang's memory was suspiciously good when it was most important for his case, in contrast to his memory otherwise.
- [328] The incident over lunch at the Italian Kitchen on July 6 provides an example. Dr. Huang's assertion that Ms. Li deleted records from his phone was a theme that he returned to more than once during his testimony. During his evidence in chief, Dr. Huang confidently gave a very detailed description about how that had come about. However, Dr. Huang's evidence on his examination for discovery, which he said was true, was different, as was his evidence on cross-examination. That he would sit passively by for 15 or 20 minutes while Ms. Li manipulated his phone and deleted important records was not credible. On cross-examination, Dr. Huang's recollection of events became even more vague, and he was no longer sure of details he had stated confidently during his evidence-in-chief. Despite his prodigious memory, Dr. Huang was never able to describe in any meaningful or helpful way the content of what he claimed Ms. Li had deleted. Based on his evidence, Ms. Li could only delete his side of the communications in any event. It was impossible on that basis to draw an inference that Ms. Li had deleted records that would have damaged her case and supported Dr. Huang's.
- [329] Another notable example concerned what Dr. Huang described as the instructions he received from Ms. Li about what was to be done with the money received from Ms. Marrello, money being paid to Dr. Huang in trust. Dr. Huang, with the aid of a restaurant receipt, was able to pin-point the precise date and time of his discussion with Ms. Li, and was even able to recall that Ms. Li was snapping her fingers after they left Prestons restaurant. However, why, at this stage, Ms. Li would have given Dr. Huang instructions to use this money to pay for meals was left completely unexplained. Indeed, the arrangement

itself is suspiciously vague and lacking in details. Was the money for future meals only, for example? Based on Dr. Huang's letter to Ms. Marrello, part of the settlement required her to pay the filing fee. However, this is not mentioned anywhere in Dr. Huang's internal trust records. More significantly, Dr. Huang was unable to recall details about the actual settlement arrangement that he, as Ms. Li's lawyer, had made with Ms. Marrello. If he had, he would not have been asking Ms. Li to pay the filing fee as part of his claims against her in this case.

- [330] Equally striking was Dr. Huang's evidence that he never noticed Ms. Li's engagement ring. However, taken at face value, Dr. Huang's evidence is entirely consistent with Dr. Huang seeing only what, in his mind, confirmed Ms. Li was available for the relationship he desperately wanted to have with her, and Dr. Huang being conveniently blind to anything that might undermine his beliefs. Dr. Huang's resistance on cross-examination to agreeing that, at the time, he kept his receipts for activities involving Ms. Li (even going to the movies) essentially as souvenirs or mementos of his relationship (as he perceived it) with Ms. Li was unconvincing, especially in the light of the evidence he had given on the topic at his examination for discovery.
- [331] Dr. Huang testified that, as of the Chinese Canadian Writers Association dinner on March 11, he was not interested in Ms. Li romantically. However, just four days later, March 15, he was composing his poem "Long-awaited Puppy Love" for her. Dr. Huang rejected the idea that his very strange and dangerous actions during the dinner at Viji's were designed to prove to Ms. Li that he was more worthy of her love than Mr. Rao, and asserted that, by that time, he was interested only in recovering his money and goods from Ms. Li. However, Dr. Huang's conduct is more compatible with someone who is obsessed with Ms. Li and desperate to win her over, than someone who was only interested in getting his money back. Moreover, Dr. Huang continued to send inappropriately personal e-mail to Ms. Li. This included the message Dr. Huang sent on August 27, telling Ms. Li that he would not have "any improper thoughts" about her. The message strongly implies that he was still trying to win Ms. Li back, and also that he knew his behaviour towards her was wrong. Thus, Dr. Huang's evidence at trial is not supported by either his conduct at the time or contemporaneous documents.
- [332] I have concluded that there is a very strong element of denial in Dr. Huang's perceptions and recollections of his relationship with Ms. Li. At the time, his perceptions were governed by his strong desire - bordering on obsession - for a romantic relationship with Ms. Li. This was the lens through which he saw every encounter with her, even the mundane, and it is how he remembers those encounters. Thus, when he was doing yard work at Ms. Li's house, this, for Dr. Huang, was more proof that he was having an intimate, romantic relationship with Ms. Li. Dr. Huang assumed that the time that he and Ms. Li were spending together at the office and over meals was all part of a romantic relationship. This denial, in my view, explains Dr. Huang's blindness to Ms. Li's engagement ring. It also explains why the content of her June 8 messages, reminding him that she had indicated

early on her position about a romantic relationship with him, did not ring any bells for him. Denial on Dr. Huang's part also explains why he would treat Ms. Li's inquiries about a pregnancy test at the Tongji Hospital as nothing of consequence.

- [333] I have concluded that, up until early August 2016, Dr. Huang heard and saw only what he wanted to hear and see - that is what Dr. Huang now remembers of that time - and he ignored or treated as unimportant everything else that was incompatible with his belief that Ms. Li felt for him what he felt for her. I have also concluded that, as a result, Dr. Huang is not a reliable reporter of events, and, in particular, he is not a reliable reporter of words purportedly spoken to him by Ms. Li. Rather, Dr. Huang's reporting is fundamentally tainted and not reliable because it is premised on his belief that, at the time and until he could no longer ignore reality, his and Ms. Li's feelings for one another were mutual.
- [334] One of the factors in the credibility assessment is a witness's ability to resist the influence of interest to modify his or her recollection. A plaintiff and a defendant both face risk of a bad outcome in a trial; each has an interest in avoiding that outcome if possible. That Ms. Li potentially faces a large judgment against her is not a sufficient reason to conclude she is not a credible or reliable witness, since Dr. Huang faces not recovering a large judgment if he is unsuccessful. In that sense, they are in the same position, and each has an interest in avoiding an adverse outcome.
- [335] However, in my view, a witness's ability to resist the influence of interest to modify his recollection is a significant factor in my assessment of Dr. Huang's credibility and reliability as a witness. I have concluded that his ability is weak. Dr. Huang is a proud man, with a life-time of accomplishments. He described himself as the only Chinese-Canadian doubly-qualified lawyer in the world, a poet of Chinese descent brimming with talent, a professor and scholar with profound thinking. That is how he sees himself. He also sees himself as attractive to younger women: for example, he believes that his second wife fell in love with him at first sight. I have concluded that Dr. Huang has a very strong interest in maintaining his self-image. In that light, the only excuse acceptable to Dr. Huang's pride, based on how things turned out with Ms. Li, is, not that he was love-struck and blindly infatuated with her, but that he was tricked and lied to by her. In my view, his memory about events has yielded to his pride, and his recollection of events has been modified accordingly. As a result, in my opinion, Dr. Huang's memory about what happened with Ms. Li is not reliable.
- [336] Ms. Li did not display the remarkable memory that Dr. Huang professed to have. I would not necessarily draw a negative conclusion concerning Ms. Li's credibility and reliability based on this, because, in my opinion, the detail in Dr. Huang's evidence is not a sign he is a reliable reporter of events. In addition, the events that were so full of meaning for Dr. Huang were not particularly special or memorable to Ms. Li. There was no reason for her to remember going to a movie with Dr. Huang, for example. Moreover, Ms. Li did not have all of the receipts that Dr. Huang kept and used regularly as an aide to his memory. Ms. Li's lack of memory of precise words spoken on any particular day and at any particular time is,

in my view, more consistent with the preponderance of probabilities that a practical and informed person would recognize as reasonable in the circumstances, than Dr. Huang's apparent remarkable memory, which I do not accept as reliable or genuine.

- [337] However, on cross-examination, Ms. Li was often evasive and argumentative, even on points that were inconsequential, such as cellphone messages being recovered during a repair in Wuhan. Although Ms. Li gave her evidence through an interpreter (whom she occasionally corrected), she appeared to have difficulty understanding and responding to simple questions, even during her examination-in-chief, and required questions to be repeated. Ms. Li's resistance to answering simple questions about the origins of the money in the CIBC Account was troubling. Her consistent story about the background to the bank draft delivered to Dr. Huang at the end of August made little sense.
- [338] During Ms. Li's examination-in-chief, Mr. McLeod objected from time to time that Ms. Li's description of events had not been put to Dr. Huang during his cross-examination. Ms. Li's evidence concerning the discussion she described she and Dr. Huang had in his car on the drive to West Vancouver on March 31 was a key example. Mr. McLeod invoked the well-known case of *Browne v. Dunn* (1893), 6 R. 67 (H.L.) in support of his objections, and made submissions on the point in closing argument, specifically in relation to the car ride to West Vancouver. In Mr. McLeod's submission, Ms. Li's evidence about this event should be given little or no weight.
- [339] The rule in *Browne v. Dunn* requires a party who intends to impeach a witness to provide the witness with an opportunity to explain or address the point on which their evidence is to be challenged later in the trial. The rule is referred to more generally as "the confrontation principle." It is rooted in fairness, and its object is to prevent the "ambush" of a witness on an essential matter. The rule does not require counsel to ask contradicting questions about straightforward matters of fact on which the witness has already given evidence that he or she is very unlikely to change. It also does not compel counsel to cross-examine on insignificant details. See *R. v. Podolski*, 2018 BCCA 96, at para. 145.
- [340] Mr. McLeod is correct that Ms. Li's version of events about the car ride to West Vancouver was not put to Dr. Huang during his cross-examination. However, the main point of Ms. Li's evidence was that she had told Dr. Huang early on that she did not have any romantic interest in him. This was not a point that Dr. Huang had no opportunity to respond to. It was mentioned expressly in one of Ms. Li's messages to Dr. Huang on June 8, 2016. He had an opportunity at the time to respond to what Ms. Li wrote. At trial, Dr. Huang was taken to Ms. Li's message during his examination-in-chief: it did not ring any bells for him. Although Dr. Huang was recalled twice, no request was made to have him speak to Ms. Li's version of events on the car ride to West Vancouver. The result is that I do not accept Mr. McLeod's submission that I should give little or no weight to Ms. Li's evidence, because I do not accept that Dr. Huang was "ambushed" or had no opportunity to respond.

[341] Generally speaking, I accept both Dr. Huang's and Ms. Li's evidence where that evidence is consistent with reliable documentary evidence or other reliable evidence, or where they have made statements against their interest. I will address more specific conflicts in the evidence in the discussion and analysis below, where I will also set out my findings. However, generally speaking, where there is a conflict, I prefer Ms. Li's evidence as both more consistent with contemporaneous documentary evidence and more in harmony with the preponderance of probabilities that a practical and informed person would readily recognize as reasonable in the circumstances.

4. Dr. Huang's fraud claims

[342] Before turning to the detailed discussion, I have some brief comments about certain allegations in the notice of civil claim (as amended) (the "NCC").

[343] In the Introduction, I described claims that Dr. Huang ultimately did not pursue, for example, a conspiracy claim, and the claims against Ms. Li's father, mother and sister.

[344] Dr. Huang made other allegations in the NCC about how he said Ms. Li used money that he had transferred to her or for her benefit. However, essentially these allegations were also abandoned at trial. Dr. Huang alleged that Ms. Li used his money to purchase the Rolls Royce. There was no evidence at trial that supported this allegation. Rather, the evidence supported the conclusion that some of LPP's capital, which had originated with Mr. Rao, was used to make that purchase. Dr. Huang also alleged that Ms. Li represented to him that his money would be used to purchase the property next-door to E. 40th, or that she might use his money to pay down the mortgage on E. 40th. The facts alleged were not proved at trial.

(a) Basic principles

[345] The basic legal principles that apply to a claim for civil fraud or deceit (I will use the terms "deceit" and "fraud" interchangeably) are well established, although there are variations in how the elements of the cause of action are described. The essential elements are these:

- (a) a false representation or statement made by the defendant;
- (b) the statement was knowingly false, or made recklessly not caring whether it was true or false;
- (c) the statement was made with the intention that the plaintiff act on it (also described as "made with the intention to deceive the plaintiff"); and
- (d) the statement materially induced the plaintiff to act, resulting in damage.

See: Bruno Appliance and Furniture, Inc. v. Hryniak, 2014 SCC 8, at paras. 18-21; Hryniak v. Maudlin, 2014 SCC 7, at paras. 87-92; XY, LLC v. Zhu, 2013 BCCA 352, at para. 23; Catalyst Pulp and Paper Sales Inc. v. Universal Paper Export Company Ltd., 2009 BCCA 307, at paras. 56-60; and Youyi Group Holdings (Canada) Ltd. v. Brentwood Lanes Canada Ltd., 2020 BCCA 130, at para. 83.

[346] With respect to the fourth element, the test for materiality is subjective. The question is not whether the statement or representation would have caused a reasonable person to act but whether it was a true inducement to the plaintiff. If a defendant's statement was actually relied on, it does not matter if a plaintiff was negligent or foolish in doing so. See *W.W.Z. v. Z.W.*, 2004 BCSC 1073, at paras. 71 and 74; *Kelemen v. El-Homeira*, 1999 ABCA 315, at para. 8 (citing *Salmond and Heuston on The Law of Torts*, 19th ed. (London: Sweet & Maxwell, 1987), at p. 439).

[347] Mere silence cannot found an action in deceit, but active concealment, which distorts a positive assertion or tacitly confirms a false one, may: *Norkum v. Fletcher*, 2018 BCSC 904, at para. 66.

(b) Dr. Huang's allegations

[348] Fraud claims must be strictly pleaded and strictly proved: *BG Checo International Ltd. v. British Columbia (Hydro and Power Authority)* (1990), 44 B.C.L.R. (2d) 145 (C.A.), at p. 168. Moreover, the Supreme Court Civil Rules provide, in Rule 3-7:

(18) If the party pleading relies on misrepresentation, fraud, breach of trust, wilful default or undue influence, or if particulars may be necessary, full particulars, with dates and items if applicable, must be stated in the pleading.

...

(20) Particulars need only be pleaded to the extent that they are known at the date of pleading, but further particulars

(a) may be served after they become known, and

(b) must be served within 10 days after a demand is made in writing.

[349] In the "Factual Basis" of the NCC, Dr. Huang makes the following allegations against Ms. Li, respecting his fraud claim:

24. Li represented to Huang that she came from a well-connected, wealthy and propertied family in China, and that she had been successful in the business of commercial real estate. Li's representations were false. Li had limited or no success in commercial real estate. ...

...

26. With intent to deceive Huang and to acquire from Huang financial assets and other benefits including personal labour and professional legal services, Li by words and conduct led Huang to believe that she intended to be his romantic and business partner and to enter into a long term spousal relationship.

27. Li at all material times had no actual romantic or intimate feelings for Huang and no intent to enter into a long term spousal relationship. Li dishonestly intended to deceive Huang, to mislead him to believe that she was available for a long term intimate spousal relationship, and to obtain from Huang money, valuable assets and personal and professional services.
28. On March 30 2016 Li represented to Huang that she was single and had never married. She had one boyfriend in the past but that was finished. Li intended Huang to understand that she was available for a long term romantic and spousal relationship.
29. . . . Li actively concealed from Huang the fact of her relationship with Rao and the Las Vegas marriage. Li represented to Huang that she had only a business relationship with Rao as primary investor in LPP. . . .
30. Following April 10, 2016, Li continued to deceive Huang with respect to her availability as future spouse and her lack of romantic intentions for their relationship. Li's failure to inform Huang of her secret marriage to Rao constitutes material non-disclosure.
31. In reliance on Li's false representations that she was single, in love with him, available for long-term spousal relationship, and from a wealthy propertied family, Huang transferred money amounting to the majority of his life savings to Li through her immediate family as intermediaries, namely, Guihong Wang, Daqi Li, and Qin Li. Further, Huang relied on Li's false representations and made additional transfers of valuable goods and assets to Li and members of her immediate family, . . .
32. Beginning on or about April 28, 2016 Li . . . informed Huang of her financial ambitions and represented that she intended Huang to become part of her success for his loyal and capable assistance in this process. Li's representations as to her intentions for Huang were false. Huang relied upon Li's representations.
33. On May 9, 2016 Li informed Huang that she wanted him to make her a gift of a Ferrari car to take their relationship to a new level. When Huang said he would give Li a Ferrari to celebrate her birthday and honour their love, Li suggested he should express the gift by kneeling like an engagement in the movies. Huang did so and said he would transfer funds in China to the account of Li's mother, Guihong Wang, as suggested and directed by Li. Huang and Li agreed that he would transfer RMB 2,600,000, or approximately \$520,000. . . .
34. On May 12, 2016 Huang had the sum of RMB 2,600,000 transferred in China from his bank accounts to the account of Guihong Wang. . . .

. . .

36. On May 21, 2016 Li represented to Huang that he should provide her and her family members with valuable gifts and money as a good will gesture to show that Huang is sincere in pursuing love with Li. Li travelled to China from May 24 to June 21, 2016. Li asked Huang to give him his Chinese banking cards for use in China. In reliance on Li's continuing misrepresentations and deceit as set out above, Huang gave Li his bank cards and money to use for herself and to purchase gifts for members of her family, . . .
- ...
38. In late June 2016 Li represented to Huang that he should transfer to her the remainder of his savings in China. Li informed Huang that she was good at investment and would generate good returns for him in the real estate market of Greater Vancouver. The money transferred to her would be safe and yield high returns for Huang. Li represented to Huang that Daqi Li had ways of removing funds from China and that he would convert into US or Canadian dollars Huang's Renminbi money in China and transfer the funds to Vancouver for investment.
- ...
40. Li's representations as to her intentions to invest Huang's money on his behalf were false . . . and were made with the dishonest intent that Huang should rely upon them and transfer his money to Li.
41. From June 28 to July 4, 2016 Huang gave Li online access to his Chinese bank accounts. Li transferred funds from Huang's accounts . . .
42. In addition to the forgoing transfers, Huang transferred RMB 1,000,000 to an account in Beijing which was transferred to the account of Daqi Li in Vancouver.
43. In total, RMB 3,900,000 or the equivalent of Can \$770,000 of Huang's money was transferred to Li through the intermediaries of Guihong Wang, Qin Li and Daqi Li in the period June 28 to July 4, 2016 for purported investment by Li on Huang's behalf.
- ...
47. In reliance on Li's false representations that she was single, available for a long-term spousal relationship, from a wealthy propertied family, and in love with him, Huang performed personal and professional legal services for Li, and transferred to her and to members of her family various goods and assets.
- ...
54. In the early morning of July 18, 2016, at the East 40th Avenue home, after serving Huang alcoholic drinks including hard liquor, wine and beer, Li stated to Huang, why not give the money to me so that it would be easier to invest and also to show that you are genuine with me. Li intended Huang to rely on her continuing representations that she was single, in love and available to Huang for long term spousal relationship. The representations were

false. . . .Huang relied on Li's misrepresentations and, induced by the deceit of Li, gave her a handwritten note purporting to gift his money to Li. The handwritten note was obtained by deceit and is without legal force or effect.

[350] Counsel for Ms. Li and LPP demanded particulars of most of these allegations. In a response dated April 18, 2019, counsel for Dr. Huang provided some particulars of the allegations in para. 24 of the NCC only, as follows:

Li orally represented to Huang that her family had a "large real estate holding", her father had done many real estate projects, and that almost all of her family in China was involved in that industry.

On or about 24 April 2016, while driving to Westwood Plateau Golf Course in Coquitlam, Li showed Huang the golf course that was allegedly acquired by Sun Realty. Li told Huang that she was "heavily involved" in the deal.

Over the period 27 June - 5 July 2016, in various locations including Li's home at [E 40th], Li told Huang, "there is still a good chance to pick up silver profit, if not gold in the real estate market" in Vancouver. Li told Huang he "should not leave any money in China"; he should transfer all monies to Canada for investment and management by Li. Li told Huang his money should be transferred to her because she was an "expert" and Huang "was not good at management of investment". Li told Huang the money transferred to her would be "safe" and also would "yield incredibly high return".

In early July 2016, Li told Huang that his money coming through her relatives' accounts would be converted by Daqi Li into US or Canadian dollars for investment for management by Li. The initial target of the investment could be 49 East 40th Avenue. Li told Huang that she did some research and thought it would be a great investment. Li told Huang that alternatively she might use the money to discharge her mortgage on her home at [E. 40th].

[351] Particulars demanded of the remaining allegations were refused.

[352] I note again that many of the statements Dr. Huang testified at trial that Ms. Li made to him between March 30 and the beginning of July 2016 were never pleaded as particulars in support of his fraud claim.

[353] Counsel for Ms. Li and LPP argues that Dr. Huang's fraud claims have been insufficiently pleaded. Mr. Olthuis says that the claims do not conform to the particularity required, and that, in many instances, Dr. Huang has failed to plead all of the essential elements of a fraud claim. Mr. Olthuis argues further that Dr. Huang's fraud claims must be adjudicated based on whether the evidence supports the allegations in the NCC, and that it is not open to Dr. Huang, having failed to particularize his claims as the Rules require, to argue some other alleged representations as a foundation for relief.

- [354] With respect to the fraud claim against LPP, Mr. Olthuis argues that Dr. Huang makes no allegation of fact - apart from the alleged offer to provide him equity, which formed the basis for his contract claim (abandoned at closing) - that LPP made any misrepresentations to him that would ground a claim in deceit. Counsel describes the fraud claim against LPP as an "orphaned plea."
- [355] I agree.
- [356] In the "Legal Basis" section of the NCC, Dr. Huang pleads that:
10. In the further alternative, LPP obtained the benefit of Huang's time, work, services, and money as a result of Li's fraud and misrepresentation. Li and LPP are liable to Huang in deceit and for misrepresentation.
- [357] However, Dr. Huang did not plead any facts to support such a claim against LPP, nor was any authority submitted in closing argument that, based on the facts pleaded against LPP, LPP could be found liable to Dr. Huang for fraud.
- [358] Accordingly, I conclude that Dr. Huang has failed both to plead and to prove a fraud claim against LPP.
- [359] I turn then to the fraud claims alleged against Ms. Li.
- [360] The NCC is not, in my view, a model pleading of a fraud claim. It could have been drafted in a way that was both clearer and more concise, with more attention to the basic elements of the cause of action. However, it provides an adequate framework, given the function of pleadings, to analyze the evidence, find facts and reach conclusions.
- [361] I read NCC paras. 26 and 27 as, essentially, a general, global plea of the first three elements of a fraud claim, namely that: Ms. Li made false statements; the statements were knowingly false; and the statements were made with the intention to deceive Dr. Huang and that he act on them.
- [362] I read the allegations in paras. 31 and 47 that Ms. Li made "false representations that she was single, in love with him, available for a long-term spousal relationship, and from a wealthy propertied family" as general allegations of the first two elements of a fraud claim. Although there are particulars pleaded of other representations, these alleged representations - that Ms. Li was single, in love with Dr. Huang, available for a long-term spousal relationship with him and from a wealthy, propertied family - are the foundation for Dr. Huang's fraud claim.
- [363] In addition to pleading general allegations of the first two elements of a fraud claim, I read paras. 31 and 47 as pleading general allegations of the fourth element of a fraud claim: that the statement(s) alleged (which Dr. Huang describes, also in a general way, as representations that Ms. Li "was single, in love with him, available for [a] long-term spousal relationship, and from a wealthy propertied family") materially induced Dr. Huang to act, resulting in damage. Paras. 31, 33-34, 36, 41, 42 and 43 provide particulars of Dr. Huang's

actions. However, the drafting obscures whether Dr. Huang asserts that any specific pleaded representation or representations caused him to act.

- [364] Para. 28 does not plead expressly that the representations Ms. Li is alleged to have made were knowingly false and made with the intention of deceiving Dr. Huang. There are no allegations in other paragraphs (for example, paras. 29, 30 and 32) that Ms. Li made representations with the intent to deceive Dr. Huang. However, I have concluded that those paragraphs must be read with paras. 26 and 27, where the missing elements are pleaded. This is one of the areas where the drafting could certainly have been improved.
- [365] As I read them, paras. 24 (together with the particulars delivered), 28, 29, 30, 32, 36 and 38 provide particulars of the statements that Dr. Huang relies on for his fraud claims. Since these are the only particulars pleaded, Dr. Huang cannot rely on other statements or conduct in support of his fraud claims.
- [366] There is no doubt, and I find, that Ms. Li never had any romantic feelings for Dr. Huang at any time. The most Ms. Li felt for Dr. Huang, until the end of their relationship, was friendship, gratitude for help he provided to her, and admiration of his talents and accomplishments. There is also no doubt, and I find, that Ms. Li never intended at any time to enter into a long-term spousal relationship with Dr. Huang.
- [367] I find further that Dr. Huang has failed to prove that statements Ms. Li made to him about her family were either false or made with the intention to deceive Dr. Huang. Much of what Dr. Huang appears to rely on in this respect is found in the Chinese language portion of the LPP brochure. However, Dr. Huang never pleaded any part of the brochure in support of his claims. On the evidence, I find that what Ms. Li told Dr. Huang about her family, their financial circumstances and business background was substantially true. I find further that nothing Ms. Li said to Dr. Huang about her family was said with the intention to deceive Dr. Huang.
- [368] I will address separately Dr. Huang's allegations about representations he claims Ms. Li made about Daqi Li and his proficiency in moving money out of China.
- [369] I turn next to the specific allegations made by Dr. Huang. In the headings below, I paraphrase to some degree the allegations in the NCC.
- (i) On March 30, 2016, Ms. Li represented to Dr. Huang that she was single and had never married, intending Dr. Huang to understand she was available for a long-term romantic relationship (NCC para. 28)
- [370] This allegation is based on the events that Dr. Huang described took place at Ms. Li's home on the evening of March 30. I find that, at the end of the work-day, Ms. Li and Dr. Huang had dinner at Ms. Li's home. During that time, they shared some personal - that is, not business-related - information with one another, as might be expected.

- [371] However, I am unable to accept as either reliable or accurate Dr. Huang's recounting of statements he says were made by Ms. Li. By March 30, 2016, Dr. Huang had already become infatuated with Ms. Li. He had written his poem "Long-awaited Puppy Love" about her. His interactions with Ms. Li were already taking on a very strong element of denial on Dr. Huang's part, where virtually everything Ms. Li said or did was interpreted by him as proof that his strong romantic feelings were reciprocated by her. I have concluded that, regardless of what Ms. Li in fact said, Dr. Huang only heard and remembered what he wanted to hear. At trial, Dr. Huang acknowledged that on the evening of March 30, Ms. Li never specifically said that she was available for a relationship with him, and never said that she was interested in a relationship with him.
- [372] More importantly, Ms. Li's intentions that evening, or at any other time, cannot be determined through Dr. Huang's eyes. As of March 30, 2016, Dr. Huang's fervent desire was for a romantic relationship with Ms. Li, and to pursue a "spousal" relationship with her. In my opinion, Dr. Huang was not capable of accurately reading or interpreting his social interactions with Ms. Li, either on March 30 or later in their relationship. Rather, and until he was forced to face reality, Dr. Huang interpreted virtually everything as confirmation that his desires were reciprocated by Ms. Li. Whatever personal history Ms. Li shared with Dr. Huang over the course of the evening on March 30, I find that, in sharing such information, Ms. Li had no intention of communicating any romantic interest in Dr. Huang and no intention of deceiving him into believing that she did.
- [373] In my opinion, it is significant that Ms. Li had no motive whatsoever to encourage romantic advances from Dr. Huang on March 30 or at any other time. Rather, the opposite was true. In my view, this gives additional weight to Ms. Li's evidence concerning the discussion in the car on the way to West Vancouver on March 31. By this time, Dr. Huang was infatuated with Ms. Li and very eager to have a romantic relationship with her. In my view, it is reasonable to draw the inference that Dr. Huang had communicated as much to Ms. Li. As of March 30, 2016, Ms. Li was engaged to Mr. Rao, who not only had given her a very expensive engagement ring six months earlier but had also provided millions of dollars to capitalize LPP (with more to come). Ms. Li did not need access to Dr. Huang's financial assets (about which, at this stage, she knew nothing) to live well or to finance LPP's business. In my view, the lack of any motive on Ms. Li's part to encourage Dr. Huang's romantic overtures renders Ms. Li's evidence concerning interactions between the two of them more likely, and Dr. Huang's evidence less likely and not credible.
- [374] Ms. Li made no attempt to hide her engagement ring from Dr. Huang. Indeed, she was wearing it on March 31 when Dr. Huang and Ms. Li drove to West Vancouver to meet with Dr. Huang's friend Mr. Yu, and the three of them later went for a meal. However, Dr. Huang's professed failure to notice that Ms. Li was wearing an engagement ring is consistent with his strong denial about his relationship with Ms. Li.

[375] I find that Dr. Huang has failed to prove that Ms. Li made the representations alleged, and has failed to prove that Ms. Li made any representations with the intention of deceiving Dr. Huang.

(ii) Ms. Li represented that she had only a business relationship with Mr. Rao (NCC para. 29), and after April 10, 2016, continued to deceive Dr. Huang concerning her availability as a future spouse (NCC Para. 30)

[376] In my opinion, the evidence does not support the conclusion that Ms. Li represented to Dr. Huang that she and Mr. Rao had only a business relationship.

[377] If Dr. Huang's evidence is to be believed, he displayed a strange lack of curiosity about how Ms. Li and Mr. Rao - her powerful partner - knew one another. According to Dr. Huang, he never took the step of doing any research on Mr. Rao in advance of introducing him to Mr. Sutz and Mr. Laroche, or in the days and weeks after the April 7 meeting. However, Dr. Huang's evidence in that regard was not credible, given Mr. Rao's importance to the success of the Low Wind Energy Project. In my view, Dr. Huang's evidence was not consistent with the probabilities that a practical and informed person would readily recognize as reasonable in that place and in those circumstances. I find that, by the time of the April 7 meeting with Mr. Rao, Mr. Sutz and Mr. Laroche, Dr. Huang must have had a reasonable idea of Mr. Rao's business background and holdings, even if he did not know details.

[378] Dr. Huang's true complaint is that Ms. Li's failure to tell him about her marriage to Mr. Rao constitutes material non-disclosure.

[379] The law on this point is conveniently summarized by Professor Fridman in *The Law of Torts in Canada*, 3d ed. (Toronto: Thomson Reuters, 2010), at pp. 710-711 [footnotes omitted]:

There must be a positive assertion that is or becomes dishonest. Thus a statement that is only half-true can constitute deceit. That would be the case if it was calculated to mislead. Active concealment of a fact is equivalent to a positive assertion that a fact does not exist. Active concealment is an act done with the intent to prevent a fact being discovered. "The impugned statement need not be positive for there to be an artful omission." Therefore, a statement that is true when first made will become an untrue statement, a falsehood, if the facts later alter such that the statement is no longer true and that alteration is not revealed to the person to whom the original statement was made, if the maker of the statement is or becomes aware of the alteration. A party who knows that circumstances have changed but does not disclose such change when he knows it is pertinent is as guilty of moral fraud as one who tells a lie in the first instance.

Silence about a fact will not suffice for liability in the absence of some active representation of or about a course of conduct . . .

- [380] I have discussed above my conclusions respecting Dr. Huang's claim that, as of late March 2016, Ms. Li had falsely represented to him that she was available for a long-term romantic relationship with him, and why I have rejected Dr. Huang's claim. Many of the same considerations apply to Dr. Huang's claim of actionable non-disclosure relating to Ms. Li's relationship with Mr. Rao.
- [381] Ms. Li did not expressly tell Dr. Huang about the nature of her personal relationship with Mr. Rao. She did not tell him that, as of September 2015, they were engaged to be married. She did not tell Dr. Huang about the wedding ceremony on April 10, 2016. Indeed, she kept that secret even from her parents.
- [382] However, I agree with the submission of Mr. Olthuis that Ms. Li did not take any particular efforts to hide her relationship with Mr. Rao. She wore her engagement ring - something about which Dr. Huang was conveniently (for him) oblivious. After the Low Wind Energy meeting on April 7, 2016, neither Ms. Li nor Mr. Rao joined Dr. Huang and the others for a meal. At trial, all that Dr. Huang would agree to was that, after the meeting, people went their separate ways. He would not agree that Ms. Li and Mr. Rao left together or that he knew they were together. He said he did not know and did not care. However, and once again, his evidence on this point was not credible. Rather, it illustrated his strong resistance to drawing obvious conclusions from the facts before him, where those facts were incompatible with his own wants and desires. Dr. Huang's evidence is an example of Dr. Huang denying the obvious, even to himself.
- [383] At trial, counsel went to the trouble of both asking Dr. Huang during his evidence-in-chief about a phone call he received from Ms. Li later in the afternoon on April 7, asking him to help her locate a place with "strip dancing," and of reading in Ms. Li's evidence on her examination for discovery confirming she made the phone call. Why this was important to Dr. Huang's case remains obscure. However, one thing it showed was that Ms. Li was still with Mr. Rao after the meeting. Ms. Li's inquiry gave Dr. Huang an opportunity to ask Ms. Li what was going on between her and Mr. Rao. However, he did not.
- [384] Dr. Huang in fact accompanied Ms. Li to the visit to the Tongji Hospital in Wuhan. It is undisputed that Dr. Huang was never sexually intimate with Ms. Li. However, on that hospital visit, Ms. Li made no secret of the fact that part of the visit was to determine whether or not she was pregnant. At trial, Dr. Huang was prepared to concede only that this was when he began to have some doubts about Ms. Li, although at the time, he never asked her any questions. Her communications and her blacklisting of him while they were both in China would have provided Dr. Huang with very good reasons to have further doubts that Ms. Li reciprocated any of his feelings. However, based on Dr. Huang's evidence, any doubts he might have had were washed away by the visit with Ms. Li and her sister to Wuhan University. This visit inspired Dr. Huang to write the "Lover's Slope" poem, which he dedicated to Ms. Li. The poem is a reflection of Dr. Huang's thoughts, feelings, hopes and desires. However, it is hardly a reliable record of what Ms. Li herself was thinking or feeling. In her communications, Ms. Li was telling Dr. Huang she was not

interested in a romantic relationship with him. Dr. Huang was not listening.

[385] The result is that I find that Ms. Li was under no obligation to disclose to Dr. Huang the details of her relationship with Mr. Rao. I find further that, in keeping that information private, she had no intention either to deceive Dr. Huang or to cause him to act in any particular way. I find, therefore, that Dr. Huang has failed to make out his claim of actionable non-disclosure.

(iii) Ms. Li represented to Dr. Huang that she was single, in love with him and available for a long-term spousal relationship, intending dishonestly to deceive him (NCC paras. 26, 27, 31 and 47)

[386] It is convenient to deal with these general these allegations at this point.

[387] I find that Ms. Li did not make the representations alleged by Dr. Huang. Dr. Huang's evidence to the contrary is neither credible nor reliable. In my opinion, Dr. Huang's assertions that Ms. Li represented she was in love with him and available for a long-term spousal relationship with him are a product of Dr. Huang's imagination and his infatuation with Ms. Li. I find that Ms. Li in fact communicated the opposite of what Dr. Huang asserts - something that is shown by her messages sent to Dr. Huang on June 8, for example - and she never had any intention of deceiving him about her feelings. However, Dr. Huang would not accept what Ms. Li was telling him. I find that, rather than being induced to act by anything Ms. Li said, Dr. Huang ignored and denied what Ms. Li communicated to him, and obsessively pursued his desire for a romantic and "spousal" relationship with her.

(iv) Beginning on April 28, 2016, Ms. Li informed Dr. Huang of her financial ambitions and represented that she intended him to become part of her success (NCC para. 32)

[388] In closing submissions, Dr. Huang argued, in relation to this allegation, that on April 24, 2016, Ms. Li told him that she had experience in real estate and he had experience in law, and that, in the future, she would focus on real estate and he would focus on law. Dr. Huang said further that, over the dinner at Hawksworth on April 25, 2016, Ms. Li made more statements to him, including in her poem "Thank you for the encounter." Dr. Huang pointed to his evidence about events he said took place at Ms. Li's home after the dinner, in which, according to Dr. Huang, he and Ms. Li discussed having a family together. However, the conclusion that the discussion was about Dr. Huang and Ms. Li having a family together was one drawn by Dr. Huang based on his denial about the nature of his relationship with Ms. Li. Essentially, Dr. Huang took whatever Ms. Li said as confirmation of his beliefs. However, that was not what Ms. Li intended.

[389] Dr. Huang also pointed to his recollection of events on April 28 and 29, 2016, and to his recollection that, in early May, Ms. Li told him that combined, they could have a great future together. Dr. Huang also pointed to the genesis of LPP's name, and asserted that Ms. Li told him repeatedly that she came from an elite, wealthy family. While Dr. Huang's recollections were vivid, Ms. Li often had little or no recollection of what Dr. Huang described.

- [390] The dinner at Hawksworth was full of meaning for Dr. Huang, and he had prepared for it accordingly, with a poem, flowers and expensive gifts. Ms. Li had done nothing to encourage that behaviour. Dr. Huang did not consult with Ms. Li about his plans for the Hawksworth dinner before he made them. Her perspective was essentially irrelevant.
- [391] Dr. Huang placed great weight on Ms. Li's poem as an expression of her feelings toward him. Ms. Li's personal approach, as an amateur, to poetry writing was similarly irrelevant to Dr. Huang. Dr. Huang's poems were autobiographical, dramatic and literary. They represented his subjective view of the world, his experiences, thoughts, dreams and feelings. Moments or events that were memorable in his life inspired him to write poetry. Although real events inspired at least some of Dr. Huang's poems, the poems were never intended to be a plain, factual reporting of events. Dr. Huang did not ask others who may have been involved in an event whether they agreed with Dr. Huang's perspective recorded in a poem. That was not the point of Dr. Huang's poetry. It never occurred to him that Ms. Li, who had never written poetry before, would not approach the task in the way he did. But Ms. Li's poem written at Hawksworth was not autobiographical at all - indeed, it was not even written completely by her - and it was not about her feelings about Dr. Huang.
- [392] Once again, I am unable to accept Dr. Huang's recollection of events, and of words he claims were spoken by Ms. Li, as either accurate or reliable. His recollection is too strongly coloured by his feelings about Ms. Li, which were the lens through which he perceived everything Ms. Li did and said. Whatever Ms. Li said to Dr. Huang, she was not intending to deceive him about her feelings or her circumstances. To the extent Dr. Huang and Ms. Li discussed business matters, it was as possible business colleagues, who might mutually assist one another in developing business, Ms. Li in real estate (where she may need the help of a lawyer), Dr. Huang in providing legal services for Ms. Li's business. In that sense, they could contribute to each other's success. Dr. Huang has failed to show that Ms. Li made knowingly false representations intending to deceive Dr. Huang.
- (v) Ms. Li informed Dr. Huang that she wanted him to give her a Ferrari, to take their relationship to a new level, and Dr. Huang then transferred 2.6 million RMB to Ms. Li's mother in China (NCC paras. 33-34)
- [393] These allegations arise out of the events on May 8, 2016, including the dinner at Market, and include the events the morning of May 12.
- [394] As I noted above, there is no dispute that, on May 12, 2016, Dr. Huang, with the assistance of his nephew Ming Sun in Beijing, transferred 2.6 million RMB to Ms. Li's mother, Guihong Wang. The record of the transfer is found at Tab 60 of Exhibit 19. The date on the bank receipt is May 12, 2016, and the time stamp is 15:51:18. This is Beijing time, not Vancouver time.
- [395] There are some parts of the dinner at Market where Dr. Huang and Ms. Li agree on what happened. First, they agree that the dinner took place, that Dr. Huang made the invitation, and that it was another birthday dinner for Ms. Li, to celebrate her birthday on May 9. They

agree that: they discussed a Ferrari; Dr. Huang offered to give Ms. Li one; he got down on one knee at the restaurant; and Ms. Li said okay to the offer. There is no evidence that Dr. Huang ever asked Ms. Li to marry him, either at Market or at any other time. There is, therefore, agreement on that point.

- [396] However, apart from those basic facts, Dr. Huang and Ms. Li disagree on virtually everything else.
- [397] As illustrated by the evidence reviewed above, Dr. Huang had a very vivid and detailed recollection of the conversation as he and Ms. Li drove over the Cambie Street bridge, and of the conversation at Market. At trial, he quoted precise statements he recalled Ms. Li making. For example, he recalled that, at the restaurant, Ms. Li said "you will be my life's partner, and we'll be spending time together for the rest of our life." He recalled Ms. Li telling him that he should express his gift to her of a Ferrari "like an engagement scene in a movie." On cross-examination, Dr. Huang quoted further statements he recalled Ms. Li making, encouraging him to make "the right gift" to give rise to "a new level of relationship." On the other hand, Dr. Huang was suspiciously vague about his side of the conversation, apart from some comments about the amount of money to be transferred. Based on Dr. Huang's evidence, the Ferrari was to be like an engagement gift, and he saw it as "a modern way of expression of love."
- [398] The idea of Ms. Li driving a Ferrari in fact inspired Dr. Huang to write another poem, "A Tribute to Red Ferrari," which he did while in China in June.
- [399] For her part, Ms. Li recalled that, at the restaurant, Dr. Huang brought up "all of a sudden" that he would like to give her a Ferrari as a birthday gift. She recalled that she was shocked, and told him that she could not accept it. She recalled reminding him that she had already told him she did not have romantic feelings toward him, and that he had promised he would control himself. She recalled that when she refused to accept his gift, he then got down on one knee, and she accepted only to avoid the awkwardness and embarrassment of his behaviour in the restaurant. She acknowledged that when Dr. Huang asked for the information for her mother's bank account, she gave it to him, although she thought Dr. Huang had been joking about giving her a Ferrari.
- [400] Some of Ms. Li's version of events at Market is repeated in one of the messages she sent to Dr. Huang on June 8, 2016, set out above. In his responses at the time, Dr. Huang did not dispute the substance of what Ms. Li said.
- [401] Dr. Huang described further conversations he said he had with Ms. Li at his home and when he gave her a ride back to her home, both on the morning of May 12. He recalled Ms. Li saying in his bedroom "I will be yours" and "don't leave me." He said that, by the time they were in the car back to Vancouver, he had not yet transferred the 2.6 million RMB to Ms. Li's mother, and he recalled Ms. Li telling him not to talk to her anymore if he was not going to transfer the money. As he recalled, he then had the transfer made.

- [402] Once again, I am unable to accept Dr. Huang's version of events, where they differ from Ms. Li's, as reliable. His recollection of Ms. Li's statements at Market is suspiciously detailed, purporting to quote exact words spoken by Ms. Li. On the other hand, Dr. Huang's recollection is entirely consistent with what, at the time, he wanted desperately to hear from Ms. Li - essentially that she would be his forever. I conclude that Dr. Huang now recalls what he thinks should have happened, not what in fact happened.
- [403] More importantly, Dr. Huang's failure to dispute Ms. Li's recounting of events at Market in their exchange of messages on June 8, in the context of those messages, leads me to conclude that Ms. Li's evidence about those events is the more reliable. The words of Dr. Huang's "Red Ferrari" poem - Dr. Huang's words - do not support the allegations Dr. Huang now makes. Rather, they are consistent with Dr. Huang wanting and dreaming of seeing Ms. Li driving a Ferrari, and of making that happen for her. They are consistent with him giving her a gift, not giving in to her demands for a Ferrari.
- [404] I find that the "engagement" scenario described by Dr. Huang in his evidence was something that existed only in his own mind. I find that, as Ms. Li testified, Dr. Huang offered to give her a Ferrari as a birthday gift - a ridiculously extravagant and wholly inappropriate gift coming from someone who was performing legal work for both Ms. Li and LPP at the time. I find further that Ms. Li eventually told Dr. Huang that she would accept only to terminate an awkward and embarrassing scene happening at a table near the entrance to a high-end restaurant. The conduct that Ms. Li described at Market is consistent with what Huabin Yu said to Ms. Li on March 31 about Dr. Huang: that he was a person who would persist in the pursuit of his life and love targets. As of May 8, Ms. Li was most certainly Dr. Huang's love target.
- [405] I also reject Dr. Huang's evidence about the conversation in the car with Ms. Li the morning of May 12. By that time, the transfer had already been made in Beijing.
- [406] An additional problem with Dr. Huang's evidence concerning these events was his difficulty in explaining how transferring 2.6 million RMB to Ms. Li's mother would result in Ms. Li being able to purchase and drive a Ferrari in Canada. He was never able satisfactorily to explain how the one would or could follow logically from the other.
- [407] At first blush, Ms. Li did not have a particularly good explanation for why she gave Dr. Huang her mother's bank card information after the Market dinner. However, in context, her explanation that she thought Dr. Huang was joking and not serious makes sense. A reasonable response to someone offering to buy you a Ferrari is along the lines of: you must be joking, or, perhaps, you cannot be serious. Such a response would be in harmony with what a practical and informed person would recognize as reasonable in those circumstances.

- [408] The result is that I find Dr. Huang has not proved that Ms. Li made the representations he alleges concerning the Ferrari. Ms. Li's statements at the time were not made with the intention to deceive Dr. Huang about her feelings for him. Indeed, I find that at Market Ms. Li told Dr. Huang that she did not have romantic feelings for him and would not be with him, something that she repeated in one of her June 8 messages to him. This was true. However, Dr. Huang was not listening to what Ms. Li was telling him.
- [409] I find further that, when Dr. Huang transferred 2.6 million RMB to Ms. Li's mother on May 12, 2016, he had not been induced to do so by anything Ms. Li in fact said. Rather, Dr. Huang's motive was to further his pursuit of Ms. Li as a love target.
- (vi) On May 21, Ms. Li represented that Dr. Huang should provide her and her family with valuable gifts as a goodwill gesture to show Dr. Huang was sincere in pursuing love with Ms. Li (NCC para. 36)
- [410] This allegation relates principally to the conversations Dr. Huang said took place between him and Ms. Li the day they visited the Lao Feng Xiang jewellery store and looked at jade bracelets, and conversations leading to Dr. Huang's purchase of other items, such as a leather jacket at Harry Rosen, wine and Godiva chocolates, as gifts to give to Ms. Li's family members in China.
- [411] In my opinion, Dr. Huang's complaint is based on another misunderstanding on Dr. Huang's part of what Ms. Li in fact said. Moreover, I find that the evidence does not support the conclusion that Ms. Li made the representation alleged by Dr. Huang. What Ms. Li did say was neither knowingly false, nor stated with the intention to deceive Dr. Huang.
- [412] Further, I find that Dr. Huang was not induced by anything Ms. Li said to purchase gifts for Ms. Li's family members. Rather, I find that Dr. Huang decided of his own accord to purchase items as gifts, and that he intended to give those gifts to strengthen his case, particularly in the eyes of Ms. Li's parents, as a suitor for Ms. Li. It was Dr. Huang's idea to purchase and give gifts to show his sincerity, not something that he was induced to do as a result of knowingly false statements made by Ms. Li.
- [413] Even taken at face value, Dr. Huang's evidence concerning his discussions with Ms. Li at Lao Feng Xiang does not amount to a request by Ms. Li that Dr. Huang purchase a jade bracelet for her mother, much less a representation that he should do so as a "goodwill gesture" to show that he was sincere in pursuing Ms. Li as his romantic partner. When Dr. Huang was asked during his evidence-in-chief whether he and Ms. Li discussed why a gift should be made to her mother, he recalled only that Ms. Li said "It was the first time meeting." This was true. It was Dr. Huang who then drew the conclusion that the "first time meeting" was one between a prospective son-in-law and a mother-in-law, consistent with his desires.

- [414] At trial, Dr. Huang described a discussion he said occurred with Ms. Li on May 13, 2016 during which she asked him to buy gifts for her family members in China. Dr. Huang's evidence on this point was, remarkably, triggered by a question about eating spotted shrimp, which appeared to be a very vivid memory for him and he mentioned it several times.
- [415] However, I conclude that when Ms. Li spoke to him about getting gifts for her to take to China for family members, it was more in the nature of a task she might delegate to an executive assistant, to lighten her to-do list. This is consistent with Dr. Huang's evidence that, earlier, Ms. Li had told him she was very busy and asked him if he could come up with ideas for gifts and then buy them for her. An appropriate response from Dr. Huang to such a request would have been: this is not a job for me, ask Mr. Chen. However, as Dr. Huang did so often, he interpreted what Ms. Li said based on his own perspective and desires concerning a relationship with her. His intentions were not Ms. Li's intentions. Even on Dr. Huang's evidence, Ms. Li never said to him the equivalent of "buy these gifts as a demonstration of your sincerity in pursuing love with me." Dr. Huang is not a reliable reporter of what took place between him and Ms. Li.
- [416] Accordingly, I find that Dr. Huang has failed to prove that Ms. Li made the representations alleged, and she made no representations intending to deceive Dr. Huang. Dr. Huang purchased gifts on his own accord, in pursuit of his own objectives in relation to Ms. Li.
- (vii) Dr. Huang gave Ms. Li his bank cards and money to use for herself and to purchase gifts for family members in China, based on Ms. Li's representations that she was single, in love with him and available for a long-term spousal relationship (NCC para. 36 and para. 31)
- [417] There is no dispute that, before Ms. Li left for China on May 24, 2016, Dr. Huang gave her and she had one of his bank cards and one of his credit cards. There is also no dispute that Ms. Li used these cards, both before leaving Canada and while she was in China. In total, Ms. Li made purchases and withdrawals on the bank card totalling about C\$34,700, and on the credit card totalling about C\$1,630.
- [418] There is no dispute that, while Dr. Huang was in China, Ms. Li and Qin Li received 94,000 RMB from him (or about C\$18,000). Dr. Huang transferred another 1,987 RMB to Qin Li, and another 8,085 RMB to Ms. Li, all over WeChat.
- [419] There is also no dispute that on June 19, 2016, Ms. Li picked up an envelope containing C\$9,900 in cash that Dr. Huang had withdrawn from his bank account and left with his colleague Dr. Zou. Ms. Li brought this money back to Canada with her.
- [420] However, I find that Dr. Huang has failed to prove that Ms. Li made the representations he alleges. His evidence in that respect is neither credible nor reliable, for the reasons I have set out above. I find that Ms. Li made no representations to Dr. Huang intending that he would act on what she said by giving her bank and credit cards and money. I find that Dr. Huang pressed money and gifts on Ms. Li to further his own desires, with the goal of

securing Ms. Li as his romantic and "spousal" partner, and to demonstrate his wealth and generosity.

(viii) In late June, Ms. Li represented to Dr. Huang that she was good at real estate, would generate good returns for him, his money would be safe and yield high returns, and that Daqi Li had ways of removing funds from China, converting Dr. Huang's RMB money into C\$ or US\$, and transferring the funds to Vancouver for investment (NCC paras. 38, 40-43, and particulars)

[421] These allegations concern: the conversion of 1,002,000 RMB to US dollars, and the transfer of that money on June 28, 2016 into the CIBC Account; and the transfers made from two of Dr. Huang's accounts in China to Guihong Wang, Daqi Li and Qin Li between July 1 and July 4, 2016.

[422] There is no dispute that the transfer to the CIBC Account happened. There is no dispute that the transfers to Ms. Li's mother, brother and sister in China were made while Dr. Huang and Ms. Li were at Ms. Li's home and accomplished using mobile phone and internet banking. In total, 2,900,000 RMB was transferred to Ms. Li's mother, brother and sister in China.

[423] I am going to pause here to say that, in my opinion, the pleadings are a problem for Dr. Huang with respect to these allegations. While he pleads (NCC para. 40) that Ms. Li's representations about her intentions to invest Dr. Huang's money were false, and that they were made with the dishonest intent that Dr. Huang should rely on them and transfer his money to Ms. Li, nowhere does he plead that he was materially induced to act based on the representations that he alleges in NCC para. 38 Ms. Li made. This is the fourth element of a claim in fraud. The logical place for those facts to have been pleaded is NCC para. 41, but they are not.

[424] This leaves the only pleading of the fourth element to be found in NCC paras. 31 and 47: that Dr. Huang was induced to act and make all of these transfers relying on Ms. Li's false representations that she was single, in love with him, available for a long-term spousal relationship and from a wealthy propertied family. In other words, Dr. Huang has not alleged that he was induced to make these transfers by statements about investment in real estate or about Daqi Li's prowess in currency conversion and transfer out of China. Rather, Dr. Huang has alleged he was induced to act by representations that Ms. Li was single, in love with him and available for a long-term spousal relationship. In my view, this approach to the transfers Dr. Huang made at this time is not only consistent with the case he has in fact pleaded, it reflects the reality of his complaints.

[425] In any event, I do not accept as either credible or reliable Dr. Huang's evidence that Ms. Li essentially touted her brother's expertise in currency conversion and removal of hard currency from China, representing him to be skilled in handling such tasks. Daqi Li had no such expertise. Ms. Li had no reason to tell Dr. Huang that he did. She did not need Dr. Huang's money to invest in real estate in Vancouver or for any other purpose. She (through LPP) had access to Mr. Rao's money, and real estate investment was the point of LPP's

business. Moreover, funds provided by Mr. Rao to LPP allowed Ms. Li to purchase the Rolls Royce.

- [426] Ms. Li probably did say to Dr. Huang that he should invest in real estate in the Vancouver market, bring money from China to do that, and that a real estate investment in the Vancouver market in 2016 would be safe and likely yield high returns. However, these are not representations of fact, and are not actionable. No doubt at the time many people held the opinion that bringing money from China to invest in real estate in the Vancouver market was a good idea, a relatively safe investment and likely to yield high returns. In any event, Dr. Huang was not induced to act by Ms. Li's expression of such views, or by her telling him that she was "good at real estate" (whatever that might mean).
- [427] These transfers occurred shortly after Dr. Huang and Ms. Li returned from China. The timing is significant, in my view. As I noted above, the China trip did not go as Dr. Huang had hoped. The visit to the Tongji Hospital started creating some doubts, but Dr. Huang essentially paid little attention to what Ms. Li asking for a pregnancy test - something she did not attempt to hide from him - meant. He did not meet Ms. Li's parents, despite his pleading that he be allowed to. Ms. Li expressed her strong displeasure about both the fact that he was sending her messages during the night, and about the content of those messages. In one message, she reminded him about what she had told him at Market, essentially that their relationship would not go beyond friendship and admiration. For a time, Ms. Li blacklisted him. She was unhappy when he turned up unexpectedly at the airport when she returned to Vancouver.
- [428] In my opinion, Dr. Huang was not induced to make these transfers because Ms. Li had falsely represented that she was single, in love with him and available for a long-term spousal relationship. I find that Dr. Huang has failed to prove that Ms. Li made any such representations. His evidence to the contrary is neither credible nor reliable. I find that what Ms. Li did tell Dr. Huang - that, although she admired and respected him, she was not interested in a romantic relationship with him - was true. I find that Dr. Huang has failed to prove that Ms. Li knowingly made false statements to him, with the intention that he act by transferring large sums of money to her family members.
- [429] Rather, in my opinion, Dr. Huang acted in this way based on his obsession with Ms. Li. His aim was to prove to her - and hopefully finally persuade her - that he was, in fact, not a stingy man but generous and worthy of her love. That was what induced Dr. Huang to act as he did.
- [430] The morality of Ms. Li's involvement in assisting Dr. Huang to make these transfers can be questioned and criticized - perhaps criticized very harshly. However, in my opinion, Dr. Huang has failed to prove his fraud claim in relation to them.

(ix) Dr. Huang was induced to sign the Gift Note by Ms. Li's false representations that she was single, in love with him and available for a long-term relationship (NCC para. 54)

- [431] Dr. Huang says that he was induced to sign the Gift Note as a consequence of Ms. Li's fraudulent representations, and that the Gift Note is, accordingly, unenforceable.
- [432] However, I do not believe Dr. Huang's evidence concerning the creation of the Gift Note. In this area, I prefer Ms. Li's evidence as more consistent with the preponderance of probabilities that would be reasonable in the circumstances.
- [433] Dr. Huang's pleadings and the evidence he gave during his examination-in-chief strongly implied that Ms. Li, in addition to making false representations about her feelings for him, deliberately and heartlessly plied him with liquor and then took advantage of him by dictating the Gift Note to him and forcing him to sign it.
- [434] An obvious problem with the position being advanced by Dr. Huang was that, after the Gift Note was signed, Dr. Huang drove himself home to Coquitlam. When asked on cross-examination, he testified that he was not driving drunk. I accept that evidence. It would have been extremely reckless - not to mention dangerous - for Dr. Huang to drive if he was impaired by alcohol.
- [435] I find that, in his evidence, Dr. Huang grossly exaggerated his consumption of alcohol at Ms. Li's home on July 17, and I conclude that when the Gift Note was written and signed by him, Dr. Huang's judgment was not impaired by alcohol.
- [436] I find that, on July 17, Dr. Huang wrote out the Gift Note himself. I reject his evidence to the effect that Ms. Li was dictating the words to him and he was acting merely as Ms. Li's scribe. Dr. Huang's actions were not induced by any statements on Ms. Li's part, and, like his evidence concerning alcohol consumption, Dr. Huang's evidence about what Ms. Li said to him is neither credible nor reliable. I find that Dr. Huang wrote out and signed the Gift Note for the same reason that he had made the transfers: to prove to Ms. Li that he was not a stingy man, and to persuade her that she should give in to his desires for a long-term "spousal" relationship with her. Dr. Huang was obsessed with Ms. Li, and had been for many months. Despite Ms. Li's warnings about pressuring her, Dr. Huang was prepared to go to extreme lengths in an attempt to secure his dream of a spousal relationship with her. That, in my view, is the context in which the Gift Note was created and signed by Dr. Huang.
- [437] I find that Dr. Huang wrote out and signed the Gift Note aware that there were legal consequences to his actions. I find that, when Dr. Huang wrote out and signed the Gift Note, his intention at the time was to communicate to Ms. Li that he would never go back on his word and never ask for repayment.
- [438] Accordingly, I find that the Gift Note is enforceable against Dr. Huang.

5. Dr. Huang's other claims against Ms. Li

- [439] Dr. Huang says that, whether or not he had made out his fraud claims against Ms. Li, he is also entitled to a judgment against her on the basis that she was unjustly enriched and that he transferred money to Ms. Li and her family members on the basis of a mistake of fact. Dr. Huang says that these are two separate and distinct causes of action, citing *Newman v. Beta Maritime Ltd.*, 2018 BCSC 1442, at paras. 180 and following, in support.
- [440] Ms. Li says that, not only is Dr. Huang unable to demonstrate that she defrauded him, but he is also not entitled to a remedy against her on any other basis.
- (a) Was Ms. Li unjustly enriched?
- [441] The legal principles applicable to a claim for a remedy on the basis of unjust enrichment are well-established. The basic elements - enrichment of a defendant, a corresponding deprivation of a plaintiff, and the absence of any juristic reason - are summarized and explained in *Kerr v. Baranow*, 2011 SCC 10, beginning at para. 36, and in *Moore v. Sweet*, 2018 SCC 52, beginning at para. 35 and following.
- [442] Broadly speaking, the doctrine of unjust enrichment applies when a defendant receives a benefit from a plaintiff in circumstances where it would be "against all conscience" for the defendant to retain that benefit: *Moore v. Sweet*, at para. 35.
- [443] The first two elements - enrichment and corresponding deprivation - are closely related. A straightforward economic approach is taken to both of them, with moral and policy considerations coming into play at the juristic reason stage of the analysis: *Moore v. Sweet*, at para. 41.
- [444] The third element - absence of a juristic reason - means that there is no reason in law or justice for the defendant's retention of the benefit conferred by the plaintiff, making its retention "unjust" in the circumstances of the case: *Kerr*, at para. 40. A juristic reason to deny recovery may be the intention to make a gift or the existence of a contract, and juristic reasons are not limited to a closed list: *Kerr*, at para. 41.
- [445] Mutual conferral of benefits can be considered at the juristic reason stage of the analysis, but only to the extent that it provides evidence of a juristic reason (or lack thereof). Otherwise, the analysis of a mutual conferral of benefits or enrichment should occur primarily at the defence and remedy stage, and not at the enrichment/deprivation stage of the analysis. The analysis of mutual conferral of benefits can and should take place whether or not a defendant has made a formal counterclaim or pleaded set-off. See *Kerr*, at paras. 104 and 109, and *Wilson v. Fotsch*, 2010 BCCA 226, at paras. 13, and 18-19.
- [446] On the evidence, most of the money transferred by Dr. Huang went not to Ms. Li but to her mother and siblings in China. Ms. Li argues that, on the authorities, any recourse Dr. Huang might have in unjust enrichment would be as against the persons to whom he transferred the money: this is what the "straightforward economic approach" mandates.

- [447] However, in Mr. McLeod's submission, to make out a valid claim for unjust enrichment, the authorities do not require that Ms. Li be enriched directly. In support of his position, Mr. McLeod cites Newman, at para. 22.
- [448] I will assume that a successful claim for unjust enrichment does not require a plaintiff to demonstrate payments - or the "enrichment" - flowed directly from the plaintiff to the defendant. I find that Dr. Huang intended Ms. Li have the benefit of the transfers of funds, and, when the transfers were being done, he gave her control over where the funds would go.
- [449] However, I do not need to finally decide the legal point because there is in any event a juristic reason for any enrichment of Ms. Li in relation to the transfer of funds. At the time Dr. Huang made the transfers to Ms. Li and to her family members, he intended them to be gifts. He confirmed that he so intended by signing the Gift Note, which expressed his true intention at the time.
- [450] The result is that Dr. Huang's claim for a remedy based on unjust enrichment in respect of the funds transferred by him must fail.
- [451] However, Dr. Huang also says that Ms. Li was unjustly enriched because Dr. Huang purchased and paid for many items for Ms. Li. A list of these items is found at Schedule 2(i) to Dr. Huang's written submissions. They include: items (including kitchenware, a shower curtain, a tree-trimmer, a barbeque and a table cloth) for E. 40th; the gifts for Ms. Li's parents that Dr. Huang took to China; expenses (including for the visit to the Tongji Hospital) for Ms. Li and her sister while Dr. Huang and Ms. Li were in China in June; and personal items (such as clothing purchased at Nordstrom, the Dior bag and shoe repairs) for Ms. Li. Notably, the list also includes the court filing fee of \$156 for filing the claim against Ms. Marrello. The total amount claimed is \$20,397.91. However, the list should probably also include \$369.99 for a hairdryer, which shows up on a separate list of expenses Dr. Huang says he incurred for LPP.
- [452] If these items are gifts, then there is a juristic reason for any enrichment.
- [453] Dr. Huang's intentions - whether he intended to make a gift - are to be interpreted at the time the benefits were bestowed. Since "once a gift, always a gift," he cannot now change his mind because his relationship with Ms. Li has ended and ended badly. See Norkum, at para. 80.
- [454] I find that the vast majority of the items on this Schedule were intended by Dr. Huang to be gifts. The exceptions are: \$1,800 for stucco repair and \$480 paid to a contractor for tree trimming, both at E. 40th; and \$156 for the court filing fee. The court filing fee was to be recovered from Ms. Marrello, and I will address it in the context of Ms. Li's claim of breach of fiduciary duty against Dr. Huang. Stucco repair and tree trimming might, possibly, be gifts, although they would be unusual gifts. However, I find that, at the time, Dr. Huang did not intend to give the cost of them to Ms. Li as a gift.

- [455] Accordingly, I find that Dr. Huang is entitled to judgment against Ms. Li for \$2,280. Otherwise, I find that Dr. Huang has failed to show that he is entitled to any remedy against Ms. Li based on unjust enrichment.
- (b) Dr. Huang 's claim that he made a mistake of fact
- [456] Dr. Huang also says that he transferred money to Ms. Li, her mother and siblings, and also paid for the many luxury and other items for Ms. Li, based on a mistake of fact. Dr. Huang says that the mistake was induced by Ms. Li, concerning Ms. Li's state of mind regarding him and her marital status. He did not intend her to have any of his money if she was not single, and not interested in him romantically as a future spouse with a shared investment future.
- [457] Dr. Huang says, that, accordingly, he is entitled to an order for restitution of monies had and received.
- [458] The test for recovery of money paid under a mistake of fact is summarized in *BMP Global Distribution Inc. v. Bank of Nova Scotia*, 2009 SCC 15, at para. 22:
- [22] The test laid down . . . for recovering money paid under a mistake of fact . . . is straightforward:
1. If a person pays money to another under a mistake of fact which causes him to make the payment, he is *prima facie* entitled to recover it as money paid under a mistake of fact.
 2. His claim may however fail if: (a) the payer intends that the payee shall have the money at all events, whether the fact be true or false, or is deemed in law so to intend; (b) the payment is made for good consideration, in particular if the money is paid to discharge, and does discharge, a debt owed to the payee (or a principal on whose behalf he is authorised to receive the payment) by the payer or by a third party by whom he is authorised to discharge the debt; (c) the payee has changed his position in good faith, or is deemed in law to have done so.
- [459] However, this claim suffers from many of the same problems as Dr. Huang's claim for a remedy based on unjust enrichment, and his claim for damages for fraud. In my view, and as I have discussed above in connection with Dr. Huang's fraud claim, Dr. Huang was not induced by Ms. Li's statements or conduct, either to give her expensive gifts or to transfer substantial sums of money to Ms. Li's family members. Rather, Dr. Huang acted in this way to further his fervent desire to secure Ms. Li as his romantic partner and win her over to him. I have no doubt that Dr. Huang bitterly regretted how things turned out. However, in my view, he has not shown any justification to provide him with a remedy on grounds of mistake of fact.
6. Dr. Huang's unjust enrichment claim against LPP

- [460] Dr. Huang also says that he is entitled to a remedy against LPP on the basis of unjust enrichment. Dr. Huang says that he paid a number of expenses for the benefit of LPP, and, as a result, LPP has been unjustly enriched, he has suffered a corresponding deprivation, and there is no juristic reason. The expenses are summarized on Schedule 2(ii) to Dr. Huang's written submissions. They include: the fee for the boardroom for the Low Wind Energy Project meeting on April 7, the filing fee in relation to LPP's name change, expenses paid for the design and printing of LPP's brochure, and the purchase of office plants. The amount claimed (minus the hairdryer, and rounded) is \$3,390.
- [461] The applicable legal principles have been set out above.
- [462] In my opinion, in contrast to Ms. Li, it is much more difficult to say that Dr. Huang intended these to be gifts to LPP. I find that the evidence does not support the conclusion he did so intend. The result is that LPP has been unjustly enriched.
- [463] However, LPP provided Dr. Huang with free office space for a period of about two months. So, there was some mutual conferral of benefits. There was little direct evidence about the value of the free office space. However, in my opinion, the LPP sublease allows me to make a reasonable estimate. I assess the value of the free office space at \$650 per month, and \$1,300 for two months.
- [464] Accordingly, I find that Dr. Huang is entitled to judgment against LPP for the sum of \$2,090.

7. Dr. Huang's claims against Daqi Li

- [465] Dr. Huang originally pleaded a fraud claim against Daqi Li. However, Dr. Huang did not plead that Daqi Li made any false representations or statements to Dr. Huang. Rather, Dr. Huang pleaded that Daqi Li was liable as Ms. Li's "agent," or, in the alternative for "knowing participation in [Ms.] Li's fraudulent scheme." In closing submissions, no authority was provided by Dr. Huang to support liability on the part of Daqi Li on either of these grounds. No submissions were made to support liability on the first ground, and Dr. Huang expressly abandoned the second.
- [466] I find, therefore, that Dr. Huang has failed to show any basis on which Daqi Li could be liable to him for damages for fraud.
- [467] Before turning to address the remaining claims by Dr. Huang against Daqi Li (trespass, unjust enrichment and conversion), I have some brief comments on Daqi Li's credibility.
- [468] I have discussed above my many concerns with the credibility and reliability of Dr. Huang's evidence. However, Daqi Li's credibility and reliability are also suspect. He was evasive and argumentative on cross-examination. Although he also gave his evidence through an interpreter, he occasionally corrected the interpreter's interpretation. Some of the evidence Daqi Li gave at his examination for discovery, which occurred about a week before his deposition, was inconsistent with the evidence he gave at his deposition. Like Dr. Huang, Daqi Li had a very good memory of matters that were important for his case, but a

poor memory of other matters, even though they were contemporaneous.

- [469] I turn then to address Dr. Huang's claim of trespass against Daqi Li.
- [470] This claim arises out of the events the evening of September 10, 2016 at Dr. Huang's Coquitlam home. There is no dispute that Daqi Li was there, and that he was there to retrieve his SUV from Dr. Huang's garage. The principal dispute is about whether Daqi Li entered Dr. Huang's home. Dr. Huang says that he did, and left only when Dr. Huang began calling the police. Daqi Li says that he always remained outside Dr. Huang's home.
- [471] This whole incident could have been avoided if both Dr. Huang and Daqi Li had acted in a more mature way. Daqi Li left messages for Dr. Huang in an attempt to arrange for pick-up of his SUV. Dr. Huang had no right to keep Daqi Li's SUV, as he must have known. However, Dr. Huang ignored and avoided Daqi Li's messages. This was bound to create trouble. On the other hand, the timing of Daqi Li's and Mr. Chen's arrival at Dr. Huang's home showed questionable judgment, and was also likely to create trouble.
- [472] Trespass to land occurs when one enters onto land in the possession of another without lawful justification. It is actionable per se, and there is no requirement to prove actual damage to the property. See *Glashutter v. Bell*, 2001 BCSC 1581, at para. 26. However, the common law has long recognized an implied licence for all members of the public to approach the door of a residence and knock. As a result, the occupier of a residential dwelling is deemed to grant the public permission to approach the door and knock, although the implied invitation to knock extends no further than is required to permit convenient communication with the occupant of the dwelling. See *R. v. Cortner*, 1998 CanLII 5002 (B.C.S.C.), at para. 18.
- [473] I conclude that Daqi Li and Mr. Chen remained outside of Dr. Huang's home on September 10. Dr. Huang's memory of these events is, in my view, exaggerated and not reliable. Entering Dr. Huang's home uninvited would be extremely rash, and risked provoking an ugly confrontation. However, all that Daqi Li and Mr. Chen wanted to accomplish was to retrieve the SUV and the receipt for Ms. Li's shoes. Acting in a way that would provoke an ugly confrontation was completely at odds with their objectives in going to Dr. Huang's home. In my opinion, Daqi Li's evidence is more consistent with what would be recognized as reasonable in the circumstances, than Dr. Huang's evidence.
- [474] I find that Dr. Huang closed the door on Daqi Li and Mr. Chen, and called the police. Wherever Daqi Li was standing until the police arrived - whether he was waiting in Dr. Huang's yard or on the street - I find that he was not trespassing. Matters were resolved in a calm and civil way after the police arrived, and the SUV was removed without incident from Dr. Huang's garage.
- [475] I find, therefore, that Dr. Huang's trespass claim against Daqi Li must fail.

- [476] However, even if Dr. Huang had established liability for trespass, in my view, any damages would be nominal. Dr. Huang did not show that there was any damage to his property, and there would be no justification for an award of punitive damages.
- [477] I turn then to Dr. Huang's claims that Daqi Li was unjustly enriched and should be found liable in conversion. Both of these claims arise out of the transfer by Dr. Huang on July 1, 2016 of 400,000 RMB to Daqi Li. It is undisputed that Daqi Li used most of this money to purchase a Mercedes in China.
- [478] I have set out above the basic principles that apply to an unjust enrichment claim, and will not repeat them here.
- [479] The basic elements of a conversion claim are not in dispute. The tort of conversion involves a wrongful interference with the goods of another, such as taking, using or destroying these goods in a manner inconsistent with the owner's right of possession. The tort is one of strict liability, and accordingly, it is no defence that the wrongful act was committed in all innocence. See *Reliable Mortgages Investment Corp. v. Chan*, 2016 BCSC 405, at para. 105 (citing *Boma Manufacturing Ltd. v. Canadian Imperial Bank of Commerce*, [1996] 3 S.C.R. 727, at para. 31).
- [480] In my view, unless Dr. Huang succeeds in his unjust enrichment claim against Daqi Li, he cannot succeed in his conversion claim. Unless the "goods" in question - that is, the money - belong to Dr. Huang and he is entitled to possession of those goods, he will be unable to make out one of the essential elements required to establish a conversion claim. I will therefore address Dr. Huang's unjust enrichment claim first.
- [481] In my opinion, Dr. Huang cannot succeed on his unjust enrichment claim against Daqi Li, for essentially the same reasons that he could not succeed in his claim against Ms. Li concerning the transfer of funds. There is a juristic reason for the enrichment. The money was intended to be a gift.
- [482] It follows that Dr. Huang's claim for conversion also fails.
- [483] In that light, I do not consider it necessary to deal with Daqi Li's submissions that Dr. Huang's conversion claim is, in any event, barred by the two-year limitation period in s. 6 of the Limitation Act, S.B.C. 2012, c. 13.

8. Ms. Li's and LPP's claims that Dr. Huang breached his fiduciary duties to each of them

(a) Introduction

- [484] In their counterclaim, Ms. Li and LPP assert that Dr. Huang repeatedly sought to initiate a romantic relationship with Ms. Li, although, from time to time, he performed legal services for both Ms. Li and for LPP. They say that Dr. Huang's actions included repeated attempts to contact Ms. Li at inappropriate hours and in inappropriate circumstances, and included making uninvited visits to Ms. Li's home. Ms. Li and LPP say that Dr. Huang's conduct toward Ms. Li constituted sexual harassment of her. They say that Dr. Huang's pursuit of a

romantic relationship with, and harassment of, Ms. Li was in flagrant breach of the fiduciary duties that he owed to both Ms. Li and LPP, as their lawyer, and constituted professional misconduct on Dr. Huang's part.

[485] Ms. Li and LPP assert further that Dr. Huang breached his fiduciary duties to them by:

- (a) attempting to undermine Ms. Li's marriage to Mr. Rao;
- (b) attempting to pressure and coerce Ms. Li into a sexual relationship;
- (c) harassing Ms. Li after she made it clear that she was not interested in a sexual relationship;
- (d) failing to advise Ms. Li and LPP that they should obtain independent legal advice;
- (e) spreading falsehoods and untruths about Ms. Li and her relationship with Dr. Huang to other individuals; and
- (f) misappropriating funds held in trust for Ms. Li for his own use.

[486] In support of their claims, Ms. Li and LPP pleaded and relied on a number of provisions (including commentary) of the Code of Professional Conduct for British Columbia (the "Code"), published by the Law Society of British Columbia. Ms. Li and LPP assert that the content of Dr. Huang's fiduciary duty is informed by the Code. Specifically, Ms. Li and LPP pleaded from chapter 3 of the Code, which concerns a lawyer's relationship to clients: s. 3.3-1 regarding confidential information; s. 3.3-2 regarding use of confidential information; s. 3.4-1 regarding a lawyer's duty to avoid conflicts of interest; and s. 3.4-26.1 regarding conflicts with clients. Ms. Li and LPP also pleaded s. 6.3-3 of the Code, which provides that "A lawyer must not sexually harass any person."

[487] In closing submissions, Ms. Li and LPP did not pursue much of the relief pleaded in the counterclaim. For example, although Ms. Li and LPP originally sought an interim and permanent injunction against Dr. Huang, enjoining him from disclosing to anyone the nature of the advice he provided to Ms. Li or LPP or disclosing any communications between himself and Ms. Li or LPP concerning legal advice, that relief was ultimately abandoned. The declarations sought - that Dr. Huang had breached his fiduciary duty owed to each of Ms. Li and LPP - are not available: see *Warde v. Slater Holdings Ltd.*, 2016 BCCA 63, at para. 48 (citing *Rusche v. Insurance Corp. of British Columbia* (1992), 4 C.P.C. (3d) 12 (B.C.S.C.) at 16) and *Ross River Band v. HMTQ and Yukon*, 1999 BCCA 750, at para. 144 (citing *Architectural Institute of British Columbia v. Lee's Design & Engineering Ltd.* (1979), 96 D.L.R. (3d) 385 (B.C.S.C.)). The request for special damages was also abandoned. The main relief sought against Dr. Huang was: an accounting; aggravated and punitive damages; and special costs.

[488] Dr. Huang provided some legal services to Ms. Li personally. This is undisputed. He acted as her lawyer in dealing with disputes concerning the renovations to Ms. Li's home. Dr. Huang also acted as Ms. Li's lawyer in advancing and then settling the debt claim against Ms. Marrello, and collected money that was paid to him in trust for Ms. Li. He acted as Ms.

Li's lawyer (and described her as his client) in assisting Ms. Li deal with her problem with the B.C. Securities Commission, although his main service was to put Ms. Li in touch with another lawyer experienced in that area. These were all discrete retainers.

- [489] Dr. Huang also provided some legal services to LPP. He acted for LPP in the negotiation and finalization of LPP's sub-lease for its office space. He prepared corporate resolutions. He attended to the legal steps necessary to change the name of the company to LPP. He drafted some contracts. Dr. Huang introduced the Low Wind Energy Project to LPP, as a possible investment for the company, and arranged for a non-disclosure agreement to be signed in that respect. Dr. Huang held the position of general counsel for LPP.
- [490] Dr. Huang did other things for LPP. He substantially revised LPP's marketing brochure, when Ms. Li was not happy with Mr. Chen's drafting. He assisted Ms. Li in interviewing and hiring employees for LPP. He organized the purchase of furniture and other items for LPP's offices. However, in my view, in attending to all these things, Dr. Huang was not providing legal services to LPP and not acting as LPP's lawyer.
- [491] The scope of Dr. Huang's fiduciary duties to Ms. Li and LPP must be measured by what he was doing in his capacity as a lawyer acting for either of them.

(b) Legal principles applicable

- [492] Certain categories of relationships are considered to give rise to fiduciary obligations because of their inherent purpose or their presumed factual or legal incidents. These categories are sometimes called *per se* fiduciary relationships, and the solicitor-client relationship is an example.
- [493] However, it is well-established that not all obligations existing between the parties to a well-recognized fiduciary relationship will be fiduciary in nature, and, in the context of a solicitor-client relationship, not every breach of duty will be a breach of fiduciary duty. See, for example, *Girardet v. Crease & Company* (1987), 11 B.C.L.R. (2d) 361 (S.C.), at p. 362; and *Strother v. 3464920 Canada Inc.*, 2007 SCC 24, at para. 34. Thus, a failure on the part of a lawyer to use reasonable care and skill on behalf of a client may result in the lawyer being found to be negligent, but not in breach of the lawyer's fiduciary duties to the client. Acts of professional misconduct and a failure on the part of a lawyer to comply with the professional standards described in a document such as the Code may result in the lawyer being disciplined by the lawyer's governing body, but not necessarily constitute a breach of the lawyer's fiduciary duties to the lawyer's client.
- [494] In *Strother* and in *Galambos v. Perez*, 2009 SCC 48, the Supreme Court of Canada discussed the nature and scope of a lawyer's fiduciary duties to the lawyer's client.

[495] In *Strother*, Mr. Justice Binnie (for the majority) observed (at para. 1) that "A fundamental duty of a lawyer is to act in the best interest of his or her client to the exclusion of all other adverse interests, except those duly disclosed by the lawyer and willingly accepted by the client." Binnie J. described the solicitor-client relationship in this way, at paras. 34-35:

34 When a lawyer is retained by a client, the scope of the retainer is governed by contract. It is for the parties to determine how many, or how few, services the lawyer is to perform, and other contractual terms of the engagement. The solicitor-client relationship thus created is, however, overlaid with certain fiduciary responsibilities, which are imposed as a matter of law. The *Davis* *factum* puts it well:

The source of the duty is not the retainer itself, but all the circumstances (including the retainer) creating a relationship of trust and confidence from which flow obligations of loyalty and transparency. [para. 95]

Not every breach of the contract of retainer is a breach of a fiduciary duty. On the other hand, fiduciary duties provide a framework within which the lawyer performs the work and may include obligations that go beyond what the parties expressly bargained for. The foundation of this branch of the law is the need to protect the integrity of the administration of justice: *MacDonald Estate v. Martin*, [1990] 3 S.C.R. 1235, at pp. 1243 and 1265. "[I]t is of high public importance that public confidence in that integrity be maintained": *R. v. Neil*, [2002] 3 S.C.R. 631, 2002 SCC 70, at para. 12.

35 Fiduciary responsibilities include the duty of loyalty, of which an element is the avoidance of conflicts of interest, as set out in the jurisprudence and reflected in the Rules of Practice of The Law Society of British Columbia. As the late Hon. Michel Proulx and David Layton state, "[t]he leitmotif of conflict of interest is the broader duty of loyalty": *Ethics and Canadian Criminal Law* (2001), at p. 287.

[496] In *Galambos*, the issue was whether the lawyer (Mr. Galambos) had breached any fiduciary duties owing to Ms. Perez, an employee who had made sizeable loans to the law firm, in connection with those loans. The law firm had done some legal work for Ms. Perez, including the preparation of new wills for her and her husband, so she had been a client. However, the trial judge had concluded that no fiduciary duty existed in relation to the loans. The Court of Appeal disagreed, and concluded that an ad hoc fiduciary relationship existed between Ms. Perez on the one hand, and Mr. Galambos and the law firm on the other.

[497] In allowing the appeal of Mr. Galambos and the law firm, Cromwell J. considered the effect of provisions of the Code in relation to the lawyer's conduct and the claims of Ms. Perez. Cromwell J. wrote:

[28] I would not wish to be thought as saying that the firm complied with all of the applicable rules of professional conduct. The fact that these advances were made outside the confines of this particular solicitor-client relationship does not circumvent the nearly absolute

professional standard not to borrow from clients. As provided in rule 4 of Chapter 7 of the Law Society of British Columbia Professional Conduct Handbook (1993): "Unless the transaction is of a routine nature to and in the ordinary course of business of the client, a lawyer must not borrow money or obtain credit from a client of the lawyer's firm, or obtain a benefit from any security or guarantee given by such a client."

- [29] However, two points must be made with respect to this rule of conduct. The first is that there is an important distinction between the rules of professional conduct and the law of negligence. Breach of one does not necessarily involve breach of the other. Conduct may be negligent but not breach rules of professional conduct, and breaching the rules of professional conduct is not necessarily negligence. Codes of professional conduct, while they are important statements of public policy with respect to the conduct of lawyers, are designed to serve as a guide to lawyers and are typically enforced in disciplinary proceedings. They are of importance in determining the nature and extent of duties flowing from a professional relationship: [citation omitted] They are not, however, binding on the courts and do not necessarily describe the applicable duty or standard of care in negligence: [citations omitted].
- [30] The second point relates to the concerns underlying the rules of conduct in relation to borrowing from clients. The rule is a specific application of the general rules about conflict of interest. There is concern that a lawyer's legal skill and training, coupled with the relationship of trust that arises between a solicitor and a client, creates the possibility of overreaching by the lawyer. A further concern is that the lawyer is in a position to arrange the form of the transaction and may therefore further his or her own interests instead of those of the client . . .
- [498] Cromwell J. then went on to consider the assertion that the lawyer had breached his fiduciary duty to Ms. Perez. In discussing the applicable principles, Cromwell J. wrote:
- [36] Certain categories of relationships are considered to give rise to fiduciary obligations because of their inherent purpose or their presumed factual or legal incidents: *Lac Minerals Ltd. v. International Corona Resources Ltd.*, [1989], 2 S.C.R. 574, per La Forest J., at p. 646. These categories are sometimes called per se fiduciary relationships. There is no doubt that the solicitor-client relationship is an example. It is important to remember, however, that not every legal claim arising out of a per se fiduciary relationship, such as that between a solicitor and client, will give rise to a claim for a breach of fiduciary duty.
- [37] A claim for breach of fiduciary duty may only be founded on breaches of the specific obligations imposed because the relationship is one characterized as fiduciary: *Lac Minerals*, at p. 647. This point is important here because not all lawyers' duties towards their clients are fiduciary in nature. *Sopinka and McLachlin JJ.* (as the latter then was) underlined this in dissent (but not on this point) in *Hodgkinson*, at pp. 463-64, noting that while the solicitor-client relationship has fiduciary aspects, many of the tasks undertaken in the course of the solicitor-client relationship do not attract a fiduciary obligation. *Binnie J.* made

the same point in *Strother v. 3464920 Canada Inc.*, 2007 SCC 24, [2007] 2 S.C.R. 177, at para. 34: "Not every breach of the contract of retainer is a breach of a fiduciary duty." The point was also put nicely by Rupert M. Jackson and John L. Powell, *Jackson & Powell on Professional Liability* (6th ed. 2007), at para. 2-130, when they said that any breach of any duty by a fiduciary is not necessarily a breach of fiduciary duty.

[499] Before turning to consider the specific complaints made by Ms. Li and LPP, in the light of these legal principles, I will address the admissibility of expert evidence that Ms. Li and LPP sought to have admitted in support of their claims.

(c) Is Gavin MacKenzie's expert opinion evidence admissible?

[500] In support of their counterclaim, Ms. Li and LPP tendered an expert report from Gavin MacKenzie, a lawyer. However, Dr. Huang objected to the admissibility of Mr. MacKenzie's opinion evidence, principally on the ground that it was unnecessary. As a result, Mr. MacKenzie's oral evidence was heard on a voir dire, and I then heard submissions about the admissibility of his evidence (both his report and oral evidence) as part of counsel's closing submissions.

[501] Mr. MacKenzie's background and qualifications are impressive, and there was no question concerning his expertise in the field of legal ethics and professional responsibility. Mr. MacKenzie was called to the Bar in Ontario in 1977, and, since then, he has maintained a litigation practice with a focus on providing advice, opinions and representation on matters of professional responsibility concerning the practice of law. In 2002, he was inducted as a Fellow of the American College of Trial Lawyers. In 2010, Mr. MacKenzie was awarded an honorary Doctor of Laws degree from the Law Society of Upper Canada in recognition of his contributions to the legal profession.

[502] Mr. MacKenzie was tendered and provisionally qualified as an expert concerning the professional and ethical standards for lawyers in Canada, and the assessment of lawyers' conduct by reference to those standards, and provisionally qualified to give opinion evidence on the five issues he was asked to address in his report, based on facts he was asked to assume. The issues were:

- (1) Does A's [Dr. Huang's] conduct raise concerns as a matter of professional conduct? If so, what provisions of the FLSC Model Code of Conduct (and the LSBC's Code of Professional Conduct for British Columbia) are engaged?
- (2) What, if any, professional or ethical issues arise where a lawyer acts on behalf of a closely-held company in exchange for equity?
- (3) Is it consistent with a lawyer's professional obligations if the lawyer is pursuing a romantic relationship with the client? Does the answer change if the lawyer is acting only in a corporate counsel capacity? Does the answer change if the lawyer and the client are already in a romantic relationship at the time the lawyer-client relationship first arises?

- (4) Concerning A's communication with D [Mr. Rao], does the content of his professional obligations towards B [Ms. Li] and C [LPP] change depending on whether A's knowledge of the relationship between B and D arose
- from his work as corporate counsel or as personal counsel, or
 - in some personal capacity? Does the answer change if the solicitor-client relationship was over at the time of A's communication with D?
- (5) Regardless of the source of A's knowledge of the relationship between B and D, would it be consistent with his professional obligations towards B and C if he did in fact agree with B to refrain from commenting publicly on her relationship with D, in exchange for the return of money? Does the answer change if the solicitor-client relationship between A and B/C was over at the time of the alleged agreement?

[503] The modern legal framework for the admissibility of expert opinion evidence was set out in *R. v. Mohan*, [1994] 2 S.C.R. 9, and clarified in *White Burgess Langille Inman v. Abbott and Haliburton Co.*, 2015 SCC 23. This framework guards against the dangers of expert evidence. It ensures that the trial does not devolve into "trial by expert" and that the trier of fact maintains the ability to critically assess the evidence: see *White Burgess*, at paras. 17-18. The trial judge acts as gatekeeper to ensure that expert evidence enhances, rather than distorts, the fact-finding process.

[504] The expert evidence analysis is divided into two stages. First, the evidence must meet the four Mohan factors: (1) relevance; (2) necessity; (3) absence of an exclusionary rule; and (4) special expertise. Second, the trial judge must weigh potential risks against the benefits of admitting the evidence: *White Burgess*, at para. 24.

[505] If, at the first stage, the evidence does not meet the threshold Mohan requirements, it should not be admitted. The evidence must be logically relevant to a fact in issue: *R. v. Abbey*, 2009 ONCA 624, at para. 82; *R. v. J.-L.J.*, 2000 SCC 51, at para. 47. It must be necessary "to enable the trier of fact to appreciate the matters in issue" by providing information outside of the experience and knowledge of the trier of fact: *Mohan*, at p. 23; *R. v. D.D.*, 2000 SCC 43, at para. 57. To satisfy the necessity criterion, the evidence must be more than merely helpful. Opinion evidence that otherwise meets the Mohan requirements will be inadmissible if another exclusionary rule applies: *Mohan*, at p. 25. The opinion evidence must be given by a witness with special knowledge or expertise: *Mohan*, at p. 25.

[506] At the second stage, the trial judge retains the discretion to exclude evidence that meets the threshold requirements for admissibility if the risks in admitting the evidence outweighs its benefits. Where the probative value of the expert opinion evidence is outweighed by its prejudicial effect, it should be excluded: *Mohan*, at p. 21; *White Burgess*, at paras. 19 and 24.

- [507] In his submissions in support of the admissibility of Mr. MacKenzie's report, Mr. Olthuis accepts that the courts are experts in interpreting legislation and subordinate legislation, and in applying the standards found there to the facts of whatever case is before them. However, in the submission of Mr. Olthuis, the present situation is not so simple. In his submission, an appropriate analogy is found in solicitors' negligence cases. He noted the comments of Southin J.A. in *Zink v. Adrian*, 2005 BCCA 93, at paras. 43-44:
- [43] But it does seem to me that in cases of alleged negligence by a solicitor, judges can only rarely make such a finding in the absence of expert evidence as to the standard of a competent solicitor conducting the business in question.
- [44] The judge can only properly do so, in my opinion, if the matter is one of "non-technical matters or those of which an ordinary person may be expected to have knowledge." [citation omitted] There is an underlying reason - the expert witness can be cross-examined with a view to showing he knows not whereof he speaks. . . .
- [508] However, I note that in *Zink*, the majority did not concur in the views expressed by Southin J.A. Moreover, at the trial, no expert evidence had been called. Instead, caselaw was cited to the trial judge as informing the details of the standard of care expected of a solicitor, and *Zink* is not unique in that respect. The finding of negligence was upheld in the Court of Appeal.
- [509] Mr. Olthuis acknowledged that this is not a solicitor's negligence case, and there is no express standard of care component to the analysis of breach of fiduciary duty. However, in his submission, even in a regular case concerning a lawyer's breach of fiduciary duty, the court is outside the "non-technical" areas where a judge might act as his or her own expert. In Mr. Olthuis's submission, on the particular facts of this case, which involves not only a lawyer-client relationship, but also potentially conflicting personal feelings and business dealings, matters are even further removed from those straightforward and uncontroversial areas.
- [510] Mr. Olthuis argued further that Mr. McLeod's cross-examination of Mr. MacKenzie highlighted the thorny ethical issues that Dr. Huang - perhaps unknowingly - confronted. In the submission of Mr. Olthuis, the court, and the adjudicative process, would be assisted by admitting Mr. MacKenzie's report, and his oral testimony taken on the voir dire, into evidence.
- [511] However, in my view, Mr. MacKenzie's report fails to meet the necessity criterion for admissibility.
- [512] As I read Mr. MacKenzie's report, his opinions and conclusions on the issues he was asked to address are based primarily on his application of case authorities, together with the Code and the Federation of Law Societies' Model Code of Professional Conduct, to facts he was asked to assume. He purports to educate the court on what the outcome should be based on his reading of those authorities, the Code and the Model Code.

- [513] However, it is my job as the trial judge (with the assistance of counsel) to identify the applicable law (both caselaw and other authorities) relevant to the claim of breach of fiduciary duty, to interpret and understand that law and then apply it to the facts that I find. I do not need an expert, such as Mr. MacKenzie, in order to do this. Having Mr. MacKenzie's opinion does not mean that I will not be required to read and consider the relevant authorities (including the Code, to the extent it is relevant to the allegations of breach of fiduciary duty) in the context of deciding the issues raised by Ms. Li's and LPP's counterclaim. Binding authorities such as Strother and Galambos explain how and in what circumstances publications such as the Code might be relevant in the context of a claim of breach of fiduciary duty by a lawyer. In my opinion, there are no efficiencies to be gained by admitting Mr. MacKenzie's report as evidence in this trial.
- [514] In addition, I agree with Mr. McLeod's submissions that Mr. MacKenzie's report is unnecessary because it is essentially legal argument in the guise of evidence. There are no advantages to the trial process to having Mr. MacKenzie's views and opinions presented to the court as expert evidence, as opposed to those positions being advanced by counsel in closing submissions.
- [515] Mr. McLeod also argued that Mr. MacKenzie's report failed to satisfy the relevance criterion. Because, in my view, the report is inadmissible because it is unnecessary, I do not consider that I need to address Mr. McLeod's argument on this point.
- [516] In the result, Mr. MacKenzie's report and his oral evidence taken on the voir dire will not be admitted into evidence in the trial proper.
- (d) Discussion and analysis
- [517] I will first address LPP's claim.
- [518] In my opinion, LPP has failed to make out any claim for breach of fiduciary duty on the part of Dr. Huang.
- [519] Dr. Huang's pursuit of a romantic relationship with Ms. Li at the same time he was performing legal services for LPP, and while he held the position of LPP's general counsel, showed very poor judgment and a disregard - verging on reckless - for the professional standards expected of a lawyer as described in the Code. However, those are matters for the Law Society of British Columbia. They are not, in my view, evidence that, based on the applicable legal principles, Dr. Huang breached any fiduciary duty that he owed to LPP.
- [520] I will note that, in connection with the Low Wind Energy Project, Dr. Huang was at risk of breaching his fiduciary duty to LPP, who was his client. Dr. Huang's personal interests were aligned with those of Mr. Sutz and Mr. Laroche, and Dr. Huang was prepared to accept equity and a position as legal counsel being offered to him by Mr. Sutz. Dr. Huang's disclosure to LPP (through his communications with Ms. Li) concerning his involvement on the Low Wind side of any possible transaction left much to be desired, in my opinion. Dr. Huang was in a conflict between his duty to his client (LPP) and his personal interest in

receiving benefits from Low Wind should an investor be found. His approach to informing Ms. Li, as LPP's president, about the relevant facts was far too casual and superficial given his fiduciary obligations to LPP. However, ultimately, and perhaps fortunately for Dr. Huang, nothing went forward.

[521] I turn then to Ms. Li.

[522] In her evidence, Ms. Li had a tendency to emphasize that Dr. Huang was a lawyer and, because of that, she trusted him when they were discussing matters generally. She also referred to him as "my lawyer." Essentially, I am being asked to accept that all of Ms. Li's and Dr. Huang's interactions, beginning in March 2016 through to September 2016, were interactions between a client (Ms. Li) and her lawyer (Dr. Huang), and that her claims that Dr. Huang breached his fiduciary duties to her should be assessed on that basis.

[523] However, I reject that approach. There is no such thing as a general retainer in that sense. Simply referring to someone as "my lawyer" does not establish any general duty - much less a fiduciary duty - apart from the duties arising out of a particular matter in relation to which the lawyer's services were retained.

[524] In my opinion, most of Ms. Li's complaints about Dr. Huang do not constitute a breach of his fiduciary obligations to her as her lawyer. Rather, and like LPP, they are complaints that Dr. Huang, especially in pursuing a romantic relationship with Ms. Li, acted in a manner that was deeply unprofessional. Dr. Huang's behaviour in August 2016, which I would describe as obsessive and border-line (at least) stalking of Ms. Li, is very concerning. However, Dr. Huang's conduct would be a matter for the Law Society, not for the court in the context of a claim for breach of fiduciary duty.

[525] I agree with Mr. McLeod's submissions that Ms. Li's complaints that Dr. Huang disclosed confidential and "possibly" privileged information concerning Ms. Li cannot be sustained in the light of the reasons of Schultes J. in this case, indexed at 2018 BCSC 1339. This was a ruling on an interlocutory application brought by Ms. Li and LPP to compel return of documents in Dr. Huang's possession relating to legal matters. Schultes J. dismissed the application, and concluded (at paras. 49 and 54) that the evidence fell short of demonstrating any past impropriety by Dr. Huang in the use of solicitor-client information. As of trial, nothing had changed.

[526] I find that Dr. Huang obtained the information he disclosed, and about which Ms. Li complains, through his personal relationship with Ms. Li, not through their relationship as lawyer and client. However, the circumstances illustrate the real perils associated with mixing the personal with the professional, and with a lawyer failing to draw a very bright line between the two. Dr. Huang, unfortunately, was heedless of these perils, and never drew any line at all.

[527] However, in my opinion, there are two matters where Dr. Huang's fiduciary obligations to Ms. Li as a client or former client must be considered.

- [528] The first concerns the funds that Dr. Huang received from Ms. Marrello, in settlement of Ms. Li's claim against her. There is no doubt, and I find, that Dr. Huang was acting as Ms. Li's lawyer in connection with this matter, and that the funds he received from Ms. Marrello were received by him in trust for Ms. Li. The total received was \$1,000. Part of the settlement with Ms. Marrello was that she was to pay the filing fee of \$156, in addition to the loan principal of \$2,500. In other words, the filing fee was to be paid out of money being received from Ms. Marrello.
- [529] Dr. Huang said that he had Ms. Li's agreement to apply funds received from Ms. Marrello toward meals. He explained that he and Ms. Li reached this agreement following the dinner at Prestons. Other than "toward meals," the details of any agreement are sparse, indeed, non-existent. Ms. Li denied the existence of any such agreement. Although, on August 29, 2016, Dr. Huang forwarded to Ms. Li e-mail communications he had exchanged with Ms. Marrello concerning Ms. Marrello's payments, Dr. Huang never at any time confirmed in writing with Ms. Li what Dr. Huang said were her instructions to him concerning use of the money. This was careless of him at best.
- [530] After amendment of the counterclaim, and when Dr. Huang was recalled at trial, he produced internal records, including records for his trust account, that contained notations consistent with his oral evidence. However, most of these records were created after Dr. Huang and Ms. Li had terminated their relationship in early September 2016. Until the issue concerning the Marrello settlement funds came up during the trial, Dr. Huang had never accounted to Ms. Li in respect of those funds.
- [531] In my opinion, Dr. Huang's evidence that he had instructions from Ms. Li to use any funds collected in settlement of Ms. Li's claim against Ms. Marrello for meals is neither credible nor reliable. Why such an arrangement would be made at the time, after months and months of Dr. Huang proudly picking up the cheque for meals, was never explained. What "toward meals" meant, in the context of dealing with trust funds, was never explained. Dr. Huang's evidence is also inconsistent with some of the funds to be paid by Ms. Marrello being applied to the court filing fee.
- [532] A lawyer dealing with funds received in trust for a client is clearly in a fiduciary position, even if the amounts received are small. Dr. Huang had the opportunity to confirm in writing what he says were his instructions, either in the e-mail he sent to Ms. Li on August 5 or in the e-mail he sent on August 29, 2016. It would have been easy and very simple to do. It would have been consistent with prudent practice of a lawyer handling funds being received in trust for a client. Yet Dr. Huang did not do it. This was dangerous and unwise on Dr. Huang's part. I find that Dr. Huang did not have instructions - either oral or written - or authorization from Ms. Li to use the funds he received in trust as he did.

- [533] Dr. Huang never accounted to Ms. Li for his use of these trust funds. \$1,000 was simply transferred by him on September 30, 2016 from trust to his general account, with the internal notation that it was "as per conversation on July 29, 2016 at Prestons." In this action, he sought reimbursement from Ms. Li for the court filing fee. In my opinion, in dealing with these trust funds in this way, Dr. Huang breached his fiduciary duty to Ms. Li, and is required to account. I so order.
- [534] The second matter concerns the bank draft for US\$148,000 that Ms. Li delivered to Dr. Huang, essentially returning to Dr. Huang the money that had been deposited in the CIBC Account in June. Ms. Li says that Dr. Huang breached his fiduciary duty to her by failing to recommend that she obtain independent legal advice before delivering the draft to him, since this transaction was one between a lawyer and client, and Dr. Huang's personal interest conflicted with his duty to her.
- [535] A lawyer is obliged to recommend to a client that the client obtain independent legal advice before entering into a transaction with the lawyer. However, on the facts, the transaction involving the bank draft, and the disposition of the money in the CIBC Account, was not a transaction between a lawyer and a client, even though, at the time, Dr. Huang was acting for Ms. Li in relation to the Marrello matter.
- [536] Dr. Huang and Ms. Li had no solicitor-client relationship in connection with the money in the CIBC Account, nor did that money originate from any solicitor-client relationship. Rather, it was a gift Dr. Huang made to Ms. Li in his dogged pursuit of a romantic relationship with her. In that sense, it was no different than the Tiffany pearls. Ms. Li never approached Dr. Huang for any legal advice about what she should do with the money in the CIBC Account. If she had done so, Dr. Huang would have been obligated to tell her he could not give her advice because he was in a position where his personal interest would have been in conflict with his duty as a lawyer. However, that never happened. In my view, the duties, including fiduciary duties, that arose from Dr. Huang's solicitor-client relationship with Ms. Li concerning Ms. Marrello did not extend to the money in the CIBC Account and what Ms. Li should be doing with it. Dr. Huang was never acting as Ms. Li's lawyer in relation to those matters.
- [537] Accordingly, in my opinion, Ms. Li has failed to demonstrate that Dr. Huang breached his fiduciary duty to her in relation to the disposition of the money in the CIBC account.
- [538] In closing submissions, Ms. Li and LPP also sought a global award of \$40,000 for aggravated and punitive damages. However, this relief was requested in the context of the broad range of matters that Ms. Li and LPP asserted amounted to a breach of fiduciary duty on Dr. Huang's part. I have found that LPP has failed to show any breach of fiduciary duty. The breach I have found in relation to Ms. Li was in Dr. Huang's handling of \$1,000 that he received in trust for her.

[539] A breach of trust by a fiduciary and a misuse of money received in trust must always be viewed as very serious and unacceptable. However, I am not persuaded that an award of either aggravated or punitive damages is justified in this case.

9. Leave to discontinue the action as against the other defendants

[540] During closing submissions, Dr. Huang sought leave to discontinue this action as against the defendants Guihong Wang, Xueming Li, Qin Li and Zhenmin Chen, a.k.a. Jimmy Chen. Those defendants were never served with the notice of civil claim, and they took no part in the trial.

[541] I grant leave to discontinue this action as against those defendants, pursuant to Rule 9-8(2) of the Supreme Court Civil Rules.

10. Summary and disposition

[542] In summary, Dr. Huang has failed to prove his fraud claims against Ms. Li and LPP. He has also failed to prove his claim against Ms. Li for relief based on mistake of fact. All of those claims are dismissed.

[543] With respect to Dr. Huang's unjust enrichment claim against Ms. Li, I find that he is entitled to judgment for \$2,280, and with respect to his unjust enrichment claim against LPP, he is entitled to judgment for \$2,090.

[544] Dr. Huang's claims against Daqi Li are dismissed.

[545] With respect to Ms. Li's counterclaim claim against Dr. Huang for breach of fiduciary duty, I order that Dr. Huang is required to account to Ms. Li in respect of the funds he received in trust from Ms. Marrello, such accounting to include the court filing fee of \$156.

[546] LPP's counterclaim is dismissed.

[547] Pre-judgment interest will be payable in accordance with the Court Order Interest Act, R.S.B.C. 1996, c. 79.

[548] If the parties are unable to agree on costs, they can arrange to make submissions (either oral or in writing) with respect to costs, provided those arrangements are made within 45 days of the date of this Judgment.

"Adair J."

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