

AUG 17 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>In the Matter of: MEDIA GROUP, INC.,</p> <p style="text-align: center;">Debtor,</p> <hr/> <p>LINDA SHAO; LAW OFFICES OF LINDA SHAO, APLC,</p> <p style="text-align: center;">Appellants,</p> <p style="text-align: center;">v.</p> <p>LOIS I. BRADY,</p> <p style="text-align: center;">Appellee.</p>
--

No. 08-60008

BAP No. NC-07-1159-MkKJu

MEMORANDUM*

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Klein, Markell, and Jury, Bankruptcy Judges, Presiding

Argued and Submitted June 11, 2009
San Francisco, California

Before: SCHROEDER, Circuit Judge, ROTH,** Senior Circuit Judge and
BERZON, Circuit Judge

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable Jane R. Roth, Senior United States Circuit Judge for
the Third Circuit, sitting by designation.

Linda Shao and the Law Offices of Linda Shao, APLC (collectively, “Shao”) appeal the Bankruptcy Appellate Panel’s (“BAP’s”) affirmance of the bankruptcy court’s award of sanctions. The underlying dispute is over entitlement to the proceeds of a check jointly payable to Shao and Media Group in settlement of a matter in which Shao represented Media Group, now the debtor in bankruptcy proceedings. In 2005, the bankruptcy court entered an order of sanctions against Shao on the basis of three separate findings of misconduct. In her first appeal, the BAP reversed in part and remanded for redetermination of the amount of sanctions after holding that two of the instances of claimed misconduct were not sanctionable.

Shao did not appeal to this court from that decision. On remand the bankruptcy court reduced the amount of the sanctions award in accord with the BAP’s holding that there was only one instance of sanctionable misconduct. Shao again appealed, and the BAP affirmed. Shao now appeals from that BAP decision, arguing that the amount of sanctions on remand was too high, and, in addition, that the BAP in the first appeal should not have held that there was any sanctionable conduct.

The first BAP decision was a final decision on the central legal issues relating to the merits of the sanctions, and the BAP decision then merely remanded

for reconsideration of the amount. We have held that such an order is final and appealable. See Price v. Lehtinen (In re Lehtinen), 564 F.3d 1052, 1057 (9th Cir. 2009). Thus, this court would have had jurisdiction to consider an appeal from the original BAP decision. Id. Because Shao did not appeal from that decision, it is now unappealable. We lack jurisdiction to review issues determined in that decision. See Greene v. United States (In re Souza), 795 F.2d 855, 857 (9th Cir. 1986).

We have jurisdiction to review the second BAP order, affirming the award of reduced sanctions after remand. The sanctions were imposed pursuant to the inherent power of the bankruptcy court to assess sanctions against a party to compensate for bad-faith litigation misconduct. See Knupfer v. Lindblade (In re Dyer), 322 F.3d 1178, 1196 (9th Cir. 2003). As the BAP's decision before us correctly concluded, the evidence supports the amount of sanctions imposed.

AFFIRMED.