

**SINGAPORE DENTAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR SAMINTHARAJ KUMAR S/O SAMY RAJA**

22 and 23 March 2017

Disciplinary Committee:

Dr. Dominic Leung

Dr. Raymond Ang

Dr. Marianne Ong

Mr. Phillip Leong (Lay-observer)

Legal Assessor:

Mr. Andy Chiok (M/s. Michael Khoo & Partners)

Counsel for the SDC:

Yeo-Leong & Peh LLC

Mr. Kenny Chooi / Kelvin Fong

Respondent in Person

Dr. Samintharaj Kumar s/o Samy Raja

DECISION OF THE DISCIPLINARY COMMITTEE

Note: Certain information may be redacted or anonymised to protect the identity of the parties.

1. This inquiry arose out of a complaint dated 2 August 2016 by the SDC's Inspecting Officer.
2. At all material times, the Respondent is a registered dentist, who practices at Nuffield Dental Kovan located at 2 Kovan Road #01-03, Simon Plaza, Singapore 548008.

3. The crux of the Complaint relates to the Respondent's use and display of additional qualifications, namely "MFDSRCS (England), MFDRCIS (Ireland), MBA (London)", on his correspondence. These were not among the qualifications that had been entered into the Register of Dentists or approved by the SDC for his use.
4. The Respondent used the offending qualifications as follows:
 - (1) The Respondent was listed as a speaker at the Dentium Singapore 4th Anniversary Forum 2016 and this event's advertisement stated MFDSRCS (England), MFDRCIS (Ireland), MBA (London) as part of his displayable qualifications.
 - (2) In email correspondences to the SDC dated 19 July 2016 and 22 July 2016, the Respondent also listed MFDSRCS (England), MFDRCIS (Ireland), MBA (London) in his email signature.
5. It is also relevant to state that on 15 October 2014, the SDC had written to the Respondent, after he had displayed these qualifications on his correspondence. The said letter clearly stated to the Respondent that the letter was a final warning to him in respect of such infractions. This is an important fact, as it will be seen below. Notably, the Respondent was asked to "cease and desist", "failing which we will take formal action against you without further notice".
6. The relevant facts are undisputed and set out in the Agreed Statement of Facts, which was read out and agreed to by the Respondent.

The Charges

7. The Charges against the Respondent are:
 - (1) The 1st Charge

That you SAMINTHARAJ KUMAR S/O SAMY RAJA are charged that in or around July and/or August 2016 in Singapore, you (as a registered dentist)

used qualifications other than the qualifications which are entered in the Register of Dentists in respect of you, or which have been approved by the Singapore Dental Council for your use.

Particulars

- (1) You were listed as a speaker and Faculty Member for the Dentium Singapore 4th Anniversary Forum 2016 (which was advertised to be held on 20 August 2016), and the event's advertisement stated or used MFDSRCS (England), MFDRCSI (Ireland) and MBA (London) as being part of your qualifications,
- (2) MFDSRCS (England), MFDRCSI (Ireland) and MBA (London) are not qualifications which are entered in the Register of Dentists in respect of you, or which have been approved by the Singapore Dental Council for your use,

and that in relation to the facts alleged you have been guilty of improper conduct which brings disrepute to the profession of a registered dentist. under section 31(1) read with section 31(4) of the Dental Registration Act (Cap. 76).

(2) The 2nd Charge

That you SAMINTHARAJ KUMAR S/O SAMY RAJA are charged that on or about 19 July 2016 in Singapore, you (as a registered dentist) used qualifications other than the qualifications which are entered in the Register of Dentists in respect of you, or which have been approved by the Singapore Dental Council for your use.

Particulars

- (1) On 19 July 2016, you sent an email to the Singapore Dental Council, in which you stated or used MFDSRCS (Eng), MFDRCSI (Ireland) and MBA (London) as being part of your qualifications,
- (2) MFDSRCS (Eng), MFDRCSI (Ireland) and MBA (London) are not qualifications which are entered in the Register of Dentists in respect of you, or which have been approved by the Singapore Dental Council for your use,

and that in relation to the facts alleged you have been guilty of improper conduct which brings disrepute to the profession of a registered dentist, under section 31(1) read with section 31(4) of the Dental Registration Act (Cap. 76).

(3) The 3rd Charge

That you SAMINTHARAJ KUMAR S/O SAMY RAJA are charged that on or about 22 July 2016 in Singapore, you (as a registered dentist) used qualifications other than the qualifications which are entered in the Register of Dentists in respect of you, or which have been approved by the Singapore Dental Council for your use.

Particulars

- (1) On 22 July 2016, you sent an email to the Singapore Dental Council, in which you stated or used MFDSRCS (Eng), MFDRCSI (Ireland) and MBA (London) as being part of your qualifications,
- (2) MFDSRCS (Eng), MFDRCSI (Ireland) and MBA (London) are not qualifications which are entered in the Register of Dentists in respect of you, or which have been approved by the Singapore Dental Council for your use,

and that in relation to the facts alleged you have been guilty of improper conduct which brings disrepute to the profession of a registered dentist,

under section 31(1) read with section 31(4) of the Dental Registration Act (Cap. 76).

The inquiry

8. Just prior to the hearing by this inquiry, the Respondent informed the SDC via email that he would no longer be represented by Counsel and that he would be pleading guilty to the Charges. This coincides with a letter to the SDC from his then solicitors, that they had ceased acting for him.
9. The DC then sought and obtained legal advice that the Respondent should be provided with an opportunity to obtain legal representation. This was conveyed to the Respondent at the hearing when it commenced. He understood this opportunity but had informed the DC that he declined to avail himself of alternate legal representation. The hearing of the inquiry then proceeded.
10. The 3 Charges were then read to the Respondent who pleaded guilty to the same. The pleas of guilt were duly recorded by this Committee, and the Respondent was then called upon to enter his plea in mitigation.
11. In mitigation, the Respondent made various submissions, which were helpfully set out in a written plea of mitigation. Notably, the Respondent's mitigation may be summarized as follows:
 - (1) The Respondent expressed regrets at his actions. He admitted his oversight in using the offending qualifications.
 - (2) The Respondent also withdrew various paragraphs relating to Charges 2 and 3 which had the effect of a retraction of his plea of guilt, when this was pointed out during the course of hearing by the Learned Legal Assessor.
 - (3) The Respondent also tendered various references and character testimonials in mitigation.

12. Counsel for the SDC then made a reply. In particular, the DC was taken through the relevant documents whereby counsel for the SDC made his point that when the offending qualifications were used, the Respondent reasonably knew that he ought not to do so. It was submitted on behalf of the SDC that this conduct added to the culpability of the Respondent, justifying a punishment greater than that in *Re Dr Myles Edward Holt*.
13. The DC then adjourned the hearing and took time for deliberation on the appropriate sentence.

Our decision

14. We have spent considerable time deliberating on the appropriate factors relevant to the appropriate sentencing for the misconduct of Respondent. In the course of the deliberations, we had considered all of the points raised by both sides.

Our views on the appropriate factors affecting sentencing

15. We now turn to the factors that affected the sentencing in respect of the Respondent in the present case. They are:
 - (1) In respect of the present case, the 3 Charges can be grouped into (a) Charge No. 1 that involved a public seminar, and (b) Charges Nos. 2 and 3 which involved emails by the Respondent to various persons.
 - (2) We are of the view that the conduct in Charge No. 1 is more serious than that in respect of Charges Nos. 2 and 3. This is because for Charge No. 1, there is a public element because the offending qualifications were described in literature that were disseminated to the dental profession.
 - (3) In contrast, Charges Nos. 2 and 3 are of a private nature since it involved emails between the Respondent and the 2 email addressees, which are of a limited nature.

- (4) In respect of the application of the *Holt* decision, we accept that the facts pertaining to Charge No. 1 are similar to that in the *Holt* decision. In particular in the present case, there was also a warning letter previously provided to the Respondent, which put him on notice on future breaches, but he nonetheless committed the misconduct. We also note that the qualifications were awarded by reputable institutes albeit not registrable as displayable qualifications under the Dental Registration Act.
 - (5) We also accept that in the present case, even though the Respondent was offered time to obtain legal representation again, he declined the offer and expressed a desire to plead guilty and not delay the proceedings. To the tribunal, this demonstrates remorse on the part of the Respondent.
 - (6) We also take note of the various character references put forth by the Respondent in his mitigation.
 - (7) We also note that the Respondent is a first-time offender. As stated above, the Respondent had pleaded guilty to the Charges, saving time and costs in the prosecution of the Charges.
16. We are aware that in the *Holt* decision, although it only involved a single Charge, the DC there imposed the maximum penalty of \$50,000, rather than any period of suspension. Logically, given the fact that in the present case, apart from Charge No. 1, there are also Charges Nos. 2 and 3 pertaining to the use of the offending qualification in emails, the punishment ought to be greater than that of the *Holt* decision.
 17. This invariably means that a period of suspension be imposed in the present case. However, we were advised by the Learned Legal Assessor that the minimum period of suspension that can be imposed under the Dental Registration Act is 3 months. While we are conscious of imposing a sentence that commensurate with the severity of the offences, we have to be guarded against meting out a punishment that is too severe, given the circumstances.

18. We have deliberated and are of the view that a period of suspension of say 6 weeks, would have been appropriate in the circumstances. However, the law does not allow us to impose that sentence. On the other hand, we felt that the minimum period of suspension of 3 months is excessive.
19. We are advised that under the Act, the totality of the fines imposed cannot exceed \$50,000. If there was no such limitation, we would have imposed a fine of \$50,000 for Charge No. 1, and \$10,000 each for Charges Nos. 2 and 3. This option is not available to us and hence we are compelled to impose the maximum penalty of \$50,000 in respect of all 3 Charges.
20. In this regard, given the options of punishments permissible under the Act, we are compelled to impose a sentence that has the effect of punishing the Respondent with the maximum fine of \$50,000.
21. We will caution that while on the face of our decision, there seems to be an inconsistency with the *Holt* decision, in our view, this is the best decision that we can make given the limitations on our powers of punishment.

The sentences imposed

22. In light of all of the circumstances, and after due consideration of the facts and factors in this case, this Committee determines as follows:
 - (1) that the Respondent shall be fined the amount of \$50,000. In default of payment of this fine, a period of 6 months for the suspension of the registration of the Respondent in the Register of Dentists shall be imposed;
 - (2) that the Respondent shall give a written undertaking to the SDC that he will not engage in the conduct complained of or any similar conduct;
 - (3) that the Respondent shall be censured; and

- (4) that the Respondent shall pay the costs and expenses of and incidental to these proceedings, including the costs of counsel to the SDC and the Legal Assessor, and such reasonable expenses are as necessary for the conduct of these proceedings, to be taxed if not agreed.
23. Pursuant to Regulation 25 of the Dental Registration Regulations, we order that the grounds of our decision be published, for the benefit of the public and to raise the standard of the dental profession.
24. This hearing is hereby concluded.

Dated this 23rd day of March 2017.

Dr. Dominic Leung

Chairperson, Disciplinary Committee

Dr. Raymond Ang

Member, Disciplinary Committee

Dr. Marianne Ong

Member, Disciplinary Committee