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PRESS RELEASE DISCIPLINARY TRIBUNAL INQUIRY FOR DR TAN YEW WENG DAVID

1. A Disciplinary Tribunal (DT) Inquiry ("Inquiry") was held for Dr Tan Yew Weng David ("Dr Tan"), aged 43 years, a registered medical practitioner who was practising at David Tan Medical Aesthetics located at 391B Orchard Road, #09-04, Ngee Ann City Tower B, Singapore 238874 ("the Clinic") at the material time.
2. The complainant was the Regulatory Compliance Division of the Ministry of Health ("the Complainant"). In a letter dated 13 December 2010 ("the Complaint"), the Complainant brought to the attention of the Singapore Medical Council ("SMC") an advertising feature in the TODAY newspaper dated 29 July 2010 ("the Advertisement"). The Complainant noted that in the Advertisement, the Respondent "*might have contravened the SMC Ethical Code and Ethical Guidelines ("SMC ECEG"), inter alia, paragraph 4.5.1.2 ("Association with non-medical companies or non-medical products or services") and paragraph 4.5.2 ("Association with promotion of vitamins, tonics, health and nutrition supplements") by associating himself with the promotion of "Reduze" that is distributed under the company name Avenza*".
3. In the Advertisement, Dr Tan had made the following statement:

"I was really impressed when I saw the results of the clinical studies" says Dr David Tan, medical director of AVENZA. "Not only was the weight loss significant but more importantly, REDUZE seems to have improved the lipid profile and cholesterol levels of the study participants." Dr David Tan, Medical Director of Avenza".

4. The Advertisement also claimed that:
 - (a) the Product was 'Clinically Proven';
 - (b) the Product was a 'NEW CLINICAL BREAKTHROUGH'; and
 - (c) the Product was a 'Scientific Breakthrough'.

5. As a result, Dr Tan faced one charge of breaching Article 4.5.1.2 of the SMC ECEG and therefore having acted in a manner that brought disrepute to the medical profession under section 53(1)(c) of the Medical Registration Act (Cap. 174) ("the MRA").

6. Dr Tan pleaded guilty to the charge and the DT accordingly found him guilty of disreputable conduct under Section 53(1)(c) of the MRA.

7. In mitigation, Counsel for Dr Tan, urged the DT to consider the following mitigating factors:
 - (a) Dr Tan was relatively new to the non-medical product business when he allowed the publication of the Advertisement;
 - (b) Dr Tan did try to take precautions by consulting the SMC ECEG at the material time;
 - (c) Dr Tan thought he had dutifully complied with the said Article 4.5.1.2 by not referring to his academic qualifications and details of his clinic where he performed medical practice, all of which did not find expression or reference in the Advertisement;
 - (d) Dr Tan had no intention at all to mislead or deceive anyone with any of the Advertisement contents; and
 - (e) There was also no evidence of harm to the public by the Advertisement or their consumption of Reduze in the Complaint to which triggered the Inquiry.

8. In determining the appropriate penalties to be meted out on Dr Tan, the DT made the following observations:
- (a) While the DT agreed that Dr Tan did not make reference in the Advertisement to his academic qualifications and details of his clinic where he performed medical practice, Dr Tan made concerted and repeated references to the fact that he was a “**Medical**” Director (*emphasis in the DT decision*) in the Advertisement;
 - (b) Read in the context of the Advertisement, Dr Tan’s intent in including the word, “**Medical**” to attach to his role as a Director of Avenza was evidently clear. The addition of the word “**Medical**” gave readers of the Advertisement the impression that the product would have been safe for use, medically beneficial, and had been endorsed by a physician. In fact, the ACRA search merely identified Dr Tan as a director of Avenza and not “Medical Director”. The DT was inclined towards the view that the decision to add the word “**Medical**” was pre-meditated and calculated to leverage on his professional qualification as a medical practitioner. It was this mischief that the DT should mete out an appropriate sentence against Dr Tan;
 - (c) The DT agreed with both solicitors that there did not appear to be any SMC case precedent directly on point with respect to the matter before the DT, *i.e.* one where the alleged breach is that of Article 4.5.1.2. The DT acknowledged that Dr Tan’s offending conduct was not as egregious as the precedent cases cited;
 - (d) The DT noted that this was Dr Tan’s first offence; and
 - (e) Compared against the backdrop of the precedent cases, in terms of the degree of seriousness of the wrong, the DT found that Dr Tan’s offending conduct is at the lower end of the spectrum *i.e.* not as serious as the precedents cited. The DT was of the view that Dr Tan took a pre-meditated and calculated move to draw attention to the fact that he was a

medical practitioner in the advertisement endorsing a product thus contravening the guidelines. There was clearly an intention to use his medical qualification to benefit himself by swaying potential consumers to purchase the product. In this regard, while a monetary penalty instead of a suspension will be sufficient to deter such conduct, the DT did not think that the monetary penalty imposed should be any lower than \$5,000. As the motivation for the committing of the breach is for financial gain, it would be a mockery of the system if the penalty imposed did not adequately reflect the medical profession's clear disapproval of such behavior.

9. Having regard to all the relevant circumstances of the case, including the nature of the offence, Dr Tan's early plea of guilt and the mitigation tendered, the DT ordered Dr Tan to:
 - (a) pay a penalty of \$5,000;
 - (b) be censured;
 - (c) give a written undertaking to the SMC that he will not engage in the conduct complained of, or of any similar conduct; and
 - (d) pay the costs and expenses of and incidental to the proceedings, including the costs of the counsel to the SMC.
10. The DT also ordered that the Grounds of Decision be published with the necessary redaction of identities and personal particulars of parties.

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