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PRESS RELEASE

DISCIPLINARY TRIBUNAL INQUIRY FOR DR TAY TZE-HSIN MARC

1. The Singapore Medical Council (“SMC”) held a Disciplinary Tribunal (“DT”) inquiry on 3 February 2016 for Dr Tay Tze-Hsin Marc (“Dr Tay”).
2. Dr Tay, aged 55, is a registered medical practitioner who was practicing as an Ophthalmologist and eye surgeon at “Pacific Healthcare Specialist Services Pte Ltd” (“PHSS”) (formerly known as “Tay Eye Surgery”), at 290 Orchard Road, Paragon Medical Centre, Singapore 238859 at the material time.
3. The DT proceedings emanated from Dr Tay’s criminal conviction on 26 February 2014 before the Subordinate Courts of the Republic of Singapore (as it then was) (“Subordinate Courts”).
4. The substance of the SMC’s charges against Dr Tay were that Dr Tay had been convicted in the Subordinate Courts for 3 offences under Section 403 (Cap 224) of the Penal Code for acts involving fraud or dishonesty and 1 offence of acting in contravention of Section 156(1) of the Companies Act (Cap 50) read with Section 156(10) of the said Act. The first three of the SMC Charges pertained to Dr Tay’s convictions under Section 403 of the Penal Code for dishonestly misappropriating certain sums of monies from PHSS while the fourth charge concerned Dr Tay’s failure to declare to PHSS his interest in a transaction between PHSS and Lasik Surgery Clinic (“LSC”).
5. At the outset, Dr Tay informed the DT through his Counsel that he was not contesting the charges preferred by the SMC. At the DT hearing, Dr Tay

pleaded guilty to the first three charges and admitted and consented to have the fourth charge taken into consideration for the purposes of sentencing.

6. The DT accordingly found Dr Tay guilty under Section 53(2) read with Section 53(1)(a) of the Medical Registration Act (“MRA”) for having been convicted in Singapore of offences involving fraud or dishonesty.
7. On the issue of the appropriate sentence, the DT considered several mitigating factors raised by Dr Tay’s Counsel who sought to persuade the DT that Dr Tay’s culpability was on the lower end of the scale because:
 - (a) The monies which formed the subject of the criminal misappropriation charges against Dr Tay were actually professional fees for Lasik surgeries which he had personally performed at LSC and earned from LSC;
 - (b) The matter was essentially a civil case involving a breach of Dr Tay’s employment contract with PHSS which unfortunately turned into a criminal case because the monies were deemed to belong to PHSS as a matter of law arising from a legal interpretation of Dr Tay’s employment contract with PHSS; and
 - (c) Dr Tay had put in all the hard work only to see the fruits of his labour being taken away by virtue of certain clauses in his employment contract.
8. However, the DT agreed with Counsel for SMC that Dr Tay’s offences were serious and could not be characterised as a mere breach of an employment contract. The offences were committed in the course of Dr Tay’s practice as a medical practitioner. Dr Tay’s concealment of the cash payments he received from LSC was at the expense of PHSS. The total amount involved was also substantial.
9. In assessing the appropriate sentence to be imposed, the DT was guided by the observations of the Court of Three Judges in SMC v Kwan Kah Yee [2015] SGHC 227. The Court of Three Judges, in outlining the role of the DT in disciplinary proceedings, had observed as follows:

- (a) Sanctions in medical disciplinary proceedings serve two functions, namely to ensure that the offender does not repeat the offence and to uphold the standing of the medical profession.
 - (b) The purpose of sanction is protection, not punishment, and that there has to be a proportionate balancing of the interests of the public with those of the doctor. Public interest is wider than the protection of patients and extends to other matters as well.
 - (c) Deterrence as a general sentencing principle is premised on the need to prevent certain prevalent offences from becoming widespread and to create awareness in the public and particularly among potential offenders that punishment will be certain and unrelenting for certain offences and offenders.
 - (d) Specific deterrence then is directed at persuading a particular offender from contemplating further mischief.
 - (e) In sentencing a particular offender, both general and specific deterrence must be assessed and measured in the context of the facts and circumstances of the particular case.
10. The DT also agreed with the observations of the Tribunal in the Inquiry for Dr Woffles Wu [2014] at 7[(d)] where it was held that “*integrity and honesty are non-negotiable hallmarks of medical practitioners and any acts of dishonesty would tarnish and bring disrepute to the Medical Profession as a whole*”.
11. In the circumstances, upon taking into account the charges, the mitigating and aggravating factors as well as the submissions and precedents cited, the DT was of the view that any sentence short of a suspension would not adequately reflect the gravity of Dr Tay’s offending conduct, which involved dishonesty. Nonetheless the DT was also mindful of the circumstances which gave rise to the criminal offences in the first place and was satisfied that a minimum mandated suspension terms of 3 months was sufficient and appropriate in this case. Accordingly, the DT ordered that Dr Tay:-
- (a) be suspended for a period of 3 months;

- (b) be censured;
- (c) give a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct; and
- (d) pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

12. The DT also ordered that its Grounds of Decision be published.

13. Dr Tay's 3-month suspension took effect on 25 April 2016 and will run to 24 July 2016 (both dates inclusive).

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