

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR AAH HELD ON 29 AND 30 SEPTEMBER 2008**

Disciplinary Committee:

Prof Walter Tan (Chairman)
Dr Wong Yue Sie
Adj A/Prof Chew Chin Hin
Ms Winnie Liew (Lay Member)

Legal Assessor:

Mr Thean Lip Ping (M/s Khattar Wong & Partners)

Prosecution Counsel (M/s Harry Elias Partnership):

Ms Doris Chia
Ms Kylie Peh

Defence Counsel (M/s UniLegal):

Mr Kenneth Koh

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. These proceedings arose out of a letter of complaint made against you on 13 February 2006 (the “letter of complaint”) by the Comptroller of Income Tax (the “Comptroller”) to the Singapore Medical Council (the “SMC”). In support of the complaint, there is an affidavit affirmed by Mr K of the Inland Revenue Authority. In the letter of complaint, the Comptroller said that you “had been repeatedly convicted of offences under the Income Tax Act”, and listed 14 charges of which you had been convicted, and they are as follows:

<u>Date of conviction</u>	<u>Number of charges</u>	<u>Description</u>
10 August 2001	6	Failure to comply with demand to produce accounts for Years of Assessment 1994 to 1999.
26 April 2004	8	Second conviction for failure to comply with demand to produce accounts for Years of Assessment 1994 to 1999. Failure to comply with demand to produce accounts for Years of Assessment 2000 to 2001.

2. In this connection, the Committee notes that, in the Notice of Inquiry, the SMC frames 6 charges against you, in which it relies on 22 offences under the Income Tax Act, of which you were convicted. These 22 convictions comprise:
- (i) the 14 convictions of the offences listed in the letter of complaint, and
 - (ii) additional 8 convictions of offences, 6 of which were events after the letter of complaint was lodged with the SMC.
3. At the early stage of the hearing, this Committee raised with counsel for the SMC the question whether the SMC is entitled to bring charges against you relying on the additional 8 offences of which you were convicted and which were not the subject matter of the letter of complaint. Counsel explained that

the additional 8 offences were based on the undisputed materials now before the Committee. Your counsel did not take issue with the 8 additional charges. Nonetheless, the Committee, on the advice of its legal assessor, is of the view that the SMC is not entitled to introduce in these proceedings the 8 additional charges. Accordingly, the Committee will in these proceedings concern itself with only the 14 offences under the Income Tax Act, of which you were convicted and which appear in the letter of complaint.

4. We now turn to the 14 convictions. The Committee notes that you are not disputing these 14 convictions. You were convicted on 10 August 2001 of 6 charges for failure to comply with the demand of the Comptroller to produce accounts of the company, Clinic A (the “Company”), for the Years of Assessment 1994 to 1999. On or about 26 April 2004, you were convicted of:
 - (a) 6 charges (for the second time) for failure to comply with the demand to produce accounts of the Company for the Years of Assessment 1994 to 1999; and
 - (b) 2 charges for failure to comply with the demand of the Comptroller to produce accounts for the Company for the Years of Assessment 2000 to 2001.

5. The Committee also notes that you failed to appear in Court on the date of your convictions on or about 26 April 2004 and warrants for your arrests were issued. For some reasons, the warrants were not executed and you were not arrested.

6. We now turn to Section 45(1)(b) of the Medical Registration Act (Cap 174), which provides as follows:

“45 (1) Where a registered medical practitioner is found or judged by a Disciplinary Committee –

(a)

(b) to have been convicted in Singapore or elsewhere of any offence implying a defect in character which makes him unfit for his profession;

.”

7. The question now before the Committee is whether the multiple convictions of the offences you had committed imply a defect in character which makes you unfit for the medical profession.

8. Counsel for SMC refers to and relies on the cases of *Law Society of Singapore v Tham Yu Xian Rick* [1999] 4 SLR 168 and *Law Society of Singapore v Wong Sin Yee* [2003] 3 SLR 209. Your counsel, on the other hand, refers to and relies, on the case of *Law Society of Singapore v Amdad Hussein Lawrence* [2000] 4 SLR 88. These are cases dealing with conduct of members of the legal profession, but they are nonetheless helpful. In particular, counsel for the SMC draws the Committee’s attention to the following passage of the judgment of the Court in *Law Society of Singapore v Wong Sin Yee*:

“We would, at the outset, make it quite clear that conviction of criminal offence does not *per se* imply a defect of character rendering an advocate and solicitor unfit for his profession. It is the nature of the offence, and the circumstances under which it was committed, and in turn the punishment imposed, which are likely to be determinative. It is difficult to generalise; nor is it possible to lay down any rigid objective yardstick.”

Later, on the same page, the Court further said:

“While the concept of defect of character is often associated with dishonesty or fraudulent acts, that is not necessarily so in every case. The word “character” is wide and encompasses the total quality of a person’s behaviour as revealed in his habits of thought and expression, his attitudes and interests, his actions and his philosophy of life. This has to be contrasted with the occasional instances of carelessness.”

The Committee finds these passages helpful.

9. Bearing in mind the above principles, the question is, whether in this case, the multiple offences of which you were convicted imply a defect in character which makes you unfit for the medical profession.

10. In your opening statement, your counsel points out that you are one of the directors of the Company and offences arise from your failure as a director of the Company to comply with the notices from the Comptroller to furnish the audited accounts of the Company for the years of assessments 1994 to 2001. Your counsel therefore contends that you committed these offences as a director of the Company, and not as a medical practitioner. Further, your counsel submits that the offences you committed are offences under Section 65C of the Income Tax Act, and that these offences are simply failures to comply with the notice issued by the tax authority without proof of anything more. Your counsel submits that these are technical offences.
11. This Committee has two comments. First, although you practise your profession as a medical specialist, the Company is used for the purpose of your practice. You practise under the name and style of the Company, in which you and your husband, Mr H, are the only shareholders and directors. Your practice as a medical specialist is very closely connected with the business of the Company, and it is unrealistic to dissociate yourself from the Company in the manner as you seek to do.
12. Secondly, this Committee does not consider the offences you committed as merely technical offences. Providing accounts of the Company to the tax authority is an important obligation on the part of a director of the Company, and as a director you ought to perform such obligation. As the Committee

has said, you made use of the Company for the purpose of your practice and should discharge the obligation of a director of the Company.

13. This is not a case of “occasional instances of carelessness”. You were charged and were convicted in August 2001 of 6 offences to furnish accounts of the Company for the years of assessment 1994 to 1999. In spite of these convictions, you still continued to fail to provide the accounts of the Company. In consequence, in April 2004, you were again charged and convicted of offences for failure to furnish accounts of the Company for the years of assessment 1994 to 1999, and you were also charged and convicted of the offences for failure to provide accounts of the Company for the years of assessments 2000 to 2001. What is more serious is that you did not appear in Court in answer to the summons, and warrants for your arrest were issued. Your counsel submits that none of the 6 charges allege that your commission of the offences was “intentional or wilful”. The charges may not say so. But, in view of what had transpired, the Committee cannot but say that your persistent failures to comply with the requirement of the Comptroller were intentional and wilful.
14. Your attitude is one of complete disregard for the due requirements of the law and your persistence over a period of years to ignore the requirements of the Comptroller reflects poorly your professional attitude.

15. In the opinion of the Committee, your multiple convictions of the offences considered together do imply a defect in character which makes you unfit for the medical profession. The Committee therefore finds that you are guilty of the charges relating to the 14 offences of which you had been convicted.

16. The Committee has decided to treat the 14 offences of which you had been convicted together as a whole and on that basis and having regard to the representations made by both counsel, it is the Committee's decision that the appropriate sentence is as follows:-
 - a) That you be suspended from practice for a period of **3** months;
 - b) That you be censured;
 - c) That you give a written undertaking to the Medical Council that you will not in future engage in the conduct complained of or any similar conduct; and
 - d) That you pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitor to the Medical Council and the Legal Assessor.

17. The hearing is hereby concluded.

Dated this 30th September 2008.