

In the Matter of Hiraniyan Don Quarrie
[2018] AHPCDT

Decision Date : 23 October 2018
Tribunal/Court : Allied Health Professions Disciplinary Tribunal
Coram : Thio Shen Yi, SC; Gan Yi Ming; Debbie Chow
Counsel Name(s) : Rebecca Chew and Meera Rajah (Rajah & Tann) for the Allied Health Professions Council; Respondent appearing in person
Parties : Allied Health Professions Council — Hiraniyan Don Quarrie

Introduction

1 On 27 July 2016, the Respondent, Mr. Hiraniyan Don Quarrie, was convicted in the State Courts on one charge of intending to insult the modesty of a woman under Section 509 of the Penal Code (Cap. 224, 2008 Rev Ed) (the “Penal Code”).

2 In sentencing, the State Courts also took into consideration a second charge relating to a separate incident occurring at a later date, but involving another offence under Section 509 of the Penal Code. On 06 October 2016, the Respondent was sentenced to a fine of S\$3,000 with 3 weeks’ imprisonment if in default of payment.

3 At all material times, the Respondent was working as a Senior Physiotherapist at Gleneagles Hospital. At the time of these proceedings, the Respondent remained a registered allied health professional on the “Register of Allied Health Professionals with Full Registration” (the “Register”) that is maintained and kept by the Allied Health Professions Council (the “Council”).

4 In light of the above conviction, the Council preferred a single charge (the "Charge") against the Respondent before this Disciplinary Tribunal (the "Tribunal") (see [7] below). The Charge related to his conviction of the Section 509 offence implying a defect of character which made him unfit for his profession.

5 At the Tribunal hearing, the Respondent elected to plead guilty to the Charge. After hearing the Respondent's mitigation, and the Council's submissions, and after careful consideration, the Tribunal ordered that the Respondent:

- (a) be suspended from practice for a duration of 2 years;
- (b) be fined S\$3,000;
- (c) be censured;
- (d) provide a written undertaking to the Council to abstain in future from the conduct complained of in the Charge, or any similar conduct;
- (e) during the period of suspension, undertake a psychiatric assessment by an independent psychiatrist to determine if psychiatric treatment is necessary and to continue with psychiatric treatment, for such period of time as determined by this psychiatrist;
- (f) on the expiry of the suspension period, produce the reports of the independent psychiatrist mentioned in (e) to the effect that the Respondent is fit for practice, and then practice only within a supervisory framework approved by the Council for a period of 1 year; and
- (g) pay the costs and expenses of and incidental to these disciplinary proceedings.

6 The Tribunal's reasons are now set out below.

Proceedings before the Tribunal

7 At the Tribunal hearing on 23 October 2018, the Respondent pleaded guilty to the Charge, which was read to him and is as follows:

"That you, Mr. Hiraniyan Don Quarrie (NRIC No. SXXXX) are charged that, on 27 July 2016 and 6 October 2016, whilst you were a registered allied health professional, you were convicted one charge of intending to insult the modesty of a woman under section 509 of the Penal Code (Cap. 224), which is an offence implying a defect in character which makes you unfit for your profession, to wit:-

PARTICULARS

- a. On 27 July 2016, you were charged in the State Courts of Singapore with one charge in MAC-908663-2015 as follows:-

"You... are charged that you on the 12th day of September 2015, at or about 9.20 pm, at the void deck of Block 111 Bedok North Road, Singapore, did intend to insult the modesty of [the "Victim"], to wit, by exposing your penis and masturbating, with intent that such act shall be seen by the victim, and you have thereby committed an offence punishable under Section 509 of the Penal Code, Chapter 224."

(the "Charge")

- b. On the same date, you pleaded guilty to and was (*sic*) convicted of the Charge.
- c. On 6 October 2016, you were sentenced to a fine of S\$3,000, in default of 3 weeks' imprisonment.

And that in relation to the facts alleged, you are hereby liable to be punished under Section 53(2) read with Section 53(1)(b) of the Allied Health Professions Act (Cap. 6B)."

8 The Respondent did not dispute the factual narrative set out in the Agreed Statement of Facts (the "ASOF") dated 11 October 2018. The paragraphs in the ASOF germane to the Charge are as follows, the Respondent being referred to therein as the "Registered Professional":

4. With reference to the First Charge, the Victim was a 16-year old female Singaporean, who was a Secondary 4 student at the material time. She had been with a friend at the void deck of Block 111 Bedok North Road, studying for her examinations. They were both seated at a table there.

5. On the day of the Incident, i.e. 12 September 2015, at or around 9.20 pm, the Registered Professional had stood 5 metres away from the table at which the Victim was sitting and exposed his penis and began to stroke it, while looking at her. This continued for approximately one minute. The Victim, who was facing the Registered Professional, noticed this. She informed her friend, whose back was towards him.

6. The Registered Professional then moved behind a pillar. From there, he would intermittently move out from behind the pillar and repeat his act of

exposing his penis to the Victim and stroking it, before returning back behind the pillar. This continued for a period of time.

7. The Victim and her friend remained there, as they were alone and felt afraid. When they eventually spotted some passers-by, they took the opportunity to leave the area by walking with them.

8. On 27 July 2016, the Registered Professional pleaded guilty to the First Charge, as well as the Statement of Facts prepared and filed by Deputy Public Prosecutor James Chew dated 26 July 2015. He was convicted accordingly (the "Conviction").

9. On 6 October 2016, the Registered Professional was sentenced to pay a fine of S\$3,000, in default of 3 weeks' imprisonment.

...

13. Pursuant to Section 39(4) read with Section 50 of the of the Allied Health Professions Act, where a registered allied health professional has been convicted in Singapore or elsewhere of an offence implying a defect in character that makes him unfit for his profession, the Council may immediately refer the matter to a DT.

14. The offences that the Registered Professional had been convicted of are offences that imply a defect in character that renders him unfit for his profession within Section 53(1)(b) of the Allied Health Professions Act.

The Council's Submissions on Sentence

9 Counsel for the Council, Ms Rebecca Chew, submitted that appropriate sanctions against the Respondent in this case would be:

- (a) a suspension from practice for a period of 3 years;
- (b) a fine of S\$5,000;
- (c) a censure, in writing;
- (d) an undertaking to abstain in future from the conduct complained of;
- (e) that during the period of suspension, to undertake a psychiatric assessment by two independent psychiatrists, to determine if psychiatric treatment is necessary and to continue with psychiatric treatment, for such period of time as determined by these psychiatrists;
- (f) on the expiry of the suspension period, to produce the reports of the two independent psychiatrists mentioned in (e) above to the effect that the Respondent is fit for practice and to practise only within a supervisory framework approved by the Council for a period of 1 year; and/or
- (g) that he pay costs and expenses of and incidental to these disciplinary proceedings.

10 In written submissions, Ms Chew contended that the nature of the offence is material to determining whether such an offence implies a defect of character that renders the offender unfit for his profession, citing *Law Society of Singapore v Tham Yu Xian Rick* [1999] 3 SLR(R) 68 at [13]:

"The nature of the offence clearly is material, for it cannot be that every violation of the criminal law implies a defect of character which unfits (sic) the offender to be a member of the profession."

11 Ms Chew then provided examples from prior disciplinary proceedings, in respect of other professions, highlighting which offences were deemed to imply a defect of character rendering a professional unfit to remain on their relevant register. At the time of these proceedings, there were no prior disciplinary cases involving an alleged defect in the character of an allied health professional, rendering the professional unfit. Ms Chew therefore made reference to prior Singapore Medical Council ("SMC") and Law Society of Singapore disciplinary proceedings.

12 Of these prior cases, the Tribunal found a recent SMC matter, *In the Matter of Dr Lee Siew Boon Winston* [2018] SMCDT 4 ("Dr Lee's case"), to be relevant. In that case, the medical practitioner, Dr Lee, had been convicted in the State Courts on, *inter alia*, two charges of using criminal force on a female patient, with the intention to outrage the patient's modesty, under Section 354(1) of the Penal Code.

13 On two distinct occasions, during separate clinical examinations held on different days, Dr Lee had inserted his hand under the same patient's bra and touched her left breast and nipple. In the State Courts, Dr Lee was sentenced to an aggregate term of 10 months' imprisonment. The SMC disciplinary tribunal subsequently held, at [87], that "*Dr Lee's actions imply a defect of character that renders him fundamentally unsuited to continue as a registered medical practitioner*". Dr Lee was removed from the register and made to pay the costs of the proceedings.

14 Ms Chew drew a parallel between Dr Lee's case and the Respondent's conviction for intending to insult a woman's modesty, and submitted that the Tribunal should, similarly, find a defect in the Respondent's character. Ms Chew further submitted that it should be immaterial in making this determination whether such offences were committed against a patient or a member of the public.

15 While the Tribunal agreed that the Respondent's conviction was sufficient to imply a defect in character, necessitating a sanction, it took the view that Dr Lee's actions, arising in the context of a clinical examination, and involving *direct* physical contact with his patient, were more egregious than that of the Respondent. The DT in Dr Lee's case held the fact that his actions had taken place in the course of a medical consultation to have increased his overall culpability (at [66]). Accordingly, in sentencing, some regard had to be given to the greater seriousness of Dr Lee's actions as compared to the Respondent's offence (see below). In fairness, Ms Chew also acknowledged this in her written submissions.

16 Turning to Ms Chew's submissions directly on the appropriate sanction, two further SMC cases were considered. The first, Case 9 in the SMC Annual Report 2007, involved a medical practitioner ("Dr A") who was convicted on 27 February 2007 of two charges of insulting the modesty of two women, by using his mobile phone to record an 'up-skirt' video of their underwear and buttocks without their knowledge. The Court took two other charges into consideration, and sentenced him to two months' imprisonment in total. Dr A pleaded guilty before the Disciplinary Committee, which ordered that he be:

- (a) suspended from practice for a period of 2 years;
- (b) fined \$5,000;
- (c) censured;
- (d) required to give an undertaking to abstain in future from the conduct complained of;

- (e) continue his psychiatric treatment for such period of time as determined by his psychiatrist;
- (f) on the expiry of the suspension period, produce the reports of two psychiatrists that he was fit for practice and practise only within a supervisory framework approved by the Medical Council for a period of 1 year; and
- (g) pay the costs of the disciplinary proceedings.

17 The second case was *In the matter of Dr Ong Theng Kiat* [2015] SMCDT 2, where a medical practitioner (“Dr Ong”) pleaded guilty to and was convicted of two charges under Section 376A(1)(a) of the Penal Code (namely, sexual penetration of a minor under 16 years of age with her consent), for which he was sentenced to 10 months’ imprisonment on each of the charges, with both sentences running concurrently. He was also convicted on a charge of knowingly making a fraudulent declaration in writing to the SMC in an attempt to procure a Practising Certificate under Section 62(a) of the MRA, in respect of which he was fined \$4,000. The DT’s sanction was for him to be struck off the register, and pay the costs and expenses of and incidental to the proceedings, including the costs of the solicitors to the SMC.

18 Ms Chew submitted that, of these cases, the gravity and thrust of the Respondent’s actions were more closely aligned with Dr A’s, than with either those of Dr Ong or Dr Lee. Unlike the latter two practitioners, who were both removed from the register, no sexual or physical contact was made with the Victim by the Respondent. Unlike Dr A’s scenario, however, the Respondent’s victim was very young, being sixteen years of age, and therefore the Respondent, in the words of Ms Chew, “was effectively corrupting her innocence”.

19 It was further submitted that this Tribunal should have the principle of deterrence in mind, and that a “tough stance should be adopted to deter allied health professionals from engaging in inappropriate sexual conduct (whether physical or not), particularly with minors, to ensure that public confidence in the allied health profession is not eroded”. It was noted, notwithstanding the fact that the Respondent had been convicted of only one Section 509 charge, that a second charge involving a different woman had been taken into consideration by the Court, this second episode having taken place within a month of the first.

20 Ms Chew also fairly accepted that the Respondent had been co-operative with the Council’s solicitors from the early stages of the Council’s proceedings, which appeared to be indicative of his remorse for his actions and their potential impact on the profession.

The Respondent’s Mitigation Plea

21 Prior to these disciplinary proceedings, the Respondent had submitted a written statement dated 11th October 2018 and addressed to both “The Disciplinary tribunal” and “Allied health professionals council”. In this statement the Respondent accepted, without qualification or attempted revision, the facts as put forward by the Council. He expressed shame and regret for his actions. He also attempted to provide a context for his actions, highlighting certain personal difficulties with his marriage and obligations leading to his exhaustion and acting out of character. In particular, this included considerable financial strain following payment for two weddings (his and his sister’s), and providing financial support for his family, including his elderly parents.

22 The Respondent claimed, however, that his work and professionalism had not been affected in this troubled time, including with his statement a copy of an award certificate showing that he was a winner of a Gleneagles Singapore ‘Service Champion (Allied Health

Services)' award, for the 2nd quarter of 2015, which read *"in recognition of your outstanding service to our patients & customers"*.

23 In the same written statement, the Respondent also requested to be allowed to *"work in an elderly setting with restricted registration until I complete the required psychiatric evaluation"*.

24 Before the Tribunal itself, the Respondent reiterated most of the above, again expressing his remorse. He sought to be given a chance to prove himself again, and repeated his need to work, given his position as the main provider of his family.

Reasons for Sanction

25 The Tribunal considered Principle 11.3 of the Council's Code of Professional Conduct (2013) (the "Code"):

"You must ensure that your behaviour, whether in your personal or professional capacity, does not damage the public confidence in you or your profession, or bring disrepute to your profession."

26 The Respondent's conviction did not arise from actions carried out in a professional capacity. However, the Code explicitly, and in the view of this Tribunal quite rightly, recognises that public confidence in allied health professionals, and indeed their profession, may also be affected by some types of behaviour in their personal lives. The Tribunal considers the Respondent's conduct in this case to be the very sort of private behaviour the principle warns against.

27 In considering the impact of sexual offences by professionals, the tribunal in Dr Lee's case made considerable reference to the 'UK Sanctions Guidance', a set of guidelines

used in Medical Practitioners Tribunals in the UK. In particular, the tribunal noted at [61] that “*the UK Sanctions guidance states that sexual misconduct seriously undermines public trust in the profession*”. It went on to cite, *inter alia*, the following paragraphs from the UK Sanctions Guidance (emphasis added in cited paragraph):

Sexual misconduct

149 This encompasses a wide range of conduct from criminal convictions for sexual assault and sexual abuse of children (including child sex abuse materials) to sexual misconduct with patients, colleagues, patients’ relatives or others. ...

150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.

28 The Tribunal considers that this can certainly be said to apply with equal force to allied health professionals, who also occupy positions of trust in the process of treatment and rehabilitation. In particular, physiotherapists are in close and constant physical proximity with their patients. This trust may be seriously undermined by a wide range of sexual misconduct, which, again, is not necessarily limited to misconduct in a professional context.

29 In this vein, [86] of *Dr Lee’s* case is apposite:

“Patients consent to their doctors touching their bodies based on the trust and understanding that doctors will be acting in their best interests and that it is necessary for the purpose of treating their illness. To uphold public trust and confidence in the profession, the public must have absolute confidence in their doctors that they will not

abuse that trust when treating their patients... A clear message needs to be sent that such acts by other doctors will not be tolerated."

30 The Tribunal is of the view that such considerations apply analogically to physiotherapists as well as doctors. It may be that a reasonable, intelligent patient may be more likely, all things being equal, to submit more unquestioningly to an intrusive instruction or action originating from a doctor than a physiotherapist. While this may require a heightened level of scrutiny or sanction for medical doctors, we consider this differentiation marginal, and one of degree. This does not obviate the high level of trust placed in allied health professions in general, and, for a variety of treatments involving direct physical contact, physiotherapists in particular.

31 The paragraph above also acknowledges the principle of deterrence in reiterating the need for a 'clear message', which, in the view of the Tribunal, should certainly apply with comparable force to allied health professionals such as physiotherapists. The potential for such professionals to cause harm given their interactions with patients in positions of physical vulnerability, for example, cannot be understated. Accordingly, we agree with Ms Chew's submissions on the need to bear the principle of deterrence in mind (see [20] above).

32 It is clear to the Tribunal, in light of all the above, that the Respondent's conviction for misconduct of a sexual nature, involving a minor of sixteen, implied a defect of character rendering him unfit for the profession, that should invite sanction.

33 However, the Tribunal also had to consider the relative rarity of disciplinary action leading to the sanction of removal from the register. *Dr Lee's* case, although itself resulting in the removal of Dr Lee, noted that only three disciplinary cases between 2008 and 2017 had resulted in the removal of a doctor from the register (at [36]).

34 As noted by Ms Chew, Dr Lee and Dr Ong, who were removed from the register, had both engaged in actual physical contact with their respective victims. Furthermore, Dr Lee's two counts of outraging his patient's modesty took place in the context of a professional clinical examination, an aggravating factor, while Dr Ong had engaged in sexual intercourse with a minor of fourteen on multiple occasions, displaying a high degree of premeditation and other aggravating factors such as deceit and the intercourse being unprotected on one occasion (at [44] of *Dr Ong's* case). Both had also knowingly made fraudulent declarations in writing to the SMC in an attempt to procure Practising Certificates. These facts revealed considerably more egregious conduct than the Respondent's.

35 The Respondent's conduct was, in the view of the Tribunal, more appropriately compared to that of Dr A, for whom a conviction for a sexual misconduct offence with no physical contact or further charge of dishonesty resulted in, *inter alia*, a suspension of two years.

36 Accordingly, with respect to the less severe nature of the Respondent's offence and the scope for differentiation, however small, between doctors and allied health professionals discussed at [31] above, removal from the register would not be appropriate in such a case (as the Council itself submitted). Instead, the key determination to be made here was the duration of the *suspension*, along with determining what other sanctions would be fair or appropriate.

37 Again, the sanction in Dr A's case was of assistance as a guide, given that Dr A's actions were the most closely comparable to the Respondent's out of all the DT authorities made known to the Tribunal, and the sanction in that case having certain features of specific deterrence that the Tribunal felt would be relevant. In particular, the written undertaking from the professional, the requirement of psychiatric evaluation during the period of suspension, and the requirement of certification from a psychiatrist prior to the

resumption of practice were all viewed by the Tribunal to be useful, robust and necessary safeguards to prevent the Respondent from engaging in similar conduct in the future.

38 As to the duration of suspension, the Tribunal considered Dr A's sanction of two years an appropriate starting point. It is relevant, as submitted by Ms Chew, that the Respondent's conviction featured a minor of sixteen, a feature that the Tribunal acknowledges unfavourably distinguishes his conduct from Dr A's. Further, consideration was given by the Tribunal to the nature of the respective offences. In Dr A's case, the victims had no knowledge of Dr A's action. As a result of the Respondent's actions, however, the Victim was made to endure the disturbing, confrontational sight of the Respondent exposing himself before her.

39 Notwithstanding this, the Tribunal is, with full respect to the suffering of the Victim, of the view that an attempt to quantify or 'rank' the seriousness of the differing offences, from the perspective of presumed harm to the victims, may be invidious. For instance, although it is true that the 'up-skirt' victims were not explicitly subjected to an unwelcome, unnatural and/or threatening sight, the foreseeable mental distress arising from the subsequent realisation of a serious, secret abuse of their trust, committed without their knowledge or consent, may well be considerable. From the perspective of the perpetrator's culpability, it would also appear arguable that the process of arranging for the filming of 'up-skirt' videos, on multiple separate occasions, evinces a degree of premeditation exceeding that of the present Respondent.

40 The age of the Respondent's Victim is a more explicitly aggravating factor when comparing the Respondent's facts to those of Dr A, but, in the view of the Tribunal, the greater number of charges against Dr A (four) also had to be taken into consideration.

41 Additionally, considering the Respondent's mitigation plea, the Tribunal was prepared to give weight to the remorse demonstrated by the Respondent, his early plea

of guilt, and his commendable willingness from the outset to co-operate fully at all stages of the process.

42 The likelihood of the Respondent's financial and marital strain was also considered. However, the highly unnatural conduct on the part of the Respondent in publicly exposing himself and masturbating before a very young woman of 16 appeared, to the Tribunal, to be difficult to robustly defend or justify on the basis of personal strain, at least without further evidence or medical assessments, none of which were before us. As for financial strain, that is inherently a consequence of any order of suspension, and is not a factor that can be said to carry much weight.

43 The Tribunal also notes that, in *Dr Ong's* case, the unexpected death of Dr Ong's wife and his diagnosis of major depressive disorder (see [18]-[21]) did not "lessen the responsibility" of Dr Ong, and was ultimately not persuasive as a mitigating factor (at [42]). However, in that case this was due to the high degree of premeditation in Dr Ong's actions, in planning and executing sexual activity with a minor of fourteen (see [43]-[46]). This was deemed to be strongly at odds with Dr Ong's claim in mitigation that he "*was so preoccupied with his depressed mood that he could not exercise his reason and think of the consequences of his behaviour*". The Respondent's conduct did not, in the view of the Tribunal, exhibit anything approaching a similar degree of purposeful action.

44 The Tribunal also considered the Respondent's service award and noted that there was no sign of his professional work deteriorating. However, we noted that in *Dr Lee's* case the DT considered a number of testimonials expressing strong support for Dr Lee's capabilities and professionalism in dealing with patients, including female ones, but nonetheless saw fit to hold, at [85]:

85 *However, when assessing the risk of re-offending, this Tribunal could not overlook the fact that Dr Lee had a good track record and standing in the medical profession for over*

40 years before the incident happened and the gravity of the incidents underlying the First Charge as explained above. The fact that the professional boundaries between Dr Lee and the Patient could completely collapse out of the blue demonstrates to us a clear need to protect the public. We simply cannot trust that such an incident would not happen again, with or without a chaperone, given the course of conduct that reveals a serious lack of integrity and honesty in Dr Lee.

45 Similarly, although the Respondent's transgressions did not take place in his professional capacity, the inherent nature of his conduct raises legitimate concerns, voiced by Ms Chew in her submissions before the Tribunal, of further lapses in the Respondent's judgment that might cause harm to those around him. With that said, the Respondent has not displayed the same lack of integrity and honesty as Dr Lee (or Dr Ong). We note again his co-operation, plea of guilt, and that he admitted to his errors both in the context of a Police investigation, and in making an honest declaration about his criminal proceedings and conviction in an application to the Council to renew his license. While the threat of future bad behaviour on the part of the Respondent cannot and must not be downplayed, there is nothing to suggest that there is an actual risk of such conduct being repeated. However, we do balance this against the fact that up to this day, the Respondent does not really have an understanding of what compelled or triggered him to behave this way. He had not seen a psychiatrist or psychologist since he was sentenced for his offence.

46 Taking all the above into account, and weighing both the aggravating and mitigating features of the present case, the Tribunal is of the view that a two-year suspension would strike the right balance for the purposes of deterrence and upholding the standing of the allied health professions. With respect to the very capable submissions from counsel for the Council, a suspension of three years, as recommended for the Tribunal's consideration by Ms Chew, would be excessive in light of the precedents considered by the Tribunal.

47 Further, all parties were in agreement that the Respondent's conduct did not warrant removal from the Register (at [35] above), and in this regard the Tribunal notes that, in practical terms, there is a certain proximity, almost a moral equivalence, between the sanction of removal and a suspension of three years. Section 56(2) of the AHPA provides that a person removed from the Register may seek to have their name restored to the same following the expiry of three years from the date of removal. Two years was deemed more appropriate in light of the present facts. A suspension of three years would probably be more appropriate where there is a borderline case of removal from the Register, or whether a case would normally justify suspension but for very compelling mitigating factors. This was not one of those cases.

48 In respect of the fine imposed, the Tribunal was not persuaded that there was any particularly clear basis made out for the amount of \$5,000 arrived at by the Council, save perhaps for this being the same amount fixed in respect of Dr A. The same applies to Council's submission that the Respondent be made to seek reports from *two* independent psychiatrists, and accordingly to produce two reports that he was fit to practise following the expiry of the suspension period, this being the number arrived at for Dr A.

49 The Tribunal noted that, in Dr A's case, Dr A was sentenced to two months' imprisonment in his criminal proceedings, while the Respondent received a fine of S\$3,000 in default of three weeks' imprisonment. It was not made apparent to the Tribunal in submissions that an upward revision of S\$2,000 to the fine imposed by the State Courts was appropriate. Here the Tribunal also had regard for the Respondent's mitigation plea. There are different considerations applicable to sentencing in criminal proceedings and disciplinary proceedings, as noted by the Court of Three Judges in *SMC v Kwan Kah Yee* [2015] 5 SLR 201. CJ Menon's judgment notes at [58]:

"In this regard, DTs are primarily concerned with the protection of public confidence and the reputation of the profession. For this reason, mitigating circumstances which weigh in

favour of an offender in criminal proceedings are viewed in a qualitatively different light where disciplinary proceedings are concerned.”

50 However, a close reading of the following paragraph, [59], reveals that the factors preventing the respondent in that case from having his sentence mitigated were as follows:

In our judgment, the interests of protecting public confidence and the reputation of the medical profession outweighed any mitigating value that the Respondent’s voluntary work could give him because:

- (a) the offences committed by the Respondent were serious ones with potentially damaging consequences;*
- (b) the Respondent was brazen and his **acts of dishonesty** were indefensible;*
- (c) **he attempted to cover up his wrongdoing;***
- (d) he persisted in this conduct despite already facing the Prior Charge; and*
- (e) **he displayed a lack of remorse that was evident in the position he took before us** (see [27] above).*

Considering his lack of insight into the wrongfulness of his actions, public confidence in and the reputation of the medical profession would not have been adequately protected if the Respondent were given a lighter sentence on the basis of the mitigating circumstances raised, even if we were to accept these as true.

(emphasis added)

51 It is to be noted that the Respondent did indeed have regard for the wrongfulness of his actions, had no offences involving dishonesty, and, in the eyes of the Tribunal, he did display remorse. Accordingly, it is the view of the Tribunal that given the absence of

any explicit factor justifying the imposition of a higher fine than was imposed in criminal proceedings, S\$3,000 would be appropriate.

52 Finally, the Tribunal is of the view that consultation with one psychiatrist, and one report, will suffice for the purposes of evaluating the Respondent's progress and fitness to resume practice. There certainly remains a need to take precautions in light of the Respondent's past behaviour, and it would be contrary to the public interest, and both the public's confidence and the reputation of the profession, to allow him to quickly resume practice at the present juncture, even in a controlled environment as proposed by the Respondent (see [24] above).

53 However, the Tribunal is conscious that the Respondent should be given a second chance, and, following an appropriate period of time for evaluation, reflection, and a better understanding of what triggered his actions, hopes he will achieve his stated aims of proving himself a good man to his family and wider community in the years to come.

Sentence imposed

54 In light of the foregoing, taking into account the nature and severity of the complaint alongside the Respondent's conduct and the need to impose a sanction which was not only sufficiently deterrent but also proportionate in all the circumstances of this case, the Tribunal ordered that the Respondent:

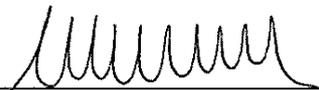
(a) be suspended from practice for a duration of 2 years;

(b) be fined S\$3,000;

(c) be censured;

- (d) provide a written undertaking to the Council to abstain in future from the conduct complained of in the Charge, or any similar conduct;
- (e) during the period of suspension, undertake a psychiatric assessment by an independent psychiatrist to determine if psychiatric treatment is necessary and to continue with psychiatric treatment, for such period of time as determined by this psychiatrist;
- (f) on the expiry of the suspension period, produce the reports of the independent psychiatrist mentioned in (e) to the effect that the Respondent is fit for practice, and then practice only within a supervisory framework approved by the Council for a period of 1 year; and
- (g) pay the costs and expenses of and incidental to these disciplinary proceedings.

The Disciplinary Tribunal hereby orders these Grounds of Decision to be published.



Signed by Thio Shen Yi, SC
on behalf of the Allied Health Professions Disciplinary Tribunal