

IN THE BARRISTERS DISCIPLINARY TRIBUNAL

BETWEEN

Applicant

THE BAR COUNCIL

and

Respondent

LIM TIN TIN VALERIE

Before : Jason Pow, SC (Chairman), Alan M.S. Ng Esq., David Ho
Chi Hoo Esq.
Date of hearing : 19 August 2014
Date of decision : 7 November 2014

REASONS FOR SENTENCE

Pursuant to section 37A of the Legal Practitioners' Ordinance (Cap.159)

Background

1. As set out in a Statement of Findings dated 29 April 2014, this Tribunal found the Respondent guilty of two complaints of professional misconduct. The 1st Complaint can be categorized as one of "acting without solicitors' instructions". The 2nd Complaint is however much more serious in nature. The Respondent was found to have engaged in conduct that was unethical, prejudicial to, or tended to prejudice the administration of justice in that she was contaminating our criminal justice system by weaving in an unwarranted commercial element.

Submissions in mitigation

2. The Respondent was represented by Mr. Wu at this hearing. He reminded us that the Respondent comes from a “legal household”. Her grandfather was the senior partner of one of the few leading law firms in the Republic of Singapore and so were her uncles. Her father was one of the permanent magistrates in Hong Kong. The Respondent is the only child of the family. She read law in the UK and was called to the English Bar in 1990. She was called to the Hong Kong Bar in the same year. The Respondent is now a divorcee with a son who is about to embark on university education.
3. Mr. Wu said that the Respondent loves the law. She has realized that what she did cannot be undone. Hence she comes forward and shoulders the consequence. Through the letters of her solicitors, she had indicated her position that she would admit two complaints of misconduct thereby demonstrating her remorseful attitude. Mr. Wu asked this Tribunal to give her a chance in view of her clear record.

Applicant’s submissions on sentence

4. Mr. Vaughan for the Applicant referred the Tribunal to four authorities all of which are in relation to complaints similar to the 1st Complaint¹. Each case depends on its own facts. It suffices to state that the sentences passed range from one to six months of suspension from practice. In respect of the 2nd Complaint, Mr. Vaughan was unable to find similar precedents. He submitted that the 2nd Complaint involves a very serious complaint and warrants either striking-off or a long period of suspension.

Discussion and conclusion

5. Mr. Wu did not dispute that a period of suspension of one to six months is proper for the 1st Complaint. He appreciated the seriousness of the 2nd Complaint but asked the Tribunal

¹ *In re a Barrister* [1968] HKLR 585; *In re a Barrister* (1983) (CA); *Mui Kwok Keung Louie v. The Bar Council*, CACV 102/2010 (21 March 2011, CA); and *A Barristers Disciplinary Tribunal decision on sentence* (20 December 2011).

to consider a longer period of suspension than that to be imposed on the 1st Complaint.

6. Despite the able submissions of Mr. Wu, this Tribunal maintains a very strong view as to the seriousness of the 2nd Complaint. The Respondent's conduct was tantamount to an attempt to pervert the course of justice. The Tribunal cannot think of any type of professional misconduct more serious than a barrister engaging in acts prejudicing or tending to prejudice the administration of justice. Such acts betray the very institution of the Bar. More so in this case, the whole idea was instigated by the Respondent as one can gather from the taped conversations. The Tribunal is of the view that the Respondent's conduct put the Bar to utter disrepute. It also indicated that the Respondent is not a fit and proper person to remain on the roll of barristers.
7. Although the Tribunal notes a certain degree of remorse on the part of the Respondent in indicating through her solicitors' letter that she would not contest the charges, the Respondent did not demonstrate her remorsefulness wholeheartedly. Despite having been within the jurisdiction throughout, the Respondent imposed various difficulties on the Applicant in serving documents and process on her. It was only at the 11th hour, after the Tribunal determined to proceed with hearing the complaints, that it received the Respondent's solicitors' letter indicating that she would not contest the charges. Nonetheless, she refused to attend or be represented by lawyers at the hearing. Consequently, no agreed statement of facts could be drawn up to reduce the time and effort of everyone involved. The Applicant was required to strictly prove its case. Mr. Wu was unable to provide any explanation for such irresponsible attitude. Furthermore, given the nature of the 2nd Complaint and the Respondent's conduct in these proceedings, this Tribunal is not convinced of the Respondent's sincerity in her avowed love of the law.
8. In the circumstances, the Tribunal considers that despite giving some credit to the Respondent for her clear record and some indication of remorse, an order of striking-off is unavoidable as the appropriate penalty for the 2nd Complaint. Accordingly, the Tribunal orders that the Respondent be struck off the roll of barristers pursuant to section 37(c) of the Legal Practitioners Ordinance, Cap. 159, laws of Hong Kong. In the

circumstances, it is not meaningful to impose a separate penalty of suspension for the 1st Complaint.

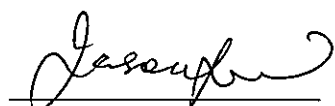
9. As for costs, we are grateful to Mr. Wu and Mr. Vaughan's effort in reaching an agreement. It has been agreed that the Respondent would pay to the Applicant a sum of HK\$339,776.00 which would be effected by the Respondent in six installments. The first five installments would be monthly installments in the sum HK\$55,000.00 each with the first installment due upon the seventh day from service of the order. The sixth and last installment would be in the sum of HK\$64,776.00. The Tribunal makes an order accordingly.

Publication of findings and sentence

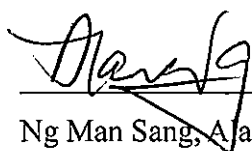
10. In accordance with the suggestion of the Applicant to which Mr. Wu did not oppose, this Tribunal makes further orders as follows:-
 - (1) that the two Complaints, the conviction and the sentence be published by way of a Bar Circular and also to be published on the Bar's website in the part which is accessible by the public generally, such publication on the website shall be permanent;
 - (2) that the statement of findings and reasons for sentence be sent to the complainant, the Registrars of the High Court and of the District Court; the Chief Judge of the High Court; the Chief District Judge; the Chief Magistrate; all Members of the BDT Panel, the Department of Justice (the Secretary for Justice, the Civil Litigation Unit and the Director of Public Prosecutions), the President of the Law Society, the Director of Legal Aid, the Administrator of the Duty Lawyer Service, and the Official Receiver's Office; and
 - (3) that a summary of the two Complaints, the conviction, and the reasons for sentence (to be drafted by counsel for the Applicant and settled by the Tribunal in

due course) be kept in the Bar Secretariat and copies of the same be made available to the public upon request.

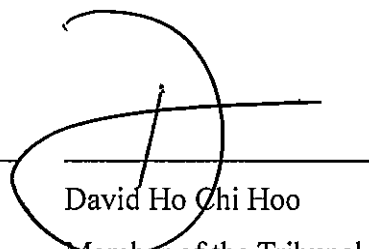
Dated this 7th day of November 2014.



Jason W.N. Pow, SC
Chairman of the Tribunal



Ng Man Sang, A Jan
Member of the Tribunal



David Ho Chi Hoo
Member of the Tribunal