

**DISCIPLINARY TRIBUNAL**

**DT/12/2020**

In the Matter of Gabriel Peter

An Advocate & Solicitor of the Supreme Court

And

In the Matter of the Legal Profession Act (Chapter 161)

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**REPORT**

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President: Mr Roderick E Martin SC

Advocate & Solicitor: Mr Chan Hock Keng

Mr Wee Heng Yi Adrian, Mr Darius Lee, Ms Lynette Chang (Characterist LLP) for the Law Society

Mr Gabriel Peter, Ms Nicolette Tan, Ms Perveen Kaur (Gabriel Law Corporation) for the Respondent

Dated this 20th day of February 2022

## I. BACKGROUND FACTS

1. The facts leading to the complaint against Peter Gabriel (“**Peter**”) are narrated at [1] to [6] in the Tribunal’s Report in DT 2/2020 (“**DT 2**”) and DT 2A/2020 (“**DT 2A**”). DT 2 arises from a complaint by the Attorney General against Calista Peter (“**Calista**”) who is Peter’s daughter. DT 2A arises from a similar complaint being lodged by Victor Lim (“**Victor**”), Calista’s then husband and Peter’s former son-in-law. This Report deals with the complaint against Peter in DT 12/2020.
2. The complaint against Peter was lodged by Victor in relation to events that occurred on 26 March 2014 that resulted in Victor signing a Declaration of Trust (“**DOT**”) (see Tribunal’s Report in DT 2 and 2A at [2.d]).
3. The DOT was ultimately set aside by the High Court after Victor brought an action to court for the same. Following the findings or remarks of the High Court from [59] to [65] in *BOK v BOL* [2017] SGHC 316 (“**BOK v BOL**”), Victor lodged his complaint against Peter resulting in DT 12.

## II. THE CHARGES IN DT 12

4. The same Tribunal in DT 2 and 2A was appointed to hear the complaint against Peter in DT 12. In DT 12, the following charges were preferred against Peter, which in their amended form reads as follows:

**"FIRST CHARGE"**

You, Gabriel Peter, an Advocate and Solicitor of the Supreme Court of Singapore, are charged that on or about 26 March 2014, you:

aided the misrepresentation of your daughter, Calista Marella Peter, to her then husband, Lim Wei De Victor, that the Deed of Trust would only take effect upon his death, until which time he was free to deal with his assets,

which were acts that took unfair advantage of Lim Wei De Victor or was fraudulent, deceitful or otherwise contrary to your position as an advocate and solicitor or officer of the Court, and you are thereby guilty of a breach of Rule 53A of the Legal Profession (Professional Conduct) Rules (Cap 161, R 1, 2010 Rev Ed), and such breach amounts to conduct unbefitting an advocate and solicitor within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap 161, 2009 Rev Ed).

(emphasis added in bold and underline)

**"SECOND CHARGE"**

You, Gabriel Peter, an Advocate and Solicitor of the Supreme Court of Singapore, are charged that on or about 26 March 2014, you:

exerted undue influence upon Lim Wei De Victor or aided Calista Marella Peter to exert undue influence upon Lim Wei De Victor, thereby inducing the said Lim Wei De Victor into signing the Deed of Trust;

which were acts that took unfair advantage of Lim Wei De Victor or was fraudulent, deceitful or otherwise contrary to your position as an advocate and solicitor or officer of the Court, and you are thereby guilty of a breach of Rule 53A of the Legal Profession (Professional Conduct) Rules (Cap 161, R 1, 2010 Rev Ed), and such breach amounts to conduct unbefitting an advocate and solicitor within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap 161, 2009 Rev Ed).

(emphasis added in bold and underline)

### **THIRD CHARGE**

You, Gabriel Peter, an Advocate and Solicitor of the Supreme Court of Singapore, are charged that on or about 26 March 2014, you:

failed, refused and/or neglected to advise Lim Wei De Victor to seek independent legal advice in circumstances where you were or ought to have been aware of your daughter's misrepresentation as to the legal effect of the Deed of Trust and of the vulnerability and impairment of the said Lim Wei De Victor's mental state at the material time when he was suffering from acute grief due to his mother's death.

which were acts that took unfair advantage of Lim Wei De Victor or was fraudulent, deceitful or otherwise contrary to your position as an advocate and solicitor or officer of the Court, and you are thereby guilty of a breach of Rule 53A of the Legal Profession (Professional Conduct) Rules (Cap 161, R 1, 2010 Rev Ed), and such breach amounts to conduct unbefitting an advocate and solicitor within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap 161, 2009 Rev Ed)."

(emphasis added in bold and underline)

### III. THE CIRCUMSTANCES ON 26 MARCH 2014

#### *Victor's account*

5. As far as it relates to the complaint against Peter, Victor's account of the events on 26 March 2014 are that while Victor and Calista were arguing in Calista's bedroom whilst staying in Calista's parents (i.e. Peter's) house<sup>1</sup>, Peter came home from work and Calista went to Peter in his bedroom to show him the DOT.<sup>2</sup> Victor overheard Calista complaining to Peter that Victor refused to sign the DOT and that she did not understand why. Peter and Calista then came over from Peter's bedroom to Calista's bedroom and Peter asked Victor why he was not signing the DOT.<sup>3</sup> Victor asked Peter if he would do the same if Peter were in his shoes and Peter replied yes.<sup>4</sup> Victor understood this to mean that the DOT was a standard, normal document which is commonly executed.<sup>5</sup>
  
6. In the presence of Peter, Calista stated that the DOT was a safeguard for Victor's son ("S") and that all of Victor's assets would be left to S upon Victor's passing.<sup>6</sup> Calista stated that Victor would in the meantime be free to deal with all of his assets as he deemed fit.<sup>7</sup> Peter also stated that he himself did not own anything (which Victor understood to mean immovable properties) and that everything Peter had

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<sup>1</sup> Victor's AEIC at [37] to [41]

<sup>2</sup> Victor's AEIC at [42]

<sup>3</sup> Victor's AEIC at [43]

<sup>4</sup> Victor's AEIC at [43]

<sup>5</sup> Victor's AEIC at [43]

<sup>6</sup> Victor's AEIC at [46]

<sup>7</sup> Victor's AEIC at [46]

belonged to his wife and children.<sup>8</sup> Victor felt intimidated by Peter (being his father-in-law and senior lawyer)<sup>9</sup> and pressured by Calista to sign the DOT, which he did.<sup>10</sup>

*Peter's account*

7. Peter's account of the events on 26 March 2014 were that he was already at home in the evening, playing with his grandson with his wife in their bedroom.<sup>11</sup> Calista entered her parents' bedroom to tell them that Victor was leaving the house to stay elsewhere.<sup>12</sup> Peter recalled that there had been an issue between Victor and Calista over the managing of one of Victor's mother's properties and Peter left it to the couple to resolve the issue.<sup>13</sup> Peter's evidence is that he remained in his room and did not enter Calista's bedroom.<sup>14</sup>
  
8. The linchpin of the three Charges against Peter was that he had followed Calista back to her bedroom and it was there that the events giving rise to the three Charges took place. Not least because the only mention of Peter's presence in Victor's AEIC relating to the Charges is in Calista's bedroom on 26 March 2014 and no other date. *A fortiori*, if the Law Society failed to prove that Peter did follow Calista back to her bedroom, the three Charges would fail.

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<sup>8</sup> Victor's AEIC at [47]

<sup>9</sup> Victor's AEIC at [44]

<sup>10</sup> Victor's AEIC at [48]

<sup>11</sup> Peter's AEIC at [43]

<sup>12</sup> Peter's AEIC at [43]

<sup>13</sup> Peter's AEIC at [43]

<sup>14</sup> DT 12 Transcripts 30 September 2021, page 86 line 18 to page 87 line 29

#### IV. THE TRIBUNAL'S ROLE

9. Lest there is any confusion as to the Tribunal's role in these proceedings, it is apposite to state for the record that the Tribunal's role is to "*hear and investigate the matter*" (see, Section 89(1) of the Legal Profession Act 1966 (the "LPA"), emphasis added). It is therefore within the Tribunal's remit to clarify doubts arising from the evidence given. For example, in paragraph [40] of Victor's AEIC, he affirmed the following:

*"40. After I refused to sign the Declaration of Trust Calista became agitated and started raising her voice. We argued. During the course of our argument, Calista told me that the Declaration of Trust was just a "safeguard", that it was not meant to take effect until my death, and that I was "free to deal with all [my] assets as [I deemed] fit" (or similar words to that effect) until then. Calista said that the Declaration of Trust was just going to be left with her for "safekeeping in case anything [happened] to [me]." Accordingly, Calista led me to believe that, if I signed the Declaration of Trust, in the event of my death, all my assets would be left to [S] and until then, I was free to deal with my money and assets as I deemed fit. Calista was only interested and insistent in getting me to sign the Declaration of Trust."*

(emphasis added in bold and underline)

10. Victor's evidence that Calista said "*it was not meant to take effect until [his] death*" gave rise to a doubt as to whether Calista did in fact represent to him that in law, the DOT was to take effect only upon his death. When someone describes a

document using the phrase “*it was not meant to*”, it usually suggests that the effect of the document in law was otherwise. Obviously because while the effect of a document in law may be one thing, the understanding between parties as to how and when the document is used is another. Otherwise, it makes no sense (on Victor’s evidence) for Calista to have said “*it was not meant to take effect until [his] death*”.

11. The Tribunal was therefore compelled to clarify this doubt with Victor during his cross-examination, as part of their duty to “*hear and investigate the matter*”.

#### V. UNUSUALLY CONVINCING STANDARD

12. For the three charges against Peter to be made out, it was incumbent on the Law Society to establish beyond a reasonable doubt that Peter followed Calista back into her bedroom.
13. This resulted in a face-off between what Victor said had occurred (Peter entered the bedroom) and what Peter said had occurred (he did not enter the bedroom) as neither the Law Society or Peter had called Calista as a witness in DT 12.
14. This face-off called into operation the test propounded in *Public Prosecutor v GCK and another matter* [2020] 1 SLR 486 (“**PP v GCK**”) in which the Court of Appeal required “*unusually convincing*” circumstances in order to rely on a sole eyewitness’ testimony in convicting an accused, at [87] to [89]:

"87 We agree with the parties that the "unusually convincing"  
standard is the only standard to be applied where an eyewitness's  
uncorroborated testimony forms the sole basis for a conviction. ...

88 The "unusually convincing" standard is used to describe a situation where the witness's testimony is "so convincing that the Prosecution's case [is] proven beyond reasonable doubt, solely on the basis of the evidence": see *Mohammed Liton* ([32] *supra*) at [38]. In *Haliffie bin Mamat v Public Prosecutor and other appeals* [2016] 5 SLR 636 at [28], this court considered that (citing *Mohammed Liton* at [39]):

... a complainant's testimony would be unusually convincing if the testimony, 'when weighed against the overall backdrop of the available facts and circumstances, contains that ring of truth which leaves the court satisfied that no reasonable doubt exists in favour of the accused'.

The relevant considerations in this regard include the witness's demeanour, and the internal and external consistencies of the witness's evidence.

89 ... the basis for the "unusually convincing" standard has nothing to do with the status of the witness concerned (namely, whether he or she is an alleged victim or an eyewitness), and instead has everything to do with "the ultimate rule that the Prosecution must prove its case beyond a reasonable doubt": see *XP* ([72] *supra*) at [31]. In the absence of any other corroborative evidence, the testimony of a witness, whether an eyewitness or an

*alleged victim, becomes the keystone upon which the Prosecution's entire case will rest. Such evidence can sustain a conviction only if it is "unusually convincing" and thereby capable of overcoming any concerns arising from the lack of corroboration and the fact that such evidence will typically be controverted by that of the accused person.*

(emphasis added in bold and underline)

15. The "*unusually convincing*" standard has been previously applied in other Disciplinary Tribunals (see, *The Law Society of Singapore v Lim Kien Thye* [2002] SGDSC 6 at [12]), and the Tribunal sees fit to apply it in this circumstance.
16. The Tribunal finds that Victor's account of the events, including Peter having entered the bedroom, does not satisfy the "*unusually convincing*" standard for a number of reasons.

*Internal and external inconsistencies*

17. Victor's account of the events was beset with internal inconsistencies. The most glaring of which was his allegation that Calista had misrepresented to him when the DOT took effect in law. Upon questioning by the Tribunal, Victor admitted that there was no such misrepresentation as to when the DOT took effect in law, but only what and when the DOT was meant or intended to be used for:

DT 12 Transcripts 28 September 2021, page 84 line 13 to page 85 line 9

"Q I'm now talking about Calista's misrepresentation that you claim happened. I'm asking you, did you tell the High Court what you say here---no, to be fair to

you. Are you saying here that you were unclear as to what Calista's misrepresentation about the effect of the DOT was? So that we are fair to you.

A I disagree.

Q No, no. What are you saying then?

President: What are you saying? Yes.

Witness: I relied upon CMP's misrepresentations. I didn't question them.

President: No. No, no. Okay. Let me give you two scenarios so you can understand, right? One is a misrepresentation that this DOT would only take effect on your death, correct?

Advocate: As a matter of law.

President: As a matter of law. The other [interpretation] is I made no representations as to when it takes effect except in fact I won't use this document until you die. It's different, you know. It's different.

Witness: Your Honour, CMP represented the second one.

President: The second one. Okay.

Respondent: Okay.

President: What is the second one? So she says to you, "I will only use this upon your death", correct?

Witness: Yes.

President: That's quite different from saying this doesn't take effect until you die. Alright. In law, as my colleague said. You see? So it was really - what they call - security. Security. Alright. That you behave yourself. Alright. And you come back, you start a family, you know? I think that is what you agree she meant, yes?

Witness: Yes, Your Honour."

(emphasis added in bold and underline)

"Q So Mr Lim, I put it---sorry, I suggest to you that Callista did not make a misrepresentation to you about the legal effect of the DOT, taking---in that it took effect legally upon your death. Do you agree?

President: Law, now we're talking about law, not fact, law.

A I disagree.

Advocate: No, you said you were not willing to sign it, right---

Witness: Yes, Your Honour.

Advocate: ---because you think that "Look, I'm going to lose everything if I sign it."

Witness: Yes.

Advocate: And it was because she said that look, this is---as you say in affidavit, it's a safeguard.

Witness: Yes.

Advocate: If anything happens to you, then I don't need to go through probate, so I'll put it in a safe, don't worry---

Witness: Yes.

Advocate: ---and---so that seems to be more about intention rather than legal effect. So we're now trying to get your evidence---

President: This question, did she represent to you that the legal effect, ...? Or was it she saying to you "This is a safeguard, we all will safeguard, I put in the safe, I will only use it when you die"? And maybe then can---one can understand why is it you go and do whatever you want to do with the property.

Witness: Your Honour, it was the second one.

(emphasis added in bold and underline)

"President: Okay. Let me put the question simpler, right. Callista did not tell you, right, that this document which you signed would take effect in law only upon your death. Did she make that representation?

Witness: She didn't Your Honour---

President: Yes.

Witness: ---but she---

President: So she made what representation? She made the representation that this is only to avoid probate and all that other things, and in case you give your property away to a Chinese [whore]<sup>15</sup>, I would [leave] this in the safe for safekeeping. It's a safeguard so she did it as a safeguard. She said, "I'm going to take it out if you misbehave." It's that---that really is the situation, isn't it, Mr Lim? Don't worry---

Witness: It is the second point, Your Honour, I'm not---

President: Yes, the second, yes. Alright, alright.

Witness: ---the kind to think about too much.

President: Yes, you got it so it's there, alright, it's the second.

Respondent: Yes. Your Honour, it saves a lot of time and I won't belabour that."

(emphasis added in bold and underline)

18. In fact, this admission by Victor was not just an internal inconsistency as to his account of the events, but it shows that he was not truthful about Calista's alleged misrepresentation altogether. Further, if there was no misrepresentation by Calista, why would there be a need for Peter to follow Calista back to her bedroom and persuade Victor? This in and of itself raised a reasonable doubt as to whether

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<sup>15</sup> This reference to a "Chinese [whore]" came from Victor's AEIC at [45]:

"45. ...Calista further mentioned that I might irresponsibly leave a will leaving all my assets to a "Chinese whore" or any illegitimate children and that would mean that [S] would end up getting nothing."

Peter did in fact follow Calista back to her bedroom. Without Peter doing so, all three Charges against Peter fail.

19. As for the First and Third Charges in particular, they fail also because they are specifically predicated on Calista having allegedly misrepresented when the DOT took effect in law. The First Charge against Peter is for aiding Calista in her alleged misrepresentation, and the Third Charge is in failing to advise Victor to seek independent legal advice despite knowing or being aware of Calista's alleged misrepresentation. Both predicated on the alleged misrepresentation.
20. Counsel for the Law Society attempted to remedy this clear admission in re-examination by asking Victor what he understood when he signed the DOT:

DT 12 Transcript 29 September 2021 page 7 lines 10 to 13

"Q       *On the evening of the 26<sup>th</sup> of March 2014 when you signed the DOT, as far as you understood at that time, when would the DOT take effect?*

A       *After CMP made her statements, I was led to believe that would only take effect at my death."*

21. Read plainly, this answer by Victor in re-examination does not contradict Victor's admission in cross-examination that the DOT was not meant to be used until Victor's death, given that that was what Calista had told him as part of a family arrangement.

22. In fact, if the Tribunal assumes Victor's answers in re-examination were contradicting his answers in cross-examination, Victor's credibility would be put in further doubt as there would be no way to reconcile his two contradictory accounts. Whichever way the Tribunal looks at it, Victor's evidence suffered from an internal inconsistency.
23. Victor's account also suffered the internal inconsistency between what he says he understood the DOT to mean at two different portions of his AEIC.
24. First, at [43] of his AEIC, Victor alleges that when he asked Peter whether he would sign the DOT if he was in Victor's shoes, Peter said yes. At [47] of his AEIC, Victor alleges that Peter told him that he himself did not own anything and that everything he had belonged to his wife and children. Victor says he understood this to mean that Peter did not own any property. Taking these two statements together, Victor must have understood that signing the DOT would be akin to putting himself in Peter's shoes i.e. not owning any property of his own. Victor said as much in [9] of his complaint to the Law Society dated 31 May 2019<sup>16</sup>:

*"When I asked Peter Gabriel, whom I knew and respect to be a senior lawyer, whether he would sign the DOT if he was in my shoes, Peter Gabriel answered "yes". At one point, Peter Gabriel even remarked that he did not own anything and that everything belonged to his wife and children."*

25. Yet later at [55] of his AEIC, Victor says that he honestly believed that under the DOT, all of his assets would be left to S only when he died, and he would

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<sup>16</sup> See K Gopalan's AEIC at p 326

continue to own and be free to deal with his assets as he deemed fit without any reference to S. This was clearly not the position that Victor understood Peter to be in. Obviously because Peter was still alive and yet his wife and children owned the property. Internal inconsistency aside, on Victor's own account of what Peter said, how could Peter have aided any misrepresentation as to when the DOT took effect in law? In fact, Victor's evidence is the other way around.

26. This was picked up by Peter and the Tribunal in the cross-examination of Victor:

DT 12 Transcripts 28 September 2021, page 74 line 1 to page 72 line 2

*"Q Now, I would like you to---just to finish off, just one question on paragraph 9 of Mr Gopalan's affidavit, your complaint. Can you take the complaint? Paragraph 9.*

*...  
So, Mr Lim, what you had done in this paragraph 9 is effectively try to summarise the various points you have raised in your affidavit, and your conclusion is that the words that I have said to you, "standard document, that I was---if I was in your shoes, I would do it and that everything I own belong to my wife and children", you yourself say here that all you gathered from those words, I didn't say it, but all you gathered from those words is that you were being unreasonable for not signing the DOT, correct?*

*A I'm not just unreasonable but yah.*

*...*

*Q I said, after reading---so, Mr Lim, what you've done in this para 9 is to summarise the various points in your affidavit, You say, "In your shoes, I will do it, everything I own to my wife and children", all you gathered from*

*those words was that you were being unreasonable for not signing the DOT.*

*So I asked you, "Do you agree?" That's one. You get it?*

*A I agree with what I've stated on that paragraph.*

*Q And nowhere did you get that impression that you had stated earlier that somehow I had given you the impression that by these words I could dispose of the assets that was in my wife's and family's name, correct?*

*President: I have difficulty, Mr Lim, with paragraph 9. Because if you read the first – 1, 2, 3, 4, 5 – 6 lines, right, basically your complaint there is that Peter Gabriel did not correct his daughter's representation that it would only take effect upon death, correct? And if you objectively look at the lines after that:*

*"Peter Gabriel read the DOT and assured me that it was a standard document. When I asked Peter Gabriel, whom I knew and respect to be a senior lawyer, whether he would sign the DOT if he was in my shoes, Peter Gabriel said yes. At one point"--and this is where he may be said to have corrected Calista---"at one point, Peter Gabriel even remarked that he did not own anything and that everything belong to his wife and children."*

*You see, that could be regarded as a correction. In other words, he said, "I did the same. I don't own anything. It belongs to my wife and children." Of course, he didn't say, "Oh, I'm now correcting Calista." But by making that remark, and you are a intelligent man, you come to the conclusion whatever Calista said was not really true because look at Peter Gabriel, he owns nothing. And he is saying so. So, I'm sharing with you and reading his paragraph 9, it is not as clear-cut as you think it is, yes? So Mr Peter, you want to carry on this line?*

*Respondent: I'll just round it off, Your Honour.*

*President: But you see, I tell you why he's not going there, because it's like putting his hand in the cookie jar. Because he's not going to---his defence is an all-or-nothing defence. "I never went to Calista's bedroom" period, that's it. **But even assuming he did, this paragraph 9 has an inherent inconsistency.***

(emphasis added in bold and underline)

27. There was neither a correction by Victor nor a re-examination by the Law Society in this regard.
28. The third internal inconsistency in Victor's account was that in his AEIC at [43], he states that Peter read the DOT and assured Victor that it was a "*standard document*". However, Victor resiled from this point during cross-examination and admitted to the Tribunal that the description of the DOT as a "standard document" came from himself and not Peter:

DT 12 Transcripts 27 September 2021, page 59 line 24 to page 60 line 17

*"Q Mr Lim, you cannot say things and then say you don't remember on this event of which you have produced even quotations purportedly about events that transpired. So try to remember, Mr Lim. Answer the question. What clarification did you seek from me or my daughter on the 26th about this trust deed?"*

*A To you specifically, I asked whether this was a standard document, to which you said it is. I asked for illustrations, you told me that this was something that was acceptable to you and that also you were not*

*holding any assets under your name, and that most if not all your assets were held by your wife and your children.*

*Q Can you point out in your affidavit you have said that you asked me whether it was a standard document? Can you point out in your affidavit where you said you asked me whether it was a standard document and that I replied to you?*

...

*A Paragraph 43.*

...

*Q I can read that. Where is it that you say that you had asked me and I replied you?*

*A It is not stated explicitly inside that paragraph." (emphasis added)*

DT 12 Transcripts 27 September 2021, page 69 line 1 to page 70 line 6

*Q Now, coming back to you---what you said this morning. You said that you had asked me whether it was a standard document and that I replied to you that it was. So can you tell the Tribunal what is it that you meant by "standard document"?*

...

*A Your Honour, I was coming from a perspective of a layperson where I was not familiar with all these documents. I was asking him as a very senior figure in legal matters whether this is commonly executed, whether this would have any detrimental effects to myself and whether there were any significant ramifications that I was unaware of. So what-*

--in the context of asking, "Is it a standard document?", that was what I was thinking about.

President: **So the provenance of this---**

Advocate: Phrase.

President: **---phrase, "standard document" was whose? The origin was whose?**

Witness: **I asked. I asked PG about it.**

President: **So the word "standard document" came from your mouth?**

Witness: **Yes.**

Q So now that you say that the words "standard document" came from your mouth, **did you communicate to me at any point as to what you have just said, whether it's commonly executed, whether there was a detrimental effect on you and whether---what significant ramifications were there, did you ask these questions of me? Yes or no?**

A **I did not.**

(emphasis added in bold and underline)

29. Victor's answer that he was the one who described the DOT as a "standard document" paints a very different picture from what he says in his AEIC. In his AEIC, it comes across as though Peter was the one who of his own initiative, sought to assure Victor that it was a "standard document". If that were the case, it would be easy to discern the inducement by Peter. But if the truth was that Victor was the one asking if it was a "standard document", and Peter was merely

responding to it, where is the inducement? As Victor admitted, he did not further ask questions about whether it was commonly executed, whether there was a detrimental effect and whether there were significant ramifications. A simple “yes” from Peter could not encapsulate all of those concerns.

30. The Tribunal also found that Victor’s account was externally inconsistent with the objective evidence. Victor says in his AEIC (at [42]) that while he was in Calista’s bedroom, he could hear Calista and Peter speaking in Peter’s bedroom very clearly as the bedroom door was open. The floor plan of the house and the two bedrooms was exhibited to the Tribunal, and it was clear that the distance between the two bedrooms was approximately 7.5 metres diagonally across (with walls in between). This is assuming that Peter and Calista were standing at the doorway of one room and Victor was listening in from the other. Even then, it would be difficult to accept that at that distance, Victor could hear the conversation very clearly. This was raised in Peter’s oral testimony and went unchallenged by the Law Society.
31. That said, the Tribunal recognises that nothing turns on this in that no allegations are being raised in relation to what was said between Calista and Peter while they were in Peter’s bedroom. The Tribunal, however, takes this to be an external inconsistency in Victor’s evidence that would prevent it from satisfying the standard of “*unusually convincing*.”
32. Given these internal and external inconsistencies, it could not be said that Victor’s evidence was “*unusually convincing*”.

*Demeanour of the witness*

33. The Tribunal also notes that Victor's demeanour during his cross-examination in DT 12 by Peter, his former father-in-law, was also telling. During the cross-examination, Victor turned away from Peter with his back facing him and faced the Tribunal with his eyes shut most of the time. The Tribunal can only surmise that he felt some sort of shame or remorse and was uncomfortable facing his former father-in-law. This too, was a reason that Victor's evidence could not be said to be "*unusually convincing*". It certainly did not have the "*ring of truth*" as propounded in *PP v GCK*.
34. In any event, the Tribunal notes that the standard of "*unusually convincing*" evidence does not place a burden on the accused to call corroborative eye-witness evidence in the accused's favour. The prosecution or the Law Society have first to discharge their burden before there is a shift to the accused (see, *PP v GCK* at [140]). The Tribunal therefore could not agree with Mr Adrian Wee, Counsel for the Law Society, in his submission that Calista ought to have been called by Peter.
35. The Tribunal therefore finds that Victor's evidence was not "*unusually convincing*" given the internal and external inconsistencies of his evidence, as well as his demeanour. There was no "*unusually convincing*" evidence that Peter was in Calista's bedroom.

*Covert recordings*

36. For completeness, the Tribunal considered the High Court's reliance on the covert recording by Victor of his conversation with Calista and her Mother at [64] of *BOK v BOL*:

*"Next, a key piece of evidence of his presence in the second defendant's bedroom on the evening of 26 March 2014 comes from the transcript of the confrontation of 12 February 2015. During the confrontation, the plaintiff said to the defendant, "You even got your dad to read through it and to force me to sign it." The second defendant responded by denying the fact that anyone had "forced" the plaintiff to sign the DOT. She is recorded as having said, "No one forced you. (chuckles) I don't know why you keep saying someone force you. How can any of us force you?" Thus, she did not deny that she had asked her father to read the DOT. Indeed, she appeared to accept, by her use of the word "us", that someone other than her was involved in the plaintiff's signing of the will."* (emphasis added)

37. In the Tribunal's view, however, the covert recordings were unsafe to rely on given that Victor had sole control of what was being recorded and was directing the conversation to suit his purposes. Indeed, the transcript of the covert recording makes it clear that Victor was the one who prompted the mention of Peter's alleged involvement:

*"[Calista]: Victor, you have already signed it. I didn't force you. How am I to force you?*

*[Victor]: You even got your dad to read through it and to force me to sign it.*

[Calista]: *No one forced you (chuckles) I don't why you keep saying some one force you. How can any of us force you?*

[Victor]: *You just told me to get lost, and you a-*

[Calista]: *I didn't want you. I didn't want you around."*

38. This was the same concern expressed by the court in *Re A (a child) (Hague Convention: wrongful retention)* [2021] EWHC 1204 (Fam), in which the Court gave very little weight to covert recordings made by a father of his conversation with his child. The Court held:

*"On 24 March 2021 I dismissed the father's application to rely on these recordings as evidence at the hearing. I did so because they had been made covertly and the father had sole control over what was recorded and could have steered recorded conversations with his child to suit his purposes. Hence, the evidence would be of very little weight."*

39. Notwithstanding the above, even if the Tribunal were to place the utmost weight on what Calista said in this covert recording, it cannot prove that Peter was in the room. Giving the words their natural meaning, all she is saying is that no one in her family could have forced Victor to sign the DOT. It cannot prove beyond a reasonable doubt that Peter was in Calista's bedroom at the relevant time.

40. In view of the above, all three charges against Peter are not made out on the evidence. Further, as far as the First and Third Charges are concerned, as stated above at [19], Victor has admitted that there was no misrepresentation by Calista as regards when the DOT was to take effect in law. The Third Charge also fails to

satisfy the conjunctive requirement that Peter was aware that Victor was suffering from vulnerability and impairment of his mental state, for the reasons stated in DT 2 and 2A at [30] to [39].

## VI. CONCLUSION

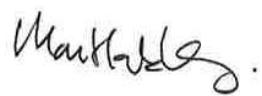
41. In view of the findings in [40] above, the Tribunal determines pursuant to Section 93(1)(a) of the LPA that no cause of sufficient gravity for disciplinary action against Peter exists under Section 83 of the LPA.

Dated this the 20th day of February 2022.



**Mr Roderick E Martin SC**

**President**



**Mr Chan Hock Keng**

**Member**