

DISCIPLINARY TRIBUNAL

DT/17/2021

In the Matter of **ZHENG SHENGYANG,
HARRY (NRIC No: SXXXX809G)** an
Advocate & Solicitor

And

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

REPORT

PRESIDENT:

MR NARAYANAN SREENIVASAN SC

ADVOCATE & SOLICITOR:

MR SEAH SEOW KANG STEVEN

MS KOH EN YING
MS GLORIA TAN

FOR THE LAW SOCIETY

MR SARBJIT SINGH CHOPRA
MR ROSHAN SINGH CHOPRA

FOR THE RESPONENT

Dated this **19th** day of Jan 2022

Introduction

1. This Disciplinary Tribunal was appointed on 3 August 2021. The Respondent solicitor is Zheng Shengyang, Harry (NRIC No. SXXXX809G) (the "**Respondent**"), an Advocate and Solicitor of the Supreme Court of Singapore. He was called to the Singapore Bar in 2015.¹
2. The primary facts in this matter are not in dispute. We must commend both counsel for the Law Society and counsel for the Respondent for the focussed, concise and fair manner in which they conducted their respective cases. This has greatly assisted us in dealing with the issues in this case.

Background Facts to the Complaint

3. The complainant, Lee Kuan Fung (the "**Complainant**"), is an individual resident in a Housing Development Board flat at 18 Joo Seng Road, #08-159, Singapore 360018 (the "**Complainant's Flat**").²
4. On or about 7 October 2020, the Respondent's law firm, Ark Law Corporation, issued a letter (the "**7 October Letter**") to the Complainant and Chua Chim Kang.³ The 7 October Letter contained:
 - (1) the Complainant's name and address;
 - (2) Chua Chim Kang's name and address; and

¹ Statement of Case at [1] and Defence (Amendment No. 1) at [2]

² Statement of Case at [2] and Defence (Amendment No. 1) at [3]

³ Statement of Case at [3] and Defence (Amendment No. 1) at [5]

- (3) information relating to the company known as Homing Holdings Pte Ltd (a company ostensibly incorporated for the purposes of a joint venture between the Respondent's client, the Complainant and Chua Chim Kang), and the dispute between the Respondent's client, the Complainant and Chua Chim Kang.
5. On 7 October 2020 at 1218h, the Respondent sent a copy of the 7 October Letter to the Complainant, as an attachment to an email from the Respondent to the Complainant (the "**Respondent's Email**").⁴
6. The Respondent also caused a process server to attempt to serve the 7 October Letter on the Complainant personally, at the Complainant's Flat, on 7 October 2020 at 1959h. The process server was informed that the Complainant was not around.
7. On 7 October 2020 at 2115h, the Complainant acknowledged receipt of Respondent's Email by way of an email from the Complainant to the Respondent.⁵
8. Although the Complainant had, by this time, acknowledged receipt of the Respondent's Email:
- (1) The Respondent caused a process server to make a second attempt to serve the 7 October Letter on the Complainant personally, at the Complainant's Flat, on 8 October 2020 at 1958h.
- (2) The Respondent instructed a process server to, on 9 October 2020

⁴ Statement of Case at [4] and Defence (Amendment No. 1) at [8]

⁵ Statement of Case at [6] and Defence (Amendment No. 1) at [9]

at 1937h, to post the 7 October Letter on the main door of the Complainant's Flat. Upon the instruction, the 7 October Letter was pasted, without an envelope on the wall beside the main door. .⁶

9. The Complainant lodged a complaint against the Respondent dated 29 October 2020 (the "**Complaint**"). The Complaint states (amongst other things) that the conduct of the Respondent, in exposing the 7 October Letter to the public, caused the Complainant to feel humiliated, disturbed, annoyed and intimidated.

The Charge

10. The Law Society formulated the following charge against the Respondent:

CHARGE

That you, Zheng Shengyang, Harry (NRIC No. SXXXX809G), of Ark Law Corporation of 6 Shenton Way #22-08, OUE Downtown 2, Singapore 068809, are charged that you, on or about 9 October 2020, did cause a letter of demand, addressed to one Lee Kuan Fung and one Chua Chim Kang prepared by Ark Law Corporation on behalf of its client, to be openly posted at 7:37 pm on 9 October 2020, on a wall beside the main door of the said Lee Kuan Fung's flat at 18 Joo Seng Road, #08-159, Singapore 360018, in plain view of the public, when you knew or ought to have known that there was no necessity or legal basis to do so, and have acted towards

⁶ Statement of Case at [7] and Defence (Amendment No. 1) at [10]

Lee Kuan Fung in a way which is contrary to your position as a member of an honourable profession in breach of Rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules 2015, and you are thereby guilty of such misconduct unbefitting an advocate and solicitor as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap. 161).

(The Legal Profession (Professional Conduct) Rules 2015, shall hereinafter be referred to as "the PCR" and the Legal Profession Act (Cap. 161) shall hereinafter be referred to as "the LPA".)

11. The Law Society identified the factual and legal elements that it had to prove as follows:
 - (i) That the 7 October Letter was a Letter of Demand;
 - (ii) That it had been openly posted in plain view of the public;
 - (iii) That the Respondent knew or ought to have known that there was no necessity or legal basis to do so;
 - (iv) That the Respondent had acted towards the Complainant in a way that was contrary to his position as a member of an honourable profession in breach of Rule 8(3)(b) of the PCR; and

was therefore guilty of misconduct unbefitting an advocate and solicitor as a member of an honourable profession under section 83(2)(h) of the LPA.⁷

⁷ Law Society Closing Submissions ("LSCS") at [4]

12. The Respondent has defined the elements in a similar way, with the added submission that the *mens rea* element was the intention of the Respondent in posting the 7 October Letter in plain view of the public when he knew that there was no necessity or legal basis to do so.⁸ We note that neither the charge nor the *mens rea* that the Respondent has distilled from the charge has specifically set out an intention to cause embarrassment or harm or the knowledge of the possibility of embarrassment or harm to the Complainant as an ingredient. However, the intention to post in plain public view is accepted by the Law Society and the Respondent as the necessary mental element in the charge.
13. It is trite law and there is no dispute between the parties that the burden of proof rested with the Law Society and that the standard of proof for factual issues was proof beyond reasonable doubt.

The Contentions of the Parties

14. In summary, the Law Society's position was as follows, namely that:
- (i) The 7 October Letter was clearly a letter of demand because it set out allegations, required the addressees to carry out certain actions and threatened legal proceedings if there was no compliance.⁹
 - (ii) The 7 October Letter was openly posted in plain view of the public in that it was taped to a wall (without an envelope) beside the main door of the Complainant.¹⁰

⁸ Respondent's Closing Submissions ("RCS") at [4]

⁹ LSCS at [5] to [9]

¹⁰ LSCS at [10] to [13]

- (iii) There was no factual necessity to deliver the physical copy by posting, especially as the Complainant had already acknowledged receipt of a copy sent by e-mail.¹¹
- (iv) There was no legal basis to serve by posting and that there was no law permitting such posting. In this regard, the Law Society accepts that the absence of a legal basis or a law permitting posting would not make posting of a letter of demand, in itself, a breach of the PCR; however, the Law Society asserts that such absence will constitute a breach in the particular circumstances of the present case.¹²

15. In summary, the Respondent's position is as follows, namely that:

- (i) The 7 October Letter was not a letter of demand, but a proposal for settlement.¹³
- (ii) Although the 7 October Letter was posted openly, there was no harm to the Complainant and that the complaint did not arise from a genuine grievance but was motivated by the Complainant to get back at the Respondent for his actions in acting for his client (the counter party to the Complainant).¹⁴
- (iii) There was no evidence of harm to the Complainant.¹⁵

¹¹ LSCS at [14] to [17]

¹² LSCS at [18] to [26]

¹³ RCS [12] to [15]

¹⁴ RCS [17] to [19]

¹⁵ RCS [21]

- (iv) The Respondent had no intention to expose the 7 October Letter publicly.¹⁶
- (v) The Law Society has not proved that there was no necessity or legal basis to post the 7 October Letter.¹⁷
- (vi) On the facts, there was no breach of the PCR which amounted to conduct unbefitting an advocate and solicitor.

Factual Findings of the Disciplinary Tribunal

16. Some of the issues in this matter can be determined easily, while others are certainly more nuanced. This is particularly so as both Rule 8 (3) (b) of the PCR and section 83(2)(h) of the LPA do not precisely set out the types of elements of the behaviour that is to be sanctioned. In this regard, both counsels have very helpfully set out the authorities and commentaries, which will be considered in detail further below. The state of mind of the Respondent is also an important issue in this case.

17. We shall deal with the factual issues first. We find as follows:

- (i) The question of whether the 7 October Letter¹⁸ is or is not a letter of demand can and should be determined from an examination of the 7 October Letter itself and from its contents. We find that it is clearly a letter

¹⁶ RCS [27] to [30]

¹⁷ RCS [35] to [41]

¹⁸ The 7 October Letter is exhibited at pages 34 to 38 of the Complainant's affidavit

of demand as it requires action on the part of addressee and threatens legal proceedings as a consequence of failure to take the action demanded. The 7 October Letter sets out the alleged breaches, the assertion of a right to wind up the company in question and the proposed relief of a buy out, which is the statutorily provided alternative relief to a winding up. All letters of demand, if complied with, will resolve matters and the distinction that the Respondent has attempted to make, between a letter of demand and an attempt to settle, in this case, is somewhat farfetched. In this regard, we also note that the 7 October Letter was not marked "Without Prejudice" and the intention of service was to use the fact of service and delivery in subsequent proceedings.

- (ii) During the hearing, some attempts were made by the Respondent to show that the posting was not in a public place as the main door of the Complainant's flat was not in a common corridor, but in a stairwell with just two units. We accept the factual assertions made, that is that the Complainant's flat was in a stairwell with only one other unit at that level. However, we find that the posting was in a public place as the stairwell was open to and intended for public access, not just to the opposite unit but also to members of the public using that set of stairs.

- (iii) The Complainant gave evidence that she was distressed and humiliated and embarrassed¹⁹ However, we accept the Respondent's submissions that the harm done, if any, was limited by the location of the main door in a stairwell and we accept that there is no evidence that the openly posted 7 October Letter was actually seen by any member of the public

¹⁹ Complainant's affidavit at [20], [21] and [23]

or even the Complainant's family members.²⁰ Whether this goes towards culpability in the context of an adverse finding of guilt on the charge itself, or towards culpability and harm in relation to the appropriate sanction if the Respondent is found guilty, is dealt with further below. In this regard, it is apposite to note that the Respondent, at the time he gave instructions, did not know the precise location of the unit and main door, and how "public" that location was.

- (iv) On the questions of necessity to post, the legal basis for posting, if any, and whether the law permitted such posting, we find that there is no legal requirement for posting the 7 October Letter, even if the fact of delivery of the letter was to be relied upon in subsequent proceedings. The 7 October Letter was not an originating process or statutory notice. It is noted that while there was no legal requirement to post, and there is no law expressly permitting such posting, the Law Society did not adduce evidence or make submissions that such a posting is prohibited. In any event, we find the question of whether there was a legal basis or law permitting such posting to be a moot point in the present case. If posting was required, which it was not, that would be a defence. If posting was prohibited, which it was not, that would make out the Law Society's case. The real issue is whether the posting on the wall in the factual circumstances of this case breached Rule 8(3)(b) of the PCR and whether such breach amounted to conduct unbecoming an advocate and solicitor contrary to section 83(2)(h) of the LPA.

²⁰ RCS at [21], [23] and [24]

Peripheral Issue

18. The Respondent has made extensive submissions that the Law Society had put a case beyond what is set out in the Charge and in the Statement of Case. The Respondent submits²¹, with relevant and well-researched authorities, that a conviction on a basis other than the Charge and Statement of Case should not be allowed. We accept the legal principles put forward by the Respondent as correct and applicable.
19. However, we do not find that the four iterations in relation to the Respondent's state of mind that was put to him by counsel for the Law Society go beyond the Charge or Statement of Case. They were questions put in cross-examination to test the state of mind of the Respondent to ascertain his intentions in giving instructions for the 7 October Letter to be posted. We note that the Respondent denied each of the four iterations put to him. We are mindful that the Law Society's case in the Charge and in the Statement of Case is pitched at the lower level of culpability, in that the intention to openly post the 7 October Letter in public view is in itself sufficient to make out the offence, because the Law Society has taken the position that the gravamen of the charge is the unfairness to the Complainant by the public posting of the 7 October Letter.²²

Analysis of Section 83(2)(h) of the LPA and Rule 8(3)(b) the PCR

20. Section 83(2) of the LPA sets out the conduct and acts that render an advocate and solicitor liable for the sanctions set out in section 83(1) of the LPA. Specific reference to breaches of the PCR is made in section 83(2)(b) of the LPA where such breach amounts to improper conduct or practice as an advocate and

²¹ RCS [5] to [11]

²² LSCS [38] and [39]

solicitor. However, this is not the section that the Respondent is being dealt with. The Charge is pursuant to section 83(2)(h) of the LPA under which the charge is made out if the Respondent has been guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or member of an honourable position. Section 83(2)(h) of the LPA does not make reference to a breach of the PCR.

21. Counsel for the Law Society and the Respondent made extensive submissions on the application of the test laid out in section 83(2)(h) of the LPA. We do not need to consider these submissions extensively as both counsel submitted that the test is the test laid down by the Court of Three Judges in **Wong Sin Yee**.²³ We set out the test:

Section 83(2)(h) of the LPA is broader than section 83(2)(b). It is a 'catch all provision' operating when a solicitor's conduct does not fall within any of the other subsections of s 83(2) but is nonetheless considered unacceptable (Law Society of Singapore v Ng Chee Sing [2001] 1 SLR(R) 466 ("Ng Chee Sing") at [40]). The standard of 'unbefitting conduct' is less strict, and a solicitor only needs to be shown to have been guilty of such conduct as would render him unfit to remain as a member of an honourable profession. As a practical guide, it may be asked whether reasonable people, on hearing what the solicitor had done, would have said without hesitation that as a solicitor he should not have done it. (Ng Chee Sing at [41], citing Wong Kok Chin v Singapore Society of Accountants [1989] 2 SLR (R) 633 at [17]). It is sufficient that if his misconduct brings him discredit as a lawyer or brings discredit to the legal profession as a whole.

²³ [2018] 5 SLR 1216 at [24] cited by Law Society at LSCS at [44] and by the Respondent at RCS at [61]

22. At first blush, the first part of the test set out by the Court of Three Judges appears to set a very high bar for section 83(2)(h) of the LPA to be made out - that the conduct renders the advocate and solicitor unfit to remain as a member of an honourable profession, suggesting conduct so reprehensible that striking out may be called for. However, the Court of Three Judges had described a breach of section 83(2)(h) of the LPA as being less serious than breaches of other sub-sections of section 83(2) of the LPA. In the latter part of the passage cited and set out above, the Court of 3 Judges has given us the practical test, which we will apply. The practical test has two elements. The first is whether reasonable people, on hearing what the solicitor had done, would have said without hesitation that as a solicitor he should not have done it. The second element is whether his misconduct brings him discredit as a lawyer or brings discredit to the legal profession as a whole. (emphasis added)
23. We note that the charge is not one pursuant to section 83(2)(b) of the LPA, even though that sub-section specifically refers to breaches of the PCR. We note that section 83(2)(b) of the LPA does not sanction every breach of the PCR, but only such breaches which amount to improper conduct or practice. By not proceeding under section 83(2)(b) of the LPA, the Law Society has pitched the alleged breach in this case at the lower level of culpability of section 83(2)(h) of the LPA, that is of unbecoming conduct, rather than a breach of a higher level of culpability that is improper conduct or practice.
24. One issue that has not been raised by parties, but which we address for completeness, is whether a breach of the PCR can be dealt with under section 83(2)(h) of the LPA, where the PCR is not expressly mentioned, even though such breaches are expressly addressed under section 83(2)(b) of the LPA. We

are of the view that section 83(2)(h) of the LPA, as a catch-all clause, would cover PCR breaches that show unbecoming behaviour which does not amount to improper conduct or practice. We are mindful that the Law Society has chosen, in the Charge and in the Statement of case to narrowly state the unbecoming behaviour to be the breach of a specific rule, that is Rule 8(3) of the PCR. Accordingly, in considering whether the Respondent's conduct is unbecoming, we will not consider whether it is unbecoming conduct even if the specific rule is not breached.

25. Following upon the above analysis, the Law Society has to satisfy us that:

(a) On the facts, the Respondent breached Rule 8(3)(b) of the PCR.

(b) On the facts, the breach is such that reasonable people, on hearing what the Respondent had done, would have said without hesitation that as a solicitor he should not have done it, and that his conduct had brought him discredit as a lawyer or brings discredit to the legal profession as a whole.

26. We now consider Rule 8(3)(b) of the PCR. The starting point is the general guiding principles set out in Rule 4 that apply to the entire PCR. We set out the salient portions of Rule 4:

(c) A legal practitioner has a duty to discharge honourably and with integrity all of the legal practitioner's responsibilities to any tribunal before which the legal practitioner appears, the legal practitioner's clients, the public and other members of the legal profession.

.....

(f) A legal practitioner must be fair and courteous towards every person in respect of the legal practitioner's professional conduct.

27. Rule 8 of the PCR sets out a further set of guiding principles, specific to Rule 8.

The salient portions are:

(a) A legal practitioner who deals with any person must, regardless of whether that person is involved in any matter with which the legal practitioner is concerned, be honest and courteous, and behave in a manner befitting the legal practitioner's professional standing.

(b)

28. Rule 8(3)(b) provides that:

3) A legal practitioner —

(a)

(b) must not act towards any person in a way which is fraudulent, deceitful or otherwise contrary to the legal practitioner's position as a member of an honourable profession.

Determination

29. We now frame the question that we need to address:

Was the Respondent's conduct in giving instructions to post the 7 October Letter openly in public view contrary to his position as a member of an honourable profession such that that reasonable people, on hearing what the Respondent had done, would have said without hesitation that as a solicitor he should not have done it, and that his conduct had brought him discredit as a lawyer or brings discredit to the legal profession as a whole.

30. The Respondent has submitted that the meaning of "otherwise contrary to the legal

practitioner's position as a member of an honourable profession" should be interpreted in the context of the earlier words, that refer to fraudulent or deceitful conduct.²⁴ On this argument, a breach is only constituted if the extent of departure from the practitioner's position as a member of an honourable position is akin to fraudulent or deceitful conduct.

31. The Law Society has submitted that the guiding principles in Rule 4 and Rule 8(1) of the PCR should be applied in interpreting Rule 8(3)(b) of the PCR, citing extensively from the commentary by *Pinsler*.²⁵ The Law Society has also cited the case of ***Law Society v Seow Theng Beng Samuel*** where physical and verbal abuse amounted to a breach of section 83(2)(b) of the LPA and the case of ***Law Society v Carolyn Tan-Au***, where exerting unfair pressure by failing to consider the ethical propriety of her conduct resulted in the advocate and solicitor being reprimanded.²⁶

32. We are of the view that an interpretation of the phrase "contrary to the legal practitioner's position as a member of an honourable profession" in Rule 8(3)(b) of the PCR does not require a finding of culpability akin to fraud or deceit, notwithstanding the use of these words in the earlier part of the Rule. Such an approach will be inconsistent with both the general guiding principles in Rule 4 of the PCR and the specific guiding principles in Rule 8(1) of the PCR. Further, the specific use of the words "or otherwise contrary" clearly intend to indicate a departure from the earlier parts of the rule and to distinguish this third limb from the earlier limbs of fraud and deceit.

²⁴ RCS at [44] to [49]

²⁵ LSCS at [29] and [30]

²⁶ LSCS at [32] and [36]

33. The Law Society has submitted that the gravamen of the Charge is unfairness to the Complainant in that unfair pressure was being brought to bear upon her, and that this was sufficient to make out the charge. We find that the instruction to post the 7 October Letter would have the effect of putting unfair pressure on the Complainant, whether this was intended or otherwise. However, this in itself does not dispose of the matter. It is a necessary condition, given the reliance on Rule 8(3)(b) of the PCR, but it is not sufficient in itself. The test set out for a breach of section 83(2)(h) of the LPA must also be satisfied.
34. The crucial argument upon which the Respondent has rested his case is the failure of the Law Society to show that he had the intention to be unfair to the Complainant or to embarrass her. The Respondent's evidence is that he did not think of the consequences of giving the instruction to post and that his omission is one of simple neglect. The crux of the argument is that a mistake does not bring discredit to the profession and therefore cannot be misconduct.²⁷ The Respondent submits that in the present case, his instruction to post the 7 October Letter arose from his failure to apply his mind to the issue of whether the 7 October Letter was placed in an envelope, stating "*if I had applied my mind to it if I had thought about it, I would not have posted it openly because for me it's not regular to send letters without an envelope ...*". The short point made by the Respondent is that he made an unthinking mistake and that not all mistakes amount to professional misconduct. The Respondent submits that the current situation is akin to simple negligence and relies on the ***Law Society v Iskander bin Rahmat***²⁸ for the proposition that simple negligence or want of skill does not amount to misconduct under section 83(2) of the LPA.²⁹

²⁷ RCS at [63]

²⁸ *Iskandar bin Rahmat v Law Society of Singapore* [2021] SGCA 107

²⁹ RCS at [62]

35. The Law Society argues that the gravity of the act must be viewed in the context of the circumstances of the case and that it is in the public interest to adopt a standard which would encourage members of the profession to maintain a high degree of diligence and professionalism at all times³⁰, citing *Iskandar* and *Law Society of Singapore v Lim Kiap Khee*.
36. The issue is, in essence, whether the actions of an advocate and solicitor should be viewed objectively or whether the subjective intentions of the advocate and solicitor should be considered. We are of the view that the test should be one from the view of the objective observer. First, the law is clear that what reasonable people would make of the conduct is the primary criterion. This clearly points to an objective test and not the state of mind of the solicitor concerned. Second, the question of bringing discredit to the profession or the potential risk of such discredit is a question that must be answered objectively. Third, the question of whether third parties have been dealt with fairly must be answered with reference to the act alleged to be misconduct and the effect of that act, not the intent behind it.
37. After considering all the evidence, we find that the Respondent did not intentionally cause embarrassment to the Complainant or intentionally indulge in unfair conduct. We appreciate that the Complainant does feel very strongly that the Respondent did have such an intention and sees the open posting in public view as a deliberate step in the Respondent's efforts on behalf of his client. However, having seen and heard the Respondent's evidence and having considered his explanation, we are not satisfied that the Complainant's position on the Respondent's subjective intent is made out. However, for the reasons set out in [36] above, that is not the end of

³⁰ Law Society Reply Closing Submissions (LSRCS) at [18]

the inquiry.

38. The Respondent has submitted that the precedents relate to cases which were more egregious, that is cases where letters of demand were copied to bankers and auditors or to immediate supervisors.³¹ We agree that the present case is certainly less serious, but the question still remains as to whether the line of unbefitting conduct has nonetheless been crossed.
39. We find that the Respondent did breach Rule 8(3)(b) of the PCR in that openly posting the 7 October Letter in public view was unfair to the Complainant and was in breach of the duty of fairness and courtesy and that the breach was contrary to the Respondent's position as a member of an honourable profession. Letters of demand are assertions by one party against the other, and there was no reason in law for publication. Although there was no applicable prohibition in the present case, on the facts, there was no reason to post the 7 October Letter in the manner that it was done. The 7 October Letter contained both personal details and matters in dispute that had to be resolved between the parties and a public display of its contents would clearly embarrass and put pressure on the Complainant. While we accept that intent to cause such pressure and embarrassment has not been proven, the very act of public display is clearly likely to cause such a consequence.
40. We further find, on the facts of the present case, that the breach of Rule 8(3)(b) of the PCR amounts to unbefitting conduct contrary to section 83(2)(h) of the LPA. The Respondent knowingly gave instructions for posting of the 7 October Letter. Posting on the door (or beside the door) would inevitably mean that the contents of the 7 October Letter would be and could be seen by any member of the public

³¹ RCS at [56] and RCS Annex A

passing by. The assertion by the Respondent that it did not occur to him that the letter would be posted outside of any envelope does not excuse the Respondent. The Respondent did not address his mind to this possibility and did not cast his mind on the manner of posting. A reasonable person considering the conduct of the Respondent, and the consequences of his failure to address his mind to what his direction to post would result in, would unhesitatingly say that he should not have done it and that he fell short of the standards of an honourable profession. Legal matters and disputes are serious matters and usually not a matter of routine for parties. Having a letter of demand posted openly is a drastic measure and using such a measure without thought brings discredit to the profession. In the present case, the absence of any legal requirement to do so and the express acknowledgment by the Complainant of receipt of the 7 October Letter by email dispels any lingering doubt that we have that the Respondent's conduct crossed the line into unbecoming conduct contrary to section 83(2)(h) of the LPA.

41. We accordingly find that the Respondent is guilty of the charge.

Appropriate sanction


42. We now consider the appropriate action to be taken upon our finding, as provided for in section 93 of the LPA. We note that the Law Society has taken the position that no cause of sufficient gravity exists for reference to the Court of Three Judges and that the Respondent should be reprimanded.
43. We agree with the position taken by the Law Society. We have been referred to precedents where a reprimand has been ordered. We find that the culpability in the present case is lower than the precedents. We also find that that the harm occasioned by the breach is at the lowest end of the scale, as no direct harm to the

Complainant has been shown. The harm in the present case is the discredit brought to the profession. That harm is sufficiently addressed by the fact of prosecution and conviction, which serves as a deterrent to the Respondent and sends the appropriate message to others - that we as lawyers have to constantly bear in mind that the way we go about our duties requires us to consciously apply the PCR and its guiding principles. In this respect we take note of the Respondent's submission that he has been subject to the disciplinary process for more than a year, with the attendant stress and personal embarrassment.³² We also note that the Respondent's conduct is one-off and that he is a fairly junior practitioner.

44. In the premises, this Tribunal, having heard and investigated this matter, determines that while no cause of sufficient gravity for disciplinary action exists under section 83 of the LPA, the Respondent should be reprimanded pursuant to section 93(b)(ii) of the LPA.

45. Costs of Disciplinary Tribunal proceedings normally would follow upon a finding of guilt and there are no reasons in the present case to depart from this norm. We have considered the nature of the offence and the circumstances of the case. Pursuant to section 93(2) of the LPA, we order the Respondent to pay the Law Society's costs fixed at \$5,000 (inclusive of GST) and also to pay the Law Society's reasonable disbursements, to be taxed if not agreed.

Dated this ^{19th} day of January, 2022



Narayanan Sreenivasan SC
Chairman



Seah Seow Kang Steven
Member

³² RCS at [64]