

DT/22/2021

**IN THE MATTER OF TAN TEIK YU MARK**

**AN ADVOCATE & SOLICITOR**

**AND**

**IN THE MATTER OF THE LEGAL PROFESSION ACT (Cap. 161, 2009 Rev. Ed.)**

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**Report of the Disciplinary Tribunal**

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**Disciplinary Tribunal**

President: Mr. Tan Tee Jim, SC

Advocate & Solicitor: Mrs Christine Sekhon

Mr. S Suresh and Mr Marcus Ng (Harry Elias Partnership LLP) for the Law Society

Mr. Nicholas Narayanan (Nicholas & Tan Partnership LLP) for the Respondent

**Introduction**

1. This case arose from a request by the Attorney-General to the Law Society to refer to a Disciplinary Tribunal ("**Tribunal**") a matter concerning the conduct of Tan Teik Yu Mark ("**Respondent**"). The request was made pursuant to section 85(3)(b) of the Legal Profession Act (Cap. 161, 2009 Rev. Ed.) ("**LPA**").
2. The Respondent is an Advocate and Solicitor of the Supreme Court of Singapore. He was called to the Bar on 28 May 2005. He is currently practising at Mark Tan LLC.

**Law Society's Case**

3. The Law Society submitted a Statement of Case. In it, it set out the following facts and charges:

- (1) On 12 October 2020, the Respondent was convicted in the State Courts of Singapore of the following charges which he had earlier pleaded guilty to: -
- (a) On 17 March 2018 at about 10:45 pm at 21 Woodlands Crossing, Woodlands Checkpoint, Car Arrival Green Channel Counter 18, Singapore, the Respondent had in his possession nimetazepam, a Class C Controlled Drug listed in the First Schedule to the Misuse of Drugs Act 1973 (“**MDA**”) without authorisation under the MDA or the Regulations made thereunder, and had thereby committed an offence under section 8(a) punishable under section 33(1) of the MDA (“**First Criminal Charge**”).
  - (b) On 17 March 2018 at about 10:45 pm at 21 Woodlands Crossing, Woodlands Checkpoint, Car Arrival Green Channel Counter 18, Singapore, the Respondent had in his possession 2 packets of crystalline substance which were analysed and found to contain not less than 8.78 grams of methamphetamine, a Class A Controlled Drug listed in the First Schedule to the MDA without authorization under the MDA or the Regulations made thereunder, and had thereby committed an offence under section 8(a) punishable under section 33(1) of the MDA (“**Second Criminal Charge**”).
  - (c) The Respondent, being a citizen of Singapore, on or before 17 March 2018 outside Singapore, consumed methamphetamine, a Specified Drug listed in the Fourth Schedule to the MDA without authorisation under the MDA or the Regulations made thereunder, and had thereby committed an offence under section 8(b)(ii) read with section 8A (1) punishable under section 33(1) of the MDA (“**Third Criminal Charge**”).
  - (d) On 18 March 2018 at about 5:50 am at 20 Paterson Road, #17-01, Singapore, the Respondent had in his possession a packet of crystalline substance which was analysed and found to contain not less than 4.39 grams of methamphetamine, a Class A Controlled Drug listed in the First Schedule to the MDA without authorization under the MDA or the Regulations made thereunder, and had thereby committed an offence under section 8(a) punishable under section 33(1) of the MDA (“**Fourth Criminal Charge**”).
  - (e) On 17 March 2018 at about 10:45 pm at 21 Woodlands Crossing, Woodlands Checkpoint, Car Arrival Green Channel Counter 18, Singapore, the

Respondent had in his possession one glass tube, two improvised glass apparatus, two glass apparatus, one rubber tube and four coloured straws which are utensils intended for consumption of a Controlled Drug listed in the First Schedule to the MDA without authorisation under the MDA or the Regulations made thereunder, and had thereby committed an offence under section 9 punishable under section 33(1) of the MDA (“**Fifth Criminal Charge**”).

- (2) As mentioned, the Respondent pleaded guilty to these charges and was convicted. He was sentenced to imprisonment for a total period of 21 months with effect from 19 October 2020. The sentence for each of the criminal charges was as follows:

- (a) First Criminal Charge – Twelve (12) months’ imprisonment;
- (b) Second Criminal Charge – Nine (9) months’ imprisonment;
- (c) Third Criminal Charge – Six (6) months’ imprisonment;
- (d) Fourth Criminal Charge – Six (6) months’ imprisonment; and
- (e) Fifth Criminal Charge - Three (3) months’ imprisonment.

The sentences for the First and Second Criminal Charges were ordered to run consecutively.

- (3) In the premises, the Law Society formulated the following five charges against the Respondent:

First Charge

“That you, Tan Teik Yu Mark (SXXXX667A), an Advocate and Solicitor of the Supreme Court of Singapore, are guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev. Ed.) in that, on 17 March 2018, you had in your possession a Class C Controlled Drug nimetazepam without authorisation under the Misuse of Drugs Act (Cap. 185, 2008 Rev. Ed.) or the Regulations made thereunder, for which you have been subsequently convicted on 12 October 2020, under Section 8(a) of the Misuse of Drugs Act.”

### Second Charge

“That you, Tan Teik Yu Mark (SXXXX667A), an Advocate and Solicitor of the Supreme Court of Singapore, are guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev. Ed.) in that, on 17 March 2018, you had in your possession a Class A Controlled Drug methamphetamine without authorisation under the Misuse of Drugs Act (Cap. 185, 2008 Rev. Ed.) or the Regulations made thereunder, for which you have been subsequently convicted on 12 October 2020, under Section 8(a) of the Misuse of Drugs Act.”

### Third Charge

“That you, Tan Teik Yu Mark (SXXXX667A), an Advocate and Solicitor of the Supreme Court of Singapore, are guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev. Ed.) in that you, being a citizen of Singapore, had consumed a Class A Controlled Drug methamphetamine on or before 17 March 2018 outside Singapore, without authorisation under the Misuse of Drugs Act (Cap. 185, 2008 Rev. Ed.) or the Regulations made thereunder, for which you have been subsequently convicted on 12 October 2020, under Section 8(b)(ii) read with Section 8A(1) of the Misuse of Drugs Act.”

### Fourth Charge

“That you, Tan Teik Yu Mark (SXXXX667A), an Advocate and Solicitor of the Supreme Court of Singapore, are guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev. Ed.) in that, on 18 March 2018, you had in your possession a Class A Controlled Drug methamphetamine without authorisation under the Misuse of Drugs Act (Cap. 185, 2008 Rev. Ed.) or the Regulations made thereunder, for which you have been subsequently convicted on 12 October 2020, under Section 8(a) of the Misuse of Drugs Act.”



#### Fifth Charge

“That you, Tan Teik Yu Mark (SXXXX667A), an Advocate and Solicitor of the Supreme Court of Singapore, are guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev. Ed.) in that, on 17 March 2018, you had in your possession utensils intended for consumption of a Controlled Drug, i.e. one glass tube, two improvised glass apparatus, two glass apparatus, one rubber tube and four coloured straws, without authorisation under the Misuse of Drugs Act (Cap. 185, 2008 Rev. Ed.) or the Regulations made thereunder, for which you have been subsequently convicted on 12 October 2020, under Section 9 of the Misuse of Drugs Act.”

4. At the hearing on 11 January 2022 (the “**Hearing**”), Mr. Suressh, counsel for the Law Society, informed us that the Law Society was not proceeding with the First Charge and the Fifth Charge and asked for these charges to be taken into consideration for the purposes of sentencing.
5. The Respondent pleaded guilty to all the three charges that were proceeded with and agreed to have the First Charge and the Fifth Charge taken into consideration for the purposes of sentencing.
6. At the Hearing, Mr. Suressh submitted that the Law Society did not consider the case to be one of sufficient gravity to warrant being referred to the Court of Three Judges and that it was a case that could be sent to the Council of the Law Society for them to decide whether to impose a reprimand or a penalty under section 93(1)(b) of the LPA.

#### The Respondent’s plea in mitigation

7. Mr. Narayanan, counsel for the Respondent, tendered a written mitigation plea on behalf of the Respondent to the Tribunal. In the mitigation plea, the Respondent urged the Tribunal to find that no cause of sufficient gravity for disciplinary action existed against him and that he should be reprimanded pursuant to section 93(1)(b)(ii) of the LPA.
8. We highlight some of the mitigation factors which were included in the mitigation plea and submitted during the Hearing:

- (1) The Respondent was suffering from a major depressive disorder which had a direct causal link to the commission of the criminal offences. He was clinically depressed at the time of the criminal offences, and his depressed mood, poor emotional regulation and inadequate coping skills were likely to have contributed significantly to his poor judgment and lack of self-control at the material time.
- (2) To ensure that he did not relapse into drug use, he attended numerous psychiatric consultations, counselling sessions, pastoral sessions and recovery support meetings. Consequently, he has fully recovered from the disorder and did not require any anti-depressant medication for a year. He has also been abstinent from drugs for almost four years. The risk of relapse is low.
- (3) The Respondent fully cooperated with the Law Society and the Attorney-General's Chambers. In particular, in October 2021, he promptly agreed to the conditions imposed by the Attorney-General's Chambers in relation to his application for a practicing certificate.
- (4) Prior to the commission of the criminal offences, the Respondent had no antecedents. The offences were not committed in the course of his duties as an advocate and solicitor. There was no dishonesty or deception involved in his professional capacity as an advocate and solicitor.
- (5) The Respondent has good personal character and exemplary conduct. The criminal offences committed were highly uncharacteristic of him. They were caused by his depressed mental condition.

### **Our Finding**

9. Having considered the Law Society's Statement of Case and the Respondent's mitigation plea, we are of the view that in the present case, no cause of sufficient gravity for disciplinary action exists under section 83 of the LPA. Our reasons are as follow:

- (1) The Respondent was not a drug addict or trafficker.
- (2) It was due to a major depressive disorder that he committed the criminal offences.

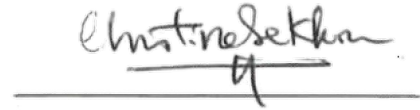
- (3) The offences had no connection with his professional duties as an advocate and solicitor; they were not committed in the course of such duties. In fact, he was not practising at the time of the criminal offences in March 2018.
  - (4) The impact of the offences was limited to the Respondent himself and his family, but not any third party.
  - (5) There was no dishonesty or deception involved in his professional capacity as an advocate and solicitor.
  - (6) He pleaded guilty to the criminal charges as well as the three charges formulated by the Law Society and agreed to have two other charges taken into consideration for the purpose of sentencing) – this shows that he was remorseful and contrite.
  - (7) He promptly agreed to the conditions imposed by the Attorney-General's Chambers in relation to his application for a practising certificate.
  - (8) He made diligent efforts to ensure that he did not relapse into drug use by attending numerous psychiatric consultations, counselling sessions, pastoral sessions and recovery support meetings. The likelihood of re-offending is low.
  - (9) The offences and the surrounding circumstances of the case did not imply a defect of character which makes the Respondent unfit for the profession within the meaning of section 83(2)(h) of the LPA.
10. For the above reasons also, and given that the Respondent has already been punished with imprisonment, we find that a reprimand would serve the ends of justice in this case. Consequently, and pursuant to section 93(1)(b)(ii) of the LPA, we determine that while no cause of sufficient gravity for disciplinary action exists under section 83 of the LPA, the Respondent should be reprimanded.
  11. At the Hearing, Mr. Suressh asked us to award disbursements to the Law Society. Pursuant to section 93(2) of the LPA, we make an order for disbursements to be paid to the Law Society. The amount of the disbursements is to be agreed by the parties, failing which the amount is to be taxed by the Registrar.

12. We thank both counsel for the efficient manner in which they conducted their respective cases.

Dated this 14th day of February 2022

A handwritten signature in blue ink, appearing to read 'Tan Tee Jim', written over a horizontal line.

Tan Tee Jim, SC  
President

A handwritten signature in black ink, appearing to read 'Christine Sekhon', written over a horizontal line.

Mrs Christine Sekhon  
Advocate and Solicitor