

DT 5 OF 2019

IN THE MATTER OF SEOW THENG BENG SAMUEL

AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT

(CHAPTER 161)

REPORT OF THE DISCIPLINARY TRIBUNAL

Disciplinary Tribunal:

Siraj Omar, S.C. – President

Pradeep Pillai – Advocate

**Solicitor for
The Law Society of Singapore**

Mr Dinesh Dhillon / Mr Loong Tse Chuan /
Ms Alisa Toh Qian Wen
(Allen & Gledhill LLP)

Solicitors for the Respondent

Mr Eugene Thuraisingam /
Mr Chooi Jing Yen / Mr Johannes Hadi
(Eugene Thuraisingam LLP)

Dated this ^{10th} day of March 2020

INTRODUCTION

1. The Law Society of Singapore (the "**Law Society**") brought eight charges against Mr Seow Theng Beng Samuel (the "**Respondent**"). The specific charges were amended several times, and (as we describe below) the Respondent eventually pleaded guilty to each of the charges framed against him.

2. Having carefully considered the facts of the case and the parties' respective submissions, we find that cause of sufficient gravity for disciplinary action exists:
 - (a) under Section 83(2)(b) of the Legal Profession Act (Cap. 160, the "**Act**") in respect of each of the Charges (as defined below); and

 - (b) under Section 83(2)(h) of the Act in respect of each of the Alternative Charges (as defined below).

3. We set out our grounds below.

THE CHARGES

4. The Law Society framed eight charges against the Respondent (collectively, the "**Charges**"), alleging that the conduct set out in each of these charges amounted to "*improper conduct or practice as an advocate and solicitor*" within the meaning of Section 83(2)(b) of the Act.¹

¹ The Law Society's Statement of Case (Amendment No. 3) (the "**SOC**"), at [21].

5. The Law Society also framed alternative charges (collectively, the “**Alternative Charges**”) in respect of each of the Charges, asserting (in the alternative) that the conduct described in each of the Charges also amounted to “*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 Act.²
6. The Charges and Alternative Charges were set out in the Law Society’s Statement of Case, which was amended a total of four times. At the start of the hearing before us, the iteration of the charges facing the Respondent was set out in the Law Society’s Statement of Case (Amendment No. 1). The Respondent pleaded guilty to the following part of the Fifth Charge and to the whole of the Sixth, Seventh and Eighth Charges:

Fifth Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 3 April 2018, at about 8pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you:

(i) ...

(ii) *Threatened to take a knife to kill Ms Kang Pei Shan Rachel.*

Sixth Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 17 April 2018, at about 5:54pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore,

² SOC, at [21].

have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you used criminal force against one Ms Kang Pei Shan Rachel by using your finger to jab her forehead, and by pushing the files that Ms Kang Pei Shan Rachel was holding against her chest.

Seventh Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 17 April 2018, at about 5:54pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you:

- (i) Voluntarily causing hurt to one Ms Kong Shing Ying Brenda by grabbing her arms, pushing her against a table, repeatedly slapping her, jabbing your finger at Ms Kong's forehead and pushing Ms Kong with your shoulder such that she lost balance and fell backwards; and/or*
- (ii) Verbally abused Ms Kong Shin Ying Brenda by aggressively berating her and screaming at her.*

Eighth Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 17 April 2018, at about 5:58pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you:

- (i) Used criminal force against one Ms Tan Tzuu Yen Serene by pushing her with such force that she fell to the floor; and/or*

(ii) *Verbally abused Ms Tan Tzuu Yen Serene by aggressively berating her and screaming at her.*

7. The Respondent initially contested the First to Fourth Charges and the remaining part of the Fifth Charge, as well as the alternatives to each of these charges. We proceeded to hear evidence from witness for both the Law Society and the Respondent in two tranches, from 14 to 16 August 2019 and on 26 and 27 September 2019. We then directed parties to submit their respective closing submissions by 25 October 2019, and scheduled a hearing for oral closing submissions on 19 November 2019.³
8. On 1 November 2019, the Law Society sought leave to further amend their Statement of Case, and informed us that the Respondent was prepared to plead guilty to the remainder of the charges as set out in the proposed amendments.⁴ The Respondent confirmed this,⁵ and we allowed the proposed amendments.⁶
9. At the hearing on 19 November 2019, the Law Society sought, and was granted, leave to file a further amended Statement of Case incorporating one minor amendment. The Respondent subsequently pleaded guilty to the First to Four Charges and the remainder of the Fifth Charge (and their alternatives) as set out in the Statement of Case (Amendment No. 3). These Charges read:

"First Charge

³ The Tribunal's directions made at the end of the hearing on 26 September 2019.

⁴ Letter dated 1 November 2019 from The Law Society's solicitors Allen & Gledhill LLP to the Secretariat.

⁵ Email dated 1 November 2019 from the Respondent's solicitors Eugene Thuraisingam LLP to the Secretariat.

⁶ The Tribunal's directions dated 4 November 2019.

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 16 March 2018, at or about 7pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you:

- (i) Conducted yourself in an intemperate and/or boorish manner towards one Ms Kang Pei Shan Rachel by throwing files and boxes on the floor in her general direction, and/or by screaming at her; and/or*
- (ii) Verbally abused Ms Kang Pei Shan Rachel by screaming at her.*

Second Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 26 March 2018, sometime in the afternoon, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you conducted yourself in an intemperate and/or boorish manner towards one Ms Kang Pei Shan Rachel by throwing a metal stapler on the floor in her general direction.

Third Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 28 March 2018, at about 3pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you conducted yourself in an intemperate and/or boorish manner towards one Ms Kang Pei Shan Rachel by throwing a metal stapler on the floor in her general direction.

Fourth Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 28 March 2018, at about 9pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you:

- (i) Conducted yourself in an intemperate and/or boorish manner towards one Ms Kang Pei Shan Rachel by advancing towards her in an aggressive and/or threatening manner such that she stumbled and fell to the floor, and/or by shouting at her; and/or*
- (ii) Verbally abused Ms Kang Pei Shan Rachel by shouting at her.*

Fifth Charge

That you, Seow Theng Beng Samuel, an advocate and solicitor of the Supreme Court of the Republic of Singapore, on 3 April 2018, at about 8pm, at the office of Samuel Seow Law Corporation at 79 South Bridge Road, #01-01, Singapore, have conducted yourself in a manner which amounts to improper conduct or practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Act by breaching rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules (being a rule of conduct made by the Professional Conduct Council under Section 71 of the Act), in that you:

- (i) Conducted yourself in an intemperate and/or boorish manner towards one Ms Kang Pei Shan Rachel by repeatedly throwing your wallet in her general direction; and/or*
- (ii) ...”*

10. The Respondent therefore admitted the facts as set out in the Statement of Case (Amendment No. 3) and pleaded guilty to all of the Charges and Alternative Charges

proffered against him. The Respondent's admissions mean that it is common ground between the parties that the Respondent's conduct as described in:⁷

- (a) The Charges amounted to improper conduct under Section 83(2)(b)(i) of the Act;
and
- (b) The Alternative Charges amounted to misconduct unbefitting an advocate and solicitor under Section 83(2)(h) of the Act.

THE FUNCTION OF THE DISCIPLINARY TRIBUNAL

11. The function of a Disciplinary Tribunal is to act as a filter in order to determine whether or not there is 'cause of sufficient gravity' that could, on a finding by the Court of Three Judges, be ascertained to constitute 'due cause' that merited the imposition of one of the range of sanctions prescribed in Section 83(1) of the Act: *Law Society of Singapore v Jasmine Gowrimani d/o Daniel* ("**Jasmine Daniel**").⁸
12. It is not for us to determine whether or not 'due cause' has been established in this case – that determination lies solely within the purview of the Court of Three Judges. Our role is to decide whether 'cause of sufficient gravity' has been established, and for that we need only be satisfied that there was a *prima facie* case on the relevant evidence that 'due cause' might be present: *Jasmine Daniel*.⁹ If we conclude that 'cause of sufficient gravity' has been established, the Law Society is obliged pursuant to Section 94 of the Act to make an application under Section 98 of the Act to the Court of Three Judges.

⁷ See also the Agreed Statement of Facts (Amendment No. 1).

⁸ [2010] 3 SLR 390, at [37].

⁹ *Ibid.*, at [31].

13. We are also mindful that the fact that it is common ground that while the Respondent's conduct fell within the ambit of limbs (b) and (h) of Section 83(2), this does not necessarily mean that 'cause of sufficient gravity' had been established: *Jasmine Daniel*.¹⁰

14. We turn to consider the parties' respective submissions in light of these principles.

THE PARTIES' RESPECTIVE CASES

15. The options available to us at the close of proceedings are set out in Section 93(1) of the Act:

"93 (1) After hearing and investigating any matter referred to it, a Disciplinary Tribunal shall record its findings in relation to the facts of the case and according to those facts shall determine that –

(a) no cause of sufficient gravity for disciplinary action exists under section 83 or 83A (as the case may be);

(b) while no cause of sufficient gravity for disciplinary action exists under section 83 or 83A (as the case may be), the regulated legal practitioner should be –

(i) ordered to pay a penalty that is sufficient and appropriate to the misconduct committed;

(ii) reprimanded;

(iii) ordered to comply with one or more remedial measures; or

(iv) subjected to the measure in sub-paragraph (iii) in addition to the measure in sub-paragraph (i) or (ii); or

¹⁰ *Ibid.*, at [39].

(c) *cause of sufficient gravity for disciplinary action exists under section 83 or 83A (as the case may be).*"

16. The Law Society submitted that cause of sufficient gravity for disciplinary action, within the meaning of section 93(1)(c) of the Act, had been shown to exist. Its grounds on which it bases its case can broadly be summarized as follows:¹¹

(a) The nature of the Respondent's conduct is sufficiently serious by itself to amount to a *prima facie* case of "*due cause*" under Section 83 of the Act;

(b) The Respondent was in a position of authority *vis-à-vis* the victims, who were his employees;

(c) The Respondent's conduct was part of a pattern of intemperate, boorish and belligerent conduct, and were not isolated incidents; and

(d) The Respondent has not shown genuine remorse for his actions.

17. The Respondent argued that no cause of sufficient gravity for disciplinary action existed, but that the circumstances nonetheless warranted him being ordered to pay a fine of S\$20,000. He described such a fine as the "*most proportionate sanction in this case*",¹² claiming in mitigation that:

(a) "*little if any harm was caused*" to the individual victims in this case;

¹¹ The Law Society's Skeletal Submissions on Sanction (the "**LSS' Submissions**"), at [42].

¹² The Respondent's Submissions on Sentence (the "**Respondent's Submissions**"), at [8].

(b) he was suffering from "*Adjustment Disorder*" at the relevant time;

(c) he is "*deeply and genuinely remorseful for his behavior*"; and

(d) his conduct had caused little harm to the integrity of the legal profession.

18. The Law Society's arguments referred to in paragraphs 16(a) to (c) above and the Respondent's argument referred to in paragraph 17(a) above all broadly relate to the severity of the Respondent conduct. We shall therefore deal with this issue first.

THE TRIBUNAL'S FINDINGS

(a) The severity of the Respondent's conduct

19. The Law Society highlighted several facts which they claimed underscored the severity of the Respondent's conduct. First, the Seventh and Eighth Charges relate to overt acts of physical violence inflicted by the Respondent on Ms Kong Shin Ying Brenda ("**Ms Kong**") and Ms Tan Tzu Yen Serene ("**Ms Tan**").¹³

20. While Ms Tan did not seek medical treatment after the incident, Ms Kong did do so and was assessed by the examining doctor at Parkway East Hospital to have sustained "*multiple soft tissue injuries as a result of the assault*". The examining doctor also noted tenderness, bruising and abrasions on various parts of Ms Kong's head and body.¹⁴

¹³ The Respondent's Submissions on Sentence ("**Respondent's Submissions**"), at [8].

¹⁴ LSS' Submissions, at [47].

21. Second, it is plain from the video recording of the incident that the Respondent was much larger than both Ms Kong and Ms Tan, and was clearly the aggressor in both altercations.¹⁵ It is also clear from the video that the Respondent would have continued attacking Ms Kong and Ms Tan, and most likely have inflicted more severe injuries on both of them, if not for the fact that he had been physically restrained by other employees and thereby prevented from doing so.¹⁶
22. Third, the attacks had been triggered by a fairly trivial matter – namely, that the Respondent had to meet a client with an associate from the firm but that associate was apparently not in the office at that time. It had nothing to do with any act or omission on the part of either Ms Kong or Ms Tan.¹⁷
23. Fourth, the Sixth Charge relates to physically aggressive conduct by the Respondent against Ms Kang Pei Shan Rachel (“**Ms Kang**”). The Respondent has been charged with an offence of using criminal force under Section 352 of the Penal Code for using his finger to jab Ms Kang’s forehead knowing that such action would illegally cause annoyance to Ms Kang.¹⁸
24. Fifth, the First to Fifth Charges relate to intemperate and/or boorish conduct by the Respondent directed towards Ms Kang on five separate occasions. These incidents involved (i) throwing files, boxes, a metal stapler and his wallet in Ms Kang’s general direction, (ii) shouting at, and advancing towards, Ms Kang in an aggressive and/or threatening manner, and (iii) threatening to take a knife to kill Ms Kang.¹⁹

¹⁵ LSS’ Submissions, at [50].

¹⁶ LSS’ Submissions, at [59(a)].

¹⁷ LSS’ Submissions, at [51].

¹⁸ LSS’ Submissions, at [62].

¹⁹ LSS’ Submissions, at [66].

25. Sixth, the Respondent was charged under Section 3(1)(a) of the Protection from Harassment Act with using threatening words against Ms Kang with intent to cause distress. This was in relation to the Respondent's threat to take a knife to kill Ms Kang, which also forms part of the Fifth Charge.
26. The Law Society referred to and relied on the decision of the Court of Three Judges in *Law Society of Singapore v Wong Sin Yee* ("**Wong Sin Yee**").²⁰ That case involved an incident of what is commonly termed 'road rage', and the respondent advocate and solicitor in that case was charged and convicted in the State Courts under the then Section 323 of the Penal Code for having voluntarily caused hurt to a member of the public, as well as under Section 13A(1)(a) of the Miscellaneous Offences (Public Order and Nuisance) Amended Act for uttering insulting words to a member of the public.
27. The Court of Three Judges in that case found that the respondent advocate and solicitor's behavior "*constitute[d] a defect of character and render[ed] him unfit to be an advocate and solicitor*", and that his conduct fell within the ambit of Section 83(2)(a) of the Act.²¹ He was consequently suspended from practice for two years.
28. The Law Society relied on the decision in *Wong Sin Yee* to support its contention that the Respondent's acts of physical violence and verbal abuse towards the various individuals were sufficient to constitute 'cause of sufficient gravity'. The Law Society submits that, as was the case with the respondent advocate and solicitor in *Wong Sin Yee*, the Respondent here had also demonstrated a serious lack of self-restraint.²²

²⁰ [2003] 3 SLR(R) 209.

²¹ *Ibid.*, at [15].

²² LSS' Submissions, at [57].

29. The Law Society also submitted that the Respondent's conduct had not been borne out of mere frustration with Ms Kang's work performance. They argued that the severity and persistence of the Respondent's physical aggression towards Ms Kang (by throwing objects in her general direction and advancing towards her in an aggressive and threatening manner) was evidence of something more, and in fact amounted to bullying.²³
30. They also argued that the severity of the Respondent's scolding of Ms Kang (in terms of volume, frequency and vituperation) was out of proportion to any perceived shortcomings in her work performance, and that there were in any event more appropriate options for dealing with any such shortcomings.²⁴
31. These facts are not disputed. Taken as a whole, we agree with the Law Society that they paint a clear picture of physical and verbal abuse by the Respondent.
32. It is common ground that as their superior at work, the Respondent was in a position of authority *vis-à-vis* each of Ms Kang, Ms Kong and Ms Tan. The Respondent's physically and verbally abusive conduct towards these individuals was therefore an abuse of his position of authority over them.
33. We also note that the conduct set out in the Charges (which Respondent admitted) did not involve "*isolated incidents or momentary lapses*". Instead, as the Law Society argues, they appear to be indicative of a pattern of intemperate, boorish and belligerent conduct on the Respondent's part.²⁵

²³ LSS's Submissions, at [72(a)].

²⁴ LSS's Submissions, at [72(b)].

²⁵ LSS's Submissions, at [75].

34. When all these facts are considered together, the picture that appears is one that shows the Respondent physically and verbally abusing his subordinates in a manner that was not 'one-off' of the resulted of momentary lapses. On any analysis, such misconduct cannot be described as anything other than serious.
35. The seriousness of the Respondent's misconduct and the fact that it contravened both Section 83(2)(b) and 83(2)(h) of the Act would in our view suffice to constitute cause of sufficient gravity within the meaning of Section 93(1)(c) of the Act in the absence of any valid mitigating factors. We therefore turn next to consider whether there are any such mitigating factors.

(b) Harm caused, and impact on, the victims

36. The Respondent argues there was little, if any, harm caused to Ms Kang, Ms Kong and Ms Tan. He points to the fact that Ms Tan did not suffer any injuries as a result of the Respondent's conduct described in the Eighth Charge (which is the only Charge that relates to her).
37. He also relies on two statements from Ms Kang and Ms Kong dated 28 May 2019²⁶ and 26 June 2019²⁷ respectively (collectively, the "Statements"). In Ms Kang's statement, she states that she "*did not suffer any injuries as a result of [the Respondent's] actions on 17 April 2018*".²⁸
38. Similarly, Ms Kong states that "*although the incident may have appeared violent, [she] only suffered minor injuries such as a scratch and bruise*". She describes the incident

²⁶ The Respondent's Bundle of Documents "RBOD") Tab 1.

²⁷ RBOD Tab 2.

²⁸ RBOD Tab 1.

as "no more than a noisy and dramatic altercation caused by loud shrieking and some shoving".²⁹ The Respondent also relies on the fact that both Ms Kang and Ms Kong "have wholeheartedly chosen to forgive the Respondent and continue to affirm him".³⁰

39. The Law Society objected to these Statements, arguing that they are inadmissible because the Law Society did not have the opportunity of cross-examining the makers of the Statements as they were only tendered as part of the Respondent's closing arguments. The Law Society also argued that even if admissible, the Statements are irrelevant to the question of whether or not sufficient cause of gravity exists.
40. Having considered the parties' arguments and authorities on this issue, we find that the Respondent is entitled to tender and refer to the Statements. However, having considered the contents of the Statements, we find that they are of not much assistance to the Respondent in mitigating the seriousness of his conduct.
41. Taken at face value, the Statements simply set out the purported impact of the Respondent's conduct on Ms Kang and Ms Kong, and that they have both forgiven the Respondent. Two factors are relevant when considering these Statements. First, both Ms Kong and Ms Kang may well have been motivated to speak out in support of the Respondent in these proceedings because the former is his niece and the latter remains an employee of his company.
42. Second, the video of the 17 April 2018 incident clearly shows that the Respondent had to be physically restrained from further attacking Ms Kong and Ms Tan. Had he not been so restrained, he would very likely have inflicted more serious injuries on them. The fact that Ms Kong's injuries were relatively minor was likely purely fortuitous.

²⁹ RBOD Tab 2.

³⁰ Respondent's Submissions, at [12].

43. The relevance of the Statements is therefore (at best) minimal when considered in the context of these factors.

(c) 'Adjustment Disorder'

44. The Respondent argues that he has been "*diagnosed with Adjustment Disorder at the time of the offences*" and that this "*contributed to the commission of the offences*".³¹ He relies in this regard on two medical reports dated 21 August 2019³² and 13 September 2019³³ (the "**Medical Reports**") from Dr Tan Chue Tin, a clinical psychotherapist.

45. Dr Tan states in his first report that the Respondent "*suffered from Adjustment Disorder at the time of the altercation recorded in the audio-video clips of April 2018 / 2019*".³⁴ He expands on this in his second report, saying that the Adjustment Disorder "*contributed to the commission of the offences as depicted*" in the video of the 17 April 2018 incident.³⁵

46. The Law Society also objected to these Medical Reports on the same grounds as the Statements. As with the Statements, we find that while the Respondent is entitled to tender and refer to them as part of his mitigation, they do not assist him very much.

47. We note that Dr Tan first saw the Respondent only in May 2019, more than a year after the incidents that formed the subject of the charges. Yet the Medical Reports do

³¹ Respondent's Submissions, at [14].

³² RBOD Tab 3.

³³ RBOD Tab 4.

³⁴ RBOD Tab 3, at page 10.

³⁵ RBOD Tab 4, at [3].

not contain any explanation as to how Dr Tan was able to ascertain that the Respondent suffered from Adjustment Disorder at the time of the incidents. More importantly, Dr Tan does not explain exactly what Adjustment Disorder is and how it purportedly contributed to the Respondent's behavior during the incidents. We therefore found the Medical Reports to be of very little assistance.

(d) Remorse

48. The Respondent claimed that he was “*deeply and genuinely remorseful*” for his behavior. In his affidavit of evidence-in-chief, he stated:

“Lastly, I acknowledge and take full responsibility for my inability to manage my anger. I am also, by nature, a flamboyant and animated person. When I lose my temper, I often scream and shout and throw things about. However, I wish to state that despite my anger management problem, I have never intended to hurt anyone.

I regret and unreservedly apologise for my actions. I am undergoing medical treatment to ensure that this does not happen again.” [Respondent's emphasis]

49. The Law Society contends that the Respondent has not shown genuine remorse for his actions, arguing that this is clear from his contemporaneous conduct. They point in particular to the following:

(a) When first confronted with the complaints, the Respondent did not admit any wrongdoing but instead claimed that Ms Kang had been manipulated by one Mr Robert Raj Joseph and Mr Lew Shaun Marc. The Respondent's letter of 2 October 2018 to the Inquiry Committee³⁶ sought to downplay the physical altercation with Ms Kong on 17 April 2018 and sought to justify his conduct by alleging that she had hit him first.

³⁶ Law Society's Supplemental Bundle of Documents (“LS Supp BOD”) Tab 7, at [88] to [99].

- (b) In an interview with the *Today* newspaper published on 17 May 2018,³⁷ the Respondent sought to downplay the incident which forms the subject of the Seventh Charge, claiming that Ms Kong had “*shoved him first and he had then slapped her for being rude*”. He described the incident as a “*typical family type of fight*” (Ms Kang being the Respondent’s niece).
- (c) In that same interview, he claimed that he had not shoved Ms Tan to the ground but had rather “*accidentally knocked her to the ground when he turned around*”. This is materially different from the facts set out in the Eighth Charge, which the Respondent now admits. The Respondent admitted to the quotes attributed to him in this interview.
- (d) In an interview with *8 Days* magazine published on 31 May 2018, the Respondent is quoted as having denied punching people, throwing things or hurting people. His denial of having been physically violent is clearly untrue in light of his admissions in these proceedings. The Respondent admitted to the accuracy of the quotes attributed to him.
- (e) In posts on his Facebook page dated 26 April 2019³⁸ and 6 June 2019,³⁹ the Respondent sought to downplay the events which are the subject of some of the Charges. He admits having made these posts.

50. The Respondent’s conduct from the time of the incident is clearly relevant to ascertaining whether he is truly remorseful for what happened. A review of the

³⁷ Law Society’s Bundle of Documents (“LSBOD”) Tab 14.

³⁸ LS Supp BOD Tab 3.

³⁹ LS Supp BOD Tab 4.

Respondent's conduct reveals a clear difference in his conduct before and after April 2019, when the video of the 17 April 2018 incident was made public.

51. The Respondent's correspondence with the Inquiry Committee and the interviews referred to in paragraph 49(a) to (d) above all pre-dated the public disclosure of the video. Far from expressing remorse, the Respondent seeks to deflect blame and responsibility. His approach changed once the video was made public, as evidenced by the social media posts referred to in paragraph 49(e) above. The Respondent expressly referred to the video and sought to downplay the severity and significance of the events. His conduct at the material time therefore does not reflect any degree of remorse on his part.
52. We therefore find that the Respondent's contemporaneous conduct does not support his assertion that he is genuinely remorseful about the incidents that are the subject of the complaints.

(e) The Respondent's other arguments

53. The Respondent also makes two broad arguments in support of his submission that no cause of sufficient gravity exists and that a high fine would be the appropriate sanction in this case. First, he argues that he "*manifests a high potential for rehabilitation because he demonstrates insight into his psychiatric condition*"⁴⁰ (his emphasis). He relies on the fact that he voluntarily sought psychiatric help and "*is receiving help from Dr Augustine Tan, an experienced psychotherapist*".

⁴⁰ Respondent's Submissions, at [19].

54. We find it self-serving for the Respondent to claim that he has a high potential for rehabilitation. We note that while he relies on the fact that he sought medical help, he did not do so until more than a year after the incidents and only after the video of the incident had been made public. We also note that we do not have the benefit of Dr Augustine Tan's views on this issue.
55. In any event, we do not think that the Respondent's potential for rehabilitation is a factor for us to consider in deciding whether 'cause of sufficient gravity' exists on the facts of this case. That may well be relevant for the Court of Three Judges' considerations on the appropriate sentence should they find that 'due cause' has been established. Even if we are wrong, and the potential for rehabilitation is a factor that we should consider at this stage, there is no evidential basis for us to conclude that the Respondent has a high potential for rehabilitation.
56. Second, the Respondent refers to the judgment of the Court of Three Judges in *Law Society of Singapore v Ravi s/o Madasamy* ("**Ravi Madasamy**"), where the Court outlined the principles governing the imposition of sanctions in disciplinary proceedings – namely (i) the need to protect members of the public, (ii) the need to uphold public confidence in the integrity of the profession, (iii) the need to deter the same or other solicitors from similar behavior, and (iv) the need to punish the particular solicitor involved.
57. The Respondent argues that these factors, when considered in the context of the facts of this case, support his submission that the imposition of a fine would suffice.
58. We do not agree. In our view, the Respondent's reference to and reliance on *Ravi Madasamy* is misplaced. The Court of Three Judges in that case set out the principles governing the sentencing of advocates and solicitors where 'due cause' is found to

have been established. That is plainly evident from the principles themselves, which include considering the impact on members of the public as well as the legal profession as a whole.

59. Such considerations are not within our remit. Our role is limited to deciding whether 'cause of sufficient gravity' has been established to warrant the referral of this matter to the Court of Three Judges. If we answer that question in the affirmative, it would then be for the Court of Three Judges to decide whether 'due cause' has been established, and if so to impose the appropriate sentence having considered the various principles discussed in *Ravi Madasamy*.

60. We therefore find that the arguments raised by the Respondent in mitigation are not sufficient to persuade us that the severity of his misconduct does not amount to 'cause of sufficient gravity'.

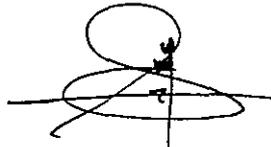
CONCLUSION

61. We therefore find and determine, within the meaning of Section 93(1)(c) of the Act, that cause of sufficient gravity for disciplinary action exists under Section 83(2)(b) of the Act in respect of each of the First to Eighth Charges.

62. We also find and determine, within the meaning of Section 93(1)(c) of the Act, that cause of sufficient gravity for disciplinary action exists under Section 83(2)(h) of the Act in respect of each of the Alternative First to Eighth Charges.

63. We also order, pursuant to Section 93(2) of the Act, that the Respondent pays the Law Society's costs in relation to these proceedings, such costs to be taxed by the Registrar if not agreed.

Dated this 10th day of March 2020



Siraj Omar, SC
President



Pradeep Pillai
Advocate