

DT/9/2021

In the Matter of Sarindar Singh  
An Advocate & Solicitor

And

In the Matter of the Legal Profession Act 1966

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**REPORT OF THE DISCIPLINARY TRIBUNAL**

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**Disciplinary Tribunal**

President: Mr Roderick E Martin SC  
Advocate & Solicitor: Mdm Tan Gee Tuan

**Counsel for the Complainant**

Mr Lim Mingguan  
Mr Pramnath Vijayakumar  
(Providence Law LLC)

**Counsel for the Respondent**

Mr Jispal Singh  
(Jispal Singh Chambers)

Dated this 17th day of May 2022

## I. BACKGROUND FACTS

1. The Complainant in these disciplinary proceedings is one Ms Jain Alka @ Alka Salecha (the "**Complainant**").
2. The Complainant and her husband, Mr Padam Kumar Jawerilal Salecha, were at all material times the shareholders and directors of Swina International Pte Ltd ("**Swina**").
3. The Respondent is Mr Sarindar Singh, an Advocate and Solicitor of the Supreme Court of Singapore, of 22 years' standing (the "**Respondent**"). At all material times, the Respondent was the sole proprietor of M/s Singh & Co.
4. The Respondent was engaged by Swina to negotiate with Swina's creditor banks in relation to outstanding loans of around SGD 16 million. The Respondent was also engaged by the Complainant and her husband, being personal guarantors of the loans taken out by Swina, for the same purpose.
5. The Respondent wrote to the banks proposing repayment plans, but those proposals were rejected.
6. Consequently, on 11 December 2017, Swina was served by Maybank with the winding up papers in HC/CWU 247/2017 at its office and on 12 December 2017, the Complainant and her husband were personally served with the bankruptcy papers in HC/B 2785/2017 and HC/B 2783/2017 respectively at their residence.
7. The bankruptcy and winding up applications were heard and granted on 11 January 2018 and 12 January 2018 respectively.
8. On 9 May 2019, the Complainant lodged a complaint against the Respondent, alleging that the Respondent had breached his duties under the Legal Profession (Professional Conduct) Rules by: (a) failing to act with honesty, competence and

diligence; (b) disclosing information without the Claimant's instructions; and (c) grossly overcharging for the work done.<sup>1</sup>

9. The complaint was referred to an IC, which took the unanimous view that all three heads of complaint disclosed no necessity for a formal investigation by a Disciplinary Tribunal.<sup>2</sup>
10. Being dissatisfied with the IC's decision that there was no *prima facie* case for referral to the DT, the Complainant took out an application *vide* HC/OS 41/2021 ("OS 41") for an order to compel the Law Society to refer her complaint to a DT. The parties to OS 41 were the Complainant, as the applicant, and the Law Society, as the respondent. At the hearing, the learned Justice Ang Cheng Hock (the "Judge") adopted the burden of proof applicable in an IC,<sup>3</sup> i.e. whether there was a *prima facie* case for referral. In other words, the learned Judge placed himself in the position of the IC and, applying the burden of proof applicable to the IC, determined whether or not the IC should have referred the complaint to a DT.
11. The learned Judge held as follows:

*"1. After consideration of the affidavits and the submissions, I am of the view that **there is a necessity for a formal investigation by a disciplinary tribunal into the following matter, ie, the Applicant's complaint that she was not advised by Mr. Sarindar Singh ("Mr Singh") on how to respond to HC/B 2785/2017 that was filed against her, HC/B 2783/2017 that was filed against the Applicant's husband, and HC/CWU 247/2017 that was filed against Swina International Pte Ltd ("Swina")***

*2 ... That being the case, I find that there is **a prima facie basis for a formal investigation to be carried out into Mr Singh's conduct***

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<sup>1</sup> AB 244 to 250.

<sup>2</sup> AB 434.

<sup>3</sup> See Notes of Hearing (22 April 2021) at paragraph [2], AB 443 to 444.

*in his [sic] regard. I find that the Council of the Law Society had erred in not considering that the **evidence disclosed a prima facie case of professional misconduct that is of sufficient gravity as to warrant a formal investigation by a disciplinary tribunal.***

3 On the evidence before the Inquiry Committee ("IC"), I did not agree that the other complaints raised by the Applicant in relation to Mr Singh's alleged professional misconduct are either made out on a prima facie basis, or were of sufficient gravity as to warrant a formal investigation by a disciplinary tribunal. As such, I do not think that Council of the Law Society erred in determining that the other matters did not require a formal investigation by a disciplinary tribunal.

...

7 ... For the above reasons, I will thus grant OS 41/2021 in part. *I hereby direct the Respondent to apply to the Chief Justice for the appointment of a disciplinary tribunal in respect of the following charge against Mr Singh – breach of his duty of honesty, competence and diligence under Rule 5 of the Legal Profession (Professional Conduct) Rules 2015 by failing to advise the Applicant in relation to the legal proceedings that had been commenced against her, her husband and Swina, and hence, that Mr Singh is guilty of misconduct unbecoming an advocate and solicitor as an officer of the Supreme Court under s 83(2)(h) of the Legal Profession Act.*

[emphasis added in bold and underline]

12. Pausing here, it ought to be stated that the burden of proof in the IC and before the DT is different. At the IC, the IC determines whether, on the material supplied to the IC, there exists a *prima facie* case for referral to a DT. At the DT, the burden

of proof notches up to a more “onerous” burden, that is, that the Complainant’s case has to be proven beyond a reasonable doubt.<sup>4</sup>

13. It also ought to be stated that of the grounds relied on by the Complainant in OS 41, only one ground was successful, this being that the Respondent failed to provide advice in relation to the legal proceedings in HC/B 2785/2017, HC/B 2783/2017 and HC/CWU 247/2017 (the “**Legal Proceedings**”).

## II. THE CHARGE

14. It is arising from this one ground that the following charge was preferred against the Respondent in the DT. It had two alternatives.

### Charge

*“You, Sarindar Singh , an Advocate and Solicitor of the Supreme Court of Singapore, are charged that you are guilty of 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, to wit, by breaching Rule 5(2)(h) of the Legal Profession (Professional Conduct) Rules 2015, in that in the course of your engagement as Jain Alka @ Alka Salecha, Padam Kumar Jawerilal Salecha and Swina International Pte Ltd’s lawyer, **you had failed to provide advice to your clients, Jain Alka @ Alka Salecha, Padam Kumar Jawerilal Salecha and Swina International Pte Ltd, in relation to the legal proceedings that had been commenced against them in HC/B 2785/2017, HC/B 2783/2017 and HC/CWU 247/2017 respectively.***

[emphasis added in bold and underline]

### First Alternative Charge

*“You, Sarindar Singh , an Advocate and Solicitor of the Supreme Court of Singapore, are charged that you are guilty of misconduct unbefitting*

<sup>4</sup> *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308 at [6].

*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, to wit, by breaching Rule 5(2)(c) of the Legal Profession (Professional Conduct) Rules 2015, in that in the course of your engagement as Jain Alka @ Alka Salecha, Padam Kumar Jawerilal Salecha and Swina International Pte Ltd's lawyer, **you had failed to act with reasonable diligence and competence in your provision of legal services to your clients, Jain Alka @ Alka Salecha, Padam Kumar Jawerilal Salecha and Swina International Pte Ltd, by failing to advise your clients in relation to the legal proceedings that had been commenced against them in HC/B 2785/2017, HC/B 2783/2017 and HC/CWU 247/2017 respectively.***

[emphasis added in bold and underline]

#### **Second Alternative Charge**

*"You, Sarindar Singh, an Advocate and Solicitor of the Supreme Court of Singapore, are charged that you are guilty of 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, to wit, by breaching Rule 5(2)(j) of the Legal Profession (Professional Conduct) Rules 2015, in that in the course of your engagement as Jain Alka @ Alka Salecha, Padam Kumar Jawerilal Salecha and Swina International Pte Ltd's lawyer, **you had failed to use all legal means to advance your clients', Jain Alka @ Alka Salecha, Padam Kumar Jawerilal Salecha and Swina International Pte Ltd, interests to the extent that you may reasonably be expected to do so, by failing to advise your clients in relation to the legal proceedings that had been commenced against them in HC/B 2785/2017, HC/B 2783/2017 and HC/CWU 247/2017 respectively.***

[emphasis added in bold and underline]

### III. THE PARTIES' POSITIONS

**a. The Complainant's Account**

15. The Complainant's account is that over the course of several meetings from 12 December 2017 to 11 January 2018, the Respondent told her and her husband not to be concerned with the Legal Proceedings, as it would be a matter of formality to adjourn the hearings as negotiations with the respective creditor banks were underway.<sup>5</sup> In this regard, the Respondent assured the Complainant that he would attend the hearings on their behalf to inform the Court that a proposal had been made to the creditor banks, and that the hearings would be adjourned.<sup>6</sup> The Respondent also stated that it would take about 6 to 9 months for the Legal Proceedings to be determined due to the adjournments occasioned by the banks needing time to consider the proposals.<sup>7</sup>
16. On 11 January 2018, the Respondent informed the Complainant and her husband via WhatsApp that he was "*in Court now*", then subsequently called the Complainant and her husband to inform them that the bankruptcy orders had been made.<sup>8</sup> The Complainant was confused as this was contrary to what had been discussed in the previous meetings with the Respondent. In response, the Respondent stated that the orders had been made as Swina, the Complainant and her husband had no money to repay the banks.<sup>9</sup> The Complainant later learned that the Respondent did not attend the hearing, but Maybank's solicitors had instead mentioned on his behalf.<sup>10</sup>
17. On 12 January 2018, the Respondent informed the Complainant and her husband via WhatsApp that the winding up application against Swina had been granted.<sup>11</sup> The Complainant was shocked and demanded an explanation as to why the Respondent had not sought an adjournment, but the Respondent was

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<sup>5</sup> Complainant's AEIC at [71].

<sup>6</sup> Complainant's AEIC at [73], [80] and [86].

<sup>7</sup> Complainant's AEIC at [74].

<sup>8</sup> Complainant's AEIC at [87] and [88].

<sup>9</sup> Complainant's AEIC at [88] and [89].

<sup>10</sup> Complainant's AEIC at [92].

<sup>11</sup> Complainant's AEIC at [93].

not forthcoming with a response.<sup>12</sup> The Complainant later learned that the Respondent did not represent Swina at the hearing.<sup>13</sup>

#### **b. The Respondent's Account**

18. The Respondent's account is that he repeatedly advised the Complainant and her husband that they needed to revise their proposals to the creditor banks, and that this was the best advice that he could give in the circumstances. As what they had put forward was inadequate given the amounts that were owing, they needed to devise new repayment plans that were acceptable to the creditor banks.<sup>14</sup>
19. The Respondent had also taken the position that it would be possible to adjourn the bankruptcy hearings as Maybank had not yet rejected the existing proposal.<sup>15</sup> This position changed on 11 January 2018, the day of the bankruptcy hearings, when the Respondent was informed by Maybank's solicitors before the hearings that his clients' proposals were to be rejected. In the circumstances, he found himself without any grounds to justify an adjournment and accepted Maybank's solicitors offer to mention on his behalf.<sup>16</sup> He accordingly advised the Complainant over the telephone that there were no grounds for any adjournment or resistance to the bankruptcy orders being made.<sup>17</sup>

#### **IV. FINDINGS OF FACT**

20. The Tribunal found that the main charge was made out on the facts beyond a reasonable doubt. In other words, the Respondent had failed to give advice to his clients on the Legal Proceedings that were commenced against his clients.

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<sup>12</sup> Complainant's AEIC at [95].

<sup>13</sup> Complainant's AEIC at [92].

<sup>14</sup> Respondent's AEIC at [19], [26] and [28].

<sup>15</sup> Respondent's AEIC at [18] and [21].

<sup>16</sup> Respondent's AEIC at [22] to [24], [30].

<sup>17</sup> Respondent's AEIC at [25].



21. The Tribunal's finding is based largely on the admissions of the Respondent in not having given advice in relation to the Legal Proceedings.
22. In this regard, we refer to the following extracts from the Notes of Evidence ("NOE"):

**NOE 14 December 2021, page 56 line 23 to page 57 line 31**

"Q *Are you suggesting now that you advised Ms Alka, her husband or Swina about the possibility of a scheme of arrangement for Swina?*

A *That---that was from day 1 that was told to her to come up with the proposals. And other than---*

Q *So when you say scheme of arrangement---*

A *Yes.*

Q *---do you just mean better repayment proposals?*

A *Yes, yes, I---I meant in that and not in the literal sense of a Court-approved scheme of arrangements.*

**Q *So, to be clear, you've never advised Ms Alka, her husband or Swina about possible schemes of arrangement pursuant to Section 210 of the Companies Act?***

**A *No, not in this case. No, I didn't.***

Q *Thank you."*

[emphasis added in bold]

**NOE 15 December 2021, page 15 line 27 to page 16 line 27**

"Q ***You also did not advice [sic] Ms Alka and her husband on a voluntary arrangement under Section 45 of the Bankruptcy Act and that that was the basis to stave off the bankruptcy proceedings. Do you agree?***

A ***I did not advise them on that voluntary arrangements because---***

Q *Thank you.*

A *---May---*

Q Do you agree with me---

A Maybank was just not replying and the first time---

President: If you want to add on to your answer---

Witness: Yes. I mean---

President: ---I will give you leave.

...

Witness: Yes, so because Maybank had not responded, the counsel has---

President: Right.

Witness: ---come up to me and asked the---they are not going to allow this because, "I have strict instructions to proceed with it. Your proposal are rejected out of hand." There's no basis left for me to do anything else. Now this suggestion of voluntary---it---whatever he said earl---

President: Arrangement.

A What did you say? For---for the---

Q A voluntary arrangement under Section 45.

A Voluntary arrangement.

Q Do you have something further to add, Mr Singh?

A No, nothing. That---that's it."

[emphasis added in bold]

**NOE 15 December 2021, page 18 lines 3 to 12**

**"Q Now, similarly, you didn't advise your clients on a scheme of arrangement under Section 210 of the Companies Act, correct?**

**A I---I didn't.**

Q You did not, right?

A Mm.

Q Now, I suggest to you that that's what a reasonably competent and diligent lawyer would have done, agree?"

A Disagree.

**Q You also did not advise your client on judicial management, agree?**

**A** **Agree.”**

[emphasis added in bold]

23. As is clear from the extracts, the Respondent simply did not advise his clients on the options available to the client in response to the bankruptcy and winding up applications, i.e. the prospect of voluntary arrangements, schemes of arrangement and/or judicial management.
24. Further, the Respondent failed to advise his clients on the issue of balance sheet solvency:

**NOE 15 December 2021, Page 17 lines to 7**

“Q *So, to be clear, you disagree with my statement that you did not advise them about the balance sheet solvency. **So is your evidence that you did advise them about balance sheet solvency?***

**A** *No, I did not advise them on the balance sheet insolvency [sic] because they didn't---because my instructions were they didn't have the money.”*

25. This was notwithstanding the Respondent's acceptance that (a) Swina's balance sheet recorded an excess of total assets over liabilities and (b) a Court, at the time when the winding up applications were heard, would consider the issue of balance sheet solvency before granting the application.<sup>18</sup> In respect of the former, the Tribunal noted that Swina's total assets as at 31 December 2016 were valued at the amount of SGD 18,577,381.41,<sup>19</sup> which would have been large enough to settle or substantially settle Swina's debts to the creditor banks.
26. This fact could have been relied on to either persuade the creditor banks (in particular, Maybank) to grant more time for repayment, or at the very least, to

<sup>18</sup> NOE 14 December 2021, page 25 line 19 to page 27 line 13.

<sup>19</sup> Swina's Audited Statement of Accounts for year ended 31 December 2016, page 6 (Agreed Bundle of Documents, page 19).

seek an adjournment from the Court. However, this was not done. Nor did the Respondent advise his clients on the same.

27. In fact, it would appear that the Respondent *never* advised his clients to challenge the bankruptcy and winding up proceedings by, for instance, filing a reply affidavit exhibiting documents evidencing of Swina's financial position and/or legal submissions. The Respondent made no mention of this in his Affidavit of Evidence-in-Chief or during the hearing, and did not produce any documents evidencing that such advice had been given. In this regard, given the absence of credible (or more accurately, any) contemporaneous records taken by the Respondent, we found it appropriate to draw an adverse inference against the Respondent.<sup>20</sup>
28. Perhaps more shockingly, the Respondent did not even advise his clients on Maybank's position in respect of his clients' repayment proposal, and the implications of this position on the bankruptcy proceedings, until *after* the bankruptcy orders had been granted by the Court:

**NOE 15 December 2021, page 15 lines 7 to 15**

**“Q        So when did you actually inform Ms Alka and her husband about what Maybank solicitors told you?**

A        *After I've been informed of this, on that very same morning I informed her.*

**Q        Was it before or after---**

A        *After my con---*

**Q        ---the bankruptcy orders were made?**

A        *After my conversation with the---*

Q        *That's not my question, Mr Singh.*

A        **Okay. After the order was made.**

[emphasis added in bold]

<sup>20</sup> Law Society of Singapore v Tan Phuay Khiang [2007] 3 SLR(R) 477 at [82].

29. This is despite the fact that the Respondent had, by his own admission, told the Complainant that it would be a “matter of formality” to adjourn the hearings on the basis that negotiations with the creditor banks were underway,<sup>21</sup> and that it would take about 6 to 9 months before the applications would be determined by the Court as a result of the creditor banks needing time to consider the proposals.<sup>22</sup>
30. As a result, the Complainant, her husband and Swina were deprived of the opportunity to consider whether a revised repayment proposal could be put forward to Maybank to avoid the bankruptcy and winding up orders being made.
31. Finally, after the bankruptcy and winding up orders had been made, the Respondent failed to advise his clients on their options moving forward:

**NOE 15 December 2021, page 18 lines 16 to 21**

**Q** *Now, after the orders were made, you also did not advise your clients on the possibility of appeals or setting aside the bankruptcy or winding up orders, agree?*

**A** *Setting aside, you are again---*

**Q** *Setting aside or appealing the bankruptcy or winding-up orders.*

**A** *The bankruptcy order, no, I did not advise them on it.*

[emphasis added in bold]

32. Throughout the disciplinary proceedings, the Respondent took the position that he had advised his clients by telling them to come up with improved repayment proposals that would be acceptable to the banks.<sup>23</sup> In our view, this was not at all sufficient.

<sup>21</sup> NOE 15 December 2021, page 10 lines 25 to 29.

<sup>22</sup> NOE 15 December 2021, page 11 lines 12 to 17.

<sup>23</sup> Respondent’s AEIC at [26]; NOE 14 December 2021, page 58 line 26 to page 59 line 18.

33. As the High Court held in *Law Society of Singapore v K Jayakumar Naidu* [2012] 4 SLR 1232:

*“Solicitors have a duty to loyally advance their clients’ interests with diligence and competence. Among its multiple facets, **this duty requires clients to be advised fairly and in good faith of the issues peculiar to the matter at hand.** ... All solicitors also owe their clients a fundamental duty of undivided loyalty to ethically advance their client’s interests and not place themselves in a position of conflict. **Advice to clients has to be prompt and commensurate with their needs, and not perfunctory.** A grave failure to adequately discharge these duties of care and loyalty, whether resulting from ignorance or a lack of conscientiousness, may expose a solicitor to disciplinary action and invite sanctions by the court. It is all the more troubling if in the course of an engagement the solicitor repeatedly abdicates from these responsibilities to his client.”*

[emphasis added in bold and underline]

34. In telling his clients to do nothing more than to come up with better repayment proposals, the Respondent’s advice was plainly perfunctory. The very least the Respondent would have been expected to do was to, upon learning of Maybank’s rejection of his clients’ offer at the door of the Court, update his clients and seek an adjournment from the Court on the basis that he had just been informed that his clients’ offer was rejected. Beyond belief, he instead went as far as to accept Maybank’s solicitors’ offer to mention on his behalf.
35. The Respondent’s other answer to the charge was that his clients had no money and therefore he would be misleading the court if he did anything in relation to the Legal Proceedings.<sup>24</sup> We do not accept this excuse because, as an Advocate and Solicitor, he should have at least raised the available options to his clients (i.e. challenging the applications, a voluntary arrangement, a scheme of arrangement and/or judicial management), even though it may have been difficult

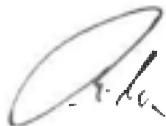
<sup>24</sup> NOE 15 December 2021, page 17 lines 14 to 22 and page 17 line 28 to page 18 line 2.

to follow through with them owing to the lack of funds. Any lawyer would have at least gone through the options with his client and explained why each was either open or not open in the circumstances.

## V. CONCLUSION

36. In respect of the charge that has been made out, the Tribunal determines under Section 93(1)(b)(i) of the Legal Profession Act (“LPA”) that, while no cause of sufficient gravity for disciplinary action exists under Section 83 of the LPA, the Respondent should be ordered to pay a penalty.
37. In coming to that determination, the Tribunal was cognisant of the fact that the charge did not imply any element of dishonesty, nor did the Respondent’s conduct disclose any dishonesty on his part. In fact, the Tribunal found the Respondent to be a candid witness, who readily admitted what he had or had not done over the course of his engagement.
38. In the Tribunal’s view, a penalty sufficient and appropriate to the misconduct of the Respondent would be S\$20,000, which we leave to the Council of the Law Society to order under Section 94(3) of the LPA.
39. The Tribunal makes no order as to costs pursuant to Section 93(2) of the LPA, because the Complainant’s counsel has taken on this matter on a *pro bono* basis. For the record, the Tribunal thanks Mr Lim, the Complainant’s lead counsel, for having done so.

Dated this 17th day of May 2022.




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**Mr Roderick E Martin SC**  
President




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**Mdm Tan Gee Tuan**  
Member