IN THE MATTER OF ONG LIAN-YI GREGORY
(AN ADVOCATE AND SOLICITOR)

AND

IN THE MATTER OF THE LEGAL PROFESSIONAL ACT 1966

REPORT OF THE DISCIPLINARY TRIBUNAL

Disciplinary Tribunal
Mr Giam Chin Toon, SC – President
Mr Teo Weng Kie – Member

Counsel for the Law Society
Allen & Gledhill LLP
Ms Fay Fong
1 Marina Boulevard, #28-00
Singapore 018989

Ref No.: FFONG/dc/1021006176

Counsel for the Respondent
K&L Gates Straits Law LLC
Mr N. Sreenivasan, SC / Ms Ranita Yogeeswaran
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Singapore 048619

Ref No.: SN/RY/tm/4901608.00001

Dated this 27th day of June 2022

INTRODUCTION – THE CHARGES

1. The complainant is Ms Scarlett Merida Xi Wei Yuan (the "**Complainant**"), who has referred a complaint against Mr Ong Lian-Yi Gregory (the "**Respondent**"), an advocate and solicitor, to the Law Society of Singapore (the "**Law Society**") on 8 October 2020.

2. The Respondent was admitted to the roll of advocates and solicitors of the Supreme Court of Singapore on 10 June 1992. At all material times, the Respondent practised with the firm of David Ong & Co.

3. Pursuant to the complaint, the Law Society referred the matter to the Inquiry Committee ("**IC**") and it was recommended by the IC that the complaint be investigated by a Disciplinary Tribunal (the "**Tribunal**").

4. The Law Society had preferred 3 charges each with an alternative charge against the Respondent when the Tribunal was constituted. These charges are as follows:

1ST CHARGE

You, **ONG LIAN-YI, GREGORY,** an advocate and solicitor of the Supreme Court of Singapore, are charged that you did act in breach of Rule 5(2)(c) of the Legal Profession (Professional Conduct) Rules 2015 (Cap. 161, No. S 706), to wit, by failing to act with reasonable diligence and competence in the provision of services to a client in that despite accepting instructions on or about 28 October 2015,

you failed in the period of 28 October 2015 to 18 January 2016 to act promptly and diligently on the instructions of the client to set aside the Statutory Demand which had been served on the client on 27 October 2015 within the time allowed for such an application to be made (i.e. 10 November 2015) and/or to apply for an extension of time of the said deadline, and you have thereby breached a rule of conduct under the provisions of the Legal Profession Act (Cap. 161) which amounts to grossly improper conduct or practice as an advocate and solicitor under Section 83(2)(b) of the Legal Profession Act (Cap. 161).

ALTERNATIVE 1ST CHARGE

You, **ONG LIAN-YI, GREGORY,** an advocate and solicitor of the Supreme Court of Singapore, are charged that you did fail to act with reasonable diligence and competence in the provision of services to a client in that despite accepting instructions on or about 28 October 2015, you failed in the period of 28 October 2015 to 18 January 2016 to act promptly and diligently on the instructions of the client to set aside the Statutory Demand which had been served on the client on 27 October 2015 within the time allowed for such an application to be made (i.e. 10 November 2015) and/or to apply for an extension of time of the said deadline, and you have thereby committed an act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap. 161).

2nd CHARGE

You, **ONG LIAN-YI, GREGORY,** an advocate and solicitor of the Supreme Court of Singapore, are charged that you did act in breach of Rule 5(2)(c) read with Rule 5(2)(e) of the Legal Profession (Professional Conduct) Rules 2015 (Cap. 161, No. S 706), to wit, by failing to act with reasonable diligence and competence in the provision of services to a client, by failing to keep the client reasonably informed of the progress of the client's matter, by, between 28 October 2015 to 18 January 2016, failing to keep the client reasonably informed of the progress of the application to set aside the Statutory Demand which had been served on the client on 27 October 2015 and/or the application to extend the time to set aside the Statutory Demand, and you have thereby breached a rule of conduct under the provisions of the Legal Profession Act (Cap. 161) which amounts to grossly improper conduct or practice as an advocate and solicitor under Section 83(2)(b) of the Legal Profession Act (Cap. 161).

ALTERNATIVE 2nd CHARGE

You, **ONG LIAN-YI, GREGORY,** an advocate and solicitor of the Supreme Court of Singapore, are charged that you did fail to act with reasonable diligence and competence in the provision of services to a client, did fail to keep the client reasonably informed of the progress of the client's matter, by, between 28 October 2015 to 18 January 2016, failing to keep the client reasonably informed of the progress of the application to set aside the Statutory Demand which had been served on the client on 27 October 2015 (the **"Statutory Demand")** and/or the application to extend the time to set aside the Statutory Demand and you have thereby committed an act

amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap. 161).

3rd CHARGE

You, **ONG LIAN-YI, GREGORY,** an advocate and solicitor of the Supreme Court of Singapore, are charged that you did act in breach of Rule 5(2)(c) read with Rule 5(2)(j) of the Legal Profession (Professional Conduct) Rules 2015 (Cap. 161, No. S 706), to wit, by failing to act with reasonable diligence and competence in the provision of services to a client, by failing to use all legal means to advance the client's interests, to the extent that a legal practitioner may reasonably be expected to do so, by, between 28 October 2015 to 18 January 2016, failing to take the necessary steps to apply to set aside the Statutory Demand which had been served on the client on 27 October 2015 within the time allowed for such an application to be made (i.e. 10 November 2015) and/or to apply for an extension of time of the said deadline, and you have thereby breached a rule of conduct under the provisions of the Legal Profession Act (Cap. 161) which amounts to grossly improper conduct or practice as an advocate and solicitor under Section 83(2)(b) of the Legal Profession Act (Cap. 161).

ALTERNATIVE 3rd CHARGE

You, **ONG LIAN-YI, GREGORY,** an advocate and solicitor of the Supreme Court of Singapore, are charged that you did fail to act with reasonable diligence and

competence in the provision of services to a client, did fail to use all legal means to advance the client's interests, to the extent that a legal practitioner may reasonably be expected to do so, by, between 28 October 2015 to 18 January 2016, failing to take the necessary steps to apply to set aside the Statutory Demand which had been served on the client on 27 October 2015 within the time allowed for such an application to be made (i.e. 10 November 2015) and/or to apply for an extension of time of the said deadline, and you have thereby committed an act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161).

5. Counsel for the Respondent, Mr. Sreenivasan SC, in the Respondent's Closing Submissions, had raised certain defects in respect of the charges. He submitted that the First Charge and the Third Charge (and their corresponding alternative charges) "*form what is essentially a single offence*" and/or are sufficiently close as to constitute a unitary offence for the purpose of sentencing.[1] He raised the issue again at the hearing on 14 March 2022 (the "**Hearing**"). After hearing from Mr. Sreenivasan SC, the Tribunal asked Counsel for the Law Society, Ms Fong, whether she had received instructions on the points raised and her reply was that she had not as the objections were raised about only a week before the Hearing. The Tribunal therefore granted her time to obtain instructions from the Law Society on the objections.

[1] Respondent's Closing Submissions at [39].

6. When the Hearing resumed, Ms Fong informed the Tribunal that the Law Society had considered the matter and her instructions are to withdraw the first, second, third and the third alternative charges leaving the alternative first charge ("**Alternative 1st Charge**") and the alternative second charge ("**Alternative 2nd Charge**") to be proceeded for hearing (collectively, "**Proceeded Charges**").

7. The Respondent thereupon claimed trial on the Proceeded Charges.

8. The Respondent also confirmed that he admits to the facts as stated in the Agreed Statement of Facts dated 15 February 2022 (the "**ASOF**") without qualification even though he had claimed trial on the Proceeded Charges. As both parties had requested for the Hearing to proceed on a documents-only basis, there was no examination and cross examination of witnesses.

AGREED FACTS

9. On or around 27 October 2015, the Complainant was served with a statutory demand for a sum of S$970,547.26 ("**Statutory Demand**") allegedly due to Ang Boon Kim t/a ABK Leasing ("**ABKL**") under a loan agreement.

10. The Complainant wished to dispute the alleged debt. She met the Respondent on 28 October 2015 and 29 October 2015 respectively to hand relevant documents and pay a deposit of S$7,000.00 to him with instructions to file an application to set aside the Statutory Demand ("**Setting Aside Application**").

11. Thereafter, correspondences between the Respondent and the Complainant took place and these can be summarised as follows:

(i) The Complainant wrote to the Respondent on 1 November 2015 to provide a chronology, pursuant to his request to provide him with *"full background facts and supporting documents"* and a *"chronology for [him] to study, then to do legal research and then draft affidavit."*

(ii) On 2 November 2015, the Respondent replied to the Complainant's email, setting out his comments and questions to the chronology, as he was of the view that the chronology had *"many holes, is incomplete and vague."*. In the same email, he set out his opinion on the defence including the timeframe within which the Statutory Demand had to be set aside. He said that according to her, the Statutory Demand had been served on 27 October 2015 and as such, she had 14 days to set it aside. He advised that the due date was therefore 10 November 2015.

(iii) On 4 November 2015, the Respondent followed up by email time-stamped 1.44pm, which reminded the Complainant to reply to his queries as the timelines were continuing to run. He also emphasised that he needed these answers in order to prepare the originating summons and supporting affidavit to set aside the Statutory Demand. On the same day, at 1.51pm, the Complainant provided further answers to the Respondent's questions and said she would provide the rest of the answers in later emails.

(iv) By email on 4 November 2015 at 11.22pm, the Complainant sought to provide all the answers to the Respondent's questions. Thereafter, the two exchanged Whatsapp messages. On 9 November 2015, the Complainant asked for an update and the Respondent said that he was studying her case.

(v) On 10 November 2015, which was the deadline the for setting aside, the Complainant sent a Whatsapp message to enquire as to the status of the filing. She noted that the deadline had arrived, to which the Respondent said that her understanding was correct. He then said *"not too [sic] worry we can apply for extension of time so long as filed within a reasonable period. BTW today is a public holiday. Happy Deepavali."*

(vi) As there was no further word from the Respondent, the Complainant followed up by Whatsapp on 1 December 2015, asking about her *"setting aside letter"* and expressing a hope to have updates soon. The Respondent replied, saying that he was in court. He also said *"Apologies… For your setting aside, not yet".* She responded, asking if there was a deadline. There was no reply from the Respondent.

(vii) The Complainant then sent an email on 2 December 2015, time-stamped 5.12pm, again inquiring about the deadline for submission of the setting aside application.

(viii) That same day, the Respondent replied via email with time-stamp 5.51pm, assuring the Complainant that he was applying for extension of time to file the setting aside application and that *"it should not be a problem."*

(ix) However, as at the time of the deadline to set aside the Statutory Demand(i.e. 10 November 2015), the Respondent had not in fact prepared the application. He had also not filed any application for an extension of time ("**EOT Application**") to do so.

(x) Accordingly, as the Statutory Demand had remained unsatisfied and/or unchallenged, the Complainant was presumed to be unable to pay her debts. A bankruptcy application was filed against the Complainant on 25 November 2015.

(xi) On 4 December 2015, the Respondent sent a Whatsapp message to the Complainant stating *"the set aside do not worry it is in good hands. I am very busy with court hearings this week. I will complete drafting all court papers and call you when I am ready."*

(xii) On 24 December 2015, a bankruptcy order was made against the Complainant.

(xiii) On 18 January 2016, the Complainant terminated the Respondent's engagement.

(xiv) On 19 January 2016, the Respondent returned the deposit of $7,000.00 to the Complainant.

(xv) On 27 August 2018, on an application by the Complainant's new lawyers, the bankruptcy order issued against the Complainant was annulled and the Statutory Demand was set aside.

A. DOCUMENTS TENDERRED AT THE HEARING

12. The following Affidavits of Evidence in Chief were filed and referred to at the Hearing:

(i) The Complainant's Affidavit of Evidence in Chief affirmed on 15 February 2022; and

(ii) The Respondent's Affidavit of Evidence in Chief affirmed on 16 February 2022.

13. Both Affidavits of Evidence in Chief ("**AEICs**") were brief. The Complainant's AEIC merely referred to the ASOF as being true and accurate. The Respondent's AEIC also merely confirmed the contents of the ASOF. He had added that he verily believed that his conduct that is the subject matter of these proceedings does not amount to misconduct that warrants sanction pursuant to the Act, and on this basis, he respectfully requested that this Tribunal acquit him of the charges made against him.

14. The following bundles were tendered at the Hearing:

(i) Agreed Bundle of Documents dated 7 March 2022, which included the ASOF at pages 407-412 (the "**ABOD**");

(ii) Law Society's Written Submissions dated 7 March 2022;

(iii) The Law Society's Bundle of Authorities dated 7 March 2022;

(iv) Respondent's Closing Submissions dated 7 March 2022; and

(v) The Respondent's Bundle of Authorities dated 7 March 2022.

B. THE LAW SOCIETY'S SUBMISSIONS

15. At the Hearing, Counsel for the Law Society, Ms Fong, had summarised the salient background facts with some details which were not found in the ASOF. However, even though these were facts not in the ASOF, they did not weigh in the Tribunal's mind. Mr Sreenivasan S.C. for the Respondent confirmed that he does not dispute these facts even though they were not in the ASOF.[2] In any case, the facts were documented in the ABOD.

16. *Law Society of Singapore v Chiong Chin May Selena* [2013] SGHC 5 (*"**Selena Chiong**"*) was relied on for the proposition that a solicitor's negligent conduct could be sufficiently grave and could be considered to be a breach of an essential duty of an advocate and solicitor such that it is inexcusable and would constitute professional misconduct.[3] Ms Fong also cited a textbook authority authored by Jeffrey Pinsler SC.[4]

[2] Transcript for the Hearing, page 32 at line 17 and page 33 at line 2, where Counsel for the Respondent was dealing with the limited issue of the emails of 4 November 2015.
[3] Law Society's Written Submissions at [14].
[4] Law Society's Written Submissions at [17].

17. The decision of *Zhou Tong v Public Prosecutor* [2010] 4 SLR 534 ("***Zhou Tong***") was next referred to. Members of the profession have to be competent and diligent in advising their clients when representing their interests. This fundamental professional responsibility requires every solicitor to thoroughly familiarise himself with the facts of his client's case, analyse the issues carefully, research the applicable law and then consider how best to advance the client's cause. Professional incompetence and indolence are no less a cause for concern as compared with cases of dishonesty.

18. It was submitted that the Commentary on the Legal Profession (Professional Conduct) Rules 2015 at [05.047] summarised what professionalism encompasses in the context of competence and diligence pursuant to rule 5 of the Legal Profession (Professional Conduct) Rules 2015 (the "**LPPCR**").[5] Ms Fong noted that in the same commentary at [05.041], it was said that the duty of reasonable diligence also involved completing work for the client as soon as reasonably possible. It was said that this is also prescribed in rule 17(2)(b) of the LPPCR.[6]

19. After setting out the approach to be adopted in paragraph 21 of the Law Society's Written Submissions, it was urged that we should make a finding that the Respondent's conduct disclosed an abject failure to carry out what he was asked to do, namely, to set aside the Statutory Demand. He was aware of the deadline as evidenced by the correspondence. Yet, after the Complainant had provided the further information on 4 November 2015 to address the Respondent's comments and

[5] Law Society's Written Submissions at [19].
[6] Law Society's Written Submissions at [20].

questions about the background facts relating to her case, there was simply no response from or follow-up by him. It was the Complainant who followed up and sought updates.[7]

20. Ms Fong submitted that the Respondent had answered the Complainant's various queries and requests in a manner that disclosed a lack of care and truthfulness. The following are some instances:[8]

(i) In his response on 9 November 2015, he said that he was *"studying [her] case".*

(ii) On 10 November 2015, he acknowledged that the deadline to set aside had arrived but merely sought to assure the Complainant that an extension of time could be sought so long as it is *"filed within a reasonable time."*

(iii) While the Respondent told the Complainant in his email response on 2 December 2015 that he was applying for an extension of time to file the setting aside application, no such step was in fact taken. The Respondent's written explanation dated 26 February 2021 to the Inquiry Panel, had confirmed this fact.

(iv) Even up to 18 January 2016, when the Complainant realised that she had been made a bankrupt, it was pointed out that the Respondent had continued to string the Complainant along. There was no attempt on the Respondent's part to explain the delay. Instead, he sought to pin the blame on the Complainant.

[7] Law Society's Written Submissions at [22].
[8] Law Society's Written Submissions at [22(4)].

21. It was contended that the Respondent was very much aware that the failure to set aside the Statutory Demand could result ina bankruptcy application being taken out against the Complainant. Notwithstanding this, he took no steps to advance the Complainant's case nor to protect her interests beyond the initial enquiry for the chronology and supporting documents. Even if his assertion that he needed more time "*to study the case*" is to be believed, it was submitted that a competent and diligent solicitor ought to have, at the very least, written to the creditor's solicitors to inform them that the Complainant was disputing the debt and would be applying to set aside the Statutory Demand or steps would be taken to apply for an extension of time.[9] He was aware of the need to set aside but had simply not made any attempt to prepare the application.[10] Court searches were not even done to ascertain if the creditor had commenced bankruptcy proceedings.[11] It was argued that the draconian consequences resulting from failure to set aside the Statutory Demand would have left the Complainant irremediably prejudiced. In fact, she was adjudged bankrupt on 24 December 2015 and had to spend the next two and a half years or so instituting proceedings to set aside the Statutory Demand and annul the bankruptcy order made against her.

22. The Law Society also contended that given the scope of the retainer (which was to set aside the Statutory Demand) it was incumbent on the Respondent to make the application, and if necessary, to seek an extension of time to do so. The Respondent's initial inquiries to understand the case and subsequent silence (apart from furnishing false assurances when pressed for updates) were not sufficient to discharge his professional responsibility.[12]

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[9] Law Society's Written Submissions at [23].
[10] Law Society's Written Submissions at [24].
[11] Law Society's Written Submissions at [25].
[12] Law Society's Written Submissions at [29].

23. In respect of the Alternative 1st Charge, Counsel for the Law Society stated that the Respondent's failure to carry out the very essence of the retainer (i.e. to set aside the Statutory Demand within the prescribed time) and the gross delay in his management of the case would clearly fall afoul of Section 83(2)(h) of the LPA, given that an objective standard is applicable to the solicitor's misconduct under s 83(2)(h) of the LPA.[13]

24. In respect of the Alternative 2nd Charge, the Law Society's case is that the Respondent failed to keep the Complainant reasonably informed of the application to set aside the Statutory Demand. The Respondent's blasé attitude towards the deadline and the failure to apply for extension of time was patently unbefitting of an advocate and solicitor under Section 83(2)(h). He was well aware of the avenue of applying for an extension if he needed more time to understand the matter.[14]

25. Counsel for the Law Society further noted that the present case bears striking similarity to the cases of *Law Society of Singapore v Ng Chee Sing* [2000] 1 SLR(R) 466 ("***Ng Chee Sing***") and *Selena Chiong*. In *Ng Chee Sing*, the Court of Three Judges had found that the solicitor had failed to carry out what he had been instructed to do under his retainer. In *Selena Chiong*, the respondent had made false representations as to the status of the matter.[15] In both cases, the solicitor was found guilty of grossly improper conduct under section 83(2)(b) of the Act and/or misconduct unbefitting of an advocate and solicitor under section 83(2)(h) of the Act.[16] In our case, it was submitted that the Alternative 2nd Charge was similarly made out.

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[13] Law Society's Written Submissions at [38].
[14] Law Society's Written Submissions at [39].
[15] Law Society's Written Submissions at [31] and [35].
[16] Transcript for the Hearing, page 105 at lines 15-18.

26. At the Hearing, the Tribunal informed counsel for the Law Society that we were minded to hear arguments for sentencing at the same sitting. Counsel for the Law Society stated that her instructions were to await the outcome before arguing on sentencing. Nonetheless, should the Tribunal find that sanctions were necessary, she submitted that there should at least be a fine, subject to instructions from the Law Society.[17]

C. THE RESPONDENT'S SUBMISSIONS

27. At the outset, Counsel for the Respondent stressed that the standard of proof incumbent on the Law Society was "*beyond reasonable doubt*".[18] It was argued that if the Law Society was arguing that there was untruthfulness that elevated the various communications into misconduct, the burden rested on it to prove its case. There should be no adverse inference to be drawn against the Respondent.[19]

28. It was noted that the necessity of adhering to the criminal standard was because *"the moral censure and professional disapprobation cast upon the solicitor [upon a finding of guilt] would impact adversely upon his reputation as well as his livelihood..."* as was stated in *Law Society of Singapore v Dhanwant Singh* [2020] 4 SLR 736.[20]

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[17] Transcript for the Hearing, page 105 at lines 15-18.
[18] Respondent's Closing Submissions at [3].
[19] Transcript for the Hearing, page 105 at lines 19-22.
[20] Respondent's Closing Submissions at [21].

29. The case of *Law Society of Singapore v Harjeet Singh* [2016] SGDT 9 ("***Harjeet Singh***") was cited, where the tribunal said that:[21]

> *"There is no judicial statement as to what 'improper conduct or practice as an advocate and solicitor' means. It should, however, be more egregious than 'conduct unbefitting an advocate and solicitor' under s 83(2)(h) which was described in Law Society of Singapore v Ng Chee Sing [2000] 1 SLR(R) 466 at [40] as 'a catch all provision which can be invoked when the conduct does not fall within any of the other enumerated grounds but is nevertheless considered unacceptable.'"*

30. Counsel for the Respondent also highlighted that mere negligence does not amount to misconduct and does not warrant sanction under the Act. There are different degrees of negligence. Whether or not a particular degree of negligence amounts to misconduct must be determined by viewing the gravity of the negligent act in the context of the matter whilst taking into account all the circumstances of the case. It was observed in *Law Society of Singapore v K Jayakumar* [2012] 4 SLR 1232 that an "*episode of innocent bungling to the client to the client's detriment may call for compensation but not censure. The professional lapse must be grave if it is to attract disciplinary sanction (see [1] above). Plainly, several serious lapses in the course of a professional engagement would invite serious consequences, including disciplinary sanction(s).*"[22]

[21] Respondent's Closing Submissions at [30].
[22] Respondent's Closing Submissions at [32]-[34].

31. It was submitted that whilst the Respondent's conduct may amount to negligence, it does not amount to misconduct that warrants sanction pursuant to the Act. The Respondent's failure to file the Setting Aside Application and/or the EOT Application was his one lapse and would, at worst, amount to a one-off act of "*innocent bungling*" or "*want of skill*".[23]

32. In this regard, the present case can be distinguished from *Selena Chiong*.[24] It was also noted that the respondent in *Selena Chiong* committed several lapses in her engagement with the complainant. The lapses included providing the complainant with inappropriate advice, failing to advice the client as well as misleading the complainant. The Court of Three Judges had noted that "*there was a pattern of chronic irresponsibility and… [she] took a rather lackadaisical attitude to her responsibility as a solicitor*".[25]

33. It was submitted that in contrast, the Respondent here had only committed one lapse, i.e. his failure to file the setting aside application or the application to seek extension of time to do so. Unlike in *Selena Chiong*, his conduct does not involve the failure to properly advise the Complainant, or misleading her. He was not guilty of any pattern of chronic irresponsibility or problem of attitude. The Respondent had also not attempted to provide excuses for his conduct or justify his actions. He has admitted to the factual averments of these charges. He initiated the filing of the ASOF to assist with streamlining these proceedings so that the Complainant would not be subjected to prolonged proceedings.[26]

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[23] Respondent's Closing Submissions at [55].
[24] Respondent's Closing Submissions at [55]-[57].
[25] Respondent's Closing Submissions at [57].
[26] Respondent's Closing Submissions at [57].

34. Counsel for the Respondent also submitted that while it is true the Respondent did not do as he had promised, it did not make him dishonest. Counsel for the Respondent specifically referred to an email communication dated 2 December 2015 where he told the Complainant that *"[w]e are applying for extension of time to file the setting aside application. Should not be a problem. Yes, we will send a receipt at the same time when we have prepared all the court papers which you have to sign at our offices on a date to be fixed*".[27] It was submitted that this email clearly showed that there were still things to be done.[28]

35. As for the Alternative 2nd Charge, the Respondent's submissions made in relation to the Alternative 1st Charge would apply.[29]

36. In the circumstances, it was submitted that the Respondent should be acquitted of the Proceeded Charges.

37. In the alternative, should the Tribunal find that one or both of the Proceeded Charges have been proven beyond a reasonable doubt, Counsel for the Respondent submitted that the appropriate punishment for each misconduct unbefitting of an advocate and solicitor would have to depend on the circumstances of the case as a whole. In this regard, Counsel for the Respondent cited several cases that stand for the proposition that "*cases involving grossly improper conduct without dishonesty or deceit will*

[27] Agreed Bundle of Documents at page 462.
[28] Transcript for the Hearing, page 95 at line 8.
[29] Respondent's Closing Submissions at [66].

generally attract a monetary penalty".[30] He also reserved his right to file a mitigation plea at the appropriate juncture, if necessary.[31]

38. Mr Sreenivasan SC urged the Tribunal to apply *Law Society of Singapore v Jasmine Gowrimani d/o Daniel* [2010] 3 SLR 390.[32] He argued that no cause of sufficient gravity exists, as the present case does not fall within the category of the *"most serious"* of complaints that should be referred to the Court of Three Judges.[33]

39. Instead, it was submitted that a reprimand or a fine should be imposed. Notably, the fine, if imposed, should be on the lower-end.[34] The reasons for his submissions are as follows:

(i) The charges are closely connected and arise out of the same transaction;

(ii) The Complainant terminated her engagement with the Respondent shortly after she found out that a Bankruptcy Order had been made against the Respondent. The Respondent therefore did not have the opportunity to remedy the situation;

(iii) The Respondent received no financial advantage. He returned to the Complainant the Deposit paid and did not charge the Complainant for any work done;

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[30] Respondent's Closing Submissions at [82] and [85].
[31] Respondent's Closing Submissions at [75].
[32] Respondent's Bundle of Authorities, Tab 11.
[33] Respondent's Closing Submissions at [76].
[34] Transcript for the Hearing, page 99 at line 24.

(iv) The Bankruptcy Order was eventually annulled and the Statutory Demand set aside;

(v) The motive of the Complainant is called into question. The Complaint was filed more than two years after the Bankruptcy Order had been annulled and the Statutory Demand set aside, and almost five years after the Bankruptcy Application had been filed. The Complainant had not offered an explanation as to why there was an inordinate delay in the filing of the Complaint. Any complaint she wished to make ought to have been filed earlier;

(vi) No allegations of dishonesty have been raised against the Respondent;

(vii) The Respondent has no antecedents; and

(viii) In admitting to the factual averments of the Proceeded Charges, the Respondent has not unnecessarily prolonged these proceedings but has instead shown remorse.

THE TRIBUNAL'S FINDINGS

The main question before the Tribunal is whether the facts as adduced from the documents in the ABOD and the ASOF are sufficient to establish that the Respondent is guilty of misconduct unbefitting on advocate and solicitor as alleged in the Proceeded Charges.

Burden of Proof

40. At the outset, Counsel for the Respondent submitted that even if the evidence before us would have established negligence on the part of the Respondent, they are

insufficient to find him guilty of misconduct unbefitting of an advocate and solicitor within section 83(2)(h) of the Legal Profession Act (Cap. 161) (the "**Act**").

41. The burden of proof is on the Law Society to establish that the documents would prove beyond reasonable doubt that the Respondent's conduct was not merely negligent but such that it would amount to misconduct unbefitting of an advocate and solicitor.

42. The Law Society on the other hand contended that the evidence is clear that the Respondent was guilty of misconduct unbefitting of an advocate and solicitor. He had failed to apply to set aside the Statutory Demand made against his client and to apply for an extension of time after the deadline to set aside the Statutory Demand had passed. This resulted in a Bankruptcy Order being made against the Complainant.

43. It is trite law that the standard of proof is to show that the Respondent was guilty of the charges beyond reasonable doubt.[35] We would refer to the case of *Public Prosecutor v GCK and another matter* [2020] 1 SLR 486 where it was held as follows:[36]

> *"(e) The principle of proof beyond a reasonable doubt can be conceptualised in two ways. First, a reasonable doubt may arise from within the case mounted by the Prosecution. As part of its own case, the Prosecution must adduce sufficient evidence to establish the accused person's guilt beyond a reasonable doubt on at least a prima facie basis. Failure to do so may lead to a finding*

[35] *Law Society of Singapore v Wan Hui Hong James* [2013] 3 SLR 221 at [50].
[36] *Public Prosecutor v GCK and another matter* [2020] 1 SLR 486 at [149].

that the Prosecution has failed to mount a case to answer, or to an acquittal. In those situations, the court must nevertheless particularise the specific weakness in the Prosecution's own evidence that irrevocably lowers it below the threshold of proof beyond a reasonable doubt.

(f) Once the court has identified the flaw internal to the Prosecution's case, weaknesses in the Defence's case cannot ordinarily shore up what is lacking in the Prosecution's case to begin with, because the Prosecution has simply not been able to discharge its overall legal burden.

(g) The second way in which a reasonable doubt may arise is on an assessment of the totality of the evidence. The inquiry here is intimately connected with the "unusually convincing" standard, which arises in the context of mutually exclusive and competing testimonies. The "unusually convincing" standard sets the threshold for a witness's testimony to be preferred over the evidence put forth by the accused person where it is a case of one person's word against another's.

(h) The assessment of the Prosecution's evidence under the "unusually convincing" standard must be made with regard to the totality of the evidence, which logically includes the case mounted by the Defence. The evaluative task is not just internal to the Prosecution's case, but also comparative in nature. Where the evidential burden lies on the Defence and this has not been discharged, the court may find that the Prosecution has discharged its burden

of proving its case against the accused person beyond a reasonable doubt. At this stage, regard may be had to weaknesses in the Defence's case.

(i) What the Defence needs to do to bring the Prosecution's case below the requisite threshold is to point to such evidence as would generate a reasonable doubt. That evidence need not necessarily be raised by the Defence; what matters is that a reasonable doubt arises from the state of the evidence at the close of the trial."

(emphasis added)

44. Thus, the burden on the Law Society is to adduce sufficient evidence which must establish the guilt beyond a reasonable doubt on at least a prima facie basis and that the Respondent has to show at the end of the trial that a reasonable doubt exists on the evidence adduced.

Did the acts and/or omissions of the Respondent amount to misconduct unbefitting an advocate and solicitor of the Supreme Court or as a member of an honourable profession?

45. With that in mind, we proceed to examine and assess the facts and evidence before us in order to arrive at our decision.

46. The Proceeded Charges were both made under s 83(2)(h) of the Act. In this regard, the Tribunal is mindful that in the case of *The Law Society of Singapore v Harjeet Singh* [2016] SGDT 9, it was stated that s 83(2)(h) is "*a catch all provision which can*

be invoked when the conduct does not fall within any of the other enumerated grounds but is nevertheless considered unacceptable."[37]

47. The Tribunal accepts the Respondent's contention that there are degrees of negligence and whether a particular degree of negligence amounts to misconduct must be determined by viewing the gravity of the negligent act in the context of the matter whilst taking into account all the circumstances of the case.[38] Not all cases of negligence support a finding of due cause.[39] Innocent bungling which prejudices the client may not call for censure. The professional negligence must be of a "*grave*" nature. Several serious lapses would invite disciplinary sanction.

48. We would therefore examine the undisputed material, correspondences and other documents contained in the ABOD read with the ASOF to evaluate if the conduct was just mere negligence or whether it was sufficiently grave to amount to misconduct on the part of the Respondent in the discharge of his professional duty.

49. On 31 October 2015, the Respondent had requested for documents, information and a chronology from the Complainant on Whatsapp for him to "*study, then to do legal research and then draft affidavit. Fighting a case is not like making instant noidle. It has to be carefully thought over and researched.*"[40]

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[37] Respondent's Closing Submissions at [30].
[38] *Re Lim Kiap Khee; Law Society of Singapore v Lim Kiap Khee* [2001] 2 SLR(R) 398 at [19].
[39] *Law Society of Singapore v K Jayakumar Naidu* [2012] 4 SLR 1232 at [79].
[40] ABOD at page 424.

50. On 1 November 2015, the Complainant responded to the Respondent in an email, providing whatever responses she could to the Respondent.[41]

51. On 2 November 2015, the Respondent emailed the Complainant, raising further questions on the chronology provided in the Complainant's email dated 1 November 2015[42] and commented on the insufficiency of the chronology:[43]

> "*Simply put, the chronology of facts you have given to me has too many unexplained holes and lacks sufficient details. Accordingly, at the moment, such a chronology is not very helpful in the preparation of your application to set aside the statutory notice of demand in bankruptcy against you. You need to work harder on the chronology, recall and remember important facts, names, terms of discussion and dates otherwise the court will not believe what you say as there is no credibility in what you say unless the said holes are plugged and the details provided*."

52. He further emphasised in the same email:[44]

> "*ACCORDING TO YOU, YOU WERE SERVED WITH THE BANKRUPTCY STATUTORY DEMAND ON 27 OCTOBER 2015, ACCORDING TO THE LAW YOU HAVE 14 DAYS TO APPLY TO SET ASIDE THE STATUTORY DEMAND IE. TO SET IT ASIDE BY 10 NOVEMBER 2015.*"

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[41] ABOD at page 426.
[42] ABOD at page 431.
[43] ABOD at page 432.
[44] ABOD at page 432.

53. On 4 November 2015 at 1.44pm, the Respondent sent an email to the Complainant, stating that she should "*proceed to do her best and reply*".[45]

54. On the same day, the Complainant replied to the Respondent in 2 emails, one at 1.51pm and the other at 11.22pm,[46] which sought to provide the Respondent with the further information he had requested for. In these emails, she notably stated that she would provide the Respondent the slips and loan agreement between her and one Sheraz in later emails.

55. On 4 November 2015 at 11.53pm, the Complainant forwarded to the Respondent an email she had previously received on 14 May 2015 from the law firm representing Sheraz, which had forwarded a Supplementary Agreement for her comments.[47] In the same email, she informed the Respondent that "*a copy of Sheraz's company contract for applying the credit line with bank of China*" would be forwarded if they would be of help. It is unclear however whether a copy of the said company contract was in fact forwarded to the Respondent at all as there was no record of such a document in the ABOD.

56. On 5 November 2015 at 11.15am, the Respondent asked the Complainant if the loan agreement was connected to the loan given to the Complainant by ABKL.[48]

57. On 9 November 2015, the Complainant sent a WhatsApp message to the Respondent in relation to another matter unrelated to the case. At the same time, however, she

[45] ABOD at page 435.
[46] See ABOD at page 436-442.
[47] ABOD at page 444.
[48] ABOD at page 452.

enquired about her case. To this query, the Respondent specifically responded that he was "*studying your case*".[49]

58. Up to this point, we find that all the Complainant was told was that the Respondent was "studying your case". The Respondent does not dispute that neither the Setting Aside Application nor the EOT Application was ever made.[50] Further, no drafts of either the Setting Aside Application or EOT Application were ever shown to have been prepared during the period he was acting for her.

59. It ought to be borne in mind that the Respondent was at all times fully aware that the deadline was 10 November 2015. Yet, a day before the deadline, when the Complainant queried "*And how about my case?*", his response was simply "*Studying your case*".

60. Thus far, the evidence had not shown any sign of concern or urgency on the Respondent's part even though time was fast running out. We find that his casual remark "*Studying your case*" is an incomplete and unsatisfactory response of a responsible lawyer faced with a situation where time will run out the next day. We find that this conduct is not what is expected of an advocate and solicitor tasked with the responsibility of protecting his client's interest, with the prospect of serious consequence after time runs out. In the circumstances, we do not accept that the evidence showed only mere "innocent bungling" or "want of skill" on the part of the

[49] ABOD at page 71
[50] Agreed Statement of Facts at [15].

Respondent as submitted by Mr Sreenivasan, SC. We are satisfied that the conduct was grave enough to amount to misconduct unbefitting of an advocate and solicitor.

61. Counsel for the Respondent had, in his submissions, also attempted to characterise the Respondent as having "*[dropped] the ball*" only on 2 December 2015.[51] We disagree. We are of the view that the Respondent's conduct throughout the period should be viewed as a whole. We do not accept that he "dropped the ball" only from 2 December 2015 onwards. In any case, we find that his conduct and attitude towards the Complainant's was unprofessional throughout from the time he failed to respond to the queries of the Complainant on the status of the matter to the time the Complainant terminated his services.

62. On 10 November 2015 (i.e. the date of the deadline to set aside the Statutory Demand), the Complainant had pointed out to the Respondent that "*today is the last day for us to file in and put aside right?*", to which his casual reply was "*[correct] but not to worry we can apply for extension of time so long as it is filed within a reasonable period*".[52]

63. From this reply, we note that:

(i) There was simply no urgency shown by the Respondent right up to 10 November 2015.

[51] Transcript of the Hearing, page 92 at lines 13-26.
[52] ABOD at page 454.

(ii) His conduct throughout his engagement was to say the least, lackadaisical. In particular, he told the Complainant not to worry as he could apply for an extension of time giving the impression that such an extension would be granted as a matter of course. This amounted to an assurance to the Complainant that so long as an application to extend time is made within a reasonable period of time, there is no cause to worry. We are unable to accept this as mere negligence. As an experienced lawyer, the Respondent ought to know that an extension of time is granted at the discretion of the Court and that it would depend on the reasons given to convince the Court to exercise the discretion in favour of the applicant.

(iii) There was no indication of any concern on the Respondent's part as to the serious consequences that would follow if the extension of time was not granted and the Statutory Demand not set aside. Furthermore, there was no evidence adduced to show that the Respondent had even initiated a search to determine if ABKL had taken steps after the expiry of the Statutory Demand deadline to enforce it. There was not even a suggestion or an attempt made to write to the solicitors acting for ABKL on the matter to state the Complainant's case or to ask for time to respond.

64. The same pattern of conduct continued well after 10 November 2015. On 28 November 2015 (i.e. 18 days after the deadline to set aside the Statutory Demand had expired), the Complainant sent a WhatsApp message to the Respondent as she had not

heard from him, to request for updates on her case. There was no response to this message.[53]

65. On 30 November 2015, the Complainant again messaged "*Morning Gregory, do you have time to talk*". Once again, there was no response.[54]

66. On 1 December 2015, the Complainant once again messaged the Respondent, requesting an update regarding the Statutory Demand. This time, the Respondent replied stating that "*For your setting aside, not yet*".[55] The Complainant thereafter enquired if there was a deadline for "*the setting aside*". There was no response to this message.[56]

67. On 2 December 2015 at 5.12pm, the Complainant sent an email to the Respondent, requesting a receipt for her fee payment of $7,000.00 and again asked whether there was a deadline for setting aside the Statutory Demand.[57] He responded to this email on the same day at 5.51pm, stating that he was applying for an extension of time which should "*not be a problem*". He also stated that he would send the fee payment receipt together with the "*all the court papers which [she would] have to sign at [his] offices on a date to be fixed*" when he has prepared "*all the court papers*".[58]

68. We find that this response gave the impression that the Respondent was ready to proceed with the matter and that the relevant court papers would soon be ready for the

[53] ABOD at page 455.
[54] ABOD at page 455.
[55] ABOD at page 455.
[56] ABOD at page 456.
[57] ABOD at page 461.
[58] ABOD at page 462.

Complainant to sign. However, as stated previously, the evidence before the Tribunal has showed that in fact no court papers were prepared nor were they sent to the Complainant even though the Respondent had stated he would have them at his office for her to sign on a date to be fixed.

69. After 2 December 2015, there appears to be no further communication between the Complainant and the Respondent until 15 January 2016 when the Complainant emailed the Respondent requesting him to set aside the Statutory Demand immediately.[59]

70. On 18 January 2016, by an email timestamped 12.50pm, the Complainant terminated the Respondent's services with immediate effect. She alleged in this email that she had her phone line cut off and her bank account suspended because of his negligence. She also noted in the same email that:[60]

> "*You have not even had the courtesy to respond to my email of 15 January and my registered letter dated 16th January. I am most disappointed by your derelict attitude.*"

71. On the same day at 3.11pm, the Respondent replied to the Complainant's email. He stated that it was defamatory of the Complainant to accuse him of negligence. He accepted the termination of his services and agreed to return the $7,000.00 deposit paid to him.[61]

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[59] ABOD at page 463.
[60] ABOD at page 464.
[61] ABOD at page 466.

72. It is clear that the Complainant's instructions to the Respondent have been consistent and unwavering. The Respondent was engaged to set aside the Statutory Demand. This is shown from the Complainant's instructions from the time the Respondent was first appointed to act for her[62] and throughout the entire retainer period.[63] Both the EOT Application and Setting Aside Application are inextricably linked and the Respondent's actions over the entire course of the retainer should be viewed as a whole.

73. We find that while the Respondent was correct to seek further information from the Complainant but found that what had been provided was not "*entirely coherent*" thereby contributing to his inability to prepare the Court papers, it would still be the Respondent's duty and responsibility to chase for the clarifications to enable him to proceed in good time. We find instead that it was in fact the Complainant who was making regular inquiries on the state of the application with no meaningful response received from the Respondent. This was conceded by the Respondent.[64] He had repeatedly assured the Complainant that he was in the midst of preparing the necessary court papers, giving no impression that anything more was needed from the Complainant.[65] Therefore, on the assumption that the information provided by the Complainant was sufficient, it is the Respondent's duty to prepare the Setting Aside Application and the EOT Application forthwith on an urgent basis in view of the tight timeline. On the evidence before us, it was clearly shown that he had taken absolutely no action right up to the date his engagement was terminated.

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[62] ASOF at [4].
[63] ASOF [11]-[13] and Law Society's Written Submissions at [4].
[64] ABOD at page 379-380.
[65] ABOD at pages 453, 462 and 466.

74. Furthermore, even if the Respondent was unaware of the bankruptcy proceedings filed against the Complainant,[66] it is clear that he had not even made an effort to establish if a bankruptcy application had been filed after the deadline had passed. This was admitted by Counsel for the Respondent.[67] We are of the view that the Respondent ought to have known that bankruptcy proceedings would be the next step to be taken by ABKL (on 15 January 2016 at the latest) if they receive no response from the Complainant. An urgent search would reveal the status of the matter at the material time.[68]

75. If negligence is involved, the Tribunal agrees with the Respondent that there is always a need to discern and differentiate the various degrees of negligence, taking into account all the facts of the case[69] and that the degree of negligence must still be found to be sufficiently grave for the purposes of a finding of misconduct under s 83(2)(h) of the Act. Otherwise, every negligent act or omission would be tantamount to misconduct unbefitting of an advocate and solicitor.

76. The Court of Three Judges in *Selena Chiong* provided helpful guidance of the standard required for a charge under s 83(2)(h) of the Act:

> "… *we do have some difficulties in relation to the misconduct complained of in the first and second charges, which misconduct smacks more of incompetence, disorganisation or lack of care on the part of Chiong rather than any deliberate*

[66] Transcript of the Hearing, page 58 at lines 12-13.
[67] Transcript of the Hearing, page 98 at line 12 and Law Society's Written Submissions at [25].
[68] ABOD at page 466.
[69] *Re Lim Kiap Khee; Law Society of Singapore v Lim Kiap Khee* [2001] 2 SLR(R) 398 at [19].

> *act on her part to mislead Heng or mishandle the latter's divorce matter... it would be more appropriate to regard the misconduct set out in the first and second charges as "misconduct unbefitting of an advocate and solicitor" within the meaning of s 83(2)(h) of the LPA."*
>
> (emphasis added)

77. In a similar vein, the High Court in *Zhou Tong* stated that professional incompetence and indolence is a cause for concern. It is indeed a fundamental responsibility of the solicitor that he should consider how best to advance the client's cause. He must act conscientiously and conscionably.[70] We are of the view that the Respondent had failed the test in the present case.

78. We also agree with Counsel for the Respondent that unlike the respondent in *Selena Chiong*, the Proceeded Charges in our case do not involve any failure to advise the Complainant, the failure to appropriately advise the Complainant or misleading the Complainant.[71] The irresponsibility displayed by the respondent in *Selena Chiong* appears to be graver and more prolonged than the Respondent's actions in our case

79. However, this does not mean that the Respondent's conduct was not grave enough to amount to misconduct under the Proceeded Charges. As established in *Selena Chiong*, a lack of care and incompetence, despite not being deliberate, can still amount to "*misconduct unbefitting of an advocate and solicitor*" within the meaning of s 83(2)(h)

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[70] *Zhou Tong v Public Prosecutor* [2010] 4 SLR 534 at [1].
[71] Respondent's Closing Submissions at [57].

of the Act. In this regard, we find that his failure in acting competently for the Complainant's matter, whilst not proven to be deliberate, amounted to misconduct within the meaning of s 83(2)(h) of the Act. Though the Respondent's period of negligence can be said to be relatively short as he was on retainer from 28 October 2015 to 18 January 2016, the point to emphasise is that he did fail to file the Setting Aside Application and the EOT Application pursuant to the Complainant's instructions knowing all along the consequences that would follow should he fail to do so on time. For that, we find that the Respondent displayed a total lack of care towards the Complainant's case when he informed her that applying for an extension of time should not present a problem.[72] The Respondent was irresponsible to give the impression to the Complainant that an extension of time would be granted if it was applied for within a reasonable time without advising her that it has to be on grounds acceptable to the Court.

80. Similarly, the Respondent had failed to keep the Complainant reasonably informed about her case at least from on or around 6 November 2015 onwards. Notably, the Respondent did not provide any updates to the Complainant after he replied to her chaser on 10 November 2015 (i.e. the period from 11 November 2015 to 30 November 2015).[73] This was in spite of the fact that there was a real possibility of bankruptcy proceedings being commenced as the deadline for the Setting Aside Application was due to expire on 10 November 2015. In our view, this period of silence from the Respondent was inexcusably lengthy and puts the Complainant at risk of being made a bankrupt.

[72] ABOD at page 462.
[73] ASOF at [11]-[12].

81. For completeness, we note that Counsel for the Law Society appeared to be hinting at an element of dishonesty specifically at the Hearing, and untruthfulness in relation to the Respondent's preparation for the Setting Aside Application and/or the EOT Application.[74] In response, Counsel for the Respondent pointed out that any "*untruthfulness*" would not be proven beyond reasonable doubt given that the Respondent did inform the Complainant that she would have to sign "*all the court papers*" when they have been prepared.[75] Similarly, he had sent a Whatsapp message to the Complainant on 4 December 2015 stating that he "*will complete drafting all court papers and call [her] when [he was] ready*".[76]

82. We find that an allegation of untruthfulness is a grave accusation against a solicitor. However, we are unable to make a finding of fact in respect of the Respondent's state of mind relating to untruthfulness solely by reference to the documents and without cross-examination of the Respondent. In any event, we find that it is unnecessary to find untruthfulness against the Respondent for the purposes of the Alternative 2nd Charge. The fact is that no such Court papers were produced and we are satisfied that the Respondent had by his own admission no further excuse to allege that he needed further information in order to draft the court papers.

83. In the light of our findings, we are satisfied that the Proceeded Charges (i.e. the Alternative 1st Charge and the Alternative 2nd Charge) have been proven beyond a reasonable doubt and that the Respondent is guilty as charged.

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[74] Transcript for the Hearing, page 77-79 and 103.
[75] Transcript for the Hearing, page 93-94.
[76] ABOD at page 150.

APPROPRIATE SENTENCE

84. The Tribunal has to decide whether the Respondent's conduct warrants a determination under either s 93(1)(b) or (c) of the Act.

85. Counsel for the Respondent helpfully drew our attention to the decision of the Court of Three Judges in *Law Society of Singapore v Jasmine Gowrimani d/o Daniel* [2010] 3 SLR 390 in which the function of a Disciplinary Tribunal was set out:

> "*One main function of the Disciplinary Tribunal is to serve as a "filter" of sorts, thereby ensuring that only the most serious complaints are referred to the court of three Judges... the Disciplinary Tribunal may find that the conduct of the advocate and solicitor concerned does fall within one or more of the limbs of s 83(2).. but feels that the conduct itself, whilst technically within the ambit of one or more of these limbs, is nevertheless not one of "sufficient gravity"... the Disciplinary Tribunal can administer a much less serious sanction pursuant to s 93(1)(b) of the Act*".[77]

86. Here, we are of the view that even though we find that the Respondent is guilty as charged, we would agree with Counsel for the Respondent that the present case does not fall within the category of the most serious of complaints.[78] Indeed, we accept that the Respondent's misconduct was not as severe as the cases cited by Counsel for the Law Society.

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[77] *Law Society of Singapore v Jasmine Gowrimani d/o Daniel* [2010] 3 SLR 390 at [28] and [39].
[78] Respondent's Closing Submissions at [76].

87. We have considered the mitigating factors raised by Counsel for the Respondent. The Respondent did not gain financially from this incident. He had no prior antecedents. We are mindful that any form of dishonesty and/or untruthfulness has not been established beyond reasonable doubt. Plainly, in the short period of his retainer, the Respondent was negligent and had displayed a lack of professionalism in the way he handled the Complainant's case. His handling of the case is far short of what is expected of an advocate and solicitor.

88. We also note that the Respondent's actions had caused the Complainant suffering and inconvenience as she was adjudged a bankrupt. Bankruptcy is undoubtedly a traumatic experience and the Complainant must have suffered during her period of bankruptcy. However, to attribute the Complainant's lengthy period of suffering (approximately 2.5 years of bankruptcy) solely to the Respondent is unjustifiable. No evidence was adduced to explain why it had taken approximately 2.5 years for the bankruptcy order to be annulled.[79]

89. In light of all our findings, and pursuant to s 93(1)(b)(i) of the Act, we determine that while no cause of sufficient gravity for disciplinary action exists under s 83 of the Act, the Respondent should be ordered to pay a penalty of $5,000.00, which in our view is sufficient and appropriate to the misconduct committed

90. Pursuant to s 93(2) of the Act, we award costs of $2,500.00 to be paid by the Respondent to the Law Society.

[79] Transcript for the Hearing, pages 99-100.

Dated this 27th day of June 2022

Mr Giam Chin Toon, SC
President

Mr Teo Weng Kie
Member