DT 19 OF 2022

IN THE MATTER OF KWA KIM LI

AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT 1966

REPORT OF THE DISCIPLINARY TRIBUNAL

Disciplinary Tribunal:

Mr N Sreenivasan, S.C. – President

Mr Tan Kheng Ann Alvin – Advocate & Solicitor

Counsel for the Law Society of Singapore

Mr R S Bajwa
Bajwa & Co
with Mr Rezza Gaznavi of
Mahmood Gaznavi
Chambers LLC

Counsel for the Complainant

Mr Abraham Vergis, SC
with Ms Asiyah Arif and
Mr Kyle Chong
Providence Law Asia LLC

Counsel for the Respondent

Mr Cavinder Bull, SC
with Ms Gerui Lim and
Ms Elisabeth Liang
Drew & Napier LLC

Dated this 5th day of May 2023

Introduction

1. These proceedings ("**DT 19**") arise from a complaint by Mr Lee Hsien Yang ("**LHY**") and his sister, Dr Lee Wei Ling ("**LWL**"), made on 9 September 2019 (the "**Complaint**"). The Respondent solicitor is Ms Kwa Kim Li. The Respondent is a partner in the firm of M/s Lee & Lee, and is an advocate and solicitor of more than 40 years' standing.

2. The Complaint covered various matters, which came before this Disciplinary Tribunal through different procedural routes.

Procedural History

3. In the Complaint by LHY and LWL, there were four heads of complaint. These were:-
   (a) First, that the Respondent had failed to follow the instructions of the late Mr Lee Kuan Yew (the "**Testator**") to destroy his superseded wills (the "**First Complaint**");
   (b) Second, that the Respondent had breached privilege and her duties of confidentiality by sending emails with records of communications with the Testator to Mr Lee Hsien Loong ("**LHL**") who was not an executor of the estate of the Testator (the "**Estate**") (the "**Second Complaint**");
   (c) Third, that the Respondent had failed to keep proper contemporaneous notes and records of all the advice given to and instructions received from the Testator (the "**Third Complaint**"); and
   (d) Fourth, that the Respondent had given false and misleading information to the executors in her emails of 4 June 2015 and 22 June 2015 (the "**Fourth Complaint**").

4. After consideration of the Complaint by the Review Committee, the Inquiry Committee and the Council of the Law Society (the "**Council**"), the Council determined, pursuant to section 87 of the Legal Profession Act 1966 (the "**LPA**"), that there should be a formal investigation by a Disciplinary Tribunal of only the Second Complaint. Two charges were framed in relation to the Second Complaint, both framed with alternative charges. The Council accordingly applied to the Chief Justice, pursuant to section 89 of the LPA, to appoint a Disciplinary Tribunal to hear and investigate the matter. The Statement of Case prepared by the Law Society of Singapore (the "**LSS**"), containing

the two charges and the alternatives charges, is attached as ***Annex A***. These charges are referred to as the LSS Charges.

5. LHY and LWL were dissatisfied with the determination of the Council in relation to those parts of the Complaint that were not referred to a Disciplinary Tribunal for formal investigation. They applied to the High Court, pursuant to section 96 of the LPA, for an order directing the LSS to apply to the Chief Justice to the appointment of a Disciplinary Tribunal in respect of those matters also. As a result of that application, an order was made, pursuant to section 96 of the LPA, that the LSS apply to the Chief Justice for the appointment of a Disciplinary Tribunal in relation to the First and the Fourth Complaint (in addition to the Second Complaint).

6. Upon appeal by the LSS from the order made by the High Court, the Court of Appeal held inter alia that there was no prima facie case in relation to the First Complaint and held that the First Complaint should not be referred to a Disciplinary Tribunal for formal investigation.

7. As provided under section 97(5) of the LPA, LHY and LWL, as the complainants who had obtained the order in respect of the Fourth Complaint, were to have conduct of the proceedings before the Disciplinary Tribunal in relation to the charges brought in relation to the Fourth Complaint. Subsequently the order was varied such that only LHY would have such conduct. The Statement of Case prepared by LHY (the "**Complainant**"), containing the additional charge, is attached as ***Annex B***. The charge contained therein is referred to as the Complainant's Charge.

8. The LSS retained conduct of the charges brought under the Second Complaint.

9. Disciplinary Tribunal 19 of 2022 (the "**DT**" or "**DT 19**") was appointed to hear the matters arising from both the LSS and the Complainant's Statements of Case (comprising the Second and Fourth Complaints respectively). Mr R S Bajwa acted for the LSS and Mr Abraham Vergis SC acted for the Complainant. Mr Cavinder Bull SC acted for the Respondent in both matters. In this Report, the following terminology will be used hereafter:
   (a) Statement of Case filed by the LSS (*Annex A*) - LSS SOC;
   (b) Statement of Case filed by LHY (*Annex B*) - Complainant's SOC;
   (c) Defence of the Respondent to Complainant's SOC (***Annex C***)- Defence to Complainant's SOC.

Background to the matters before the DT

10. LHY and LWL are the two younger children of the Testator and the trustees and executors of the Estate. The Testator's eldest child is LHL, the current Prime Minister of Singapore. The Testator was the first Prime Minister of Singapore and widely acclaimed and acknowledged as the father of Singapore as a nation. The Respondent had acted as the Testator's solicitor over many years. In particular, the Respondent had acted in relation to the preparation of six wills for the Testator, from 20 August 2011 to 2 November 2012.

11. On 29 November 2013, the Testator contacted the Respondent regarding certain testamentary matters. Communications continued by way of emails, and possibly by way of conversations, up to 13 December 2013. The nature of these communications and the Respondent's characterisation of these communications are apposite to the Complainant's Charge. Subsequently, a seventh will was executed on 17 December 2013, with the involvement of LHY and his wife, Ms Lee Suet Fern, herself an experienced solicitor.

12. The Testator passed away on 23 March 2015. The Testator's will and testamentary directions attracted significant public interest, in particular arising from the Testator's intentions in relation to the demolition of the Testator's home at Oxley Road. Of less public interest, but probably of equal relevance to the present matters was the manner of apportionment of the Testator's estate amongst his three children.

13. The LSS Charges and the Complainant's Charge arise from two emails that the Respondent sent, on 4 June 2015 and 22 June 2015, in response to queries from LHL and LWL. These emails were sent to LHL, LWL and LHY. The LSS Charges relate to a breach of confidentiality, in that the Respondent is alleged, by way of the two emails, to have disclosed client confidential information to parties not entitled to receive the information, namely LHL. The Complainant's Charge relates to the allegation that the two emails were misleading responses to the queries, by omitting matters that should have been included and/or by containing false and misleading representations. We will examine the ingredients of the charges with greater specificity below.

The Proceedings Before the DT

Preliminary Directions

14. DT 19 was appointed to hear the matters arising from both the LSS SOC and the Complainant's SOC. We directed that both cases would be heard together, with witnesses only giving evidence once, and the evidence, agreed documents and agreed facts being admitted in relation to both matters. Counsel for the LSS would lead evidence in relation to the LSS SOC and counsel for the Complainant would lead evidence in relation to the Complainant's SOC. It was indicated to us that the LSS and the Respondent were likely to agree on a statement of facts insofar as the LSS SOC was concerned. It was also indicated that the Respondent would be making representations to the LSS in relation to LSS charges.

15. Insofar as the Complainant's SOC was concerned, Counsel for the Complainant indicated that the only witness being called would be LHY. We were told that his evidence would be formal, and relate to the documents upon which the Complaint was based. The only witness for the Respondent was to be the Respondent herself.

16. Given that the matters before DT 19 related to estate matters, the documents to be tendered in the course of the hearing were likely to contain private matters. Parties were directed to agree on redactions to be made to documentary exhibits and agreed documents, where possible. All such redactions were made by agreement and we were not required to make any determination on redactions.

17. Directions were given for the filing of the Respondent's defences, witness statements, an agreed bundle, opening statements, and agreed statements of facts. These directions were complied with.

Preliminary Issues

18. Prior to the commencement of the hearing, the LSS indicated that it had received representations from the Respondent. The LSS indicated that it would be tendering an agreed statement of facts in relation to an amended charge. The amended charge was

the alternative to the First Charge in the LSS SOC, with further particularization. The LSS stated that this new charge, the Amended First Alternative Charge, would be made out on the statement of facts agreed with the Respondent, and that it would not be calling any evidence. The Respondent confirmed this position and stated that she accepted that the Amended First Alternative Charge was made out in law and on the facts. A copy of the Amended First Alternative Charge is at ***Annex D*** and a copy of the Agreed Statement of Facts, agreed between the LSS and the Respondent, is at ***Annex E***.

19. There were two preliminary issues raised by the Complainant. The first was an application for the Complainant to give evidence by video link. The second was whether we should continue to consider both the original charges and their alternatives, as set out in the LSS SOC even though the LSS chose to proceed on only one charge upon a "plea bargain" arising from representations made by the Respondent to the LSS. Before setting out the specifics of the two issues, and our considerations and rulings, we touch on the nature of disciplinary tribunal proceedings, as this informed the approach that we adopted.

20. In the normal course of events, the Council applies to the Chief Justice for the appointment of a Disciplinary Tribunal under section 89 of the LPA, where the Council determines under section 87 of the LPA that there should be a formal investigation, or where the Court makes an order under section 96 of the LPA. Under section 93 of the LPA, the Disciplinary Tribunal must, *after hearing and investigating the matter, record its findings in relation to the facts of the case* and according to those facts, *make one of three determinations*:
    (a) that no cause of sufficient gravity for disciplinary action exists under sections 83 or 83A of the LPA;
    (b) that while no cause of sufficient gravity for disciplinary action exists under sections 83 or 83A of the LPA, the practitioner should be ordered to pay a penalty, be reprimanded, be ordered to comply with one or more remedial measures, or be subjected to a remedial measure in addition to a penalty or reprimand; or
    (c) that cause of sufficient gravity for disciplinary action exists under sections 83 or 83A of the LPA.

21. It is clear from section 93 that the main role of the Disciplinary Tribunal is that of fact finder. This is consonant with its duty to conduct a formal investigation. Upon its

findings of the facts of the case, the Disciplinary Tribunal will form a view on the gravity of the case, in terms of the need for any further disciplinary action at all, or for the sanctions of penalty or reprimand to be imposed, or for the more serious consequence of referring the matter to the Court of Three Judges ("**C3J**"). The language of the various sections is not predicated on the Disciplinary Tribunal operating as an adjudicator in an adversarial hearing.

22. However, the situation in practice and as contemplated in the Legal Profession (Disciplinary Tribunal) Rules ("**DT Rules**") is predicated on an adversarial / adjudication model. For example, Rule 3(2) / 3(4) and Rule 4(2) / 4(4) of the DT Rules require the Statement of Case to contain charges. Rule 8 provides for a Defence to be filed. Rule 10 provides for the manner in which evidence is to be adduced. Rule 23 provides for the Evidence Act to apply, as it applies in civil and criminal proceedings. Cost orders can be made against the respondent practitioner or a complainant who makes a frivolous or vexatious complaint. These provisions suggest that the Disciplinary Tribunal "tries" the respondent practitioner on the charges in the Statement of Case.

23. We are of the view that, as the Disciplinary Tribunal is an investigative body, our key concern should be ascertainment of facts.

24. However, the the Disciplinary Tribunal is required to adjudicate the charges in the statement of case, as modified by any decision of the LSS not to proceed on any particular charge or to proceed on amended charges. The question which arises is whether we should exercise our powers to investigate all facts or whether we should be bound by the position taken by the LSS; in short whether the position taken by the LSS would circumscribe the findings that the Disciplinary Tribunal may make.

25. The C3J decision in ***Law Society of Singapore v Constance Margreat Paglar*** [2021] SGHC 27 is directly on point and extremely pertinent to the issues in this case. In that case, the LSS had amended the charge originally set out in the Statement of Case, which contained an element of deceit, to a charge where the element of dishonesty had been removed. Using the parlance of criminal practice, a reduced charge was preferred. At [31], the C3J considered the fact that the disciplinary proceedings had been conducted on the basis of the reduced charge and stated very explicitly that "It cannot be gainsaid that the respondent could only be held to account *for the specific misconduct that she had been charged for*. To hold otherwise would be prejudicial to

the respondent since it is the charge that informs a lawyer facing disciplinary proceedings of the case that he or she has to meet and impacts the decision he or she makes as to how to respond to the disciplinary proceedings." The C3J went on to find that the Disciplinary Tribunal in that case had therefore erred in making findings that the respondent solicitor had acted deceitfully, even if she had indeed done so, because the amended charge and the agreed statement of facts contained no allegation of dishonest conduct whatsoever, even though the original charge did. At [37], the C3J considered the decision in ***Law Society of Singapore v Yeo Khirn Hai Alvin*** [2020] 4 SLR 858, and approved the position that it was only where the "Law Society has framed a defective charge that fails to reflect the substance of the complaint, that the DT lacks jurisdiction in hearing and investigating the charge and making a determination thereon, and the DT's decision is liable to be set aside." (emphasis added). The issue is therefore clearly whether the amended charges proceeded with still reflect the substance of the complaint. On the facts of ***Law Society of Singapore v Constance Margreat Paglar***, the C3J found that while the amended charge did not capture the full extent of the respondent's transgressions, it was not so defective as to warrant setting aside the DT's determination for want of jurisdiction. We are therefore of the view that the question of whether the substance of the complaint is proceeded with is a fact-sensitive exercise, where the proceeded charge must be considered against the *substance* of the complaint.

<u>The First Preliminary Issue</u>

26. We now deal with the First Preliminary Issue. Shortly before the commencement of the evidentiary hearing, the Complainant applied for his evidence to be given by video link. The application was supported by an affidavit. The Respondent objected to the application. The reason given by the Complainant was that his "*passport was currently being held by immigration authorities in connection with an immigration issue and that he was unlikely to get it back in time for the Hearing.*" A video hearing was held to determine the application. The Complainant submitted that he was unable to travel due to matters beyond his control, that there were appropriate administrative arrangements and technical facilities available for him to give evidence by video link, and that the Complainant would face unfair prejudice if the application was not granted. Despite repeated requests by the DT, Counsel for the Complainant declined to state the purpose for which the passport had been handed over, or even when the Complainant had handed over the passport. This latter question was critical as it touched the question of whether the Complainant's inability to travel was a matter beyond his

control or occasioned by his own actions. This argument was made forcefully by the Respondent's counsel, who also submitted that the Respondent would be prejudiced by the inability to cross-examine the Complainant in person. The Complainant's response was that the Complainant was a formal witness and that the Complainant's case was based on documents.

27. After careful consideration, we allowed the application for the Complainant to give evidence by video link even though we were disturbed by the Complainant's refusal to give reasons why and the circumstances under which he did not have possession of his passport. Allowing the Complainant to give evidence by video link would permit us to carry out our investigative function with the full benefit of all available evidence. We were of the view that the Respondent would not be prejudiced by having to conduct the cross-examination by video link. In making our determination, we applied the standard and the tests set out in the section 281(5B) of the Criminal Procedure Code 2010 and section 62A(2) of the Evidence Act 1893.

The Second Preliminary Issue

28. As stated above, the LSS and the Respondent had reached an agreement whereby the LSS would proceed on one amended charge and the Respondent would admit to an Agreed Statement of Facts. The Respondent also agreed that the facts admitted to would make out the amended charge. The charge proceeded with was marked as the Amended First Alternative Charge, attached hereto as Annex D. This was tendered with an Agreed Statement of Facts, marked as ASOF-LS, and attached as Annex E. The Amended First Alternative Charge related to the email of 4 June 2015 sent by the Respondent to LHY, LWL and LHL. The original Second Charge and its alternative related to the Respondent's email of 22 June 2015.

29. The Complainant took the position, communicated to us by letter dated 2 February 2023, that the Complainant was concerned about the LSS's course of action as it would result in a situation where we would not be able to investigate the original Second Charge and its alternative. The Complainant went on to state that he reserved his right to apply for judicial review. The Complainant did not state his position as to the proper course of action we should take.

30. All parties were invited to address the point raised by the Complainant, on the first day of the hearing, before the evidentiary hearing commenced. The LSS's position was

that it was not offering evidence in relation to the original First Charge and the original Second Charge and Second Alternative Charge. The LSS went further to state that DT 19 not only should not, but could not, consider the matters set out in the original First Charge, the original Second Charge and the original Second Alternative Charge. The Complainant took the position that we could and should consider all the matters in the LSS SOC, even in relation to charges where the LSS chose not to offer evidence. We indicated that we were inclined to agree with the position taken by the LSS. However, the Respondent took the position that we could consider all the matters in the LSS SOC, and therefore the Respondent should be permitted to file a Supplementary Affidavit of Evidence-in-Chief addressing the matters in the original Second Charge. In doing so, the counsel for the Respondent adverted to the fact that the Complainant might take this issue further and that it was in the Respondent's interest that she address the facts relating to the LSS's Second Charge and its alternative and that a finding on the merits be made thereon.

31. We gave leave to the Respondent to file the Supplementary Affidavit of Evidence-in-Chief and indicated that we would consider the correct approach to be taken in relation to charges where no evidence was offered, in the course of our determination.

32. Having considered the matter, we are of the view that the LSS has a discretion to consider representations and to weigh the merits of possible defences and consider facts raised by a respondent solicitor; and thereafter to determine whether any charges should be amended and whether no evidence should be offered on any charge. Where there are multiple charges, we are of the view that the same approach can be taken in considering whether to offer evidence on any of the charges.

33. We have considered the strictures of the C3J in ***Law Society of Singapore v Constance Margreat Paglar*** that amendments [or offering of no evidence in respect of some of the charges] should not result in the gravamen of the complaint being so diluted or modified as to result in a want of jurisdiction. In this regard, we cite its statement at [39] where the C3J states, "… save to reiterate that the Law Society's duty to investigate complaints referred to it implies a concomitant duty to frame appropriate charges that adequately reflect the gravamen of the complaint (see *Alvin Yeo* at [78]). These are weighty obligations that the Law Society has been entrusted with, and the principle of self-regulation in disciplinary matters makes it even more imperative that the Law Society thoroughly discharges these duties. Any failure to fulfil these responsibilities would only serve to undermine the overriding purpose of legal

disciplinary proceedings - to protect the public and uphold public confidence in the legal profession (see *Law Society of Singapore v Chia Choon Yang* [2018] 5 SLR 1068 at [41]). Having said that, the Law Society does of course retain the discretion to amend charges in appropriate circumstances after it has considered the relevant facts and the law. A complainant's view of the gravamen of the complaint may not always be sustainable." (emphasis added)

34. The position taken by the LSS in not offering evidence on the original Second Charge and its alternative was predicated on its view that the email of 22 June 2015 was not a breach of confidentiality as the email did not contain confidential information. This was a view that could be reasonably held on an assessment of the evidence. We are not privy to the substance of the representations made and form no view on the merits of the representations. We find that the gravamen of the complaint (i.e., a breach of confidentiality) was the subject matter of the original First Charge and its alternative, and was addressed by the Amended First Alternative Charge. Further, in choosing to proceed with the alternative to the original First Charge rather than the original First Charge, the Law Society was pitching its case as a breach of section 83(2)(h) of the LPA, as opposed to a breach of section 83(2)(b). This was a position taken after consideration of the law, and was a position that could be reasonably held. The amended charge still addressed the gravamen of the complaint, which was the breach of confidentiality. There was accordingly no want of jurisdiction. For the reasons set out in ***Law Society of Singapore v Constance Margreat Paglar*** at [31], we are of the view that it is not open to us to consider the charges which were not proceeded with and in relation to which evidence was not offered.

35. We bear in mind the Respondent's concerns that our view may be wrong, and that the Complainant may proceed with judicial review on the question of our failure to exercise jurisdiction on the original First Charge and the original Second Charge and its alternative. Accordingly, we have proceeded to consider the merits of the charges not proceeded with, in our discussion of the facts below.

The LSS SOC

32. The Amended First Alternative Charge (*Annex C*) is set out below.

> *You, **KWA KIM LI,** an Advocate and Solicitor of the Supreme Court of Singapore, are charged that you on or about the 4th day of June 2015 by your*

*letter dated 4th June 2015 sent to Mr Lee Hsien Loong ("**LHL**") are guilty of knowingly disclosing to LHL, without the consent / authority of the 2 Executors and Trustees named in Will No. 7 namely Ms Lee Wei Ling ("**LWL**") and Mr Lee Hsien Yang ("**LHY**"), the following documents and information which was confidential to your client, Mr Lee Kuan Yew ("**Mr Lee**"), and which was acquired by you in the course of your engagement as Mr Lee's solicitor namely; 5 of the previous Wills of Mr Lee prepared by you upon his instructions and email trails between Mr Lee and you from 11th December 2011 to 2nd November 2012 ("**Documents Set A**") and explanations as to why your client Mr Lee changed his previous Wills which amounts to misconduct unbefitting of an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161).*

33. The Amended First Alternative Charge was supported by an Agreed Statement of Facts (*Annex E*). Of significance is [9] of the Agreed Statement of Facts, where the Respondent admits that she did not obtain the consent/authority of the 2 Executors and Trustees named in the Testator's Will dated 17 December 2013 ("**Will No. 7**"), namely LHY and LWL, prior to sending [by e-mail] the letter dated 4 June 2015 to LHL, LWL and LHY. We sought confirmation from the Respondent's Counsel that the Respondent admitted to and accepted the facts set out in the Amended First Alternative Charge and Agreed Statement of Facts, and admitted that these facts amounted to misconduct unbefitting of 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 LPA.

34. The Respondent so confirmed and submitted that the circumstances of this case did not require referral to the C3J, and that we should issue a reprimand or impose a modest penalty. The Law Society took the position that a reprimand was not sufficient and that a penalty of $3,000 to $5,000 should be imposed.

35. Before we deal with the substance of the Amended First Alternative Charge, we address a point of difference between the LSS and the Respondent. Both parties took the common position that the information and documents set out in the charge were confidential to the Testator, and upon his death, to his Estate. The LSS took the position that the confidentiality could not be breached unless LHY and LWL, as Executors, gave permission. The Respondent took the position that they could not give

permission until Probate was granted. Nothing turned on this as the Respondent did not seek the permission of LHY and LWL in communicating to LHL.

36. The Respondent pitched her breach of confidentiality as a breach of the lowest level, submitting that that the Testator would have wanted her to share the information with LHL, LWL and LHY. Her position was that she released the information out of a deep sense of loyalty to the Testator, although she accepts that she did not have specific instructions from the Testator, prior to his death, to release such information. The LSS did not take a position on whether the Testator would have wanted the Respondent to release the information to LHL, but agreed that the Respondent's culpability and the harm caused by the breach was not substantial. On consideration of all the facts, we accept this submission.

37. We accept that the Respondent was replying to queries by LHL and LWL under the notion that she ought to respond to queries from beneficiaries, who also happened to be her first cousins, with whom she grew up. We accept that the Testator had previously indicated to her that he would inform his children of his intentions and the reasons for his testamentary dispositions. We also accept that the Respondent had a close personal relationship with the Testator. We note that there is no evidence before us suggesting that the Respondent was acting from any improper motives.

38. However, it would have been clear to the Respondent that she was dealing with sensitive family issues. The Respondent was aware that LWL had previously voiced unhappiness on the change from a position where she has a slightly larger share to equal shares. In a situation such as the present case, it is imperative that solicitors act strictly within their professional boundaries and exercise care and caution. The Respondent's misconduct was her failure to scrupulously safeguard the Testator's confidentiality; and this misconduct was unbefitting of an advocate and solicitor.

39. In the premises, we determine pursuant to section 93(1)(b)(i) of the LPA, that while no cause of sufficient gravity for disciplinary action exists under section 83, the Respondent should be ordered to pay a penalty that is sufficient and appropriate to the misconduct committed. Further, we are of the view that a penalty that is sufficient and appropriate to the misconduct committed is a penalty of $5,000. Given the DT's role as a filter of case, we do not think that a low culpability-low harm situation, involving misconduct under section 83(2)(h) of the LPA is one that should be referred to the C3J, particular in the absence of any dishonesty or deceit, or gross negligence.

40. On the question of costs, the LSS asked for a very modest $5,000. Pursuant to section 93(2) read with section 93(1)(b)(i) of the LPA, we order the Respondent to pay the LSS's costs in the sum of $5,000 and to bear all disbursements that have been reasonably incurred which are to be taxed if parties are not able to agree.

41. We now deal with the original First Charge, the original Second Charge and the alternative to the original Second Charge. As stated earlier, we are of the view that these are not matters for our consideration. If we are wrong and should have considered these matters, there would have made no difference to our earlier determination – 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 of $5,000 being a penalty that is sufficient and appropriate to the misconduct committed. As the party framing the Statement of Case, the LSS is entitled to frame alternative charges, to choose which alternative to proceed upon, and to amend the charges.

42. In any event, we are the view that the misconduct in the present case does not fall within the ambit of grossly improper conduct within the meaning of section 83(2)(b) of the LPA and the original First Charge would not have been made out.

43. In relation to the original Second Charge, we accept the Respondent's submissions that the contents of the 22 June 2015 letter were different in nature from that of the 4 June 2015 letter. The thrust of the letter was to distance the Respondent from any involvement in the preparation of Will No. 7, not to give information about that will and its execution. We also accept the Respondent's submissions that the information contained in the 22 June 2015 letter was already known to the parties. Specifically, the contents of the 1st Will (the will of 20 August 2011, which has been referred to in other proceedings as the 2nd Will), which was mirrored in Will No. 7, had been discussed with LHL, LWL and LHY at the time the 1st Will was executed. It was also clear that LHL, LWL and LHY had entered into a deed of Family Arrangement immediately after and predicated upon the contents of the 1st Will. In any event, even if the information disclosed in the 22 June 2015 was information confidential to the Testator and his Estate, we do not find that the disclosure amounted to misconduct under section 83(2) of the LPA.

44. The Respondent submitted that the Complainant's position on the original Second Charge and its alternative was frivolous and vexatious. We do not agree. There is a

significant zone between a frivolous and vexatious complaint that ought not to have been made at all and a finding that misconduct has not been made out beyond reasonable doubt. We recognize that the Complainant had viewed the two letters as part of a continuum, while the LSS had analysed the two letters as two discrete acts. While we accept that the LSS's approach is the correct one, we will not go so far as to state that the Complainant's approach was frivolous and vexatious.

The Complainant's SOC

45. The Complainant's SOC contained a single charge, as follows:

> *You, Mdm Kwa Kim Li, are charged that, by way of your letters dated 4 June and 22 June 2015, you misled the Executors of the Estate of your former client Mr Lee Kuan Yew, namely Dr Lee Wei Ling and Mr Lee Hsien Yang, by omitting and/or otherwise failing to disclose your communications with Mr Lee Kuan Yew between November 2013 and 13 December 2013 in response to their enquiries and/or by making the false and misleading representation that Mr Lee Kuan Yew had never instructed you to change his will dated 2 November 2012, such act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court within the meaning of s 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev Ed).*

46. The Complainant and the Respondent tendered an Agreed Statement of Facts as well, which is at ***Annex F***, together with an Agreed Bundle of Documents. The Complainant and the Respondent also filed affidavits of evidence-in-chief, upon which they were cross-examined. We observe the following:
    (a) The letters of 4 June 2015 and 22 June 2015 are dealt with together in a single charge, without making any distinction between the different contents of the two letters and the different queries that were being addressed by the Respondent.
    (b) In terms of the Respondent misleading LWL and LHY as executors, there are two separate averments, namely that the Respondent misled LWL and LHY by omitting to disclose and/or otherwise failing to disclose her communications with the Testator which had taken place between November 2013 and 13 December 2013 and/or making the false and misleading representation that the Testator had never instructed her to change his will.

47. The Respondent did not raise any objections as to duplicity in the charges. We are mindful that it is our function to formally investigate the matter and make a determination upon the facts, and the purpose of the charge is to give the Respondent notice of the case to meet. Nonetheless, we are obliged to identify the specific ingredients made out, and to make our determination only upon the facts that we have found to be made out beyond reasonable doubt.

48. We identified to the Complainant and Respondent the steps that we were of the view would be involved in making our determination on the Complainant's Charge. These were:
    (a) To identify the queries that the Respondent was addressing in each of the two letters. The queries could be identified by evidence of what LHL and LWL asked the Respondent, what the Respondent and those receiving the letters would have understood the response as relating to, and what the two letters themselves had set out as the queries being responded to.
    (b) Following from the findings on point (a) above, whether the responses in each of the two letters were misleading, either by omission or expressly so.
    (c) Following from the findings on point (b) above, whether the responses were knowingly or deliberately misleading or misleading as a result of a lack of due care and diligence.
    (d) Following from the findings in point (c) above, whether the Respondent's conduct was unbefitting that of an advocate and solicitor as an officer of the Supreme Court, and if so whether a reprimand or penalty should be imposed or whether the matter should be referred to the C3J.

49. The key documents in relation to this charge are:
    (a) The email exchanges between the Respondent and the Testator dated 30 November 2013, 12 December 2013 and 13 December 2013.
    (b) The Respondent's exchange of emails with LWL on 3 June 2013.
    (c) The Respondent's email to LHL, LWL and LHY on 4 June 2015, which has also been referred to as the 4 June 2015 letter.
    (d) The Respondent's email to LHL, LWL and LHY on 22 June 2015, which has also been referred to as the 22 June 2015 letter.

50. The Complainant and the Respondent have characterized the background to and the contents of these documents quite differently. In approaching these differences, we have given weight to the plain and simple meaning of the language used in the

documents. In considering what the emails addressed and were intended to address, we construed the actual language used. To the extent that we considered evidence of witnesses, we were mindful that the two parties who raised queries, LHL and LWL, did not give evidence. The party who did give evidence was the Respondent who was the party to whom the queries were addressed. In the final analysis, we had to consider the plain meaning of the documents, with the background as context, and consider the Respondent's explanation. In doing this, we were mindful that the burden of proof on the Complainant was proof beyond reasonable doubt.

51. The communications between the Respondent and the Testator in November / December 2013 clearly show the following:

    (a) The Testator contacted the Respondent on 29 November 2013 and discussed his concerns that the Oxley Road property would be "de-gazetted" and wished to make arrangements such that any increase in value upon such "de-gazetting" would be shared by LHL with LWL and LHY, and not be retained by just LHL, who was to be bequeathed the Oxley property.

    (c) In the week before 12 December 2013, the Respondent and the Testator had a further discussion and discussed the shares that LHL, LWL and LHY would each get. In doing so, the Testator indicated his wish to give all three children equal shares, as opposed to his existing will where LWL received an extra share.

    (d) In her email of 12 December 2013, the Respondent stated that she would prepare a codicil to effect the Testator's wish, for the Testator's signature that week or when he was ready. The Respondent also stated that she had "some thoughts" on the Oxley Road property and would call the Testator later that day.

    (e) On 13 December 2013, the Testator sent an email to the Respondent asking for a further amendment to his will, regarding the bequest of two carpets to LHY.

52. The Testator passed away on 23 March 2015. The two emails that are the subject matter of the Complainant's Charge were sent by the Respondent on 4 June 2015 and 22 June 2015.

<u>The 4 June 2015 Email</u>

53. There is no evidence from LHL or LWL as to what queries were being addressed in the 4 June 2015 email. LWL's email of 3 June 2015 gives some indication as she stated "It would be useful to have emails, and not just a summary of evolution of the Oxley clause". No reference at all is made to Will No. 7, executed on 17 December 2013. The

heading was “Papa’s Wills”. The Respondent’s email of 4 June 2015 is headed “Chronology of 6 Wills - my file records will focus on Oxley”. This does seem to be a follow up on LWL’s 3 June 2015 email. It is noteworthy that no mention is made of any issue in relation to any change that equalizes the shares amongst the three children.

54. The Respondent’s 4 June 2015 email focused entirely on the evolution of the distribution amongst the children and matters relating to the Oxley Road property in the 1st to 6th Wills, which had been prepared by the Respondent. No mention at all is made of the exchange of emails and the communications between the Respondent and the Testator in November / December 2013.

55. We first observe that there is no extraneous evidence as to the query made by LHL or LWL, except for the 3 June 2015 email. We find that there is nothing in the direct extraneous evidence that shows that there was any query that required reference to the November / December 2013 communications between the Testator and the Respondent as part of the answer.

56. We now consider the Complainant’s second argument; which is that the Respondent and the recipients knew that the context of the queries related to the execution of Will No. 7 and therefore the Respondent should have included reference to the November / December 2013 communications between the Testator and the Respondent as part of the answer. We note that the Respondent had started her email with the words “[LHL] and [LWL] have requested me for file records of your father’s previous Wills, for notes/emails/information on his instructions regarding Oxley.” The Complainant reads this line with emphasis on the second part, that is, the Respondent should have given information relating to the Testator’s instructions regarding the Oxley Road property. The Respondent urges us to construe the query with emphasis on the first part, and to read the query as being limited to the 1st to 6th Wills. The Respondent also urges us to read the word “instructions” as being limited to a direction by a client to carry out a particular task.

57. In the absence of evidence from LHL and LWL as to what their queries were, we are constrained to consider the Respondent’s evidence only, and weigh it against the background evidence and the actual words in the 4 June 2015 email. As candidly admitted by Counsel for the Complainant, LHY did not have any personal knowledge in this regard.

58. An omission, whether wilful or negligent, that amounts to professional misconduct can only arise if there is a clear breach of duty to furnish that information. In the present case, we are unable to find any evidentiary basis for a query that would clearly have required a response containing reference to the November / December 2013 communications. We agree with the Respondent that the reference to instructions relation to the Oxley Road property are circumscribed by the earlier reference to the 1st to 6th Wills. This is made clear by the fact that the earlier 6 wills are identified and copies were given.

59. We wish to point out that the question before us is not whether the Respondent should have given details of the November / December 2013 communications in the 4 June 2015 letter, but whether there was any query that made her failure to do so misleading. We do not find sufficient evidence, to prove beyond a reasonable doubt, that there was any query that *required* a reference to the November / December 2013 communications.

60. The Complainant's alternative argument was that the great degree of detail given by the Respondent would have led the recipients to conclude that all information was given. Quite apart from the absence of evidence in this regard, we are obliged to consider the issue objectively and not what the recipients subjectively hoped or expected to be informed about.

61. Since there is no clear query established, we find that the issues relating to whether the answer was misleading, and the subsequent considerations, do not arise in relation to the 4 June 2015 email. For completeness, we do not find that the Complainant's Charge in relation to the Respondent's 4 June 2015 email is made out on the facts.

<u>The 22 June 2015 Email</u>

62. We now consider the 22 June 2015 email. Again, there is a no evidence from LHL and LWL on the queries that they raised. However, unlike the 4 June 2015 email, the 22 June 2015 email itself contained clear statements as to what queries were being raised. The queries being addressed were:
    (a) A request for the draft will of 19 August 2011; and
    (b) The background which led to the signing of Will No. 7.

63. Given that Will No. 7 was a return to the will of 20 August 2011 (i.e., the 1st Will) and that both the 1st Will and Will No. 7 were based on the 19 August 2011 draft, it was clear that the subject matter being addressed was Will No. 7. This is reinforced by the second query, requesting the background which led to the signing of Will No. 7.

64. The Complainant submitted that this was clearly a request for information relating to the circumstances leading up to the execution of Will No. 7. We agree. Indeed, as the queries were quite obviously a follow-up to the answers received on 4 June 2015, the logical inference was that LHL and LWL were seeking information specifically in relation to Will No. 7, in relation to which the Respondent had given no information in her earlier 4 June 2015 email. The query therefore concerns the circumstances leading up to the execution of Will No. 7.

65. We move on to consider the second issue, which is whether the Respondent's answers were misleading. We note that there was no reference at all to the November / December 2013 communications with the Testator. In this regard, we note that that the distribution of shares and issues relating to the Oxley Road property were changes that were discussed in the November / December 2013 communications and were matters that were addressed and changed in Will No. 7. We also note that although these matters were discussed between the Respondent and the Testator, the Respondent stated in the email that "After your father signed Will no. 6 dated 2nd November 2012, he did not instruct me to change his Will. I first learnt about Will no. 7 via email from Fern and Lin Hoe."

66. The Respondent's explanation was that her statement was true and complete as she was not involved at all in the preparation or execution of Will No. 7, and that it would be inappropriate and irresponsible for her to guess or speculate as to the Testator's reasons for the treatment of the Oxley Road property in Will No. 7. The Respondent submits that she had made it clear that she was not involved in Will No. 7. The Respondent submits further that the November / December 2013 communications were not material to the background to the signing of Will No. 7 and did not contain any instructions from the Testator about Will No. 7. The Respondent characterizes the November / December 2013 communications as relating to the possibility of preparing a codicil to the 6th Will, but her understanding was that the Testator was still in the

midst of considering or compiling possible amendments to include or provide for in the proposed codicil.

67. We do not agree with the Respondent's submissions. The issues are quite simple. The first question is whether the November / December 2013 communications should have been disclosed in response to a query on the background to the signing of Will No. 7. The second question is whether the omission to disclose made the response misleading. The third question is whether it was true that the Respondent did not receive any instructions to change the Testator's Will.

68. It was clear that the live issue to LHL and LWL was the Testator's mindset in terms of his wishes in relation to the distribution of the Oxley Road property. The failure to disclose the November / December 2013 communications, coupled with the statement that the Testator did not instruct the Respondent to change his Will gave the clear and unequivocal impression that the Respondent had no knowledge as to how Will No. 7 came about. On the face of the 30 November 2013 and 12 December 2013 emails, it was clear that the Respondent knew that the Testator wished to equalize the shares of his childrenn and to address matters relating to the Oxley Road property. Unlike the 4 June 2015 email, the Respondent did not circumscribe her answers to any particular series of wills or time periods. We find that the nub of the queries by LHL and LWL was to find out how Will No. 7 came about, and not the formalities of its execution. It is clear that the Respondent knew that the Testator wanted to change the 6th Will and that the changes related to the shares amongst the children in the Oxley Road property.

69. We observe that the query was for the *background which led to the signing* of Will No. 7. These words clearly suggest that the answer given would be expansive and address the issues in the mind of the querists.

70. The Respondent argues that her use of the word "instruct", in stating that the Testator did not instruct her to change the Will, was not false. The basis for this argument was that there were no instructions, but only discussions, as the Respondent was not expressly told to make any changes. The Complainant argues that the word "*instruct*" should be given its dictionary meaning i.e. "***To convey information as a client to an attorney***" and "*the facts and details relating to a case given by a client to his or her*

solicitor". We are of the view that the word "instruct" should be given a meaning that the parties reading the 22 June 2015 email would have understood it to mean. We accept the submission made by the Complainant. On that basis we find the statement that the Testator did not instruct the Respondent to change his Will to be untrue. The instructions may not have been finalized, but it is clear that the Respondent received instructions relating to the changes that were shortly made.

71. The Complainant had further argued that instructions were in fact actually finalized for the Respondent to change the 6th Will. This is based on the wording of the Respondent's email of 12 December 2013 to the Testator which states "We discussed last week that you would now like to sign a Codicil to change this, and to give Ling equal shares with Loong and Yang out of the total estate. I will prepare the codicil for you to sign this week, or when you are ready."

72. The Complainant also points to the change in caption of the emails from "your question on the properties in your name" in the email of 30 November 2013 to "Codicil to equalize Ling" in the Respondent's email of 12 December 2013 as an acknowledgement by the Respondent that she had received instructions to change the 6th Will.

73. The Respondent disagreed with the suggestion that there were final instructions from the Testator in this regard. Her explanation was that she had actually sent the email of 12 December 2013 to the Testator to ask whether that was what he really wanted.

74. Her evidence was that it was normal for her to have many discussions with the Testator over an issue with him changing his mind several times before coming to a conclusion, hence she assumed this to be part of that process when asked to recall the circumstances surrounding what led her to send the Testator the email of 12 December 2013.

75. Given her view that the emails (from 30 November 2013 to 13 December 2013) did not contain any final instructions, her position was therefore that the statement in her 22

June 2015 email that she did not receive any instructions to change the 6th Will was not false or misleading.

76. We find that the Respondent's omission to disclose the emails of 30 November 2013 and 12 December 2013 in her email of 22 June 2015 is misleading. We further find that her statement in that same email that she did not receive any instructions from the Testator to change his Will is false. We now move on to the next stage of the inquiry, whether the responses were knowingly or deliberately misleading or misleading as a result of a lack of due care and diligence.

77. The Respondent's subjective view that the omission of the November / December 2013 communications from her 22 June 2015 email did not render it misleading does not accord with the objective analysis of what the November / December 2013 communications amounted to.

78. There was no direct evidence that the Respondent knowingly or deliberately misled the recipients of the 22 June 2015 email. There was no evidence or even suggestion that she chose to avoid disclosure for personal or any partisan purposes. The Complainant suggested that the Respondent did not disclose her November / December 2013 communications with the Testator out of embarrassment that she had been tardy in carrying out his instructions. There was no evidence to support this suggestion. We briefly considered the possibility that the Respondent was deliberately choosing to distance herself from Will No. 7, and the issues amongst the Testator's children in relation to it. There is some evidence that LWL had reached out to the Respondent in relation to her unhappiness in having her share reduced. However, this was not put to the Respondent. Therefore, on the evidence before us, we do not find proof beyond a reasonable doubt that the Respondent knowingly or deliberately misled LHY and LWL or that she intentionally made a false statement.

79. Nevertheless, the Respondent was communicating with the Testator's beneficiaries on matters that were obviously important to them. The Respondent was aware that LWL had expressed some unhappiness in relation to Will No. 7 in terms of the change to her share. Having chosen to respond to the queries, it was incumbent upon the Respondent to be complete and accurate in her response. We find that had the

Respondent exercised due care and diligence, she ought to have disclosed the November / December 2013 communications in the 22 June 2015 email and ought not have stated that she had received no instructions to change the Testator's Will.

80. We now consider the appropriate determination. We expressly asked Counsel for the Complainant to address us on the issue of harm caused by the Respondent's breach of duty. We were referred to paragraph 30 of the LHY's affidavit of evidence-in-chief, wherein he stated that the Respondent's failure to disclose the fact that the Testator had communicated his wishes to give his children equal shares and her failure to disclose the context in which the Testator decided to include the demolition clause in Will No. 7 "caused unnecessary doubt and confusion about what prompted the [Testator] to change his 2 November 2012 Will". Counsel for the Complainant confirmed that this was the only harm alleged.

81. Given the absence of any further background or information, we assessed the harm as low. We were mindful that the 22 June 2015 email was in response to a second query for information and was quite specific. Accordingly, we find that the culpability was low to medium.

82. In the premises, we determine pursuant to section 93(1)(b)(i) of the LPA, that while no cause of sufficient gravity for disciplinary action exists under section 83, the Respondent should be ordered to pay a penalty that is sufficient and appropriate to the misconduct committed in relation to the Respondent's 22 June 2015 email. Further, we are of the view that a penalty that is sufficient and appropriate to the misconduct committed is a penalty of $8,000. For completeness, we set out an amended charge, that encapsulates our findings, which is as follows:

> *You, Mdm Kwa Kim Li, are charged that, by way of your letter 22 June 2015, you misled the Executors of the Estate of your former client Mr Lee Kuan Yew, namely Dr Lee Wei Ling and Mr Lee Hsien Yang, by omitting to disclose your communications with Mr Lee Kuan Yew between November 2013 and 13 December 2013 in response to their enquiries and by making the false and misleading representation that Mr Lee Kuan Yew had never instructed you to change his will dated 2 November 2012, such act amounting to misconduct*

unbefitting an advocate and solicitor as an officer of the Supreme Court within the meaning of s 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev Ed).

83. We now address the question of costs. Parties made written submissions on costs on 3 March 2023. The Complainant's submissions sought $60,000 in costs at [1] of his cost submissions but sought a different figure of $15,000 in [5] of his costs submissions. Disbursements were sought in the sum of $9.182.29. Pursuant to section 93(2) read with section 93(1)(b)(i) of the LPA, we order that the Respondent should pay the Complainant's costs in the sum of $12,000 and disbursements in the sum of $9,182.29.

84. We would like to thank Counsel for their assistance in addressing our questions and concerns, in the course of submissions.

Dated this 5th day of May 2023

Narayanan Sreenivasan SC	Tan Kheng Ann Alvin
President	Member

ANNEX A

2

IN THE MATTER OF KWA KIM LI
AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CHAPTER 161)

STATEMENT OF CASE

1. Kwa Kim Li (the "**Respondent**"), an Advocate and Solicitor of the Supreme Court of Singapore of 35 years' standing, was admitted to the Roll of Advocates & Solicitors on 16th January 1980, and was at all material times, practising as an advocate and solicitor at the law firm of Lee & Lee.

2. The Complainants are Ms Lee Wei Ling (**"LWL"**) and Mr Lee Hsien Yang ("**LHY**"), and the complaint was made by a letter dated 5th September 2019 to the Law Society of Singapore ("**the Law Society**"), supported by a Statutory Declaration declared on the same day.

3. LWL and LHY were the Executors and Trustees named in the Last Will and Testament of Mr Lee Kuan Yew ("**Mr Lee**") dated 17 December 2013 ("**Will no.7**) . Probate of Will no. 7 was obtained by the Executors and Trustees sometime in October 2015.

4. Rule 24 of the Legal Profession (Professional Conduct) Rules (Revised Edition 2010) ("**PCR 2010**") states:

   (1) *An advocate and solicitor shall not in any way, directly or indirectly-*

   i. disclose any confidential information which the advocate and solicitor receives as a result of the retainer; or

   ii. disclose the contents of the papers recording such instructions

   unless with the consent of the client or is required by law or order of court.

8. On 4th June 2015, the Respondent responded to the requests from LHL, by way of a letter/email addressed to LHL, LHY and LWL and provided copies of the following documents to LHL,LHY and LWL;

a) The previous 6 Wills;
b) Email trail between Mr Lee and the Respondent from 17th August 2011 to 2nd November 2012 (**"Documents set A"**)

9. By the text of the 4th June 2015 letter addressed to LHL,LHY and LWL the Respondent also explained the background as to why Mr Lee signed 6 Wills over 15 months and in doing so disclosed confidential information that she was privy to as Mr Lee's solicitor during the 15-month period and the duration during which she prepared the 6 previous Wills on his instructions

10. Further to her letter dated 4th June 2015 and upon the request of LHL for a copy of draft will dated 19th August 2011 and about the background which led to the signing of Will no. 7, the Respondent on 22nd June 2015, under her covering email/letter of the same date, forwarded to LHL,LHY and LWL, the following documents:

a) The draft Will of Mr Lee dated 19th August 2011 with covering email;
b) Email trails of 16 December 2013 from Lee Suet Fern;
c) Email trails of 3rd January 2014 from Lin Hoe;

(collectively referred to as "**Documents set B**")

11. In addition to Documents Set B, the Respondent by the text of her letter dated 22nd June 2015 also provided information to LHL, LHY and LWL that she did not receive any instructions from Mr Lee to change his will after he had signed Will no.6 dated 2nd November 2012 and that she first learnt about Will No.7 via email from Lee Suet Fern and Lin Hoe

12. Whilst, LHY and LWL were the 2 Executors and Trustees named in Will no. 7 and were thereby authorised to receive the information contained in the Respondent's letter dated 4th June 2015 and 22nd June 2015 as well as the Documents set A and Documents set B. LHL was not authorised to receive the same from the Respondent without the consent/authority of the 2 Executors and Trustees named in Will no. 7, namely, LHY and LWL.

13. The Respondent did not seek nor obtain the consent/authority of the 2 Executors and Trustees named in Will no.7, namely, LHY and

LWL prior to sending the letter dated 4th June 2015 and the letter dated 22nd June 2015 to LHL

14. In providing the previous 6 Wills, the documents set A and the documents set B and the background explanation to LHL without the consent /authority of the 2 Executors and Trustees named in Will no.7, namely LWL and LHY, the Respondent had breached the confidentiality principle set out in Rule 24 of the PCR 2010.

15. The Respondent's disclosure of confidential information amounted to a breach of the confidentiality principle set out in Rule 24(1) of the PCR 2010. The breach of Rule 24(1) of the PCR 2010 amounts to grossly improper conduct in the discharge of her professional duty within the meaning of Section 83(2)(b) of the Legal Profession Act (Cap. 161)("**LPA**")

16. Further and/or in the alternative, the disclosure of confidential information by the Respondent amounts to misconduct unbefitting of 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 LPA

17. Accordingly, the Law Society formulates the following charges against the Respondent:

<u>1ST CHARGE</u>

You, **KWA KIM LI** an Advocate and Solicitor of the Supreme Court of Singapore are charged that you are guilty of a breach of Rule 24(1) of the Legal Profession (Professional Conduct) Rules (Revised Edition 2010) ("**PCR 2010**") in that you on or about the 4th of June 2015 had knowingly disclosed to Mr Lee Hsien Loong ("**LHL**") without the consent / authority of the 2 Executors and Trustees named in, Will no.7 namely Ms Lee Wei Ling ("**LWL**") and Mr Lee Hsien Yang ("**LHY**"), the following documents and information which was confidential to your client, Mr Lee Kuan Yew ("**Mr Lee**"), and which was acquired by you in the course of your engagement as Mr Lee's solicitor namely; The previous 6 Wills of Mr Lee prepared by you upon his instructions and email trails between Mr Lee and you from 17th August 2011 to 2nd November 2012 ("**Documents set A**") and explanations as to why your client Mr Lee changed his previous 6 Wills and by such breach of Rule

24(1) of the PCR 2010 you are guilty of grossly improper conduct in the discharge of your professional duties within the meaning of s83(2)(b) of the Legal Professional Act (Cap. 161).

ALTERNATIVE 1ST CHARGE

You, **KWA KIM LI** an Advocate and Solicitor of the Supreme Court of Singapore are charged that you are guilty of knowingly disclosing to Mr Lee Hsien Loong ("**LHL**") without the consent / authority of the 2 Executors and Trustees named in Will.no 7 namely Ms Lee Wei Ling (**"LWL"**) and Mr Lee Hsien Yang (**"LHY"**), the following documents and information which was confidential to your client, Mr Lee Kuan Yew ("**Mr Lee**"), and which was acquired by you in the course of your engagement as Mr Lee's solicitor namely; The previous 6 Wills of Mr Lee prepared by you upon his instructions and email trails between Mr Lee and you from 17th August 2011 to 2nd November 2012 (**"Documents Set A**") and explanations as to why your client Mr Lee changed his previous 6 Wills which amounts to misconduct unbefitting of an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161)

2nd CHARGE

You, **KWA KIM LI** an Advocate and Solicitor of the Supreme Court of Singapore are charged that you are guilty of a breach of Rule 24(1) of the Legal Profession (Professional Conduct) Rules (Revised Edition 2010) ("**PCR 2010**") in that you on or about the 22nd of June 2015 had knowingly disclosed to Mr Lee Hsien Loong ("**LHL**") without the consent / authority of the 2 Executors and Trustees named in Will no. 7, namely Ms Lee Wei Ling (**"LWL"**) and Mr Lee Hsien Yang ("**LHY**"), the following documents and information which was confidential to your client, Mr Lee Kuan Yew ("**Mr Lee**"), and which was acquired by you in the course of your engagement as Mr Lee's solicitor namely; the draft Will of Mr Lee dated 19th August 2011 with covering email, email trails of 16 December 2013 from Lee Suet Fern and email trails of 3rd January 2014 from Lin Hoe ("**Documents Set B**") and information that you did not receive any instructions from Mr Lee to change his will after he had signed will no.6 dated 2nd November 2012 and that you first learnt about will No.7 via email from Lee Suet Fern and Lin Hoe and by such breach of Rule 24(1) of the PCR 2010 you are guilty of

grossly improper conduct in the discharge of your professional duties within the meaning of s83(2)(b) of the Legal Professional Act (Cap. 161).

ALTERNATIVE 2nd CHARGE

You, **KWA KIM LI** an Advocate and Solicitor of the Supreme Court of Singapore are charged that on or about the 22nd of June 2015, you had knowingly disclosed to Mr Lee Hsien Loong (**LHL**) without the consent / authority of the 2 Executors and Trustees of Will no. 7 namely Ms Lee Wei Ling (**"LWL"**) and Mr Lee Hsien Yang (**"LHY"**), the following documents and information which was confidential to your client, Mr Lee Kuan Yew (**"Mr Lee"**), and which was acquired by you in the course of your engagement as Mr Lee's solicitor namely; the draft Will of Mr Lee dated 19th August 2011 with covering email, email trails of 16 December 2013 from Lee Suet Fern and email trails of 3rd January 2014 from Lin Hoe (**"Documents Set B"**) and information that you did not receive any instructions from Mr Lee to change his will after he had signed will no.6 dated 2nd November 2012 and that you first learnt about Will No.7 via email from Lee Suet Fern and Lin Hoe and such breach of confidentiality amounts to misconduct unbefitting of an Advocate and Solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161)

Dated this 16th day of Sep 2022

R.S. Bajwa
BAJWA & CO.
SOLCITORS FOR THE LAW SOCIETY OF SINGAPORE

ANNEX B

(3)

IN THE MATTER OF KWA KIM LI,
AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CAP 161, 2009 REV. ED.)

STATEMENT OF CASE

Counsel for the Complainant
Mr Abraham Vergis, S.C.
Ms Asiyah Arif

Providence Law Asia LLC
1 Raffles Place
One Raffles Place Tower 2
#29-62
Singapore 048616
Tel: 64381969

Dated this 25th day of July 2022

Complaint in his sole name. LHY will therefore be referred to in these proceedings as the "**Complainant**".

II. RELEVANT STATUTORY PROVISIONS

5. At the material times in or around June 2015, the relevant statutory provisions in force were the Legal Profession Act (2009 Rev Ed) ("**LPA**") and the Legal Profession (Professional Conduct) Rules (2010 Rev Ed) ("**PCR**").

6. Section 83(1) of the LPA provides that "*all advocates and solicitors shall be subject to the control of the Supreme Court and shall be liable on due cause shown*" to be struck off the roll, suspended from practice, pay a penalty and/or to be censured.

7. Section 83(2)(h) of the LPA provides that:

   Such due cause may be shown by proof that an advocate and solicitor –

   ...

   ...

   (h) has been guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession;

8. Rule 2(2) of the PCR provides that:

   "In the interpretation of these rules, regard shall be had to the principle that an advocate and solicitor shall not in the conduct of his practice do any act which would compromise or hinder the following obligations:

(a) to maintain the rule of law and assist in the administration of justice.
(b) to maintain the independence and integrity of the profession."

9. A solicitor has a duty and an obligation under the PCR not to do anything which would compromise or hinder their obligations to assist in the administration of justice and to maintain the independence and the integrity of the honorable profession. This includes the general duty to act honestly, competently and with due care and diligence in the conduct of her professional duties.

10. As detailed below, the Respondent has on this failed to act honestly and/or discharge her professional obligations with due care and diligence, which amounts to conduct unbefitting an advocate and solicitor under 83(2)(h) of the LPA.

III. CIRCUMSTANCES GIVING RISE TO THE COMPLAINT

11. The original Complainants, LWL and LHY, together with Mr Lee Hsien Loong ("LHL"), are siblings and the children of Mr Lee.

12. Prior to his death, Mr Lee Kuan Yew (**"Mr Lee"**) executed a total of eight wills. Mr Lee's initial will was prepared by his wife, Ms Kwa Geok Choo, and was signed by Mr Lee and dated 7 December 1995. Thereafter, Mr Lee instructed the Respondent to draft and engross his next six wills between August 2011 and November 2012, each of which was signed by Mr Lee and dated as follows:

    a. 20 August 2011 ("**First Will**");

b. 21 December 2011 ("**Second Will**");

c. 6 September 2012 ("**Third Will**");

d. 20 September 2012 ("**Fourth Will**");

e. 4 October 2012 ("**Fifth Will**"); and

f. 2 November 2012 ("**Sixth Will**").

(collectively referred to as Mr Lee's "**six wills**")

13. In or around end-November 2013, Mr Lee asked the Respondent to draft another will to effect further amendments to his Sixth Will.

14. On 30 November 2013, the Respondent sent Mr Lee an email to record the contents of her discussion with Mr Lee the previous evening, and to advise Mr Lee on the amendments that Mr Lee was intending to make to his last will ("**30 Nov Email**"). Specifically, the email recorded that Mr Lee had asked the Respondent to re-cap the contents of his Sixth Will. Mr Lee had also raised the possibility that his family home at 38 Oxley Road ("**Oxley**") might be *"de-gazetted"* after his passing and sought the Respondent's advice on the legal implications if that were to happen.

15. On 12 December 2013, the Respondent sent another email to Mr Lee setting out further information regarding his Sixth Will and recorded the contents of a discussion with Mr Lee the previous week ("**12 Dec Email**"). In her email, the Respondent said:

> "*Under your present will dated 2 Nov 2012, [LWL] has been given 1 share more than [LHL] and [LHY], out of your total estate. This is*

because you reasoned that [LWL] does not have double income like her brothers.

We discussed last week that you would now like to sign a Codicil to change this, and to give [LWL] equal shares with [LHL] and [LHY] out of the total estate.

I will prepare the codicil for you to sign this week, or when you are ready.

Regarding the Oxley property, I have some thoughts and will call you later today."

16. On 13 December 2013, Mr Lee replied to the Respondent to request an additional amendment to his will to give two carpets to LHY ("**13 Dec Email**"). The 13 December 2013 email stated:

> "*Another amendment is a codicil to specify that two carpets: a silk one on the wall over my PV and another a larger woollen one on the wall above the bed in my bedroom, to go to [LHY]."*

17. The 30 Nov Email, 12 Dec Email and the 13 Dec Email are collectively referred to as the "**Emails**".

18. Mr Lee thereafter finally determined to revert to the terms of his First Will, and he accordingly executed his last will and testament on 17 December 2013 ("**Last Will**"), on terms which substantially mirrored the contents of his First Will. In his Last Will, Mr Lee named LHY and LWL as the executors and trustees of his estate.

19. Mr Lee passed away on 23 March 2015. The Executors stepped into Mr Lee's shoes and represented his Estate thereafter.

20. On 3 June 2015, LWL wrote to the Respondent to request information about Mr Lee's wills.

21. On 4 June 2015, in response the request from LWL (and a purportedly similar request from LHL) for the Respondent's file records of copies of Mr Lee's previous Wills and for any notes, information and emails relating to or connected with Mr Lee's instructions regarding his Oxley property, the Respondent issued a letter to the Executors and LHL titled "*Chronology of 6 Wills – my file records with focus on Oxley*" (the "**4 June Letter**").

22. In the 4 June Letter, the Respondent set out a comprehensive account of Mr Lee's six wills and her discussions with Mr Lee regarding his testamentary wishes based on her file records.

23. The summary included Mr Lee's instructions in respect of the preparation of his six wills and various drafts of the same, the changes to his instructions and wishes, and correspondence with him in relation to the Oxley property. The Respondent also attached copies of all six wills and her email correspondence with Mr Lee.

24. However, the Respondent omitted to mention the fact that and/or failed to disclose the Emails which would show that in or around 30 November 2013,

Mr Lee had given the Respondent instructions to amend the terms of his Sixth Will by way of another will. In particular, the Respondent did not reveal that Mr Lee had specifically sought the Respondent's advice in November 2013 on what was to be done with Oxley, nor did she disclose to the Executors her Emails with Mr Lee on this issue.

25. It would have been evident to the Respondent that the Emails and her communications with Mr Lee in November to December 2013 were relevant to the inquiries made by LWL and LHL as:

    a. The Respondent issued the 4 June Letter in response to the specific requests from LWL and LHL for "*notes/emails/information on his instructions to [the Respondent]* ***regarding Oxley***". The Emails are self-evidently relevant and material to the requests made to the Respondent.

    b. Mr Lee had passed away in March 2015, less than 3 months before the 4 June Letter was sent out. There was significant public interest and nation-wide discussion over the mainstream media and social media over whether Oxley should be gazetted and preserved as a heritage site or demolished in honour of Mr Lee's wishes. The said Emails recorded *the last time the Respondent had communicated with Mr Lee* in respect of Mr Lee's testamentary intentions for Oxley, and immediately preceded the signing of his Last Will. These correspondences were therefore critical to understanding the

context of Mr Lee's wishes and his underlying concerns regarding Oxley, and in particular, the fact that Mr Lee had reiterated his testamentary intention to ultimately have his family home at Oxley demolished. Given Mr Lee's standing as the former Prime Minister and founding father of modern Singapore and the historical significance of Oxley, the Respondent's records of her discussions with Mr Lee were both of personal importance to him and potentially of national importance.

c. The Respondent clearly understood the scope and significance of the requests made by LWL and LHL. In her 4 June Letter, she set out a comprehensive record of her discussions and correspondence with Mr Lee. The Respondent's account included her *previous* discussions with Mr Lee regarding Oxley, whether or not it directly related to any of Mr Lee's wills or resulted in any changes to any of Mr Lee's wills. She had even put together cancelled versions of his previous wills to reconstruct all the relevant events.

26. On 22 June 2015, the Respondent then sent a further letter to the Executors and LHL in response to further queries from LWL and LHL regarding the signing of the Last Will (the "**22 June Letter**"). In her email, the Respondent explained:

"Further to my note to you dated 4 June 2015, [LHL] has asked me:

1) For a copy of draft Will dated 19th August 2011;

2) ***About the background which led to the signing of your father's last Will dated 17 December 2013*** *("Will no. 7")"*

27. It would similarly have been evident to the Respondent that Mr Lee's instructions to her to amend the contents of his Sixth Will and Mr Lee's request for her advice regarding Oxley (all of which were captured in the Emails between the Respondent and Mr Lee which were exchanged up to 4 days before he signed his Last Will), would have been relevant to these specific requests for information, and in light of the facts set out in paragraph 25 above. However, the Respondent omitted to disclose to the Executors the fact of her communications with Mr Lee regarding his will and Oxley in November to December 2013, or the existence of the Emails between her and Mr Lee.

28. The Respondent was also able to disclose another chain of emails dated 16 December 2013 to 3 January 2014 relating to the execution of Mr Lee's Last Will, i.e. shortly after the Emails were sent. However, she did not disclose copies of the Emails or make mention of the communications between her and Mr Lee that were referenced in the Emails.

29. Instead, in her 22 June Letter, the Respondent misrepresented to the Executors in specific and unambiguous language that "*[a]fter [Mr Lee Kuan Yew] signed Will no. 6 dated 2nd November 2012, **he did not instruct [the Respondent] to change his Will***".

30. The Respondent's statement was false and/or misleading, as the Emails demonstrate that Mr Lee Kuan Yew had in fact instructed the Respondent to change his Sixth Will in his discussions with her in November to December 2013. His instructions and those discussions were recorded or referenced in the Emails.

31. After the 4 June Letter and the 22 June Letter, the Respondent did not attempt to correct her misrepresentation that Mr Lee had not instructed her to change his will after his Sixth Will was executed or notify the Executors about the existence or contents of the Emails.

32. Thereafter, the Executors, through their then solicitors, Rajah & Tann LLP, made repeated requests to the Respondent for copies of all her documents and records on file in respect to Mr Lee's wills. In or around March 2019, in response to the Executors' requests, the Respondent provided copies of her records and documents to the Executors, including copies of the Emails. It was only then that the Executors discovered the existence of the Emails and learned that the Respondent had made false and/or misleading statements in her 4 June Letter and 22 June Letter. The Respondent did not disclose the existence of or copies of the Emails or make any attempt to correct the false and/or misleading statements in her 4 June Letter and 22 June Letter at any time prior to March 2019.

33. The Respondent's accounts in the 4 June Letter and the 22 June Letter would have given the Executors the impression that Mr Lee had never

expressed to her his intention to change the terms of his Sixth Will or to divide his estate equally between his children. This caused unnecessary doubt and confusion about whether Mr Lee had intended to change his Sixth Will, and what his concerns were in respect of Oxley prior to executing his Last Will.

34. The Respondent omissions and misrepresentation to the Executors were made knowingly and deliberately, or in the alternative, as a result of lack of care and diligence on her part. The Respondent's actions, in knowingly and deliberately making false and misleading statements and/or omitting to mention or failing to disclose information in response to the inquiries received from one of the Executors, would be in breach of her general duties of honesty, competence, due care and diligence under Rule 2(2) of the PCR and would accordingly amount to a breach of Section 83(2)(h) of the LPA.

35. Even if the Respondent made false and misleading statements to the Executors and/or had omitted disclosing information and documents in response to the Executors' specific inquiries unintentionally, be it as a result of carelessness, negligence and lack of due care and diligence, her conduct fell short of the standards of integrity, probity and trustworthiness expected of a solicitor who found herself in the critical context and circumstance that the Respondent was in, and would accordingly amount to a breach of Section 83(2)(h) of the LPA.

IV. CHARGES

36. Accordingly, the Complainant formulates the following charge against the Respondent.

CHARGE

37. You, Mdm Kwa Kim Li, are charged that, by way of your letters dated 4 June and 22 June 2015, you misled the Executors of the Estate of your former client Mr Lee Kuan Yew, namely Dr Lee Wei Ling and Mr Lee Hsien Yang, by omitting and/or otherwise failing to disclose your communications with Mr Lee Kuan Yew between November 2013 to 13 December 2013 in response to their enquiries and/or by making the false and misleading representation that Mr Lee Kuan Yew had never instructed you to change his will dated 2 November 2012, such act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court within the meaning of s 83(2)(h) of the Legal Profession Act (Cap. 161, 2009 Rev Ed).

Dated this 25th day of July 2022

Counsel for the Complainant

Providence Law Asia LLC

ANNEX C

4

DT/19/2022

IN THE MATTER OF KWA KIM LI
AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CAP 161, 2009 REV ED)

STATEMENT OF DEFENCE
(TO STATEMENT OF CASE OF THE COMPLAINANT)

Solicitors for the Respondent
Mr Cavinder Bull *SC*
Ms Gerui Lim
Ms Elisabeth Liang

Drew & Napier LLC
10 Collyer Quay
#10-01 Ocean Financial Centre
Singapore 049315
Tel: 6535 0733
Fax: 6535 4906
Ref: CAB/GRL/439722

Dated this 14th day of November, 2022.

8. With regard to paragraph 14 of the SOC:

(a) it is admitted that on 30 November 2013, the Respondent sent LKY an email to note the contents of an oral discussion between her and LKY. The discussion had taken place the previous night;

(b) the second and third sentences of paragraph 14 of the SOC are admitted; and

(c) it is not admitted that LKY intended to make amendments to his last will. As far as the Respondent was aware, LKY was in the midst of considering whether he would make amendments to his then-last will dated 2 November 2012 ("**Sixth Will**"), and also considering potential options available to him. In her discussion with LKY on the night of 29 November 2013 and in her email of 30 November 2013, the Respondent had provided advice to LKY on potential options for his consideration. As far as the Respondent was aware, LKY had not made any decisions nor given any instructions which he wanted the Respondent to act on. In the past, LKY would typically consider and discuss with the Respondent the possible options available to him and consequences of any changes, and take some time to mull over them. A number of times, he would also discuss his considerations with his children, before giving firm instructions to the Respondent to act on.

9. Paragraph 15 of the SOC is admitted. The Respondent subsequently departed from Singapore to London on about 15 December 2013. Up till her departure from Singapore, the Respondent did not receive any communication from LKY to instruct her that he was ready to sign the proposed codicil. The Respondent did not prepare any such codicil.

10. Paragraph 16 of the SOC is admitted. When the Respondent received LKY's email at 10.50pm on 13 December 2013, the Respondent understood LKY to mean that he was still in the midst of considering or compiling amendments to include or provide for in a codicil to his Sixth Will. As the Respondent was departing for London shortly, she intended to have further discussions with LKY on his intentions after she returned to Singapore on about 21 December 2013.

11. However, as set out below, the abovementioned events were superseded by LKY's execution of a new will.

12. On 17 December 2013 and shortly before 2.59pm, the Respondent sighted an email from Mrs Lee Suet Fern ("**LSF**") to her dated 17 December 2013 which had been sent around 1.16pm. LSF's email stated, *inter alia*, "*just a quick note to say this has been dealt with already.*"

13. Embedded in LSF's email dated 17 December 2013 was an earlier email dated 16 December 2013 from LSF to LKY sent at around 7.08pm. Although the 16 December 2013 email had been copied to the Respondent and the Complainant, the Respondent had not sighted this email previously

and did not appear to have received it. LSF's 16 December 2013 email stated:

> "Dear Pa Pa
>
> This was the original agreed Will which ensures that all 3 children receive equal shares, taking into account the relative valuations (as at the date of demise) of the properties each receives.
>
> Kim Li
>
> Grateful if you could please engross.
>
> Kind regards
> Fern"

14. Reading LSF's emails dated 16 and 17 December 2013 together, the Respondent understood LSF's email of 17 December 2013 to mean that:

    (a) following LKY's discussions with LSF and/or the Complainant, LKY had instructed LSF to prepare a new will for his execution;

    (b) the new will had since been prepared and engrossed without the Respondent's knowledge and involvement, and executed by LKY ("**Seventh Will**"); and

    (c) the Sixth Will was accordingly revoked and superseded by LKY's latest Seventh Will.

15. Shortly after reading LSF's emails dated 16 and 17 December 2013, the Respondent emailed LSF on 17 December 2013 at around 2.59pm to inform LSF that the Respondent did not seem to have received LSF's email

dated 16 December 2013. The Respondent also asked whether LSF's email dated 17 December 2013 meant that "*[LKY] has signed a new will yesterday, in which case the former will which is on my record, is revoked? If so, I will update my file record.*"

16. LSF replied to the Respondent by an email dated 17 December 2013 sent at around 3.10pm. LSF stated, "*Yes, he has signed already. In fact this is going back to his 2011 will so it supercedes all. He read it extremely carefully before signing.*"

17. Based on LSF's above statements:

    (a) LKY's latest testamentary wishes were set out in his Seventh Will;

    (b) it was implicit that LKY had decided not to proceed with the possible codicil to the Sixth Will that he had previously discussed with the Respondent; and

    (c) there was nothing further for the Respondent to do apart from updating her file record to note that the Sixth Will had been revoked and superseded.

18. The Respondent does not plead to paragraph 17 of the SOC.

19. The Respondent has no personal knowledge of the matters pleaded at the first sentence of paragraph 18 of the SOC and does not plead to the same.

Paragraphs 12 to 17 of the Statement of Defence ("**SOD**") are repeated. The second sentence of paragraph 18 of the SOC is admitted.

20. The first sentence of paragraph 19 of the SOC is admitted. The second sentence of paragraph 19 is admitted insofar as the Complainants obtained a grant of probate on 6 October 2015 in respect of LKY's estate.

21. Paragraph 20 of the SOC is admitted. The Respondent understood Ms Lee Wei Ling's ("**LWL**") request to be for information about LKY's intentions with regard to his property at 38 Oxley Road ("**Oxley Property**") as expressed in the six wills which the Respondent had prepared for LKY and which LKY had executed ("**Six Wills**").

22. With regard to paragraph 21 of the SOC, the Respondent's letter dated 4 June 2015 was sent in response to requests from LWL and Mr Lee Hsien Loong ("**LHL**") for information focusing on LKY's intentions with regard to the Oxley Property. Save as aforesaid, paragraph 21 of the SOC is denied.

23. Paragraph 22 of the SOC is denied. The Respondent's 4 June 2015 letter did not purport to be a comprehensive account of her discussions with Mr Lee regarding his testamentary wishes. The Respondent's 4 June 2015 letter expressly stated that its purpose was to "***summarise*** *your father's Wills based on my file records chronologically,* ***focusing again on Oxley***." [Emphasis added.]

24. Paragraph 23 of the SOC is admitted insofar as the Respondent's letter dated 4 June 2015 had provided points of information and documents which were materially relevant to her summary of the Six Wills focusing on the Oxley Property.

25. With regard to paragraph 24 of SOC:

    (a) it is admitted the Respondent's letter dated 4 June 2015 did not refer to or attach copies of her emails with LKY dated 30 November 2013, 12 December 2013 and 13 December 2013. These emails were not material to, and did not impact any of the Six Wills which were summarised in the Respondent's letter dated 4 June 2015 with a focus on the Oxley Property;

    (b) when the Respondent prepared the 4 June 2015 letter, she did not recall her emails with LKY dated 30 November 2013, 12 December 2013 and 13 December 2013. Those emails had not registered with the Respondent as having any particular significance and/or material import, because they had never led to any decision or instructions by LKY in relation to Oxley Property, nor any decision or instructions by LKY for the Respondent to change his Sixth Will, nor any draft instrument being prepared by the Respondent. Paragraphs 7 to 17 of the SOD are repeated; and

    (c) save as expressly admitted above, paragraph 24 of the SOC is denied.

26. With regard to paragraph 25 of the SOC including subparagraphs 25(a) to 25(c):

    (a) the first sentence of subparagraph 25(a) is admitted;

    (b) the first sentence of subparagraph 25(b) is admitted. The second sentence of subparagraph 25(b) is admitted insofar as there were substantial discussions in mainstream media and social media over the appropriate treatment of the Oxley Property and LKY's wishes for the Oxley Property. It is admitted that LKY's standing was as the former Prime Minister and founding father of modern Singapore;

    (c) with regard to paragraph 25(c), paragraphs 21, 22 and 24 of the SOD are repeated; and

    (d) save as expressly admitted above, paragraph 25 of the SOC including subparagraphs 25(a) to 25(c) are denied.

27. Paragraph 26 of the SOC is admitted, save that LWL and LHY were not Executors of LKY's estate at the time the Respondent sent the 22 June 2015 letter to LHL, LWL and LHY.

28. Paragraph 27 of the SOC is denied. Paragraphs 7 to 17 of the SOD are repeated.

29. The Respondent was not involved in the preparation of LKY's Seventh Will and did not discuss or receive any instructions from LKY regarding the contents of his Seventh Will. Where the Respondent had received further queries from LHL and LWL about the "*background which led to the signing of [LKY's] last Will dated 17 December 2013*", the Respondent's letter dated 22 June 2015 had accurately and truthfully conveyed the fact that any instructions given by LKY for the preparation of the Seventh Will, and his execution of the Seventh Will, had occurred without the Respondent's involvement. This was evident from two email chains enclosed to the Respondent's 22 June 2015 letter, namely:

    (a) the emails from LSF pleaded at paragraphs 12 to 16 of the SOD;

    (b) an email dated 3 January 2014 from Mdm Wong Lin Hoe (with trailing emails) which *inter alia*: (i) recorded that the Respondent had merely been provided copies of the Seventh Will and a subsequent codicil after they were executed "*for her record*", while the originals were kept in LKY's office. This differed from LKY's usual practice in respect of the Six Wills prepared by the Respondent, where he had asked the Respondent to safekeep the originals of the Six Wills for him; and (ii) also showed that after LSF's email dated 16 December 2013, arrangements were made for LKY to execute the Seventh Will without the Respondent's involvement.

30. Paragraph 28 of the SOC is admitted. The Respondent's letter dated 22 June 2015 enclosed the email chains referred to at paragraph 28 of the

SOC because they were relevant to communicating the matters pleaded at paragraph 29 of the SOD above.

31. The Respondent's letter dated 22 June 2015 did not enclose the emails dated 30 November 2013, 12 December 2013 and 13 December 2013. These were not relevant or material to the Respondent's responses in her letter dated 22 June 2015, which only addressed the two queries pleaded at paragraph 26 of the SOC. When the Respondent prepared her letter dated 22 June 2015, she also did not recall her emails with LKY dated 30 November 2013, 12 December 2013 and 13 December 2013, which had not registered with her as having any particular significance and/or material import because they had never led to any decision or instructions by LKY for the Respondent to change his Sixth Will, nor any draft instrument being prepared by the Respondent. Paragraphs 7 to 17 of the SOD are repeated.

32. Save where a statement from the Respondent's letter dated 22 June 2015 is reproduced at paragraph 29 of the SOC, paragraphs 29 and 30 of the SOC are denied. It was not a misrepresentation, nor false or misleading, for the Respondent's letter dated 22 June 2015 to state that LKY had not instructed the Respondent to change his Sixth Will. That statement was truthful and accurate. Contrary to paragraph 30 of the SOC, LKY did not give the Respondent any instructions to change his Sixth Will in his discussions with her in November to December 2013. Further, the emails dated 30 November 2013, 12 December 2013 and 13 December 2013 did not contain or lead to any instructions by LKY for the Respondent to change his Sixth Will. In addition, the Sixth Will was never changed by any

instrument prepared by the Respondent upon LKY's instructions, nor did the Respondent prepare any draft instrument with the intention of changing the Sixth Will. The Sixth Will was superseded by the Seventh Will which was instructed, prepared and executed without the Respondent's involvement. Paragraphs 7 to 17 of the SOD are repeated.

33. In respect of paragraph 31 of the SOC, the Respondent did not subsequently attempt to correct statements in her 4 and 22 June 2015 letters because she had not misrepresented facts as alleged or at all. Paragraph 31 of the SOC is therefore denied.

34. The first two sentences of paragraph 32 of the SOC are admitted. The third and fourth sentences of paragraph 32 of the SOC are denied, including the allegation that false and/or misleading statements had been made by the Respondent in her letters dated 4 and 22 June 2015.

35. Paragraphs 33, 34 and 35 of the SOC are denied.

36. There is no basis for the charge formulated in paragraphs 36 and 37 of the SOC. The Respondent denies the charge set out in paragraph 37 of the SOC.

Dated this 14th day of November, 2022.

SOLICITORS FOR THE RESPONDENT
DREW & NAPIER LLC

ANNEX D

LS 2

AMENDED 1st ALTERNATIVE CHARGE

YOU, **KWA KIM LI** an Advocate and Solicitor of the Supreme Court of Singapore are charged that you on or about the 4th day of June 2015 by your letter dated 4th June 2015 sent to Mr Lee Hsien Loong ("**LHL**") are guilty of knowingly disclosing to LHL without the consent / authority of the 2 Executors and Trustees named in Will.no 7 namely Ms Lee Wei Ling ("**LWL**") and Mr Lee Hsien Yang ("**LHY**"), the following documents and information which was confidential to your client, Mr Lee Kuan Yew ("**Mr Lee**"), and which was acquired by you in the course of your engagement as Mr Lee's solicitor namely; 5 of the previous Wills of Mr Lee prepared by you upon his instructions and email trails between Mr Lee and you from 11th December 2011 to 2nd November 2012 ("**Documents Set A**") and explanations as to why your client Mr Lee changed his previous Wills which amounts to misconduct unbefitting of an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act (Cap. 161)

ANNEX E

IN THE MATTER OF KWA KIM LI

AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT

(CHAPTER 161)

AGREED STATEMENT OF FACTS

1. Kwa Kim Li (the "**Respondent**"), an Advocate and Solicitor of the Supreme Court of Singapore of over 40 years' standing, was admitted to the Roll of Advocates & Solicitors on 16th January 1980, and was at all material times, practising as an advocate and solicitor at the law firm of Lee & Lee.

2. The Complainants are Ms Lee Wei Ling ("**LWL**") and Mr Lee Hsien Yang ("**LHY**"), and the complaint was made by a letter dated 5th September 2019 to the Law Society of Singapore ("**the Law Society**"), supported by a Statutory Declaration declared on the same day.

3. LWL and LHY were the Executors and Trustees named in the Last Will and Testament of Mr Lee Kuan Yew ("**Mr Lee**") dated 17 December 2013 ("**Will no.7**"). LWL, LHY and Mr Lee Hsien Loong ("**LHL**") were Mr Lee's three children and the only beneficiaries of Will no. 7. Probate of Will no. 7 was obtained by LWL and LHY sometime in October 2015.

4. The Respondent acted for Mr Lee as his lawyer and in her capacity as an Advocate and Solicitor in the preparation of his Last Will and Testament. She had thereby received from Mr Lee confidential information as a result of the retainer. The Respondent did so over a period of time from August 2011 to November 2012, and from time to time received instructions from Mr Lee to *inter alia* change his Last Will and Testament. This resulted in the Respondent preparing altogether 6 Wills of Mr Lee, who executed the same. The Wills were dated as follows;

a) The Last Will of Mr Lee dated 20th August 2011;
b) The Last Will of Mr Lee dated 21st December 2011;
c) The Last Will of Mr Lee dated 6th September 2012;
d) The Last Will of Mr Lee dated 20th September 2012;
e) The Last Will of Mr Lee dated 4th October 2012; and
f) The Last Will of Mr Lee dated 2nd November 2012;

(Collectively referred to as "**the previous 6 Wills**").

5. Mr Lee passed away on 23rd March 2015.

6. Sometime after the passing of Mr Lee, LHL and LWL separately requested the Respondent to provide her file records of Mr Lee's previous wills/notes/emails/information on Mr Lee's instructions to her regarding Oxley.

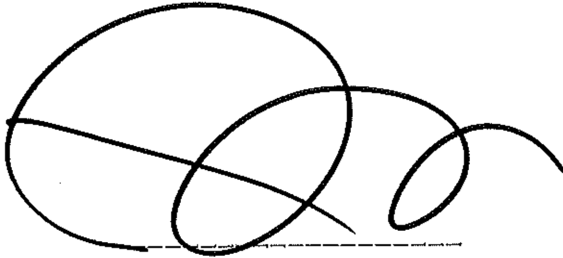
7. On 4th June 2015, the Respondent responded to the requests from LHL and LWL by way of a letter addressed to LHL, LHY and LWL as the only beneficiaries of Mr Lee's Estate. The Respondent provided copies of the following documents to LHL, LHY and LWL;

   a) The previous 6 Wills; and
   b) Email trail between Mr Lee and the Respondent from 17th August 2011 to 2nd November 2012 ("Documents set A")

8. By the text of the 4th June 2015 letter addressed to LHL, LHY and LWL, the Respondent also provided a summary of the background as to why Mr Lee signed 6 Wills over 15 months and in doing so disclosed confidential information that she was privy to as Mr Lee's solicitor during the 15-month period and the duration during which she prepared the 6 previous Wills on his instructions.

9. The Respondent did not seek nor obtain the consent/authority of the 2 Executors and Trustees named in Will no.7, namely, LHY and LWL, prior to sending the letter dated 4th June 2015 to LHL, LWL and LHY.

Dated this ___ day of _____2023



R.S BAJWA
BAJWA & CO
SOLICITORS FOR ~~THE~~
THE LAW SOCIETY OF SINGAPORE

DREW & NAPIER
SOLICITORS FOR
THE RESPONDENT

ANNEX F

DT/19/2022

IN THE MATTER OF KWA KIM LI,
AN ADVOCATE AND SOLICITOR

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT
(CAP 161, 2009 REV. ED.)

AGREED STATEMENT OF FACTS
(COMPLAINANT'S CHARGE)

Counsel for the Complainant
Mr Abraham Vergis, S.C.
Ms Asiyah Arif
Mr Kyle Chong

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Counsel for the Respondent
Mr Cavinder Bull, S.C.
Ms Gerui Lim
Ms Elisabeth Liang

Drew & Napier LLC
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#10-01 Ocean Financial Centre
Singapore 049315
Tel: 65350733

Dated this 31st day of January 2023

AGREED STATEMENT OF FACTS

1. The Respondent, Mdm Kwa Kim Li, is an Advocate and Solicitor of the Supreme Court of Singapore. She was admitted to the roll of advocates and solicitors on 16 January 1980.

2. The Respondent is and was at the material times the Managing Partner of Lee & Lee ("**the Firm**").

3. The original Complainants, Ms Lee Wei Ling and Mr Lee Hsien Yang ("**LWL**" and "**LHY**" respectively), are the sole Executors and Trustees of the Estate of Mr Lee Kuan Yew (the "**Executors**"). LHY, LWL and Mr Lee Hsien Loong ("**LHL**"), are siblings and the children of Mr Lee Kuan Yew ("**Mr Lee"**).

4. Prior to his death, Mr Lee executed a total of eight wills. The Respondent was Mr Lee's solicitor who drafted and engrossed six of his wills between August 2011 and November 2012, each of which was signed by Mr Lee and dated as follows:

   a. 20 August 2011;

   b. 21 December 2011;

   c. 6 September 2012;

   d. 20 September 2012;

   e. 4 October 2012; and

   f. 2 November 2012 ("**2 November 2012 Will**").

   (collectively referred to as Mr Lee's "**Six Wills**")

5. In or around end-November 2013 there were discussions between Mr Lee and the Respondent on whether he wished to draft a new will and if so, what might be included in such a further will.

6. On 30 November 2013, the Respondent sent Mr Lee an email to record the contents of an oral discussion which had taken place between her and Mr Lee the previous night ("**30 November Email**"). Amongst other things, the email recorded that Mr Lee had asked the Respondent to re-cap the contents of his 2 November 2012 Will, and that Mr Lee had raised the possibility that his family home at 38 Oxley Road ("**Oxley Property**") might be *"de-gazetted"* after his passing and sought the Respondent's advice on the legal implications if that were to happen. The Respondent concluded the email by asking Mr Lee to "*Please let [her] know [his] thoughts, and [she] can make the appropriate changes to the Will*".

7. On 12 December 2013, the Respondent sent an email to Mr Lee ("**12 December Email**") stating:

> "*Under your present will dated 2 Nov 2012, [LWL] has been given 1 share more than [LHL] and [LHY], out of your total estate. This is because you reasoned that [LWL] does not have double income like her brothers.*
>
> *We discussed last week that you would now like to sign a Codicil to change this, and to give [LWL] equal shares with [LHL] and [LHY] out of the total estate.*

I will prepare the codicil for you to sign this week, or when you are ready.

Regarding the Oxley property, I have some thoughts and will call you later today."

8. On 13 December 2013, Mr Lee sent an email to the Respondent ("**13 December Email**") stating:

> "*Another amendment is a codicil to specify that two carpets: a silk one on the wall over my PV and another a larger woollen one on the wall above the bed in my bedroom, to go to [LHY]."*

9. The 30 November Email, 12 December Email and the 13 December Email are collectively referred to as the "**Emails**".

10. The Respondent subsequently departed from Singapore to London on about 15 December 2013. The Respondent did not prepare any codicil for Mr Lee.

11. While the Respondent was overseas, Mr Lee executed his last will and testament dated 17 December 2013 ("**Last Will**"). In his Last Will, Mr Lee named LHY and LWL as the only executors and trustees of his estate. LHL was not named as an executor and trustee of Mr Lee's estate.

12. The Respondent was informed by Mrs Lee Suet Fern ("**LSF**") that Mr Lee had executed the Last Will. LSF sent the Respondent an email dated 17 December 2013 at around 1.16pm. The email stated, *inter alia*, "*just a quick*

note to say this has been dealt with already". Embedded in LSF's email dated 17 December 2013 was an earlier email dated 16 December 2013 sent from LSF to Mr Lee at around 7.08pm. LSF's 16 December 2013 email stated:

> "*Dear Pa Pa*
>
> *This was the original agreed Will which ensures that all 3 children receive equal shares, taking into account the relative valuations (as at the date of demise) of the properties each receives.*
>
> *Kim Li*
>
> *Grateful if you could please engross.*
>
> *Kind regards*
> *Fern*"

13. The Respondent emailed LSF on 17 December 2013 at around 2.59pm. Her email stated that she did not seem to have received LSF's email dated 16 December 2013. The Respondent also asked whether LSF's email dated 17 December 2013 meant that "[*Mr Lee*] *has signed a new will yesterday, in which case the former will which is on my record, is revoked? If so, I will update my file record.*"

14. LSF replied to the Respondent by an email dated 17 December 2013 sent at around 3.10pm. LSF stated, "*Yes, he has signed already. In fact this is going back to his 2011 will so it supercedes all. He read it extremely carefully before signing.*"

15. Mr Lee passed away on 23 March 2015.

16. On 3 June 2015, LWL wrote to the Respondent to request information about Mr Lee's wills.

17. On 4 June 2015, in response to LWL's request and a separate request from LHL for information focusing on LKY's intentions with regard to the Oxley Property, the Respondent issued a letter to the Executors and LHL titled "*Chronology of 6 Wills – my file records with focus on Oxley*" (the "**4 June Letter**") with enclosures.

18. The 4 June Letter stated, amongst other things:

> "*To:*
> *Hsien Loong, Wei Ling, and Hsien Yang*
> *4 June 2015.*
>
> *Loong and Ling have requested me for file records of your father's previous Wills, for notes/emails/information on his instructions to me regarding Oxley.*
> *I thought best to write this note addressed to the 3 of you as the only beneficiaries of his Estate.*
>
> *Your father signed 6 Wills with me over the period of August 2011 to November 2012. (2 in 2011, and 4 in 2012).*
> *He instructed me several times, by phone, by email and personally at his office typically in the evenings before his Chinese class.*
> *I attach file copies of the 6 cancelled Wills, numbered 1 to 6 for ease*.
>
> ***Background why your father signed 6 Wills over 15 months.***
> *Regarding the 6 Wills which your father signed over August 2011 to November 2012, I would estimate that I prepared at least 15 drafts for his review over that period, to take into account the many changes he wanted to make. There were also one or two occasions that I went to his office for signing after he approved the draft Will, but he had second thoughts, did not sign the Will and asked for further changes. I am telling you these details for you to know that your father spent much time and thought on his 6 Wills.*

Much of the discussions and changes revolved around:
1) Where Ling is to stay - at Oxley or in his other properties, or at Ho Ching's Belle Vue apartment, whether or not to give Ling a life interest in Oxley.

2) The division of the Estate - although he was aware that it was intended/agreed that he would divide his entire Estate into 3 equal shares for the 3 children, he asked me to prepare Wills no. 3 and 6 where the Estate was to be divided unequally. He said he would talk to the children to inform them why he wanted to divide the Estate unequally.

3) Oxley - how to give the children least problem after he is gone.

You have asked me to focus on Oxley. I set out a brief 3 point summary regarding the Oxley Clauses in the 6 Wills:

…

I now summarise your father's Wills based on my file records chronologically, focusing again on Oxley…"

19. On 22 June 2015, the Respondent sent a further letter to LWL, LHY and LHL in response to further queries from LWL and LHL regarding the signing of the Last Will (the "**22 June Letter**"). The letter stated:

"*Dear Hsien Loong, Wei Ling and Hsien Yang,*

Further to my note to you dated 4 June 2015, [LHL] has asked me:
1) *For a copy of draft Will dated 19th August 2011;*
2) *About the background which led to the signing of your father's last Will dated 17 December 2013 ("Will no. 7")*

Wei Ling also asked me the same question 2 in May 2014.

I thought it best to write to all of you, so that everyone has the same reply from me.

After your father signed Will no. 6 dated 2nd November 2012, he did not instruct me to change his Will.

I first learnt about Will no. 7 via email from Fern and Lin Hoe."

20. The 22 June Letter enclosed copies of emails dated 16 December 2013 to 3 January 2014 relating to the execution of Mr Lee's Last Will.

21. On 6 October 2015, the Executors obtained a grant of probate in respect of Mr Lee's estate.

22. On 25 February 2019, the Executors, through their then solicitors, Rajah & Tann LLP, asked the Respondent for copies of all her documents and records on file in respect to Mr Lee's wills. In or around 8 March 2019, in response to the Executors' requests, the Respondent provided copies of her records and documents to the Executors, including copies of the Emails. The Emails had not been enclosed to the 4 June or 22 June Letters.

23. On 5 September 2019, the Executors filed a complaint against the Respondent ("**Complaint**"). The Complaint comprised four distinct heads of complaint. The fourth head of complaint, namely that the Respondent had given the Executors false and misleading information in her 4 June and 22 June Letters, is the subject of the present charge.

Dated this 31st day of January 2023