The Law Society of Singapore *v* Manjit Singh s/o Kirpal Singh and another [2015] SGHC 95

Case Number : Originating Summons No 461 of 2014

Decision Date : 13 April 2015

Tribunal/Court : Court of Three Judges

Coram : Chao Hick Tin JA; Judith Prakash J; Tay Yong Kwang J

Counsel Name(s) : Pateloo Eruthiyanathan Ashokan (KhattarWong LLP) for the applicant; The 1st and 2nd respondents in person.

Parties : The Law Society of Singapore — Manjit Singh s/o Kirpal Singh and another

Legal Profession – Professional Conduct – Breach

Legal Profession – Disciplinary Proceedings

13 April 2015 Judgment reserved.

Chao Hick Tin JA (delivering the judgment of the court):

Introduction

1 This is an application by the Law Society of Singapore praying that Manjit Singh s/o Kirpal Singh and Sree Govind Menon, the respondents herein ("the 1st Respondent" and "the 2nd Respondent" respectively or collectively "the Respondents"), be sanctioned under s 83(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("the Act").

2 The Respondents were partners of M/s Manjit Govind & Partners ("MGP"). The main charge against them relates to payments, amounting in total to $1.8m, made by a former client to their wives and the Respondents' refusal to return the said sum of money. The cheques were deposited into the Respondents' joint accounts with their respective wives. Disciplinary proceedings were commenced against the Respondents pursuant to a complaint lodged by the former client to the Law Society of Singapore ("the Law Society"). The Disciplinary Tribunal constituted under the Act found that cause of sufficient gravity for disciplinary action under s 83(2)(*h*) of the Act was made out.

3 The issue before us is whether due cause for disciplinary action within the meaning of s 83(2)(*h*) of the Act has been established in relation to the charges. If due cause is shown, the consequential issue that needs to be decided is the appropriate sanction to be meted out against the Respondents under s 83(1) of the Act in respect of the charges preferred against each of them.

Facts

Parties to the complaint

4 The 1st Respondent was admitted as an advocate and solicitor of the Supreme Court of Singapore in 1977. The 2nd Respondent was admitted in 1998. At the relevant time, the Respondents were the only two partners of MGP. Since April 2014 they have ceased to practise, having not taken out the required practising certificates. The complainant is Ms Adeline Bernadette Rankine ("Ms Rankine") who was, at the material time, a client of MGP. The Law Society is the applicant in the

present proceedings.

Background to the complaint

5 The critical factual issue in these disciplinary proceedings is whether the sum of $1.8m paid by Ms Rankine to the Respondents' wives was a gift (as alleged by the Respondents) or a measure taken to safekeep her money to meet her future legal fees (as alleged by Ms Rankine). The Disciplinary Tribunal found that it was the latter. Therefore, the question before us is whether this finding of fact by the Disciplinary Tribunal was "clearly against the weight of evidence" (see *Law Society of Singapore v Lim Cheong Peng [2006] 4 SLR(R) 360 ("Lim Cheong Peng")* at [13]). We ought, at this juncture, to mention that the Respondents continued in the present proceedings to assert that the President of the Disciplinary Tribunal ("the President" and "the Tribunal" respectively) was biased against them and also made a further assertion that there was no due process in the Tribunal's hearing against them. The context of these assertions will be become clearer after we set out the material facts and the other proceedings which the Respondents had instituted even before the Tribunal heard the case in relation to the charges brought against them.

6 In 1996, Ms Rankine started cohabiting with Mr Tan Sri Amin Shah ("Mr Amin"), a Malaysian businessman. This relationship came to an end in August 2009. Ms Rankine then decided to sell her property at 22 Joan Road, Singapore 298901 ("Joan Road property") and live off the proceeds of the sale. She approached the 1st Respondent for legal advice as she was concerned that Mr Amin might become difficult about the breakup and would create obstacles to prevent the sale of the Joan Road property.

7 Ms Rankine's concerns materialised. In October 2009, a British Virgin Islands company controlled by Mr Amin, Starboard Consultants Pte Ltd ("Starboard"), lodged a caveat against the Joan Road property. The caveat was eventually discharged on 19 February 2010 and the High Court permitted the release of the net sale proceeds, which amounted to $6.9m, to Ms Rankine. She received a cheque for $5m at MGP's offices and authorised a payment of $50,000 to Ms Faridah, her personal assistant, to whom she owed outstanding wages.

8 On 23 February 2010, the 1st Respondent handed Ms Rankine a cheque for $1.8m. Ms Rankine then issued two cheques, one each in favour of the wives of the Respondents, which in total amounted to $1.8m. That same evening, Ms Rankine had an expensive dinner with the Respondents, Ms Faridah and one Terence Evitt, who had done some work in relation to the inspection of documents by Starboard. The 1st Respondent paid for the meal.

9 In April 2010, Ms Rankine, who then had some concern as to whether MGP was acting in her best interest, instructed another law firm, Eldan Law LLP, to take over the conduct of the proceedings involving Starboard and another matter. On 28 September 2010, Eldan Law LLP expressly raised the matter of the two cheques paid to the Respondents' wives and asked for an account of the monies. Some days later, on 4 November 2010, Ms Rankine wrote directly to the Respondents requesting the return of the $1.8m: [note: 1]

> Dear Manjit and Govind,
>
> On your advice and for safekeeping, I made out 2 Citibank cheques to your respective wives Ms Chew Lai Ling and Ms Sarita d/o Prakash Gupta on 23 February 2010.
>
> The sum of $200,000 was made to Ms Sarita and the sum of $1.6 million was made to Ms Chew Lai Ling.

I would appreciate if you could arrange for the total sum of $1.8m to be returned to me within 7 days by way of cheque addressed to me and sent to my solicitors M/s Eldan Law LLP.

Thanks.

Regards,

Bernadette

10 On 15 November 2011, on Ms Rankine's instructions, Engelin Teh Practice LLC issued letters of demand to the Respondents and their wives for the return of the $1.8m. [note: 2] The Respondents responded by asserting claims against Ms Rankine for her statements about the $1.8m. The matter was eventually settled on 23 November 2012 (see [15] below).

The complaint and charge

11 On 21 December 2010, Ms Rankine lodged a complaint against the Respondents with the Law Society. She alleged that the Respondents' wives had kept $1.8m of her money which had been transferred by way of two cheques in the amounts of $1.6m and $200,000 to the 1st Respondent's wife and 2nd Respondent's wife respectively. She explained that the $1.8m was paid over to the wives on the Respondents' advice for the purposes of safekeeping and future legal fees.

12 The complaint was referred to an Inquiry Committee which recommended a formal investigation by a Disciplinary Tribunal. The charge preferred against the 1st Respondent ("the 1st Charge") read as follows:

> That the [1st Respondent], on or about the 23rd day of February 2010, advised the Complainant to make payment by issuing two (2) cheques, which she then issued, for the total sum of $1.8m ("the said money") in favour of the wives of the 1st and 2nd Respondents in the form of a cheque to [the wife of the 1st Respondent] for the sum of $1,600,000 and the other cheque to [the wife of the 2nd Respondent] for the sum of $200,000 which cheques were cleared, so as to conceal and avoid the risk of having the said sum of money frozen through litigation and for the safekeeping of the Complainant's said money and to meet the Complainant's future legal fees and thereafter refusing to account for and to return the same to the Complainant when demanded by the Complainant and the [1st Respondent], is thereby guilty of misconduct unbefitting of an Advocate and Solicitor as an officer of the Supreme Court or as a member of an Honourable Profession under s 83(2)(h) of [the Act].

The charge preferred against the 2nd Respondent was that he agreed with the advice given to Ms Rankine by the 1st Respondent to make payments in the manner described above by issuing two cheques in favour of their wives ("the 2nd Charge").

13 On 9 February 2012, the then Chief Justice Chan Sek Keong ("Chan CJ") appointed a disciplinary tribunal comprising of Mr L P Thean and Mr Tan Chuan Thye to hear and investigate the matter. The Respondents objected to the appointment of Mr Thean. On 20 February 2012, Mr G P Selvam was appointed by Chan CJ as Mr Thean's replacement. Again, the Respondents raised objections to Mr Selvam's appointment but Chan CJ directed that Mr Selvam's appointment as President of the Tribunal would stand.

The first judicial review proceedings

14 On 9 March 2012, the Respondents filed Originating Summons No 443 of 2012 seeking leave to apply for judicial review of Chan CJ's decision to appoint Mr Selvam as the President of the Tribunal. On 31 May 2012, the High Court dismissed the application (see *Re Manjit Singh s/o Kirpal Singh and another* [2012] 4 SLR 81). On 6 November 2012, the appeal against the High Court's decision was dismissed by the Court of Appeal (see *Manjit Singh s/o Kirpal Singh and another v AG* [2013] 2 SLR 844 ("*Manjit Singh No 1 (CA)*")).

15 As mentioned, a settlement was eventually reached on 23 November 2012 between Ms Rankine and the Respondents in relation to their respective civil claims against each other (see above at [10]). As part of the settlement, the sum of $1.8m was returned by the Respondents to Ms Rankine without admission of liability. We should, at this juncture, point out that Ms Rankine wrote to the Law Society on 23 November 2012 withdrawing her complaint. In that letter, she also stated that she did not wish to participate in any hearing relating to her complaint ("the Withdrawal Letter"). This letter was found by the Tribunal to have been issued pursuant to the settlement reached between the parties. [note: 3] This finding was vigorously disputed by the Respondents who pointed out that the requirement to withdraw the complaint was never mentioned in the settlement agreement. In our view, and in any case, it is not necessary to resolve this dispute (although we would add that, in our opinion, the finding of the Tribunal is consistent with all the objective facts) because there was other evidence showing that the $1.8m payment to the two wives was not, contrary to the claim of the Respondents, a gift to them by Ms Rankine.

16 On 3 January 2013, the Tribunal was informed by the Law Society to proceed with the hearing of the charges brought against the Respondents in spite of the Withdrawal Letter.

The Law Society's application to bring an additional charge

17 On 23 January 2013, the Tribunal allowed the Law Society's application to bring an additional charge against the 1st Respondent ("the 3rd Charge") which reads as follows:

> That the [1st Respondent], having requested between the end of August 2009 and early September 2009 for a Cashier's Order in the sum of $20,000 from [Ms Rankine], after having represented to [Ms Rankine] that he required the Cashier's Order in payment of an advance fee/ retainer to Davinder Singh SC (later changed to Cavinder Bull SC), of Messrs Drew & Napier LLC, Advocates and Solicitors, to act for her as Counsel, in connection with potential litigation which the said 1st Respondent was to handle as her Solicitor and thereafter upon the said Cashier's Order ... having been obtained by the said Complainant from her Citibank account and delivered to the 1st Respondent, the 1st Respondent utilised the aforesaid Cashier's Order to make a certain payment to Messrs Drew & Napier LLC in a case unconnected with any of the matters in respect of which the said 1st Respondent or the said Davinder Singh SC or the said Cavinder Bull SC had been briefed to act or acted for the said Complainant as Counsel for her, and the said 1st Respondent, having misused the Complainant's monies, is thereby guilty of misconduct unbefitting of an Advocate and Solicitor as an officer of the Supreme Court or as a member of an Honourable Profession under s 83(2)(h) of [the Act].

The second judicial review proceedings

18 On the first day of hearing, 13 February 2013, the Tribunal was informed that the Respondents had filed Originating Summons No 107 of 2013 seeking leave to apply for judicial review of Sundaresh Menon CJ's decision not to revoke the Tribunal's appointment even though Ms Rankine had withdrawn

her complaint by her Withdrawal Letter.

19 On 18 February 2013, the High Court dismissed the Respondents' application (see *Manjit Singh s/o Kirpal Singh and another v AG* [2013] 2 SLR 1108). On 19 August 2013, the appeal against the High Court's decision was dismissed by the Court of Appeal (see *Manjit Singh s/o Kirpal Singh and another v AG* [2013] 4 SLR 483).

The hearings before the Tribunal

20 Pre-hearing conferences were held on the following dates: 8 March, 2 and 4 April, 21 May 2012, 3 and 23 January 2013. The hearing by the Tribunal started on 13 February 2013. It was interrupted by the institution of the second judicial review proceeding ("2nd JR"). The High Court dismissed the 2nd JR on 18 February 2013. The Tribunal resumed hearing on 19 February 2013. This hearing before the Tribunal lasted for only half a day before an adjournment was granted to allow the Respondents more time to prepare for their cross-examination of Ms Rankine. The cross-examination resumed on 21 and 22 February 2013.

21 On 23 February 2013, the 1st Respondent made an oral application for an adjournment of the hearing before the Tribunal on the ground that he was tired and exhausted. The Tribunal granted the adjournment.

22 On 11 March 2013, the Respondents applied to exclude Ms Rankine's affidavit of evidence-in-chief. After their application was denied, the Respondents walked out of the hearing.

23 On 19 August 2013, the Court of Appeal dismissed the appeal of the Respondents in relation to the 2nd JR. The hearing by the Tribunal was scheduled to resume on 23 September 2013 but the Tribunal re-scheduled it to November 2013 after being informed that the 2nd Respondent had personal matters to attend to. The Respondents, however, did not attend the hearing on 11 and 12 November 2013 although in various communications with the Tribunal prior to the 11 November 2013 they had alluded to personal and health reasons. As the Tribunal was of the view (and this appears clear from the Tribunal's report; see below at [26]) that the Respondents were seeking by all means to delay and obstruct the Tribunal from discharging its function, it carried on with the hearing, with the hearing of witnesses, in the absence of the Respondents.

24 In a letter dated 30 December 2013, the Tribunal informed the parties that it wished to hear oral arguments on 27 and 28 January 2014. The Respondents said they would not be able to attend and again cited various personal and family reasons. Oral submissions from the Law Society were therefore heard on 27 January 2014 in the absence of the Respondents.

25 On 23 April 2014, the Tribunal issued its report ("the Report"), finding that there was cause of sufficient gravity for disciplinary action under s 83(2)(*h*) of the Act against the Respondents.

Decision of the Tribunal

26 The Tribunal found that cause of sufficient gravity for disciplinary action under s 83(2)(*h*) of the Act existed for all three charges:

(a) In relation to the 1st Charge, the Respondents' contention that the $1.8m was a gift was inherently absurd for the following reasons:

(i) The money formed part of the sale proceeds of the only known substantial property

of Ms Rankine and she had no recourse to Mr Amin for financial support after their relationship ended. Ms Rankine was then also involved in various legal proceedings where substantial legal costs would be incurred (at [87]–[93] of the Report).

(ii) Given the extent of the 1st Respondent's control over Ms Rankine's financial affairs, it was totally believable that the 1st Respondent had told Ms Rankine on 23 February 2010 that the $1.8m was for legal fees and safekeeping (at [73] and [93] of the Report).

(iii) The 1st Respondent also sought to assert psychological control over Ms Rankine and it was clear that she feared him (at [94]–[95] of the Report).

(iv) The Respondents had flagrantly and wilfully transgressed r 46 of the Legal Profession (Professional Conduct Rules) (Cap 161, r 1, 2010 Rev Ed) ("PCR") which required that they should not act in the matter of the alleged gift and should have advised Ms Rankine to be independently advised in respect thereof (at [103] of the Report).

(v) The 2nd Respondent told Ms Rankine to inform her banker that, in relation to the $1.6m which she had transferred to the 1st Respondent's wife (which was also their joint personal account), she had been confused and the money was for investment purposes and not for future legal expenses as she had earlier told the banker (at [112] of the Report).

(b) As for the 2nd Charge, the 2nd Respondent agreed with the 1st Respondent's advice to Ms Rankine to transfer $1.8m to the Respondents' wives for safekeeping and to meet her future legal fees (at [136] of the Report).

(c) With regard to the 3rd Charge, Mr Hri Kumar SC confirmed that the $20,000 cheque paid by MGP to him was in part-settlement of an invoice rendered to MGP for his fees as instructed counsel in a matter which concerned another client of Mr Kumar; it had nothing to do with any matters of Ms Rankine. The 1st respondent offered no substantive defence (at [138]–[139] of the Report).

(d) As a general observation, the Tribunal noted that the Respondents had made trivial and unacceptable excuses to disrupt and delay the proceedings (at [62] of the Report).

The Law Society's submissions

27 Before us, the Law Society submitted that it has proven the three charges against the Respondents beyond a reasonable doubt:

(a) In relation to the 1st and 2nd Charges, Ms Rankine's characterisation of the $1.8m payment as one made for safekeeping and for future legal fees was convincing and believable. There was also no documentary proof that the Respondents had advised Ms Rankine to seek independent legal advice on making a gift. In addition, the Respondents had never said in answer to various queries raised by Ms Rankine and her subsequent solicitors that the $1.8m was a gift made by Ms Rankine to them.

(b) With respect to the 3rd Charge, the 1st Respondent had not raised any substantive defence or challenged the evidence given by Mr Kumar.

28 On the question of the appropriate sanction, the Law Society submitted that the Respondents should be struck off the roll of advocates and solicitors because the Respondents have acted

dishonestly and dishonourably and yet showed no remorse for their reprehensible conduct. In particular, the Respondents embarked on an elaborate scheme to cheat Ms Rankine of $1.8m while ensuring that the payment could not be traced back to MGP's account. They also refused to account for the money or return it.

The Respondents' submissions

29 The Respondents' submissions may be divided into three parts. First, the Respondents contend that the Tribunal was biased. In this regard, the Respondents raised various instances of alleged bias, including:

(a) The President's alleged remark during a pre-hearing conference that the Respondents were guilty until proven innocent.

(b) The Tribunal allowing the additional charge (*ie*, the 3rd Charge) to be brought against the 1st Respondent as well as the evidence supporting it to be introduced at the hearing.

(c) The President's alleged "assistance" offered to the counsel for the Law Society, Mr P E Ashokan, by raising r 46 of the PCR and the case of *Re A Solicitor* [1975] QB 475.

30 Second, there were errors and inaccuracies in the Report of the Tribunal. The Respondents contended, *inter alia*, that:

(a) There was in the Report, a "contorted" and misleading chronology surrounding the commencement of civil proceedings by Ms Rankine and the lodgement of the complaint by Ms Rankine with the Law Society.

(b) The email references, in relation to the issue as to why in March 2010 Ms Rankine doubted MGP was acting in her interest, were incomplete.

(c) There was no basis to say that the 1st Respondent sought to assert psychological control over Ms Rankine.

31 Third, there was a lack of due process during the entire disciplinary proceeding. The thrust of the Respondents' complaint is that there was no fairness or transparency in the entire disciplinary process, including the inquiry committee and the review committee stages.

Issues before this Court

32 It will be seen that the main thrust of the Respondents' argument is that of bias on the part of the President and matters relating to due process. They have hardly gone into the merits of the case, and understandably so because their entire strategy before the Tribunal was to try to prevent the Tribunal from going into the merits. We will first deal with the Respondents' point that the Tribunal was biased and that there was no due process. Next, we will address the other issues which this court ought to examine in a case of this nature, namely:

(a) Has due cause for disciplinary action within the meaning of s 83(2)(*h*) of the Act been shown for each of the charges?

(b) If so, what is the appropriate sanction under s 83(1) of the Act for each Respondent?

Was the Tribunal biased?

33 The Respondents' first allegation that the Tribunal treated them as guilty until proven innocent has been dealt with by the Court of Appeal in *Manjit Singh No 1 (CA)* at [69]–[72]. The Court of Appeal there reviewed the entirety of the 2 April 2012 hearing transcript and dismissed the allegation. We agree with the Court of Appeal's reasoning and conclusion and see no reason to revisit the allegations made in this particular regard. In spite of the Respondents' lengthy written submissions, the Respondents have wholly failed to engage the reasoning or the conclusion reached in *Manjit Singh No 1 (CA)*. Their submissions were made on the premise that the President had treated them as guilty until proven innocent. We would add that the broad, sweeping and unsubstantiated statements made in the Respondents' written submissions did not assist us in any way.

34 The next allegation pertains to the introduction of the 3rd Charge against the 1st Respondent. The Respondents argue that the Tribunal was biased in allowing the charge and the evidence supporting it to be introduced in the proceedings. As this allegation is intimately connected with the substantive issue of whether an additional charge may be brought under s 89(4) of the Act, we shall deal with it below at [69]–[74] together with the analysis of whether the 3rd Charge has been made out. It suffices to note at this point, that if an additional charge may legitimately be added by the Tribunal pursuant to s 89(4) of the Act, then any allegation of bias on the part of the Tribunal naturally falls away.

35 The Respondents also allege that the President was biased when he "descended into the arena" at the pre-hearing conference on 21 May 2012. During that hearing, the President said that he had come across a case and a rule in the PCR ("the two authorities") while reviewing the evidence and doing some research. [note: 4] He mentioned the two authorities to the parties, [note: 5] and thereafter, handed a piece of paper to Mr Ashokan which listed the two authorities: [note: 6]

1. Re A SOLICITOR [1975] 1 Q.B. 475

2. Rule 46 of the Legal Profession (Professional Conduct) Rules:

> "**Gift by will or inter vivos from client**
>
> 46. Where a client intends to make a significant gift by will or inter vivos, or in any other manner, to –
>
> (a) an advocate and solicitor acting for him;
>
> (b) any member of the law firm of the advocate and solicitor;
>
> (c) any member, director or employee of the law corporation of the advocate and solicitor; or
>
> (d) any member of the family of the advocate and solicitor,
>
> the advocate and solicitor shall not act for the client and shall advise the client to be independently advised in respect of the gift."

The President informed Mr Ashokan that he should consider the authorities stated in the piece of paper and take instructions from the Law Society. [note: 7] The Respondents say that the President brought up these authorities to assist Mr Ashokan in dealing with the Respondents' defence that the $1.8m payment was a gift. The Respondents also contend that the President was at the outset

"pursuing his own agenda against the Respondents to secure a guilty verdict against the Respondents". [note: 8]

36 In our judgment, the President's raising of the two authorities is hardly sufficient to establish bias on the part of the President. The President brought up the two authorities after some research and after reviewing the material before him. It seems that he considered that the two authorities might be relevant to the proceedings and wanted the issue explored further. He therefore openly mentioned the two authorities to the parties. Although the manner in which the issue and the corresponding authorities were raised could have been done differently, we do not think that it can be inferred from this that the President was biased. Even in a court of law, the Bench does in the course of a counsel's submission refer him to particular cases or relevant rules which came to the mind of the Bench and which were not cited by parties. We recognise that in this instance the President could have formally addressed a note to both parties referring to the two authorities and asking them to make submissions thereon. That said, we cannot agree with the Respondents that just because the President raised the two authorities he was therefore pursuing his own agenda to secure a guilty verdict against them. In our opinion, the Respondents were themselves looking at the situation with a pair of tainted glasses.

37 We ought also to mention that the Respondents have also levelled a number of other allegations of bias against the Tribunal. We are not minded to set them out *in seriatim* and refute them specifically. Suffice it to say that we have carefully considered them and do not think that they, individually or collectively, amount to actual or apparent bias in the circumstances of the proceedings. What is clear to us is that the Respondents are nit-picking. They had in the course of the hearing embarked on a campaign of making it difficult for the Tribunal to proceed on with its task and hoping, in the process, the Tribunal would falter.

38 In the circumstances, there is no reason to believe that the Tribunal was biased.

39 Having regard to the transcript of the hearings, the submissions made by parties, and the chronology of events set out above at [20]–[25], we are also unable to discern any impropriety or irregularity with the proceedings conducted by the Tribunal pursuant to s 98(8)(*a*) of the Act. The pre-hearing conferences and substantive hearings before the Tribunal took place over a protracted period of approximately 26 months. We observe that the Tribunal exhibited a substantial amount of patience in dealing with the Respondents' repeated requests for adjournments by acceding to a number of such requests. In spite of these adjournments, the Respondents chose not to be present for a number of hearings. We therefore agree with the Tribunal's finding that the Respondents had showed "utter disregard for the proceedings" and had made "trivial and unacceptable excuses to halt and delay [the] proceedings". [note: 9] We hasten to add that in saying this we must not be taken to express criticism of the Respondents' two applications for judicial review, although the 2nd JR application was of doubtful validity. While the withdrawal of a complaint by the complainant (this is so even in a criminal proceeding) *may* make the prosecution of the case more difficult because the complainant may not testify (or alters his position in the complaint), it does not mean that the Law Society is obliged to withdraw the case. If at the end of the case, the complainant alters his position in his complaint or chooses to remain silent, the Tribunal (or a court of law in a criminal case) would, in the absence of evidence, have to acquit the solicitor (or the accused) of the charge(s). That said, this is no justification to aver that the Law Society should not have proceeded with the case in the face of the Withdrawal Letter. Otherwise, this would only encourage private settlement (through suborning the complainant) at the expense of the public interest. Bringing a delinquent solicitor to task, like that of prosecuting an alleged offender, is a matter of public interest.

Has due cause for disciplinary action within the meaning of s 83(2)(*h*) of the Act been shown

for each of the charges?

The relevant legal principles

40 Section 83(8)(*a*) of the Act confers wide powers of review on the Court of Three Judges. The section states that:

> (8) The court of 3 Judges —
>
> (*a*) shall have full power to determine any question necessary to be determined for the purpose of doing justice in the case, including any question as to the correctness, legality or propriety of the determination of the Disciplinary Tribunal, or as to the regularity of any proceedings of the Disciplinary Tribunal; …

41 It bears mentioning that "an appellate court does not lightly interfere with findings of fact by a lower court or a disciplinary committee unless their conclusions are clearly against the weight of evidence" (see *Lim Cheong Peng* at [13]), although an appellate court is just as competent as the court below in the drawing of inferences from established fact (*Lim Cheong Peng* at [14]).

The 1st Charge

42 As mentioned above at [12], the essence of the 1st Charge faced by the 1st Respondent was his giving of advice to Ms Rankine to pay a sum of $1.8m to his wife and the 2nd Respondent's wife for safekeeping and future legal fees and his subsequent refusal to return the monies when requested by Ms Rankine. Two sub-issues arise for this court's consideration:

> (a) Was the Tribunal's finding that Ms Rankine paid the sum of $1.8m for safekeeping and future legal fees against the weight of the evidence?
>
> (b) If not, was the 1st Respondent guilty of misconduct unbefitting of an advocate and solicitor under s 83(2)(*h*) of the Act?

Sub-issue (a): Was the Tribunal's finding that Ms Rankine paid the sum of $1.8m for safekeeping and future legal fees against the weight of the evidence?

43 We have no hesitation in holding that not only is the Tribunal's finding not against the weight of the evidence, that finding is also supported by the evidence.

44 The Tribunal found that there was something inherently absurd about the Respondents' contention that the $1.8m was a gift because:

> (a) Ms Rankine was then exiting a relationship where she had no legal recourse against Mr Amin for future living expenses.
>
> (b) Ms Rankine was still engaged in various legal proceedings when the cheques were given.
>
> (c) Ms Rankine had paid the Respondents their legal fees and disbursements periodically for work done in connection with various matters which the Respondents were handling on her behalf. Some of these amounts were paid from the option money amounting to $1,080,000 that Ms Rankine received from the purchasers of the Joan Road property and which was deposited in MGP's client account. [note: 10]

45 Given these circumstances, the Tribunal was of the opinion that the time for a reward to the Respondents, over and above the legal fees charged, would have been when matters with Mr Amin had been completed and Ms Rankine could move on with her new life.

46 The Respondents contend that Ms Rankine never testified that she had considered rewarding them at the conclusion of her matters. They said that the $1.8m gift was made when the sale of the Joan Road property was completed and when the freezing order application by Starboard was dismissed. At that point it was entirely open for Ms Rankine to reward the Respondents, *ie*, after 19 February 2010. The reward is also entirely consistent with the expensive celebratory dinner on 23 February 2010, the $50,000 reward given to Ms Faridah, and the sums of $2,000 given to the two staff of MGP.

47 The Respondents further argue that there was no basis to say that the 1st Respondent sought to assert psychological control over Ms Rankine because Ms Rankine had other lawyers advising her, there was no medical evidence adduced, and she travelled overseas. [note: 11] Several instances of Ms Rankine giving instructions and questioning the Respondents on her various legal matters were also cited by the Respondents in support of their contention that Ms Rankine was not fearful of them.

48 In our judgment, the Tribunal's finding that Ms Rankine paid the sum of $1.8m for safekeeping and future legal fees was clearly *not* against the weight of the evidence for the following reasons.

49 First, Ms Rankine's evidence that the payment of $1.8m to the Respondents' wives was for safekeeping and future legal fees is consistent with a prior arrangement made in relation to the option money from the sale of the Joan Road property and the nature of the relationship between the parties. After the option to purchase the Joan Road property had been exercised by the purchaser, $1.08m (representing the 9% option money) was paid into MGP's client account on the advice of the 1st Respondent. [note: 12] $600,000 of this amount was transferred to Ms Rankine's personal account in London while the rest was used for Ms Rankine's personal and legal expenses. [note: 13] This arrangement was mentioned in Ms Rankine's statutory declaration made in support of her complaint to the Law Society and in her affidavit of evidence-in-chief. [note: 14] The Respondents did not seriously controvert Ms Rankine's version of events relating to the $1.08m deposit into MGP's client account. In fact, the Respondents acknowledge that Ms Rankine *consented* to the arrangement, [note: 15] implicitly conceding that the arrangement was first proposed by the 1st Respondent.

50 We would highlight that this arrangement in relation to the option money, which happened only a few months before the disputed $1.8m payment, provides an accurate and pertinent insight into the relationship between the parties. The 1st Respondent exercised some influence over Ms Rankine and this is hardly surprising, as he was the solicitor advising her on her various matters. This can be seen from the fact that she went along with his suggestions with regard to her financial and even non-financial affairs. For example, on 9 September 2009, the 1st Respondent asked Ms Rankine to go abroad so that no legal or physical harm would befall her. [note: 16] She duly complied and went to Perth, Australia almost immediately. [note: 17] Ms Rankine's evidence in this regard was not challenged by the Respondents in their written submissions.

51 Second, it is highly unlikely that Ms Rankine would have made such a large gift to the Respondents which amounted to approximately 25% of the only asset of significance to her name, *viz*, the net sale proceeds of the Joan Road property. Although clients may understandably, be grateful to their lawyers for successfully resolving their legal matters, Ms Rankine had other pending legal matters at that time and had already paid substantial legal fees to the Respondents for work done by them for

her on those matters. We find it difficult to accept that Ms Rankine would have given away one-quarter of her assets to the Respondents in addition to the substantial remuneration which she had paid or would be required to pay them for work done on her legal matters. There is no evidence to suggest that the Respondents were acting as Ms Rankine's solicitors *pro bono* or that she agreed to a conditional fee arrangement in which the Respondents would be paid a significant portion of the Joan Road property sale proceeds as a reward for successfully representing her.

52 Moreover, there is no evidence of a prior relationship between Ms Rankine and the Respondents. Ms Rankine first met the 1st Respondent on 27 August 2009. [note: 18] Less than six months later, on 23 February 2010, the $1.8m payment was made to the Respondents' wives in the form of two cheques. In our judgment, a person in Ms Rankine's position is unlikely to have made an outright gift of $1.8m to the *wives* of two people that she had only known for less than six months. It is far more likely that such a large sum would only have been paid over to the wives of Ms Rankine's solicitors of less than six months for the purposes as she was advised by the 1st Respondent, *ie*, for safekeeping and future legal fees.

53 Third, when faced with the demands for the return of $1.8m by Ms Rankine and her new solicitors, Eldan Law LLP, the Respondents did not say that the $1.8m payment was a gift. One would have expected the Respondents to give that reply if that was the true position. As mentioned above at [9], Eldan Law LLP first wrote to the Respondents on 28 September 2010, asking for an account of the two cheques paid to the Respondents' wives. The Respondents sent two replies on 29 September 2010, both of which did not explain that the $1.8m payment was *in fact* a gift to them. [note: 19]

54 Some days later, on 5 October 2010, the Respondents gave the following reply: [note: 20]

> 11. On your version, the two cheques were issued on 23rd February 2010. They were not issued to the firm. Your client was happy to issue the cheques. There were no reservations.

55 Ms Rankine then wrote directly to the 1st Respondent on 4 November 2010 requesting the return of $1.8m. The 2nd Respondent responded to this email as follows: [note: 21]

> Dear Bernadette,
>
> As you wish to liaise with Manjit and myself, you and Faridah are welcome to the office. Meetings can be useful only if things are declared truthfully. There was no safekeeping as you well know. …

Ms Rankine repeated her demands in an email dated 30 November 2010: [note: 22]

> Dear Manjit and Govind,
>
> I am writing again to ask you to return my money and am enclosing the email which I had sent you on the 4th of November 2010. I want to communicate with your office and the both of you by email as it is crisp, clear more importantly [*sic*] documented and leaves no room for doubt. When I wrote those two cheques on the 23 February it was in your office, the office of [MGP] with only the three of us present and with Manjit Singh giving instructions and standing over me.
>
> I don't understand why you and Manjit are not wanting [*sic*] to return me this money. Those are my monies and I trusted you both!

So once again I repeat the email of the 4th of November 2010:

[the text of the email is reproduced in full]

On 3 December 2010, the Respondents replied by way of letter to Eldan Law LLP, denying Ms Rankine's version of events [note: 23]:

9. The partners declare to you that the version of safekeeping is false and known by your client to be false. The record will bear out the fact that you became solicitors on record since 23rd April 2010. The safekeeping story only arises in your client's email of 4th November 2010. This is sufficient to dispose of this point.

56 The above chain of correspondence between the parties shows that the Respondents were presented with a number of opportunities to clarify the nature of the $1.8m payment made by Ms Rankine to their wives. If they had done so and if the $1.8m payment had truly been a gift, then that would have been the end of the matter. However, the Respondents failed to mention that the $1.8m payment was a gift or a reward for successfully obtaining the release of the Joan Road property sale proceeds.

57 The closest that the Respondents came to explaining their position on the issue was what the 2nd Respondent stated in his 5 October 2010 email that Ms Rankine was "happy to issue the cheques" and did so without any reservations (see above at [55]). We do not think that this statement by the 2nd Respondent provides cogent or unequivocal evidence that the payment of $1.8m was a gift. Why could the 2nd Respondent not have just said that the cheques were intended as a gift? Why should he be coy? The statement could equally be interpreted to mean that Ms Rankine was happy to issue the cheques amounting to $1.8m to the Respondents for safekeeping and for future legal fees. In our judgment, the Respondents' reticence in failing to explain the nature of the $1.8m payment in spite of the numerous occasions they could have done so spoke volumes about the credibility of their version of events.

58 Fourth, the 2nd Respondent told Ms Rankine to tell her banker at Standard Chartered Bank, Ms Adeline Chong, that the $1.6m payment to the 1st Respondent was for "investment purposes". Ms Chong had asked Ms Rankine why she had transferred $1.6m to the 1st Respondent's account. According to Ms Rankine's affidavit of evidence-in-chief, her reply to Ms Chong was that the payment was for legal fees. Subsequently, during a telephone conversation with the 2nd Respondent, the latter told her to call Ms Chong and say that she had been confused and that the money was for "investment purposes". The Tribunal found that Ms Rankine did not comply with the 2nd Respondent's instructions as she was frightened at being asked to lie. [note: 24]

59 On the stand, Ms Chong said that she could not recall asking Ms Rankine about the $1.6m payment because the conversation had not been recorded and it would have taken place some two to three years ago. [note: 25] However, we are of the view that Ms Chong's failure to recall this particular telephone conversation is not detrimental to Law Society's case in the light of the Respondents' admission that the 2nd Respondent had indeed told Ms Rankine to tell Ms Chong that the payment was for investment purposes. [note: 26]

60 The Respondents' explanation for the 2nd Respondent's instruction was that Citibank should have been the party (instead of Standard Chartered Bank) to make that query about the $1.6m payment when the cheque was drawn on them in February 2010. [note: 27] This explanation misses

the point. The issue which we are concerned with is not whether Standard Chartered Bank was the most appropriate entity to raise that query. We are concerned with the direct contradiction between the 2nd Respondent's instruction to Ms Rankine to tell the bank that the payment was for "investment purposes" and the Respondents' overarching position that the payment was a gift.

61 The Respondents also explained it was "sufficient" to tell Ms Chong that the payment was for investment purposes given that there was no reason for the bank to be making queries about the $1.6m payment. We are unable to accept this explanation. If the payment had truly been a gift, there would have been no reason to proffer a false explanation for it. Moreover, there would have been no need to hide the fact that the payment was a gift if the Respondents had actually gone through the proper procedure of informing Ms Rankine to seek independent advice before making the gift. In short, the 2nd Respondent's instruction to Ms Rankine to tell her own banker that the payment was for investment purposes casts considerable doubt on the credibility of the Respondents' defence that the payment was a gift.

62 In the light of the considerations set out above, particularly the relationship of the parties, we think that the Tribunal was justified in its conclusion that Ms Rankine had made the disputed $1.8m payment to the Respondents' wives for safekeeping and future legal fees. Ms Rankine was then under considerable pressure as she did not know what Mr Amin's next step might be and the Respondents were well aware of her anxiety in that regard. Not only is this finding not against the weight of the evidence, having considered this issue afresh, we would have also come to the same conclusion. A gift of this magnitude to a solicitor with whom the client had no previous dealings, besides also having to pay the solicitor his normal fees, simply defies belief.

Sub-issue (b): Was the 1st respondent guilty of misconduct pursuant to s 83(2)(h) of the Act?

63 Section 83(2)(*h*) of the Act provides as follows:

> (2) 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.

64 It is established that s 83(2)(*h*) is "catch-all provision which can be invoked when the conduct does not fall within any of the other enumerated grounds but is nevertheless considered unacceptable" (see the Court of Three Judges' decision in *Law Society of Singapore v Ng Chee Sing* [2000] 1 SLR(R) 466 at [40]). The standard of judgment to be applied is fixed by the court and is not the standard of peer judgment (*Law Society of Singapore v Heng Guan Hong Geoffrey* [1999] 3 SLR(R) 966 at [23]). The focus of s 83(2)(*h*) is to ensure that the conduct of the solicitor concerned meets the high levels of professionalism expected of practising lawyers (*Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308 at [80]).

65 On the present facts, it is indisputable that the 1st Respondent's conduct in advising Ms Rankine to make the two cheque payments amounting to $1.8m to his wife and the 2nd Respondent's wife for safekeeping and for the payment of future legal fees and thereafter refusing to return the said payments is unbefitting of an advocate and solicitor. Nor does such conduct meets the high levels of professionalism expected of practising lawyers.

66 Therefore, due cause for disciplinary action within the meaning of s 83(2)(*h*) of the Act has

been shown in respect of the 1st Charge against the 1st Respondent.

The 2nd Charge

67 The 2nd Charge concerned the 2nd Respondent's role in agreeing with the advice given by the 1st Respondent to Ms Rankine to make the $1.8m payment and in refusing to account for or return the same when asked to do so. The Tribunal found that the 2nd Charge was made out and the Respondents have not raised any real arguments to dispute this particular finding apart from the contentions already addressed above.

68 It follows that due cause for disciplinary action within the meaning of s 83(2)(*h*) of the Act has been shown for the 2nd Charge against the 2nd Respondent. We had no doubt that his conduct in agreeing with the 1st Respondent's advice and his tacit participation in the 1st Respondent's scheme not to return the monies are undoubtedly unbefitting of an advocate and solicitor. The 2nd Respondent was also not a passive participant in the 1st Respondent's scheme because it was he who told Ms Rankine to inform Ms Chong that the payment was for "investment purposes", an unmistakable lie that did not accord with either party's characterisation of the $1.8m payment.

The 3rd Charge

69 The 3rd Charge concerned the 1st Respondent's improper use of a $20,000 cashier's order obtained from Ms Rankine to make payment for a matter unconnected to Ms Rankine. The 1st Respondent has raised no substantive arguments to refute the elements of the charge. He however raises the argument that there was no such charge in existence before the Tribunal because this charge was, in fact, before a separate Inquiry Committee ("IC 40 of 2012").

70 What this argument seems to convey is that in a letter dated 10 December 2012, Mr Bernard Chiu, on behalf of IC 40 of 2012, informed the 1st Respondents that the committee had referred Ms Rankine's letter withdrawing her complaint to the Council of the Law Society. [note: 28] The letter further stated that the committee did not propose to take any further step to continue the inquiry until the Council of the Law Society responded. In the last paragraph, the letter added "in the event that the Inquiry Committee is directed to continue with the inquiry, we will notify you of the proposed new hearing date accordingly". No further notification from IC 40 of 2012 had been received by the 1st Respondent.

71 The sense of this argument is that the subject misconduct constituting the 3rd Charge was still within the purview of IC 40 of 2012 and until the latter came to a decision on it, a charge could not be framed against the 1st Respondent based on that alleged misconduct. While this argument does not at first blush seem unreasonable, it fails to have regard to the provision of s 89(4) of the Act. This section empowers a Disciplinary Tribunal to prefer an additional charge upon the application of the Council of the Law Society in the following manner:

> **Application to appoint Disciplinary Tribunal**
>
> …
>
> (4) Where, in the course of its investigation of any matter against an advocate and solicitor referred to it under subsection (1) or (3), a Disciplinary Tribunal receives *information touching on or evidence of the conduct of the advocate and solicitor which may give rise to proceedings under this Part*, the Disciplinary Tribunal may, on the application of the Council, prefer such additional charge against the advocate and solicitor as it thinks fit with respect to such

misconduct and, *after giving notice to him*, hear and investigate such charge and section 93 shall apply to such charge accordingly.

[emphasis added]

The import and consequence of the words emphasised above is that the Tribunal was acting within its powers to prefer the 3rd Charge against the 1st Respondent since it had received information relating to the 3rd Charge which might give rise (and indeed gave rise) to disciplinary proceedings under Part VII of the Act. This reading of the provision is consistent with the observations made by this court in *Law Society of Singapore v Tan Phuay Khiang* [2007] 3 SLR 477 ("*Tan Phuay Khiang*") at [58] that the Disciplinary Committee (as the Disciplinary Tribunal was then called) was, pursuant to s 89(4), endowed with the statutory jurisdiction to prefer fresh charges once adequate notice of its intention to do so was given to the solicitor under investigation. The notice affords the solicitor a "reasonable opportunity to deal with any complaint levelled against him" (*Tan Phuay Khiang* at [50]).

72 In the present case, the 1st Respondent had a reasonable opportunity to deal with the 3rd Charge. On 21 May 2012, the Law Society made an application to introduce the 3rd Charge at the pre-hearing conference. At that point, the disciplinary proceedings were still in their preliminary stages. The parties had filed and served their respective list of documents, bundles of documents and affidavits of evidence-in-chief in the two months leading up to the 21 May 2012 hearing. As noted above at [20], the substantive hearings in relation to the three charges against the Respondents only began on 19 February 2013, giving the 1st Respondent ample time and opportunity to mount his defence. Indeed, we do not understand the 1st Respondent to be contending that he was not given sufficient time and opportunity to prepare his defence to the 3rd Charge.

73 The 1st Respondent also argued in his written submissions that s 89(4) of the Act "was never intended for a [Disciplinary Tribunal] to manufacture a jurisdiction to usurp the jurisdiction of [an Inquiry Committee]". [note: 29] In our judgment, this argument is nothing more than a mere assertion because the 1st Respondent has not cited any authorities or materials to support the purported intention behind s 89(4) of the Act which he has advanced in his written submissions. Section 89(4) of the Act was introduced by clause 19 of the Bill which on enactment became the Legal Profession (Amendment) Act 1993 (No 41 of 1993). We have reviewed the parliamentary materials relating to the introduction of this clause and did not find anything to support the 1st Respondent's argument. Contrary to the Respondents' argument, it is clear that the object of s 89(4) was to facilitate the efficient disposal of complaints of misconduct levelled against a solicitor so as to avoid multiplicity of disciplinary proceedings against the same solicitor, subject always to the overriding consideration that the solicitor concerned should always have a fair opportunity to defend himself in relation to the new charge(s).

74 Given that the 1st Respondent has not contested the elements of the 3rd Charge, which in our judgment have been established, due cause for disciplinary action within the meaning of s 83(2)(*h*) of the Act has been shown: the 1st Respondent's misuse of his client's funds undisputedly constitutes behaviour unbefitting an advocate and solicitor.

What is the appropriate sanction under s 83(1) of the Act for each respondent?

75 Section 83(1) of the Act provides as follows:

Power to strike off roll, etc.

83.—(1) All advocates and solicitors shall be subject to the control of the Supreme Court and

shall be liable on due cause shown —

(*a*) to be struck off the roll;

(*b*) to be suspended from practice for a period not exceeding 5 years;

(*c*) to pay a penalty of not more than $100,000;

(*d*) to be censured; or

(*e*) to suffer the punishment referred to in paragraph (*c*) in addition to the punishment referred to in paragraph (*b*) or (*d*).

76 It was held in *Law Society of Singapore v Tham Yu Xian Rick* [1999] 3 SLR(R) 68 at [18] that disciplinary action under s 83 of the Act serves three functions, namely, (a) punishment of the errant solicitor for his misconduct; (b) deterrence against similar defaults by other like-minded solicitors in the future; and (c) protection of public confidence in the administration of justice.

77 In cases of proven dishonesty, a solicitor will invariably be struck off the roll, regardless of the solicitor's mitigating circumstances (see the oft-cited observations of Sir Thomas Bingham MR in *Bolton v Law Society* [1994] 2 All ER 486 at 491 (cited in *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR(R) 266 at [14])):

> Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors.

78 The observations of the Court of Three Judges in *Law Society of Singapore v Uthayasurian Sidambaram* [2009] 4 SLR(R) 674 at [75] are also apposite:

> 75 … the sanction must be commensurate with the degree of culpability of the solicitor, the breaches committed and the extent and effect to which public confidence in the administration of justice has been shaken (and consequently, must be restored through punishing the errant ways of the solicitor). As Chan Sek Keong CJ recently observed in *Law Society of Singapore v Nor'ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [92]:
>
> > The relevant sentencing principles applicable to professional misconduct have been distilled by this court in *Law Society of Singapore v Ng Chee Sing* [2000] 1 SLR(R) 466 at [49]-[50], as follows:
> >
> > (a) Where a solicitor has acted dishonestly, the court will order that he be struck off the roll of solicitors.
> >
> > (b) If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, he will nonetheless be struck off the roll of solicitors, as opposed to merely being suspended, if his lapse is such as to indicate that he lacks the qualities of character and

trustworthiness which are necessary attributes of a person entrusted with the responsibilities of a legal practitioner.

(c) A further consideration to be borne in mind when deciding on the appropriate penalty is the public dimension of disciplinary sentencing, which is the equivalent of public denunciation by the court in the process of punishing an offender for the offence he has committed. This process serves to preserve public confidence in the legal profession as an integral part of the legal system.

79 Applying the above principles to the conduct of the 1st Respondent, we are of the view that he should be struck off the roll. The 1st Respondent's conduct has clearly fallen below the required standards of integrity, probity and trustworthiness expected of a legal practitioner in (a) advising Ms Rankine to transfer a large sum of money under the pretext of safekeeping it and (b) refusing to return the money. He had also behaved opportunistically in rendering that advice to Ms Rankine upon seeing her receiving the considerable sale proceeds from the Joan Road property. In directing Ms Rankine to transfer the sum of $1.8m to his wife and the 2nd Respondent's wife, the 1st Respondent evidently took advantage of Ms Rankine's trust in him as well as her fear of Mr Amin. The entire transaction was very well disguised. The 1st Respondent did not directly transfer $1.8m from MGP's accounts to the Respondents' wives but cleverly used Ms Rankine as a conduit to effect the payment so that everything would appear proper and above board. The 1st Respondent's behaviour in relation to his misuse of the $20,000 cashier's order also underlines his lack of the integrity and trustworthiness that are necessary attributes of a person entrusted with the responsibilities of a legal practitioner. Indeed, in relation to both the 1st and 3rd Charges, the 1st Respondent had conducted himself dishonestly. In our judgment, the appropriate sanction for the 1st Respondent is for him to be struck off the roll.

80 Similarly, the 2nd Respondent's conduct, which involved him acting in collusion with the 1st Respondent, also fell below the required standards of integrity, probity and trustworthiness. He agreed with the 1st Respondent's advice to Ms Rankine to make the disputed payments in the form of two cheques issued to the Respondents' wives. He also played an active role in the 1st Respondent's scheme to take advantage of Ms Rankine as seen by the following:

(a) he accepted the payment of $200,000 to his wife;

(b) he wrote directly to Ms Rankine to deny that the $1.8m payment was for safekeeping (see above at [55]); and

(c) he told Ms Rankine to inform her banker, Ms Chong, that the payment was for "investment purposes", an unmistakable lie which was inconsistent with his own characterisation of the disputed payments as a gift (see above at [68]).

81 We, therefore, have no hesitation in reaching the conclusion that the 2nd Respondent was also dishonest in the discharge of his duties as an advocate and solicitor. It follows that the appropriate sanction in the circumstances is for the 2nd Respondent to be struck off the roll.

Conclusion

82 For the foregoing reasons, due cause for disciplinary action has been shown against the Respondents. Accordingly, we order that the Respondents be struck off the roll. The Respondents shall also bear the costs of these proceedings.

[note: 1] Record of Proceedings Volume IV Part A at p 279.

[note: 2] Record of Proceedings Volume IV Part A at p 282.

[note: 3] Disciplinary Tribunal's Report at para 133 *et seq*.

[note: 4] Applicant's Core Bundle Vol II Part C at p 26.

[note: 5] Applicant's Core Bundle Vol II Part C at pp 26 – 27.

[note: 6] Respondent's Core Bundle Vol I at p 163.

[note: 7] Applicant's Core Bundle Vol II Part C at p 27.

[note: 8] Respondents' written submissions at para 237.

[note: 9] Tribunal's decision at [62].

[note: 10] Applicant's Core Bundle Vol I at p 83.

[note: 11] Respondents' written submissions at para 868.

[note: 12] Core Bundle Vol II Part B at p 90, para 6.

[note: 13] Applicant's Core Bundle Vol I at p 83.

[note: 14] Record of Proceedings Vol III Part A at p 22.

[note: 15] Respondent's Written Submissions at paras 860–862.

[note: 16] Record of Proceedings Vol III Part A at p 17, para 29.

[note: 17] Record of Proceedings Vol III Part A at p 18, para 31.

[note: 18] Tribunal's GD at [68].

[note: 19] Record of Proceedings Volume IV Part A at pp 238 and 242.

[note: 20] Applicant's Core Bundle Vol 2 Part B at p 249.

[note: 21] Record of Proceedings Volume IV Part A at p 280.

[note: 22] Record of Proceedings Volume IV Part A at p 281.

[note: 23] Applicant's Core Bundle Vol 2 Part B at p 252.

[note: 24] Tribunal's GD at [112].

[note: 25] Record of Proceedings Vol III Part F at pp 77-79.

[note: 26] Applicant's Core Bundle Vol II Part A at p 73.

[note: 27] Applicant's Core Bundle Vol II Part A at p 73; Record of Proceedings Vol III Part E at p 27.

[note: 28] Record of Proceedings Vol III Part H at p 192.

[note: 29] Respondents' written submissions at para 767.