IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC 37

Originating Application No 1012 of 2024 (Summonses Nos 3105 of 2024 and 2286 of 2025)

Between

(1) Zhongshan Shengwang Electrical Appliance Co., Ltd
(2) Fanco Fan Marketing Pte Ltd

… *Applicants*

And

(1) Phua Kian Chey Colin
(2) Triple D Trading Pte Ltd

… *Respondents*

JUDGMENT

[Contempt of Court — Civil contempt]
[Contempt of Court — Sentencing]

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Zhongshan Shengwang Electrical Appliance Co Ltd and another
v
Phua Kian Chey Colin and another

[2026] SGHC 37

General Division of the High Court — Originating Application No 1012 of 2024 (Summonses Nos 3105 of 2024 and 2286 of 2025)
Kwek Mean Luck J
22 October 2025, 3 February 2026

19 February 2026 Judgment reserved.

Kwek Mean Luck J:

Introduction

1 In HC/OA 1012/2024 ("OA 1012"), HC/SUM 2286/2025 ("SUM 2286"), the applicant, Fanco Fan Marketing Pte Ltd ("Fanco"), sought an order of committal against Mr Colin Phua Kian Chey ("Mr Phua") and Triple D Trading Pte Ltd ("Triple D"). The grounds are that they committed breaches of an order issued by the Assistant Registrar ("AR") in HC/SUM 960/2024 ("SUM 960") specifically HC/ORC 2796/2024 ("ORC 2796"), for Triple D to produce documents. Fanco relied on the facts set out in its supporting affidavit.[1]

[1] Affidavit of Quek Lip Ngee dated 26 September 2024 ("Quek's affidavit").

2 In OA 1012, HC/SUM 3105/2024 ("SUM 3105"), the applicant, Zhongshan Shengwang Electrical Appliance Co. Ltd ("Zhongshan"), sought an order of committal against Mr Phua and Triple D. The grounds are that they breached two orders issued by Vinodh Coomaraswamy J in HC/SUM 777/2024 ("SUM 777"), namely: (a) HC/ORC 1583/2024 dated 26 March 2024 ("ORC 1583"), in which Triple D was directed to disclose its assets in an affidavit by 2 April 2024; and (b) HC/ORC 2894/2024 dated 9 May 2024 ("ORC 2894"), a post-judgment Mareva injunction ("Mareva Injunction"). Zhongshan relied on the facts set out in its supporting affidavits.[2] I note that in relation to (a), while Zhongshan framed ORC 1583 as a direction for Triple D to disclose its *assets and means*, ORC 1583 itself requires only the disclosure of *assets* and not means (see [68] below). I have therefore construed ORC 1583 accordingly.

3 Mr Phua initially filed reply affidavits on behalf of the committal respondents in response to the committal applications. The committal applicants then applied for an order for the production of documents against the committal respondents. On appeal, I set aside the order granting production of documents and at the committal respondents' request, allowed them to withdraw the reply affidavits to assert the privilege against self-incrimination: *Zhongshan Shengwang Electrical Appliance Co Ltd v Phua Kian Chey Colin* [2025] SGHC 213.

4 On 22 October 2025, the committal respondents informed the court that they are not contesting both committal applications and are prepared to admit to the facts as set out by the committal applicants.[3]

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[2] Affidavit of Yin Jian dated 3 September 2024 (Yin's affidavit"); Supplemental Affidavit of Lieu Kah Yen dated 26 September 2024.

[3] Notes of Evidence (22 October 2025) at p 2 lines 9–10 and lines 35–36.

5 Under s 4(1)(*a*) of the Administration of Justice (Protection) Act 2016 (2020 Rev Ed) ("AJPA"), "[a]ny person who … intentionally disobeys or breaches any judgment, decree, direction, order, writ or other process of a court … commits a contempt of court". After carefully considering the undisputed facts as set out by the committal applicants in the supporting affidavits, I found Triple D and Mr Phua guilty of contempt of court in that they have committed:

(a) breaches of an order issued by the AR in SUM 960, specifically ORC 2796, in which Triple D was ordered to produce copies of documents or classes of documents identified in Part A of the Schedule to ORC 2796; and

(b) breaches of two orders issued by Coomaraswamy J in SUM 777, namely: (i) ORC 1583, in which Triple D was directed to disclose Triple D's assets in an affidavit by 2 April 2024; and (ii) ORC 2894, a post-judgment Mareva injunction.

6 Parties were then directed to file submissions on sentencing. I set out below my decision on sentencing.

Parties' position

7 The committal applicants submit that Mr Phua should be sentenced to an aggregate sentence of 12 to 24 months imprisonment (4 to 8 months for each

breach of order),[4] while the committal respondents submit that Mr Phua should be fined an aggregate amount of $240,000 ($80,000 for each breach of order).[5]

8 The committal applicants submit that Triple D should be fined an aggregate of not less than $240,000 ($80,000 for each breach of order). The committal respondents initially submitted that Triple D should be fined an aggregate of $220,000 ($70,000 each for ORC 2796 and ORC 1583, $80,000 for ORC 2894), but subsequently revised their sentencing position, having raised concerns of double counting, to be contingent on the sentence imposed on Mr Phua. I will elaborate on this at an appropriate juncture.

Applicable law on sentencing in contempt of court cases

9 The courts have, in a series of cases, set out a number of factors and guiding principles germane to sentencing for contempt of court in relation to disobedience of court orders. These factors are by no means exhaustive, given the fact-sensitive nature of the exercise. In *Sembcorp Marine Ltd v Aurol Anthony Sabastian* [2013] 1 SLR 245 ("*Sembcorp*"), Quentin Loh J (as he then was) distilled the following sentencing principles from a review of the case law: at [68]:

(a) the attitude behind the contemptuous behaviour;

(b) the motive for committing the contemptuous act;

(c) whether a fine would be an adequate deterrent;

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4 Applicants' Joint Written Submissions on Sentencing dated 5 November 2025 ("AWS") at para 41.

5 Respondent's Joint Written Submissions on Sentencing dated 5 November 2025 ("RWS") at para 79.

(d) the reversibility of the breach;

(e) the standard of care expected of the contemnor;

(f) the nature of the contemptuous act;

(g) whether the contemnor was remorseful; and

(h) whether others were procured to commit the contemptuous act.

10 In *Tay Kar Oon v Tahir* [2017] 2 SLR 342 ("*Tay Kar Oon* (CA)"), the Court of Appeal held that the following non-exhaustive factors provide a useful framework for analysis: at [55]:

(a) whether the applicant had been prejudiced by virtue of the contempt and whether the contempt was capable of remedy;

(b) the extent to which the contemnor acted under pressure;

(c) whether the breach was deliberate or unintentional;

(d) the degree of culpability;

(e) whether the contemnor had been placed in breach of the order by reason of the conduct of others;

(f) whether the contemnor appreciated the seriousness of the deliberate breach; and

(g) whether the contemnor had cooperated.

11 In *WestBridge Ventures II Investment Holdings v Anupam Mittal* [2024] 3 SLR 332 ("*WestBridge*") at [167], S Mohan J held that, with reference to the case law surveyed in *Sembcorp,* factors which may weigh in favour of a custodial sentence include:

> (a) a continuing, deliberate and persistent course of conduct;
>
> (b) the failure of all other efforts to resolve the situation, and the continued lack of co-operation from the contemnor;
>
> (c) egregious behaviour and motive
>
> (d) the position of the contemnor and the standard of care expected from him/her, for instance as an officer of the court;
>
> (e) repeated breaches of a court order evincing a flagrant disregard of the court's authority; and
>
> (f) the likelihood that a fine would not be an adequate deterrent, for instance if the contemnor is a bankrupt without means to pay, or if the cost of the fine has been internalised into the cost of the contemnor's contempt.
>
> [references omitted]

12 Mohan J however, noted at [168] that where the main motive behind a contemnor's contemptuous conduct is to seek a financial advantage, a fine may be most appropriate, for it can nullify the profits hoped to be gained from the act and achieve proportionality with the contempt committed.

13 In the course of their submissions, the committal applicants referred to a number of English cases. For these, it is pertinent to bear in mind the guidance in *Mok Kah Hong v Zheng Zhuan Yao* [2016] 3 SLR 1 ("*Mok Kah Hong*") at [105], that the sentence imposed in foreign cases might be based on different frameworks, and that they are useful not for purposes of establishing benchmark sentences but for discerning the common factors that courts take into consideration.

Relevant facts and appropriate sentence

ORC 2796

The relevant facts

14 ORC 2796 was made in the context of SUM 960, in HC/OC 370/2022 ("OC 370"). OC 370 was a claim by Fanco against Triple D for passing off, brought on the basis that Triple D had marketed and sold in Singapore fans under the sign "COFAN", which is identical or highly similar to Fanco's trademark "CO-FAN".[6]

15 Summary judgment was granted in favour of Fanco on 29 September 2023. The judge also granted an inquiry as to damages, or at Fanco's election, an account of profits.[7]

16 Fanco's solicitors wrote to Triple D on 20 December 2023 to request for production of documents. On 30 January 2024, Triple D replied that there was no audited schedule of the fans sold nor the related revenue and expenses. They provided some figures and explained that the total profit from the sale of the "COFAN" fans was $25,000.[8] On 5 February 2024, Fanco's solicitors requested for supporting documents.[9] On 7 March 2024, Triple D disclosed to Fanco a summary breakdown relating to the sales of its "COFAN" fans in Singapore ("Summary Breakdown"), asserting again that profit from the "COFAN" sales

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6 Quek's affidavit at para 15.

7 Quek's affidavit at para 16.

8 Reply affidavit filed on 24 April 2024 by Mr Phua Kian Chey Colin in SUM 960 annexed as QLN–6 in Quek's affidavit ("SUM 960 Reply Affidavit") at paras 14–16.

9 SUM 960 Reply Affidavit at para 17.

amounted only to $25,000.[10] Triple D further represented to Fanco on 8 March 2024,[11] that it could not locate documents in support of the Summary Breakdown, as the source documents were lost in the shifting of office from Yishun to the WCEGA Tower.[12] This was reiterated in a letter from Triple D's solicitors on 27 March 2024.[13]

17 On 3 April 2024, Fanco's solicitors wrote to Triple D's solicitors requesting for further information and documentation on whether Triple D had taken any steps to retrieve the documents from the relevant third parties and enquiring when the Summary Breakdown was prepared.[14] On 8 April 2024, Triple D's solicitors replied that Triple D had failed to locate the documents requested, and that the Summary Breakdown was prepared in or around August 2023, before the shifting of office, and finalised in or around January 2024.[15]

18 When Fanco took out SUM 960 on 11 April 2024, its position was that there were reasons to believe that the documents remained in Triple D's possession and control.[16] Triple D repeated in its reply affidavit that it had lost all source documents in the office move, and that the Summary Breakdown was

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10 Quek's affidavit at pp 511.

11 Quek's affidavit at p 530.

12 SUM 960 Reply Affidavit at paras 19–24.

13 SUM 960 Reply Affidavit at paras 25–26.

14 SUM 960 Reply Affidavit at para 27; Quek's affidavit at pp 541–542.

15 SUM 960 Reply Affidavit at paras 28–29.

16 Notes of Evidence dated 28 May 2024 in relation to SUM 960 as annexed as QLN–5 of Quek's affidavit ("SUM 960 NE") at p 28 lines 1–2.

prepared before the source documents were lost and was an accurate reflection of the totality of the "COFAN" sales.[17]

19 At the hearing of SUM 960 on 28 May 2024, the AR noted that Triple D was unable to offer any cogent explanation for why the timestamp on the file indicated that it was created after the date that Triple D had claimed it was created.[18] The AR also noted that there were material inconsistencies in Triple D's account as to when the documents were allegedly lost and in its explanations for its inability to provide the documents.[19] There was evidence that the WCEGA Tower address was simply a registered address and that Mr Phua had previously made statements that were demonstrably false on affidavit.[20]

20 The AR made the following orders as set out in ORC 2796:[21]

> a. [Triple D] is, by 14 June 2024 …, to (i) produce copies of documents or classes of documents identified in Part A of the Schedule hereto (the "**Schedule**") which are in its possession or control (the "**Requested Documents**"); or (ii) if any of the Requested Documents are not in [Triple D]'s possession or control, file and serve on [Fanco] an affidavit stating this as well as whether [Triple D] had such possession or control previously, and, if so, when [Triple D] parted with possession or control and what has become of the Requested Document.
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> b. For the avoidance of doubt, the affidavit referred to in Order a(ii) above (if any) should at least state the following:
>
> > a. the exact date or dates when [Triple D]'s office move took place;

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17 SUM 960 Reply Affidavit at paras 34–68.

18 SUM 960 NE at p 28 lines 4–14.

19 SUM 960 NE at p 28 lines 16–30.

20 SUM 960 NE at p 28 line 32 to p 29 line 13.

21 Quek's affidavit at para 17.

> b. why the documents had to be moved to 21 Bukit Batok Crescent #0275 WCEGA Tower Singapore 658065 (the "**WCEGA Tower premises**");
>
> c. whether [Triple D] had access to the WCEGA Tower premises (and if [Triple D] states that it had access, documentary evidence confirming the same, including but not limited to photographs of the premises and any lease agreement or tenancy agreement);
>
> d. how the office move was done (e.g., by [Triple D] itself or third party movers);
>
> e. when the [Triple D] last saw the Requested Documents;
>
> f. exactly how the Requested Documents came to be misplaced during the move; and
>
> g. particulars of the steps taken by [Triple D] to locate the Requested Documents.

21 The Requested Documents related to source documents which would establish the revenue obtained by Triple D, as well as the costs and expenses it incurred from the sale of the "COFAN" line of fans in Singapore. This included invoices issued to customers, dealers, distributors or any other third party; invoices issued by manufacturers or suppliers from which Triple D had obtained its stock of "COFAN" fans; invoices evincing Triple D's costs and expenses relating to its distribution and sale of "COFAN" fans; and any documents (not being invoices) evincing Triple D's costs and expenses in relation to the manufacture, distribution and sale of "COFAN" fans.[22]

22 On 14 June 2024, Mr Phua filed an affidavit purportedly in compliance with ORC 2796 ("OC 370 Disclosure Affidavit").[23] There, Mr Phua annexed the

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22 Quek's affidavit at para 29.

23 Quek's affidavit at para 18.

Summary Breakdown.[24] However, there were no sales invoices or other documents to substantiate its claims of revenue, costs and expenses relating to the "COFAN" fans sold in Singapore. Triple D repeated that all the relevant documents (apart from the Summary Breakdown) had been misplaced when it moved office around August 2023.[25] Notably, Triple D averred that it did have access to the WCEGA Tower premises and annexed a photograph of Triple D's WCEGA Tower premises as evidence.[26] The photograph showed an office door with a plaque stating "Triple D Trading Pte Ltd".[27] Triple D also asserted that there was a complete bifurcation of premises, staff, delivery vehicles and other expenses attributable to Triple D's sale of the "COFAN" line of fans and the "BESTAR" line of fans.[28]

23 Shortly after the OC 370 Disclosure Affidavit was filed, on 18 June 2024, a Fanco employee went to the WCEGA Tower and took photographs of the exterior and of the unit which is Triple D's registered address. The photographs showed that Triple D's name was not on the WCEGA Tower directory and there was no sign for Triple D Trading Pte Ltd at the exterior of the relevant unit; instead, bolted plaques showed the names of other companies.[29] When Fanco took out an application in HC/S 189/2022 ("S 189") (an unrelated proceeding commenced by Zhongshan, also against Triple D (see [66] below)) as a non-party for permission to use documents created in S 189 for proceedings in OC

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24 Quek's affidavit at para 19.

25 Quek's affidavit at paras 20–23.

26 Affidavit of Phua Kian Chey Colin filed on 14 June 2024 as annexed as QLN–3 in Quek's affidavit (the "OC 370 Disclosure Affidavit") at para 15.

27 OC 370 Disclosure Affidavit at p 14.

28 OC 370 Disclosure Affidavit at para 27.

29 Quek's affidavit at para 50.

370, Mr Phua filed a reply affidavit on 20 September 2024 to assert that the photographs taken by Fanco were digitally altered. Mr Phua attached three additional photographs which showed the Triple D Trading Pte Ltd plaque bolted below the other companies' names and claimed that the photographs were taken on 18 September 2024.[30] On 20 September 2024, counsel for Fanco went to the WCEGA Tower address and took a photograph which showed that the Triple D Trading Pte Ltd plaque was not present.[31]

24 The committal application was commenced on 26 September 2024. In the supporting affidavit, Fanco averred that Triple D and Mr Phua had failed to produce the Requested Documents, as it was not true that all the source documents pertaining to the sales and costs of the "COFAN" fans were lost in the office shift, as attested to in Mr Phua's OC 370 Disclosure Affidavit.[32] Broadly, Fanco furnished evidence that Mr Phua had doctored photographs in support of his claim that Triple D conducts business from the WCEGA Tower office,[33] and that Triple D continued to take delivery of products at its previous address[34] and had provided inconsistent accounts as to the costs and expenses related to the sale of the "COFAN" fans in the OC 370 Disclosure Affidavit.[35]

25 Even after the commencement of the committal application, Mr Phua maintained that he did not have the source documents. There were thus no documents relating to Triple D's revenue, costs and expenses before the AR

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30 Quek's affidavit at paras 51–52.

31 Quek's affidavit at paras 53–54.

32 Quek's affidavit at paras 32–33.

33 Quek's affidavit at paras 46–64.

34 Quek's affidavit at paras 65–68.

35 Quek's affidavit at paras 78–82.

during the assessment of damages hearing in October 2024 and when the AR delivered his decision on 21 May 2025. The AR relied on invoices of sale of "COFAN" fans from 23 April 2021 to August 2021, which Triple D had earlier produced in support of its claim of trade mark infringement against Fanco (which had failed), to extrapolate sales over the material period of 23 April 2021 to 31 October 2022: *Fanco Fan Marketing Pte Ltd v Triple D Trading Pte Ltd* [2025] SGHCR 15 ("*Fanco*") at [52].

26 On 19 November 2024, Mr Phua filed a reply affidavit on behalf of himself and Triple D in the committal proceeding, averring, again, that the source documents were lost in the office shift. The reply affidavit was, however, withdrawn after a series of events summarised above at [3]. At the committal hearing, the court was informed that Mr Phua and Triple D will not be contesting the application and were prepared to admit to the facts as set out in Fanco's supporting affidavit: see [4] above.

27 On the facts, I found Mr Phua and Triple D guilty of contempt of court in failing to disclose the Requested Documents in the OC 370 Disclosure Affidavit as it was not true that they were lost, and in so doing, intentionally disobeyed ORC 2796.

28 I note that Triple D has since paid off the judgment debt in relation to OC 370, with a consent to entry of satisfaction filed by Fanco on 11 July 2025.[36]

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[36] Notes of Evidence (14 October 2025) at p 1 lines 39–41.

My assessment

29 After considering the circumstances of the breach, I assess that Mr Phua should be sentenced to 3 month's imprisonment for the breach of ORC 2796. I explain below.

(1) The attitude and motive behind the breach

30 First, I am satisfied that Mr Phua's attitude behind the breach was contumelious and evidenced a deliberate, cynical and flagrant disregard of the court order. It was clear that Mr Phua's motive was to misrepresent to the court that the Summary Breakdown he had furnished was an accurate reflection of Triple D's profits in relation to the "COFAN" fans. In furtherance of this purpose, he continuously lied to maintain the façade that the source documents were lost.

31 As can be seen from the account of events above, at the outset of the assessment of damages hearing, Fanco had requested for documents evidencing Triple D's profit from the sale of the "COFAN" fans for the purposes of an account of profits. Mr Phua, through Triple D, produced the Summary Breakdown. This was found by the AR in the assessment of damages hearing to be unreliable. The AR also found Mr Phua's claim that the entirety of Triple D's sales of the "COFAN" fans are captured in the Summary Breakdown to be false: *Fanco* at [40]–[50]. Pursuant to the Summary Breakdown, the defendant's gross profit would only be $90,554.62: *Fanco* at [21]. In contrast, the AR had assessed a sum of $316,590.18 to be payable in an account of profits, premised on an extrapolation of invoices previously produced in evidence: *Fanco* at [90].

32 When asked through correspondence for documents to back up the Summary Breakdown, Mr Phua lied on multiple occasions that the source documents were lost in an office shift. When Fanco sought a formal order for the production of documents, Mr Phua doubled down on the false narrative. He doctored two sets of photographs and brazenly accused Fanco of doctoring their own photographs. Mr Phua also sought to give the impression that there were no shared costs in respect of premises, staff and delivery vehicles between its "COFAN" and "BESTAR" fans in an effort to inflate the costs associated with its "COFAN" fans. This sustained course of action was plainly adopted with the motive of stymieing Fanco's claim of an account of profits against Triple D.

33 The provision of positively misleading disclosure to minimise Fanco's claim is an aggravating factor. As Steven Chong J (as he then was) noted in *Technigroup Far East Pte Ltd v Jaswinderpal Singh s/o Bachint Singh* [2018] 3 SLR 1391 ("*Technigroup*") at [110], it may be considered an obstruction of the administration of justice when a defaulting party deliberately and substantially interferes with a litigant's ability to prove his case or to quantify the loss caused to him by refusing to adequately comply with a discovery order. One relevant consideration in this regard would be the extent of non-disclosure and whether any positively misleading disclosure had been made, *eg*, a pretence that complete disclosure had been given: *Technigroup* at [109]. In serious cases, it would appear that the defaulting party is attempting to evade a final determination of his obligations in accordance with law. The learned judge's observation applies with full force here. I am satisfied that the extent of non-disclosure was extensive and Mr Phua sought to furnish positively misleading disclosure.

34 In addition, Mr Phua's course of conduct is an aggravating factor. Mr Phua, acting on behalf of Triple D, sought to maintain a false account of events on multiple occasions. To furnish doctored photographs not just once, but twice, and to audaciously accuse Fanco itself of doctoring photographs, is conduct beyond the pale. Mr Phua carried his false account of events into the assessment of damages itself in his AEIC and his cross-examination on the stand, where the AR found that Mr Phua's version of events was more likely a self-serving fabrication to obstruct an account of profits: *Fanco* at [43]–[50]. Mr Phua acted deliberately and cynically in flagrant disregard of the court order: *Sembcorp* at [59] and [62].

(2) Whether the committal respondents were given an opportunity to purge the contempt and whether Fanco was prejudiced by the breach

35 Second, I consider the committal respondents' submission that they were not given an opportunity to purge the contempt,[37] because the assessment of damages had concluded and full repayment of the judgment sum has since been made to Fanco.

36 I am unable to give any mitigating weight to this. HC/OA 1005/2024 ("OA 1005"), the committal application by Fanco pre-consolidation, was filed on 26 September 2024. The assessment of damages hearing before the AR took place after OA 1005 was filed, in October 2024. The AR only delivered his judgment on 21 May 2025. The committal respondents had the opportunity to purge the contempt and to furnish the Requested Documents prior to the assessment of damages hearing, and before the AR delivered his judgment, but did not do so.

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[37] RWS at paras 75–76.

37 On this related note, I am satisfied that Fanco was substantially prejudiced as a result of the breach. The assessment of damages hearing proceeded without any of the Requested Documents. The committal respondents submit that no substantial prejudice was inflicted on Fanco. This is because the AR drew on invoices of sales of "COFAN" fans from 23 April 2021 to August 2021, previously produced by Triple D in its failed trademark claim against Fanco, to extrapolate over the material period of infringement starting 23 April 2021 to 31 October 2022.[38] Further, the committal respondents contend that it was Fanco who chose to proceed with the assessment of damages hearing with the limited invoices. Fanco could have applied to stay the assessment of damages pending the resolution of the committal proceedings, to exert pressure on the committal respondents to produce the relevant invoices, but this was not done.[39]

38 I do not agree with the committal respondents that no substantial prejudice was occasioned by non-disclosure. The extrapolation method could not be equated to the AR relying on the Requested Documents proper.[40] There is also no evidence that the AR's order of $316,590.18 in an account of profits was somehow greater than what would properly have been ordered if the Requested Documents were furnished. The committal respondents' recalcitrant conduct also resulted in the waste of significant time and costs on Fanco's part in attempting to procure the Requested Documents.

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38 RWS at paras 32–36.

39 Committal Respondents' Joint Reply Submissions on Sentencing dated 20 November 2025 ("RRS") at para 23.

40 Applicants' Joint Reply Submissions on Sentencing dated 20 November 2025 ("ARS") at para 29(c).

39 I also reject the committal respondents' submission that there was no substantial prejudice because Fanco chose to proceed with the assessment of damages. Fanco had tried on multiple occasions, but failed, to procure the Requested Documents from the committal respondents. There was no indication that Fanco would have succeeded in doing so as a result of the committal application. Fanco should not be expected to postpone the assessment of damages hearing and in so doing, continue to be denied its fruits of litigation on the tenuous hope that the committal respondents would eventually disclose the Requested Documents.

40 At the same time, I accept that the effect of non-disclosure and the substantial prejudice occasioned was somewhat fortuitously mitigated by the AR's ability to rely on other available evidence to arrive at his assessment of damages. In comparison, the effect of non-disclosure in *Technigroup* appeared more total and led to an absolute lack of direct evidence as to the actual business diverted away: *Technigroup* at [96].

(3) The payment of the judgment sum

41 Third, I assess the impact of the payment of the judgment sum. The committal respondents submit that this is a significant mitigating factor.[41] They rely on *Tahir v Tay Kar Oon* [2016] 3 SLR 296 at [60], which referred to *Arubugam Suppiah v Curt Evert Borgensten* [2001] SGHC 199 ("*Arubugam*"). In *Arubugam* at [131], Woo Bih Li JC (as he then was), took into account that the committal applicant had been fully paid his judgment sum by the time the application for committal was heard.

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[41] RWS at paras 30–31.

42 This, in my view, should be read in its context. The contempt was constituted of a failure to attend five examination of judgment debtor ("EJD") hearings and to file an asset disclosure affidavit: *Arubugam* at [131]. The purpose of the court orders was to secure the payment of the judgment debt. Where such sum is paid, the purpose of the court orders would be fulfilled. In those circumstances, the payment of the judgment sum would rightly be a significant mitigating factor.

43 In contrast, in the present case, the resolution of the judgment debt in OC 370 does not mitigate the prejudice inflicted on Fanco in the assessment of damages hearing through the absence of the Requested Documents.

(4) Whether Mr Phua was remorseful

44 Fourth, I consider the committal respondents' submission that Mr Phua was remorseful and desirous of facilitating the administration of justice, citing their withdrawal of Mr Phua's reply affidavits filed in response to the committal applications, and his tendering of an apology.[42]

45 While this is relevant, I also have to consider that the withdrawal of Mr Phua's reply affidavits may have not been motivated wholly by remorse. As I explained earlier, the committal applicants had applied for an order for the production of documents against the committal respondents to compel them to substantiate certain averments in their reply affidavits. The reply affidavits were withdrawn in the course of the application, for the committal respondents to assert the privilege against self-incrimination: see [3] above. The withdrawal of the reply affidavits could thus be motivated by the desire to avoid having to, yet

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42 RWS at para 37; RRS at para 11(d).

again, lie to the court in response to the order for production of documents and aggravate the contempt, bearing in mind what appears to be false claims contained therein.

46 Moreover, the apology from Mr Phua was only tendered after the sentencing submissions had first been exchanged. Counsel explains that the apology should have been sent to court simultaneously.[43] Nevertheless, it was not as though Mr Phua readily admitted and accepted his misconduct at first opportunity. He did so only when backed into a corner by the application for production of documents. Thus, while some mitigating weight may be accorded for the saving of judicial resources, arising from Mr Phua's decision not to persist in his contumelious course of action, this is limited by the lateness in which this was done.

47 While the committal applicants contend that the committal respondents took vociferous and abusive steps to defend against and to delay the committal proceedings,[44] I would not go so far. I am unable to conclude that the committal respondents' discharge, re-engagement and discharge (again) of their previous solicitors were taken to delay committal proceedings. Likewise, I do not assess as vociferous or abusive the committal respondents' reliance on the privilege against self-incrimination to resist the application for production of documents, only to seek to withdraw the reply affidavits on appeal.

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43 See Letter to Court dated 6 November 2025.

44 AWS at para 47.

(5) Mr Phua's personal circumstances

48 For completeness, I deal with the committal respondents' submission that some mitigating weight should be accorded to the fact that Mr Phua is not an officer of the court. Instead, he is a businessman, does not command a high level of the English language, and does not have a high education level.[45]

49 While a lawyer, being an officer of the court, is held to a higher standard so as not to bring the legal profession into disrepute, the fact that Mr Phua is not an officer of the court simply means that there is an absence of an aggravating factor: see *Edwin s/o Suse Nathen v Public Prosecutor* [2013] 4 SLR 1139 at [25]. Second, Mr Phua's education level is beside the point. He is a sophisticated businessman who has run several companies, including Triple D. He was also represented in OC 370, including in SUM 960. It cannot be said that Mr Phua could not understand the full consequences of his actions.

50 The committal respondents' submission that this was Mr Phua's first offence for contempt and that he was not a recalcitrant offender is also misconceived.[46] Given his extensive and severe breaches in two unrelated suits in over a year, he cannot and ought not to be considered a first-time offender.[47]

(6) Sentencing precedents

51 I now consider whether a sentence of imprisonment is warranted in light of the above considerations. The courts have recognised that committal to prison is not the starting point (*Sembcorp* at [47]) and is indeed normally a measure of

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45 RWS at para 39; RRS at para 11(b).

46 RWS at para 78; RRS at para 11(c).

47 ARS at para 35.

last resort: *Tay Kar Oon* (CA) at [58]. It is to be utilised where the court is faced with a recalcitrant and obstructive litigant in continuous breach: see *Exterian Capital Pte Ltd v Wong Jun Jie Adrian* [2024] SGHC 254 at [20].

52 In *Tay Kar Oon* (CA), the Court of Appeal noted at [56] two sentencing principles for contempt of court, namely coercion and punishment. In one-off breaches, the overriding sentencing principle is punishment. In continuing breaches, there would be both punitive and coercive elements, and the objective of compelling compliance is likely to be given a significant degree of weight: *Mok Kah Hong* at [103]. Where a contempt is not purged and it is within the powers of the contemnors to right the situation, the conduct of the contemnor in refusing to remedy the situation is a highly relevant factor: *OCM Opportunities Fund II, LP v Burhan Uray* [2005] 3 SLR(R) 60 ("*OCM*") at [36]. In *Sembcorp*, the court observed that "[i]t would thus seem that a custodial sentence relates to contumacious breaches where the contempt has yet to be purged": at [57].

53 In the present case, given the conclusion of the assessment of damages hearing, the coercive rationale is not operative. However, the punitive rationale continues to operate in its full force. In assessing the weight of the punitive rationale, it is relevant that in this case, the committal respondents were in a position to remedy their breach before the account of profits had crystallised and failing to do so, caused substantial prejudice to the committal applicant. In effect, there is a continuing breach which can no longer be remedied.

54 It is fundamental to justice, that a committal respondent should not benefit from stalling out committal proceedings until the underlying action is resolved, such that the continuing breach can no longer be remedied, and then claim that no coercive purpose should undergird the sentence for contempt and

thus a more lenient sentence should be imposed. To do so would be to create a perverse incentive on the part of contemnors to stall out the committal proceedings, in the hope that the underlying action is first resolved. Therefore, in my view, the sentence to be imposed in these circumstances should be similar to what would have been imposed had the underlying action and the need for coercion subsisted.

55 The committal respondents contend that the main motive behind Mr Phua's contemptuous conduct was to seek a financial advantage which may point towards a fine as a proportionate punishment: *WestBridge* at [168], *Sembcorp* at [56]. In *Lee Shieh-Peen Clement v Ho Chin Nguang* [2010] 4 SLR 801 ("*Clement Lee*"), the Court of Appeal found at [49] that as the advantage from the breach of the order was to have more money to spend, in that instance, a financial sanction was sufficient. However, I note that *Clement Lee* related to a pre-judgment freezing order in which the defendants' liability had not been established: *Clement Lee* at [7]. This is different from the post-judgment disclosure order in the present case, where defiance is clearly linked to an intention to frustrate the account of profits.

56 While a fine may be a proportional punishment to contemnors seeking a financial advantage, this is but one factor to take into consideration: see *WestBridge* at [167]. There is a countervailing concern that levying only a financial penalty in response to contempt motivated by financial advantage may not result in sufficient deterrence if a committal respondent has done his calculations and built the fines into his cost: *Cartier International BV v Lee Hock Lee* [1992] 3 SLR(R) 340 at [43]; *Sembcorp* at [68(f)].

57 The underlying question is whether a fine would be adequate to punish and deter contemptuous behaviour: *WestBridge* at [166]; *Sembcorp* at [67]. I assess that a custodial sentence is warranted here to protect the respect for the court's orders and authority. This is consistent with the sentencing precedents. Having regard to the factors enumerated in *WestBridge* at [167] (see [11] above) and *Wei Ho-Hung v Lyu Jun* [2025] 1 SLR 950 ("*Wei Ho-Hung*") at [63]–[65], Mr Phua's conduct was deliberate and persistent: *Sembcorp* at [68(a)]. The contempt was not purged as the account of profits had proceeded without the Requested Documents, even though the judgment sum was ultimately paid. His motive in seeking to thwart a proper account of profits was egregious: *Sembcorp* at [68(b)]. The nature of the contemptuous act was sufficiently grave as Mr Phua had sought to do so through a deliberate and sustained manner over the course of multiple affidavits and correspondences, doctoring photographs, extending to even accusing Fanco of doctoring their photographs: *Sembcorp* at [68(f)]. His actions evinced a flagrant disregard of the court's authority.

58 I turn to consider the precedent relied on by the committal respondents in favour of a non-custodial sentence. The committal respondents rely on *Baker, Michael A v BCS Business Consulting Services Pte Ltd* [2024] 3 SLR 302 (*"Baker"*), in which a fine of $100,000 was imposed on the errant director, and contend that the sentence for Mr Phua's breach should be calibrated downwards.[48]

59 In *Baker*, the court found at [64] that the director had continuously and persistently disobeyed the anti-suit injunction ("ASI") and took active steps to undermine the judgment as well as the contempt proceedings, and this appeared

[48] RWS at paras 40–46.

to be still continuing. This prejudiced the parties protected by the ASI as there was an ongoing risk of a conflicting outcome and they had to respond to the actions taken in the Californian proceedings. The non-compliance was clearly intentional and motivated by financial gain. There were no attempts to comply with the ASI. Nonetheless, the court did not impose a term of imprisonment against the director, primarily because the director had failed to ultimately obtain any decision in their favour from the Californian courts. A fine of $100,000 was imposed: *Baker* at [65]–[66].

60 In my view, Mr Phua's actions were more culpable than that of the director's in *Baker*. In *Baker*, the contempt was a breach of the ASI. While this was a flagrant and audacious breach of a court order, there was no dishonesty involved. Mr Phua however furnished positively misleading disclosure and maintained this false version of events on multiple occasions, on affidavit and on oath. This justified a calibration *upwards* from the sentence in *Baker*, for a custodial sentence to be imposed.

61 In my assessment, *Technigroup* provides a useful point of comparison for the length of the custodial sentence. There, an imprisonment term of four months was imposed on the first and second defendants for failing to disclose documents relating to related party transactions and project documents which were crucial for assessment of damages. These documents were sought in the course of three court orders. The committal respondents contended that the company which documents were sought in relation to, did not exist as a legal entity; that the first to fourth defendants did not own or control any other corporate entity; and similarly maintained a lie on multiple occasions: *Technigroup* at [11], [16], [28]. The first and second defendants continued to maintain the false position, and when the court gave the defendants an

opportunity to explain in cross-examination, their position worsened: *Technigroup* at [112]. Chong J (as he then was) rejected the submission that the plaintiffs were not prevented from advancing their damages claim because they found other means to quantify their damages by inviting expert opinions. The plaintiffs were nonetheless handicapped by the non-disclosure as there was no better basis than the documents evidencing the very transactions: *Technigroup* at [114].

62 The coercive rationale was operative in *Technigroup* because the assessment of damages hearing had yet to be heard. In that case, the sentence was suspended for a month for the committal respondents to purge their contempt. But as noted above, I am of the view that the sentence to be imposed in the present case should be similar to what would have been imposed had the underlying action and the need for coercion subsisted.

63 In my view, the conduct of the first and second defendants in *Technigroup* can be said to be more serious, although not by much. Both the first and second defendants in *Technigroup* and Mr Phua had sought to positively mislead the court in disclosure. The former by representing that the company did not exist as a legal entity, the latter by saying the company had moved offices and lost the Requested Documents in that move. Mr Phua's conduct in lying on affidavit multiple times and in doctoring photographs tendered as evidence, and worse, accusing Fanco of doctoring *their documents*, was brazen.

64 The substantial prejudice occasioned to Fanco appeared to be, to some degree, fortuitously ameliorated by the AR's extrapolation from existing invoices, in contrast to the utter lack of documents in *Technigroup*. I would note

that this can at most be said to be somewhat ameliorated. As the committal respondents have refused to disclose the Requested Documents, it is unknown how much they may have gained from their breaches. Some mitigating weight is also to be accorded to Mr Phua's withdrawal of the reply affidavits and abandonment of his false version of events. This is in contrast to the first and second defendant's recalcitrance in *Technigroup*, which persisted into cross-examination.

65 Having regard to the imprisonment term of four months imposed in *Technigroup*, I am of the view that the custodial sentence to be imposed in relation to the breach of ORC 2796 should be shorter than that in *Technigroup*. Taking all the above into consideration, I sentence Mr Phua to three months' imprisonment for breach of ORC 2796.

ORC 1583 and 2894

The relevant facts

66 ORC 1583, a disclosure order, and ORC 2894, a post-judgment Mareva injunction, were issued in the course of S 189. S 189 was commenced by Zhongshan against Triple D for outstanding payments for delivered ceiling fan products. Triple D was ordered to pay RMB1,885,630 with interest ("Judgment Sum") and costs.[49]

67 Mr Phua, on behalf of Triple D, initially averred in a supporting affidavit dated 9 October 2023 for an application to stay the execution of the judgment in S 189, that Triple D was a going concern company and that they had stocks

[49] Yin's affidavit at paras 16 and 18.

and assets.[50] Zhongshan commenced an enforcement application in HC/SUM 2901/2023 ("SUM 2901") for the examination of Triple D *qua* judgment debtor, specifically that Mr Phua, who is the sole director and shareholder of Triple D, be ordered to attend and be examined on Triple D's property and means.[51] On 23 February 2024, Mr Phua stated in oral examination that Triple D was no longer a going concern with no customers since sometime end-2023. This contradicted Mr Phua's averment in an affidavit filed on 11 January 2024 that Triple D had the ability to satisfy the Judgment Sum and costs orders, was not impecunious, and was running its business operations without issue at that time. It also contradicted the earlier affidavit dated 9 October 2023.[52]

68 In HC/ORC 1583/2024, Coomaraswamy J ordered that for purposes of the hearing of Zhongshan's application for a Mareva injunction, Triple D was to file an affidavit of assets by 2 April 2024, disclosing "all of [Triple D's] assets anywhere in the world, whether in its own name or not, and whether solely or jointly owned by [Triple D], giving the value, location and details of all such assets".[53]

69 On 2 April 2024, Mr Phua filed an affidavit disclosing only an OCBC account ("OCBC Account"), an insurance policy and four vehicles used by Triple D in the course of their business and/or for their purposes of their work ("S 189 Disclosure Affidavit").[54] On 30 April 2024, Zhongshan filed a reply

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50 Yin's affidavit at para 20.

51 Yin's affidavit at para 19(b).

52 Yin's affidavit at paras 26–27.

53 HC/ORC 1583/2024 annexed as YJ–9 in Yin's affidavit.

54 Yin's affidavit at para 29; see Affidavit of Phua Kian Chey Colin dated 2 April 2024 (S 189 Disclosure Affidavit) annexed as YJ–10 to Yin's affidavit.

affidavit, highlighting numerous issues with the S 189 Disclosure Affidavit.[55] Zhongshan took issue with Mr Phua's assertion that the OCBC Account had no value. Zhongshan also asserted that: (a) there were three other undisclosed motor vehicles registered to Triple D; (b) there were undisclosed assets belonging to Triple D, furnishing evidence of a 40-foot container of ceiling fan products delivered to Triple D,[56] and (c) Triple D had advertised its BESTAR brand at a football match held on 21 March 2024, which contradicts Mr Phua's assertions in the EJD proceedings Triple D was not a going concern since end-2023.[57]

70 On 9 May 2024, Coomaraswamy J granted the Mareva Injunction prohibiting Triple D from disposing its assets, particularly any money in its OCBC Account in Singapore up to a specified limit of S$445,000. This was subject to the Angel Bell exception, in which Triple D was not prohibited from dealing with or disposing any assets in the ordinary and proper course of business, but must account to Zhongshan within seven days for the amount of money spent in this regard. The Mareva Injunction was extracted as ORC 2894 on 11 June 2024.[58]

71 Coomaraswamy J also ordered pursuant to HC/ORC 2430/2024 ("ORC 2430") that Triple D file a second disclosure affidavit ("S 189 Second Disclosure Affidavit") in light of the undisclosed assets highlighted by

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55 Yin's affidavit at para 29.

56 Final Reply Affidavit of Lieu Kah Yen dated 30 April 2024 ("S 189 Reply Affidavit"), annexed as YJ–10 to Yin's affidavit, at paras 13–51.

57 S 189 Reply Affidavit at paras 77–81.

58 Yin's affidavit at para 30.

Zhongshan.[59] In the S 189 Second Disclosure Affidavit, Triple D accepted that it inadvertently omitted to disclose three vehicles, but denied ownership of the 40-foot container of alleged ceiling fans and explained, in relation to the advertisement of the BESTAR trademark, that it had transferred the ownership of the BESTAR trademark in 2022.[60]

72 On 28 May 2024, Zhongshan's counsel wrote to the court to seek clarification as to Triple D's duty to account under the Angel Bell exception, on the basis that the weekly accounts provided by Triple D were lacking in particulars and supporting evidence as to the basis of payments out of Triple D's OCBC Account.[61] On 18 June 2024, Coomaraswamy J's clarifications were communicated to Triple D, which Triple D was directed to "provide sufficient particulars and supporting documents for [Zhongshan] to ascertain whether [Triple D] did indeed make each payment comprised in any given account in the ordinary and proper course of its business".[62]

73 Zhongshan's committal application commenced on 3 September 2024. In the supporting affidavit, Zhongshan avers that Mr Phua's disclosure under the S 189 Disclosure Affidavit was incomplete and false.[63] Zhongshan takes issue with several averments in the S 189 Disclosure Affidavit:

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59 Yin's affidavit at para 31.

60 Affidavit of Phua Kian Chey Colin filed on 30 May 2024, annexed as YJ–11 in Yin's affidavit.

61 Yin's affidavit at paras 32–33.

62 Yin's affidavit at p 1996.

63 Yin's affidavit at para 43(a).

(a) First, Mr Phua claimed that the OCBC Account was valueless as it was a trading account of Triple D. Zhongshan notes that Mr Phua had refused to provide Triple D's latest bank statement for the OCBC Account, and that the OCBC Account must have value to be used as a trading account.[64] Further, Triple D's ability to advertise the BESTAR brand contradicts Mr Phua's statements that the OCBC Account had no value, and that Mr Phua's assertion that the ownership of the BESTAR trademark had been transferred away from Triple D in 2022 was not supported by any evidence or supporting documents.[65]

(b) Second, Mr Phua failed to disclose at least three other motor vehicles. Zhongshan notes that in Mr Phua's S 189 Second Disclosure Affidavit, Mr Phua admitted that the failure to disclose was inadvertent and due to an oversight.[66]

(c) Third, Mr Phua failed to disclose the goods and stocks or other inventory of Triple D. Mr Phua had also responded in the examination questionnaire that Triple D had no goods and no warehouses,[67] confirmed that there were no debtors to Triple D,[68] and repeatedly testified in oral examination that Triple D had no customers.[69] Zhongshan notes that there was evidence that Triple D had been making monthly payments for warehouse rental and to factories, and that Triple

64 Yin's affidavit at para 47.

65 Yin's affidavit at paras 48–55.

66 Yin's affidavit at paras 56–57.

67 Yin's affidavit at paras 64 and 78(a).

68 Yin's affidavit at para 78(b)

69 Yin's affidavit at paras 76–77.

D had been taking delivery of products.[70] Likewise, there was evidence that Triple D had customers paying into its OCBC Account in January and February 2024 and up to July 2024.[71]

74 Second, Zhongshan avers that Triple D and Mr Phua had breached the Mareva Injunction through the wrongful dissipation of assets.

(a) Triple D failed to provide sufficient particulars and supporting documents to account for various transactions of Triple D's OCBC Account. The relevant time period identified was from 20 May to end-June 2024.[72] While Triple D, through their solicitors at the time, Sanders Law LLC, had provided weekly accounts, the accounts came without particulars and supporting information, which was not in compliance with the Angel Bell exception.[73] Triple D had only provided derisory explanations such as "REFUND OF PAYMENT", "COMPANY PAYMENT" and "BUSINESS EXPENSES" for payments as large as $25,000 without further elaboration.[74] This persisted despite Coomaraswamy J's clarification that Triple D's weekly account was to include sufficient particulars and supporting documents.[75] Zhongshan also takes issue with various discrepancies in the further particulars and

70 Yin's affidavit at paras 58–74.

71 Yin's affidavit at paras 75–80.

72 Yin's affidavit at para 82.

73 Yin's affidavit at para 82–93.

74 Yin's affidavit at para 88.

75 Yin's affidavit at paras 89.

supporting documents provided by Coleman Street Chambers LLC, which took over as Triple D's solicitors in July 2024.[76]

(b) Zhongshan's industry sources had informed them that Triple D had directed its customers to make payment of Triple D's invoices to Triple D Enterprises instead.[77] Triple D Enterprises was also directed to take over corporate opportunities belonging to Triple D, for instance, by taking ownership of ceiling fans from Triple D, while Triple D bears the costs of importing the goods.[78]

75 Zhongshan also points out that Mr Phua had unnecessarily delayed the production of the bank statements for the OCBC Account from March 2021 to February 2024 by sending the request form by post, which resulted in Zhongshan receiving the bank statements only on 25 July 2024, some five months after the date the documents were ordered to be produced.[79] Further, Mr Phua was evasive when questioned about transactions with affiliates and business records, testifying that he did not have any business records or supporting documents to justify some of the business expenses.[80] Mr Phua was also, at best, inconsistent as to the location at which Triple D conducts its business.[81]

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76 Yin's affidavit at paras 94–107.

77 Yin's affidavit at paras 108–109.

78 Yin's affidavit at paras 110–112.

79 Yin's affidavit at paras 117–128.

80 Yin's affidavit at paras 129–136.

81 Yin's affidavit at paras 137–139.

76 On 19 November 2024, Mr Phua filed a reply affidavit in these proceedings on behalf of himself and Triple D, averring that he had properly disclosed Triple D's assets, and that he did not breach the Mareva Injunction. The reply affidavit was however withdrawn (see [3] above). The court was informed that Mr Phua and Triple D will not be contesting the application and were prepared to admit to the facts as set out in Zhongshan's affidavit (see [4] above).

77 On the facts, I found Mr Phua and Triple D guilty of contempt of court in relation to ORC 1583, in failing to properly disclose Triple D's assets in the S 189 Disclosure Affidavit, as Triple D's OCBC Account did in fact have value and that Triple D had undisclosed goods and stocks. I also found Mr Phua and Triple D guilty of contempt of court in relation to ORC 2894, for breaching the Mareva Injunction in failing to properly account to Zhongshan and dissipating assets from Triple D.

78 Triple D has since paid off the judgment debt of $445,000 in relation to S 189. The Mareva Injunction was discharged on 22 October 2024.[82] A consent to entry of satisfaction was filed by Zhongshan on 31 December 2024.[83]

My assessment

79 After considering the circumstances of the breach, I sentence Mr Phua to one month's imprisonment for the breaches of ORC 1583 and 2894. I explain.

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82 RWS at para 67.

83 Notes of Evidence (14 October 2025) at p 1 lines 35–39.

(1) The attitude and motive behind the breach

80 First, I am satisfied that Mr Phua had acted in a contumelious fashion, and evidenced a deliberate, cynical and flagrant disregard of the court orders. When Mr Phua was asked to disclose the assets of Triple D, his response – disclosing only the OCBC Bank Account and an insurance policy (both of which Mr Phua had attributed zero value to) and four motor vehicles, representing these to be all of Triple D's assets – was boldfaced. Confronted with evidence that the S 189 Disclosure Affidavit was utterly deficient, Mr Phua doubled down in the S 189 Second Disclosure Affidavit, conceding that Triple D had three more motor vehicles previously omitted in disclosure, but otherwise persisting with the ambit of his original disclosure. Despite the imposition of the post-judgment Mareva Injunction (in part, because of these unsatisfactory disclosures), Triple D continued to flout the terms of the Mareva Injunction by failing to properly account for its transactions with the OCBC Account. This failure to properly account persisted despite Coomaraswamy J's clarification on 18 June 2024 and counsel for Zhongshan placing Triple D on notice as to the insufficiency of their particulars.[84] Mr Phua also did not dispute Zhongshan's assertion that he had sought to divert payments and corporate opportunities to Triple D Enterprises.

81 In my assessment, Mr Phua's conduct was for the audacious purpose of frustrating Zhongshan's enforcement of the Judgment Sum, first, by falsely representing that Triple D had no goods and no customers and second, by hollowing out Triple D through diverting of opportunities. He did so by lying multiple times on affidavit and in oral examination, and acting in defiance of

[84] Yin's affidavit at para 89–92.

the Mareva Injunction. This, in my view, constitutes egregious behaviour and motive, and flagrant disregard of the court's authority: *Sembcorp* at [59] and [62]. In particular, Mr Phua's breaches go beyond non-disclosure as he fabricated a version of events to justify his positively misleading disclosure that Triple D had no business. This is aggravating: see the above analysis at [33] on *Technigroup*. While the Mareva Injunction was only in place for five months, from 9 May 2024 to 22 October 2024,[85] this does not detract from the seriousness of Mr Phua's conduct.

(2) Whether the breaches have been purged and whether Zhongshan was prejudiced by the breach

82 Second, I turn to consider whether the breaches of the court orders have been purged and whether Zhongshan was prejudiced by the breaches. The committal respondents submit that they were not given an opportunity to purge the contempt, as the Mareva Injunction has since been discharged and full repayment of the Judgment Sum has since been made to Zhongshan.[86]

83 I am unable to agree that the committal respondents did not have sufficient opportunity to purge the contempt. The disclosure order, ORC 1583, was granted on 26 March 2024. The post-judgment Mareva Injunction, ORC 2894, was granted on 9 May 2024. OA 1012 was filed by Zhongshan on 26 September 2024. It was only after OA 1012 was filed, that the underlying claims in S 189 were satisfied. Zhongshan filed a consent to entry of satisfaction in respect of S 189 on 31 December 2024. There was, in my view, more than

85 RWS at para 68.

86 RWS at para 76.

sufficient opportunity to purge the contempt before the committal application had been filed.

84 At the same time, I bear in mind the nature of the court orders. The purpose of ORC 1583 was to require Triple D to disclose its assets for enforcement purposes.[87] ORC 2894 was a post-judgment Mareva injunction to police enforcement.[88] Such enforcement is for the purpose of ensuring that there are adequate assets in Triple D to satisfy Zhongshan's claim.

85 Triple D's satisfaction of the judgment debt, in effect, addresses the purpose for disclosing the undisclosed assets and ensuring that there are sufficient assets in the OCBC Account. It would thus be fair to regard the contempt as being substantially purged. While the committal applicants highlight that Zhongshan did not receive any information or documents to allow it to police the Mareva Injunction,[89] or that the moneys dissipated were not returned to Triple D,[90] I accept the committal respondents' contention that the harm has been compensated to Zhongshan, given the satisfaction of the Judgment Sum.[91] This is a significant mitigating factor: see the analysis above at [41]–[42]. The coercive rationale has fallen away, and the court is left to consider the appropriate punishment for what appears to be breaches that have been remedied in effect.

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87 Yin's affidavit at paras 27–28.

88 Yin's affidavit at para 30.

89 AWS at para 46

90 AWS at para 38(c).

91 RWS at paras 69–70.

86 However, while the Judgment Sum was paid, Triple D only did so on 10 October 2024. It appears that repayment was due to OCBC imposing a total freeze on the OCBC Account notwithstanding the Angel Bell exception.[92] Given the series of enforcement actions taken by Zhongshan from approximately February 2023 up to October 2023, I accept Zhongshan's contention that there is some prejudice in the form of additional costs and time expended in pursuing satisfaction of Triple D's debt: *Wei Ho-Hung* at [65].[93]

87 In addition, even if the purpose of the relevant orders has been accomplished, the court may still examine the contemnor's conduct prior to the fulfilment of an order in the context of a committal application and to impose a custodial sentence if it sees fit: *Wei Ho-Hung* at [4] and [63]–[65].[94]

(3) Whether Mr Phua was remorseful and Mr Phua's personal circumstances

88 For the reasons set out above (at [44]–[46]), I give some limited weight to the committal respondents' belated apology and withdrawal of the reply affidavit. However, I do not give mitigating weight to Mr Phua's personal circumstances, for the reasons given at [48]–[50] above.

(4) Principles relating to breaches of freezing orders

89 With the above in mind, I turn to the committal applicants' contention that breaches of freezing orders and accompanying disclosure orders ought to generally justify a custodial sentence. In *Technigroup,* Chong J (as he then was)

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92 ARS at para 27(c).

93 ARS at para 27(d).

94 AWS at paras 13–14.

observed at [110] that breaches of disclosure provisions of a freezing order should ordinarily attract a custodial sentence:[95]

> 110 … Deliberate and substantial breaches of the disclosure provisions of a freezing order tend to be treated as a serious matter because any subsisting non-disclosure increases the risk that assets may be dissipated without accountability, which in turn undermines the very purpose of a freezing order and the other party's ability to satisfy his claim. For this reason, such a breach normally attracts an immediate custodial sentence (*JSC BTA Bank v Solodchenko* (No 2) [2012] 1 WLR 350 at [51]) …

90 In *JSC BTA Bank v Solodchenko (No 2)* [2012] 1 WLR 350 ("*JSC BTA Bank*"), the English Court of Appeal noted at [55] that freezing orders are made for good reasons – to stop the dissipation or spiriting away of assets. Any substantial breach of such an order is a serious matter meriting condign punishment, which would normally mean a prison sentence. However, "there may be circumstances in which a substantial fine is sufficient: for example, if the contempt has been purged and the relevant assets recovered": *JSC BTA Bank* at [55(ii)]. Further, "[w]here there is a continuing failure to disclose relevant information, the court should consider imposing a long sentence, possibly even the maximum of two years, in order to encourage future co-operation by the contemnor": *JSC BTA Bank* at [55(iii)].

91 In my assessment, the general principle articulated in English cases and in *Technigroup* is undergirded by the need to police a Mareva injunction, so as to ensure that a claimant would enjoy the fruits of its litigation. The coercive rationale (see [52] above) would thus be operative. If a committal respondent were only to be fined for such a breach, a committal respondent would likely continue to dissipate assets which may yield greater financial benefit than the

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95 AWS at para 19(c).

court-imposed fine. In this case, Triple D has paid off the judgment debt and Zhongshan has been able to enjoy the fruits of its litigation. This coercive rationale is hence not relevant here. The relevance of the above two authorities should thus be viewed in this light.

(5) Sentencing precedents

92 I first consider whether a custodial sentence is nevertheless warranted, even though the breach could be seen as effectively purged. Returning to the factors enumerated in *WestBridge* (see [11] above), I am satisfied that Mr Phua engaged in a deliberate and persistent course of conduct. He had done so with egregious behaviour. By dishonestly concealing assets which ought to have been disclosed, his motive was to frustrate enforcement of the Judgment Sum. His repeated breaches of a court order evinced a flagrant disregard of the court's authority. To the extent that the breaches here concern financial advantage, for the reasons stated at [56]–[57], I am satisfied that a short custodial sentence is nonetheless warranted on balance. This is also consistent with sentencing precedents.

93 The committal respondents, again, refer to the case of *Baker* and the fine of $100,000 and submit that the sentence to be imposed should be calibrated downwards. For the reasons stated at [58]–[60], I take the view that it should instead be *calibrated upwards*, save that calibration upwards should be substantially mitigated by the fact that the Judgment Sum has been paid off.

94 In *Tay Kar Oon* (CA), the Court of Appeal imposed a fine of $10,000 instead of the eight-week imprisonment imposed by the court below. There, the appellant failed to attend the EJD hearing, breached an injunction order by failing to file the disclosure affidavit in time, and then breached court directions

to provide answers to the EJD questionnaire and attend another EJD hearing: *Tay Kar Oon* (CA) at [7]–[11]. The appellant was given an opportunity to purge her contempt. She sought to do so by completing the EJD questionnaire and disclosure affidavit, and disclosed further bank statements when the EJD questionnaire was incomplete. Notably, the respondent was prepared to withdraw the committal proceedings and indicated that he was no longer seeking a custodial sentence in any event: at [16]. The court noted that the appellant's contempt was substantially purged and there was little discernible prejudice from the failure to comply with the court order. The appellant was also suffering from psychological issues that hampered her ability to deal with legal proceedings: *Tay Kar Oon* (CA) at [60]–[61].

95 In the present case, the contempt can also be said to be substantially purged, and the prejudice limited since the underlying debt has been paid. However, the facts are far more aggravated. There is no suggestion or evidence that Mr Phua is suffering from psychological issues. His motives appear to be wholly targeted at the frustration of the judgment in S 189, and he had dishonestly omitted assets in his disclosure affidavit and made false representations on oath in his efforts to do so. This indicates that the attitude and motive behind the contemptuous behaviour is one of deliberate intention and action to continue to obstruct the court orders. While the committal respondents submit that this was driven by financial motives, this also underscores that in relation to the nature of the contemptuous acts, these breaches were planned to obstruct payment and court orders, taking place over a period of time where there were opportunities to stop the contemptuous behaviour.

96 In my view, a useful case for comparison is *Wei Ho-Hung*. There, an order was granted on 14 March 2023 requiring the appellant to immediately do all things necessary to transfer a property to the respondent, with a clause empowering the Registrar of the Supreme Court to execute, sign or indorse all necessary documents: *Wei Ho-Hung* at [9]. The appellant did not take any steps to comply with the order, despite receiving the transfer form, and even tried to prevent the transfer by refusing to sign the form, failing to hand over the certificate of title to the respondent, objecting to the respondent's application for a new certificate of title and lodging a caveat: *Wei Ho-Hung* at [10]. Eventually, the Registrar executed the transfer form for the property on 10 April 2023, and the transfer was effected: *Wei Ho-Hung* at [52].

97 In *Wei Ho-Hung*, the Court of Appeal took into account four factors which pointed towards a custodial sentence: at [63]–[64]:

(a) The attitude behind the contemptuous behaviour: the appellant had acted deliberately against the order to obstruct the transfer of property and even continued to assert ownership after the property had been duly transferred to the respondent.

(b) The motive for committing the contemptuous act: the appellant had done the acts with the intention of disobeying and even thwarting the very purpose of the order.

(c) The nature of the contemptuous act: the appellant had sought to obstruct the order in a deliberate and sustained manner over four different acts and omissions, including active steps to thwart the execution of the order.

(d) The appellant's behaviour in the contempt proceedings: it was an aggravating factor that the appellant lied before the judge in the contempt proceedings, even though the appellant appeared to come clean in the later part of the hearing.

It was for these reasons that the court held that, in order to protect the respect for the court's orders and its authority, a term of imprisonment was warranted, even though the court saw fit to reduce the imprisonment term from one month to two weeks, as the prejudice caused to the respondent was limited to some delay and additional costs in the transfer: *Wei Ho-Hung* at [65]. I note that the transfer in *Wei Ho-Hung* had already been effected, and the sentence would not be undergirded with the need to coerce compliance with the order. This indicates that a custodial sentence may be imposed, premised on a contemnor's conduct, even when an order is ultimately fulfilled.[96]

98 In my assessment, Mr Phua's culpability is higher than that in *Wei Ho-Hung*. Beyond the two court orders defied by Mr Phua, he had audaciously lied in oral examination and persisted in his false disclosure in the S 189 Second Disclosure Affidavit, even though he eventually withdrew the reply affidavits in the committal proceedings and admitted to the contempt. His contumacious behaviour compelled Zhongshan to have to apply for the Mareva Injunction, and the eventual fulfilment of the judgment debt appeared to have been driven by OCBC's imposition of a total freeze on the OCBC Account. The resulting additional costs and delay appear to have been greater than that in *Wei Ho-Hung*. This, in my view, justifies a longer custodial sentence than that imposed in *Wei Ho-Hung*.

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[96] AWS at para 14.

99 For completeness, the committal applicants referred me to a number of cases which related to breaches of Mareva injunctions, in which more substantial terms of imprisonment were imposed:

(a) *OCM*, in which six months' imprisonment was imposed for numerous breaches, including repeated breaches of a Mareva injunction: *OCM* at [13], [37];

(b) *Precious Wishes Limited v Sinoble Metalloy International (Pte) Ltd* [2000] SGHC 5 ("*Precious Wishes*"), in which three months' imprisonment was imposed for the withdrawal of $150,000 from the company's account in breach of a Mareva injunction without restitution: *Precious Wishes* at [33]–[34];

(c) *Maruti Shipping Pte Ltd v Tay Sien Djim* [2014] SGHC 227 ("*Maruti Shipping*"), in which six months' imprisonment was imposed for numerous breaches, "the most audacious" of which was the withdrawal of $380,000 in breach of a Mareva injunction: *Maruti Shipping* at [125]–[136].

100 I do not find these cases to be of assistance because in those cases, there was a continuous breach of the Mareva injunction (*OCM*) or there were withdrawals of significant moneys in breach of a Mareva injunction without restitution (*Precious Wishes*, *Maruti Shipping*). In the present case, Triple D has paid off the judgment debt and in so doing, the coercive rationale behind a substantial imprisonment term of six months in *OCM* no longer applied. There is no substantial prejudice inflicted on Zhongshan besides the additional cost and time incurred, unlike *Precious Wishes* and *Maruti Shipping* where sums were dissipated with no recourse.

101 Therefore, taking *Wei Ho-Hung* as a point of comparison, I impose an aggregate custodial sentence of one month on Mr Phua for his breaches of ORC 1583 and ORC 2894.

The aggregate sentence

102 Having established the individual sentences to be imposed in relation to the breaches of the court orders, I turn to consider the aggregate sentence to be imposed on Mr Phua. In *Attorney-General v Ravi s/o Madasamy* [2024] 3 SLR 1642 (*"Ravi*"), Hoo Sheau Peng J noted at [91] that "the general principle is that the sentences of imprisonment for *unrelated* offences ought to be made to run consecutively". This is subject to the "totality principle", which ensures that the global sentence is proportionate to the overall criminality of the offender. These general principles applied to the offence of contempt of court.

103 The breach of ORC 2796 is unrelated to those of ORC 1583 and 2894. The imprisonment term of three months (for ORC 2796) and one month (for ORC 1583 and 2894) will run consecutively. Mr Phua is hence sentenced to an aggregate of four months' imprisonment for his breaches of the three orders. This is, in my view, in line with the totality principle.

104 I note that the committal applicants' position, for Mr Phua to be sentenced to an aggregate sentence of 12 to 24 months' imprisonment, would have, as the committal respondents point out, resulted in what appears to be one of the highest sentences ever imposed in Singapore for deliberate disobedience of an order of the court.[97] In *Hilton International Manage (Maldives) Pvt Ltd v Sun Travels & Tours Pvt Ltd* [2024] 4 SLR 1347 ("*Hilton International*"), the

[97] RRS at para 20.

court imposed a suspended sentence of one year's imprisonment on the Chairman and Managing Director of the defendant company, for the defendant's deliberate and blatant refusal to comply with an order to pay amounts due under the judgment: *Hilton International* at [55]–[57]. The sum involved was approximately US$20m. The suspended sentence was ultimately not served and was substituted with a fine of S$100,000 because payment was procured: *Hilton International* at [62]–[63]. Assessing the totality of the circumstances, I think it is right that the sentence in the present case, where Triple D has paid off its judgment debts, is not as high as that in *Hilton International*, where the need to coerce payment of a very large sum may have justified such a long imprisonment term.

The sentence to be imposed on Triple D and the rule against double counting

105 I turn next to consider the appropriate sentence for Triple D. In *Baker*, a fine of $80,000 was imposed on the corporate contemnor, *Baker* at [35]. In *WestBridge*, a fine of $70,000 was imposed on the committal respondent, subject to a purge of the contempt: *WestBridge* at [214]. The committal applicants submitted that based on these precedents, an aggregate fine of no less than $240,000 would be appropriate.[98] On the other hand, the committal respondents initially took the position that an aggregate fine of $220,000 would be appropriate.[99] Calibrating with *Baker* and *Westbridge*, Triple D should be fined $70,000 for its breach of ORC 2796, $70,000 for its breach of ORC 1583 and $80,000 for its breach of ORC 2894.

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98 AWS at para 62(b).

99 RWS at para 79.

106 The committal respondents submitted that the court should take into account the rule against double counting and tailor the punishment to ensure the overall sentence is proportionate as against both the corporate and non-corporate contemnors. Mr Phua is the sole director and shareholder of Triple D, and by the committal applicants' own case, the controlling mind for Triple D's actions.[100] However, the committal respondents initially did not substantiate its submission and furnish any authority in support.

107 I note that in Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2nd Ed, 2019), the learned author observes that, where both the company and director are charged with the same offence, the courts should not impose deterrent sentences twice over when the company and director are in essence the same entity, citing as source, the case of *Lim Kopi Pte Ltd v Public Prosecutor* [2010] 2 SLR 413 ("*Lim Kopi*"). There, the appellant company was convicted of six charges under the Employment of Foreign Manpower Act (Cap 91A, 1997 Rev Ed) and initially fined $10,000 for each charge. The appellant was run by its sole shareholder and director, Lim, who had earlier been convicted of the same offences and sentenced to an aggregate six months' imprisonment. The High Court took the view that the fines were manifestly excessive as the appellant was effectively the *alter ego* of Lim, and the court should not impose double deterrent sentences, which could be said to be penalising Lim *in extenso*: *Lim Kopi* at [18]. Taking this into account with other factors, the court reduced the fines to $3,000 for each charge.

108 This principle was further considered in the case of *Public Prosecutor v Sindok Trading Pte Ltd* [2022] 5 SLR 336 ("*Sindok Trading*"). An individual,

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100 RWS at para 77; Quek's affidavit at para 6.

Chong, had incorporated companies to supply designated luxury goods to various entities in the Democratic People's Republic of Korea in contravention of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2010: *Sindok Trading* at [4]–[8]. On appeal, Chong's global imprisonment term was enhanced from two weeks to six weeks: *Sindok Trading* at [95], with the fines imposed on the three corporate entities enhanced to $311,000, $23,000 and $30,000: *Sindok Trading* at [123]–[125]. In coming to the fines for the corporate entities, the High Court noted at [109] the observations in *Lim Kopi* that:

> where the corporate entity is essentially the *alter ego* of the errant director, one must be careful not to impose a deterrent fine on the corporate entity for exactly the same offence for which a deterrent sentence was already imposed on the errant director, as this is tantamount to imposing double deterrent sentences for the same offence[.]

109 This accorded with the judge's view that the usual sentencing objectives of rehabilitation, deterrence and retribution must be modified in the sentencing of corporations, given that these objectives are targeted at human agency, decision-making or moral responsibility. The human actors are those being deterred, not the corporation: *Sindok Trading* at [108]. Nonetheless, the court did not think there would be any double counting as there was a sufficiently strong public interest in deterring both individuals and corporate entities from breaching the regulations relating to matters that affect Singapore's international standing. Further, the disgorgement of profits would also serve the objective of general deterrence: *Sindok Trading* at [115].

110 *Lim Kopi* and *Sindok Trading* were brought to the parties' attention by the court. In supplemental submissions, the committal applicants reiterated their

position for a fine of $240,000 to be imposed on Triple D,[101] while the committal respondents revised their position and contended that if a custodial sentence is imposed on Mr Phua, no fine, or alternatively a symbolic fine of $10,000, should be imposed on Triple D.[102]

(1) Whether concerns of double counting are in principle relevant to sentencing for contempt of court

111 I first consider whether concerns of double counting are in principle relevant to sentencing for contempt of court.

112 The committal applicants contend in their written submissions that the AJPA does not warrant such concerns forming part of the sentencing considerations.[103] Section 6(2) of the AJPA contemplates that a director or controlling mind may be adjudged liable and sentenced separately for a corporation's breach of a court order. Section 6(5) of the AJPA states that s 6(2) does not affect the corporation's liability for contempt of court under the AJPA and applies whether or not the corporation is found guilty of contempt. This indicates that in matters of sentencing, an errant company and its errant director are to be treated and sanctioned separately.[104]

113 In my view, these provisions of the AJPA, as the committal respondents rightly point out,[105] relate only to the distinct *liability* of both the corporate and

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101 Applicants' Joint Supplemental Submissions on Sentencing dated 12 December 2025 ("ASS") at para 19(b).

102 Committal Respondents' Joint Supplemental Submissions on Sentencing dated 12 December 2025 ("RSS") at para 12.

103 ASS at para 2(a).

104 ASS at paras 4–5.

105 RSS at para 5.

non-corporate contemnors for contempt of court. The provisions do not go so far as to prescribe the sentencing considerations which the court, having *established liability*, may have regard to in determining the appropriate sentences to be imposed. The AJPA thus does not preclude concerns of double counting. At the oral hearing, counsel for the committal applicants accepted that the AJPA was silent on the issue.

114 Next, the committal applicants contend that no authorities relating to committal cases involving both corporate and non-corporate contemnors have taken into account concerns of double counting.[106] The committal applicants pointed to three cases in particular – *Orexim Trading Ltd v Mahavir Port and Terminal Pte Ltd* [2024] SGHC 190 ("*Orexim Trading*"), where it was mentioned at [6]–[7] that Hoo J imposed a fine on the corporate contemnor and sentenced its four officers to imprisonment; *Distributed Ledgers Technologies (DLT) Pte Ltd v Suji Mannattu Thampi* [2024] SGHC 148 ("*Distributed Ledgers*"), where at [34] the court rejected the contention that the two corporate entities and two individuals share in one fine; *Hilton International*, where the court at [56]–[57] imposed a maximum fine of $100,000 on the corporate contemnor company and one year's imprisonment on its director, with the latter suspended for the director to procure payment.[107]

115 However, in those cases, there was no finding that the corporate contemnors were the *alter ego* of the relevant persons. From the face of the judgments, it did not appear that the corporate contemnors were the *alter ego* of the relevant natural persons. In *Orexim*, there were four officers involved in the

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106 ASS at para 3.

107 ARS at para 32.

company, with board meetings held between the directors and only a majority approving a particular resolution: *Orexim* at [6]–[7]. In *Distributed Ledgers*, the two contemnor companies had numerous officers, including a Chief Executive Officer, a Chief Financial Officer and a Chief Platform Officer: *Distributed Ledgers* at [5]. In *Hilton International,* the contemnor director was the Chairman and Managing Director of the contemnor company (at [28]), but the court did not find it necessary to decide whether the director was the *alter ego* of the company: *Hilton International* at [49]–[50].

116 After carefully considering the authorities, I am satisfied that the principle elucidated in *Lim Kopi* is applicable to sentencing for contempt of court, such that deterrent sentences should not be imposed on both the natural person and the corporate contemnor when the contemnors are held liable for the same contempt of court. This principle is consistent with the view that a deterrent sentence imposed on a company is ultimately directed at the human actors behind the company (see *Sindok Trading* at [107]), and where a company is the *alter ego* of a human actor, this would effectively result in *two* deterrent sentences directed at the same human actor. The punishment on a contemnor should not be effectively doubled simply because the contempt was effectuated with the involvement of a corporate structure. However, this does not preclude the imposition of a separate punishment on the corporate contemnor, which may be justified by other considerations such as a sufficiently strong public interest to justify general deterrence and a need to disgorge profits: *Sindok Trading* at [115].

(2) Whether Mr Phua is the *alter ego* of Triple D

117 The committal applicants take the position that considerations of double counting are not germane in this instance because Mr Phua is not the *alter ego* of Triple D and has consistently relied on and asserted separate legal personality in the court proceedings.[108] This represents a sudden *volte-face* from the earlier position taken by the committal applicants in their written and reply submissions, that Mr Phua was the *alter ego* of Triple D.[109] On the facts of the case, I am satisfied that Mr Phua was the *alter ego* of Triple D. This turns on whether the company is carrying on the business of its controller: *Alwie Handoyo v Tjong Very Sumito* [2013] 4 SLR 308 at [96]. It is the committal applicants' case that Mr Phua, as the sole shareholder and director of Triple D, is the controlling mind and will of Triple D,[110] and had the ability to divert payments meant for Triple D to other corporate entities controlled by him.[111] The fact that Mr Phua had consistently (and unsuccessfully) asserted and relied on the doctrine of separate legal personality to disclaim responsibility for his contempt, in my view, is neither here nor there.

(3) The appropriate sentence

118 I turn to consider the calibration of the appropriate sentence on Triple D in the circumstances.

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108 ASS at paras 2(a), 12–13.

109 AWS at para 51; ARS at para 41.

110 Quek's affidavit at para 6.

111 Yin's affidavit at paras 108–112.

119 The committal applicants maintain that an aggregate fine of $240,000 should still be imposed on Triple D.[112] The concerns of double-counting are inapplicable in a case where an errant director is imprisoned while the errant company is fined as the deterrent functions are separate to reflect punishments for the distinct contemnors.[113] The imposition of fines on the errant company reflects disapprobation for the moral culpability of the company and disgorgement targeted at the financial advantage obtained by the company from its action: *Sindok Trading* at [110]–[111].[114] The fines may also serve the purpose of *general* deterrence in addition to specific deterrence: *Sindok Trading* at [115]. At the oral hearing, counsel for the committal applicants submitted that it would appear from the cases of *Lim Kopi* and *Sindok Trading* that concerns of double counting only manifest where both the natural person and the corporate entity are to be issued fines, and these concerns would be inapplicable where the natural person was to be sentenced to imprisonment.

120 The committal respondents take the position that *no fine*, or in the alternative, a symbolic fine of not more than $10,000, should be imposed on Triple D if a custodial sentence is imposed on Mr Phua, as any further punishment would be crushing and tantamount to a double deterrent sentence. Triple D's business would be significantly impacted by Mr Phua's imprisonment. A relevant factor in the sentencing of corporate contemnors is the community of interests which may be affected if a prohibitive fine is imposed, as the burden of the fine would be passed on to other innocent parties:

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112 ASS at para 19(b).

113 ASS at para 11

114 ASS at paras 14–15.

Lim Kopi at [21]. The imposition of a hefty fine would pass on the burden of the fine to the employees of Triple D.[115]

121 I disagree with the committal applicants that concerns of double counting would only be germane if the natural person was likewise fined. First, there is no basis for such a distinction in case law. While both Lim and the corporate entity were fined in *Lim Kopi*, it does not mean that concerns of double counting *only apply* in such a situation. I also observe that in *Sindok Trading*, although concerns of double counting were noted in relation to the calibration of fines imposed on the corporate entities (at [109]), this was against the backdrop of an imprisonment term imposed on Chong (at [95]). It was not a case where both the natural person and corporate entity were subject to fines. Second, the underlying concern is that double deterrent sentences should not be directed at the same human actor. In light of this rationale, it would not make sense for concerns of double counting to be germane when both the natural person and corporate entity were subject to fines, but fall to the wayside when a natural person is subject to a heavier (and more deterrent) sentence of imprisonment.

122 I agree with the committal applicants that a substantial fine would be apposite for the purpose of disgorging the financial advantage, if any, obtained by Triple D for the refusal to disclose its assets in the assessment of damages proceedings. As noted above at [38], while there is no evidence to quantify the financial advantage, if any, obtained by Triple D, there is likewise no evidence that the AR's account of profits had resulted in a quantum larger than what Triple D had earned. There is also a need to reflect the court's disapprobation

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115 RSS at paras 11–12.

for contempt of court, as the proper function of the judicial system is predicated on obedience to court orders. These considerations militate for a substantial fine, and I therefore am unable to agree with the committal respondents' position that no fine or alternatively a mere symbolic fine is to be imposed on Triple D. Nonetheless, I assess that, with the imposition of a custodial sentence on Mr Phua, the need for specific deterrence *vis-à-vis* Triple D (and by extension, Mr Phua) falls away. Further, a custodial sentence on Mr Phua gives sufficient effect to general deterrence and signals that disobedience of court orders is not something that the court takes lightly.

123 For completeness, I do not view the potential impact of a fine on Triple D's employees to be a relevant consideration in determining if a substantive fine should be imposed on Triple D. Triple D, as the *alter ego* of Mr Phua, its sole shareholder and director, should not be able to mitigate punishment by pointing to any downstream effects that a fine may or may not effectuate on the business. These downstream effects are speculative and further, would also be within the control of Mr Phua himself.

124 Likewise, I do not find helpful the committal respondents' citation of *Maruti Shipping*, in which a symbolic fine of $10,000 was imposed on the corporate contemnor, RMPPL, whereas the managing director of RMMPL (who holds 80% of RMPPL's shareholding) was sentenced to six months' imprisonment: *Maruti Shipping* at [140]–[141].[116] While it is possible that some concerns of double counting were tacitly operating in the court's mind, the court's predominant consideration in imposing a symbolic fine was that RMMPL was a dormant company and there was no indication that it had any

116 RSS at para 9.

assets: *Maruti Shipping* at [140]. There is no evidence of such in the present proceedings.

125 Therefore, even though I otherwise would have imposed high fines on Triple D for the breaches of ORC 2796, ORC 1583 and ORC 2894, I did not think it necessary for a further deterrent sentence to be imposed *qua* Triple D, bearing in mind the custodial sentence to be imposed on Mr Phua. I instead impose a fine of $45,000 for the breach of ORC 2796 and $15,000 for the breaches of ORC 1583 and ORC 2894, for an aggregate fine of $60,000 on Triple D. This ensures that the overall sentence remains proportionate.

Conclusion

126 For the above reasons, I impose an aggregate imprisonment term of four months on Mr Phua and an aggregate fine of $60,000 on Triple D.

Kwek Mean Luck
Judge of the High Court

Lee Wei Han Shaun (Too Xing Ji LLC) (instructed), Oh Pin-Ping, Loy Ming Chuen Brendan, Lieu Kah Yen and Lim Zhi Ying Julia (Bird & Bird ATMD LLP) for the applicants;
Nakoorsha bin Abdul Kadir and Nicholas Say Gui Xi (Nakoorsha Law Corporation) for the respondents.