Segar Ashok *v* Koh Fonn Lyn Veronica and another suit
[2010] SGHC 168

Case Number : Suit Nos 310 and 562 of 2007

Decision Date : 27 May 2010

Tribunal/Court : High Court

Coram : Belinda Ang Saw Ean J

Counsel Name(s) : Devinder K Rai and Subramaniam (Acies Law Corporation) for the plaintiff in Suit No 310 of 2007 and for defendant in Suit No 562 of 2007; Giam Chin Toon S.C. and Hui Choon Wai (Wee Swee Teow & Co) for the defendant in Suit No 310 of 2007 and for plaintiff in Suit No 562 of 2007.

Parties : Segar Ashok — Koh Fonn Lyn Veronica

Damages

Partnership

Tort

27 May 2010 Judgment reserved.

Belinda Ang Saw Ean J:

Introduction

1 The plaintiff in Suit 310 of 2007 ("Suit 310") is Dr Ashok Segar ("Dr Segar"), and the defendant is Koh Fonn Lyn Veronica ("Veronica") who is the plaintiff in Suit 562 of 2007("Suit 562"), while Dr Segar is the defendant. Both actions were heard conjointly over two tranches. The two actions are connected in that the protagonists are the same, and the background facts and the allegations of libels, *inter alia*, overlap. In such cases, an overview of the two actions is always beneficial to better appreciate whether the proceedings for libel and slander are motivated by a genuine desire for vindication or merely to pursue a vendetta following a fall out between erstwhile close friends and business partners. Finally, even if the respective libel and slander claims are successful, the level of damages in the circumstances of this case is likely to be substantially outweighed by the costs of pursuing and defending the allegations.

2 In Suit 310, Dr Segar claims against Veronica damages for libel in respect of three emails she had circulated on 31 March 2007 and 5 April 2007. Veronica denies that the emails contained the defamatory allegations complained of. She has pleaded lesser meanings to the alleged defamatory statements and has raised the defence of justification. Veronica is counter suing Dr Segar for defaming her in three SMS messages and an undated letter. There is also a separate claim for slander. In addition to damages for libel and slander, Veronica is seeking recovery of a sum of $209,137.44 paid to Dr Segar and to third parties on behalf of Dr Segar in their private dealings with each other.

3 In Suit 562, Veronica is suing Dr Segar in his capacity as her former business partner of a small jewellery business. It is common ground that the partnership terminated but the date of termination is disputed. It is also common ground that the business expenses and assets were to be shared equally, but the parties cannot agree on exactly how much each party had contributed to the business, and

how much of the jewellery were sold and how much of the jewellery and gemstones were left to be divided between the parties. Veronica wants Dr Segar to give, *inter alia*, an account of various matters pertaining to the jewellery business. In short, Veronica wants this court to order a taking of accounts of all sums due as between the partners consequent on the termination of the partnership.

4 Dr Segar has a counterclaim for an account of 32 pieces of blue sapphires and all jewellery and gemstones belonging to the business which he claims are or were in the possession and custody of Veronica, and he seeks a declaration that he is entitled to his half share in the disputed sapphires, jewellery and gemstones. Furthermore, Dr Segar claims his half share of the value of the disputed sapphires, jewellery and gemstones with the result that he wants payment of the value of his half share.

History of the relationship and the discord

Dr Segar's version

5 Dr Segar is a medical doctor by profession and owns a medical clinic at 184 East Coast Road, Singapore. According to him, he first met Veronica at his clinic in or about 1996 when she consulted him as a medical doctor. Over time, Dr Segar became Veronica's family doctor. Her parents-in-law also consulted him in his professional capacity. Dr Segar, Veronica and her husband, Ang Teann Meng ("ATM"), became good and close friends. In happier times, Dr Segar likened Veronica's family to being as "close to me as my own family". [note: 1] Dr Segar is also the godfather of Veronica's son. They would often vacation together and there were overseas trips to Australia, Japan, India, Sri Lanka, Norway and Argentina.

6 The close relationship between the parties led to collaborations in business ventures. The most important of these was a business involving the design and marketing of custom-made jewellery. According to Dr Segar, he has an interest in designing jewellery and Veronica liked his designs and jewellery so much that after his mother's funeral in June 2001, Veronica proposed to Dr Segar that they start a business in designing and marketing jewellery. Although the details of negotiations leading up to the establishment of the business were sketchy, Dr Segar testified that it was understood that the expenses of the jewellery business were to be shared equally. He was also to be responsible for the design of the jewellery whilst Veronica would engage her family's jewellery craftsman to produce the jewellery. Both parties were then to market the jewellery to their friends and acquaintances.

7 According to Dr Segar, there were at least three other businesses which he and Veronica and, at times, her husband, ATM, had participated in. In brief, in 2004, Dr Segar, Veronica and ATM decided to venture into the trading of scrap metal. The intention was to purchase scrap metal from Argentina for sale to manufacturing companies in Indonesia. That venture failed due to the difficulties encountered with the suppliers in Argentina. Next, Dr Segar and Veronica "dabbled" in the computer hardware business under the name of Stracom Technology. In relation to that business, Dr Segar and Veronica travelled to Taiwan to purchase laptop computers and they arranged for 100 units to be delivered to Singapore in batches of 20 units. However, both parties experienced difficulties in selling the computer laptops and decided to terminate the business prematurely. Next, a proposal to set up a Mediterranean fast food business came up. To that end, a company called Pitta Hut (S) Pte Ltd ("Pitta Hut") was incorporated by Dr Segar. However, as with the earlier two businesses, that venture stalled in the planning stage and the company was eventually wound up. Finally, they also invested in Sachris Enterprises Pty Ltd ("Sachris"), an Australian seafood business, but that business also failed.

8 In early 2003 (by Dr Segar's recollection), Veronica approached Dr Segar for a loan. Veronica and ATM were involved in ATM's family companies, Skatool Industries Pte Ltd ("Skatool Industries")

and Skatool Marine. To further their businesses, Veronica and ATM bought a new factory at No 7A Tech Park Crescent, Tuas Tech Park, Singapore but ran into financial difficulties in completing the purchase. Initially, Veronica requested a loan of $200,000 from Dr Segar who offered to refinance his property at 6 Merryn Road, Singapore to raise the necessary funds ("the Merryn Road property"). However, Dr Segar warned Veronica that the Merryn Road property was, at that point in time, mortgaged to Overseas Union Trust and the mortgage contained a penalty clause for early redemption. By remortgaging the property, he would have to incur a penalty. Furthermore, he also told Veronica that he had intended in the future to purchase a shophouse to serve as his medical clinic and private residence. Dr Segar had planned to use the Merryn Road property to finance the renovations of this shophouse, and a refinancing of the Merryn Road property at an early stage could foil his future plans.

9 In order to assuage his concerns, Veronica allegedly made four promises. First, Veronica promised to absorb the bank penalty that Dr Segar would have to suffer in the remortgage of the Merryn Road property. The bank penalty eventually turned out to be $41,127.87. However, in order to absorb the bank penalty as well as to have some extra cash for her own renovation works after completing the purchase of the Tuas factory, Veronica requested a bigger loan of $300,000 instead of $200,000. Dr Segar's understanding was that with payment of the bank penalty, Veronica would receive a sum of $258,872.13 (comprising of $300,000 - $41,127.87) but would repay the entire sum of $300,000. Secondly, Veronica also promised to pay the bank interest charges payable on the loan of $300,000. Similarly, Veronica also agreed to pay the legal fees involved in the refinancing. Finally, Dr Segar's impression was that if he were to purchase a shophouse in the future and did not have adequate funds to renovate it, "the Defendant [would] provide [the plaintiff] with the financial assistance to complete the works." [note: 2] On the basis of those promises, Dr Segar went ahead with the refinancing. On 12 April 2003 and 14 April 2003, a total sum of $258,872.13 was disbursed to Veronica. According to Dr Segar, the loan of $300,000 was fully repaid by January 2006.

10 In August 2003, Dr Segar bought a shophouse at 184 East Coast Road, Singapore, and was in need of funds to renovate the property. He informed Veronica that he would like his loan to be repaid. Veronica and ATM agreed to make repayment of the loan by contributing to the progress payments owing by Dr Segar to his renovation contractors and suppliers.

11 Another facet to the relationship between Dr Segar and Veronica that is in dispute was Dr Segar's appointment as a consultant of Skatool Industries. By Dr Segar's reckoning, he had since 2001 provided services as a consultant to Skatool Industries, and they are listed in his written testimony as follows:

(i) Advice in relation to Skatool Industries' investment in a manufacturing plant in China;

(ii) Advice in relation to the registration of Skatool Marine;

(iii) Compilation and editing of Skatool Industries' first product catalogue;

(iv) Advice in relation to the registration of the trade name "Skatool";

(v) Introduction of ship chandlers and glove manufacturers in Sri Lanka to Veronica and ATM;

(vi) Assisting Veronica and ATM in negotiating an amicable settlement of a claim for passing off made by a Norwegian company against Skatool Industries.

12 In 2003, Veronica offered to remunerate Dr Segar for his consultancy services to the tune of $6,000 a month. Dr Segar accepted this offer and duly invoiced Skatool Industries each month. Skatool Industries would then make payment on the invoice. There was, according to Dr Segar, no specific scope of the nature of the consultancy services which Dr Segar was to render. In March 2004, Veronica instructed Dr Segar to render all invoices for the consultancy fee to Skatool Marine. Accordingly, from April to June 2004, Dr Segar rendered the invoices to Skatool Marine and they were duly paid. The consultancy fees stopped thereafter. Dr Segar's explanation for the stoppage was that he had, at that point of time, asked for the $300,000 loan to be repaid by having Veronica pay off all renovation liabilities due on his shophouse. Veronica then requested the consultancy fee to be held in abeyance. Dr Segar agreed to suspend the consultancy fee until after the loan had been repaid.

13 By 2005, the relationship between the parties began to show signs of strain. In March 2005, Dr Segar travelled with Veronica and her family to Sydney, Australia for a holiday. During this trip, Veronica got into an altercation with Dr Segar's maid which caused unhappiness on the part of both parties. Another big argument between Dr Segar and Veronica took place in or about January or February 2006 when Veronica allegedly reneged on her intention to help out Dr Segar with the payment of the renovations works at his shophouse. The parties then mutually agreed to end their collaboration in the jewellery business. Dr Segar said he enquired what they should do about all the unsold jewellery and gemstones that were in his possession. Veronica then told Dr Segar that he could keep all of the unsold jewellery and gemstones. From that point onwards, Dr Segar regarded their friendship as having ended.

14 The relationship between the parties worsened after a New Year's Eve dinner that was held at the home of a mutual friend on 31st December 2006. During that dinner, ATM approached Dr Segar and offered his hand in greeting. Not only did Dr Segar refuse to take his hand, Dr Segar followed up with an SMS message to ATM in the early hours of 1 January 2007 (the "1st January SMS"). This SMS message was also sent to Marlene Gwee ("Marlene"), a friend of Veronica and Dr Segar's former clinic assistant. The contents of this SMS message are the subject matter of Veronica's counterclaim against Dr Segar for libel. It is convenient at this juncture to explain that in the 1st January SMS, Dr Segar alluded to Veronica's broken promises to him. Counsel for Dr Segar, Mr Devinder K Rai ("Mr Rai"), identified four promises: [note: 3] (a) to assist Dr Segar when he required financial assistance in renovating his shophouse; (b) Dr Segar could keep all the gemstones and jewellery; (c) the resumption of the monthly consultancy fee of $6,000; and (d) to continue to pay Veronica's father-in-law after his retirement the same remuneration and benefits previously received from Skatool Industries.

15 On 30th March 2007, Dr Segar received an email from Marlene (the "30th March Email"). The 30th March Email was sent to Dr Segar and copied to Dr Segar's friends and acquaintances, including Veronica. In that email, Marlene had accused Dr Segar of breaking up her marriage, and also rebuked him for grouping her husband, Henry Cheng ("Henry"), with Veronica. In examination-in-chief, Marlene explained that Dr Segar had made negative comments about Veronica and Dr Segar had commented that both Henry and Veronica had the same traits. In her opinion, Dr Segar was wrong to "lump Henry with Veron because Henry didn't do anything to him". [note: 4] In reply, Veronica on 31st March 2007

sent an email entitled "THE TRUE COLOURS OF A SINGAPORE DOCTOR" (the "31st March Email"). This email, along with another two emails mentioned below, formed the subject matter of Dr Segar's claims in libel. The 31 March Email was copied to Dr Segar's friends and acquaintances.

16 Upon receiving the 31st March Email, Dr Segar said he was very upset. He immediately sent ATM an SMS on his mobile phone wherein he sarcastically thanked Veronica for her email to Marlene (the "31st March SMS to ATM"). Later that same day, he also sent an SMS message to Marlene where he chastised her for working with Veronica to destroy his reputation (the "31st March SMS to Marlene").

17 On 5th April 2007, Veronica sent two further emails ("the "first 5th April Email" and "the second 5th April Email" respectively). Dr Segar alleges that Veronica made further defamatory and disparaging statements against him in these emails, including the allegation that he had kept the "good stuff" from their jewellery business for himself. Aggrieved, Dr Segar decided to hand over the gemstones that he considered most valuable to Veronica. In doing so, Dr Segar also sent an undated handwritten letter to ATM on 3 April 2008 ("the Letter"). The Letter is also a part of Veronica's counterclaim.

Veronica's version

18 Veronica's recollection of the facts was in parts slightly different from Dr Segar's in terms of emphasis than substance; in other areas, admittedly, the evidence conflict. According to Veronica, she first got to know Dr Segar sometime in 1994 to 1995 when ATM brought her to Dr Segar's clinic. Thereafter, Dr Segar became Veronica's family doctor. Veronica confirmed the couple's close friendship with Dr Segar and that they made many overseas trips together. Veronica described Dr Segar's relationship with her and her family as a one in which there was no clear demarcation of debts owed to one another, but each party regularly offered, and did, pay for items on behalf of the other. However, more often than not, she and her husband ended up with the bill, and she produced at the trial a slew of bills and receipts to prove her claim.

19 On or around March 2002, Dr Segar proposed setting up the jewellery business with Veronica as equal partners. Dr Segar said that he knew suppliers in Sri Lanka who could provide gemstones. To save on rentals and staff costs, the jewellery would be displayed in his medical clinic for sale to his patients. Dr Segar also offered to handle the accounts. Veronica agreed to his proposal and contributed some money to the start-up costs. Sometime in June 2002, Dr Segar suggested that they use the business name of "Sparkle from Belgium" and that the jewellery business be registered in Veronica's name as a sole proprietor. The reason for this side arrangement was prudence as Dr Segar did not want to court trouble with the Singapore Medical Council. Veronica agreed to do as asked and, accordingly, the business was registered in her name. However, to protect Dr Segar's interest in the partnership, the trademark "Sparkle" with the stylised font was registered in his name. In the business dealings regarding the jewellery business, Veronica had followed Dr Segar's lead at all times.

20 As for the loan from Dr Segar, Veronica explained that towards the end of 2002, she and ATM wanted to purchase a factory in Tuas. According to Veronica, it was Dr Segar who, upon hearing of Veronica's financial constraints, offered to help with a loan. Dr Segar did not mention how he intended to raise the loan. Veronica, who was grateful for the offer, promptly accepted and agreed to repay the loan within three years. Veronica received from Dr Segar, a cashier's order dated 12 April 2003 for $167,003.22 and Dr Segar's cheque dated 14 April for $91,868.91. Veronica was surprised to receive $258,872.13 and not $300,000. Dr Segar orally explained that he had deducted the sum of $41,127.87 from the loan amount of $300,000 as bank penalty for refinancing the mortgage of his Merryn Road property. Dr Segar also requested that Veronica pay the legal fees of $3,640.66 to his solicitors for

professional services rendered in the refinancing. At that time, Dr Segar had explicitly stated that the property had been refinanced solely for Veronica's benefit. Veronica was also asked to pay interest of 6% on the loan. Even though Veronica did not like the terms of the loan, she nonetheless accepted the cashier's order and Dr Segar's cheque as she urgently needed the money. To Veronica, this was the first sign of unpleasantness in their friendship.

21 Veronica testified that she subsequently found out that Dr Segar also benefited from the refinancing of the Merryn Road property by enjoying a lower interest rate (from 5% to 2%). Furthermore, Dr Segar had, in spite of what he told Veronica, obtained from the refinancing, a loan of more than $300,000 such that he was able to withdraw an additional $205,180.89 for himself.

22 Veronica agreed that from June 2003 to June 2004, she had repaid, in part, the loan by causing Skatool Industries to pay Dr Segar's clinic, Segar Medical Services Pte Ltd ("Segar Medical Services"), a sum of $6,000 a month. However, Veronica asserted that payment to his clinic was at Dr Segar's request and his instructions were that he wanted those payments reflected as his monthly income for consultancy services. Dr Segar even instructed Veronica, on two different occasions, to write letters to Hong Leong Finance, to whom the Merryn Road property was re-mortgaged, to confirm his appointment as a consultant. Although no such consultancy services were provided, Veronica and her husband agreed to help Dr Segar in this respect.

23 On the renovation costs for Dr Segar's shophouse at 184 East Coast Road, Veronica also proferred a different story. By her reckoning, Dr Segar had planned to carry out major renovations at his shophouse. He estimated that he needed about $200,000 and sought Veronica's help financially. Veronica agreed but the exact amount, extent and duration of the financial assistance that she was prepared to extend was not discussed. Accordingly, whenever Dr Segar asked her to make payments to contractors first, she would do so. Veronica did so because she had to repay Dr Segar's loan. From Veronica's perspective, it was understood that any amounts outstanding between the two parties would be settled later, and any moneys paid by Veronica in excess of the loan repayment would have to be repaid.

24 By 2005, Veronica was beginning to feel that she had paid in excess of the amount she owed to Dr Segar. His request for financial assistance continued and did not seem like abating. In the first half of that year, Dr Segar asked Veronica and ATM to pay for the installation of an elevator for the shophouse. Although Veronica felt that the elevator was somewhat unnecessary, she nevertheless made the payment. Later, Dr Segar requested that Veronica pay for the installation of a Jacuzzi and a fish pond. He also orally asked for a monthly payment of $10,000 for the rest of his life. Veronica declined to make these payments and the relationship between the parties deteriorated further.

25 Veronica also claimed that in early 2006, Dr Segar began to speak unkindly of her in front of third parties. In particular, Veronica alleged that Dr Segar told one Tore Dalseide ("Tore"), a customer of Veroncia's, that Veronica was not trustworthy and a bitch (the "Statement to Tore"). In or around July or August 2006, Veronica informed Dr Segar that she did not wish to invest any more moneys in the jewellery business.

26 Veronica and Dr Segar are in agreement on how the 1st January SMS came to be sent: see [14] above. The 31st March SMS to ATM and the 31st March SMS to Marlene were also shown to Veronica when they were received. Veronica did not deny sending the emails that were the subject matter of Dr Segar's claim in defamation (see [15] and [17] above).

SUIT 310: THE DEFAMATION ACTION

The publications complained of by Dr Segar

27 As stated, there are three emails in this libel action. The full text of each email is set out below. It is relevant to note that Veronica admitted, at the trial, that the three emails referred to Dr Segar; that she was the author of the emails, and that she had sent the emails to a group of people – 31st March Email was sent to 24 addressees; [note: 5] the first 5th April Email was sent to 46 addressees (which included the first 24 addressees); [note: 6] and the second 5th April Email was sent to 46 addressees. [note: 7] In light of her admission, the issue for determination is whether the contents of the emails are defamatory.

28 As can be seen below, the words and passages complained of are highlighted, and the meanings attributed to the emails are set out immediately below the text. Veronica's defence that the words bear lesser meanings are also set out below. Veronica is also claiming justification in relation to the natural and ordinary meaning which Dr Segar attributes to the offensive statements in the emails as well as the less serious meanings which she attributes to the emails. I will set out the plea of justification at a later section of this judgment.

First alleged libel: the 31st March Email

29 The 31st March Email was sent by Veronica to 24 individuals comprising of Marlene, Dr Segar's brother, and Dr Segar's circle of friends and associates but not Dr Segar himself. The email is entitled "THE TRUE COLOURS OF A SINGAPORE DOCTOR" (emphasis as in the original email). For ease of reference, I have inserted paragraph numbers and the double underline is to highlight the words complained of by Dr Segar as defamatory. The caps, bold, italicised and single underlined texts are the author's. The email reads as follows: [note: 8]

> Dear Marlene,
>
> [1] 1 thing I do not understand what you mean you see what he has done to his mother's property?
>
> [2] **WHAT HAS HE EXACTLY DONE TO HIS MOTHER'S PROPERTY? HAS HE CHEATED ON HIS MOTHER & BROTHER???**
>
> [3] Is he REALLY SUCH A MONSTER?
>
> A FIRST CLASS CON ARTISTE ??!!
>
> [4] Anyway, I am really glad to know that you also have come to your senses.
>
> [5] **Well, I have been keeping quiet for so long, its time for me to tell my side of the story**.
>
> [6] He was angry with me because I have refused to help him build his Palace at East Coast Road for FREE.
>
> [7] That is why after I left, he had to sell his Bungalow. And why after you left for China, he had to shut down the clinic.
>
> [8] He expected me to be at his BECK AND CALL at all times. Driver and all. He even told me

several times that my husband is stupid and to leave him alone. He even ask me several times to work for him. I have rejected him.

[9] But he has help me once BUT I have repaid him over and above it.

Point 1

[10] He has help me by giving me a loan of 300k but I have paid him back with ABOVE OD rates within 1.5year. I have paid over and above what he has loan to me.

Point 2

[11] He was tagging along whenever My husband and I fly out of Singapore for business at my expense. Saying that he is stress out and need a break. Eg; Norway, BBK, etc

Point 3

[12] Demanding that we bring him out for FREE LUNCHES AND DINNERS at my EXPENSES at fanciful Restaurant and because he was stress out. I have the bills and witnesses to prove. He will do the inviting and be the Angel but I will end up paying for the meals.

Point 4

[13] Plus the fact that I have GIVEN HIM 6K A MONTH FOR MORE THAN A YEAR to help him tie over his money problem. FREE !!! I have all to prove.

Point 5

[14] Even when I employed a chauffeur, he was also using my driver and car for free.

[15] I believe Mary (Point 1&4) and Sham and even you (Point 1-4) know all these as well.

[16] ***Honestly, I must have spend over 500k on him over the last 6 years*** .

[17] ***He has been controlling the Accounts and Jewellery of our Jewellery Business all along*** .

[18] ***Only to return the Unsold sets Jewellery to me BUT KEEPING THE GOOD STUFFS. All the Loose stones: 33 UNTREATED SAPPHIRES, PEARLS, DIAMONDS AND above 40cts EMERALDS FOR HIMSELF*** .

[19] ***HIS SHARE OF THE KEEP ARE DOUBLE OF MINE. When we are actually equal partners in the business!***

[20] ***But telling the world he has given me all the jewellery? Something which I absolutely had NO SAY and NO CHOICE! Is this fair?***

[21] ***The problem with him is he is always telling half a story and leaving it to you to imagine the other half. With the better benefiting him*** .

[22] ***It a pity a PERSON of this SUCH GOOD Family Background needs to retort (sic) to such tricks and tactics. Guess that there are always Sucker s like us in this world who will buy a***

Sob story. Till we find out the truth before he move to the his next victim. He has always been trying to play 1 against the other. "Divide and Conquer" He once said to me .

[23] ***He is very good at playing on your emotions and heart strings. He will show to the world that he is such a giving person but will talk behind your back and stabbed you. Like what he did to me in Australia. Only to be told the truth by a friend 2 months ago*** .

[24] ***He mislead others thinking that WE are with him because WE ARE trying to cheat him of his house. WE ARE the Devil and HE the Angel. This is what happen to me*** .

[25] ***Some may ask Why Am I SO stupid to give in. He emotionally blackmailed you into thinking without him you will not have what you are today. Guess I was under some kind of spells*** .

[26] ***I thank him for his loan but I did not take advantage and walk away with the money. Even though there was no IOU sign*** .

[27] ***BUT WHAT PEOPLE DONT KNOW IS THAT I paid over 45k for bank penalty for him which was for re structuring his loan on his bungalow. This was added into the 300k that he loan me*** . This was the deal that we had.

[28] **One thing for sure! He did not loan me out of the goodness of his heart. In fact, he has all to gain and nothing to lose**.

[29] He got a much cheaper borrowing rates of about from the bank (the rates were really low 2years ago) but charged me 300k OD rates right from the start to the end. I was paying him 300k OD rates even when I have repaid all but 50k. Because he said he is tight with money.

[30] ***I have repaid over and above but when his demands will getting too high and hard to bear... He even demanded me to give him 10k a month and support him for the rest of his life. That was when I really learn for myself that he is a BOTTOMLESS PIT and I had to move on with my life*** .

[31] ***AN EXPENSIVE AND HARD Lesson that I will learn and have learn well. I have learn from the BEST MASTER this time. You live and you learn*** .

[32] ***I understand what you are going through. I can also be witness to the fact that you will giving him free labour*** .

[33] ***But that does not mean that he can hold us to it forever and ever. Even parents do not control their children like this and forever! With him, THERE IS ALWAYS AN ULTERIOR MOTIVE!!!***

[34] ***I truly am really sorry for what you are going through now that He had managed to convince Henry to divorce you. This is a BEAST of a Man!***

[35] No ***Man has ever the right to dot his to another!! Not even any parents to their children!!***

[36] ***THIS IS TRY DESPICABLE AND UNFORGIVABLE!!!!***

30 Dr Segar alleges in pleadings that the natural and ordinary meanings of the words used in the

31st March Email and/or inferentially meant or are understood to mean the following:

(i) Dr Segar had cheated his mother;

(ii) Dr Segar had cheated his brother;

(iii) Dr Segar is dishonest;

(iv) Dr Segar was abusing his friendship with Veronica in that:

(a) Veronica was paying for the plaintiff's travelling and entertainment expenses;

(b) Veronica was rendering financial support to the plaintiff; and

(c) Dr Segar had free use of Veronica's driver and car;

(v) Dr Segar had lied to and cheated Veronica;

(vi) Dr Segar had attempted to extort money from Veronica;

(vii) Dr Segar had overcharged Veronica for the loan of $300,000 which Dr Segar had advanced to her;

(viii) Dr Segar was instrumental in the divorce of [Marlene];

(ix) Dr Segar lacked financial competence and integrity; and

(x) In all the circumstances, Dr Segar is unfit to be a medical practitioner.

Second alleged libel: the first 5th April Email

31 Veronica had sent the same 31st March Email on 5th April 2007 to Dr Segar. As such, the same

meanings set out above in [30] are being alleged. I should for completeness mention the differences between the two emails. They are: (a) the typographical error in the heading of the first 5th April Email - "THE TRYE COLOURS OF A SINGAPORE DOCTOR"; (b) the email was addressed to Dr Segar, marked "WITHOUT PREJUDICE" and with the note "Compliments from Veronica Koh" and; (c) there were also more recipients: 46 email addresses. Some 13 minutes later, Veronica sent the second 5th April Email to the same number of addressees.

Third alleged libel: the second 5th April Email

32 The second 5th April Email to Dr Segar and Marlene was entitled "Will the REAL ASHOK SEGAR stand out please…:" The email referred to the first 5th April Email copied and sent 13 minutes earlier to 46 email addresses. As before paragraph numbers have been added to the email for ease of reference and the double underline is to highlight the alleged defamatory words. Again, the caps, bold and italicised and single underlined texts are the author's. The email reads as follows:

> [1] Dear Ashok Segar, Marlene and Everybody, I have always been an open book and will always be.
>
> [2] To prove my point, I have just sent Dr Segar a copy of my earlier email. *Compliments from Veronica Koh* :)
>
> [3] **I was wondering if Hari, your brother has already contacted Marlene to find out...**
>
> [4] **HOW...Hari Got Cut Out Of His Inheritance... Bungalow? Merryn Road? Did a Professional commit forgery ??? Hmmm... Interesting Revelation ... isn't it?**
>
> [5] I wonder why do you keep saying that I am a "Money Faced Lying Pariah Bitch" (in your SMS to my husband)? Have I taken any of your money???
>
> [6] Why are you always passing messages pass through others? You keep Harassing my husband with all your SMSes. **Are you hoping to create a ridge between us, husband and wife?** What is your motive?
>
> [7] **You actually told Henry to divorce his wife**. You are so convincing… They are going through a divorce.
>
> [8] Why is it you always go through a 3rd party? Henry? My husband? Mrs Tan? Sham? Ted? etc
>
> [9] Even to the extent of cursing me on 1st Jan 2007 New Year Day at about 4am (via a SMS send to my husband) **Just Because I have attended Mary's party?** It was your SMS to us, that really show us your **TRUE COLOURS**. Thank you very much.
>
> [10] Are You are Such A Wicked Soul?
>
> [11] Honestly, I have kept every SMS, letters and notes from you. I am collecting them as souvenirs from you.
>
> [12] **What I have written and email is in Black and White. It Should Be Good Enough For You To Bring A Defamation Suit Against Me?**

[13] I am right here waiting … I am very prepared :) **Prove to the World. WHAT I HAVE SAID IS WRONG!**

[14] **I don't just Shoot Blanks like you always do. Gossiping and Lieing(sic)… Ruining Others' Reputation!**

<u>Remember this</u> :

[15] **What Goes Around, Comes Around. How you treat others, at the end it will all comes back to you. I am a firm Believer of Karma**.

[16] **Literally, You Bit The Very Hand That Feed You**.

[17] After you have cheated me of so much money. I kept quiet because I needed time to straighten out my senses and thoughts.

[18] You really have me confused all this while. Making me think I have failed you. That I have let you down…

[19] Frankly, all these while I wanted to walk away and treats it as Tuition Fees

[20] Because what you did to me is really a **VERY WELL THOUGHT PLAN**.

[21] Instead of thanking me for my Generous Donations To You, you went on and on to claim that I have cheated and taken advantage of you.

[22] Since you like to tell stories so much. **Please… <u>I beg of you to further elaborate</u>** .

[23] How have I treated you? Most important… HOW MUCH? I believe a lot of people, like me would like to know.

[24] Could You Be So Kind As To Elaborate –

The Details

And Figures

And On How You Derive At It.

Please… I beg of you…

[25] Medically???

[26] I have paid for all the medical assistance you gave. I have the invoices and cheques to prove.

[27] **But We Play It Open. For All To See And Judge. Let's all play a FAIR Round of Show Hands**.

[28] Whatever I have mentioned in my earlier emails. I have all the evidences to show.

[29] **Remember I don't just shoot blanks**. I Don't Serenade People with Words and Big Show.

[30] I am a Doer. **I act on it supported by concrete evidences. Remember: Actions speak louder than words**.

[31] What I have mention in my first email, **IS JUST ONLY THE APPETIZER**. Since we are all food lovers, I have prepared a 10 Course Meal Fit For A King.

[32] I am now just waiting for you to **JOIN ME FOR THE LAST SUPPER**.

[33] **Please, please, please do not be mistaken. This is not a Blackmail. Because this is done so openly and I am definitely NOT asking for anything in return**.

[34] **Rather A RED CARPET OPEN INVITATION TO YOU. An Open Card Game For All To See and Judge**.

[35] **This is A CALL FOR JUDGEMENT DAY !**

[36] **If you have nothing to hide, why are you so afraid? COME OUT TO THE LIGHT WITH ME! LET'S ALL SEE WHO THE REAL COUNT DRACULAR IS!**

[37] **Lie Detector? Forensic? Estate? HSA ? I believe you know what I am talking about?**

[38] I want to show the world what I have got. Not just some cheap talk like you.

[39] This indeed will be A VERY INTERESTING SHOW! **If you have nothing to hide, COME OUT PLEASE!**

[40] MORE PEOPLE, MORE FUN! MERRIER!

[41] I am very sane now and I know what I am doing and getting myself into. This is definitely not a "display of impulsive expression", surely not after 1.5 years of silence :)

[42] **You know, I never like to play games**.

[43] **People have often ask me for my side of the story. I have maintain my silence purely because… I am greatly embarrassed to tell that I have been CON more than 500k and for 5years**.

[44] During this "silence time", I gave full concentration to grow my business, running overseas. As I no longer have to feed you. I had a lot more time and money to from my business.

[45] While you…

No more Veron = No more Bungalow

No more Marlene = No more Geylang Clinic

[46] **And you went on and on to stir the hornet nest, thinking I am afraid of you and is avoiding going to MPS. This is the BIGGEST JOKE of ALL TIME!**

[47] **If I have something to hide or plan to cheat you, Why would I introduce you to the whole PAP thing?**

[48] **I just wanted to save some face for my Poor Husband. Because we have been so STUPID and FOOLISH TO BE CHEATED BY YOU**

[49] **Right now, since you TOLD so many people that I AM a Con Woman. I guess a Stupid, Ignorant Fool is a much better name isn't it**.

[50] **PLEASE JUSTIFY YOUR STORIES ON ME. HOW? HOW MUCH? DETAILS?**

[51] Marlene, are you interested?

[52] **Only Rule to the Game; <u>All Stories are to be supported by evidences</u>** .

33 Dr Segar alleges that the natural and ordinary meanings of the words used in the second email of 5th April and/or inferentially meant or are understood to mean the following:

(i) Dr Segar had cheated his brother;

(ii) Dr Segar had committed forgery;

(iii) Dr Segar had cheated Veronica;

(iv) Dr Segar had conned Veronica of "…more than 500k and for 5 years";

(v) Dr Segar is dishonest;

(vi) Dr Segar lacked financial competence and integrity; and

(vii) In all the circumstances, Dr Segar is unfit to be a medical practitioner.

34 Dr Segar seeks general damages and aggravated damages in respect of the three emails. In respect of the claim for aggravated damages, Dr Segar alleges malice, the particulars of which are set out in paras 8, 14 and 21 of the Statement of Claim (Amendment No 1).

Veronica's lesser meanings in relation to three emails

35 Veronica denies that the contents of the emails are capable of bearing one or any defamatory meanings ascribed by Dr Segar. She maintains that the emails have to be read in context, and that one has to have in mind how they came to be written. In respect of the 31st March Email, the lesser meanings pleaded by Veronica are as follows:

(i) The Dr Segar is an overbearing and demanding person;

(ii) Veronica had been very generous towards the plaintiff and the plaintiff took her generosity for granted;

(iii) Dr Segar had not been forthcoming with Veronica in relation to the running of a jewellery business which Veronica and the plaintiff had set up;

(iv) Dr Segar had a tendency to speak ill of people behind their backs; and/or

(v) Dr Segar was the cause of the breakdown of Marlene's marriage.

36 Veronica adopts the same lesser meanings in respect of the First 5th April Email. In respect of the Second 5th April Email, the lesser meanings pleaded by Veronica are as follows:

(i) Dr Segar was not appreciative of Veronica's generosity

(ii) Dr Segar had convinced Veronica that she was indebted to him and Dr Segar used Veronica's said belief as a means of obtaining monetary benefits from her.

37 Veronica is also relying on the defence of justification, particulars of which are set out in paras 6, 7 and 16 of the Defence (Amendments No 5).

First issue: Whether each of the meaning pleaded by Dr Segar is capable of being conveyed by the matter complained of and whether it is capable of defaming him

The legal principles

38 On the first issue of the meanings to which the impugned words are capable, the approach of the court is well settled. The parties are also in agreement as to the approach to be followed. The principles to be applied by a court (on this first issue) have been most recently summarised by the Court of Appeal in *Review Publishing Co Ltd and Another v Lee Hsien Loong and Another* [2010] 1 SLR(R) 52 ("*Lee Hsien Loong (CA)*") at [27]as follows:

> *The court decides what meaning the words would have conveyed to an ordinary, reasonable person using his general knowledge and common sense: Jeyaretnam Joshua Benjamin v Goh Chok Tong* [1984-1985] SLR 516; [1985] 1 MLJ 334 and [JJB v LKY (1992) ([19] *supra*)]. *The test is an objective one: it is the natural and ordinary meaning as understood by an ordinary, reasonable person, not unduly suspicious or avid for scandal*. The meaning intended by the maker of the defamatory statement is irrelevant. Similarly, the sense in which the words were actually understood by the party alleged to have been defamed is also irrelevant. *Nor is extrinsic evidence admissible in construing the words*. The meaning must be gathered from the words themselves

and in the context of the entire passage in which they are set out. *The court is not confined to the literal or strict meaning of the words, but takes into account what the ordinary, reasonable person may reasonably infer from the words*. The ordinary, reasonable person reads between the lines. … [emphasis in original]

39 In adopting the aforementioned factors to determine the meanings borne by the three emails (which I will take in turn), I am mindful that an important part of the approach is the court's task to put itself in the position of an ordinary reasonable reader reading the offending email as a whole and as such should not be too analytical or too literal in considering the words used. In addition, the ordinary reasonable reader possessed only of his or her general knowledge may infer a meaning from all the surrounding circumstances which goes beyond the strictly literal meaning of the words used.

40 After the natural words and ordinary meaning or the lesser meaning has been established, the next consideration is whether the meaning is defamatory. In this regard, a helpful summary of the legal principles is found in *Halsbury's Laws of Singapore*, Vol 18, (LexisNexis, 2009 Reissue) ("*Halsbury's*"), para [240.091] and it reads as follows:

> There is no exhaustive definition of what constitutes a defamatory statement, since the word 'defamatory' is nowhere precisely defined. A statement is defamatory of the person of whom it is published if it tends to lower him in the estimation of right thinking members of society generally or if it exposes him to public hatred, contempt or ridicule or if it causes him to be shunned or avoided. An untrue statement is not necessarily a defamatory statement; in order to be defamatory, the statement must lower the plaintiff in the estimation of others, or expose him to hatred, contempt or ridicule. A person's reputation is not confined to his general character and standing but extends to his trade, business or profession, and words will be defamatory if they impute lack of qualification, knowledge, skill, capacity, judgment or efficiency in the conduct of his trade, business or professional activity.

With all these principles in mind, I now turn to the meanings of the words complained of.

The meanings of the words complained of

(1) Dr Segar's pleaded meanings: the 31st March Email

41 I will first consider what impression the emails are capable of having on the hypothetical reasonable reader, rather than subjecting each of them to an artificial and lengthy analysis which does not reflect the way in which it would be read by the ordinary reasonable reader. On that basis, it seems to me that in respect of the 31st March Email, the overall impression it had on me, when determining what impact it would have had on the hypothetical reasonable reader reading the email as a whole on 31 March 2007, comes from calling Dr Segar a "FIRST CLASS CON ARTISTE??!!". The tone and gist of the email is also epitomised in the heading of the email which is as follows: "THE TRUE COLOURS OF A SINGAPORE DOCTOR".

42 In my judgment, the sting is the accusation that Dr Segar is a first class con artist. In its natural and ordinary meaning, the hypothetical reasonable reader would get from these words the impression that Dr Segar has befriended his victims but was, in reality, a conman practised in the art of deceit. And in essence, the relationship between Dr Segar and Veronica was that between a conman or confident trickster and his victim.

43 Collins, Cobuild English Dictionary (5th ed) defines a con artist as "some one who tricks other

people into giving them their money or property". Longman Dictionary of Contemporary English (4th ed) ("Longman Dictionary") defines the term "con man" as "someone who tries to get money from people by tricking them". In my view, the word "conman" or "con artist" is capable of a range of meanings. A person can "con" others for all kinds of purposes and with a view to different benefits, not necessarily monetary. It does not necessarily mean or include the meaning that he ripped people off for their money.

44 As stated, the sting can arise from the words "first class con artiste" and it is reinforced through the combination of references to the words "first class con artiste" with other words in the email such as "suckers like us in this world who will buy a Sob story"; …"Till we find out the truth before he [moves] to the his next victim";… "He has always been trying to play [one] against the other…"; …"He is very good at playing on your emotions and heart strings";… "Guess I was under some kind of spells (*sic*)"; "…that he is a BOTTOMLESS PIT";… "An EXPENSIVE and HARD Lesson that I will learn and have learn (*sic*) well. I have learn (*sic*) for the BEST MASTER this time"; and …"With him, THERE IS ALWAYS AN ULTERIOR MOTIVE!!!". These statements produced a picture of Veronica who was conned by Dr Segar for all kinds of purposes and with a view to different benefits, not necessarily monetary. In all she claimed to have spent over $500,000 on him over the last six years (see para [16] of email quoted at [29] above). The monetary benefits were, for example, the $6,000 per month payments for over a year for free to help tie over Dr Segar's money problems; paying "above OD rates" for the $300,000 loan; the addition of the bank penalty of over $45,000 to the $300,000 loan, and finally, paying the renovations of Dr Segar's shophouse at 184, East Coast Road. The other different benefits were, for instance, overseas travels, meals at fancy restaurants, unreasonable demands on Veronica's time and use of her driver and car. In all, the imputation is that Dr Segar is a con artist; that he deceived Veronica and is otherwise a cheat and is dishonest.

45 On the jewellery business, the deceit is inferred. Even though they were "actually equal partners in the business", the imputation that their relationship was that between a conman and his victim comes from the following impugned statements that

> [18] Only to return the Unsold sets Jewellery to me But keeping the good stuffs…All the loose stones….
>
> [19] His share of the keep are double of mine…
>
> [20] But telling the world he has given me all the jewellery? Something which I absolutely had NO SAY and NO CHOICE!
>
> [21] The problem with him is he is always telling half a story and leaving it to you to imagine the other half. With the better benefiting him.
>
> [22] It is a pity a PERSON of SUCH GOOD Family Background needs to retort (sic) to such tricks and tactics.

In short, the inference is that Veronica was cheated by Dr Segar, and he is dishonest.

46 To summarise, the sting comes from the words typed in capital letters "A FIRST CLASS CON ARTISTE" and the impugned statement is defamatory in the natural and ordinary meaning pleaded *ie*. he deceived Veronica and is otherwise a cheat and is dishonest. The words are defamatory as they are enough to induce an ill opinion of Dr Segar in the minds of the recipients of the email and to deprive him of their society.

(2) Dr Segar's pleaded meanings: first 5 April Email

(2) Dr Segar's pleaded meanings: first 5 April Email

47 The contents of the first 5 April Email is substantially the same as the 31st March Email, and the overall impression it had on me, when determining what impact it would have had on the hypothetical reasonable reader reading the email as a whole on 31 March 2007, is already explained above. The same meaning can be attributed to the words complained of in paras 5.3.and 5.5 of the Statement of Claim (Amendment No 5), that is to say, Dr Segar is dishonest; and Dr Segar had lied to and cheated Veronica.

48 One related point raised by Mr Rai concerns the sapphires. The 31st March Email referred to the sapphires retained by Dr Segar. Dr Segar's case is that he kept the sapphires initially because Veronica had agreed to it. However, after the 31st March Email, Dr Segar returned the sapphires on 3 April 2007 with an undated handwritten note to ATM. Chronologically speaking, when Veronica sent the first email on 5 April 2007 to Dr Segar and several other addressees, the sapphires had already been returned to Veronica. As such, Veronica's reference to Dr Segar keeping the sapphires as of 5 April 2007 was untrue, and Veronica had thereby (so the argument developed) increased the sting of what was said in the 31st March Email when it was sent again on 5 April to a wider circle of friends and associates. I do not agree with this submission as none of the addressees were privy to what Dr Segar actually did on 3 April 2007, there being no evidence to suggest otherwise. In the circumstances, the hypothetical reasonable reader with no special knowledge that the sapphires were returned would not read the first 5 April Email in a different light.

(3) Dr Segar's pleaded meanings: second 5 April Email

49 In my overall impression of the 31st March Email, I did not agree with Mr Rai that para 1 of that email is capable of bearing the meaning that Dr Segar cheated his mother and brother of his mother's property. In context, Veronica was asking Marlene to explain what she wrote. The question marks were relevant and not rhetorical in nature as Mr Rai submits. However, I accept that the position is different in the case of the second 5th April Email. The hypothetical reasonable reader would have understood this second 5th April Email read in conjunction with its subject heading "Will the REAL ASHOK SEGAR stand out please…" as capable of bearing the meanings attributed to paras 3 and 4 of the email: that Dr Segar cheated his brother by committing forgery to cut him out of his inheritance. Paras 3 and 4 of the email read:

> [3] **I was wondering if Hari, your brother has already contacted Marlene to find out...**
>
> [4] **HOW…Hari Got Cut Out Of His Inherentence...**
>
> **Bungalow? Merryn Road?**
>
> **Did a Professional commit forgery ???**
>
> **Hmmm...**
>
> **Interesting Revelation…isn't it?**
>
> **...**

50 The other parts of the email on the same topic written in bold by Veronica for emphasis reads:

[36] **If you have nothing to hide, why are you so afraid**

COME OUT TO THE LIGHT with me!

LET's (sic) ALL SEE WHO THE REAL COUNT DRACULAR (sic) is!

[37] **Lie Detector? Forensic? Estate? HSA?**

I believe you know what I am talking about

...

[39] **This indeed will be A VERY INTERESTING SHOW! If you have nothing to hide, COME OUT PLEASE!**

...

[emphasis in original]

51 Paragraphs 3, 4 and 37 of the second 5th April Email and the use of question marks to emphasise the words "professional" like a medical doctor coupled with the words "commit forgery" and "interesting revelation" read together show that the author wanted the readers to indulge in loose thinking that the forgery by a professional man mentioned in the email was related to the mother's estate and the forger would be exposed after forensic investigations by HSA or after a lie detector test. In her email she taunted and dared Dr Segar to take the tests if he had nothing to hide.

52 The sting in the 31st Email - that Veronica was "conned" by Dr Segar - is repeated in the second 5th April Email. She again wrote that she was cheated by Dr Segar (para 17) and that she was conned of more that $500,000 for 5 years. She wrote:

[43] **People have often asked me for my side of the story**.

I have maintain (sic) my silence purely because...

I am greatly embarrassed to tell that I have been

CON more than 500K and for 5 years.

...

[48] **I just wanted to save some face for my Poor Husband**.

Because we have been so STUPID and FOOLISH TO BE CHEATED BY YOU.

[emphasis in original]

53 Other facts Veronica suggested as important to being "con" in her second 5th April Email were premeditation and planning in her second 5th April Email. In para 20, she mentioned that "what you [Dr Segar] did to me" was a "very well thought plan". Immediately thereafter she explained the "plan" as follows:

[21] Instead of thanking me for my Generous Donations To You, you went on and on to claim that I have cheated and taken advantage of you.

54 I agree with Mr Rai that the email wants the hypothetical reasonable reader to evaluate what kind of a con man Dr Segar is. The context of the email is laid before the hypothetical reasonable reader and it calls him/her to judge Dr Segar. In my view, the hypothetical reasonable reader would have gotten the impression that the email accuses Dr Segar of having committed forgery and for being untruthful, that he deceived his brother and Veronica and is otherwise a cheat and is dishonest. Such meanings are defamatory. They are enough to induce an ill opinion of Dr Segar in the minds of the recipients and to deprive him of their society.

Textual analysis of the emails

55 Save for the view expressed above that the emails bear the meanings for which I have found and are defamatory (see [46] and [54] above), I disagree with the rest of the detailed textual arguments addressed by both sides which do not cast doubt on my impression. I return to the various texts of the emails for completeness.

(i) 31st March Email

56 Mr Rai submits that the pleaded meanings - that Dr Segar cheated his mother and brother - are derived from on a reasonable reading of para 2 of the 31st March Email

[2] WHAT HAS HE EXACTLY DONE TO HIS MOTHER"S PROPERTY? HAS HE CHEATED ON HIS MOTHER & BROTHER???

57 Mr Rai submits that the question marks are irrelevant given the general tone and content of the entire email bearing in mind the caption heading: "THE TRUE COLOURS OF A SINGAPORE DOCTOR". The questions, so the arguments develop, are not genuine questions requiring an honest answer but are, in essence, rhetorical questions asked to induce a train of thought. Mr Rai points out that, in context, the question marks were used for emphasis in relation to Veronica's allegation that Dr Segar had cheated his mother and brother.

58 In contrast, counsel for Veronica, Mr Giam Chin Toon SC ("Mr Giam"), argues that para 2 and the question marks were not rhetorical questions – they were nothing more than queries as Veronica was seeking Marlene's clarification of what Marlene had written in her email. I accept Mr Giam's submissions. An ordinary, reasonable person not unduly suspicious would read para 2 in the context of para 1 where Veronica's incomprehension of Marlene's email was clearly stated and she then sought clarification. I pause to mention Mr Rai's argument that the second 5th April Email supports the meaning of the words in para 2 of the 31st March Email. The argument is untenable. It seeks to introduce on 31st March 2007 extrinsic evidence, which is inadmissible, to support the meaning of the words in para 2 of the 31st March Email. The next sentence "Is he REALLY SUCH A MONSTER?" is, in my view, to be understood in the context of her queries in para 2 of the email. The queries in para 2 are all followed by a question mark.

59 The only sentence with two question marks and two exclamation marks is "A FIRST CON ARTISTE??!! I have already dealt with that sentence in the context of the gist and tone of the email.

60 Mr Rai argues that para 30 of the email suggests that Dr Segar had attempted to extort $10,000 per month for life from Veronica. She had written:

[30] **He even demanded me to give 10K a month and support him for the rest of his life**. [emphasis in original]

61 In response, Mr Giam argues that Dr Segar's demand for $10,000 cannot amount to extortion. There was no threat or fear involved. Veronica also asserted that the statement was true. One defect in the imputation in terms of capacity is that the notion of extortion of $10,000 per month involves unwillingness at the very least, a reluctance to part with money, and it is the essence of the story that Veronica willingly parted with her money in response to sob stories. In that exercise, the word "con" there was not the generally understood element of extortion. To the hypothetical reasonable reader, it is more probable that Dr Segar was making a facetious request which Veronica rightly ignored. She was not under pressure to give Dr Segar's request any serious thought. In the circumstances, the statement in para 30 of the email could not amount to extortion as argued for by Mr Rai.

62 Separately, I agree with Mr Giam that simply stating that Veronica had paid above commercial rates for the loan of $300,000 was not defamatory. There may be various reasons for doing so, not in the least that Veronica had *agreed* to do so. There is little reason for a hypothetical reasonable reader to arrive at the conclusion that Dr Segar had unfairly overcharged Veronica by taking advantage of her. Overcharging implies an intention to cheat someone by making that person pay more than was required. Such an intention was not borne out by the wording of para 10 of the 31st March Email. It simply gave the hypothetical reasonable reader the impression that Veronica had more than repaid any debt that she might owe to Dr Segar. It did not cast Dr Segar in any negative light.

63 In relation to the alleged implication that Dr Segar was instrumental in Marlene's divorce, Mr Rai said the defamatory statement is in para 34 and it reads:

[34] **I truly am really sorry for what you are going through now that He had managed to convince Henry to divorce you**.

64 Mr Rai argues that the plain meaning of the above sentence is that the plaintiff was instrumental in causing or contributing to the divorce of Marlene by convincing Henry to divorce her. I agree with Mr Giam that the para 34 is not defamatory.

65 On the allegation that Dr Segar lacks financial competence and integrity, Mr Rai relies on the 31st March Email in its entirety to support this defamatory meaning. He asserts that by insinuating that Dr Segar had cheated his mother and brother, demanding that Veronica pay for his travelling and entertainment expenses and attempting to extort money from her, a reasonable reader would deduce that Dr Segar is financially incompetent and lacks integrity.

66 In reply, Mr Giam argues that none of the words or paragraphs complained of in the whole email bore the meanings that Dr Segar tried to ascribe to them. Having reached the conclusion on the sting of the email, it is not necessary to find that the 31st March Email conveyed the implication that Dr Segar lacked financial competence and integrity. To conclude otherwise would involve an over analysis of the email.

67 Finally, I also did not agree that the email read as a whole attacked Dr Segar in his professional capacity such as lack of qualification, knowledge, skill, capacity, judgment or efficiency in the conduct of his medical practice. A dishonest person is not necessarily an incompetent or unskilled

doctor. By virtue of his occupation, the plaintiff has some standing in society. If anything, the email attacks his social reputation and personal character rather than his professional character. There is therefore no basis that for the allegation that words complained of bear meaning or is understood to mean that Dr Segar is unfit to be a medical practitioner.

(ii) The first 5th April Email

68 The same observations made earlier apply equally to this email.

(iii) The second 5th April Email

69 There are parts of the email that related to Veronica's question as to why Dr Segar kept calling her a "Money Faced Lying Pariah Bitch" and in chiding him for accusing her of cheating him without proof, she mocks Dr Segar. In the present case, I do not think parts of the email – that rhetorically asked Dr Segar if he was a "Wicked Soul"; likening Dr Segar as someone who "shoot Blanks"; rebuking him for "Gossiping and Lieing (sic)..Ruining Others' Reputation!; and finally chiding Dr Segar for having gone too far in their vendetta like "Literally, You Bit the Very Hand That Feed You"- made Dr Segar looked ridiculous or lowered his social reputation in the eyes of the hypothetical reasonable person who read the email. I agree with Millett LJ's observations in *Berkoff v Burchill and Another* [1997] EMLR 139 at 153 that the line between mockery and defamation may sometime be difficult to draw. I am not convinced that the aforementioned words fall on the wrong side of the line to amount to defaming Dr Segar.

Second issue: Were the publications complained of substantially true

The legal principles

70 The law relating to justification is well settled. The gist of the defence is that the defamatory statements made were true or substantially true. The defence of justification is summarised in *Halsbury's* at paras [240.132] and [240.133] as follows:

> The defence of justification is that the words complained of were true in substance and in fact. Since the law presumes that every person is of good repute until the contrary is proved, it is for the defendant to plead and prove affirmatively that the defamatory words are true or substantially true. If a defendant pleads justification, where the words complained of consist of statements of fact and comment, he must prove that the defamatory statements of fact are true or substantially true and that the defamatory inferences borne by the comment are true. … Truth may be pleaded as a defence to the whole of the defamatory statements or in the alternative as a defence to a severable part of them. Failure to establish the defence at trial may properly be taken into account in aggravation of damages. The defence may be pleaded in the alternative to a defence which denies publication.
>
> The defence of justification asserts that the sting of the defamatory statement in its proper context is true in substance and in fact. Where a plaintiff complains of words in part of a publication the defendant may refer to the whole publication in order to aver that in their context the words bore a meaning different from that alleged by the plaintiff and that in that meaning they are true. The defendant may not otherwise assert a version of the words which differs materially from the plaintiff's version and justify that version.

71 In the defence of justification, it is paramount that the defendant identifies precisely what meaning he or she seeks to justify. The Court of Appeal in *Aaron Anne Joseph v Cheong Yip Seng*

[1996] 1 SLR (R) 258 held (at [68] and [70]):

> … It is necessary to consider first what precisely the [defendants] sought to justify. The law on this point is now quite clear. **Where a defendant in a defamation action pleads justification, he must do so in such a way as to inform the plaintiff and the court precisely what meaning or meanings he seeks to justify**. …
>
> … The law on this is clear: the issues to be tried under the plea of justification are limited to the matters referred to in the particulars. … Be that as it may the crucial questions is whether within the confines of their pleadings the [defendants] have succeeded in proving the facts averred in the particulars and, on the basis of these facts, in justifying the sting of the libel. …
>
> [emphasis added]

Discussions and decision on the defence of justification

72 In her Defence and Counterclaim (Amendment No 5), Veronica pleads the following defences of justification in relation to the 31st March Email and the first 5th April Email:

> JUSTIFICATION
>
> If and in so far as the words set out in their natural and ordinary meaning and/or inferentially, bore and/or were understood to bear and/or were capable of bearing **the meanings set out in paragraph 5 above**, they were true in substance and in fact.

Paragraph 5 read as follows:

> 5. Further and/or in the alternative, the Defendant states that the words set out in paragraph 3 of the Statement of Claim (Amendment no. 1), read in context of the 31 March 2007 e-mail and/or the matters set out therein, meant and/or were understood to mean that:
>
> 5.1 The Plaintiff is an overbearing and demanding person;
>
> 5.2 The Defendant had been very generous towards the Plaintiff and the Plaintiff took the Defendant's generosity for granted;
>
> 5.3 The Plaintiff had not been forthcoming with the Defendant in relation to the running of the jewellery business which the Defendant and the Plaintiff had set up in July 2002 (the "Business");
>
> 5.4 The Plaintiff had a tendency to speak ill of people behind their backs; and/or
>
> 5.5 The Plaintiff was a cause of the breakdown of one Marlene Gwee ("MG") marriage.

73 As is discernible from the plea above, Veronica's defence of justification relates only to the lesser meanings ascribed by her to the words complained of by Dr Segar in his pleadings. The pleaded position is the same for the second 5th April Email. Paragraph 16 of the Defence and Counterclaim (Amendment No 5) reads:

> JUSTIFICATION

16. If and in so far as the words set out in their natural and ordinary meaning and/or inferentially, bore and/or were understood to bear and/or were capable of bearing the meanings set out in paragraph 15 above, they were true in substance and in fact.

Particulars of Justification

16.1 As to paragraph 15.1 above,

16.1.1 The Defendant had been very generous towards the Plaintiff and the Defendant repeats paragraph 6.1.1 above; and

16.1.2 The Plaintiff did not appreciate the Defendant's generosity and the Defendant repeats paragraphs 26 to 49 herein.

16.2 As to paragraph 15.2 above,

16.2.1 The Plaintiff had numerous occasions informed the Defendant that she was indebted to him since he had given the Loan to the Defendant, prevented the Defendant's investments in China from failing and strengthened the Defendant's marriage with her husband;

16.2.2 By reason of 16.2.1 above, the Defendant felt indebted to the Plaintiff; and

16.2.3 The Defendant repeats paragraph 6.1.1 above.

Paragraph 15 states:

15. Further and/or alternative, the words set out in paragraph 16 of the Statement of Claim (Amendment No. 1), read in context of the second 5 April 2007 email and/or matters set out therein, meant and/or were understood to mean that:

15.1 The Plaintiff was not appreciative of the Defendant's generosity; and/or

15.2 The Plaintiff had convinced the Defendant that she was indebted to him and the Plaintiff used the Defendant's said belief as a means of obtaining monetary benefits from her.

74 Since I do not agree with the lesser meanings, the defence of justification is not, in the main, applicable. However, that is not the end of the matter. I must still consider paras 7 and 17 of the Defence and Counterclaim (Amendment No 5). These paras seek to rely on the defence of justification in relation to the natural and ordinary meanings pleaded by Dr Segar in respect of the 31st March Email and the second 5th April Email. The paragraphs are set out below.

7. Further and in the alternative, if and in so far as the words set out in paragraph 3 of the Statement of Claim (Amendment No. 1) in their natural and ordinary meaning and/or inferentially bore and/or were understood to bear the meanings as set out in paragraph 5 of the Statement of Claim (Amendment No. 1) [*ie*. the 31st March Email], they were true in substance and in fact. The Defendant repeats the particulars set out in paragraph 6 above and further state that,

Particulars of Justification

7.1 On or about April 2003, the Plaintiff agreed to lend to the Defendant the sum of S$300,000.00 (the "Loan").

7.2 The Plaintiff informed the Defendant, by reason of the refinancing required by the Plaintiff for the Loan, the Defendant had to bear the Plaintiff's penalty of S$41,127.87 imposed by DBS Bank. The Plaintiff also informed the Defendant that this amount would be deducted from the Loan. The Plaintiff did not at the material time inform the Defendant that the penalty was for a loan larger than the sum given to the Defendant and that he had utilised the excess sum for himself.

7.2A The Defendant also paid the Plaintiff's solicitors, M/s Arthur Loke Bernard Rada & Lee, the sum of S$3,640.66 for their legal services provided in the Plaintiff's refinancing referred to in paragraph 7.2 above which said sum was the legal fees for the loan meant for both the Plaintiff and the Defendant.

7.3 The Plaintiff subsequently gave to the Defendant,

7.3.1 A cashier's order dated 12 April 2003 for the sum of S$167,003.22; and

7.3.2 A cheque dated 14 April 2003 for the sum of S$91,868.91.

7.4 To date, the Defendant has repaid the Loan (with interest) to the Plaintiff.

…

17. If and in so far as the words set out in paragraph 16 of the Statement of Claim (Amendment No. 1) [*ie*. the second 5th April Email] in their natural and ordinary meaning and/or inferentially bore and/or were understood to bear the meanings as set out in paragraph 18 of the Statement of Claim (Amendment No. 1), they were true in substance and in fact. The Defendant repeats the particulars set out in paragraph 16 above [*ie*. of the Defence and Counterclaim (Amendment No 5)].

75 I start with para 17 which referred to the particulars in para 16 of the Defence and Counterclaim (Amendment No 5). Notably, the matters pleaded in para 16 are confined to the lesser meanings pleaded by Veronica in para 15 of her Defence in respect of the second 5th April Email. As such, no particulars have been given of the statements of fact and of the facts and matters she relies on in support of her defence that the words are true. As pointed out in *Aaron Anne Joseph v Cheong Yip Seng* (see [71] above), particulars are crucial when justification is pleaded as the issues to be tried under this plea are limited to the matters referred to in the particulars. Accordingly, Veronica's plea of justification fails for lack of particulars.

76 Moving on to para 7 of the Defence and Counterclaim (Amendment No 5), which is Veronica's defence of justification in respect of the 31st March Email, the particulars are notably confined to the loan of $300,000. To this end, Veronica's reliance on s 8 of the Defamation Act (Cap 75, 1985 Rev Ed) - which provided that the failure of a defendant to prove the truth of every imputation against the plaintiff would not be fatal to the plea of justification if the imputations not proved to be true did not materially injure the plaintiff's reputation when regard was had to those imputations which had been proved against the plaintiff - does not assist her. In the circumstances, Veronica has failed to prove

the truth of the meanings which I have found to be defamatory of Dr Segar.

77 Turning to her defence that the statement on the $300,000 loan and the refinancing of the Merryn Road property benefited Dr Segar, and not as she was told that the transaction was for her sole benefit, Mr Giam in the light of paras 7.2 and 7.2A of the Defence and Counterclaim (Amendment No 5) submits: [note: 9]

> [Dr] Segar had misrepresented to Veronica that a loan of $300,000 was taken from a mortgage of his property for her sole benefit and failed to disclose he had taken a loan for himself in the sum of $205,180.89 as well. She was made to bear the full legal costs and bank penalty charge thinking that [Dr] Segar had taken out the mortgage for her sole benefit.

78 Since Veronica was deceived in the manner described, so the argument develops, the words complained of in their natural and ordinary meanings are true. Mr Giam's submissions, in my view, are not borne out by Veronica's evidence which is far from satisfactory. Neither was Dr Segar's evidence on the matter reliable.

79 I note that Dr Segar claimed that he *told* Veronica about this loan of $205,180.89 to himself but when pressed by Mr Giam to tell the court when he told Veronica, he could only say that the information was in the bank statement of their joint account, and she would have seen the money in the account as she had access to the bank statement. [note: 10] I note that Dr Segar did not mention the loan to himself in his affidavit of evidence-in-chief or that he had told Veronica about it. In closing submissions, the position Mr Rai took was that Veronica knew from the bank statement or was in a position to know of the loan of $205,180.89 to Dr Segar. [note: 11]

80 In cross-examination, Mr Rai put to Veronica that on or about 12 April 2003 she knew that the balance of the redemption proceeds of $205,180.89 would be paid out to Dr Segar. [note: 12] Veronica denied that the deal between herself and Dr Segar was for Veronica to receive $300,000 of the money raised on refinancing Dr Segar's Merryn Road property, while the balance of the redemption proceeds would go to Dr Segar. [note: 13] She claimed that she only knew that Dr Segar took $205,180.89 in the course of this court case. [note: 14]

81 On the evidence, it is clear that Dr Segar did not actually inform Veronica of the balance redemption amount of $205,189.89. Neither would she have known about it on or about 12 April 2003 as the April bank statement would only be available in May 2003. As for Veronica's testimony that she did not see the April bank statement until it was discovered in the proceedings, her testimony is not corroborated. In the 31st March Email, she alluded to the fact that the refinancing was not entirely for her sole benefit. She wrote (at para [28]):

> One thing for sure! He did not loan me out of the goodness of his heart. In fact, he has all to gain and nothing to lose.

82 It is not entirely clear whether the benefit she referred to in para 28 was to the low interest rate in the following para of the email (see [29] above) or something else (*ie*. balance of the redemption proceeds). She did not explain nor was she asked by her counsel to clarify. In the circumstances, I am not satisfied that she has discharged the burden of proving paras 7.2 and 7.2A of her Defence. Accordingly, her defence of justification fails.

Veronica's counterclaim: Dr Segar's three SMS message and Letter

83 In her counterclaim, Veronica is seeking damages for libel and slander. She also has a monetary claim of $209,137.44 being moneys paid to Dr Segar as well as to third parties on behalf of Dr Segar and she accordingly seeks reimbursements of this sum. I will deal with the monetary claim later.

First alleged libel: the 1st January SMS

84 The first SMS message that the defendant relies on for her counterclaim was sent on 1st January 2007 by Dr Segar to her husband, ATM, and Marlene. This SMS message reads as follows:

> Dear TM, I beg you never to ever approach me in public again. Just like your father before me it is too painful to be reminded of the pain and suffering caused by the broken promises made by that money-faced lying bitch. May she be rewarded for her callous deceit with the eternal damnation she deserves and may 2007 bring you all as much despair and misery as was caused to your father and me last year.

85 In her counterclaim, Veronica alleges that the 1st January SMS is defamatory in that the natural and ordinary meanings of the statements complained of are capable of conveying the following meanings:

(i) Veronica had caused ATM's father and Dr Segar pain and suffering;

(ii) Veronica is a person who did not keep her promises;

(iii) Veronica is a person who is only interested in money;

(iv) Veronica is a liar;

(v) Veronica is a malicious, spiteful and/or over bearing person; and/or

(vi) Veronica had been deceitful and she deserves eternal condemnation.

86 Dr Segar has pleaded an alternative meaning: Veronica had behaved in a discreditable manner in not keeping her promise to him. [note: 15] However, in his closing submissions, Mr Rai argued that the natural and ordinary meaning to be derived from the 1st January SMS is that Veronica is a person who fails to keep her promises and, therefore she is a liar. To that extend, Dr Segar is really only contesting meanings (v) and (vi) as pleaded by Veronica.

Second alleged libel: the 31st March SMS to ATM

87 The 31st March SMS message to ATM which was sent after Veronica's 31st March Email to Marlene (see [29] above) reads as follows:

Please thank the money faced lying pariah bitch for her email to Marlene.

88 Veronica alleges the following defamatory meanings from the words "money faced lying pariah bitch":

(i) Veronica is only interested in money;

(ii) Veronica is a liar;

(iii) Veronica is unchaste;

(iv) Veronica is despised and/or rejected by society;

(v) Veronica is a malicious, spiteful and/or overbearing person.

89 On Dr Segar's part, he has proferred that the natural and ordinary meaning of the words "money faced lying pariah bitch" is that the defendant is a liar, and is only interested in money. Mr Rai submits that that this meaning is consistent with the alternative meaning pleaded, *ie*. Veronica had behaved in a discredible manner.

Third alleged libel: the 31st March SMS to Marlene

90 The SMS message to Marlene on the same date reads as follows:

> I always thought your bloodsucking friend V was bad but now I know that the real bloodsucker is you. Thank you for teaching this to me Marlene. You really are the greatest bloodsucker in the world feeding on my corpse for 11 years while pretending to be like a daughter to me while always stealing from me and planning to destroy me with that lying bitch friend of yours. Congratulations you have completed your lifelong ambition to destroy me for all the help I have given you.

91 Veronica alleges the following defamatory meanings from the SMS to Marlene:

(i) Veronica is an extortionist, blackmailer and/or a parasite;

(ii) Veronica had conspired with Marlene to destroy Dr Segar;

(iii) Veronica is a liar; and

(iv) Veronica is a malicious, spiteful and/or overbearing person.

Dr Segar agrees with meanings (ii) and (iii) but not the other two meanings.

Fourth alleged libel: the Letter to ATM

92 This Letter was actually an undated handwritten note from Dr Segar to ATM and it was sent together with 32 blue sapphires on 3 April 2007. [note: 16] In the Letter, Dr Segar wrote as follows:

> Dear TM,
>
> YOUR sms to me specifically demanded the dispatch of the MADE JEWELLERY (even the small items) and the display boxes.
>
> Then worldwide email of the LYING MONEYFACED PARIAH BITCH clearly shows that she expects the UNMOUNTED STONES as well (enclosed herewith). Kindly be more clear in your requests to avoid such misunderstanding. Kindly also enquire what else the BLOODSUCKING SWINE requires from me before she will CONFESS to YOU about the BROKEN PROMISES made to your FATHER AND ME!

93 In their natural and ordinary meaning, Veronica's pleaded case is that the Letter is capable of the following meanings:

(i) Veronica is a liar;

(ii) Veronica is a person who is only interested in money;

(iii) Veronica is unchaste;

(iv) Veronica is despised and/or rejected by society;

(v) Veronica is a malicious, spiteful and/or overbearing person;

(vi) Veronica is an extortionist, blackmailer and/or a parasite;

(vii) Veronica is unkind and/or unpleasant;

(viii) Veronica had not told ATM that she failed to keep her promises made to ATM's father and therefore needed to "confess" to ATM; and/or

(ix) Veronica had not told ATM that she failed to keep her promises to Dr Segar and therefore needed to "confess" to ATM.

Dr Segar agrees to meanings (i),(vii),(viii) and (ix) but not the rest.

The alleged slander: Statement to Tore

94 Veronica has accused Dr Segar of slandering her by telling Tore, a customer of hers, that she was not trustworthy and was a bitch. Dr Segar denies slandering Veronica. I note that the particulars of this accusation are sketchy to say the least and all Veronica revealed in her pleadings is that the statement was made in Marlene's presence during a dinner with Tore. Veronica claims that the words uttered are defamatory as the natural and ordinary meanings of the words are that:

(i) Veronica is a person who cannot be trusted;

(ii) Veronica is a person to be treated with contempt;

(iii) Veronica is a malicious, spiteful and/or overbearing person;

(iv) Veronica is no longer fit to be Dr Segar's business partner and/or to do business with others in view of the above.

First issue: Whether each of the meaning pleaded by Veronica is capable of being conveyed by the matter complained of and whether it is capable of defaming her

Veronica's pleaded meanings in respect of the SMS messages and the Letter

95 I have already stated the legal principles and I adopt the same approach when determining the meanings of the publications complained of (see [38]-[39] above). As can be seen from the use of intemperate language, the manifest dislike that Dr Segar entertains for Veronica may well have come from unhappy episodes giving rise to complaints of broken promises all of which seem to have merged towards the end of 2006 and on 1 January 2007, Dr Segar accused Veronica of breaking her promises to him. Whilst the words "money faced" and "pariah bitch" are vulgar abuses rather than words capable of being defamatory, a suggestion that the defendant is a liar, malicious and deceitfully dishonest may potentially fall on the side of defamation. The word "bloodsucker" bears the common dictionary meaning of someone who always uses other people's money or help (see Longman's Dictionary at [43] above) as was the case here with reference to the $300,000 loan and her broken promise to reciprocate by helping to finance his renovations.

96 One important feature here is that save for the 1st January SMS which was sent to ATM and Marlene, the other SMS publications were on each occasion sent to only person, namely Veronica's husband or to her friend, Marlene. The Letter was sent only to ATM. Whilst at law, the publication to even one person will suffice to make out a finding of liability, with the scale of publication affecting instead, the question of damages, the point here is quite different in the sense that the publications

were solely to persons on the side of Veronica, and this fact will have a bearing on whether the tort is made out given the definition of "defamatory". Significantly, ATM and Marlene are persons on the side of Veronica and they would not have taken (and on their evidence confirmed that they did not take) the derogatory words seriously. As such the words complained of would not have lowered Veronica in their estimation. [note: 17] It follows, and I so hold, that the SMS messages and the Letter are not defamatory of Veronica. With this finding, it is not necessary to consider Dr Segar's defences. The counterclaim for libel therefore fails.

Statement to Tore

97 The primary issue is whether Veronica is able to prove that Dr Segar uttered the words pleaded. It is also necessary to consider whether any and, if so, which of the words would have been defamatory of Veronica and in what sense. I need also address whether any of the allegations would, if published, be actionable without proof of special damage. The only relevant exception would be if it could be shown that the words tended to injure Veronica in the way of a calling, trade or profession being carried on by her at the time of the publication. There is also the matter of the claim for special damages.

98 Veronica's principal witness is Marlene. She says in her testimony that Dr Segar spoke the words complained of – that Veronica was untrustworthy and was a bitch - in the presence of Tore and herself at Tamon Restaurant. Dr Segar, however, denies that the words were spoken on that occasion or at all. Dr Segar called three witnesses to corroborate his evidence. Since Marlene in her affidavit of evidence-in-chief affirmed that the words were uttered in the presence of TT Durai, Gauksheim Kjell Goran and his wife, Gauksheim Beate Jakobsen, all three witnesses were called by Dr Segar and they denied that the alleged words were uttered in their presence. How reliable the evidence of each and every one after a lapse of several years is unclear. As is well known, the essence of any slander action is the actual words spoken. They need to be proved with reasonable clarity. This is one of those cases where the court is left with the impression that none of the testimony can be accepted with unqualified confidence. After considering the conflict of evidence, and the sketchy nature of Veronica's plea, I am not persuaded and so hold that, on a balance of probabilities, Dr Segar did not utter the alleged words against Veronica. This disposes the case of slander against Dr Segar.

Damages for libel

99 The law relating to damages is well settled. The purpose is to compensate the claimant for the damage to his reputation; to vindicate his good name and to provide *solatium* which takes account of the distress, hurt feelings and humiliation which the defamatory publication has caused. The factors which appear to me to be relevant in Dr Segar's case against Veronica when calculating the appropriate level of the damages are as follows:

(i) the gravity of the libels: the allegation of cheating and dishonesty is particularly serious;

(ii) standing of Dr Segar as a professional. I do not think he qualifies as a community figure from volunteering at Aljunied MP's Meet the People sessions. This activity was mentioned only in passing and there are no details of his involvement.

(iii) the fact that the libels were repeated on three occasions, but they were over a very short period of time, and as such the impact was short-lived;

(iv) the fact that there were no apologies and that Veronica sought unsuccessfully to justify

her statements about Dr Segar and continued to do so in a public trial lasting many days; and

(v) the distress and injury to Dr Segar's feelings caused by the libels.

100 At the same time, there are some compelling mitigating factors. One mitigating factor is the small number of recipients of the emails who were his circle of friends and acquaintances and they are less likely to take the emails seriously. One recipient expressed disbelief and two others asked to be taken off the email circulation list, one of them citing a private fight which does not concern him. By the time of the second 5th April Email, the acrimonious relationship between Dr Segar and Veronica would have been common knowledge to the 46 recipients and that fact would have a negative impact on the person reading the second 5th April Email. If authority for this proposition is required, I refer to *Halsbury's* at para [240.245] which states:

> Where there is common knowledge that the relationship between the plaintiff and the defendant is acrimonious, a reasonable reader would be more likely to be sceptical about what was stated in the offending publication and to discount what is said disparagingly of the plaintiff when he knows that the words were said by his enemy [see *Chiam See Tong v Ling How Doong* [1997] 1 SLR 648 at [78].

101 I have already mentioned that the impact of the publication was short-lived. In my view, Dr Segar's conduct served as an additional factor to mitigate the damage. The relevance of the plaintiff's conduct is summarised in *Halsbury's* at para [240.247] as follows:

> The court may consider the whole conduct of the plaintiff, before and after the action is brought and in court during the trial. … The defendant may prove in mitigation of damages that the plaintiff provoked the words of which he complains by using expressions, oral or written, which reflected on the defendant and which came to his notice before he published the words complained of and were calculated to provoke him to do so. … The expressions relied on to show provocation must relate to the same subject as the words complained of, but the fact that the plaintiff's words may have been true does not prevent the defendant from using them in mitigation.

102 Similary, *Gatley on Libel and Slander* (11th Ed, Sweet & Maxwell 2008) at para 35.51 states:

> The conduct of the [plaintiff] is a factor that a jury can take into account when assessing damages, but "conduct" in this context does not encompass the general behaviour of the [plaintiff]; it relates principally to activities that can be casually connected to the publication of the libel of which the [plaintiff] complains, such as direct provocation. It might exceptionally include more broadly provocative actions by the [plaintiff].

103 Equally relevant is the dictum of Lord Hailsham LC in *Broom v Cassell & Co* [1972] AC 1027 at 1071 on the conduct of the plaintiff:

> The bad conduct of the plaintiff himself may also enter into the matter, where he has provoked the libel, or where perhaps he has libelled the defendant in reply. What is awarded is thus a figure which cannot be arrived at by any purely objective computation. This is what is meant when the damages in defamation are described as being "at large".

104 *Evans on Defamation* (3rd Ed, LexisNexis, 2008) at 201 cites the decision of *AJA Peter v OG Nio & Ors* [1980] 1 MLJ 226 to illustrate the application of the proposition that the plaintiff's behaviour

is a reason for awarding lower damages. In that case, the court reduced the award from $15,000 to $9,000 because the plaintiff's conduct had contributed to the defamatory remarks having been made in the first place.

105 I note and accept as accurate the sequence of events outlined by Mr Giam and, in particular, their relevance to the question of Dr Segar's provocative behaviour in assessing damages. They are:

(i) SMS on 1st January 2007 to ATM and Marlene.

(ii) On 6 January 2007, unknown to Veronica, Marlene herself had some discord with Dr Segar. She had sent an email dated 6 January 2007 to Dr Segar in which she wrote that Dr Segar had classified Marlene's husband, Henry, as belonging to the same group of persons as Veronica, Marlene was unhappy with Dr Segar over that. Months later, Marlene in her quarrels with Dr Segar decided to send copies of the 6 January 2007 email to several persons including Veronica on 30 March 2007. It was after receipt of this email that Veronica decided to respond to Dr Segar's "attacks" on her. She felt that it was time to tell her side of the story after having kept quiet for so long (see para 5 of 31st March Email at [29] above).

(iii) Veronica replies to Marlene. Dr Segar thereafter sends SMS to ATM on same day *ie*. 31 March 2007.

(iv) Dr Segar on same day sends another SMS to Marlene.

(v) Dr Segar on 3 April 2007 sends an undated handwritten note to ATM

(vi) Veronica on 5 April 2007 sends her email of 31 March to Dr Segar and copied to a larger circle of friends and associates.

(vii) Veronica on 5 April 2007 sends her second email to Dr Segar and copied to the same number of friends and associates.

106 On the particular facts of this case, the provocative behaviour of Dr Segar is capable of having a bearing upon the damages to which he might become entitled, and is both relevant and admissible. Dr Segar fired his first salvo of abusive attack on Veronica on 1 January 2007. The SMS also contained damnation of Veronica for the New Year. The attacks on Veronica restarted on 31 March 2007 immediately after the 31st March Email to Marlene – Dr Segar sent one SMS to ATM and another to Marlene. The undated handwritten note was sent on 3 April 2007 before the two emails sent on 5 April 2007. Again the Letter contained intemperate language. I am satisfied that his conduct and the intemperate language of Dr Segar were causally connected to Veronica's emails. She said in cross-examination: [note: 18]

Q: … Ms Veron, would you accept it from me that in writing these three emails, what you wanted to do was to discredit Dr Segar. Is that correct?

A: I disagree. Earlier on you have read many passages which I have said:

> [Reads] "People has (*sic*) come forward to ask me on my side of the story." So I believe that I should stand up and tell my side of the story. I was provoked very much, especially after receiving money "Money lying bitch, blood-sucking swine, pariah bitch, bloodsuckers" I couldn't take it anymore.

I accept her evidence in cross-examination that the 31st March Email was due to Dr Segar's 1st January SMS. [note: 19] It is clear from her second 5th April Email that she was fed up and angry with Dr Segar for calling her a "Money Faced Lying Pariah Bitch" in his SMS to ATM and she went on to chide him for "passing [such] messages through others".

107 I note that Mr Rai has asked that Dr Segar be awarded damages exceeding $250,000. In his submissions, Mr Rai argues that *Arul Chandran v Chew Chin Aik Victor JP* [2000] SGHC 111 (HC); [2001] 1 SLR(R) 86 (CA)("*Arul Chandran*") pales in its significance relative to the defamatory remarks, aggravation and malice present in Dr Segar's case. [note: 20] In that case, the plaintiff was awarded $100,000 as damages and $50,000 as aggravated damages. In response, Mr Giam argues that damages should be within the range of $20,000 to $80,000 given "the limited publication and the frivolity of the dispute". In his view, the lower end of the range "would probably be the more appropriate sum to be awarded". [note: 21]

108 I agree with Mr Rai that Veronica was reckless in making the statements that suggested that Dr Segar committed forgery to cheat his brother. On that count, there was a reckless disregard of the truth. As for the rest of the libel that referred Dr Segar to as a con artist, and hence, dishonest, I also reached the same conclusion on the question of Veronica's recklessness. I agree with the observations of Yong Pun How CJ in *Maidstone Pte Ltd v Takenaka Corp* [1992] 1 SLR (R) 752 where he states (at [50])

> A defendant is not reckless, for the purposes of proving malice, if he did so believing it was true, even if he was careless, impulsive or irrational in coming to that belief. The law does not require him to be logical. In order for him to be held to be reckless, he must be shown to have not cared or considered if the statement was true.

For the same reasons, subsequent publications in the second 5th April Email that Veronica was conned would be ground for aggravated damages.

109 Cases like *Au Mun Chew (practising as Au & Associates) v Lim Ban Lee* [1997] 1 SLR(R) 220 and *Yeap Beng San Louis v Choo Pit Hong Peter* [1999] 1 SLR(R) 397 ("*Louis Yeap*") demonstrate that damages awarded to a plaintiff who is not a community or public figure generally do not exceed $45,000. Mr Giam referred to the lower end of the range of awards at $20,000 as gathered from cases like *Chen Cheng and another v Central Christian Church and other appeals* [1998] 3 SLR(R) 236 ($20,000 & $30,000), and *TJ System (S) Pte Ltd and Others v Ngow Kheong Shen (No 2)* [2003] SGHC 217 ($30,000, $25,000 and $20,000). In these cases, the mitigating factors, however, were not as many and as significant as the ones in the present case.

110 Cases of *Arul Chandran* and *Yeo Nai Meng v Ei-Nets Ltd and Another* [2004] 1 SLR(R) 73 (HC) and [2004] 1 SLR(R) 153 (CA)("*Ei-Nets Ltd* ") are not comparables given the nature of the defamation and the number of aggravating factors. The plaintiff in *Arul Chandran* was a practising lawyer of more than 30 years and at the time of the publication, he held the position of vice-president of a well-know prestigious social club, The Tanglin Club. The defamatory remarks were contained in a newspaper report and two letters referring to the plaintiff as "a vicious and most dangerous fraud". Compensatory damages were given for the plaintiff's hurt feelings and reduction in his standing before his social peers in the Tanglin Club's General Committee.

111 In *Ei-Nets Ltd*, the Court of Appeal noted that although the plaintiff was not a leading public figure, he was, nevertheless, a man of business and has held positions of responsibility in public and private organisations. Furthermore, the Court of Appeal noted that the award of $80,000 was on the

high side but it was not so high as to warrant the intervention of the court. The nature of defamation in that case were two reports that were circulated to the Audit Committee and the Board of Directors of Ei-Nets Ltd suggesting that the plaintiff was guilty of fraudulent misconduct. In the reports, the plaintiff was painted as a dishonest person who had conspired to make fictitious journal entries in the company's books with a view to misappropriating funds. The sting was greater because the reports were purported to be considered opinions of a senior lawyer and a senior accountant.

112 In the circumstances of this case, it seems to me that the most important factor in arriving at an assessment of the appropriate compensation is that of the impact on Dr Segar's feelings and the distress caused. There was probably a sense of injustice and indeed genuine outrage on his part. As to vindication, this factor is less important in a situation where there has been only limited publication. Furthermore, although there is no tangible evidence of any actual diminution in Dr Segar's reputation, some damage is presumed to his social reputation rather than his competence and skill as a doctor. Veronica's emails did not impinge on Dr Segar's professional capabilities. The contents of her emails discussed Dr Segar's behaviour towards her as a friend and business partner, not in anyway his professional capacity as a doctor. I have already held that the emails did not defame Dr Segar in his professional capacity. Nonetheless, Veronica was unyielding, unapologetic and had acted unreasonably in spreading their private tiff to other persons who had no interest in the quarrel. The erstwhile storm in a teacup between Dr Segar and Veronica developed into a bigger dimension because emotions ran high and out of hand and it also involved Marlene. Dr Segar in his 31st March SMS to Marlene had accused her of planning with Veronica to destroy him. But fortunately for Veronica, damages are less than modest because of the limited publications and they were in all probability disbelieved as the ranting of an irate and aggrieved person. She also did not seek to justify or prolong the charge of forgery to cheat Dr Segar's brother.

113 Bearing in mind my comments in [112] and having regard to both the gravity of the allegation (the sting in the emails is substantially the same, namely dishonesty), limited aggravating factors, limited scale of publication, and the impact of the defamation in light of the acrimonious relationship between Dr Segar and Veronica, the right starting figure (there being, in my view, no comparable cases where the tort of defamation attacks the social reputation of the plaintiff) for a single award would be in the order of $15,000. Certainly, Dr Segar's provocative behaviour was, and I so find, casually connected to the libels sued upon and as such damages should be significantly less. In my judgment, Dr Segar should receive a reduction in damages as well. Doing the best that I can to reflect the various factors which I have mentioned, I come to the conclusion that the total sum I award in damages is $10,000 in respect of the emails where the defence of justification failed.

Veronica's counterclaim for $209,137.44

114 Veronica's pleaded case is that during the period 2002 to 2006, she had from time to time, at Dr Segar's request, disbursed numerous sums of money to him and to third parties on his behalf. The sums in question are (a) a total sum of $168,911.00 to Dr Segar, and (b) a total sum of $204,407.90 to third parties on Dr Segar's behalf. In addition, there were two other payments of $31,884 and $84,000. After deducting $258,872.13 for the loan from Dr Segar, Veronica seeks recovery of $230,330.77 ($489,202.90-$258,872.13). However, in closing submissions, the claim amount is now $209,137.44, a breakdown of which is follows:

(a) Post-dated cheques to Dr Segar	$31,884.00
(b) Monthly payments to Segar Medical Services Pte Ltd	$84,000.00
(c) Payment made to third parties on behalf of Dr Segar	$203,778.57

(d) Payment made direct to Dr Segar	$148,347.00
Total	$468,009.57
Less loan from Dr Segar	($258,872.13)
Amount claimed	$209,137.44

115 At closing submissions, Dr Segar concedes that he had received a total sum of $309,579.58 from Veronica. [note: 22] This figure of $309,579.58 comes from Dr Segar's acceptance of certain items in Annex C to Veronica's second affidavit of evidence-in-chief. [note: 23] Mr Rai submits that after deducting the loan of $300,000, the counterclaim should be only for the sum of $9,579.58.

116 Dr Segar therefore challenges the balance claim of $158,429.99 ($468,009.57-$309,579.58). In doing so, Dr Segar has taken issue with broadly three lots of payments: (a) the sum of $84,000 which he maintains was for consultancy services rendered to Skatool Industries and Skatool Marine, and as such were not repayments towards the loan; (b) the 24 post-dated cheques totalling $31,884 were for interest which Veronica had agreed to bear; and (c) the sum of $42,545.99 being alleged payments to third parties on Dr Segar's behalf and to Dr Segar himself. Mr Rai's explanation for rejecting $42,545.99 is found in paras 221 to 225 of his closing submissions. I have noted that paras 221 to 225 do not cover all 15 disputed items. Except for the legal fees of $3,640.66 to Arthur Loke Bernard Rada & Lee which Veronica must bear since it was a payment which she had accepted albeit, she now says, grudgingly, [note: 24] for the rest of the 14 disputed items, [note: 25] Mr Giam has in paras 306-325 of his closing submissions substantiated the payments in the light of Veronica's evidence (which I accept) and the supporting documents in evidence. I have noted that, at least two disputed items, namely SN 44 and SN 55, were recognised as payments towards the loan in the report of Dr Segar's expert witness, Mr Aw Eng Hai, but now curiously challenged by Dr Segar in closing submissions. This challenge is contrary to Dr Segar's testimony which Mr Rai confirmed at the trial: in the witness box, Dr Segar accepted SN 44 as payment made on his behalf; [note: 26] Mr Rai confirmed this position at the trial. [note: 27] Accordingly, I find that $38,905.33 is due from Dr Segar to Veronica in respect of payments made by Veronica to (a) third party on Dr Segar's behalf ($15,234.33) and (b) to Dr Segar ($23,671).

Post-dated cheques totalling $31,884.00

117 I now come to the interest payments. Of the 24 post-dated cheques, 12 were for the sum of $1,241 each and they were issued for the period 1 May 2003 to 1 April 2004. The other 12 post-dated cheques were for the sum of $1,416 each for the period 8 May 2004 to 8 April 2005. The first batch of 12 post-dated cheques was handed over around May 2003, and the second lot was handed over around May 2004.

118 In my view, the absence of documentary evidence to show interest payments to Dr Segar's bank is not the issue. On the evidence before me, I am not persuaded that Veronica did not know what the 24 posted-dated cheques were for and she had merely followed Dr Segar's instructions in issuing the post-dated cheques. Veronica's denial that she was not told to pay interest on the loan was unbelievable bearing in mind her grouses in the 31st March Email. First, at paras [10], she said she paid interest that was above "OD rates" and second, at [29], she wrote:

> He got a much cheaper borrowing rates of about from the bank (the rates were really low 2 years

ago) but charged me 300K OD rates right from the start to the end. I was paying him 300K OD rates even when I had repaid all but 50K. Because he said he was tight with money.

119 In the circumstances, I accept Dr Segar's evidence and reject Veronica's denials as his was the more probable version especially in light of her own assertions in the 31st March Email that she was made to bear and did pay interest. Another of Veronica's undated email (accepted by the parties to have been written around mid 2005 after their Australian trip ("2005 Email")) is similarly telling. She wrote on two points: interest and her loan repayment: [note: 28]

...

A big THANK YOU for your FREE PUBILICY for broadcasting to the world that I borrowed 300K from you and I am now turning my back on you now that the loan is repaid back!

...

If I wanted to run I would have run when I had the 300K. Not after returning you!

...

If I wanted to cheat: fight and leave with the money! Why bother with the repayments?

Maybe I should have done a Rudy Kohl on you, at least I would have the money in my pocket, Not to forget, I paid back with more than enough bank interest rates, consultancy, holidays. All adding up to almost 500K.

...

120 Finally, Mr Giam made the point that no more interest was paid or asked for after 8 April 2004. That is not surprising as Veronica had in cross-examination confirmed that she had repaid the loan before June 2005. [note: 29] In the circumstances, I find and so hold that the 24 post-dated cheques were for interest which she must bear. Her claim for refund of the interest payments fails.

Consultancy fees totalling $84,000

121 I now come to the monthly payment of $6,000 for over a period of 14 months from May 2003 to June 2004. According to Dr Segar, it was agreed that Veronica would discharge her loan obligations by paying Dr Segar's contractors and/or as instructed by Dr Segar to third parties including Dr Segar himself. The consultancy payments were to resume after his renovations. Indeed, the monthly payment of $6,000 stopped about June 2004 when renovations to Dr Segar's property at East Coast Road started. Mr Rai made two points. First, none of the payments for consultancy were made by Veronica as all the cheques were issued by Skatool Industries. If anything, the right of action did not belong to Veronica, and her claim for this reason must fail. Second, the money was for services rendered by Dr Segar as a consultant.

122 In the 31st March Email, Veronica said she gave the money for free for over a year to tie him over his financial problems (see [29] above). At the trial, she took the position that the monthly payment of $6,000 was towards repayment of Dr Segar's loan which, in my view, was for $300,000 and not $258,872.13. If her stance at the trial is true, then her statement that $6,000 was for free to help Dr Segar tie over his financial problems was untrue. Mr Rai noted that she had in her earlier

2005 Email referred to payment of consultancy to Dr Segar. She wrote:

> I paid back with more than enough bank interest rates, consultancy, holidays. All adding up to almost 500K.

123 Therefore, before battle lines were drawn in this action, she had admitted to payment to Dr Segar for consultancy. This is a valid point but I have difficulties accepting that Dr Segar who is a medical doctor would be paid for the unprofessional management consultancy services. Dr Segar's ability to provide paid such consultancy services was doubtful. He had neither the expertise nor experience as a management and business consultant. Notably, his description of the consultancy services rendered was sketchy and lacking in details. Furthermore, the nature of the services described by Dr Segar were disparate and ad hoc (see [11] above) and, on any reasonable view, could not possibly have warranted regular monthly payments spreading over a period of 14 months from May 2003 to June 2004.

124 Although Skatool Industries' name appears in the documentation (*eg* the payment vouchers [note: 30]), that of itself was not a sufficient reason to infer that that Skatool Industries paid Dr Segar for consultancy services actually rendered to the company. In my view, the payment vouchers from Skatool Industries were made out as they were to support the charade of a consultancy agreed by ATM and Veronica with Dr Segar who used Segar Medical Services to invoice Skatool Industries. In order for Dr Segar to show Hong Leong Finance that he had a steady stream of income from his medical practice to support his loan, ATM and Veronica used Skatool Industries' letterhead to confirm Dr Segar's appointment as consultant for $6,000 per month. At the material time that was the private arrangement between three close friends. Veronica and her husband were indebted to Dr Segar for his loan to them to complete the purchase of the Tuas factory and they were willing to help out their friend. [note: 31] Mr Rai's argument – that Veronica's version of the evidence is not true because it made no sense for Segar Medical Services to invoice Skatool Industries and to pay tax on repayment of a personal loan to Dr Segar – is neither here nor there. That could well be the unintended consequences of the charade but it did not alter the fact that there was, and I so find, such a charade. If there is anything to Mr Rai's point, my impression is that as Hong Leong Finance would want to see evidence of ability to repay a higher loan and since Dr Segar was able to take $205,180.89 as a result of the higher loan amount, this fact would outweigh the tax on the $6,000 per month.

125 I accepted Veronica's testimony that all three were very close friends and she and her husband would naturally talk about their business problems with Dr Segar and suggestions and ideas would come up in the course of conversations. As Dr Segar admitted, he has no experience in Veronica's business and had never been to China. In my view, whatever assistance Dr Segar gave, it was given as a close friend. In the same way, I accept Veronica and her husband's testimony that the two letters to Hong Leong Finance dated 8 August 2003 and 9 June 2005 respectively confirming Dr Segar as a consultant and earning $6,000 per month in consultancy fees were written to assist a close friend who had a facility with the finance company and Dr Segar wanted his friends to provide comfort letters to the finance company that he had sufficient income from his medical practice to service his monthly instalments. [note: 32] It was not disputed that the text of the two letters to Hong Leong Finance were drafted by Dr Segar, and that the second letter to Hong Leong Finance was in 2005 after the monthly payment of $6,000 had stopped. This was one of the points I took on board in reaching my conclusion that the payment of $6,000 was not for consultancy. Furthermore, the timing of the monthly payment of $6,000 could not have been coincidental. It started in May 2003, the month immediately after the Hong Leong Finance loan to Dr Segar was disbursed on 11 April 2003. [note: 33] I have already commented on the nature of the consultancy services from an unqualified

person like Dr Segar which was more consistent with ad hoc assistance rendered by a good friend to another.

126 It was not unreasonable to expect Veronica and her husband to look up to Dr Segar who was 12 years older than Veronica. He was a professional man and was certainly more educated and presumably wiser than the couple. He spoke and wrote better English than the couple. He was also sociable. It was not surprising that he attended the dinner at the restaurant, Just Steak, with Veronica and ATM whose guests were visitors from Norway.

127 There is one related point that equally cast doubt on Dr Segar's case. The evidence does not support Dr Segar's contention that the consultancy payment stopped so that Veronica could discharge her loan obligations by paying for his renovations. It cannot be disputed that Veronica made payments to Dr Segar's architects on 14 August 2003 ($7,161.58) and to Dr Segar direct on 24 September 2003($8,000). [note: 34] These payments were made during the periods of the post-dated cheques and monthly payment of $6,000.

128 In summary, on the evidence before me, I find that the total sum of $84,000 paid by June 2004 was towards repayment of the $300,000 loan.

Conclusions on Suit 310

129 Dr Segar succeeds in his claim for libel and is awarded $10,000 in damages with costs. On Veronica's counterclaim:

(i) Veronica's claim for libel and slander is dismissed.

(ii) Dr Segar is to pay Veronica the sum of $132,484.91 together with interest thereon at the rate of 5.33% pa from the date of the writ to judgment. The sum of $132,484.91 is computed as follows:

	$	$
Payments by Veronica to/ on behalf of Dr Segar		468,009.57
Less :		
Loan repayment	300,000.00	
Interest	31,884.00	
Legal fees	3,640.66	
	----------	335,524.66
		132,484.91

(iii) Veronica is entitled to 50% of the costs of the counterclaim.

SUIT 562: THE PARTNERSHIP DISPUTE

Overview

130 This action is brought by Veronica against Dr Segar in respect of the jewellery business. The dispute is not about whether or not there is a partnership in the first place. There is also no dispute

as to the nature of the partnership. Both agree that they were to be equal "equity" partners. The substance of the affidavit evidence shows this arrangement. In short, the parties were supposed to be equal partners as to income and as to capital. The core issue before me is the question of who owes what to whom on dissolution of the partnership.

131 Suit 562 is not just for the dissolution of the informal partnership. There is some dispute as to when the partnership came to an end. Dr Segar claims that the partnership ended in May 2005 when he closed all the bank accounts, and in February 2006, Veronica had agreed to Dr Segar keeping the unsold stock-in -trade.

132 In contrast, Veronica said her last contribution to the business was on 20 December 2005 when she purchased a safe for the jewellery. [note: 35] It was around July or August 2006 that she informed Dr Segar that she no longer wished to invest in the business. She was not clear as to when the business ceased because in September 2006 she had asked Dr Segar for the jewellery and gemstones to show a prospective buyer. Not long after, on 12 September 2006, Dr Segar without explanation sent by local courier to Veronica several empty jewellery boxes and 25 items of jewellery. She rejects Dr Segar's assertion that she had agreed to let him have the unsold stock of jewellery and gemstones. On the evidence, the business relationship would have ceased completely when the friendship truly ended. It is obvious from Dr Segar's refusal to accept ATM's handshake in greetings that his friendship with Veronica and ATM must surely have ended by 31 December 2006. I would, take 31 December 2006 as the date of cessation of the partnership.

133 Nothing turns on whether it was Dr Segar or Veronica who initiated the business. I note that despite Dr Segar's denial that he was part of "Sparkle from Belgium", he nevertheless recorded the registration fees of the business name "Sparkle from Belgium" as an expense of the business in a single entry ledger sheet. On any view, the parties were to work as partners once the business name, "Sparkle from Belgium", was registered in Veronica's name as sole-proprietor and the trademark "Sparkle" registered in Dr Segar's name. More importantly, Dr Segar admits that the jewellery and gemstones were kept at his clinic, and he also accepts that he was responsible for maintaining the accounting records of the partnership. On the accounting side, the better view (and I so hold) is that the accounting would not only take into account income earned and expenses incurred from the date of commencement of business, it should also take into account any start-up expenses incurred before that date.

134 Quite clearly the parties did not pool an equal amount of money together to start the business. Each party simply paid for expenses properly attributable to the business as and when they arose. In other words, contributions to the business were made on an *a d hoc* basis by either Veronica or Dr Segar. No attempt was made by either party to equalise or square off the financial contributions of the parties during the existence of the business.

135 Even though the recording of the income and expenditure of the business was to be done by Dr Segar, they were scant. He admits to maintaining a single entry ledger sheets, but along the way, he found maintaining such records too troublesome, and with Veronica's agreement, discontinued manual recording in favour of bank statements as a substitute for the single entry ledger sheets. The idea was that moneys from that bank account would be used to pay for purchases, and proceeds from sales would also be deposited into the same account, and the bank statements could operate as a substitute for the single entry ledger sheets as each transaction would be reflected in the bank statements. At the trial, Mr Rai confirmed Dr Segar's evidence that the OCBC bank account was opened for the purpose of replacing the single entry ledger sheets. Furthermore, Dr Segar maintains that as Veronica was an authorised signatory of all the bank accounts of the business, she did or would have perused the monthly bank statements as and when they were received for information on

the business. The excuse for not maintaining accounting records could not, on the evidence, stand up to scrutiny. First, the OCBC bank account was opened *before* Dr Segar decided to do away with keeping books and records and to use the bank statements only. Second, Dr Segar himself (and I would add curiously) did not adhere to new arrangement in that a substantial amount of expenses, which he had attributed to the partnership, were apparently not through the partnership bank accounts but his own.

136 According to Veronica, she started contributing financially to the business from May 2002. However, other than contributing towards the expenses of the business, procuring her friends to buy the jewellery and accompanying Dr Segar to purchase the gemstones, Veronica said that she played a very passive role in the business. The conduct of the jewellery business was left to Dr Segar who was someone she trusted. Moreover, unlike Veronica, Dr Segar had the right contacts for the supplies of gemstones and was knowledgeable about jewellery and gemstones. Veronica claims that she was not updated on the financial aspect of the business at all. While she had contributed to the expenses of the business, she was neither told of the total costs involved nor of the sale proceeds. She merely contributed financially to the business as and when Dr Segar requested that she do so. All she had in relation to the finances of the business were handwritten single entry ledger sheets prepared by Dr Segar for the period May 2002 to around July 2003. At various times, the bank accounts were opened for the purposes of the business. Veronica asserted that it was agreed between them that Dr Segar would operate these accounts. At all material times, the bank statements for those accounts were sent to Dr Segar's clinic, and Veronica did not receive any bank statements from him. She had no knowledge of all the deposits or withdrawals for the business. However, by her estimation, she had invested around $500,000 into the business. [note: 36] Dr Segar is relying on Mr Aw's report to show his contributions to the business, and for the moneys taken out from the bank accounts of the jewellery business to pay for expenses in the other businesses.

137 Veronica (by her statement of claim) and Dr Segar (by the counterclaim) seek the taking of accounts. I begin with para 3 of the Statement of Claim (Amendment No 1). It states as follows:

> 3.1 The plaintiff's and the defendant's respective financial contributions to the business;
>
> 3.2 All sales and purchases made by the defendant for the business;
>
> 3.3 All banking transactions made by the defendant in relation to the following bank accounts opened by the plaintiff and the defendant for the business:
>
> 3.3.1 OCBC Account No. 512-XXXXXX-XXX
>
> 3.3.2 DBS Account No. 027-XXXXXX-X; and
>
> 3.3.3 DBS Account (US Dollar) No. 0027-XXXXXX-XX-X-XXX
>
> 3.4 All remaining gemstones and/or jewellery that have not been sold.]

138 Dr Segar's counterclaim is for the following reliefs:

> (i) an account of 32 blue sapphires and the precious stones/jewellery set out in Schedule A of the defendant's Defence & Counterclaim (Amendment No. 1) which the defendant claims are in the possession of the plaintiff;
>
> (ii) a declaration that the defendant is entitled to a 50% share in the value of the 32 blue

sapphires and the precious stones/jewellery identified in Schedule A;

(iii) an order that the plaintiff pays to the defendant all the sums found to be due and owing from the plaintiff and the defendant pursuant to the account and declaration sought under the previous two prayers;

(iv) damages; and

(v) interests.

Comments on Aw Eng Hai's report

139 It is evident from the affidavit of Mr Aw that proper books and records of the venture between Veronica and Dr Segar were not properly kept and maintained and no accounts were prepared by the partnership. But for the exercise by Mr Aw to determine the state of affairs of the partnership, nothing has been done.

140 Nowhere in Mr Aw's report was there stated the date in which the jewellery business commenced and when it ended. It is anyone's guess how long the business was in operation and the reader is left to decipher from the bank statements as to when the business commenced and ceased.

141 It is crucial and important for any business (and this includes the jewellery business) that proper books and records be kept and properly maintained not only for the purposes of the day to day running of the business but as a basis for the preparation of accounts in order to ascertain the performance of the business and in the case of a partnership to report to the respective partners of their venture. In addition, under the Income Tax Act (Cap 134, 2008 Rev Ed), any person who carries on a trade, business or profession is required to keep proper accounting records, invoices, receipts to enable the person's income and allowable deductions to be readily determined by the Comptroller of Income Tax.

142 In this connection, the responsibility of keeping proper books and records detailing the transactions of the businesses that the partnership ventured into lay primarily with Dr Segar, and he admits to this. He not only controlled the bank accounts, he was in charge of the running of the partnership's substantial business, namely, the jewellery operations.

143 It is interesting to note that in the case of Segar Medical Services, Dr Segar was conscientious and meticulous in preparing invoices with details clearly set out such as for example the monthly billings to Skatool Industries for consultancy services. He had Mrs Tan (nee Lek Puay Lan), an account clerk to assist in the accounts of the medical practice. Yet, in the jewellery business, there were no sales invoices issued for the jewellery business throughout the period and there were very few purchase invoices and receipts kept. Initially, a record of sales was kept from 5 July 2002 but this stopped in October 2002. The payee of many cheques issued out of the joint accounts was to Cash, with no details as to who they were for.

144 After preparing the accounts of the partnership under Appendix G, Mr Aw in para 31 of his report sets out a summary of the income statement of the partnership showing a loss of $826,372.04. The loss can be attributed to four ventures entered into by the partnership at various points in time and are set out below:

Jewellery	$594,569.61
Scrap Steel	$ 79,619.92
Pitta Hut Pte Ltd	$ 51,000.00
Computer	$101,182.51
	$826,372.04

145 The jewellery operations were the initial business venture and it remains the major business of the partnership until the breakdown of the relationship between the partners. The other businesses were brief attempts to venture into other areas of business but all ended up in losses. Veronica accepts her participation in the steel scrap and computer ventures but disavows any involvement in (a) the Mediterranean fast food business which saw the incorporation of Pitta Hut, and (b) Sachris, an Australian seafood business. A sum of US$30,000 was withdrawn from the partnership's US Dollar account with the DBS Bank for Pitta Hut and Sachris. On the evidence before me, I prefer the evidence of Veronica and ATM as the documents bear out their story, and I find in Veronica's favour. Accordingly, the sum of US$30,000 has to be brought to account as a partnership asset.

146 I find Mr Aw's presentation of the income statement for the jewellery business in Appendix G unhelpful. It is unsatisfactory as it obscures the true picture of the results. I have therefore set out his figures in a more meaningful revised presentation below. In order to do so, certain identifiable expenses such as travelling expenses were separated and classified separately.

Jewellery Business

	$	$	$
Sales			161,407.00
Cost of Sales (a)			
OCBC S$ joint account (Sch S3)		191,411.83	
Less travel expenses		1,522.00	
		189,889.83	
DBS S$ joint account (Sch S3)		90,754.55	
DBS US$ joint account (Sch S3)		12,447.96	
		293,092.34	
Payments by Veronica directly (Sch S4)		182,965.70	
Payments by Segar directly (Sch S5)	416,961.22		
Less travel expenses	32,433.76		
		384,527.46	
		860,585.50	

Less closing inventory(valuation)	138,765.00	
	----------	721,820.50
Gross Loss		560,413.50
Other expenses		
Travel expenses - OCBC S$ joint account (Sch S3)	1,522.00	
- Payment by Segar directly (Sch S5)	32,433.76	
	----------	33,955.76
Loss		594,369.26
Interest income		92.89
Bank charges		293.24
Net Loss		594,569.61

(a) This would represent the direct cost of jewellery such as the cost of the precious stones, workmanship and packaging.

147 As can be gleaned from the revised presentation of the income statement of the jewellery business, the jewellery operations expended about $721,820.50 under cost of sales which represent the cost of gemstones, workmanship and packaging but generated sales of only $161,407, resulting in a gross loss of $560,413.50.

148 When one bears in mind the commercial practice that businesses do mark-up on their direct costs of sales to give a gross profit so as to cover other expenses such as travelling, salaries and other indirect expense to finally result in a net profit, the fact that the jewellery business has such a large gross loss is significant. In the case of the jewellery business, 100% mark-ups are not unheard of. In fact, according to Veronica, she was informed by Dr Segar that marks-ups on jewellery could be 300% and as high as 1,000% for big gemstones. [note: 37] Therefore, it is indeed very surprising that there should be a gross loss in the first instance. The other thing to note here is that no business person would make a product where the sale of it would not even cover the cost of making that product let alone recovering other expenses.

149 It is interesting to note that on a review of the $416,961.22 expenses paid by Dr Segar on behalf of the partnership's jewellery business in Schedule S5 of Appendix G, there were payments amounting to $307,495.21 (made up of $207,140.90 to Moshe Peleg and $100,354.31 to Ceylinco). While there were other jewellery suppliers listed in Schedule S5, the above payments were for gemstones purchased from the partnership's major jewellery suppliers. It is therefore puzzling that sales of the jewellery business were dismal at just $161,407. If sales were indeed bad, then one would reasonably expect closing inventory to be large but this was not the case here as closing inventory amounted to $138,785.

150 On any reasonable view, if the closing inventory of $138,785 was deducted from the above cost of $307,495.21, it would mean that $168,730.21 worth of gemstones and jewellery were expended to garner sales of $161,407. It would appear to be a ludicrous situation as it would mean that discounts instead of mark-ups were given to sell the jewellery. In addition, other costs such as

workmanship were not recovered.

151 There can be a number of reasons for the anomaly. First, jewellery sales made by the business were not properly accounted for and recorded. Second, remaining stocks of gemstones and jewellery are in fact more than the closing valuation of $138,765 and have not been fully accounted for. Third, expenses that are included are not attributable to the jewellery business. It is difficult to identify the actual cause of the gross loss since proper books and records of the transactions, receipts and stocks were not properly kept and maintained. There was no independent verification of the figures as Mr Aw did not carry out an audit in preparing the income statement of the partnership for the report but had relied on instructions and explanation of Dr Segar which is totally unsatisfactory, and, hence, unreliable. In fact, the report raises more questions than provides answers. First, Mr Aw admits that he was to a very large extent dependent of the instructions of Dr Segar. [note: 38] Where supporting documents were not available, Mr Aw merely adjusted the accounts according to Dr Segar's instructions. The reliability and evidential value of Mr Aw's report is immediately undermined. Second, Mr Aw's report is not comprehensive. Veronica had averred that some of the expenses she had paid on behalf of the business but were not captured in Mr Aw's report. [note: 39] Third, even where supporting documents were available, some were insufficient to support the payment for which they were supposed to prove.

152 Mr Aw relied heavily on the single entry ledger sheets to ascertain the respective financial contributions of the parties. However, the single entry ledger sheets were not reliable as they were incomplete. Photocopies of the single entry ledger sheets were produced. There were no originals as Dr Segar claimed that they were discarded. His testimony on the single entry ledger sheets is as follows: (a) he threw away all original handwritten single entry ledger sheets after he gave Veronica copies; (b) he does not have any source documents like invoices and receipts; and (c) he rewrote the single entry ledger sheet pertaining to his contributions because the original was soiled and in rewriting the single entry ledger sheet added additional entries of his contributions. Throughout the business relationship, Dr Segar provided Veronica with one photocopied set of single entry ledger sheets around October 2002. They showed Veronica's contributions from 27 April 2002 to October 2002; Sparkle's Sales from 5 July 2002 to 11 October 2002; Stracom Technology's Sales dated October 2002 and Dr Segar's contributions from 6 June 2002 to 9 October 2002. [note: 40] A second set of photocopied single entry ledger sheets was provided later around July 2003. They showed changes in Veronica's contributions. [note: 41] During discovery, Dr Segar disclosed a further set of handwritten single entry ledger sheets: Veronica's contributions from 27 April 2002 to July 2003 (same as the one received in July 2003); and Dr Segar's contributions from 6 June 2002 to 11 November 2003. [note: 42] Dr Segar's list of contributions had gone up, and Mr Giam questioned whether Dr Segar had buttressed his contributions by attributing more contributions to his name. Certainly, the single entry ledger sheets do not qualify as accounts as there are no supporting documents for the entries. The bank statements do not reflect the monetary contributions of the parties towards the business: the parties had made ad hoc payments which were not reflected in the bank statements. One related point is Dr Segar's argument that Veronica would be able to match the relevant transactions to the entries in the bank statements and that she had access to the bank statements in the past. I do not think that Dr Segar would have complied with his obligation to provide an account of all transactions relating to the business merely by making the bank statements accessible to Veronica. For the reasons stated, I do not agree with Dr Segar that Veronica had been given an account of the parties' contributions and of the business by way of the single entry ledger sheets, the bank statements and Mr Aw's report.

153 I now comment on the Capital Account – Contributions in Mr Aw's report. In para 32 of the report, Mr Aw sets out the capital accounts of the respective partners showing the contributions

made by each of the partners. Accordingly, Dr Segar was credited to have contributed $1,188,433,77 to the partnership while Veronica contributed $389,072.72. In the case of Dr Segar's capital account, $606,843.45 was repaid out of the joint accounts to Dr Segar as reimbursement of payments that Dr Segar made on behalf of the partnership. There were repayments amounting to $5,526 to Veronica.

	$	$
Deposits into joint accounts		692,940.77(a)
Payment of expenses directly		
Jewellery business	416,961.22	
Scrap metal business	60,000.00	
Computer	18,531.78	
	----------	495,493.00
		1,188,433.77

(a) There is a difference of $1,911.25 between the above figured and the figure of $691,029.52 in Sch. S7 of Appendix G.

154 However, a closer examination of the figures of Dr Segar's contributions in Appendix G to the report reveals a different picture. Included in deposits into the joint account of the partnership by Dr Segar is an amount of $469,449.52 deposited on 12 April 2003 that does not relate to the jewellery business although it was analysed as such in Appendix G. It is actually the loan proceeds disbursed to Dr Segar. Around the same date, $464,055.02 was withdrawn from the joint account, this being made up of the $258,872.13 to Veronica and $205,180.89 withdrawn by Dr Segar himself.

155 To give a truer picture of the partnership's jewellery business as presented by Mr Aw, the figure of $464,055.02 should be removed from both the deposits and payments side of the joint account. This means that actual deposit contribution to the business of the partnership by Dr Segar becomes $228,885.75 while repayments from joint account to Dr Segar amounts to $142,788.43 ($606,843.45 less $464,055.02), resulting in net cash injection into the partnership by Dr Segar of $86,097.32. This is to be compared to the $202,110.54 deposited into the joint accounts by Veronica under Schedule S9 of Appendix G. As a result, the actual contribution of Dr Segar to the partnership business becomes $581,590.32, made up of net cash contribution of $86,097.32 and expenses paid directly of $495,493. Notably, Dr Segar had not kept the actual receipts and invoices relating to his payments.

156 As set out in para 32 of Mr Aw's report, Veronica's contribution to the partnership amounted to $389,072.72 and this comprise of cash deposited in to the partnership's bank accounts of $202,110.54 and expenses paid by Veronica on behalf of the partnership's businesses totalling $186,962.18 ($182,965.70 and $3,996.48 for the jewellery and computer businesses respectively).

157 In respect of the expenses paid by Veronica on behalf of the jewellery business amounting to $90,712.58, there were no other details apart from the serial number of the cheques. In the interest of proper accounting of the jewellery business, details of expenses ought to be disclosed.

158 Lastly, based on Mr Aw's para 32 of his report, there is a shortfall of $128,339.30 in Veronica's capital account. This figure of $128,339.30 is unreliable given the questions and comments raised in

this judgment. Consequently, the conclusion Mr Aw reached in para 33 of the report is doubtful.

Findings

159 The question of whether there is any sum recoverable from the partnership at the end of the day hinges on what is the *true* result of the jewellery business given the sizeable loss in Mr Aw's report and this must surely fall squarely on Dr Segar as the partner-in-charge to explain. In this connection, it will be unclear until following the taking of accounts which partner will be required to make further contribution or will be entitled to any part of the capital profits. The result is that if accounts are required to be taken, they will identify the assets, liabilities, income and expenditure of the partnership and will allocate those matters 50:50 to each party.

160 I have earlier held in [145] that the sum of US$30,000 be brought to account as a partnership asset. One other related dispute is the travel expenses incurred for the purposes of the business. Veronica said that it was agreed that such expenses would not be claimed against the business. However, Dr Segar, contrary to their agreement, had recorded his travel expenses as his monetary contributions towards the business. The travel expenses were recognised in Mr Aw's Schedule S5 (at p 66 of his report) on Dr Segar's instructions. In addition, Dr Segar was able to produce primary documents for his travel expenses but was unable to produce other primary documents in relation to the business. Mr Giam submits that the travel expenses were included as an afterthought to inflate Dr Segar's contributions. In contrast, and in keeping with the agreement, there was no claim for travel expenses at all on Veronica's list of contributions. [note: 43] Notably, Dr Segar did not challenge Veronica's allegation that it was agreed between the parties that travel expenses were not claimable against the business. In the circumstances, I prefer Veronica's evidence that travel expenses were not claimable against the business. Accordingly, travel expenses attributable to Dr Segar in Mr Aw's report are not to be counted as his contributions.

161 The next matter in dispute before me related to an emerald ring to Dr Segar's friend, TT Durai. Dr Segar said that the emerald was his own stone and was not from the partnership stock-in-trade. TT Durai's evidence is unhelpful. Dr Segar said it was a gift. TT Durai confirmed that it was a gift. His evidence only corroborates the gift to that extent and nothing more. There is no evidence corroborating Dr Segar's assertion that the emerald did not come from the stock-in-trade.

162 In circumstances where Dr Segar had the means of proof, but did not avail himself of them (see s 108 of the Evidence Act (Cap 97, 1997 Rev Ed), and *a fortiori* where Dr Segar was asked to produce the relevant documents but did not do so, the position is that he has not shown that the stone was his. In the circumstances, the income from this particular gift should be brought into account as partnership income. The same conclusion applies to the jewellery listed in Veronica's closing submissions at para 125, namely (a) an emerald ring made for a Ms Sharmila; (b) diamond choker; (b) emerald ring and citrine ring worn by Dr Segar, (c) two rings initially intended for ATM but retained by Dr Segar; and (d) heart-shaped tanzanite pendant to Dr Segar's friend Moshe Peleg ("Moshe"). In addition to (d), Moshe has other jewellery which is identified in Dr Segar's exhibit P2. The heading of exhibit P 2 is "Items with Moshe 20/12/2004". Listed in exhibit P2 are four items, *viz* (i) one set SS diamond ring/earring/pendant; (ii) one set diamond ring/earring/pendant; (iii) one set tanzanite diamond pendant and (iv) one set mixed semi precious stones earrings and necklace. It is not clear whether item (iii) is the same as (d) above. In any case, all items with Moshe should be brought to account as partnership income.

163 Dr Segar has filed a counterclaim in which he asked for his share to the 32 sapphires. What is now common ground is that the 32 sapphires are partnership assets and have to be brought to account as a partnership asset. The 25 pieces of jewellery averred to in para 3 of Veronica's Defence

to Counterclaim (Amendment No 1) and in Veronica's possession must also be brought to account as partnership asset. The 32 sapphires and 25 pieces of jewellery have been appraised by Walter Tan and his valuation is found at pages 22 to 37 of Walter Tan's affidavit of evidence-in-chief. Dr Segar has admitted to be in possession of some jewellery and gemstones and they are listed at pages 7 to 21 of Walter Tan's affidavit of evidence-in-chief.

164 In so far as 97 pieces of jewellery listed in Veronica's Annex A are concerned, 12 items are part of the jewellery admitted by Veronica to be in her possession in para 3 of her Reply & Defence to Counterclaim (Amendment No 1). [note: 44] This leaves 85 pieces in dispute. Who has possession of the 85 pieces of jewellery? Both parties deny being in possession of the balance 85 items. It is Veronica's case that Dr Segar all along held every piece of jewellery and gemstones. Other than the gemstones and jewellery found at pages 7 to 21 of Walter Tan's affidavit of evidence-in-chief, Mr Giam submits that Dr Segar had not pleaded nor informed the court of other jewellery/gemstones held by him. From Veronica's answer on how she made up the list in Annex A, her compilation of the list - from memory and price lists from the past exhibitions - is not free from errors. [note: 45] From the haphazard way the business was run, the business never kept an inventory of its stock-in-trade. It seems to me that their craftsman, Mr Lei Hin Meng's order book is probably the more reliable source for a record of the jewellery he made for the partnership but his order book has to be matched with the purchasers from suppliers and expenses for workmanship. As I have found that Dr Segar is required to account to Veronica for all the jewellery and gemstones belonging to the business, this dispute of the missing items will have to be taken up by Dr Segar. As mentioned, there is a list of jewellery and gemstones taken by Moshe (see exhibit P2 and [162] above) which was not taken up in Mr Aw's report. Dr Segar has not explained why the jewellery and gemstones were not returned. I have already said that they should be taken into account as partnership income.

Conclusions on Suit 562

165 It is appropriate that accounts be taken if the parties cannot resolve matters between them now that the issues of principle have been resolved. They will be taken on the basis of the various findings that I have made as to the nature of the partnership and the entitlements of the parties. Even though the amount at stake is uncertain, it is clear that the costs involved in the taking of accounts will not be modest. I would have thought that the application of commonsense might lead to a situation where the parties do not need to take accounts if it is resolved by consensus. In seeking consensus, the parties may take into consideration (by way of example) the ability of one or the other to make payment that may be necessitated upon the taking of accounts. The court, in taking the accounts, does not do this. It simply finds the respective entitlements of the parties, and leaves them to be enforced according to law.

166 In the circumstances, I will order that para 3 of the Statement of Claim (Amendment No 1) be referred to the Registrar for the taking of accounts. I further order that the taking of accounts be stayed for 6 weeks from the date of the judgment to enable the parties to resolve the matter by consensus.

167 I order that Dr Segar's counterclaim be dismissed.

168 This leaves the question of costs of Suit 562. The real issues in dispute are who owes what to whom. The determination of that through the taking of accounts could not proceed straightaway because there were questions raised as to, for example, the basis on which accounts should be taken. In substance, Veronica has succeeded in having the questions in Suit 562 resolved in her favour. In the circumstances, Veronica should have her costs of the proceedings to date. I make no order as to costs on the counterclaim. Dr Segar is to pay the costs of taking of partnership accounts;

and other consequential orders made related to the taking of accounts.

[note: 1] AEIC of Ashok Segar, dated 4 June 2008, at [8].

[note: 2] AEIC of Ashok Segar, dated 4 June 2008, at [32].

[note: 3] Transcripts of Evidence dated 13 April 2009, p 47

[note: 4] Transcripts of Evidence dated 15 April 2009, pp 21-22

[note: 5] Transcripts of Evidence dated 7 April 2009, p 9

[note: 6] Transcripts of Evidence dated 7 April 2009, p 29

[note: 7] Transcripts of Evidence dated 7 April 2009, p 51

[note: 8] See Agreed Bundle of Documents, (Volume 3), p. 673.

[note: 9] Defendant's closing submissions para 87

[note: 10] Transcripts of Evidence dated 9 February 2009, p33

[note: 11] Dr Segar's closing submissions paras 79.3, 86-89

[note: 12] Transcripts of Evidence dated 6 April 2009, p47-48

[note: 13] Transcripts of Evidence dated 6 April 2009, p44

[note: 14] Transcripts of Evidence dated 6 April 2009, p39

[note: 15] Reply and Defence to Counterclaim (Amendment No 3), para 9

[note: 16] Transcripts of Evidence, 5 February 2009, p36

[note: 17] Transcripts of Evidence dated 14 April 2009, pp 54-56; Transcripts of Evidence dated 15 April2009, p 81.

[note: 18] Transcripts of Evidence dated 7 April 2009, p 47

[note: 19] Transcripts of Evidence dated 6 April 2009 pp 8, 109-110; Transcripts of Evidence dated 7 April 2009, pp 47 & 54

[note: 20] Dr Segar's closing submissions paras 145-146

[note: 21] Veronica's closing submissions para 235

[note: 22] Dr Segar's closing submissions para 195 and exhibit P 14

[note: 23] SN 41, 45-52, 54,57-59, 62 -73, 76 -88, 91-97 & 99-101 of Annex C to Veronica's 2nd AEIC

[note: 24] SN 39 of Annex C to Veronica's 2nd AEIC

[note: 25] SN 40,42-44,53,55-56, 60-61,74-75, 89-90 & 98 of Annex C to Veronica's 2nd AEIC

[note: 26] Transcripts of Evidence dated 12 February 2009, p 111

[note: 27] Transcripts of Evidence dated 13 April 2009, p 4

[note: 28] 3AB 794

[note: 29] Veronica's 2nd AEIC, Appendix C; Transcripts of Evidence dated 6 April 2009, p 87

[note: 30] D13 pp 1 to 31

[note: 31] Transcripts of Evidence dated 14 April 2009, p 4

[note: 32] CB 15 and CB 21-22; Transcripts of Evidence dated 9 February 2009, pp 42, 44 & 46

[note: 33] P1

[note: 34] Veronica's 2nd AEIC, Annex C.

[note: 35] Veronica's AEIC in Suit 562 Annex B SN 62

[note: 36] Veronica's AEIC, Annex B

[note: 37] Veronica's AEIC in Suit 562 para 11

[note: 38] Aw's AEIC, para 16 of Report

[note: 39] Veronica's AEIC in Suit 562, SN 59-61 of Annex B

[note: 40] CB 171-174 in Suit 310

[note: 41] CB 166 -170 in Suit 310

[note: 42] CB 180-182 in Suit 310

[note: 43] Veronica's AEIC in Suit 562 Annex B; Transcript of Evidence 11 February 2009, p 25

[note: 44] Veronica's AEIC in Suit 562 Annex A items nos. 4-6,13-14,64-69 and 79

[note: 45] Transcripts of evidence dated 9 April 2009, pp11-17