**IN THE COURT OF THREE JUDGES OF THE REPUBLIC OF SINGAPORE**

**[2023] SGHC 132**

Originating Application No 5 of 2022

Between

Law Society of Singapore

… *Applicant*

And

Hanam, Andrew John

… *Respondent*

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# JUDGMENT

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[Legal Profession — Disciplinary proceedings]
[Legal Profession — Professional conduct — Breach]
[Legal Profession — Professional conduct — Improper conduct or practice]
[Legal Profession — Show cause action]

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# Law Society of Singapore
# v
# Hanam, Andrew John

**[2023] SGHC 132**

Court of Three Judges — Originating Application No 5 of 2022
Tay Yong Kwang JCA, Belinda Ang Saw Ean JCA and Andrew Phang Boon Leong SJ
25 January 2023

10 May 2023 Judgment reserved.

**Belinda Ang Saw Ean JCA (delivering the judgment of the court):**

## Introduction

1 Originating Application No 5 of 2022 ("OA 5") is an application by the Law Society of Singapore (the "Law Society") made under s 98 of the Legal Profession Act 1966 (2020 Rev Ed) (the "LPA") for the respondent, Mr Andrew John Hanam ("Mr Hanam"), to be sanctioned under s 83(1) of the LPA following a complaint made by Mr Krishnamoorthy Pugazendhi ("Mr Pugazendhi"), the sole director and shareholder of P&P Engineering & Construction Pte Ltd ("P&P"), whereupon a disciplinary tribunal (the "DT") was duly convened. Several charges were subsequently preferred against Mr Hanam under s 83(2) of the LPA. The DT found that two of the primary charges alleging that Mr Hanam had breached rr 17(2)(*e*) and 17(2)(*f*) of the Legal Profession (Professional Conduct) Rules 2015 ("PCR") were made out and that

cause of sufficient gravity for disciplinary action existed in respect of those two primary charges.

2 Mr Hanam represented P&P in respect of what was a relatively straightforward dispute involving unpaid invoices arising from two subcontracts in a construction project, in which the counterparty subsequently admitted to its liability to make payment on several counts. The proceedings to recover P&P's unpaid invoices spanned over a period of close to three years involving three separate actions, two in the High Court and one in the State Courts. The misconduct that is in issue before us arose out of Mr Hanam's handling of P&P's dispute for unpaid invoices where it is alleged that he had acted in breach of the PCR. The various orders of costs made against P&P in the course of legal proceedings and the reasons for the costs orders speak to demonstrable failures on Mr Hanam's part to properly evaluate and/or render legal advice to P&P. Other instances of misconduct that gave rise to Mr Hanam's breaches of the PCR necessarily required him to demonstrate a minimum standard of competence and experience as an advocate and solicitor of 18 years of standing at the material time in rendering legal advice on legal issues, including advising on alternative dispute resolution ("ADR") options like the adjudication regime under the Building and Construction Industry Security of Payment Act (Cap 30B, 2006 Rev Ed) ("SOPA Adjudication"). We foreshadow here the evidential difficulty Mr Hanam faced before the DT arising from the absence of attendance notes and other contemporaneous records to support the reasonableness of his legal advice including whether appropriate legal experience was brought to bear in the discharge of his role as advocate and solicitor.

3 We reserved judgment after the oral hearing on 25 January 2023. Having considered the parties' submissions including the evidence before the DT, we



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hold that in respect of the two primary charges, due cause has been shown for Mr Hanam to be sanctioned under s 83(1) of the LPA and order that he be suspended for a period of 9 months. We now give our reasons.

**The undisputed facts**

4 Mr Hanam was admitted to the roll of Advocates and Solicitors of the Supreme Court of Singapore on 21 March 1998. At the material time during which the following events took place, he was practising with Messrs Andrew LLC.

5 On 25 November 2016, Mr Hanam was appointed by Mr Pugazendhi to represent his company, P&P, in its dispute with Kori Construction (S) Pte Ltd ("Kori") in relation to two subcontracts for the construction of the Marina Bay Mass Rapid Transit station. The first subcontract was for the provision of manpower (the "Manpower Subcontract") and the second was for the supply of steel fabrication works (the "Steel Fabrication Subcontract") (collectively, the "Subcontracts"). Under the Subcontracts, Kori owed P&P a total sum that was close to $1.5m. As mentioned, the dispute over the Subcontracts resulted in three sets of legal proceedings, namely, HC/S 1255/2016 ("Suit 1255"), DC/DC 1043/2018 ("DC 1043") and HC/S 1167/2017 ("Suit 1167").

6 Throughout the conduct of the litigation on behalf of P&P (*ie*, over the span of the three suits), Mr Hanam did not keep any attendance notes or timesheets of his meetings and discussions with Mr Pugazendhi.

7 We set out the chronology of events in the three suits, to provide the necessary background and context to appreciate and assess the DT's findings



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on Mr Hanam's misconduct under the two primary charges, details of which are set out below.

***Suit 1255***

8 On 25 November 2016, P&P commenced Suit 1255 against Kori for a claim of $376,344.93 under the Manpower Subcontract and $893,273.66 under the Steel Fabrication Subcontract. These claims were based on invoices that had fallen due as of 25 November 2016 (the "November 2016 Invoices"). Even though Mr Hanam was aware that there were other invoices that would fall due in December 2016 (the "December 2016 Invoices"), he informed Mr Pugazendhi in a letter dated 25 November 2016 that P&P would commence action for the November 2016 Invoices first and that the claim for the December 2016 Invoices would be filed after they became due and payable. Legal proceedings for the December 2016 Invoices were thus commenced separately in December 2017 (*ie*, Suit 1167). This approach led to two High Court actions.

9 On 31 January 2017, Kori filed HC/SUM 431/2017 ("SUM 431") against P&P to compel disclosure of documents referred to in P&P's Reply and Defence to Counterclaim. On 3 February 2017, Mr Hanam enclosed a copy of SUM 431 in a letter to Mr Pugazendhi and informed him that P&P would be objecting to the application "based on the lack of relevance of the documents".[1] P&P failed to resist SUM 431 and was ordered to pay costs of $3,200. On 15 February 2017, Mr Hanam advised Mr Pugazendhi to appeal because the "Assistant Registrar was wrong to make the order as we have provided all the

[1] Record of Proceedings ("ROP"), Vol 2 Part 2, p 610 (AEIC of Mr Pugazendhi at Tab 28).



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documents and the order to further produce is flawed".[2] P&P then filed HC/RA 44/2017 ("RA 44") on 17 February 2017 but failed in the appeal and was ordered to amend its pleadings and pay costs of $2,000.

10 On 17 October 2017, the trial of Suit 1255 commenced. On that same day, an agreement was reached regarding P&P's claim under the Manpower Subcontract and one of Kori's counterclaims ("Suit 1255 Settlement"). Kori agreed to pay $236,731.48 to P&P subject to a reduction of $543.73 on account of Kori's counterclaim. In total, Kori was to pay P&P a settlement sum of $236,187.75. However, there was no express agreement at the time on the timeframe for Kori to pay the settlement sum. Kori took the position that the sum was payable only at the conclusion of Suit 1255 which proceedings continued in respect of P&P's claim for the Steel Fabrication Subcontract and Kori's substantial counterclaim for approximately $719,000 (which was to be set off against a sum of approximately $129,000 that Kori owed to P&P). Kori was able to adopt that position because Mr Hanam had not negotiated for the settlement sum to be paid forthwith or within a reasonable time as part of the settlement agreement.

11 On 15 November 2017, P&P filed HC/SUM 5237/2017 ("SUM 5237") for third-party discovery against Taisei Corporation ("Taisei") for the production of documents. This was after P&P unsuccessfully sought voluntary production of documents from Taisei on 23 October 2017. After Taisei filed an affidavit detailing the costs involved in producing copies of the documents, Mr Hanam advised Mr Pugazendhi to withdraw SUM 5237 and to pay costs to Taisei and Kori. Mr Pugazendhi agreed and P&P was ordered to pay costs of

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[2] ROP, Vol 2 Part 2, p 621 (AEIC of Mr Pugazendhi at Tab 29).



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$500 to Kori and $2,300 to Taisei. In respect of the sum of $2,300, Taisei commenced garnishee proceedings against P&P and obtained a garnishee order on 26 March 2018, with parties to attend before the assistant registrar on 9 April 2018 for the show cause proceedings. Mr Hanam then agreed on behalf of P&P on 6 April 2018 to pay Taisei the sum of $1,513.70 for the costs incurred by Taisei in obtaining the garnishee order. This was accepted by Taisei, which appeared on P&P's behalf at the show cause hearing before the assistant registrar, whereupon a costs order of $1,513.70 was made against P&P.

12 On 7 December 2017, P&P unsuccessfully applied for leave in HC/SUM 5616/2017 ("SUM 5616") to call four additional witnesses and was ordered to pay costs of $6,000.

13 On 23 March 2018, P&P applied in HC/SUM 1394/2018 ("SUM 1394") for judgment on the Suit 1255 Settlement based on an admission of fact. SUM 1394 was dismissed with costs of $3,700 ordered against P&P on 9 April 2018. On the same day, Mr Hanam updated Mr Pugazendhi by way of letter on the outcome of the application and explained that the assistant registrar agreed with Kori that the Suit 1255 Settlement was not a consent judgment or an admission of fact but a settlement agreement on which the court could not enter judgment on. In that same letter, he also advised Mr Pugazendhi to file a new action against Kori in respect of the Suit 1255 Settlement. This took the form of DC 1043. We digress to highlight that Mr Hanam's letter did not mention Kori's position that it would not pay the Suit 1255 Settlement sum before the conclusion of Suit 1255 (see [10] above).

14 On 31 December 2018, the High Court found largely in favour of P&P in Suit 1255. In short, P&P succeeded in its claim for work done under the Steel



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Fabrication Subcontract but the judgment also took into account a sum of $137,224.01 comprising the excess steel that Kori had sold to P&P.

***DC 1043***

15 On 9 April 2018, P&P sued on the Suit 1255 Settlement and filed DC 1043 for payment of $236,187.75 (see [10] above). This was on the same day that SUM 1394 in Suit 1255 was dismissed (see [13] above).

16 On 27 July 2018, Kori issued an offer to settle ("OTS") to P&P, under which Kori offered to pay a settlement sum of $236,187.75 within 14 days of the delivery of the judgment in Suit 1255. P&P did not respond to the OTS.

17 On 11 January 2019, Kori made payment of the agreed sum under the Suit 1255 Settlement. As a consequence, the only outstanding issue in DC 1043 was whether interest of $9,588.19 and costs were payable by Kori. On 29 January 2019, Kori issued a second OTS, which proposed that Kori pay for half of the interest and for parties to bear their own costs. Mr Hanam updated Mr Pugazendhi on the second OTS in a letter dated 30 January 2019, and informed him that the court in DC 1043 had indicated that the issue of whether the payment of the Suit 1255 Settlement sum was to be made within a reasonable time or after the resolution of Suit 1255 could go either way and that it might be better for parties to settle since the only remaining issues were that of interest and costs. Mr Hanam then laid out three options for Mr Pugazendhi: first, to "[a]ccept half the interest"; secondly, to "[p]ush for the full interest" and lastly, to "[g]o for trial for the full interest and costs". He advised Mr Pugazendhi to "make an offer to [Kori] for [Kori] to pay [P&P] the [full interest] and each



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party to bear its own costs".[3] On that same day, Mr Pugazendhi informed Mr Hanam that he "wanted option 3" as he "thought that it was only right that Kori paid what [*sic*] fully due to P&P".[4] In short, P&P did not accept the second OTS and the parties proceeded with the trial.

18 On 16 August 2019, the District Court found against P&P in DC 1043. The costs order of about $20,000 in favour of Kori included indemnity costs for costs incurred after the issuance of Kori's second OTS.

***Suit 1167***

19 On 11 December 2017, P&P filed Suit 1167 against Kori for payment of amounts due under the Manpower Subcontract in the sum of $342,821.05. To foreshadow, the sum of $342,821.05 was based on a compromise of the amount owing under the December 2016 Invoices. In Suit 1167, P&P's claim was in relation to workers supplied from May 2016 to October 2016 whereas P&P's claim under the Manpower Subcontract in Suit 1255 pertained to workers supplied from November 2015 to April 2016. Two letters of demand were issued prior to the commencement of Suit 1167.

20 The first letter of demand to Kori on 23 December 2016 sought a sum of $371,720.14. The amount sought was based on 14 invoices, seven of which were dated 3 November 2016, with the remaining dated 4 November 2016. Payment for these 14 invoices was supposedly due in December 2016 (*ie*, the December 2016 Invoices). These invoices had been issued by P&P to Kori in early November 2016 and were almost immediately rejected by Kori on the

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3 ROP, Vol 2 Part 2, p 882 (AEIC of Mr Pugazendhi at Tab 51).

4 ROP, Vol 2 Part 1, p 182 (AEIC of Mr Pugazendhi at para 205).



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basis that they were not based on "certified" claims. By "certified" claims, we understand Kori to mean that the claims were *verified* from supporting documents to be correct and accurate. Thus, for the purposes of this Judgment, the preference is to use the term "verified" over "certified". On 29 December 2016, Kori responded to P&P's first letter of demand and essentially rejected the invoices for the same reasons as it did in early November 2016, that the claims were not verified as P&P had not provided the relevant supporting documents.

21 Almost a year later, around 12 September 2017, P&P obtained some supporting documents for the December 2016 Invoices from Sha Engineering & Contractors Pte Ltd ("Sha"). These documents were provided to Kori on or around 4 October 2017. P&P then issued a further letter of demand on 20 October 2017 seeking a sum of $433,493.38, which was based on the same 14 invoices referred to in the letter of demand sent on 23 December 2016 with the addition of an invoice dated 6 November 2015 (Invoice Number P&P15NOV/113) for $61,773.24.

22 On 26 October 2017, Kori's lawyers wrote to Mr Hanam stating that Kori had carried out a "certification" of the claim amount and confirmed that Kori was agreeable to pay an amount of $342,821.05. Accompanying this was a request to P&P to issue invoices for a sum of $342,821.05 (inclusive of GST), which figure was arrived at by deducting the invoice dated 6 November 2015 (Invoice Number P&P15 NOV/113) which was, in fact, for a sum of $61,518.07 (and not $61,773.24; see [21] above) that it had already paid and also by deducting the claims that were not verified as P&P had not presented *all* the relevant supporting documents. Although Kori's offer to pay $342,821.05 was not stated to be subject to any conditions, Kori nevertheless indicated that it



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would not make payment until after determination of its counterclaim in Suit 1255.

23 On 7 November 2017, Mr Hanam sent P&P's revised invoice dated 4 November 2017 for the amount of $342,821.05 and requested payment by 5 December 2017. On 9 November 2017, Kori maintained that it would only make payment upon resolution of Suit 1255. Mr Hanam updated Mr Pugazendhi of Kori's position on 15 November 2017 and advised Mr Pugazendhi to commence action on the sum of $342,821.05.

24 As no payment was received, P&P filed Suit 1167 on 11 December 2017 against Kori claiming the amount of $342,821.05. This was the sum that Kori had agreed to pay which was based on P&P's acceptance of Kori's "certification" for which it issued an invoice on 4 November 2017. P&P pleaded that the sum was due within 30 days and that Kori was not entitled to set off the claim amount from its counterclaim in Suit 1255.

25 We mention for completeness that on 13 April 2018, P&P amended its Statement of Claim to include a claim for the sum of $371,720.14. This is the sum that P&P initially sought in the letter of demand dated 23 December 2016 based on the 14 invoices dated November 2016 (see [20] above). The amendment was made because Kori had allegedly repudiated its earlier "certification" of the sum of $342,821.05 in its Defence filed on 9 January 2018.

26 Following the commencement of Suit 1167, P&P sought summary judgment on 10 January 2018 by way of HC/SUM 170/2018, which was dismissed on 19 February 2018. The assistant registrar who heard the application granted Kori unconditional leave to defend the action because of



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Kori's assertion on affidavit that there was an express agreement to set off the amounts due from P&P to Kori under the counterclaim in Suit 1255 against all amounts due from Kori to P&P under the Manpower Subcontract.

27 On 22 May 2018, P&P issued an OTS to Kori. The offer was for Kori to pay the sum of $350,000 in full and final settlement, plus interest and costs, within 14 days of acceptance. We note that the OTS is for a sum larger than the amount sought in Suit 1167, that being $342,821.05, and return to this point below at [67].

28 On 21 January 2019, the High Court found in favour of P&P and ordered Kori to pay P&P the sum of $416,343.69, comprising the judgment sum of $342,821.05, costs of $45,000, disbursements of $8,068.80 as well as pre- and post-judgment interest. It is convenient to note here the High Court's findings. First, the sum of $342,821.05 was a compromise of the amount claimed by P&P for the workers supplied in the period from May 2016 to October 2016. The revised invoice dated 4 November 2017 for the amount of $342,821.05 replaced and superseded the earlier invoices for a total figure of $371.720.14 (claimed under the first letter of demand). Secondly, the alleged express agreement to set off the amounts due from P&P to Kori arising from its counterclaim in Suit 1255 against all amounts due from Kori to P&P under the Manpower Subcontract was not supported by any contemporaneous documentary evidence. If anything, the refusal to pay before the conclusion of the counterclaim in Suit 1255 was an unwarranted unilateral decision to hold back payment. As it transpired, the question of an agreement to set off became moot as the upshot of the decision in Suit 1255 at the end of December 2018 was that there was no net sum due from P&P to Kori.



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***Proceedings before the Inquiry Committee***

29 On 11 March 2020, Mr Pugazendhi lodged a complaint against Mr Hanam with the Law Society. Mr Pugazendhi claimed that Mr Hanam breached an agreement to charge a fixed fee of $170,000 and that he had overcharged for the work done in the three suits. Mr Pugazendhi also alleged that Mr Hanam acted in matters without his knowledge or agreement.

30 On 25 August 2020, the Inquiry Committee was constituted to inquire into the conduct of Mr Hanam. The Inquiry Committee recommended on 23 November 2020 that a formal investigation be conducted by a disciplinary tribunal in respect of the complaint that Mr Hanam had overcharged for the work done in the three suits. A proposed charge was framed by the Inquiry Committee under s 83(2)(*b*) of the LPA, where it was alleged that Mr Hanam was in breach of r 17(7) of the PCR. The Inquiry Committee determined that there was no need for a formal investigation by a disciplinary tribunal for the remaining complaints (see [29] above).

***Proceedings before the Disciplinary Tribunal***

31 On 8 March 2021, the DT was constituted to hear and investigate the complaint referred to it by the Inquiry Committee. By then, the Law Society had filed its Statement of Case on 1 March 2021 which preferred a single charge pertaining to the allegation of overcharging against Mr Hanam (the "First Charge"), which was *in pari materia* with the proposed charge framed by the Inquiry Committee (see [30] above). Mr Hanam objected to the charge in his defence filed on 18 March 2021 on the basis that it was premature as the bill of costs for the three suits had not been taxed. The DT then directed submissions on whether it had the jurisdiction to investigate a charge of overcharging when



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the legal practitioner's bill of costs had not been taxed. Following the parties' submissions, the DT stayed the First Charge until Mr Hanam's professional fees were taxed.

32 On 6 April 2021, Law Society filed an application to amend its Statement of Case. The Law Society avers that this was because they had been made aware of matters not reflected in Mr Pugazendhi's complaint in the course of taking instructions and was of the view that further charges should be preferred. The Statement of Case (Amendment No 1) ("SOC1") was filed on 29 April 2021 to include five additional charges.

33 According to the Law Society and the DT, Mr Hanam informed the DT on 3 May 2021 that he accepted that the Law Society could introduce new charges under s 89(4) of the LPA. On 27 May 2021, he filed an amended defence, Defence (Amendment No 1) ("Defence"), denying the five additional charges.

34 The affidavits of evidence-in-chief ("AEICs") of the Law Society and Mr Hanam were exchanged on 2 August 2021. No further AEICs were filed.

35 The DT hearing was conducted between 17 August 2021 and 20 August 2021. On 20 August 2021, the Law Society applied to amend SOC1. The principal amendment was to include the term "failed to properly and periodically evaluate with the Complainant the use of alternative dispute resolution processes" to certain charges.[5] This was allowed and the Statement of Case (Amendment No 2) ("SOC2") was filed on the same day.

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5 ROP, Vol 1 Part 9, pp 4431–4452 (Statement of Case (Amendment No 2)).



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36 Based on the SOC2, six charges were preferred against Mr Hanam. The six charges were also framed as alternative charges. In short, the primary charges were based on s 83(2)(*b*) of the LPA whereas the alternative charges were brought under s 83(2)(*h*). The primary and alternative charges framed against Mr Hanam are as follows:[6]

The First Charge

> You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, did charge Krishnamoorthy Pugazendhi, director of P&P Engineering & Construction Pte Ltd fees of $423,880.96 for work done by you as their solicitor for the period 25 November 2016 to 24 August 2019, as evidenced by your invoices for HC/S 1255/2016; DC/DC 1043/2018 and HC/S 1167/2017, which fees were in excess of and disproportionate to what you were fairly entitled to charge for the services you rendered to the said Krishnamoorthy Pugazendhi, director of P&P Engineering & Construction Pte Ltd, and such overcharging by you amounts to a breach of Rule 17(7) of the Legal Profession (Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct made by the Council under the provisions of the Legal Profession Act (Cap. 161) as amounting to improper conduct in the discharge of your professional duty within the meaning of Section 83(2)(*b*) of the Legal Profession Act (Cap. 161).

Alternative First Charge

> You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, did charge one Krishnamoorthy Pugazendhi, director P&P Engineering & Construction Pte Ltd, fees of $423,880.96 for work done by you as their solicitor for the period 25 November 2016 to 24 August 2019, as evidenced by your invoices for HC/S 1255/2016; DC/DC 1043/2018 and HC/S 1167/2017, which fees were in excess of and disproportionate to what you were fairly entitled to charge for the services you rendered to the said Krishnamoorthy Pugazendhi, director P&P Engineering & Construction Pte Ltd, and such overcharging by you amounts to a breach of Rule 17(7) of the Legal Profession

6 ROP, Vol 4, pp 48–56 (Report of the DT ("Report") at pp 40–48).



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(Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct made by the Council under the provisions of the Legal Profession Act (Cap. 161) and such conduct by you amounts to misconduct unbefitting of an Advocate and Solicitor of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(*h*) of the Legal Profession Act.

2nd Charge (the "Second Charge")

You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 (the "**Material Time**") at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, failed to properly and periodically advise one Krishnamoorthy Pugazendhi (the "**Complainant**"), director of P&P Engineering & Construction Pte Ltd ("**P&P**") of the anticipated legal fee that might be incurred in representing P&P in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 throughout the Material Time, failed to properly and periodically evaluate with the Complainant whether any consequence of the matters involving the Complainant and/or P&P justified the expense of, or the risk involved in, pursuing the matters in litigation throughout the Material Time, and failed to properly and periodically evaluate with the Complainant the use of alternative dispute resolution processes throughout the Material Time, and despite such failures, proceeded to bill P&P a total of $423,880.96 (including GST and disbursements), and such failure by you amounts to a breach of Rule 17(2)(*e*) of the Legal Profession (Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct made by the Council under the provisions of the Legal Profession Act (Cap. 161) as amounting to improper conduct in the discharge of your professional duty within the meaning of Section 83(2)(*b*) of the Legal Profession Act (Cap. 161).

Alternative 2nd Charge

You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 (the "**Material Time**") at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, failed to properly and periodically advise one Krishnamoorthy Pugazendhi (the "**Complainant**"), director of P&P Engineering & Construction Pte Ltd ("**P&P**") of the anticipated legal fee that might be incurred in representing P&P in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 throughout the Material Time, failed to properly and periodically evaluate with the Complainant whether any consequence of the matters involving the Complainant and/or P&P justified the expense of, or the risk involved in, pursuing



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the matter in litigation throughout the Material Time, and failed to properly and periodically evaluate with the Complainant the use of alternative dispute resolution processes throughout the Material Time, and despite such failures, proceeded to bill P&P a total of $423,880.96 (including GST and disbursements), and such failure by you amounts to a breach of Rule 17(2)(*e*) of the Legal Profession (Professional Conduct) Rules 2015, and such conduct by you amounts to misconduct unbefitting of an Advocate and Solicitor of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(*h*) of the Legal Profession Act.

3rd Charge (the "Third Charge")

You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 (the "**Material Time**") at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, failed to properly and periodically advise one Krishnamoorthy Pugazendhi (the "**Complainant**") of the relevant legal issues in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 throughout the Material Time, such that the Complainant was able to make an informed decision about how to act in those matters at the Material Time, and such failure by you amounts to a breach of Rule 17(2)(*f*) of the Legal Profession (Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct made by the Council under the provisions of the Legal Profession Act (Cap. 161) as amounting to improper conduct in the discharge of your professional duty within the meaning of Section 83(2)(*b*) of the Legal Profession Act (Cap. 161).

Alternative 3rd Charge

You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 (the "**Material Time**") at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, failed to properly and periodically advise one Krishnamoorthy Pugazendhi (the "**Complainant**") of the relevant legal issues in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 throughout the Material Time such that the Complainant was able to make an informed decision about how to act in those matters at the Material Time, and such failure by you amounts to a breach of Rule 17(2)(*f*) of the Legal Profession (Professional Conduct) Rules 2015, and such conduct by you amounts to misconduct unbefitting of an Advocate and Solicitor of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(*h*) of the Legal Profession Act.

4th Charge (the "Fourth Charge")



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You, Andrew John Hanam, are charged that between in or around February 2017 at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, when one Krishnamoorthy Pugazendhi (the "**Complainant**") raised questions and/or dispute on the Respondent's invoices, failed to inform the Complainant in writing of the Complainant's right to apply to court to have all of the Respondent's invoices taxed, and such failure by you amounts to a breach of Rule 17(5) of the Legal Profession (Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct made by the Council under the provisions of the Legal Profession Act (Cap. 161) as amounting to improper conduct in the discharge of your professional duty within the meaning of Section 83(2)(*b*) of the Legal Profession Act (Cap. 161).

Alternative 4th Charge

You, Andrew John Hanam, are charged that between in or around February 2017 at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, when one Krishnamoorthy Pugazendhi (the "**Complainant**") raised questions and/or dispute on the Respondent's invoices, failed to inform the Complainant in writing of the Complainant's right to apply to court to have all of the Respondent's invoices taxed, and such failure by you amounts to a breach of Rule 17(5) of the Legal Profession (Professional Conduct) Rules 2015, and such conduct by you amounts to misconduct unbefitting of an Advocate and Solicitor of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(*h*) of the Legal Profession Act.

5th Charge (the "Fifth Charge")

You, Andrew John Hanam, are charged that between in or around January 2019 at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, when one Krishnamoorthy Pugazendhi (the "**Complainant**") raised questions and/or dispute on the Respondent's invoices, failed to inform the Complainant in writing of the Complainant's right to apply to court to have all of the Respondent's invoices taxed, and such failure by you amounts to a breach of Rule 17(5) of the Legal Profession (Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct made by the Council under the provisions of the Legal Profession Act (Cap. 161) as amounting to improper conduct in the discharge of your



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professional duty within the meaning of Section 83(2)(*b*) of the Legal Profession Act (Cap. 161).

Alternative 5th Charge

You, Andrew John Hanam, are charged that between in or around January 2019 at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, when one Krishnamoorthy Pugazendhi (the "**Complainant**") raised questions and/or dispute on the Respondent's invoices, failed to inform the Complainant in writing of the Complainant's right to apply to court to have all of the Respondent's invoices taxed, and such failure by you amounts to a breach of Rule 17(5) of the Legal Profession (Professional Conduct) Rules 2015, and such conduct by you amounts to misconduct unbefitting of an Advocate and Solicitor of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(*h*) of the Legal Profession Act.

6th Charge (the "Sixth Charge")

You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 (the "**Material Time**") at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, failed to (i) properly advise one Krishnamoorthy Pugazendhi (the "**Complainant**"), director of P&P Engineering & Construction Pte Ltd ("**P&P**"), of the anticipated legal fee that might be incurred in representing P&P in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 throughout the Material Time, and/or (ii) properly and periodically advise the Complainant of the relevant legal issues in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 throughout the Material Time such that the Complainant was able to make an informed decision about how to act in those matters at the Material Time, and/or (iii) to evaluate properly and periodically with the Complainant throughout the Material Time whether any consequence of the matters involving the Complainant and/or P&P justified the expense of, or the risk involved in, pursuing the matters in litigation, and/or (iv) properly and periodically evaluate with the Complainant the use of alternative dispute resolution processes throughout the Material Time , and/or (v) failed to keep accurate timesheets for the work done in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 such that the said total bill can be justified, and despite such failures, proceeded to bill P&P a total of $423,880.96 (including GST and disbursements), and such failure by you amounts to a breach of Rule 5(2)(*c*) of the Legal Profession (Professional Conduct) Rules 2015, and you have thereby breached a rule of conduct



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> made by the Council under the provisions of the Legal Profession Act (Cap. 161) as amounting to improper conduct in the discharge of your professional duty within the meaning of Section 83(2)(*b*) of the Legal Profession Act (Cap. 161).
>
> Alternative 6th Charge
>
> You, Andrew John Hanam, are charged that between 25 November 2016 and 24 August 2019 (the "**Material Time**") at Blk 726 Ang Mo Kio Avenue 6, #01-4152, Ang Mo Kio Town Centre, Singapore 560726, failed to (i) properly advise one Krishnamoorthy Pugazendhi (the "**Complainant**"), director of P&P Engineering & Construction Pte Ltd ("**P&P**"), throughout the Material Time of the anticipated legal fee that might be incurred in representing P&P in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017, and/or (ii) properly and periodically advise the Complainant throughout the Material Time of the relevant legal issues in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 such that the Complainant was able to make an informed decision about how to act in those matters, and/or (iii) to evaluate with the Complainant throughout the Material Time whether any consequence of the matters involving the Complainant and/or P&P justified the expense of, or the risk involved in, pursuing the matters in litigation, and/or (iv) properly and periodically evaluate with the Complainant the use of alternative dispute resolution processes throughout the Material Time , and/or (v) failed to keep accurate timesheets for the work done in HC/S 1255/2016, DC/DC 1043/2018 and HC/S 1167/2017 such that the said total bill can be justified, and despite such failures, proceeded to bill P&P Engineering & Construction Pte Ltd ("P&P") a total of $423,880.96 (including GST and disbursements), and such failure by you amounts to a breach of Rule 5(2)(*c*) of the Legal Profession (Professional Conduct) Rules 2015, and such conduct by you amounts to misconduct unbefitting of an Advocate and Solicitor of the Supreme Court or as a member of an honourable profession within the meaning of Section 83(2)(*h*) of the Legal Profession Act.
>
> [emphasis in original]

### *Summary of the Disciplinary Tribunal's decision*

37 The DT found Mr Hanam guilty of the Second and Third Charges, and that cause of sufficient gravity for disciplinary action existed under s 83(2)(*b*) of the LPA. The Sixth Charge, which was an alternative to the Second and Third



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Charges, was deemed to be withdrawn. The Fourth and Fifth Charges were dismissed as it was not shown that Mr Pugazendhi disputed or raised a query about Mr Hanam's bills in February 2017 or January 2019. No findings were made as to the alternative charges. The DT's decision is set out in full in *The Law Society of Singapore v Andrew John Hanam* [2022] SGDT 12 (the "Report").

38 In substance, the Second Charge, which was framed under r 17(2)(*e*) of the PCR, concerned Mr Hanam's failure to evaluate with Mr Pugazendhi whether the steps taken in the legal proceedings justified the expense of, or the risk involved in pursuing litigation, and whether ADR processes should have been used. The Third Charge, on the other hand, concerned his breach of r 17(2)(*f*) of the PCR by his failure to advise P&P on the relevant legal issues in the proceedings, to enable P&P to make an informed decision about how to act in the said proceedings.

39 The DT rejected Mr Hanam's preliminary objection that the Second and Third Charges were vague and did not contain sufficient particulars. Mr Hanam's objections were belated and, in any event, no prejudice had been occasioned to him. The Law Society's case was not unduly vague, wide or unfocused, and there was no attempt by the Law Society to take advantage of the generality of the charges. That said, the DT put aside the first limb of the Second Charge, which pertained to Mr Hanam's failure to advise Mr Pugazendhi on the anticipated legal fees, as it was irrelevant to the inquiry of a breach of r 17(2)(*e*) of the PCR and confined its consideration to the second and third limbs of the charge (see [36] above).



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40 In the DT's assessment, the nub of the Second and Third Charges concerned Mr Hanam's "alleged failure[s] to give proper advice".[7] While it was clear that Mr Hanam's written advice was inadequate, what was in dispute was whether he had provided advice *orally*. Although Mr Hanam's evidence under cross-examination was that he had numerous meetings with Mr Pugazendhi during which he gave oral advice, he had no timesheets or attendance notes of these alleged meetings with Mr Pugazendhi to support his stance. The DT found that it was appropriate to draw an adverse inference against Mr Hanam, as sought by the Law Society, having regard to several matters. First, the DT noted the absence of attendance notes and contemporaneous documents notwithstanding the numerous meetings that Mr Hanam purportedly had with Mr Pugazendhi. Mr Hanam also did not provide any reasons for his failure to keep attendances notes of these meetings, in several of which he would have had substantive and important discussions with Mr Pugazendhi. Secondly, his evidence that he met Mr Pugazendhi was belated and had not been mentioned in his Defence or AEIC. Finally, there was no objective or corroborative evidence to support his allegation that he had numerous meetings with Mr Pugazendhi regarding the litigation matters he was handling, and that he rendered legal advice orally on those occasions.

41 The DT took a global approach towards the Second and Third Charges, and analysed Mr Hanam's breaches of the various PCR according to the chronology of the three suits and the interlocutory proceedings at the various stages therein (see [8]–[28] above). The DT found the Second and Third Charges to be proven on 14 counts. The DT's findings in respect of rr 17(2)(*e*)(i) and 17(2)(*f*) are as follows:

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7 ROP, Vol 4, p 15 (Report at para 38).



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(a) Two counts arising from the commencement of Suit 1255, in particular, Mr Hanam's failure to advise Mr Pugazendhi on SOPA Adjudication as well as his failure to advise Mr Pugazendhi on commencing Suit 1255 only after all the invoices had fallen due.

(b) One count arising from Mr Hanam's conduct in resisting Kori's application for documents in SUM 431 in Suit 1255 and filing RA 44.

(c) One count in relation to Mr Hanam's failure to obtain the instructions of Mr Pugazendhi in the filing of SUM 1394 in Suit 1255.

(d) One count arising from Mr Hanam's failure to advise on the filing of SUM 5237 and SUM 5616 to obtain additional evidence in Suit 1255.

(e) One count arising from Mr Hanam's failure to evaluate or advise Mr Pugazendhi on the commencement of DC 1043.

(f) Two counts arising from Mr Hanam's failure to evaluate and advise P&P on Kori's OTS dated 27 July 2018 and 29 January 2019 in DC 1043.

(g) Two counts arising from the commencement of Suit 1167, in particular, Mr Hanam's failure to advise on the timing of the filing of Suit 1167 as well as his failure to advise on the option of waiting for the issue of judgment in Suit 1255 in lieu of filing Suit 1167.

(h) One count arising from Mr Hanam issuing an OTS on P&P's behalf without the knowledge and consent of Mr Pugazendhi in Suit 1167.



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42 In addition, r 17(2)(*f*) was breached on two further counts where Mr Hanam made proposals for costs on behalf of P&P to Taisei and Kori without Mr Pugazendhi's instructions in Suit 1255. Mr Hanam also breached r 17(2)(*e*)(ii) in failing to evaluate with Mr Pugazendhi the use of ADR processes in Suit 1167.

**Summary of the parties' submissions in OA 5**

43 The Law Society argues that there is due cause of sufficient gravity for disciplinary action against Mr Hanam. The Second and Third Charges are established beyond a reasonable doubt on all counts, and these breaches amount to improper conduct or practice as an advocate and solicitor under s 83(2)(*b*) of the LPA. There are also various aggravating factors which warrant disciplinary action under s 83 of the LPA. In terms of sanction, the Law Society seeks a suspension of between three and a half years and four and a half years. The Law Society aligns itself with the DT's assessment of Mr Hanam's conduct, and relies on two precedents, *Loh Der Ming Andrew v Koh Tien Hua* [2022] 3 SLR 1417 ("*Koh Tien Hua*") and *Law Society of Singapore v Ooi Oon Tat* [2022] SGHC 185 ("*Ooi Oon Tat*").

44 Mr Hanam disputes that the Second and Third Charges are made out. He begins with three broad points. The first is that the Second and Third Charges are irregular as they were unjustifiably broadened and were framed "very generally".[8] The second is that the DT erred in placing less weight on evidence he gave in cross-examination where such evidence was not contained in his AEIC. The third is his explanation for the absence of attendance notes of his meetings with Mr Pugazendhi. This was because "very often after the meetings,

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8 Respondent's Written Submissions ("RWS") at paras 20 and 22.



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and sometimes on the day itself, [he] would prepare the court documents and send a draft copy to [Mr Pugazendhi] and or [*sic*] file it in court", and occasionally, he would send e-mails to Mr Pugazendhi to confirm his instructions.[9] As against the DT's finding that the Second and Third Charges were proven, he contends that Mr Pugazendhi fabricated evidence in his AEIC and was intent on framing him. It suffices to note at this juncture that Mr Hanam challenges every finding made against him. With respect to sentence, assuming that the charges are made out and that due cause of sufficient gravity is shown, he seeks a fine of $15,000. He argues that his misconduct neither indicates a defect in his character nor undermines the administration of justice. Instead, his misconduct was a series of isolated incidents borne out of a mistaken belief. In the alternative that a period of suspension is to be imposed, a suspension of no more than six months is appropriate.

**Issues to be determined**

45 The following issues arise for this court's determination:

(a) First, whether the Second and Third Charges are made out and, if so, whether due cause is shown under s 83 of the LPA.

(b) Second, if due cause under s 83 is shown, what is the appropriate sanction to be imposed.

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9 RWS at para 3.



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**Whether the Second and Third Charges are made out, and if so, whether due cause is shown under s 83 of the LPA**

46 We begin by addressing Mr Hanam's contentions pertaining to the regularity of the Second and Third Charges as well as whether the DT erred in placing less weight on his evidence in his cross-examination, before turning to the substance of the Second and Third Charges.

***Whether the Second and Third Charges are irregular***

47 Mr Hanam argues that the Second and Third Charges were incorrectly extended by the inclusion of the term "properly and periodically" (see [36] above). He also submits that the charges are framed "very generally".[10]

48 We agree generally with the DT that the charges are not irregular. In our view, the inclusion of the phrase "properly and periodically" to the Second and Third Charges neither detracts from the nub of the allegations against Mr Hanam nor does it render the charges incompetent or incomprehensible. These amendments merely amplify rr 17(2)(*e*) and 17(2)(*f*), that any advisement or evaluation must be done properly and periodically. It would denude the professional conduct rules of all meaning if the advisement or evaluation of issues was not to be done in such a manner given the dynamic nature of ongoing legal proceedings. These requirements are already recognised in numerous precedents. We illustrate with a few examples. In *Singapore Shooting Association and others v Singapore Rifle Association* [2020] 1 SLR 395, the Court of Appeal observed at [175] that under r 17(2)(*e*)(i), "[l]awyers have a professional obligation to ensure that a *proper* risk-benefit evaluation is

10 RWS at paras 20 and 22.



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undertaken *at each stage of legal proceedings*" [emphasis added]. In *Lam Hwa Engineering & Trading Pte Ltd v Yang Qiang* [2014] 2 SLR 191, the Court of Appeal observed at [36] that r 40 of the Legal Profession (Professional Conduct Rules) (Cap 161, R 1, 2010 Rev Ed) ("PCR 2010"), the equivalent of r 17(2)(*e*)(i) of the PCR, requires the solicitor "to conduct a *proper* risk-benefit evaluation at *each significant stage of the proceedings*" [emphasis added]. Similarly, in *Lock Han Chng Jonathan (Jonathan Luo Hancheng) v Goh Jessiline* [2008] 2 SLR(R) 455, the Court of Appeal noted at [46] that r 40 of the PCR 2010 entails a "*proper* risk-benefit evaluation" [emphasis added].

49 It is also not apparent how the inclusion of the term "properly and periodically" prejudices Mr Hanam; if anything, the addition of the term to the charges only adds to the Law Society's burden of proof in establishing its case. Besides, we note that Mr Hanam did not raise any objections to the Law Society's charges during the substantive hearing before the DT.

50 Turning to Mr Hanam's complaint that the charges were vague, the relevant question is whether the charges were sufficiently detailed for the purposes of enabling him to prepare his defence. We are mindful that disciplinary proceedings, which are quasi-criminal in nature, adopt procedures and practices which prevail in criminal trials. Therefore, charges in disciplinary proceedings must give adequate details of the alleged offending, such as the nature of the offence and the particulars of the time and place of the alleged offence, to enable the subject of the charge to prepare their defence adequately: *Law Society of Singapore v Chiong Chin May Selena* [2013] SGHC 5 ("*Selena Chiong*") at [28] and *Low Chai Ling v Singapore Medical Council* [2013] 1 SLR 83 at [29]–[30]. Assessed against these considerations, the Second and Third Charges are adequate. They state the time period (between 25 November 2016



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and 24 August 2019), the subject matter (the three suits), the offending acts (Mr Hanam's failure to advise on legal fees, failure to evaluate whether the consequence of matters justified the expense of, or the risk involved in, pursuing litigation, and a failure to advise on ADR options) and the nature of the offence (breaches of either rr 17(2)(*e*) or 17(2)(*f*) of the PCR).

51 It is also clear that Mr Hanam understood the pith of the charges and was able to prepare his defence. This is apparent on an examination of his Defence; for instance, at paragraph 60, Mr Hanam highlights that he had "provided clear advice on all the legal issues involving the 3 suits" and that this was done by way of "telephone and ... letters".[11] Furthermore, the charges pertained to three suits which were well within Mr Hanam's knowledge, as evidenced by the extensive records of evidence he produced as the case handler of the three actions. There is thus little to no basis to suggest that Mr Hanam was prejudiced by the generality of the charges.

### *Whether the DT erred in placing less weight on Mr Hanam's evidence given in cross-examination*

52 Mr Hanam objects to and challenges the DT's decision to place less weight on the evidence he gave in cross-examination that was not covered in his AEIC. He explains that his evidence in cross-examination was belated because it was given in response to specific allegations that were only raised in Mr Pugazendhi's AEIC. These allegations were not stated in the charges or the Statement of Case. This meant that he could have only given detailed responses to the allegations after he received Mr Pugazendhi's AEIC, whether via a supplementary AEIC or orally in cross-examination. The fact that such evidence

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[11] ROP, Vol 1 Part 1, p 202 (Defence at para 60).



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was not in his AEIC should thus not be a basis for the DT to disbelieve his evidence.

53 In our view, Mr Hanam's argument is based on a selective and non-contextual reading of the Report. While the DT relied on the belated nature of Mr Hanam's evidence as one of the reasons to disbelieve his evidence, it is clear that this was neither the only nor the principal basis for the DT's decision to place less weight on his evidence. The DT examined the evidence where available for its prospective corroborative and objective value. In this case, Mr Hanam did not keep proper attendance notes and there are no other contemporaneous records (a) to support his defence that he rendered legal advice orally to P&P; and (b) to support the reasonableness of any legal advice, if rendered, including whether appropriate legal experience was brought to bear. The primary basis for the DT's decision was thus evidential in nature and it arose from the absence of proper attendance notes and contemporaneous records to support Mr Hanam's defence.

54 Before us, Mr Hanam says he had close to 100 meetings with Mr Pugazendhi. Yet, he did not keep any timesheets or attendance notes of any of the meetings or discussions with Mr Pugazendhi. Not even the more important advice had been recorded in writing. This is surprising given the sheer number of meetings that the two purportedly had. Separately, Mr Hanam disclosed that he was acting for Mr Pugazendhi not only in these three suits but also in *seven* others during the same period between 2016 and 2019. There is nothing to indicate that the 100 meetings pertained to the three suits in question, and not the other seven. Be that as it may, with the sheer number of meetings and suits, the chances of mistaking one meeting for another is not unlikely.



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55 The significance of keeping proper notes cannot possibly have been lost on Mr Hanam, an advocate and solicitor of many years of experience as counsel, and whose mandate includes rendering legal advice to his clients. Over the years, and from time to time, there have been judicial pronouncements on the same point: *Law Society of Singapore v Leong Pek Gan* [2016] 5 SLR 1091 at [48]; *Law Society of Singapore v Tan Phuay Khiang* [2007] 3 SLR(R) 477 at [82]–[84] and *Law Society of Singapore v Lau See Jin Jeffrey* [2017] 4 SLR 148 at [21]. We would only add that proper records of meetings with clients help "protect … lawyers against unwarranted allegations" and "help [lawyers] present their side of the story especially when the allegations are made long after the trial and memory has become less reliable" (*Mohammad Farid bin Batra v Public Prosecutor and another appeal and other matters* [2020] 1 SLR 907 at [151]), and are therefore of "real assistance in clarifying matters and corroborating a solicitor's testimony in the event of a dispute over what has transpired" (*Lie Hendri Rusli v Wong Tan & Molly Lim (a firm)* [2004] 4 SLR(R) 594 at [63]).

56 Mr Hanam's explanations for the absence of proper notes are lame and do not squarely address the omission (at [44] above). He says that he often prepared draft copies of court documents to send to Mr Pugazendhi on the same or subsequent day after their meetings. But this reply is irrelevant and side-steps the inquiry: it does not explain why he did not keep a record of his meetings and discussions with Mr Pugazendhi. The circulating of draft court documents to Mr Pugazendhi, at best, shows that he had taken instructions on the intended course of action. It does not show that Mr Pugazendhi's instructions were based on legal advice given with proper risk-benefit evaluation; or that the advice, if given, was reasonable after proper evaluation of the matter.



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57 The implication of the foregoing analysis is that the DT's decision to place less weight on Mr Hanam's evidence is not wrong. The reasoning to place less weight on Mr Hanam's account had nothing do with the form or timing of his evidence but was grounded on his inability to substantiate his evidence to countermand the evidence of Mr Pugazendhi. In the circumstances, the DT was justified in disbelieving Mr Hanam's evidence.

58 As for Mr Hanam's contention that the DT disbelieved his evidence in cross-examination because of his failure to mention the same in his AEIC, whilst this was a point noted by the DT, we see that the Law Society accepted and the DT appreciated that the particulars of the charges were only made clear in Mr Pugazendhi's AEIC. As mentioned, the DT's disbelief of Mr Hanam's evidence was due to his inability to countermand Mr Pugazendhi's evidence.

***Whether the allegations in the Second and Third Charges are established***

59 As explained earlier (at [41]), the DT's analysis of Mr Hanam's misconduct tracks the chronology of the three suits closely. Unsurprisingly, both Mr Hanam and the Law Society have similarly framed their submissions on a more or less chronological basis.

60 In our view, it would be more helpful to develop this Judgment in the following manner. We begin by turning to each of the six counts where, in our view, the DT's findings based on Mr Pugazendhi's evidence do not establish the Law Society's case beyond a reasonable doubt and they are to be set aside. These six counts are discrete and do not bear on our further consideration of whether due cause is established. Next, we turn to the remaining findings of the DT on the other eight counts. We do not disturb the DT's findings but will reorganise and analyse the eight counts based on the nature of the wrongdoing.



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We categorise these sub-groupings in this manner: (a) acting without the authority of Mr Pugazendhi and P&P; (b) failure to discuss the use of ADR options; (c) failure to render legal advice; and (d) failure to provide *proper* legal advice. While the latter two categories appear to overlap (in that a failure to render legal advice would entail a failure to provide proper legal advice), we distinguish between the two categories with the former focusing on where Mr Hanam failed to render *any* legal advice whereas the latter category pertains to legal advice that was rendered but turned out to be unreasonable, inadequate or even wrong having not properly evaluated the matter at hand such that it was not "proper" advice within the meaning of the Second and Third Charges.

61 We address these categories in turn, and based on our conclusions on these categories, we then consider if due cause has been established. Finally, we discuss the sanction to be imposed if due cause is shown.

*Findings of the DT to be set aside*

(1) Failure to obtain the instructions or consent of Mr Pugazendhi in filing SUM 1394 in Suit 1255

62 The DT found that there were no documents evidencing instructions from Mr Pugazendhi to Mr Hanam to file SUM 1394, and that there were no discussions between the duo on the filing of the application. SUM 1394 was an application to enter judgment on the Suit 1255 Settlement based on an admission of fact (see [13] above). The supporting affidavit for the application was affirmed by Mr Hanam.

63 Before us, Mr Hanam submits that Mr Pugazendhi instructed him to file the application. This may be inferred from Mr Pugazendhi's response (or lack thereof) after he was informed on 9 April 2018 by way of letter that SUM 1394



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had been dismissed; he did not inquire or confront Mr Hanam on why SUM 1394 had been filed. It would have been the most natural thing to do since the dismissal of SUM 1394 was accompanied by an adverse costs order against P&P. Mr Pugazendhi's evidence in cross-examination was as follows:[12]

| | |
|---|---|
| [Mr Hanam]: | Why didn't you confront me and say, "How---why did you file this application without my consent?" |
| … | |
| [Mr Hanam]: | So my question to [Mr Pugazendhi] is, you---he agrees that--- |
| [Mr Pugazendhi]: | What does settlement agreement means? |
| [Mr Hanam]: | ---he did not confront me about filing this application? |
| [Mr Hanam]: | Yes or no? |
| Interpreter: | Your Honours, he wants me to repeat it. |
| [Mr Pugazendhi]: | *Yes, I did not ask you.* |

[emphasis added]

64 On the stand, Mr Pugazendhi claimed that there was no confrontation because he was never given an opportunity to meet Mr Hanam. This, however, does not explain why there were no objections by way of phone calls or e-mails. In fact, the evidence indicates that Mr Pugazendhi communicated with Mr Hanam on the day he was informed that SUM 1394 was dismissed. Apart from updating Mr Pugazendhi on the outcome of SUM 1394, Mr Hanam also recommended in the letter dated 9 April 2018 that a separate action be commenced. This was accepted by Mr Pugazendhi and the fresh suit (*ie*, DC 1043) was filed on even date. As stated in Mr Pugazendhi's AEIC, he "agreed with Mr Hanam to proceed [with the commencement of a fresh suit]" as it was

12 ROP, Vol 3, p 203 (Transcript, 18 August 2021 at p 31, lines 15–26).



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"in line with P&P's urgent need for funds", which "culminated in the filing of [DC 1043]."[13] Mr Pugazendhi's reticence in respect of SUM 1394 thus raises serious doubts as to whether the application was filed without his consent or instructions.

65 In addition, the tenor of the letter dated 9 April 2018 does not sit well with what would have been expected of Mr Hanam had he filed SUM 1394 without the requisite instructions or consent. He not only voluntarily updated Mr Pugazendhi on the adverse outcome of SUM 1394 but also provided his views on the next course of action.

66 In the round, we find that there is a reasonable doubt as to whether Mr Hanam filed SUM 1394 without Mr Pugazendhi's consent or instruction and set aside the DT's finding on this count.

(2) Failure to obtain the instructions or consent of Mr Pugazendhi in issuing an OTS on P&P's behalf in Suit 1167

67 The DT found that there was no evidence that Mr Hanam sought the instructions and consent of Mr Pugazendhi in issuing an OTS on P&P's behalf in Suit 1167, for Kori to pay a sum of $350,000 in full and final settlement (see [27] above). As noted earlier, the OTS was for a sum larger than the amount sought in the writ for Suit 1167 (*ie*, $342,821.05). According to Mr Hanam, this had been his suggestion which Mr Pugazendhi agreed with.

68 In the present application, Mr Hanam highlights Mr Pugazendhi's equivocal evidence about whether the OTS was made without his instructions.

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13 ROP, Vol 2 Part 1, p 163 (AEIC of Mr Pugaz at para 87).



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Further, Mr Pugazendhi did not query or confront him about the OTS after receiving a copy.

69 There is, in our view, a reasonable doubt as to whether Mr Hanam issued the OTS without Mr Pugazendhi's instructions. Mr Pugazendhi's evidence on this count is troubling. He could not remember whether the OTS was made without his instructions. Under cross-examination, his evidence was as follows:[14]

> Q On page 886, there was a letter that is sent to Central Chambers with this offer to settle [*ie*, OTS dated 22 May 2018] and it's copied to Mr Pugazendhi. Does he---do you remember receiving this letter and the offer to settle?
>
> A Are you referring to the one on page 866?
>
> Q 866.
>
> A I can't remember, Your Honours.
>
> Q *So you can't remember whether this offer was made with your instructions or without your instructions?*
>
> A *I can't recall.*
>
> [emphasis added]

70 In Mr Pugazendhi's re-examination, he was asked to clarify whether the OTS was made without his instructions. Again, he stated that he could not remember:[15]

> Q Okay, so going back to the question---the document tab 66 of the---volume 2 [*ie*, the OTS dated 22 May 2018]. Page 865. And then 866, 867. And 868 is the balance of it. Yes, okay. So the question is, having looked at it again and having looked at it slowly, and the---looked at it in

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14 ROP, Vol 3, p 218 (Transcript, 18 August 2021 at p 46, lines 18–26).

15 ROP, Vol 3, p 236 (Transcript, 18 August 2021at p 64, lines 4–9 and lines 23–27).



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> detail now, do you want to explain whether or not you saw this before? As in---
>
> A No, Your Honours.
>
> …
>
> Q So in relation to this offer to settle and the letter to Central Chambers that was sent to you, after it was sent at 12.42 on 22 May, you---is there any---you want to say what discussions happened with Mr Hanam, if any, about these documents?
>
> A *I can't remember.*
>
> [emphasis added]

71 It further bears highlighting that there is no evidence of Mr Pugazendhi confronting Mr Hanam on the OTS after a copy was sent to him, which weighs against the inference that it had been made without his instructions.

72 Against this, the Law Society points to a previous offer that P&P made to Kori in October 2017 where, on that occasion, there was a signed document by Mr Pugazendhi dated 10 October 2017 authorising Mr Hanam to make that offer. Given the absence of such a document presently, the Law Society submits that this suggests that Mr Hanam made the offer without Mr Pugazendhi's consent. In our view, this, by itself, is not enough to mitigate the reasonable doubt that arises from Mr Pugazendhi's equivocal position as to whether he had authorised Mr Hanam to make this OTS. For the Law Society to rely on the absence of signed instructions to issue this OTS, it must show that the signed document dated 10 October 2017 was not an isolated instance, and that it was part of a pattern of behaviour between Mr Hanam and Mr Pugazendhi when it came to making offers to settle. Only then can it be said that the absence of a similar document is of significance. However, it was not shown that the understanding between Mr Pugazendhi and Mr Hanam was to operate on signed instructions.



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73 Given the state of Mr Pugazendhi's evidence, we find that there is a reasonable doubt that this allegation is established and set it aside accordingly.

(3) Failure to advise on Kori's OTS dated 29 January 2019 in DC 1043

74 Kori's OTS dated 29 January 2019 proposed that Kori would pay half the interest on the Suit 1255 Settlement sum and for parties to bear their own costs. By then, Kori had paid the sum owing under the Suit 1255 Settlement (*ie*, the subject of DC 1043), and only the issues of interest and costs remained outstanding. Mr Hanam informed Mr Pugazendhi of Kori's OTS through a letter dated 30 January 2019 and indicated: (a) the court's remark in DC 1043 that the issue of when the Suit 1255 Settlement sum was to be paid could go either way; (b) the options available to Mr Pugazendhi; and (c) his advice that Mr Pugazendhi make a counteroffer seeking the full sum of interest. Mr Pugazendhi rejected Mr Hanam's advice in favour of commencing trial (see [17] above).

75 The DT faulted Mr Hanam for failing to balance the benefits of accepting Kori's OTS against the potential exposure of P&P to the legal costs and possible adverse costs orders of proceeding with trial. This was especially since he had not disagreed with the remark of the court in DC 1043 regarding the probable outcome of the trial.

76 We note that in Mr Hanam's letter dated 30 January 2019, he advised Mr Pugazendhi "to make an offer to [Kori] for [Kori] to pay [P&P] the [full interest] and each party to bear its own costs".[16] His sense at that time was that "[Kori was] likely to pay the full [Suit 1255 Settlement] interest if P&P pushe[d]

[16] ROP, Vol 2 Part 2, p 882 (AEIC of Mr Pugaz at Tab 51).



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for it" (see [17] above). Thus, Mr Hanam's recommendation was for Mr Pugazendhi to make a counteroffer to seek the full sum of interest on the basis that Kori was likely to pay up if P&P insisted on the full sum of interest. The incentive to Kori, if any, was the proposal on costs which remained the same as in Kori's OTS, that is for each party to bear its own costs. It was never Mr Hanam's recommendation that Mr Pugazendhi should commence trial. We consider this as a reasonable and plausible explanation as to why he did not opine on the court's remark that the trial could go either way, and it is also why he did not balance the benefits of obtaining the full sum of interest against the possible costs or expenses incurred in trial. Accordingly, we set aside this finding by the DT.

(4) Failure to properly advise on the December 2016 Invoices

77 The DT faulted Mr Hanam on two counts in relation to his advice on the December 2016 Invoices. The first count concerned his failure to advise Mr Pugazendhi on the option of commencing Suit 1255 only after *all* the invoices had fallen due. Suit 1255, as noted earlier (see [8]), pertained only to the November 2016 Invoices and did not include the December 2016 Invoices. The second count concerned his failure to advise Mr Pugazendhi on the consolidation of the two actions (*ie*, Suits 1255 and 1167), and correspondingly, his failure to provide a cost-benefit analysis of consolidation. We digress to note that Mr Hanam complained that the DT failed to consider the reasons for why the two suits could not be consolidated, specifically, the delay behind the commencement of Suit 1167. In this regard, we highlight the following facts that are relevant to the question of consolidation, in particular, the timing and progress of proceedings of the two suits. Suit 1255 was filed on 25 November 2016, set down for trial on 26 September 2017, and the first tranche of the trial



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was in October 2017 followed by a second tranche in March 2018 with reply submissions filed in May 2018. Suit 1167, on the other hand, was filed on 11 December 2017. By then, the proceedings in Suit 1255 were too advanced for both actions to be consolidated.

78 Though the DT treated these two counts as discrete findings against Mr Hanam (see [41(a)] and [41(g)] above), we find it appropriate to deal with them together. The import of both of the DT's findings is that the causes of actions arising from the November 2016 Invoices and December 2016 Invoices should have been brought under one writ, such that there would have been only one suit for all of P&P's claims against Kori made under the Manpower Subcontract. This is why the DT faulted Mr Hanam for not advising Mr Pugazendhi on commencing Suit 1255 only after all the invoices had fallen due. Had he done so, there would have only been one suit. But since Mr Hanam commenced two separate suits (*ie*, Suits 1255 and 1167), he should have then advised Mr Pugazendhi on a consolidation of both actions.

79 We begin with the finding that Mr Hanam should have advised Mr Pugazendhi to commence suit only after *all* the invoices had fallen due. While the evidence indicates that Mr Hanam had not advised Mr Pugazendhi on this option, no discernible harm materialised to warrant faulting Mr Hanam for this omission. To highlight again, P&P did not sue on the December 2016 Invoices in December 2016. At that point, P&P's claims were not verifiable due to a lack of supporting documentation. As transpired (see [20]–[23] above), Kori rejected Mr Hanam's letter of demand issued on 23 December 2016 as the invoices were not based on verifiable claims. In fact, P&P sued Kori only after accepting the latter's offer to pay a compromised sum of $342,821.05 in October 2017. This offer was made after P&P provided Kori with the relevant



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supporting documents which it had obtained from Sha sometime in September 2017. Therefore, the DT's finding that Mr Hanam failed to advise Mr Pugazendhi on commencing an action only after all the invoices had fallen due is, with respect, in error.

80 We rely on substantially the same reasons above (at [79]) in respect of the DT's finding against Mr Hanam that he failed to advise Mr Pugazendhi on commencing Suit 1167 against Kori timeously, with a view of preserving the option of consolidation with Suit 1255. Mr Hanam's account that Kori demurred from verifying P&P's claims on the basis that certain documents were not available and that the said documents were only provided by Sha in September 2017 is supported by not only the objective evidence, *viz*, the correspondence between P&P and Sha as well as P&P and Kori, but it is also supported by Mr Pugazendhi's AEIC filed in Suit 1167 which restates Mr Hanam's narrative of events. In the circumstances, it was sensible to sue on the compromised sum of $342,821.05. At that point, the first tranche of trial for Suit 1255 had commenced and it would have been impossible for the two suits to be consolidated. Thus, Mr Hanam should not be faulted for not advising Mr Pugazendhi on commencing Suit 1167 timeously, with a view to preserving the option of consolidation.

81 Accordingly, we set aside the DT's two findings against Mr Hanam: first, on his failure to advise Mr Pugazendhi on commencing Suit 1255 only after all the invoices had fallen due; and secondly, on his failure to advise Mr Pugazendhi on the timing of Suit 1167 with a view to preserve the option of consolidating it with Suit 1255.



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(5) Failure to properly advise on the option of waiting for the issue of judgment in Suit 1255 instead of commencing Suit 1167

82 The DT faulted Mr Hanam for failing to advise Mr Pugazendhi on the option of waiting for the resolution of Suit 1255 instead of commencing Suit 1167. According to the DT, given Kori's position that it would pay the sum of $342,821.05 on issue of the judgment in Suit 1255 and that it seemed likely that a fresh suit (*ie*, Suit 1167) pursuing the said sum would conclude after the resolution of Suit 1255, Mr Hanam should have advised Mr Pugazendhi to seriously consider holding back the filing of a fresh suit. However, Mr Hanam had not done so and instead advised Mr Pugazendhi to commence a fresh suit for the sum.

83 In our view, Mr Hanam should not be faulted for not having advised on such an option. The nub of the DT's finding against Mr Hanam is that since Kori had offered to pay the sum of $342,821.05 on resolution of their counterclaim in Suit 1255, he should have advised Mr Pugazendhi to wait for the issue of judgment in Suit 1255 instead of commencing a new suit which exposed P&P to unnecessary costs. The difficulty with the DT's finding is that it is predicated on the assumption that the sum of $342,821.05 would have been set off from Kori's counterclaim in Suit 1255. This assumption is misconceived. Kori had not imposed such a condition on its offer to pay $342,821.05. The letter dated 26 October 2017 sent by Kori to P&P is conspicuously silent in this regard. All that Kori stated was that P&P was invited to issue invoices for the sum of $342,821.05 based on the claims that it had verified. Nothing further was stipulated. This was, as noted earlier (see [23] above), duly accepted by P&P which issued the relevant invoice for the said sum. In so far as the parties had agreed on the payment of $342,821.05, there is nothing to indicate it was to be set off by Kori's counterclaim in Suit 1255.



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84 The notion that $342,821.05 was to be set off by Kori's counterclaim in Suit 1255 was merely a *proposal* on the part of Kori. This is evident from Kori's letters dated 26 October 2017 and 9 November 2017: in the former, Kori stated that "[o]ur clients ... do not *propose* to make payment until the Counterclaim in [Suit 1255] is determined as a judgment in our clients' favour on the Counterclaim would mean that there is still a net sum due and owing from your clients to our clients"; in the latter, Kori reiterated its position. This proposal was *not* accepted by P&P. In P&P's letter dated 7 November 2017, P&P stated "[o]ur client does not agree to set-off this sum from your client's counterclaim in [Suit 1255]" and maintained that the invoices were due and payable on 5 December 2017.

85 Therefore, P&P's position in respect of the $342,821.05 owing was that it was not subject to a set-off agreement, and that it was due and payable in December 2017. That this was P&P's position is borne out by its Statement of Claim in Suit 1167, where it averred that "[P&P] accepted [Kori]'s certification and on 4 November 2017 issued invoice number P&P2017-INV010 for the sum of $342.821.05" which "was payable within 30 days" and that "[Kori] is not entitled by law to claim a set-off from its counterclaim in [Suit 1255]". Since the payment of the sum of $342,821.05 was not subject to a set-off agreement *vis-à-vis* Kori's counterclaim in Suit 1255, there was no reason for Mr Hanam to advise Mr Pugazendhi to wait for the conclusion of Suit 1255. This is further consistent with the High Court's assessment of Suit 1167 which determined that (a) there was no condition attached to Kori's "open offer to pay the amount of $342,821.05"; and (b) there were "serious doubts" as to the existence of the alleged agreement to set off the sum of $342,821.05 against Kori's counterclaim in Suit 1255, and that the language used in Kori's letters was "more along the



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lines of a unilateral decision by [Kori] to hold back payment of the 'certified' sum of $342,821.05 until the determination of [Suit 1255]".

86 To summarise, there was no valid reason for Mr Hanam to advise P&P to wait for the resolution of Suit 1255 to assert its entitlement to the sum of $342,821.05 in lieu of commencing Suit 1167. We thus set aside this finding by the DT.

*Findings of the DT that are not disturbed*

87 We begin with two broad observations. The first arises from the DT's decision to disbelieve Mr Hanam's testimony where it was uncorroborated (see [57] above). As stated above, we find that the DT was justified in doing so, and we similarly adopt this reasoning where the only available evidence is Mr Hanam's testimony.

88 The second pertains to an argument advanced by Mr Hanam on numerous instances (albeit in slightly different permutations), which, in broad strokes, is that he should be excused from his duty to evaluate with and/or advise Mr Pugazendhi on occasions where Mr Pugazendhi should or would have known about certain option(s) or course(s) of action. Such knowledge may be imputed to Mr Pugazendhi based on, among other things, Mr Hanam's prior advice to him on a similar issue or Mr Pugazendhi's general understanding of such issues. Presumably, in these instances, there is no need to advise Mr Pugazendhi which is why Mr Hanam submits that he is not in breach of the PCR. We categorically reject such an argument. Mr Pugazendhi's constructive (or actual) knowledge or understanding about certain issues do not absolve Mr Hanam of his duties under the PCR. It is clear that rr 17(2)(*e*) and 17(2)(*f*) involve a process of evaluation which requires Mr Hanam to condescend to



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specifics, and to conduct a "full and frank discussion with the client for the purpose of determining what course(s) of actions should be taken" (Jeffrey Pinsler SC, *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (Academy Publishing, 2016) at para 17.010). This entails a *case-specific analysis* of the potential benefits and adverse consequences on the course(s) of actions to be taken, including the possible costs exposure where applications and/or suits succeed or go in the opposite direction. Mr Pugazendhi's purported knowledge or general familiarity with certain matters is therefore no answer to Mr Hanam's breaches of the PCR, especially since it is not the case that Mr Pugazendhi had given Mr Hanam a broad mandate to conduct the three suits as he wished and to only seek his input at important milestones (see [92] below).

89 With that, we turn to the specific findings of the DT.

(1) Acting without authority

90 The DT found that Mr Hanam acted without the authority of Mr Pugazendhi on two counts. The first instance was in agreeing to pay a sum of $1,513.70 to Taisei for the costs of obtaining a garnishee order, which arose from SUM 5237 (see [11] above). The second instance concerned P&P's proposal on party and party costs in Suit 1255, which were conveyed to Kori. These were breaches of r 17(2)(*f*) of the PCR.

91 Before us, Mr Hanam does not dispute that he acted without the instructions or consent of Mr Pugazendhi. Instead, he argues that his conduct should be excused because Mr Pugazendhi was not in a position to give instructions on costs and further, that issues of costs are not of a legal nature. Both of these arguments are without merit. What is clear is that Mr Pugazendhi



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has a right to choose and decide on the level of costs that is being proposed. This right is inalienable unless the client has clearly ceded this to his counsel (see [92] below). Correspondingly, Mr Hanam's duty under r 17(2)(*f*) is to advise Mr Pugazendhi on the reasonableness of the proposal such that Mr Pugazendhi has enough information to make an informed choice and decision (see [88] above). It follows that it is no answer that Mr Pugazendhi was not able to give instructions on issues of costs. Rhetorically, Mr Pugazendhi would be in a position to do so with the benefit of enough information provided to him and with the aid of Mr Hanam's advice. Moreover, the issue of costs, generally, turns on, among other things, the costs regime of the relevant court including costs precedents, and is thus of a legal nature. It is therefore obvious that clients depend on their lawyers to inform and advise on the quantum of costs as it accounts for money spent on litigation.

92 We further note that it is not part of Mr Hanam's case that Mr Pugazendhi was uninterested or disengaged from the three suits that P&P was embroiled in. We highlight this because we recognise that there are different types of clients: some, for reasons best known to themselves, "expect little more than to be kept apprised of key milestones" in the litigation proceedings; some others "will require much by way of assurance, guidance and counsel"; and unsurprisingly, there will be some who have "strong views as to how their matter should be strategised and conducted" whereas there are others who "may be comfortable leaving all this in the hands of the legal practitioner" (*Koh Tien Hua* at [1]). Understanding the needs and concerns of the client is an essential aspect of counsel's responsibility in ensuring that the client is properly advised: after all, "[a]dvice to clients has to be prompt and commensurate with their needs, and not perfunctory" (*Law Society of Singapore v K Jayakumar Naidu* [2012] 4 SLR 1232 ("*Naidu*") at [1]). Had it been Mr Hanam's case that



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Mr Pugazendhi instructed him to run the file as he thought fit or that he only need update the latter on important milestones in the matter, Mr Hanam's actions could have been explicable. This, however, is not part of Mr Hanam's case. Accordingly, we see no reason to disturb the DT's findings.

93 We would add that our observations in [91]–[92] above also apply generally to the rendering of advice to Mr Pugazendhi and the need to do this periodically.

(2) Failure to discuss the use of ADR options

(A) FAILURE TO DISCUSS THE USE OF SOPA ADJUDICATION IN SUIT 1255

94 The DT determined that Mr Hanam failed to discuss SOPA Adjudication with Mr Pugazendhi in Suit 1255. The DT disbelieved Mr Hanam that he had raised SOPA Adjudication but that Mr Pugazendhi rejected it as he wanted to "proceed first, and he wanted to proceed fast".[17] The DT deemed Mr Hanam's failure to be significant given that SOPA Adjudication provides for a quicker and lower-cost resolution of payment disputes and would have been seriously considered by Mr Pugazendhi given P&P's financial constraints. The DT considered this a breach of rr 17(2)(*e*)(i) and 17(2)(*f*) of the PCR.

95 Mr Hanam's contention before us centres on Mr Pugazendhi's failure to complain that he was not advised on SOPA Adjudication. This had not been mentioned in Mr Pugazendhi's AEIC nor his oral evidence. Instead, it was raised by the President of the DT. Therefore, the evidential burden of the

[17] ROP, Vol 3, p 470 (Transcript, 20 August 2021, p 101, lines 1–6).



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allegation, which rests on the Law Society, did not shift to him, and the charge is not established on this count.

96 In our view, the gravamen of Mr Hanam's misstep on this count, when properly assessed, lies in his failure to advise on an ADR option, that being SOPA Adjudication. Against this, his submission that Mr Pugazendhi had not complained of this failure is overstated.

97 We agree with the DT's finding that Mr Hanam had not advised on SOPA Adjudication. Mr Hanam's narrative that Mr Pugazendhi rejected SOPA Adjudication in favour of litigation because he wanted to "proceed fast" and to "proceed first" is illogical. Had Mr Pugazendhi been properly advised on SOPA Adjudication, it would have been evident to him that SOPA Adjudication is a speedier and lower-cost procedure for resolving payment disputes in the construction industry. Additionally, Mr Pugazendhi would have been the claimant in commencing an adjudication under the SOPA regime and "[proceeded] first". Mr Hanam's purported reasons for why Mr Pugazendhi rejected SOPA Adjudication thus beggar belief.

98 As foreshadowed, we find that Mr Hanam's failure to discuss SOPA Adjudication is better encapsulated as a breach of r 17(2)(*e*)(ii), that being, a failure to evaluate the use of an ADR option. Such a breach was committed despite notification in the Supreme Court Practice Directions 2013 (1 January 2013 release) (the "PD") that it is the "professional *duty* of advocates and solicitors to advise their clients about the different ways their disputes may be resolved using an appropriate form of ADR" [emphasis added] (para 35B(2)). The PD further exhorts advocates and solicitors to consider ADR at the earliest



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stage possible "especially where ADR may save costs, achieve a quicker resolution and a surer way of meeting their client's needs" (para 35B(4)).

99 Based on the record, there is nothing to suggest that the claims in Suit 1255 did not fall within the SOPA regime: the Manpower Subcontract pertains to manpower that P&P supplied to Kori for construction work whereas the Steel Fabrication Subcontract concerns the fabrication, loading and unloading of steel strutting works for Kori. These subcontracts provide "services" and "construction work" respectively, as per s 3(1) of the Building and Construction Industry Security of Payment Act (Cap 30B, 2006 Rev Ed), and are "construction contracts" within the meaning of the term in s 2(1) of the said statute. Payments owing under these subcontracts are thus *prima facie* susceptible to SOPA Adjudication. In any event, it is not Mr Hanam's position that the payments owing under these subcontracts were ineligible for SOPA Adjudication.

100 As stated, SOPA Adjudication is an affordable and speedy resolution process available to subcontractors such as P&P in the building and construction industry (see Report at [65]). Given the financial predicament of P&P and the features of SOPA Adjudication, Mr Hanam's duty in this regard could not have been more acute. In this context, regardless of whether Mr Pugazendhi complained of this specific failure, it would have been *incumbent* on Mr Hanam to have discussed the use of SOPA Adjudication, and his failure to do so cannot be overlooked. We make two further observations on this point. First, Mr Hanam gave oral evidence twice in the course of the DT hearing on whether he had advised on SOPA Adjudication. This is thus not a case where Mr Hanam was not given any notice of this allegation. Secondly, Mr Hanam could not



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corroborate his position that he had advised Mr Pugazendhi on SOPA Adjudication as an alternative to commencing Suit 1255 (see [87] above).

(B) FAILURE TO DISCUSS THE USE OF ADR OPTIONS IN SUIT 1167

101 The DT found that Suit 1167 was an appropriate occasion for Mr Hanam to advise on the use of ADR options but that he failed to do so. The DT rejected Mr Hanam's argument that Mr Pugazendhi did not require such advice as he had been previously advised on the same. This amounted to a breach of r 17(2)(*e*)(ii) of the PCR.

102 Before us, Mr Hanam reiterates what he raised before the DT, that Suit 1167 was not an appropriate occasion for him to advise on ADR options because Mr Pugazendhi had been advised on the same in Suit 1255. As an alternative, he avers that he advised Mr Pugazendhi on ADR options in Suit 1167.

103 We see no reason to disturb the DT's determination. Rule 17(2)(*e*)(ii) of the PCR requires the legal practitioner in an "appropriate" case to evaluate with the client the use of ADR processes. Suit 1167 was an appropriate case for Mr Hanam to advise and evaluate ADR options. It is no excuse that Mr Pugazendhi had been previously advised on ADR options in Suit 1255 given that Mr Hanam's duty is to provide a *case-specific* evaluation of ADR options in Suit 1167 (see [88] above). This is especially since the circumstances under which Suit 1167 was commenced differed substantially from those in Suit 1255. Importantly, Suit 1167 was for payment of a compromised sum, which, in our view, should have prompted Mr Hanam to provide a fresh evaluation of the ADR options. A further prompter to evaluate ADR options was when Mr Hanam received a letter from the Singapore Mediation Centre dated 18 April



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2018 on the availability of mediation to resolve Suit 1167, which was not forwarded to Mr Pugazendhi. Finally, there is no evidence that Mr Hanam advised on SOPA Adjudication or that he advised on ADR options in Suit 1167 (see [87] above).

(3) Failure to advise

(A) FAILURE TO ADVISE ON THE FILING OF SUM 5237 FOR DISCOVERY AGAINST TAISEI AND SUM 5616 FOR LEAVE TO CALL ADDITIONAL WITNESSES IN SUIT 1255

104 The DT found that there was no evidence that Mr Hanam provided evaluation or advice on whether SUM 5237 and SUM 5616, which were applications for additional evidence, should be filed. SUM 5237 sought third-party discovery for documents from Taisei whereas SUM 5616 sought leave to call additional witnesses (see [11]–[12] above). This was a breach of rr 17(2)(*e*)(i) and 17(2)(*f*) of the PCR.

105 Before us, Mr Hanam focused his submissions on why the applications were filed, namely, that Mr Pugazendhi wanted to proceed with them on an urgent basis. Further, Mr Pugazendhi was a businessman who understood the concept of costs and could have inquired with him on whether the applications were likely to be successful.

106 We see no basis to disturb the DT's determination. The fact that Mr Pugazendhi wanted to file these applications on an urgent basis, even if true, is not an excuse nor does it exonerate Mr Hanam from his duty to advise and/or evaluate these applications. In the same vein, it is not relevant that Mr Pugazendhi could have inquired with him on the likelihood of success of the two applications or that Mr Pugazendhi understood the concept of costs. As



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explained above (see [88]), Mr Hanam cannot rely on Mr Pugazendhi's supposed knowledge or understanding of these issues. We further agree with the DT that Mr Hanam had not provided advice or evaluation on the applications. Across the four letters sent to Mr Pugazendhi by Mr Hanam in respect of the applications, no advice or evaluation was provided in them (see Report at [108]). What remains is Mr Hanam's bare assertion that he did so, which we reject (see [87] above).

(B) FAILURE TO ADVISE ON KORI'S OTS DATED 27 JULY 2018 IN DC 1043

107 The DT accepted Mr Pugazendhi's evidence that he had not been advised on the OTS made by Kori on 27 July 2018 in DC 1043 (see [16] above). As a reminder, DC 1043 was filed on 9 April 2018 and proceedings were at an early stage when Kori's OTS was made, with timelines for discovery and exchange of AEICs yet to be fixed. This was a breach of rr 17(2)(*e*)(i) and 17(2)(*f*) of the PCR.

108 We agree with the DT's determination. What weighs heavily against Mr Hanam's claim that he advised Mr Pugazendhi is the lack of contemporaneous records or attendance notes to support his version of events (see [87] above). In addition, the OTS had not even been forwarded to Mr Pugazendhi, which strengthens the inference that he was not advised on the OTS. As for Mr Hanam's alternative argument that Mr Pugazendhi would likely have rejected the OTS anyway even if he had not advised on it, this misses the point entirely. It does not matter what Mr Pugazendhi would have done. What is relevant is whether Mr Hanam provided advice and/or evaluation on the OTS to Mr Pugazendhi. We accept the DT's finding that Mr Hanam did not do so.



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(4) Failure to properly advise

(A) FAILURE TO PROPERLY ADVISE ON KORI'S APPLICATION FOR DOCUMENTS IN SUM 431 IN SUIT 1255

109 The DT found that Mr Hanam failed to provide "substantive evaluation and advice" to assist Mr Pugazendhi in his "exercise of judgment" in relation to SUM 431, which was Kori's application against P&P for documents referred to in P&P's pleadings. Mr Hanam advised P&P to resist SUM 431 on the basis that the documents sought were irrelevant. SUM 431 was decided against P&P, and an appeal was filed in RA 44 whereupon P&P was ordered to amend its pleadings. Costs orders were made against P&P in both instances (see [9] above). The DT found Mr Hanam's course of action to be "controversial" as if it had been his view that the documents were not relevant, a "sensible and practical course would have been to amend the Reply and Defence to Counterclaim so as to remove references to the irrelevant documents".[18] This alternative course of action should have been considered in his advice on SUM 431. This was a breach of rr 17(2)(*e*)(i) and 17(2)(*f*) of the PCR.

110 Presently, Mr Hanam submits that he properly advised Mr Pugazendhi on SUM 431 in his letter dated 3 February 2017 where he stated that the documents sought were irrelevant. He also claims that Mr Pugazendhi did not have the documents and that this contradicts his evidence in his AEIC, and further avers that Mr Pugazendhi was aware of the risks and benefits involved in filing RA 44 as he had signed the supporting affidavit for the appeal.

111 We see no merit in Mr Hanam's arguments. Starting with SUM 431, while Mr Hanam had provided some advice to Mr Pugazendhi, we find that it

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[18] ROP, Vol 4, pp 23–24 (Report at paras 79–84).



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was not *proper* advice. The letter dated 3 February 2017 merely asserts that the documents sought were irrelevant without an explanation on why or how they were so in the context of P&P's averment to these documents in its pleadings. It is further significant that the advice to resist Kori's application on the ground of irrelevance is erroneous because the documents sought were referred to in P&P's own pleadings and under the applicable rules of court (O 24 rr 10 and 11 of the Rules of Court (Cap 332, R 5, 2014 Rev Ed)), Kori was entitled to the documents referred to in the pleadings as accepted by Mr Hanam at the hearing before us. Unfortunately, inadequate preparation led to the ill-conceived advice that irrelevance of the documents was a valid ground to resist the application, with no consideration for the alternative course of amending the pleadings to remove reference to the documents. In this regard, it is clear beyond reasonable doubt that Mr Hanam had not properly evaluated with or advised Mr Pugazendhi on his options in respect of SUM 431. We further agree with the DT that it is immaterial whether Mr Pugazendhi had the documents sought in SUM 431. This does not affect our analysis on whether proper advice had been given. For completeness and as an aside, it seems curious that on the one hand Mr Hanam manages to plead by reference to specific documents, and on the other hand, Mr Hanam asserts that Mr Pugazendhi does not have them.

112 Turning to RA 44, the fact that Mr Pugazendhi signed the supporting affidavit for the appeal does not mean that proper advice or evaluation was provided. As explained earlier (see [56] above), this only indicates that Mr Hanam acted on Mr Pugazendhi's instructions. The only advice provided in relation to RA 44 was in a letter dated 15 February 2017, where Mr Hanam stated that the assistant registrar's decision was erroneous and should be appealed against. The reasons explained in [111] above apply equally to our discussion on RA 44.



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(B) FAILURE TO PROPERLY ADVISE ON THE COMMENCEMENT OF DC 1043

113 The DT determined that Mr Hanam failed to evaluate and/or advise P&P on the option of waiting for the resolution of Suit 1255 to assert its entitlement to the Suit 1255 Settlement sum in lieu of commencing a fresh action for the same. Instead, Mr Hanam, without more, recommended P&P to commence a fresh action (*ie*, DC 1043). According to the DT, Mr Hanam's failure was significant given Kori's position that it would pay the Suit 1255 Settlement sum on conclusion of Suit 1255 and Mr Hanam's view that judgment in Suit 1255 would be issued six to nine months from March 2018 (the last day of hearing in Suit 1255), *ie*, September to December 2018. As it was "not certain at all, or even unlikely, that DC 1043 [which was commenced in April 2018] would be concluded significantly earlier than 6-9 months of its filing", the DT found that Mr Hanam should have advised Mr Pugazendhi on the prospect of DC 1043 concluding before December 2018 against the fees, expenses and the risk of potential adverse costs orders in commencing a fresh action.[19] This was a breach of rr 17(2)(*e*)(i) and 17(2)(*f*) of the PCR.

114 In this application, Mr Hanam maintains that his advice to Mr Pugazendhi to file a fresh suit in the letter dated 9 April 2018 was proper advice. Moreover, Mr Pugazendhi would have been aware of the cost consequences and litigation risks of commencing a fresh suit based on his previous experience in Suit 1255 as well as the option of waiting for the issue of judgment in Suit 1255 instead of commencing a fresh action. In any event, he had also advised Mr Pugazendhi on the intended strategy of attempting to obtain summary judgment in DC 1043 such that it may conclude before judgment was given in Suit 1255.

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19 ROP, Vol 4, p 33 (Report at para 137).



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115 Preliminarily, we note, as an aside, that it is odd that Mr Hanam's estimation of when judgment in Suit 1255 was likely to be issued was given with reference to the last day of hearing (*ie*, March 2018) instead of the date on which reply submissions were filed (*ie*, May 2018). Be that as it may, for present purposes, we take it that Mr Hanam's position was that Suit 1255 would conclude between September and December 2018.

116 In the main, we are not persuaded that Mr Hanam provided proper advice to Mr Pugazendhi. In the letter of 9 April 2018, after updating Mr Pugazendhi that SUM 1394 had been dismissed (see [10] and [15] above), he informed Mr Pugazendhi that he had "the right to appeal [against the decision in SUM 1394] to the Judge in chambers but this would take time and the appeal may also not be successful" and that "[i]t seem[ed] that the easier route would be for [Mr Pugazendhi] to file a fresh suit [*ie*, DC 1043]".[20] In so far as he had provided his assessment of the situation, the remark (not legal advice) that the appeal may not succeed is wanting; it does not address the assistant registrar's reasoning in dismissing SUM 1394 (see [13] above) and is plainly an attempt to side-step the issue. The assistant registrar's reasoning behind the dismissal of SUM 1394 speaks to the unmistaken deduction that Mr Hanam's advice to Mr Pugazendhi was grounded in his lack of understanding of the legal character of the Suit 1255 Settlement. It is thus unsurprising that the letter does not contain any explanation as to why the appeal might not be successful or that it would be "easier" for a fresh suit to be commenced. And whilst Mr Pugazendhi is presented with two ostensible options, the intention is to shepherd him towards

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20 ROP, Vol 1 Part 19, p 9526 (Documents contained in Mr Hanam's List of Documents (Suit 1255)).



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the commencement of a fresh suit with the letter's omission of the possibility of waiting for the conclusion of Suit 1255 to obtain the Suit 1255 Settlement sum.

117 In response to the DT's finding that he failed to properly advise Mr Pugazendhi on the time frame of DC 1043 and the potential costs and fees that might be incurred, Mr Hanam relies on his previous advice to Mr Pugazendhi in Suit 1255. This, however, misses the mark entirely, and is an iteration of the argument described earlier (see [88] above) which we reject. Simply, Mr Hanam cannot rely on his previous advice to excuse himself of his duties in the present case.

118 As regards whether Mr Hanam advised Mr Pugazendhi on the intended strategy of seeking summary judgment in DC 1043, this is an uncorroborated assertion which we disbelieve (see [87] above). There is also nothing objective that Mr Hanam can point to as demonstrating reasonable grounds for believing that P&P was likely to obtain summary judgment. As it turned out, P&P's application for summary judgment was dismissed in July 2018 and DC 1043 was only set down for trial on 5 October 2018. By that time, this was less than two months away from Mr Hanam's estimation (in the worst-case scenario) for when judgment in Suit 1255 would be issued, that being, December 2018. It is thus difficult to understand how Mr Hanam considered it likely that DC 1043 would conclude before the issue of judgment in Suit 1255. Accordingly, we find that there are no reasons to disturb the DT's finding. For completeness, Kori paid the agreed sum under the Suit 1255 Settlement on 11 January 2019 (see [17] above) and the District Court ruled against P&P on the claim for interest and costs on 16 August 2019 (see [18] above).



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*Conclusion*

119 Based on the foregoing, we set aside six of the determinations of the DT (see [62]–[86] above). As regards the remaining findings (see [87]–[118] above), we find no basis to disturb them.

***Whether due cause is shown***

120 Section 83(1) of the LPA provides that all advocates and solicitors shall be "liable on due cause shown" to be subject to the various penalties enumerated in ss 83(1)(*a*)–83(1)(*e*). This includes censure, a monetary penalty, suspension, and the ultimate punishment of striking the errant solicitor off the roll. In turn, the sub-provisions relied upon in the Second to Third Charges, namely ss 83(2)(*b*) and 83(2)(*h*) of the LPA, provide as follows:

> **Power to strike off roll, etc.**
>
> **83.**— …
>
> (2) … such due cause may be shown by proof that an advocate and solicitor —
>
> …
>
> (*b*) has been guilty of fraudulent or grossly improper conduct in the discharge of his or her professional duty or guilty of such a breach of any of the following as amounts to improper conduct or practice as an advocate and solicitor:
>
> (i) any usage or rule of conduct made by the Professional Conduct Council under section 71 or by the Council under the provisions of this Act [such as the PCR]; …
>
> …
>
> (*h*) has been guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession;



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…

121 A determination that an advocate and solicitor's conduct falls within one of the limbs of s 83(2) is, however, a "*necessary – but not sufficient – condition*" [emphasis in original] in determining whether due cause has arisen: *Law Society of Singapore v Jasmine Gowrimani d/o Daniel* [2010] 3 SLR 390 at [35]. The central inquiry here is whether, on the "totality of the facts and circumstances of the case", Mr Hanam's misconduct is "*sufficiently serious to warrant the imposition of sanctions under s 83(1) of the LPA*" [emphasis in original]: *Law Society of Singapore v Udeh Kumar s/o Sethuraju and another matter* [2017] 4 SLR 1369 ("*Udeh Kumar*") at [30].

122 The DT determined that Mr Hanam's conduct fell within s 83(2)(*b*) of the LPA by virtue of his breaches of rr 17(2)(*e*) and 17(2)(*f*) of the PCR. Having concluded that Mr Hanam's conduct fell within s 83(2)(*b*), the alternative charges premised on s 83(2)(*h*) were not considered. While we accept that Mr Hanam was in breach of rr 17(2)(*e*) and 17(2)(*f*), the question is whether his breaches of the rules amount to improper conduct as an advocate and solicitor within the meaning of s 83(2)(*b*) such that he should be sanctioned in one of the manners enumerated in s 83(1) of the LPA.

123 We address this question based on our classification of Mr Hanam's acts (see [60] above). In respect of the instances where Mr Hanam acted without authority (see [90]–[93] above), we are satisfied that his conduct amounts to improper conduct or practice as an advocate and solicitor. On these counts, Mr Hanam's behaviour was based on an ill-conceived and troubling interpretation of the rules that there was no need for him to have obtained Mr Pugazendhi's consent or instructions because the latter would not have been in the position to do so. There was no reason for Mr Hanam to have thought so



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given that it is plain from the spirit and language of the rules that there is no such exception.

124 As regards the remaining grounds (*ie*, his failure to advise, failure to properly advise, and failure to discuss the use of ADR options), we find that the substance of the events that developed in the course of his handling of P&P's dispute with Kori stem from his failure to advise and, in instances where advice was provided, providing ill-informed advice due to a lack of evaluation, inadequate preparation and even a lack of understanding of the law including failing to advise on alterative courses of action or the potential consequence of an action or application. We illustrate with two examples where we found his advice to be especially lacking when considered against what a *reasonably competent solicitor* would have advised: in respect of SUM 431, he failed to advise on amending the pleadings to remove references to the purportedly irrelevant documents sought (see [109]–[112] above); and as regards the commencement of DC 1043, he failed to advise Mr Pugazendhi on waiting for the resolution of Suit 1255 to obtain the Suit 1255 Settlement sum (see [113]–[117] above). The overall picture is therefore that his handling of P&P's dispute with Kori fell below the standard of care expected of a reasonable solicitor.

125 Some doubt may arise as to whether these missteps by Mr Hanam should be the subject of the "penal jurisdiction" of the court, and if they instead "call for compensation [and] not censure" (*Iskandar bin Rahmat v Law Society of Singapore* [2022] 1 SLR 590 ("*Iskandar (Merits)*") at [47]). This is especially since it "should not be assumed that every case of negligence by a solicitor will result in a finding of due cause for sanction under the [LPA]" (*Naidu* at [79]), and that for the court to "exercise its penal jurisdiction over a solicitor it was not sufficient to show that his conduct had been such as would support an action



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for negligence or want of skill" [emphasis omitted] (*Iskandar (Merits)* at [47], affirming the observations in *In re G. Mayor Cooke* (1889) 5 TLR 407).

126 With that said, it is clear that negligence or want of skill can amount to due cause of sanction (*Iskandar (Merits)* at [52]). This would be the case where there was a high degree of negligence or incompetence or want of skill, with the standard of conduct being "inexcusable and is such as to be regarded as deplorable by the fellows in the profession" (*Iskandar (Merits)* at [58]). In making such an assessment, the court may draw on the "*cumulative* account of matters, taking into account the entire factual backdrop" [emphasis in original] (*Iskandar (Merits*) at [59]). For instance, in *Selena Chiong*, this court agreed with the disciplinary tribunal that "[c]umulatively, there was a pattern of chronic irresponsibility and very poor handling" on the part of the respondent (at [24]). Therefore, notwithstanding that some of the matters complained of were relatively mild, this court found the respondent's conduct in *Selena Chiong* to be misconduct within the meaning of s 83(2)(*h*) of the LPA (at [24] and [26]).

127 While the missteps of Mr Hanam may appear to be no more than periodic episodes of innocent bungling to P&P's detriment, they are nevertheless cumulative failures (*ie,* the grounds of misconduct) that were sustained and prolonged over a period of close to three years. The various grounds of misconduct cannot be considered as one-off trivial or technical breaches or mistakes; instead, they are symptomatic of his cavalier disregard for the rules of professional conduct.

128 The gravamen of Mr Hanam's misconduct is clearest when considered in its full factual context. For what was essentially a single dispute over unpaid invoices between P&P and Kori, the matter, under Mr Hanam's handling,



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involved litigation that spanned close to three years, during which there were numerous applications which resulted in costs orders made against P&P. Mr Hanam's misconduct, in all likelihood, contributed to this state of affairs given that his failings occurred at critical junctures in the suits and applications. We need only reiterate the two instances highlighted earlier (see [124] above), which pertain to his advice regarding commencing DC 1043 in lieu of waiting for the resolution of Suit 1255 and his conduct in relation to SUM 431 and RA 44. These missteps resulted in more litigation and costs incurred than required.

129 Moreover, in assessing the seriousness of Mr Hanam's failure to advise Mr Pugazendhi, we are cognisant that the scope of such a responsibility turns on the "precise identity, sophistication and circumstances of the client": *Naidu* at [1]. We expounded on this earlier (at [92] above) and would only recapitulate that part and parcel of the duty to advise is ensuring that the advice is commensurate with the needs of the client. As noted, it is not Mr Hanam's case that Mr Pugazendhi had given him a wide latitude to do as he thought fit. Therefore, Mr Hanam should have provided advice and guidance as apropos the proverbial layperson (*Law Society of Singapore v Uthayasurian Sidambaram* [2009] 4 SLR(R) 674 at [57]). This, however, was undeniably lacking.

130 For these reasons, in our judgment due cause is amply established for the Second and Third Charges. We now turn to consider the appropriate sanction to be imposed on Mr Hanam.

**What is the appropriate sanction to be imposed**

131 As we explained in *Law Society of Singapore v Ravi s/o Madasamy* [2016] 5 SLR 1141 at [31], and again in *Law Society of Singapore v Ezekiel Peter Latimer* [2019] 4 SLR 1427 at [45], a determination of the appropriate



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sanction in the context of disciplinary proceedings involves a consideration of the following principles:

(a) the protection of members of the public who are dependent on solicitors in the administration of justice;

(b) the upholding of public confidence in the integrity of the legal profession;

(c) deterrence against similar defaults by the same solicitor and other solicitors in the future; and

(d) the punishment of the solicitor who is guilty of misconduct.

132 Generally, of these principles, the paramount considerations are the protection of the public and the upholding of public confidence in the integrity of the legal profession. The ultimate question remains, in the words of this court in *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR(R) 266 at [13], "whether the solicitor in question is a fit and proper person to be an advocate and solicitor of the court".

133 In this case, the principles of upholding public confidence in the legal profession and protecting the public from similar defaults by the same solicitor and other similarly situated solicitors in the future are forefront considerations. As readily demonstrated in our analysis on due cause, Mr Hanam's misconduct was not only repeated but also of deleterious effect to P&P's interests. A sanction that appropriately reflects these aspects of his misconduct is warranted. In this regard, the Law Society seeks a sanction of suspension between three and a half years and four and a half years. Mr Hanam, on the other hand, seeks



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a fine of $15,000, and, in the alternative, a suspension period of no more than six months if a sanction of suspension is imposed.

134 We begin with the sanction of a fine. Mr Hanam seeks a fine of $15,000 on the basis that his misconduct consisted of isolated incidents borne out of a mistaken belief on his part and were not entirely dissimilar to that of the errant solicitor in *Law Society of Singapore v Tay Choon Leng John* [2012] 3 SLR 150 ("*John Tay*") where a fine was imposed.

135 Generally, while cases involving grossly improper conduct without dishonesty or deceit will attract a monetary penalty, this outcome is, ultimately, dependent on the overall circumstances of the case and the overall gravity of the misconduct: *Law Society of Singapore v Tan See Leh Jonathan* ("*Jonathan Tan*") [2020] 5 SLR 418 at [10] and *Law Society of Singapore v Yap Bock Heng Christopher* ("*Christopher Yap*") [2014] 4 SLR 877 at [27]. For instance, a fine would not be appropriate in the face of aggravating factors, such as a record of previous misconduct, or if the misconduct was not a result of mere inadvertence: *Jonathan Tan* at [10] and [13] and *Christopher Yap* at [26].

136 In our view, Mr Hanam's argument for a fine relies on a selective summary of his misconduct to downplay the severity of his breaches. He notes, primarily, the occasions where he acted without the authority of Mr Pugazendhi (see [90]–[91] above) as instances of him acting on a mistaken belief on his part. These occasions, however, form the minority of the findings against him. In so far as the bulk of Mr Hanam's misconduct is concerned, he has neither asserted that he was unaware of his duties under the PCR nor offered any basis to suggest that these breaches were inadvertent.



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137 In any event, the "mistaken belief" that Mr Hanam relies on differs vastly from that in *John Tay*. In *John Tay*, the errant solicitor faced three charges, two of which related to his payment of client's moneys into his office account. The solicitor argued that the payments were based on an "agreed fee" under r 9(2)(*c*)(ii) of the Legal Profession (Solicitors' Accounts) Rules (Cap 161, R 8, 1999 Rev Ed) and thus could be paid into his office account. The court found that the solicitor's actions of crediting the payments to his office account were borne out of a "mistaken belief", namely that there was an agreed fee, "rather than an intention to do an act that [was] manifestly improper": at [64]. In contrast, the "mistaken belief" that Mr Hanam refers to is, essentially, his misguided interpretation of r 17(2)(*f*) of the PCR, that he was not required to obtain Mr Pugazendhi's instructions on occasions where "[Mr Pugazendhi] would not be in the position to give instructions".[21] This is qualitatively different from the mistaken belief in *John Tay*, which relates to the errant solicitor's factual belief that the payments were based on an "agreed fee".

138 In effect, Mr Hanam seeks to rely on his own subjective misinterpretation of the PCR to seek a lighter sentence. This cannot be correct. It is further disputable whether he honestly held the belief that r 17(2)(*f*) of the PCR was to be interpreted in such a manner. It is not only a convenient argument but it is also difficult to believe given the plain and obvious meaning of r 17(2)(*f*), which requires legal advice to be given to *enable* the client to make an informed decision.

139 In our assessment, a sanction of suspension is clearly appropriate considering Mr Hanam's misconduct and the overall gravity of the situation.

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21 RWS at para 109.



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However, we disagree with the Law Society that the suspension period be between three and a half years and four and a half years. To begin, the Law Society's position is premised on the DT's finding that Mr Hanam was in breach of the two charges on all 14 counts. As set out above (at [62]–[86]), we have set aside six of the 14 counts.

140 The two precedents relied on by the Law Society – *Koh Tien Hua* and *Ooi Oon Tat* – also do not assist its case. It is not apparent how *Koh Tien Hua* is similar or analogous to the present case. The nature of offending in *Koh Tien Hua* is vastly different. There, the errant solicitor ignored his client's instructions and misrepresented his client's position to the court. The solicitor then went against his client's instructions in adopting certain positions in court and concealed from the client thereafter that he had adopted the said positions. Three of the four charges also indicated that the solicitor had acted dishonestly. Mr Hanam's offending does not resemble that of the solicitor in *Koh Tien Hua*. There is also no suggestion of dishonesty on his part. It is thus unclear why *Koh Tien Hua* should be taken as the premise or the starting point in this exercise.

141 As regards *Ooi Oon Tat*, which the Law Society submits is the precedent with the closest factual resemblance to the present case, the difficulty is that it is clearly a far more serious case than the present matter. There, due to the solicitor's misconduct, what was a "complete victory in favour of the [solicitor's client] was transformed into a complete defeat as a result of the [solicitor]'s gross mismanagement": at [2]. This resulted in a very real prejudice caused to the solicitor's client with the solicitor being described to have been in "grave dereliction of duty to his client": at [2] and [44]. Moreover, the solicitor had been previously sanctioned and suspended from practice for a year: at [50]. In contrast, it also cannot be gainsaid that P&P succeeded in Suit 1255 and



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Suit 1167 albeit after protracted litigation; further, Mr Hanam does not have any antecedents. While the Law Society accepted these differences and submitted that a downward adjustment (of approximately half a year to one and a half years) had been appropriately applied, the adjustment does not adequately account for how much more egregious and severe the misconduct in *Ooi Oon Tat* was.

142 We now return to the general applicable principles guiding the determination of the appropriate sanction (see [131]–[132] above). With these principles in mind, and given that the present case involves multiple instances of misconduct, we find it appropriate to undertake an assessment of the misconduct in *totality* and to consider the *overall* gravity of the matter in determining the appropriate sanction: *Udeh Kumar* at [87].

143 The following aggravating factors are disclosed presently:

(a) First, Mr Hanam's offending was prolonged and sustained. It occurred over a period of close to three years and evinced a pattern of unprofessionalism symptomatic of his cavalier disregard for the rules of professional conduct.

(b) Secondly, Mr Hanam has exhibited an abject lack of remorse. This is an established aggravating factor, recognised in *Law Society of Singapore v Ravi s/o Madasamy* [2023] SGHC 65 at [130(c)]. Not only has he contested all the findings made against him, he has also made several unnecessary and serious allegations against Mr Pugazendhi, asserting that "[Mr Pugazendhi] had his wires crossed with his prep [*sic*] for the DT hearing with the angle that was being run by LSS" and that



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"[Mr Pugazendhi's] AEIC was largely fabricated".[22] At points, Mr Hanam even submitted that it was for Mr Pugazendhi to explain why he did not approach him for advice, suggesting that the fault lay with Mr Pugazendhi for what were, in fact, *his* breaches of duties.

(c) Thirdly, Mr Hanam was a senior practitioner of 18 years' standing at the material time. The more senior an advocate and solicitor, the more damage he does to the integrity of the legal profession: *Law Society of Singapore v Nathan Edmund* [1998] 2 SLR(R) 905 at [33].

(d) Finally, P&P was prejudiced or compromised by Mr Hanam's misconduct. As noted in *Ooi Oon Tat* at [44], "actual or potential harm caused to his client by a respondent-solicitor's misconduct is an aggravating factor in sentencing". By his misconduct, prejudice was visited on P&P and Mr Pugazendhi, for instance, by way of his erroneous advice in SUM 431 though we also note that P&P substantially prevailed in Suit 1255 and Suit 1167 after protracted litigation.

144 We note that there are no salient mitigating factors in Mr Hanam's favour. He highlights that since 2020, he has been consistently keeping attendance notes and sending follow-up e-mails to clients to ensure that they are properly advised in writing and that it is kept in record. The difficulty with this is that it is unsubstantiated. This claim appears only in his written submissions and is not part of his evidence in the present application. Even if it were true, limited mitigating weight is placed on this factor. What Mr Hanam is doing is what is now required under r 5(2)(*k*) of the PCR. It pales in comparison to other

[22] RWS at paras 23 and 60.



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expressions of remorse, such as in *Jonathan Tan* where the errant solicitor had voluntarily ceased practice which was considered to be a "weighty mitigating factor" (at [12]). With all that said, we note that Mr Hanam does not have any antecedents. We also note that in the course of submissions before us, Mr Hanam did not seriously contest that he had failed to take Mr Pugazendhi's instructions on several instances and conceded that he had not forwarded the OTS dated 27 July 2018 in DC 1048 to Mr Pugazendhi. Lastly, we note that Mr Hanam did not intentionally or wilfully mishandle the three suits with a view to harming Mr Pugazendhi or P&P.

145 In all the circumstances, a 9-month suspension from practice under s 83(1)(*b*) of the LPA is appropriate.

**Conclusion**

146 In conclusion, we find that there is due cause for disciplinary action and impose a 9-month suspension under s 83(1)(*b*) of the LPA commencing four weeks after the date hereof. In relation to costs, the Law Society seeks costs of $15,000 and disbursements of $23,344.03 for the present application, and costs of $9,500 and disbursements of $16,496.41 for the proceedings before the DT. In total, the Law Society seeks a sum of $64,340.44. Given the variations in the



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findings by the DT, it is only fair that Mr Hanam bears $32,000, this being about half the costs incurred before the DT and this court. We do so order accordingly.

Tay Yong Kwang
Justice of the Court of Appeal

Belinda Ang Saw Ean
Justice of the Court of Appeal

Andrew Phang Boon Leong
Senior Judge

Shobna Chandran, Ng Jie Zhen Amy (Huang Jiezhen Amy), Tan Phoebe and Thaddaeus Aaron Tan Yong Zhong (Tan Rajah & Cheah) for the applicant;
Andrew John Hanam (Andrew LLC) for the respondent.



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