

IN THE COURT OF THREE JUDGES OF THE REPUBLIC OF SINGAPORE

[2023] SGHC 350

Originating Application No 2 of 2023

Between

Law Society of Singapore

... Applicant

And

Cheng Kim Kuan

... Respondent

GROUND OF DECISION

[Legal Profession — Disciplinary proceedings]

TABLE OF CONTENTS

INTRODUCTION.....	1
THE CHARGES.....	2
THE FACTS	4
BACKGROUND.....	4
FACTS RELATING TO THE CHARGES	5
<i>The Undertaking and the Conditions</i>	<i>5</i>
<i>The 17 November 2021 Letter.....</i>	<i>13</i>
<i>The 19 November 2021 Meeting</i>	<i>14</i>
<i>The 24 November 2021 Letter.....</i>	<i>15</i>
<i>The 29 November 2021 Letter.....</i>	<i>16</i>
<i>The 1 December 2021 Reply Letters</i>	<i>16</i>
<i>The 3 December 2021 Letter.....</i>	<i>18</i>
<i>The 16 December 2021 Letter.....</i>	<i>19</i>
THE PROCEEDINGS BEFORE THE DT AND THE DT’S FINDINGS	20
THE PARTIES’ RESPECTIVE POSITIONS BEFORE THE DT.....	20
THE DT’S FINDINGS	22
THE PARTIES’ SUBMISSIONS BEFORE THE COURT	23
THE LAW SOCIETY’S SUBMISSIONS	23
MR CHENG’S SUBMISSIONS	24
THE ISSUE.....	25
OUR DECISION	25

DUE CAUSE WAS ESTABLISHED.....	25
THE APPROPRIATE SANCTION	29
<i>The applicable principles on the imposition of sanctions</i>	29
<i>A six-months suspension is appropriate</i>	30
CONCLUSION	35

This judgment is subject to final editorial corrections to be approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Law Society of Singapore

v

Cheng Kim Kuan

[2023] SGHC 350

Court of Three Judges — Originating Application No 2 of 2023
Tay Yong Kwang JCA, Steven Chong JCA and Belinda Ang JCA
9 October 2023

11 December 2023

Tay Yong Kwang JCA (delivering the grounds of decision of the court):

Introduction

1 C3J/OA 2/2023 (“OA 2”) was an application by the Law Society of Singapore (the “Law Society”) for the respondent, Mr Cheng Kim Kuan (“Mr Cheng”), to be sanctioned under s 83(1) of the Legal Profession Act 1966 (2020 Rev Ed) (“LPA”). The Law Society also seeks an order for the costs of and incidental to the action, including the costs of the proceedings before the disciplinary tribunal (“DT”) to be paid by Mr Cheng.

2 The misconduct in issue arose out of a solicitor’s written undertaking dated 12 May 2021 (the “Undertaking”) that Mr Cheng gave to the Council of the Law Society and the Supreme Court of Singapore in which Mr Cheng undertook to be the supervising solicitor for a fellow solicitor, Mr Ravi s/o Madasamy (“Mr Ravi”). The Law Society alleged that Mr Cheng breached the

Undertaking by failing to supervise Mr Ravi and to ensure that Mr Ravi abided by the conditions (the “Conditions”) imposed on the Practicing Certificate issued to Mr Ravi for Practice Year 2021/2022 (the “Conditional Practicing Certificate”). The Law Society further alleged that Mr Cheng’s breach of the Undertaking constituted breaches of rr 8(3) and 13(4) of the Legal Profession (Professional Conduct) Rules 2015 (“PCR”) and that amounted to: (a) grossly improper conduct in the discharge of Mr Cheng’s professional duty within the meaning of s 83(2)(b) of the LPA and (b) misconduct unbefitting of an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession within the meaning of s 83(2)(h) of the LPA.

3 Before the DT, the Law Society preferred six principal charges and six alternative charges against Mr Cheng. The DT found cause of sufficient gravity existed in relation to two out of the six charges. These were the first and the third charges and their alternatives.

4 Before us, Mr Cheng indicated through his counsel that he was pleading guilty to the two charges in question and was not contesting the DT’s finding that cause of sufficient gravity existed. We agreed with the DT that cause for disciplinary action existed in respect of the first and the third charges. We imposed a six-month suspension on Mr Cheng. We now set out the reasons for our decision.

The charges

5 The first and the third charges against Mr Cheng, which were framed in the alternative under ss 83(2)(b) and 83(2)(h) of the LPA, read as follows:

First Charge and Alternative First Charge

You, CHENG KIM KUAN, an advocate and solicitor of the Supreme Court of Singapore, are charged that from 12 May 2021 to 19 November 2021, despite paragraph 2a of [the Undertaking] given to the Supreme Court of Singapore and the Council of the Law Society of Singapore to *inter alia* personally supervise [Mr Ravi's] practise as an advocate and solicitor in K K Cheng Law LLC, in dereliction of your duty and breach of your undertaking, failed to personally supervise [Mr Ravi's] practise as an advocate and solicitor in K K Cheng Law LLC, or at all, by allowing [Mr Ravi] to have sole conduct of the legal matters and not vetting any of [Mr Ravi's] legal submissions and/or affidavits and/or correspondence and in particular, did not personally supervise the conduct of [HC/OS 1025/2021] and [HC/SUM 4742/2021], and your aforesaid conduct amounts to:

- (a) grossly improper conduct and practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Legal Profession Act 1966; or alternatively
- (b) misconduct unbefitting an advocate and solicitor or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act 1966.

Third Charge and Alternative Third Charge

You, CHENG KIM KUAN, an advocate and solicitor of the Supreme Court of Singapore, are charged that despite paragraph 2b in [the Undertaking] given to the Supreme Court of Singapore and the Council of the Law Society of Singapore to *inter alia* provide “a monthly report within the first working day of every calendar month (ie excluding weekends and public holidays) attesting to whether [Mr Ravi] has complied with all applicable professional conduct rules and that no complaint in relation to [Mr Ravi's] professional conduct has been received”, did breach his undertaking by failing to submit the November 2021 Supervising Solicitor's Report by its due date on 1 December 2021 or at all and your aforesaid conduct amounts to:

- (a) grossly improper conduct and practice as an advocate and solicitor within the meaning of Section 83(2)(b) of the Legal Profession Act 1966; or alternatively
- (b) misconduct unbefitting an advocate and solicitor or as a member of an honourable profession within the meaning of Section 83(2)(h) of the Legal Profession Act 1966.

6 As the remaining four charges and their alternatives were no longer in issue, it is not necessary to set out these charges in full. In summary, these four charges concerned other alleged breaches by Mr Cheng of the Undertaking. For instance, his alleged failure to seek the leave of the Court to amend the Conditions imposed on Mr Ravi to practise only under Mr Cheng’s personal supervision and out of the office of Mr Cheng’s legal practice, K K Cheng Law LLC (“KKCL”). Another alleged breach concerned Mr Cheng’s failure to vet all correspondence, affidavits and legal submissions emanating from Mr Ravi and to scrutinise Mr Ravi’s caseload to ensure that he had the capacity to take on legal matters.

The facts

7 The facts in support of the charges were undisputed. We summarise them below.

Background

8 Mr Cheng was admitted as an advocate and solicitor on 26 July 1997. At all material times, Mr Cheng was the sole director of KKCL, located at 101 Upper Cross Street #05-21 People’s Park Centre Singapore 058537.

9 Mr Cheng and Mr Ravi became acquainted with each other sometime in 2019. At that time, Mr Ravi’s law firm was also located in People’s Park Centre. Mr Cheng would encounter Mr Ravi from time to time and they would engage in occasional small talk. On one such occasion, Mr Ravi informed Mr Cheng that he was to be reinstated as an advocate and solicitor of the Supreme Court of Singapore but was unable to do so as no lawyer was willing to stand as his supervising solicitor or monitoring solicitor. Upon hearing this, Mr Cheng

offered to be Mr Ravi’s monitoring solicitor. This entailed Mr Cheng’s supervision over Mr Ravi’s consumption of his medications.

10 Sometime in December 2020, Mr Ravi requested Mr Cheng to be his supervising solicitor. Mr Cheng considered this matter over several months before agreeing to do so around April 2021.

Facts relating to the charges

The Undertaking and the Conditions

11 On 12 May 2021, Mr Cheng gave the Undertaking to the Supreme Court of Singapore and the Council of the Law Society to be Mr Ravi’s supervising solicitor. The terms of the Undertaking were:

- 1 I, Mr Cheng Kim Kuan, NRIC Number [XXX], of [XXX], an advocate and solicitor of the Supreme Court of Singapore, AAS number 362 of 1996, director of [KKCL], 101 Upper Cross Street, #05-21 People’s Park Centre, Singapore 058357, hereby confirms that:
 - a. I am aware that [Mr Ravi], NRIC Number [XXX] of [XXX], an advocate and solicitor of the Supreme Court of Singapore, AAS Number 353 of 1996, wishes to be issued with a Practising Certificate for the practice year 2021/2022 (“the Practising Certificate”).
 - b. I have been informed by [Mr Ravi] of the conditions to be imposed on the Practising Certificate (“the conditions”), and I have also read and have understood the conditions, and confirm that the conditions are those annexed to this Letter of Confirmation and Undertaking.
 - c. I have been informed by [Mr Ravi] that he shall provide me with irrevocable instructions to ensure compliance with the conditions imposed on the Practising Certificate.
 - d. I am aware that under the conditions, I will be the Supervising Solicitor for [Mr Ravi] and I so agree to be the Supervising Solicitor for [Mr Ravi].

- e. I am aware that [Mr Ravi] shall only practise as an advocate and solicitor in [KKCL] under my personal supervision.
- f. I am aware that prior leave of the Court should be sought for any change to the arrangement whereby [Mr Ravi] practices as an advocate and solicitor in [KKCL] under my personal supervision as his Supervising Solicitor.
- g. I am aware of, understand, consent to and unequivocally agree to abide by the responsibilities, duties and obligations that are imposed on me in the conditions.

2 I now give this professional undertaking pursuant to rules 8(3) and 13(4) of the Legal Profession (Professional Conduct) Rules 2015 (Cap 161, Section 71), to the Supreme Court of Singapore and to the Council of the Law Society of Singapore, that I shall:

- a. Personally supervise [Mr Ravi]’s practise as an advocate and solicitor in [KKCL].
- b. Provide to the Law Society of Singapore (“the Law Society”) and Attorney -General Chambers (“AGC”) a monthly report within the first working day of every calendar month (ie. excluding weekends and public holidays) attesting to whether [Mr Ravi] has complied with all applicable professional conduct rules and that no complaint in relation to [Mr Ravi]’s professional conduct has been received.
- c. Immediately notify the Law Society and the AGC if I become aware of any circumstances that may impair the fitness of [Mr Ravi] to practise as an advocate and solicitor, or which may impair the professional judgment of [Mr Ravi], including but not limited to situations where [Mr Ravi]:
 - i. fails or refuses to consume the medication prescribed by Dr Derrick Yeo in the presence of the Monitoring Solicitor;
 - ii. fails to comply with all applicable professional conduct rules or if any complaint in relation to [Mr Ravi]’s professional conduct is received; or
 - iii. fails to comply with any condition of this Practising Certificate.

- d. Take all necessary steps to ensure that [Mr Ravi] complies with all the conditions imposed on the Practising Certificate.

12 The Conditions were annexed to the Undertaking and read as follows:

Conditions on [Mr Ravi's] Practising Certificate for PY 2021/2022

1. That [Mr Ravi] be not permitted to practise as a sole proprietor or director or partner of any law practice.
2. That [Mr Ravi] shall practise as an advocate and solicitor only in the law practice named and styled [KKCL], 101 Upper Cross Street, #05-21 People's Park Centre, Singapore 058357 under the personal supervision of [Mr Cheng] ("the Supervising Solicitor"). Prior leave of the court should be sought for any change to this arrangement.

In addition, [Mr Ravi] shall not:

- (a) hold or receive any client, trust account or conveyancing monies or operate any client, trust or conveyancing account of any law practice; and/or
 - (b) act as signatory to authorise or sign any withdrawal from any client, trust or conveyancing account of any law practice.
3. The Supervising Solicitor is to provide monthly reports to the Law Society of Singapore ("the Law Society") and the Attorney-General's Chambers ("AGC") within the first working day of every calendar month (ie. excluding weekends and public holidays) attesting to whether [Mr Ravi] has complied with all applicable professional conduct rules and that no complaint in relation to [Mr Ravi's] professional conduct has been received.
 4. That [Mr Ravi] shall obtain and comply with medical treatment prescribed by no more than one registered psychiatrist ("Attending Psychiatrist") as approved in writing by the Law Society and the AGC, and he shall:
 - (a) attend consultations with the Attending Psychiatrist for mental state reviews not less than once every two months, or any frequency as required by the Attending Psychiatrist (which frequency shall not exceed six months);

- (b) undergo all medical tests, treatments, assessments and/or evaluations required by the Attending Psychiatrist including blood/urine tests, for the purpose of monitoring his mental state; and
 - (c) provide a report from the Attending Psychiatrist to the Law Society and the AGC every six months on whether [Mr Ravi] continues to be medically fit to practise as an advocate and solicitor.
- 5. That [Mr Ravi] shall attend psychological therapy sessions with no more than one registered psychologist (“Attending Psychologist”) approved in writing by the Law Society and the AGC, on the following terms:
 - (a) [Mr Ravi] shall attend psychological therapy sessions with the Attending Psychologist not less than once every two months, or at a frequency as required by the Attending Psychologist (which frequency shall not exceed six months);
 - (b) there shall be full disclosure between the Attending Psychiatrist and Attending Psychologist; and
 - (c) [Mr Ravi] shall provide a report from the Attending Psychologist to the Law Society and the AGC every six months on whether [Mr Ravi] continues to be medically fit to practise as an advocate and solicitor.
- 6. That [Mr Ravi] shall consume the medication prescribed by the Attending Psychiatrist in the presence of an advocate and solicitor approved in writing by the Law Society and the AGC (the “Monitoring Solicitor”) and the Monitoring Solicitor shall maintain a record (“Medicine Diary”) attesting to the following:
 - (a) the date and time of [Mr Ravi’s] medication intake;
 - (b) the place at which [Mr Ravi] consumed the medication;
 - (c) the specific medication that was consumed by [Mr Ravi] ; and
 - (d) whether the medication and dosage consumed by [Mr Ravi] complies with the Attending Psychiatrist’s prescription.

7. That each entry into the Medicine Diary shall be signed by [Mr Ravi] and the Monitoring Solicitor. The Monitoring Solicitor shall provide the Medicine Diary to the Attending Psychiatrist, the Law Society, the AGC and the Supervising Solicitor weekly, and the Medicine Diary shall be submitted on the first working day of the following week (ie. excluding weekends and public holidays). The Monitoring Solicitor shall ensure that he personally witnesses the consumption of medication by [Mr Ravi], whether in person or by way of a video call, regardless of the timing of the dosage, and whether such consumption falls due on a Saturday, Sunday or Public Holiday. On dates and times when [Mr Ravi] is in hearing/s before a Court of Law or any other decision-making body, the Monitoring Solicitor and [Mr Ravi] shall make all necessary arrangements to ensure that [Mr Ravi] consumes his medication in accordance with the Attending Psychiatrist's prescription.

8. That the Supervising Solicitor shall, prior to the start date of [Mr Ravi's] Practising Certificate, provide a written undertaking to the Supreme Court, the Law Society and the AGC that he will comply with all of the requirements, duties and obligations upon him, as specified in the conditions of this Practising Certificate.

In addition, the Supervising Solicitor shall immediately notify the Law Society and the AGC if he becomes aware of any circumstances that may impair the fitness of [Mr Ravi] to practise as an advocate and solicitor or may impair the professional judgment of [Mr Ravi], including but not limited to situations where [Mr Ravi]:

- (a) fails or refuses to consume the medication prescribed by the Attending Psychiatrist in the presence of the Monitoring Solicitor; or
- (b) fails to comply with all applicable professional conduct rules or if any complaint in relation to [Mr Ravi's] professional conduct is received; or
- (c) fails to comply with any condition of this Practising Certificate.

Further, the Supervising Solicitor shall take all necessary steps to ensure that [Mr Ravi] complies with all the conditions imposed on this Practising Certificate.

The written undertaking shall be a professional undertaking given by the Supervising Solicitor under Rules 8(3) and 13(4) of the Legal Profession (Professional Conduct) Rules.

9. That the Monitoring Solicitor shall, prior to the start date of [Mr Ravi's] Practising Certificate, provide a written undertaking to the Supreme Court, the Law Society and the AGC that he will comply with all of the requirements, duties and obligations upon him, as specified in the conditions of this Practising Certificate.

In addition, the Monitoring Solicitor shall immediately notify the Law Society and the AGC if he becomes aware of any circumstances that may impair the fitness of [Mr Ravi] to practise as an advocate and solicitor or may impair the professional judgment of [Mr Ravi], including but not limited to situations where [Mr Ravi]:

- (a) fails or refuses to consume the medication prescribed by the Attending Psychiatrist in the presence of the Monitoring Solicitor; or
- (b) fails to comply with all applicable professional conduct rules or if any complaint in relation to [Mr Ravi's] professional conduct is received.

Further, the Monitoring Solicitor shall take all necessary steps to ensure that [Mr Ravi] complies with all the conditions imposed on his Practising Certificate.

The written undertaking shall be a professional undertaking given by the Monitoring Solicitor under Rules 8(3) and 13(4) of the Legal Profession (Professional Conduct) Rules.

10. That the Attending Psychiatrist and Attending Psychologist shall immediately inform the Law Society and the AGC if either of them have reason to believe or become aware of any circumstances that may impair the fitness of [Mr Ravi] to practice as an advocate & solicitor and/or if he has failed to attend any consultation or session. In such circumstances, the Attending Psychiatrist and Attending Psychologist shall provide all relevant information to the Law Society and the AGC immediately. At all times, the Law Society and the AGC shall have access to complete information relating to [Mr Ravi's] fitness to practise.

The Law Society and the AGC shall at all times be entitled to seek and obtain reports, information and test results from [Mr Ravi], the Attending Psychiatrist and/or the Attending Psychologist for the purpose of assessing whether his fitness to practice as an advocate & solicitor has been impaired by reason of his medical condition.

[Mr Ravi] consents to the Attending Psychiatrist and/or the Attending Psychologist providing to the Law Society and the AGC the aforesaid reports, information and test results.

11. That [Mr Ravi] shall stop practising (if so advised by the Attending Psychiatrist) during any medical leave prescribed by the said Attending Psychiatrist. The said Attending Psychiatrist shall immediately notify the Law Society and the AGC:
 - (a) if medical leave has been prescribed to [Mr Ravi]; and
 - (b) if [Mr Ravi] has been advised not to practise during the period of the medical leave.
12. That [Mr Ravi] shall stop practising if the Attending Psychiatrist has prescribed not less than 3 days of medical leave in aggregate in any period of 14 calendar days and may only resume practice upon confirmation in writing by the Attending Psychiatrist that his fitness to practise is not impaired, and if the Law Society and/or the AGC does not require further medical information from the Attending Psychiatrist.
13. That the Attending Psychiatrist shall immediately inform the Law Society and the AGC if medical leave of 3 days or more in aggregate in any period of 14 calendar days has been prescribed for [Mr Ravi]. The Law Society and the AGC shall be entitled to notify the Supreme Court, State Courts, Family Justice Courts, the Singapore Prison Service that he has been required to stop practising until further notice. Such notice shall be given when [Mr Ravi] is allowed to resume practice under Condition 12.
14. That [Mr Ravi] shall stop practising immediately if:
 - (a) there is non-compliance with any or all of the conditions of this Practising Certificate. For the avoidance of doubt, the failure by [Mr Ravi], the Supervising Solicitor or the Monitoring Solicitor to furnish the requisite documents in Conditions 3, 4(c), 5(c) and 7 by the respective deadlines is an act of noncompliance; or
 - (b) if directed to stop practising by the Law Society or the AGC.

The Law Society or the AGC may direct (in writing) that [Mr Ravi] stops practising based on information from

any one of the Attending Psychiatrist, Attending Psychologist, Supervising Solicitor or Monitoring Solicitor without further inquiry.

This may be based on any information which gives the Law Society or the AGC a reasonable belief that his fitness to practise is impaired by reason of his medical condition.

If a direction to stop practising has been given by the Law Society or the AGC, [Mr Ravi] shall not resume practice until:

- (a) he has complied with all of the conditions of this Practising Certificate, and
- (b) there is written confirmation by the Attending Psychiatrist that his fitness to practise is not impaired by reason of his medical condition and if neither the Law Society nor the AGC requires further medical information from the Attending Psychiatrist.

If a direction to stop practising has been given, the Law Society and the AGC shall be entitled to notify the Supreme Court, State Courts, Family Justice Courts, the Singapore Prison Service.

- 15. That [Mr Ravi] shall immediately comply with any mental state review or medical assessment by the Attending Psychiatrist as required by the Law Society, and the Attending Psychiatrist shall provide a report to the Law Society within 3 working days thereafter. [Mr Ravi] shall also cooperate to provide and procure any information and documents requested by the Law Society from the Attending Psychiatrist.
- 16. That [Mr Ravi] shall immediately notify the Law Society as soon as he is aware of any circumstances that may impair his fitness to practise as an advocate and solicitor or impair his professional judgment.
- 17. That [Mr Ravi] shall, prior to the start date of his Practising Certificate, provide a written undertaking to the Supreme Court, Singapore, the Law Society and the AGC that:
 - (a) he shall comply with all the conditions of this Practising Certificate;
 - (b) he shall fully disclose the conditions of this Practising Certificate to the Attending Psychiatrist, Attending Psychologist,

Supervising Solicitor and Monitoring Solicitor and provide irrevocable instructions to ensure compliance with the conditions of this Practising Certificate; and

- (c) he consents to the Attending Psychiatrist and/or the Attending Psychologist providing to the Law Society and the AGC such reports, information and test results as may be requested by the Law Society or the AGC.
- 18. That the Law Society and the AGC are at liberty to make necessary application/s to the Court if [Mr Ravi] fails to comply with any condition of this Practising Certificate.
- 19. That with the consent of the AGC, the Law Society is at liberty to waive, amend or vary any of these conditions as it deems fit based on its own assessment and review.
- 20. That [Mr Ravi] consents that his Supervising Solicitor and/or Monitoring Solicitor have the mandate to bring him to the Institute of Mental Health immediately should he display signs that his mental health is deteriorating, for example but not limited to, signs of hypomania or depression.

13 It was not in dispute that Mr Cheng had read and understood the Conditions. Mr Cheng also confirmed that he had agreed to undertake the role of supervising solicitor and he had understood that Mr Ravi would only be practising as an advocate and solicitor in KKCL under Mr Cheng’s personal supervision.

The 17 November 2021 Letter

14 On 17 November 2021, Mr Cheng received a letter (the “17 November 2021 Letter”) from the AGC setting out various incidents concerning Mr Ravi’s behaviour and alleged misconduct in several legal matters in which Mr Ravi was instructed as a solicitor. The 17 November 2021 Letter also stated that Mr Ravi had published several social media posts where he made certain remarks and disclosed submissions that he had made in relation to ongoing legal proceedings in HC/OS 1025/2021.

15 The AGC then requested that Mr Cheng respond to the AGC by 5pm on 1 December 2021 regarding the following:

- (a) what specific arrangements Mr Cheng had entered with Mr Ravi to supervise his practice;
- (b) whether those arrangements included approving or otherwise overseeing what legal matters Mr Ravi took on and whether he had the capacity to do so;
- (c) whether those arrangements included reviewing Mr Ravi’s legal submissions and affidavits, whether in Mr Ravi’s own name or otherwise or other Court documents filed by Mr Ravi;
- (d) whether Mr Cheng was aware of the matters stated in the 17 November 2021 Letter and why they happened when Mr Cheng was supposed to be supervising Mr Ravi;
- (e) if Mr Cheng was aware of the matters, what steps Mr Cheng took in respect of Mr Ravi’s conduct and when they were taken; and
- (f) what Mr Cheng proposed to do to stop similar incidents from happening in the future.

The 19 November 2021 Meeting

16 On 19 November 2021, Mr Cheng met with Mr Ravi (the “19 November 2021 Meeting”) and handed him a copy of the 17 November 2021 Letter, seeking Mr Ravi’s explanation as to its contents. Mr Ravi, however, did not provide any explanation. Mr Cheng further informed Mr Ravi that he would need to review their arrangement and to impose several conditions including the following: (a) Mr Cheng’s written approval would be required before Mr Ravi took on any legal matters; and (b) Mr Ravi was to refrain from further social

media posts relating to existing and future legal matters while he practised under the name of KKCL. Mr Ravi did not agree to Mr Cheng's requests. Mr Cheng then informed Mr Ravi to seek immediate approval to practise as a sole proprietor or in any other law practice of his choice.

The 24 November 2021 Letter

17 On 24 November 2021, the AGC sent another letter (the "24 November 2021 Letter") to Mr Cheng detailing a further incident involving Mr Ravi's appearance in a video conference before the General Division of the High Court on 22 November 2021 and his confrontations with the High Court judge presiding over an action brought by drivers of SBS Transit Ltd (the "SBS matter"). The 24 November 2021 Letter sought Mr Cheng's explanation by 1 December 2021 as to whether he was aware of Mr Ravi's conduct in relation to this incident and asked for information in relation to the supervisory steps taken by Mr Cheng.

18 Mr Cheng forwarded the 24 November Letter to Mr Ravi in an email copying the Law Society and AGC and asked Mr Ravi to provide an explanation as to the allegations contained in the letter. Mr Cheng also provided a summary of the 19 November 2021 Meeting, highlighting Mr Ravi's rejection of the additional requirements that Mr Cheng sought to impose on him. Mr Cheng repeated his request that Mr Ravi seek approval to practise as a sole proprietor or in any other law practice. Finally, Mr Cheng drew Mr Ravi's attention to paragraph 14(b) of the Conditions, which stated that Mr Ravi could be asked to stop practising immediately if so directed by the Law Society or the AGC.

The 29 November 2021 Letter

19 On 29 November 2021, the AGC sent yet another letter (the “29 November 2021 Letter”) seeking further clarifications from Mr Cheng on the following matters:

- (a) whether the office which Mr Ravi practises out of, which was at 1 North Bridge Road #14-01, High Street Centre, Singapore 179094 (the “High Street Centre Office”), was rented by KKCL and/or registered as a branch office of KKCL and whether KKCL contributed any share of the rental amount;
- (b) the identity of any persons or interns assisting Mr Ravi and whether they are employed by KKCL; and
- (c) the arrangements put in place in respect of monies paid by Mr Ravi’s client.

The 1 December 2021 Reply Letters

20 On 1 December 2021, Mr Cheng sent three letters to the AGC in response to the 17 November 2021 Letter, 24 November 2021 Letter and 29 November 2021 Letter (collectively, the “1 December 2021 Reply Letters”):

- (a) The first letter contained Mr Cheng’s response to the 17 November Letter and stated that:
 - (i) Mr Ravi had sole conduct of all legal matters and court proceedings subject to instructions from his clients and that Mr Cheng was not involved in any of Mr Ravi’s matters.

(ii) Mr Cheng did not approve nor oversee the legal matters taken on by Mr Ravi as the latter was then an advocate and solicitor with around 25 years of experience.

(iii) Mr Cheng did not review the documents prepared, filed or sent out by Mr Ravi (such as letters, legal submissions, affidavits, and correspondence).

(iv) Prior to receiving the letters from AGC, Mr Cheng was not aware of Mr Ravi's conduct of or his behaviour in the cases stated in the 17 November 2021 Letter nor was Mr Cheng aware of Mr Ravi's social media post regarding one of the ongoing proceedings.

(v) Mr Cheng had informed Mr Ravi on 19 November 2021 of the conditions that are to be imposed in respect of his supervised practice but Mr Ravi rejected those requirements.

(b) The second letter contained Mr Cheng's response to the 24 November Letter and stated that:

(i) Mr Cheng did not take any action in relation to the existing matters that Mr Ravi was handling and that Mr Ravi was at liberty to conduct the legal matters as he deemed fit, subject to his client's instructions.

(ii) Mr Cheng confirmed that Mr Ravi had sole conduct of the SBS matter before the General Division of the High Court and that Mr Cheng was not aware of and did not participate in those proceedings.

(c) The third letter contained Mr Cheng's response to the 29 November Letter and stated that:

(i) KKCL did not rent the High Street Centre Office; neither is that office registered as a branch office of KKCL.

(ii) KKCL did not hire nor employ any of the staff/interns working for Mr Ravi and that he was at liberty to hire and dismiss any staff /intern working from the High Street Centre Office.

(iii) The monies paid to Mr Ravi by his clients are deposited into KKCL's office account with Mr Ravi's clients' approval. Mr Ravi would have to furnish the relevant Warrant to Act or Letter of Engagement, the accompanying receipts or invoices issued to the client(s) and a list of the monies paid by his client(s) to Mr Ravi each month before Mr Cheng disburses the money to Mr Ravi.

21 Mr Cheng also informed AGC in the 1 December 2021 Reply Letters that he had brought to Mr Ravi's attention the 21 November Letter, the 24 November Letter and the 29 November Letter but no response was forthcoming from Mr Ravi. Mr Cheng also indicated that he did not wish to continue as Mr Ravi's supervising solicitor after the expiry of Mr Ravi's Conditional Practising Certificate at the end of March 2022.

The 3 December 2021 Letter

22 On 3 December 2021, in response to the points raised by Mr Cheng in the 1 December 2021 Reply Letters, the AGC sought further clarification on the following points (the "3 December 2021 Letter"):

- (a) Whether there was any supervisory arrangement between Mr Cheng and Mr Ravi.
- (b) Whether Mr Cheng was seeking to withdraw his consent to act as Mr Ravi's supervising solicitor and to be released from his obligations under the Undertaking.
- (c) The nature of the High Street Centre Office and whether there was any relationship between that office and KKCL.
- (d) The manner in which monies paid by Mr Ravi's client into KKCL's office accounts were paid out to Mr Ravi, as well as any relevant documentation on these practices.

The 16 December 2021 Letter

23 On 16 December 2021, Mr Cheng responded to the 3 December Letter stating:

- (a) The terms of the parties' supervisory arrangements were not evidenced in writing.
- (b) Mr Cheng did not intend to withdraw his consent to act as supervising solicitor but he would cease acting as Mr Ravi's supervising solicitor when Mr Ravi's Conditional Practising Certificate expired at the end of March 2022. In the meantime, he was unable to personally supervise Mr Ravi's conduct of his legal matters or his general conduct.
- (c) Mr Cheng had visited Mr Ravi on three occasions at the High Street Centre Office but it was not to observe or to assess Mr Ravi in the course of Mr Ravi's legal practice.

(d) Mr Cheng clarified that Mr Ravi did not hold any position in KKCL and that Mr Ravi ran his legal practice as a “chamber” under KKCL. Further, Mr Ravi devised and issued the letterhead, invoice form and receipt for his legal practice at the High Street Centre Office and Mr Cheng was not involved.

(e) Mr Cheng clarified that although KKCL had a client account, Mr Ravi’s client monies were not deposited into that account. Mr Cheng also provided details of the manner in which monies from Mr Ravi’s clients were paid out to Mr Ravi from KKCL’s office accounts.

The proceedings before the DT and the DT’s findings

24 Following the exchange of correspondence detailed above, the Attorney-General brought a complaint against Mr Cheng for breach of the Undertaking to the Council of the Law Society of Singapore pursuant to s 85(3) of the LPA. On 20 July 2022, the DT was appointed to hear and investigate the complaint.

25 In the proceedings before the DT, Mr Cheng claimed trial to all six primary charges and their respective alternatives. The key issues for the DT were whether: (a) the elements of each charge were made out; (b) Mr Cheng’s conduct fell within ss 83(2)(b) or 83(2)(h) of the LPA; and (c) cause of sufficient gravity for disciplinary action existed under s 83 of the LPA.

The parties’ respective positions before the DT

26 As the focus of OA 2 was on the first and third charges, it is sufficient for us to state the positions taken by the Law Society and by Mr Cheng with respect to these charges before the DT.

27 The gravamen of the first charge was premised on paragraph 2(a) of the Undertaking which states that Mr Cheng “shall personally supervise [Mr Ravi]’s practise as an advocate and solicitor in [KKCL]”. The Law Society submitted that Mr Cheng had breached paragraph 2(a) of the Undertaking by allowing Mr Ravi to have sole conduct of his own legal matters without any supervision on Mr Cheng’s part.

28 As for the third charge, the Law Society contended that Mr Cheng had breached paragraph 2(b) of the Undertaking which states that Mr Cheng “shall provide to the [the Law Society] and [the AGC] a monthly report within the first working day of every calendar month ... attesting to whether [Mr Ravi] has complied with all applicable professional conduct rules and that no complaint in relation to [Mr Ravi]’s professional conduct has been received”. The Law Society submitted that there was a clear breach of paragraph 2(b) on Mr Cheng’s part when he failed to submit the monthly report detailing his supervision of Mr Ravi for the month of November 2021 (the “November 2021 report”) by the stipulated deadline of 1 December 2021.

29 Mr Cheng contended that the elements for both charges were not made out. The gist of Mr Cheng’s defence for the first charge was that he understood his obligation under paragraph 2(a) of the Undertaking as meaning that he had to exercise general oversight over Mr Ravi’s compliance with the PCR. Mr Cheng further argued that he had complied with this obligation through his handling of the monies paid by Mr Ravi’s clients as well as by arranging for the 19 November Meeting after he was aware of the 17 November 2021 Letter.

30 As for the third charge, Mr Cheng did not deny breaching paragraph 2(b) of the Undertaking. Instead, his primary argument was that the circumstances had rendered it unnecessary for the November 2021 report to be submitted.

According to Mr Cheng, the 17 November 2021 Letter had apprised all the relevant parties of the issues relating to Mr Ravi's professional conduct. Mr Cheng therefore believed it was no longer necessary to file the November 2021 report since it would merely repeat the issues pertaining to Mr Ravi which were already known to everyone.

The DT's findings

31 In its report dated 17 February 2023 (the "DT Report"), the DT determined under s 93(1)(c) of the LPA that the first and third charges were made out and that cause of sufficient gravity existed for disciplinary action to be taken against Mr Cheng:

(a) In respect of the first charge, the DT found that Mr Cheng made no attempts to supervise Mr Ravi. Mr Cheng knew nothing about Mr Ravi's practice and had no idea what Mr Ravi was working on during the material period in question. Mr Ravi also did not operate out of the same premises as KKCL. Instead, Mr Ravi was given free reign over all aspects of his legal practice, including the freedom to hire his own employees. Mr Cheng's complete failure to exercise supervision over Mr Ravi, contrary to his obligations under the Undertaking, would certainly constitute grossly improper conduct.

(b) In respect of the third charge, Mr Cheng's failure to submit the November 2021 Report, despite the clear, unambiguous and unqualified obligation pursuant to the Undertaking, was a breach of the Undertaking. He "deliberately chose not to submit the November 2021 Report".

(c) The DT was further satisfied that Mr Cheng's conduct in relation to the alternative charges to the first and third charges would also

constitute conduct unbefitting an advocate and solicitor within the meaning of s 83(2)(h) of the LPA.

32 The DT dismissed the remaining four charges and their alternatives as it was not satisfied that the Law Society had established sufficiently the requisite elements of the charges.

33 Pursuant to the DT Report, the Law Society filed OA 2 for an order that Mr Cheng be sanctioned under s 83(1) of the LPA in respect of the first and third charges.

The parties' submissions before the Court

The Law Society's submissions

34 The Law Society did not dispute the DT's dismissal of the second, fourth, fifth and sixth charges and their alternatives. Its position was that due cause in respect of the first and third charges was made out against Mr Cheng. The Law Society further submitted that suspension from practice for six to eight months was the appropriate sanction to impose on Mr Cheng for the following reasons:

(a) A fine was insufficient as: (i) public confidence in the integrity of the legal profession had been undermined as a result of Mr Cheng's conduct; and (ii) aggravating factors were present in Mr Cheng's conduct.

(b) A striking-off was not warranted as: (i) Mr Cheng's misconduct did not render him unfit to be a member of the legal profession; (ii) Mr Cheng had not demonstrated any blatant disregard of the law or exhibited any predatory instincts; and (iii) Mr Cheng's infractions were

not so severe to have brought grave dishonour to the entire legal profession.

Mr Cheng's submissions

35 Mr Cheng, on the other hand, did not deny that the DT found correctly that the elements of the first and third charges were made out. Before us, his counsel indicated that Mr Cheng was pleading guilty to these charges. His counsel submitted that a fine was the appropriate sanction in respect of both charges as Mr Cheng's breaches of the Undertaking were not deliberate but were ultimately a result of his "grave misjudgment".

36 For the first charge, Mr Cheng argued that his breach of paragraph 2(a) of the Undertaking arose from his erroneous understanding of the extent of supervision and was not a deliberate breach. As for the third charge, Mr Cheng argued that the breach of paragraph 2(b) of the Undertaking similarly arose from his erroneous understanding regarding the need to file the November 2021 report. He had assumed that there was no need to file the said report as all the relevant parties were aware of the complaints made against Mr Ravi as set out in the 17 November 2021 Letter.

37 Mr Cheng also submitted that there were relevant mitigating factors to take into account. In particular, he did not receive any benefit from undertaking to act as Mr Ravi's supervising solicitor and his current predicament arose simply because of "his genuine desire to help Mr Ravi".

38 Mr Cheng submitted, in the alternative, that a one-month suspension would be appropriate. He argued that the suspension suggested by the Law Society would be manifestly excessive in the light of the mitigating factors.

The issue

39 As Mr Cheng did not dispute that the two charges were made out, the sole issue for our consideration was the appropriate sanction to impose under s 83(1) of the LPA.

Our decision

Due cause was established

40 For completeness, we set out our reasons why we agreed with the DT that due cause was established on the facts.

41 Both the first and third charges and their alternatives concerned Mr Cheng’s breach of the Undertaking. The principles relating to a solicitor’s breach of his undertaking are well-established. The starting point is to appreciate the nature of an undertaking given by a solicitor. In *Law Society of Singapore v Naidu Priyalatha* [2022] SGHC 224 (“*Naidu Priyalatha*”), the Court (at [1]) described an undertaking given by a solicitor as:

a cast-iron guarantee, practically a sacred vow. Once it is given, other practitioners will govern their conduct in reliance on it. Such undertakings are indispensable to the speedy and efficient transaction of legal business including the handling of litigation. Due to the respect lay persons and other lawyers accord an undertaking, its breach by the undertaking solicitor can lead to serious consequences. Breach of an undertaking is, therefore, almost invariably an act of professional misconduct.
...

42 In *Re Lim Kiap Khee; Law Society of Singapore v Lim Kiap Khee* [2001] 2 SLR(R) 398 (“*Lim Kiap Khee*”), the Court emphasised (at [21]):

It is of the utmost importance that a solicitor should abide by the undertaking he formally gives. It is the very foundation of an honourable profession that its members act honourably. To deliberately breach an undertaking solemnly given would

seriously undermine the integrity of the profession and would bring it into disrepute. Such a conduct, in our opinion, clearly constitutes grossly improper conduct ...

43 The sacrosanct status of a solicitor’s undertaking is such that “the average person and even the court may rely on it without question” and a “solicitor should only give an undertaking with which she is able to comply. Once given, there is no turning back”. Accordingly, a breach of a solicitor’s undertaking will have to be “met with the strongest disapprobation from the profession” and not doing so would erode the trust and confidence placed on a solicitor’s undertaking: see *Naidu Priyalatha* at [32]. It will also give rise to a *prima facie* cause of sufficient gravity for disciplinary action: see *Naidu Priyalatha* at [40].

44 The first charge and its alternative alleged that Mr Cheng breached paragraph 2(a) of the Undertaking by failing to supervise Mr Ravi’s legal practice as an advocate and solicitor in KKCL. It was not disputed that Mr Cheng allowed Mr Ravi to have sole discretion in the conduct of his legal cases, without any supervision by Mr Cheng. This included: (a) permitting Mr Ravi to take sole charge of his legal cases without observing or assessing Mr Ravi in the course of his legal practice and (b) permitting Mr Ravi to practise in a separate location at the High Street Office without any system of checking on him. Indeed, Mr Cheng conceded in the 1 December 2021 Reply Letters and before the DT that he did not exercise any supervision over Mr Ravi’s practice as a lawyer prior to the 17 November 2021 Letter. As the DT Report summarised at [98(a)], Mr Cheng “was happy to leave [Mr Ravi] to his own devices” and “knew nothing about what Mr Ravi was doing in his capacity as an advocate and solicitor”.

45 The evidence before us disclosed only three instances in which Mr Cheng was involved in Mr Ravi's legal practice. The first concerned Mr Cheng's management of the payment of monies by Mr Ravi's clients into KKCL's office account. This was the only positive and proactive step taken by Mr Cheng to supervise Mr Ravi's legal practice. The other two instances occurred during the 19 November 2021 Meeting where Mr Cheng sought an explanation on Mr Ravi's conduct stated in the 17 November 2021 Letter and then sought to impose several terms on Mr Ravi's continued legal practice. These were steps taken by Mr Cheng in an attempt to address the complaints made against Mr Ravi. However, they were reactive in nature when his obligations in the Undertaking were meant to be proactive and preventive. In any event, these steps taken only after the alleged misconduct had occurred did not ameliorate the situation in any way as Mr Ravi gave Mr Cheng no explanation and rejected the conditions sought to be imposed. Mr Cheng made no further attempts to involve himself in a supervisory capacity in the legal matters that Mr Ravi undertook.

46 We therefore agreed with the DT that Mr Cheng's conduct fell woefully short of what was expected of him under paragraph 2(a) of the Undertaking. Besides the payment of Mr Ravi's clients' monies into the KKCL office account, there was simply no attempt by Mr Cheng to supervise Mr Ravi's legal practice in any way. It was clear therefore that Mr Cheng had breached paragraph 2(a) of the Undertaking and, as the quoted authorities show, a breach of a solicitor's undertaking would amount invariably to grossly improper conduct within the meaning of s 83(2)(b) of the LPA. We also accepted that Mr Cheng's conduct would constitute misconduct unbefitting an advocate and solicitor within the meaning of s 83(2)(h) of the LPA. Accordingly, due cause

was established with respect to the first charge and its alternative and Mr Cheng was wise in his decision to “plead guilty” to the two charges before us.

47 The third charge and its alternative alleged that Mr Cheng had breached paragraph 2(b) of the Undertaking by failing to provide a monthly written report to the Law Society and the AGC for the month of November 2021 by the stipulated deadline of 1 December 2021. This was not denied by Mr Cheng who only argued that the November 2021 report was not necessary in the light of the 17 November 2021 Letter as all the relevant parties had been made aware of the issues relating to Mr Ravi’s alleged misconduct.

48 We agreed with the DT’s reasoning that Mr Cheng’s obligation under paragraph 2(b) of the Undertaking was a strict one. The absence of any qualifier meant that Mr Cheng was required to file a monthly report by the stipulated deadline, regardless of the circumstances. If Mr Cheng had opined that the said report was not necessary in the circumstances that had taken place, he ought at least to have sought such confirmation from the relevant parties instead of making the determination unilaterally that there was no need for the report.

49 Mr Cheng’s failure to provide the monthly report to the Law Society and the AGC by the stipulated deadline therefore amounted to a breach of paragraph 2(b) of the Undertaking. We were therefore satisfied that due cause was established in relation to the third charge as Mr Cheng’s breach of paragraph 2(b) of the Undertaking amounted to grossly improper conduct under s 83(2)(b) of the LPA or, alternatively, misconduct unbefitting an advocate and solicitor within the meaning of s 83(2)(h) of the LPA.

The appropriate sanction

The applicable principles on the imposition of sanctions

50 Section 83(1) of the LPA sets out the sanctions that the Court may impose when due cause is shown. It provides:

Power to strike off roll, etc.

83.—(1) All advocates and solicitors are subject to the control of the Supreme Court and shall be liable on due cause shown

—

- (a) to be struck off the roll;
- (b) to be suspended from practice for a period not exceeding 5 years;
- (c) to pay a penalty of not more than \$100,000;
- (d) to be censured; or
- (e) to suffer the punishment referred to in paragraph (c) in addition to the punishment referred to in paragraph (b) or (d).

51 When considering the appropriate sanction to impose in cases not involving dishonesty or deceit, the starting point should ordinarily be a monetary penalty: *Law Society of Singapore v Tay Choon Leng John* [2012] 3 SLR 150 at [59]. The existence of aggravating circumstances may then justify a departure from the aforesaid starting point and more serious sanctions such as suspension from practice or, in extreme cases, striking the advocate and solicitor off the roll may be justified: *Law Society of Singapore v Chiong Chin May Selena* [2013] SGHC 5 at [45]. A fine would also not be appropriate where the legal practitioner's misconduct was not mere inadvertence: see *Law Society of Singapore v Tan See Leh Jonathan* [2020] 5 SLR 418 at [13].

A six-months suspension is appropriate

52 With these principles in mind, we decided that a global suspension from practice for six months was warranted for the first and third charges. Equally, we did not think that a fine would be commensurate with the breach of the Undertaking on the facts of this case.

53 It is important to note why the Undertaking was necessary in this case. Mr Ravi had a psychiatric condition. As can be seen from the Conditions imposed on Mr Ravi, he was required to obtain and comply with medical treatment prescribed by a psychiatrist, to attend regular consultations with the psychiatrist for mental state reviews, to undergo prescribed medical tests, treatments and assessments in order to determine whether he continued to be medically fit to practise as an advocate and solicitor. Mr Ravi also had to consume medication prescribed to him by the psychiatrist. His condition was serious enough that a supervising solicitor and a monitoring solicitor were required to ensure his compliance with the Conditions. As counsel for Mr Cheng, Mr Ong Ying Ping (“Mr Ong”) acknowledged, the preventive and protective measures in the Conditions were essentially to ensure that Mr Ravi would be practising in a controlled environment.

54 We accepted that Mr Cheng’s obligation of personal supervision did not entail that he vet every court document or legal correspondence in Mr Ravi’s practice. We also accepted that Mr Cheng could not be reasonably expected to monitor every telephone call made by Mr Ravi. We also did not think the Undertaking required Mr Cheng to accompany Mr Ravi to every court hearing and every meeting with his clients outside the office. Such obligations would be unduly onerous on the supervising solicitor as they would effectively make him a full-time guardian to Mr Ravi in his legal practice.

55 However, Mr Cheng should apprise himself at least as to what legal work Mr Ravi had taken on and whether he was coping well generally. Personal supervision would be completely meaningless if the supervisor did not bother to know what legal work the supervisee was undertaking and how he was coping generally. In particular here, Mr Cheng had no awareness whatsoever of the legal cases that Mr Ravi had taken on or what documents he was dealing with. He was also unaware whether Mr Ravi had been appearing in court and whether there were any events of concern. As an example, paragraph 8 of the Conditions requires the supervising solicitor to notify the Law Society and the AGC if he becomes aware of any circumstances that may impair the fitness of Mr Ravi to practise as an advocate and solicitor or which may impair his professional judgment, including the refusal by the supervisee to consume prescribed medication. This cannot mean that the supervising solicitor can leave the supervisee to do as he pleases and only needs to intervene when he hears of trouble. Personal supervision must surely entail proactive steps on the part of the supervisor so that he is able to ensure that the supervisee is practising in a controlled environment.

56 Mr Cheng argued that Mr Ravi was a very senior lawyer and therefore should be able to handle his legal practice on his own. This implied that Mr Ravi needed no supervision at all in his legal practice. This begged the question why the Conditions had to be imposed on Mr Ravi and why Mr Cheng had to undertake the obligations of being his supervising solicitor. This complete failure to appreciate the seriousness of the Undertaking would also explain why Mr Cheng thought it fit, despite having undertaken to “personally supervise” Mr Ravi, “to leave him to his own devices” as stated in the DT Report at [98(a)].

57 On the issue whether Mr Ravi should be allowed to practise in a different location from Mr Cheng, our view is that, ideally, the supervisor and the

supervisee should be located in the same office so as to facilitate communication and physical supervision. We accepted, however, that such an arrangement may not always be possible, bearing in mind practical constraints such as the available office space and particularly during the COVID-19 pandemic at the material time in 2021 when safe distancing might be advisable. These points did not appear to have been raised by Mr Cheng before the DT anyway. However, in a situation where the supervisor and his supervisee are not in the same location, it becomes all the more important that an arrangement be put in place so that the supervisor is able to check in on the supervisee at regular intervals. As was apparent on the facts here, Mr Cheng did not seem to have even thought about such measures although the supervisee was not even within his sight in the office.

58 On the evidence, despite Mr Cheng’s awareness of the Conditions and of his Undertaking as a supervising solicitor, Mr Cheng seemed to be concerned only with paragraphs 2(a) and (b) of the Conditions regarding the handling of Mr Ravi’s clients’ monies and with paragraph 3 on his duty to provide monthly reports to the Law Society and the AGC. As Mr Ravi’s supervising solicitor, Mr Cheng appeared oblivious to or indifferent to his obligation under paragraph 2(d) of the Undertaking to “take all necessary steps to ensure that [Mr Ravi] complies with all the conditions imposed on the Practising Certificate”.

59 At the hearing before us, Mr Ong submitted that Mr Cheng’s submission of the monthly reports demonstrated an attempt on Mr Cheng’s part to supervise Mr Ravi’s legal practice. Mr Ong also argued that Mr Cheng’s approach in supervising Mr Ravi was due to his misunderstanding as to the precise scope of his obligations in the Undertaking. According to Mr Ong, had Mr Cheng known that his obligation to supervise entailed vetting every piece of legal work and correspondence produced by Mr Ravi, he would have rejected taking on this

onerous undertaking. Mr Ong highlighted the remedial steps taken by Mr Cheng upon receiving the 17 November 2021 Letter. These included having the 19 November Meeting to bring the complaints to Mr Ravi's attention and laying down certain conditions to govern their supervisor-supervisee relationship moving forward. Mr Cheng also took steps to terminate Mr Ravi's e-Litigation account on 31 January 2022 and agreed to pay all outstanding filing fees incurred by Mr Ravi.

60 As an advocate and solicitor of 24 years' standing and experience at the material time, the onus was on Mr Cheng to clarify any doubts that he had as to the scope of the Undertaking. We have already stated at [54] above that Mr Cheng was not expected to be a full-time guardian to his supervisee in his legal practice. We have also stated at [58] above that besides handling Mr Ravi's clients' monies and furnishing the monthly report, Mr Cheng did no supervision at all, as found by the DT.

61 There was little force in Mr Cheng's point that he tried to impose some conditions on Mr Ravi's legal practice during the 19 November 2021 Meeting because Mr Ravi rejected those conditions anyway and also gave him no explanation as to the alleged misconduct raised in AGC's letters. It baffled us that, despite the supervisee's attitude, Mr Cheng decided to continue as supervising solicitor until the expiry of Mr Ravi's Conditional Practice Certificate, which was more than four months away.

62 When asked about this, Mr Ong responded that Mr Cheng had already informed the Law Society and the AGC and they could direct Mr Ravi to stop his legal practice. The point was that Mr Cheng could have warned Mr Ravi that he would not continue as the supervising solicitor if Mr Ravi remained intransigent in refusing the proposed conditions despite the complaints of

alleged misconduct. This issue was raised in the 3 December 2021 Letter by the AGC which asked Mr Cheng to please “confirm our understanding that you are seeking to withdraw your consent forthwith to act as Mr Ravi’s supervising solicitor and consequently a release from your obligations” under the Undertaking (see [22] above). Mr Cheng’s reply on 16 December 2021 was that his intention was to cease acting as the supervising solicitor when the current practice year ended in 2022 “so as to avoid disruption to [Mr Ravi’s] practice”. This did not seem to us to be what a responsible senior advocate and solicitor ought to have done in the circumstances that prevailed then.

63 We also did not accept Mr Ong’s submission that Mr Cheng had adopted a “[sincere] and earnest attitude” in discharging his obligations under the Undertaking. It was apparent that Mr Cheng did not think it necessary to take any steps to supervise Mr Ravi because no incident or complaint was brought to his attention from April 2021 to September 2021. Mr Cheng was expected to take proactive steps to ensure that Mr Ravi could practise in a controlled environment so as to prevent untoward incidents from happening. He was there to help prevent fires but, unfortunately, saw his role as merely reporting fires when they occur.

64 Mr Ong also pointed out that Mr Cheng’s conduct should not be characterised as a deliberate breach of the Undertaking and that Mr Cheng’s decision to act as Mr Ravi’s supervising solicitor was made out of his altruistic intention to help a fellow lawyer. While we appreciated Mr Cheng’s good intentions and accepted that he had no financial benefit in volunteering to be the supervising solicitor, he must accept that he had given a solemn undertaking as an advocate and solicitor to the Supreme Court and to the Law Society after declaring his awareness of the tasks entailed by the Undertaking. He could not

then proceed with his supervisory role with an indifferent or nonchalant attitude of “business as usual, nothing has changed”.

Conclusion

65 Having considered the precedents relating to breach of undertakings by advocates and solicitors, we determined that a suspension of six months was the appropriate sanction to impose on Mr Cheng for both the first and third charges. In our opinion, a fine would not underscore the seriousness of breaching such an undertaking given to the Supreme Court and to the Law Society. At Mr Cheng’s request, we ordered the suspension to take effect from 1 January 2024 so that he could complete his outstanding legal matters. We also ordered Mr Cheng to pay costs of \$12,000 inclusive of disbursements to the Law Society for the proceedings before the DT and before this Court.

Tay Yong Kwang
Justice of the Court of Appeal

Steven Chong
Justice of the Court of Appeal

Belinda Ang
Justice of the Court of Appeal

Cham Shan Jie, Mark (Aquinas Law Alliance LLP) for the applicant;
Ong Ying Ping (Ong Ying Ping Esq) for the respondent.