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

[2025] SGHC 160

Suit 737 of 2019

Between

Ka Shin Technologies (S) Pte Ltd

… *Plaintiff*

And

The Estate of Tan Kiat Lan

… *Defendant*

And

(1) Integrated Power Solutions Pte Ltd
(2) Kok Wai Ling
(3) Chua Kwee Choo

… *Third Parties*

JUDGMENT

[Contract — Illegality and public policy]
[Damages — Rules in awarding — Proof of actual damage — Whether settlement agreement against joint tortfeasor has already compensated plaintiff for loss]
[Employment Law — Contract of service — Breach]
[Employment Law — Employees' duties — Duty of good faith and fidelity and duty to act in the interests of the company]

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[Intellectual Property — Law of confidence — Breach of confidence]
[Restitution — Unjust enrichment]
[Tort — Negligence — Breach of duty]
[Tort — Negligence — Causation]
[Tort — Conspiracy]
[Tort — Conversion]

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Ka Shin Technologies (S) Pte Ltd
v
The estate of Tan Kiat Lan, deceased
(Integrated Power Solutions Pte Ltd and others, third parties)

[2025] SGHC 160

General Division of the High Court — Suit No 737 of 2019
Chan Seng Onn SJ
3, 6–10, 15–16, 21–22, 24 November 2023, 30 September 2024, 1–3, 7–10, 14–18, 30 October 2024, 26 March 2025

11 August 2025 Judgment reserved.

Chan Seng Onn SJ:

Introduction

1 A key feature of our adversarial legal system is the requirement for a party to prove its claim based on the evidence. Without supporting evidence, a bare assertion is likely to be given little weight and be insufficient to meet the minimum threshold of proof on a balance of probabilities. Similarly, the central factual issue in dispute in the present case is whether the plaintiff has succeeded in proving any loss or damage arising from 236 purchase orders which form the evidential basis of its claims against the first defendant.

2 The plaintiff, Ka Shin Technologies (S) Pte Ltd ("KST"), sued its former Marketing Manager, Ms Tan Kiat Lan ("Doreen"), for allegedly siphoning moneys out of KST through a fraudulent scheme (the "Scheme") involving the

first third party, Integrated Power Solutions Pte Ltd ("IPS"). Doreen passed away a few days after the writ of summons was filed and served on her by KST. Her estate ("Doreen's Estate" or the "Estate") was therefore substituted as the first defendant.

3 KST also initially sued Classic Precision Tooling Pte Ltd ("Classic") and IPS as the second defendant and third defendant respectively. However, KST discontinued its suit against Classic and entered into a formal settlement agreement with IPS. Doreen's Estate then opted to bring third party proceedings against IPS (the "first third party"), one Kok Wai Ling ("Ms Kok" or the "second third party") and one Chua Kwee Choo ("Sheena" or the "third third party") for indemnity or contribution should KST succeed in its claim against the Estate. Ms Kok was the sole director and shareholder of IPS, while Sheena was employed as a sales co-ordinator in the sales team led by Doreen in KST.

4 Having considered the evidence before me, I dismiss KST's claim against the Estate and therefore also dismiss the Estate's contribution claim against all three third parties. In summary, I find that KST has only proven its case in respect of 27 out of the 236 purchase orders it had relied upon in its Statement of Claim. However, owing to the value of KST's settlement agreement with IPS, I find that KST has already been compensated for the loss it suffered by way of these 27 purchase orders. I now turn to the reasons for my decision.

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Facts

The parties

5 KST is a precision engineering company incorporated in Singapore. It manufactures and produces component parts for, among others, the automotive, electronics, semi-conductor and aerospace industries.[1] KST's Managing Director is Mr Lee Cheng Leng Charlie ("Mr Lee").[2]

6 Doreen began her employment with KST on 1 April 2001. At the material time, Doreen was heading a local sales team as Marketing Manager.[3] Doreen had the administrative support of Sheena, who was a Senior Sales Coordinator with KST.[4]

7 IPS is a Singapore-incorporated company in the business of engineering design and consultancy services.[5] IPS was listed in KST's records as one of its suppliers.[6] IPS was incorporated by one Mr Lee Beng Ho, who is the sole shareholder and director of IPS. Ms Kok is his wife. She was employed as the Manager of IPS and was personally involved in IPS' dealings with Doreen and KST.[7]

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1 Statement of Claim (Amendment No. 5) dated 31 January 2024 ("SOC") at para 1.

2 Mr Lee's affidavit dated 22 July 2019 ("Mr Lee's 22 July 2019 Affidavit") at para 1.

3 SOC at paras 12 and 17; First defendant's Defence (Amendment No. 3) dated 4 March 2024 ("Defence") at para 9.

4 SOC at para 17.

5 Ms Kok's Affidavit of Evidence in Chief ("AEIC") dated 15 September 2023 ("Ms Kok's AEIC") at para 5.

6 SOC at para 14.

7 Ms Kok's AEIC at paras 6, 9 and 19.

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Background to the dispute

8 To understand KST's allegations against Doreen *vis-à-vis* the Scheme, it is important to first describe KST's sales procedure at the material time.

9 KST pleads that its sales procedure operated as follows.[8] First, KST would issue its quotation to a prospective customer. If the customer accepts KST's quotation, the customer issues a customer purchase order ("Customer PO") to KST.

10 Second, the Customer PO would be passed on to KST's Purchasing Department, who would then input the Customer PO details into KST's Systems Applications and Products ("SAP") system to generate a corresponding sales order ("SO"). The SO is an internal document generated by KST's SAP system that is tagged onto the Customer PO and is unknown to the customer. The items in the SO must match the items ordered in the Customer PO.[9]

11 Third, with the Customer PO, KST would place its own purchase orders for the component parts to be manufactured, produced or supplied (including any related works and services required) to fulfil the Customer PO. KST would issue its purchase order ("KST PO") to either (a) its in-house production facility and subsidiary, Ka Shin Industries Pte Ltd ("KSI"); or (b) a third-party supplier, such as IPS. On occasion, KST may generate several different KST POs to different suppliers to supply a single item specified and ordered in the Customer PO. The suppliers fulfil the KST POs and charge KST for the work done.

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8 SOC at paras 7–11.

9 Mr Lee's 22 July 2019 Affidavit at paras 22 and 32.

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12 Fourth, once KST completes the customer's order, it issues an invoice ("KST Invoice") and bills the customer for the products and/or services rendered. The customer then pays KST for the work done.

The parties' cases

KST's case against Doreen's Estate

13 KST alleges that Doreen exploited KST's sales procedure by way of the Scheme, wherein she procured 236 fraudulent and/or fabricated KST POs (the "Fraudulent KST POs") to be tagged onto Customer POs in KST's SAP system, causing KST to suffer loss by paying IPS for non-existent works or services. IPS then paid Doreen 90% of the money it received from KST.[10]

14 KST initially premised its claim on 266 Fraudulent KST POs.[11] However, counsel for KST confirmed at trial that KST would only be claiming for 236 out of the 266 Fraudulent KST POs, *ie,* those which were dated between 3 May 2013 to 5 April 2019. This was because KST never paid on the remaining 30 Fraudulent KST POs.[12] KST claims a total sum of $874,179.42 against Doreen's Estate (being the amount paid by IPS to Doreen through the Scheme).[13]

15 KST pleads that the Fraudulent KST POs had been tagged and/or linked to Customer POs issued to three of its customers: (a) SMC Manufacturing

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10 SOC at paras 23, 24, 26 and 28(b).

11 SOC at Annex A, S/N 1–236.

12 SOC at Annex A, S/N 236–266; NE, 7 November 2023, at pp 25:18–26:14 and p 58:1–12; Plaintiff's closing submissions dated 17 February 2025 ("PCS") at para 1.

13 PCS at paras 1, 2 and 152.

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(Singapore) Pte Ltd ("SMC"); (b) Singapore Kobe Pte Ltd ("Kobe"); and (c) Becton Dickinson Medical (S) Pte Ltd ("BD").[14] Mr Lee confirmed that KST received payment from these three customers in respect of all the Customer POs.[15]

16 Pursuant to the Fraudulent KST POs that Doreen had procured, IPS issued invoices and delivery orders to charge KST for works and services (the "Specified Works") which were the subject of the Fraudulent KST POs. However, IPS did not perform these Specified Works. In some cases, either KSI or another external third-party supplier had performed the Specified Works to fulfil the Customer PO.[16]

17 There are therefore two types of Fraudulent KST POs: (a) those where the Specified Works had been fulfilled by another supplier ("Genuine Supply Transactions"); and (b) those where the Specified Works were not fulfilled by any supplier at all ("Non-Genuine Supply Transactions"). It is undisputed that there were 27 Genuine Supply Transactions, *ie,* where KST had been double-billed (under one PO by IPS and another by KSI) for the same Specified Works (which had in fact been completed by KSI solely).[17]

18 KST alleges that Doreen procured and/or authorised KST to pay IPS for the Specified Works by either acknowledging (or instructing KST's employees to acknowledge) the invoices and delivery orders from IPS, to indicate that KST

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14 SOC at Annex A, Columns 3 and 17–19.

15 NE, 16 November 2023, at p 36:1–3.

16 SOC at Annex A (pp 21–26) and para 28.

17 First defendant's closing submissions dated 17 February 2025 ("DCS") at para 45.

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had received goods and/or services from IPS.[18] Accordingly, KST claims that Doreen had caused KST to suffer loss and damage.[19]

19 By virtue of the losses occasioned by the Scheme, KST makes five claims against Doreen:

(a) Breach of her employment duties as owed to KST, by failing to act in KST's interests;[20]

(b) Conspiracy by unlawful means with IPS to cause loss to and/or defraud KST, and/or to gain an unfair advantage over KST, which was injurious to KST's interests;[21]

(c) Breach of confidence, by using KST's confidential information (such as its customer lists) for her own or any other persons' benefit;[22]

(d) Unjust enrichment, by wrongly depriving KST of the use and possession of the moneys had and received through the Scheme;[23] and

(e) Conversion of the moneys had and received by Doreen through the Scheme, which moneys were owed to KST.[24]

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18 SOC at para 24(f).

19 SOC at para 31.

20 SOC at paras 20 and 23–24.

21 SOC at paras 21 and 28–30.

22 SOC at para 16, 19–20 and 25–26.

23 SOC at para 31.

24 SOC at para 31

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20 Broadly, KST's closing submissions are largely confined to proving the existence of the Scheme based on the evidence before the Court. It submits that Doreen had worked together with Ms Kok to perpetrate the Scheme, and that the transactions making up the Scheme had been carried out without KST's approval; there was otherwise no evidence suggesting that Mr Lee had sanctioned or was complicit in the Scheme.[25]

21 Accordingly, KST submits that there was an unlawful means conspiracy as between Doreen and Ms Kok to defraud KST, based on Ms Kok's confession to the fraud in her affidavit of evidence-in-chief ("AEIC") and oral evidence at trial.[26] It appears from its closing submissions, however, that KST has abandoned its claims based on Doreen's breach of her employment duties as owed to KST, unjust enrichment and conversion. Nevertheless, as these causes of action have been pleaded by KST, I will address them briefly in this judgment.

Defence of Doreen's Estate

22 Doreen's Estate denies KST's claims and puts it to strict proof of the same.[27] First, on the facts, Doreen's Estate submits that KST has not proven its pleaded case on the alleged fraud.[28] Although conceding that the Scheme had indeed been perpetrated by Doreen and Ms Kok (as confessed to by the latter),[29] it submits that KST could only prove that it suffered loss in relation to the 27

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25 PCS at para 52.

26 PCS at paras 24–28 and 48–50.

27 Defence at paras 11–19 and 22.

28 DCS at para 19.

29 DCS at paras 27–37 and 38–55.

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Genuine Supply Transactions. Therefore, KST could only claim damages from Doreen's Estate in respect of those 27 Genuine Supply Cases and not the full 236 transactions.[30]

23 Doreen's Estate further argues that KST's management was privy and acquiesced to the Scheme. KST's management, especially Mr Lee (as its Managing Director), was aware that the Scheme was being perpetrated and that kickbacks were being paid to KST's customer representatives.[31] In that regard, the Estate submits that KST is precluded by the doctrine of illegality from claiming that Doreen had breached the terms of her employment, in relation to the 27 Genuine Supply Transactions.[32] The Estate also submits that there was no breach of Doreen's implied employee duties as she did not divert any business opportunities away from KST or engage in any other employment.[33]

24 In relation to KST's other claims against Doreen, her Estate submits that:

(a) there was no breach of confidence given that KST had not sufficiently particularised and proven its claim on the same;[34]

(b) there was no unlawful means conspiracy because there was no intention to cause damage or injury to KST, and KST had not suffered loss in respect of the 209 Non-Genuine Supply Transactions;[35] and

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30 DCS at paras 56–78 and 80.

31 DCS at paras 81–90.

32 DCS at paras 114–125.

33 DCS at para 130.

34 DCS at paras 146–147 and 151–163.

35 DCS at paras 167–182.

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(c) there was no basis for KST's claims against Doreen in the tort of conversion or unjust enrichment.[36]

25 In any event, her Estate makes the global submission that KST could not recover *any* amounts from Doreen's Estate because KST's settlement agreement with IPS had extinguished, compromised and/or otherwise rendered unsustainable KST's claims against Doreen.[37]

26 Lastly, Doreen's Estate submits that, in the event that it is found liable to KST, IPS, Ms Kok and Sheena are liable (as third parties) to contribute or indemnify Doreen's Estate as against KST's claims and the costs of the action, on the ground that they are liable for the same damage and/or loss suffered by KST pursuant to s 15(1) of the Civil Law Act (Cap 43, 1999 Rev Ed).[38]

The third parties' cases

27 IPS and Ms Kok are jointly represented. They submit that Doreen had perpetrated the Scheme, based on Ms Kok's evidence as to her own involvement in it. However, they submit that the Estate's claim for contribution or indemnity should be dismissed on the grounds of illegality, given that Doreen had perpetrated an illegal scheme by which she sought to benefit financially. Thus, IPS and Ms Kok submit that the third-party claims against them should be dismissed on the grounds of public policy.[39]

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36 DCS at paras 183–203.

37 DCS at paras 204–212.

38 First defendant's Statement of Claim against the third parties dated 15 April 2024 at paras 16–19; DCS at paras 222–245.

39 First and second third parties' closing submissions dated 14 February 2025 at paras 10 and 16–21.

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28 Sheena, for her part, submits that Doreen had breached her duty to KST on account of the Scheme,[40] which Doreen had conspired with IPS to perpetrate.[41] Pursuant to the Scheme, it was Doreen who decided on the appointment of KST's suppliers; gave instructions for the issuance of the Fraudulent KST POs and IPS' purchase orders to KST; and collected on the alleged Specified Works from IPS. KST had therefore suffered loss as a consequence of Doreen's actions.[42] Sheena denies having received any kickbacks from Doreen, or that she was involved or complicit in the Scheme.[43] She also denies that she should be liable for the third-party claim against her on the ground that she was not a party to or involved in the Scheme and was similarly deceived by Doreen.[44]

Issues to be determined

29 From the summary above of KST's case against Doreen (at [19]), it is obvious that KST had made a number of allegations with a view to recovering from her any losses it had suffered through the Scheme. For the sake of simplicity, I deal with two important factual issues first before delving into an analysis of KST's legal claims against Doreen.

30 The two factual issues are:

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40 Third third party's closing submissions dated 14 February 2025 ("Sheena's CS") at paras 43–44.

41 Sheena's CS at paras 54–55.

42 Sheena's CS at paras 45–53 and 56–72.

43 Sheena's CS at paras 75–81.

44 Sheena's CS at paras 100–123, 190 and 196.

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(a) whether KST has factually proven its loss in relation to each of the 236 transactions pleaded in its Statement of Claim (this being germane to the legal issue of whether KST had suffered loss by reason of the Scheme); and

(b) whether KST's management had acquiesced to the Scheme.

31 The legal issues can be divided into four broad categories:

(a) The first relates to the issue of breach, that is:

(i) whether Doreen had breached the employment duties she owed to KST;

(ii) whether Doreen and IPS had engaged in a conspiracy by unlawful means to injure KST;

(iii) whether Doreen was in breach of confidence by using KST's alleged confidential information;

(iv) whether Doreen was unjustly enriched by virtue of the Scheme; and

(v) whether Doreen converted moneys had and received by her through the Scheme and which were owed to KST.

(b) The second relates to loss, that is, whether KST suffered any loss by reason of the Scheme.

(c) The third issue relates to causation, that is, whether the loss suffered by KST (insofar as there was any) had been caused by Doreen through the Scheme.

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(d) The fourth concerns recovery, that is:

(i) whether KST is entitled to recover its loss from Doreen's Estate, especially in view of the settlement agreement it had entered into with IPS for the damage it had caused to KST through the Scheme; and

(ii) whether the third parties are liable to contribute or indemnify Doreen's Estate.

The factual issues

Whether KST has proven its case in respect of all 236 transactions

The Scheme was perpetrated against KST by Doreen and IPS

32 Before addressing whether KST has successfully proven its case in respect of the 236 transactions (as listed in Annex A of its Statement of Claim, or "Annex A"), I first decide whether KST has proven that the Scheme against it had indeed been perpetrated by Doreen and IPS. In my judgment, the evidence – as accepted by parties – unequivocally proves that the Scheme existed and that it had been perpetrated by Doreen and IPS.

33 Ms Kok had effectively confessed to the entire fraud in her AEIC and at trial. She provided clear and direct evidence as to the provenance and operation of the Scheme in her AEIC, the contents of which she confirmed by her oral testimony. She explained that Doreen had approached her for help in 2012 for an issue she faced at work. According to Ms Kok, Doreen told her that she had been approached by a representative from one of KST's customers. That

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customer representative presented Doreen with a method for gaining additional revenue for herself and for Ms Kok. Ms Kok described the Scheme as follows:[45]

> (a) The representative of KST's customer would cause a purchase order to be generated by his or her company in favour of KST (*ie*, the Customer PO).
>
> (b) To fulfil that Customer PO, KST would issue its own KST PO to IPS as a supplier. In doing so, KST would deduct a margin (*ie,* its profit margin) from the purchase price stated in the Customer PO. In that way, the purchase price stated in the KST PO to IPS would be a fraction of the purchase price stated in the Customer PO.
>
> (c) Doreen would then request that IPS pay her 90% of the price stated in the KST PO.

34 Ms Kok explained that although she had her doubts over the legality of the Scheme, Doreen had represented to her that her superiors in KST had approved the Scheme. However, Ms Kok only agreed to participate in the Scheme as Doreen was facing issues with meeting her sales targets with KST.[46]

35 Ms Kok's factual evidence as regards the operation of the part of the Scheme involving her is not challenged by Doreen's Estate. In its closing submissions, the Estate fully accepts Ms Kok's evidence and the existence of the Scheme,[47] and even points to contemporaneous documentary evidence which suggested that kickbacks were being paid to SMC's and Kobe's

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45 Ms Kok's AEIC at paras 15–16; NE, 16 October 2024, at p 3:8–24.

46 Ms Kok's AEIC at paras 17–19; NE, 16 October 2024, at pp 4:4–6:4.

47 DCS at paras 27–28.

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representatives (*ie* representatives of KST's customers).[48] On that point, I note that Mr Lee accepted in cross-examination that the documentary evidence suggested that funds were being transferred to SMC's and Kobe's representatives as kickbacks. That evidence included WhatsApp conversations between Doreen and the representatives, as well as a spreadsheet that appeared to contain Doreen's records of kickbacks paid to the representatives.[49] Indeed, the Estate's point is that KST has not been providing a full picture of the fraudulent Scheme to the Court,[50] and not that the fraud did not occur. Essentially, the whole fraudulent Scheme comprised two legs which were inextricably linked in the chain of transactions: the first leg operated between KST and its customers (*eg,* SMC, Kobe and BD); the second leg was between KST and its supplier, IPS. However, KST only focussed on the second leg and ignored the existence of the first leg in the same chain of transactions.

36 With respect to Sheena, I do not believe that she was complicit in the Scheme for the following reasons. First, Ms Kok's evidence was that aside from the customer representatives, only Doreen and herself were involved in the Scheme. Doreen would "only talk to [Ms Kok] and give [her] instructions on what to do face to face, and when there were only two of [them]", and "never talked to [Ms Kok] about it when other people were around". Nor did she send any emails or text messages to Ms Kok regarding the Scheme. Furthermore, Doreen would collect any payment herself or, if she was unable to do so, would ask Ms Kok to help her deposit the moneys into her bank account directly.[51] The

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48 DCS at paras 29–37.

49 DCS at paras 31 and 36–37; NE, 8 November 2023, at pp 113:19–114:16; NE, 9 November 2023, at pp 138:10–17.

50 DCS at paras 25–26.

51 Ms Kok's AEIC at paras 19–20.

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clandestine manner in which they communicated about the Scheme suggested that Doreen wanted to limit the involvement of people in the Scheme to herself and Ms Kok.

37 Second, Sheena had not dealt with IPS up until the time of investigation.[52] This was confirmed by Ms Kok during cross-examination, when she told the court that all KST POs to IPS only involved herself and Doreen, such that "Sheena would not know" anything about these purchase orders. That was because Doreen was the only person who would sign on papers relating to IPS.[53] Doreen dealt with IPS personally, collecting any parts supposedly delivered by IPS and acknowledging receipt of the same by signing off on IPS' Delivery Orders ("IPS DOs").[54] On occasions when Sheena had signed such IPS DOs, she did so on Doreen's instructions and without having inspected or been shown the parts allegedly produced by IPS.[55] In that regard, Sheena did not handle the actual collection or delivery of the supposed parts from IPS, and therefore could not attest to whether IPS had actually produced these parts. Furthermore, as a Sales Co-ordinator in KST, she (unlike Doreen) had no authority to give instructions to KST's Purchasing Department and her role was limited to conveying Doreen's instructions.[56]

38 Third, Sheena did not receive any benefit from her alleged participation in the Scheme. By its own case, the Estate claims in its third party Statement of Claim that Sheena "would have received benefits and/or monies in connection

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52 Sheena's AEIC dated 11 September 2023 ("Sheena's AEIC") at para 59.

53 NE, 16 October 2024, at pp 20:3–21:1.

54 Sheena's AEIC at para 62.

55 Sheena's AEIC at para 63–66.

56 Sheena's AEIC at para 32; Mr Lee's AEIC at para 20; Mr Yeap's AEIC at para 10.

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with her involvement or participation in the [Scheme]".[57] However, there was no evidence of any payments by Doreen to Sheena, and certainly nothing to that effect in Doreen's financial records as adduced by the Estate.[58] There was also no record of any extra payments of salary or bonus made from KST to Sheena to supposedly reward her for her participation in the Scheme, as exhibited in Sheena's Table of Salary and Bonus for the years 2014–2020, which was tendered by KST. In my judgment therefore, there is no evidence pointing towards Sheena's involvement in the Scheme alongside Doreen and Ms Kok.

39 Therefore, I find as a fact that the Scheme did occur in the manner that Ms Kok had narrated above (at [33]) with regard to the second leg of the fraudulent transactions (which Ms Kok was involved in). I also find that Sheena was not a party who was complicit in any part of the Scheme. From the circumstantial evidence, I also have a strong suspicion that kickbacks were paid by Doreen to the representatives of KST customers for their role in issuing these Customer POs to KST in the first leg of the fraudulent transactions, although it is not necessary for me to make a factual determination on this issue.

KST has proven double billing to KST for only 27 of the 236 purchase orders

40 Having decided that KST has proven the fact of the fraud through the Scheme principally with respect to the second leg of the fraudulent transactions, I now consider the factual issue of whether KST has succeeded in proving that it suffered any loss in consequence of the fraud, which occurred through the Scheme for each of the 236 purchase orders that it relies upon in its Statement

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57 1st Defendant's Statement of Claim against the 1st, 2nd and 3rd Third Parties (Amd No 1) dated 15 April 2024 at para 19(f).

58 NE, 15 October 2024, at p 57:1–11.

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of Claim. In other words, I consider the issue of whether KST had in fact suffered loss or damage through the various Fraudulent KST POs as pleaded, as this factual finding undergirds the viability of its other legal claims below.

41 KST did not go through the exercise of proving that each of the 236 purchase orders were Fraudulent KST POs by which KST had been billed doubly (*ie*, once by the genuine supplier and once by IPS as the non-supplier or fraudulent supplier for the same goods, works or services) and therefore caused KST to make double payments in fulfilment of the corresponding Customer PO. Instead, KST focussed its submissions on the issue of whether the fraud in relation to the second leg of the fraudulent transaction had been perpetrated by Doreen and IPS against KST. However, for the reasons given at [32]–[39] above, that is no longer controversial. Instead, the real controversy is whether KST could show that there was double billing and therefore double payment by KST for *each* of the purchase orders it relies upon, such that it could prove that it had suffered loss on account of the Scheme. Yet, KST does not make submissions on this crucial point. While it is undeniable that a fraud had been committed against KST through the Scheme, KST could not stop there. The onus is on KST to then prove that the 236 purchase orders had indeed caused it loss because of the Scheme.

42 Logically, that means showing that the transaction underlying that purchase order was one where there was a genuine supply of the Specified Works by an alternative supplier (*ie,* another supplier that was not IPS). That is because, where there has been an alternative supplier, the moneys paid to IPS under the Scheme *originated from KST* and not the customer. Any moneys received by KST from the customer pursuant to KST genuinely fulfilling the Customer PO (by actually supplying goods to the customer) would have been

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legitimately earned by KST and are therefore moneys belonging to KST. KST would then have only suffered loss if it then paid out the same moneys to two suppliers, when only one had genuinely offered works or services to KST.

43 However, in a situation where *nothing* had been supplied to KST (such that KST had nothing to deliver to its own customer), the logical inference is that KST's customer must have paid on a Customer PO that was never fulfilled. This means that, insofar as a Fraudulent KST PO was issued in respect of a transaction for which nothing had been supplied to KST (and therefore its customer), it follows that any moneys paid to IPS thereunder would have *originated from the customer, and remains the customer's moneys as there was no actual delivery of goods pursuant to the fraudulent Scheme (ie, the first leg of the fraudulent Scheme).* When there is no genuine supply to KST's customer under the fraudulent Scheme, the money received by KST was taken fraudulently from KST's customers; no loss would have been occasioned to KST in this situation on account of the Scheme when a part of the money involved in the fraud is transferred out of KST to be "paid" or given to IPS.

44 It follows from what I have just explained that KST can only claim that it had suffered loss through the Scheme to the extent that there were Genuine Supply Transactions which resulted in double billing to – and therefore double payment by – KST.

45 It may be pertinent to point out that where there was no double billing, KST would in fact have profited from the Scheme given that Doreen had ensured on those occasions that the amount siphoned out of KST's bank account would be *less* than the amount KST received from its customers (as reflected by the corresponding Customer POs). That probably explains why the Scheme had

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not been easily detected by KST, as KST was "making money" (instead of sustaining real losses) *via* the Scheme in such instances where there were no double billings and no actual supply to KST's customers who had fully paid KST. Another way of looking at it is that Doreen was using KST as a conduit to siphon money out of KST's customers and in the process, Doreen was leaving behind a small part of that money with KST to look as if a small "profit" was made by KST on each of the fraudulent transactions in the accounting records of KST. The bulk of that money obtained fraudulently was passed to IPS, and IPS kept 10% of it and passed the balance of 90% to Doreen.[59] In turn, Doreen appears to have had to pay some kickbacks out of her share to the representatives of KST's customers, who facilitated the issuance of the Customer POs to KST, for which KST was paid but made no delivery to its customers.

46 I further explain my analysis above by way of an example. Where a customer has decided to purchase from KST, the customer will issue a Customer PO to KST, which the customer must pay for after receiving the goods, works or services in a genuine case. The Customer PO will specify the particular part needed (*eg,* "Part XYZ"). KST would then need to procure a supplier for Part XYZ. In a situation where fraud had occurred through the Scheme and there was *genuine supply* from an alternative supplier, two purchase orders would have emanated from KST: the Fraudulent KST PO to IPS, and the genuine KST PO to a third party supplier. The customer pays for Part XYZ, as eventually supplied by the genuine third party supplier to KST and later delivered to the customer itself. The cost of the non-existent work done by IPS to allegedly supply Part XYZ would be borne by KST, having issued a purchase order to IPS for the same Part XYZ. There would be double billing and double payment

[59] Ms Kok's AEIC at paras 15–16; NE, 16 October 2024, at p 3:8–24.

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by KST here, one to IPS and the other to the genuine supplier. KST would have in fact suffered real loss for having paid twice for the same Part XYZ.

47 In a situation where fraud had occurred through the Scheme and there was *no genuine supply* from an alternative supplier, only one purchase order would have emanated from KST: the Fraudulent KST PO to IPS to supply Part XYZ. In this situation, Part XYZ is not produced and nothing is therefore supplied to the Customer. Yet, because Part XYZ is listed as a component under the Customer PO, the customer still pays for the price of Part XYZ as stated in the Customer PO although it was never supplied by KST. In that regard, the customer suffers the loss of having paid for Part XYZ, which was never delivered. Therefore, where there is no genuine supply, the loss does not lie with KST but with the customer. Instead of a loss, KST makes an unlawful gain on account of the fraudulent Scheme perpetrated by Doreen.

48 Turning now to the issue of proof proper and the various methods of proving loss based on its pleaded sales procedure, KST could try to prove that there was genuine supply in respect of a transaction through the paper trail of its documents. KST could perhaps show that it had purchase orders issued to its genuine suppliers for the Specified Works; delivery orders and invoices issued by the genuine suppliers to KST to bill for the Specified Works; and cheques, payment advice and/or payment vouchers showing payments made by KST to the genuine suppliers for the said invoices. Ample documentation and a long paper trail should therefore have been available within KST itself if KST had in fact transacted with and paid its genuine suppliers for the supply any parts, works or services to KST. There are also KST's bank records and KST's payment system records in the electronic database of the SAP, which should

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have captured the payment to these genuine third-party suppliers for all the parts supplied and the works and services rendered to KST.

49 Furthermore, where a Customer PO is fulfilled by a third-party supplier, KST's purchasing department would issue a KST PO to the supplier and input the fact of the same in the SAP. At this juncture, it is important to note the evidence of Mr James Yeap Ren Jie ("James"), KST's Sales and Operations Manager,[60] that KSI was KST's default supplier, and KST would only go to other suppliers if KSI was unable to serve KST. Both companies shared a common SAP system.[61] Accordingly, I would also expect the SAP system to capture information with respect to these genuine third-party suppliers if they existed.

50 In relation to the 27 Genuine Supply Transactions, Doreen's Estate concedes that KST can prove genuine supply for these transactions because KST is able to link 27 Customer POs from BD to a genuine supply from KSI. Mr Lee explained these 27 transactions extensively in his affidavit dated 16 July 2019 (the "July 2019 Affidavit"). In the July 2019 Affidavit, Mr Lee had exhibited the Fraudulent KST POs to IPS and the corresponding KST POs issued to KSI.[62] Doreen's Estate accepts that the items stated in the purchase orders for the 27 Genuine Supply Transactions are an exact match to the items stated in the KST PO issued to KSI, and are corroborated by other supporting documents.[63] I therefore find that in relation to each of the 27 Genuine Supply

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60 Mr Yeap's AEIC at para 1.

61 NE, 2 October 2024, at pp 7:25–8:3.

62 Mr Lee's affidavit dated 16 July 2019 (the "Mr Lee's July 2019 Affidavit") at para 85.

63 DCS at para 47(b).

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Transactions, KST had proven its case that there was doubling billing and it had suffered loss as a result of these 27 transactions linked to the 27 Customer POs from BD.

KST has not proven genuine supply for the remaining 209 transactions

51 I now turn to the remaining 209 transactions which the Estate contends are Non-Genuine Supply Transactions. I informed Mr Lee at trial that he was required to prove this part of his case at trial by finding the documents which, if they existed, should be readily available within KST and would furnish evidence of double billing. Those documents would show the existence of the relevant alternative genuine supplier for those transactions in which Doreen had caused to be issued a Fraudulent KST PO to IPS.[64] As stated above, there should be a lengthy documentary trail and ample documentation available for production as evidence in court for any genuine sale-and-purchase transaction involving KST and a genuine supplier, be it KSI or a third-party supplier. I allowed KST ample time to search and produce any available documents for these remaining 209 transactions to establish the existence of these third-party suppliers. However, KST did not do so. Most likely, KST could not do so as there was no such documentation because there was in fact no genuine supply for these 209 transactions. Instead, KST tried to sidestep the issue by arguing that it did not matter whether there was a genuine supplier.[65] When I questioned Mr Lee on the same, he candidly told the Court that he "does not know" whether there was a genuine supplier for these 209 transactions.[66]

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64 NE, 7 November 2023, at pp 64:14–65:3.

65 Mr Lee's AEIC at [44].

66 NE, 7 November 2023, at pp 68:24–71:11.

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(1) KST's 30 sampled transactions did not show genuine supply

52 I gave KST a chance to prove whether there was genuine supply for the 209 transactions after considering the evidence of Mr Soh Seng Min ("Mr Soh"), a Manager from AFON Technologies Pte Ltd – the company which supplied KST's SAP software. Mr Soh testified that it was impossible to automatically pull out all documents and orders linked to a particular Customer PO from KST's SAP system. Accordingly, I asked Mr Soh to do a detailed manual check of 30 sample Customer POs in the SAP system. Given Mr Soh's limited time and availability, I did not think it was reasonable to request him to check though all the 209 transactions in the SAP system. I considered that if a thorough manual check of a reasonably large sample size of 30 samples did not show up any evidence of genuine supply, it would be unlikely that the SAP system would reveal a genuine supply for the rest of the 179 Fraudulent KST POs. If so, there would be no further point for Mr Soh to spend more time and effort in trawling through the SAP system for the rest of the 179 Fraudulent KST POs.

53 Mr Soh explained his findings as follows. For these sampled transactions, there was only one supplier per line item. Therefore, if IPS was the supplier for the item, there was no alternative genuine supplier.[67] Three out of the 30 sampled transactions showed that there were two sales orders (or "SOs") generated to fulfil the same Customer PO – one to KSI, and one to IPS.[68] These two samples however were already part of the 27 undisputed doubling billing transactions. This supported the analysis in Mr Lee's July 2019 Affidavit that there was proof of such double billing for the 27 Genuine Supply Transactions.

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67 NE, 15 November 2023, at pp 22:11–23:9.

68 NE, 15 November 2023, at pp 72:13–73:7.

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Finally, KST and KSI share the same SAP system, such that any genuine supply by KSI would have been captured in that system.[69]

54 I therefore agree with the submission of Doreen's Estate that the records in KST's SAP system can be heavily relied on in determining whether there was any genuine supply.[70] Furthermore, Mr Lee confirmed that KST only has one SAP system to record its transactions with customers and suppliers for accounting purposes.[71] Ms Maslindah Kasman ("Ms Kasman"), KST's Finance Manager who assisted in the investigations into the Scheme, also confirmed that while KST and KSI share one SAP software, they each had their own software and accounts.[72] At trial, I confirmed with her that from her checks, there were no records of any other supplier in relation to the invoices issued by IPS.[73]

55 From the evidence, it does not appear that there was any other source of information apart from the SAP system that could shed light on whether there was any genuine supply of goods and services. Therefore, there appears to be no alternative supplier on the SAP system and the inference is that there was indeed no genuine supply.

56 At trial, KST raised the point that the SAP system was unhelpful in circumstances where the transaction had been carried out before it was recorded

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69 NE, 15 November 2023, at pp 114 :14–116:1.

70 DCS at para 62.

71 NE, 16 November 2023, at pp 12:9–14:7.

72 NE, 21 November 2023, at p 126:13–23.

73 NE, 23 November 2023, at p 56:6–20.

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in the system,[74] and that Doreen's Estate has not proven that goods were not delivered to KST's customers *ie* SMC and Kobe.

57 KST relies on the evidence from Mr Gopal Varutharaju ("Mr Varutharaju"), an expert witness called by Doreen's Estate to comment on KST's SAP system,[75] that the SAP is a "passive" system that processes whatever information is put into it.[76] KST further relied on evidence from SMC's Director and General Manager, Mr Chow Tat Foong ("Mr Chow"),[77] and Kobe's Managing Director, Mr Masatoshi Ando ("Mr Ando"),[78] to argue that SMC and Kobe had received all goods from KST as listed in the relevant Customer POs.[79]

58 However, as pointed out by counsel for Doreen's Estate (and acknowledged by KST itself) neither Mr Chow nor Mr Ando received any personal confirmation with the relevant staff from their companies as to whether goods had *actually* been received from KST. In that regard, their evidence exists at the level of speculation as to whether the Specified Works from IPS were indeed supplied to KST and later SMC and Kobe.[80] Also, Mr Chow and Mr Ando's evidence could not overcome the fact that no genuine supplier could be identified for the remaining 209 transactions.

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74 PCS at para 120.

75 Mr Varutharaju's AEIC at para 2.

76 NE, 9 October 2024, at pp 58:25–60:19.

77 Mr Chow's AEIC dated 2 October 2024 at para 1.

78 Mr Ando's AEIC dated 2 October 2024 at para 1.

79 PCS at para 100.

80 PCS at para 101.

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59 Furthermore, KST cannot pass the burden of proof to Doreen's Estate in respect of this defence. KST submits that "Doreen's Estate has no proof that goods were not delivered".[81] However, as I explained earlier, it is KST's burden to prove that there was genuine supply, and hence, loss from double billing and double payment in respect of the pleaded transactions. It cannot allege that the Estate has not discharged the burden of making out its defence in circumstances where KST itself has not shown that there was in fact genuine supply in relation to the 209 Non-Genuine Supply Transactions.

(2) KST's five exemplars were not evidence of genuine supply

60 At trial, I gave KST a final chance at producing evidence of genuine supply for the remaining 209 transactions. I fixed another tranche of trial, ten months after the date of the last hearing, so that KST could avail itself of this opportunity. Since KST suggested that its own SAP system might not be a comprehensive depository of all business transaction records (despite my doubts), I gave KST another opportunity to trawl though all its paper records of all its business transactions. I had also directed KST to file supplemental AEICs to adduce the additional documents it would be relying on to prove genuine supply.[82] KST instead produced five explanatory transactions involving SMC, which it urged me to take as exemplars for the rest of the transactions, *ie,* that if genuine supply for these transactions could be proven, there must also be genuine supply for the remaining 204 transactions.[83]

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81 PCS at para 103.

82 NE, 10 November 2023, at p 103:4–15; NE, 15 November 2023, pp 186:12–187:2.

83 Mr Lee's supplemental AEIC dated 9 September 2024 ("Mr Lee's Supplemental AEIC") at par 18.

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61 While I have my reservations with this approach of using such a small sample size of five from a large pool of 209 transactions to be representative of entire pool – these five exemplars are not enough to prove, in my view, that there was genuine supply for *all* of the pleaded transactions – I find that in any event, the five explanatory transactions did not show genuine supply. In fact, during cross-examination, Mr Lee conceded that he could not identify each of the genuine suppliers for the relevant Fraudulent KST POs:

(a) For SMC PO No. T038422-00,[84] Mr Lee agreed that Classic and Carboloy Precision Tooling Pte Ltd (another third party supplier of KST) could not have supplied the items allegedly supplied by IPS. He conceded that he could not identify any genuine supplier for the items listed as being supplied by IPS.[85]

(b) For SMC PO No. T042031-00,[86] Mr Lee admitted that Classic and Woo & Woo Precision Industries Pte Ltd could not have supplied the items allegedly supplied by IPS. He could not identify any genuine supplier for these items.[87]

(c) For SMC PO No. T045390-00,[88] Mr Lee conceded that he could not find any genuine supplier for the two items allegedly supplied by IPS.[89]

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84 Mr Lee's Supplemental AEIC at para 18(a).

85 NE, 30 September 2024, at pp 91:7–95:8; DCS at para 70(a).

86 Mr Lee's Supplemental AEIC at para 18(b).

87 NE, 30 September 2024, at pp 114:22–116:22; DCS at para 70(b).

88 Mr Lee's Supplemental AEIC at para 18(c).

89 NE, 30 September 2024, at pp 133:16–136:25.

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(d) For SMC PO No. T049886-00,[90] Mr Lee testified that he did not know who the genuine supplier was for the items allegedly supplied by IPS.[91]

(e) For SMC PO No. T053372-00,[92] Mr Lee conceded that there was no genuine supply from "Impressive" (one of KST's third party suppliers) or Classic for the work under the KST POs that were also tagged to KST's PO to IPS.[93]

62 Likewise, Ms Kasman's supplemental AEIC was of little assistance to the Court, as she did not go into any meaningful detail into the customer orders, suppliers or payments for the explanatory transactions. The "relationship maps" she exhibited showed that there was only one supplier, namely IPS. This meant that no other genuine supplier could be found. Those that had two suppliers were already under the 27 Genuine Supply Transactions.[94]

63 To conclude this section, I find that the 30 sampled transactions and five explanatory transactions did not assist in proving the existence of any genuine supplier for any of the 209 Non-Genuine Supply Transactions. Therefore, taken together with my earlier reasons above, I find that KST has only proven its case in respect of the 27 Genuine Supply Transactions. KST failed to prove that genuine suppliers existed for the 209 Non-Genuine Supply Transactions. I further find that the totality of the evidence shows on a balance of probabilities

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90 Mr Lee's Supplemental AEIC at para 18(d).

91 NE, 30 September 2024, at pp 154:23–155:9.

92 Mr Lee's Supplemental AEIC at para 18(e).

93 NE, 30 September 2024, at pp 162:2–18, 168:21–169:3, and 169:14–170:19.

94 NE, 1 October 2024, at pp 81:2–90:2.

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that there was in fact no genuine supplier for these 209 Non-Genuine Supply Transactions. Accordingly, when there is no genuine supplier, the inexorable conclusion must be that there were also no items supplied to KST's customers in relation to these 209 Non-Genuine Supply Transactions, for which KST had been fully paid by its customers.

Whether KST's management had acquiesced to the Scheme

64 A major plank of Doreen's defence is that KST's management was aware of and had effectively consented to the Scheme.

65 Doreen's Estate points to Ms Kok's evidence that Doreen told her that "her superiors in KST had approved the [customer representative's] proposal" to engage in the Scheme. Doreen had allegedly mentioned to Ms Kok that she spoke to one "KK Goh",[95] which refers to Mr Goh Ka Kun ("Mr Goh"), an executive director of KST. Mr Goh stepped down from his position with KST on 31 December 2018.[96]

66 Doreen's Estate also refers to evidence from Ms Tan Hwei Lan ("Ms Tan"), Doreen's sister. Doreen allegedly told Ms Tan that the Scheme had been suggested to her by one "Teng Jun" (who had asked for kickbacks), and that Doreen had conveyed this request to one "KK Goh" (referring to Mr Goh), who asked Mr Lee of his opinion on the matter. Mr Lee declined to give such kickbacks to Teng Jun, and Mr Goh told Doreen that she "[had] to think of [her] own ways to come out with that money". Ms Tan also alleged that Mr Lee was fully aware of the Scheme and that KST kept a report of these "dealings" and

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95 NE, 15 October 2024, at pp 172:2–173:12.

96 NE, 24 November 2023, at pp 22:23–23:14.

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would discuss this in meetings.[97] Mr Lee had also conceded that Doreen spoke to him about the kickbacks, but "said no without hesitating" and told her that he would not "condone such behaviour".[98]

67 The Estate also submits that for the Scheme to work, the various departments and employees within KST had to have been aware of it; Doreen could not have "pulled wool over everyone's eyes for a period of 7 years … [such that she] perpetuated the [Scheme] all on her own".[99] It further submits that the suit was commenced in retaliation because of Doreen's plan to leave KST to join Classic, KST's competitor;[100] that KST had attempted to hide the fact that kickbacks were being offered to its customers;[101] and that KST did not genuinely investigate the Scheme as it was already aware of its existence,[102] which was further exacerbated by Mr Lee's evasive and uncooperative attitude as a witness.[103]

68 However, KST submits that if it had wanted to pay kickbacks to its customer representatives – either in return for more orders from its customers or to defraud its customers – there would have been no need for KST to do so through Doreen.[104] KST argues that there would be first, no reason to use Doreen as a conduit to pass on the kickbacks; and secondly, no necessity to utilise a

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97 7DB 193–196.

98 NE, 6 November 2023, at pp 170:19–172:4.

99 DCS at para 84–88.

100 DCS at paras 91–93.

101 DCS at paras 94–99 and 109–112

102 DCS at paras 100–108.

103 DCS at para 113.

104 PCS at para 54.

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convoluted process of creating fictitious transactions going through external parties such as IPS.[105]

69 In my view, if the Scheme was truly approved by Mr Lee, then using Doreen, who was already in direct contact with the customers' representatives, would be more than sufficient to pay the kickbacks and operate the Scheme. It would have made no sense for Mr Lee to seek the further assistance of IPS as an additional layer in paying the kickbacks, because that would necessarily entail KST having to pay extra money to this third party for its illegal assistance. As could be seen from the convolutions arising out of IPS' involvement in the chain of transactions, unnecessary fictitious paperwork had to be further generated between KST and IPS, and the flow of money had also been unnecessarily lengthened when simply having Doreen perpetrate the Scheme alone on behalf of KST would have sufficed. Furthermore, any unnecessary increase in the number of persons involved in the illegal transactions would have created a greater risk of discovery by the authorities. I agree with KST's submissions that if Mr Lee had indeed sanctioned the payment of kickbacks, it would have been simpler and more profitable for KST to keep the operation of the fraud and kickbacks within itself.

70 The fact of IPS' involvement in the Scheme gives the impression that Doreen herself wanted to ensure that the paper trial would not show anything untoward when examined from the perspective of KST. It appears that Doreen did not want KST or Mr Lee to find out about the Scheme. That would explain why she engaged IPS to issue the fake delivery orders and invoices to fulfil the Fraudulent KST POs; the point was to conceal the fact of moneys being

105 PCS at para 55.

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siphoned out from KST in order to pay herself, IPS and kickbacks to KST's customers.

71 Furthermore, there is evidence showing that Doreen – being fearful of discovery by KST – had deliberately limited the number of people within KST who were directly involved in the fraudulent transactions. Sheena testified that requests for quotations from KST's customers were channelled to Doreen, who gave instructions as to how the Customer PO for those customers should be prepared.[106] Doreen decided on the supplier and relevant mark-up by KST for the Customer PO.[107] If KST's customers wanted to have their orders delivered urgently (which was a common occurrence), Doreen would personally "collect" the parts directly from the supplier and "deliver" them to the customer, particularly when IPS was the designated supplier.[108] There would be no necessity for her as KST's Marketing Manager to have also acted as a courier for the delivery of parts (especially those ostensibly procured from IPS) if indeed the Scheme had been agreed to by Mr Lee because she could have easily requested the assistance of more junior staff to do the delivery for her.

72 Doreen was thus able to acknowledge "receipt" of those parts on behalf of KST (when there was in fact no genuine "receipt" of those parts) and provide a veneer of legitimacy to IPS' fraudulent invoices and delivery orders[109], when no such parts were in fact produced by IPS. Hence, Doreen ensured that she personally carried out all the purported collection and delivery of parts from

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106 Sheena's AEIC at paras 35 and 36; NE, 17 October 2024, at pp 57:8–58:7.

107 Sheena's AEIC at para 38 and 44.

108 Sheena's AEIC at paras 61 and 62.

109 Sheena's AEIC at paras 63–65; NE, 2 October 2024, at pp 25:24–27:22.

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IPS, which were fictitious in fact, to minimise the risk of discovery by KST. This behaviour does not accord with the situation alleged by the Estate where Mr Lee was already fully aware of the Scheme, and meetings were held to openly discuss a report of these "dealings". If so, there would have been no need for Doreen to act with such secrecy in personally handling the collection and delivery of parts from IPS.

73 I also do not agree with the Estate's submission that KST did not genuinely investigate the Scheme as it was already aware of its existence. I accept James' evidence that when he discovered a transaction that showed double billing, he brought the matter up to Mr Lee and asked how he should handle the situation. Mr Lee instructed him not to alert anyone else as he wanted the matter investigated.[110] Mr Lee obviously did not want Doreen to be alerted when investigations were being conducted. Mr Lee even instructed James and one of KST's Purchasing Managers to check on the addresses of IPS, to see who were at these addresses.[111] I find that James had carried out a thorough investigation, which he had described in his AEIC. I do not think that Mr Lee tasked James to carry out these investigations just for show or to placate James who made the discovery. He had no reason to cause these detailed investigations to be carried out if he already knew what was happening. I find that he did it because he was not aware of the Scheme.

74 Based on the totality of the evidence, I find that Mr Lee had no knowledge of and was not complicit in the complicated Scheme operated by

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110 James' AEIC dated 15 September 2023 at para 16.

111 James' AEIC at paras 19 and 20.

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Doreen. That KST did not discover the Scheme for many years is not surprising as Doreen had concealed it well from KST's management.

Conclusion on the factual issues

75 For the reasons above, I find that (a) KST has only proven its loss in respect of the 27 Genuine Supply Transactions but not for the remaining 209 Non-Genuine Supply Transactions; and (b) KST's management had not acquiesced to the Scheme. These are the factual findings that the legal analysis below hinges upon.

The legal issues

76 I now turn to the legal issues in this case, starting with those on breach.

Whether Doreen breached any of her duties owed to KST

77 To recapitulate, KST's claims against Doreen are for (a) breach of her employment duties owed to KST; (b) the tort of conspiracy; (c) breach of confidence; (d) unjust enrichment; and (e) the tort of conversion.

78 KST has not made closing submissions on its pleaded claims for breach of confidence, unjust enrichment and the tort of conversion. Nevertheless, I address these claims as they are part of KST's pleaded case.

Breach of employment duties owed to KST

79 KST's case against Doreen in respect of breach of her employment duties owed to KST relates to both the duties prescribed in her employment

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contract,[112] and the duties implied (by law) in her contract, which includes a duty of good faith and fidelity and a duty to act in the interests of KST.[113]

80 KST does not specify which specific clause it is relying on in Doreen's employment contract (dated 23 March 2001) to ground its claim for breach of her employment duties. However, I agree with the analysis taken by the Estate that the most relevant duties as specified in her employment contract are that Doreen shall:[114]

(a) "be at all time[s] true and faithful to [KST] in all respects in the execution of [her] duties and responsibilities"; and

(b) "not draw or endorse any bill on behalf of [KST] or attempt to do so, except in so far as [she] may have been authorised by [KST], whether generally or in any particular case".

81 In relation to implied duties, it is well accepted that employees are bound by an implied duty to serve their employer with good faith and fidelity, and to use reasonable care and skill in the performance of his or her duties under the employment contract: *Man Financial v Wong Bark Chuan David* [2008] 1 SLR(R) 663 at [193]. This duty of good faith and fidelity also encompasses a duty not to make use of the employer's property for one's own purposes and a duty to give due consideration to the employer's interests: *Piattchanine, Iouri v Phosagro Asia Pte Ltd* [2015] 5 SLR 1257 at [242].

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112 SOC at para 15.

113 SOC at para 16.

114 DCS at para 115; Plaintiff's Bundle of AEICs Vol 1 at p 24.

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82 Taking the implied duties together with the express duties referred to at [80] above, it appears that KST's claim for breach of Doreen's employment duties simply turns on whether Doreen had acted in the best interests of KST.

83 In my judgment, Doreen had not acted in KST's best interests by perpetrating the Scheme. While there is evidence from Ms Kok that Doreen's intention was to increase KST's sales and generate additional revenue for KST,[115] there is no doubt that the Scheme had inevitably caused KST to suffer loss for some of the transactions. KST has shown, in respect of the 27 Genuine Supply Cases, that Doreen had caused KST to pay IPS for Specified Works that were not completed by IPS, through the Scheme (see above at [63]). KST has also proven that its management did not acquiesce to or sanction the Scheme (see above at [75]). Plainly, Doreen could not have been acting in KST's best interests when she caused KST to pay IPS in respect of the 27 Genuine Supply Transactions for services and/or works that IPS never rendered.

84 In relation to the other 209 Non-Genuine Supply Transactions which involved no double billing and no supply of goods to KST customers, I find that Doreen had still committed a wrong against KST notwithstanding that the Scheme caused no actual monetary loss to the company. This is for two reasons. First, Doreen's actions exposed KST to the risk of a potential claim from KST's customers (who paid KST for goods that were never supplied). Second, Doreen's actions also exposed KST to the potential risk of a criminal investigation if its customers were to lodge police reports. However, it does not appear – at least at present – that KST's customers are going to lodge any claims or police reports against KST. Nevertheless, these risks remain.

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115 Ms Kok's AEIC at para 15.

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85 Accordingly, I find that Doreen had not acted in KST's best interests by operating the Scheme also in respect of the 209 Non-Genuine Supply Transactions. It makes no difference that Doreen had ensured that some part of the payment received from KST's customers in respect of these transactions had been left in the bank account of KST, so that Doreen had in fact bestowed a financial benefit (although perhaps not a permanent one) upon KST. I find that Doreen left some of the illicit money behind for KST (albeit without the knowledge of the fraudulent Scheme by KST's management) to be reflected in KST's accounts as a "profit" on the transactions, which would therefore attract less attention from KST's management in furtherance of her intention to prevent discovery of her fraudulent Scheme by her employers.

86 My earlier finding at [64]–[71] above that KST's management was unaware of the Scheme is fatal to Doreen's defence. Her estate argues, in its closing submissions, that KST's management had been complicit in the creation and payment of the Fraudulent KST POs. Accordingly, following the Court of Appeal's decision in *Red Star Marine Consultants Pte Ltd v Personal Representatives of Satwant Kaur d/o Sardara Singh, deceased and another* [2020] 1 SLR 115 ("*Red Star*"), the Estate submits that the doctrine of illegality bars KST (as the plaintiff company) from bringing a claim against Doreen's Estate for repayment of moneys that she had misappropriated from it.

87 The facts of *Red Star* are germane to the present case. In that case, the plaintiff company, Red Star, alleged that its former employee, Ms Kaur, had breached her duty of loyalty and fidelity to the company through an alleged fraud. She had committed this fraud by cashing cheques drawn on the plaintiff's bank account, which had been signed by its Managing Director, Mr Singh, who owned 5,099 out of the 5,100 shares in Red Star (the remainder was owned by

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his then wife). Ms Kaur used the moneys she had withdrawn to take out insurance policies on her own life and to purchase properties. She passed away from cancer shortly after, and Red Star commenced proceedings against her estate to recover the misappropriated moneys.

88 The trial judge found – and the Court of Appeal upheld – that Mr Singh was aware of the fraud perpetrated against the plaintiff company, as the amount withdrawn was many times the profits it had earned: *Red Star* at [24]–[27]. The Court of Appeal therefore concluded that Red Star was precluded from claiming against Ms Kaur's estate by virtue of the doctrine of illegality: *Red Star* at [30].

89 The Court of Appeal in *Red Star* at [30] explained that the doctrine of illegality operated as a defence to a claim because the court, as a matter of public policy, would not involve itself in a dispute between parties where both sides are equally tainted by the same wrong; it operates where the plaintiff is personally responsible for or involved in the wrongdoing. While Red Star was a company and had no mind or body of its own, the knowledge of Mr Singh could be attributed to it. The Court of Appeal confirmed that Mr Singh's knowledge of the fraud could be attributed to Red Star through special rules of attribution: *Red Star* at [42]–[43]. Accordingly, pursuant to the purposes of the doctrine of illegality, the Court of Appeal did not allow Red Star's claim, as doing so would have effectively allowed Mr Singh (as 99% shareholder) to recover the fruits of Ms Kaur's fraud against Red Star, that fraud having been perpetrated with his complicity: *Red Star* at [48(c)].

90 That said, the key difference between *Red Star* and this case is that KST's management was not aware of and did not acquiesce to the fraudulent Scheme. I concluded earlier that Mr Lee was not aware of Doreen's actions in

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the Scheme. Therefore, it cannot be said that KST itself was aware of the fraud being perpetrated against it. Accordingly, KST cannot be precluded under the doctrine of illegality from pursuing its claims against Doreen as they relate to the Scheme she perpetrated against it.

91 I therefore find that Doreen had breached her employment duties to act in KST's interests, by virtue of all her actions in the Scheme.

Conspiracy by unlawful means

92 KST's second major claim against Doreen was that she and IPS had conspired by unlawful means to defraud KST by operation of the Scheme.[116]

93 To prove unlawful conspiracy as against Doreen, KST must show the following elements (*EFT Holdings, Inc v Marinteknik Shipbuilders (S) Pte Ltd* [2014] 1 SLR 860 ("*EFT Holdings*") at [112]):

(a) there was a combination of two or more persons to do certain acts;

(b) the alleged conspirators had the intention to cause damage or injury to the plaintiff by those acts;

(c) the acts were unlawful;

(d) the acts were performed in furtherance of the agreement; and

(e) the plaintiff suffered loss as a result of the conspiracy.

116 SOC at paras 21 and 28–30.

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(1) The 27 Genuine Supply Transactions

94 I begin with the analysis of the 27 Genuine Supply Transactions. In my judgment, all the elements are made out in relation to these 27 transactions, as they involved double billing. First, whether element (a) on combination is satisfied depends on whether there was an agreement between the parties to the conspiracy to pursue a particular course of conduct, and that concerted action was taken pursuant to that agreement: *EFT Holdings* at [113]. In this case, I find that combination is made out based on Ms Kok's unchallenged evidence that Doreen and IPS had agreed to carry out the Scheme,[117] and payments – both from KST to IPS, and from IPS to Doreen – had been made from November 2012 until 5 April 2019 pursuant to the Scheme.[118] For completeness, I note that while the Scheme continued until the time of Doreen's unfortunate passing in July 2019,[119] KST's last payment to IPS was on 10 April 2019 for invoices generated by IPS to KST in 2018.[120] KST did not pay IPS for any of the invoices it had received from IPS from 3 January 2019 to 13 May 2019.[121]

95 On element (b), whether the element of intention under unlawful means conspiracy is satisfied depends on whether the plaintiff has shown that the unlawful means and conspiracy were targeted or directed at the claimant, and that injury was intended as a means to an end or as an end in itself. It is not enough that harm to the plaintiff would be a likely, probable or even inevitable consequence of the defendant's conduct: *EFT Holdings* at [99]–[101]. I find that

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117 Ms Kok's AEIC at para 19.

118 Ms Kok's AEIC at paras 21–222.

119 Ms Kok's AEIC at para 21.

120 Ms Kok's AEIC at para 225.

121 Ms Kok's AEIC at paras 226–227.

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Doreen and IPS intended to cause injury to KST. The Scheme caused KST to pay twice for the same goods or services purchased or ordered by KST under each of the 27 Fraudulent KST POs that involved genuine supply: one payment to KSI, the genuine supplier, who had in fact supplied the goods or services; and the other payment to IPS, the fraudulent supplier who never supplied the goods or services. Doreen would have known that KSI, a wholly-owned subsidiary of KST, would be supplying the goods in relation to the Fraudulent KST POs in relation to these 27 transactions as she was personally in charge of deciding which suppliers would be appointed by KST, and the relevant mark-up for each sale.[122] She was therefore in charge of nominating KSI as the genuine supplier to fulfil these KST POs. Since she also nominated a second supplier, IPS, to fulfil the same KST POs, Doreen obviously had the intention to cause damage or injury to the plaintiff by those acts.

96 IPS had shared in that intention, as Ms Kok's own testimony of the Scheme showed that she was aware that money was being siphoned out of KST and paid to IPS as part of the Scheme and without IPS having supplied any goods to KST. Ms Kok, as a Manager of IPS at the material time, "agreed to help Doreen to take money out of KST so that she could pay [kickbacks] to the customer representative to help her sales target".[123] Although she deposed that the intention of the Scheme was to "generate additional revenue for KST whilst earning, on the side, from the additional revenue generated",[124] this did not obviate the fact that Doreen and IPS commonly intended to and did in fact take money out from KST, an act undoubtedly injurious to the company even if done

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122 Sheena's AEIC at para 38.

123 NE, 15 October 2024, at pp 179:24–180:3.

124 Ms Kok's AEIC at para 15.

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for a seemingly charitable purpose. IPS and Ms Kok did not concern itself with whether the actual parts requested under the Fraudulent KST POs would be completed by itself or another company,[125] although IPS did not and was not capable of manufacturing the precision parts required by KST.[126] In that regard, it would also have been obvious to IPS and Ms Kok that the Scheme would harm KST whenever there was a genuine supplier for those same parts, which KST would have to pay again for (*ie*, after already having paid IPS for the same parts).

97 Element (c) is likewise satisfied. There was no question Doreen's and IPS' conduct having been fraudulent (and therefore unlawful).

98 Element (d) is satisfied as it is undeniable that Doreen and IPS did successfully carry out the Scheme for close to seven years without being detected by KST. The Fraudulent KST POs were sent to KST, which caused KST to pay IPS, and IPS to pay Doreen as part of the Scheme.

99 Element (e) is also satisfied. As a result of the conspiracy between Doreen and IPS, KST had suffered real loss through a second payment for the same KST PO to IPS, which did not produce the goods or perform the required works under these KST POs. I therefore find that for these 27 transactions, KST has made out its claim against them for conspiracy by unlawful means.

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125 NE, 16 October 2024, at p 5:19–22.

126 PCS at para 46; NE, 15 October 2024 at pp 179:24–180:4.

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(2) The remaining 209 Non-Genuine Supply Transactions

100 As for the other 209 Non-Genuine Supply Transactions, all the elements – save for the elements (b) and (e) – have been satisfied. The analysis for elements (a), (c) and (d) in respect of the 27 Genuine Supply Transactions also apply with full force to the 209 Non-Genuine Supply Transactions. I explain the divergence in the analysis for elements (b) and (e) in relation to the 209 Non-Genuine Supply Transactions briefly.

101 In relation to element (b), it does not appear that Doreen had the intention to harm KST in respect of the Non-Genuine Supply Transactions. Doreen would have known that there was no other supplier indicated for the particular line item that IPS would allegedly supply to KST for the latter to fulfil its Customer POs. I have already explained why the *customer* (and not KST) had paid for IPS' non-existent works in these circumstances. To that extent, Doreen was merely using KST as a conduit to facilitate the flow of money from KST's customers to IPS and then to herself for these 209 Non-Genuine Supply Transactions in the fraudulent Scheme. It appears that the intention behind the Scheme (so far as the Non-Genuine Supply Transactions were concerned) was to cause injury to KST's *customers*. There was therefore no intention to harm KST on Doreen's part.

102 As for element (e), no loss could have been suffered by KST. Once again, the loss was borne by KST's customers whose transactions were tainted by the Fraudulent KST POs to IPS (who supplied nothing in fulfilment of those purchase orders).

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103 Therefore, I find that KST's claim on unlawful conspiracy is only made out in respect of the 27 Genuine Supply Transactions, but not for the remaining 209 Non-Genuine Supply Transactions.

Breach of confidence

104 On breach of confidence, KST pleads that Doreen had access to confidential information, which included KST's customer and vendor lists; the contact persons and details of each customer and vendor; customer and vendor documents (such as purchase orders, SOs, tax invoices, and delivery orders); communications with customers and vendors; and details of KST's pricing information to KST's customers and vendors, including KST's profit margins (the "Alleged Confidential Information").[127]

105 KST's case is that Doreen owed KST an implied obligation of confidentiality arising out of her employment contract with KST and that she had acted in breach of confidence by: (a) procuring the Alleged Confidential Information and disclosing the same to IPS; and (b) disclosing confidential information relating to KST's customers' (including purchase orders made with KST) to third parties.[128]

106 For claims of breach of confidence, the relevant approach to be used depends on whether the claimant alleges that the defendant had used or disclosed the confidential information. In *Lim Suk Ling Priscilla and another v Amber Compounding Pharmacy Pte Ltd and another* [2024] 1 SLR 741 ("*Amber Compounding*") at [28]–[33], the Court of Appeal held that there are

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127 SOC at para 19.

128 SOC at paras 25–26.

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three elements to proving breach of confidence under the traditional test (*ie,* where the defendant is alleged to have used or disclosed the confidential information):

(a) the information possesses the necessary quality of confidentiality;

(b) the information was imparted in circumstances importing an obligation of confidence; and

(c) there was an unauthorised use of the information to the detriment of the plaintiff.

These requirements were derived from *Clearlab SG Pte Ltd v Ting Chong Chai and others* [2015] 1 SLR 163 (at [64]).

107 In a case where the defendants wrongfully access or acquire confidential information but do not use or disclose the same, the traditional test does not apply. That is because the traditional test is meant to protect the plaintiff's interest in preventing wrongful gain or profit from its confidential information: *Amber Compounding* at [28], citing *I-Admin (Singapore) Pte Ltd v Hong Ying Ting and others* [2020] 1 SLR 1130 ("*I-Admin*") at [50]. Instead, the modified approach from *I-Admin* is to be used. The court should consider (as held in *I-Admin* at [61]):

(a) whether the information in question has the necessary quality of confidence about it; and

(b) if it has been imparted in circumstances importing an obligation of confidence.

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If these are satisfied, an action for breach of confidence is presumed. However, this presumption is displaced if the defendant can prove that its conscience is unaffected.

108 As KST's pleaded case is that injury was caused to it by Doreen's *disclosure* of KST's Alleged Confidential Information, the traditional test in *Amber Compounding* applies.

109 However, I find that KST's claim for breach of confidence fails at the first requirement of the traditional test. It is quite striking from the wording of the KST's Statement of Claim and KST's silence in its closing submissions on this point that KST has not adequately described its case on breach of confidentiality.

110 At the outset, and as Doreen's Estate points out, it is not apparent what information was allegedly disclosed and how it was disclosed. The Estate had even issued a request for particulars of "each and every occasion where [Doreen] had allegedly procured and disclosed the [Alleged Confidential Information] in breach of her employee duties". However, KST only provided vague replies to the Estate's requests. It stated that Doreen had procured the Alleged Confidential Information "since being employed as [KST's] Marketing Manager", that she "started disclosing the [Alleged Confidential Information] in 2013" and repeated what was already stated in the Statement of Claim in relation to what confidential information was procured and disclosed.[129] On that ground, KST's particulars are insufficient to sustain a claim for breach of confidence.

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[129] DCS at paras 148–149.

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111 To address the point shortly, there is no explanation as to how the Alleged Confidential Information possesses the necessary quality of confidentiality or how it had been used to KST's detriment.

112 On the first point on whether the information possesses the quality of confidentiality, the Court of Appeal in *Wee Shuo Woon v HT SRL* [2017] 2 SLR 94 held at [30]–[37] that (a) information in the public domain is no longer protected as confidential information; and (b) notwithstanding this, the court is to consider whether the degree of accessibility of the information is such that, in all the circumstances, it would not be just to require the party against whom a duty of confidentiality is alleged to treat it as confidential. However, there is simply no evidence from KST to support its assertion that the Alleged Confidential Information possesses the necessary quality of confidence.

113 In my view, the details of customers and vendors are likely to be available in the public domain. That said, it is possible that KST's pricing information, profit margins, and communications with customers and vendors are confidential, since these are not publicly available.

114 This brings me to the second point: whether the Alleged Confidential Information had been used to KST's detriment. Again, KST has not provided sufficient particulars in its pleadings or submissions to substantiate this point. It did not specify what information was procured and disclosed to *IPS* specifically, or to any other third party. While it may have been unauthorised, given my earlier finding that KST's management was unaware of and did not acquiesce to the Scheme, I also bear in mind Ms Kok's unrebutted evidence that she had never received or been provided with engineering or workshop drawings

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originating from KST's customers for the purpose of "fulfilling" the Fraudulent KST POs.[130]

115 Therefore, owing to the lack of particularisation of this claim, I dismiss KST's claim for breach of confidence against Doreen.

Unjust enrichment

116 KST's pleaded claim on unjust enrichment is that Doreen and/or IPS had "wrongfully deprived [KST] of the use and possession of the moneys had and received".[131]

117 While "money had and received" is not, strictly speaking, a cause of action, it has been understood by the courts as a claim under unjust enrichment: *Alwie Handoyo v Tjong Very Sumito and another and another appeal* [2013] 4 SLR 308 at [124]–[125]. The requirements for a claim in unjust enrichment are trite (see *Skandinaviska Enskilda Banken AB (Publ), Singapore Branch v Asia Pacific Breweries (Singapore) Pte Ltd. and another and another appeal* [2011] 3 SLR 540 at [110]):

(a) the defendant has been enriched;

(b) this enrichment is at the plaintiff's expense;

(c) it is unjust to allow the defendant to retain the enrichment; and

(d) there are no defences available to the defendant.

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130 NE, 17 October 2024, at pp 88:4–89:10.

131 SOC at para 31.

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118 In my judgment, for the 27 Genuine Supply Transactions, Doreen and/or IPS *were enriched.* Moneys were paid out to Doreen and IPS by way of the Fraudulent KST POs. This was done at KST's expense (as accepted by Doreen's Estate),[132] given that KST had paid IPS for services or works which were not rendered by IPS but by another supplier. As the cost of the work done by the genuine supplier was paid for by KST's customer (as reflected in the Customer PO), it was KST who absorbed the cost of the Fraudulent KST PO issued to IPS.

119 Furthermore, considering the circumstances of the Scheme to defraud KST, it would be unjust to allow Doreen to retain the moneys siphoned from KST. There is also no defence raised before me by Doreen's Estate in respect of the 27 Genuine Supply Transactions. Therefore, I find that KST's unjust enrichment claim is made out in respect of these transactions, as the ones which KST has been successful in proving.

120 However, the same cannot be said for the remaining 209 Non-Genuine Supply Transactions. For these, I find that KST has not shown that Doreen and/or IPS had been enriched at KST's expense. As I explained above, KST has not been able to show that it had paid its own money to IPS in respect of the Fraudulent KST POs. Instead, the amounts paid to IPS would have been covered by the customers' payment to KST for the cost of their respective Customer POs; as submitted by the Estate, KST was the intermediary through which money had flowed from KST's customers to IPS.[133] The loss therefore lies with

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132 DCS at paras 79 and 80.

133 DCS at para 202.

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KST's customers in respect of these Non-Genuine Supply Transactions, and KST cannot claim that it had suffered any loss thereunder.

121 For completeness, I address the defence advanced by Doreen's Estate in relation to the 209 Non-Genuine Supply Transactions. It argues that KST's claims in unjust enrichment should be dismissed on the grounds of illegality, *ie,* that allowing the unjust enrichment claim in respect of the 209 Non-Genuine Supply Transactions would be against public policy.[134] The Estate did not appear to go so far as to argue that the unjust enrichment claim based on the 27 Genuine Supply Transactions should also be dismissed on the ground of illegality, as it only related to claims where KST had not "incur[ed] any costs for the supply of items under the Customer POs".[135]

122 However, the Estate's argument on illegality was premised on the "incontrovertible evidence suggesting that KST's management was privy to and acquiesced to the [Scheme] … which benefitted itself at the expense of its customers".[136] As discussed earlier in this judgment, there is insufficient evidence for me to conclude that KST's management had indeed known of or acquiesced to the Scheme. Instead, the evidence showed that Mr Lee was not aware of Doreen's actions in the Scheme; it could not be said that KST had participated in or was aware of the Scheme.

123 Therefore, I find that Doreen had been unjustly enriched by KST through the Scheme in respect of the 27 Genuine Supply Transactions, but not in respect of the 209 Non-Genuine Supply Transactions.

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134 DCS at paras 204–212.

135 DCS at para 210.

136 DCS at para 210.

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Conversion

124 On the tort of conversion, KST pleads that Doreen had "converted … [the use and possession of the moneys earned through the Scheme] to her … own use".[137] However, it is trite that an act of conversion occurs when there is an unauthorised dealing with the plaintiff's *chattels* so as to question or deny his or her title to it: *Tat Seng Machine Movers Pte Ltd v Orix Leasing Singapore Ltd* [2009] 4 SLR(R) 1101 at [45].

125 It is also trite that conversion does not lie for money unless it has been specifically identified. For instance, *Halsbury's Laws of Singapore* vol 18 (LexisNexis, 2024) refers (at para 240.529) to an example of where specific coins are delivered on the undertaking that they are to be *restored exactly* to a bailor. As such, conversion does not lie for money taken and received as a currency: *Lipkin Gorman (a firm) v Karpnale Ltd* [1991] 2 AC 548 at 599.

126 Therefore, as KST claims for the money received through the Scheme as a *currency,* and not a chattel, its claim on conversion must fail.

Conclusion on breach

127 In summary, I find that in respect of the 27 Genuine Supply Transactions only, Doreen (a) had breached her employment duties owed to KST; (b) was unjustly enriched through the Scheme; and (c) had engaged in a conspiracy by unlawful means with IPS. I dismiss all the other claims for breach against her, as many of them were non-starters.

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137 SOC at para 31.

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Whether KST had suffered loss on account of the Scheme

128 This issue can be dealt with shortly. As I concluded earlier on the factual issues (see [40]–[63] above), KST has successfully proven that it suffered loss in respect of the 27 Genuine Supply Transactions. To briefly recapitulate, that was because KST had paid IPS for works or services that it did not perform, while KST had paid a second time to KSI (being the genuine supplier) for the same works or services that were necessary for the completion of the KST POs, which were meant in turn to fulfil the supply to KST's customers under the Customer POs to KST.

129 However, in relation to the other 209 transactions, I find that there was no double billing and hence, no monetary loss of any kind presently suffered by KST. In fact, KST had benefitted (albeit not lawfully) from the Scheme from a monetary perspective, because some of the customer's money obtained fraudulently was left in KST's bank account by Doreen to appear as if KST had made "profits" from each of these 209 transactions. As explained earlier, this was Doreen's way of avoiding detection. If these 209 transactions had indeed caused financial loss on the facts, Mr Lee's attention would be drawn very quickly to these losses and the whole fraudulent Scheme would have unravelled faster than it actually did.

130 Where loss is not proved by KST for these 209 transactions, all KST's claims, which are premised on proof of loss being actually suffered as an essential element, must necessarily fail. Accordingly, I find that all of KST's claims in relation to the other 209 transactions fail.

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Whether Doreen had caused KST to suffer the loss

131 I find that Doreen had caused KST to suffer loss in respect of the 27 Genuine Supply Transactions that KST had proven. In short, this is because Doreen was the mastermind and perpetrator of the Scheme, alongside her accomplice, Ms Kok. There is no reason for me to disbelieve the evidence that Ms Kok provided as to the provenance and operation of the Scheme, since all parties accepted her evidence and extensively relied on it in their closing submissions.

132 Furthermore, considering Sheena's evidence, it was clear to me that Doreen, being KST's Marketing Manager, was in a position to carry out the Scheme. As summarised in KST's closing submissions,[138] Doreen oversaw the whole operation of the Scheme. As I stated earlier at [71], Sheena gave evidence that Doreen was able to interface with customers directly and direct how their purchase orders were to be handled in KST.

133 Doreen's *modus operandi* as stated was not rebutted in relation to the 27 Genuine Supply Transactions. Indeed, Doreen's Estate conceded that these were the transactions for which there was double-billing pursuant to the Scheme, and that KST had suffered loss.[139] It must follow that Doreen caused this loss, having accepted that Doreen indeed perpetrated the fraudulent Scheme against KST.[140]

134 Based on the evidence before me, I thus find that Doreen had caused the loss suffered by KST in respect of the 27 Genuine Supply Transactions.

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138 PCS at paras 31–47.

139 DCS at para 79 at S/N 2.

140 DCS at paras 27 and 28.

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Whether KST can recover its losses from Doreen

135 Having shown that Doreen breached her duties to KST through perpetrating the Scheme, that KST suffered loss for the 27 double billing transactions because of the Scheme, and that the loss was caused by Doreen, I turn to the question of whether KST can recover its losses from Doreen. In my judgment, this question ought to be answered in the negative. That is because KST has already been compensated for its loss in respect of the 27 Genuine Supply Transactions by virtue of its settlement agreement entered into with IPS on or around 29 October 2021.

136 It bears repeating that IPS was formerly the third defendant in this suit, before KST discontinued its claim against it pursuant to the settlement agreement. KST's claim against IPS also arose out of its involvement in the Scheme.[141] In other words, its claim against IPS was for the same injury that Doreen had caused to KST.

137 In that regard, while KST may choose to seek cumulative remedies against both parties that had perpetrated the fraud against it – indeed, "the amount claimed by KST against Doreen's Estate is for the sum received by Doreen"[142] – that did not mean KST could recover an amount exceeding its loss. In these circumstances, the principle of "full satisfaction" prevents double recovery by KST: *Lim Teck Cheng v Wyno Marine Pte Ltd (in liquidation)* [1999] 3 SLR(R) 543 at [29], citing with approval *Tang Man Sit v Capacious Investments* [1996] AC 514 at 521.

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141 SOC at paras 21, 23–25, 29–31.

142 PCS at para 144.

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138 In my judgment, I had found that KST had only suffered loss in respect of the 27 Genuine Supply Transactions. The proven amount of loss it suffered is therefore $27,955.00. Plainly, pursuant to the settlement agreement, KST had received $60,000.00 from IPS. That far outstripped the value of its claim against Doreen's Estate for the same injury it had suffered through the Scheme.

139 Therefore, I do not find it appropriate to allow KST to recover its losses from Doreen as well. That is tantamount to double recovery. Even though, having found that Doreen was in breach, the breach caused loss to KST, and Doreen had caused the loss, I thus find that KST is not entitled to recovery of the $27,955 from her Estate.

Whether the third parties are liable for contribution or indemnity

140 As I found that KST's cannot recover its losses against Doreen pursuant to its settlement agreement with IPS, it is not necessary for me to address the arguments on whether the third parties are liable for contribution or indemnity. I thus dismiss the Estate's third party claims against IPS, Ms Kok and Sheena.

Conclusion

141 For the reasons above, I dismiss KST's claim against Doreen's Estate. Accordingly, I also dismiss the Estate's claim against the third parties. Ultimately, despite my findings on breach, loss and causation, KST had already been compensated for the loss it did suffer from the Scheme in relation to the 27 Genuine Supply Transactions through its settlement agreement with IPS.

142 While KST succeeds in proving the fact of the fraud against it through the Scheme, it has not succeeded in proving that all the pleaded transactions, apart from the 27 transactions, had caused it to suffer loss.

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143 If parties cannot agree on costs, they are to file written submissions limited to ten pages by 25 August 2025 on the appropriate costs orders that should be made for this suit.

Postscript

144 Before ending my judgment, I make five concluding remarks on the Scheme and the recovery action brought by KST.

145 First, having set out how KST was used as an unsuspecting conduit for fraud by Doreen, I do recognise the potential harm that may result to KST, should KST's customers file a claim against KST after discovering that goods had in fact not been supplied by KST, despite having made full payment to KST. In any event, on the facts as known, it does not appear that any action on the part of KST's customers is forthcoming. The evidence of representatives from the management of KST's customers who testified in KST's favour (Mr Chow from SMC and Mr Ando from Kobe) suggests that SMC and Kobe continue to operate under the belief that they had received all the goods that they had paid KST for, and indeed, they had testified to that effect. As such, factually speaking, KST's customers are not likely to pursue any claims against KST.

146 Second, by virtue of the kickbacks to KST's customer representatives, it appears that Doreen had also tried to reduce the risk of discovery by the management of KST's customers. Furthermore, from the evidence, I am given to understand that the type of goods for which no delivery was made to KST's customers normally involved expendables, or spare parts where KST's customers may not keep a tight record of inventory or a tight control over usage, such that non-delivery of these expendables or spare parts would not set off any alarms immediately. This is another "clever" feature of the Scheme to prevent

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discovery even by KST's own customers of having made payment to KST for goods which KST never delivered. That may in part explain why claims against KST from KST's customers are unlikely to be forthcoming. In my view, the Scheme is very well concealed by Doreen from both KST and KST's customers.

147 Third, I consider it odd that KST, after realising that it could not show genuine suppliers for those 209 Non-Genuine Supply Transactions, continued to pursue a claim for what are essentially ill-gotten profits. KST's premise appears to be that moneys albeit wrongfully or illegally siphoned from its customers through the Scheme automatically belonged to it because these had been paid to it pursuant to the relevant Customer POs. This premise cannot be correct in law. By analogy, when stolen money flows through the bank account of an innocent third party, that third party surely has no right to then sue a further downstream recipient of the stolen money on the basis that it is his money or his property. Indeed, under s 411(1) of the Penal Code 1871 (2020 Rev Ed), it is an offence to receive or retain any property while knowing or having reason to believe the property to be stolen property or property obtained in whole or in part through an offence involving fraud and dishonesty. Even if the moneys gained by KST pursuant to the Scheme were not paid to IPS, this did not change the fact that these moneys were obtained through fraudulent means. It is inappropriate for KST to continue to sue for such moneys that were transferred to Doreen and in the hope of keeping them for itself even after realising in the course of the trial that these are monies actually obtained by Doreen from KST's customers through fraud and dishonesty. In fact, I observe that both KST and the Estate (including IPS) should not retain any part of the monies of KST's customers, which had been obtained though the fraudulent Scheme in relation to all transactions where there was no genuine supply.

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148 Fourth, the civil law recognises in this case that the loss does not lie with KST, and KST's claim from the Estate for the return of its ill-gotten profits in respect of the 209 Non-Genuine Supply Transactions failed on that point. Accordingly, once KST had, through the course of preparing for trial, realised that moneys were being siphoned out of the customers and not from itself, it is pointless for it to have continued pursuing the 209 Non-Genuine Supply Transactions. Once again, it is not enough for KST to point out that moneys were paid out of KST to Doreen through the Scheme; it has to be able to link that loss back to itself by asking who indeed bore the payment for the non-existent goods and works that were supposedly carried out by IPS.

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149 Fifth, after the records from KST's SAP computer system revealed during the trial that there were no alternative genuine suppliers following a detailed analysis of 30 samples from the 209 transactions, KST still refused to accept that it represented the state of affairs and maintained that there were genuine suppliers. KST continued to ask for more opportunities and time to "look" for evidence of these genuine suppliers, this time in their paper records, to prove that these genuine suppliers in fact existed. In spite of the several chances given to KST at its insistence to find the relevant documentation to prove whether there was genuine supply for the 209 transactions, KST eventually produced five exemplars at the end of my long adjournment saying that they would show the "existence" of genuine suppliers. However, on closer examination, it turns out that the exemplars did not push KST's case any further. After unnecessarily dragging on the trial, the evidence in relation to the non-existence of genuine suppliers for these 209 transactions turns out to be the same as what it had been during the first tranche of trial.

Chan Seng Onn
Senior Judge

Anna Oei (Tan, Oei & Oei LLC) for the plaintiff;
Terence Tan and Sandra Lye (Genesis Law LLC) for the first defendant;
Roy Yeo (Sterling Law Corporation) for the first and second third parties;
Johnny Cheo (Cheo Yeoh & Associates LLC) for the third third party.

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