IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 238

Bill of Costs No 18 of 2020 (Summonses Nos 2879 and 2880 of 2020)

Between

Gabriel Law Corporation

… Applicant

And

H&C S Holdings Pte Ltd

… Respondent

JUDGMENT

[Civil Procedure] — [Costs] — [Taxation]

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Gabriel Law Corp
v
H&C S Holdings Pte Ltd

[2020] SGHC 238

High Court — Bill of Costs No 18 of 2020 (Summonses Nos 2879 and 2880 of 2020)

Andre Maniam JC
19 August 2020

6 November 2020 Judgment reserved.

Andre Maniam JC:

Introduction

1 This case concerns a taxation of costs as between solicitor and client. The applicant ("the Law Firm") successfully represented the respondent ("the Client") in an arbitration ("SIAC 123"), and thereafter in court: resisting the opposing party's application to set aside the award, by HC/OS 304/2014 ("OS 304"); and obtaining an order that the arbitration award be enforced as a judgment, by HC/SUM 1942/2014 ("SUM 1942") in OS 304.

2 The Law Firm also instructed solicitors in the United Kingdom ("the UK") who successfully applied in 2014 Folio 1276 ("Folio 1276") to enforce the award in the UK, and thereafter (with Queen's Counsel) successfully

resisted the opposing party's application in Folio 1276 for a stay of execution of the UK judgment based on the award.

3 In SIAC 123, the Client was awarded the principal sum of US$1,900,000, and pre-award interest of US$84,391.67. The arbitrator also awarded $355,000 in costs (inclusive of $65,000 in disbursements) to the Client; the Law Firm billed the Client the same amount, and payment was received from the opposing party. Those fees and disbursements were thus not in issue between the Law Firm and the Client.

4 What was in issue was the post-award work. The Law Firm had billed the Client $450,000 in professional fees, plus disbursements and applicable Goods and Services Tax ("GST"). The disbursements included the bills rendered by the UK solicitors (inclusive of counsel's fees), in the total sum of £59,665.17 (equivalent to $123,736.33).

5 The above figures do not include the Law Firm's Invoice 39 dated 28 October 2014 for $100,000 in fees which, together with disbursements and GST, totalled $107,809.47. Although that was titled "Originating Summons No. 304 of 2014" and "Arbitration No. 123 of 2010", the Law Firm said this was a mistake and the bill was meant for another arbitration matter. I shall return to this later.

Taxation

6 The Law Firm obtained payment of all these bills, but thereafter the Client commenced proceedings by Originating Summons No 931 of 2016 ("OS 931") for a declaration that the bills were not proper bills, and in the alternative, that they be referred to the Registrar for taxation. The court gave the client leave

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to tax Invoice 39, as well as Invoice 86 which was for $321,000 ($300,000 in professional fees plus GST). Both parties appealed to the Court of Appeal but thereafter settled on the basis that all the "bills" in issue in OS 931 would be submitted to taxation. Those "bills" included an e-mail of 15 January 2014 requesting a $50,000 deposit, Invoice 46 for $100,000 in disbursements, and:

(a) Invoice 15 for $54,113.20 (of which $50,000 was for professional fees);

(b) Invoice 39 for $107,809.47 (of which $100,000 was for professional fees);

(c) Invoice 54 for $107,535 (of which $100,000 was for professional fees); and

(d) Invoice 86 for $321,000 (of which $300,000 was for professional fees).

7 At the taxation, the Law Firm sought the following:

S/N	Description	Amount
1	Section 1 costs (*ie*, professional fees)	$838,942.83
	(a) Singapore proceedings, *ie*, OS 304	$150,000
	(b) Time spent and work done in respect of the UK proceedings	$478,600
	(c) Correspondence relating to the UK proceedings	$60,342.83
	(d) Refreshing upon the antecedent proceedings in SIAC 123 and OS 304 in the course of Folio 1276	$150,000

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2	Section 2 costs (*ie*, costs of taxation)	$5,000
3	Section 3 costs (*ie*, disbursements)	$152,729.85
TOTAL		**$996,672.68**

8 By correspondence just prior to the hearing before me, the Law Firm stated that there was a calculation error in item 1(c) above. That figure of $60,342.83 had various components, one of which was a figure of $35,430 which was presented as the value of time spent by lead counsel, Mr Peter Gabriel, on correspondence with the UK solicitors. That was for some 2,126 minutes (not from timesheets – there were none – but this time figure was reconstructed for the purposes of taxation). I was informed that this ought to have been 8,362 minutes, which in dollar terms would be $139,366.66 at Mr Gabriel's rate of $1,000 per hour. Thus corrected, $164,279.49 would be claimed under item 1(c) ("correspondence relating to the UK proceedings"), and the total claimed would be $1,100,609.34 (of which $942,879.49 would be for professional fees).

9 I found it odd that the Law Firm would ask to correct the reconstructed time figure, and correspondingly the "time costs" figure claimed, because the Law Firm had abandoned this analysis before the taxing registrar. The exchange on this as recorded by the taxing registrar is illuminating:

> AC: There are a few points I'd like to raise. Start off with those parts which RC touched on in relation to our timesheets.
>
> Page 115 of BC. Item 20. 20 June 2014. Superficial reading would suggest that no lawyer will spend 90 minutes reading an invoice. It doesn't make sense. We are not relying on this timesheet for these purposes.
>
> Ct: So you are not relying on any of these timesheets at all?

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> AC: No. Happy to explain how it came about but we are not relying on any of this. That's why in our second submissions, we had gone through the number of pages etc.
>
> Ct: So I can ignore all of these timesheets? They are not supportive at all of your BC?
>
> AC: They were an attempt to provide explanation. We had an independent lawyer not involved in these proceedings to try to rationalise the time based on correspondence etc. But they do not reflect actual time spent because we don't have contemporaneous timesheets. They are clearly a mistake.
>
> The same goes for the other items that RC took Your Honour through, in the timesheets.
>
> Ct: I will take it that your position is I can just ignore all of the timesheets?
>
> AC: Yes.

10 In the event, the taxing registrar allowed $230,000 under section 1 for professional fees: $120,000 for the Singapore proceedings, $60,000 for the UK proceedings, and $50,000 for the Law Firm's role in overall strategy and coordination. Under section 2, $5,000 was allowed for costs of the taxation. Under section 3, the full sum of $152,729.85 was allowed for disbursements.

Taxation review

11 Both the Law Firm (by HC/SUM 2879/2020) and the Client (by HC/SUM 2880/2020) applied for a review. My decision on the taxation review follows.

Professional fees

12 As I mentioned above, no timesheets were kept by the Law Firm for this matter. Instead, for the purposes of taxation, the Law Firm sought to reconstruct what time may have been spent by: (a) looking at the

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correspondence; and (b) applying estimates based on factors such as the number of pages in a document, and assuming it took five minutes to read each page.

13 In *Tommy Choo, Mark Go & Partners v Kuntjoro Wibawa and other matters* [2015] SGHC 239 ("*Tommy Choo*"), the instructing solicitors had claimed $344,300 as section 1 costs. $127,500 was allowed on taxation, and that was reduced on review to $50,000. Under section 3, $944,310.80 was claimed, including $937,000 for counsel's fees. On taxation, $480,000 was allowed as counsel's fees, and that was reduced on review to $200,000. The law firm and counsel had not produced contemporaneous timesheets or attendance notes that accurately recorded the time they had spent on the case. As for the timesheets and fee note that counsel had produced, the court was not satisfied that they had been made contemporaneously and had doubts as to their reliability; moreover, they only stated the hours that had been spent on the case without any details of work done. The court concluded at [24] that "[i]n the absence of reliable, credible and contemporaneous documents that support and substantiate their claim, [the law firm and counsel] cannot expect the court to accept the large figures in their bills of cost".

14 In the present case, the taxing registrar made similar observations:

> … After the Respondent's counsel pointed out issues with certain entries, the Applicant's counsel had asked that the Court disregards these time entries. This means that there is no contemporaneous breakdown or timesheets before me to support any of the professional fees that the Applicant is claiming against the Respondent, save for the description of work done found in invoice no. 54 and the bits and pieces that can be made out from the English solicitors' time entries. In the premises, I have no choice but to adopt a broad brush approach in assessing what would be reasonable Section 1 costs.

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15 I adopted the same "broad brush" approach in assessing what reasonable costs would be, based on the material available before me.

16 Before considering the costs in their various components as well as in total, I shall consider the effect of the presumptions as to reasonableness and unreasonableness under O 59 r 28 of the Rules of Court (Cap 322, R 5, 2014 Rev Ed) ("ROC").

Presumptions as to reasonableness and unreasonableness in a solicitor-client taxation

17 The Law Firm had received the full amount billed in Invoices 15, 54 and 86 (which totalled $450,000 in professional fees for the post-award work). It contended that all these bills should be presumed to be reasonable.

18 In this regard, O 59 r 27(3) of the ROC provides as follows:

> On a taxation on the indemnity basis, all costs shall be allowed except in so far as they are of an unreasonable amount or have been unreasonably incurred and any doubts which the Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party; and in these Rules, the term "the indemnity basis", in relation to the taxation of costs, shall be construed accordingly.

19 Order 59 r 28 then provides, in material part, as follows:

> **Costs payable to solicitor by his own client (O. 59, r. 28)**
>
> **28.**—(1) This Rule applies to every taxation of a solicitor's bill of costs to his own client.
>
> (2) On a taxation to which this Rule applies, costs shall be taxed on the indemnity basis but shall be presumed —
>
> (*a*) to have been reasonably incurred if they were incurred with the express or implied approval of the client;

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> (*b*) to have been reasonable in amount if their amount was, expressly or impliedly, approved by the client; and
>
> (*c*) to have been unreasonably incurred if, in the circumstances of the case, they are of an unusual nature unless the solicitor satisfies the Registrar that prior to their being incurred he informed his client that they might not be allowed on a taxation of costs *inter partes*.

20 The question that arises is therefore whether the Client had expressly or impliedly approved the incurring of the disputed costs and the amounts thereof. If so, those costs would be presumed to have been reasonably incurred and reasonable in amount, per O 59 rr 28(2)(*a*) and 28(2)(*b*) of the ROC respectively.

21 In the present case, the Client paid Invoice 15 by cheque. The amount billed appears to have been approved by the Client, expressly or impliedly, and it would be right to start from the premise that Invoice 15 was reasonable. Invoice 15 was titled "Originating Summons 304 of 2014" and only a generic description of work was provided, but the Law Firm's position in the taxation was that this was an interim bill for the Singapore proceedings.

22 Invoice 54 was titled "Originating Summons No. 304/2014 (Arb No. 123/2010)" but came with an accompanying breakdown of items ("the Breakdown"), all of which pertained to the UK proceedings. The Law Firm's position was that this was an interim bill for the UK proceedings. The invoice was partly satisfied by a deduction from moneys in the client account, and the balance by cheque. On its face, the invoice reflects a deduction (or intended deduction) from the client account: "LESS: monies in client's account – $44,629.21", leaving a balance of $62,905.79 payable. The Client asserted that it had not been notified in advance that moneys would be deducted in partial

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satisfaction of that invoice, but it nevertheless paid the balance of $62,905.79 by cheque. The Client would have acquiesced in the deduction, even if it had not been informed of it in advance. As with Invoice 15, for Invoice 54 too I would start from the premise that it was reasonable.

23 Invoice 86, however, was more controversial. The Client's representative, Mr Zhu, gave evidence in OS 931 that the Law Firm had deducted payment for that $321,000 bill, as follows:

(a) $300,000 from the amount it received from the opposing party in the arbitration; and

(b) $21,000 (essentially, GST on the $300,000) by a deduction from moneys standing to the Client's credit, in the client account.

24 There would be no presumption under O 59 r 28(2)(*b*) that the amount of $300,000 in professional fees in Invoice 86 was reasonable if the Law Firm had paid itself that amount by deducting it from moneys it had received on behalf of the Client. That would not constitute express or implied approval of the amount by the client.

25 In OS 931, the Law Firm had contended that the sum of $300,000 was an "agreed fee" which the Client had expressly agreed to at a meeting, but that was disputed by the Client. The court found that Mr Zhu "had no basis or detailed information by reference to which he could make an informed decision on what would be a reasonable final sum to close the accounts between the Client and the [Law] Firm for the 123 Award Enforcement Proceedings": see *H&C S Holdings Pte Ltd v Gabriel Law Corp* [2018] SGHC 168 ("*H&C*") at [171]. The court held that Invoice 86 should go to taxation.

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26 In the taxation and on review before me, the Law Firm did not seek to establish that the $300,000 in professional fees billed in Invoice 86 was an "agreed fee". Instead, it sought to claim even higher sums in taxation.

27 The Law Firm did not satisfy me that the presumption of reasonableness under O 59 r 28(2)(*b*) applied to Invoice 86 and the amount of $300,000 in professional fees therein.

28 As such, only $150,000 in professional fees ($50,000 for the Singapore proceedings and $100,000 for the UK proceedings) would attract the presumption of reasonableness under O 59 r 28(2)(*b*).

29 The Law Firm also contended that a presumption of reasonableness could only be rebutted by showing that the costs were, "in the circumstances of the case … of an unusual nature", *ie*, if the presumption of *unreasonableness* under O 59 I 28(2)(*c*) applied. With respect, that is a misreading of the rule. Order 59 r 28(2) has three presumptions – rr 28(2)(*a*) and 28(2)(*b*) are presumptions of reasonableness; r 28(2)(*c*) is a presumption of unreasonableness. All three presumptions are rebuttable, and on a plain reading of O 59 r 28(2), one does not need to invoke the presumption of unreasonableness under r 28(2)(*c*) in order to rebut the presumptions of reasonableness under rr 28(2)(*a*) and 28(2)(*b*). If the presumption of unreasonableness under r 28(2)(*c*) were the only way to rebut the presumptions of reasonableness under rr 28(2)(*a*) and 28(2)(*b*), this would have been made explicit in O 59 r 28(2), but that is not what the rule says (see [19] above).

30 In *Wong Foong Chai v Lin Kuo Hao* [2005] 3 SLR(R) 74, Andrew Phang Boon Leong JC (as he then was) held (at [22]–[44]) that the presumption

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of reasonableness under O 59 r 28(2)(*b*) was *not* conclusive or irrebuttable. In particular, he stated (at [32]) that "where there is clear evidence that the amount was jarringly out of all proportion to that which would be awarded under any normal circumstances for similar work done by a solicitor for his or her client, then I should think that that would be a situation where the presumption under that provision would in fact be rebutted". It follows that the presumption of reasonableness under O 59 r 28(2)(*b*) can be rebutted without having to show that the costs were "of an unusual nature" under O 59 r 28(2)(*c*).

31 The Law Firm can nevertheless still rely on O 59 r 27(3) to have resolved in its favour, as the receiving party, any doubts as to whether costs were reasonably incurred or were reasonable in amount.

32 I now consider the specific sums allowed by the taxing registrar for the Singapore proceedings ($120,000), the UK proceedings ($60,000) and overall strategy and coordination ($50,000), whilst keeping in mind the total of $230,000 allowed for professional fees at first instance.

33 In my analysis, I prefer to focus simply on (a) costs for the Singapore proceedings; and (b) costs for the UK proceedings, without an added set of costs for overall strategy and coordination as allowed by the taxing registrar. In so far as strategy and coordination were required, I have taken that into account in evaluating the work done for the Singapore and the UK proceedings. Moreover, as I elaborate below, the Singapore proceedings had ended in August 2014 before the UK proceedings were commenced in October 2014. Although preparations were being made for the UK proceedings while the Singapore proceedings were underway, both sets of proceedings were never concurrently ongoing. The amount of work done in relation to overall "coordination", as a

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discrete category from the work done for both sets of proceedings, should thus not be overstated.

34 In a similar vein, I have not allowed the "refresher fee" claimed by the Law Firm (in the sum of $150,000) for reviewing the documents in SIAC 123 and the Singapore proceedings, for the purposes of the UK proceedings. The taxing registrar did not allow this either. To the extent that such documents needed to be reviewed, I have taken that into account in assessing the costs of the UK proceedings. Given the proximity in time between the arbitration, the Singapore proceedings and the UK proceedings, I did not regard any "refresher fee" as such to be justified. Moreover, there was a danger of double (or triple) counting for the same work – for instance, in claiming for the Singapore proceedings, the Law Firm put forward a figure of $104,000 in reconstructed time costs for reading and considering an affidavit containing documents from the arbitration (see [41]–[44] below). Was the same work also included in the claim in relation to the UK proceedings, *and* also by way of a "refresher"?

Fees for the Singapore proceedings

35 In the taxation, the Law Firm had claimed $150,000 for the Singapore proceedings, *ie*, OS 304 including SUM 1942 therein. The taxing registrar allowed $120,000. She understood the Client to have submitted that $120,000 should be allowed, and she chose that (as the lower of the two figures) as a reasonable amount to award for this component of costs.

36 Before me, the Client's counsel contended that there had been a miscommunication in the course of the taxation: there was no intention to submit that $120,000 was reasonable for the Singapore proceedings; instead, the figure of $120,000 had been proposed for both the Singapore proceedings

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and parallel work in relation to the UK proceedings, with a further $30,000 to be added for the UK proceedings. The notes of argument before the taxing registrar did provide support for this contention, but the notes also showed that there were points at which the taxing registrar and the Law Firm had characterised the Client's position as being that $120,000 should be allowed for the Singapore proceedings, and the Client's counsel did not then correct that impression. Be that as it may, I did not hold the Client to the figure of $120,000 for the Singapore proceedings. The Client rightly made the point that if work on the Singapore proceedings were useful for the UK proceedings, there would be costs savings from work being done "in parallel".

37 The Law Firm did not ask to raise the sum of $120,000 that had been allowed for the Singapore proceedings; the Client contended that it should be reduced to $30,000–$60,000.

38 Like the taxing registrar, I considered the work done in relation to the Singapore proceedings, which spanned some four and a half months from when OS 304 was filed on 1 April 2014, through 19 August 2014 when orders of court were extracted following a hearing on 12 August 2014. The setting-aside application was quite tightly focused. Three affidavits were filed on behalf of the opposing party, two on behalf of the Client; none of them had lengthy text. The opposing party filed two sets of submissions; the Client did not file any.

39 I also considered the fact that the Law Firm had issued Invoice 15 in the sum of $54,113.20 (including $50,000 in professional fees) for the Singapore proceedings. That bill was issued on 8 May 2014, and the Client paid it. More work was done after that, through 19 August 2014 when orders of court were extracted.

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40 I started with a presumption of reasonableness in relation to the $50,000 billed in Invoice 15 on 8 May 2014. However, by then only five weeks' work had been done since OS 304 was filed. As of 8 May 2014, the opposing party had only filed a supporting affidavit comprising just 13 pages of text, or 50 pages including exhibits. In response, the Client had filed SUM 1942 and two affidavits, and there had been a pre-trial conference. Of the Client's two affidavits, one had four pages of text, or 47 pages including exhibits; the other had six pages of text, or 35 pages including exhibits. Moreover, the Law Firm itself did not consider the sum of $50,000 to refer to the work done for the Singapore proceedings up to the date of Invoice 15; instead, it was regarded as an interim payment towards whatever the final figure might be (see [55] below). In the circumstances, I would regard the presumption as to reasonableness in amount in relation to Invoice 15 as having been rebutted.

41 After Invoice 15 was issued on 8 May 2014, the Client received two more affidavits and two sets of submissions from the opposing party; there was a hearing on 12 August 2014; and orders of court were extracted on behalf of the Client on 19 August 2014. Party-and-party costs of $12,000 (inclusive of disbursements) were awarded to the Client for OS 304 at the hearing on 12 August 2014.

42 As for those two further affidavits from the opposing party, one had just three pages of text and no exhibits; the other had three pages of text, or 885 pages including exhibits. The exhibits were however documents pertaining to the arbitration that had just concluded. On the basis of time reconstruction, the Law Firm put forward total "time costs" in the region of $250,000, but "only" claimed $150,000.

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43 In the Law Firm's further submissions dated 15 April 2020, it submitted:

(a) The 885-page affidavit justified reading costs of $74,000 because it would have taken Mr Gabriel 74 hours (or seven and a half days, ten hours a day, at five minutes a page) to read through it.

(b) "Thereafter, Mr Gabriel would have had to analyse the same to form a proper opinion and formulate the strategy for OS 304, the costs of which would be approximately **$30,000**" [emphasis in original]. This amount corresponds to 30 hours of Mr Gabriel's time.

44 These submissions were unreal. That 885-page affidavit was filed in the afternoon of 11 August 2014, and the hearing was the next morning on 12 August 2014 at 10am. What the Law Firm submitted Mr Gabriel would have spent 104 hours doing, he had less than 22 hours to do (if that was all he did from the time the 885-page affidavit was filed, and all through the night).

45 All this goes to show how absurd the claim based on reconstructed time was, and this methodology was abandoned at first instance.

46 As for the substance of the Singapore proceedings, the opposing party's setting-aside application was based on alleged breaches of natural justice: (a) that the arbitrator had breached his duty to understand and consider the parties' submissions on two points, and (b) that one of those two points was an essential issue which the arbitrator had breached his duty to understand and deal with, thereby arriving at a conclusion for which the evidence was lacking.

47 On behalf of the Client, the Law Firm relied on the award itself to rebut the opposing party's allegations. There is no record of any written submissions

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filed by the Law Firm electronically; the other side filed two sets. But the Law Firm's further submissions of 15 April 2020 in this taxation referred to the preparation of a 20-page set of submissions for OS 304 – perhaps that was prepared, and relied upon in OS 304, after all.

48 The Law Firm was efficient in its approach to the application, and it was victorious – the court accepted that there were no breaches of natural justice, and indeed that the grounds raised by the opposing party did not relate to the rules of natural justice.

49 In this regard, I bear in mind the Court of Appeal's guidance in *Lin Jian Wei and another v Lim Eng Hock Peter* [2011] 3 SLR 1052 ("*Lin Jian Wei*") at [68] and [71] that "skilled work completed with expedition should always be better rewarded in preference to inefficiency" but that "the time spent, while significant, is *but only one of a number of reference points* to gauge the reasonableness and proportionality of the amount to be taxed" [emphasis in original]: see also [66]–[70] of the judgment. The Law Firm, however, sought to justify its claims wholly by reference to Mr Gabriel's rate of $1,000 per hour, although no timesheets were maintained – but this resulted in it putting forward reconstructed time figures that were unrealistic, or plainly impossible.

50 This had consequences for its credibility in the taxation process, and the Law Firm would have been better served by focusing on the other criteria mentioned in Appendix 1 to O 59 of the ROC, where the following are listed in paragraph 1(2):

> (*a*) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;

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> (*b*) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor;
>
> (*c*) the number and importance of the documents (however brief) prepared or perused;
>
> (*d*) the place and circumstances in which the business involved is transacted;
>
> (*e*) the urgency and importance of the cause or matter to the client; and
>
> (*f*) where money or property is involved, its amount or value.

51 Instead, the Law Firm's focus was on "time and labour expended" on a reconstructed time basis – not only did that entail Mr Gabriel doing some 104 hours' worth of work within a 22-hour period (see [43]–[44]), it also included almost half a million dollars for trips to the UK (as I will discuss in relation to the UK proceedings at [66]–[94] below).

52 There are at least three further problems with the Law Firm's computation of its costs on a reconstructed time basis. First, the Law Firm's computation was premised on a blanket rate of $1,000 per hour for work done by Mr Gabriel, whether the work in question was reading the opposing party's 885-page affidavit (which overwhelmingly comprised documents relating to the recently concluded arbitration that the Law Firm itself had handled) or drafting and preparing legal submissions. Such an approach was indifferent to the "complexity of the item" and the "number and importance of the documents … prepared or perused", per Appendix 1 to O 59 of the ROC. Second, the Law Firm's reconstruction of 104 hours spent reading and analysing the 885-page affidavit would mean that it had spent much of its time in OS 304 on that affidavit (which it had received the afternoon before the hearing) – an amount of time that far outstripped the time spent drafting and preparing submissions

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(approximately 20 to 30 hours). Third, there appeared to be a potential issue of double counting. The Law Firm attributed $30,000 in costs to "the preparation of the legal submissions and analysing the same by Mr Gabriel" following the filing of the opposing party's first set of submissions. However, another $20,000 was attributed to "drafting, amending and preparing the submissions of the [Client]" while "[p]erusing through and analysing the various cases amounted to approximately $20,000 to $30,000" [emphasis in original omitted]. Without further details on the nature of the submissions prepared by Mr Gabriel, it is doubtful if those sums were justified – it is not unreasonable to expect an overlap in work done as regards (a) analysing the opposing party's submissions and (b) preparing submissions on the Client's behalf.

53 Consequently, the taxing registrar and I did not receive much assistance from the Law Firm in our evaluation of the *nature* of the work done. In the event, and bearing in mind that "taxing Registrars and Judges should always approach claims for large amounts of time spent with an attitude of healthy agnosticism" (*Lin Jian Wei* ([49] *supra*) at [70]), we looked at available information and documents, and drew conclusions as to what was reasonable remuneration for the work done.

54 Having done so, I consider that the $150,000 claimed for the Singapore proceedings is too high, and indeed so is the $120,000 allowed by the taxing registrar (although that was influenced by her perception that the Client's counsel had put forward this figure). On the other hand, the range of $30,000–$60,000 suggested by the Client is too low.

55 Returning to Invoice 15, it appeared that the $50,000 billed was not the Law Firm's estimate of what was reasonable for the work done up to that point

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(*ie*, 8 May 2014) for the Singapore proceedings. Instead, it was meant just as an interim figure pending a further bill (in the event, Invoice 86) to bring the total up to what the Law Firm sought. This was also the case for Invoice 54 for the UK proceedings. The Law Firm regarded itself entitled to render a further bill (again, Invoice 86), even if it thereby billed more for the same work, in the same period, that had been covered by an earlier bill.

56 Thus, in OS 931, and before me, Invoice 86 for $300,000 in professional fees was portrayed as a "final invoice" looking back on the whole of the post-award work, bringing the professional fees component up to $450,000 ($50,000 under Invoice 15 for the Singapore proceedings, $100,000 under Invoice 54 for the UK proceedings, and $300,000 under Invoice 86 for both).

57 However, it would not have been apparent to the Client that Invoice 15 and Invoice 54 did not in fact represent what the Law Firm considered appropriate for the work or period in question.

58 Moreover, if the Law Firm regarded $450,000 as a reasonable fee for the post-award work as a whole, why did it claim in taxation the substantially higher figures of $838,942.83 and $942,879.49 (see [7] and [8] above)? Was $450,000 a reasonable fee, and double that amount also a reasonable fee for the same work?

59 The way in which the Law Firm had billed the Client, and its approach to taxation, invited scrutiny of the sums billed and claimed, and that scrutiny could (and did) lead to the Law Firm being allowed less than what it had billed.

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60 In the final analysis, I am minded to reduce the professional fees for the work done for the Singapore proceedings to $85,000, but I shall revisit this when I consider what would be an appropriate total for the post-award work.

Fees for the UK proceedings

61 In considering the work done for the UK proceedings, I also included the aspects of strategy and coordination, *ie*, I did not treat those as a separate component as the taxing registrar did. I likewise included matters such as consideration of settlement, evaluation of options for pursuing payment, and ultimately collection of payment.

62 The taxing registrar allowed $110,000, inclusive of $50,000 for strategy and coordination. The Client contended that only $70,000 in all should be allowed for the UK proceedings. The Law Firm had in the taxation claimed $688,942.83 in professional fees for the UK proceedings, and the correction of the calculation error I mentioned (at [7] and [8] above) would raise that to $792,879.49. This stands in stark contrast to the £59,665.17 (equivalent to $123,736.33) charged by the UK solicitors (inclusive of counsel's fees, and disbursements).

63 The Law Firm's claim was based on a reconstruction of time spent: the process involved reviewing the correspondence, and the trips Mr Gabriel had made to London. The picture which emerged was however a strange one.

64 For instance, for the component of Mr Gabriel's correspondence with the UK solicitors, the figure of $139,366.66 is higher than the $123,736.33 billed by the UK solicitors (inclusive of counsel's fees) for directly handling the

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UK work, including: drafting and filing court papers, attending the hearing before Phillips J, *and* corresponding with the Law Firm.

65 Moreover, further sums of $13,490.83 and $10,089.50 were claimed for other categories of correspondence.

66 Most significantly, a separate claim was made for the time spent by Mr Gabriel in the UK, or for flying to and from the UK, in the sum of $478,600.

67 In the taxation, the Law Firm made claims for three trips by Mr Gabriel to the UK – from 15 January to 4 February 2014 (19 days plus flying days before and after); from 28 September to 7 October 2014 (eight days plus flying days before and after); and from 5 February to 19 February 2015 (13 days plus flying days before and after). For each day that Mr Gabriel spent in the UK, the Law Firm attributed a value of $10,000, *ie*, a ten-hour day at his hourly rate of $1,000. For each flying day, the Law Firm attributed a value of 13hr 10min (of flight time) at the same rate. In other words, a flight to the UK would cost the Client more (at $13,100) than for Mr Gabriel to spend ten hours working on its matter (at $10,000). Moreover, Mr Gabriel's "per day" rate of $10,000 was applied to every day that he was in the UK, even if on some days he might only spend a few minutes on work for the Client, and on some days possibly no time at all. These trips, covering 46 days (40 "London days" and six "flying days"), amounted to the "whopping" sum of $478,600 (as the taxing registrar described it).

68 The evidence did not show that the Client had known beforehand that Mr Gabriel intended to charge $1,000 per hour for work generally or even for taking a flight; or $10,000 per day while he was overseas (regardless of how

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much time was actually spent on work during those trips). The Client only received Invoice 54 with the accompanying Breakdown, which stated his hourly rate of $1,000 and his daily rate of $10,000, on 19 March 2015 – that was after all of Mr Gabriel's trips to London for which the Law Firm made a claim in taxation.

69 It does appear that the Client and Mr Gabriel met on 15 January 2014, following which Mr Gabriel e-mailed the Client to say: "Our meeting this morning refers. I will proceed to London to discuss with English solicitors to register the award in London." That preceded the January–February 2014 trip.

70 Before the September–October 2014 trip, Mr Gabriel had e-mailed the Client on 24 September 2014 to say:

> … your judgment has become final. We had in the meantime extracted the court order in our favour and have forwarded it to our English solicitors to proceed with the filing of proceedings in England to register the award.
>
> I shall be leaving for England over the weekend to settle these matters directly with the solicitors in London to expedite the registration so that we can receive the money fast.

71 It appears that Mr Gabriel did meet with the UK solicitors on 2 October 2014 (see [90(b)] below). On 21 October 2014, the UK solicitors filed a registration application on behalf of the Client.

72 As for the February 2015 trip, the Client may not have been notified of it beforehand, but it was mentioned thereafter and the Client did not object. The Law Firm pointed to a 17 February 2015 e-mail from Mr Gabriel informing the

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Client: "I have met up with the solicitors and the Queen's Council [*sic*] in respect of your matter …"[1]

73 There was also express reference to meetings in London in February 2015 in the Breakdown. The Client did not then take issue with Mr Gabriel's having gone to London for meeting(s) in February 2015, but paid the balance of the bill by cheque, after part of the bill had been deducted from moneys in the client account.

74 The Breakdown is however telling for a number of reasons.

(a) First, the Breakdown mentions "Time Cost for Mr Gabriel at an hourly charge of SGD 1,000.00" – there is nothing to show that the Client knew of this hourly rate prior to 19 March 2015, when he was provided with the Breakdown.

(b) Second, the Breakdown includes the following:

> Meeting with English Solicitors in London from 25 January 2014 – 29 January 2014, 5 February 2015 – 7 February 2015 & 9 February 2015 – 10 February 2015
>
> Total Cost: SGD 100,000.00 (SGD 10,000.00 a day x 10 days)

While this appears to be a per day charge, it would not have been apparent to the Client that the meetings might only have taken a short period of time on each of the days mentioned. Also, only ten days were mentioned in the Breakdown, instead of the 46 days for which the Law Firm sought to claim in taxation.

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[1] Annexed to the Law Firm's letter to the court dated 30 June 2020.

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(c) Third, the Breakdown then lists other items of work, with time spent per item, totalling 49 hours. It concludes as follows: "Total Time Spent for Mr Gabriel: 49 hours x SGD 1,000.00 = SGD 49,000.00 + SGD 100,000.00 = SGD 149,000.00".

75 As Invoice 54 was for $100,000 in professional fees, the Breakdown would have given the Client the impression that for the period covered by the bill – at least until 10 February 2015, which is the latest date in the Breakdown – the Law Firm was only charging $100,000 in professional fees, although from the Breakdown it could have justified $149,000 based on time costs and a per day rate. There was no suggestion then that for the January–February 2014 trip and the February 2015 trip (which would cover the meeting dates mentioned in the Breakdown), the Law Firm would be billing for *all* of Mr Gabriel's days in London and his time spent on flights there and back. The September–October 2014 trip, which accounts for $106,200 of the Law Firm's claim in taxation, was not mentioned at all in the Breakdown.

76 Invoice 54 has the following printed at its foot: "We reserve the right to deliver a subsequent bill for any disbursements omitted." Nothing was however said about the Law Firm rendering a subsequent bill for other work purportedly done in the same period.

77 I also compared the meeting dates in the Breakdown with the time entries of the UK solicitors:

(a) For 25–29 January 2014, there is no mention of any meeting between the UK solicitors and Mr Gabriel. The first entry is for 24 February 2014, for "Engagement Letter to Client …" which was non-chargeable.

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(b) For 5–7 February 2015, there are no time entries for a meeting with Mr Gabriel; there is only a one-unit (*ie*, six-minute) entry for "Telcon to Peter Gabriel to discuss documents and emails" dated 5 February 2015. I also note that for 5 February 2015, the Law Firm claimed $13,100 for flight time, rather than the $10,000 per day charge for Mr Gabriel's being in London.

(c) For 9–10 February 2015, there is no entry for a meeting with Mr Gabriel on 9 February 2015. The only entry of 9 February 2015 that relates to Mr Gabriel is a one-unit (*ie*, six-minute) entry that states "Email to PG with report on exchanges with Stephenson Harwood and arrangements for conference with counsel". On 10 February 2015, there is a 20-unit *(ie*, two-hour) entry for "Travel to/from conference with counsel. Attend conference with CK, PG and SJC".

78 Of the ten meeting days mentioned in the Breakdown, the UK solicitors' time entries only corresponded to the extent of a two-hour entry (inclusive of travel time) on 10 February 2015 for attending a conference with counsel ("CK"). This led me to doubt whether there were in fact meetings on the ten days in question, other than the one conference with counsel on 10 February 2015.

79 In the UK proceedings, a "statement of costs" was presented to seek party-and-party costs. That statement of costs mentioned Mr Gabriel's involvement in meeting with the UK solicitors in London, but only attributed a period of two hours to that (which accorded with the sole time entry for a conference with counsel on 10 February 2015). Some of the other entries in the Breakdown were omitted from the statement of costs; other entries were

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reflected in the statement of costs, but with lower amounts of time attributed to each entry. In total, the value of Mr Gabriel's contribution (at the rate of $1,000 per hour) in the statement of costs was just $14,500, as compared to $149,000 in the Breakdown.

80 The Law Firm said that the UK solicitors had deliberately been conservative as they were claiming costs on a party-and-party basis. The fact remains that the UK solicitors *scaled down* Mr Gabriel's involvement from what is seen in the Breakdown, but in taxation the Law Firm contended that Mr Gabriel's involvement was *much more* than what the Breakdown shows. In any event, the disparity between the sum of $149,000 (reflected in the Breakdown) and the sum of $14,500 (shown in the statement of costs) is simply too wide to be attributable to mere conservatism on the part of the UK solicitors.

81 Whatever meetings Mr Gabriel may have had with the UK solicitors or counsel, they did not appear to be time-consuming: nothing in the order of ten hours a day, let alone ten hours a day for ten days, and certainly not for 46 days as claimed in taxation. The objective contemporaneous evidence of meetings in London is very slight compared to what was claimed – see [77(c)], [78], [90(b)] and [90(d)].

82 The Law Firm contended that Mr Gabriel charges a fixed sum of $10,000 per day for all trips abroad made on behalf of his clients, and if the work done for the day exceeded ten hours, Mr Gabriel would still keep to $10,000 per day while he remained overseas. The corollary would be that if the work done for the day were much less than ten hours, or even if no work were done *at all* on a particular day, Mr Gabriel would still charge $10,000 for that day. It does not appear that the Client knew this before the trips in question. The

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Law Firm points to the Breakdown to say that the Client was aware of this per day charge, but the Breakdown was only provided *after* the trips had been made. Moreover, even if Mr Gabriel had travelled to London for *this* client, the possibility that he had also attended to work for *other* clients whilst in London cannot be excluded.

83 It seemed to me that the Law Firm had simply treated Mr Gabriel's flights to and from London as "bookends" and then sought to fill the space in between by charging $10,000 per day, and additionally, $13,100 in professional fees per flight, with little or no regard for what *work* was actually done during those trips. That led to the figure of $478,600 claimed in fees for those trips.

84 The court was not provided with information as to whether Mr Gabriel had done any work for other clients during those trips, or whether he had spent any time on leisure; but he certainly could not have spent ten hours a day, for 40 days (excluding flying days), *ie*, 400 hours in London working on the UK proceedings. The fact that (aside from meeting days) the Breakdown only has a more modest figure of 49 hours for the listed items of work, supports this conclusion. Adding two hours for the conference with counsel on 10 February 2015 only brings that figure up to 51 hours.

85 Even more troubling was the claim made in relation to the January–February 2014 trip: a sum of $216,200 was claimed for that, being $190,000 for 19 days in London and $26,200 for flight time. But the clock started running from 16 January 2014 (excluding flight time on 15 January 2014), even though the first date for "meeting with English solicitors in London" in the Breakdown is 25 January 2014. Why should the Client pay the Law Firm $90,000 for the nine days from 16 to 24 January 2014, before Mr Gabriel supposedly met the

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UK solicitors on 25 January 2014 (if there had been such a meeting)? Whatever Mr Gabriel might have been doing in London from 16 to 24 January 2014 (for which no explanation was provided), he was certainly not working on the UK proceedings – there were no UK proceedings then.

86 The Breakdown states "Meeting with English solicitors in London from 25 January 2014 – 29 January 2014", but the Law Firm was not specific as to when exactly Mr Gabriel met with the UK solicitors; was it only on one day in that period, on more than one day, or on all five days?

87 After the stated 25–29 January 2014 "meeting" period, Mr Gabriel stayed on in London till 3 February 2014. What was he doing in the five days from 30 January to 3 February 2014 such that the Client should pay the Law Firm $50,000 for those days?

88 My disquiet grew when I noted that the UK solicitors' first time entry was on 24 February 2014, 20 days *after Mr Gabriel had left London* on 4 February 2014 following his 19-day stay there from 16 January 2014 through 3 February 2014. Did Mr Gabriel's 16 January to 3 February 2014 trip even have anything to do with the UK solicitors' being engaged in *late* February 2014? In taxation, $216,200 was claimed in professional fees for this trip.

89 Moreover, the first order of business in the UK was to apply to enforce the award: that was a straightforward *ex parte* application filed on 21 October 2014, resulting in an order being made by 6 November 2014 (apparently without court attendance being necessary). That application did not justify lengthy and costly trips by Mr Gabriel to London in January–February 2014 and September–October 2014. Indeed, I doubted whether even one trip would be justified for

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that application. The UK solicitors' time entries, from their first entry on 24 February 2014 to 6 November 2014 when the *ex parte* order was obtained, totalled 27.4 hours, for which they billed £6,534[2] ($13,721.40 at the exchange rate of $2.1 to £1 used in the Bill of Costs (Amendment No. 1) ("Bill of Costs")). Allowing the Law Firm as instructing solicitors to charge hundreds of thousands of dollars, in relation to that same work, would be jarring.

90 Moreover, the Law Firm's disbursements claim did not cohere with its position that the Client should pay professional fees of $10,000 per day for Mr Gabriel's 40 "London days", plus six "flying days":

(a) For the January–February 2014 trip, the Law Firm claimed Mr Gabriel's airfare for a 15 January to 4 February 2014 return trip. But hotel accommodation was only claimed for 25 to 29 January 2014 (matching the meeting date range in the Breakdown). Why was no hotel accommodation claimed for the rest of the trip? Was Mr Gabriel in London for other purposes? Was this Client the main reason for that trip (or even *a* reason for that trip)?

(b) For the 28 September to 7 October 2014 return trip, airfare was claimed, as was a £101 meal on 4 October 2014, but no hotel accommodation was claimed at all – why not, if this Client had in fact been the main reason for that trip? This trip was also not mentioned in the Breakdown. Perhaps another client was the main reason for the trip, or it was a leisure trip, and Mr Gabriel incidentally had a short meeting with the UK solicitors on 2 October 2014 as borne out by their time entry

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[2] Bill of Costs (Amendment No. 1) pages 30–42.

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for an hour for the purpose of "Meeting PG at Green Park hotel to discuss matter and next steps".

(c) For the February 2015 trip, airfare was claimed for a 5 to 19 February 2015 return trip, but hotel accommodation was only claimed for 5 to 7 February 2015 and 9 to 10 February 2015, matching the meeting date ranges in the Breakdown. Again, why was hotel accommodation not claimed for the whole period of 5 to 19 February 2015, if Mr Gabriel had to be in London for the entire duration on account of the Client's work (with him staying on until 19 February 2015, after the 10 February 2015 conference with counsel)?

(d) Mr Gabriel made another trip to the UK in or around June 2015. The UK solicitors had a short meeting with Mr Gabriel at his hotel on 11 June 2015 – there is a time entry for 1.5 hours for "Travel to/from meeting at PG hotel to discuss developments and next steps". No disbursements were claimed for this trip. Professional fees were also not claimed on a per day basis. Presumably the June 2015 trip was made for other reasons, and Mr Gabriel had incidentally met with the UK solicitors while in London.

91 In this review, the Law Firm in effect abandoned its claim for the January–February 2014 trip (in terms of professional fees, whilst still claiming trip disbursements). Instead of maintaining its claim for $400,000 for 40 "London days" plus $78,600 for flight time *(ie*, six flights), the Law Firm in its submissions asked that I allow $250,000 for Mr Gabriel's spending 25 days in London on account of the Client between September 2014 to February 2015 (when he had made two trips), $150,000 for work done in Singapore in relation to the UK proceedings, and $150,000 for refreshing on the Singapore

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proceedings and SIAC 123. That would amount to $550,000 for the UK proceedings, which, when added to the $120,000 that the taxing registrar had allowed for the Singapore proceedings, would total $670,000 in professional fees.

92 Why was the Law Firm abandoning its claim for the January–February 2014 trip, which accounted for $216,200 of its taxation claim for professional fees, and five out of the ten meeting days mentioned in the Breakdown, *ie*, $50,000 of the total of $149,000 stated in the Breakdown? Had Mr Gabriel in fact met the UK solicitors in London in the period of 25–29 January 2014, as stated in the Breakdown? There was no contemporaneous evidence of any such meeting – only the Law Firm's say-so, and its Breakdown accompanying Invoice 54.

93 Although I started with a presumption of reasonableness in relation to the amount of $100,000 billed for professional fees in Invoice 54, a closer look at things soon displaced that presumption.

94 It appears that Mr Gabriel spent a lot of time in London, but not very much of it on the Client's work. To claim 46 days' worth (or even 25 days' worth on this review) is quite unwarranted. In *Tommy Choo* ([13] *supra*) at [25], the court noted that time spent by counsel in Jersey after a hearing "was for his own leisure and enjoyment and must thus be disregarded". I did not have such detailed information on how Mr Gabriel had spent his time in London, and so I evaluated what a reasonable fee would be, based on the material before me. I considered the nature of the UK proceedings, the time entries of the UK solicitors, and what the UK solicitors and counsel had charged.

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95 The work done for the UK proceedings comprised:

(a) filing an application for the award to be enforced in the UK, which was done on 21 October 2014 and an *ex parte* order was obtained by 6 November 2014;

(b) responding to the opposing party's application for a stay of proceedings from later in November 2014, and related work, culminating in a hearing before Phillips J on 16 April 2015; and

(c) further work in relation to consideration of settlement and collection of payment.

96 Phillips J issued a three-page judgment (*H & C S Holdings PTE Limited v RBRG Trading (UK) Limited* [2015] EWHC 1665 (Comm)) from which it is evident that the stay application was not complicated. The opposing party contended that there were special circumstances justifying a stay, in that the contract in SIAC 123 was closely linked to another contract under which the opposing party had a claim. It was argued that there would have been an equitable set-off had the claims been arbitrated together, but it was asserted that this could not be done. Phillips J dismissed the application, finding that there were no special circumstances for a stay, especially because the judgment was based on a New York Convention award that ought properly to be enforced.

97 All said, I would moderate the amount of $110,000 allowed by the taxing registrar. I am minded to reduce it to $95,000, which is just below the $100,000 amount billed in Invoice 54.

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Total fees

98 The taxing registrar had allowed $230,000 in professional fees. As stated above, I was minded to reduce that sum to $180,000 ($85,000 for the Singapore proceedings and $95,000 for the UK proceedings).

99 Besides considering what was reasonable for the Singapore proceedings and the UK proceedings separately, I also considered if the total fees were reasonable for the post-award work as a whole.

100 In addition to my observations above, I considered the $355,000 awarded to the Client as legal costs and disbursements in the SIAC 123 arbitration, of which $65,000 was for disbursements and $290,000 was for professional fees. The Law Firm billed the Client the same sum of $355,000 for representing it in the arbitration. In OS 931, the court described SIAC 123 as "a full-blown 4-year arbitration" (*H&C* ([25] *supra*) at [175]). The arbitration involved a two-day hearing, and three rounds of written submissions thereafter.

101 The post-award work comprised enforcing the award in Singapore and the UK, resisting applications brought by the opposing party in Singapore and the UK, and dealing with the opposing party on matters such as settlement and payment collection.

102 It is relevant to compare that sum of $355,000 (of which $290,000 was for professional fees) that was awarded in the arbitration, with the higher sum billed by the Law Firm for post-award work (of which $450,000 was for professional fees), and the even higher sums claimed by the Law Firm in taxation (of which almost $1m was for professional fees).

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103 With my intended reduction of professional fees to $180,000, plus the UK solicitors' bills totalling $123,736.33 and the further disbursements I would allow, the Client would be paying less for the post-award work than the $355,000 (which included $290,000 for professional fees) that the Client had paid the Law Firm for the SIAC 123 arbitration. That proportion seems more reasonable, as compared to allowing the $450,000 in fees that the Law Firm had billed for the post-award work, let alone the much higher sums it sought in taxation. In terms of fees, having paid $290,000 to the Law Firm for the arbitration, the Client would be paying the Law Firm a further $180,000 for the post-award work, and the Law Firm would thus earn $470,000 in total fees, which for the work done is reasonable as between itself and the Client.

Disbursements

104 The Client took issue with the disbursements for Mr Gabriel's London trips, contending that disbursements for three trips should not be allowed, and that one trip would have sufficed. I note that the Client was told of the first two trips in advance, and that it did not object to the third trip (which is also when there was a conference with counsel) when it found out about it. However, in view of my observations about the trips, the meetings and the nature of the work, I agree with the Client that I should only allow disbursements for one trip. I would allow disbursements for the February 2015 trip for which it appears that Mr Gabriel attended a conference with counsel on 10 February 2015. I would thus exclude items 23.1, 23.2, 23.3 and 23.4 of the Bill of Costs, which total $18,669.58. I would still allow items 23.5, 23.6 and 23.7, which are for flights and hotel accommodation covering the conference with counsel on 10 February 2015.

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Invoice 39

105 There was then a bit of a mystery about Invoice 39.

106 Invoice 39 was issued on 28 October 2014 for the sum of $107,809.47. It was titled "Originating Summons No. 304 of 2014" and "Arbitration No. 123 of 2010". In OS 931, the court noted the Law Firm's position that the invoice had been wrongly titled and that it was meant for another arbitration ("SIAC 200") instead of SIAC 123 or OS 304 (*H&C* ([25] *supra*) at [118]). The Law Firm had pointed to the description of work in the invoice – "Preparation and Exchange of AEIC", Preparation of Opening Statement" and "Oral Hearing to be held in November 2014" – none of which matched the work for SIAC 123 or OS 304.

107 The court ordered (at [127]) that Invoice 39 proceed to taxation and remarked: "If, on taxation, it is established that Invoice 39 was in fact intended for work done in respect [of] SIAC 200, the appropriate order and directions will have to be sought from the taxing registrar."

108 It appears that the court had in mind for the taxing registrar to determine whether Invoice 39 was intended for work done in respect of another matter (SIAC 200) or in respect of SIAC 123.

109 In section 1 of its Bill of Costs, the Law Firm stated that all the invoices, including Invoice 39, were rendered "[i]n respect of Folio 1276", *ie*, the UK proceedings, which arose out of SIAC 123. However, as the matter progressed, the Law Firm submitted that Invoice 39 was wrongly titled; it then made a U-turn by saying it would withdraw that submission and leave Invoice 39 in the Bill of Costs; it then made another U-turn by saying, "[t]he truth is that the

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invoice was wrongly titled". After these twists and turns, the taxing registrar stated in her decision: "I have been asked by the [Law Firm's] counsel to leave out invoice no. 39 from this taxation as the invoice was wrongly titled and the amount billed there has no relation to the subject of this taxation."

110 The figures allowed by the taxing registrar thus did not include any amount in relation to Invoice 39 – in effect, the sum billed in Invoice 39 was withdrawn from taxation. On review, neither the Law Firm nor the Client disputed the taxing registrar's decision concerning Invoice 39.

111 Instead, submissions were made as to whether the Law Firm should now refund the Client the amount billed in Invoice 39, which the Client had paid. This arose from the Law Firm and the Client having reached a settlement regarding costs for the other matter – SIAC 200.

112 The Client contended that if nothing were allowed on Invoice 39 in this taxation, it followed that the amount paid should be refunded. It argued that when it settled the costs for SIAC 200 with the Law Firm, it had thought that Invoice 39 was for work related to SIAC 123. On the other hand, the Law Firm contended that it was entitled to keep what had been paid for Invoice 39 – it argued that the Client would have known that Invoice 39 was wrongly titled, and that the Client had in fact been paying for SIAC 200.

113 I consider that it is beyond the scope of this taxation review for me to decide whether the Client had indeed thought that Invoice 39 was for SIAC 123. I would simply say that I accept that the Law Firm had intended for Invoice 39 to be for work done in respect of SIAC 200, and as such Invoice 39 was wrongly titled.

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114 On the Law Firm's own position, Invoice 39 was outside the scope of the costs which the taxing registrar had assessed, and which I have reviewed, for post-award work in relation to SIAC 123 (including work done for both the Singapore proceedings and the UK proceedings).

115 After I reserved my decision on this review, there was further correspondence between the Law Firm and the Client's solicitors about Invoice 39, including a demand by the Client's solicitors for the return of the amount paid on Invoice 39. It is up to the parties to decide what they might wish to do in that regard.

Costs of taxation

116 The taxing registrar awarded the Law Firm $5,000 as costs of taxation, although the Law Firm had received less than half of what it had sought in taxation, *ie*, $387,729.85 out of $996,672.68 (both figures inclusive of $5,000 as costs of taxation); moreover, she only allowed $230,000 of the $838,942.83 claimed for professional fees.

117 Under O 59 r 8(7)(*a*) of the ROC, if one-half or more of the total amount of the bill is taxed off, the taxing registrar has the power to order that the solicitor who presented the bill be disallowed the costs for the work done for and in the taxation of costs, but the taxing registrar declined to do so. She explained that "the issue in this taxation is partly as a result of the long delay in the [Client] pursuing its objections against the invoices rendered by the [Law Firm], as a result of which, the preparation of the breakdown and any description of work done [became] much more difficult due to the lapse of time". With respect, I do not share the taxing registrar's view on this.

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118 The relevant invoices here are: Invoice 15 dated 8 May 2014 for $50,000 in professional fees (for the Singapore proceedings); Invoice 54 dated 19 March 2015 for $100,000 in professional fees (for the UK proceedings); and Invoice 86 dated 28 September 2015 (which, it transpired, was intended for both the Singapore and the UK proceedings).

119 In the May–September 2016 period, there was correspondence between the Client's new solicitors and the Law Firm, with the former seeking a breakdown of each of the Law Firm's invoices and supporting documents for the disbursements claimed. The Client commenced OS 931 on 14 September 2016. That was less than a year from 28 September 2015 when Invoice 86 was issued; in issuing that invoice, the Law Firm necessarily had to consider what had been billed in Invoice 15 (for the Singapore proceedings) and Invoice 54 (for the UK proceedings). I thus do not think there was a long delay on the Client's part. Moreover, any difficulty with the preparation of the breakdown and description of work of the various invoices, was due to the Law Firm not keeping records of time spent or work done, and not providing any breakdown for Invoice 15 or Invoice 86.

120 Section 128(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("LPA") contains the following stipulation regarding costs of taxation, when an order for taxation is made:

> **128.**—(1) In case any order for taxation is made upon the application of the party chargeable or liable, or of the solicitor, the costs of the order and taxation, except when the order has been made after the expiration of 12 months, shall be paid according to the event of the taxation —
>
> (*a*) if the bill when taxed is less by a sixth part than the bill delivered, then the solicitor shall pay the costs; or

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> (*b*) if the bill when taxed is not less by a sixth part, then the party chargeable or liable, if the application is made by him, or if he attends the taxation, shall pay the costs.

121 There is a stated exception for when the order has been made after the expiration of 12 months (from the delivery of the bill of costs). In the present case, although the Client applied to court within 12 months of Invoice 86 being issued, the proceedings were contested by the Law Firm and the order for taxation was only made on 26 July 2018, outside the 12-month period. As such, s 128 of the LPA does not apply. However, the court has a discretion in relation to costs.

122 In the present case, what was allowed on taxation was less than half of what the Law Firm had sought; in relation to professional fees, the $230,000 allowed by the taxing registrar is just over half of the $450,000 that had been billed, and the revised sum of $180,000 in professional fees that I have arrived at is less than half of the fees billed. Moreover, no breakdown was provided for Invoice 15 or Invoice 86, and the taxation proceeded on the basis of a reconstruction of time spent, with a huge claim for trips to the UK. There was also confusion over Invoice 39.

123 By seeking and obtaining an order for taxation, which led to an agreement that all the bills in question would be submitted to taxation, and proceeding with taxation thereafter, the Client has recovered a substantial amount of what the Law Firm had billed and received for the work in question. In ordering that Invoice 39 and Invoice 86 proceed to taxation, the court ordered that the costs of OS 931 be paid by the Law Firm to the Client, with such costs to be taxed if not agreed. The parties' subsequent settlement did not affect this

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costs order; those costs have since been taxed, and the taxation reviewed by a judge.

124 In the circumstances, I would set aside the taxing registrar's allowance of $5,000 as costs of taxation in favour of the Law Firm, and instead order the Law Firm to pay the Client $5,000.

Conclusion

125 In the event, I dismiss the Law Firm's review application (HC/SUM 2879/2020) and I allow the Client's review application (HC/SUM 2880/2020) as follows:

(a) section 1 costs (professional fees) – reduced from $230,000 to $180,000;

(b) section 2 costs (costs of taxation) – the sum of $5,000 in favour of the Law Firm is set aside. Instead, the Law Firm is to pay the Client $5,000; and

(c) section 3 costs (disbursements) – reduced by $18,669.58, *ie*, from $152,729.85 to $134,060.27.

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126 Unless the parties are able to come to an agreement on the costs of this review, they are to furnish, within ten days from the date of this judgment, written submissions limited to five pages each, setting out their respective positions on the appropriate costs orders.

Andre Maniam
Judicial Commissioner

Peter Gabriel, Nandwani Manoj Prakash and Charlotte Loh
(Gabriel Law Corporation) for the applicant;
Vellayappan Balasubramaniyam, Davis Tan Yong Chuan and Quek
Yi Liang Daniel (Rajah & Tann Singapore LLP) for the respondent.

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