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DISTRICT JUDGE SAMUEL WEE CHOONG SIAN

21 OCTOBER 2025

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGDC 267

District Court Originating Claim No 904 of 2024

Between

The Body Firm Pte Ltd

... Claimant

And

(1) Siow Soon Sin

(2) Luminashape Pte Ltd

... Defendants

JUDGMENT

Contract — Breach — Whether former employee breached her contractual obligation to ensure that she did not retain electronic or soft copies of materials belonging to her former employer

Intellectual Property — Law of confidence — Breach of duty — Whether former employee breached her equitable duty of confidence by downloading a WhatsApp chat group used by her former employer to provide work instructions

Intellectual Property — Law of confidence — Remedies — Equitable damages

Personal Property — Ownership — Whether employer has legal ownership of online accounts

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**The Body Firm Pte Ltd
v
Siow Soon Sin and another**

[2025] SGDC 267

District Court Originating Claim No 904 of 2024

District Judge Samuel Wee

5 May 2025, 25 June 2025, 4 August 2025, 29 September 2025

21 October 2025

Judgment reserved.

District Judge Samuel Wee:

Introduction

1 The Claimant, The Body Firm Pte Ltd (“TBF”), operates a beauty treatment centre in Singapore.¹ The First Defendant, Ms Siow Soon Sin (“Sarah”), is a former employee of TBF who left to set up a new beauty treatment centre under the Second Defendant, Luminashape Pte Ltd (“Luminashape”).²

2 TBF alleges that Sarah retained and misused its confidential information after her employment ended. It commenced this claim against: (a) Sarah for

¹ Claimant’s Closing Submissions (“CMClosingSubs”)_[1]; Defendants’ Closing Submissions (“DFClosingSubs”)_[2]; Statement of Claim (“SOC”)_[1].

² CMClosingSubs_[2]-[3]; DFClosingSubs_[3]; SOC_[2]-[3].

breaching her employment contract and her equitable duty of confidence;³ and (b) Luminashape for vicarious liability for Sarah’s breach of confidence,⁴ and for the tort of conspiracy by unlawful means.⁵

3 The Defendants deny TBF’s allegations.⁶ Sarah maintains that she did not retain documents with confidential information or use any of the allegedly confidential information.⁷ Luminashape denies being vicariously liable for Sarah’s breach of confidence,⁸ and being part of a conspiracy to injure TBF.⁹

4 TBF did not raise a claim against Sarah for breaching any restraint of trade or non-compete obligations,¹⁰ even though Sarah was appointed a director of Luminashape before ceasing her employment with TBF.¹¹ In this regard, TBF’s director, Ms Lim Soo Bih (“Joyce”), stated in her affidavit of evidence-in-chief (“AEIC”) that TBF “would not have an issue with [Sarah] intending to start her own business as long as she did not steal information belonging to TBF or [carry] out actions that harmed TBF”.¹²

³ CMClosingSubs_[4(a)]; SOC_[4].

⁴ CMClosingSubs_[4(b)]; SOC_[5].

⁵ CMClosingSubs_[4(c)]; SOC_[6].

⁶ Defence (“DF”)_[6]-[7].

⁷ Defendants’ Opening Statement (“DFOpening”)_[21]-[32]; DF_[10]-[14], [17], [20]-[23].

⁸ DF_[24].

⁹ DF_[25].

¹⁰ SOC_[13]-[14].

¹¹ Claimant’s affidavit of evidence-in-chief (“AEIC”) of Ms Lim Soo Bih (“CMAEIC_Joyce”)_[48].

¹² CMAEIC_Joyce_[12].

Background facts

5 Sarah started working for TBF in March 2022,¹³ after signing a Letter of Appointment dated 16 February 2022 (“Letter of Appointment”).¹⁴ The main clause in the Letter of Appointment relied on by the Claimant is set out in Clause 4 (“Return of Documents Clause”):

Upon termination of [Sarah’s] employment, [Sarah] shall return to [TBF] all documents, records, uniforms, items and materials in [her] possession or custody belonging to the company or its clients and [Sarah] shall not retain any copies including electronic or soft copies thereof.

6 During her employment, Sarah had access to:

(a) TBF’s customers and leads database in Excel spreadsheets titled “The Body Firm Leads Overall (2018-2022).xlsx” and “TBF Delfi Orchard Leads-Feb to Apr 2022.xlsx” (“Excel Database”).¹⁵

(i) The Excel Database was sent to Sarah in a WhatsApp chat group titled “Sarah@TBF” (“Sarah Chat Group”), consisting of three members: Sarah, Joyce, and TBF’s other director, Mr Stephen Kinsey (“Stephen”).¹⁶ Joyce created the Sarah Chat Group for disseminating work-related instructions.¹⁷

(ii) Joyce explicitly stated in a WhatsApp message that the Excel Database was not meant to “go to too many people”.¹⁸

¹³ CMAEIC_Joyce_[4].

¹⁴ CMAEIC_Joyce_28-31.

¹⁵ CMAEIC_Joyce_[17]-[20].

¹⁶ Defendants’ AEIC of Ms Siow Soon Sin (“DFAEIC_Sarah”)[6]-[7]; CMAEIC_Joyce_[14].

¹⁷ CMClosingSubs_[7(c)], [25]-[26]; DFClosingSubs_[6]; CMAEIC_Joyce_[14]-[16].

¹⁸ CMAEIC_Joyce_33.

(b) TBF’s customers and leads database in Google Sheets with identical titles as the Excel Database (“GS Database”).

(i) In 2022, Joyce tasked Sarah with migrating the Excel Database to Google Sheets to facilitate document sharing and updating.¹⁹

(ii) To create the GS Database, Sarah opened the Excel Database on her mobile phone (“Sarah’s Phone”) using Google Sheets. According to Sarah, this automatically saved a duplicate version to the Google Drive linked to her personal email account (“Sarah’s Email Account”),²⁰ which she used²¹ because TBF did not provide her with a company email account.²²

(iii) Unlike the static Excel Database, which only displayed data captured at the point of transmission, the cloud-based GS Database captured subsequent entries.

7 Sarah resigned on 6 January 2024,²³ and her last day of employment with TBF was in early February 2024.²⁴ Several events took place before her employment ended:

¹⁹ CMAEIC_Joyce_[21].

²⁰ CMClosingSubs_[16]; DFAEIC_Sarah_[11]; 3TRANS_PDF38:29-PDF39:31. **[Day of Trial]TRANS_[PDF Page Number]:[Lines in Transcript]*.

²¹ CMAEIC_Joyce_[21]; DFAEIC_Sarah_[9].

²² DFClosingSubs_[7]; DFAEIC_Sarah_[12].

²³ CMAEIC_Joyce_[37].

²⁴ CMAEIC_Joyce_[38]; DFAEIC_Sarah_[5].

(a) Joyce instructed Sarah not to inform customers about her departure.²⁵

(b) TBF arranged for Sarah to transfer “ownership” of the GS Database from Sarah’s Email Account to TBF’s email address: managers@thebodyfirm.com.sg (“TBF’s Email Account”).²⁶ According to Joyce, Sarah informed her on 3 February 2024 that the transfer was completed.²⁷

(c) TBF discovered missing WhatsApp messages from its mobile phone (“TBF’s Phone”).²⁸ Sarah suspects that the messages went missing during a backup of the WhatsApp messages to TBF’s Email Account, which required her to export the data from Sarah’s Phone and import it into TBF’s Phone (“Export-Import Process”).²⁹ The Export-Import Process was necessary because Sarah had linked TBF’s WhatsApp account to Sarah’s Phone, which TBF only became aware of during the trial.³⁰

(d) On 3 February 2024, TBF’s new manager, Ms Dolce Lim (“Dolce”), supervised Sarah’s deletion of all business-related WhatsApp chats from Sarah’s Phone.³¹

²⁵ CMAEIC_Joyce_[40], 980 (in a WhatsApp message on 24 January 2024 at 3:34:59 stating “Sarah, we understand that you have been informing some customers that you are leaving the company. Professionally, please totally avoid doing that, we will inform customers after you leave ...”); 3TRANS_PDF33:22-30.

²⁶ CMAEIC_Joyce_[41].

²⁷ CMAEIC_Joyce_[44].

²⁸ CMAEIC_Joyce_[42].

²⁹ CMAEIC_Joyce_[42]; DFAEIC_Sarah_[19]; 3TRANS_PDF28:11-19, PDF30:11-17.

³⁰ CMClosingSubs_[39]-[44]; DFClosingSubs_[129].

³¹ CMAEIC_Joyce_[45]; DFAEIC_Sarah_[17].

8 After leaving TBF, Sarah provided similar services at Luminashape.³² TBF subsequently discovered that Sarah had become a director of Luminashape in December 2023, while still employed by TBF.³³

9 On 3 March 2024, while reviewing the GS Database, Joyce discovered it remained “owned” by Sarah³⁴ and requested that Sarah transfer its “ownership” to TBF.³⁵ Unable to execute the transfer,³⁶ Sarah deleted the GS Database from Sarah’s Email Account, to ensure she no longer had access.³⁷

10 Joyce subsequently discovered that:

(a) WhatsApp messages in TBF’s Phone spanning from around May 2022 to January 2024 were missing (“Missing Customer WhatsApp Chats”).³⁸

(b) Several former TBF customers were patronising Luminashape.³⁹

(c) Sarah retained a copy of the chat log of the Sarah Chat Group (“Sarah Chat Group Log”), as evinced by her production of its text version (without attachments) for these proceedings⁴⁰ and Sarah’s

³² CMAEIC_Joyce_[49].

³³ CMAEIC_Joyce_[48].

³⁴ CMAEIC_Joyce_[55].

³⁵ DFClosingSubs_[11].

³⁶ CMAEIC_Joyce_[56]-[58].

³⁷ CMAEIC_Joyce_[65]; 3TRANS_PDF12:13-PDF13:24.

³⁸ CMAEIC_Joyce_[59].

³⁹ CMAEIC_Joyce_[73]-[74].

⁴⁰ CMClosingSubs_[9(d)]; CMAEIC_Joyce_[67]-[68]; 3TRANS_PDF20:30-PDF21:7.

confirmation during trial that she had downloaded the Sarah Chat Group Log without attachments.⁴¹

11 TBF then commenced this action against Sarah and Luminashape.

Issues

12 There are several issues to address:

(a) Issue 1: Whether Sarah breached the Return of Documents Clause. This relates to a contractual obligation of confidentiality that is distinct from a breach of confidence in equity (*Adinop Co Ltd v Rovithai Ltd and another* [2019] 2 SLR 808 (“*Adinop*”) at [37]).

(b) Issue 2: Whether Sarah breached her equitable duty of confidence.

(c) Issue 3: Whether Luminashape is vicariously liable for Sarah’s breach of confidence or liable for the tort of conspiracy by unlawful means.

(d) Issue 4: The appropriate remedies.

Issue 1: The Return of Documents Clause

13 The Return of Documents Clause required Sarah to return all documents or materials belonging to TBF that were in her possession, and to ensure she did not retain any copies after her employment ended (see [5] above).⁴²

⁴¹ 3TRANS_PDF22:1-9, PDF37:22-PDF38:23.

⁴² CMClosingSubs_[10].

14 To prove a breach, TBF must: (a) identify the documents or materials Sarah possessed; (b) establish that they belonged to TBF; and (c) show that Sarah retained a copy.

15 TBF identified four categories of documents or materials that Sarah allegedly retained:

- (a) The GS Database.⁴³
- (b) The Excel Database.⁴⁴
- (c) The Sarah Chat Group Log.⁴⁵
- (d) The chat logs of the Missing Customer WhatsApp Chats (“Customer WhatsApp Chat Logs”) (see [7(c)] and [10(a)] above). TBF alleges that Sarah transferred the Customer WhatsApp Chat Logs to herself before deleting them from TBF’s Phone.⁴⁶

The GS Database

16 Sarah breached the Return of Documents Clause by temporarily retaining a copy of the GS Database after her employment ended.

17 It is not disputed that: (a) the GS Database belonged to TBF; (b) Sarah was not entitled to retain a copy of the GS Database after her employment

⁴³ CMClosingSubs_[4(a)(i)]; CMOpening_[4(a)(i)].

⁴⁴ CMClosingSubs_[4(a)(i)]; CMOpening_[4(a)(i)].

⁴⁵ CMClosingSubs_[4(a)(iii)]; CMOpening_[4(a)(iii)].

⁴⁶ CMClosingSubs_[4(a)(ii)]; CMOpening_[4(a)(ii)]; CMAEIC_Joyce_[5(d)], [60]-[64].

ended;⁴⁷ and (c) Sarah continued to have access to the GS Database for a period after her employment ended (see [9] above).

18 The breach subsisted from Sarah’s last day of employment in early February 2024 until the GS Database was deleted sometime in March 2024.⁴⁸ The parties dispute the precise date of deletion: TBF contends it occurred after its solicitors sent a letter of demand on 28 March 2024,⁴⁹ while Sarah maintains that it was deleted in early March 2024.⁵⁰ In the absence of any contemporaneous evidence (such as screenshots showing the GS Database’s presence or absence on specific dates), I find that the GS Database was deleted sometime in March 2024, the precise date of deletion being immaterial to the outcome.

19 Sarah contends that it would be inequitable to find her in breach of the Return of Documents Clause, given that her retention was unintentional.⁵¹ I accept Sarah’s explanation that the retention was accidental and arose from difficulties in removing her access to the GS Database she initially created (see [6(b)(ii)], [7(b)] and [9] above). Contrary to TBF’s contention,⁵² Sarah’s evidence at trial that she “missed this [GS Database]”⁵³ is consistent with the evidence in her AEIC that she had “deleted all work-related files” that she was aware of at the time.⁵⁴ Nevertheless, an inadvertent breach remains a breach.

⁴⁷ 3TRANS_PDF11:27-PDF12:1.

⁴⁸ CMAEIC_Joyce_[65].

⁴⁹ CMAEIC_Joyce_[65].

⁵⁰ 3TRANS_PDF13:12-24.

⁵¹ DFClosingSubs_[96].

⁵² CMClosingSubs_[19]-[24], [71].

⁵³ 3TRANS_PDF12:25-32.

⁵⁴ DFAEIC_Sarah_[17].

The absence of any pleaded implied term excusing inadvertent breaches, coupled with the clear scope of the Return of Documents Clause, necessitates a finding of breach (*Hayate Partners Pte Ltd v Rajan Sunil Kumar* [2025] SGHC 41 (“*Hayate*”) at [93]). Moreover, the contractual obligation fell on Sarah, who cannot shift the blame to Joyce or Dolce for failing to properly supervise and ensure her compliance with the Return of Documents Clause.⁵⁵

The Excel Database

20 TBF has failed to prove that Sarah breached the Return of Documents Clause by retaining a copy of the Excel Database.⁵⁶

21 Sarah confirmed during trial that she did not download attachments from the Sarah Chat Group (which included the Excel Database) (see [10(c)] above), and there is no evidence that she retained a copy.⁵⁷ TBF’s assertions that “there is every possibility that [Sarah] has retained copies [of the Sarah Chat Group Log] (including the Excel Database)”⁵⁸ and that it is atypical to export only the text portion⁵⁹ are insufficient to discharge its burden of proof.

22 Contrary to TBF’s contention, Sarah’s retention of the cloud-based GS Database does not demonstrate retention of the static Excel Database,⁶⁰ as these constitute fundamentally different media (see [6] above).

⁵⁵ CMClosingSubs_[19]-[20], [23]; DFClosingSubs_[95]-[100].

⁵⁶ DFClosingSubs_[27]-[29], [79]-[83].

⁵⁷ 3TRANS_PDF37:22-PDF38:23.

⁵⁸ CMClosingSubs_[35].

⁵⁹ Claimant’s Reply Submissions (“CMReplySubs”)[23].

⁶⁰ CMClosingSubs_[16].

The Sarah Chat Group Log

23 Sarah breached the Return of Documents Clause by retaining a copy of the Sarah Chat Group Log.

24 It is not disputed that Sarah retained a copy of the Sarah Chat Group Log in the form of a text transcript (without attachments) (see [10(c)] above).

25 I accept TBF’s argument that the Sarah Chat Group Log constitutes a document or material belonging to TBF within the scope of the Return of Documents Clause.⁶¹

26 The interpretation of the word “belong” must be distinguished from a proprietary right in law.⁶²

(a) People commonly claim “ownership” of online service accounts (“Online Accounts”), such as social media, email, Facebook, Instagram and WhatsApp accounts, or say such accounts “belong” to them.

(b) This perceived “ownership”, however, differs from a proprietary right in law, which must meet the following criteria (“Ainsworth Criteria”): be definable, identifiable by third parties, capable in its nature of assumption by third parties, and have some degree of permanence or stability (*National Provincial Bank Ltd v Ainsworth* [1965] AC 1175 at 1248, which was referred to by the Court of Appeal in *Quoine Pte Ltd v B2C2 Ltd* [2020] 2 SLR 20 at [34] and [138]). The Ainsworth Criteria have been satisfied for cryptocurrencies and non-fungible

⁶¹ CMClosingSubs_[11]; CMReplySubs_[35].

⁶² Defendants’ Reply Submissions (“DFReplySubs”)_ [12].

tokens (*CLM v CLN and others* [2022] 5 SLR 273; *Janesh s/o Rajkumar v Unknown Person (“CHEFPIERRE”)* [2023] 3 SLR 1191).

(c) Legal ownership of Online Accounts therefore depends on whether the Ainsworth Criteria are satisfied, which requires examining the terms and conditions governing the service. In *Lee Kien Meng v Cintamani Frank* [2015] 3 SLR 1072 at [27]-[31], the High Court found that the plaintiff did not own a Facebook page he created, given the governing terms and conditions, which required the platform’s prior written permission for any transfer of the account and gave the platform an unfettered right to remove the page. Similarly, in *S K Luxe Pte. Ltd. v Loo Zihong* [2023] SGMC 58 at [39], the Magistrates’ Court found that “the rights to access and control the [Instagram] account are not so much proprietary rights, but a set of administrative privileges which are granted by the platform to users”.

(d) Whether an Online Account “belongs” to a user may be better characterised as a question concerning dominion or some degree of control (eg. that arises from the administrative privileges conferred by the service provider) rather than legal ownership. The meaning of the term “dominion” here aligns with that under ss 405 and 409 of the Penal Code 1871 (2020 Rev Ed), which has been interpreted by the High Court in *Public Prosecutor v Lam Leng Hung and other appeals* [2017] 4 SLR 474 at [70] to relate to the “degree of control” exercised (which decision was upheld by the Court of Appeal in *Public Prosecutor v Lam Leng Hung and others* [2018] 1 SLR 659).

(e) Since the Return of Documents Clause uses the word “belong” rather than “ownership”, my analysis will focus on TBF’s dominion and

control over the relevant documents or materials, rather than the Ainsworth Criteria.

27 The Sarah Chat Group Log belonged to TBF for the purposes of the Return of Documents Clause as TBF exercised dominion and control over it.⁶³ The Sarah Chat Group was established specifically for work-related communications,⁶⁴ and remained under TBF’s administrative control, through Joyce, who could manage its members (including removing Sarah).⁶⁵

28 The present situation is analogous to *Hayate*, where the General Division of the High Court determined at [123]-[125] that the defendant’s retention of a soft copy of Skype chat logs from his work account breached his contractual obligation to “deliver to the Company all books, documents, papers, materials, diskettes, tapes or other computer material, credit cards, and other property and information *relating to the business of the Company* or any Related Company which may then be in [the defendant’s] possession or under [the defendant’s] control” upon termination of his employment.⁶⁶ Although the contractual clause in *Hayate* was more comprehensive, the Return of Documents Clause sufficiently encompasses the Sarah Chat Group.

29 For completeness, the Sarah Chat Group continued to be cloaked with confidentiality despite the fact that Joyce may have sent some non-work-related messages, as the confidential nature of the Sarah Chat Group must be assessed holistically, rather than by examining individual components in isolation (Ng-Loy Wee Loon, *Law of Intellectual Property of Singapore* (Sweet & Maxwell,

⁶³ CMReplySubs_[35].

⁶⁴ CMClosingSubs_[7(c)], [25]; DFClosingSubs_[6], [105]; CMAEIC_Joyce_[14]-[16].

⁶⁵ DFAEIC_Sarah_[17].

⁶⁶ *Hayate* at [10].

3rd Ed, 2021) (“*Law of Intellectual Property*”) at [39.2.9]). Moreover, the Return of Documents Clause defined the contractually protected scope of information, which remained effective, “even though, on an analysis of equitable principles, the information may not have the necessary quality of confidentiality” (*Adinop* at [40]).

The Customer WhatsApp Chat Logs

30 TBF has failed to prove that Sarah breached the Return of Documents Clause by retaining a copy of the Customer WhatsApp Chat Logs.

31 The Customer WhatsApp Chat Logs belonged to TBF and fell within the scope of the Return of Documents Clause.⁶⁷ The Customer WhatsApp Chat Logs related to messages from TBF’s WhatsApp account and TBF’s Phone, over which TBF exercised dominion and control (eg. TBF determined which staff could access the phone and prescribed its permitted uses for business purposes, such as customer communications and appointment bookings).⁶⁸ This mirrors a company’s control over information stored in its computers or cloud-based systems, even where employees have access rights.

32 However, TBF has not established that Sarah retained a copy of the Customer WhatsApp Chat Logs.⁶⁹ There is no direct evidence of such retention. TBF’s inference that Sarah, as the main user of TBF’s Phone, must have transferred the Customer WhatsApp Chat Logs before deleting them is speculative and unsupported.⁷⁰ Sarah provided a plausible explanation that the

⁶⁷ CMClosingSubs_[11].

⁶⁸ CMAEIC_Joyce_[5(d)], [60].

⁶⁹ DFClosingSubs_[129]-[136].

⁷⁰ CMReplySubs_[29], [54]; CMOpening_[4(a)(ii)]; CMAEIC_Joyce_[5(d)], [60]-[64].

messages went missing during the Export-Import Process (see [7(c)] above).⁷¹ Moreover, even if the deletion was deliberate, this alone would not establish that Sarah retained a copy of the Customer WhatsApp Chat Logs.⁷² In this regard, TBF’s failure to conduct a forensic examination of Sarah’s Phone has left it without sufficient evidence to discharge its burden of proof.⁷³

33 Further, the fact that Sarah was able to contact TBF’s customers after her employment ended does not mean that she retained a copy of the Customer WhatsApp Chat Logs.⁷⁴

(a) TBF contends that Sarah’s ability to contact TBF’s customers after her employment ended demonstrates that she retained a copy of the GS Database, the Excel Database⁷⁵ and the Customer WhatsApp Chat Logs,⁷⁶ and used the information therein.

(b) TBF points to evidence from its customer Ms Agnes Wuan (“Agnes”),⁷⁷ to demonstrate Sarah’s use of the information, specifically an undated message from Agnes stating that Sarah “approached” her regarding Luminashape’s services.⁷⁸ However, Agnes’ evidence did not assist TBF for the following reasons:

⁷¹ CMAEIC_Joyce_[42]; DFAEIC_Sarah_[19].

⁷² CMClosingSubs_[45].

⁷³ DFClosingSubs_[130], [135].

⁷⁴ CMClosingSubs_[36], [46]-[48].

⁷⁵ CMClosingSubs_[59]; CMReplySubs_[47].

⁷⁶ CMClosingSubs_[36], [46]-[48]; CMReplySubs_[54].

⁷⁷ CMAEIC_Joyce_1047-1054.

⁷⁸ CMAEIC_Joyce_1051.

(i) Agnes conceded during cross-examination that she had befriended Sarah through interactions during treatment sessions.⁷⁹

(ii) Sarah had Agnes' contact information since November 2023,⁸⁰ and did not need it from the GS Database, the Excel Database or the Customer WhatsApp Chat Logs after her employment ended.⁸¹

(iii) Agnes clarified that Sarah approached her in person during a treatment session and that she had offered to support Sarah in her new venture.⁸²

(c) TBF also relies on circumstantial evidence, citing four former customers who posted online reviews of Luminashape's business and ceased patronage of TBF.⁸³ This evidence was speculative and did not prove Sarah's use of the information.⁸⁴

(i) Sarah testified that she informed some of TBF's customers about Luminashape's business and saved the contact details of selected customers to Sarah's Phone while still employed by TBF,⁸⁵ which eliminated any need to get the information from the GS Database, the Excel Database or the

⁷⁹ DFClosingSubs_[52]; 1TRANS_PDF28:1-8, PDF28:26-29.

⁸⁰ 1DBD_8-23.

⁸¹ DFClosingSubs_[50], [92], [101].

⁸² 1TRANS_PDF30:20-32.

⁸³ CMAEIC_Joyce_[73]-[76].

⁸⁴ DFAEIC_Sarah_[20]-[22].

⁸⁵ 3TRANS_PDF32:4-23.

Customer WhatsApp Chat Logs after her employment ended.⁸⁶

In this regard, it is pertinent that TBF's pleaded case revolves around breaches relating to four categories of documents (ie. the GS Database, the Excel Database, the Sarah Chat Group Log, and the Customer WhatsApp Chat Logs) and does not extend to breaches arising from the retention of discrete contact details.⁸⁷

(ii) Sarah's evidence was corroborated by two Luminashape customers, who confirmed they found out about Sarah's plans to leave TBF to establish Luminashape in late 2023.⁸⁸

(iii) Moreover, Sarah's evidence that she did not use the information in the GS Database, the Excel Database or the Customer WhatsApp Chat Logs after her employment ended remained unshaken during trial, and there was no evidential basis to doubt her.⁸⁹

(iv) While I understand TBF's frustration regarding Sarah's customer poaching, TBF's failure to include a suitable non-solicitation clause in Sarah's Letter of Appointment leaves it without recourse.

Conclusion on Issue 1

34 Sarah breached the Return of Documents Clause by:

⁸⁶ DFClosingSubs_[45]-[49], [92], [101].

⁸⁷ CMReplySubs_[55].

⁸⁸ Defendants' AEIC of Seah Mu Shu, Lionel_[7]; 2TRANS_PDF8:1-10; Defendants' AEIC of Nimerta Uppal d/o Surjit Singh_[7]; 2TRANS_PDF13:12-PDF14:8, PDF16:9-PDF17:28, PDF18:31-PDF19:5.

⁸⁹ DFAEIC_Sarah_[20]-[22].

- (a) retaining access to the GS Database for a short period after the termination of her employment; and
- (b) retaining a copy of the Sarah Chat Group Log.

35 TBF has, however, failed to establish a breach in relation to the Excel Database and Customer WhatsApp Chat Logs.

Issue 2: The equitable duty of confidence

The law

36 An equitable duty of confidence protects against both a wrongful gain interest and a wrongful loss interest. The law on this has been summarised in *Hayate* at [130], which I reproduce:

To take into account the developments in [*Amber Compounding Pharmacy Pte Ltd and another v Lim Suk Ling Priscilla and others* [2023] SGHC 241] and [*Lim Suk Ling Priscilla and another v Amber Compounding Pharmacy Pte Ltd and another* [2024] 1 SLR 741 (“*Priscilla Lim*”)], I set out an updated summary of the approach to a breach of confidence claim:

- (a) First, determine which interest the action for breach of confidence seeks to protect:
 - (i) wrongful gain interest, where the defendant has made unauthorised use or disclosure of confidential information and thereby gained a benefit; and/or
 - (ii) wrongful loss interest, where the claimant is seeking protection for the confidentiality of the information per se, which is loss suffered so long as a defendant’s conscience has been impacted in the breach of the obligation of confidentiality.
- (b) If the wrongful gain interest is at stake, the traditional approach in *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41 (“*Coco*”) applies: *Lim Oon Kuin and others v Rajah & Tann Singapore LLP and another appeal* [2022] 2 SLR 280 (“*Lim Oon Kuin*”) at [39] and [41]. The *Coco* test requires the claimant to establish the following:

- (i) That the information in question has the necessary quality of confidence about it.
 - (ii) The information must have been imparted in circumstances importing an obligation of confidence.
 - (iii) There must be an unauthorised use of the information and, in appropriate cases, this use must be to the detriment of the party who originally communicated it.
- (c) If the wrongful loss interest applies, the test is the modified approach promulgated under *I-Admin (Singapore) Pte Ltd v Hong Ying Ting and others* [2020] 1 SLR 1130 (“*I-Admin*”).
- (i) If the claimant proves [(b)(i)]–[(b)(ii)] (ie, the relevant information had the necessary quality of confidence and it was imparted in circumstances importing an obligation of confidence), it is presumed that the conscience of the defendant has been impinged (*I-Admin* at [61]). The presumption may be rebutted if the defendant adduces proof that his conscience was not affected in the circumstances in which the claimant’s wrongful loss interest had been harmed or undermined. The burden that shifts to the defendant at the third limb of the modified test is a legal burden, not an evidential one: *Lim Oon Kuin* at [40].
- (d) In relation to pending claims in the same action, a claimant can claim for breach of confidence under the *Coco* approach (ie, the approach in (b)) for one set of documents or information, and under the *I-Admin* approach (ie, the approach in (c)) in relation to another set of documents or information: *Priscilla Lim* at [34].
- (e) A claimant cannot claim under both the *Coco* approach and *I-Admin* approach concurrently in respect of the same set of documents or information: *Priscilla Lim* at [48].
- (f) However, a claimant can claim under the *Coco* approach and *I-Admin* approach in the alternative for the same set of documents or information. This is subject to the restriction that a claimant can only claim under the *Coco* approach as its primary claim and under the *I-Admin* approach as its secondary or alternative claim, or claim under the *I-Admin* approach only. A claimant cannot claim under the *I-Admin* approach as its primary claim and under the *Coco* approach as its secondary claim: *Priscilla Lim* at [49]–[50].

37 The wrongful loss interest applies exclusively to “takers” of confidential information (*Lim Oon Kuin and others v Rajah & Tann Singapore LLP and*

another appeal [2022] 2 SLR 280 (“*Lim Oon Kuin*”) at [41]; *Hayate* at [134]). In *Lim Oon Kuin*, the Court of Appeal endorsed an observation by Professor Ng-Loy Wee Loon in the *Law of Intellectual Property* at [41.3.10]-[41.3.11] that the modified approach relating to the wrongful loss interest under *I-Admin (Singapore) Pte Ltd v Hong Ying Ting and others* [2020] 1 SLR 1130 (“*I-Admin*”) would only apply to “taker” cases, where the defendant acquires the confidential information without the claimant’s knowledge or consent (eg. by surreptitiously accessing and downloading it). The Court of Appeal also accepted Professor Ng-Loy’s suggestion that a law firm which legitimately received confidential information from a previous client would not be a “taker”.

The parties’ positions

38 TBF asserts that Sarah breached her equitable duty of confidence in respect of the GS Database, the Excel Database, the Sarah Chat Group Log, and the Customer WhatsApp Chat Logs. It relies on both a wrongful gain interest and a wrongful loss interest.⁹⁰

39 Sarah contends that there was no breach of confidence because: (a) she did not retain a copy of the Excel Database or the Customer WhatsApp Chat Logs;⁹¹ (b) the information in question is not confidential;⁹² (c) the information was not imparted in circumstances importing an obligation of confidence;⁹³ (d) she did not use the information;⁹⁴ and (e) her conscience was unaffected.⁹⁵

⁹⁰ CMClosingSubs_[52]-[74]; CMOpening_[21(7)] and [21(8)].

⁹¹ DFClosingSubs_[27]-[30], [128]-[133].

⁹² DFClosingSubs_[32]-[37], [88], [107]-[111].

⁹³ DFClosingSubs_[38]-[40], [88], [112]-[113].

⁹⁴ DFClosingSubs_[42]-[71], [91]-[93], [115]-[118].

⁹⁵ DFClosingSubs_[72]-[78], [94]-[102], [119]-[125].

The GS Database

40 TBF’s claim for a breach of confidence regarding the GS Database fails in respect of both a wrongful gain interest and a wrongful loss interest.

Wrongful gain interest

41 TBF must show the following under the traditional approach in *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41 (“*Coco*”) for its claim relating to a wrongful gain interest:

- (a) The information in question has the necessary quality of confidence about it.
- (b) The information must have been imparted in circumstances importing an obligation of confidence.
- (c) There must be unauthorised use of the information.

42 The first and second limbs of the traditional *Coco* approach are satisfied.

- (a) The GS Database contained information about TBF’s customers and leads.⁹⁶ This compilation of names and contact details was core to TBF’s business and possessed the necessary quality of confidence (*Adinop* at [57] and [87]).
- (b) Joyce informed Sarah that the Excel Database was confidential, as it was not meant to “go to too many people” (see [6(a)(ii)] above).⁹⁷

⁹⁶ CMClosingSubs_[13(b)], [55].

⁹⁷ CMClosingSubs_[57]-[58].

This cloak of confidentiality carried over to the GS Database after the migration process (see [6(b)] above).⁹⁸

(c) Although some information in the GS Database was disseminated to other staff members,⁹⁹ this did not cause the database as a whole to lose its confidential nature (*Law of Intellectual Property* at [39.2.9]).¹⁰⁰ Indeed, Sarah confirmed during cross-examination that the entire GS Database was only accessible by a handful of staff.¹⁰¹

43 However, the third limb of the traditional *Coco* approach is not satisfied because TBF has not proven that Sarah used the information in the GS Database.¹⁰²

(a) TBF contends that Sarah used the information in the GS Database to contact TBF's customers after her employment ended.¹⁰³ This makes it unnecessary to consider whether she misused the information during her employment, such as by saving contact details of selected customers to Sarah's Phone (see also [33(c)(i)] above).¹⁰⁴

(b) However, for the reasons set out at [33] above, TBF has failed to prove that Sarah obtained the customer contact details from the GS Database.

⁹⁸ CMClosingSubs_[13(c)]; DFClosingSubs_[88].

⁹⁹ DFClosingSubs_[34]; DFAEIC_Sarah_[16].

¹⁰⁰ CMReplySubs_[5].

¹⁰¹ 3TRANS_PDF10:21-PDF11:4.

¹⁰² DFClosingSubs_[34]-[43], [90]-[92]; DFReplySubs_[18].

¹⁰³ CMClosingSubs_[59]; CMReplySubs_[51].

¹⁰⁴ 3TRANS_PDF32:7-23.

Wrongful loss interest

44 As the first two limbs of the traditional *Coco* approach are satisfied (see [42] above), Sarah’s conscience is presumed to be impinged under the modified *I-Admin* approach, and the legal burden is on her to prove that her conscience was not affected.

45 I find that Sarah’s retention of the GS Database was unintentional and her conscience was unaffected for the reasons set out at [19] above.¹⁰⁵ This finding aligns with the Court of Appeal’s observation in *I-Admin* at [61] that a defendant’s conscience would be unaffected if the confidential information was accidentally acquired.

46 Consequently, TBF’s claim for a breach of confidence in respect of a wrongful loss interest fails.

47 For completeness, I do not agree with Sarah’s argument that she was not a “taker” of the GS Database. Sarah did not surreptitiously access or download the GS Database, as she legitimately received the Excel Database from Joyce, who tasked her with creating the GS Database (see [6] above).¹⁰⁶ However, her subsequent unauthorised retention of the GS Database after her employment ended (see [16] above) is sufficient to characterise her as a “taker”.¹⁰⁷ This is apparent from the General Division of the High Court’s decision in *Hayate*, which states at [139]:

In any event, as I have found that the defendant retained the confidential information he accessed and downloaded beyond

¹⁰⁵ DFClosingSubs_[96]; DFOpening_[38].

¹⁰⁶ DFReplySubs_[21]-[23].

¹⁰⁷ CMReplySubs_[40]-[41].

the termination of his employment, he could also be characterised as a “taker” on the basis of such retention alone.

The Excel Database

48 TBF’s claim for a breach of confidence relating to the Excel Database fails in respect of both a wrongful gain interest and a wrongful loss interest because TBF has not proven that Sarah retained a copy after her employment ended (see [20]-[22] above) or used the information therein (see [33] above).¹⁰⁸

The Sarah Chat Group Log

Wrongful gain interest

49 TBF has proven the first and second limbs of the traditional *Coco* approach for its claim regarding the Sarah Chat Group Log.

(a) First, the information in the Sarah Chat Group has the necessary quality of confidence.

(i) Sarah accepts that the Sarah Chat Group contained information relating to “pricing, sales, payroll matters [and] customer leads”,¹⁰⁹ which are confidential in nature.¹¹⁰

(ii) The Sarah Chat Group remained confidential even though Joyce sent non-work-related messages (see [29] above). Further, while the Sarah Chat Group Log has already been disclosed in these proceedings,¹¹¹ such disclosure does not

¹⁰⁸ DFClosingSubs_[27]-[30].

¹⁰⁹ DFClosingSubs_[105]; 3TRANS_PDF8:18-21.

¹¹⁰ CMClosingSubs_[13(d)], [26], [60]-[61].

¹¹¹ DFReplySubs_[16].

destroy its confidential character (see O 11 r 9 of the Rules of Court 2021).¹¹²

(iii) In this regard, Sarah’s argument that the Sarah Chat Group Log in the form of a text transcript (without attachments) is not confidential misses the point.¹¹³ The quality of confidence relates to the source of the information (ie. the Sarah Chat Group), rather than the form in which it was retained (ie. the Sarah Chat Group Log).

(b) Second, the information in the Sarah Chat Group was imparted in circumstances importing an obligation of confidence, with Sarah aware that the Sarah Chat Group had to be deleted from Sarah’s Phone when her employment ended.¹¹⁴ An obligation of confidence also arises because Sarah downloaded the Sarah Chat Group Log without TBF’s knowledge or consent (*I-Admin* at [61]).

50 However, TBF has failed to prove the third limb of the traditional *Coco* approach for its claim regarding the Sarah Chat Group Log. TBF asserts that “Sarah used the information available in the [Sarah Chat Group] in order to start and run her new business Luminashape”.¹¹⁵ It is, however, unable to provide details of what information Sarah allegedly used, and there is no evidential basis that Sarah used the information in the Sarah Chat Group Log.¹¹⁶

¹¹² CMReplySubs_[42].

¹¹³ DFClosingSubs_[107]-[111].

¹¹⁴ CMClosingSubs_[27], [62]; 3TRANS_PDF11:27-PDF12:7.

¹¹⁵ CMClosingSubs_[63].

¹¹⁶ DFClosingSubs_[115]-[118].

Wrongful loss interest

51 As TBF has proven the first and second limbs of the traditional *Coco* approach (see [49] above), Sarah’s conscience is presumed to be impinged under the modified *I-Admin* approach, and she bears the legal burden of proving that her conscience was not affected.

52 I find that Sarah has failed to prove that her conscience was not affected and she breached her equitable duty of confidence by retaining a copy of the Sarah Chat Group Log. The two reasons Sarah furnished for downloading the Sarah Chat Group Log do not stand up to scrutiny.

(a) First, Sarah asserts that it was “for the limited and legitimate purpose of verifying her commission and income, which were payable only one month after her cessation of employment”.¹¹⁷ However, if Sarah required such evidence, the appropriate step would have been to rely on the procedural machinery to compel disclosure of the relevant material (*Hayate* at [155], referring to *Uday Mehra v L Capital Asia Advisors and others* [2022] 5 SLR 113 at [264]). Furthermore, Sarah’s download of the entire Sarah Chat Group Log, rather than a limited part corresponding to the period of her unpaid commission and income, lacks justification.¹¹⁸

(b) Second, Sarah alleges that it was “to assist TBF should any questions later arise regarding matters that had taken place during her employment”.¹¹⁹ However, if TBF truly needed the information, it would

¹¹⁷ CMClosingSubs_[31(c)]; DFClosingSubs_[120].

¹¹⁸ CMClosingSubs_[33].

¹¹⁹ CMClosingSubs_[31(d)]; DFClosingSubs_[124].

be for TBF to obtain the information from its own record of the Sarah Chat Group.

The Customer WhatsApp Chat Logs

53 TBF’s claim for a breach of confidence vis-à-vis the Customer WhatsApp Chat Logs fails in respect of both a wrongful gain interest and a wrongful loss interest because TBF has not proven that Sarah retained a copy after her employment ended or used the information therein (see [32] and [33] above).

Conclusion on Issue 2

54 Sarah breached her equitable duty of confidence by retaining a copy of the Sarah Chat Group Log.

55 TBF has, however, failed to establish a breach of confidence in respect of the GS Database, the Excel Database or the Customer WhatsApp Chat Logs.

Issue 3: The claim against Luminashape

56 TBF asserts that Luminashape is (a) vicariously liable for Sarah’s breach of confidence;¹²⁰ or (b) liable for the tort of conspiracy by unlawful means.¹²¹

Vicarious liability

57 TBF relies on the English case of *Various Claimants v Wm Morrison Supermarkets plc* [2018] EWCA Civ 2339 to support its position that Luminashape should be held vicariously liable for Sarah’s breach of

¹²⁰ CMClosingSubs_[4(b)]; SOC_[5].

¹²¹ CMClosingSubs_[4(c)]; SOC_[6].

confidence.¹²² TBF’s claim for vicarious liability relates solely to Sarah’s breach of her equitable duty of confidence, and not her breach of the Return of Documents Clause.¹²³

58 To establish vicarious liability, TBF must address two elements (*Ng Huat Seng and another v Munib Mohammad Madni and another* [2017] 2 SLR 1074 (“*Ng Huat Seng*”) at [42]-[44]):

(a) Whether the relationship between Sarah (the tortfeasor) and Luminashape is sufficiently close to make it fair, just and reasonable to impose liability on Luminashape.

(b) Whether there is a sufficient connection between Luminashape’s relationship with Sarah and the commission of the tort. In particular, whether the relationship created or significantly enhanced the risk of the tort being committed.

59 TBF has shown that both elements are satisfied in respect of Sarah’s breach of her equitable duty of confidence.

(a) Sarah must have downloaded the Sarah Chat Group Log on 3 February 2024 at the earliest, as the chat she produced in the proceedings contained messages sent on 3 February 2024.¹²⁴ By then, Sarah was already a director of Luminashape (see [8] above), and the relationship between them was sufficiently close to make it fair, just and reasonable to impose liability on Luminashape. Luminashape has not pointed to any

¹²² CMOpening_[27].

¹²³ CMClosingSubs_[4(b)]; CMReplySubs_[53].

¹²⁴ 4AB_16.

legal basis for its argument that a company cannot be vicariously liable for its director's actions.¹²⁵

(b) Luminashape's relationship with Sarah significantly enhanced the risk of Sarah's breach of confidence. As a director of Luminashape, Sarah would have reason to retain and use information in the Sarah Chat Group Log for Luminashape's benefit,¹²⁶ such as "pricing, sales, payroll matters [and] customer leads".¹²⁷ The test in *Ng Huat Seng* focuses on the risk of the tort being committed, rather than proof of actual use of the information, which I have found to be lacking (see [50] above).

60 That said, whether TBF succeeds in its claim against Luminashape for vicarious liability depends on whether any damages are awarded for Sarah's breach of her equitable duty of confidence, which is discussed at [72], [73] and [76] below.

Conspiracy by unlawful means

61 TBF must establish five elements to succeed in its claim against Luminashape for a conspiracy by unlawful means: (a) a combination of two or more persons to do certain acts; (b) the alleged conspirators' intention to cause damage or injury by those acts; (c) the acts were unlawful; (d) performance of the acts in furtherance of the agreement; and (e) resultant loss to the injured party (*Turf Club Auto Emporium Pte Ltd and others v Yeo Boong Hua and others and another appeal* [2018] 2 SLR 655 at [310]).¹²⁸

¹²⁵ DFReplySubs_[50].

¹²⁶ CMClosingSubs_[79].

¹²⁷ 3TRANS_PDF8:18-21.

¹²⁸ CMClosingSubs_[82].

62 Luminashape and Sarah accept that a conspiracy can arise between a company and its controlling director (*Nagase Singapore Pte Ltd v Ching Kai Huat and others* [2008] 1 SLR(R) 80 at [22]).¹²⁹

63 However, TBF’s claim against Luminashape for conspiracy by unlawful means fails due to insufficient evidence of an agreement between Luminashape and Sarah.¹³⁰

(a) The absence of proof that Sarah used the information from the GS Database, the Excel Database, the Sarah Chat Group Log or the Customer WhatsApp Chat Logs (see [33], [43] and [50] above) undermines the existence of an agreement, as Luminashape would not have benefitted from Sarah’s breach. In this regard, there is no evidence to substantiate TBF’s assertion that “Luminashape essentially has access to years’ worth of [TBF’s] customer information and leads”.¹³¹

(b) My finding that Sarah’s retention of the GS Database was unintentional (see [19] above) also means that Sarah could not have the mental state to reach an agreement with Luminashape to breach the Return of Documents Clause by retaining access to the GS Database.

¹²⁹ DFReplySubs_[53]-[56].

¹³⁰ DFClosingSubs_[140]-[141].

¹³¹ CMClosingSubs_[80].

Issue 4: The appropriate remedies

The GS Database

64 TBF seeks the following remedies in relation to Sarah’s breach of the Return of Documents Clause vis-à-vis the GS Database:¹³²

- (a) An injunction to restrain Sarah from using, relying on, disclosing or disseminating the GS Database (“GS Database Injunction”).
- (b) An order for the permanent deletion or destruction of all digital or electronic records of the GS Database (“GS Database Deletion Order”).
- (c) Compensatory damages or nominal damages.

GS Database Injunction and GS Database Deletion Order

65 It is not suitable to grant the GS Database Injunction or the GS Database Deletion Order.

- (a) The GS Database has been deleted from Sarah’s Email Account, and the breach of the Return of Documents Clause has been cured (see [9] above).
- (b) It is therefore not appropriate to grant the GS Database Deletion Order since there is nothing that Sarah can delete; or the GS Database Injunction since the possibility of misuse is remote (see *Hayate* at [181]).
- (c) This is similar to the outcome in:

¹³² CMClosingSubs_[86]-[114]; SOC_14-15.

(i) *I-Admin*, where the Court of Appeal declined to grant an injunction because there was no suggestion that the respondent would continue to use the materials in question.¹³³

(ii) *Hayate*, where the General Division of the High Court declined to grant an injunction as the possibility of misuse was remote because: (A) the defendant had deleted all of the confidential materials, other than some cache files on his computer; (B) the cache files were relatively inaccessible and there was no evidence that the defendant was able to convert them into a usable form; and (C) the information in the cache files did not appear relevant to the defendant’s new job. The Court instead ordered the defendant to delete the cache files.¹³⁴

Damages

66 There is no basis for an award of compensatory damages in respect of Sarah’s breach of the Return of Documents Clause.

(a) TBF argues that compensatory damages should be “calculated with reference to the average revenue that TBF normally obtains as a basis of loss of profit calculation”¹³⁵ because Sarah’s breach resulted in existing customers deciding not to purchase new packages with TBF.¹³⁶

¹³³ *I-Admin* at [69].

¹³⁴ *Hayate* at [178]-[181].

¹³⁵ CMClosingSubs_[89].

¹³⁶ CMClosingSubs_[88]-[91].

(b) However, TBF has not demonstrated a causative link between Sarah’s breach and the damages sought as TBF has not proven that Sarah used the information in the GS Database (see [43] above).

(c) Assuming that Sarah used the information in the GS Database, TBF has not shown a link between the information and the decrease in its business revenue.¹³⁷ There is no evidence showing that the loss in revenue arose from existing customers deciding not to purchase new packages rather than from a reduction in new customers, and no evidence that such existing customers would have decided to purchase new packages with TBF. Further, Joyce conceded during trial that TBF’s sales would drop from time to time due to manpower constraints,¹³⁸ which cannot be attributed to Sarah’s breach of the Return of Documents Clause.

67 I am, however, prepared to award TBF nominal damages of \$1,500 in respect of Sarah’s breach of the Return of Documents Clause vis-à-vis the GS Database.

(a) The nature of nominal damages was discussed in *Tembusu Growth Fund Ltd v ACTatek, Inc and others* [2018] 4 SLR 1213 (“*Tembusu*”) at [160], where the High Court adopted the following explanation by the Earl of Halsbury LC in *The Owners of the Steamship “Mediana” v The Owners, Master and Crew of the Lightship “Comet”* (*The Mediana*) [1900] AC 113 at 116:

... ‘Nominal damages’ is a technical phrase which means that you have negated anything like real damage, but that you are affirming by your nominal damages that

¹³⁷ DFClosingSubs_[62]-[66], [103]-[104]; DFRReplySubs_[31]-[32].

¹³⁸ DFClosingSubs_[65]; 1TRANS_PDF141:1-32, PDF144:20-PDF145:5.

there is an infraction of a legal right which, though it gives you no right to any real damages at all, yet gives you a right to the verdict or judgment because your legal right has been infringed. But the term ‘nominal damages’ does not mean small damages ...

- (b) Based on the circumstances, an award of nominal damages of \$1,500 is suitable and is consistent with the nominal damages awarded for a breach of an employment contract in *Youprint Productions Pte Ltd v Mak Sook Ling* [2023] 3 SLR 1130, which TBF relies on.¹³⁹

The Sarah Chat Group Log

68 TBF seeks the following remedies in relation to Sarah’s breach of the Return of Documents Clause and breach of confidence in respect of the Sarah Chat Group Log:¹⁴⁰

- (a) An injunction to restrain Sarah from using, relying on, disclosing or disseminating the Sarah Chat Group Log (“Sarah Chat Injunction”).
- (b) An order for the permanent deletion or destruction of all digital or electronic records of the Sarah Chat Group Log (“Sarah Chat Deletion Order”).
- (c) Compensatory damages, equitable damages or nominal damages.

¹³⁹ CMClosingSubs_[106].

¹⁴⁰ CMClosingSubs_[86]-[114]; SOC_14-15.

Sarah Chat Injunction

69 It is not appropriate to grant the Sarah Chat Injunction because the possibility of misuse is remote, particularly since TBF has not even proven that Sarah used the information in the Sarah Chat Group Log (see [50] above).

Sarah Chat Deletion Order

70 I agree with TBF that Sarah should not be allowed to retain the Sarah Chat Group Log to ensure compliance with the Return of Documents Clause.¹⁴¹

71 In line with the language of the Return of Documents Clause, I order Sarah to delete all electronic or soft copies of the Sarah Chat Group Log in her possession or custody, and provide evidence of such deletion to TBF within 14 days from the date of this judgment.

Damages

72 Similar to the GS Database (see [66] above), there is no basis for an award of compensatory damages in respect of Sarah’s breach of the Return of Documents Clause or breach of confidence. TBF has not proven that Sarah used the information in the Sarah Chat Group Log (see [50] above), and there is no causative link between the breach and the damages sought by TBF.¹⁴²

73 There is also no basis for an award of equitable damages.

- (a) TBF seeks equitable damages of \$88,000, being the estimated amount TBF spent to generate leads during the time that Sarah was employed (ie. TBF’s budget of “about \$4,000 per month” multiplied by

¹⁴¹ CMReplySubs_[43].

¹⁴² DFClosingSubs_[126]-[127].

22 months).¹⁴³ TBF argues that this represents the costs that Sarah and Luminashape have saved in generating leads, and relies on the Court of Appeal's decision in *I-Admin* to justify the award.¹⁴⁴

(b) I disagree for three reasons.

(c) First, the cost savings approach in assessing equitable damages requires some use of the confidential information by Sarah or Luminashape, which is absent in this case. In *3D Infosystems Pte Ltd (formerly known as 3D Networks Singapore Pte Ltd) v Voon South Shiong and another* [2024] SGHC 237, the General Division of the High Court declined to grant equitable damages for a breach of confidence in respect of a wrongful loss interest, as while the party possessed the confidential material, there was no evidence that the information was used. The Court states at [95]:

For this Court to rely on the *I-Admin* cost savings approach in assessing equitable damages, as the plaintiff suggests, the Court must first find that the second defendant referred to the confidential information and used it as a springboard. If the second defendant did not refer to the confidential information whatsoever, there is no basis to find cost savings associated with the defendants' use of confidential information, and the basis for assessing equitable damages in *I-Admin* would not be applicable.

(d) Second, the amount sought by TBF is on the basis that Sarah retained the information on all the leads TBF generated during the time she was employed. However, while such information may have been

¹⁴³ CMClosingSubs_[96].

¹⁴⁴ CMClosingSubs_[93], [97].

reflected in the GS Database, TBF has not proven that it is contained in the text transcript of the Sarah Chat Group Log.¹⁴⁵

(e) Third, there is insufficient evidential basis showing that TBF spent the amount of \$88,000. The only evidence was Joyce’s oral testimony that TBF’s “budget for Google ... is \$4,000”,¹⁴⁶ and TBF did not produce any documentary evidence (such as invoices) showing that it actually incurred this amount during the time Sarah was employed.¹⁴⁷ TBF’s reliance on an estimate of “about \$4,000 per month” rather than precise expenses undermines its claim.

74 I am, however, prepared to award TBF nominal damages of \$1,500 in relation to Sarah’s breach of the Return of Documents Clause regarding the Sarah Chat Group Log for the reasons set out at [67] above. For clarity, the award of nominal damages arises from Sarah’s breach of the Return of Documents Clause and *not* the breach of her equitable duty of confidence, as TBF has not pointed to any legal basis for awarding nominal damages for the latter.

Conclusion

75 TBF succeeds in part of its claim against Sarah.

(a) Sarah shall pay TBF \$1,500 in nominal damages for her breach of the Return of Documents Clause in respect of the GS Database.

¹⁴⁵ Other Hearing Related Requests filed by the Claimant on 7 October 2025.

¹⁴⁶ 1TRANS_PDF136:2-20.

¹⁴⁷ DFReplySubs_[38]-[39].

(b) Sarah shall pay TBF \$1,500 in nominal damages for her breach of the Return of Documents Clause in respect of the Sarah Chat Group Log.

(c) Sarah shall delete all electronic or soft copies of the Sarah Chat Group Log in her possession or custody, and provide evidence of such deletion to TBF within 14 days from the date of this judgment.

(d) While Sarah has breached her equitable duty of confidence in respect of the Sarah Chat Group Log, I am not minded to award equitable damages in this case for the reasons set out at [73] above.

76 I dismiss TBF's claim against Luminashape. While TBF has established the elements for Luminashape to be vicariously liable, Luminashape is not liable to pay TBF any damages since I have not made an award of damages for Sarah's breach of her equitable duty of confidence in respect of the Sarah Chat Group Log.

77 The parties are to file and exchange written submissions on the issue of costs (limited to 7 pages) within 14 days from the date of this judgment.

Samuel Wee
District Judge

Celine Liow Wan-Ting (Forte Law LLC) for the Claimant;
Jason Yan Zixiang, Darren Jeevan Jose Charles and Sarah Nadia
Binte Sazali (Ravus Law Chambers LLC) for the Defendants.
