

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

[2026] SGHC 189

Originating Claim No 625 of 2024

Between

Chua Kim Chuan

... Claimant

And

HSBC Life (Singapore) Pte Ltd

... Defendant

JUDGMENT

[Tort — Negligence]

[Tort — Defamation — Qualified Privilege]

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Chua Kim Chuan
v
HSBC Life (Singapore) Pte Ltd

[2026] SGHC 189

General Division of the High Court — Originating Claim No 625 of 2024
Kwek Mean Luck J
7–9, 13 July, 11 September 2026

18 September 2026

Judgment reserved.

Kwek Mean Luck J:

Introduction

1 In HC/OC 625/2024 (“OC 625”), Mr Chua Kim Chuan (“Mr Chua”) claims damages for negligence and libel, against HSBC Life (Singapore) Pte Ltd (“HSBCL”), for providing inaccurate employee verification records to his prospective employers.

Background Facts

2 HSBCL is formerly known as AXA Insurance Pte Ltd (“AXA”). On 11 February 2022, HSBC Insurance (Asia Pacific) Holdings Limited completed its acquisition of AXA, following which AXA was renamed as HSBCL.¹

3 Mr Chua was a tied agent of AXA from 18 April 2000 to 18 September 2002.² He was also a financial services manager at AXA from 1 August 2001 to 18 September 2002.³ He resigned on 4 September 2002.⁴ His agency contract with AXA was terminated with effect from 18 September 2002.⁵

4 Sometime later, in 2002, Mr Chua joined Phillip Securities Pte Ltd (“Phillip Securities”). His employment there ended on 29 October 2008.⁶

5 Mr Chua attended a job interview with the American International Group (“AIG”) in February 2009, but his application to join AIG was ultimately unsuccessful.⁷ He also attended a job interview with the National Trades Union Congress Income Insurance Co-Operative Ltd (“NTUC Income”) around April

¹ Statement of Claim (Amendment No.1) dated 31 December 2025 (“SOC”) at [1]; Defence (Amendment No.1) dated 16 January 2026 (“Defence”) at [5].

² SOC at [2]; Defence at [7].

³ SOC at [3]; Defence at [9].

⁴ SOC at [4]; Defence at [16].

⁵ SOC at [4]; Defence at [10] and [16].

⁶ Mr Chua Kim Chuan’s Affidavit of Evidence-in-Chief filed on 2 March 2026 (“CYC-1”) at [39]; Defence at [12].

⁷ CYC-1 at [102] and p 320; Notes of Evidence dated 11 September 2026 (“NE 11 Sept”) at p 14 lines 20–22.

2009⁸ and a job interview with Finexis Advisory Pte Ltd (“Finexis”) around July 2009.⁹ However, he was not hired by either NTUC Income or Finexis.¹⁰

6 Mr Chua is currently employed as a dealer inspector at the Marina Bay Sands (“MBS”). He has been working in MBS since 22 February 2010.¹¹

7 Sometime in 2022, Mr Chua met Mr Lewis Low (“Mr Low”), who arranged for Mr Chua to meet with Ms Ong Kai Xin (“Ms Ong”) and Mr Alvis Thor of ATO Partners.¹² ATO Partners is one of the agencies operating under Prudential Assurance Singapore Pte Ltd (“Prudential”), through which Prudential organises and supervises its representatives.¹³ A Zoom interview was subsequently arranged with Mr Kelvin Chua, a representative of Prudential. This interview took place around 15 or 16 March 2023.¹⁴

8 According to Mr Chua, during the interview, Mr Kelvin Chua informed him that if he were to join Prudential, it would be on a full-time basis. Mr Chua would not be allowed to retain his employment at MBS.¹⁵ Mr Kelvin Chua also showed him a Sterling RISQ employment verification response form (“EVR”) provided by HSBCL on 3 March 2023. Sterling RISQ is a third-party

⁸ CYC-1 at [67].

⁹ CYC-1 at [56].

¹⁰ CYC-1 at [60] and [70]–[71].

¹¹ CYC-1 at [79]–[80].

¹² CYC-1 at [81] and [83].

¹³ CYC-1 at [83].

¹⁴ CYC-1 at [89].

¹⁵ CYC-1 at [89].

background screening firm employed by Prudential to conduct due diligence checks on prospective representatives.¹⁶

9 The EVR indicated in one section (“Section 4”) that the reason for Mr Chua leaving AXA was “involuntary resignation” (“EVR Error 1”). This was followed by the response “failure to complete fit and proper exercise” (“EVR Error 2”) in the space after EVR Error 1, where details could be provided.¹⁷ It is undisputed that the EVR was inaccurate in that Mr Chua had resigned voluntarily and that the indication that he “failed to complete fit and proper exercise” was also incorrect.¹⁸

10 In the next section in the EVR on “Fitness and Propriety” (“Section 5”), it was indicated that, “[w]hilst [Mr Chua] was employed/appointed by [AXA]”, Mr Chua: (a) was not the subject of any complaint made reasonably and in good faith, relating to activities that are regulated by the Monetary Authority of Singapore (“MAS”); (b) was not the subject of any proceedings of a disciplinary or criminal nature or of any investigation that might lead to such proceedings; (c) did not contravene or abet another person in breach of any laws or regulations, business rules or codes of conduct in Singapore; (d) was not the subject of disciplinary proceedings; and (e) was not the subject of any misconduct filed with MAS.¹⁹

11 On 17 March 2023, Sterling RISQ sought clarifications from HSBCL on why Mr Chua failed the fit and proper exercise, and in particular: (a) whether Mr

¹⁶ CYC-1 at [90].

¹⁷ CYC-1 at p 151.

¹⁸ SOC at [17(1)] and [18(1)]; Mr Oh Yeow Hwa’s Affidavit of Evidence-in-Chief filed on 2 March 2026 (“OYH-1”) at [12].

¹⁹ CYC-1 at p 151.

Chua had any market conduct investigations; or (b) whether Mr Chua did not complete the annual declaration. On 22 March 2023, HSBCL sent a confirmation to Sterling RISQ, stating that Mr Chua did not complete the annual declaration (“22 March 2023 Clarification”).²⁰

12 On 18 May 2023, Mr Chua’s previous solicitors sent a letter to HSBCL, requesting pre-action discovery from HSBCL of, amongst others, all reference checks concerning Mr Chua.²¹ HSBCL then checked AXA’s physical records, which showed that Mr Chua had resigned voluntarily on 4 September 2002.²²

13 By way of a letter dated 4 July 2023, HSBCL wrote to Prudential to clarify that EVR Errors 1 and 2 were incorrect and that Mr Chua had resigned voluntarily.²³ By way of a letter dated 6 July 2023 from HSBCL’s solicitors to Mr Chua’s previous solicitors, HSBCL admitted that the responses in the EVR (*ie*, EVR Errors 1 and 2) were inaccurate and apologised to Mr Chua for the errors in the EVR.²⁴

14 On 16 August 2024, Mr Chua brought his claims in OC 625 against HSBCL.

Mr Chua’s claims

15 Mr Chua proceeded on three claims against HSBCL:

²⁰ OYH-1 at [27]–[29] and p 446.

²¹ OYH-1 at [31] and pp 450–453.

²² OYH-1 at [32]–[34].

²³ CYC-1 at [108]; OYH-1 at [35] and pp 512–513.

²⁴ CYC-1 at [109] and pp 358–359; OYH-1 at [38] and pp 517–518.

- (a) negligence for the preparation of the EVR and provision of inaccurate records in the EVR during Prudential’s background screening process;
- (b) negligence during the period from 2009 to 21 February 2023, for disseminating inaccurate records when Mr Chua interviewed with other prospective employers in the financial advisory industry; and
- (c) further and/or in the alternative, libel for the publication of the words found in EVR Error 2.

16 While Mr Chua had pleaded an alternative claim of malicious falsehood against HSBCL, this was subsequently abandoned.²⁵

Negligence for provision of inaccurate records to Prudential

Applicable law on negligence

17 In *Deloitte & Touche LLP v Hin Leong Trading (Pte) Ltd* [2026] 1 SLR 1171 (“*Deloitte & Touche*”), the Court of Appeal set out the elements of a claim under the tort of negligence: at [44]. Pursuant to this, to succeed in a claim in negligence, Mr Chua has to establish that: (a) the subject matter of the complaint must be of a type that is actionable in the tort of negligence; (b) HSBCL owes Mr Chua a duty of care; (c) the conduct of HSBCL constituted a breach of its duty of care; (d) HSBCL’s breach of duty is a factual cause of the injury which Mr Chua complained of; (e) the injury which Mr Chua complains of is not too remote in the sense that it falls within the normatively appropriate scope of HSBCL’s legal responsibility; and (f) the absence of any operative defences.

²⁵ Notes of Evidence dated 13 July 2026 (“NE 13 July”) at p 28 lines 5–20.

18 With respect to the duty of care, in *Ramesh s/o Krishnan v AXA Life Singapore Pte Ltd* [2016] 4 SLR 1124 (“*Ramesh CA*”) at [97]–[98] and [102], the Court of Appeal held that an employer (including an ex-employer) who writes a reference for an employee is obliged to exercise due care to ensure that the facts stated in a reference are true and accurate.

19 In assessing what constitutes reasonable care, regard will be had to the gravity of any adverse suggestion or inference contained in the reference: *Ramesh CA* at [102(f)]. Where a reference contains adverse suggestions touching on matters such as the honesty or integrity of the employee concerned, the employer will be expected to take particular care to consider how the suggestions would likely be understood by a reasonable recipient of the reference, and to ensure that the suggestions are: (a) fairly and reasonably made; and (b) founded on a sound factual basis: *Ramesh CA* at [89]. The greater the gravity of any adverse suggestion or inference, the more closely will the employer’s conduct be scrutinised to ascertain whether it has taken reasonable care to ensure that the suggestion or inference in question: (a) is based on facts which are true and accurate; and (b) is, in view of those facts, fair and reasonable: *Ramesh CA* at [102(f)].

20 Negligently prepared references can have serious potential consequences. In the context of the financial advisory and insurance industry, references given by employers would be relied on by an employee’s prospective new employers in deciding whether to hire the employee: *Ramesh CA* at [104].

Whether HSBCL breached its duty of care

21 There is no doubt that the subject matter of Mr Chua’s complaint is of a type that is actionable in the tort of negligence. Mr Chua’s claim is for economic

loss, which is a well-established form of actionable damage. HSBCL also does not dispute that it owes Mr Chua a duty to exercise reasonable care in providing the EVR to Prudential for its background screening process.²⁶ The question is whether HSBCL breached this duty of care.

Mr Chua

22 Mr Chua contends that HSBCL failed to exercise reasonable care in preparing the responses in the EVR and by communicating inaccurate information (*ie*, EVR Error 1 and EVR Error 2) without proper verification.²⁷ Mr Chua claims that these errors gave rise to various adverse inferences or suggestions which created or invited doubts as to his working abilities and affected his eligibility for appointment as a representative in the financial services industry.²⁸ A reasonable insurer would not communicate the serious allegations contained in the EVR without first verifying their accuracy.²⁹

23 Mr Chua claims that HSBCL breached its duty by solely relying on “unexplained electronic records”, the provenance of which HSBCL was unable to establish.³⁰ HSBCL also failed to cross-check the accurate physical records that it always had access to or conduct any independent verification.³¹

²⁶ Defence at [46].

²⁷ SOC at [17]–[18] and [20]; Claimant’s Opening Statement dated 2 July 2026 (“COS”) at [24]; CYC-1 at [118] and [123].

²⁸ CYC-1 at [112], [121]–[122]; Claimant’s Closing Submissions dated 14 August 2026 (“CCS”) at [22].

²⁹ COS at [27].

³⁰ CCS at [14], [16] and [25].

³¹ CYC-1 at [113]; CCS at [15] and [24].

HSBCL

24 HSBCL submits that it had exercised reasonable care in the provision of the EVR to Sterling RISQ on 3 March 2023. Ms Faith Guan Junjue (“Ms Guan”), Vice President of the Distribution Sales Support team in HSBCL, was the employee who filled in the EVR. She testified that the EVR was based on AXA’s electronic records on Mr Chua.³² HSBCL submits that she had taken sufficient precautions by, amongst others, checking that the EVR accurately reflected what was stated in the electronic records to ensure that there were no errors.³³

25 Further, HSBCL submits that the steps Ms Guan took were in line with HSBCL’s standard practice.³⁴ Both Ms Guan and Mr Oh Yeow Hwa (“Mr Oh”), Senior Vice President and Head of the Distribution Sales Support team in HSBCL, testified that upon receiving requests for reference checks on ex-agents of AXA, it is standard practice for HSBCL to access AXA’s electronic records of the agent in question to complete the employee verification form.³⁵

26 HSBCL argues that EVR Errors 1 and 2 did not convey any adverse suggestion or inference to trigger a calibration of the standard of care.³⁶ Mr Oh and Ms Guan testified that HSBCL requires all representatives to annually complete a self-declaration as to whether they are fit and proper.³⁷ HSBCL’s position is that EVR Errors 1 and 2 merely assert that Mr Chua did not complete

³² Ms Guan Junjue Faith’s Affidavit of Evidence-in-Chief (“FG-1”) at [8]–[15].

³³ Defendant’s Closing Submissions dated 14 August 2026 (“DCS”) at [48].

³⁴ DCS at [48].

³⁵ OYH-1 at [18]; FG-1 at [5].

³⁶ DCS at [43].

³⁷ Notes of Evidence dated 9 July 2026 (“NE 9 July”) at p 13 line 20 to p 14 line 6, p 76 lines 5–14 and p 108 lines 8–10.

the fit and proper declaration exercise, and not that he was not fit and proper to carry out his role.³⁸ This is because a fit and proper self-declaration exercise is an insufficient measure of a person's fitness and propriety, a fact that Mr Chua agreed to during cross-examination.³⁹ The MAS Circular on Due Diligence Checks and Documentation in respect of the Appointment of Appointed, Provisional and Temporary Representatives ("MAS Circular")⁴⁰ requires financial institutions to conduct their own diligence on the fitness and propriety of representatives.⁴¹ Mr Sim Ming Hwee ("Mr Sim"), Prudential's Head of Recruitment and Manpower Development, also confirmed that Prudential will conduct its "own assessment" of the candidate to determine if the candidate is fit and proper.⁴²

27 HSBCL relies on *Hincks v Sense Network Ltd* [2018] IRLR 614 ("*Hincks*") at [90] to argue that save where there is a "red flag" prompting further enquiry, there is no duty to examine the procedural fairness of an underlying investigation which forms the basis of an opinion. There was no red flag that made it reasonable for HSBCL to verify the accuracy of AXA's electronic records.⁴³ Mr Oh and Ms Guan testified that it is common to state that a person did not complete the fit and proper exercise,⁴⁴ and that it is common for references to state that agents had resigned involuntarily.⁴⁵ The standard of care requiring HSBCL to

³⁸ Defence at [60]; DCS at [45]–[46].

³⁹ Notes of Evidence dated 7 July 2026 ("NE 7 July") at p 38 lines 18–20; DCS at [27] and [45].

⁴⁰ Agreed Bundle of Documents Volume 2 ("2AB") at pp 337–348.

⁴¹ DCS at [27].

⁴² DCS at [27]; NE 13 July at p 7 line 9 and p 8 lines 16–20.

⁴³ DCS at [42]–[44].

⁴⁴ NE 9 July at p 18 lines 17–22 and p 84 lines 19–21.

⁴⁵ DCS at [47]; NE 9 July at p 18 lines 8–16 and p 84 lines 4–13.

verify the accuracy of AXA’s electronic records against the physical records may be impossible to attain, especially when hard copy records are no longer available, and places a considerable burden on HSBCL.⁴⁶

Decision

28 As a preliminary point, while Mr Chua appears to contend in his closing written submissions that HSBCL breached its duty of care by providing the 22 March 2023 Clarification,⁴⁷ this was not Mr Chua’s pleaded case. His pleaded case was only that HSBCL breached its duty of care in preparing and providing the responses in the EVR, specifically EVR Errors 1 and 2.⁴⁸ Mr Chua’s counsel accepted this during oral submissions. He submitted that the 22 March 2023 Clarification can be seen as an explanation of the EVR errors and that his case should be taken as he has pleaded in his Statement of Claim.⁴⁹

29 To assess the standard of care expected of HSBCL in preparing and communicating the EVR, I have to consider the gravity of the adverse inference suggested by EVR Errors 1 and 2 (see [19] above). The gravity of the adverse inference suggested by the two errors has to be assessed together with the information provided in the EVR as a whole.

30 An “involuntary resignation” has a negative connotation, suggesting that there was conduct which led to AXA asking Mr Chua to resign. The reason provided in the EVR for this is that Mr Chua “failed to complete fit and proper

⁴⁶ DCS at [44].

⁴⁷ CCS at [18] and [21]; Claimant’s Reply Submissions dated 2 September 2026 (“CRS”) at [10]–[12].

⁴⁸ SOC at [20].

⁴⁹ NE 11 Sept at p 11 lines 5–21.

exercise”. The following section in the EVR on “Fitness and Propriety” (*ie*, Section 5) confirmed that Mr Chua was not the subject of complaints, disciplinary action or other misconduct.

31 The indication that Mr Chua “failed to complete fit and proper exercise” could lead to multiple inferences. This is evident from the fact that Sterling RISQ sought clarifications from HSBCL on what that line meant (see [11] above).

32 Even if I accept HSBCL’s contention that EVR Error 2 merely suggests that Mr Chua failed to complete the fit and proper self-declaration, I am of the view that the two errors communicate a negative impression of Mr Chua. The MAS Circular⁵⁰ sets out a list of questions that financial institutions are encouraged to include in self-declaration forms by representatives.⁵¹ These questions in the MAS Circular serve as a useful reference point for what a prospective employer like Prudential may have in mind when reviewing a reference check stating that a candidate failed to complete the annual declaration and involuntarily resigned. While the MAS Circular is dated 2011,⁵² and the expectations in the MAS Circular may not have been operative in 2002 when Mr Chua left AXA, there is no evidence that the MAS Circular was no longer operative during Mr Chua’s application process with Prudential. Mr Oh testified that the annual declaration in HSBC is based on the questions set out in the MAS Circular.⁵³ The questions in the MAS Circular go towards assessing a person’s honesty, integrity, reputation and financial soundness. Failing to fill in a

⁵⁰ 2AB at pp 337–348.

⁵¹ 2AB at pp 341–344, para 7.

⁵² 2AB at p 337.

⁵³ NE 9 July at p 76 line 16 to p 77 line 24.

declaration on such traits would raise concerns about Mr Chua in the minds of prospective employers.

33 Ms Guan testified that there have been agents who chose not to complete the declaration because they have decided to pursue different career paths.⁵⁴ However, that would not be the impression in this case, as HSBCL indicated that it was an involuntary resignation. It would not be apparent to a prospective employer why Mr Chua failed to complete the annual declaration. While HSBCL did not indicate anything negative in Section 5, that only goes towards HSBCL's knowledge of such impropriety. Doubts could still be cast as to whether there were matters of concern that were not declared by Mr Chua and of which HSBCL was not aware of.

34 HSBCL submits that the failure to complete an annual declaration does not imply that a person is not fit and proper because financial institutions are still expected to independently verify and assess a representative's fitness and propriety. It points to the MAS Circular, which states that self-declarations constitute a necessary but insufficient measure of a financial institution's due diligence on an individual's fitness and propriety (see [26] above).

35 I do not find that the MAS Circular assists HSBCL in the manner submitted. The circular only provides guidance as to what constitutes sufficient due diligence from a financial institution by specifying that financial institutions also need to take additional steps as part of their due diligence process. It does not prove that the failure to complete an annual declaration has no bearing on a financial institution's assessment of a person's fitness and propriety, particularly when accompanied by the fact that the person involuntarily resigned. In fact, the

⁵⁴ NE 9 July at p 109 lines 16–21.

MAS Circular states that a self-declaration is a *necessary* measure to assess an individual's fitness and propriety. A prospective employer like Prudential could be concerned about a representative's failure to complete a necessary component of the assessment of their fitness and propriety and the fact that the representative was asked to resign.

36 On the whole, the errors communicated are not as grave as an indication that an employee was asked to resign because of misconduct or regulatory investigations. The fact that any alleged failure to complete the annual declaration took place over 20 years ago also reduces the gravity of the adverse inference. Nevertheless, the EVR does impute an adverse inference.

37 I find that, by failing to verify its electronic records against its physical records before providing the information to Sterling RISQ, HSBCL has failed to exercise reasonable skill and care so that injury is not caused to Mr Chua. Ms Guan and Mr Oh testified that AXA's electronic records are based on information in AXA's source documents and HSBCL did not amend or modify any of AXA's electronic records on their agents, including that of Mr Chua, after its acquisition of AXA.⁵⁵ As it inherited the electronic database of AXA, HSBCL had no basis to be assured that the electronic records are fair and accurate. A negative inference carries implications for ex-employees. In communicating the negative reference contained in the EVR, HSBCL was obliged to take reasonable care, by checking that the physical records that it had were consistent with the electronic records. As HSBCL did not do so, I find that HSBCL breached its duty to exercise reasonable skill and care.

⁵⁵ OYH-1 at [18]; FG-1 at [6].

38 I disagree with HSBCL’s submission that it was only required to verify the physical records if there was a “red flag” prompting further inquiry, or that requiring HSBCL to check its physical records was impossible or places a considerable burden on HSBCL (see [27] above). The case that HSBCL relies on, *Hincks*, pertains to a different factual matrix. There, the claimant had previously been engaged as an independent financial advisor for one of the defendant company’s appointed representatives. The director of the defendant’s compliance team wrote an unfavourable reference with respect to the claimant based on the results of an internal investigation conducted by the defendant. The claimant brought an action against the defendant, alleging that where a reference writer expresses negative opinions which are founded on the conclusions of an investigation, he should have satisfied himself that the investigation was reasonably conducted and procedurally fair.

39 The English High Court observed that there were “formidable difficulties” with the claimant’s submission that a reasonable reference writer should inquire into the procedural fairness of an earlier investigation: *Hincks* at [81]. This is for two reasons. First, a retrospective inquiry into the fairness of earlier investigations may be impossible. An assessment of procedural fairness may involve a wide range of matters. Given that the reference request may be made months or even years after the investigation, the reference writer may have access to very limited or no relevant documentation covering these matters: *Hincks* at [82]. Second, even if such an inquiry is possible, the burden imposed on the reference writer is “very considerable”: *Hincks* at [83]. The court found that aside from the importance of the reference for the subject’s livelihood, other considerations such as the practical effect of the proposed standard and its utility are important factors for the court to take into account when judging the proposed standard: *Hincks* at [84].

40 The court held that if there are obvious errors on the material available to the reference writer, reasonable care would dictate that these errors are checked. If the reference writer has become aware of information which casts a doubt on the reliability or integrity of the facts or opinions in the underlying material, reasonable care would involve further inquiry. However, save where there is a "red flag" prompting further inquiry, there was no general duty to examine the procedural fairness of the underlying investigation: *Hincks* at [90].

41 In my view, checking the electronic records against the physical records is very different from having to examine the procedural fairness of an underlying investigation. As the court in *Hincks* at [82] pointed out, an assessment of the procedural fairness of an investigation may involve consideration of a whole range of matters such as: what the subject was told before the investigation (*eg*, as to the allegations, the gravity of the allegations, the opportunity to be accompanied to any meeting or to take advice); the way the investigation was conducted; and the recovery of documents by the investigator and disclosure to the subject.

42 Admittedly, there may be situations where checking the physical records may be impossible if the records are no longer available. However, what is required, is for HSBCL to exercise reasonable skill and care and to check its physical records, *if possible*, when it provides a reference. There was no suggestion that checking the physical records in this *particular case* was difficult, costly, or not possible.

43 In addition, Mr Oh testified that HSBCL has, since this incident, changed its processes to cap the references it provides to the last 10 years, and that for all such references, they "will look at both electronics and also the physical records".⁵⁶

⁵⁶ NE 9 July at p 33 line 19 to p 34 line 4.

This further suggests that checking the electronic records against physical records is not as difficult as HSBCL makes it out to be in its submission.

44 In summary, I find that HSBCL has breached its duty of care to Mr Chua in providing the EVR with EVR Errors 1 and 2 to Prudential.

Whether any breach is a factual cause of Mr Chua’s injury

45 I next consider whether this breach is a factual cause of the injury complained of by Mr Chua.

Mr Chua

46 Mr Chua’s case is that the negligent publication materially prejudiced his employment opportunity with Prudential. Allegations concerning involuntary termination and fit and proper requirements are inherently serious within the financial advisory industry and would naturally and foreseeably affect suitability assessments. While the ultimate decision on whether to appoint him rested with Prudential as an independent third-party, HSBCL deprived him of a real and substantial opportunity of securing his appointment with Prudential.⁵⁷ Mr Chua need not prove that but for the negligent reference, Prudential would in fact have hired him: *Ramesh CA* at [143]. It is sufficient to establish that HSBCL’s negligence deprived Mr Chua of a real and substantial chance of obtaining that benefit: *Crescendas Bionics Pte Ltd v JurongPrimewide Pte Ltd* [2023] 1 SLR 536 (“*Crescendas*”) at [39]–[42].⁵⁸

⁵⁷ CCS at [36].

⁵⁸ CCS at [33]–[34].

47 Mr Chua claims that his employment with MBS was not the *sole* reason why his application to Prudential failed and that the EVR and his employment with MBS remained “separate and concurrent issues”.⁵⁹ Mr Chua testified that Ms Ong informed him via WhatsApp on 20 March 2023 that, in substance, he was not able to proceed with onboarding because of reference checks.⁶⁰ Mr Chua argues that Ms Ong’s explanation at trial, that she was referring to reference checks with MBS in her WhatsApp message, was inconsistent with the language and chronology of the WhatsApp messages.⁶¹ There was also no communication from Ms Ong that Prudential would hire Mr Chua subject only to his resignation from MBS.⁶²

48 The Sterling RISQ report identified both the MBS issue and the HSBCL reference as “Major” concerns, showing that the employment with MBS was not the “main issue”.⁶³ The fact that Sterling RISQ sent a clarification request to HSBCL on 17 March 2023 (after the interview) indicates that the adverse findings from the EVR was the operative issue under consideration. Mr Kelvin Chua also told Mr Chua that Prudential could not take him on because of what HSBCL said.⁶⁴

49 There is no basis to conclude that the issue regarding resignation from MBS was the sole condition for onboarding.⁶⁵ Mr Kelvin Chua was not called to

⁵⁹ CCS at [37].

⁶⁰ CYC-1 at [93] and pp 270–302.

⁶¹ CCS at [43].

⁶² CCS at [44].

⁶³ CCS at [56].

⁶⁴ CYC-1 at [94]; CCS at [37]–[38] and [42].

⁶⁵ CCS at [52].

testify.⁶⁶ Even though Mr Sim asserted that the “main issue” why Mr Chua was not hired was his employment with MBS, Mr Sim was not employed by Prudential at the time of Mr Chua’s recruitment and was unable to produce the documents which would have recorded the assessments then. As such, he could not provide first-hand evidence of the cause of Mr Chua’s failed application to join Prudential.⁶⁷

50 Further, Mr Low testified that Ms Ong showed him something on her phone during the interview period, that indicated that Mr Chua was not onboarded to Prudential for reasons related to his reference checks.⁶⁸ He did not know, back then in 2022 or early 2023, that Prudential required Mr Chua to leave his job at MBS.⁶⁹ This corroborates Mr Chua’s account that the EVR remained an independent obstacle to onboarding.⁷⁰

HSBCL

51 HSBCL submits that any alleged breach of duty of care by HSBCL did not cause Mr Chua to suffer loss. With respect to the appropriate test for causation, HSBCL’s position is that neither *Crescendas* nor *Ramesh CA* suggest that the “but for” test is no longer applicable. Instead, they merely clarify that there may be circumstances where the loss of a reasonable chance of employment is the appropriate test for causation, depending on how the claim

⁶⁶ CCS at [52].

⁶⁷ CCS at [53]–[55].

⁶⁸ Notes of Evidence dated 8 July 2026 (“NE 8 July”) at p 3 lines 10–21 and p 14 lines 11–18.

⁶⁹ NE 8 July at p 10 lines 6–14 and p 11 lines 3–10.

⁷⁰ CCS at [47]–[49].

is framed.⁷¹ However, in this case, Mr Chua’s evidence at trial, and the way that Mr Chua’s claim was framed, proceeds on the basis of a “but for” case (*ie*, but for the EVR, he would have been offered the agency position at Prudential).⁷² The EVR was not the “but for” cause, as the main issue Prudential had was Mr Chua’s concurrent employment with MBS.⁷³

52 Even if the test of causation is the loss of a reasonable chance of employment, as Mr Chua later submitted, it must be the loss of a real and substantial one: *Asia Hotel Investments Ltd v Starwood Asia Pacific Management Pte Ltd* [2005] 1 SLR(R) 661 at [139].⁷⁴ HSBCL submits that there was no chance of employment with Prudential to begin with, as Prudential’s evidence was that it will not consider Mr Chua’s application until he was prepared to confirm that he would leave his employment with MBS.⁷⁵

53 HSBCL relies on evidence from Mr Sim, as a representative of Prudential.⁷⁶ Mr Sim stated in his affidavit that no decision was made on Mr Chua’s application. Prudential was concerned about Mr Chua’s concurrent employment with MBS, Mr Chua did not follow up on his application and his application to join Prudential lapsed in or around May 2023 (*ie*, 3 months from

⁷¹ NE 11 Sept at p 2 lines 13–16 and p 6 lines 6–21.

⁷² NE 11 Sept p 2 line 16 to p 3 line 3 and p 5 lines 20–24.

⁷³ DCS at [60].

⁷⁴ NE 11 Sept at p 6 lines 22–24.

⁷⁵ NE 11 Sept at p 7 lines 1–10.

⁷⁶ DCS at [53]–[54].

the date of the application).⁷⁷ Mr Sim also testified at trial that the “main issue” was Mr Chua’s employment with MBS.⁷⁸

54 Ms Ong testified that, on 20 March 2023, she informed Mr Chua that he would be unable to join Prudential if he continued to work for MBS. Her WhatsApp messages show that Mr Chua was not prepared to leave MBS.⁷⁹ With respect to her WhatsApp message to Mr Chua informing him that it would not be possible for him to join Prudential if he kept his dealer work “after the reference checks”, Ms Ong confirmed that she was referring to the MBS reference check.⁸⁰ Mr Sim also testified to the same. He explained that, due to Mr Chua’s concurrent employment with MBS, Prudential was not able to proceed with the rest of Mr Chua’s onboarding.⁸¹

55 Further, HSBCL points out that Mr Chua claimed only for the first time at trial that he was prepared to leave his job at MBS.⁸² Mr Chua’s Affidavit of Evidence-in-Chief (“AEIC”) is silent on whether he was prepared to leave MBS.⁸³ The letter he obtained from MBS dated 16 February 2023 contradicts his claim that he was prepared to leave MBS.⁸⁴

⁷⁷ Mr Sim Ming Hwee’s Affidavit filed on 17 November 2025 (“Mr Sim’s Affidavit”) at [14]–[17].

⁷⁸ NE 13 July at p 12 lines 10–13, p 18 lines 2–3 and 6–7, p 26 lines 19–20.

⁷⁹ DCS at [32].

⁸⁰ DCS at [58].

⁸¹ DCS at [54].

⁸² DCS at [30].

⁸³ DCS at [33].

⁸⁴ DCS at [34].

Decision

56 Pursuant to the framework set out in *Deloitte & Touche*, the question here is whether HSBC's breach of duty is a factual cause of the injury which Mr Chua complained of. Generally, the accepted test to establish factual causation is the "but for" test: *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric* [2007] 3 SLR(R) 782 at [52]. In this respect, the Court of Appeal had noted in *Ramesh CA* at [143], Lord Lowry's observation in *Spring v Guardian Assurance Plc* [1995] 2 AC 296 ("*Spring*") at 327 that, in the context of a claim of negligence on the part of a former employer in preparing a reference for an employee, "the plaintiff only has to show that by reason of that negligence he has lost a reasonable chance of employment (which would have to be evaluated) and has thereby sustained loss ... he does not have to prove that, but for the negligent reference, [the prospective employer] *would* have employed him" [emphasis in original].

57 HSBC argues that *Ramesh CA* does not stand for the proposition that the "but for" test is never applicable. It submits that Mr Chua has proceeded on the basis of the "but for" test, rather than the loss of reasonable chance of employment (see [51] above). For the reasons that I explain below, I find that Mr Chua has failed to establish on a balance of probabilities that the EVR caused him to lose a reasonable chance of employment with Prudential. Since even the lower "loss of reasonable chance of employment" test cannot be satisfied, it is not necessary for me to decide on whether the stricter "but for" test is applicable.

58 There is consistent evidence from both parties that Prudential required Mr Chua to join full-time and leave his MBS job.

- (a) Mr Chua testified that, following his interview with Prudential, Mr Kelvin Chua informed him that if he were to join Prudential, he

would be required to do so on a full-time basis and would not be permitted to retain his employment at MBS.⁸⁵

(b) Mr Sim testified that Prudential had concerns with Mr Chua's concurrent employment as a dealer supervisor at the MBS Casino and required him to leave MBS before they could accept him joining Prudential as an agent. This was conveyed by Prudential's then relationship manager to Mr Chua around 16 March 2023 and by Ms Ong to Mr Chua around 20 March 2023.⁸⁶ During cross-examination, Mr Sim stated that the main issue for Prudential was that Mr Chua had concurrent employment with MBS, that it was important to Prudential, and Prudential was not able to proceed with the rest of the onboarding process because of this MBS issue.⁸⁷ I reject Mr Chua's submission that Mr Sim's evidence is lacking because it is not first-hand evidence (see [49] above). Mr Sim is the Head of Recruitment and Manpower at Prudential.⁸⁸ He confirmed that Mr Kelvin Chua was no longer employed by Prudential.⁸⁹ While Mr Sim was not an employee of Prudential at the time of Mr Chua's interview with Mr Kelvin Chua, he testifies that he is duly authorised to make his affidavit on behalf of Prudential.⁹⁰ This was not contested, and Mr Sim's evidence can thus be taken as representing Prudential's position.

⁸⁵ CYC-1 at [89].

⁸⁶ Mr Sim's Affidavit at [14].

⁸⁷ NE 13 July at p 12 lines 10–15, p 16 lines 7–10 and p 18 lines 2–3.

⁸⁸ Mr Sim's Affidavit at [1].

⁸⁹ NE 13 July at p 21 line 24 to p 22 line 1.

⁹⁰ Mr Sim's Affidavit at [1].

(c) Ms Ong referred to her WhatsApp messages with Mr Chua on 20 March 2023, after his interview with Prudential, where she informed him that he needed to quit MBS to join Prudential.⁹¹ I set out the relevant extracts below. “Jonathan” refers to Mr Chua. Ms Ong explained that “MAP” refers to Prudential’s “Management Associate Program[me]”.⁹²

KaiXin 17:29:28: Betw is also not possible to have you
if u still keep the dealer work bro

...

KaiXin 17:29:38: You need to quit then have the MAP

...

Jonathan 17:32:31: ... I never wanted MAP. I had
insisted and maintained from the start ... that I intended
to join part time ... I’m suddenly only now told I cannot
be part time & had to leave MBS. U r v clear on this.

KaiXin 17:34:24: Is not possible bro after the reference
checks ya

KaiXin 17:35:16: Of cos there are cases where is
approve but yours couldn’t

...

KaiXin 17:36:21: That is why is always different case to
case

KaiXin 17:36:37: As much as we tried with all our
means, many a times it can but yours couldn’t

Jonathan 17:37:41: ...I already said I need my secured
income from MBS because among other things, I have a
wife who will outlived me. I can’t be certain whether I’ll
be able to perform as a high flier as I was b4. There’s
was no objection at all nor any possible indications that
I cannot be doing part time all these months. Suddely
now u r saying I had to give up my MBS career.

⁹¹ Ms Ong Kai Xin’s Affidavit of Evidence-in-Chief filed on 29 April 2026 (“OKX-1”) at [9].

⁹² NE 8 July at p 46 lines 4–9.

Jonathan 17:38:37: Reference check is one issue. Leaving MBS completely is another totally different issue. Hope we r clear about this.

...

Jonathan 17:40:19: Even if reference checks if cleared, u are only now saying I had to give up my MBS job completely to join. ...

59 Mr Chua focuses on the line in the exchange where Ms Ong said “[i]s not possible bro after the reference checks”, to submit that Ms Ong communicated to him that Prudential had rejected him because of the errors in the EVR.⁹³ On the other hand, Ms Ong testified that when she said “reference checks”, she was referring to the reference checks that confirmed that Mr Chua needed to quit MBS.⁹⁴ She testified that Mr Kelvin Chua also told her that Mr Chua had to leave his dealer job at MBS.

60 On balance, I accept Ms Ong’s interpretation of the WhatsApp exchange over that of Mr Chua. It is not apparent from the line alone that the “reference checks” mentioned refers specifically to the EVR. Moreover, the mention of “reference checks” by Ms Ong is preceded by and followed by their discussion on Mr Chua not being able to work part-time and having to leave MBS, rather than the EVR or Mr Chua’s application to join Prudential being rejected. There is no reason arising from the cross-examination of Ms Ong for disbelieving her testimony on what the reference checks in her WhatsApp message referred to.

61 Mr Low’s evidence, that Ms Ong showed him something on her phone regarding Mr Chua failing in his application to Prudential because of “reference checks”, also does not assist to advance Mr Chua’s case. There is no evidence

⁹³ NE 7 July at p 49 line 13 to p 50 line 9.

⁹⁴ NE 8 July at p 52 lines 6–14.

that such “reference checks” refer to the EVR. Mr Low admitted at the hearing that he cannot recall the specific reason why Mr Chua was not onboarded or the details of the “reference checks”.⁹⁵ He cannot confirm that the reference checks pertained to the EVR. Hence, I find that the reference checks that Mr Low referred to could be related to the MBS job, as Ms Ong testified, rather than the EVR errors. There is also evidence that Mr Chua was concerned that negative feedback from Phillip Securities could have affected his Prudential application.⁹⁶

62 Mr Chua argues that the evidence does not establish that the negative feedback from Phillip Securities was the sole cause of his unsuccessful application.⁹⁷ Mr Chua also claims that the “official information” provided by Phillip Securities did not reflect that Mr Chua had “failed to follow company instructions”. In support of this claim, he cites a letter from Mr Lim Swee Say, the then Minister of Parliament for Holland-Bukit Timah Group Representation Constituency, to Phillip Securities dated 19 October 2009 (“MP Letter”).⁹⁸ However, the MP Letter is not “official information” by Phillip Securities. Furthermore, while the adverse feedback from Phillip Securities may not be the sole cause of his unsuccessful application, what is clear is that Mr Chua does not have proof that the “reference checks” Mr Low referred to meant the reference checks pertaining to the EVR.

63 Further, while Mr Chua relied on Sterling RISQ flagging his employment history with AXA as something warranting a “major” alert, to

⁹⁵ NE 8 July at p 3 lines 13–19.

⁹⁶ NE 7 July at p 86 line 25 to p 87 line 11 and p 89 lines 17–24.

⁹⁷ CRS at [38].

⁹⁸ CRS at [43], citing Agreed Bundle of Documents Vol 1 (“1AB”) at p 404.

prove that the EVR was of concern to Prudential,⁹⁹ the Sterling RISQ report also flagged his employment history with MBS and his directorship/business interest as warranting a “major” alert.¹⁰⁰ Thus, the Sterling RISQ report reinforces the possibility that the “reference checks” that Mr Low was shown through Ms Ong’s phone related to matters other than the EVR. Moreover, it is Prudential that was the prospective employer, not Sterling RISQ, and Prudential’s position was that their main concern was with Mr Chua’s employment with MBS.

64 On the whole, the evidence is clear that Prudential was aware of the EVR but did not reject Mr Chua outright. Instead, Prudential informed him that if he wanted to join Prudential, it would have to be on a full-time basis and he would need to leave his MBS job.

65 For completeness, there is no evidence suggesting that Prudential declined to offer Mr Chua a part-time job because of EVR Errors 1 and 2. Neither has Mr Chua provided any suggestion as to why such errors would lead Prudential to require him to leave MBS and take on the job on a full-time basis.

66 Following from this, I next examine whether Mr Chua was prepared to leave MBS and join Prudential full-time. The weight of evidence is that Mr Chua did not want to join Prudential on a full-time basis.

(a) Prior to the interview, Mr Chua had obtained from MBS consent for him to act as a financial representative.¹⁰¹

⁹⁹ NE 13 July at p 15 lines 7–17.

¹⁰⁰ Core Bundle of Documents dated 2 July 2026 (“CB”) at pp 45–46.

¹⁰¹ CB at p 263.

(b) More pertinently, Mr Chua’s exchange with Ms Ong on 20 March 2023 clearly indicates that he did not want to join full-time.

67 Mr Chua testified on the stand that he was prepared to leave his job at MBS.¹⁰² He explained that he had obtained permission from MBS to work as a financial representative of Prudential because he wanted to keep the option open to work part-time, but he had not committed to a decision.¹⁰³ This was not in his AEIC and appeared to be an afterthought. It also contradicts his WhatsApp messages to Ms Ong on 20 March 2023, where he clearly states that he “had insisted and maintained from the start ... that [he] intended to join part time” (see [58(c)] above). Mr Chua said that the exchange with Ms Ong did not reflect his actual intentions.¹⁰⁴ However, he has not provided any satisfactory explanation as to why he did not say what he actually intended in that exchange. I find his explanation on the stand, that he wanted to get Ms Ong to admit she had previously mistakenly informed him that he could work part-time at Prudential, unconvincing.¹⁰⁵ I would consequently give weight to what Mr Chua said in the WhatsApp exchange with Ms Ong, which is contemporaneous with the material events, rather than his subsequent repudiation of it on the stand.

68 Mr Chua also submits that even if he had agreed to resign from MBS, he would not be able to join Prudential because of the EVR errors.¹⁰⁶ This is wholly speculative.

¹⁰² NE 7 July at p 52 lines 7–8, 16–18 and p 55 line 23 to p 56 line 2.

¹⁰³ NE 7 July at p 100 line 22 to p 102 line 12.

¹⁰⁴ NE 7 July at p 104 line 22 to p 105 line 2.

¹⁰⁵ NE 7 July at p 105 lines 3–13.

¹⁰⁶ NE 7 July at p 58 lines 17–22.

69 On the stand, Mr Chua said that he had orally informed Mr Kelvin Chua that he was prepared to give up his job at MBS if Prudential did not allow him to retain his job with MBS, but Mr Kelvin Chua informed him that Prudential still could not take him on board because of HSBCL's EVR.¹⁰⁷ However, in his AEIC, Mr Chua only mentioned the fact that Mr Kelvin Chua: (a) told him that he had to join Prudential on a full-time basis; and (b) showed him the EVR.¹⁰⁸ Mr Chua did not state in his AEIC that he informed Mr Kelvin Chua that he was willing to give up his job at MBS or that Mr Kelvin Chua told him that he would not be able to join Prudential because of the EVR even if he gave up his job at MBS. His explanation on the stand thus appears to be an afterthought. It is also unsupported by any documentary evidence surrounding the contemporaneous events. Neither HSBCL nor Mr Chua called Mr Kelvin Chua as a witness. While I agree with Mr Chua that his not calling Mr Kelvin Chua as a witness cannot be the sole basis to conclude that Mr Chua's claim is fabricated,¹⁰⁹ the consequence of this is that there is no evidence to support Mr Chua's account.

70 On the other hand, what is borne out by Mr Chua, Ms Ong and Mr Sim's consistent evidence is that Mr Chua was told that he had to leave his MBS job in order to join Prudential. The WhatsApp exchange clearly shows that Mr Chua was very reluctant to do so.

71 In addition, Mr Sim and Ms Ong testified that Mr Chua's application lapsed after 3 months, as he did not get back to Prudential about whether he was willing to join Prudential full-time. Mr Sim's oral testimony is that while the adverse reference check from HSBCL was a point for Prudential to consider,

¹⁰⁷ NE 7 July at p 65 lines 1–17.

¹⁰⁸ CYC-1 at [89]–[90].

¹⁰⁹ CRS at [19].

the key issue was his employment with MBS. However, as Mr Chua did not follow up on his application, his application lapsed and Prudential could not proceed to the next steps for onboarding.¹¹⁰ Mr Chua testified that he did not know about a time period after which his application would lapse. Mr Chua's position is that he was waiting for Prudential's Mr Kelvin Chua to clarify the matter.¹¹¹ Be that as it may, that does not change the fact that Mr Chua knew that Prudential required him to leave MBS, and he did not at any time follow up on his application after the interview, to convey that he was willing to leave MBS to take up the Prudential job full-time.

72 Mr Chua submits that, ultimately, he would have to clear Prudential's fit and proper assessment, and that the EVR errors went directly to this final and essential stage of Prudential's approval process. The MBS issue was, at most, a matter to be resolved before Mr Chua took up appointment.¹¹² However, while there is evidence that Prudential was looking into the reference provided by HSBCL, there is no evidence that Prudential would ultimately have failed Mr Chua because of what was stated inaccurately in the EVR.

73 What is clear on the evidence is that Prudential required Mr Chua to leave MBS before it could accept him and that Mr Chua was not prepared to do so. He has not, at any point, indicated to the contrary to Prudential. Thus, it could not be said that Mr Chua lost a reasonable chance of employment with Prudential, by reason of the EVR errors. I thus find that causation in fact has not been established.

¹¹⁰ NE 13 July at p 17 lines 16–20 and p 18 lines 2–9.

¹¹¹ NE 7 July at p 68 line 19 to p 69 line 4 and p 109 lines 12–17.

¹¹² CRS at [36].

74 As Mr Chua has been unable to show that the EVR factually *caused* him to lose a real chance to be employed by Prudential, I find that Mr Chua fails in his claim against HSBCL in negligence for the provision of inaccurate records in the EVR during Prudential’s background screening process.

Negligence Claim (2009 to 21 February 2023)

75 Mr Chua also brought a claim for negligence against HSBCL for references, disclosures and/or information disseminated to other prospective employers between 2009 and 21 February 2023.

Whether Mr Chua’s claim with respect to reference checks made between 1 January 2009 to 16 August 2009 is time-barred

Mr Chua

76 Mr Chua claims that pursuant to s 24A(3)(b) of the Limitation Act 1959 (2020 Rev Ed) (“Limitation Act”), an action founded on negligence may be commenced within three years from the earliest date on which the claimant acquired both the knowledge required for bringing the action and the right to bring such an action. Since Mr Chua first acquired the requisite knowledge on 6 July 2023, the present action is not time-barred.¹¹³

77 He also argues that s 24B of the Limitation Act, which prescribes an overriding 15-year limitation period, does not bar his claim. This is because his case is not founded upon a single negligent act in 2009, but upon the repeated provision of EVR Errors 1 and 2 to prospective employers during the period from 2009 to 21 February 2023.¹¹⁴ In his Statement of Claim, Mr Chua identified

¹¹³ CCS at [158]–[164].

¹¹⁴ CCS at [165].

these prospective employers, which were provided erroneous reference checks, as AIG, NTUC Income and Finexis.¹¹⁵

78 During oral submissions, counsel for Mr Chua informed the court that Mr Chua's interview with AIG was in February 2009 and his interview with NTUC Income was in April 2009, during the time-barred period.¹¹⁶ Counsel clarified that the claims with respect to AIG and NTUC Income are time-barred, and that his *sole* claim was based on his application to join Finexis.¹¹⁷ While Mr Chua's interview with Finexis took place in July 2009 and was also within the time-barred period, Mr Chua argues that the fact that the interview took place before 16 August 2009 does not mean that any alleged reference check was provided before 16 August 2009.¹¹⁸ He argues that what is relevant under s 24B of the Limitation Act is the date of the provision of an erroneous reference check, and not the date of the interview.¹¹⁹

HSBCL

79 HSBCL submits that any claim of negligence on a purported reference check made between 1 January 2009 to 16 August 2009 is time-barred under s 24B(1) of the Limitation Act.¹²⁰ Even though Mr Chua might have acquired knowledge of the alleged breach of duty only in 2023, s 24B prescribes an

¹¹⁵ SOC at [27(2)] and [28].

¹¹⁶ NE 11 Sept at p 14 lines 21–25.

¹¹⁷ NE 11 Sept at p 14 line 21 to p 15 line 1.

¹¹⁸ CRS at [61].

¹¹⁹ CRS at [63].

¹²⁰ DCS at [65]–[67].

overriding 15-year limitation period for negligence claims from the time of the negligent act to which damage is attributable.¹²¹

Decision

80 It is apt to first bear in mind who bears the burden of proof when it comes to a limitation defence. Since HSBCL has raised the defence of the limitation period in its pleadings,¹²² the burden of proof falls on Mr Chua, as the claimant, to prove that its claim fell within the limitation period: *IPP Financial Advisers Pte Ltd v Saimee bin Jumaat* [2020] 2 SLR 272 (“*IPP Financial Advisers*”) at [37] and [41].

81 With this in mind, I turn to the relevant provisions in the Limitation Act. Section 24A(3) of the Limitation Act, which Mr Chua relies on, provides that:

(3) An action to which this section applies, other than one referred to in subsection (2), shall not be brought after the expiration of the period of —

(a) 6 years from the date on which the cause of action accrued; or

(b) 3 years from the earliest date on which the claimant or any person in whom the cause of action was vested before him first had both the knowledge required for bringing an action for damages in respect of the relevant damage and a right to bring such an action, if that period expires later than the period mentioned in paragraph (a).

82 The rule under s 24A(3)(b) of the Limitation Act is subject to s 24B of the Limitation Act, which stipulates the overriding time limit of 15 years from the negligent act to which the damage in question is alleged to be attributable: *IPP Financial Advisers* at [57]. I set out s 24B of the Limitation Act below:

¹²¹ DCS at [65]–[66].

¹²² Defence at [92] and [109B].

Overriding time limit for negligence, nuisance and breach of duty actions involving latent injuries and damage

24B. – (1) An action for damages for negligence, nuisance or breach of duty to which section 24A applies shall not be brought after the expiration of 15 years from the starting date.

(2) For the purposes of subsection (1),

“starting date” means the date (or, if more than one, from the last of the dates) on which there occurred any act or omission —

(a) which is alleged to constitute negligence, nuisance or breach of duty; and

(b) to which the injury or damage in respect of which damages are claimed is alleged to be attributable (in whole or in part).

(3) This section bars the right of action in a case to which subsection (1) applies notwithstanding that the cause of action has not yet accrued before the end of the period of limitation prescribed by this section.

83 Following from the definition of “starting date” as the date on which there is any act which is alleged to constitute negligence under s 24B(2)(a) of the Limitation Act, the “starting date” for purposes of Mr Chua’s claim, must be the date that HSBCL allegedly provided erroneous references.

84 The present action was filed on 16 August 2024. The effect of s 24B is that Mr Chua is time-barred from claiming that HSBCL breached its duty of care (and was negligent) by providing reference checks with EVR Errors 1 and 2 to other prospective employers, where such a reference check is provided during the period from 1 January 2009 to 16 August 2009.

85 Mr Chua has failed to provide any evidence that reference checks *were in fact* sent to other prospective employers (as I explain at [99]–[106] below). Relatedly, Mr Chua has also failed to identify in his pleadings or AEIC exactly *when* these reference checks were provided. Mr Chua’s pleadings identified

three potential employers: AIG, NTUC Income and Finexis.¹²³ During closing submissions, Mr Chua narrowed his claim to that concerning Finexis (see [78] above). Mr Chua states that the evidence shows that the Finexis recruitment process continued beyond 16 August 2009.¹²⁴ However, the fact that the recruitment process for Finexis continued beyond 16 August 2009 does not necessarily mean that a reference check was sent after 16 August 2009. Mr Chua admits that he has not identified when the reference check to Finexis was provided.¹²⁵ Pursuant to *IPP Financial Advisers*, the burden of proof is on Mr Chua (see [80] above), but he has failed to identify exactly when HSBC Life provided a reference check to Finexis. I hence find that Mr Chua has not proven that his claim falls within the relevant limitation period.

86 Mr Chua’s argument that his case is based upon repeated provisions of EVR Errors 1 and 2 to prospective employers during the period from 2009 to 21 February 2023 (see [77] above) does not assist him. Mr Chua relies on the definition of “starting date” in s 24B as the “the last of the dates [where an act constituting negligence occurred]” where there are multiple acts that constitute negligence.¹²⁶ In so far as Mr Chua has narrowed his claim to solely his application to join Finexis (see [78] above), this is no longer applicable. In any case, Mr Chua’s counsel accepted, during closing submissions, that each provision of an erroneous reference check to each prospective employer would have to stand on its own as a separate cause of action.¹²⁷ Accordingly, the definition of “starting date” in s 24B of the Limitation Act, for situations where

¹²³ SOC at [27(2)] and [28].

¹²⁴ CRS at [60].

¹²⁵ CRS at [61].

¹²⁶ CRS at [55]–[59].

¹²⁷ NE 11 Sept at p 13 line 25 to p 14 line 5.

there are multiple acts that constitute negligence, would not have assisted Mr Chua, even if he proceeded on the basis that HSBCL provided erroneous reference checks to *multiple* prospective employers.

87 For completeness, while Mr Chua has abandoned his claims with respect to AIG and NTUC Income, I also find that such claims would be time-barred under s 24B of the Limitation Act. Mr Chua is unable to identify exactly when reference checks were provided to AIG and NTUC Income.

88 Mr Chua argues that “there was also an attempt at onboarding with [the Hongkong and Shanghai Banking Corporation (“HSBC”)] just prior to 19 October 2009”, showing that the recruitment process and reference check was provided after 16 August 2009.¹²⁸ I reject this argument for two reasons. First, his pleaded case does not proceed on the basis of his application to join HSBC (see [77] above) and Mr Chua’s counsel has confined his claim of negligence to the provision of an erroneous reference check to Finexis (see [78] above). Second, Mr Chua has failed to prove that a reference check was sent to HSBC after 16 August 2009. The fact that the recruitment process continued after 16 August 2009 does not prove that reference checks were sent after 16 August 2009. Mr Chua still has not met his burden of proof.

89 As Mr Chua has failed to prove that the reference checks to Finexis, or to other prospective employers like NTUC Income and AIG, were provided within the limitation period, his claim is time-barred. For completeness, I nevertheless turn next to address: (a) whether Mr Chua has proven that HSBCL provided inaccurate reference checks to other prospective employers; and (b) whether such reference checks factually caused Mr Chua injury.

¹²⁸ CRS at [64].

Whether HSBCL provided inaccurate reference checks to other prospective employers

90 While Mr Chua later clarified during oral closing submissions that his claim was only with respect to his application to join Finexis, Mr Chua explained extensively in his AEIC why he believes inaccurate reference checks were sent to NTUC Income. As I explain below, I find that Mr Chua has failed to prove that any inaccurate reference checks were sent to Finexis or NTUC Income.

Mr Chua

91 Mr Chua contends that as MAS regulations required financial institutions to conduct due diligence checks and reference checks prior to onboarding candidates, HSBCL must have prepared reference checks for other prospective employers.¹²⁹ HSBCL is not in a position to assert positively that the EVR was the first and only reference it issued regarding Mr Chua.¹³⁰ His position is that inaccurate regulatory records remained within HSBCL's systems, were capable of dissemination and EVR Errors 1 and 2 were likely disseminated to prospective employers during Mr Chua's prior attempts to re-enter the financial advisory industry, in breach of HSBCL's duty of care.¹³¹

92 Finexis engaged Mr Chua for more than a month after the interview (on 8 July 2009) before requesting for Mr Chua's compliance history declaration.¹³² Mr Chua claims that it can be inferred that Finexis's request for compliance history declaration was likely prompted by issues during the background check

¹²⁹ SOC at [28]; CYC-1 at [105] and [111] and pp 331–343 and 345–356.

¹³⁰ CCS at [96].

¹³¹ SOC at [28]; COS at [32].

¹³² CYC-1 at [58]–[59].

process.¹³³ Mr Chua also signed the necessary consent forms authorising Finexis to conduct background screening and reference checks.¹³⁴ Finexis also expressly confirmed that it adhered closely to MAS-issued guidelines and “reference checks with their previous employment firms will be conducted for all FCs to be on-boarded with us”.¹³⁵

93 After Mr Chua interviewed with NTUC Income at around April 2009, a NTUC Income agency manager informed him that Phillip Securities allegedly stated that he was someone who did not follow company instructions.¹³⁶ While NTUC Income’s checks with Phillip Securities does not, by itself, establish that AXA or HSBCCL was contacted, it supports the broader inference that reference checks were in fact undertaken with more than one former institution.¹³⁷ He believes that NTUC Income would have requested for reference checks from HSBCCL given that: (a) he had signed the consent forms authorising NTUC Income to conduct reference checks;¹³⁸ (b) MAS regulations required financial advisory firms to conduct proper due diligence and reference checks prior to appointing representatives;¹³⁹ and (c) NTUC Income had conducted reference checks with Phillip Securities and such checks would not ordinarily be conducted with only one employer while omitting others.¹⁴⁰

¹³³ CYC-1 at [61]–[62].

¹³⁴ CYC-1 at [57].

¹³⁵ CCS at [99]; 1AB at p 426.

¹³⁶ CYC-1 at [41], [70] and p 146.

¹³⁷ CCS at [101].

¹³⁸ CYC-1 at [68] and [74].

¹³⁹ CYC-1 at [69].

¹⁴⁰ CYC-1 at [72] and [75].

94 Mr Chua claims that the NTUC Income agency manager also informed him that there were other reasons why he would not be onboarded, besides the feedback from Phillip Securities, but the manager said that he was unable to disclose those reasons.¹⁴¹ Mr Chua believes that the “other reasons” may have included inaccurate records from HSBCL.¹⁴²

HSBCL

95 HSBCL submits that it did not owe Mr Chua a duty of care in providing alleged reference checks from 2009 to 21 February 2023, as no such duty exists if references were not in fact provided.¹⁴³ Mr Chua has the legal burden to prove *inter alia* that such other employee verification(s) were sent by HSBCL in respect of him, that the employee verification(s) contained incorrect information in respect of him, and that any such incorrect employee verification(s) *caused* him to not be offered a job.¹⁴⁴ However, save for the EVR, there is no evidence that HSBCL has provided any other employee verification in relation to Mr Chua.¹⁴⁵ Under cross-examination, Mr Chua admitted that save for the EVR, he did not receive any bad feedback regarding his time in AXA.¹⁴⁶

Decision

96 As a preliminary point, I find that the issue of whether reference checks were prepared and disseminated goes towards HSBCL’s breach of its duty of

¹⁴¹ CYC-1 at [70]–[71].

¹⁴² CYC-1 at [73].

¹⁴³ DCS at [68]–[70].

¹⁴⁴ Defendant’s Opening Statement dated 2 July 2026 (“DOS”) at [29].

¹⁴⁵ DOS at [30]; DCS at [71].

¹⁴⁶ DCS at [74].

care, and not the existence of HSBC's duty of care. I am unable to agree with HSBC's submission that since there is no proof of dissemination, HSBC does not owe Mr Chua a duty of care in preparing and providing employee verifications.¹⁴⁷ HSBC cited *Legal & General Assurance Ltd v Kirk* [2002] IRLR 124 at [36]–[38] to support its submission. However, that case appears to merely suggest that the former employer did not owe a duty of care in providing a statement (that was not contained within a reference) on a former employee. It was in that context that the English Court of Appeal reasoned that the principle in *Spring*, that an employer owes a duty to take a reasonable care in preparing a reference for a former employee, could not be extended to the facts of its case where no negligent reference had in fact been given. HSBC also cited *Ramesh CA* at [58]–[59], but that only states the legal principle that employers owe a duty of care to their employees in the preparation of references.

97 The analysis of the Court of Appeal in *Deloitte & Touche* at [72]–[79] is instructive, on avoiding the conflation between the *legal* question on the existence of a duty of care with the *factual* question of whether the duty of care has been breached. As a matter of law, HSBC owed Mr Chua a duty of care in preparing and giving reference checks. As a matter of fact, the issue is whether it could have breached this duty of care if no reference checks were provided.

98 With this in mind, I turn first to the question of whether HSBC provided inaccurate reference checks to Mr Chua's other prospective employers besides Prudential.

99 Mr Chua has not surfaced any positive evidence to show that HSBC disseminated inaccurate records to other prospective employers during the

¹⁴⁷ DOS at [30]; DCS at [68]–[69].

period from 16 August 2009 to 21 February 2023, when Mr Chua made attempts to re-enter the financial advisory industry.

100 In his AEIC, Mr Chua admitted that he has not received a confirmation from any other financial institution, besides Prudential, that it received reference checks from HSBCL regarding him.¹⁴⁸ He confirmed this during his testimony in court.¹⁴⁹ In response to a request from Mr Chua’s solicitors seeking confirmation as to whether NTUC Income had conducted due diligence reference checks on Mr Chua, NTUC Income explained that it did not have any information or documents relating to his job application nor attendance at the interview.¹⁵⁰ In response to a request from Mr Chua’s solicitors seeking confirmation as to whether Finexis had conducted due diligence reference checks on Mr Chua, Finexis stated that it was unable to retrieve any records in relation to Mr Chua’s candidacy as the reference checks in relation to his candidacy date back more than 10 years.¹⁵¹

101 Further, it is speculative that Finexis’s request for Mr Chua’s compliance history declaration was prompted by the receipt of an adverse reference check from HSBCL (see [92] above), or that the NTUC Income agency manager was referring to inaccurate records from HSBCL when he communicated that there were “other reasons” why NTUC Income did not onboard Mr Chua (see [94] above).

¹⁴⁸ CYC-1 at [176].

¹⁴⁹ NE 7 July at p 122 lines 10–14.

¹⁵⁰ CYC-1 at [77] and pp 206–209.

¹⁵¹ CYC-1 at [63] and pp 186–188.

102 At the same time, there is no concrete evidence that HSBCL did not provide such reference checks to NTUC Income and Finexis. Mr Oh testified that HSBCL's records of reference checks sent in relation to HSBCL's and AXA's agents only date back to 2015. Mr Oh affirmed that save for the EVR, HSBCL did not send any other reference checks in relation to Mr Chua from 2015 onwards.¹⁵² Mr Oh also testified that HSBCL is unable to locate any reference checks sent in relation to Mr Chua between 18 September 2002 (*ie*, Mr Chua's last day with AXA as an agent) to 31 December 2014, and that as far as he is aware, no reference checks were sent in relation to Mr Chua during this period.¹⁵³ However, Mr Oh also accepted that he would not be able to comment on the possibility of such reference being provided before 2014.¹⁵⁴

103 Mr Chua argues that the absence of records from NTUC Income and Finexis reflect the limitations of their record retention practices, rather than establishing that no reference checks have taken place.¹⁵⁵ He submits that despite the absence of positive evidence to prove his case, there is a possibility of dissemination of erroneous records from 2002 to 2014, since Mr Oh cannot confirm that HSBCL did not do so then.¹⁵⁶

104 However, the burden of proof is on Mr Chua, as the claimant. In this respect, he has not put forth any evidence to show that, on the balance of probabilities, HSBCL disseminated erroneous records during the material period.

¹⁵² OYH-1 at [44(a)].

¹⁵³ OYH-1 at [44(b)].

¹⁵⁴ NE 9 July at p 65 lines 5–7 and 21–25.

¹⁵⁵ COS at [34].

¹⁵⁶ CCS at [96].

105 While the MAS regulations would have required NTUC Income and Finexis to conduct due diligence checks and to obtain reference checks from previous employers before hiring Mr Chua as a representative (see [91] above), there is no proof that Finexis had already asked for reference checks from HSBCL during that stage of Mr Chua's application process. No evidence was adduced as to the typical timeline for a prospective employer in the industry to seek such reference checks. While it appears that NTUC Income had conducted due diligence checks and had obtained a reference from Phillip Securities, it is unclear whether it had obtained a reference from HSBCL.

106 As Mr Chua has failed to prove on the balance of probabilities the alleged dissemination of erroneous records to any prospective employer during the material period, I find that Mr Chua has failed to prove that HSBCL breached its duty of care to Mr Chua.

Whether any disseminated reference checks factually caused Mr Chua injury

107 Even if HSBCL had disseminated erroneous employee verification records to NTUC Income and Finexis, Mr Chua would still have to show that such records factually caused Mr Chua to fail in his job application. I find that he has not established this causal link, for the reasons that I explain below.

Mr Chua

108 Mr Chua argues that should the court find that EVR Errors 1 and 2 were provided to other prospective employers, the nature of the adverse information

should support the inference that it materially affected his applications to these prospective employers.¹⁵⁷

HSBCL

109 HSBCL argues that any reference checks could not have caused loss to Mr Chua. Mr Chua's main concern in 2009 was his dismissal from Phillip Securities, which he said sabotaged his career in the insurance industry.¹⁵⁸ In the MP Letter,¹⁵⁹ it was alleged that Mr Chua was not successful in securing appointments with "HSBC, AIG and NTUC [Income]" by reason of his dismissal from Phillip Securities. No reference was made to Mr Chua's appointment with HSBCL or AXA in the MP Letter.¹⁶⁰ He also told Ms Ong that Phillip Securities may provide negative feedback about him.¹⁶¹

Decision

110 In my view, even if such reference checks were provided by HSBCL, there is no evidence that they caused Mr Chua to lose a real and substantial chance to be hired by his respective prospective employers. The establishment of causation does not necessarily follow from the dissemination of erroneous records along the lines of EVR Errors 1 and 2. While the errors carry adverse implications and are likely to cast doubts on the minds of prospective employers (see [30]–[36] above), there may be other dominant concerns operating on the minds of prospective employers. To illustrate the point, on Mr Chua's own

¹⁵⁷ CCS at [104] and [107].

¹⁵⁸ DCS at [75].

¹⁵⁹ CYC-1 at p 146.

¹⁶⁰ Defence at [72]; DCS at [75].

¹⁶¹ DCS at [78].

evidence, NTUC Income had concerns with allegations from Phillip Securities that Mr Chua was someone who did not follow company instructions.

111 For completeness, the fact that Mr Chua’s main concern in 2009 was his dismissal from Phillip Securities, as evidenced in the MP Letter and in his messages to Ms Ong, is not determinative of what operated on the minds of his prospective employers. The MP Letter and messages only reflect his subjective understanding of what his prospective employers might have thought. Given that it is Mr Chua’s position that he only acquired knowledge of possible erroneous reference checks from HSBCL in 2023, it makes sense that he would not have been concerned about them in 2009. Nevertheless, the MP Letter and messages highlight that there were other matters regarding Mr Chua that *might* operate on the minds of prospective employers.

Defamation Claim

112 Mr Chua also brings an alternative claim against HSBCL for libel.

Applicable law

113 To establish libel, Mr Chua has to establish: (a) a statement bearing a defamatory meaning; (b) publication to a third party; and (c) reference made to the claimant (*Golden Season Pte Ltd v Kairos Singapore Holdings Pte Ltd* [2015] 2 SLR 751 (“*Golden Season*”) at [35]).

114 A statement is considered defamatory if it: (a) lowers the claimant in the estimation of right-thinking members of society generally; (b) causes the claimant to be shunned or avoided; or (c) exposes the claimant to hatred, contempt or ridicule (*Golden Season* at [36]).

115 Whether a statement is defamatory may be determined based on the construction of the natural and ordinary meaning of the words used. The court will apply the following principles from *Chan Cheng Wah Bernard v Koh Sin Chong Freddie* [2012] 1 SLR 506 at [18] to determine the natural and ordinary meaning of the words:

- (a) the natural and ordinary meaning of a word is that which is conveyed to an ordinary reasonable person;
- (b) as the test is objective, the meaning which the defendant intended to convey is irrelevant;
- (c) the ordinary reasonable reader is not avid for scandal but can read between the lines and draw inferences;
- (d) where there are a number of possible interpretations, some of which may be non-defamatory, such a reader will not seize on only the defamatory one;
- (e) the ordinary reasonable reader is treated as having read the publication as a whole in determining its meaning, thus “the bane and the antidote must be taken together”; and
- (f) the ordinary reasonable reader will take note of the circumstances and manner of the publication.

116 The defence of qualified privilege applies where it can be shown that the defendant has an interest or duty, whether legal, social or moral, to communicate the information and the recipient has the corresponding interest or duty to receive the information: *Golden Season* at [89]. The defence of qualified

privilege only applies if there is no malice on the part of the defendant: *Golden Season* at [91].

117 Malice is generally proven by showing: (a) the defendant’s knowledge of falsity, recklessness or lack of belief in the defamatory statement; or (b) that although the defendant may have a genuine or honest belief in the truth of the defamatory statement, his dominant intention is to injure the claimant or some other improper motive (*Golden Season* at [92]). A defendant is not reckless for the purpose of proving malice if he did so believing that it was true, even if he was careless, impulsive or irrational in coming to that belief: *Maidstone Pte Ltd v Takenaka Corp* [1992] 1 SLR(R) 752 (“*Maidstone*”) at [50]. To be reckless, the defendant must be shown to have not cared or considered if the statement was true: *Maidstone* at [50].

Whether the EVR was defamatory

Mr Chua

118 Mr Chua pleads that the words found in EVR Error 2, namely “failure to complete fit and proper exercise” (“Statement”), are libelous.¹⁶² He submits that its natural and ordinary meaning must be determined in the context in which it was published, including EVR Error 1 and the EVR read as a whole.¹⁶³

119 The words in EVR Error 2 are understood to mean, by virtue of their ordinary and natural meaning, that Mr Chua:¹⁶⁴ (a) was incompetent and/or unprofessional as a tied agent or financial services manager of AXA; (b) has

¹⁶² SOC at [19(1)] and [36].

¹⁶³ CCS at [118]–[119].

¹⁶⁴ SOC at [36(1)].

been guilty of wrongdoings such as the failure to complete the fit and proper exercise of his duties as a financial services manager and/or tied agent of AXA generally and/or during the course of handling clients' matters and/or attending to clients; (c) was not fit and proper whilst working as a financial services manager and/or tied agent of AXA; (d) had conducted himself in an unfit and improper manner whilst he was the financial services manager and/or tied agent of AXA; (e) failed to discharge his duties as a financial services manager and/or tied agent of AXA in a fit and proper manner; and (f) committed "failure to complete fit and proper exercise" of his duties as a financial services manager and/or tied agent of AXA and/or during the course of handling clients' matters and/or attending to clients. Such meanings plainly lower Mr Chua in the estimation of right-thinking members of society and prospective employers.¹⁶⁵

120 Mr Chua claims that Mr Oh's evidence and the reactions of the recipients of the EVR reinforce the defamatory meaning of the Statement. Mr Oh accepted that the MAS fit and proper criteria concern a person's honesty, integrity, reputation, competence, capability and financial soundness.¹⁶⁶ The Statement would therefore naturally convey that there was some deficiency affecting those essential attributes.¹⁶⁷ Further, the fact that Sterling RISQ classified the matter as a "Major Alert" and required clarification from HSBCL showed that EVR Error 2 conveyed a serious adverse imputation concerning Mr Chua's professional suitability and was defamatory.¹⁶⁸

¹⁶⁵ COS at [46].

¹⁶⁶ NE 9 July at page 8 line 23 to page 9 line 5.

¹⁶⁷ CCS at [128].

¹⁶⁸ CCS at [129].

HSBCL

121 HSBCL denies that the Statement is defamatory, based on its natural, ordinary meaning. No evidence was adduced by Prudential to support the meanings alleged by Mr Chua.¹⁶⁹ The Statement, read in context of the entire EVR simply suggested that Mr Chua failed to complete the fit and proper declaration. There was no suggestion that Mr Chua was not fit and proper. This interpretation is supported by the express confirmation in the EVR that Mr Chua did not have any adverse information relating to his fitness or propriety. The self-declaration exercise is a necessary but insufficient measure of an individual's fitness and propriety. The Statement would not suggest that Mr Chua lacked honesty, integrity, reputation, competency, capability and financial soundness.¹⁷⁰ Mr Chua also admitted that the Statement does not suggest that he is not fit and proper based on the natural ordinary meaning or by innuendo.¹⁷¹

Decision

122 The ordinary and natural meaning of the Statement is that Mr Chua was asked to resign as he failed to complete fit and proper exercise, but that this was not related to the complaints, disciplinary actions or misconduct set out in the ensuing Section 5 on "Fitness and Propriety". For reasons discussed at [30] and [36] above, this would still suggest that Mr Chua had, for certain other reasons relating to failure to complete fit and proper exercise, been asked to resign. This is defamatory, as it would lower him in the eyes of prospective employers in the financial advisory and insurance industry.

¹⁶⁹ DCS at [84].

¹⁷⁰ DCS at [86]–[88].

¹⁷¹ DCS at [89].

123 While no evidence was adduced by Prudential to confirm the defamatory meaning of the Statement, counsel for HSBCL accepted that such evidence is assistive, but not determinative.¹⁷² What is key is the natural and ordinary construction of the Statement (see [115] above). In addition, it is not Mr Sim’s evidence that the Statement and EVR from HSBCL do not impute negative meanings and are not concerns in general. Mr Sim’s evidence is that Mr Chua’s employment with MBS was the “main issue”, but the application subsequently lapsed when Mr Chua did not revert, and Prudential could not proceed with the next steps for onboarding.¹⁷³

124 Further, contrary to HSBCL’s argument, Mr Chua did not concede, during his testimony in court, that the Statement does not suggest that he is not fit and proper.¹⁷⁴ All HSBCL has highlighted are Mr Chua’s admissions that: (a) Section 5 (and not Section 4) did not suggest that he was not fit and proper; (b) he was not aware of any fit and proper exercise; (c) a fit and proper self-declaration is an insufficient measure of a person’s fitness and propriety; and (d) the EVR did not *state* (but not that it did not suggest) that he lacked honesty, integrity, reputation, competency, capability or financial soundness.¹⁷⁵ In any case, the natural and ordinary meaning of the Statement should be objectively ascertained.

¹⁷² NE 11 Sept at p 27 line 24 to p 28 line 1.

¹⁷³ NE 13 July at p 18 lines 2–9.

¹⁷⁴ DCS at [89] and [23]–[29].

¹⁷⁵ DCS at [24]–[28].

Whether there was malice in the publication

Mr Chua

125 Mr Chua accepts that employment references generally attract qualified privilege.¹⁷⁶ However, he submits that the privilege does not protect HSBCL, who acted maliciously with reckless indifference to the truth.¹⁷⁷

126 Mr Chua’s case is that there was malice because of the following reasons: (a) HSBCL’s agency director, Mr Andy Lee (“Mr Lee”), displayed personal animosity towards him;¹⁷⁸ (b) HSBCL knew or ought to have known that the responses in the EVR were untrue, did not genuinely believe the responses were true or was reckless as to their truth;¹⁷⁹ and/or (c) the dominant motive of HSBCL was to (i) injure Mr Chua by disparaging him professionally and/or providing EVR Error 1 and EVR Error 2 to give a false, unfair and/or mistaken impression about Mr Chua professionally; and/or to (ii) cause Mr Chua to suffer financial loss and damage.¹⁸⁰

127 In his closing submissions, Mr Chua further submits that HSBCL’s reckless indifference is most clearly demonstrated by its response to Sterling RISQ’s request for clarification. While HSBCL informed Sterling RISQ that Mr Chua failed to complete the annual declaration exercise, there was no

¹⁷⁶ COS at [47]; CCS at [130].

¹⁷⁷ COS at [47]–[49].

¹⁷⁸ SOC at [23(1)].

¹⁷⁹ SOC at [23(2)].

¹⁸⁰ SOC at [23(3)].

contemporaneous document supporting that explanation and the EVR itself did not contain those words.¹⁸¹

HSBCL

128 HSBCL submits that the publication of the EVR was made on the occasion of qualified privilege. HSBCL did not act maliciously in providing the EVR to Sterling RISQ on 3 March 2023 as: (a) Ms Guan honestly believed in the truth of the EVR when it was provided to Sterling RISQ on 3 March 2023;¹⁸² and (b) there was no reason for Ms Guan to provide an incorrect reference check on Mr Chua as Ms Guan is not acquainted with Mr Chua nor did she have any prior dealings with him in AXA or HSBCL.¹⁸³

129 The information in the EVR was based purely on AXA's electronic records.¹⁸⁴ There is "no evidence that the error in [the] data entry in AXA was carried out in malice to harm [Mr Chua]".¹⁸⁵ HSBCL promptly apologised to Mr Chua and clarified the EVR with Prudential once the error was discovered.¹⁸⁶

Decision

130 Employment references form an accepted instance where the defence of qualified privilege applies to protect a communication made by an ex-employer to the prospective employer, so as to allow the ex-employer to "answer queries

¹⁸¹ CCS at [134]–[136].

¹⁸² Defence at [23].

¹⁸³ DCS at [96].

¹⁸⁴ DCS at [96].

¹⁸⁵ DCS at [100].

¹⁸⁶ DCS at [3].

to the best of its belief with a view to giving a full and frank assessment of the employment history of the employee in question”: *Ramesh s/o Krishnan v AXA Life Insurance Singapore Pte Ltd* [2015] 4 SLR 1 (“*Ramesh HC*”) at [197] and [201]. It is undisputed that the defence of qualified privilege applies.

131 Mr Chua has not shown that there was malice to defeat the defence of qualified privilege.

132 With respect to Mr Chua’s first argument, even if Mr Lee personally bore animosity towards Mr Chua, there is no proof that he was involved in sending the EVR to the Sterling RISQ (*ie*, the act of publication). The malice must be in relation to *publishing* the falsehoods. It was Ms Guan who provided the incorrect information.

133 Ms Guan testified that she was not acquainted with Mr Chua and had no prior dealings with him,¹⁸⁷ let alone bore malicious intentions against him. Mr Chua confirmed that he did not know Ms Guan.¹⁸⁸ There is no reason before the court, not to accept Ms Guan’s testimony that she did not have any malicious intentions. If indeed she had malicious intent, she could have filled in Section 5 differently, but instead she confirmed therein that Mr Chua did not fail on any of those criteria.

134 With respect to Mr Chua’s second argument, he does not identify which person’s knowledge or belief he relies on to attribute to HSBCL. As HSBCL is a company, it has no mind and body of its own and can only act through natural persons. The question is whether the acts, intentions and knowledge of human

¹⁸⁷ FG-1 at [19].

¹⁸⁸ NE 7 July at p 131 lines 1–5.

agents can be attributed to HSBCL: *Ho Kang Peng v Scintronix Corp* [2014] 3 SLR 329 at [47]. It was Ms Guan who filled in and sent the EVR. However, there is no evidence that Ms Guan knew, ought to have known or genuinely believed that the information she provided was untrue. She relied on electronic records to fill in the EVR. Mr Chua admitted that he had no reason to disagree with Ms Guan’s evidence that she relied on the electronic records to fill in the EVR.¹⁸⁹

135 With respect to Mr Chua’s third argument, there is no proof that the dominant motive of HSBCL was to injure or harm him. Mr Lee is the only individual whom Mr Chua is able to identify as having hostile feelings towards him. Mr Lee was not involved in the publication of the statements.

136 With respect to Mr Chua’s fourth argument on recklessness, it cannot be said that Ms Guan was reckless as to the truth, since she verified the accuracy of the information she provided with AXA’s electronic records.¹⁹⁰ Further, Ms Guan confirmed with her manager that the code, “T7 / MAS Directive”, which was reflected on AXA’s electronic records on Mr Chua,¹⁹¹ meant termination as a result of a MAS directive and could only refer to involuntary termination as a result of failure to complete the fit and proper annual declaration.¹⁹² Mr Oh also testified that “T7” meant termination due to not completing the annual fit and proper declaration.¹⁹³

¹⁸⁹ NE 7 July at p 131 lines 10–16.

¹⁹⁰ FG-1 at [15].

¹⁹¹ CB at p 282.

¹⁹² FG-1 at [11]; NE 9 July at p 92 lines 9–23.

¹⁹³ NE 9 July at p 27 lines 4–8.

137 Mr Chua submits that there is no document proving that T7, which is labelled as only “MAS Directive” in AXA’s electronic records, refers to a failure to complete the annual declaration.¹⁹⁴ However, the nub of the issue is not whether HSBCCL has proven that “T7” stands for what it claims. Instead, the key question is whether Ms Guan was reckless in recording EVR 2 as a failure to complete fit and proper annual declaration. She testified that she had checked with her manager on this.¹⁹⁵ There is no basis to disbelieve this aspect of her evidence. In the circumstances, it could not be said that Ms Guan was reckless in filling out EVR 2 as she did.

138 On the stand, Mr Chua asserted that Ms Guan should have had doubts about the correctness of AXA’s electronic records because of the obvious contradiction between EVR Errors 1 and 2 (*ie*, that he had supposedly done something to warrant his immediate termination) and the responses under Section 5 (*ie*, that he was fit and proper).¹⁹⁶ In my view, this is not sufficient to show that Ms Guan ought to have known that the responses were not true. It is wholly possible, that an agent, despite being found fit and proper for the purposes of Section 5, could have chosen not to fill in the fit and proper annual declaration, and AXA chose to terminate him for failing to complete the declaration. Mr Oh testified to this, expressing the view that a person would not be put on caution by the fact that a person had involuntarily resigned even though there were no answers of concern for Section 5.¹⁹⁷

¹⁹⁴ CCS at [16] and [19].

¹⁹⁵ NE 9 July at p 92 lines 19–23.

¹⁹⁶ NE 7 July at p 132 lines 11–25 and p 134 lines 13–18.

¹⁹⁷ NE 9 July at p 37 line 8 to p 38 line 18.

139 Consequently, I find that the defence of qualified privilege is not defeated.

Conclusion

140 For the reasons above, Mr Chua's claims in OC 625 are dismissed. HSBCCL is consequently entitled to costs. If parties are unable to agree on the quantum, they are to file written submissions on the quantum of costs, of not more than five pages, within one week of this Judgment.

Kwek Mean Luck
Judge of the High Court

Sankar s/o Kailasa Thevar Saminathan and Tessa Low Wen Xin
(Sterling Law Corporation) for the Claimant;
Chew Ming Hsien Rebecca and Soh Yu Xian Priscilla (Rajah & Tann
Singapore LLP) for the Defendant.
