IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2016] SGHC 275

Suit No 546 of 2015
(Summons No 1124 of 2016)

Between

(1) Goh Seng Heng
… Plaintiff/Defendant in Counterclaim

And

(1) RSP Investments
(2) Terence Loh
(3) Nelson Loh
(4) Motcombe Holdings Limited
(5) Justin Demetrio Reis
(6) Peter Anthony Reis
… Defendants/Plaintiffs in Counterclaim

Suit No 111 of 2016
(Summonses Nos 554, 754 and 934 of 2016)

Between

(1) Aesthetic Medical Partners Pte Ltd
(2) Aesthetic Medical Holdings Pte Ltd
(3) PPP Investments Pte Ltd
… Plaintiffs

And

(1) Goh Seng Heng
(2) Goh Ming Li Michelle (Wu Mingli)
(3) Quikglow Pte Ltd (formerly

known as Dr Michelle Goh Pte Ltd)
(4) Lee Kin Yun
(5) Koh Mui Lee
(6) Goh Ming Yi Melissa

… *Defendants*

GROUNDS OF DECISION

[Civil Procedure] — [Injunctions]

[Civil Procedure] — [Mareva injunctions]

Goh Seng Heng
v
RSP Investments and others and another matter

[2016] SGHC 275

High Court — Suit No 546 of 2015 (Summons No 1124 of 2016) and Suit No 111 of 2016 (Summonses Nos 554, 754 and 934 of 2016)
Lai Siu Chiu SJ
4 February, 9 and 11 March 2016

12 December 2016

Lai Siu Chiu SJ:

Introduction

1 These two suits involve a power struggle between the shareholders and investors of a company that owns and operates outlets in Singapore which provide aesthetic laser services and skincare-related products and services.

2 In Suit No 546 of 2015 ("the 2015 Suit"), the plaintiff is Dr Goh Seng Heng ("Dr Goh") a dermatologist by training, who was the managing director and is still a shareholder of Aesthetic Medical Partners Pte Ltd ("the Company"), a Singapore company which was incorporated in August 2008. Dr Goh's daughters Dr Michelle Goh ("Michelle") and Melissa Goh ("Melissa") were directors of the Company while Michelle is also still a shareholder. Together with his company Dr Goh Seng Heng Pte Ltd ("GSHPL"), Dr Goh and Michelle own 13.31% of the shares in the Company.

3 Dr Goh sued the following defendants in the 2015 Suit:

(a) the first defendant, RSP Investments ("RSP"), a company incorporated in the Cayman Islands and a shareholder of the Company;

(b) the second defendant, Terence Loh ("Terence"), and the third defendant, his cousin Nelson Loh ("Nelson"), who together control RSP;

(c) the fourth defendant, Motcombe Holdings Limited ("Motcombe"), a BVI company which, until 23 July 2014, was a shareholder of the Company; and

(d) the fifth defendant, Justin Demetrio Reis ("Justin") and the sixth defendant, his father Peter Anthony Reis ("Peter"), who together owned and/or controlled Motcombe. Justin was a shareholder of the Company until about 22 February 2015 while Peter is a shareholder of the Company.

A Chinese national Wang Xiaopu ("Lucy"), also a shareholder of the Company, was the seventh defendant to the 2015 Suit until Dr Goh discontinued the action against her on 10 June 2015.

4 Between them, the six defendants and Lucy hold and/or control 63.47% shares in the Company. There are other shareholders of the Company besides Dr Goh, Michelle, Lucy and the six defendants. 20 of these other shareholders, who control 20.88% of the shares in the Company, all agreed with Dr Goh to vote their shares as directed by him and to give him and Michelle their requisite proxies to vote their shares.

5 In Summons No 1124 of 2016 ("Dr Goh's Application") filed in the 2015 Suit, Dr Goh applied for an injunction to restrain the first to sixth

defendants from calling any meeting of the Company for the purpose of considering and passing resolutions to alter the share capital of the Company including allotting and/or issuing shares of the Company and/or voting to alter the share capital of the Company.

6 I dismissed Dr Goh's Application against which decision Dr Goh has filed a notice of appeal (in Civil Appeal No 114 of 2016).

7 The first and second plaintiffs respectively in Suit No 111 of 2016 ("the 2016 Suit") are the Company and its wholly owned subsidiary Aesthetic Medical Holdings Pte Ltd ("AMH") which owns and operates about 12–13 aesthetic medicine clinics all over Singapore under the PPP laser brand ("PPP brand"). PPP stands for "pimples, pores and pigmentation." Henceforth, the Company and AMH will be referred to collectively as "the AM group".

8 In the 2016 Suit, the AM group sued Dr Goh, Michelle and a company called Quikglow Pte Ltd (formerly known as Dr Michelle Goh Pte Ltd) ('Quikglow") as the first, second and third defendants respectively. The AM group alleged that Quikglow's business is to provide aesthetic medical treatment similar to and in competition with what is being offered by the PPP brand of clinics. Quikglow was incorporated by Dr Goh and Michelle on 5 March 2013.

9 The AM group's cause of actions in the 2016 Suit are for breaches of fiduciary and/or contractual duties by Dr Goh and Michelle, and conspiracy by lawful and/or unlawful means carried out by Dr Goh, Michelle and Quikglow.

10 In Summons No 754 of 2016 ("the *Mareva* application"), the AM group applied and obtained a *Mareva* Injunction against the three defendants in the 2016 Suit to restrain them from disposing of their assets. By an order of court

dated 19 February 2016, Dr Goh was restrained from disposing of his assets up to the value of $10m; an order requiring him to disclose his assets in Singapore was also granted against him.

11 By an order of court dated 7 March 2016 made in Summons No 755 of 2016 ("the joinder application") in the 2016 Suit, the AM group was granted leave to add PPP Investments Pte Ltd ("PPP Investments") as the third plaintiff. Leave was also granted to join Lee Kin Yun ("Lee"), Dr Goh's wife Koh Mui Lee ("Koh") and his daughter Melissa as the fourth, fifth and sixth defendants respectively to the 2016 Suit.

12 PPP Investments is a wholly owned subsidiary of AMH and its business is principally that of an investment company. The sole director of PPP Investments between 5 October 2012 and 17 February 2016 was Lee.

13 Lee was employed by Dr Goh as the Chief Operating Officer ('CEO") of AMH from 6 August 2012 to 30 June 2015 after the dismissal of his predecessor Tim Lee by Dr Goh, allegedly for "whistleblowing" on Dr Goh. On 1 July 2015, Lee was transferred to the Company where he assumed the role of Interim/Acting CEO. In the affidavit filed by Nelson in support of the joinder application, he described Lee as the right hand man of Dr Goh who does the latter's biding. Lee is a shareholder both of the AM group and the Company. He is also a business partner of Dr Goh, whose partnership includes operating a yacht business for the latter.

14 In Summons No 554 of 2016 ("AM's application") the plaintiffs to the 2016 Suit applied for an injunction against Dr Goh and Michelle to restrain them from joining Quikglow and engaging in the same or similar business as the AM group. The injunction against Quikglow was to restrain it from

employing/engaging the services of Dr Goh and Michelle. This court granted the injunction and the three defendants have appealed against the same in Civil Appeal No 116 of 2016.

15 In Summons No 934 of 2016 ("the setting aside application"), Dr Goh, Michelle and Quikglow applied to set aside the injunction obtained by the AM group in the *Mareva* application (at [10] above) as well as against the grant of the AM application (at [14] above). This court dismissed the setting aside application and the three defendants have similarly appealed against the dismissal in Civil Appeal No 116 of 2016.

The facts and parties' evidence

16 The genesis of the dispute between the parties goes back to December 2013. A fund called Lion Rock Capital ("Lion Rock") wanted to invest in the Company. Nelson as a director of RSP was tasked with structuring a deal between the Company and Lion Rock.

17 Dr Goh alleged that he discovered Nelson had, without the approval of the Company's board of directors, sought to arrange for Lion Rock to buy Nelson and Justin's shares in the Company. As a result, disagreements arose between Dr Goh, RSP and Justin.

18 On 24 January 2014, a settlement agreement ("the Settlement Agreement") was reached between Dr Goh, the Company, AMH, GSHKML Pte Ltd (a company owned by Dr Goh and his family) and the six defendants to the 2015 Suit (*ie*, RSP, Terence, Nelson, Motcombe, Justin and Peter).

19 Under the terms of the Settlement Agreement, Motcombe agreed to transfer 18,696 of the 62,319 shares it held in the Company to RSP (which

already held 50,000 shares). It was further agreed that RSP, Terence and Nelson would appoint Dr Goh or Michelle as their proxies or representatives at all general meetings of the Company and sign on their behalf all resolutions of shareholders passed by the Company from time to time.

20 Besides the 68,696 shares it held following the transfer by Motcombe, RSP bought another 32,895 shares in the Company by exercising an option to purchase that had been granted to Justin; he transferred the option to RSP when he could not afford to exercise the option. As a result, RSP owned 101,591 shares in the Company.

21 Under the Settlement Agreement, Justin and Peter similarly agreed to appoint Dr Goh and Michelle as their proxies and representatives at general meetings of the Company and to sign on their behalf all resolutions of shareholders passed by the Company.

22 The Settlement Agreement provided for Motcombe to transfer its balance 43,623 shares (after deducting the 18,696 shares transferred to RSP) to "the [Motcombe] transferee", an individual acceptable to Dr Goh. Peter became the Motcombe transferee in February 2014.

23 In late 2014, Dr Goh bought 18,679 shares of the 43,623 shares held by Peter leaving Peter with 24,994 shares. By an agreement dated 17 September 2014, Dr Goh agreed to purchase 20,318 shares from RSP in the event of an Initial Public Offering ("IPO") or a trade sale of the Company.

24 Dr Goh also entered into agreements with 22 other shareholders of the Company (to whom he had sold shares from 2012), including Lucy, for him and/or Michelle to hold their voting rights as proxies. The reason for these

agreements was to ensure that Dr Goh retained control of the Company notwithstanding that he and his family were no longer the majority shareholders from September 2013 onwards. Dr Goh also sold shares to a company called Oriental Bay Holdings Inc for $1.425m and similarly secured proxy voting rights from that company.

25 Despite the agreements the six defendants and Lucy had signed with him, Dr Goh alleged that they refused to provide him with executed proxy forms for the Company's extraordinary general meeting scheduled for 9 June 2015 ("the June EGM"), despite letters from his solicitors to their solicitors. Instead, accusations of wrongdoings and breaches of agreements were levelled against him (which he denied). Hence, Dr Goh's application referred to in [5] above was brought.

26 The affidavit filed on 9 March 2016 in support of Dr Goh's application deposed that he and Michelle were in grave danger of being removed from the board of the Company if the defendants were not restrained from calling the June EGM or any other meeting of the Company. He deposed that he only wanted the status quo to be preserved pending the outcome of his claim in the 2015 Suit.

27 In the 2016 Suit, where the AM group were the plaintiffs, it was alleged that the deliberate actions of Dr Goh and Michelle were intended to and did cause the AM group to be run to the ground and to become cash-strapped.

28 In the affidavit filed by Terence on 10 March 2016 to resist Dr Goh's application, he set out the reasons why RSP, he and Nelson (as the first to third defendants in the 2015 Suit) opposed Dr Goh's application.

29 Terence deposed that Dr Goh together with Michelle and GSHPL own and control 13.31% of shares whereas the six defendants in the 2015 Suit cumulatively own and control 41.57% shares in the Company. The defendants were thus short of 8.43% to surpass the 50% mark required to pass any resolutions at the June EGM. The resolutions to be tabled at the June EGM included resolutions for the removal of Dr Goh and his family members from the board of the Company. Given the shares held by him and his family as well as the proxies that Dr Goh and Michelle held, those resolutions may well be defeated. The Company had 34 other shareholders who held the remaining 58.43% shares not owned and controlled by the six defendants. As of 10 March 2016, the proxies had not yet been tallied and confirmed.

30 Hence, at the date of filing of Dr Goh's application, *viz* 9 March 2016, Dr Goh could not possibly establish a case that the June EGM would result in any one of the proposed resolutions being passed. Terence argued that just for this reason alone, Dr Goh's application should be dismissed. Terence then set out other reasons why Dr Goh's application should be dismissed.

31 Terence pointed out that on 2 February 2016, Dr Goh had tendered his letter of resignation ("Dr Goh's resignation letter") as a director of the Company and AMH with immediate effect. This was in response to a notice by the Company of an EGM to be held on 4 February 2016 ("the February EGM") which was convened to appoint Terence as a director of the Company. The requisite 21 days' notice of the February EGM was given to all shareholders of the Company, including Dr Goh and Michelle.

32 Dr Goh, Michelle and GSHPL chose not to attend the February EGM at which the resolution appointing Terence was passed. Instead they tendered their

resignations two days earlier. Subsequently, Terrence and a medical practitioner, Dr Ng Hong Yi, were appointed as directors of the Company.

33 Besides Dr Goh's resignation letter, Terence deposed that Dr Goh had also issued a statement to the media (including television's Channel NewsAsia) in which he was quoted as having said the following:

> Since May 2015, I had to raise a strong voice to make myself heard as a director, but it is difficult to affect any fundamental and directional shift against the majority shareholders. Since June 2015, I have lost control over the company. It is with much sadness that I have little choice but to resign as director of a company that is now being driven by fundamental values which I no longer agree with.

Further, the media statement added that Dr Goh and his family would no longer be involved in the operations of the PPP laser brand and its clinics.

34 Terence asserted that Dr Goh's application was therefore at odds with his public statement that he no longer wished to be involved with the AM group. Terence pointed out that in his supporting affidavit, Dr Goh had alluded to the fact that by the conclusion of the 2015 Suit, the Company would only be a shadow of its present self – its reputation would have suffered along with the morale of its staff as well as the confidence of its patients and potential investors.[1] Therefore, Terence alleged that the justification for Dr Goh's application was insincere, mischievous and untrue; the balance of convenience did not lie in favour of Dr Goh. Granting Dr Goh's application would force the Company to operate as an insolvent company to the prejudice of its other shareholders and would expose Nelson, Terence and RSP to liability for fraudulent trading under the Companies Act (Cap 50, 2006 Rev Ed).

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[1] Second affidavit of Dr Goh in Suit No 546 of 2015 filed on March 2016 ("Dr Goh's affidavit for SUM 1124/2016") at para 48.

35 One of the grounds for Dr Goh's application was a then pending mediation session between the parties. Terence pointed out that the mediation did not mean that there was a standstill agreement.

36 Terence added that Dr Goh's application to restrain the June EGM did not make sense as one of the proposed resolutions would actually benefit Dr Goh. The purpose of the June EGM was to raise just over $6m as working capital to enable the Company to continue its operations. To do that, all shareholders including Dr Goh were invited to subscribe for new shares in the Company at $20.00 a share in proportion to their shareholdings. Dr Goh's allegation that the rights issue exercise would dilute his shares was therefore untrue. Further, the rights issue price compared favourably with the then current value of the Company's shares which was $22.91 each, based on accounts filed with the Accounting and Regulatory Authority ("ACRA").

37 Nelson was appointed a director of the Company on 26 June 2015 and of AMH on 3 February 2016. He separately filed two affidavits in the 2016 Suit on 3 and 18 February 2016 in support of the AM application and the *Mareva* application respectively.. In his affidavits, Nelson deposed to events and the conduct of Dr Goh that caused the Company to be in such dire financial straits.

38 Nelson alleged that since Quikglow's incorporation on 5 March 2013, Dr Goh, Michelle and Quikglow had been "ripping off" and transferring to Quikglow the confidential information, medical records, intellectual property, customers' information and other assets together with the information of personnel/doctors which were crucial for the continued operation of the PPP business. He said the three defendants (with the aid of Lee and two other employees of the Company, namely, Denie Chan and Aaron Gong) had engaged in conduct designed to run down the Company's business, drive away its

customers and tarnish the AM group's reputation with its own employees, contractors and customers so as to smoothen the way for Quikglow to effectively step in and take over the business of PPP.

39 Nelson also deposed that the conduct of Dr Goh, Michelle and Quikglow had already resulted in dissatisfaction (judging from comments posted on the Facebook pages for PPP Laser Clinic Raffles City and PPP Skin Laser Clinic). Nelson contended that this was to be expected as Dr Goh and Michelle had, from 26 January 2016 onwards, launched a campaign to harm the reputation of the PPP brand using the Facebook page of PPP Laser Clinic. Their misconduct cited by Nelson included posting photographs that alleged that the PPP brand does not promise "any particular doctor", "any particular clinic location", "results", or even a "fixed schedule of operating hours". It was also alleged that they had taken away raw and processed data files relating to the business of the PPP brand ("the PPP data files").

40 Nelson believed that before Dr Goh's resignation letter, Dr Goh had already laid the groundwork for the media statement and public announcement with the desire to damage the business and reputation of the AM group. In fact, in late January 2016, Dr Goh had circulated a text message to the staff of the AM group which stated he wanted to inform staff and patients alike that he would be resigning and leaving the company by the following week but would continue to serve patients in a new set-up.

41 Nelson recounted that on the evening of 2 February 2016 when he visited the office of Dr Goh at The Paragon (after Dr Goh's resignation letter had been tendered), he found that the office had been emptied of its files and computers and that it was deserted save for a few employees. Nelson was

advised that such actions constituted breaches of fiduciary duties owed to the AM group and/or conspiracy to injure.

42 Nelson revealed that Dr Goh had factually terminated his service contract on or around 8 June 2015 but purported to backdate it by one year to 1 June 2014. Dr Goh then attempted to validate the backdating by signing (along with his wife and two daughters) a resolution accepting a "clarification letter" dated 8 June 2015 from Dr Goh addressed to the Company. The letter stated:

> I refer to the above agreement [referring to his service contract].
>
> I write to state and clarify that I ceased to be employed under the Service Agreement with effect from 1 July 2014. On that date, the Company entered into the Licence Agreement dated 1 July 2014 with GSKHML (sic) Pte Ltd, among other parties (the "Licence Agreement"). Also, from that date, I ceased to receive remuneration under the terms of the Service Agreement. I also ceased to be chairman of the Company (which was required under the Service Agreement) from 1 July 2014.

The (self-serving) letter was undoubtedly crafted with legal advice. Although the letter refers to "GSKHML Pte Ltd", this appears to be a typographical error. The Licence Agreement dated 1 July 2014 alluded to was in fact entered into with GSHKML, the company owned by Dr Goh and his family which was referenced earlier (at [18]). The shareholders of GSHKML are Dr Goh, Koh, Michelle, Melissa as well as Dr Goh's son Justin Goh.

43 Nelson also pointed out that Dr Goh's service contract dated 6 January 2012 and the service contract of Michelle dated the same day both contained a restraint of trade clause that prohibited them from carrying on or joining a business that competed with that of the AM group for a period of twelve months after they left the Company. Both service contracts contained non-solicitation and confidentiality clauses as well. Despite these prohibitions, Dr Goh attempted on 4 and 5 February 2016 through text and WhatsApp messages to

induce doctors working for the AM group to resign. In addition, Nelson disclosed that Dr Goh earned a monthly salary of $200,000 under his service contract while Michelle earned between $10,000 to $30,000 per month under her service contract notwithstanding that she had graduated from medical school in 2009 and was only fully registered with the Singapore Medical Council three years later on 11 June 2013. As will be further analysed below (at [89]), she was paid an exceedingly generous remuneration for someone of such little experience.

44 After the termination of his service contract, Dr Goh replaced it with a licence agreement dated 1 July 2014 ("the Licence Agreement") signed between the Company, AMH and GSHKML under which Dr Goh paid himself $267,500 per month as royalties. This is the agreement which was subsequently referred to in the "clarification letter" dated 8 June 2015 (see [42] above). Nelson believed that the Licence Agreement was actually signed in April 2015 as there was a resolution of the board of directors of the Company that was scanned and circulated by Dr Goh on 6 April 2015 to Yao Zhi Lan ("Yao"), another director of the Company. The resolution was signed by Dr Goh, Koh, Michelle and Melissa, besides Yao.[2] Nelson asserted that, between 4 July 2014 and 6 October 2015, Dr Goh received a total of $8,007,500 as licence fees.

45 In addition, under cl 3(A)(i) of the Licence Agreement, a one-time down payment of $3,745,000 was payable to Dr Goh upon the execution of the agreement followed by a payment under cl 3(A)(iii) of $535,000 on the first of January of every calendar year.

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2 Third affidavit of Nelson in Suit No 111 of 2016 filed on 18 February 2016 ("Nelson's affidavit for the *Mareva* application"), exhibit LNN-76.

46 Subsequently on 25 January 2016, Dr Goh signed an agreement with Lee described as a "Contract of Professional Services" ("the January 2016 contract"). Its full text stated:

> 1 Aesthetic Medical Partners Pte Ltd (AMP) engages Dr Goh Seng Heng (Dr Goh) as a professional locum to service Paragon patients for the period of his services from November 2015 till any time termination is required.
>
> 2 Dr Goh has requested his compensation to be a minimum 60% of AMP's gross top line to be paid weekly.
>
> 3 AMP accepts to engage Dr Goh in view of historical revenues of about S$500,000 which will be lost if Dr Goh choose not to work
>
> | | |
> |---|---|
> | Signed
Dr Goh Seng Heng
Director | Signed
Lee Kin Yun
Acting/Interim CEO |

The self-serving contract was signed by Lee without informing the Company's board of directors.

47 The relevant payment voucher of the Company dated 27 January 2016 indicates that the following amounts based on 60% of the gross revenue were payable to Dr Goh under the January 2016 contract:[3]

Month	**Amount**
November 2015	$277,804.48
December 2015	$322,893.21
January 2016 (1–26)	$216,114.30
Total:	$816,811.99

[3] Nelson's affidavit for the *Mareva* application, p 289.

Dr Goh's fees based on 60% of the Company's gross revenue was to be contrasted with the commission paid to other locum doctors, which was merely 1% according to the report on the Company prepared by Ferrier Hodgson Singapore ("Ferrier Hodgson"). In any event, on 27 January 2016, the above sum of $816,811.99 was paid to Dr Goh by Lee by way of ten separate cheques all for sums below $100,000. This was just two days after the January 2016 contract was purportedly entered into. It was equally noteworthy that the majority of the $816,811.99 fees payable to Dr Goh was for services rendered *before* the January 2016 contract was purportedly signed. Hence, Nelson contended that the January 2016 contract was a fraudulent attempt to legitimise the payment of these "fees" amounting to $816,811.99. He also asserted that the payment of this sum through ten separate cheques was a clear attempt to circumvent the requirement that cheques for sums over $100,000 had to be authorised by both him and Dr Goh as joint signatories. On 2 February 2016, when Dr Goh tendered his resignation, the Company's balance in its account with OCBC Bank was only $609,891.01.

48 Besides the Licence Agreement and the January 2016 contract, Dr Goh procured other agreements that benefited him and/or his family members. These included (a) an Agreement for Services between the Company and Michelle Goh Pte Ltd (Quikglow's predecessor) dated 1 July 2014 ("the MG Service Agreement"); (b) a Medical Services Agreement between the Company and Michelle Goh dated 21 July 2015 ("the Medical Services Agreement"); and (c) a Marketing, Design & Product Development and Supply Outsource Assignment Agreement dated 25 August 2015 ("the Marketing Agreement") between the Company and Quikglow for the payment of "retainer fees" and "buying agent's fees" signed by Lee and Denie Chan (the Company's finance officer) on behalf of the Company and by Michelle on behalf of Quikglow. Nelson alleged that

these self-serving contracts were in breach of the fiduciary duties owed by Dr Goh, Michelle and Lee to the Company.

49 Because of the high level positions they occupied under their respective service contracts with the Company, Dr Goh (as chairman) and Michelle (as CEO) were in management roles in the AM group and had access to all, if not most, of the information relating to the AM group's patients, employees and other personnel engaged for its business.

50 Nelson deposed that in the period leading up to his resignation on 2 February 2016 as a director of the Company, Dr Goh had procured customers to sign up for promotional packages that were cheap or were unlimited deals after which some of the PPP clinics were closed down. The Company ran the risk that those customers would become disgruntled and leave or demand refunds or worse, that they would be left out-of-pocket, if the activities of Dr Goh and Michelle were allowed to continue. The Company had engaged forensic investigators and accounting professionals from Ferrier Hodgson to conduct an audit of the Company's books and accounting records. According to Ferrier Hodgson's investigations, the prepaid packages saddled the Company with deferred liabilities of almost $14m.[4]

51 After his resignation as a director, Dr Goh emailed the Ministry of Health ("MOH") on 3 February 2016 requesting MOH to check the Company's Paragon office on drugs, prescription medicines and laser procedures on the pretext that he had heard that the staff there were not complying with MOH's directives. He requested that the licence (held by him on behalf of the PPP clinics) be cancelled.

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4 Nelson's affidavit for the *Mareva* application, p 91.

52 For added measure, Lee as the Company's CEO telephoned MOH to inform the ministry of Dr Goh's resignation. In response to MOH's email request that an official letter be sent to the ministry to state that the Company would cease operations at its PPP clinics with immediate effect due to the change in directorship/licensee, Lee informed MOH that he had tendered his resignation from the Company and that he had forwarded MOH's email to Nelson. Lee requested MOH to liaise with Lee henceforth on his private email address. He did not copy Nelson in this email reply to MOH.

53 Although Nelson was entitled as a director of the Company to financial information from Lee, Nelson deposed that he experienced difficulties with this as Lee withheld information from him, using the disputes between the shareholders as an excuse to "stonewall" him. According to Nelson, Lee even attempted to bully him into signing a KPMG audit report which Nelson refused to do in the absence of further information which he wanted but could not obtain from Lee.

54 Nelson also alleged that Dr Goh breached his fiduciary duties in relation to the sale of the Company's business in Vietnam ("the Vietnam sale"). The Company held a 49% shareholding in PPP Vietnam through PPP Investments. Nelson claimed that he was unaware of the Vietnam sale until the board of directors of the Company received an email on or about 22 December 2015 from one Jeremy Searle who is a shareholder of both the Company and PPP Vietname. On 23 December 2015, by email, Nelson sought verification of the sale from Lee. Dr Goh replied to Nelson's email, but did not address Nelson's queries. He instead stated that "in his own time" Lee would let Nelson "know the proper facts".

55 However, nothing further on the Vietnam sale was heard from either Dr Goh or Lee. Instead, they circulated allegations pertaining to Nelson and the other shareholders of the Company. Nelson deposed that he later uncovered that, at one time, an informal offer of US$20m had been made for the purchase of PPP Vietnam by a third party when PPP Vietnam was operating four clinics there. He discovered that Dr Goh sold off PPP Vietnam for $99,000 despite the offer and that the sale and purchase agreement was signed by Lee. Ferrier Hodgson valued the Company's 49% shareholding in PPP Vietnam in the region of US$41.2m based on forecasted EBITDA figures and opined that the sale price of $99,000 was "clearly well below the value of the shares".[5]

56 In addition, using AMH as the vehicle, Dr Goh purchased two commercial units at the D'Leedon condominium in Singapore for $5,371,900 (excluding GST). One of the units was purportedly used to operate a PPP laser clinic for a short period during which revenue earned totalled $22,000 against losses of $77,000. A loan of $700,000 was also purportedly taken by AMH from Koh as evidenced in a loan agreement dated 22 October 2015 executed between Koh and AMH. Without the knowledge of the other board members of AMH, Dr Goh procured a board resolution dated 23 October 2015 approving Koh's loan. This was followed by a mortgage and charge registered in Koh's favour on 13 January 2016 which Dr Goh executed on behalf of AMH. I should add that Koh was a director of the Company until June 2015 and she is a director cum shareholder of Quikglow.

57 Nelson pointed out it was no coincidence that Koh issued her cheque for $700,000 on 27 January 2016, the very same day that Dr Goh received $816,811.99 from the AM group (see [47] above). He alleged that there was a

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[5] Nelson's affidavit for the *Mareva* application, p 147.

"round-tripping" arrangement which resulted in Dr Goh receiving $116,811.99 more from AMH than what AMH received from Koh's loan. As a result, AMH was left out-of-pocket but was saddled with a loan agreement and a mortgage in Koh's favour. Shortly thereafter, on 12 February 2016, AMH received a letter of demand from Koh's lawyers (who were also Dr Goh's lawyers) demanding repayment of the sum of $700,000 within seven days.

58 Additionally, sometime in 2014, Dr Goh, Melissa and Quikglow procured $3,605,000 of the Company's monies to be paid to Dr Goh as an advance on account of director's fees.

59 Although Ferrier Hodgson's investigations are still ongoing, their interim report dated 17 February 2016[6] showed how Dr Goh, as a director and shareholder of the Company – and with the connivance of Koh, Michelle and Lee – had taken large sums of money out of the Company as recently as end-January 2016. The total amount found to have been taken out was in excess of $8.9m.

60 Further, Dr Goh entered into a share sale agreement with Liberty Sky Investments Limited ("Liberty Sky") dated 25 November 2014 under which he sold 32,049 shares or 10.59% of the Company to the latter for $14,422,050. Without consulting the directors/other shareholders of the Company, Dr Goh agreed that the Company would provide a guarantee that the value of Liberty Sky's capital would be maintained for 24 months. He, Michelle, Melissa and Koh then passed a directors' resolution on the Company's behalf accepting the guarantee. The guarantee given by the Company saddled it with a contingent liability of $19,073,162, as calculated by Ferrier Hodgson. Liberty Sky has sued

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6 Nelson's affidavit for the *Mareva* application, exhibit LNN-55.

Dr Goh and Michelle for damages in connection with its purchase of shares from him.

The decision

61 In an interim injunction application (which is usually taken out on an urgent basis), the court is asked to, and has to, weigh conflicting affidavits filed by the parties and make a quick determination on whether the application should or should not be granted. Without cross-examination of the deponents of the many affidavits filed by both sides for the four Summonses, the determination exercise necessarily could not be perfect. What this court strived to do was to ascertain whether there was any objective evidence to verify the allegations and/or cross allegations made such as to tilt the balance in favour of one or the other party. Bare assertions and bald denials without more could not be accepted at their face value. The court was also fully conscious of the "bad blood" (in Dr Goh's words) between Dr Goh and Nelson/Terence. Equally, it was not possible to evaluate in detail the many affidavits filed by the parties nor refer to all of them. The court could only consider the more relevant affidavits and refer to the significant events and facts discussed therein. With those factors in mind, I now set out the reasons for my rulings on the Summonses.

Dr Goh's application

62 An injunction is an equitable remedy. The court is therefore mindful of the maxims that *he who comes to equity must come with clean hands* and *he who comes to equity must do equity*. A perusal of the affidavits (and exhibits) filed for the four Summonses revealed that Dr Goh (with the aid of Koh, Melisa and Lee) was bent on destroying the Company's business at any cost. From the evidence that largely emanated from Dr Goh's side, it was undisputed that he and Michelle wanted nothing to do with the Company which is why they

resigned as directors before the February EGM (at which Terence was appointed as a director of the Company).

63 Having made it clear that he (and Michelle) no longer wanted to be involved in the affairs of the Company, as reinforced by Dr Goh's media statement set out in [33], it did not lie in Dr Goh's mouth to come to court to complain (falsely) that the pending rights issue would dilute his holdings and that the status quo should be preserved pending trial. The evidence before me led to the irresistible inference that Dr Goh's application was *mala fides* and motivated by his desire to destroy the Company. He wanted to stop the rights issue at any cost to prevent much-needed working capital from being raised so that the Company could not survive. No court should lend its aid and grant equitable relief to an applicant with such malicious intent.

64 Moreover it is not the function of courts to interfere in the day-to-day running of companies. Here, the first to sixth defendants in the 2015 Suit intended to call a meeting to pass a resolution for a rights issue to raise funds to ensure the Company could continue operating because Dr Goh (assisted by Koh and Michelle) had bled the Company dry to the tune of at least $8.9m by their various actions and agreements, as indicated by Ferrier Hodgson's investigations. As Nelson pointed out in his affidavit in support of the *Mareva* injunction, there were no commercial reasons for AMH to enter into the numerous agreements with Dr Goh and/or Michelle.[7] There was also no necessity for the Licence Agreement (at [44]) which paid Dr Goh and/or his company royalties of $535,000 per annum (excluding the down-payment of $3,745,000) – the PPP laser clinics already had their own trademarks and branding which included a line of aesthetic and skin-care related products. The

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7 Nelson's affidavit for the *Mareva* application, paras 44 to 48.

primary purpose of the agreements initiated by Dr Goh appeared to be to deplete the Company's cash and to profit Dr Goh and his family.

65 In my assessment, Dr Goh's primary motive was to destroy the Company (by fair means or foul) so that after his departure therefrom, Quikglow could take over its operations and clinics. My view was reinforced by the threats Dr Goh had made against his fellow shareholders – one example would be an email dated 30 May 2015 which he sent to Nelson, Terence and Yao (another shareholder of RSP and a director of AMP before Nelson) where he said, "devaluation, destruction and disintegration of PPP is now in progress". Nelson also exhibited numerous WhatsApp messages from Dr Goh of the same tenor. Ferrier Hodgson's report stated that for the financial year 2014/2015, the significant increase in expenditure (largely attributable to the royalties of $7m paid to Dr Goh) caused the Company's profits to decline from $6.52m to a loss of $5.7m with an adverse change of $12.22m. There was also evidence that Dr Goh and/or Lee had approached the Company's landlord at JEM Mall and at Lucky Plaza to say the Company wanted to terminate its leases and that Quikglow would be the replacement tenant. These pieces of evidence, both individually and taken together, fortified my assessment that Dr Goh's application was *mala fides* and should not be allowed.

The AM application

66 In the AM application, the plaintiffs' counsel, Mr Sreenivasan, SC, requested the court to grant a "Springboard' injunction, derived from the UK case *Terrapin Ltd v Builders' Supply Co (Hayes) Ltd and others* [1960] RPC 128 which decision our courts adverted to in *Jardine Lloyd Thompson Pte Ltd v Howden Insurance Brokers (S) Pte Ltd and others* [2015] 5 SLR 258 (although in that case Choo Han Teck J declined to grant the "Springboard" injunction).

67 Mr Sreenivasan submitted that a "Springboard" injunction was necessary to prevent Quikglow from having a head start and obtaining an unfair advantage over the Company through the misuse of confidential information obtained by Dr Goh and Michelle while they were employees and/or directors of the Company. He said the Company should be entitled to a "Springboard" injunction if it fulfilled the following requirements (culled from *QBE Management Services (UK) Ltd v Charles Dymoke and others* [2012] IRLR 458 at [239]–[247]):

(a) confidential information had been misused or is at risk of being misused;

(b) such misuse of confidential information has given rise to an unfair competitive advantage to Quikglow;

(c) the "unfair advantage" is still being enjoyed by Quikglow (at the time the injunction is sought); and

(d) damages would be inadequate.

He also cited *Universal Thermosensors Ltd v Hibbens and others* [1992] 1 WLR 840. Mr Sreenivasan submitted that Dr Goh and Michelle should be restrained from using Quikglow as an unlawful means to take over the PPP laser business and the clinics of the AM group. The court accepted his submissions. In addition, as the "Springboard" injunction sought here was an *interim* injunction until trial, the principles set down in the *locus classicus* of *American Cynamid Co v Ethicon Ltd* [1975] AC 396 ("*American Cynamid*") – particularly the balance of convenience test – were also applicable.

68 The first requirement is whether the facts showed that there was misuse of confidential information, or the risk of such misuse. Again, as the AM group only sought an interim injunction, they only had to prove that there is a serious question to be tried at this juncture.

69 Aaron Gong ("Gong"), who was the IT consultant appointed by Dr Goh for the Company, filed an affidavit on Dr Goh's behalf to refute Nelson's allegation that Dr Goh had passed to Michelle/Quikglow raw and processed data which included sensitive and confidential information. Gong did not dispute passing the data to Lee and Michelle. But he claimed that his reasons for doing so were pure. When Dr Goh resigned, the AM group's licence to operate ceased. However, notwithstanding the "stop order" from MOH on 3 February 2016, the AM group continued operating, according to Gong. He did not want to be party to such criminal activity. Hence, he took it upon himself to report to MOH's representative, one Peter Lee, the unauthorised operations of the PPP laser clinics. He accordingly forwarded to Peter Lee the back-up data which was password-protected, along with the password, as evidence of the AM group's transgressions. Gong conceded that he had also forwarded the files to Lee and Michelle because Michelle had given him Peter Lee's contact at MOH, but asserted that he did not give them the password. He insisted that neither Lee not Michelle could have decoded the data/information without the help of IT consultants as he only gave the password to MOH.

70 Gong's explanation for his subversive conduct was unconvincing. Like Lee and Denie Chan, Gong was beholden to Dr Goh, did Dr Goh's bidding and his motive was to assist Dr Goh to close down the PPP clinics' operations and to work for Dr Goh. Nelson's affidavit in response to Gong filed on 7 March 2016 disclosed that Gong had purchased 100 shares in the Company from Dr Goh for a nominal $1.00 consideration on 14 April 2015. Further, Gong had apparently

received "a huge commission" for the D'Leedon properties according to a "whistleblowing" letter to Nelson and two others dated 27 June 2015 by AMH's then CEO Tim Lee. Consequently, I entertained grave doubts as to Gong's purportedly altruistic motives in forwarding the AM group's database to Michelle, Lee and MOH.

71 The service contracts of Dr Goh (as chairman) and Michelle (as CEO) dated 6 January 2012 contained the following clauses:

> 7.1 The Executive hereby undertakes with the Company that except with the consent in writing of the Company:-
>
> > 7.1.1 for the period of 12 months after the cessation of his employment with the Company, he will not either on his own account or in conjunction with or on behalf of any person, firm or company, carry on or be engaged, concerned or interested directly or indirectly in, within Singapore or any country where the Group carries on business, whether as shareholder, director, employee, partner, agent or otherwise, any business carried on by the group (other than as a holder of not more than 5% of the issued shares or debentures of any company listed on any recognised stock exchange);
> >
> > 7.1.2 for the period of 12 months after the cessation of his employment with the Company, he will not either on his own account or in conjunction with or on behalf of any other person, firm or company, solicit or entice away or attempt to solicit or entice away from the Group the custom of any person, firm, company or organisation who is a customer, client, agent or correspondent of the Group or in the habit of dealing with the Group;
> >
> > 7.1.3 for the period of 12 months after the cessation of his employment with the Company, he will not either on his own account or in conjunction with or on behalf of any other person, firm or company, solicit or entice away or attempt to solicit or entice away from the Group any person who is an officer, manager or employee of the Group whether or not such person would commit a breach of his contract of employment by reason of leaving such employment.
>
> …

> 11 The termination of this Agreement or of the employment of the Executive under this agreement does not operate to terminate the provisions of Clause 6, 7 and 10, which (subject as expressly provided) shall remain in full force and effect and binding on the Executive notwithstanding termination of this Agreement.

72 Michelle's service contract was for three years commencing on 1 February 2012 with automatic renewal for periods of one year each. Despite cl 11 of her service contract, Michelle attempted by an email dated 27 January 2016 to entice one Dr Eka Wong ("Dr Wong") from the AM group to join Quikglow by offering her a service contract which was to commence on 10 February 2016. Michelle herself appeared to be working for Quikglow before the twelve months' restraint of trade clause in her service contract expired on 30 June 2016. In her lawyers' letter to the AM group's lawyers dated 12 February 2016, it was disclosed that Michelle had made similar approaches to two other doctors, namely Drs Wilson Ho and Tan Bingqian. In addition, there was a salary forecast spreadsheet dated 22 January 2016 prepared by Denie Chan for Quikglow in which a fourth doctor, Dr Kenrick Tham, was included.

73 Michelle also uploaded onto YouTube on 12 January 2016 a video of herself with the title "Introducing Quikglow".[8] The video was accompanied by the following statement:

> A brainchild of ex-PPP Laser Clinics Founder, Dr Michelle Goh and her sister Melissa, Quikglow is the latest skincare brand that combines the latest breakthroughs in technology and science to formulate safe, effective and innovative skincare products for the busy person on the go. …

74 Similarly, Dr Goh's acts *inter alia* in (a) attempting to have Quikglow to take over the operations of the PPP clinics and (b) enticing the Company's

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[8] First affidavit of Nelson in Suit No 111 of 2016 filed on 3 February 2016 ("Nelson's affidavit for the AM application"), exhibit LNN-8.

doctors to leave to work for Quikglow also clearly breached the provisions of cll 7.1.2, 7.1.2 and 7.1.3 read with cl 11 of his service agreement.

75 In the light of the senior positions held by Dr Goh and Michelle as chairman and CEO respectively, by which they exerted great influence over staff and/or locum doctors, Mr Sreenivasan submitted that the AM group was in a highly vulnerable position in relation to the breaches they had committed. In other words, the misuse of confidential information had given rise to an unfair competitive advantage to Quikglow thereby justifying the grant of a "Springboard" injunction.

76 In response, Dr Goh and Michelle put forward three lines of defences, none of which I found persuasive. First, they asserted that Quikglow was not actually in competition with the AM group – they had not set up any competing medical aesthetic clinic nor solicited any staff or customer of the AM group. The latter denial of solicitation was not credible in the light of the evidence of the approaches made by Michelle to the three or four doctors of the AM group to join Quikglow (see [72] above).

77 In relation to non-competition, Dr Goh attempted (through his lawyers' letter dated 12 February 2016) to draw a fine distinction between Quikglow's business of "selling beauty and skincare products" and the AM group's business which was "to carry out aesthetic services and laser treatments". His explanation rang hollow as the PPP clinics owned by the AM group also sold aesthetic and skincare-related products as part of their business. In fact, even the assertion that Quikglow was not in the business of providing aesthetic and laser treatments was revealed to be a blatant lie by Michelle's email to Dr Wong dated 27 January 2016 wherein she said:

> We are keen to engage 5 selected PPP doctors to be Anchor Doctors at each new Quiklaser Clinic.
>
> For Anchor Doctors we engage, we wish to lay out the following expectations/obligations we have upfront.
>
> … [W]e choose not to adopt non-proven or non-scientific "hype" aesthetic procedures commonly performed by other practitioners in the market and stick strongly to our bread and butter of gentle safe lasers. …

78 This is not to mention the draft contract that Michelle forwarded to Dr Wong which provided that Dr Wong would be engaged to "perform the function of a Medical Doctor specifically in the treatment of pores, pimples and pigmentation ("Aesthetic Medicine") for [Quikglow]". Equally untrue therefore was Dr Goh's contention in his reply affidavit filed on 29 February 2016 ("Dr Goh's reply affidavit") that Quikglow only sells skincare products and that:[9]

> [Quikglow]'s business is thus very different from that of the [Company] and [AMH], whose businesses are focussed on aesthetic medical treatment and services and involve the use of laser treatment to improve skin quality.

79 Second, Dr Goh and Michelle contended that they were under no obligation not to compete with the AM group. In his reply affidavit, Dr Goh contended that the restraint of trade clause was not be applicable to him because it was for twelve months and had expired on 30 June 2015.[10] Tellingly, he did not deny that he had breached cl 7 of his service contract.

80 Equally telling was the fact that Dr Goh did not deny that he had taken away the AM group's trade secrets. Instead, he deposed that the pricing of products and services were all formulated by him and Michelle and were therefore within their professional skills and knowledge. That, however, was no

9 First affidavit of Dr Goh in Suit No 111 of 2016 filed on 1 March 2016 ("Dr Goh's reply affidavit for the AM application"), para 39.

10 Dr Goh's reply affidavit for the AM application, para 84.

answer to the Company's complaint that Gong had wrongfully passed AM group's confidential data to Quikglow on Dr Goh's instructions.

81 Dr Goh also denied that he had backdated his termination of employment notice. This blatant denial was both unsupported by evidence and reprehensible as he had been advised that, under cl 11 of his service contract, the non-competition provision in cl 7 would survive the termination of the service contract. Nelson exhibited an email dated 5 June 2015 from Lee & Lee to LLP Law Corporation, who were Mr Goh's solicitors then, indicating that such advice had been given to him.

82 Michelle similarly denied that she was bound by the prohibitions in her service contract. Her position was that the service contract she entered into on 6 January 2012 had been superseded by the MG Service Agreement (see [48] above) which did not contain any restraint of trade or non-solicitation clauses. I was not convinced that this was the case. As Nelson surmised, it was arguable that the MG Service Agreement was an attempt by Michelle to circumvent the prohibitions in her earlier service contract. Further, the MG Service Agreement was between the Company and Quikglow's predecessor; Michelle was not personally a party to the contract. So it was not clear that the service contract between the Company and Michelle had necessarily been superseded by the MG Service Agreement.

83 Third, despite all the evidence to the contrary produced by the Company, Dr Goh deposed that it was the AM group that was attempting to oppress him and his family members and that he had no intention to harm the Company or AMH.

84 Dr Goh accused RSP of instigating its fellow shareholders to oust him and his family members as directors of the Company. This allegation was unsubstantiated. He also alleged that Nelson was responsible for the sale of medical equipment to a Chinese company, Shanghai Ming Yan Enterprise Management Co Ltd ('Shanghai Ming Yan"), owned by Nelson and Terence, for which payment of $3m was due but had not been made.

85 Nelson denied Dr Goh's allegation. He pointed out that he was already a director of Shanghai Ming Yan when it became a franchisee of the AM group. He also asserted that there was no basis for the Company's claim of $3m; Dr Goh and Lee had informed him they would send 30 aesthetics machines to Shanghai Ming Yan in the first quarter of 2015. The machines could not be legally licensed for use in China as they lacked the approval of the China Food and Drug Administration. Nelson had informed Lee of the legal issue in late-2014 and requested for the documentation relating to any machines ordered for Shanghai Ming Yan. Eventually, only one machine was delivered to Shanghai Ming Yan. Consequently, no debt of $3m was owed to the Company.

86 In essence, Dr Goh's case was that he and Michelle were working towards the IPO of the Company and that it did not make sense for them to take steps to destroy the goodwill and reputation of the AM group. However, Dr Goh's actions belied his words.

87 Even in relation to Michelle's services to the Company, the evidence indicated that Dr Goh had abused his fiduciary duties to the AM group. Michelle's initial monthly salary in 2011 was $10,000 which Dr Goh on 1 June 2013 increased to $30,000. Subsequently, Dr Goh again unilaterally increased Michelle's monthly salary to $45,000 by an email instruction sent to the chief financial officer of the Company, Leona Lim, on 13 August 2014. In the same

email, Dr Goh increased his own salary as chairman by $7,500 per month to $22,500.

88 Subsequently, the Company entered into the MG Service Agreement referred to earlier. Here, Michelle was not paid a salary as such. Instead, the contract provided for a monthly retainer fee of $46,000 to be paid to Michelle Goh Pte Ltd/Quikglow with an additional payment of $92,000 at the end of every twelve months.

89 Hence, Dr Goh paid inflated sums to Michelle which were not commensurate with her experience. In her affidavit filed on 29 February 2016 to contest AM's application, Michelle deposed that she was roped in by Dr Goh "to spearhead and conceptualize a replicable and scalable business model that had a focus on laser medical facials" and that she had coined the acronym "PPP".[11] Nelson's position was that this was a tall story. As he highlighted, at the material time (June 2011), Michelle was only 26 years old and not even a fully registered doctor with the Singapore Medical Council until 11 June 2013.

90 Michelle's claim that she developed a number of skin products and headed the R&D team in the Company was also challenged by Nelson who pointed out that the AM group did not have a laboratory for such production. The Company's products were produced in Taiwan. In truth, it would be difficult to find in the private sector a fresh medical graduate not even registered with the Singapore Medical Council earning an initial monthly salary of $10,000 as Michelle did and having that salary increased three-fold a mere two years later.

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[11] First affidavit of Michelle in Suit No 111 of 2016 filed on 1 March 2016, para 13.

91 This court thus views with considerable scepticism Dr Goh's justification of Michelle's inflated salary. He deposed that her fee was adjusted in 2014 to $46,000 per month, with a two months bonus of $92,000 at the end of every 12 months of service, "since her role was no longer simply an aesthetic doctor for [the Company] but also in business development, medical and product research and supervision of the medical practice employed in the PPP Laser Clinics under AMH".[12] Dr Goh did not provide any evidence to substantiate his verbiage.

92 Michelle's other contract with the Company was the Medical Services Agreement (see [48] above). Under this contract, Michelle was not engaged as a doctor but as "an independent contractor locum" for which, under cl 2(b)(ii), she would to be paid a 5% "monthly accounting revenue gross turnover" commission as her fees. As Ferrier Hodgson's report noted, Michelle's fees under the Medical Services Agreement, together with the fees payable to Dr Goh under the January 2016 contract (at [46]), meant that 65% of the revenue generated by the Company from its business in Singapore was payable to them both.

93 Under yet another contract titled the Marketing Agreement, the Company contracted to pay Quikglow a monthly retainer fee of $15,000, 10% "buying agent's fees" for any new products sourced for the AM group and a 2% "buying agent's fee" for sourcing existing products (excluding out-of-pocket expenses which were capped at $1,000 per month). As Nelson deposed, the Marketing Agreement enabled Quikglow to obtain contractual terms, pricing, product-vendor details, marketing campaign details and other commercially sensitive information from the AM Group, to the latter's detriment.

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12 Dr Goh's reply affidavit for the AM application, para 31.

94 Taken together, the Licence Agreement and the January 2016 in favour of Dr Goh along with the three contracts for Michelle and Quikglow's benefit, namely the MG Service Agreement, the Medical Services Agreement and the Marketing Agreement, were intended to and did bleed the AM group financially. It is likely that this is why Dr Goh had ignored his own lawyers' advice that the shareholders' approval in a general meeting was required for the Licence Agreement. These agreements were further evidence that Dr Goh was actively working to plunder and harm the Company for his own benefit.

95 This conclusion was further corroborated by Dr Kenneth Thean ("Dr Thean"), a shareholder of the Company who had ran a number of the PPP clinics since 2011. Dr Thean filed an affidavit in which he deposed that he was one of the busiest and most profitable of the doctors working for the Company. He confirmed that Dr Goh approached him, a few days after the June EGM notice was issued, to ask if he would join Dr Goh and Michelle in setting up a venture similar to that of AM group. Dr Thean was offered free shares equal to the percentage he held in the Company. Crucially, Dr Thean's evidence was that Dr Goh had informed Dr Thean that he wanted to set up a "PPP Mark 2" in case he lost control of the AM group. Dr Goh said that he wanted to run down the value of PPP as he had sold most of his shares, so as to teach a lesson to those who had opposed him.

96 Clearly, unless Dr Goh was restrained by a court order in the interim, he would strive tirelessly to achieve his avowed purpose of destroying the Company. Hence, this was an appropriate case for the grant of the "Springboard" injunction sought by the AM group. The facts showed that the AM group had more than made out a *prima facie* case that confidential

information had been misused by Dr Goh and Michelle to give an unfair advantage to Quikglow. There was also no doubt that Quikglow still enjoyed the unfair advantage which it had obtained as a result of these wrongs.

97 Finally, damages in lieu of an injunction would not be an adequate remedy in this case. Even though this court had dismissed Dr Goh's application as being completely unmeritorious, that by itself would not have saved the Company from ruin. It was necessary to prevent Dr Goh and Michelle from using Quikglow as the vehicle to take away all the business, clientele and clinics of the Company pending trial. Otherwise, the AM group was in danger of not surviving up to the time the 2016 Suit would be heard. In other words, applying *American Cynamid*, I had little doubt that the balance of convenience in this case favoured the AM group.

The Mareva application & the setting aside application

98 It was another court that had granted on 19 February 2016 the *Mareva* application – it prohibited Dr Goh from disposing of his assets up to the value of $10m. However, this court heard and refused the setting-aside application to remove the injunction as the balance of convenience lay in favour of continuing the interim injunction until trial.

99 Dr Goh had admitted in his reply affidavit for the AM application that he visits a local casino occasionally for leisure.[13] The court was informed that Dr Goh received a sum in the region of $50m between 2013 and 2015 from the sale of his shares in the Company to various parties, excluding the sums he received from the Company itself. Unless he was restrained until trial or by further orders, there was a fear that Dr Goh could dispose of his very substantial cash

[13] Dr Goh's reply affidavit for the AM application, para 126.

assets pending trial to thwart the AM group's attempts to enforce any judgment should it succeed in the 2016 Suit and in defending the 2015 Suit. In this regard, it is noteworthy that Dr Goh has to-date not complied with the order made on 19 February 2016 for him to disclose his assets in Singapore.

Conclusion

100 As stated earlier at [61], this court had to undertake a balancing exercise in regard to the four Summonses by reviewing the relevant affidavits in tandem with the documents, including the emails, text and WhatsApp messages available. Having undertaken that exercise, it was clear that Dr Goh's application had no merit and should be dismissed, as was ordered, while the exigencies of the situation and the equities of the case required the court to grant, as it did, the *Mareva* and AM applications.

Lai Siu Chiu
Senior Judge

Goh Chee Hsien, Joel, Lim Siok Khoon, Ong Pei Ching, Tan Gim Hai Adrian and Yeoh Jean Wern (Morgan Lewis Stamford LLC) for the plaintiff in Suit No 546 of 2015 and the first, second and third defendants in Suit No 111 of 2016;
Suresh S/O Damodara (Damodara Hazra LLP) for the first, second and third defendants in Suit No 546 of 2015;
Pereira Kenetth Jerald, Sujatha Selvakumar and Wee Jia Min (Aldgate Chambers LLC) for the fourth, fifth and sixth defendants in Suit No 546 of 2015;
N Sreenivasan, SC, Rajaram Muralli Raja, Heng Wui-Kee Andrew, Lim Jie, Nicole Cheah Shen-Li and Tan Kai Ning Claire (Straits Law Practice LLC) for the first and second plaintiffs in Suit No 111 of 2016.