Tjong Mark Edward *v* Public Prosecutor and another appeal
[2015] SGHC 79

Case Number	: Magistrate's Appeal No 167 of 2014/01-02
Decision Date	: 24 March 2015
Tribunal/Court	: High Court
Coram	: Tay Yong Kwang J
Counsel Name(s)	: Shashi Nathan, Tania Chin and Jeremy Pereira (KhattarWong LLP) for the appellant in MA 167 of 2014/01 and the respondent in MA 167 of 2014/02; Lynn Tan and Ang Siok Chen (Attorney-General's Chambers) for the respondent in MA 167 of 2014/01 and the appellant in MA 167 of 2014/02.
Parties	: Tjong Mark Edward — Public Prosecutor

Criminal law – Statutory offences – Prevention of Corruption Act

24 March 2015 Judgment reserved.

Tay Yong Kwang J:

Introduction

1 Is it still corruption if an agent discussed the idea of a reward with the third party alleged to have been favoured only after acting in relation to his principal's affairs? This was one of the issues which arose in these cross-appeals from the decision of the District Judge ("the DJ") in *Public Prosecutor v Tjong Mark Edward* [2014] SGDC 304 ("the GD").

2 Tjong Mark Edward ("Tjong") was charged with two counts of corruptly obtaining gratification as agent under s 6(*a*) of the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) ("PCA"). Following a trial, he was convicted on the first charge (for which he was sentenced to eight weeks' imprisonment and ordered to pay a penalty) and acquitted on the second. The first appeal is Tjong's appeal against conviction and sentence in respect of the first charge while the second appeal is the Prosecution's cross-appeal against acquittal on the second charge.

3 After amending the charges (see [11] below), I dismiss Tjong's appeal against conviction and sentence on the first charge and allow the Prosecution's cross-appeal on the second charge. I will decide the sentence for the second charge after hearing submissions from the parties.

Undisputed Facts

4 Tjong was the Director of Business Development of ST Electronics (Info-Software Systems) Pte Ltd ("STE"). His role was to identify potential areas of business and promote STE's business and to oversee the South Asia region (which included Bangladesh). [note: 1]

5 He was introduced in 2005 to one Mujibur Rahman ("Mujibur"), a Bangladeshi national and the managing director of a Bangladeshi firm that handled government contracts. [note: 2] Following Tjong's recommendation to his superiors in STE, Mujibur was appointed in March 2006 as STE's agent in Bangladesh to help secure a contract with the Bangladesh Police Department ("BPD") to supply

walkie-talkies and to set up a telecommunications network ("the Project"). [note: 3] The agency agreement provided that if Mujibur was successful in obtaining the Project for STE, he would get a commission of 7% of the contract price. [note: 4] Through Mujibur's efforts, STE's tender for the Project in May 2006 was successful [note: 5] and thereafter STE issued Mujibur a cheque for $185,424.90. [note: 6] This cheque was deposited on 26 July 2006 into Mujibur's Citibank account, [note: 7] which he had opened just the day before with Tjong's help. [note: 8]

6 Tjong went to Bangladesh sometime after Mujibur returned there. [note: 9] They met sometime between 7 August and 11 August 2006 at the Pan Pacific Hotel in Dhaka, where Mujibur handed two signed blank cheques ("C1" and "C2" respectively) to Tjong. [note: 10] Tjong then filled in the dates and amounts at some point in time. [note: 11] The cheques were for $57,386.67 and $30,000.00 respectively and would draw on monies in Mujibur's said Citibank account. [note: 12]

7 C1 and C2 were deposited into the bank account of one Ho Su Ling (Tjong's then-girlfriend, now his wife) ("Ho"). They were cleared on 11 August 2006 and 23 August 2006 respectively. [note: 13] Tjong received these amounts on 14 August 2006 and 28 August 2006 by way of two cheques issued by Ho (for $57,386.00 and $30,000.00). [note: 14]

Proceedings below

8 Tjong claimed trial to two charges, which corresponded to the $57,386.67 and $30,000.00 he received. They read:

> **First Charge**
>
> You, Tjong Mark Edward … are charged that you, on 11 August 2006, in Singapore, being an agent, to wit, a Business Director in the employ of ST Electronics (Info-Software Systems) Pte Ltd ("STE"), did corruptly obtain, through one Ho Su-Ling ("Ho"), a gratification of S$57,386.67/- from one Mujibur Rahman ("Mujibur"), Managing Director of Kings Shipping & Trading Co. Ltd which was deposited into Ho's POSB bank account (account number [xxx]), as a reward for doing an act in relation to your principal's affairs, to wit, to appoint Mujibur as an agent of STE to assist STE with a project with the Bangladesh Police Department, and you have thereby committed an offence punishable under Section 6(a) of the Prevention of Corruption Act, Chapter 241.
>
> **Second Charge**
>
> You, Tjong Mark Edward … are charged that you, on 23 August 2006, in Singapore, being an agent, to wit, a Business Director in the employ of ST Electronics (Info-Software Systems) Pte Ltd ("STE"), did corruptly obtain, through one Ho Su-Ling ("Ho"), a gratification of S$30,000.00/- from one Mujibur Rahman ("Mujibur"), Managing Director of Kings Shipping & Trading Co. Ltd which was deposited into Ho's POSB bank account (account number [xxx]), as a reward for doing an act in relation to your principal's affairs, to wit, to appoint Mujibur as an agent of STE to assist STE with a project with the Bangladesh Police Department, and you have thereby committed an offence punishable under Section 6(a) of the Prevention of Corruption Act, Chapter 241.

9 For both charges, the DJ found an objective corrupt element based on the fact that Tjong accepted money from Mujibur as part of a profit-sharing scheme intending it to be his reward for having recommended Mujibur to be appointed as STE's agent and the fact that Tjong acted

surreptitiously (GD at [32]–[33]). Many of his findings regarding C1 rested on the credibility of Mujibur's evidence and the implausibility of Tjong's evidence (GD at [37]–[42] and [44]–[51]). However, the DJ found that Tjong's explanation of C2 raised a reasonable doubt as to its purpose (GD at [43]). Accordingly, the DJ convicted Tjong on the first charge and acquitted him on the second.

10 Both parties, dissatisfied with the DJ's findings on the respective charges, appealed to the High Court.

Preliminary issue: amendment of charges

11 After hearing arguments from both parties, I reserved judgment. I have decided to amend the charges pursuant to s 390(4) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC") to reflect more accurately the nature of Tjong's role, by replacing the words "to appoint" with "for having facilitated the appointment of". Tjong did not actually appoint Mujibur as STE's agent. However, he recommended Mujibur as a candidate although the final decision to appoint Mujibur lay with others. [note: 15] These facts were accepted by both parties at the trial and uncontested on appeal.

12 I am satisfied that the proceedings below would have taken the same course, that the evidence would have been the same (see *Public Prosecutor v Koon Seng Construction Pte Ltd* [1996] 1 SLR(R) 112 at [21] *per* Yong Pung How CJ), and that, crucially, Tjong would not be prejudiced (*Public Prosecutor v Donohue Enilia* [2005] 1 SLR(R) 220 at [35] *per* Yong CJ). The Public Prosecutor's consent, which is needed to institute proceedings under the PCA (s 33 of the PCA), also presents no obstacle. Fresh consent is not needed if consent has been given for a prosecution on the same facts as those on which the altered charge is based (see s 390(5) of the CPC) or where the amended charge is neither more serious nor based on different material facts (*Garmaz s/o Pakhar and another v Public Prosecutor* [1995] 3 SLR(R) 453 at [84] *per* Yong CJ). I now turn to the appeals proper.

The appeals against Tjong's conviction and acquittal on the first and second charges respectively

13 The law on the role of the appellate court in an appeal against conviction or acquittal is well settled. An appellate court may intervene on a question of law if an error of law has occurred in the court below (s 394 of the CPC; *Lee Yuen Hong v Public Prosecutor* [2000] 1 SLR(R) 604 at [35] *per* Yong CJ). As for a question of fact, the Court of Appeal in *ADF v Public Prosecutor and another appeal* [2010] 1 SLR 874 summarises at [16]:

> … an appellate court has a limited role when it is asked to assess findings of fact made by the trial court. In summary, the role is circumscribed as follows:
>
> (a) Where the finding of fact hinges on the trial judge's assessment of the credibility and veracity of witnesses based on the demeanour of the witness, *the appellate court will interfere only if the finding of fact can be shown to be plainly wrong or against the weight of evidence*: see *PP v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [32] and *Yap Giau Beng Terence v PP* [1998] 2 SLR(R) 855 ("*Yap Giau Beng* [*Terence*]") at [24]. An appellate court may also intervene, if, after taking into account all the advantages available to the trial judge, it concludes that the verdict is wrong in law and therefore unreasonable: *Jagatheesan s/o Krishnasamy v PP* [2006] 4 SLR(R) 45 ("Jagatheesan") at [43].
>
> (b) Where the finding of fact by the trial judge is based on the inferences drawn from the internal consistency (or lack thereof) in the content of witnesses' testimony or the external

consistency between the content of their testimony and the extrinsic evidence, an appellate court is in as good a position as the trial court to assess the veracity of the witness's evidence. The real tests are how consistent the story is within itself, how it stands the test of cross-examination, and how it fits in with the rest of the evidence and the circumstances of the case: see *Jagatheesan* at [40]. *If a decision is inconsistent with the material objective evidence on record, appellate intervention will usually be warranted.*

(c) *An appellate court is as competent as any trial judge to draw any necessary inferences of fact from the circumstances of the case*: see *Yap Giau Beng Terence* at [24].

[emphasis added]

14 The main issues on appeal, like the trial below, centre on whether there was an objective corrupt element. I will first set out briefly the relevant law. The PCA provides:

Punishment for corrupt transactions with agents

6. If —

(*a*) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business;

…

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 5 years or to both.

15 The elements of a s 6(*a*) offence are set out in *Kwang Boon Keong Peter v Public Prosecutor* [1998] 2 SLR(R) 211 ("*Peter Kwang*") at [32] and reiterated by the Court of Appeal in *Public Prosecutor v Leng Kah Poh* [2014] 4 SLR 1264 ("*Leng Kah Poh*") at [20]. It must be shown that:

(a) gratification was accepted;

(b) as an inducement or reward (for any act, favour or disfavour to any person in relation to the recipient's principal's affairs or business);

(c) there was an objective corrupt element in the transaction; and

(d) the recipient accepted the gratification with guilty knowledge.

16 The second, third and fourth elements all pertain to the recipient's *mens rea*. In particular, the second and third elements are normally part of the same factual enquiry although they are conceptually different. As stated by Woo Bih Li J in *Tey Tsun Hang v Public Prosecutor* [2014] 2 SLR 1189 at [17], and quoted in *Leng Kah Poh* at [22]:

Although the second and third elements [as stated in *Peter Kwang*] are conceptually different, they are part of the same factual enquiry. The question is *whether the recipient received the gratification believing that it was given to him as a* quid pro quo *for conferring a dishonest gain or advantage on the giver in relation to his principal's affairs*. The court has treated these two

elements together in its assessment of whether an offence is made out. Thus, the causal, or consequential, link between the gratification and the act of favour alleged to be procured was examined … under the rubric of an objective corrupt element. [emphasis added]

17 Thus, in establishing an objective corrupt element, the courts have used a two-part framework as summarised in *Public Prosecutor v Low Tiong Choon* [1998] 2 SLR(R) 119 at [29] *per* Yong CJ:

> … The first part is to ascertain the intention of the giver or receiver (as the case may be) behind the transaction at the material time, an inquiry which depends on the evidence of the parties concerned as well as the surrounding circumstances. The second part is then to ask whether such an intention tainted the transaction with an objectively-corrupt element, given the factual matrix. That is why this Court had stated in [*Chan Wing Seng v Public Prosecutor* [1997] 1 SLR(R) 721] at [20] that:
>
> > Whether a transaction has a corrupt element is an objective inquiry that is essentially based on the ordinary standard of the reasonable man. This question is to be answered *only after the court has inferred what the accused intended when he entered into the transaction* …
>
> [emphasis in original]

18 Was the DJ correct in his findings on whether Tjong received C1 and C2 as *quid pro quo* for conferring a dishonest gain or advantage on Mujibur in relation to STE's affairs? The DJ assessed this as part of a global inquiry of whether there was an objective corrupt element (see GD at [30]–[33]) but the arguments on appeal can in substance be reduced to two broad issues. The first is whether Tjong favoured Mujibur in relation to STE's affairs and the second is whether Tjong accepted the two cheques as a reward for facilitating Mujibur's appointment as agent.

Whether Tjong favoured Mujibur in relation to STE's affairs

19 Counsel for the appellant, Mr Nathan, argued that Tjong never favoured Mujibur in facilitating Mujibur's appointment as STE's agent. Favour may, for example, be shown by evidence of actual favour or inferred from the fact that Tjong contemplated a reward when he facilitated Mujibur's appointment as agent in March 2006. Mr Nathan submitted that the entire appointment process was carried out on the merits and that there was no evidence that Tjong and Mujibur had discussed, much less agreed on, any profit-sharing scheme until May 2006 when Mujibur secured the Project for STE.

Tjong's claim that Mujibur was appointed on his merits

20 Mr Nathan submitted that when recommending Mujibur, Tjong and one Ng Kheng Hua cogently accounted for Mujibur's qualities to the approving panel, which then evaluated Mujibur and appointed him on the merits. Ng Kheng Hua, at the material time, was the Business Development Director in charge of Homeland Security and the person to whom Tjong reported for matters concerning the Project. [note: 16]

21 However, these arguments do not help Tjong very much. If Tjong showed favour when recommending Mujibur and accepted gratification for it, whether Mujibur was appointed on the merits is irrelevant for the purposes of guilt. STE's subsequent acts would not override any corruption that had taken place.

22 The fact that Tjong could account for Mujibur's qualities is also inconclusive. It is possible that other worthy candidates were not brought forward for consideration or that the terms of the agency

would be different. At best, even if Mujibur was in fact the best candidate, this shows that there was no pressing need for Mujibur to reward Tjong to be selected as STE's agent, since he might have been chosen anyway. The central inquiry remains whether Tjong favoured Mujibur in derogation of his duties to STE. Since Tjong has to exercise his judgment in recommending Mujibur to STE, it is enough if Tjong was coloured by the contemplation of a reward.

Tjong's claim that there was no agreement or discussion

23 Mr Nathan submitted that there was no evidence of any discussion or contemplation of a reward during the entire process of Mujibur's appointment—this discussion allegedly came about only after Mujibur had secured the Project for STE. Before I discuss why I found that Tjong did contemplate a reward when recommending Mujibur to STE, I explore a point which arose during the oral arguments on appeal.

Whether corruption is possible where no prior agreement or discussion exists

24 On the basis that the entire appointment process was not itself tainted by any contemplation of a reward, the Prosecution submitted that it would still be corruption if Tjong subsequently received gratification and associated it with his role in the appointment of Mujibur. The DJ also seemed to have proceeded on this basis, albeit implicitly (see GD at [17]–[18] and [36]).

25 In my opinion, the Prosecution's submissions went a little too far. While s 6(*a*) of the PCA covers the receipt of gratification for past conduct where there was no antecedent agreement, I doubt that the principle goes to the extent contended by the Prosecution.

26 No local decisions involving the "past consideration" or "supervening corruption" type of cases have been brought to my attention. At [36] of the GD, the DJ adopted the Prosecution's reliance on *Regina v Andrews-Weatherfoil Ltd* [1972] 1 WLR 118 ("*Andrews-Weatherfoil*") at 127H, where Eveleigh J said, "[the Public Bodies Corrupt Practices Act 1889] covers receipt of money for a past favour without any antecedent agreement and it was open to the jury to convict both accused on this basis". The judge reasoned that it was natural for the word "reward" to have a *post facto* meaning when used in the phrase "as an inducement to or reward for". Section 6(*a*) of our PCA features not only a similar expression of "as an inducement or reward for" but also the phrase "for having done or forborne to do". It is quite clear that the lack of an agreement does not prevent a finding of corruption. The lack of a discussion is also not fatal in unusual cases like this. Corruption is often subtle and hard to detect. It would be undesirable if the mere lack of a discussion or agreement is fatal to a finding of corruption, since many instances of corruption could then be disguised as rewards after the event.

27 However, I doubt that the objective corrupt element would be satisfied if there was no agreement, discussion, contemplation or expectation of gratification when the allegedly corrupt conduct happened and if no favour was in fact shown. In *Andrews-Weatherfoil*, Eveleigh J stated at 127H–128A:

> However, the judge in fact left the case to the jury on a more favourable basis, for taken as a whole his direction indicated that they should look for an agreement before April 1966. He specifically said:
>
> > "… of course, if the £500 and any suggestion of any money was not given until after everything was over, and there was no suggestion that he was to have an inducement or reward beforehand that would not be good enough."

The reference to April 1966 in the passage above is instructive. The appellant, the chairman of the housing committee in a borough council, had been charged for corruptly agreeing to receive £500 as a reward to promote the interests of a firm in respect of an award of a building contract by that council. April 1966 was the time when a letter of intent was sent by the council to the firm. By analogy, the relevant cut-off point here would be when STE offered to appoint Mujibur as its agent. If Tjong was not hoping for a reward or had no contemplation whatsoever that he might be getting a reward when he recommended Mujibur to STE, then it would not be fair to say that he favoured Mujibur in derogation of his duties to STE. Any subsequent receipt of gratification could well be a gift or, at worst, a breach of an employment contract or a code of conduct or ethics. It could not amount to corruption.

28 I believe that what I have suggested is consistent with the existing jurisprudence. Two local cases support the proposition that it is not corrupt to reward someone for doing what he was already supposed to do. In *Yuen Chun Yii v Public Prosecutor* [1997] 2 SLR(R) 209 ("*Yuen Chun Yii*"), the appellant, an officer from the Housing Development Board, had been charged with accepting gratification from a friend after processing certain applications for him. It was contended that the accused had shown favour by processing the applications swiftly but Yong CJ found no corruption. Even though the appellant had worked on the "faster side", he was already supposed to process the applications with due dispatch and nothing suggested that he indiscriminately preferred his friend's applications to the others in the queue. Similarly, in *Chan Wing Seng v Public Prosecutor* [1997] 1 SLR(R) 721 ("*Chan Wing Seng*"), Yong CJ held (albeit in the context of s 5(*b*)(i) of the PCA) that a genuine reward to a jockey to ride his best and win races was not corrupt.

29 It is also useful to recall the natural meaning of corruption, which is the "[p]erversion of a person's integrity in the performance of … duty or work by bribery etc" (*Chan Wing Seng* at [26]). To prove corruption in cases where gratification was received *after* the allegedly corrupt conduct had happened, the evidence must at least allow the court to infer that the idea of gratification was already operating in the accused's mind. There must be some "advantage gained or hoped to be gained by the giver" (see *Sairi bin Sulaiman v Public Prosecutor* [1995] 2 SLR(R) 794 at [40]). If I accept the Prosecution's position, the meaning of corruption would be too wide and might turn innocuous gifts or mere contractual or ethical breaches into crimes.

30 I stress that the foregoing analysis assumes a one-off dealing. It might still be corruption if, for example, Tjong and Mujibur continued to have dealings; the gratification might encourage Tjong to favour Mujibur in later dealings in derogation of his duties to STE. This seems to be the case here, as the Prosecution suggested. Mujibur testified that, following discussions about profit-sharing, he hoped for further business with Tjong. Since Mujibur had to be re-appointed as agent for each project, he would have to be recommended again by Tjong to STE. [note: 17] Moreover, Mujibur testified that when he saw Tjong write the amounts on C1 and C2 (a disputed fact I will come to later), he took it lightly because he thought he could recover the money from future business. [note: 18] However, contemplation about future business is not the basis on which I decide this issue since the evidence shows that Tjong contemplated a reward when recommending Mujibur.

Whether Tjong contemplated a reward when recommending Mujibur to STE

31 The DJ found that Tjong had been instrumental in Mujibur's appointment as agent (GD at [31]). This is clearly borne out on the facts. Tjong was STE's only presence in Bangladesh at the material time. [note: 19] He was the only person to recommend Mujibur and he gave a positive recommendation. Both the president and the deputy president of STE trusted Tjong's recommendation as Tjong was STE's "man on the ground" in Bangladesh. [note: 20]

32 Admittedly, the above does not necessarily mean that Tjong showed favour or that Tjong's mind was coloured by the idea of a reward. In fact, Mujibur not only confirmed that the discussions started only after Mujibur had secured the Project [note: 21] but also said that this profit-sharing scheme was unrelated to his employment as agent. [note: 22] These facts are also inconclusive. Parties may approach a transaction with different frames of mind. What is innocuous from Mujibur's perspective may be corrupt from Tjong's perspective. The crucial inquiry is whether Tjong showed favour or whether Tjong's mind was tainted by the contemplation of a reward at that point in time (see *Yuen Chun Yii* at [70]–[71] and *Chan Wing Seng* at [41]) and in my view, there is enough circumstantial evidence to support such an inference.

33 The first strand of evidence comes from Mujibur's account of how he came to be STE's agent. He said that "[Tjong] was the man …", that "he was the … Business Director for Bangladesh. So that's why this is his jurisdiction. He made me agent." [note: 23] Coupled with the fact that Tjong was STE's only presence in Bangladesh, Tjong must have known the level of influence he enjoyed in respect of STE's affairs.

34 The second strand of evidence comes from the actual procurement of the Project. It might seem ordinary for someone like Tjong to take an interest in Mujibur's work for STE's benefit. However, there was less reason than usual for Tjong to help Mujibur so actively since STE need not pay Mujibur anything at all if he failed to secure the Project. [note: 24] Despite this, Mujibur said that Tjong helped extensively in helping him win the tender for the Project. [note: 25] This seems to go quite beyond what a business development manager would do and indicates Tjong's special interest in having Mujibur win the tender. Of course, one should not equate helpfulness and enthusiasm in work with a corrupt frame of mind. Moreover, it would be within Tjong's scope of work and certainly in STE's interest for the Project to be secured for STE. However, the events that happened after the Project was secured gave a different perspective to what was actually in Tjong's mind and showed that it was not altruism or a sense of duty to STE that was motivating him.

35 The third strand of evidence comes from Tjong's understanding of business practices in Bangladesh. Mujibur testified that sharing of profits was common in Bangladesh as that was how business was sometimes done there. [note: 26] Tjong had been in Bangladesh for about two and a half years at the material time and must have known about this practice. [note: 27] Mr Nathan also acknowledged this practice during the appeals. Since Tjong also knew that Mujibur would get nothing if the Project fell through, it was natural that discussions on profit-sharing happened not at the outset but only after Mujibur had secured the Project. In fact, when Mujibur wanted to share profits with Tjong, there was no suggestion that Tjong was taken aback or refused or asked him why. Instead, he went along with the idea and said that both of them would benefit. [note: 28] Even if Mujibur could not say with certainty who had initiated the discussions, he confirmed that the idea to share profits was mutually held. [note: 29] When Mujibur received his commission from STE and asked Tjong what he could do for Tjong, Tjong told Mujibur to talk in Dhaka and to bring his chequebook along. [note: 30] This was a significant fact as it showed the underlying unspoken understanding between the two men. It was also the first vital hint that Tjong's conduct was not entirely above board.

36 From all this, it appeared that Tjong facilitated Mujibur's appointment and helped Mujibur extensively throughout the tender process with the contemplation or implied understanding that Mujibur would eventually offer some sort of reward if the Project was secured. Tjong responded as a matter of course without question or hesitation when Mujibur eventually offered a reward in the form

of a profit-sharing scheme. Mujibur's characterisation of this reward as a profit-sharing scheme could not change the fact that the idea of a reward operated in Tjong's mind when Tjong facilitated Mujibur's appointment.

37 Mr Nathan took issue with the fact that Mujibur could not state any specific understanding that he had with Tjong (*eg*, the ratio by which profits were split). However, this was not fatal. As I have said, the PCA covers a situation where no antecedent agreement existed. Moreover, Mujibur was able to say that the exact split was decided spontaneously for each project and could be 50:50, 60:40 or 70:30 but it would not be something irrational. [note: 31] It was also implicit in his evidence that Tjong would get substantially nothing if Mujibur failed to secure a particular contract. [note: 32] That was still a kind of understanding between Tjong and Mujibur. Given the imbalance of bargaining power between Tjong and Mujibur, it was perfectly plausible that Mujibur could not offer something more specific. The circumstances surrounding C1 and C2 showed that Tjong could decide and did receive the gratification on his own terms. Given my views on Mujibur's credibility (which I discuss at [45]–[58] below), I also do not accept Mr Nathan's alternative explanation that Mujibur's claims of profit-sharing were an afterthought.

38 In my view, therefore, Tjong did contemplate a reward for facilitating Mujibur's appointment as agent and this shows he must have been influenced by this factor when recommending Mujibur. As stated in [35], Mujibur also contemplated a reward for Tjong in the form of profit-sharing. I will now turn to Mr Nathan's second line of argument on the purposes of C1 and C2.

Whether Tjong accepted the two cheques as a reward for recommending Mujibur's to STE

39 The DJ found that Mujibur wanted to share his profits with Tjong for Tjong's help and guidance in making him STE's agent, that Mujibur had discussed the idea of profit-sharing with Tjong and that Tjong received the two sums of money pursuant to his discussions with Mujibur (GD at [31]–[32]). These findings were supported by the highly unusual features and the surreptitiousness of the transactions. Specifically, Tjong asked Mujibur in Bangladesh to give him two blank cheques. Tjong filled in the cheques himself and later deposited the cash cheques into Ho's account when he could have used his own (GD at [33]).

40 On appeal, Mr Nathan largely repeated the same arguments that he canvassed before the DJ, *ie*, that the purpose of C1 and C2 was not to share profits but to run Mujibur's errands. It can be seen that Mujibur's and Tjong's explanations for the cheques were completely different. In summary, I found Mujibur's explanation to be far more consistent, both internally and externally, as compared to Tjong's, whose explanation was riddled with difficulties that could not be satisfactorily explained. I will set out the respective explanations in more detail before assessing them in turn.

Mujibur's and Tjong's explanations regarding C1 and C2

41 According to Mujibur, C1 and C2 were given to Tjong as part of a profit-sharing scheme (by which Tjong and Mujibur would split the commission that Mujibur earned by securing the Project), as he felt obligated to Tjong for helping him to be STE's agent and guiding him on the tender for the Project. [note: 33] In particular, Mujibur was certain that both C1 and C2 were used for the same purpose (*ie*, profit-sharing) and that he never saw those amounts of money again. [note: 34]

42 Tjong had a very different explanation. He claimed that both cheques were withdrawn for Mujibur's errands and that the money was never intended for himself.

43 He said that the amount in C1 represented travel and training expenses for ten Bangladeshi police officers in relation to the Project. STE had to bear those expenses. STE had paid $57,386.67 into Mujibur's Citibank account. [note: 35] Crucially, Tjong claimed that he passed $57,386.67 to Mujibur through one Burhan, an intermediary whose relatives in Bangladesh eventually passed the same in Bangladeshi currency to Mujibur. [note: 36] This was done apparently to circumvent foreign exchange controls in Bangladesh. [note: 37] Tjong claimed that he wrote the amount of $57,386.67 on C1 only after finding out the detailed expenses from one Raymond Tan (the Project Manager of the Project) upon his return to Singapore from Bangladesh on 11 August 2006. [note: 38] He then claimed that Ho deposited the cheque for Tjong out of convenience since she worked in town [note: 39] and because it was urgent for Mujibur to get the money quickly (since Mujibur refused to pay the expenses for STE upfront and would pay only after receiving the money through Burhan's relatives). [note: 40]

44 As for C2, Tjong claimed that he took the $30,000.00 to help Mujibur with errands, namely, to remit money to Mujibur's son in London and to bring him vitamins, car parts and whisky. [note: 41] To support his claim on the remittance, Tjong produced two telegraphic transfer ("TT") forms dated 7 September 2006 and 25 September 2006 for the equivalent of $19,729.00 and $4,600.58. [note: 42]

The court's assessment of Mujibur's explanations

45 The DJ found Mujibur to be credible and truthful. This rested essentially on three main bases: that Mujibur's evidence was reliable, that his credibility had not been impeached and that he was not an accomplice. Since many of the DJ's findings (and Mr Nathan's submissions) concern Mujibur's credibility, I will discuss each of the DJ's bases in turn to explain why I think his findings should stand.

Whether Mujibur's evidence was reliable

46 The DJ found that Mujibur's evidence was reliable in that his inconsistencies were clarified in re-examination and by the documentary evidence tendered his court (GD at [47]). Mujibur was also ready to confirm a fact unequivocally whenever he was certain and would indicate his uncertainty whenever he was unsure about something (GD at [48]).

47 Mr Nathan highlighted several instances of what he felt were inconsistencies in Mujibur's evidence. However, the record shows that Mujibur was consistent on the most material points. He was consistent on the fact that C1 and C2 were given to Tjong for "profit sharing", that C1 and C2 were given for the same purpose and that he never got the two amounts of money back.

48 Mujibur's evidence was also borne out by the circumstances that follow. First, Mujibur's explanation cohered with his claim that discussions on profit-sharing took place after the project was awarded to STE. [note: 43]

49 Second, the gratification was paid out as a portion of Mujibur's commission and not as part of other monies belonging to Mujibur. [note: 44] When Tjong deposited C1 and C2, the only monies in Mujibur's Citibank account were $185,424.90 (representing the 7% commission) and $57,386.67 (representing STE's payment pursuant to Mujibur's invoice dated 4 August 2006). [note: 45] Mujibur insisted that the $57,386.67 written by Tjong in C1 was different from the $57,386.67 which STE had already paid to Mujibur. [note: 46]

50 Third, the circumstances in which C1 and C2 were obtained were redolent of surreptitiousness. When Mujibur asked how he could help Tjong, Tjong did not show any surprise or ask him why but said that they would talk in Dhaka and asked Mujibur to bring his chequebook along. [note: 47] In Dhaka, Tjong asked Mujibur to give him two blank cheques and he filled in the details himself. [note: 48] After receiving the cheques, Tjong took the circuitous route of depositing the cheque into Ho's bank account when he could have used his own bank account, especially for C1, which he said had to be handled urgently. This was also suspicious where C2 was concerned, since it was clearly not urgent to deposit it. The fact that Tjong failed to report the gifts to STE would be a breach of his employment contract. [note: 49] The contravention of rules designed to prevent bribery would "invariably" mean that the transaction is objectively corrupt (*Chan Wing Seng* at [20]). The precise amount in C1 was also designed to look like a reimbursement for the training expenses and conceal the true nature of the monies. Ironically, the surreptitiousness of this transaction was fortified at trial and on appeal, where Tjong completely denied the purpose of C1 and C2 as testified by Mujibur.

51 Mujibur's testimony made much more sense considering the other evidence presented. The total amount of $87,386.67 in C1 and C2 was 47.1% of Mujibur's commission. In my view, the correct inference to be drawn was that Tjong had intended to split the profits roughly 50:50 but used two cheques, written at the same time but dated a day apart, to disguise the reward as payment for Mujibur's purposes.

Whether Mujibur's credit should have been impeached

52 The DJ held that Mujibur's credibility was not impeached in the face of a statutory declaration ("SD") made by Mujibur which appeared to be at odds with his evidence at trial (GD at [44]–[51]). The DJ placed no weight on the SD because it was obtained in unsatisfactory circumstances, it was produced for the first time at trial and, in any event, it was unclear what was meant by the allegedly exculpatory words in paragraph 7 of the SD, which reads:

> I was recently informed by Mark that he had cashed 2 cheques into his wife's account for convenience and that he has therefore become a subject of investigations by the Corrupt Practices Investigation Bureau for Investigations ("CPIB"). However, I do not have any issue with this as the monies were still paid to my business associates in cash promptly and as instructed by me.

Mr Nathan made many arguments on why Mujibur's credit should have been impeached based on the SD but I do not accept them.

53 Mr Nathan submitted that Mujibur was well aware of the contents of the SD especially because Tjong explained it to Mujibur over dinner. However, this was never put to Mujibur and only came up in Tjong's evidence. Mr Nathan also submitted that the DJ wrongly rejected paragraph 7 of the SD. I, however, agree with the DJ's comments at [46] of the GD. The contents of the SD were contrary to what Mujibur insisted in court, *ie*, that the money he received was different from that in C1, which was money he never saw again. It is unsafe to rely on the SD given Mujibur's clarifications at trial.

54 Further, the SD was not tendered to the investigators or to the Prosecution. A few reasons were offered. Mr Nathan said he merely intended to use the SD to record what Mujibur said and that he intended to call him as a defence witness as he was unaware until much later that Mujibur would be a prosecution witness. Since the criminal case disclosure processes were generally inapplicable (this being a prosecution under the PCA), Tjong was entitled to withhold evidence as a tactical matter. Moreover, Tjong claimed that the investigating officer ("IO") told him not to teach her what

to do when he offered his help. It was therefore submitted that the DJ erred in disbelieving him. In my view, it would be strange not to want to inform the investigators about the SD since Tjong obviously wanted to take active steps to clear his name. Tjong could also have informed the prosecution about the SD. Either course of action might have led to a withdrawal of the criminal proceedings against him. It is hard to believe that a rational person with the benefit of legal advice would then withhold exculpatory evidence until trial as a tactical matter simply because no discovery regime applied.

55 Accordingly, in my view, the DJ rightly refused to impeach Mujibur's credibility based on the SD.

Whether Mujibur was an accomplice

56 Moving on, the DJ held that Mujibur was not an accomplice and that, even if he was, he neither minimised his role nor exaggerated Tjong's (GD at [50]–[51]). In his opinion therefore, Mujibur was not an unreliable witness.

57 While the police had withdrawn all charges against Mujibur since June 2013, this decision was not communicated to Mujibur until the eleventh hour and Mujibur's bail had lapsed a few days before trial. [note: 50] Mr Nathan said that the charges would have operated on Mujibur's mind when giving evidence. However, the reason why the withdrawal of charges against Mujibur was communicated to him late in the day was that he was overseas in the interim. [note: 51] It was also not put to him at trial that any of these operated on his mind or otherwise affected his credibility. Mujibur came to Singapore to give evidence at his own expense and was willing to come again for a subsequent tranche if his evidence was still required. [note: 52] Mujibur was also fair to Tjong in his evidence. For example, he admitted that Tjong's explanation of C2 was possible when he could not rule it out with absolute certainty because the events happened some years ago. [note: 53]

58 A court is circumspect about an accomplice's evidence because he has an incentive to lie by exaggerating the accused's role and minimising his own. Here, I agree with the DJ that Mujibur was not an accomplice and, in any event, he neither exaggerated Tjong's role nor minimised his own. Accordingly, I uphold the DJ's finding that Mujibur was a truthful witness and I accept Mujibur's explanation that C1 and C2 was part of a profit-sharing scheme.

The court's assessment of Tjong's explanations

59 Tjong's version, on the other hand, contained many inexplicable matters. I will begin first with C1.

Whether Tjong's explanations regarding C1 were credible

60 I cannot believe that Tjong wrote the amount in C1 in Singapore after finding out the amount of expenses from Raymond Tan. First, Tjong must already have known the figure of $57,386.67 in Bangladesh. Mujibur had already invoiced STE for $57,386.67 [note: 54] and Tjong knew this because he then deposited STE's cheque into Mujibur's Citibank account before he left for Bangladesh. In all likelihood, he must have done this since Mujibur was overseas and Raymond Tan and Ng Kheng Hua testified that they never deposited any cheques for Mujibur. That left Tjong as the only one who could have done so. [note: 55] Second, Mujibur testified that Tjong filled in the cheques at their meeting in Bangladesh. [note: 56] Third, if C1 was meant to help Mujibur withdraw money for which he had invoiced STE, it is strange that Mujibur did not write out C1 himself but let Tjong return to Singapore to find out the correct amount first.

61 Both cheques, in fact, were deposited at branches near Tjong's then residence which he said was at 236 Holland Road, [note: 57] the same branches Tjong visited when he later encashed the sums. [note: 58] They were not deposited in town, where Ho's workplace was. [note: 59] This made it doubtful that Ho deposited the cheques for Tjong. If Tjong did deposit the cheques himself, there was no reason for him to use Ho's account. In any event, I cannot see why Mujibur needed to receive the money urgently, since it was a reimbursement. It was not only admitted twice by Tjong in his statement but also confirmed by Raymond Tan that Mujibur had paid this amount first before being reimbursed by STE. [note: 60] Tjong, it appears, changed his explanation at trial to better suit his version of the facts.

62 I cannot accept that the amount of money in C1 was conveyed to Mujibur through Burhan. Mujibur insisted that the amount in C1 was given to Tjong pursuant to their profit-sharing arrangement, that he never received this amount of money back and that it was different from the $57,386.67 which he eventually received in Bangladesh through Burhan. The crucial gap in Tjong's case was his failure to call Burhan as a witness. Mr Nathan claimed this was because Burhan refused to testify. However, Burhan is a permanent resident of Singapore and the Prosecution claimed that he was present in Singapore during the trial. [note: 61] Had Tjong wished to call Burhan, he could have asked the IO to obtain further contact details. Instead, he simply confirmed that he would not be calling Burhan as a witness, in what appears to be a considered decision. Mr Nathan emphasised that there was only one instance of $57,386.67 leaving Mujibur's Citibank account. However, I was not convinced that this could exonerate Tjong. Since this was a reimbursement, there was no urgency to send the sum to Bangladesh and no need to remit the exact sum down to the last cent. This is why it was all the more important to call Burhan, who could have confirmed the date(s) and amount(s) of the remittances.

63 In addition to the difficulties discussed above, several details raised at trial were never mentioned in Tjong's statements, even when the invoice for the STE trip had been shown to him. [note: 62]

64 Accordingly, I find that Tjong's explanation regarding C1 was untenable. I turn now to C2.

Whether Tjong's explanations regarding C2 were credible

65 I cannot accept Tjong's claim that C2 was used to run Mujibur's personal errands. The entire chronology makes little sense. Tjong dated C2 8 August 2006 (Tjong generally did not backdate cheques), [note: 63] deposited it into Ho's account on 23 August and withdrew the same amount ($30,000) on 28 August. [note: 64] The equivalent of $19,729.00 and $4,600.58 were sent on 7 September and 25 September respectively. [note: 65] Why would Mujibur hand Tjong a cheque on 8 August 2006 if money was to be remitted to his son only a month later and over two occasions? Tjong claimed that the money was sent on two occasions because Mujibur was unsure whether he would be going to London to meet his son. [note: 66] However, if Mujibur's plans were still fluid, it would be strange for him to ask Tjong to withdraw so much money ahead of time.

66 The other problem was how the remaining $5,670.42 (out of the $30,000) was dealt with. Tjong claimed that he used it to buy vitamins, car parts and whisky for Mujibur. The only attempt to corroborate this claim was Ng Kheng Hua's testimony that he saw Mujibur buy vitamins at Mustafa Centre twice. [note: 67] This did not show that Tjong bought those vitamins for Mujibur, much less that they cost Tjong "almost $1,800 or $1,500". [note: 68] Nothing showed that the car parts cost "a

couple of thousand dollars" either. [note: 69] The claims about the vitamins, car parts and whisky were not even put to Mujibur. Moreover, Tjong's claim that he remitted money to Mujibur's son seems to be an afterthought. It was never raised in any of his statements, despite the fact this was the single biggest use of the money in C2 and the fact he had the TT forms all along. [note: 70]

67 In the proceedings below, the DJ found that Tjong's explanation raised a reasonable doubt, based on Mujibur's concession that it was "possible" for C2 to have been used to run Mujibur's errands. This concession, viewed in context, reveals no more than a mere possibility. However, the real question is whether a doubt is real or reasonable or whether it is merely fanciful. Only those in the former category entitle an accused to an acquittal (see *Took Leng How v Public Prosecutor* [2006] 2 SLR(R) 70 at [28]). Here, Mujibur's concession stemmed from his uncertainty about the remittances to his son. More than seven years separate the remittances from the trial. In my view, Mujibur used the word "possible" simply because he could not remember exactly what transpired between Tjong and his son and he could not rule out Tjong's version with complete certainty. Mujibur similarly replied "maybe" when asked whether the first remittance of $19,729.00 on 7 September 2006 could have come from a cheque for $20,000 dated 6 September 2006. [note: 71] This is the alternative explanation tendered by the Prosecution to which I now turn.

68 The Prosecution suggested that the said $20,000 cheque corresponded to the first TT of $19,729.00, while the remaining $4,600.58 (which was remitted on 25 September 2006) was paid for by Tjong first and reimbursed through a subsequent cheque from Mujibur (most probably a cash cheque for $5,000 dated 25 October 2006). This chronology makes far more sense. It would mean that the first TT took place one day after the cheque for $20,000 was encashed whereas the second TT, which seems unplanned considering that it was not long after the first, would be paid for by Mujibur in a separate cheque. Tjong claimed the $20,000 in the cheque dated 6 September was to be passed to Mujibur as travelling expenses on the STE trip. [note: 72] This was not put to Mujibur at all. Tjong also said that he would not have been so generous to remit $4,600 without being paid first. [note: 73] This is hard to believe given his claims about how their friendship and families had grown closer. [note: 74] If the relationship between Tjong and Mujibur was as Tjong claimed, it would be equally strange for Mujibur to trust Tjong with blank cheques, let him withdraw and hold on to $30,000 to be disbursed as and when Mujibur required.

69 In light of these facts, I find Tjong's explanation of C2 untenable and reject it. In my view, the DJ erred when he elevated the mere possibility into a reasonable doubt. He relied on a single aspect of Mujibur's testimony which raised a doubt that was entirely fanciful when juxtaposed against the totality of the evidence.

Conclusion on appeals against conviction

70 Accordingly, I uphold the DJ's findings on C1 and the conviction on the first charge. However, I reverse the DJ's findings on C2 and convict Tjong on the second charge as well.

The appeal against sentence for the first charge

71 I will deal only briefly with the appeal against the sentence for the first charge at this stage. The appeal against sentence is dismissed. I will elaborate on this in a supplementary judgment after I have heard the parties' submissions on the sentence for the second charge (now that Tjong has also been convicted on this charge) and on what the total sentence for both charges ought to be.

[note: 1] GD at [5]; 2 ROP 236–237 at paras 1 and 4 (ASOF).

[note: 2] 2 ROP 237 at para 6 (ASOF).

[note: 3] 1 ROP 32–34 (PW1 EIC); 1 ROP 199 (PW5 XX); 1 ROP 574 (DW1 XX).

[note: 4] 2 ROP 237 at para 7 (ASOF); 2 ROP 241 at para 2 (P1—Agency Agreement dated 14 March 2006).

[note: 5] 2 ROP 237 at para 10 (ASOF).

[note: 6] 2 ROP 335 (P5—Cheque from STE to Mujibur Rahman dated 24 July 2006).

[note: 7] 2 ROP 356 (P7—Mujibur's bank account records for the month ended 31 July 2006).

[note: 8] 2 ROP 238 at para 13 (ASOF); 2 ROP 339 (P6—Mujibur's application form for the Citibank account dated 25 July 2006).

[note: 9] 2 ROP 238 at para 14 (ASOF).

[note: 10] 2 ROP 238 at paras 16–17 (ASOF).

[note: 11] 1 ROP 134:30–135:12 (PW1 EIC); 1 ROP 596:31–597:2 (DW1 XX).

[note: 12] 2 ROP 238 at paras 17–20 (ASOF).

[note: 13] 2 ROP 238 at paras 19–20 (ASOF).

[note: 14] 2 ROP 238–239 at paras 21–24 (ASOF).

[note: 15] 1 ROP 32–34(PW1 EIC); 1 ROP 574 (DW1 XX). 2 ROP 19 (DW2 EIC).

[note: 16] 1 ROP 476–477 (DW1 EIC); 2 ROP 10–11 (DW2 EIC).

[note: 17] 1 ROP 54–55 (PW1 XX); 1 ROP 58–59 (PW1 RX); 1 ROP 198 (PW5 XX).

[note: 18] 1 ROP 136 (PW5 EIC).

[note: 19] 1 ROP 481:19–21 (DW1 EIC); 1 ROP 573:7–10 (DW1 XX); 2 ROP 10:28–32 (DW2 STE); 2 ROP 32:3–5 (DW2 XX).

[note: 20] 1 ROP 33:29–34:9, 35:7–11 (PW1 EIC).

[note: 21] 1 ROP 129–130 (PW5 EIC); 1 ROP 189 and 345 (PW5 XX). See also more generally 1 ROP 132 (PW5 EIC).

[note: 22] 1 ROP 284 (PW5 XX).

[note: 23] 1 ROP 125 (PW5 EIC).

[note: 24] 1 ROP 45 (PW1 XX).

[note: 25] 1 ROP 393–394 (PW5 RX).

[note: 26] 1 ROP 127 (PW5 EIC).

[note: 27] 4 ROP 70 at para 7 (Mitigation Plea).

[note: 28] 1 ROP 148–149 (PW5 XX).

[note: 29] 1 ROP 145–146 (PW5 EIC).

[note: 30] 1 ROP 132–133 (PW5 EIC).

[note: 31] 1 ROP 195–196 (PW5 XX).

[note: 32] 1 ROP 129 (PW5 EIC); 1 ROP 195:15–22 (PW5 XX).

[note: 33] 1 ROP 127–128 (PW5 EIC).

[note: 34] 1 ROP 127:27–128:28, 136, 145:32–146:6 (PW5 EIC); 1 ROP 307:7–10 (PW5 XX).

[note: 35] 1 ROP 542–543 (DW1 EIC).

[note: 36] 1 ROP 543–544, 545:2–15, 547:1–27 (DW1 EIC).

[note: 37] 1 ROP 230–235 (PW5 EIC).

[note: 38] 1 ROP 586–588 (DW1 XX).

[note: 39] 1 ROP 538 (DW1 EIC).

[note: 40] 1 ROP 589 (DW1 XX).

[note: 41] 1 ROP 547–549 (DW1 EIC).

[note: 42] 2 ROP 487 (P13—TT Application dated 7 September 2006); 2 ROP 489 (P14—TT Application dated 25 September 2006).

[note: 43] 1 ROP 128:29–130:20; 146:4–6; 148:27–149:7 (PW5 EIC).

[note: 44] 1 ROP 249:3–250:7 (PW5 XX).

[note: 45] 2 ROP 356 (P7—Mujibur's bank account records for the month ended 31 July 2006); 2 ROP 398 (P31—Mujibur's bank account records for the month ended 31 August 2006).

[note: 46] 1 ROP 274:29–275:14, 280:26–283:25 (PW5 XX). *Cf* 1 ROP 127–129 (PW5 EIC).

[note: 47] 1 ROP 132 (PW5 EIC).

[note: 48] 1 ROP 134 (PW5 EIC).

[note: 49] 1 ROP 35–36 (PW1 EIC).

[note: 50] 1 ROP 436–438 (PW6 XX).

[note: 51] 1 ROP 436 (PW6 XX).

[note: 52] 1 ROP 328 (DC, during PW5 XX); 1 ROP 684 (DPP, during DW1 XX).

[note: 53] 1 ROP 356–357 (PW5 XX).

[note: 54] 2 ROP 394 (P27—Invoice from Mujibur to STE dated 4 August 2006).

[note: 55] 2 ROP 31:25–30 (DW2 XX); 2 ROP 68–69 (DW3 XX); 2 ROP 238 at para 14 (ASOF).

[note: 56] 1 ROP 134–136 (PW5 EIC).

[note: 57] 1 ROP 557 (DW1 EIC).

[note: 58] 1 ROP 77–83 (PW3 EIC).

[note: 59] Ho worked at Suntec City: 1 ROP 538 (DW1 EIC).

[note: 60] 2 ROP 52 (DW3 EIC); 2 ROP 418–420 at para 41-Q3/A3, para 43-Q3/A3 (P33—Further s 22 statement of Tjong dated 17 September 2012).

[note: 61] 1 ROP 254 (PW5 XX); Prosecution's Submissions at para 57(a).

[note: 62] See especially 2 ROP 418 at para 40–41-Q3/A3 (P33—Further s 22 statement of Tjong dated 17 September 2012).

[note: 63] 1 ROP 692 (DW1 XX); 2 ROP 363 (P11—Cheque from Mujibur dated 8 August 2006).

[note: 64] 2 ROP 366 (P13—Ho's bank account records for the period 13 August 2006–30 September 2006).

[note: 65] 2 ROP 487 (D13—TT Application dated 7 September 2006); 2 ROP 489 (D14—TT Application

dated 25 September 2006).

[note: 66] 1 ROP 559 (PW5 EIC).

[note: 67] 2 ROP 21 (DW2 EIC).

[note: 68] 1 ROP 562:8–10 (DW1 EIC).

[note: 69] 1 ROP 549:4–7 (DW1 EIC).

[note: 70] 1 ROP 249:3–250:7 (PW5 XX).

[note: 71] 1 ROP 404–405 (PW5 XX).

[note: 72] 1 ROP 549 (DW1 EIC).

[note: 73] 1 ROP 658 (DW1 XX).

[note: 74] 1 ROP 129, 144–145 (PW5 EIC). *Cf* 1 ROP 487–492 (DW1 EIC)