IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 151

Suit No 906 of 2014

Between

Long Kim Wing

… Plaintiff

And

LTX-Credence Singapore Pte Ltd

… Defendant

And

LTX-Credence Singapore Pte Ltd

… Plaintiff-in-Counterclaim

And

Long Kim Wing

… Defendant-in-Counterclaim

JUDGMENT

[Employment Law] — [Wrongful Dismissal] — [Misconduct]
[Employment Law] — [Wrongful Dismissal] — [Due inquiry]

TABLE OF CONTENTS

Long Kim Wing
v
LTX-Credence Singapore Pte Ltd

[2017] SGHC 151

High Court — Suit No 906 of 2014
Woo Bih Li J
17–20, 23–26 January; 25 April 2017

30 June 2017 Judgment reserved.

Woo Bih Li J:

Introduction

1 Long Kim Wing ("the Plaintiff") was formerly a director and an employee of LTX-Credence Singapore Pte Ltd ("the Defendant").[1] By a letter dated 14 June 2012, he was dismissed from the employment of the Defendant for alleged misconduct. He was eventually removed as a director of the Defendant on 7 September 2012.[2]

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1 Agreed Bundle ("AB") 521; Notes of Evidence ("NE"), 17/01/17, 60:23–61:1.

2 AB 595; Affidavit of Evidence-in-Chief of Colin Savoy dated 30 August 2016 ("Savoy's AEIC"), para 6.

2 The Plaintiff claimed that his dismissal was wrongful. Accordingly, under the terms of his employment, he would be entitled to severance pay. He claimed the following for wrongful dismissal:[3]

(a)	One month's salary in lieu of notice	$ 17,064.00
(b)	Severance package amounting to 22.67 years of service x $18,486	$419,077.62
(c)	Salary in lieu of 24.92 days of leave ($14,564 x 12/260 x 24.92)	$ 16,750.84
(d)	Pro-rata share of 13th month salary	$ 7,821.00
	Total:	**$460,713.46**

3 As can be seen, the Plaintiff used different figures to represent his monthly salary. The figure of $17,064 in [2(a)] is the Plaintiff's monthly gross wages, including car allowance.[4] The figure of $14,564 in [2(c)], on the other hand, represents the Plaintiff's monthly salary only.[5] The figure of $18,486 in [2(b)] refers to the Plaintiff's monthly salary in a 13-month year, *ie*, $17,064 x 13/12.[6]

4 The Defendant alleged that it had lawfully terminated the Plaintiff's employment for misconduct on 14 June 2012. Therefore, he was not entitled to one month's salary in lieu of notice nor to severance pay, *ie*, [2(a)] and [2(b)].

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3 Statement of Claim (Amendment No 2) dated 23 January 2017, para 26.

4 AB 527.

5 AB 527; NE, 24/01/17, 91:1–91:4.

6 Plaintiff's Closing Submissions, para 130.

5 The Defendant agreed that the Plaintiff was entitled to $12,505.05 comprising:[7]

(a)	Salary in lieu of unconsumed leave	$16,748.60
(b)	Pro-rata share of 13th month bonus	$ 7,821.00
(c)	Less employee's share of Central Provident Fund ("CPF") contribution	$ 3,126.26
(d)	Less unearned wages from 15 June to 30 June 2012	$ 8,938.29
	Total: (a)+(b)-(c)-(d)	**$12,505.05**

6 The Plaintiff received a cheque for the payment of $12,505.05 in his favour but he declined to present it for payment.[8] As can be seen from a comparison of the amounts claimed by the Plaintiff under [2] above and agreed by the Defendant under [5]:

(a) There was agreement in respect of [5(a)] in principle with a minor difference which was not explained. I will adopt the Defendant's figure of $16,748.60.

(b) There was agreement on [5(b)].

(c) The Plaintiff's share of CPF contribution should be deducted but paid to the Plaintiff's account with the CPF Board.

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7 AB 527.

8 NE, 17/01/17, 3:5–4:2.

7 The difference was the Plaintiff's claim for one month's salary in lieu of notice and the severance package mentioned in [2(a)] and [2(b)] above respectively.

8 If the Defendant successfully established the Plaintiff's misconduct, the Plaintiff's claim under [2(a)] and [2(b)] would be dismissed.

9 However, the Plaintiff also claimed an additional $34,128 amounting to two months' salary including car allowance, *ie*, $17,064 x 2.[9] This claim was made under cl 5(1) of the Defendant's General Service Terms ("GST") which states:[10]

> The Company may after due inquiry dismiss without notice an employee on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his/her service.

10 The Plaintiff claimed that the Defendant had dismissed him without "due inquiry" as required under cl 5(1) of the GST (hereafter "cl 5(1) GST") and that it would have taken at least two months for the proper investigation and procedures to be conducted. Hence, his claim for $34,128.

11 In addition, the Plaintiff also claimed the following:

(a) Fees for his various directorships of the Defendant and its related subsidiaries or associated companies, on the basis that he had been promised by one Daniel Vincent Wallace that he would be paid director's fees for such services;[11]

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9 Statement of Claim (Amendment No 2) dated 23 January 2017, para 26A.

10 AB 226.

(b) Reimbursement of $8,000, in respect of general entertainment expenses and travel expenses that he had incurred for work for the Defendant;[12] and

(c) Damages by reason of his failure to procure a similar job as that held with the Defendant because prospective employers were aware of the Defendant's wrongful termination of his employment and refused to employ him. The Plaintiff claimed that the wrongful termination constituted a breach of the duty of trust and mutual confidence owed by the Defendant to the Plaintiff.[13]

12 Under [11(a)] and [11(c)] above, the Plaintiff did not initially specify in his statement of claim the quantum he claimed he was entitled to and left it to the determination of this court. In the Plaintiff's closing submissions, he subsequently specified that he was claiming director's fees of US$22,500 (*ie*, US$7,500 for each year of service from 2009 and 2012) and damages of $409,536 (*ie*, the Plaintiff's salary for 24 months) for his failure to procure similar employment as that held with the Defendant.[14]

Glossary

13 I introduce a glossary here for easy reference:

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11 Statement of Claim (Amendment No 2) dated 23 January 2017, para 27.

12 Statement of Claim (Amendment No 2) dated 23 January 2017, para 29.

13 Statement of Claim (Amendment No 2) dated 23 January 2017, para 30.

14 Plaintiff's Closing Submissions dated 24 February 2017, paras 145 and 187; Plaintiff's Reply Closing Submissions dated 27 March 2017, para 41.

Name	**Position held in the Defendant or its related companies**
Christopher German ("German")	Worldwide Controller, LTX-Credence Corporation (now known as Xcerra Corporation) (*ie*, the Defendant's parent company)
Colin Savoy ("Savoy")	Chief Legal Counsel, LTX-Credence Corporation
Cornelius M Foley ("Cornelius")	General Manager, Asia Pacific, LTX-Credence Singapore Pte Ltd
Daniel Vincent Wallace ("Wallace")	Vice President and Corporate Controller, LTX Credence Corporation, USA
Jill Barres ("Barres")	Director, Human Resources, LTX-Credence Corporation
Lee Soo Teok ("ST Lee")	Sales Director, LTX-Credence Singapore Pte Ltd
Linda Phang	Accountant, LTX-Credence Singapore Pte Ltd
Michael Goldbach ("Goldbach")	Vice President of International Operations and Sales of LTX-Credence Corporation, Europe

In this judgment, I refer to the Defendant and its related companies as the "LTX group".

The claim for director's fees

14 I will address the Plaintiff's claims for director's fees and for expenses first as the disputes in respect of these claims are relatively straightforward.

15 Neither side produced Wallace as a witness for the Plaintiff's claim for director's fees. Apparently, he had left the employment of the LTX group sometime in 2012.[15]

16 According to the Plaintiff's evidence, what Wallace had said was that he would try and help the Plaintiff to get some director's fees.[16] Even if this were true, I am of the view that this falls short of a definite promise from Wallace that the Plaintiff would be paid director's fees. The absence of any quantum being mentioned as director's fees reinforces the perception that even if Wallace had discussed with the Plaintiff about such fees, the discussion was tentative only. So even on the Plaintiff's own evidence, there was no such definite promise that he would be paid such fees.

17 Secondly, the Plaintiff's evidence was that every year during the annual performance review, Wallace would promise him director's fees. However, there was no follow-up by the Plaintiff in writing. He never once inquired of Wallace in writing what happened to the alleged promise.[17] It appears that he also did not follow up orally with Wallace.

18 Furthermore, after the Plaintiff received the letter of termination dated 14 June 2012, he did not ask the Defendant about payment of his director's fees. This was only demanded, for the first time, in his lawyer's first letter of demand dated 2 October 2013, more than one year later.[18]

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15 Defence and Counterclaim (Amendment No 2) dated 25 January 2017, para 24B(c); Supplemental Affidavit of Evidence-of-Chief of Colin Savoy dated 31 October 2016, Exhibit CS-55, para 72.

16 NE, 20/01/17, 46:4–46:18.

17 NE, 20/01/17, 46:19–48:22.

19 The absence of any follow-up by the Plaintiff before or soon after the letter of termination also suggested that either there had been no discussion about the payment of director's fees to the Plaintiff or, if there had been such a discussion, it was still tentative only.

20 In the circumstances, I dismiss the Plaintiff's claim for director's fees.

The claim for expenses

21 In the Plaintiff's further and better particulars dated 17 October 2014, he claimed $8,000 relating to flight costs, hotel costs and other related expenses when he travelled to Malaysia and Philippines in 2012 for work.[19]

22 However, during cross-examination, he accepted that he had already been reimbursed his expenses for the trip to the Philippines.[20] Yet, he maintained that he was still claiming the *full* $8,000 for unpaid expenses.[21] This did not reflect well on his credibility.

23 Furthermore, the remainder of his claim was not supported by documentary evidence. He said he had left the supporting documents in his office on 7 June 2012 when he was told to go on administrative leave but he was not able to say specifically what documents he was referring to.[22]

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18 NE, 20/01/17, 51:14–52:21; AB 809.

19 Further and Better Particulars of Statement of Claim dated 17 October 2014, para 10.

20 NE, 20/01/17, 55:9–55:22, 62:9–62:15.

21 NE, 20/01/17, 62:9–62:12; 93:9–94:4.

22 Further and Better Particulars of Statement of Claim dated 17 October 2016, para 10; NE 20/01/17, 56:24–57:4.

24 On the Defendant's side, there were documents showing calculations made by one Karen Lim, an accountant of the Defendant,[23] on 19 June 2012 (*ie*, after the date of the letter of termination) with supporting documents of the Plaintiff's expenses. The calculations worked out to $2,601.56.[24] However, there was apparently an over-payment for the June 2012 payroll for the Plaintiff amounting to $2,178.35. The balance due to the Plaintiff was therefore $423.21 (*ie*, $2,601.56 less $2,178.35).[25] A cheque dated 30 July 2012 for this sum of $423.21 was sent to the Plaintiff but he declined to present it for payment.[26]

25 The over-payment arose from the intended payment of $12,505.05 to the Plaintiff (see [6] above). This was mentioned in an email from Karen Lim to German dated 29 July 2012.[27]

26 Although there was no elaboration on the specifics of the overpayment, there was also very little evidence to support the Plaintiff's claim for $8,000.

27 Subject to payment of $423.21 to the Plaintiff, I dismiss his claim for $8,000 in expenses.

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23 NE, 20/01/17, 111:3–111:11.

24 AB 543–560.

25 AB 563–564.

26 NE, 20/01/17, 105:18–106:9.

27 AB 564.

The claim for salary in lieu of notice and the severance package

Alleged misconduct

28 The letter terminating the Plaintiff's employment for misconduct stated the following as a partial list of specific reasons for termination:[28]

> 1. Your primary role in the creation of a forged offer letter, and your attempted use of that forged letter with the intent to deceive;
>
> 2. Your failure to seek approval from your supervisor, Mr. Christopher German, prior to making unauthorized advance payments to another employee, Mr. ST Lee, in the amounts of S$5,000 on July 2, 2011, S$45,000 on August 2, 2011, and S$30,000 on May 23, 2012, even though you are aware that such approval is required;
>
> 3. Your failure to inform Mr. German of the July 2, 2011 and August 2, 2011 advance payments made to Mr. Lee when you sought approval and signed the loan document on behalf of the Company for another advance payment for Mr. Lee in the amount of S$36,000 that was paid on August 24, 2011;
>
> 4. Your intentional deception and dishonesty in, and obstruction of, the investigation relating to the forged offer letter that took place in the period commencing on/prior to June 7, 2012.

29 As can be seen, the two main groups of alleged misconduct were in respect of a forged offer letter relating to the employment of ST Lee and the Plaintiff's failure to obtain prior approval from his supervisor before making alleged unauthorised payments to ST Lee of four sums of money. At trial, the Defendant eventually decided to confine its complaints about unauthorised payments to the payment of one sum of money, *ie*, an amount of S$30,000 to ST Lee.[29]

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28 AB 525.

29 NE, 25/01/17, 1:9–2:5.

The offer letter relating to the employment of ST Lee

30 The main dispute was in respect of the forged offer letter. I will now elaborate on the circumstances leading to the allegation of misconduct regarding that letter. To do so, I will set out a chronology of material emails and events. There was initially some confusion about the chronology as the dates and times of some emails were based on Singapore dates and times, and others were based on time zones outside of Singapore. However, the parties managed to agree on the dates and times of most of the emails, using Singapore as the common reference point. Hence, the references to dates and time of various emails below are references to Singapore dates and times.

(1) Chronology of material emails and events

31 By an email dated 23 May 2012 at 10.39am, Goldbach informed his superior, Pascal Ronde that, as discussed, he had terminated the employment of ST Lee that day. ST Lee's last day of employment would be 31 July 2012. The Plaintiff was tasked to prepare the paper work in consultation with German and Savoy. This email was copied to various persons, including the Plaintiff.[30]

32 In response, the Plaintiff sent an email dated 23 May 2012 at 11.18am to Barres and Savoy with various attachments.[31] The material attachment was a spreadsheet showing a computation of layoff benefits for ST Lee totalling $266,843.40. This was based on ST Lee's commencement date being 11 March 2000. The commencement date was important because the calculation of the main component of payment due to ST Lee was based on his commencement

[30] AB 339; NE, 18/01/17, 29:18–30:23.

[31] AB 340–345.

date. The Plaintiff's email also mentioned that 50% of the payout would be made on 24 May 2012 and 50% in July 2012.

33 By an email dated 23 May 2012 at 8.35pm, Barres responded to the Plaintiff. The important part said, "Please confirm Mr. Lee's hire date. I show March 11, 2002 in both Personnel Tracker and in the employee spreadsheet I received in April for Asia employees." This email was copied to various officers in the LTX group.[32]

34 In other words, Barres was asking the Plaintiff whether ST Lee's employment had indeed commenced on 11 March 2000 as the documents she was looking at showed that it had commenced two years later on 11 March 2002.

35 By an email dated 23 May 2012 at 8.46pm, the Plaintiff replied to Barres to say, "The employment contract shows [M]arch 2000. The record in personnel is not correct".[33] This email was also copied to other officers in the LTX group.

36 By an email dated 23 May 2012 at 10.01pm, Goldbach asked the Plaintiff:[34]

> [C]an you please check the entry date again. When i spoke with Mr. Lee this week he mentioned that he joined LTX in 2002, right about the time I joined. Also the employee list from the LTX-Credence merger shows me March 2002 as seniority date

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32 AB 361.

33 AB 360–361.

34 AB 360.

37 By way of background, Goldbach's reference to the "LTX-Credence merger" is a reference to the merger that took place in 2009 between LTX Asia International, Inc and Credence Systems Pte Ltd to form LTX-Credence Singapore Pte Ltd.[35] The timing of this merger is significant for reasons that will become apparent below.

38 In the meantime, a payment voucher dated 23 May 2012 was prepared on the instructions of the Plaintiff for a cash advance to be made (by cheque) to ST Lee amounting to $30,000.[36] The Plaintiff approved this payment to ST Lee and it was paid to him. It is this payment of $30,000 which is disputed by the Defendant as a payment approved by the Plaintiff without authority from his own supervisor (see [29] above).

39 By an email dated 24 May 2012 at 10.39am, German asked the Plaintiff various questions "to be answered / confirmed" before the calculation of payment to ST Lee was finalised. Question 1 asked for ST Lee's hire date and monthly salary to be confirmed. Question 7 asked for the payment terms of 50% on 24 May and 50% on 31 July (2012) to be confirmed.[37]

40 By an email dated 24 May 2012 at 3.31pm, the Plaintiff sent a copy of ST Lee's employment contract to German.[38] The Plaintiff's cover email also stated that the salary and hire date of ST Lee was reflected in the version of ST

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35 Savoy's AEIC, para 4.

36 AB 362.

37 AB 363.

38 AB 371, 374.

Lee's employment contract which was enclosed. That contract was actually in the form of a letter for an offer of employment.

41 It transpired that this version of ST Lee's offer letter was forged. It was referred to as the "forged offer letter" in the letter terminating the Plaintiff's employment. Significantly, the Plaintiff accepts for the trial that this version was indeed forged.[39] I will refer to it as the "Disputed Letter" instead of "the forged offer letter" as the latter expression may give the impression that the Defendant was making inquiries of a letter which it knew to be a forgery. It was this letter which the Plaintiff was saying that he unknowingly relied on to calculate ST Lee's payment based on a commencement date of 11 March 2000 and not 2002. A similar version is found in the Defendant's Bundle of Documents ("DBD") at p 1.

42 The Plaintiff's email did not have a specific reply to Question 7, *ie*, about the payments to ST Lee of 50% on 24 May 2012 and 50% on 31 July 2012. According to the Plaintiff's oral evidence, he had spoken to German orally on the telephone to confirm such payment terms.[40]

43 By an email dated 25 May 2012 at 3.46am, German informed the Plaintiff to hold off in making any severance payments to ST Lee until the Defendant had concluded its review of such payments.[41]

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39 AB 829, para 2.

40 NE, 18/01/17, 153:13–154:19.

41 AB 380.

44 By an email dated 25 May 2012 at 3.51am, Savoy sent an email to the Plaintiff pointing out that in the copy of the Disputed Letter for ST Lee which the Plaintiff had forwarded to him, "the entity making the employment offer is LTX-Credence Singapore Pte. That cannot be right, as LTX and Credence were separate entities in 2000." Savoy's email asked the Plaintiff to send a copy of the Disputed Letter that was actually signed in 2000 and also asked the Plaintiff to explain how the copy of the Disputed Letter the Plaintiff had sent "shows LTX-Credence Singapore".[42]

45 In an email dated 25 May 2012 at 9.55am, the Plaintiff replied to Savoy to say that the Singapore office had been instructed to change all the employment contracts of the employees. The one he had sent was a redraft and it was the only contract in the file.[43]

46 This was met by an email dated 26 May 2012 at 2.56am in which Savoy asked the Plaintiff various questions including who directed the change of the employee contracts and for what reason the change was made.[44]

47 The Plaintiff replied in an email dated 26 May 2012 at 10.58am to Savoy to enclose various documents including a copy of a Transfer of Business Agreement between LTX Asia International, Inc and LTX-Credence Singapore Pte Ltd.[45]

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42 AB 385.

43 AB 384.

44 AB 384.

45 AB 383, 386–397.

48 By an email dated 28 May 2012 at 4.32pm, Linda Phang forwarded to the Plaintiff various revised offer letters for employees, which utilised the letterhead of LTX-Credence and in which the name of the employer was stated to be "LTX-Credence Singapore Pte Ltd (formerly known as LTX Asia International, Inc)". Significantly, her cover email stated that she had excluded the offer letter for the Plaintiff, ST Lee and one Kevin Chong.[46]

49 The Plaintiff then forwarded Linda Phang's email attaching the various revised offer letters to Savoy with the comment, "as you have requested". This was by an email dated 28 May 2012 at 11.17pm[47] or an email dated 29 May 2012 at 2.20pm[48] or both.

50 Then, by an email dated 29 May 2012 at 9.10pm, Barres sent to Savoy a copy of the correct version of ST Lee's offer letter.[49] In this version, the date of "11 Mar" was handwritten and the year of "2002" was typed. Hence, according to this version, ST Lee's commencement date was 11 March 2002 and not 11 March 2000 as stated in the Disputed Letter. The name of the employer in the correct version was stated as "LTX Asia International, Inc" instead of "LTX-Credence Singapore Pte Ltd" as found in the Disputed Letter.

51 By an email dated 30 May 2012 at 7.42am, Savoy asked the Plaintiff for his "thoughtful answers" to all questions raised by Savoy and not just some of them. Savoy then set out a revised list of questions.[50]

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46 AB 438–454.

47 AB 494.

48 AB 455.

49 AB 475–476.

(a) Question 1 asked who directed the change of all the employee contracts of LTX Asia.

(b) Question 5 asked whether any substantive changes had been made to the revised employment contracts for employees, including any new agreements for the Plaintiff, Kevin Chong and ST Lee which had not yet been sent to Savoy by the Plaintiff.

(c) Question 10 requested the original of ST Lee's offer letter (meaning the Disputed Letter) to be sent to Savoy by Federal Express at his office in Oregon.

52 The Plaintiff replied in his email dated 30 May 2012 at 6.54pm.[51]

(a) In Answer 1, he identified cl 1.6 of the asset agreement (meaning the Transfer of Business Agreement mentioned at [47] above) as requiring the employees to be transferred to LTX-Credence Singapore Pte Ltd, which was the buyer under that agreement.

(b) In Answer 5, he said that there should not have been any change in the revised contracts except for the name of the employer from "LTX to LTX C", meaning from "LTX Asia International, Inc" to "LTX-Credence Singapore Pte Ltd".[52] The employment contracts for Kevin Chong and himself would be sent to Savoy.

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50 AB 480.

51 AB 479.

52 NE, 19/01/17, 78:16–79:16.

(c) Answer 10 said he would send ST Lee's contract (meaning the Disputed Letter) to Savoy by Federal Express when he returned to the Singapore office (as he was out of Singapore at that time).

53 By an email dated 30 May 2012 at 6.54pm, Linda Phang sent to the Plaintiff offer letters for Kevin Chong and himself.[53]

54 The Plaintiff then forwarded these two offer letters to Savoy via email dated 31 May 2012 at 8.50am. Importantly, the Plaintiff's email also said, "It is in the old format."[54]

55 By an email dated 31 May 2012 at 9.22am, Linda Phang purported to send the Plaintiff the offer letter for ST Lee.[55] The copy she sent was the same as the Disputed Letter.

56 On the night of 31 May 2012 at about 11.09pm, there was a telephone discussion between Savoy, German and the Plaintiff about the offer letter for ST Lee.[56] I will elaborate later on what was supposed to have been said in that conversation.

57 By an email dated 1 June 2012 at 5.04am, Savoy asked the Plaintiff to continue tracking down the payroll records.[57]

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53 AB 484–486.

54 AB 487–490.

55 AB 491–492.

56 NE, 19/01/17, 150:12–150:16.

57 AB 524.

58 Finally, by an email dated 6 June 2012 at 5pm, the Plaintiff informed Savoy that he had "found the excel file relating to payroll for calendar year 2000 and M[r] ST Lee is not paid in calendar."[58]

59 In the morning of 7 June 2012, Savoy and Goldbach went to the Singapore office of the Defendant. Eventually at around 4pm, Savoy told the Plaintiff to go on administrative leave. Savoy's evidence was that he had obtained remote access to emails in the Plaintiff's email account with the help of the information technology ("IT") department even though he was not then using the office laptop which was used by the Plaintiff.[59] Savoy claimed that he had learned that the Disputed Letter was created by the Plaintiff before the Plaintiff was told to go on administrative leave. After the Plaintiff left physically, Savoy was able to access the office laptop used by the Plaintiff. I will elaborate later on Savoy's evidence.

60 On 13 June 2012, the Plaintiff was informed to meet German at Sheraton Towers Hotel in Singapore the next day.

61 He did so on 14 June 2012. German handed him the letter of termination dated 14 June 2012 along with the cheque for $12,505.05, which I earlier referred to at [6] above.[60]

62 Subsequently, the Defendant sent another cheque to the Plaintiff for $423.31, which I also referred to above at [24].[61]

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58 AB 524.

59 NE, 24/01/17, 37:2–37:25.

60 AB 525–529.

63 On 17 August 2012, the Plaintiff lodged a police report in Singapore.[62] He referred to the Disputed Letter and said that it was "used by LTX Asia" to "[accuse him] of putting up [a] false document in order to cheat the company." He was sacked by the company. He alleged that he did not collude with ST Lee in any way and he believed that it was ST Lee and Linda Phang who were the real culprits as they had access to all files and documents and were close friends.

64 On 10 October 2012, the Plaintiff made a second police report.[63] The substance of this report was similar to that of the first report.

65 On 2 October 2013, about a year later, the Plaintiff's solicitors, Advocatus Law LLP ("Advocatus"), sent a letter of demand to the Defendant for wrongful dismissal.[64] This was followed by an exchange of correspondence between the Defendant's solicitors, WongPartnership LLP ("WP"), and Advocatus from 18 October 2013 to 21 August 2014. The writ of summons was filed on 21 August 2014.

(2) Whether the Plaintiff had forged or was involved in the forgery of the Disputed Letter

66 The Defendant alleged that the Plaintiff had either forged the Disputed Letter or he was involved in the forgery. This was the most serious allegation of misconduct.

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61 AB 535.

62 AB 581–582.

63 AB 598–599.

64 AB 805–810.

67 This allegation arose because, as mentioned above, Savoy had access to the Plaintiff's email account and, later, to his office laptop as well. From such access, he discovered various documents as elaborated in the Defendant's closing submissions from paras 18 to 20.

68 In short, the Plaintiff had received an email from Linda Phang on 24 May 2012 at 8.58am, attaching an unsigned copy of an offer letter to ST Lee which was dated 18 February 2002.[65] This unsigned letter stated that ST Lee's employment would commence "on 2002", but did not provide a specific start date within 2002. The Defendant referred to this as the "February 2002 Version". I will adopt this description.

69 At 9.54am of the same day, a draft of the Disputed Letter was created and saved on the office laptop used by the Plaintiff.[66] The draft contained various amendments to the February 2002 Version.[67]

70 At 10.09am, a scan of the Disputed Letter was sent from the office scanner to the Plaintiff's email account. This scan contained the signatures of Cornelius (whose position was stated to be Sales Director, Asia Pacific) and ST Lee.[68] It appeared that the Disputed Letter had been created by extracting their signatures from the genuine offer letter dated March 2002[69] and superimposing them on the abovementioned draft of the Disputed Letter.

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65 DBD 3–4.

66 DBD 10.

67 DBD 8–9; NE, 19/01/17, 195:12–197:12.

68 DBD 6–7; NE. 19/01/17, 199:24–208:25.

69 DBD 2.

71 Thereafter, the Plaintiff sent a copy of the Disputed Letter to German on 24 May 2012 at 3.31pm (see [40] above). This was the first time he had sent the Disputed Letter to any of the Defendant's other officers. The Defendant's case was that the letter was forged and then sent to German because the Plaintiff's calculations for ST Lee's severance package, based on a commencement date of 11 March 2000, were being queried and the Disputed Letter had to be produced to substantiate the calculations.[70]

72 The Defendant was certain that the Plaintiff had created the Disputed Letter or was involved in the forgery because the incriminating documents had been found in the Plaintiff's office laptop.

73 The Plaintiff accepted that the Disputed Letter appeared to have been created using the office laptop which he had been using. This concession was stated in Advocatus' letter dated 22 January 2014.[71] He did not accept the timing of the sequence of events which the Defendant was relying on in so far as the incriminating documents were concerned although he had accepted the dates and times of the exchange of emails which I have set out above from [31] to [58].

74 More importantly, the Plaintiff alleged that other employees in the Defendant's finance department had access to his office laptop which he used and which was left in his office each evening. This was unlike a laptop which was only for his personal use and which he had brought home daily.[72] I will refer

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70 Savoy's AEIC, para 53.

71 AB 829, para 2(2).

72 NE, 17/01/17, 36:6–36:9.

to the former as "the Plaintiff's office laptop" and the latter as "the Plaintiff's personal laptop" for easy reference although both laptops were provided by the Defendant.

75 The Plaintiff had initially alleged through Advocatus' letter dated 22 January 2014 that the Plaintiff's office laptop was not password protected and was thereby accessible by other staff in the finance department.[73]

76 WP's letter dated 11 February 2014 to Advocatus asserted that in fact that laptop was password protected.[74] Advocatus' reply dated 21 August 2014 was simply that the Plaintiff denied any and all allegations against him and to inform WP that the Plaintiff had commenced court proceedings that day.[75]

77 According to the evidence of the Defendant, a password had to be given to Savoy in order for him to access the Plaintiff's office laptop.[76] In any event, the Plaintiff's opening statement accepted at para 36 that the Plaintiff's office laptop was password protected. His case then was that other staff knew the password too. His counsel later accepted that the earlier allegation that the Plaintiff's office laptop was not password protected was incorrect.[77]

78 The change in the Plaintiff's position was very damaging to his credibility. He must have known whether both the laptops he was using were password protected. I find that he had lied when he asserted, through Advocatus,

73 AB 829, para 2(2).

74 AB 833, para 2.

75 AB 837.

76 Savoy's AEIC, para 55; NE, 24/01/17, 49:8–49:20.

77 NE, 17/01/17, 23:9–24:5.

that the Plaintiff's office laptop was not password protected. Furthermore, the evidential burden of proof was on him to establish that even though it was password protected, other staff knew the password too. This allegation was based on his bare assertion. Bearing in mind his lack of credibility, I find that he has not established this allegation.

79 I address one other argument raised by the Plaintiff in his closing submissions at paras 28–34. He submitted that he did not gain any monetary benefit from the Disputed Letter. Furthermore, the Defendant did not allege that there was collusion between the Plaintiff and ST Lee. He submitted that it was incorrect for the Defendant to suggest for the first time in Savoy's AEIC (at para 53) that the Plaintiff had created the Disputed Letter to cover up the allegedly unauthorised payment of $30,000 and/or the Plaintiff's miscalculation of ST Lee's severance package. According to Savoy's AEIC, the $30,000 reflected approximately the excess amount which would have been paid to ST Lee had the Defendant computed ST Lee's severance package based on the Disputed Letter.

80 The Plaintiff further submitted that even if the advance payment of $30,000 was not authorised, the creation of the Disputed Letter would have done little to justify the unauthorised payment. The advance payment of $30,000 was paid to ST Lee after the Plaintiff had computed ST Lee's severance package and circulated it by email on 23 May 2012 at 11.18am (see [32] above). The email spoke of the payment structure and not the intention to only advance $30,000 to ST Lee.

81 In my view, this last point was neither here nor there. It did not support the argument that the severance package had nothing to do with the advance payment of $30,000.

82 I come now to the Plaintiff's further submission that if he had made a miscalculation on ST Lee's severance package, he could have easily admitted to the genuine miscalculation with little or no consequence. I find this submission ironic because it is not disputed that the commencement date of ST Lee in the Disputed Letter was erroneous and that the Plaintiff did not admit the error initially even though he was questioned several times about the accuracy of ST Lee's commencement date. This is the next topic which I will elaborate on, but suffice it for me to say for now that, far from admitting any error, the Plaintiff in fact did the opposite. He did attempt to use the Disputed Letter with intent to deceive the Defendant.

83 The following factors therefore supported the Defendant's case that the Plaintiff created or was involved in the creation of the Disputed Letter:

(a) the Disputed Letter was created on the Plaintiff's office laptop;

(b) his office laptop was password protected;

(c) he denied it was password protected only to admit this fact later;

(d) he did not establish his belated allegation that other staff knew the password; and

(e) he did attempt to use the Disputed Letter with intent to deceive the Defendant.

84 It is not necessary for the Defendant to establish the Plaintiff's motive in creating or being involved in the creation of the Disputed Letter although that would have aided the Defendant's case. In the circumstances, I find that the Defendant has established that the Plaintiff created the Disputed Letter or was involved in its creation.

(3) Whether the Plaintiff had attempted to use the Disputed Letter with intent to deceive the Defendant

85 Even if the Plaintiff did not create and was not involved in the creation of the Disputed Letter, the next important question was whether he had attempted to use it with intent to deceive the Defendant.

86 On the face of the Disputed Letter, there were two points which should have alerted the Plaintiff that it was not authentic if he had paid attention to it.

87 The first was that the top right hand of the Disputed Letter had the words "LTX Asia International, Inc" as part of a letterhead of sorts. However, as mentioned earlier, the first sentence of the substance of the letter referred to "LTX-Credence Singapore Pte Ltd".

88 It was submitted by the Plaintiff that this difference was not drawn to his attention at any time before 7 June 2012 when he was told to go on administrative leave. I reiterate that by 6 June 2012, he had sent an email to Savoy to say that he had found the payroll for calendar year 2000 and learned that ST Lee had not been paid in that year (see [58] above).

89 However, given the fact that queries had already been made about the accuracy of the information he was providing and the authenticity of the

Disputed Letter after he first sent his calculations for ST Lee's severance package on 23 May 2012 (see [32] above), it seems strange that he needed someone to point out that discrepancy to him when he himself should have been checking the Disputed Letter carefully in the light of the queries.

90 Be that as it may, I would say that even if I were to give him the benefit of the doubt and assume that he did not notice the first point, this brings us to the second point which is that the name "LTX-Credence Singapore Pte Ltd", which was stated in the substance of the Disputed Letter, was inconsistent with the purported date of 18 February 2000 in the Disputed Letter. As at that date, there was no such entity then, as mentioned by Savoy (see [44] above). Even if the Plaintiff had not noticed this point before, Savoy had drawn it to his attention specifically in Savoy's email of 25 May 2012 sent at 3.51am.[78]

91 It will be recalled that the Plaintiff's response to Savoy at 9.55am that same day was that the Defendant had been instructed to change *all* the employment contracts under the name of LTX Asia International, Inc.[79]

92 Yet, at trial, the Plaintiff said that he was in fact aware, before this exchange of emails in May 2012, that the offer letters for three persons had *not* been changed to reflect the new name of "LTX-Credence Singapore Pte Ltd". These were the letters for ST Lee, Kevin Chong and himself.[80]

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78 AB 385.

79 AB 384.

80 NE, 18/01/17, 185:8–185:22; 19/01/17, 80:18–82:9; 20/01/17, 120:12–120:25.

93 The Plaintiff did not explain why he had, despite knowing that fact, given Savoy the impression that *all* previous offer letters including ST Lee's had been changed.[81]

94 Nevertheless, I was prepared to consider that perhaps, at that point in time, he had overlooked the fact that ST Lee's offer letter had not been changed and so he had assumed that it was in fact changed.

95 However, even if he had overlooked this at that point in time, it will be recalled that on 28 May 2012 at 4.32pm, Linda Phang had sent him an email attaching various revised offer letters. In her cover email, she said that she had excluded the Plaintiff's, ST Lee's and Kevin Chong's offer letters (see [48] above). In my view, that would have jogged his memory to remember that ST Lee's offer letter had not been amended.

96 Furthermore, Linda Phang did follow up. On 30 May 2012 at 6.54pm, she sent the Plaintiff two more offer letters, for Kevin Chong and for himself (see [53] above).[82] The one for Kevin Chong was dated 16 April 1986. It was under the letterhead of LTX Corporation, Singapore. The first line of the substance of the letter itself referred to "LTX Corporation's offer". The second letter for the Plaintiff himself was dated 13 October 1989. It was on the letterhead of LTX Asia International, Inc. and the substance of the letter referred to "LTX Asia International" as the employer. In other words, the new name of "LTX-Credence Singapore Pte Ltd" did not appear in either of these letters unlike the Disputed Letter for ST Lee. When the Plaintiff received copies of

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81 NE, 18/01/17, 184:14–189:22.

82 AB 484–486.

these two letters, he ought to have realised that each was using one of the old names and certainly not the new name. Indeed when he forwarded copies of these two letters to Savoy on the next day, *ie*, 31 May 2012, at 8.50am, his cover email stated, "It is in the old format".[83]

97 By then, at the very latest, he must have remembered that ST Lee's offer letter likewise, had also remained in the old format since he had known that for the three of them, there was no change. This would mean that he must have known by then that the Disputed Letter that he alleged he had been referring to could not have been authentic since it contained the new name of the employer therein.

98 Yet, he still did not inform Savoy that the Disputed Letter which he (the Plaintiff) had been referring to was not authentic. In my view, he did not do so because he was still intending to rely on it to deceive Savoy and the Defendant about ST Lee's start date.

99 I would add that it was not disputed that on 31 May 2012 at about 11.09pm, the Plaintiff had a conference call with Savoy and German.[84] Savoy had made notes of the call although the Plaintiff did not agree that all the notes accurately reflected what was said. As between Savoy's evidence on the notes and the Plaintiff's, I accept Savoy's evidence as he was the more credible and reliable of the two as a witness.

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83 AB 487.

84 NE, 19/01/17, 150:12–150:16.

100 According to Savoy's notes of that call, Savoy had asked the Plaintiff how Cornelius' signature had got onto the Disputed Letter.[85] The Plaintiff replied that he was not sure and there would have been some arrangement between one Amy Yeo and Cornelius on this. Savoy asked if the Plaintiff thought Cornelius had actually signed the letter and the Plaintiff said that he had no reason to doubt. This part of the telephone conversation was not denied by the Plaintiff but he could not explain why he gave such responses when he knew (and must have remembered by then) that there had been no revised offer letter for ST Lee and hence, the Disputed Letter with the new name of the employer stated therein must have been a forgery.[86] The only logical explanation was that he was still trying to deceive the Defendant.

101 Although Savoy's notes also stated that when he asked the Plaintiff why there was a discrepancy in ST Lee's starting date and the Plaintiff said it could be forgery or typewritten error, this did not mean that the Plaintiff had then agreed that the commencement date in the Disputed Letter was incorrect. If the Plaintiff had reached that conclusion, he would not have said that he saw no reason to doubt that Cornelius had actually signed it.

102 There are two other important points. Advocatus' letter dated 2 October 2013 stated at para 5(1)(b) that the Plaintiff had referred to a "copy" of ST Lee's offer letter in the Defendant's Human Resources ("HR") files to compute ST Lee's severance package.[87]

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85 AB 859–861.

86 NE, 19/01/17, 160:20–163:9.

87 AB 805–809.

103 Similarly, the amended statement of claim stated that the Plaintiff had referred to a "copy" of ST Lee's offer letter in the Defendant's HR files.[88]

104 Yet, when the Plaintiff was being cross-examined as to why he believed that the letter he was referring to was more reliable than the other sources which Barres or Goldbach had mentioned to him, he said that it was because the one he was referring to was the *original* letter.[89] This was because the signatures therein were in blue ink.[90] This evidence contradicted his previous position that it was a *copy* that he had referred to.

105 Furthermore, if indeed he had been relying on what appeared to be the original, then he would have asked the Defendant to produce it for inspection for the purpose of the trial. According to him, he had sent the original to Savoy as Savoy had requested,[91] but Savoy did not agree he had received it.[92] In any event, to be consistent with his new position about having seen the original, the Plaintiff ought to have asked the Defendant to produce it but he did not. This omission reinforced the point that he had lied about seeing the original because he was trying to justify why he was so insistent that the letter he was relying on was more reliable than the other sources which Barres and Goldbach had mentioned to him.

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88 Statement of Claim (Amendment No 2) dated 23 January 2017, para 9.

89 NE, 18/01/17, 74:2–82:20; 19/01/17, 46:20–48:5.

90 NE, 18/01/17, 82:9–82:20, 120:19–120:24; 20/01/17, 124:1–124:6.

91 NE, 19/01/17, 86:8–86:24.

92 NE, 23/01/17, 11:18–13:1.

106 Secondly, if the Plaintiff was acting *bona fide*, he could and would have easily checked the payroll records of the Defendant to see if ST Lee had indeed been on the Defendant's payroll since March 2000, especially since various questions had been raised about the accuracy of the commencement date of 11 March 2000. He did not do so. He said that the payroll records were outsourced but he did not dispute that he could have had access to and obtained the information quite easily.[93] Indeed, it was only much later, after Savoy had pressed him to check the payroll records, that the Plaintiff then sent an email dated 6 June 2012 to Savoy to say that he had checked the payroll records for 2000 and learned that ST Lee was not on the payroll for that calendar year (see [57] and [58] above).[94]

107 The Plaintiff's conduct was consistent with the argument that he had intentionally tried to deceive the Defendant with the Disputed Letter, whether or not he was involved in the forgery. In the circumstances, I conclude that he did intentionally try to deceive the Defendant with the Disputed Letter.

108 Accordingly, the Defendant was entitled to terminate the Plaintiff's employment for misconduct, even without relying on any other allegation of misconduct of the Plaintiff. However, I will address one other alleged specific misconduct. This relates to the Plaintiff's alleged failure to obtain approval to pay ST Lee an advance sum of $30,000 as part of his severance package.

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93 NE, 18/01/17, 60:15–62:4; 77:6–77:17; NE, 19/01/17, 152:17–153:20.

94 AB 524.

The $30,000 advance payment to ST Lee

109 The trial proceeded on the premise that the Plaintiff had authorised the payment of $30,000 to ST Lee on 23 May 2012 and that it was paid to ST Lee that day. The question was whether the Plaintiff had received prior approval from his superior Goldbach to do so as the Plaintiff was authorised to approve payments of up to US$10,000 only.[95]

110 At trial, the Plaintiff said that Goldbach had approved the payment of this sum on 23 May 2012 before the payment was authorised by the Plaintiff himself and made to ST Lee.[96] Goldbach denied this[97] but the Plaintiff submitted that Goldbach was not a reliable witness.

111 It was undisputed that the Plaintiff did not have the authority to approve the payment of $30,000 to ST Lee on his own accord. That is why he said he had received prior approval from Goldbach to do so. The evidential burden of proof was on the Plaintiff to establish this allegation about Goldbach's prior approval. As a start, the Plaintiff had to establish that his own evidence was reliable.

112 The problem for the Plaintiff was that he had said through Advocatus' letter dated 2 October 2013 that he had authorised payment of the $30,000 to ST Lee "on the assumption that the severance pay package that he had

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95 AB 522.

96 NE, 17/01/17, 36:19–37:13; 18/01/17, 30:24–31:12; 33:1–33:22; 133:23–134:25.

97 Affidavit of Evidence-in-Chief of Michael Goldbach dated 6 September 2016 ("Goldbach's AEIC"), para 10; NE, 25/01/17, 132:5–132:10, 146:1–146:18.

calculated would be approved. In addition, Mr Goldbach consented to the payment … being made to Mr Lee on 24 May 2012."[98]

113 In the amended statement of claim, a similar allegation was made at para 11 with the elaboration that Goldbach's consent on 24 May 2012 had been given orally.[99]

114 As can be seen, the Plaintiff's position at trial about Goldbach's prior approval being given on 23 May 2012 was at odds with his earlier position that Goldbach's approval was given subsequently on 24 May 2012. The allegation about Goldbach's prior approval was important to the issue whether the Plaintiff had unilaterally approved payment of the $30,000 to ST Lee. If Goldbach did give his approval on 23 May 2012 before the $30,000 was paid to ST Lee, the Plaintiff would have said so at the earliest opportunity. He did not. Instead, his solicitors gave a different reason when they first wrote on 2 October 2013. Quite clearly neither version was reliable and I do not accept either of them.

115 In addition, it will be remembered that although the Plaintiff had suggested in his email dated 23 May 2012 at 11.18am[100] that 50% of ST Lee's severance package was to be paid on 24 May and 50% in July 2012, German had sent an email to the Plaintiff dated 24 May 2012 at 10.39am to ask a number of questions (see [39] above).

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98 AB 806, para 5(1)(b).

99 Statement of Claim (Amendment No 2) dated 23 January 2017, para 11.

100 AB 346.

116 Although the Plaintiff replied on 24 May 2012 at 3.31pm with some responses, his email reply did not address Question 7 about the split payments (see [42] above).[101]

117 Furthermore, on 25 May 2012 at 3.46am, German had sent an email to the Plaintiff to hold off making any severance payment to ST Lee until the Defendant had concluded its review of ST Lee's severance package (see [43]). Importantly, the Plaintiff did not send a written reply to this email to say that $30,000 had already been paid to ST Lee. Instead, he claimed in cross-examination that he did call German after that email and informed him that $30,000 had been paid to ST Lee based on Goldbach's approval.[102] Although the reference in the transcripts was to an email dated 24 May 2012, the correct Singapore date and time was in fact 25 May 2012 at 3.46am.

118 I also do not accept this aspect of the Plaintiff's evidence. If Goldbach had already approved payment of the $30,000, the Plaintiff would have said so to German in his own email of 24 May 2012 at 3.31pm instead of avoiding the question. Furthermore, after German had instructed him to hold off making any payment, he would have given a written reply to say that $30,000 had been paid already in accordance with Goldbach's instruction (whether given orally on 23 or 24 May 2012) if that were true.

119 It was clear to me that the Plaintiff was not telling the truth when he said Goldbach had authorised the advance payment of $30,000 to ST Lee. There was no such authorisation, whether on 23 or 24 May 2012 or at all.

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101 AB 371.

102 NE, 18/01/17, 149:19–149:24; 153:10–154:9.

120 In the circumstances, it is unnecessary for me to elaborate on another argument of the Defendant that even Linda Phang was querying the Plaintiff as to which account to charge the $30,000 payment to and the Plaintiff's response to Linda Phang was to wait till 1 June 2012.

121 I find that the Defendant has established that the Plaintiff authorised the $30,000 advance payment to ST Lee without any approval from Goldbach and in so doing he was guilty of misconduct which justified his dismissal in the circumstances.

Other allegation of misconduct

122 In the circumstances, it is unnecessary for me to address the Defendant's other allegation pertaining to the Plaintiff's alleged failure to protect the password for his office laptop. Indeed, if, as the Defendant alleged, it was the Plaintiff who created or was involved in the creation of the Disputed Letter, then it was not a question of his having failed to protect his password.

Had the Plaintiff been framed?

123 The Plaintiff suggested that he had been framed by certain officers of the Defendant, other than ST Lee or Linda Phang, against whom he had whistle-blowed. He was not suggesting that they were involved in the forgery but rather that they had used the Disputed Letter as an excuse to get the Defendant to terminate his employment.[103]

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103 Statement of Claim (Amendment No 2) dated 23 January 2017, paras 22C–22D; NE, 18/01/17, 107:10–107:16, 109:14–110:1.

124 This allegation was a distraction. If the Plaintiff had been involved in the forgery of that letter or if he had intentionally used it with intent to deceive the Defendant, then the Defendant was entitled to terminate his employment for misconduct, whether or not there was some other ulterior motive for doing so. Conversely, if the Defendant could not establish its allegations against him, then it was not entitled to use them to justify the termination. While the Plaintiff used his allegation that he was being framed to counter the Defendant's allegations about his misconduct, the evidence for the Defendant was strong enough to make the Plaintiff's allegation of being framed irrelevant.

125 I note also that when the Plaintiff made the two police reports referred to above, he did not say that he was being framed by those officers of the Defendant other than ST Lee or Linda Phang.

The claim for salary for the time period it would take for the Defendant to conduct "due inquiry"

126 It was not disputed that cl 5(1) GST applied to the Plaintiff's employment[104] and that under this provision, the Defendant was to make "due inquiry" before dismissing an employee. The terms of cl 5(1) GST are set out above at [9].

127 The question was whether the Defendant did conduct "due inquiry" before dismissing the Plaintiff on 14 June 2012. The Plaintiff alleged that he was entitled to claim damages based on a reasonable length of time that it would have taken the Defendant to conduct "due inquiry" before dismissing him.

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104 Statement of Claim (Amendment No 2) dated 23 January 2017, para 26A; Defence and Counterclaim (Amendment No 2) dated 25 January 2017, para 23.

128 Before I continue, I note that in the Defendant's closing submissions, the Defendant relied on its Business Conduct and Ethics Policy which was applicable in principle to the Plaintiff's employment. Specifically, the Defendant raised clause 20 of the Business Conduct and Ethics Policy ("cl 20 BCEP") which provides that if the Defendant receives information regarding an alleged violation of the policy, the Defendant shall "(c) determine whether it is necessary to conduct an informal inquiry or a formal investigation" and thereafter report the results of any such inquiry or investigation upwards.

129 The Defendant submitted that the procedure under cl 20 BCEP had been followed because the Plaintiff's misconduct in the creation of the Disputed Letter had been reported and Savoy had been tasked to conduct an investigation into the matter and the results and recommendation were also reported upwards. The Defendant also submitted that it was not the Plaintiff's case that the procedure under cl 20 BCEP was not followed. Also, its witnesses were not cross-examined on cl 20 BCEP.

130 I am of the view that it was for the Plaintiff to decide whether he was relying on cl 20 BCEP. He was not. The truth of the matter is that it was the Defendant which was attempting to rely on cl 20 BCEP late in the day as it did not raise this provision in its defence or during the trial. Yet the Defendant attempted to bring in cl 20 BCEP through the back door by submitting that it was not the Plaintiff's case that the procedure under cl 20 BCEP was not fulfilled or that the Defendant's witnesses were not cross-examined on cl 20 BCEP.

131 The Defendant itself did not cross-examine the Plaintiff on cl 20 BCEP. It was not surprising that the Plaintiff did not cross-examine the Defendant's

witnesses on it. There was no reason to do so in the circumstances. I rule that the Defendant is not entitled to rely on cl 20 BCEP. Accordingly, it is not necessary for me to decide whether cl 20 BCEP was in any event superseded by or subject to cl 5(1) GST.

Whether the Defendant had conducted due inquiry

132 Coming back to cl 5(1) GST, the question is what constitutes "due inquiry"? There is no elaboration in either the Defendant's GST or the Business Conduct and Ethics Policy. The terms in cl 5(1) GST (which are set out at [9] above) are similar to those in s 14(1) of the Employment Act (Cap 91, 2009 Rev Ed) ("s 14(1) EA") which states:

> **Dismissal**
>
> **14**.—(1) An employer may after due inquiry dismiss without notice an employee employed by him on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his service except that instead of dismissing an employee an employer may — …

133 The Plaintiff did not assert that he was an employee for the purpose of the Employment Act. Hence it was not his case that that provision applies to him. Nevertheless, he was entitled to rely on cl 5(1) GST. In view of the similarity between cl 5(1) GST and s 14(1) EA, he was relying on s 14(1) EA to ascertain what "due inquiry" in cl 5(1) GST means. I turn now to consider relevant case law on this point.

134 In *Velayutham M v Port of Singapore Authority* [1974–1976] SLR(R) 307 ("*Velayutham*"), the High Court considered the meaning of "due inquiry" in the predecessor to the present version of s 14(1) EA, both of which are materially similar. In that case, the plaintiff was an employee of the Port of

Singapore Authority ("PSA"). On 17 April 1968, he was charged in the District Court with the theft of various cartons of brandy from a godown. On the same day, he was interdicted from service and put on half pay. On 20 June 1969, he was acquitted and discharged by the court. He reported for work the next day but was told to wait. His solicitors then wrote to PSA on 30 June 1969 to request that he be reinstated. He was not.

135 On 3 July 1969, the PSA held a meeting presided by its chairman/general manager. Various senior officers of PSA were present but not the Plaintiff. The meeting was held to discuss the plaintiff's request to be reinstated. Two reports of the PSA police, one before the plaintiff's acquittal and one after his acquittal as well as various statements of witnesses were considered at the meeting. PSA also subsequently sought and obtained legal advice that it was entitled to dismiss the plaintiff (and two other employees who were involved in the alleged misconduct) without payment of pension and gratuity.

136 On 10 September 1969, PSA wrote to the plaintiff to inform him that he was dismissed forthwith for misconduct. The plaintiff then commenced action for wrongful dismissal and arrears of salary.

137 The main point raised by the plaintiff in *Velayutham* which is relevant for present purposes was that "due inquiry" as required by s 14(1) EA had not been carried out. He had not been asked to appear before the meeting and was not afforded the opportunity to present his own defence there.

138 The High Court concluded that the PSA had conducted full investigations and the results of such investigations and relevant documents had

been placed before the meeting. There was sufficient material for those present at the meeting to make a decision to dismiss the plaintiff for misconduct. It was not necessary to call the plaintiff to appear before the meeting and be heard in his own defence. He was at all times well aware of the accusations against him. Accordingly there had been "due inquiry" within the meaning of s 14(1) EA. Another point raised by the plaintiff also failed. Accordingly his claim was dismissed (see *Velayutham* at [33]–[37]).

139 In the Malaysian case of *Said Dharmalingam Bin Abdullah (formerly known as Dharmalingam A/l Ranganathan) v Malayan Breweries (Malaya) Sdn Bhd* [1997] 1 MLJ 352 ("*Said*"), the employee was suspended from duties pending an investigation into an allegation that he had attempted to steal various bottles of cordials and a bottle of stout from the brewery. After a two week suspension, a formal domestic inquiry was conducted over three days. However, in that case, the employee was required to and did attend the inquiry and was assisted by a union representative to address four charges against him. The panel of inquiry eventually found him guilty of all the charges. The panel recommended to the brewery manager that he be dismissed with immediate effect and the manager then dismissed the employee.

140 The employee then commenced action. He was unsuccessful at first instance. On his appeal, his only contention was that although he had been given the opportunity to defend himself on liability, he was also entitled to be given the opportunity to make a submission in mitigation on the question of the punishment to be imposed under the "due inquiry" provision in s 14(1) of the Employment Act 1955 (No 265 of 1981) (M'sia). However, as he was not given

that opportunity, there was no "due inquiry". Section 14(1) of that Act is worded similarly to s 14(1) EA (see [132] above).

141 The appellate court decided that "due inquiry" includes the right to make representations in respect of the punishment to be imposed. Nevertheless, it also decided that in the circumstances of the case where the misconduct was very grave indeed, it would have been a useless formality to have accorded the employee that right as the penalty (*ie*, dismissal) would have been the same even if the right had been exercised. Hence his appeal was dismissed.

142 I now come to some guidelines in the website of Singapore's Ministry of Manpower ("MOM") (http://www.mom.gov.sg/employment-practices/termination-of-employment (accessed 17 April 2017)). Under the subject of "Termination due to employee misconduct" and "Holding an inquiry", the website states that the employee being investigated for misconduct should have the opportunity to present his case even though there is no prescribed procedure for conducting an inquiry.

143 The Defendant did not dispute that the Plaintiff should have been given an opportunity to present his case. Its position was that he *did* have several opportunities to do so even though there had been no formal inquiry and hence "due inquiry" under cl 5(1) GST had been carried out.[105]

144 It was not in dispute that the Plaintiff knew that as of 23 May 2012, the Defendant had begun to look into the question of the commencement date of ST

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105 Defence and Counterclaim (Amendment No 2), para 23; Further and Better Particulars to Defence and Counterclaim dated 17 October 2014, para 11.

Lee's employment. I have set out the various emails between him and officers of the Defendant or its parent company. However, it was only on 7 June 2012 that Savoy was in Singapore and accessed the Plaintiff's email account and then the Plaintiff's office laptop. I have discussed this above. I now turn to the affidavit of evidence-in-chief ("AEIC") of Savoy who was the main witness for the Defendant.

145 At paras 56–60 of Savoy's AEIC, he said that he had made various discoveries, some by means of accessing the Plaintiff's email account on 7 June 2012. Thereafter, he and Goldbach had a meeting with the Plaintiff at about 4pm at the office of the Defendant to give the Plaintiff an additional chance to explain the discrepancies in the Disputed Letter and the Plaintiff's involvement. He said that he showed the Plaintiff print-outs of the authentic letter of employment for ST Lee, the Disputed Letter and the February 2002 Version. He also showed the Plaintiff various other documents which he set out at para 52 of his AEIC. Savoy informed the Plaintiff that it was clear that he had created the Disputed Letter. He took the Plaintiff through the course of events as evidenced by the documents the Defendant was relying on. He offered the Plaintiff a severance package if he confessed and assisted in the Defendant's investigations. If the Plaintiff denied involvement in the forgery, he would be placed on administrative leave while investigations were continuing and his employment was likely to be terminated unless there was other evidence which would exonerate him.

146 According to paras 58–60 of Savoy's AEIC, the Plaintiff said to him that Linda Phang had nothing to do with the forgery. He denied any involvement too

and offered no explanation. He refused the offer of a severance package. In the circumstances, the Plaintiff was placed on administrative leave.

147 Goldbach's AEIC on the meeting of 7 June 2012 with the Plaintiff was more brief. Basically he left it to Savoy to elaborate.

148 The Plaintiff executed two AEICs. The first was executed on 22 August 2016 and the second on 9 September 2016 to address certain AEICs of the Defendant's witnesses. It seems that he had no legal representation at the times when he executed the two AEICs as they do not appear to have been prepared and filed by solicitors. His AEICs were not helpful as to what transpired on 7 June 2012 although he did mention generally that Savoy did not offer him any severance package.

149 The Plaintiff was the first to give oral evidence at trial. He said that on 7 June 2012, Savoy and Goldbach had been walking in and out of his room. Savoy spoke to him a number of times face to face, once in the morning and once in the afternoon. In the afternoon, at about 3.45pm, he was told that he was suspected of being involved in the forgery of the Disputed Letter and asked to admit to it or say who was involved. He was also told that Barres had a copy of the authentic offer letter to ST Lee, but was not shown a copy of that letter or any other document. The Plaintiff did not ask why he was being suspected. He did not ask for elaboration about the forgery but he did say he did not do anything and he did not know anything about a forged letter or who did it. He told Savoy he goes to church, he is a Christian and he would see him later. He was then told to go on administrative leave and he left the office.[106]

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[106] NE, 17/01/17, 38:10–39:13; 18/01/17, 84:9–86:21, 119:13–123:1; 19/01/17, 111:23–

150 When Savoy gave oral evidence on what happened on 7 June 2012, he could not quite remember initially what he had printed out after having remotely accessed the Plaintiff's email account with the help of the IT department that day. He then said that he had printed out Linda Phang's email of 24 May 2012 at 8.58am forwarding the February 2002 Version to the Plaintiff and the February 2002 Version itself (*ie*, the documents found in DBD at pp 3–4; see [68] above).[107] He said that he had met and spoken with the Plaintiff on at least three occasions that day.[108] On the first occasion, he showed the Plaintiff the documents he had printed out. This was around lunch time, at about 12pm. Goldbach was with Savoy then. Savoy asked the Plaintiff what the Plaintiff could tell him about the documents. The Plaintiff said that Linda Phang had nothing to do with the matter and neither did the Plaintiff.[109]

151 The second occasion was around 2pm with Goldbach and the third occasion was at 4pm when Savoy spoke to the Plaintiff alone.[110] On the second and/or third occasion, Savoy asked the Plaintiff to assist in the investigation and come clean and they could discuss about a severance package for him. Otherwise, the Plaintiff could be put on administrative leave.[111] As the Plaintiff did not offer any information, he was put on administrative leave. Thereafter, Savoy was able to use the Plaintiff's office laptop itself and continue his

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118:1.

107 NE, 24/01/17, 43:22–46:6.

108 NE, 24/01/17, 67:4–67:18.

109 NE, 24/01/17, 67:17–69:23.

110 NE, 24/01/17, 70:11–70:23.

111 NE, 24/01/17, 71:16–72:20.

investigations. It was then that Savoy found the draft of the Disputed Letter and its related metadata (*ie*, DBD at pp 8–10).[112]

152 As for Goldbach's oral evidence, he could not remember clearly the details of what transpired on 7 June 2012 because of the lapse of time. Occasionally, his evidence on the details appeared to be at odds with Savoy's.

153 I now consider the events that took place after 7 June 2012. According to Savoy, on 8 June 2012, ST Lee had showed Savoy a series of text messages on his mobile phone between the Plaintiff and him (*ie*, ST Lee). One was a text message on 23 May 2012 at 3.08pm from the Plaintiff to ST Lee suggesting "your join date 2000" and another was ST Lee responding almost immediately to say "2002 [M]ar".[113] Savoy left Singapore on 9 June 2012.[114]

154 If Savoy's evidence was accepted, these text messages reinforce the Defendant's claim that, at the least, the Plaintiff had tried to deceive the Defendant and he did so by using the Disputed Letter. That was why the Plaintiff tried to persuade ST Lee to agree that his commencement date was in the year 2000 but ST Lee corrected him.

155 However, the actual messages were not produced at the trial. Any record which Savoy might have made of them, whether photographic or otherwise, was also not available. In any event, the omission of more concrete evidence about such messages was not fatal to the Defendant's allegations in respect of the

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112 NE, 24/01/17, 51:4–51:16.

113 Defence and Counterclaim (Amendment No 2), para 12(a); Savoy's AEIC, paras 48 and 52(a); NE, 25/01/17, 23:10–23:14.

114 NE, 24/01/17, 160:2–160:4.

Plaintiff's intention to deceive since there was other evidence which supported its allegation, as I have elaborated on above.

156 I mention these messages here only to illustrate that the Defendant's investigations were ongoing even after 7 June 2012 and that the Plaintiff had not been shown all the evidence that the Defendant was gathering.

157 According to the Plaintiff's oral evidence, he did speak to German on the telephone when German came to Singapore sometime between 7 June 2012 and 14 June 2012. During that telephone call, he told German that he did not forge the Disputed Letter and he did not know who did it.[115]

158 On 14 June 2012, the Plaintiff met German at Sheraton Towers. According to the Plaintiff's oral evidence, German delivered the letter of termination (with a cheque) to the Plaintiff. German did not say anything about the investigations into the Disputed Letter. He just asked the Plaintiff to sign the letter.[116]

159 According to German's AEIC, the meeting lasted about 10 to 15 minutes and most of the time was spent by the Plaintiff reading the letter of termination. After reading it, the Plaintiff continued to dispute that he was involved in the forgery. As for the $30,000 advance payment to ST Lee, the Plaintiff said he was in Kuala Lumpur when such payment was made and that Linda Phang had used a pre-signed cheque to effect payment. In response, German said that key

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115 NE, 20/01/17, 3:14–3:24.

116 NE, 20/01/17, 6:22–7:8.

card records confirmed that the Plaintiff was in Singapore the day the advance payment was given.[117]

160 In oral evidence, German added that on 14 June 2012, he did ask the Plaintiff whether there was anything he wanted to talk about before handing the letter of termination over. However, there was no response from the Plaintiff and German handed the letter of termination to him.[118]

161 It seems to me that the phrase "due inquiry" means something more than just the making of inquiries and the conduct of an investigation. Otherwise the word "inquiry" alone would suffice. The phrase suggests some sort of process in which the employee concerned is informed about the allegation(s) and the evidence against him so that he has an opportunity to defend himself by presenting his position, with or without other evidence. While the website of the MOM does not have the force of law, its guide that the employee concerned should have the opportunity to present his case is a useful one. That accords with notions of justice and fairness especially since serious consequences may follow. Furthermore, as already mentioned, the Defendant did not dispute that the Plaintiff should have an opportunity to present his case.

162 However, in order for an employee to be given an opportunity to present his case effectively, he must first be informed clearly what the case against him is. As mentioned above, this includes the allegation(s) and the evidence against him. While "due inquiry" does not mandate any formal procedure to be

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117 Affidavit of Evidence-in-Chief of Christopher German dated 6 September 2016 ("German's AEIC"), paras 18–21.

118 NE, 26/01/17, 54:9–55:3.

undertaken, the more the informality the greater the danger that "due inquiry" was not undertaken. Accordingly, where no formal process was undertaken, the court should be more careful to ensure that the employee's right is protected.

163 In the present case, it is clear that no formal process was undertaken. Initially, Barres' email dated 23 May 2012 (see [33] above) raised a question about the correct commencement date for ST Lee's employment. This inquiry developed into a suspicion that something was wrong especially when the discrepancy in the name of the employer in the Disputed Letter was noted and the Plaintiff was not able to answer questions about the discrepancy satisfactorily. Indeed, his purported explanation about revised offer letters appeared to have fuelled the suspicion since there were offer letters still in the old format. By the time Barres located a copy of the authentic letter on 29 May 2012, the Defendant would have likely inferred that the Disputed Letter was a forgery. However, at that point in time, it was still uncertain who was involved and more information was required to determine who was behind the forgery.[119] That was why Savoy came to Singapore on 7 June 2012.[120]

164 It was only after Savoy gained access to the Plaintiff's email account and saw some documents there that he thought that the Plaintiff must have been somehow involved in the forgery. Even then, it seems that he still sought the assistance of the Plaintiff to provide more information. That was why he spoke with the Plaintiff on various occasions on 7 June 2012.

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119 NE, 24/01/17, 29:24–30:12.

120 Savoy's AEIC, para 56; NE, 24/01/17, 67:17–67:18.

165 In my view, the inquiries before 7 June 2012 and Savoy's inquiries on that day did not amount to "due inquiry" for the purpose of cl 5(1) GST. I accept Savoy's evidence that he did show some documents to the Plaintiff that day but, as I have mentioned, he himself was initially uncertain what he had printed out, let alone showed to the Plaintiff. Even though he eventually said he had printed out certain documents and showed them to the Plaintiff, it was not clear to me what he had actually said to the Plaintiff. Did he say that the Plaintiff was suspected of misconduct or did he actually accuse the Plaintiff of misconduct? If the latter, did he state clearly that the Plaintiff was being accused of being the forger, or of being involved in the forgery even if he was not the forger? Did he inform the Plaintiff that, in any event, the Plaintiff was accused of using the Disputed Letter with the intention of deceiving the Plaintiff?

166 I cannot reach a conclusion on any of these questions as Savoy's evidence was vague. I am not suggesting that Savoy was being untruthful but rather that he had not applied his mind as to what "due inquiry" might entail when he was making his inquiries on 7 June 2012. It seems to me that he had assumed that his inquiries and investigation were sufficient to constitute "due inquiry".

167 When the Plaintiff eventually amended his statement of claim to allege a failure by the Defendant to conduct "due inquiry", the amended defence and counterclaim merely emphasised that the Plaintiff had been given several opportunities to explain his position on the Disputed Letter.[121] For the reasons I have given, that is not good enough.

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[121] Defence and Counterclaim (Amendment No 2) dated 25 January 2017, para 23.

168 Furthermore, as the Plaintiff submitted, even the timing of the three occasions on 7 June 2012 when Savoy spoke to the Plaintiff was not entirely consistent. The further and better particulars of the initial defence and counterclaim filed on 17 October 2014 stated that the times of the three occasions were 9.30am, 1pm and 4pm.[122] Yet, as mentioned above, when Savoy gave his oral evidence, he said it was around 12pm, 2pm and 4pm.

169 Again, I do not say that Savoy was being deliberately untruthful. However, this inconsistency and the uncertainty of other parts of his evidence to which I have alluded suggest that he was only inquiring and investigating but no more. Perhaps that was why no contemporaneous written record by Savoy as to what transpired between the Plaintiff and him that day was produced. While, as I have said, it is not necessary to undertake any formal procedure, the absence of such a contemporaneous written record from the Chief Legal Counsel of the parent company of the Defendant suggests that he was not contemplating a process beyond an inquiry and investigation.

170 It seems that even after 7 June 2012, the Defendant was not entirely certain about its reasons for dismissing the Plaintiff. Hence, even though the letter of termination set out four specific reasons, they were referred to as a "partial list" of the specific reasons. I note also that the letter of termination referred to "part (5)" of the GST. Presumably, this referred to cl 5 GST and, as set out at [9] above, cl 5(1) GST contains the requirement of "due inquiry". The letter of termination did not even mention that "due inquiry" had been undertaken. This was likely because the Defendant had equated "due inquiry"

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122 Further and Better Particulars of Defence & Counterclaim dated 17 October 2014, para 7.

with "inquiry" and thought that there was no need to mention the latter because clearly inquiries had been made.

171 I add that after parties had tendered their closing submissions, I gave them an opportunity to address the court also on the Malaysian case of *Said* ([139] *supra*) and certain sections of the website of the MOM pertaining to "due inquiry" which had come to my attention.

172 It was then that the Plaintiff further submitted that he should also have been given the opportunity to present arguments in mitigation relying on the Malaysian case. However, in *Said*, the court concluded that the denial of that opportunity would have made no difference to the employer's decision as the misconduct was so grave that no punishment other than dismissal was possible.

173 Indeed, the Plaintiff did not suggest that if he had been given the opportunity to present arguments in mitigation, the outcome would have been different. His point was that this was another illustration that he had been denied "due inquiry".

174 As there was inadequate evidence to establish what the Defendant had in fact said to the Plaintiff on 7 June 2012 about his alleged misconduct, I conclude that the Defendant did not conduct "due inquiry" in respect of the Disputed Letter.

175 In respect of other allegations of misconduct such as the Plaintiff's unauthorised approval of four payments, it seems clear that the Plaintiff was not specifically informed about all of such other allegations until he was presented

with the letter of termination. Therefore, likewise, there was no "due inquiry" about any of these payments.

Consequences of the failure to conduct due inquiry

176 Relying on *Gunton v Richmond-Upon-Thames London Borough Council* [1980] 3 WLR 714, the Plaintiff submitted that he is entitled to his salary for the reasonable time it would take the Defendant to conduct "due inquiry".

177 Bearing in mind that the Defendant was investigating into the Plaintiff's misconduct about approving various payments without authority, the Plaintiff submitted that it would have taken the Defendant two months to conduct "due inquiry" into all the allegations against the Plaintiff.[123]

178 The argument that it would have taken the Defendant two months to conduct due inquiry into all the allegations was really based on a figure plucked out of the air. Indeed the claim for failure to conduct "due inquiry" was not part of the initial claim of the Plaintiff. At trial, he made a half-hearted reference to some other dispute between the Defendant and another employee to support his argument of two months. On the other hand, the Defendant hardly gave evidence as to how long it would have taken it to conduct "due inquiry", if it had failed to conduct such an inquiry. Furthermore, the Defendant's submission was only that there was "due inquiry" or that the allegation of two months to conduct such an inquiry was too long. It did not suggest an alternative to the two-month period.

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123 Statement of Claim (Amendment No 2) dated 23 January 2017, para 26A.

179 Be that as it may, the burden of proof is on the Plaintiff to establish that the Defendant would have taken at least two months to conduct "due inquiry".

180 I noted that the Defendant had, in its own mind, completed all or most of its inquiries at least in respect of the Disputed Letter. It had made some inquiries into the four unauthorised payments but it was likely that it would have had to make more inquiries to ascertain the facts in respect of all of such payments. On the other hand, it was not necessary for it to insist or rely on all the four unauthorised payments to dismiss the Plaintiff. It could have relied on his conduct in respect of the Disputed Letter and the unauthorised payment of $30,000 as it seemed to have completed its inquiries on both these matters by the date of the letter of termination, from its point of view.

181 In the circumstances, the Defendant would not have needed much more time to conduct due inquiry. The additional time it would have needed would be to clearly specify to the Plaintiff each and every allegation in respect of both these matters as well as its evidence to support each allegation and give him the opportunity to respond. In my view, it was unlikely to require more than seven days to do so and it was unlikely that the Plaintiff would have required more time to respond. It seemed to me that he would have simply denied the allegations just as what he had done before the Defendant was more specific.

182 I have some reservation as to whether the Defendant would also be obliged to give the Plaintiff an opportunity to address it on the consequences of his misconduct if it concluded that the misconduct was established. There was no evidence as to what human resource departments do or on the advantages and disadvantages of embarking on such a course of conduct. There was also no evidence or submission as to whether both liability and consequences could be

addressed together in the same opportunity given to the Plaintiff or should be done separately. After all, "due inquiry" need not be formal. Accordingly, I will not say that the Defendant would have required more than the seven days mentioned above.

183 In the circumstances, the Plaintiff is entitled to payment of his salary for those additional seven days it would have taken the Defendant to conduct due inquiry. The slight problem was to determine the quantum of his salary for the purpose of computing this claim. As mentioned at [2] above, the Plaintiff had used different figures to represent his monthly salary for his various claims. As the Defendant did not appear to challenge the figure of $17,064 for the monthly salary, I will use this figure as the basis for computing the seven days' salary.

184 Another slight problem was whether this seven days' salary ought to be calculated based on 30 days per month or working days. One would have thought that since the Plaintiff was not a daily-rated employee, working days would not be the appropriate measure. However, the Plaintiff had used working days as the basis to calculate his claim for salary in lieu of unconsumed leave of 24.92 days (see [2(c)] above) and the Defendant appeared to accept this basis (see [5(a)] above). Accordingly, in relation to the Plaintiff's claim for salary for the time period it would have taken the Defendant to conduct "due inquiry", I will similarly calculate the seven days' salary based on working days and use the approach in [2(c)] above. This works out to be $5,512.98 (*ie*, $17,064 x 12/260 x 7).

185 I would mention that the Plaintiff's claim for damages if the Defendant had failed to conduct due inquiry appeared to be made on the premise that so long as due inquiry was not made, he was entitled to damages, whether or not

misconduct was established.[124] In other words, the Plaintiff appeared to be asserting that even if misconduct was not established and he would have been entitled to the reliefs mentioned in [2(a)] and [2(b)] above, he would also have been entitled to damages for the Defendant's omission to conduct due inquiry in addition to such reliefs.

186 I doubt if that proposition is correct. If misconduct was not established, the general principle in law is that an employer would be entitled to adopt the avenue most advantageous to it to terminate the employment. In the present case, the Defendant would have been entitled to terminate the Plaintiff's employment by giving him the one month's salary in lieu of notice and the severance package. There would have been no need to carry out due inquiry first and then give him such benefits since in that scenario, the Defendant would no longer be relying on misconduct. However, as misconduct was established, I need not reach a conclusion on the Plaintiff's approach.

The claim for damages for inability to procure similar employment

187 As for the Plaintiff's claim for loss for not being able to procure a similar job as that held with the Defendant, this was based on the premise that his dismissal was wrongful in the sense that there was no valid reason to dismiss him. As I have found that the Defendant did have valid reasons to dismiss the Plaintiff, his claim for loss for not being able to procure a similar job must fail. Even if he had established that there was no valid reason for the Defendant to dismiss him, it is uncertain whether he would have succeeded in establishing his entitlement to the loss both as a matter of legal principle and evidence,

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124 Plaintiff's Closing Submissions dated 24 February 2017, para 101.

especially since his evidence in respect of this claim was not satisfactory in various aspects. However, I need not say any more on such a claim.

Conclusion

188 In the circumstances, I grant judgment to the Plaintiff for $5,512.98 being seven days' salary based on his salary of $17,064 per month for the Defendant's failure to conduct due inquiry. I need not consider whether he should also be entitled to pro-rata bonus or any other relief for that claim since his claim was for the loss of salary only.

189 In addition, the Defendant is to pay the Plaintiff $12,928.26, being the aggregate amount of $12,505.05 and $423.21 (see [61] and [62] above), which it was intending to pay him for his salary and other benefits but for the fact that the Plaintiff did not present these two cheques for payment. I have included the aggregate amount formally as part of a judgment against the Defendant to avoid any dispute although it has all along not disputed its obligation to pay the aggregate amount subject to any counterclaim it may have.

190 I dismiss the rest of the Plaintiff's claim.

191 As for the Defendant's counterclaim for $30,000 (being the payment which the Plaintiff authorised to ST Lee, without authority), there was a question in my mind as to whether this sum had been recovered from ST Lee. According to the Defendant, it has not.[125] The Plaintiff, on the other hand, did not offer any concrete evidence that the Defendant had recovered this specific sum of $30,000 from ST Lee. There was insufficient evidence for me to decide

[125] Defendant's letter to the court dated 3 May 2017, para 3.

that the sum had in fact been recovered. In the premises I grant the Defendant judgment against the Plaintiff on its counterclaim. It is not necessary for the Defendant to first seek recovery of this sum from ST Lee so long as there is no double recovery.

192 Each party may set-off any sum due to it/him against any sum due from it/him to the other party.

193 I will hear the parties on costs.

Woo Bih Li
Judge

Ganga Avadiar and Eileen Yeo (Advocatus Law LLP) for the plaintiff;
Jared Chen and Rich Seet (WongPartnership LLP) for the defendant.