# Law Society of Singapore *v* Ng Bock Hoh Dixon
# [2011] SGHC 242

**Case Number** : Originating Summons No 442 of 2011

**Decision Date** : 09 November 2011

**Tribunal/Court** : High Court

**Coram** : Chao Hick Tin JA; Andrew Phang Boon Leong JA; V K Rajah JA

**Counsel Name(s)** : Sushil Sukumaran Nair, Abraham Vergis and Kimberley Leng (Drew & Napier LLC) for the applicant; The respondent in person.

**Parties** : Law Society of Singapore — Ng Bock Hoh Dixon

*Legal Profession*

9 November 2011

**Andrew Phang Boon Leong JA (delivering the grounds of decision of the court):**

**Introduction**

1 This was an application by the Law Society of Singapore ("the Law Society") for an order that Mr Dixon Ng Bock Hoh ("the Respondent"), be made to suffer such punishment as is provided in s 83(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("the Act"). The Law Society had preferred five charges against the Respondent. A disciplinary tribunal ("the DT") had found the Respondent liable for three charges (see *The Law Society of Singapore v Ng Bock Hoh Dixon* [2011] SGDT 7 ("the Report")).

2 After hearing the Law Society and the Respondent, who appeared in person, we ordered that the Respondent be struck off the roll of advocates and solicitors of the Supreme Court ("the roll"). We now provide our detailed grounds for reaching that decision.

**Background**

***The parties***

3 The Respondent was an advocate and solicitor of the Supreme Court at the material time (see the Report at [1]). We should mention that the Respondent is no stranger to disciplinary proceedings. In 2010, a court of three Judges suspended the Respondent from practice for a period of two years for preparing two draft court judgments purportedly issued by the Subordinate Courts of Singapore which he knew were false (see *Law Society of Singapore v Ng Bock Hoh Dixon* [2010] 2 SLR 1000 ("*Ng Bock Hoh Dixon (2010)*" or "the False Judgment Disciplinary Proceedings")).

4 In the present case, the complainant was one Integrax Berhad ("the Complainant"), a Malaysian company. The Chairman of the Complainant was one Encik Harun bin Halim Rasip ("Encik Harun") (see the Report at [3]).

***The complaint***

5 The Complainant claimed that the Respondent had failed to refund a sum of US$100,000 which

it had placed with the Respondent's law firm. According to the Complainant, the US$100,000 was to be held by the Respondent's law firm as stakeholders "pursuant to an introductory arrangement in relation to a potential project in Cambodia" ("the Stakeholding Agreement"). [note: 1] The purpose and terms of the Stakeholding Agreement were set out in a letter from the Complainant (signed by Encik Harun) to the Respondent's law firm dated 20 January 2006 ("the January 2006 Letter"). The material terms of the January 2006 Letter are as follows: [note: 2]

(a) The Complainant had engaged a consultant to assist it in obtaining a Cambodian port concession. The consultant was to receive a success fee of US$200,000 if the concession agreement was made unconditional.

(b) In order to assure the consultant that the success fee would be paid, the Complainant had agreed to pay 50% of the success fee (*ie*, US$100,000) ("the Consultancy Fee Deposit") to a stakeholder before 15 February 2006 on, *inter alia*, the following terms:

(i) The stakeholder was to hold the Consultancy Fee Deposit and release it only upon written confirmation from the Complainant that the requisite concession agreement had been made unconditional.

(ii) The Consultancy Fee Deposit was to be returned to the Complainant when the stakeholder received written confirmation that the Complainant had terminated the consultant's engagement or after the expiry of 12 months from 20 January 2006 (whichever was the earlier).

The Respondent accepted these terms by signing a copy of the January 2006 Letter on 25 January 2006. [note: 3] On 21 February 2006, the Complainant paid the sum of US$100,000 to the Respondent's law firm. The money was *not* paid into the Respondent's law firm's client's account.

6 Approximately two years later, on 4 February 2008, the Complainant gave the Respondent written notice that the engagement set out in the January 2006 Letter had not yielded satisfactory results and was not extended beyond its expiry date of 20 January 2007. The Complainant therefore demanded that the Respondent's law firm repay the Complainant the Consultancy Fee Deposit together with any interest. [note: 4]

7 The Respondent failed to repay the money. This led to the Complainant lodging a complaint with the Law Society on 29 January 2009.

***The Respondent's letter to the Inquiry Committee***

8 An inquiry committee was constituted to inquire into the complaint.

9 The Respondent wrote a letter to the inquiry committee on 17 July 2009. In that letter, the Respondent explained that he did not hold the Consultancy Fee Deposit as a stakeholder. Instead, the Consultancy Fee Deposit was a "Party Political Donation" by the Complainant "for the ruling party in Cambodia". [note: 5] The Respondent paid the Consultancy Fee Deposit to a representative of the Cambodian government, one "Seng Phally", and received a receipt for the payment ("the Seng Phally Receipt"). [note: 6] The Seng Phally Receipt was annexed to the Respondent's letter to the inquiry committee. The Respondent further explained that he had rendered a bill to the Complainant for the amount of US$100,000 for "professional charges in connection with the [Sihanoukville Port] matter including other incidental work necessary to carry out the business entrusted to [his law firm]" and

for "[his law firm's] [a]greed costs in introducing and working towards turn key project for the operations and management of Sihanoukville Port, Cambodia" ("the Bill"). [note: 7] The Bill was dated 15 February 2006. [note: 8] The Respondent asserted that the Bill was a contemporaneous document which supported his version of events because it was produced to the Council of the Law Society when it exercised its powers on 11 January 2008 under the Act [note: 9] to conduct an investigative audit into the accounts of the Respondent's law firm. [note: 10]

10 In his affidavit filed for the proceedings before the DT, the Respondent elaborated that the Stakeholding Agreement had terminated after the Consultancy Fee Deposit was not paid by the 15 February 2006 deadline indicated in the January 2006 Letter. [note: 11] The Respondent then received oral instructions from Encik Harun to pay out the Consultancy Fee Deposit to a nominee of the Cambodian Government. [note: 12] As part of these oral instructions, he rendered the Bill to the Complainant. [note: 13] After he received the Consultancy Fee Deposit, the Respondent paid it to Seng Phally. [note: 14]

***The charges***

11 The Law Society charged the Respondent with the following: [note: 15]

(a) Grossly improper conduct or, alternatively, misconduct unbefitting an advocate and solicitor by breaching r 12 of the Legal Profession (Professional Conduct) Rules (Cap 161, R 1, 2000 Rev Ed) in failing to use all reasonably available legal means consistent with his retainer to advance the interest of the Complainant in carrying out his obligation as a stakeholder ("the Stakeholding Charge");

(b) Grossly improper conduct in wilfully and knowingly rendering a bill with a statement that he knew to be false ("the False Bill Charge");

(c) Grossly improper conduct in breaching r 3 of the Legal Profession (Solicitors' Accounts) Rules (Cap 161, R 8, 1999 Rev Ed) ("the Solicitors' Accounts Rules") in failing to pay the US$100,000, which was client's money, into a client account ("the Client Account Charge");

(d) Grossly improper conduct or, alternatively, misconduct unbefitting an advocate and solicitor by failing to honestly cooperate with and wilfully failing to provide accurate information and explanations to his accountants, for the purpose of their preparation of the Accountant's Report provided for under s 73 of the Act, by providing inaccurate information to them about the Bill and/or the nature of the payment of US$100,000 ("the Accountant's Report Charge"); and

(e) Grossly improper conduct or, alternatively, misconduct unbefitting an advocate and solicitor by failing to honestly cooperate with and wilfully failing to provide accurate information and explanations to the Council of the Law Society, for its purpose of inspecting his law firm's books of account and other relevant accounting documents, by providing inaccurate information to it about the Bill and/or the nature of the payment of US$100,000 ("the Account Inspection Charge").

**The Report of the DT**

12 The DT found that the Stakeholding Charge and the Client Account Charge were not proven beyond reasonable doubt because there was some basis to think that the January 2006 Letter, which

purported to set out a stakeholding arrangement, was a sham document that did not represent the true intentions of the parties (see the Report at [19]).

13 However, the DT found that the False Bill Charge, the Accountant's Report Charge and the Account Inspection Charge were made out. On the Respondent's evidence, the Bill was a sham. It was not issued for professional charges incurred by the Respondent. Hence, the False Bill Charge was made out. The Accountant's Report Charge and the Account Inspection Charge were made out because the Respondent had failed to provide accurate information and explanations to his law firm's accountant and the Law Society as to the true nature of the Bill (see the Report at [25]).

**The arguments**

***The Law Society's arguments***

14 In its written submissions, the Law Society relied on the findings of the DT. The Law Society did not take a firm position on the sanction to be ordered against the Respondent. It pointed out that the DT had not found that the Respondent was dishonest. [note: 16] However, the Law Society proceeded to refer to authorities which held that an advocate and solicitor may be struck off the roll even though there was no finding of dishonesty. [note: 17] Significantly, the Law Society referred to an authority which held that an advocate and solicitor may be struck off the roll in the absence of dishonesty if he fell short of the "standard of integrity, probity and trustworthiness" required of advocates and solicitors (see [31] below) and submitted that the Respondent's conduct fell within this description for the following reasons:

(a) the Respondent had prepared a false document;

(b) this was not the first time that he had done so (referring to the False Judgment Disciplinary Proceedings (see [3] above)); [note: 18]

(c) the Respondent's propensity to create false documents to facilitate his client's needs, if left unchecked, could bring the profession into disrepute; [note: 19] and

(d) unlike the situation with the False Judgment Disciplinary Proceedings, parties other than the Complainant would have seen the Bill. [note: 20]

15 At the hearing before us, counsel for the Law Society, Mr Abraham Vergis ("Mr Vergis"), submitted that the Law Society was seeking an order for the Respondent to be struck off the roll. When we pressed Mr Vergis for the Law Society's position on whether the Respondent was dishonest, Mr Vergis candidly conceded that the Law Society had not pursued the point that the Respondent was dishonest at the proceedings below. However, he expressed his personal view, based on the relevant facts, that the Respondent's conduct was dishonest (it is apposite to note here that Mr Vergis was not counsel for the Law Society in the proceedings below). Mr Vergis also submitted, in the alternative, that the Respondent's conduct fell short of the "standard of integrity, probity and trustworthiness" required of advocates and solicitors (see [31] below).

16 Mr Vergis also ventured to suggest that the Bill was not the only document produced by the Respondent which was false. Mr Vergis suggested that the Seng Phally Receipt, which was one of the documents annexed to the Respondent's letter to the Inquiry Committee (see [9] above), was false or contained false statements in two respects. First, the Seng Phally Receipt stated that the Consultancy Fee Deposit was received by Seng Phally on 1 March 2006. This contradicted the

Respondent's accounting documents which recorded that the Consultancy Fee Deposit was paid out in *three tranches*. [note: 21] Second, on the Respondent's evidence, the Consultancy Fee Deposit was a party political donation. The Seng Phally Receipt, on the other hand, described the payment as "50% ADVANCE CONSULTANCY FEES FOR SIHANOUKVILLE PORT PROJECT". We did not, however, think that the Law Society (or indeed the Respondent) could rely on the Seng Phally Receipt. As we expressed to Mr Vergis during his oral arguments, the maker of the Seng Phally Receipt, *viz*, Seng Phally, had not been called as a witness for the proceedings before the DT.

***The Respondent's arguments***

17 In his written submissions, the Respondent explained that his position would be "one of contriteness and unreserved acceptance". [note: 22] The Respondent then proceeded, however, to challenge the DT's finding that the Accountant's Report Charge and the Account Inspection Charge were made out. The Respondent submitted that those charges required wilfulness and dishonesty and that there had been no evidence that he had dishonestly and wilfully misled his accountant or that he had dishonestly and wilfully failed to provide information and explanations to the Council of the Law Society. [note: 23]

18 The Respondent also submitted that his status as a bankrupt (which was referred to in passing in the Law Society's written submissions [note: 24]) should not be taken into account in determining the sanction to be meted out to him because he had voluntarily disclosed his bankrupt status to the DT and had provided an explanation for his bankruptcy. [note: 25] He also argued that nobody had been misled by his transgression. [note: 26] The Respondent urged that he was being rehabilitated through his counselling and work for senior lawyers. [note: 27] He asserted that he was not a recalcitrant offender because the circumstances of this case occurred around the same time as the disciplinary offence for which he was charged in the False Judgment Disciplinary Proceedings. [note: 28]

**The issues**

19 The following issues arose for our consideration:

(a) Had due cause been shown as to why the Respondent should suffer such punishment as is provided under s 83(1) of the Act?

(b) If so, what sanction should the Respondent suffer?

**Our decision**

***Had due cause been shown as to why the Respondent should suffer such punishment as is provided under s 83(1) of the Act?***

*The relevant legal principles*

20 Under s 83(2) of the Act, due cause may be shown against an advocate and solicitor if he is, *inter alia*, shown to be guilty of grossly improper conduct (see s 83(2)(*b*) of the Act) or misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession (see s 83(2)(*h*) of the Act).

21 Grossly improper conduct under s 83(2)(*b*) of the Act refers to conduct which is "dishonourable to the solicitor as a man and dishonourable in his profession"; an advocate and solicitor need not have an intention to deceive in order to be found liable for grossly improper conduct (see *Law Society of Singapore v Nor'ain bte Abu Bakar and others* [2009] 1 SLR(R) 753 at [59]).

22 Misconduct unbefitting an advocate and solicitor under s 83(2)(*h*) of the Act is a "catch-all provision" (see *Law Society of Singapore v Ng Chee Sing* [2000] 1 SLR(R) 466 at [40]; cited in *Ng Bock Hoh Dixon (2010)* at [19]). This particular limb therefore also applies to conduct in the advocate and solicitor's personal capacity; the advocate and solicitor only has to be shown to be guilty of conduct which would "render him unfit to remain as a member of an honourable profession" (*ibid*).

23 It should be noted that the court of three Judges has extensive powers in hearing an application for an order pursuant to s 98(1) of the Act (see s 98(8) of the Act):

> (8) The court of 3 Judges —
>
> (*a*) shall have full power to determine any question necessary to be determined for the purpose of doing justice in the case, including any question as to the correctness, legality or propriety of the determination of the Disciplinary Tribunal, or as to the regularity of any proceedings of the Disciplinary Tribunal; and
>
> (*b*) may make an order setting aside the determination of the Disciplinary Tribunal and directing —
>
> (i) the Disciplinary Tribunal to rehear and reinvestigate the complaint or matter; or
>
> (ii) the Society to apply to the Chief Justice for the appointment of another Disciplinary Tribunal to hear and investigate the complaint or matter

24 However, the court of three Judges will not interfere with findings of fact by a disciplinary tribunal unless the conclusions are "clearly against the weight of evidence" (see *Law Society of Singapore v Lim Cheong Peng* [2006] 4 SLR(R) 360 ("*Lim Cheong Peng*") at [13]). A different approach is taken to findings based on inferences. The court of three Judges is as competent as a disciplinary tribunal in drawing inferences of fact (*Lim Cheong Peng* at [14]).

*Our view*

25 Our view was that the DT had correctly found that the False Bill Charge, the Accountant's Report Charge and the Account Inspection Charge were made out on the evidence.

26 We begin with the False Bill Charge. We found that the Bill was a sham on the Respondent's own evidence. It will be recalled that the Respondent's evidence was that the Consultancy Fee Deposit was in reality a party political donation and that he had *paid out* the Consultancy Fee Deposit to a representative of the Cambodian government (see [9]–[10] above). On this version of events, the Bill was patently false. The Bill represented that the Consultancy Fee Deposit was received by the Respondent as *his professional charges*. This stands in stark contrast to his evidence that he was, in essence, *channelling* the Consultancy Fee Deposit through his law firm. In fact, the Respondent conceded in cross-examination that the Bill was a sham: [note: 29]

> Q: The money is supposed to come through you and go off to pay somebody in Cambodia?

A: Yes.

Q: That's your --- that's your position. So *wouldn't you agree with me, in a sense this bill is a sham*?

A: *Yes*.

[emphasis added]

27 We turn now to the Accountant's Report Charge and the Account Inspection Charge. It would be convenient to deal with both charges together since they are similar. The Accountant's Report Charge alleges that the Respondent "failed to honestly cooperate and wilfully failed to provide accurate information and explanations to [his] accountants for the purposes of their preparation of the Accountant's Report" required under the Act by providing inaccurate information to them about the Bill and/or the nature of the payment of US$100,000 to the Respondent's law firm. [note: 30] The Account Inspection Charge is similarly worded save that the Respondent was alleged to have failed to provide accurate information to the *Council of the Law Society* in its inspection of the Respondent's law firm's books. The Respondent's only contention in connection with these two charges was that there was no evidence that he was dishonest or that his failure to provide accurate information was wilful. [note: 31] There was no doubt that he did not in fact provide accurate information to his accountants and the Council of the Law Society.

28 We found that there was sufficient evidence before the DT to infer that the Respondent's failure to provide accurate information to the Council of the Law Society and his accountant was wilful and amounted to a lack of honest cooperation. The Respondent provided the Council of the Law Society and his accountant with the Bill when he was made to produce his accounting records. The Respondent was not under any misapprehension as to the nature of the Bill. He knew that the Bill was a sham. In the absence of a reasonable explanation from the Respondent as to why he submitted a sham document to his accountant and the Council of the Law Society without disclosing its true nature, the only possible inference that we could draw from his conduct was that he intended for the Council of the Law Society and his accountant to accept the Bill as a genuine document. We did not think that an advocate and solicitor who intentionally presents sham documents to his accountant and the Council of the Law Society can be said to have honestly cooperated with them.

29 We should also mention that the Respondent had in his written submissions referred to a Statement of Auditing Practice ("SAP") approved by the Council of the Institute of Certified Public Accountants of Singapore in February 1986 (as revised and amended) for use in the auditing of solicitors' accounts ("SAP 7"). [note: 32] Like r 4(2) of the Legal Profession (Accountant's Report) Rules (Cap 161, R 10, 1999 Rev Ed), para 26 of SAP 7 provides, in effect, that an accountant is not required to enquire beyond the information contained in the relevant documents relating to any client's matter (as supplemented by such information and explanations as the accountant may obtain from the solicitor). The Respondent's argument was that SAP 7 showed that his accountant would not have been misled by the Bill.

30 We did not see the relevance of SAP 7 to the Accountant's Report Charge. The Accountant's Report Charge charged the Respondent with failing to honestly cooperate and wilfully failing to provide accurate information to his accountant. The impact of the Respondent's provision of a false bill on the accountant's role in preparing his Accountant's Report is immaterial to the charge.

***The appropriate sanction***

*The applicable legal principles*

31 It is well established that if an advocate and solicitor is shown to be dishonest, he will "almost invariably" be struck off the roll (see *Ng Bock Hoh Dixon (2010)* at [31]). However, dishonesty is not the only situation which will warrant striking an advocate and solicitor off the roll; an advocate and solicitor *may* be struck off even where dishonesty is not shown if he is "shown to have fallen below the required standards of integrity, probity and trustworthiness" (see *Ng Bock Hoh Dixon (2010)* at [32] citing the English Court of Appeal decision of *Bolton v Law Society* [1994] 1 WLR 512 at 518):

> **32 However, it does *not* follow that an absence of dishonesty will *never* result in an advocate and solicitor being struck off the roll. In the oft-cited words of Sir Thomas Bingham MR in the English Court of Appeal decision of *Bolton v Law Society* [1994] 1 WLR 512 at 518:**
>
> > Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him ... Lapses from the required high standard may, of course, *take different forms and be of varying degrees*. The *most serious* involves *proven dishonesty, whether or not* leading to criminal proceedings and criminal penalties. In such cases the tribunal has *almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors.* Only infrequently, particularly in recent years, has it been willing to order the restoration to the Roll of a solicitor against whom *serious dishonesty* had been established, even after a passage of years, and even where the solicitor had made every effort to re-establish himself and redeem his reputation. *If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends upon trust. A striking off order will not necessarily follow in such a case, but it may well. The decision whether to strike off or to suspend will often involve a fine and difficult exercise of judgment, to be made by the tribunal as an informed and expert body on all the facts of the case. Only in a very unusual and venial case of this kind would the tribunal be likely to regard as appropriate any order less severe than one of suspension.* [emphasis added]
>
> Reference may also be made to the decision of this court in *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR(R) 266 ("*Ravindra Samuel*") at [14]-[15].
>
> [emphasis in original]

*Our view*

32 We found that the Respondent's conduct clearly fell below the standards of integrity, probity and trustworthiness required of an advocate and solicitor and that his conduct warranted an order that he be struck off the roll.

33 On his own evidence, the Respondent had deliberately created a false document in the course of discharging his professional duties. Although the document that he falsified in the present case, *viz*, the Bill, was not a court document (as was the case in the False Judgment Disciplinary Proceedings), it was nevertheless an important accounting record relating to his law firm's client's account. As Mr Vergis had submitted at the hearing before us, courts take improprieties involving the handling of clients' accounts very seriously (see, for example, *Law Society of Singapore v Tay Eng Kwee Edwin* [2007] 4 SLR(R) 171 ("*Edwin Tay*") at [26]). We appreciated that the charges for which

the Respondent was found liable did not involve a breach of the Solicitors' Account Rules and hence *Edwin Tay* was not strictly relevant. Nevertheless, *Edwin Tay* is pertinent for this court's remarks on the importance of proper maintenance of clients' accounts. It is beyond dispute that bills produced by advocates and solicitors are important documents and it is vital to the proper maintenance of accounting records that they mean what they say. Hence, it could not be argued that the Respondent's conduct in the present proceedings was less severe than his conduct in the False Judgment Disciplinary Proceedings.

34 In fact, we were of the view that the Respondent's conduct in the present case was, on one view at least, *more egregious* than his conduct in the False Judgment Disciplinary Proceedings. One aspect which particularly influenced the court in the False Judgment Disciplinary Proceedings was the fact that the false court document was *only meant to be shown to the complainant's wife* in order to placate her (see *Ng Bock Hoh Dixon (2010)* at [36]). In other words, the false document was not put into general circulation. In contrast, the Bill in the present case formed a part of the Respondent's accounting documents and was presented to third parties (*ie*, the Council of the Law Society and the Respondent's accountant) without further clarification.

35 We also took into account the fact that the Respondent had previously been suspended for a period of two years for falsifying a judgment (see [3] above). The fact that an advocate and solicitor had previously committed a similar disciplinary offence is a significant aggravating factor that the court will consider in determining the appropriate sanction (see *Law Society of Singapore v Low Yong Sen* [2009] 1 SLR(R) 802 at [41]). Having said that, we accepted that the events for which the Respondent was charged in these proceedings occurred *before* he was subjected to the False Judgment Disciplinary Proceedings. In the criminal law context, the Singapore High Court has observed that if an accused is *convicted* of an earlier offence only *after* he *committed* the offence for which he is being sentenced, the court might consider that he was "not acting in defiant disregard of the law"; in certain circumstances, the court may even sentence such an accused person as a first time offender (see *Public Prosecutor v Boon Kiah Kin* [1993] 2 SLR(R) 26 at [37]). This is not to say that the first offence is entirely irrelevant to sentencing unless the offender has been convicted of it before he committed the first offence. All that can be said is that the Respondent was not acting in defiance of the disciplinary process. However, the False Judgment Disciplinary Proceedings were certainly relevant because they demonstrated a disturbing *propensity* on the part of the Respondent to falsify documents. We also pause to note that the Bill was rendered by the Respondent not long after the Respondent had prepared the false court judgments that were the subject of the False Judgment Disciplinary Proceedings. The Respondent's conduct in the present proceedings did not, therefore, appear to us to be the product of a discrete and momentary lapse of judgment. We did not think that an advocate and solicitor who demonstrated such a propensity could be described as having the requisite standards of integrity, probity and trustworthiness.

36 We should also say that we were not impressed with the Respondent's repeated references in his written submissions to the fact that the DT had not found him to be dishonest. We agreed with Mr Vergis's submission that a *lack* of a finding of dishonesty in the Report of the DT does not equate to a finding that the Respondent was *not* dishonest. Indeed, as already noted above (at [15]), the Law Society had not pursued the point that the Respondent was dishonest in the proceedings below and it was therefore not surprising that the DT had arrived at the finding it did.

**Conclusion**

37 For all these reasons, we ordered that the Respondent was to be struck off the roll. We made no order as to costs in view of the Law Society's indication that it was not seeking costs.

**Postscript**

**Postscript**

38 In *Edwin Tay*, the court expressed its regret (at [29]) that it was not informed that another disciplinary proceeding was pending against the advocate and solicitor in question:

> 29 Subsequent to the hearing, our attention was drawn to the fact that there was in fact another DC proceeding concerning the respondent which related to a breach of the [Solicitors' Accounts] Rules. *It is regrettable that in a case of this nature, counsel for the Law Society failed to highlight this case to us in her submissions.* All that counsel mentioned in passing was that other unrelated DC proceedings prevailed against the respondent. This did not convey the correct picture. The respondent had actually been found guilty by another DC of having breached r 3 of the [Solicitors' Accounts] Rules ("the second DC proceedings") as well. No show cause proceedings were subsequently initiated against the respondent only because he had been struck off the roll in the present proceedings. The second DC proceedings had been initiated as a result of the respondent's inappropriate conduct in depositing $15,000 into an overdrawn office account rather than properly into a client's account. While we are satisfied that counsel was not aware of the outcome of these disciplinary proceedings, this does not absolve her from the duty of diligence to draw all material facts to the court's attention. *The substance of the second DC proceedings should have been specifically drawn to our attention even if counsel was not aware of the actual outcome of the disciplinary proceedings when we heard this matter.* Counsel should not have so quickly echoed the respondent's blithe and by no means verifiable claim that no loss had accrued as a result of his conduct. [emphasis added]

Unfortunately, heed was not taken of this caution in the False Judgment Disciplinary Proceedings. The Respondent appeared before a court of three Judges on 2 February 2010 for the show cause proceedings in respect of the False Judgment Disciplinary Proceedings. By this time, the DT for these proceedings had already been appointed. [note: 33] Counsel for the Law Society should have informed the court of three Judges during the show cause proceedings for the False Judgment Disciplinary Proceedings that the Respondent was facing other charges. We reiterate that the Law Society should attempt its level best to apprise the court of three Judges of all material facts including the fact that the advocate and solicitor in question is facing other disciplinary proceedings. Once apprised of such material facts, the court of three Judges may well decide to adjourn the hearing in order to comprehensively hear all current matters pending against the advocate and solicitor concerned.

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[note: 1] Record of Proceedings ("ROP") Vol I at p 8.

[note: 2] ROP Vol II at p 14.

[note: 3] ROP Vol II at p 15.

[note: 4] ROP Vol II at p 19.

[note: 5] ROP Vol II at p 54.

[note: 6] ROP Vol II at p 66.

[note: 7] ROP Vol II at pp 55 and 64.

[note: 8] ROP Vol II at p 64.

[note: 9] ROP Vol II at pp 138–139.

[note: 10] ROP Vol II at p 55.

[note: 11] ROP Vol I at p 286, [25]–[29].

[note: 12] ROP Vol II at p 287, [33].

[note: 13] ROP Vol II at p 287, [34].

[note: 14] ROP Vol II at p 287, [35].

[note: 15] ROP Vol I at pp 26–29.

[note: 16] The Applicant's Submissions at [69] and [89].

[note: 17] The Applicant's Submissions at [67].

[note: 18] The Applicant's Submissions at [71]–[79].

[note: 19] The Applicant's Submissions at [80]–[82].

[note: 20] The Applicant's Submissions at [83].

[note: 21] ROP at Vol II at pp 199 (February 2006 USD bank account statement), 202 (March 2006 USD bank account statement), 233 (Dixon Ng & Co's Cash Book Records), 270 (Payment Voucher for US$50,500), 272 (Payment Voucher for US$45,000) and 274 (Payment Voucher for US$4,000).

[note: 22] The Respondent's Submissions at p 1A.

[note: 23] The Respondent's Submissions at pp 10E, 18A–C, 19D and 20D.

[note: 24] The Applicant's Submissions at [99].

[note: 25] The Respondent's Submissions at pp 22–25.

[note: 26] The Respondent's Submissions at pp 25D–E and 27B–C.

[note: 27] The Respondent's Submissions at p 26B–C.

[note: 28] The Respondent's Submissions at p 27D–E.

[note: 29] ROP Vol III at p 218, lines 7–12 (NE).

[note: 30] ROP Vol I at pp 27–28 (the charges).

[note: 31] The Respondent's Submissions at pp 18–19.

[note: 32] Respondent's Attachments (submitted in hard copy).

[note: 33] ROP Vol I at p 31.