**IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE**

Case No.

Between

**PUBLIC PROSECUTOR**

And

(NRIC No. )

*… Accused*

**WRITTEN MITIGATION**

*Solicitors for the Accused*

(File Ref: AGQ/ CRM/2016/28)

Dated 28 October 2016

1. **INTRODUCTION**
2. The Accused, Choc (“**Choc**”), was charged for two offences under Section 4(2) of the Protection from Harassment Act (Cap 256A, 2015 Rev Ed) (“**PHA**”). The Prosecution is proceeding on the charge as set out below:-

“*That you, on 28 March 2016, at or about 7.55 p.m, at Block 28 Drive, Singapore, did cause alarm to one Sully by using threatening behaviour, to wit, by affixing three debtors notes stating, “Sully Blk 28 PLEASE CALL AH BAO 91280428” on the letterbox of unit #28, 28th floor staircase railing and on the door of a dry riser outside unit #28 of the said block*”.

For the ease of reference, the aforesaid charge shall be referred to as “**the Charge**”.

1. The second charge is similar to the above, and will be taken into account for Choc’s sentencing.
2. **MATERIAL BACKGROUND FACTS**
3. Sometime in or around early 2016, Choc became acquainted with one “*Ah Bao*”, when he borrowed $2,000.00 from him in order to pay off a gambling debt. Choc managed to repay $1,200.00 of the debt, but was unable to repay the remaining $28.00. As Choc knew that his wife was pregnant, he was desperate to be absolved of his debt so that he could support his family.
4. Seeing that Choc was desperate to repay the outstanding debt, “*Ah Bao*” told him that the outstanding sum could be written off if Choc would:- (1) place stickers in the vicinity of a flat; and (2) deliver a sealed envelope to a house. Choc saw it as an opportunity to improve his financial situation, and agreed. Unknowingly, Choc’s acceptance of “*Ah Bao’s*” offer resulted in him committing offences of harassment against the victims.
5. **SENTENCING PRINCIPLES**
6. In ***Yoh Meng Heng v Public Prosecutor* [1970] 1 MLJ 14**, Ong Hock Sim J (at pg. 16) stated that the Courts “*should exercise moderation keeping in mind a sense of proportion when considering sentence and take into account the surrounding circumstances*”. This was echoed in [26.015] of **Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2009)**, where the learned author wrote that the sentence “*must commensurate with the seriousness of the offence*”. In addition, the sentence imposed on the accused has to be consistent with the sentences of other offenders who had committed the same or similar offence.
7. Given that Section 4 of the PHA is based on the previous Section 13B of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap 184, 1997 Rev Ed) (“**MOA**”), we bring this Honourable Court’s attention to the case of ***Public Prosecutor v Tan Lee Yeng* [2013] SGDC 278** (“***Tan Lee Yeng***”) where the accused was fined S$500.00 per charge for the use of abusive words towards her neighbours as “*minimal harm was caused*”.
8. Apart from bearing in mind the severity of the acts of harassment, the Court in ***Chia Kah Boon v Public Prosecutor* [1999] 4 SLR 72** (“***Chia Kah Boon***”), Yong Pung How CJ (as he then was) held at [8] that “*whilst an offender’s financial means has a bearing on the amount of fines which he should be ordered to pay, the weight to be placed on this factor for sentencing purposes varies, depending on the circumstances of each individual case*”.
9. **MITIGATING FACTORS**
10. Bearing in mind the aforesaid sentencing principles, we humbly ask this Honourable Court for a lighter sentence for the Charge on the following grounds:-
    1. Choc is deeply remorseful for his actions and he sincerely apologizes for any alarm or distress that may be caused by his actions, to which he did not know the real purpose behind these tasks. This is especially so when Choc did not know the contents of the **sealed envelope** and he had no idea that the pasting **four politely worded stickers** in the vicinity of a flat could cause such distress or alarm (See the case of ***Tan Lee Yeng*** where the Court had held that the use of abusive words and/or vulgarities were “*not threatening or likely to cause significant alarm or distress*”, and as such, minimal damage was caused. As a result of the aforesaid the respondent was sentenced with a low fine);
    2. Choc has also been fully cooperative with the police in relation to the investigations herein and is willing to cooperate with the necessary authorities for any investigations relating to “*Ah Bao*” if need necessary;
    3. Choc is a first time offender under the PHA;
    4. Choc is facing financial difficulties and is currently an undischarged bankrupt. In addition to the financial doldrums, Choc is required to provide for his family of 4 including a newly born infant of about six weeks old;
    5. Choc is so a recurring depressive and there are times where he would need to incur further expenses to seek psychiatric assistance; and
    6. Choc now understands the consequences of his actions and there is little likelihood of him committing similar offences.
11. **CONCLUSION**
12. In light of the foregoing, we humbly ask for leniency in Choc’s sentencing, and seek a low fine.

*Solicitors for the Accused*