
IN THE BARRISTERS DISCIPLINARY TRIBUNAL

BETWEEN

THE BAR COUNCIL

THE APPLICANT

And

MS LYNDA MARY ALLISON SHINE

THE RESPONDENT

Coram: Mr. Cheng Huan S.C.
Mr. Samuel K.Y. Chan
Professor Chan Lai Wan, Cecilia

Date of Sentence: 13th October 2011

Date of Delivery: 18th October 2011

REASONS FOR SENTENCE

Mr. Cheng Huan S.C.

1. On 29th July 2011, we convicted the Respondent of two complaints of professional misconduct laid by the Bar Council.
2. There has been a delay in the sentencing process partly due to the need to cancel a hearing because of the hoisting of typhoon no.8 signal. On 13th October 2011, we sentenced the Respondent and we said that we would give our written reasons for sentence later, which we now do.
3. The details of the two complaints are stated in our Statement of Findings. Suffice it to say that Complaint 1 relates to an attempt knowingly to mislead the Court of Appeal. Complaint 2 relates to conduct which may bring the profession of a barrister into disrepute or was prejudicial to the administration of justice.

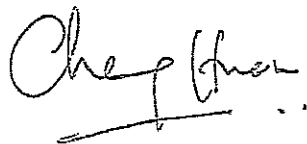
4. These are obviously very serious offences. For obvious reasons, any attempt to mislead any court is a serious matter in itself. In this case, the Respondent testified on oath in the Court of Appeal and the learned judges found her evidence to be an attempt to mislead them.
5. Complaint 2 predates Complaint 1. This complaint concerns the Respondent's conduct in the District Court when she put allegations to a prosecution witness when such allegations were contrary to her instructions. Complaint 2 leads to Complaint 1.
6. The Respondent did not testify before us but a number of letters were submitted regarding her good character. From the evidence adduced at the hearing and the letters submitted, it seems clear that the Respondent is no longer a member of the Bar. The Respondent voluntarily removed herself from the Roll of Barrister pursuant to the order of Chung J made on 27th September 2010. From one of her character references we understand she is presently employed as a compliance manager for a solicitors' firm here in Hong Kong.
7. The Respondent was previously working in the Department of Justice (then known as Attorney General's Chambers). She had a good reputation in the Department and was called to the Bar in 2002.
8. She is married and has three teenage children.
9. From the evidence available it seems clear that she has a good reputation and had contributed substantially to the Department of Justice.
10. We indicated to counsel for the Applicant that we wished them to make submissions on the options open to this tribunal regarding sentence. We made clear to Mr. Rimsky Yuen S.C. and Mr. Robert Pang that we wished their assistance whether there had been previous cases which could assist us. We also made it clear that any such assistance should not touch upon what should be the appropriate disciplinary sanctions or penalties. We are grateful to them for their written submissions dated 12th August 2011.
11. We have also received from them the Applicant's Skeleton Bill of Cost and Disbursement. Up to and including the hearing scheduled for 7th September 2011 (was vacated), the Applicant's costs

amounted to \$390,075.00.

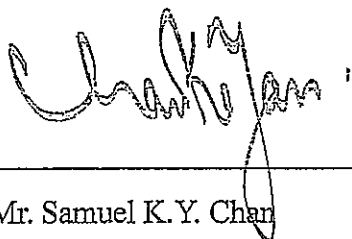
12. On behalf of the Respondent Mr. McCoy S.C. and Mr. A. King S.C. have made a short written submission dated 27th September 2007. The gist of their submission is that the options available to the tribunal are limited to its power under section 37(g) LPO:- “On completion of its inquiry, the Barristers Disciplinary Tribunal may:- (g) make any other order as it thinks fits”.
13. We have also heard oral submissions from both parties on 13th October 2011. Mr. McCoy SC further mitigated that the Court of Appeal’s findings against the Respondent had a devastating effect on her career and reputation in the Bar.
14. Section 37 of the Legal Practitioners’ Ordinance (Cap. 159) specifies the possible sanctions and penalties. In their written submission the Applicant suggested that because the Respondent was no longer a member of the Bar the Tribunal has limited scope in imposing the possible penalties. It was suggested that censuring the Respondent was an option. In his oral submission Mr. McCoy SC seemed to be in agreement with the Applicant’s written submission and fairly accepted that section 37(g) is not a free-standing provision and must be ancillary to the other penalties under that section.
15. Taking into account all that we have heard and submitted to us, we consider the following penalties to be appropriate:
 - (a) the Respondent to be censured;
 - (b) the Respondent to pay a penalty of HK\$20,000 within 21 days from the date of written Reasons for Sentence;
 - (c) costs of the inquiry including all hearings to be paid by the Respondent to the Applicant on a full indemnity basis, to be taxed, if not agreed.
16. We order that a copy of our Statement of Findings and a copy of our Reasons for Sentence be sent to the following persons (consistent with the Bar Council’s suggestions in a letter dated 27th September 2011 to the Applicant’s solicitors) :
 - (i) Hon. Stock VP, Hon. Lunn J, Hon. Wright J
 - (ii) HH DDJ Judge Woodcock

- (iii) The Hon. Chief Judge of the High Court
- (iv) Chief Magistrate
- (v) The Department of Justice (the Secretary for Justice, the Civil Litigation Unit and the Director of Public Prosecutions)
- (vi) The President of the Law Society
- (vii) The Director of Legal Aid
- (viii) The Administrator of the Duty Lawyer Service
- (ix) The Official Receiver's Office
- (x) The Registrar
- (xi) Mr. Ronny Tong S.C., ex-Convenor, Barristers' Disciplinary Tribunal
- (xii) Chairman and Council Members of the Hong Kong Bar Association. We leave it to the discretion of the Bar Association as to whether members of the Bar should be informed of our Reasons and how they might be so informed. We merely suggest that, at the least, members of the Bar should be informed of the gist of the complaints and the penalties imposed and we further suggest that that the Statement of Findings and Reasons for Sentence be available on the Bar's website.

Dated this the 18th day of October 2011



Cheng Huan, S.C:
Chairman



Mr. Samuel K. Y. Chan
Member



Professor Chan Lai Wan, Cecilia
Member