IN THE BARRISTERS DISCIPLINARY TRIBUNAL

BETWEEN

THE BAR COUNCIL Applicant

and

CHENG MING BUN, FRANCIS also known as FRANCIS M.B. CHENG Respondent

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AMENDED COMPLAINTS AGAINST THE RESPONDENT

The following complaints of misconduct are laid by the Bar Council against CHENG MING BUN, FRANCIS also known as FRANCIS M.B. CHENG, a barrister of the Hong Kong Special Administrative Region (the "**Respondent**") whose name was entered onto the Roll of Barristers on or about 7 January 1995 and being at all material times a practising barrister, before the Barristers Disciplinary Tribunal:-

~~1st Complaint~~
~~Statement of Offence~~

~~Engaging in conduct which may bring the profession of barrister into disrepute or which is prejudicial to the administration of justice, contrary to paragraph 6 (b) of the Code of Conduct of the Bar of the Hong Kong Special Administrative Region, effective from May 1998 and updated as of 1 June 2016.~~

~~Particulars of Offence~~

~~The Respondent being Counsel instructed to represent the accused Ms. Tsim Hiu Yee ("**Ms. Tsim**") at trial on diverse dates up to and including~~

~~her conviction after trial on 22nd May 2017 in HCCC 423/2016 for the one offence of trafficking in a dangerous drug of which she was charged, you conducted yourself or engaged in conduct by action or inaction and omission that brought the profession of barrister into disrepute or which was prejudicial to the administration of justice by:~~

~~failing to take any account and/or make any use of the Examination Report with the description "Data extracted from Mobile Phone (Exhibit Marking : CID/1/17/16(M), Laboratory Marking: 994-1)" prepared by Senior Customs Officer Chan Ka-chi (No.99121) at trial which confirmed or at least tended to confirm and which would have provided material evidential support for Ms. Tsim's defence.~~

2nd Complaint
Statement of Offence

Engaging in conduct which may bring the profession of barrister into disrepute or which is prejudicial to the administration of justice, contrary to paragraph 6 (b) of the Code of Conduct of the Bar of the Hong Kong Special Administrative Region, effective from May 1998 and updated as of 1 June 2016.

Particulars of Offence

The Respondent, being Counsel instructed to represent the accused Ms. Tsim Hiu Yee ("**Ms. Tsim**") at trial on diverse dates up to and including her conviction after trial on 22nd May 2017 in HCCC 423/2016 for the one offence of trafficking in a dangerous drug of which she was charged, ~~you~~ conducted ~~yourself~~ himself or engaged in conduct by action, ~~or~~ inaction and/or omission that brought the profession of barrister into disrepute or ~~which~~ was prejudicial to the administration of justice by:

failing to check, enquire or otherwise make any enquiries from around 20th February 2017 to around 22nd May 2017 in respect of ~~potential~~ evidential material in ~~'unused material'~~ the 2nd Additional Evidence Bundle of the Prosecutions, which existence ought to be known to the Respondent or

could reasonably be discovered if the Respondent had diligently followed up Ms. Tsim's instructions; ~~which enquiries would, had they been conducted~~should the Respondent have ever checked or conducted such enquiries, ~~have revealed~~ the existence of the Examination Report with the description "Data extracted from Mobile Phone (Exhibit Marking : CID/1/17/16(M), Laboratory Marking : 994-1)" prepared by Senior Customs Officer Chan Ka-chi (No. 99121), which was material to the defence that Ms. Tsim had instructed ~~you~~ him to put forward on her behalf, would have been revealed.

3rd Complaint
Statement of Offence

Engaging in conduct which may bring the profession of barrister into disrepute or which is prejudicial to the administration of justice, contrary to paragraph 6 (b) of the Code of Conduct of the Bar of the Hong Kong Special Administrative Region, effective from May 1998 and updated as of 1 June 2016.

Particulars of Offence

The Respondent, being Counsel instructed to represent the accused Ms. Tsim ~~Hiu Yee ("**Ms. Tsim**")~~ at trial on diverse dates up to and including her conviction after trial on 22nd May 2017 in HCCC 423/2016 for the one offence of trafficking in a dangerous drug of which she was charged, ~~you~~ conducted ~~your~~himself or engaged in conduct by action, ~~or~~ inaction and/or omission that brought the profession of barrister into disrepute or ~~which~~ was prejudicial to the administration of justice by:

failing to make any or sufficient effort from around 20th February 2017 to around 22nd May 2017 to retrieve deleted messages from Ms. Tsim's mobile phone which had been seized by the Customs and Excise Department in accordance with her instructions which would, had ~~you~~ he done so, have confirmed or tended to confirm Ms. Tsim's defence and provided material evidential support thereto.

~~Dated 24th day of February 2022~~

Dated 28th day of October 2022

~~Giles Surman~~
~~Counsel for the Applicant~~

Lewis Law
Counsel for the Applicant

~~Anthony Chiang & Partners~~
~~Solicitors for the Applicant~~

Anthony Chiang & Partners
Solicitors for the Applicant