

IN THE BARRISTERS DISCIPLINARY TRIBUNAL

BETWEEN

THE BAR COUNCIL

Applicant

and

CHOW WAI HUNG ENZO

Respondent

Before: JAT Sew-tong SC (Chairman), Dr PANG Yat Bond Derrick JP,
Jonathan KWAN (Members)

Date of Bar Council's Written Submissions: 30 April 2025

Date of Respondent's Written Submissions: 30 April 2025 and 6 May 2025
(Reply)

Date of Decision: 6 June 2025

DECISION ON ORDERS

1. By the Decision of this Tribunal dated 3 April 2025, we found that all 7 Complaints made against Mr Chow were established.
2. In accordance with the parties' agreement, the Tribunal received written representations from the parties as to what, if any, orders are to be made in the light of the Tribunal's findings. Written submissions were exchanged

on 30 April 2025 and Mr Chow submitted reply submissions on 6 May 2025. Neither party requested an oral hearing.

3. The Bar Council pursuant to convention does not seek any specific sanction, and fairly accepts that the Tribunal's exercise of discretion in deciding the appropriate sanction is fact-based and case-specific.
4. Mr Chow made extensive submissions in mitigation, supported by letters from a number of barristers of various seniority and his former pupils. Amongst the matters relied on by Mr Chow in mitigation are his personal circumstances and medical conditions which he does not wish to make public.
5. The Tribunal considers it unnecessary in the circumstances of this case to recite in detail the submissions advanced by both sides. The Tribunal takes into account the nature and circumstances of the Complaints, Mr Chow's personal circumstances and medical conditions, as well as all the mitigation factors he relied upon.

Complaints 1 to 6

6. Counsel for the Bar Council informed the Tribunal that the present case is the first case involving a breach of Bar Code §11.9A. That is not surprising given that the rule was introduced recently.
7. The Tribunal acknowledges the importance of a pupil-master's obligation to pay the honorarium. At the same time, the nature and circumstances of the breaches in this case are not the most serious. In particular, the Bar Council did not contend, and we accept, that Mr Chow did not deliberately evade his responsibility to pay his pupils the honorarium. Also, in respect of Complaints 5 and 6, the delay in payment was relatively short.
8. Taking all circumstances into account, the Tribunal considers that it would be appropriate that Mr Chow be censured for his breaches of Bar Code §11.9A.

Complaint 7

9. Complaint 7, in contrast, is serious. Mr Chow contends that there is no finding of dishonesty. However, the misconduct found against him is serious.
10. To recap, we found that Mr Chow's conduct was discreditable in that:
 - 10.1. he provided the Relevant Stubs to the Committee knowing that they were inaccurate and failed to inform the Committee of their inaccuracy, and
 - 10.2. in so doing he attempted to mislead the Committee into thinking that the Relevant Cheques had been issued to Pupil 1 to Pupil 3 on the dates written on the Relevant Stubs, when in fact the Relevant Cheques were issued to Pupil 1 to Pupil 3 in September 2021.
11. In short, we found that Mr Chow intentionally submitted false and misleading information to the Bar Council when he knew that the information was untrue, with intention to mislead. Even though his conduct fell short of dishonesty, it was serious misconduct and we shall proceed to consider the appropriate sanctions accordingly.
12. Counsel for the Bar Council referred the Tribunal to a number of decisions which are said to involve "comparable breaches" of the Bar Code. With respect, we do not find those decisions of much assistance bearing in mind that the facts of those decision are very different from and the findings far more serious than those of the present case. Nevertheless, we note that in Discipline 14/2019 & 05/2020 (2022) the Respondent was suspended from practice for 15 months for knowingly furnishing untrue and/or inaccurate information to the Special Committee on Discipline when requested to give explanation in respect of another matter under complaint.
13. Mr Chow urges the Tribunal to impose a "lenient penalty", and emphasises the substantial stress on him that has resulted from the present matter,

which has a significant impact on his career as well as his physical and mental well-being. He submits that bearing in mind all the circumstances of the present case, “a financial penalty of a significant amount” would send a clear message that due care must be taken to the communication with the Bar Council, and mark the Tribunal’s disapproval of the misconduct found against him.

14. Additionally, Mr Chow accepts that he has to bear the Bar Council’s costs, which he asks to be assessed on a party and party basis.
15. Having considered all the powers of the Tribunal provided in section 37 of the Legal Practitioners Ordinance (Cap. 159) (“Ordinance”), and taking into account all the circumstances of the case, the Tribunal considers that an order suspending Mr Chow from practice for a relatively short time would be appropriate. Taking into account all the circumstances of the case, the Tribunal considers that a term of 2 months should be the starting point, and reduces the term to 1 month in view of the mitigating circumstances presented by Mr Chow.
16. The Tribunal wishes to make two observations:
 - 16.1. It accepts that an order for costs is in itself a form of financial penalty, and has taken that into account in considering the length of the suspension to be imposed.
 - 16.2. The Tribunal notes that the Bar Council’s inquiry into this matter was initiated in September 2021, but the present proceedings only commenced in June 2024. The significant time taken in the investigation of this matter and bringing the complaints before the Tribunal is a matter of concern. The facts of the instant case are not complicated, and Mr Chow responded reasonably quickly to the Committee’s enquiries. There could be no justification for the delay, and Counsel for the Bar Council rightly did not seek to justify it. The Tribunal considers it appropriate to place weight on this factor in deciding the orders to be made in this case.

Costs

17. Mr Chow does not dispute that he should bear the Bar Council's costs, including the costs of any prior inquiry or investigation into the matter, but he asks for the Bar Council's costs to be assessed on a party and party basis.
18. The Tribunal has power pursuant to section 36(8) of the Ordinance to make such order as to costs incurred in conducting the inquiry as it thinks just, including an order directing that the costs are to be taxed on a full indemnity basis. Further, pursuant to section 37(f) of the Ordinance, the Tribunal in exercising its disciplinary powers can either order costs to be taxed on an indemnity basis, or an amount that it considers to be a reasonable contribution towards the Bar Council's costs.
19. The Tribunal considers it appropriate to order Mr Chow to pay the Bar Council's costs on an indemnity basis. Having considered the Statement of Costs submitted by the Bar Council, and having considered Mr Chow's objections, the Tribunal assesses the amount of costs payable by Mr Chow to the Bar Council at HK\$250,000.

Publication

20. Section 37A(2) of the Ordinance relevantly provides that:

“A signed copy of an order of a Tribunal shall be filed with the Registrar who shall enter a note of the order on the roll of barristers against the name of the barrister ...”.
21. The Bar Council invites the Tribunal to order that the Complaints, the Decision and the sentence be published in the following manner:
 - 21.1. The Complaints, the Decision and the sentence be published by way of a Bar Circular and be published on the Bar Association's website in the part assessable by the public generally.

- 21.2. The Decision and the reasons for sentence of the Tribunal be sent to the Respondent, the Registrars of the High Court and of the District Court, the Chief Judge of the High Court, the Chief District Judge, the Chief Magistrate, all Members of the BDT Panel, the Department of Justice (the Secretary for Justice, the Civil Litigation Unit and the Director of Public Prosecution), the President of the Law Society, the Director of Legal Aid, the Administrator of the Duty Lawyer Service and the Official Receiver's Office; and
- 21.3. A copy of the Decision and the reasons for sentence be kept in the Bar Secretariat and copies of the same be made available to the public upon request.
22. Mr Chow objects to the publication to the parties in [21.2] above, essentially on the basis that it would be disproportionate given that the instant case does not involve or relate to or arise from his competence, ethics or integrity in his professional activities with lay clients, or in his dealings with the Court, the general public or any Government departments. Mr Chow also raises concerns over the personal and sensitive information he had presented to the Tribunal in mitigation.
23. The Tribunal does not accept Mr Chow's objection. In the Tribunal's view, misconduct and disciplinary actions against a barrister are matters of public interest and those who have dealings with barristers, as well as the public, have a legitimate interest to be informed. At the same time, the Tribunal has taken care to avoid unnecessary disclosure of Mr Chow's personal and medical information, and has decided not to go into the details of the sensitive information he has placed before the Tribunal in mitigation in this Decision.

Orders

24. Accordingly, the Tribunal orders that:

24.1. The Respondent be censured in respect of Complaints 1 to 6.

24.2. The Respondent be suspended from practice for a period of one month in respect of Complaint 7.

24.3. The Respondent shall pay the Bar Council's costs in this matter, including the costs of any prior inquiry or investigation, in the sum of HK\$250,000.

24.4. The Decision dated April 2025 including all Annexes thereto, and this Decision on Orders be published in the manner set out in [21] above.

(Signed)

JAT Sew-tong SC
Chairman

(Signed)

Dr PANG Yat Bond ~~Derick~~ JP
Member

(Signed)

Jonathan KWAN
Member

Ms Sara Tong SC and Mr Eugene Kwan, instructed by Messrs. Keith Lam Lau & Chan, for the Bar Council.

The Respondent in person.