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How should bare arbitration clauses be enforced by the courts?

Darius CHAN

Singapore Management University, dariuschan@smu.edu.sg

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THE LAW SOCIETY
OF SINGAPORE

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President's Speech at the Legal Technology Roadshow

This speech was delivered by the President at the Law Society's inaugural legal technology roadshow held on 27 and 28 March 2017.

Guest of Honour, The Honourable Justice Lee Seiu Kin,
Fellow members of the Bar,
Distinguished Guests,
Ladies and Gentlemen,

Good afternoon and welcome to the Law Society Legal Tech Roadshow. Justice Lee, thank you for gracing this occasion. As the Chair of the Legal Technology Committee, it means a lot to the Bar that you have taken time to be here with us as well as share your thoughtful opening remarks. I am also very grateful to our Legal Tech Vendors for participating in this Roadshow and supporting the Law Society's initiative.

The background to today is the Legal Industry Needs Study last year that Justice Lee referred to in his speech. The Law Society collaborated closely with Ministry of Law and SPRING Singapore to incise into the technological needs of small and medium sized law firms in Singapore. Essentially, this was a diagnostic and analytical study by our consultants Eden Strategy Institute. The study was to identify the capability and technology needs of the Small and Medium sized Singapore Law Practices ("SMSLPs"). The aim was to develop an action plan to enhance their productivity and competitive advantage. To enable meaningful navigation in the brave new world of technology that is at the state Justice Lee insightfully described as presenting both challenges and opportunities.

The study Eden did involved six focus group discussions and 59 in-depth face to face interviews. The sample population covered the universe of SMSLPs across different size and practice area demographics. We shared the main highlights of this study report last week with law firms attending our State Courts luncheon on 22 March 2017.

There are good, proven practices that achieve considerable impact. To cite three examples very quickly:-

1. niche expertise and scalable packages attracted a 25 per cent premium billing and a five-fold revenue increase;
2. going paperless and running a virtual office reduced 66 per cent of the operating costs; and
3. a shared database of precedents and past case knowledge as a KM repository saved 40-50 per cent of lawyers' time.

Our consultants discerned a critical gap in innovation. Ninety-five per cent of participants did not experiment and innovate within their firms. This is understandable given a lack of time and resources as key barriers. If you are too busy working **in** the business, you cannot work **on** the business.

Another issue requiring mindset change is business acumen. The strategic imperative is how to build business know how by equipping SMSLPs with astute commercial savviness and new business capabilities including leveraging on technology.








SMSLPs need to articulate their unique value propositions and roadmaps for growth. You can't get others to write your business plan for you. No one else knows your business as intimately as you. Only you can best articulate your niche.

According to the Eden study, only nine per cent of the SMSLPs interviewed used technology-enabled productivity tools. One main reason cited for the low adoption rate was cost.

Enter the Tech Start for Law Programme. This was launched on 27 February 2017 by the Ministry of Law, the Law Society of Singapore and SPRING Singapore. This was part of the Action Plan (building on the Analytics) supported by the Ministry of Law and SPRING Singapore.

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The Singapore Law Gazette



The Law Society's Mission Statement
To serve our members and the community by sustaining a competent and independent Bar which upholds the rule of law and ensures access to justice.

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The Law Society of Singapore
39 South Bridge Road, Singapore 058673
Tel: (65) 6538 2500
Fax: (65) 6533 5700
Website: <http://www.lawsociety.org.sg>
E-mail: lawsoc@lawsoc.org.sg

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Advertising Account Managers Wendy Tan, Perry Tan
For Advertising Enquiries
Tel: (65) 6349 0116
Email: wendy.tan@lexisnexis.com, perry.tan@lexisnexis.com
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To recognise Singapore law practices ("SLPs") who have adopted technology to improve productivity and increase their business capabilities, SLPs who have:

- 1 adopted a practice management or accounting software;
- 2 adopted an online knowledge management database; and
- 3 an online presence (whether through a marketing portal or having their own dedicated website)

will be recognised as a **SmartLaw** SLP and will be allowed to use the **SmartLaw** logo on their website and marketing collaterals.

To apply for this recognition, please send to lpi@lawsoc.org.sg:

1. copies of your SLP's contract for the subscription or purchase of (i) the practice management or accounting software (ii) the online knowledge management database; and
2. the url of your SLP's dedicated website or marketing portal on which your SLP is listed.

IMPORTANT INFORMATION:

1. Your SLP should only use the SmartLaw logo upon receipt of the original SmartLaw certificate from the Law Society of Singapore.
2. Please note that the Law Society of Singapore has the right to conduct yearly audits to ensure that your SLP continues to meet the criteria for SmartLaw recognition. If your SLP ceases at any point in time to meet the eligibility criteria, its right to use the SmartLaw logo shall cease simultaneously.

Continued from page 1

S\$2.8 mil has been set aside. This is not small change. It reflects a genuine commitment towards the tech boost by the tripartite stakeholders.

Law firms will receive funding support of up to 70 per cent of the first-year's cost for technology products in practice management, online research and online marketing. Stewart Brand, tech industry legend famously quipped "*Once a new technology rolls over you, if you're not part of the steamroller, you're part of the road.*" I know I am preaching to the converted in this room today. But it bears reiterating that now is the time for action not just awareness and analysis. So get on to the steamroller of practice management, online research and online marketing if you haven't already done so.

The Eden study also revealed that using legal research platforms could reduce the time lawyers take going to the library by up to 20 per cent. To complement the "Tech Start for Law" Programme, via our SmartLaw Assist Scheme, each law firm will now enjoy a subsidy of 70 per cent of the first year's subscription costs of an online knowledge database from Singapore Academy of Law, Lexis Nexis or Thomson Reuters, subject to terms and conditions. Applications are open from now to 30 June 2017. Sign up today to stay on the cutting edge of online research.

In conjunction with the launch of the two schemes, of "Tech Start for Law" and "SmartLaw Assist", the Law Society was intentional to hold the Legal Technology Roadshow today and tomorrow. I would like to take this opportunity to acknowledge and appreciate the diligence, dedication and drive of Delphine Loo, Law Society CEO and her team. This Roadshow features products and services of legal technology providers and business development consultants who are participating in both schemes. Beyond that, the Roadshow will also showcase providers not under either scheme but offering SLPs a discount on their products and services. This is the practicum for the theoretical parts that we have shared during the OLY and last week's State Courts Committee Luncheon. This event gives us a valuable opportunity to have a hands on demo to look, lab test, learn and apply to our own practices.

To recognise SLPs who have adopted technology to improve productivity and increase their business capabilities, the Law Society has introduced a SmartLaw logo. SLPs must have:

1. adopted a practice management or accounting software;
2. adopted an online knowledge management database; and
3. have an online presence (whether via a marketing portal or your own dedicated website).

If you check all three of these boxes, you will be acknowledged as SmartLaw SLPs. You can use the SmartLaw logo on your website and marketing collaterals. Hot off the press, we read of the newly announced Smart Nation and Digital Government Office under the PMO recognizing its transformative power. But a Smart Nation needs Smart Lawyers. You too can be a SmartLaw SLP.

The Law Society genuinely hopes that such technology will enable our SMSLPs to be even more efficient, profitable and competitive by allowing our lawyers to move up the value chain in the legal sector.

In conclusion, these initiatives are part of a series of activities that the Law Society is rolling out for our members this year to assist SMSLPs adopt technology to enhance efficiency and productivity. In celebration of the Law Society's Golden Jubilee in 2017, the Law Society will also be organising a "Future Lawyering Conference" on 20 and 21 July. A substantial section of the conference will be devoted to technology related topics including artificial intelligence. But that is a different, futuristic vision for a different day.

For now, we have the glorious vision of the Legal Technology Vision sketched by SAL and spearheaded by Justice Lee Seiu Kin's Committee. Legal Tech Acceleration from Adoption to Improvements to Adaptation to Invention. While we can dream big of being innovators and inventors, as Confucius said, the journey of a thousand miles begins with a single step. The funding is accessible. The technology is available. So don't wait any longer, lawyers and take that one step, no take three steps: practice management, online research and online marketing.

► **Gregory Vijayendran**
President
The Law Society of Singapore

1. adopted a practice management or accounting software;

Diary

7 March 2017

Seminar on Understanding and Negotiating Cloud Contracts

Jointly organised by the Law Society of Singapore and Microsoft
2.30pm-4.30pm
55 Market Street

8 March 2017

Feedback Session on the Proposed Amendments to the Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) and Development of a Best Practices Guide

Organised by the Family Law Practice Committee
12.30pm-2.00pm
State Courts Bar Room

10 March 2017

Law Society Mediation Forum

Organised by the Alternative Dispute Resolution Committee
9.30am-1.10pm
Singapore Management University

16 March 2017

Business Simulation Workshop for Legal Practitioners (3rd Run)

Organised by the Continuing Professional Development Department
2.30pm-5.30pm
137 Cecil Street

17 March 2017

Seminar on Best Practices in Dealing with Clients and Third Parties, and an Introduction to the Pre-Action ADR Scheme for NIMA Matters

Organised by the Personal Injury / Property Damage Committee
2.30pm-5.40pm
55 Market Street

22 March 2017

Small Law Firms and State Courts & Family Justice Courts Committees' Luncheon

Organised by the Small Law Firms and State Courts & Family Justice Courts Committees
12.15pm
State Courts Bar Room

22 March 2017

Law Firm Branding and How to Do it Right

Organised by the Continuing Professional Development Department
2.30pm-5.30pm
137 Cecil Street

27 & 28 March 2017

Legal Technology Roadshow

10am-8pm
NTUC Business Centre

Upcoming Events

1 June 2017

Data Security in Law Firms: Enabling Secure File Sharing & Media Productivity

6 June 2017

Seminar on Productivity and Office 365

20 & 21 July 2017

Future Lawyering Conference 2017

13, 14 & 15 September 2017

Basic Parenting Coordination Training Programme

21, 22 & 23 September 2017

Financial Experts Course 2017

10 November 2017

Law Society 50th Anniversary Dinner & Dance 2017



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Iain Potter

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From the Desk of the CEO

Dear Members,

From 1 April, the Law Society will have its first subsidiary – the Law Society Pro Bono Services Ltd or “LSPBS”. While the new acronym may take some getting used to, it is really the same, familiar PBSO that we all know well and it is business-as-usual for us at the Secretariat. The LSPBS is now a separate legal entity wholly owned by the Law Society. This structural reorganisation, as President had mentioned in his OLY speech at the start of this year, is to rationalise, streamline and enhance oversight of the Law Society’s access-to-justice mission for the coming decades.

In particular, this corporatisation will serve to:

1. consolidate and rationalize oversight and coordination of the Law Society’s access-to-justice initiatives;
2. enhance transparency and accountability on how donor funds are applied for administrative costs; and
3. enhance the foundation and organisational structure to support the long-term strategic impact, growth and sustainability of the Law Society’s access-to-justice initiatives, such as facilitate the distinct branding of our access-to-justice initiatives through a clearer separation from our other core functions of regulatory, representation and law reform.

Section 38 of the Legal Profession Act (“LPA”) provides the statutory basis for Law Society’s role in access-to-justice missions. Sub-paragraph (f) states that the Law Society is to “protect and assist the public in Singapore in all matters touching or ancillary or incidental to the law” while sub-paragraph (g) states that the Law Society is to “make provision for or assist in the promotion of a scheme whereby impecunious persons on non-capital charges are represented by advocates”.

The Law Society had established the Law Society of Singapore Pro Bono Learning and Support Services Office (“PBSO”) in 2007 to focus on the administration of Law Society’s access-to-justice programmes and we have since

seen a significant increase in scope and scale of our access-to-justice programmes. These programmes are likely to be further expanded in the coming years to continue to meet access-to-justice needs in Singapore.

In October, we will be holding the *Just Jubilee* Fundraising Carnival in conjunction with the celebration of the Law Society’s 50th anniversary and the corporatization of LSPBS, following on from the highly successful fund-raising event *Just Sing*, where a concert was held at the Esplanade on 6 May 2016 showcasing the musical talents of legal alumni such as Ms Rani Singam and Mr Jimmy Ye. For *Just Jubilee*, we plan to showcase vendors and entertainers with legal backgrounds as well as organisations that the Law Society has helped through our corporate *pro bono* schemes. The Carnival promises to be a fun “Family Day” activity for law firms and their staff and is likely to include:

- Battle of the bands competition
- Carnival games
- Dunk tank
- Gladiator
- Zorg Balls
- Photowall

Do look out for more information in the coming months!

Funds raised will support the LSPBS in better reaching out to the community in need of legal assistance but limited in their means to afford legal services. The beneficiaries of the services provided by LSPBS range from individuals to charitable organisations, with the latter often paying it forward and further impacting and assisting the marginalised.

I would like to take this opportunity to thank the Ministry of Law for funding our two CLAS (Criminal Legal Aid Scheme)

Advocates Ng Shi Yang and Sadhana Rai as well as Dentons Rodyk, Allen & Gledhill, Drew & Napier, Rajah & Tann and Wong Partnership for the funding of our five CLAS fellows. Together with these generous donors as well as our volunteer lawyers, we can make the Law Society's mission for access-to-justice for the marginalised possible.

On a separate note, even *pro bono* work is going high tech. Needy individuals can soon dial a lawyer for *pro bono* legal help under a pilot initiative by local legal tech start-up Asia Law Network ("ALN"), which is also among the five technology solutions under our Tech Start for Law scheme. For more information about the Tech Start for Law scheme, do visit our webpage <<https://www.lawsociety.org.sg/For-Lawyers/Running-Your-Practice/Practice-Support/Tech-Start-for-Law-Programme>>

We have also come up with two other schemes for other members, the SmartLaw Assist scheme which uses the Education Fund to subsidise your law firm's subscription fees for a knowledge management database <<https://www.lawsociety.org.sg/For-Lawyers/Running-Your-Practice/>

Practice-Support/SmartLaw-Assist> and SmartLaw, a recognition scheme for law firms who have harnessed legal technology to increase productivity <<https://www.lawsociety.org.sg/For-Lawyers/Running-Your-Practice/Practice-Support/SmartLaw>>. Other resources for helping you in the running of your legal practice can be found at <<https://www.lawsociety.org.sg/For-Lawyers/Running-Your-Practice/Practice-Support>>. The Law Society is committed to helping members in all areas of their legal practice. For further enquiries, please e-mail lpil@lawsoc.org.sg.



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Upholding the Rule of Law: The Law Society Mediation Scheme

On 10 March 2017, the Honourable the Chief Justice Sundaresh Menon officially launched the Law Society Mediation Scheme (“LSMS”) during the Law Society Mediation Forum (“Forum”) organised by the Law Society of Singapore (“Law Society”). Key individuals from Singapore’s mediation scene were invited to share their academic and practice insights on developments in mediation both locally and internationally at the Forum. Certificates of appointment were presented to the Senior and Associate Mediators appointed to the inaugural LSMS Panel of Mediators.

The Honourable the Chief Justice Sundaresh Menon delivered the Keynote Address, titled “Mediation and the Rule of Law”.¹ In his address His Honour proposed that, in light of the ideals of the modern system of dispute resolution, we are encouraged to move away from the conventional

concept of the Rule of Law and to re-cast the Rule of Law ideal as a broader concept, being intimately connected with “access to justice” for the disputant, rather than viewing the Rule of Law ideal through narrow measurements of formal legality and the ability of the disputant to participate exclusively in the judicial adjudicative process. His Honour stated:

More importantly, with recourse to different methods of dispute resolution, the great benefit is that parties may now consider the strengths and weaknesses of each approach in order to determine the **appropriate** mode of dispute resolution that is best-suited to their needs. Developing a more diversified suite of dispute resolution options therefore enhances the ability of the legal system to deliver justice that is customised to the particularities



The Honourable Justice Belinda Ang with members of the welcoming party

of each case and has the effect of reinforcing the overall legitimacy of the dispute resolution framework. This, in turn, has the potential to foster stronger respect for the norms set within the adjudicative process.²

In essence, the re-characterised Rule of Law ideal is met when the disputant is adequately empowered to participate in an appropriate dispute resolution forum within the legal system. Therefore, His Honour suggested that use of mediation would not be inconsistent with the re-characterised Rule of Law ideal where “access to justice” is paramount.

His Honour’s illuminating speech is the latest clarion call for lawyers to reconsider mediation as being an integral part of contemporary legal practice. On a related note, the Law Society notes that recent amendments were made to the Legal Profession (Professional Conduct) Rules 2015³ (“PCR”), where, under the rubric of “act[ing] in the best

interests” of the client, a legal practitioner must, together with the client, “evaluate the use of alternative dispute resolution processes”.⁴

The Law Society takes the view that the LSMS is consistent with His Honour’s notion of “access to justice” under the re-characterised broader concept of the Rule of Law ideal. The LSMS is a user-centric, low-cost mediation scheme where disputants are free to agree on how, and in what form, to present their civil claims to the mediator. The mediators on the LSMS Panel of Mediators are experienced legal practitioners who have met the Law Society’s stringent criteria of mediator accreditation and case experience. These mediators have essentially agreed to provide quality services at very affordable rates set out in the LSMS Fees Schedule.

For example, the first LSMS mediation of 2017 was settled expeditiously within a short span of two hours. As the quantum of the dispute was above S\$250,000.00, a principal mediator and an associate mediator were appointed pursuant to the Law Society Mediation Rules. The Law Society is pleased to report that both mediators have demonstrated exceptional professionalism which has contributed to the initial success of the LSMS.

The Law Society encourages members to view the LSMS as a cost-effective and efficient mediation solution to their benefit, where members should confidently and readily advise their clients to consider mediation under the LSMS.

To find out more about the LSMS, please visit the Law Society’s website.⁵

Representation and Law Reform Department The Law Society of Singapore

Notes

- 1 Mediation and the Rule of Law, Keynote Address by the Honourable the Chief Justice Sundaresh Menon, Supreme Court of Singapore, The Law Society Mediation Forum, Singapore, 10 March 2017, accessible at <[http://www.supremecourt.gov.sg/Data/Editor/Documents/Keynote%20Address%20-%20Mediation%20and%20the%20Rule%20of%20Law%20\(Final%20edition%20after%20delivery%20-%2020090317\).pdf](http://www.supremecourt.gov.sg/Data/Editor/Documents/Keynote%20Address%20-%20Mediation%20and%20the%20Rule%20of%20Law%20(Final%20edition%20after%20delivery%20-%2020090317).pdf)>
- 2 *ibid.*, at paragraph 26.
- 3 (S 706/2015)(ePCR)
- 4 *ibid.*, Rule 17(1) read with 17(2)(e) PCR.
- 5 See the Law Society’s website at <<http://www.lawsociety.org.sg/For-Public/Dispute-Resolution-Schemes/Mediation-Scheme>>





President presenting Associate Mediator Ms Aye Cheng Shone with her certificate



Chief Justice presenting Senior Mediator Mr Aziz Tayabali with his certificate



The Chief Justice having a browse of the handbook for the scheme



Singapore International Commercial Court Suit No 4 of 2016 (HC Summons No 2940 of 2016 and SIC Summons No 4 of 2017)

Arris Solutions, Inc and others v Asian Broadcasting Network (M) Sdn Bhd
[2017] SGHC(I) 01

Supreme Court of Singapore
8 February 2017
Media Summary

1. The Plaintiffs claimed a total of RM 48,682,944.26, interest and costs against the Defendant for the supply and service of media entertainment and digital communications equipment under eight contracts (“the Agreements”). The Plaintiffs alleged that the Third Plaintiff had entered into seven of the Agreements with the Defendant and that the Second Plaintiff had entered into the remaining Agreement with the Defendant. The First Plaintiff claimed as assignee of the debt owing by the Defendant to the Third Plaintiff.
2. The Plaintiffs applied for summary judgment on the ground that the Defendant had no defence.
3. The Defendant did not dispute that the equipment was supplied or that the services were rendered pursuant to the Agreements. Nor did the Defendant contend that the goods were not fit for purpose or that the services were in any way inadequate. The sole defence was that the Defendant had contracted with General Instrument Corporation (“GIC”) and a subsidiary of GIC, Motorola Mobility General Instrument Malaysia Sdn Bhd (“Motorola Malaysia”), instead of the Second and Third Plaintiffs. The Defendant put the Plaintiffs to proof that they were the parties entitled to be paid these sums.
4. Each Agreement contained two material clauses. First, an applicable law clause which provided that each Agreement was governed by Singapore law “for every purpose”. Secondly, a clause which prohibited the assignment of rights and duties under each Agreement without the prior written consent of the other contracting party, such consent not to be unnecessarily withheld or delayed.
5. The Plaintiffs initially sought to argue that the debts owed by the Defendant to the Third Plaintiff under the Agreements had been assigned to the First Plaintiff. The Defendant contested the assignment. It was found that there was no evidence that the Defendant’s prior written consent was sought, far less obtained, for the assignment. The Plaintiffs secondary argument that the assignment was effective in equity failed. In *Linden Gardens Trust Ltd v Lenesta Sludge Disposals Ltd* [1994] 1 AC 85, a decision which has subsequently been applied in Singapore in *Total English Learning Global Pte Ltd and another v Kids Counsel Pte Ltd and another suit* [2014] SGHC 258, it was held that, in such circumstances, the purported assignment would not bind the contracting party whose consent was not obtained.
6. As the Third Plaintiff had not claimed any relief in the proceedings, the Plaintiffs applied for and obtained leave to amend their Statement of Claim to add an alternative claim by the Third Plaintiff in the event the First Plaintiff’s claim on an assignment failed. The Defendants were also given leave to amend the Defence.
7. The Plaintiffs provided proof that the Second Plaintiff was the same company as Motorola Malaysia and all that occurred had been two changes of name. They also provided evidence that the Third Plaintiff had absorbed a wholly owned subsidiary and changed its name. An

opinion was provided by a Delaware lawyer that the Third Plaintiff was the same entity as that previously known as GIC.

8. At the final hearing on 9 January 2017, the Defendant unexpectedly sought a stay of the proceedings and a stay of execution against the Defendant's assets, on the basis that it had obtained an order from the Malaysian High Court on 23 November 2016 staying all present, pending or future proceedings for the Defendant to put a scheme of arrangement into effect. A meeting of the creditors had been fixed for 23 February 2017.
9. The SICC recognised that whilst there was an inherent power to stay proceedings and execution where there were foreign winding up or rehabilitation proceedings, citing *Beluga Chartering GmbH (in liquidation) and others v Beluga Projects (Singapore) Pte Ltd (in liquidation) and another (deugro (Singapore) Pte Ltd, non-party)* [2014] 2 SLR 815 and *Re Taisoo Suk (as foreign representative of Hanjin Shipping Co Ltd)* [2016] 5 SLR 787, it was a matter of discretion whether to do so based on all the relevant considerations and facts of the case. The court will normally do so to render assistance to such foreign proceedings.
10. On the facts of this case, no assistance would be rendered by staying the proceedings. The Defendant had taken a position in Malaysia which was inconsistent with that which it had taken in Singapore. In these proceedings, the Defendant had not accepted that the sums were due to the Plaintiffs whereas in Malaysia it appeared to be prepared to accept that they were for the purposes of the proposed scheme. However, other creditors or the scheme administrator may disagree. It would not assist the foreign rehabilitation proceedings to implement a scheme of arrangement when the issue of whether the Plaintiffs are creditors of the Defendant for these substantial sums was still disputed. The parties had chosen to litigate in Singapore, thereby

submitting to jurisdiction, and had put all the relevant evidence before the SICC. The Agreements were governed by Singapore law "for every purpose". It would be incumbent for the court to determine whether the Defendant owed monies to the Plaintiffs. This would in fact aid the rehabilitation proceedings in Malaysia. In the circumstances, the stay of proceedings was refused.

11. As the Defendant had no defence to the claims of the Second and Third Plaintiffs, judgment was entered for the Second and Third Plaintiffs for the sums claimed together with interest at 5.33% per annum from the date of the writ to the date of payment. The First Plaintiff's claim against the Defendant was dismissed as there was no valid assignment of the debt.
12. It was common ground between the parties that any execution would have to take place in Malaysia where the Defendant's assets were located. In view of the foreign rehabilitation proceedings and the stay order of the Malaysian High Court, the SICC imposed a stay of execution of the judgments pending the outcome of the Defendant's application for a scheme of arrangement in Malaysia. The parties were granted liberty to apply generally, especially in the event that the scheme of arrangement failed to materialise. Costs of the proceedings were also awarded against the Defendant.

This summary is provided to assist in the understanding of the Court's judgment. It is not intended to be a substitute for the reasons of the Court.



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Lunch with Stakeholders in Insolvency Sector

On 23 February 2017, the Supreme Court of Singapore hosted an inaugural lunch for various groups of stakeholders in the insolvency sector.

The lunch was attended by a total of 40 guests from the judiciary, local and international law firms, the Law Society of Singapore, the Insolvency Practitioners Association of Singapore Limited, the Ministry of Law, the Insolvency & Public Trustee's Office, the Monetary Authority of Singapore, the Accounting and Corporate Regulatory Authority, the Singapore Exchange Limited, the National University of Singapore and the Singapore Management University.

By bringing together different stakeholder groups, the lunch enabled an effective discussion of new initiatives and issues concerning the insolvency sector. The success of the lunch has led to plans for such a lunch to be held approximately once every six months, with the different stakeholder groups taking turns to host. The next lunch will be organised by the Law Society of Singapore. This will allow the insolvency sector to better communicate and forge stronger ties, thus leading to greater collaboration within the sector.



(L-R) Mr Chee Yoh Chuang, Mr Adrian Tan, Mr Gregory Vijayendran and Registrar Vincent Hoong



(L-R) Mr Bob Yap, Justice Steven Chong, Mr Gregory Vijayendran and Mr Patrick Ang



(L-R) Justice Kannan Ramesh, Ms Jill Tan, Registrar Vincent Hoong, Mr Tan Boon Gin and Mr Bob Yap



(L-R) Mr Seshadri Rajagopalan, Ms Joan Janssen and Justice Quentin Loh



(L-R) Mr Adrian Tan, Justice Vinodh Coomaraswamy, Associate Professor Steven Bull, Mr Andre Chan, Mr Ashok Kumar, Mr Seshadri Rajagopalan, Ms Joan Janssen and Justice Quentin Loh

Part B of the Singapore Bar Examinations 2016

Commendation List

The list of top 11 candidates was based on the distinctions awarded to candidates.

Name	No. of Distinctions	Position in Class
Mohammad Muzhaffar Bin Omar	4	Joint 1st
Chong Xue Er, Cheryl	4	
Cheng Shi Ting, Amelia	3	Joint 3rd
Cheong Bing Cheng, Ben Chester	3	
Clarice Lau Xiu Ling	2	Joint 5th
Chia Su Min, Rebecca	2	
Leong Hoi Seng, Victor (Liang Kaisheng)	2	
Lim Yin Hwee	2	
Soon Shao Wei, Jerald	2	
Tan Ee Kuan	2	
Wang Ye	2	

Prize Award List

Pursuant to s 4(1)(g) of the Legal Profession Act (Chapter 161), the Singapore Institute of Legal Education has resolved to award the following prizes:

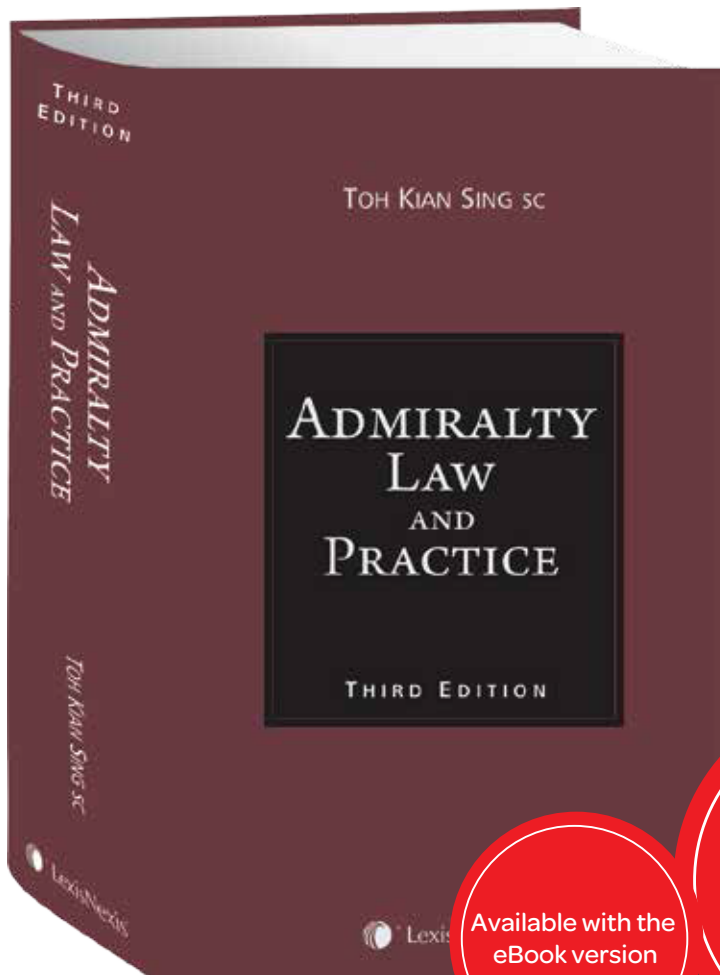
Name	SILE Prize
Mohammad Muzhaffar Bin Omar	Best Student on the Course Best Student in Ethics & Professional Responsibility Best Student in Civil Litigation Practice
Chong Xue Er, Cheryl	Best Student on the Course Best Student in Criminal Litigation Practice
Clarice Lau Xiu Ling	Best Student in Insolvency Law and Practice Best Student in Admiralty Practice
Goh Hui Hua	Best Student in Family Law Practice
Ho Shu Hui, Joey	Best Student in Real Estate Practice
Ho Jun Yee, Lester (He Junyi)	Best Student in Advanced Corporate Practice
Shalini d/o Jayaraj	Best Student in The Law and Practice of Arbitration
Seah Ee Wei	Best Student in Intellectual Property Practice
Li Wanchun	Best Student in Cross-Border Transactions
Ong Qiao Hui	
Pang Hui Min	Best Student in Wills, Probate & Administration Practice
Tong Miin (Tang Min)	

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Developments in Site-blocking

In 2016, the Singapore High Court ordered that local Network Service Providers (“NSPs”) disable their users’ access to Solarmovie.ph, a website established to be flagrantly infringing intellectual property, specifically, copyright. Internet users were previously able to download movies illegally from the site, and the Singapore Court’s order enabled NSPs to prevent users from accessing and downloading infringing content.

Under Singapore’s amended Copyright Act (Rev. Ed 2006) (the “CA”), content owners may seek a Court order compelling NSPs to block piracy websites. However, content owners could not previously compel NSPs to disable such access, and the recent Court decision represents a new chapter in the fight against piracy.

This article discusses the developments in relation to the site-blocking provisions under the CA; practical considerations regarding such enforcement options; and possible approaches from other jurisdictions that the Singapore Courts may consider and adopt in deciding how to vary such site-blocking orders as well as who should bear the costs of the NSP’s compliance with site-blocking orders.

Development of Site-blocking Provisions under the Copyright Act

The Regime before Site-blocking

Prior to the enactment of provisions under the CA for site-blocking, rights owners could issue a “take-down” notice to NSPs, asking that NSPs remove such infringing material from the NSP’s network or disabling access to the same.

If an NSP failed to comply, rights owners would have needed to seek a separate Court order for injunctive relief against the NSP or to sue them for copyright infringement. However, the rights owner would need to sue the NSP directly for primary or secondary copyright infringement. Practically, this would entail uncertainty and significant legal costs.

In contrast, an application against an NSP for a site-blocking order is on a “no fault” basis, and the rights owner does not need to prove infringement by the NSP.

Summary of Site-blocking Provisions

Under Section 193DDA of the CA, the Court is empowered to order a NSP to disable access to a “flagrantly infringing online location” (“FIOL”). Section 193DDA of the CA states:

1. Where the High Court is satisfied, on an application made by the owner or exclusive licensee of copyright in a material against a network service provider, that
 - a. the services of the network service provider have been or are being used to access an online location, which is the subject of the application, to **commit or facilitate infringement of copyright** in that material; and

- b. the online location is a **flagrantly infringing online location**, the High Court may, **after having regard to the factors referred to in section 193DB(3)**, make an order requiring the network service provider to take reasonable steps to disable access to the flagrantly infringing online location. (emphasis added)
4. whether the online location contains guides or instructions to circumvent protection measures implemented to restrict copyright infringement;
5. whether other jurisdictions have made similar blocking orders against the website; and
6. the volume of traffic at or frequency of access to the online location.

Therefore, in order for an applicant to successfully apply for a site-blocking order, he must satisfy the High Court of the following:

1. The NSP's services have been or are being used to access an online location to commit or facilitate infringement of the applicant's material; and
2. The online location is a "flagrantly infringing online location".

What is a FIOLO?

A FIOLO is defined in the CA to refer to an online location which the Singapore High Court determines to be flagrantly infringing or facilitating the infringement of copyright materials.

The statutory definition of a FIOLO focuses on the purpose of the online location, as opposed to limiting the FIOLO to a technical definition. This is because the Singapore Parliament deliberately left the definition of FIOLO technically neutral to accommodate any future technological advances.

The Singapore High Court must consider a range of non-exhaustive factors set out under sections 193DDA and 252CDA of the CA, but ultimately retains final discretion in determining whether an online location is a FIOLO. Such factors include:

1. whether the primary purpose of the website is to commit or facilitate copyright infringement;
2. whether it makes available or contains directories, indexes or categories of means to commit or facilitate copyright infringement;
3. whether the owner or operator of the online location demonstrates a disregard for copyright generally;

For instance, where an online location provides both links to infringing and non-infringing material, the Singapore High Court must first consider the factors listed under sections 193DDA and 252CDA of the CA and other relevant factors as it deems fit. Thereafter, the Singapore High Court must make a factual finding that the relevant online location is a "FIOLO", before it can grant site-blocking orders.

Ultimately, the provisions are targeted against websites that blatantly disregard copyright, as opposed to online locations which primarily offer legitimate materials such as YouTube and cloud storage services.

Variation of the site-blocking order

While the availability of site-blocking provisions certainly marks a new frontier in the fight against piracy, rights owners have their work cut out for them. 'Pirate' sites often change their means of access for users to view or download infringing content, namely their domain names, Uniform Resource Locator ("URL(s)") and IP Internet Protocol address(es) ("IP address(es)"). These are essentially 'site-hopping' tactics, whereby Internet users may access the same infringing material by other means, notwithstanding the existing site-blocking order regarding a specific FIOLO.

The Singapore Position

Section 193DDC of the CA provides for the variation of a site-blocking order granted under Section 193DDA:

1. The High Court may, **on the application of a party to an order made under section 193DDA(1), vary the order as it thinks just if the High Court is satisfied that there has been a material change in the circumstances or that it is otherwise appropriate in the circumstances to do so.**

2. The High Court may, on the application of a party to an order made under section 193DDA(1), revoke the order if the High Court is satisfied (a) upon further evidence, that the order ought not to have been made; (b) that the online location has ceased to be a flagrantly infringing online location; or (c) that it is otherwise appropriate in the circumstances to do so.
3. In this section, a reference to a party to an order made under section 193DDA(1) includes a reference to the owner of the online location that is the subject of the order. (emphasis added)

Therefore, after obtaining a site-blocking order for disabling access to a FIOI and discovering that site-hopping has taken place, an applicant right owner may nonetheless apply to the Singapore High Court to vary the order's terms.

The current variation mechanism provided in the CA may be unsatisfactory to the applicant rights owners. This is because the applicant rights owners would likely need to incur further costs in preparing affidavit evidence, and thereby prove that 'site-hopping' has occurred, whereby Internet users may nonetheless continue accessing infringing material.

On the face of the relevant provisions, an applicant rights owner may attempt to seek a wide site-blocking order so that once the order is made, the NSP is obliged to disable access to the FIOI, regardless of the different domain names, URLs or IP addresses allowing access to the same infringing material. However, this depends on (1) how wide the Court considers the definition of a FIOI to be; and (2) whether such an order would circumvent the Singapore Parliament's intention in providing that a separate application be brought for variation of the initial site-blocking order.

While enacting the relevant provisions for site-blocking, the Singapore Parliament expressed during the Second Reading that rights owners should be empowered to "apply directly to Court for an order that [NSPs] block access to flagrantly infringing websites". Nonetheless, the Singapore Parliament also expressly stated that rights between copyright owners, website owners and NSPs are to be balanced by "robust procedural safeguards", and that the Singapore High Court would act as "an ultimate gate-keeper".

In this vein, the Singapore Parliament specifically discussed variation of a site-blocking order and expressly included a variation provision whereby parties to the site-blocking order, as well as the website owner, "may apply to vary the Order if the web address of the website has been changed, such that the blocking is circumvented". The Singapore Parliament therefore likely intended that in situations where

any URL, Domain Name or IP Address has been changed such that blocking is circumvented, parties should file a further application to vary the initial Order.

Overall, the Singapore High Court may be hesitant to grant an applicant a site-blocking order such that there is no further need for a separate application to vary the initial site-blocking order's terms. After all, this would possibly amount to a fettering of the Singapore High Court's discretion.

As such, rights owners must be prepared to explain how the FIOI may nonetheless be technically accessed through different domain names, URLs or IP addresses, notwithstanding the technical specifications of the initial site-blocking order.

The Australian Position

The Federal Court of Australia in *Roadshow Films Pty Ltd v Telstra Corporation Ltd*¹ ("Roadshow") also considered what the appropriate form of injunctions and ancillary orders relating to existing and future scope and operation of injunctions should be.

To counter site-hopping situations, the applicant rights owners argued that they should be allowed to extend the scope of site-blocking orders by providing written notice to the respondents. If the order was granted, the NSPs would then be compelled to block access to other IP addresses, URLs and domain names not specified in the initial site-blocking order, without the content owners applying for and obtaining any further order of the Court.

The Australian Court declined to grant such an order which removed the need for a further application for variation. Further, it held that whether the terms of any injunction should be varied was for the Australian Court to determine upon consideration of further evidence, and this applied to any additional IP addresses, URLs and domain names sought to be disabled.

The UK Position

Unlike the legislation in Singapore and Australia, the UK *Copyright, Designs and Patents Act 1998* has no specific provision for variation of a site-blocking order. Instead, the relevant provision sets out that the NSP shall simply receive a notice informing the NSP of another person using its service for copyright infringement, and the UK Court shall have the power to grant an injunction against the NSP.

Given the flexibility afforded by such legislation, the UK Courts have dealt with domain-hopping situations through a

notification system. In such a system, the plaintiff does not need to return to court to vary an order for domain-hopping situations.

Cost of Implementing the Site-blocking Order

The Australian Position

In December 2016, the Federal Court of Australia in *Roadshow* released its grounds of decision regarding similar site-blocking proceedings brought by copyright owners against NSPs.

The Court considered and accepted the NSPs' arguments that the cost of complying with site-blocking orders are analogous to costs incurred by a third party complying with an order for preliminary discovery, where such person is not a party to the substantive legal proceedings. Where the NSPs were not liable for infringement, but simply assisting the applicant rights owners to prevent the operators of the relevant online locations from infringing copyright or facilitating copyright infringement, the NSPs should not bear all the costs of complying with the site-blocking order.

As such, the Court held that the applicants should pay part of the respondents' costs of complying with site-blocking orders, whereby the compliance costs were AUD 50 (approx. USD 38) for each domain name to be blocked. The Court recognised that for some NSP respondents, ordering such a uniform figure could produce a figure that is slightly below their estimated compliance costs, while others might receive something slightly in excess of their estimated costs.

Nonetheless, the Court held that the advantage of using a formula and a uniform figure is that all parties know precisely how much they are required to pay and how much they are entitled to receive both now and in future if the number of domain names that the respondents were required to block increased.

The UK Position

In *Twentieth Century Fox Film Corporation & Ors v British Telecommunications Plc*,² the English Court held that the NSPs should bear the costs of implementing the site-blocking order, mainly for the reasons that:

1. The applicant-studios were enforcing their legal and proprietary rights as copyright owners and exclusive licensees, including their right to relief under Article 8(3) of European Parliament and Council Directive 2001/29/EC of 22 May 2001;

2. The NSP is a commercial enterprise profiting from the provision of the services which the operators and users of the infringing party used to infringe the Studios' copyright;

Costs to the NSP for complying with a site-blocking order would be modest and proportionate, and this was supported by the NSP's evidence, which estimated that the initial cost of implementation was at about £5,000 and £100 for each subsequent notification.

As such, the English Court held that the NSP's costs of implementing a site-blocking order could be regarded as a cost of carrying on that business. However, the English Court did not rule out the possibility that in different circumstances, the applicant could be ordered to pay some or all of the costs of implementation.

Conclusion

The recent Singapore High Court decision and the availability of site-blocking orders represents a new tool for rights owners to combat piracy. Nonetheless, the challenge has always been for rights owners to find a flexible and swift way to deal with site-hopping, whereby infringing locations can shift between domain names, IP addresses and URLs quickly and easily.

Going forward, the Singapore High Court will no doubt have to consider the compliance costs of site-blocking orders in greater detail. Further, the Singapore High Court will also have to decide whether the site-blocking orders may incorporate mechanisms for content owners to vary the URLs, domain names and IP addresses in a more cost-efficient and practical manner.

▶ **Andy Leck**
Managing Principal
Baker McKenzie Wong & Leow
Intellectual Property Group
E-mail: Andy.Leck@bakermckenzie.com



▶ **Faith Lim**
Associate
Baker McKenzie Wong & Leow
Intellectual Property Group
E-mail: Faith.Lim@bakermckenzie.com



Notes

- 1 [2016] FCA 1503
- 2 [2011] EWHC 2714 (Ch)

Dual Class Shares in Singapore

This article considers the arguments for and against dual class share structures and suggests that it would be a matter of time before Singapore adopts a suitable regulatory framework to attract top-tier companies with dual class share structures to list in Singapore with appropriate safeguards to mitigate governance risks.

Singapore and Hong Kong are reviving the debate on dual class shares which has engendered much interest amongst practitioners and academics. The Singapore Exchange (“SGX”) has recently sought public feedback whether to amend its listing manual to allow the listing of companies with dual class share structures. This was following the SGX’s Listings Advisory Committee (“LAC”)’s ruling in favour of allowing dual class share structures to list on SGX subject to appropriate safeguards. Notably, the Committee on the Future Economy has also recommended that dual class share structures be allowed so as to widen the range of public financing options, and to support the SGX as a listing venue for companies in high-technology, bio-pharmaceutical and life sciences industries. Similarly, there is also a noticeable shift in the attitudes of the Hong Kong Exchanges and Clearing (“HKEX”), which has recently indicated the possibility of allowing the listing of dual class shares in Hong Kong.

With the recent amendments to the Singapore Companies Act (Cap. 50) (“Companies Act”), the previous one-share-one-vote restriction in public companies has been removed – the new section 64A of the Companies Act now allows

public companies to issue shares of different classes such as those that confer special, limited, conditional voting rights or no voting rights subject to certain conditions being met. This has essentially paved the way for SGX to implement a suitable regulatory framework that would attract top-tier companies with dual class share structures to list in Singapore.

Dual class share structures are generally characterized by two classes of shares where one class of shares with only one vote per share (ie the common shares usually offered to public investors) would be subordinated to a superior class of shares which entitles the holder to multiple votes per share (usually being held by founding shareholders). The result of this structure is that the founding shareholders would be given voting power or other related rights disproportionate to their shareholdings, allowing them to maintain control of the company while enabling access to capital financing.¹ When voting interest is divorced from economic interests, this may invariably lead to corporate governance problems. However, it should be noted that the concept of shares with different voting rights is not entirely novel in Singapore – preference and non-voting shares already exist in private

companies as well as certain listed companies in Singapore (such as in the form of management shares).

Notably, several jurisdictions have already jumped on this bandwagon and allow for such dual class share structures. This is seen most prominently in jurisdictions such as the United States reportedly accounting for over half of the 500-odd companies with dual class shares listing structure in the world, with the likes of Google and Facebook offering eye-catching returns. In the United Kingdom, while the one share one vote concept remains as the default principle, dual class share structures are generally permitted for standard listings as opposed to premium listings. Such structures are also adopted as common measure of protection against corporate hostile takeovers². In Australia, companies are generally allowed to issue classes of shares with different voting rights subject to the companies' articles, although listed companies are prevented from doing so under the ASX listing rules. Nearer to home, the Hong Kong Stock Exchange generally bans dual class share structures although the exchange has recently announced that it plans to consult on the launch of a third board in an effort to attract more technology and new-economy firms to list. Evidently, the concept of dual class shares remains a contentious issue in various jurisdictions and this was likewise acknowledged in our parliamentary debates in relation to the introduction of dual class share structures in Singapore. It was recognized that such structures are necessary to "maintain the relevance of Singapore as a financial hub and to maintain its competitiveness and attractiveness relative to its competitors."³

The lackluster mood of our capital markets in recent years should signal a time for a change to embrace innovative structures that could open up opportunities for Singapore. Like Hong Kong, Singapore lost out on some potential high profile listings precisely because of the structural impediments in our regulatory framework. Going forward, Singapore's nimble ability to adapt to the changing commercial landscape and to attract a broad spectrum of top-tier listings could be the key in ensuring Singapore's relevance as Asia's financial hub. In view of global demands and increasingly sophisticated investors, these changes must surely be seen as steps needed to be taken to maintain Singapore's competitiveness and attractiveness relative to our competitors. It is envisaged that the removal of the one share one vote restriction will give public companies greater flexibility in raising capital and provide investors with a wider range of investment opportunities. However, it remains to be seen how would dual class share structures measure up in terms of shareholder protections? Would dual class share structures be any cause for concern for public investors in Singapore going forward?

Rethinking about Dual Class Shares Structures

In dual class share structures, it may seem unfair to investors that the voting power of one's shares does not bear any reasonable correlation to the equity interest of those shares. A shareholder may have greater voting power than another even if both have the same amount of equity in the company. The removal of the one share one vote restriction risks public investors becoming disenfranchised and being relegated as second-class investors, at the mercy of those who own no more of the company than they do but have greater rights.⁴ The main conundrum facing any analysis of dual class shares is this – the advantage of a dual class share structure is that it protects entrepreneurial management from the demands of ordinary shareholders but conversely, the disadvantage of a dual class share structure is that it also protects entrepreneurial management from the demands of shareholders.⁵

Who's in Control? – Entrenchment of Control

The potential risk of corporate abuse is also a real one. Minority controlling shareholders with special voting rights could entrench their control of the company since by default they would be able to appoint their nominees to a majority of the board whose positions are effectively insulated from the threat of removal. Additionally, such controlling shareholders would also be able to vote down takeover proposals at general meetings at their discretion. Potentially lucrative takeovers will be next to impossible to conduct and poorly performing board or management could prove difficult to dislodge.

From a corporate governance perspective, the idea of a minority shareholder base controlling a majority of the board increases opacity and the company becomes more susceptible to corporate misconduct which casts doubt on the question of accountability. Problems that surface from controlling the vote without taking equal risk on capital might risk being papered over. Effectively, the board becomes much less of a monitor and instead this monitoring function is being 'exported' to third parties such as the government, regulators or the courts. There are concerns that this may lead to more companies going into that route of having such shareholding structures in order to fend off or retain permanent control which can be to the detriment of the rest of the public investors.⁶

Evidently, the way dual class share capital is structured removes any incentive for board performance usually provided by the risk of being taken over. In such scenarios, the need for a stronger element of independence on the board becomes of greater significance. Independent

directors must have the power to suspend management if there is any wrongdoing, fraud or dishonesty. There is a strong impetus for such possible measures to be imposed on public companies that adopt a dual class share structure. In this regard, we could draw several useful references from the revised Singapore corporate governance code in 2012 (eg having criteria of independence and minimum number of independent directors etc.).⁷ One possible safeguard would be to mandate a certain number of truly independent directors who would be in charge of the nominating committee, thereby instilling some form of effective oversight and monitoring.

For investors who are not planning to be long-term investors, dual class share structures could be an obstacle to getting their way. Proponents of it commonly offer the perspective that such structures allow founding shareholders more leeway to pursue their long-term vision and protect their firm from public investors who are focused on short-term earnings.⁸ With increasingly more sophisticated and larger institutional investors who are aggressive in their attempt to influence companies' agendas but with shorter investment time horizons, companies may find dual class share structures useful in mitigating short-term shareholder influence in order to pursue their core values and long term commercial objectives.

While it may be appealing when inspiring founding visionaries are spearheading the company at its infancy stage, however, shareholders should generally have recourse and be able to hold management or the board accountable should the company heads in the wrong direction. Detractors of dual class share structures are concerned that such structures facilitate conflict of interest transactions, by permitting the board or management to engage in transactions that benefit the minority controlling shareholders at the expense of public investors without fear of any consequences. Secondly, such structures also preserve the status quo, especially where the board or management's strategic vision is failing or where bad business decisions are made. The "minority" shareholders may often be left powerless to retaliate or effect change in both of these situations.

Investor Awareness and Pricing of Dual Class Shares

While the concept of dual class shares is not entirely novel to companies in Singapore, such structures have not been seen to be widely adopted. There are concerns about whether investors will generally be ready for such structures and able to comprehend the nature and implications of investing in dual class share structures. In takeover situations, questions about fair value of multiple-vote

ordinary shares vis-à-vis single vote ordinary shares may also arise. Nevertheless, investors in Singapore have already been investing in warrants and derivatives, as well as subscribing for shares in Google and Facebook through online stock brokers. Also, it is also commonly seen in pyramidal corporate structures and shareholder agreements (among shareholders on special voting arrangements such as veto rights or the right to appoint directors) where certain group of shareholders have weighted voting rights to retain control over key aspects of the company. Ultimately, it should also be up to the investors to decide if the risks and rewards of an investment are reciprocal – ie caveat emptor.

While the pricing of different classes of shares may be determined, as part of the usual valuation process, by issuing companies as well as valuation by investment banks and road shows with potential investors, it remains to be seen whether Singapore's financial markets can be efficient enough to fairly price shares with different voting rights. Ultimately, public investors will have to make a judgment call to determine whether the premiums or discounts offered represent the true and fair value for the respective classes of shares.

What about Shareholder Protection?

While shareholders should be cognizant of the inherent risks of conflict of interest that dual class shares structures may pose, they are not entirely without protection should the risks of improper management materialise. There are statutory safeguards in place to deal with corporate abuses of power.

The Companies Act, as with most company law regimes in common law jurisdictions, provides for redress where minority shareholders' rights are unfairly prejudiced (ie by those managing the company who possess a majority of the voting power) under section 216. While the Courts may be slow to intervene in the management of the affairs of companies on the ground that 'minority' shareholders participate in a corporate entity knowing that decisions are subject to 'majority' rule, section 216 nevertheless enjoins the courts to examine the conduct of 'majority' shareholders (ie those managing the company who possess a majority of the voting power) to determine whether they have departed from proper standards of commercial fairness, standards of fair dealing and conditions of fair play.⁹ If it is found that the company's affairs are conducted in such manner that is oppressive to the complainant shareholders or that some resolution of the company is passed that does in fact unfairly discriminates or is otherwise prejudicial to the shareholders, the courts have a wide scope of judicial discretion to do

justice and to address unfairness and inequity in corporate affairs.¹⁰

Also, directors are ultimately subject to fiduciary duties to act bona fide in the best interests of the company.¹¹ This is a strict equitable rule under common law that a fiduciary must act in what he honestly considers to be the company's interest and must not place himself in a position where his duty to the company and his personal interests may conflict.¹² That said, nominee directors appointed to the board may in fact tend to act in their nominator's interests. It would be difficult to objectively ascertain whether such nominee directors do in fact subordinate their fiduciary duties as stewards of the company to the interests of the controlling shareholders.

Additionally, our listing rules under SGX (eg Chapter 9 – Interested Person Transactions) supplements the law governing conflict of interest and seeks to regulate and guard against the risk of possible abuse by interested persons of their position to influence the listed company, its subsidiaries, or associated companies to enter into transactions with interested persons that may adversely affect the interests of the listed company or its shareholders. For example, under Chapter 9, subject to certain exceptions, all other interested person transactions must either be announced immediately or approved by the shareholders as the case may be.

Possible Safeguards

To minimise the risks of entrenchment of voting rights in a company, the LAC has recommended that the SGX adopts the following mitigating safeguards:

1. A maximum voting differential of 10:1 between shares with multiple voting rights and ordinary shares (a commonly adopted voting differential in other jurisdictions);
2. General prohibition of issue of shares with multiple voting rights post-listing. Existing companies would not be permitted to convert to a dual class share structure as their shareholders did not invest with knowledge of the risks associated with such structures;
3. Automatic conversion of shares with multiple voting rights to ordinary shares upon the sale or transfer of multiple vote shares (unless to permitted holders) or if the owner of such shares ceases to assume a management role in the company. Alternatively, it is also considered that a 'sunset clause' be imposed for the automatic conversion of multiple vote shares to ordinary shares at a prescribed future date after listing.

To minimise expropriation risks, the LAC recommends the SGX to enhance the independence element in companies by:

1. Mandatorily requiring the board, nominating committee, remuneration committee and audit committee of the company to comply with the Code of Corporate Governance with respect to the recommendations on board compositions and independent directors instead of a comply-or-explain basis;
2. The appointment of independent directors of companies with dual class share structures be subject to certain restrictions (or enhanced measures) such as limiting multiple vote shares to one vote per share.

To mitigate the risks of listing poor quality companies with dual class share structures, the SGX has proposed several measures, including:

1. The one share one vote structure will remain as the default position of all new listings and dual class share structures may only be permitted for listing if there is 'compelling reason' to adopt such a structure;
2. Admission of companies based on a holistic assessment by taking into account of the listing applicant's industry, size, operating track record and raising of funds from sophisticated investors. In addition, the SGX is proposing a minimum market capitalization of \$500 million to ensure that is sufficient investor demand to justify accepting the potential risks of a dual class share structure;
3. Referral of listing applications of companies with dual class share structures to the LAC provided that SGX had first assessed the listing applicant as being suitable for listing.

To increase investors' awareness of shareholder rights by:

1. Providing prominent and clear disclosure of shareholder rights in prospectuses and complying with the safeguards prescribed in the Companies Act;
2. Issuers should also be required to disclose the holders of multiple vote shares, regardless of shareholdings, both during listing and on a continuing basis in its annual report;
3. More investor education initiatives.

Conclusion

It was the bold, innovative and pragmatic mindset of our leaders that transformed Singapore from an unknown fishing village to one of the major financial hubs in Asia. Instead being conservative, this move to allow companies with dual class share structures to list in Singapore will be a progressive step forward to keep pace with global markets.

The question is certainly a matter of when and how, and not if, Singapore would embrace this change. While it remains to be seen what form the regulatory framework would eventually take, the balance between flexibility of our capital market structures and corporate transparency will be a delicate one to manage. It will also be important to remain mindful of local characteristics including our legal or business environment and institutional differences with other jurisdictions.

▶ **Lance Lim**
Advocate and Solicitor, Singapore



Notes

- 1 D.C. Ashton, 'Revisiting Dual Class Stock' (1994) 68(4) *St. John's Law Review* 863–960 at 866; F.H. Easterbrook and D.R. Fischel, 'Voting in Corporate Law' (1983) 26 *Journal of Law and Economics* 395–427
- 2 Julian Franks, Colin Mayer, and Stefano Rossi, 'Spending Less Time with the Family: The Decline of Family Ownership in the United Kingdom' in Randall K. Morck (ed) *A History of Corporate Governance Around the World* (University of Chicago Press 2005) 604.
- 3 Singapore Parliamentary Debates, Second Reading (Response) Speech on the Companies (Amendment) Bill, 8 October 2014
- 4 'Exchanges divided by dual-class shares' (3 October 2013) *Financial Times*
- 5 Dual-class stock: Governance at the Edge: <http://sites.udel.edu/wccg/files/2012/10/Dual-Shares-Q3-20121.pdf>
- 6 *Supra* Note 3
- 7 Code of Corporate Governance, Singapore (2 May 2012)
- 8 Simon C.Y. Wong, Rethinking "One Share, One Vote", *Harvard Business Review* (29 January 2013)
- 9 *Re Tri-Circle Investment Pte Ltd* [1993] 1 SLR(R) 441
- 10 *Over & Over Ltd v Bonvests Holdings Ltd and another* [2009] 2 SLR(R) 111
- 11 *Vita Health Laboratories Pte Ltd and others v Pang Seng Meng* [2004] 4 SLR(R) 162
- 12 *Ibid.*





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How Should “Bare” Arbitration Clauses be Enforced by the Courts?¹

K.V.C. Rice Intertrade Co Ltd v Asian Mineral Resources Pte Ltd [2017] SGHC 32

In *K.V.C. Rice Intertrade Co Ltd v Asian Mineral Resources Pte Ltd* [2017] SGHC 32, the Singapore High Court enforced so-called “bare” arbitration clauses, ie, clauses that specify neither the place of arbitration nor the means of appointing arbitrators. This note questions the Court’s suggestion that, even when the place of arbitration is unclear or not yet determined, the IAA nevertheless allows the President of the SIAC Court to act as the statutory appointing authority. Could the case have been decided differently?

In Singapore, the President of the SIAC Court of Arbitration is designated as the statutory appointing authority under Section 8(2) of Singapore’s International Arbitration Act (‘IAA’) (Cap. 143A) and Article 11(3) of the Model Law. Critically, Article 11(3) applies only if the place of arbitration is Singapore.

In *K.V.C. Rice Intertrade Co Ltd v Asian Mineral Resources Pte Ltd* and another suit [2017] SGHC 32, the Singapore High Court enforced so-called “bare” arbitration clauses, ie clauses that specify neither the place of arbitration nor the means of appointing arbitrators. In so doing, the Court considered that, even when the place of arbitration is unclear or not yet determined, the IAA nevertheless allows the President of the SIAC Court to act as the statutory appointing authority.

While the ultimate pro-arbitration ruling will not come as a surprise to readers, it is not an easy decision. This

note briefly highlights three select issues which may have affected the outcome of the case:

1. Does Article 11(3) of the Model Law apply when there is no agreement that Singapore is the place of arbitration?
2. What condition could the Courts have applied when granting a stay in favour of a “bare” arbitration clause?
3. What is the basis for applying Singapore law when examining the arbitration clauses at hand?

Facts

The case involved two contracts for the sale and purchase of rice. Under each contract, the sellers were different, but the buyer was the same. Each of the two contracts contained an arbitration clause. Both arbitration clauses are similar. The arbitration clause in the first contract reads as follows:

The Seller and the Buyer agree that all disputes arising out of or in connection with this agreement that cannot be settled by discussion and mutual agreement shall be referred to and finally resolved by arbitration as per Indian Contract Rules.

The arbitration clause in the second contract reads as follows:

The Seller and the Buyer agree that all disputes arising out of or in connection with this agreement that cannot be settled by discussion and mutual agreement shall be referred to and finally resolved by arbitration as per Singapore Contract Rules.

Disputes arose between the sellers and buyer. Initially, both sellers proposed *ad hoc* arbitration in Singapore with a sole arbitrator. The buyer refused to cooperate. This led to the sellers commencing litigation before the Singapore courts. The buyer applied for a stay of proceedings in favour of arbitration under s 6 of the IAA.

The High Court characterised the arbitration clauses as “bare” arbitration clauses which do not specify either the place of arbitration or the means of appointing arbitrators. The Court observed that the enforcement of “bare” arbitration clauses would give rise to practical difficulties over how the arbitral tribunal would be appointed. Under s 8 of the IAA and Article 11(3) of the Model Law, the President of the SIAC Court of Arbitration is statutorily designated as the appointing authority. By virtue of Article 1(2) of the Model Law, this power applies “only if place of arbitration is [Singapore]”. It is unclear whether Article 11(3) applies where the place of arbitration is unclear or not yet determined.

Issues

The Court framed two issues as follows:

First, whether, notwithstanding the absence of provisions in the IAA empowering the President of the SIAC Court of Arbitration or the Court to make appointments in cases where the place of arbitration is unclear or not yet determined, avenues exist under Singapore law to break a deadlock between parties concerning the appointment of the arbitral tribunal.

Second, whether the inability to establish the arbitral tribunal without the cooperation of the buyer renders the arbitration clauses in question “incapable of being performed”.

The Court reviewed the *travaux* of the Model Law carefully. The Court’s decision can be summarised as follows:

First, the effect of Article 11(3) is that the President of the SIAC Court cannot act in a case where it is clear that the place of arbitration is not Singapore. However, it does not necessarily follow that the President of the SIAC Court is powerless to assist in cases where the place of arbitration is unclear or not yet determined.

Second, notwithstanding the silence in the IAA and Model Law, there is a *prima facie* case that, even when the place of arbitration is unclear or not yet determined, the President of the SIAC Court can still act as the “statutory appointing authority”.

Third, before the President of the SIAC Court exercises his statutory powers, he needs to be satisfied that there is a *prima facie* case that Article 11(3) applies, *viz* Singapore is the place of arbitration.

Fourth, considering the arbitration clauses at hand, the President of the SIAC Court can form a *prima facie* view that his powers of appointment under Article 11(3) applies.

Fifth, even if the President of the SIAC Court declines to appoint the arbitrators for whatever reason, the Singapore court retains “residual jurisdiction” to ensure that the arbitration under both arbitration clauses proceed notwithstanding any deadlock between the parties on the appointment of arbitrators.

As the Court answered the first issue in the affirmative, the Court stated that the second issue did not arise.

Before the Court, the buyer’s position was that, the President of the SIAC Court can appoint the arbitrator in the absence of mutual agreement. The Court ultimately ordered a stay but on a condition. The condition was that the buyer will raise no objections to the President of the SIAC Court’s jurisdiction to appoint an arbitrator under Article 11(3) of the Model Law in the event that the parties cannot reach agreement on the appointment.

Further, if the President of the SIAC Court declines to make an appointment, either party may apply for further orders or directions as part of the Court’s “residual jurisdiction”.

Comments

A. Can Article 11(3) of the Model Law apply when there is no agreement on the place of arbitration?

In the Court's view, the *travaux* suggests that the answer is yes.

In this writer's view, the *travaux* can be read differently. Where there is no agreement on the place of arbitration, such as the case at hand, Article 11(3) arguably does *not* apply — this is left to domestic laws. Unlike French and English arbitration laws, there is no other provision in Singapore's IAA empowering the President of the SIAC Court to act as the appointing authority.

As the Court recognised, the *travaux* states that “the prevailing view was that the model law should not deal with court assistance to be available before the determination of the place of arbitration”. The USSR and United States representatives in particular expressed the view that “the case where the place of arbitration had not yet been agreed upon should remain outside the scope of the Model Law”.

In a paragraph not cited by the Court, the *travaux* records that “[i]n the subsequent discussion concerning the territorial scope of application of the model law, the Commission decided not to extend the applicability of articles 11, 13, 14 to the time before the place of arbitration was determined”².

B. Could a different condition have been imposed by the Court in granting the stay?

Ultimately, the Court enforced the arbitration clauses under a condition that the buyer will raise no objections to the SIAC President's jurisdiction to appoint an arbitrator **under Article 11(3) of the Model Law** in the event that the parties cannot reach agreement on the appointment.

There are a number of difficulties. First, it is doubtful whether Article 11(3) is applicable in the first place. Second, it is unclear how Article 11(3) should be applied because Article 11(3), on its terms, requires clarity on the number of arbitrators. It is further unclear on what basis the Court assumed that the Tribunal(s) in this case should comprise a sole arbitrator. If that assumption was based on section 9 of the IAA read with Article 10 of the Model Law, by virtue of Article 1(2) of the Model Law, section 9 and Article 10 arguably applies only if the place of arbitration is Singapore — which has not yet been determined in this case.

Given the difficulties surrounding the applicability and application of Article 11(3), it is arguable the Court could have enforced the arbitration clauses on the facts of this case without having to invoke Article 11(3). Neither was it necessary to find that the Court enjoys some kind of “residual jurisdiction” not otherwise expressed in the IAA.

Returning to first principles, the Singapore apex Court in *Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals* [2015] SGCA 57 held that, a Court hearing a stay application under the IAA should grant a stay in favour of arbitration if the applicant can establish a *prima facie* case that:

1. there is a valid arbitration agreement between the parties to the Court proceedings;
2. the dispute in the Court proceedings (or any part thereof) falls within the scope of the arbitration agreement; and
3. the arbitration agreement is not null and void, inoperative or incapable of being performed.

To satisfy the first and third limbs above, in a case where the arbitration clause is a typical “model” arbitration clause commended by major arbitral institutions, an applicant seeking a stay likely does not have to do much more than show the existence of that clause in a contract signed by both parties.

However, in a case where the arbitration clause is a “bare” arbitration clause, the applicant seeking a stay could be asked how the “bare” arbitration clause could be capable of being performed. After a position is taken by the applicant on that issue, assuming all other requirements for a stay are met, a stay could be granted on the condition that the applicant abide by the position it had taken before the Court.³

For instance, in the present case, the buyer took the position that the clause was capable of being performed because the President of the SIAC Court could appoint the arbitrator. There appears to have been no dispute between the parties that any arbitral tribunal under each of the arbitration clauses shall comprise a sole arbitrator. Given these particular facts, the Court could have ordered a stay on the condition that the buyer will consent should the seller(s) propose that the parties appoint SIAC as the appointing authority to appoint a sole arbitrator under each of the arbitration clauses.

Major arbitral institutions, such as SIAC and ICC, offer their services as appointing authority for *ad hoc* arbitrations upon the agreement of the parties and upon the payment of certain fees to the institution. Such powers of appointment can be **consensual** and not statutory in nature. Any appointment by the President of the SIAC Court would be based on the consensual subsequent agreement of the parties, and not pursuant to Article 11(3) of the Model Law.

An additional benefit of this approach is that the President of the SIAC Court would not be left with the unenviable task of having to determine whether his statutory powers under Article 11(3) apply, and if so, how he should apply Article 11(3) when there is no clarity on the number of arbitrators in the first place.

C. Would there be a difference if foreign law was applied?

The Court examined both arbitration clauses in question through the lens of Singapore law. It is not obvious that Singapore law would be the law governing the arbitration agreements. The application of foreign law may have made a difference. Having said that, this case exposes the limits of the current choice-of-law methodology adopted by the Singapore and English courts.

The Singapore High Court has in recent decisions⁴ adopted the English choice-of-law rule in *Sulamérica Cia Nacional de Seguros SA v Enesa Engelharia SA* [2013] 1 WLR 102 for ascertaining the governing law of an arbitration agreement. That law is to be determined in accordance with a three-step test:

1. the parties' express choice;
2. the implied choice of the parties as gleaned from their intentions at the time of contracting; or
3. the system of law with which the arbitration agreement has the closest and most real connection.

In those recent decisions, the Singapore High Court also endorsed the reasoning in *Sulamérica*, whereby if the arbitration clause was part of a **main contract**, the governing law of the main contract would generally be a strong indicator of the governing law of the arbitration agreement. The governing law of the main contract would be displaced, for example in favour of the law of the seat, if the consequences of choosing it as the governing law of the arbitration agreement would negate the arbitration agreement when the parties had evinced a clear intention to arbitrate.

In the present case, not only did the arbitration clauses fail to stipulate the place of arbitration, the main contracts did not have an express governing law provision. The only connections with Singapore were that Singapore was the buyer's place of incorporation and consequently payment would be effected in Singapore. The contracts otherwise involved Thai sellers delivering rice from Thailand to Africa.

In the case where the arbitration clause referred to "Indian Contract Rules", it is arguable that was an express (albeit ineloquent) choice of Indian law to govern the main contract. Under the *Sulamérica* three-step test, that would be a strong indication that Indian law was an implied choice of the governing law of the arbitration agreement. One of the sellers, who was resisting the stay application, tendered a legal opinion by an Indian law firm. The legal opinion advised that no arbitration would lie in India nor would any Indian courts entertain any applications for arbitration by either of the parties under Indian arbitration law. The buyer did not tender any evidence to the contrary. It is therefore arguable that the Court should not grant a stay on the premise that the arbitration agreement was invalid under the law governing the arbitration agreement.

On the other hand, it is arguable that the Court should not apply Indian law as the governing law of the arbitration agreement. This is because, even though the arbitration clause is "bare", the clause evinces a clear intention to arbitrate. The application of Indian law as an implied choice of the governing law of the arbitration agreement should be displaced because it would negate the arbitration agreement when the parties had evinced a clear intention to arbitrate. What law should apply then? The parties did not stipulate a place of arbitration; it is not obvious that the law which the arbitration agreement had the closest and most real connection is, in fact, Singapore law.

It is unclear whether Singapore law was applied in this case for reasons of practicality, or by way of a presumption of similarity of laws in the absence of proof of foreign law. In any event, a choice-of-law analysis may have made a difference. Assume *arguendo* the buyer can show that the arbitration agreement is also invalid under the law which the arbitration agreement has the closest and most real connection. *Sulamérica* does not go so far to say that the Court can "displace" the law which the arbitration agreement has the closest and most real connection. On this analysis, the arbitration agreement would remain invalid.

However, this is by no means a foregone conclusion. While one can deduce the law which the **main sales contract** has the closest and most real connection, it is not easy to discern — especially in the absence of a stipulated seat — the law which the **arbitration agreement** has the closest and most real connection. This case exposes the limits of the choice-of-law rule in *Sulamérica*.

Commentators have criticised the closest connection approach as one that is "characterised by an ex ante uncertainty coupled with an ex post unprincipled and arbitrary choice between the law of the seat or that

governing the underlying contract”.⁵ Instead of applying such an unpredictable choice-of-law rule, commentators have argued that the Singapore courts should apply a “validation principle”⁶ embodied, for instance, by Article 178(2) of the Swiss Law on Private International Law. Article 178(2) provides as follows:

As regards its substance, an arbitration agreement shall be valid if it conforms either to the law chosen by the parties or to the law governing the subject matter of the dispute, in particular the law governing the main contract, **or if it conforms to Swiss law.** (emphasis added)

Should the choice-of-law rule embodied in Article 178(2) be accepted as part of Singapore law, it would provide a principled basis for the application of Singapore law in cases where the closest connection test in *Sulamérica* does not validate the arbitration agreement. One may have to await another occasion for the Singapore apex Court to grapple with the limits of *Sulamérica*.

► **Darius Chan**
Ascendant Legal LLC
E-mail: darius.chan@ascendantlegal.com



Notes

- 1 See Gary B Born, “The Law Governing International Arbitration Agreement: An International Perspective” (2014) 26 SAclJ 814.
- 2 See *Report of the UNCITRAL on the work of its 18th Session*, 3-21 June 1985, UNCITRAL, Yearbook Volume XVI, U.N. Doc. A/CN.9/SER.A/1985, paragraph 111, accessible at <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N85/325/11/PDF/N8532511.pdf?OpenElement>>
- 3 The Singapore High Court in *Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd* [2017] 3 SLR 267 highlighted there may be a potential inconsistency on the burden of proof articulated in *Tomolugen* and an earlier decision of the Singapore apex court in *Tjong Very Sumito and others v Antig Investments Pte Ltd* [2009] 4 SLR(R) 732. In *Tjong Very Sumito*, the Singapore apex court earlier held that the burden is on the party resisting the stay to show that the arbitration agreement is incapable of being performed. According to the High Court in *Dyna-Jet*, the party resisting the stay must establish that “no other conclusion on this issue is arguable”. Even if the legal burden may ultimately rest on the party resisting the stay, it would not be inconsistent for the applicant to articulate its position on how the “bare” arbitration clause could be capable of being performed.
- 4 *BCY v BCZ* [2017] 3 SLR 357; *Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd* [2017] 3 SLR 267. These cases took a different view from the earlier decision of *FirstLink Investments Corp Ltd v GT Payment Pte Ltd and others* [2014] SGHCR 12.
- 5 See Gary B Born, “The Law Governing International Arbitration Agreement: An International Perspective” (2014) 26 SAclJ 814.
- 6 *Ibid.*

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Setting the Tone – Policies to Prevent Money Laundering

A key compliance requirement for law practices is the development and implementation of internal policies, procedures and controls for the prevention of money laundering and the financing of terrorism.

These policies, procedures and controls should cover the following aspects:

1. Client due diligence measures
2. Record keeping
3. Suspicious transaction reporting
4. Training
5. Screening procedures for new employees

It is important that you familiarise yourself with Part VA of the Legal Profession Act on the “Prevention of Money Laundering and Financing of Terrorism” (“LPA”), the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015 (“Rules”), and Council’s Prevention of Money Laundering and Financing of Terrorism Practice Direction (Paragraph 1 of 2015) (“PD”).

Developing appropriate policies, procedures and controls sets the tone for the manner in which your law practice ensures compliance with the regulatory framework.

Implementing these policies, procedures and controls will enable practitioners and staff in your law practice to apply the systems consistently; and if an inspection is carried out by the Council of the Law Society of Singapore, your law practice can demonstrate that procedures and controls to facilitate compliance are in place.

This article sets out an overview of the steps you could take in developing these policies, procedures and controls.

1. Assess your Law Practice’s Risk Profile

- a. Take into account your law practice’s size, type of clients, countries your clients are from, and your practice areas
- b. Consider all the relevant risk factors before determining the level of overall risk
- c. Document the risk assessment. You could grade the level of overall risk as low, medium, or high

There should be a regular review of the level of overall risk. If there is a change in the size of your law practice, the type of clients, the countries your clients are from, or your practice areas, you may have to adjust the level of the overall risk. This review process should be documented.

This risk assessment at a macro level is important because it informs the formulation of the policies, procedures and controls of your law practice.

2. Formulate Policies, Procedures and Controls

Policies, procedures and controls should be developed and implemented in a risk-based and proportionate manner, taking into account the risks that have been identified and the size of your law practice.

a. Policies

The following is a useful explanation of what “policies” mean:

A policy is a statement of the goals of an organization, and includes the general methods that will be used to meet firm goals. Policies often are broadly worded position statements that casual observers may dismiss as platitudes. However, policies serve the important purpose of focusing the work to be done on procedures and controls. Ideally, once policies for an organization are developed, each proposed action can be examined in light of all policies.¹

Policies need not be long or complicated.

The following are some examples of policies you could consider adopting or modifying to suit your law practice:

1. The law practice is committed to ensuring compliance with the prevention of money laundering

and financing of terrorism requirements in the LPA, Rules and PD.

2. The law practice is committed to ensuring that its practitioners and staff comply with the client due diligence measures in the LPA, Rules and PD.
3. The law practice is committed to ensuring compliance with the suspicious transaction reporting requirements in the LPA, Rules and PD.
4. The law practice is committed to ensuring that its practitioners and staff are made aware of the prevention of money laundering and financing of terrorism requirements; and the law practice's internal policies, procedures and controls.
5. The law practice will adopt screening procedures for new employees.
6. The law practice will maintain documents and records in accordance with the requirements in the LPA, Rules and PD.
7. The law practice will carry out regular review, assessment and updates of its policies, procedures and controls to ensure that they are adequate and they manage the money laundering and financing of terrorism risks effectively.

b. Procedures

Procedures should be formulated in a manner that ensures that the policies are met. Generally, procedures will describe how each policy will be put into action.

Procedures could be in the form of instructions, forms, checklists, or flowcharts.

You could identify:

1. Who will do what
2. What steps they need to take
3. Which forms, checklists, or documents to use

There must be a regular review, assessment and updates of the procedures.

In developing procedures, the aspects that could be considered include the following:

1. *Procedures for client due diligence measures:*

- a. when client due diligence is to be undertaken and the circumstances in which delayed client due diligence is allowed
- b. the information to be recorded regarding the business relationship
- c. the information to be recorded on client identity
- d. the information to be obtained to verify identity of the client
- e. the information to be recorded on beneficial owners
- f. the information to be obtained to verify identity of beneficial owners
- g. the client due diligence measures for existing clients
- h. what steps need to be taken to ascertain whether your client is a politically-exposed person
- i. when basic client due diligence may be conducted
- j. when enhanced client due diligence must be conducted
- k. when ongoing monitoring is required
- l. whether there are situations where specific client due diligence is not required

- m. whether you can rely on client due diligence performed by a third party

You could consider adopting or modifying the Law Society's sample client due diligence checklist which can be found on the Law Society's website at <http://www.lawsociety.org.sg/Portals/0/ForLawyers/AntiMoneyLaunderingCounterTerrorismFinancing/PDF/Sample_Client_Due_Diligence_Checklist.pdf>

2. *Procedures for record keeping:*

- a. the types of records and documents that must be maintained
- b. documents or records must be maintained for at least 5 years after completion of a matter
- c. client due diligence documents or records must be maintained for at least 5 years after termination of a business relationship
- d. the manner or form in which the documents and records will be maintained:
 - i. by way of original documents;
 - ii. by way of photocopies of original documents; or
 - iii. in computerised or electronic form including a scanned form

3. *Procedures for suspicious transaction reporting:*

- a. the circumstances in which to file a suspicious transaction report with a Suspicious Transaction Reporting Officer, a police officer or a Commercial Affairs Officer
- b. how and when a suspicious transaction report is filed
- c. how to manage a client when a suspicious transaction report has been filed
- d. the need to be alert to tipping off
- e. the basis for the determination whether to file a suspicious transaction report should be recorded
- f. records of suspicions and reporting should be maintained

4. *Procedures for training:*

- a. training should cover
 - i. the laws and regulations relating to the prevention of money laundering and financing of terrorism; and
 - ii. the law practice's internal policies, procedures and controls
- b. which staff require training
- c. what form the training will take
- d. how often training should take place
- e. where possible, records of attendance, participation, or completion of training should be maintained

Training can take many forms and may include:

1. attendance at conferences, seminars, or training courses organised by the Law Society or other organisations
2. completion of online training sessions
3. law practice or practice group meetings for discussion on prevention of money laundering and financing of terrorism issues and risk factors
4. review of publications on current prevention of money laundering and financing of terrorism issues

5. *Procedures for screening new employees:*

You could utilise an employment application form for the purposes of screening. The screening of new employees can be done by including relevant questions in your law practice's employment application form, for example, whether the person has been convicted of any offence of dishonesty or fraud, whether the person has been sentenced to a term of imprisonment, and whether the person is an undischarged bankrupt.

c. **Controls**

Controls are to monitor compliance, to ensure that the procedures are complied with and to mitigate the risks.

The type and extent of mitigation to be applied will depend on the risk factors based on the risk assessment of your law practice.

In developing controls, the aspects that could be considered include the following:

1. the level of practitioners permitted to exercise discretion on the risk-based implementation of the policies and procedures
2. the methods to monitor compliance, which may involve random file audits, and checklists to be completed before opening or closing a file
3. a review process of the policies, procedures and controls by an independent party – this process should be documented

The Rules and PD stipulate that there must be a confirmation of the implementation, and review, by an independent party of the internal policies, procedures and controls. The PD explains that this confirmation and review process by an independent party may be satisfied through (but not limited to):

1. the appointment of an external auditor to carry out the confirmation and review; or
2. the appointment of a practitioner within your law practice to carry out the confirmation and review

3. **Implement the Policies, Procedures and Controls**

The policies, procedures and controls should be implemented in a risk-based and proportionate manner, taking into account the risks that have been identified and the size of your law practice.

Bear in mind that there must be a regular review, assessment and updates of these policies, procedures and controls to ensure that they are adequate and they manage the money laundering and financing of terrorism risks of your law practice effectively.

Knowledge Management Department The Law Society of Singapore

Notes

- 1 Susan Saab Fortney & Jett Hanna, Fortifying a Law Firm's Ethical Infrastructure: Avoiding Legal Malpractice Claims Based on Conflicts of Interest, Texas A&M University School of Law, Texas A&M Law Scholarship.

Fight On or Take Flight?

Asking the Right Questions to Survive and Thrive in the Legal Profession

Are you a fresh law graduate or a practice trainee? Have you been recently called to the Bar? Are you bothered by the recent news of there being a glut of law graduates with too few training contracts to go around? Or are you concerned with the talk of burnout among mid-career lawyers?

Should you stay on to join the squeeze? Or should you move on to greener pastures? If you stay on, how do you prevent burnout? How do you survive the legal profession for the long haul? Is there a future in the profession for you?

Unfortunately, before you find the answers to these hard questions, you need to ask yourself more hard questions.

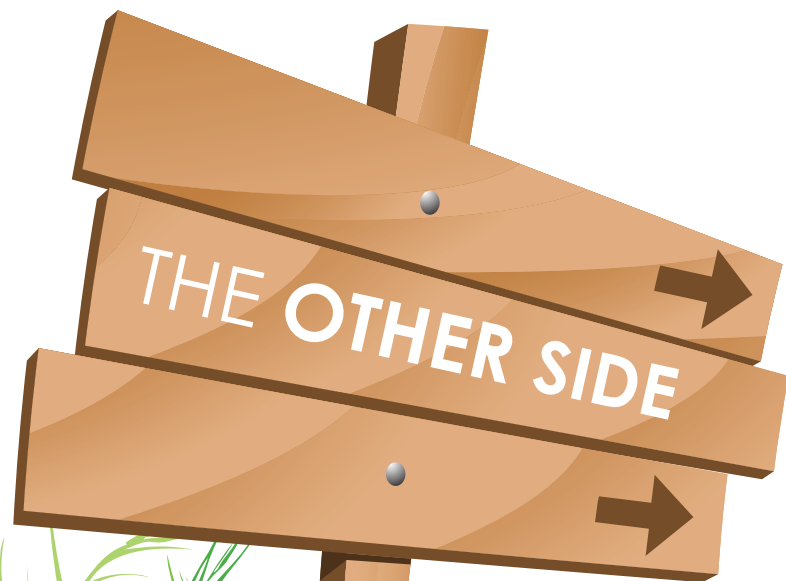
the grass is
greener

Perhaps it is now an opportune time for contemplation before you decide whether to dig in your heels and bite the bullet. Take the time to reflect before making that decision to cross the Rubicon.

Did You Really Want to be a Lawyer?

Before you even start applying for a training contract, did you even pause to seriously consider whether you really want to be a lawyer? If you do not really want to be a lawyer, then why apply?

Why did you decide to study law to begin with? Did you embark on a law degree because you really wanted to practice law or because of some other oblique reason? Knowing your “whys” will determine your “hows”.



Were you attracted by the ideals of an honourable profession or that of justice and doing right? Or did you do it because your parents thought it was a good idea? Or because you were told lawyers make lots of money?

Whatever your reasons were, ask yourself if becoming a lawyer is still a logical conclusion to your reasons? If you were drawn by the ideals of justice and doing right, then ask yourself what kind of a law practice should you be applying to? What practice area should you be in? If you were told you will make a lot of money, ask yourself if that still holds true. Can you not make your money elsewhere? A law degree is as good a degree if not better for many other occupations or pursuits.

If you are convinced that the practice of law is what you want, then find out what being a lawyer entails. Interview people from the profession, from different practice areas and understand things from their perspectives. Do not take one person's word as gospel truth, ask a few.

It is important to at least like the work you are to engage in. Endurance at work depends largely on the extent to which you like, dislike or love what you do.

If you conclude that you really want to be a lawyer and you are able to like what you are expected to do, then you need to ask more questions to decide if you can survive and thrive in this profession.

Are You Prepared to Pay the Price?

Having decided that you want to be a lawyer, you should also understand that the legal profession is a demanding one. You cannot afford to be rest on your laurels if you wish to last for the long haul. Getting that law degree with good honours and getting called to the Bar is not the end of the story. It is but the beginning.

There are at least three aspects that you must keep your eyeballs on: (1) Values; (2) Lawyering Skills; and (3) Business Skills. All three aspects are equally important if you want to do well.

Values

The legal profession is meant to be an honourable one, so a high premium is placed on values.

The legal profession is regulated. Often lawyers can be made the subject of a complaint and may be put through the disciplinary processes of a Review Committee, Inquiry

Committee or a Disciplinary Tribunal. Going through one of these can be a nerve wrecking experience. To maintain discipline, the Supreme Court is empowered to impose sanctions which includes striking a lawyer off the Roll, suspension for a specified period and censure depending on the severity of a lawyer's misconduct, defect of character and other acts or omissions. This is a risk that comes with the territory.

Other than the fact that erring is human, you have to guard yourself against the perils of the disgruntled client, the overly zealous opponent and sometimes a sincerely wrong Bench, all of which can all lead you down the valley of a disciplinary process. So you can never afford to be complacent. Of course, it is much easier to stay out of trouble if being honest, upright and principled comes naturally to you but that alone is not enough. You have to be ever vigilant and be *au fait* with the professional rules that apply to lawyers as well have a lot of faith in the system. This profession is not for the faint hearted.

However, paying the price for "Values" is not just about learning ethics in the sense of how not to get into trouble. The legal profession is a fraternity. Having "Values" is also about having respect for fellow members of the Bar and the Bench. What goes around, comes around. If we are nasty to opponents as a rule, then we may have to guard against nasty opponents all the time. If we learn to pay it forward and be courteous and helpful (without being a pushover or compromising clients' interests) even when others may not do likewise, then we help create an environment that help us all last longer in the profession.

Lawyering Skills

Lawyering is not just about knowing the black letter law. It is also about the skills of managing a legal matter effectively from beginning to end. Skills such as the ability to understand what issues clients are confronted with and knowing how to generate solutions to solve them.

Whilst some of these skills can be picked up along with mandatory continuing professional development, many of them are caught and not taught. Lawyers are oftentimes not the most enthusiastic teachers but if the student is ready, the teacher sometimes appears.

Realise that these are the very skill sets that clients are looking for and it is when clients' needs are met that our existence is justified. So you have to be intentional in picking these skills up. Do not expect to be fed because sometimes you are not.

Business Skills

The fact that the practice of law is a business is an inescapable fact today. To pretend it is not, is not tenable. Gone are the days when lawyers earn a good living just by virtue of being lawyers. You have to realise that practising law today is very much a business. You need to understand how to market yourself, take care of clients, bill and collect. You must understand running of a practice requires overheads and you must understand profit and loss, even if you are an employed lawyer. The profits are what pays your salary.

Realise that being part of a legal practice is like being onboard a cargo ship, unless you are the captain, you are either crew or cargo. When the ship meets with a storm, push comes to shove, usually the crew stays and the cargo gets thrown overboard.

So you need to ask yourself what makes you the crew and not the cargo?

Which Creature Are You?

In order to figure out what makes you a crew member instead of cargo, you need to understand your own make up.

I believe there exists three main types of creatures in the legal eco-system. Recognising what kind of creature you

are will help you survive and thrive better. Whilst there exist hybrids of these three creatures, rarely would you possess the virtues of all three.

The three types of creatures are (1) the Genius; 2) the Rainmaker; and 3) the Workhorse.

The Genius

The Genius simply has the smarts. Geniuses are usually born that way. While you can learn to work smarter, you cannot learn to be a Genius. You are either one or you are not. The Geniuses are the luckiest of the lot. They usually do not have to find work, everyone wants the Genius to do their work and the Genius usually has the privilege of choosing the work he wants to do. As such, the Genius do not really have to work very hard. However, if the Genius is prepared to learn the virtues of the other 2 creatures, he will be most formidable. The Genius is the rarest of the creatures.

The Rainmaker

The Rainmaker has a knack of finding business and that is his greatest value to his organisation. So he really does not have to be smart because he can get the Genius to do all the thinking. He does not have to be very hardworking because he can get the Workhorse to do all the work. Whilst he cannot learn to be a Genius, he can learn to be hardworking or work smart, thereby becoming more powerful. Not as rare as the Genius but still a rare bird. Rainmaking skills unlike the smarts of the Genius can be learnt.

The Workhorse

Those not endowed with the virtues of the Genius and the Rainmaker will by default be a Workhorse. They are a dime a dozen. The only value of the Workhorse is that he is able to work hard. Unfortunately, having the ability to work hard does not equate with the willingness to work hard. To survive, the Workhorse must work hard. To thrive, the workhorse should learn to work smarter and try to acquire some skills of the Rainmaker.

What you have to understand is that remuneration will eventually commensurate with value add. If your value is just the provision of labour, then you are destined to work harder, faster and longer.

When the law practice is able to find a cheaper source of labour, then you will be in big trouble. If you have no other value add, you will either have to find where the door is yourself or you may be shown the door in due course.



What is Your Value Add?

Now that you know it is all about providing value, you should then be asking yourself very early on who you want to give value to and how you want to provide value? You should ask yourself what skill sets you need to acquire.

If you go into a big firm, you better be proactively learning the skill sets that would make you a top dog in your field such that clients will ask for your services. In this way, you will remain of value to your firm. If you are merely a workhorse doing the run of the mill work in the big firm, you will eventually be confronted with the “what is your value add?” question at some point and if the only response you can muster is “I work very hard” then you will be in big trouble. Because you will be easily replaced with a few younger and cheaper lawyers. Then you will have the challenge of finding another job to make the kind of salary you are accustomed to in the big firm. Chances are you may not be able to attract the work you are used to doing in a big firm. You would also not have done or learnt the work the small firms usually do.

So you may be better off choosing a small firm and learning to do the work you can reasonably expect to attract from your own network. Learn to do the work well and learn to find the work. If you get the hang of it, you will have learnt a life skill to take care of yourself and your family.

Are You Knocking on Those Doors?

If you have considered all of the questions above and resolved that you are prepared to do what it takes to be a lawyer, then I believe you will find your place in this profession regardless of the grim statistics now in the market place.

It is at the end of the day a number game. If you have not gotten that training contract, it is about how many doors you are prepared to knock on. Knowing that there are more law graduates than available training contracts just means that you have to knock on more doors faster. Assuming one in 10 applications you make would result in an interview and assuming one in 10 interviews would land you with a training contract, ask yourself how many applications do you need to make? Have you made that many applications? Are you hungry enough to do so?

Consider the unbeaten paths. Apply to law practices that did not previously offer training. Make them offers that they cannot refuse and learn to get them hooked on to your value add. If they get used to having you around, they are more

likely to retain you. Even if they do not, you are a step closer to getting called to the Bar than before.

Then repeat the process in getting hired as an associate. Be of value. Learn to fish and not just expect to be fed fishes. Learn to add value to clients, the more clients you help, the more referrals you will get in the future. Be faithful in the little things and the bigger cases will come. Be reminded that you exist to solve your clients’ problems and you will get amply rewarded in the process. Clients do not exist just to solve your problems.

Once you have learnt to be of value, once you understand where your value add lies in any given situation and once you learn to market your value to others systematically, you will be less likely to burn out. It is a matter of being in control of your professional life. It would certainly help if you learn to live within your means as well as inculcate a habit of networking and prospecting for work that you know how to do well.

What is Success to You?

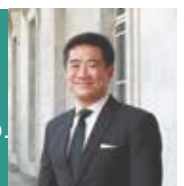
I hope that the above questions have been helpful in helping you decide whether to remain or to move on. If you have decided to stay on for the fight, I hope that some of the ideas shared above would give you a handle on how to have smoother ride.

Either way, I believe that as long as you comprehend that in life, it is all about giving value, you should be able to succeed in whichever course you elect to pursue. As Zig Ziglar would say: “You can have everything in life you want, if you will just help other people get what they want.”

That said, you need to figure out what your own definition of success is. The definition I have adopted for myself is a quote I came across from Anita Roddick, founder of The Body Shop: “Success to me is not about money or status or fame, it’s about finding a livelihood that brings me joy and self-sufficiency and a sense of contributing to the world.”

May you find your success.

▶ **Michael S Chia**
 Managing Director
 MSC Law Corporation
 E-mail: michael.s.chia@msclawcorp.com



Amicus Agony

Dear Amicus Agony,

I have no “line of sight” of where my career is going to be in two years, let alone five or seven years. I feel like I’m just putting one foot in front of another and living day to day. It all feels so meaningless. Help!

Deep-in-thought associate

Dear Deep-in-Thought Associate,

I know that feeling all too well. You feel you’re just plodding along, doing the same old thing, eating the same old thing, doing the same work, knocking off at the same time. Sounds like Groundhog Day, doesn’t it?

No one is saying you should know where your career is going or have a five or 10-year plan – it’s perfectly ok not to have one! However, if you’re feeling that life in practice is pretty meaningless, let’s see what you can do.

Have you considered switching to another line of practice? I have friends who felt that corporate work was not for them, and asked to switch to litigation, and vice versa. They felt that their new area of work fit them so much better and they felt inspired to continue practice.

The practice of law does not only mean staying in practice. You could also consider whether going in-house would help – you’ll still be practising the law but in a different role.

Or try something else – why not set up or join a legal clinic? You may just find that life is really bigger than that affidavit you need to finish, or the share agreement you need to send out.

Take a step back. Then take small steps. Ask yourself – what do I want out of all this? Do I want to be Senior Counsel? Will I be happy if I have my own firm? Will it satisfy me if I serve the public?

All in all, it’s good to try out new things and find that perfect fit for you. It may take a while, but trust me when I say it can be done!

Once rudderless but no more,
Amicus Agony

Dear Amicus Agony,

My firm has a culture of being extremely direct – euphemistic for being verbally and emotionally abusive, and using rather degrading words very callously or threatening not to sign off my time sheets. I am told by traditionalists that I need to just “suck it up”, it is all part and parcel of working life, and not be a “strawberry”, and that I can quit if I am unhappy. The reality

is that it is a sluggish market, and that probably adds to the attitude of such superiors. What should I do?

Long suffering strawberry

Dear Long Suffering Strawberry,

This is a long standing problem which has been swept under the carpet for much longer than it should. Putting up with verbal and emotional abuse has nothing to do with being a “strawberry”. That is a really poor excuse and reveals deep rooted insecurity and poor form.

We have all heard horror stories – it is folklore amongst the fraternity but there is always a fear that “my partner knows the other partners in other firms and can easily give me a bad reference if I resist or speak up against”. However, it is high time that this practice and bad abusive and threatening work culture stops.

Be polite but firm – psychiatrists have studies that prove that for bullies, all it takes is one simple line of “I would appreciate it if you do not shout at me” or “Please do not call me XXX”, and it will jolt them into a different consciousness. Of course, there are the more difficult cases which may provoke an even more unstable and unpredictable reaction, but generally studies have shown that most “normal” persons will react positively and stop the abusive behaviour.

Much more often than not, it is always a case of “forget it – everyone gets this treatment” but that should NEVER be a self-comforting statement because it is precisely such thinking that entrenches such a culture and makes it a vicious cycle.

Even if the abusive person is in a position of authority (managing director/partner) and there is no possible neutral and effective ombudsman, try the above approach. What is the worst thing that can happen? It would be the same inevitability - quitting that firm – only a matter of when, so it makes absolutely no difference in the big picture of things.

Stand up and say NO,
Amicus Agony

Dear Amicus Agony,

I am a junior solicitor and the senior lawyers working on the same file as I am insist that they are right in their view despite my bringing to their attention information and evidence that their view is unsubstantiated and in my personal view, wrong. In fact, I am of the view that we may not be discharging our duty to the client effectively. What should I do?

Perturbed Peggy

Dear Perturbed Peggy,

I cannot imagine what a quandary you must be in! It is not easy at all trying to reconcile on the one hand the duty owed to your client and on the other hand having to continue working towards the direction set by the senior lawyers on the file.

It may be worthwhile to have a second attempt at taking the senior lawyers through the information you have and persuading them to see things from your perspective. I would suggest prefacing your discussion along the lines of how you have given their preferred approach a great deal of thought and have some queries you would like to bottom out. In my experience, many senior lawyers tend to view favourably junior associates who demonstrate a sense of ownership over a file and who place the clients' interests as top priority.

Alternatively, try and have them articulate their thought processes and legal reasoning behind their decision. Given their seniority and experience, it seems quite possible that they have given regard to other salient (though unarticulated) considerations in this matter before making a decision. You might just find yourself persuaded!

Best wishes,
Amicus Agony

Dear Amicus Agony,

As a junior associate in my firm, I carry out most of my work based solely on instructions from my supervisor. Unusually, I feel that my supervisor intentionally limits my "contact time" with a client, for instance by not copying me in e-mails with the client or not having me attend meetings with the client. As such, all the information and instructions I obtain about the client matter are directly from my supervisor. I am not sure whether the client knows that another lawyer in the firm is assisting on the matter!

While this may save me the hassle of dealing with possibly unreasonable clients, I have at times suspected that my supervisor has intentionally held back particular information, and I have also been instructed to "bury" certain documents - all without knowing or understanding the reasons why or how it may help the client matter. I wonder what liabilities I am inadvertently exposing myself to. Leaving the firm seems like an extreme option at this time, given the difficult job market for us junior lawyers. What should I do?

Distressed Dan

Young lawyers, the solutions to your problems are now just an e-mail away! If you are having difficulties coping with the pressures of practice, need career advice or would like some perspective on personal matters in the workplace, the Young Lawyers Committee's Amicus Agony is here for you. E-mail your problems to communications@lawsoc.org.sg.

The views expressed in "The Young Lawyer" and the "YLC's Amicus Agony" column are the personal views and opinions of the author(s) in their individual capacity. They do not reflect the views and opinions of the Law Society of Singapore, the Young Lawyers Committee or the Singapore Law Gazette and are not sponsored or endorsed by them in any way. The views, opinions expressed and information contained do not amount to legal advice and the reader is solely responsible for any action taken in reliance of such view, opinion or information.

Dear Distressed Dan,

It truly sounds like you are in a bind! You already understand that as advocates and solicitors, we have a paramount duty to (inter alia) assist in the administration of justice and maintain the integrity and independence of the profession. We also have a duty to conduct each case in a manner that is most advantageous to the client. By deliberately limiting your ability to clarify facts or instructions, and perhaps even instructing you to commit a crime by destroying evidence, your supervisor may have set you up for failure in the workplace, in your duties to the client, and in your role as an advocate and solicitor.

Some ways that you may want to deal with this present situation is to cautiously broach the topic with your supervisor without accusing him or her of any malpractice, such as asking whether you would have the opportunity to meet with the client, or whether it would be more cost- and time-efficient if you could directly contact the client to clarify certain issues. Check in regularly with your colleagues as well on your particular situation. If your team or firm has a culture where client exposure is limited for junior lawyers, this may be the norm (although it is a norm that you may want to work towards changing).

When you feel that the case is not being handled in a way that discharges your duties to the Court and your client, you should also promptly bring these concerns to the attention of your supervisor. If, for instance, there are certain facts that are extremely pertinent to the conduct of the case but these facts are not forthcoming, you should raise these queries at an early stage. To reduce any possible miscommunication and lack of clarity, you may also want to document both your query and your supervisor's response.

At the end of the day, you would need to evaluate whether you can continue to perform your duties as an advocate and solicitor under your current supervisor, or accept the possible risks that you are exposed to in accepting the status quo. You and your supervisor may unwittingly end up as a case study in the profession's ethics and professional responsibility courses if things go south.

Wishing you all the best,
Amicus Agony



Fifteen Years of Alter Ego

Fifteen years. One hundred and fifty six columns, 91 interviews with lawyers who have engaged in other pursuits besides law and former lawyers who are significant individuals. I am happy. This column has given me a chance to engage in my favourite pursuit - writing.

People always ask me how I religiously write this column every month. The column did not see print 18 times over the last 15 years. I thank the invention of smartphones which has allowed me to write in spurts, over many days, in many places locally and around the world and on various modes of transport.

The next question I am often asked is how I find ideas. Initially, I had to think of individuals to interview, interview them and write. It took a lot of time and I soon ran out of people to interview or who were willing to be interviewed. In 2009, I started writing about issues which affect us, as lawyers and as human beings.

I wrote about issues which interested, bothered or affected me. In a way, it is a selfish exercise. I started researching (thanks to Google), bouncing off views on the Wife and friends, thinking hard about the issues, allowing my views to be changed and influenced through the years of accumulated life experiences. I have written on issues such as millennials and work-life harmony on several occasions to reflect changes in my views. After writing about something,

I would feel that I have gotten the issue off my chest and put it to rest. It has helped me to move on. What I write about depends on the issues which are on my mind during a particular month. Thankfully I do not have much writer's block.

In this sense, writing this column has been therapeutic, given me clarity and allowed me to mature as an individual.

The column is well-read by Judges, lawyers, law undergraduates and even clients. I receive feedback till this day. Lawyers tell me that they look forward to reading it and share with me how the issues resonate with them. It is comforting to know that others face challenges like I do. Law undergraduates have sent me e-mails to say they understand law practice and the legal profession better. Junior associates have written to me for career guidance. It has turned into an ice breaker when I meet new people.

The only and best critic - the Wife cringes when she used to read my column. Her communications work training cannot accept my style of writing and my choice of issues, especially the repetitive themes. She compares me to a certain local journalist and refers to me as her male alter ego. As amused and appreciative as I secretly was of her views, I finally forbade her to continue reading my columns. Recently, I found out that she has been reading the online

version. She admits that the style of writing has seen some improvement and nothing more.

Writers are their own best critics and thus, they keep on re-writing their work. I admit that I seldom like what I write, often feeling sick in the stomach when I send out my final draft. After editing is done and some time has passed, I read the draft feeling relieved that it is passable. The final judges are the readers.

Like all regular columnists, I too run the risk that the readers may think that they know me well or may have formed certain impressions of me from reading my column. Like all writers, I do not bare my entire life or my innermost thoughts, although it may seem like I do. I hope the readers' positive impressions are a true reflection of what I am today or will be in the future.

Through the interviews I have conducted with all the individuals I have met, I have learnt some important lessons. Follow your heart. Be passionate. Keep on working hard and do not give up on an idea or venture if you want it badly enough.

What is next? After a hiatus of eight years from doing interviews, it is time again to start meeting and speaking with current and former lawyers. This will give me a respite from writing reflective pieces whilst I take stock of my life.

Do send me an e-mail if you know of any such interesting lawyers you wish to read about or any other ideas you may have. Feedback is important and brickbats are welcome so that I can improve. Writing, like lawyering, is lonely. It is just my Samsung phone and me. It is often stressful, when I have to meet absolute deadlines and the piece is just half done, which happens nearly every month for this column.

Thank you for reading this column and for your great support and encouragement that has kept me writing in the last 15 years.

▶ **Rajan Chettiar**
Rajan Chettiar LLC
E-mail: rajan@rajanchettiar.com



Corrigendum

In the March issue of the Alter Ego column titled "Destiny and Destinations", there was an editorial error on page 52, first column, fourth line. The original reads as "Dr Ann Tan herself was very demanding and did not tolerate the legal associates' slack or mistakes" when in fact it should have been "The legal associate was very demanding and did not tolerate slack or mistakes."

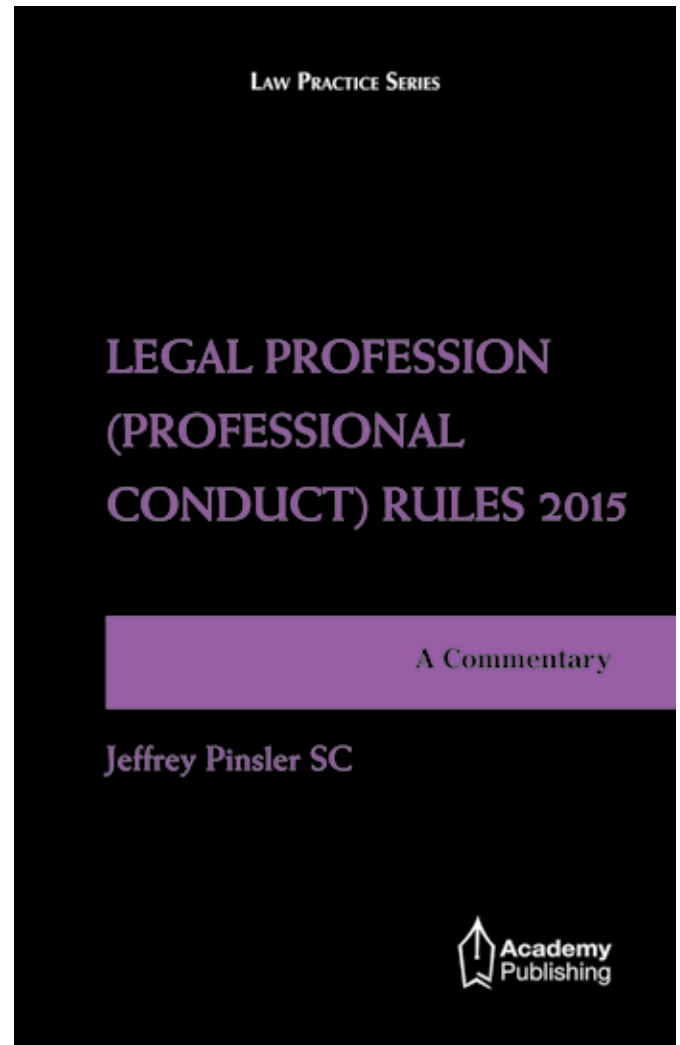
This was an editorial error, and not a mistake on the author's part. We apologise for the error.

Legal Profession (Professional Conduct) Rules 2015 – A Commentary by Jeffrey Pinsler, SC

The Legal Profession (Professional Conduct) Rules 2015 (the “PCR 2015”) came into force on 18 November 2015 replacing the old set of rules that had been in place since 1998. The PCR 2015 is novel in many ways, one of which is that it introduces the concept of a principles-based approach in setting out ethical duties and responsibilities as a guide to interpreting specifically-worded rules governing the conduct of lawyers. For this approach, it is obvious that its drafters took inspiration from Professor Jeffrey Pinsler’s 2007 publication, *Ethics and Professional Responsibility: A Code for the Advocate and Solicitor*, which focused on the ethical principles underlying the previous PCR.

Professor Pinsler’s latest contribution to the area of ethics and professional responsibility is the hugely useful *Legal Professional (Professional Conduct) Rules 2015, A Commentary*. It is structured in a manner that makes it extremely handy to the practising lawyer. It comprehensively annotates each rule of the PCR 2015 in the order that they appear in the rules, making research easy and quick. The detailed annotations to each rule makes references to judgments, extra-judicial pronouncements, provisions in the Legal Profession Act, other related subsidiary legislation, applicable practice directions, rulings and guidance notes issued by the Law Society, applicable practice directions issued by the Court, and also examples of how errant lawyers have found to have transgressed the rule in question or other similar rules. This enables quick references and quick answers. Time, after all, is a precious commodity when one is in search of an answer to a thorny question of professional conduct that has arisen in the course of work of a practising lawyer.

The book starts with an overview of the regulatory framework governing the professional conduct of lawyers and roles played by various regulatory bodies such as the Law Society and the newly formed Professional Conduct Council and Legal Services Regulatory Authority. Professor Pinsler then deals with the scope of application of the PCR 2015. At the beginning of the annotation for each rule, he reminds the reader whether the rule in question applies to lawyers who hold a practising certificate, lawyers who practise foreign law in a Joint Law Venture or foreign law practice, lawyers who are admitted on an ad hoc basis, foreign lawyers who are entitled to conduct Singapore International Commercial Court proceedings, or foreign lawyers entitled to practice both Singapore law and foreign law in Singapore. Given the different categories of legal practitioners subject to regulation, this is very useful to the



user who needs to navigate the PCR 2015 quickly to search for an answer as to whether one’s professional conduct is governed by a particular ethical rule.

It is no surprise that Professor Pinsler expertly analyses and explains the general ethical principles set out in Rule 4 of PCR 2015 that guide the interpretation of the rest of the rules. He examines the source of these general principles (often, judicial pronouncements) and show how they form the foundation of various specific rules. Another aspect of the book which I found enlightening is how he has drawn the reader’s attention to the content and wording of specific rules in the PCR 2015, which differ from the earlier set of rules. For example, the concept of “gross overcharging” of

a client has been done away with and Professor Pinsler examines the new standard of determining when a lawyer may be found to have overcharged his client. Another example is the new rule on conflicts dealing with former clients (Rule 21 PCR 2015) which focuses on confidential information, rather than the much maligned Rule 31 of the previous set of rules. He explains how this different approach provides more precision and clarity. Yet another example is the expanded rule on executive appointments (Rule 34), which would interest lawyers with business interests outside of their legal practice.

What I found interesting is that Professor Pinsler also deals with lesser known issues such as the Court's inherent power to deal with ethical compromise in the course of legal proceedings, as well as the consequences of breaches of lawyers' undertakings to the Court and to other lawyers. He also devotes a portion of the book to explain how a respectful advocate should behave and speak in the course of conducting proceedings in Court, which provides good guidance to the young litigator starting out in practice. Additionally, the appendix of the book examines the Code of Ethics that lawyers registered to appear before the Singapore International Commercial Court have to adhere to in proceedings before that Court.

Finally, it is pertinent that Professor Pinsler also examines in some detail Rule 35, which introduces the concept of the management of a law practice being professionally responsible for having adequate systems, policies and controls in place to deal with client's money, conflicts of interest and client confidentiality. This is certainly a rule that may cause some consternation to those involved in law firm management, but they will gain considerable help from Professor Pinsler's analysis as to what is needed for compliance.

All in all, I would strongly recommend this book to all legal practitioners. It is an essential text that should be within easy reach of your desk at all times.

► **Ang Cheng Hock, SC**
Partner
Allen & Gledhill LLP

Legal Profession (Professional Conduct) Rules 2015 – A Commentary is available from the Singapore Academy of Law <<https://www.sal-e.org.sg/pre-order-legal-profession-professional-conduct-rules-2015>>.

Invitation

for Contribution of Articles

The *Singapore Law Gazette* ("SLG"), an official publication of the Law Society, aims to be an educational resource for both practising lawyers and in-house counsel, a forum for debate, and a useful reference of high quality commissioned articles covering all legal specialties.

Members of the Law Society, non-practising legal professionals and professionals in related fields are welcome to submit well-researched manuscripts that are of educational merit and likely to be of interest to a wide-ranging legal audience.

Submissions are welcome throughout the year. All submissions should be unpublished works between 1,500 to 2,500 words and are subject to the Law Society's review.

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We look forward to hearing from you!

Please e-mail all enquiries,
suggestions and submissions to
Sharmaine Lau at
publications@lawsoc.org.sg

A Margaret River Escape

In the summer of 2017, I finally made my long overdue trip back to Western Australia (“WA”) where I spent over six and a half years of my life and I took the opportunity to make a short trip to Margaret River. The Margaret River region is located in WA and in a remote region south of Perth overlooking the Indian Ocean.

I am a firm believer that the beauty of life may often be found in its simplicity and this is where Margaret River shines. Amidst all the hustle and bustle in Singapore, a peaceful escape can sometimes provide an instant recharge to our weary bodies. And so the journey begins.

Detours on the Way Down South

The drive down south can be rather monotonous for some so breaking it up may be helpful. If you are doing a quick stopover, Corners on King situated in Bunbury is a pretty neat café with good food and a quiet, rustic and charming décor. A projector displays old cinematic films from the 50s to 70s while you enjoy a cuppa if you are seated inside.

Alternatively, if you do not mind a longer detour, you should plan a trip to Penguin Island. Save at least half a day for this or if you do a bit of photography like me, then block off the whole day for it. I stayed till the last ferry left the island at 4pm. Penguin Island, a nature reserve, is occupied by the largest colony of little penguins, the smallest species of penguins in the world. During their breeding season



Little Penguin (*Eudyptula minor*) –
Penguin Island © Joel Wee



Australian Pelican (*Pelecanus conspicillatus*) –
Penguin Island © Joel Wee

i.e. mid-June to mid-September, the island is off limits to visitors. If you have time, roam around the island to see little penguins, a variety of wildlife, caves, cliffs and beaches, or if you desire a little more adventure, go for a kayak, snorkel or even a dive and swim with the dolphins. The tours to visit Penguin Island are organised by Rockingham Wild Encounters¹ and depending on which tour you choose, you will get to see a diversity of marine wildlife like bottlenose dolphins (often playful enough to come right next to the boat), western ospreys, Australian pelicans, Australian pied cormorants and Australian sea lions (endangered) up close.

Enough of the detour? Then proceed straight down to Margaret River.

Bottlenose Dolphin – Penguin Island © Joel Wee



Australian Sea Lion (*Neophoca cinera*) – Penguin Island © Joel Wee

Beaches

The beaches are divine and no trip would be complete without a visit to at least a few in the region. The choices are plenty, ranging from pristine beaches² where the waters are a beautiful shade of turquoise and blue to rocky and rugged coast lines formed through erosion by the ocean's waves over time. Each shoreline presents a different experience and depending on the time of day and weather, the sky may be awash with a vibrant hue of colours. Save for beaches like Surfer's Point where the surfers get their thrills, most of the beaches in the region are relatively quiet and are also a great spot to watch the sun set in the evenings too. You will not go wrong with almost any of the beaches here. If you don't mind staying out after dark, I would venture to Meelup beach³ to see the full moon rise. During summer,



Redgate Beach – Surfing © Joel Wee



Redgate Beach © Joel Wee



Hamelin Bay – Sunset © Joel Wee

you may get to see the beautiful “staircase to the moon” phenomenon too.⁴

Hamelin Bay is a bit of a hidden gem in my view. The beach itself requires no introduction. The real attraction only appears when you walk up to the shoreline to discover stingrays glide gracefully over your feet. Pacific gulls will always be nearby if you have any treats for them to nibble on. If you have a bit of time before driving down to Hamelin Bay, I would recommend driving through Boranup Karri Forest to see the towering karri trees that can grow to over a height of 60 metres. When the light streams into the forest, it can be a pretty magnificent sight even if you choose not to stopover to take a few photographs.

If you are lucky and come across a beach full of “singing sand”, you should enjoy the symphony of sounds made with your feet as you walk on the beach and sink your feet into the sand. This unusual phenomenon still does not appear to

Canal Rocks – Sunset © Joel Wee



have an agreed scientific explanation. If you are planning to venture further south to Albany, Goode Beach is one such place that has sand that *sings* and may be worth a stopover.

Just as nature provides nice and pristine beaches for us to enjoy, it takes away the sand and replaces them with rugged and rocky outcrop of rocks in the form of granite gneiss.⁵ As the treacherous open water thrashes against the rock faces, they reveal geological marvels such as “Sugarloaf Rock” and “Canal Rocks” (aptly named due to the canal-like formation of the rocks when viewed from a satellite view from the top down). The best time to visit these locations would be just before a storm or when the sun sets. Lovely calm waters are always a welcome sight, but the mystique of a storm overhead with the wind beginning to whip up into a frenzy and the caterwauling wind rousing the ocean waters, brings a real sense of inevitability as the storm clouds move inshore.

Margaret River Local Produce

The region is no stranger to a variety of local home grown produce and other treats. If you would like to experience as much as possible in one convenient location, the farmer’s market held every Saturday morning should sort you out. It is a great place to intoxicate your mind and senses from the barbie. It is also an opportune time to meet and interact with the growers in the region. I would strongly advise you to bring along your own shopping bag(s) if you would like to shop at the markets as they will not supply you with any here.

Local Produce – Chocolate

For the inquisitive ones hoping for more of an experience and visual feast, a visit to the Margaret River Chocolate Factory is a must. However, for the true cacao enthusiasts who crave something a bit more artisanal, please visit Gabriel Chocolate. Gabriel Chocolate caters to the more discerning chocolate palate. The selection on offer from Gabriel Chocolate is not as large as more mainstream offerings. This is in no small part due to the fact that they produce single-origin chocolate i.e. they pick the best cacao beans from around the world to produce their chocolate bars without blending cacao beans across different regions. If you are used to consuming generic chocolate off the supermarket shelves, this experience will prove to be different. From the moment the chocolate is tipped into your mouth, you will experience a wave and progression of flavours as the chocolate makes its way down into your grateful tummy while each swirl of the chocolate in your mouth provides a flavour profile unique to the cacao’s origin.

Local Produce – Nougat

For the soft nougat fans out there, I would certainly recommend a trip to Bettenay’s – Margaret River Nougat Company. Operating from a modest establishment, their produce is just delish and the fact that you can only get the nougat from this shop adds to its rarity. The owner of the place, one Mr Greg Bettenay, was ever so kind and offered to show me where I could photograph the splendid fairywren bird aka blue wren (the male in breeding plumage is quite the sight!). I gladly accepted his kind gesture. The Yahava Koffee & Almond nougat was delightful with just the right crunch in the almond balanced against the complexity in flavour introduced by the coffee. An added bonus is the selection of wines (which the company originally started out with) and nougat liqueurs.

Local Produce – Happy Juice

For wine connoisseurs, this is wine country so you will definitely enjoy this. Wine tastings can be organised or simply drive around and just drop in to any of the wineries in the region. Given that I am allergic to something in alcohol and only drink whisky socially, I will leave you to do the research in this area. If you are in town during autumn, the vineyards are absolutely stunning and picturesque in yellow. Most of the wineries in the region also offer a lunch degustation menu but be prepared to fork out between AU\$75.00 to AU\$150.00 per person excluding alcohol. Voyager Estate Winery focuses on Chardonnay and Cabernet Sauvignon and its estate is inspired by the original Cape Dutch farmsteads of South Africa, making it one of the most beautiful and picture friendly wineries in the region. The charm of each different winery or brewery may only be experienced by dropping by in person if I am honest!

Stella Bella Wines © Joel Wee



Local Produce – Olive Oil/Berries

You may also want to drop by Vasse Virgin for the definitive olive oil experience where they offer a range of natural olive oil skin care products, infused extra virgin olive oils and condiments. I would personally recommend the chilli jam.

If the chocolate was not enough to satisfy your sweet tooth, I would recommend a stopover at the Berry Farm where there is a range of jams, preserves, sauces, ciders, fruit wines and sparkling wines, all crafted on the farm. Virtually every dish at the café at the Berry Farm features some of their own produce so if you fancy anything you have had at the café, be sure to make a trip to the Cellar Door to pick up their treats. The birds are also a frequent visitor to the surrounds as they flutter by and get comfortable as you dine right next to them at the café.



Silvereye (*Zosterops lateralis*) – The Berry Farm © Joel Wee

Other Activities – Whale Watching/Bird Watching/Caves

Bremer Bay Canyon is a great spot to see marine wildlife and in particular, killer whales. Bremer Bay is home to the largest known group of killer whales in the Southern Hemisphere. But the killer whales are only around during January through to April and are a fair distance from civilization. However, due to the remote location, a trip here will be rewarded with a wide variety of marine wildlife. Apart from killer whales though, the humpback whale (May to October), southern right whale and rare blue whale go through their annual migration via the coasts of WA. Be sure

to check out the different periods when they pass through WA and make sure it coincides with your planned trip down if this is something that is a must-see for you to avoid any disappointment.

Alternatively, if you are a keen bird watcher, you would not want to miss the Eagles Heritage Wildlife Centre which is Australia's largest wildlife centre dedicated to raptors. However, I made the distinct blunder of dropping by on a Friday when the school term had begun and it was closed despite the huge billboard at the Heritage Centre stating that it is open seven days a week!

The caves are worth a visit too if you have never been to one. In the region, the main caves are the Ngilgi Cave, Mammoth Cave, Lake Cave and Jewel Cave. The caves are a karst system formed by the dissolution of layers of limestone and dolomite, each with their own charm and beautiful in their own right. The mammoth cave has been significant to the field of paleontology as various bones and fossils have been found in the cave. The Lake Cave as its name suggests, contains an underground lake. Light shows via artificial lighting enhances the experience underground as the lighting captures the reflections on the lake's surface. Be sure to conduct a little research on each cave as some are not easily accessible.

Take a Break

Whenever you decide to make the trip to the Margaret River region, there should always be enough to keep you occupied for that short getaway and I hope that if you do make the trip, it proves a fruitful and pleasant one. I can only say that I left my trip in eager anticipation of my return.

▶ Joel Wee Tze Sing
(Joel Huang Zhixing)
Tan Peng Chin LLC
Member, Young Lawyers Committee
E-mail: joelwee@tpclaw.com.sg



Notes

- 1 <http://www.penguinisland.com.au/>
- 2 Injidup beach, Redgate beach, Eagles bay and Bunker bay are some of the beaches worth a visit.
- 3 "Meelup" means "place of the moon rising" in local Wardandi Aboriginal language.
- 4 A natural phenomenon caused by the rising of a full moon reflecting off the surface of the water.
- 5 Other rugged coastal locations include Wilyabrup Cliffs (abseiling and rock climbing) or White Cliff Point (located between Hamelin Bay and Foul Bay).

Name of Deceased (Sex) NRIC Date of Death	Last Known Address	Solicitors/Contact Person	Reference
Ong Tong Yong (M) S1018530J 27 November 2016	2 Pasir Ris Lane Singapore 519170	Lim Soo Peng & Co LLP 6337 9968	LSP/21682/17
Chia Chye Whatt (M) S0612081D 15 February 2017	Blk 807 Tampines Avenue 4 #07-127 Singapore 520807	Tan Leroy & Associates 6429 0788	LST/C/7582/2017
Lim Cho Hee (M) S1252427G 27 January 2017	62 Jalan Senyum Singapore 418175	UniLegal LLC 6236 2949	17/015LSF/L264-001
Gopinath s/o C Nambiar (M) S1352866G 23 November 2016	Blk 152 Bukit Batok Street 11 #03-268 Singapore 650152	Hoh Law Corporation 6553 5186	AO/P20137/17/at
Husaini Bin Hafiz (M) S1772673J 13 February 2017	8 Lulworth Lane Christchurch 8025 New Zealand	MDS Law +64 3379 1930	268677-1
Ng Swee Hoon (F) S0195732E 8 January 2007	3 Jalan Kechubong Singapore 799360	RHTLaw Taylor Wessing LLP 6381 6868	SAH.ABP.mml
Koh Kar Gek @ Kooh Kar Tiang, Ng Kah Tiang Mrs Yun Chang Jong (F) S0028067D 8 February 2017	148 Tagore Avenue Singapore 787738	Seah Ong & Partners LLP 6536 5369	17.22658.S.CA
Mohaidin Bin Hamid Sultan (M) S1126106Z 26 September 2016	36 Jalan Pari Unak Singapore 488506	S Nabham 6224 8900	SN.3883.17.JBB
Lee Hong Lok Connaught (M) S1526061J 11 March 2017	130A Hillview Avenue #07-01 Singapore 669609	Seng Sheoh & Co 6533 2021	SW/2017.CONNAUGHT
Lau Kiat Bin (M) S0304053D 12 February 2017	10 Camborne Road Singapore 299846	Drew & Napier LLC 6531 2447	JLTL/444552
Tan Mary Mrs Chan Mary (F) S0164483A 23 February 2017	100 Taman Permata Singapore 575223	Yik Koh Teo LLC 6323 0068	TTC/CWSJ/1710776/CT

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Private Practice

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Singapore 5-10 PQE

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Compliance Manager

Singapore 5+ PQE

Global law firm with a well-established presence in Singapore is looking for a Compliance Manager to manage all internal compliance matters in Singapore. The Compliance Manager will work with the partners and finance to ensure proper compliance of regulations and internal policies. The ideal candidate should have a law degree with some experience in regulatory compliance work, and interested to work in a dynamic and fast expanding law firm. (SLG 14889)

Financial Regulatory Associate

Singapore 2-5 PQE

Global law firm seeks a financial regulatory associate to join their team in Singapore. This role will advise financial institutions, government bodies and corporates on legal, financial regulatory and compliance matters, as well as advise on the management of conflicts of interest, global marketing and selling restrictions and drafting and negotiating distribution agreements. Excellent academic credentials required. (SLG 15133)

Corporate Associate

Singapore 2-5 PQE

Global firm with strong presence in the region is looking for a Singapore qualified corporate associate to join their corporate finance group. The associate will be involved in a broad range of corporate finance work including M&A and equity capital markets. The ideal candidate should have at least 2-5 years of post-qualification experience in private practice covering M&A or ECM work. Due to the nature of the work, the candidate must be qualified in Singapore. (SLG 15120)

Debt Capital Markets Associate

Singapore 2-5 PQE

Top-tier UK law firm seeks a junior to mid-level debt capital markets lawyer to join their team. The lawyer will work closely with partner and senior associates and involve in high profile cross-border capital market transactions. Chinese fluency needed. (SLG 15094)

General Corporate Associate

Singapore NQ-2 PQE

A boutique local law firm with specialist capabilities in corporate and technology, media and IP is looking for a junior Singapore qualified associate to join their fast expanding team. The associate will work closely with the senior lawyers on a broad range of corporate transactions across the region. The successful candidate can expect good training and exposure to a broad range of local and regional work. (SLG 15042)

In-house

Finance Legal Director

Singapore 8-10+ PQE

Global US bank with strong presence in Asia Pacific seeks a legal counsel to be based in Singapore. The lawyer will be responsible for advising the business on a broad range of corporate banking transactions relating to their institutional banking and global markets business in Asia. (SLG 14942)

Corporate Counsel

Singapore 5-10 PQE

Fast expanding online company in the gaming space is looking for a legal counsel to join their team based in Singapore. The counsel will be part of a dynamic team of lawyers supporting the business across the APAC region where he/she will be involved in advising on a broad range of corporate matters. The ideal candidate should have solid corporate experience gained from a top tier law firm. (SLG 14826)

Employment Counsel

Singapore 4-8 PQE

Global financial institution seeks an employment lawyer to join their corporate services team based in Singapore. The lawyer will focus on advising the bank on employment related issues such as employment benefits, severance, and disputes across the APAC region, but will also be exposed to other general commercial work. (SLG 14965)

Legal Counsel

Singapore 4-8 PQE

Leading bank is looking to hire a derivatives lawyer to join their legal team based in Singapore. The candidate must have 4-8 years PQE, with good experience dealing with derivatives and strong product knowledge. Client is open to candidates from private practice or in-house. (SLG 14046)

Legal Counsel

Singapore 2-4+ PQE

Major regional bank is looking for a finance lawyer to join their treasury legal team in Singapore. The lawyer will provide legal support to their treasury business including the drafting of structured master agreements, establishment of structured note programmes and updating on new regulatory developments. The ideal candidate should be called to the Singapore bar, with at least 2-4 years PQE in drafting and advising on ISDA, GMRA, GMSLA, or structured note programmes, although they will also be open to look at candidates with strong capital markets or corporate finance experience. (SLG 15152)

Compliance Officer

Singapore 5-10 YRS

Fast growing insurance company seeks a Compliance Officer to join their team in Singapore. The Compliance Officer will advise senior management on all compliance matters, including any regulatory obligations, in Singapore as well as the APAC region. The successful candidate should have at least 5-10 years of experience advising on compliance matters in the insurance industry. (SLG 15100)

To apply, please send your updated resume to als@alsrecruit.com, or contact one of our Legal Consultants in Singapore:

Jason Lee

Tel: +65 6557 4158

Email: J.Lee@alsrecruit.com

Kumiko Lam

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Junior Partners/Senior Associates (Various Practices) 5 yrs ppe & above

Leading international firm is expanding its presence across Asia and they are seeking Singapore Bar Qualified Lawyers to join its SEA offices. You could be based in Bangkok, Ho Chi Minh City, Hanoi or Myanmar. Following would be an added advantage although you will be accessing its enormous network of international clients, serving industry leading clients on a broad range of transactions across the region. Ideal candidate must have prior extensive experience in leading law firms and a good understanding of the market in SEA. You must be polished in communication skills and is capable of running major cross border transactions independently.

Legal Secretary (Various Practices), 3 – 5 years' experience

Leading international firm is expanding its presence across Asia and they invite a qualified Legal Secretary to join its Singapore office. You will provide full legal secretarial and administrative support to the lawyers and the firm while you ensure smooth running of the office. You will also be responsible for writing legal documents, conducting research and reading legal articles. Ideal candidate should possess substantial experience from leading law firms, with the ability to handle high quality work in a professional manner.

For a confidential discussion, please contact our Legal & Compliance Practice – **Melinda Ng** at 6398 3268 / melinda@rgf-executive.com.sg. EA Personnel Registration No. R11107430
or **Lynn Teo** at 6439 1458 / lynn@rgf-executive.com.sg. EA Personnel Registration No. R1110916



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In-House

Regional Counsel, 8 yrs ppe & above

Our client is an established pharmaceutical MNC in a phase of growth and development in the region. Working closely with the Head of Legal, you will develop and implement a legal discipline; procedure which addresses all aspects of the organization's internal, external legal and company secretarial compliance obligations; as well as to provide legal support to the stakeholders in the cross matrix business environment locally and in the region. You will provide advisory on regional legal issues such as commercial contracts, litigation, statutory compliance and business ethics affecting the organization and its global businesses.

Corporate Counsel, 3 – 5 yrs ppe

Part of the Global Legal & Compliance team playing an active part in developing solutions to legal issues and preparing legal opinions and documents. You will identify local law statutory requirements pertaining to corporate compliance; perform extensive and complex research for the global Legal & Compliance team by gathering relevant information, documents and compiling legal data from diverse sources including other divisions and external sources; ensure internal compliance according to internal guidelines and policies. You will also act as the first point of contact for internal and external general enquiries in Singapore.

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- ❖ Excellent client relationship skills
- ❖ Excellent written and spoken English (Chinese language skills not essential but preferable)

Ship Finance Associate

Essential Requirements:

- ❖ Qualified solicitor in HK, England and Wales, or Singapore
- ❖ 2-5 years PQE
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ISDA Documentation

An European bank is expanding their ISDA documentation team, and seek ISDA documentation negotiators across all levels. The scope of work on offer is broad, and will include fixed income, equities, prime brokerage, forex etc.

Ref: 210851

1-6 years' PQE

Corporate / Commercial

A progressive payments services company with a global presence seeks a strong transactional lawyer for their growing APAC team based here in Singapore. Prior payments/financial services experience not essential. Mandarin skills preferred.

Ref: 212821

2-5 years' PQE

Derivatives

Our client is a global investment bank seeking a derivatives legal counsel for their macro/credit business here in Singapore. Lawyers from either a securitisation or structured finance background would also be considered.

Ref: 212271

4-8 years' PQE

Regional Counsel

Global pharmaceutical multinational seeks a mid-level lawyer for the APAC legal team. This is a visible role which offers high-quality work. You will advise on regional business activities. Relevant healthcare experience desired.

Ref: 213560

8-10 years' PQE

Data Privacy Counsel

Global payments technology company seeks a Data Privacy professional for their market leading privacy team. You are well-versed in privacy enhancing data identification techniques, with expertise in privacy and data regulatory laws.

Ref: 213760

8-10 years' PQE

Energy Counsel

Regional leader in the oil & gas services industry seeks a junior energy/maritime lawyer to form part of the APAC legal team. You will provide legal counsel and advice on region legal activities for the Company and its subsidiaries.

Ref: 213920

1-3 years' PQE

IT Lawyer

Global technology company seeks an experienced lawyer to provide strategic guidance to the business. Ideally, you are experienced in negotiating contracts in Mandarin and are familiar with the China market.

Ref: 213580

5-10 years' PQE

TMT Lawyer

An IT services company in the healthcare sector seeks a mid-level lawyer to join their close-knit team. You will provide legal advice and support to the Company in the varied, dynamic and fast-paced areas of IT services and procurement.

Ref: 213480

4-5 years' PQE

Media

A well known media and entertainment company seeks a mid-level lawyer to support their APAC business. Ideally, you have knowledge of television business, cable, satellite TV industry, 'new media' and the general entertainment industry.

Ref: 213430

4-5 years' PQE

For In-House roles in Singapore and South East Asia contact **Jeremy Poh** on +65 6420 0500 or jeremypoh@taylorroot.com

Private Practice roles in Singapore

Construction Litigation

Global law firm currently wishes to recruit a senior associate for their thriving construction disputes practice. Contentious construction specialists or those from a broader disputes background (but keen to specialise) are invited to apply.

Ref: 208071

5+ years' PQE

Dispute Resolution

Tier 1 international law firm currently wishes to recruit at least one additional associate for its busy disputes team. Excellent academics and demonstrable litigation & arbitration experience from a leading local law firm is essential.

Ref: 211951

3-5 years' PQE

FS Regulatory

Top tier international law firm requires associate for their dedicated FSR team. Working closely with other practice groups, you will have strong academics and prior expertise advising on the regulatory aspects of commercial transactions.

Ref: 213091

1+ years' PQE

Corporate M&A

Tier 1 international law firm currently requires a senior associate for their market leading M&A practice. Candidates should have excellent academics and demonstrable public M&A experience from a top local or international firm.

Ref: 210281

5-8 years' PQE

Corporate M&A

We are exclusively retained by an international law firm who are keen to expand their Sing Law M&A practice. You will have at least 15PQE with experience covering PE and private M&A transactions, ideally working with institutional investors.

Ref: 214030

Partner

Capital Markets

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Ref: 208050

Partner

Shipping Litigation

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Ref: 211171

Partner

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Nanyang Technological University Lecturer / Senior Lecturer (Business Law)

Young and research-intensive, Nanyang Technological University (NTU Singapore) is ranked 13th globally. It is also placed 1st amongst the world's best young universities.

The University now invites applications of qualified candidates for the post of Lecturer / Senior Lecturer in the area of Business Law in the Nanyang Business School (NBS) at the Nanyang Technological University, Singapore. Candidates should have a passion for teaching and possess a Masters or higher degree in law or a related discipline, with the relevant professional qualifications.

The **Division of Business Law** within NBS is home to 14 full time faculty and several consultants with expertise in various aspects of Business Law and Tax. The Division offers core and elective subjects in Law and Tax at both undergraduate and post-graduate levels for its Accounting and Business Programmes as well as for the University's undergraduate population as a whole.

The successful candidate will be involved in teaching and research in the Division of Business Law. He or she is expected to be able to teach Business Law and / or Company Law and may be involved in teaching other elective subjects in the candidate's area of expertise.

All successful candidates are expected to excel at teaching and service, be active in practice-related research or involvement with industry, work closely with students, and contribute to program development. Appointment terms are between one and three years, with the prospect of renewal upon satisfactory performance.

Placement of the candidate as Lecturer or Senior Lecturer will depend on the candidate's qualification and experience. The remuneration package for the post will be highly competitive and commensurate with this as well.

To apply, please refer to the Guidelines for Submitting an Application for Faculty Appointment (<http://www.ntu.edu.sg/ohr/career/submit-an-application/Pages/Faculty-Positions.aspx>).

Interested applicants should submit (1) a full curriculum vitae, (2) a statement of teaching, and (3) three letters of recommendation to: **NBS_Search@ntu.edu.sg**.

Consideration of applications starts immediately and will continue until the post is filled. Only shortlisted candidates will be notified.

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The JLegal



Personality
Questionnaire
Experience

Every month, JLegal examines the PQE of a senior in-house counsel. This month we speak with Derek Goh, a man who strives to keep calm in the face of many irritations.

- What is on your mind at the moment?
Toying with the idea of naming my new puppy, 'Trump'.
- What secret talent do you have?
A dry sense of humour - not sure whether it's a talent, let alone secret!
- If you weren't a lawyer you would be a ...
Caricaturist.
- Where is the best place you have ever been to?
The Black Forest in Germany, with the picturesque town of Freiburg as the base.
- What is your idea of misery?
Long conference calls and meetings (yawn).
- What is the strangest thing you have seen?
My female Labrador urinating with one leg raised.
- What is your motto?
Keep calm at all times.
- If you could have one superpower it would be ...?
The ability to teleport, and thus avoid having to while away the hours in planes.
- What do you consider the most overrated virtue?
Tenacity - there is a fine line to be drawn between being resolute and being annoying.
- What irritates you?
There are plenty, but top of the list would be bad manners. Examples are people who are habitually late, drivers who do not use indicators when making turns or switching lanes, people who cut queues and gym goers who hog weights and machines while playing with their mobile phones.
- What's the one food you could never bring yourself to eat?
Foie gras, because of the cruelty that goes into creating the so called delicacy.
- What was your last Google search?
That would be the answer to the below question.
- Which of the Seven Dwarfs is most like you?
I was curious about this question, and did an online personality match. Apparently, it's Grumpy although I am still trying to fathom why!

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Derek Goh

General Counsel
at GuocoLand Ltd



Contact Us

visit our website or contact us: t | +65 6818 9701 e | singapore@jlegal.com

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Michelle Koh | Commerce & Industry | R1102371
+65 6407 1202 | michellekoh@puresearch.com

Alexandra Starke | Law Firms | R1222863
+65 6407 1052 | alexandrarstarke@puresearch.com

Paulin Tan | Law Firms | R1433787
+65 6407 1056 | paulintan@puresearch.com

Claudia Dumitru | Financial Services | R1324026
+65 6407 1205 | claudiadumitru@puresearch.com



puresearch.com

Pure Search International Pte Ltd, 8 Marina View, #07-04 Asia Square, Tower 1, Singapore 018960
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