

Shepherdson, Terence Christopher v Singapore Recreation Club
[2019] SGHCR 5

Case Number : Originating Summons No 218 of 2017 (Assessment of Damages No 19 of 2018)
Decision Date : 22 February 2019
Tribunal/Court : High Court
Coram : Navin Anand AR
Counsel Name(s) : Ganesh Ramanathan (Karuppan Chettiar & Partners) for the Plaintiff;
Ponnampalam Sivakumar and Tan Shi Yun Jolene (BR Law Corporation) for the Defendant.
Parties : Shepherdson, Terence Christopher — Singapore Recreation Club

Unincorporated Associations and Trade Unions – Friendly Societies – Offences

Damages – Assessment

22 February 2019

Judgment reserved.

Navin Anand AR:

Introduction

1 The Plaintiff, Mr Terence Christopher Shepherdson ("Mr Shepherdson"), is a member of the Defendant, the Singapore Recreation Club ("SRC"). On 16 April 2016, Mr Shepherdson stood up during the annual general meeting of SRC (the "2016 AGM") to raise a point of order. He was told by the chairman to sit down. An altercation between the chairman and Mr Shepherdson ensued. Mr Shepherdson did not succeed in raising the point of order, and left the hall where the 2016 AGM was held.

2 Thus began the start of Mr Shepherdson's woes. Shortly after the 2016 AGM, SRC received three written complaints about Mr Shepherdson's conduct at the 2016 AGM. A disciplinary committee was convened, and it found Mr Shepherdson guilty of two breaches of the Singapore Recreation Club Constitution ("SRC's Constitution"). Mr Shepherdson appealed against the decision of the disciplinary committee to the Management Committee ("MC") of the SRC, which upheld the decision of the disciplinary committee. As a result, Mr Shepherdson was suspended for a period of 12 months commencing 15 December 2016, and ordered to pay a fine of \$1,000.

3 Dissatisfied, Mr Shepherdson applied in this action to set aside SRC's decision. The matter came for hearing before Woo Bih Li J, who nullified the suspension and the fine, and ordered SRC to pay damages, the quantum of which was to be assessed (see *Shepherdson, Terence Christopher v Singapore Recreation Club* [2017] SGHC 323 ("*Shepherdson v SRC*").

4 The proceedings before me concerned the assessment of damages payable as a result of Mr Shepherdson's invalid suspension from SRC. Having considered the evidence before me and the parties' arguments, I award \$3,600 as damages for the deprivation of membership rights and privileges, and \$14,000 as damages for mental distress. I set out my reasons below.

Background Facts

5 The detailed facts of the case are set out in *Shepherdson v SRC*, so I will only highlight the facts which are relevant to the assessment of damages.

Suspension from SRC

6 On 16 April 2016, SRC held its 2016 AGM at the Raffles City Convention Centre. The chairman of the meeting was the then Vice-President of the MC, Dr Sarbjit Singh ("Dr Singh").

7 After a quorum was reached, Dr Singh called the meeting to order and started his opening address without opening the voting booth. Mr Shepherdson approached the nearest microphone in the hall and raised a point of order that the voting booth should be opened immediately after a quorum was reached. Mr Shepherdson's view was based on Rule 35(e)(ii) of SRC's Constitution, and he was motivated by the desire that members be allowed to cast their votes without having to wait until the conclusion of Dr Singh's speech (see *Shepherdson v SRC* at [4]).

8 Dr Singh told Mr Shepherdson to sit down, and took the view that the voting booth should only be opened after he had concluded his speech. Mr Shepherdson tried to repeat his point, but his microphone was switched off. [\[note: 1\]](#) The situation escalated, and resulted in a tense exchange between Dr Singh, Mr Shepherdson, and some other members of SRC which lasted for a few minutes. [\[note: 2\]](#) Mr Shepherdson left the hall after the argument, and the voting booth was opened after Dr Singh concluded his speech.

9 Between 20 and 26 April 2016, SRC received three written complaints from Mr Shawn Chua, Mr Maxwell Norbert Fernando ("Mr Fernando") and Ms Paul Elizabeth ("Ms Elizabeth") about Mr Shepherdson's conduct at the 2016 AGM (see *Shepherdson v SRC* at [5]). Mr Shawn Chua passed away on 10 July 2016 before the Complaints Committee ("CC") was appointed so SRC took the position that his complaint was to be treated as having been withdrawn (see *Shepherdson v SRC* at [10]).

10 The CC convened on 30 August 2016 to consider the remaining two complaints against Mr Shepherdson, and recommended that the complaints be referred to a Disciplinary Committee ("DC"), which was constituted on 10 October 2016. The CC recommended that the following two charges be brought against Mr Shepherdson regarding his conduct at the 2016 AGM (see *Shepherdson v SRC* at [16]-[18]):

- (a) the first was for disorderly and boisterous behaviour on the part of Mr Shepherdson when Dr Singh was delivering his opening address, in breach of Rule 30(b)(vi) of SRC's Constitution; and
- (b) the second was for deliberately heckling Dr Singh during his opening address, in breach of Rule 30(b)(xiii) of SRC's Constitution.

11 The DC hearing took place on 2 November 2016, with Mr Shepherdson and various witnesses in attendance. On 8 November 2016, the DC issued its written report and found Mr Shepherdson guilty of both charges. The DC recommended that Mr Shepherdson be fined \$1,000 on the first charge, and suspended for 12 months on the second charge (see *Shepherdson v SRC* at [21]).

12 On 16 November 2016, SRC notified Mr Shepherdson of the DC's decision, and informed him that he had 14 days to appeal against that decision to the MC. Mr Shepherdson appealed against the DC's decision on 28 November 2016.

13 The MC held a meeting on 12 December 2016 to consider the appeal (the "MC Meeting"). At the

MC Meeting, Dr Singh recused himself and asked three others – Mr Fabian Chan (“Mr Chan”), Mr Ronald Wee (“Mr Wee”) and Mr Tay Peng Kee (“Mr Tay”) – to recuse themselves as well (see *Shepherdson v SRC* at [55]). For Mr Chan, Dr Singh’s purported reason for asking him to recuse himself was that Mr Chan had previously made a complaint against Mr Shepherdson. For the other two, Dr Singh’s purported reason was that they would have been biased in Mr Shepherdson’s favour because they were informally part of the same team that stood for election at the 2016 AGM. Mr Chan, Mr Wee, and Mr Tay agreed to recuse themselves. As a result, seven members of the MC (“Remaining Seven Members”) were left to consider the appeal and they decided to uphold the decision of the DC.

14 By way of a letter dated 14 December 2016, SRC informed Mr Shepherdson that: [\[note: 31\]](#)

- (a) the MC had dismissed his appeal;
- (b) he was suspended from SRC for a period of 12 months from 15 December 2016 to 15 December 2017;
- (c) he was still liable to pay the monthly subscription fee during the period of suspension;
- (d) he had to pay a fine of \$1,000, which had to be settled in full before his membership could be reactivated on 15 December 2017; and
- (e) the decision of the MC was final.

Proceedings before Woo J

15 On 28 February 2017, Mr Shepherdson commenced the present action under Section 35(2) of the Societies Act (Cap 311, 2014 Rev Ed) to nullify the suspension and the fine imposed by SRC.

16 Mr Shepherdson raised various arguments to impugn SRC’s decision. Most of these arguments were either not pursued or were not accepted by Woo J (see *Shepherdson v SRC* at [27]-[53]). Woo J did however find that the MC failed to give Mr Shepherdson a fair hearing for the following reasons:

- (a) Dr Singh had an interest in the complaints made against Mr Shepherdson (see *Shepherdson v SRC* at [57]-[60]). Although Dr Singh was not one of the complainants, he was in substance as directly interested as Mr Fernando and Ms Elizabeth in the complaints as he was the very person with whom Mr Shepherdson had an altercation with at the 2016 AGM and he complained about Mr Shepherdson’s conduct when he appeared as a witness at the DC hearing.
- (b) The Remaining Seven Members had acted inconsistently with respect to the recusal of Mr Wee and Mr Tay (see *Shepherdson v SRC* at [69]). On the one hand, the Remaining Seven Members appeared to have agreed with Dr Singh’s assessment that it would have been improper for Mr Wee and Mr Tay to consider the appeal, as they had stood for election at the 2016 AGM with Mr Shepherdson as a team. On the other hand, however, they did not seem to think it improper for them to sit, even though they had likewise stood for election as part of a team *with Dr Singh*.
- (c) In Woo J’s view, this inconsistency constituted apparent bias, if not actual bias, against Mr Shepherdson. Even if it was true that the Remaining Seven Members would have outvoted Mr Wee and Mr Tay and the result would have been the same, the process was tainted (see *Shepherdson v SRC* at [70]).

17 As a result, on 3 November 2017, Woo J granted Mr Shepherdson's application to nullify the suspension and the fine. Woo J also ordered SRC to pay damages to be assessed by the Registrar, with the costs of the assessment of damages and interest also to be determined by the Registrar.

18 SRC reactivated Mr Shepherdson's membership on 3 November 2017 (*ie*, on the same day as Woo J's decision), and thereafter sent Mr Shepherdson a letter dated 6 November 2017 to inform him of this. [\[note: 4\]](#) In total, Mr Shepherdson's membership was suspended for 10 months and 20 days. [\[note: 5\]](#)

The Assessment Proceedings

19 Mr Shepherdson sought the following two heads of damages: [\[note: 6\]](#)

- (a) \$35,000 as damages for the deprivation of his rights and privileges as an ordinary member of SRC (including the loss of use of SRC's facilities); and
- (b) \$45,000 as damages for the humiliation, embarrassment, anguish and mental distress caused by the wrongful suspension.

20 Mr Shepherdson relied heavily on the decision of AR Teo Guan Siew in *Kay Swee Pin v Singapore Island Country Club* [2008] SGHC 143 ("*Kay Swee Pin*"), which to the best of my knowledge is the only reported decision in Singapore on the damages payable to a member as a result of the invalid suspension of a club membership. In *Kay Swee Pin*, AR Teo awarded the plaintiff \$32,000 as damages for the deprivation of her membership rights and privileges, and \$40,000 as damages for mental distress (at [103]).

21 SRC disputed both claims. With respect to the deprivation of membership rights and privileges, SRC accepted that Mr Shepherdson was entitled to damages but contended that he should only be awarded a sum of \$2,496.66. SRC submitted that damages should be pegged against the pro-rated value of a one-year term membership at SRC (since the period of suspension was 10 months and 20 days), with an uplift to take into account the right to vote and the right to hold office accorded to ordinary membership. [\[note: 7\]](#)

22 As for the second claim, SRC contended that no damages should be awarded for mental distress. [\[note: 8\]](#) SRC submitted that:

- (a) Insofar as mental distress (damages are claimed on the authority of *Kay Swee Pin*, that decision was wrongly decided. [\[note: 9\]](#)
- (b) In any event, Mr Shepherdson's alleged mental distress was not caused by his suspension, but was instead occasioned by the altercation at the 2016 AGM and the filing of three written complaints against him. [\[note: 10\]](#)
- (c) Even if damages for mental distress were claimable, Mr Shepherdson should be awarded only nominal damages, as the severity of the mental distress suffered was mild and limited. [\[note: 11\]](#)

Plaintiff's Witnesses

23 A total of seven witnesses were called to give evidence. The witnesses who gave evidence on behalf of Mr Shepherdson were:

(a) Mr Shepherdson, who gave evidence on how he has been an active member of SRC since 1996, [\[note: 12\]](#) participating in both club activities as well as the management of SRC. He was a member of various sections at SRC, including the toastmasters club, golf, balut, and dance sport. [\[note: 13\]](#) Mr Shepherdson also spoke of his contributions to SRC, which included a two-year stint as Vice-President of the MC (from 2002 to 2004) and an eight-year stint as the Games Control Board ("GCB") Chairman from 2006 to 2014. [\[note: 14\]](#) Mr Shepherdson felt that the complaints against him were designed to set him up, [\[note: 15\]](#) and he cancelled the spousal membership for his wife on or around 26 May 2016, even before the CC had been appointed. [\[note: 16\]](#) Mr Shepherdson also testified of the humiliation, embarrassment, and mental distress caused to him by his suspension.

(b) Dr Goh Kok Guan ("Dr Goh"), a former president of the MC of SRC for 22 years, gave evidence on Mr Shepherdson's contributions as the GCB Chairman, and how Mr Shepherdson felt disappointed, angry and humiliated by the MC's decision to uphold the suspension and the fine recommended by the DC.

(c) Ms De Roza Adelene Margaretta ("Ms Adelene"), Mr Shepherdson's wife, deposed as to how the MC's decision affected Mr Shepherdson's behaviour, causing him to be moodier, withdrawn, and restless at home. I should highlight that the parties agreed to dispense with the cross-examination of Ms Adelene. [\[note: 17\]](#)

(d) Mr Dayal Odhermal Khemlani ("Mr Khemlani") and Mr Abdul Rashid s/o Mohamed Ali ("Mr Rashid"), two people whom Mr Shepherdson confided in, also gave evidence of the mental distress caused to Mr Shepherdson by his suspension.

Defendant's Witnesses

24 The witnesses called by SRC were:

(a) Mr Shareef Bin Abdul Jaffar ("Mr Shareef"), the current general manager of SRC, gave evidence on the value of, and the rights associated with, the different membership tiers at SRC.

(b) Mr Chua Poh Teck ("Mr Ronnie Chua"), the current Vice-President of the MC of SRC, gave evidence on a complaint made by Mr Shepherdson against the late Mr Shawn Chua in 2012. Mr Shepherdson's complaint led to the alleged wrongful suspension of Mr Shawn Chua from SRC for a period of three months. The purpose of Mr Ronnie Chua's testimony was to show that Mr Shawn Chua was "very magnanimous" as he had "never asked for anything much" after his suspension, [\[note: 18\]](#) and that "[all members] should be magnanimous". [\[note: 19\]](#) I will not discuss Mr Ronnie Chua's evidence in my decision, as it did not seem to me to be relevant since there was never any finding that Mr Shawn Chua had been wrongfully suspended by SRC.

(c) Dr Calvin Fones Soon Leng ("Dr Fones"), a psychiatrist who examined Mr Shepherdson on 11 June 2018, testified that Mr Shepherdson suffered from a psychiatric disorder known as an adjustment disorder as a result of his suspension from SRC.

Issues

25 Broadly, two main issues arise for consideration. They are:

- (a) the appropriate quantum of damages for deprivation of membership rights and privileges; and
- (b) whether Mr Shepherdson can claim damages for mental distress, and if so, the appropriate quantum.

26 As there is scant authority on the topic of damages for wrongful suspension of club membership in recreational clubs like SRC, I will first consider the law before delving into the issues at hand.

The Law

General

27 When the court sets aside a member's suspension from the club based on a breach of the rules of natural justice, the damages awarded to the member are contractual in nature. In the words of AR Teo in *Kay Swee Pin* (at [33]):

[The member's] claim properly understood is one in *breach of contract*, ie that the [club] had wrongfully suspended her membership in breach of the terms of the contract found in the constitution and rules of the club. There is a "judicial review" of the [club's decision] to the extent of questioning whether it is in line with the rules of natural justice for the purpose of determining if there had been a breach of the contract, such natural justice rules being either expressly or ... impliedly provided for under the contract in the form of the [club's] constitution... *Properly conceived, the claim for damages hence arises from a contractual breach, and it is therefore to the contractual principles of damages that recourse should be had in assessing the quantum of the damages that is payable in this case.*

[emphasis added in italics]

28 *Kay Swee Pin* and the Court of Appeal decision in *Sim Yong Teng and another v Singapore Swimming Club* [2016] 2 SLR 489 ("*Sim Yong Teng*") have recognised two types of general damages that can be recovered (subject to proof) for the wrongful suspension of a club membership. The first is damages for deprivation of the member's rights and privileges, while the second type is damages for mental distress.

29 The chief challenge for the court when assessing damages in such cases lies in difficulties of proof. It is often impossible for the member to prove, with complete certainty, the exact amount of damage that he or she has suffered, as precise evidence on the quantum of loss does not exist. The law, however, does not demand that an innocent party prove with complete certainty the exact amount of damage he has suffered (see *Robertson Quay Investments Pte Ltd v Steen Consultants Pte Ltd* [2008] 2 SLR(R) 623 at [28]). In cases where precise evidence cannot be obtained, the court will assess damages as best as it can, based on the available evidence (see *Kay Swee Pin* at [52]–[53]).

Deprivation of Membership Rights and Privileges

30 Damages for deprivation of membership rights and privileges seek to compensate the member for a loss of membership during the period of suspension. The loss suffered is pecuniary for two reasons. First, the member – who has paid the membership fee for the club – did not get what he paid for, for he was wrongfully deprived of access to, and use of, the club, and is unable to exercise his

membership rights such as the right to attend and vote at annual general meetings (see *Kay Swee Pin* at [49], [54], [55] and [76]). Secondly, where the membership is transferrable and is of financial value, the loss of membership during the period of suspension constitutes a direct pecuniary loss (see *Kay Swee Pin* at [50]).

31 A flexible approach is warranted when it comes to an assessment of damages for the deprivation of membership rights and privileges (see *Kay Swee Pin* at [54]). Where membership fees are payable each year on the basis of a fixed annual fee, the quantification of damages should take reference from that. On the other hand, where membership fees are payable upfront as a lump sum for a life term, a broad-brush approach should be adopted.

32 A broad-brush approach was applied in *Kay Swee Pin*, which involved the wrongful suspension of a member from the Singapore Island Country Club ("SICC"). The issue confronting the court was the amount of damages payable for the deprivation of membership rights for one year. The member had purchased lifetime membership at SICC for \$190,000 in 1992 but at the assessment of damages hearing, the court heard evidence that a lifetime membership at SICC was then valued between \$200,000 and \$250,000. There was also evidence that a term membership for one year cost \$24,000, but a term member (unlike a life member) has no right to vote at the annual general meeting nor is he able to hold office or be co-opted to serve in committees of the SICC.

33 AR Teo, after applying a one-third uplift to the price of term membership to reflect the value of the additional rights enjoyed by life members (such as the right to vote), and also having regard to the costs of a lifetime membership, awarded \$32,000 to the member as damages for the deprivation of membership rights and privileges. AR Teo recognised that such an approach was far from scientific, but held that it was the best the assessing court could do to achieve a just result. At [57], AR Teo explained his decision thus:

Having regard to how much a lifetime SICC membership costs, and applying a suitable premium to the price of a term membership to reflect the value of rights such as the right to vote, I award \$32,000 as damages to [the member] for the deprivation of her membership rights and loss of use of facilities for the one year period of suspension. In reaching this conclusion, *I readily concede that a broad-based approach has been adopted and the process of assessment is far from a scientific inquiry to any degree. Nevertheless, the assessing court must do its best within the practical limits to make a fair award and achieve as just a result as the law is capable of producing.*

[emphasis added in italics]

Mental Distress

34 The second type of damages is non-pecuniary in nature and is what I would term broadly as mental distress damages. Mental distress damages are meant to compensate the innocent party for intangible mental harm or undesirable sensory experiences such as feelings of disappointment, distress, frustration, anxiety, humiliation and embarrassment that are caused by the breach of contract (see *Kay Swee Pin* at [63]).

35 Mental distress damages are recoverable in situations where the object of the contract is to provide pleasure, relaxation, peace of mind or freedom from distress (see *Kay Swee Pin* at [69], *Sim Yong Teng* at [102], *PH Hydraulics & Engineering Pte Ltd v Airtrust (Hong Kong) Ltd* [2017] 2 SLR 129 at [83]). It is clear that a contract for membership with a recreational club comes within the class of contracts whose object is to provide pleasure, relaxation, peace of mind or freedom from distress (see

Kay Swee Pin at [74] and *Sim Yong Teng* at [102]). Mental distress damages are awarded as the member does not receive the promised peace of mind or freedom from distress, and may be subjected instead to opposite feelings of distress and the worsening of the mental condition (see *Kay Swee Pin* at [76]). Without mental distress damages, the member is not fully compensated because he is not put into as good a position as he would have been if the contract had been performed (see Andrew S. Burrows, "Mental Distress Damages in Contract – a Decade of Change" [1984] LMCLQ 119 ("Burrows") at 133).

36 The case law does not disclose any clear approach on how the assessing court ought to undertake the exercise of quantifying damages for mental distress. This is not altogether surprising given that the award of mental distress damages for wrongful suspension of club membership is relatively uncommon. In approaching this exercise, I am mindful that the quantification of damages for intangible mental harm or undesirable sensory experiences is an exercise fraught with difficulty, as it involves the ascription of a monetary value to matters which do not lend themselves easily to pecuniary expression (see *Kay Swee Pin* at [88] and *Hazwani bte Amin v Chia Heok Meng* [2018] SGHCR 2 at [9]). Nevertheless, if the aim is that justice meted out to all litigants should be even-handed, there ought to be both internal consistency in the award of mental distress damages in cases involving the wrongful suspension of club memberships, as well as external consistency with the levels of damages awarded in other fields (see Michael G. Bridge, "Contractual Damages for Intangible Loss: A Comparative Analysis" (1984) 62 Canadian Bar Review 323 at 368 and *Milner and another v Carnival plc (trading as Cunard)* [2010] EWCA Civ 389 ("*Milner*") at [38]).

37 I will set out below what I think ought to be the approach of the assessing court in quantifying the mental distress damages in cases involving wrongful suspension of club memberships. Before going there, however, I will consider the past cases on this issue.

Past Cases

38 An early decision involving the award of mental distress damages for the wrongful suspension of a club membership is the Malaysian decision of *Florence Bailles v Dr Ng Jit Leong* [1985] 1 MLJ 374 ("*Florence Bailles*"). The plaintiff in *Florence Bailles* was a lady associate of the Penang Club by virtue of her husband being an ordinary member of the same (see 375). As a lady associate, the plaintiff was entitled to the full privileges of ordinary membership, but had to pay a monthly subscription fee of RM2 (at 375 and 381). The club committee suspended the plaintiff for a period of three months owing to an incident where the plaintiff allegedly made derogatory remarks about another lady associate in the presence of several other persons in the games room (at 375-376). Dissatisfied, she challenged the decision of the club committee by way of an application for judicial review. Ajaib Singh J found that the club's committee had wrongfully suspended the plaintiff in breach of the rules of natural justice, and nullified the plaintiff's suspension from the club (at 378-381). Singh J also awarded RM10,000 in damages for the embarrassment, distress and humiliation which the plaintiff suffered as a result of the wrongful suspension. Singh J did not explain how he arrived at the figure of RM10,000 and his reasoning was simply as follows (at 381):

[The plaintiff] has been a lady associate for about 14 years. Before her suspension she went to the club almost every day and her social life revolved around the club. She is still a lady associate but she said in evidence in court that after her suspension she did not go back to the club because she felt embarrassed, anguished and upset. She now goes to other clubs. She also said that she left for Europe soon after the suspension as there was nothing for her here and her telephone kept ringing from her friends who wanted to know why and what happened to her at the club.

For the embarrassment, distress and humiliation which [the plaintiff] has suffered as a result of the wrongful suspension, I award her damages in the sum of \$10,000 and costs.

39 The only other decision that considered the issue of the appropriate quantum of mental distress damages for wrongful suspension of club membership is *Kay Swee Pin*. After considering the materials and arguments before him, AR Teo awarded \$40,000 as mental distress damages. AR Teo, who stated that he did not receive much assistance from the parties on the issue of the quantum of damages (at [89] and [92]), appeared to have taken the following into account in arriving at the figure of \$40,000:

(a) the plaintiff in *Florence Bailes* was awarded RM10,000 in 1984 for a 3-month suspension, which suggested that the plaintiff in *Kay Swee Pin* should be awarded a considerably higher amount for her 12-month suspension (at [90]);

(b) the plaintiff in *Kay Swee Pin* suffered a significant degree of humiliation and embarrassment caused by: (i) the serious charge levied against her, which implied dishonesty on her part, (ii) the fact that she was not given an opportunity to speak and had no chance to rebut the allegations of the complainant, (iii) the notices of her suspension being left at the premises of the club for the entire one-year period of the suspension, and (iv) the content of the notices, which put across to the other members of the club that the plaintiff had lied and cheated the club simply to save some green fees for her husband (at [87]); and

(c) the approach of the English cases on the award of mental distress damages is one of judicial conservatism (at [91]).

The Suggested Approach

40 In my view, a three-step framework ought to be adopted when deciding the quantum of mental distress damages.

4 1 **Step 1:** The first step is to identify the type of mental distress involved. I agree with the views of Professor Andrew Burrows that a distinction must be drawn between two basic categories of mental distress. First, there is mental distress in the sense of *disappointment or frustration* at not receiving an expected mental benefit; second, there is mental distress *in the sense of an "injury" to a person's mental condition* (see Burrows at 122-123). The injury to one's mental condition can arise from worry, stress, and embarrassment, and also manifest in more serious forms, such as the development of a recognised psychiatric condition. The assessing court should be astute as to whether the member is claiming damages for one or both types of mental distress.

4 2 **Step 2:** The second step is to assess the severity of the mental distress that had been caused. This is a question of fact and degree in each case: *Milner* at [35]. In assessing the severity of the mental distress, the Court can take into account, *inter alia*, the following non-exhaustive factors:

(a) the length of the suspension (see *Kay Swee Pin* at [90]);

(b) the extent of the member's involvement in the club prior to suspension (see *Florence Bailes* at 381);

(c) the nature of the complaint against the member, including whether the complaint imputed dishonesty on the member's part (see *Kay Swee Pin* at [87]);

(d) whether the suspension was publicised, and whether the other members of the club knew of the suspension (see *Kay Swee Pin* at [87] and *Florence Bailes* at 381);

(e) whether the member suffered injury to his mental condition as a result of the suspension – in this connection, I find the guidance in the chapter on psychiatric conditions in the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (Academy Publishing, 2010) ("*Guidelines for the Assessment of General Damages*") helpful in assessing whether the injury suffered is minor or severe (see, in particular, the guidance for general psychiatric disorders and post-traumatic stress disorder at 25-28).

43 Mental distress cases can be placed on a spectrum. Cases involving feelings of disappointment or frustration at not receiving an expected mental benefit will arguably fall within the lower end of the spectrum, because such feelings are transitory and would tend to resolve over time. Cases involving injuries to the member's mental condition of a serious and long-lasting nature, such as psychiatric injuries that are likely to persist in the long term even with medical treatment, will fall within the more serious end of the spectrum.

4 4 **Step 3:** After assessing the severity of the mental distress caused, the third step is to quantify the award, having regard to awards made in comparable cases. The court should first have regard to awards where a member was awarded mental distress damages for wrongful suspensions of club membership. However, the search for comparable cases must also extend to other fields of law where damages are awarded for intangible mental harm or undesirable sensory experiences, and in this regard, the obvious comparison would be awards in personal injury cases where psychiatric injury has been suffered (see *Milner* at [38]).

45 At the end of the day, it should be borne in mind that the courts have approached the quantifying of damages for mental distress in contract law conservatively (see *Kay Swee Pin* at [91]). As Lord Steyn observed in *Farley v Skinner* [2001] 4 All ER 801 at [28]:

... I have to say that the size of the award [of £10,000] appears to be at the very top of what could possibly be regarded as appropriate damages... *I consider that awards in this area should be restrained and modest.* It is important that logical and beneficial developments in this corner of the law should not contribute to the creation of society bent on litigation.

[Emphasis added in italics]

46 With the above principles in mind, I now consider the first issue on the appropriate quantum of damages for deprivation of membership rights and privileges.

Issue 1 – Damages for Deprivation of Membership Rights and Privileges

47 As a result of the MC's decision, Mr Shepherdson's membership at SRC was suspended for a total of 10 months and 20 days. There is no dispute that Mr Shepherdson was deprived of all rights and privileges as a member during the period of suspension, and could not make use of SRC's facilities during that time.

48 In my view, the following matters are relevant in the assessment of damages for deprivation of membership rights and privileges.

(a) Mr Shepherdson purchased his ordinary membership at SRC in 1996 for \$49,500. [\[note: 20\]](#) Mr Shepherdson's ordinary membership would last his lifetime, and could be transferred or sold to

another person. [\[note: 21\]](#) The costs of ordinary membership has since gone down, and the present market value ranges from \$4,500.00 to \$5,260.65. [\[note: 22\]](#)

(b) A one-year non-transferrable term membership costs \$2,140.00. [\[note: 23\]](#) It is not possible to buy a term membership for any period less than one year. [\[note: 24\]](#)

(c) The difference between a term member and an ordinary member is that a term member is not entitled to vote at annual general meetings or hold office at SRC. [\[note: 25\]](#)

(d) During the period of suspension, Mr Shepherdson continued to pay a monthly subscription fee of \$69.55. [\[note: 26\]](#)

49 Since Mr Shepherdson's membership fee was paid upfront in a lump sum, a broad brush approach is warranted to quantify the damages for deprivation of membership rights and privileges (see paras [31]–[33] above). Bearing in mind the matters stated in the preceding paragraph, I find it appropriate to award damages by (a) applying a one-third uplift to the price of a one-year term membership (*ie*, \$2,140) to take into account the right to vote and the right to hold office and (b) adding the monthly subscription fee of \$69.55 which Mr Shepherdson had to pay during the period of suspension even though he could not make use of SRC's facilities. Accordingly, I award Mr Shepherdson damages of \$3,600 for the deprivation of his membership rights and privileges.

50 For completeness, I do not accept Mr Shepherdson's position that he should be awarded \$35,000 in damages for this head of claim. Mr Shepherdson's arguments in support are that: (a) SRC is a second home to Mr Shepherdson and his wife, and they valued the club and its facilities, and (b) the low value of SRC's membership is attributable to the poor management of SRC. [\[note: 27\]](#) I do not accept these contentions for the following reasons.

(a) First, this head of damages is meant to compensate Mr Shepherdson for the *pecuniary* loss he suffered as a result of the loss of his membership. There is no evidence which supports the argument that the financial value of this loss of membership is \$35,000. To put things into perspective, the \$35,000 claimed is around two-thirds of the price Mr Shepherdson paid in 1996 for his *lifetime* ordinary membership.

(b) Second, I am unable to place any weight on Mr Shepherdson's allegation that the membership fees at SRC are low due to the MC embroiling the club in numerous legal disputes. For a start, there is insufficient evidence before me to justify such a conclusion. But more importantly, this contention is irrelevant. Mr Shepherdson does not dispute the evidence on the present value of the membership at SRC, which is the basis on which to assess his pecuniary loss. Even if it were true that the value of membership is low due to poor management, Mr Shepherdson's recourse (if any) lies elsewhere, and does not lie in increased damages for his claim.

Issue 2 – Damages for Mental Distress

51 I now consider whether Mr Shepherdson can claim mental distress damages, and if so, the appropriate quantum to be awarded for this head of loss.

52 On the authority of *Kay Swee Pin*, it is clear that mental distress damages are recoverable here. A contract for membership at SRC comes within the class of contracts whose object is to provide pleasure, relaxation, peace of mind or freedom from distress to the member (see para [35] above).

SRC breached the contract of membership by failing to observing the rules of natural justice in its decision to fine and suspend Mr Shepherdson from the club (see para [27] above), and so Mr Shepherdson is entitled to damages – including mental distress damages – consequent upon this breach of contract.

53 In response, SRC raised two objections, namely, (a) the authority of *Kay Swee Pin* was wrongly decided, and (b) the mental distress suffered by Mr Shepherdson was not caused by his invalid suspension. I will deal with each objection in turn.

Correctness of Kay Swee Pin

54 SRC submits that *Kay Swee Pin* was wrongly decided for two reasons. First, there was no authority cited in *Kay Swee Pin* to permit the recovery of mental distress damages in cases involving recreational clubs. [\[note: 28\]](#) Second, the claim for damages for anguish, humiliation and embarrassment are claims for *reputational loss*, and the court in *Kay Swee Pin* erred by conflating such claims with a claim for mental distress. I am not persuaded by either argument.

(a) The fact that there was no authority prior to *Kay Swee Pin* permitting the recovery of mental distress damages in cases involving recreational clubs is irrelevant. In my respectful view, the correctness of the principle established by *Kay Swee Pin* – that mental distress damages can be recovered for wrongful suspension of club membership – is beyond peradventure. In *Sim Yong Teng*, which concerned a member's wrongful suspension from a recreational club (*ie*, Singapore Swimming Club), the Court of Appeal endorsed AR Teo's analysis of the law and his holding that mental distress damages are recoverable for wrongful suspension of club membership as follows (at [102]-[103]):

102 ... In [*Kay Swee Pin*], which also involved the wrongful suspension of club membership, *the assistant registrar provided an admirable analysis of the applicable principles of law in holding that Madam Kay was entitled to (a) damages for deprivation of her rights, and privileges as a member (including the loss of use of the facilities of the Singapore Island Country Club); (b) damages for the humiliation, embarrassment, anguish and mental distress caused by the wrongful suspension; but not (c) aggravated, exemplary and punitive damages. We endorse his analysis of the law.*

103 *We accordingly hold that the appellants are entitled only to general damages, if any, relating to the temporary loss of membership rights and privileges and mental distress, and direct that such damages be assessed by the Registrar or any assistant registrar.*

[Emphasis added in italics]

(b) As for the contention that *Kay Swee Pin* conflated claims for reputational loss with a claim for mental distress, this is a non-starter. AR Teo was cognisant of the conceptual distinction between damages for reputational loss and damages for mental distress, and, in my view, correctly found that anguish, humiliation and embarrassment are facets of emotional and mental suffering that properly fall within the province of mental distress damages (see *Kay Swee Pin* at [58] and [60], and see also *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2012) at ch 21, p1535, footnote 288).

Causation

55 SRC's next objection is that Mr Shepherdson's mental distress was not caused by his wrongful

suspension, but instead by the altercation at the 2016 AGM and the filing of written complaints by three members of SRC. In this regard, SRC referred to disparate pieces of evidence from Mr Shepherdson, Dr Fones, Mr Khemlani and Ms Adelene on the disappointment and embarrassment felt by Mr Shepherdson after the said events. [\[note: 29\]](#)

56 The key question here is whether Mr Shepherdson suffered mental distress because of the bias against him during the disciplinary process, or because of the brief altercation and the fact of the three complaint letters having been sent. The clear purport of Mr Shepherdson's evidence was that the mental distress suffered arose out of the flawed disciplinary process that culminated in his suspension. Mr Shepherdson was unhappy and aggrieved with how badly he had been treated during the disciplinary process, and the process also had collateral consequences in the form of distress at how he was subsequently perceived by others. The following excerpts from Mr Shepherdson's testimony are pertinent: [\[note: 30\]](#)

28. *I was disappointed and angry at the developments... I was now being made to go through a disciplinary process which I started to feel was biased. I felt that I did not do anything wrong at the AGM. All I was trying to do was to ask for the voting booth to be opened, and I left it at that when Dr Singh was not prepared to listened...*

...

39. *I was extremely disappointed to note that the MC appeared not to have paid any heed to my appeal letter and upheld the suspension and fine sanctions...*

....

41. *... I felt very down. I felt a loss of face and embarrassment, that people would think I did something wrong and was a trouble maker. I did not think I had done anything wrong. My friends did not think I had done anything wrong. 3 witnesses came forward at the DC hearing to say that the events happened were quite normal. Yet the CC, DC and MC members did not think so, and I felt that they were biased. I kept replaying the events in my mind. This stirred up emotions ranging from sadness, disappointment, anger and frustration. I became quiet and withdrawn, and avoided going out except with good friends and well-wishers...*

...

44. *... It appeared that there was blatant disregard of due process ... My mind was in turmoil with much thoughts, stress and anxiety, in addition to anger and frustration of having to wait for justice to be delivered.*

[Emphasis added in italics]

57 The test to determine the issue of causation *in fact* in contract cases is the 'but for' test (see *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric* [2007] 3 SLR(R) 782 at [63]). It is clear that *but for* SRC's breach (that is, by failing to observe the rules of natural justice), Mr Shepherdson would not have suffered mental distress. Accordingly, I find that causation is established.

Quantum of Mental Distress Damages

58 I now deal with the quantification of the mental distress damages in this case, applying the three-step framework outlined at paragraphs [41]–[45] above.

Step 1: Type of Mental Distress Claimed

59 Mr Shepherdson is claiming damages for two types of mental distress. First, Mr Shepherdson suffered mental distress in the form of *disappointment and frustration* at not receiving the expected mental benefit of pleasure, relaxation and peace of mind from the club membership. In addition, Mr Shepherdson also suffered mental distress in the form of an injury to his mental condition. Mr Shepherdson felt humiliated, embarrassed, aggrieved and distressed by his suspension from SRC (see para [56] above). He also felt emotionally down and upset, and had difficulties sleeping. [\[note: 31\]](#) He became quiet and withdrawn, and avoided going out except with good friends (see para [56] above). Further, Dr Fones diagnosed Mr Shepherdson as having suffered from adjustment disorder from 15 December 2016 to 3 November 2017 as a result of his suspension. [\[note: 32\]](#)

Step 2: Severity of the Mental Distress

60 In assessing the severity of the mental distress suffered, regard should be had to the following factors.

61 First, SRC occupied a significant part of Mr Shepherdson's life prior to his suspension. Since retiring from work in 2006, Mr Shepherdson spent much time in SRC with his wife and the friends they have made over the years participating in club activities, and unwinding over food and music at the Barker Lounge. [\[note: 33\]](#) Aside from participating in club activities, Mr Shepherdson was active in the management of the club, having served as the Vice-President of the MC for 2 years, and the GCB Chairman for 8 years (see para [23(a)] above). As a retiree, the activities and leadership roles he assumed at SRC were a big part of his social life. [\[note: 34\]](#) The suspension undoubtedly affected him significantly.

62 Second, the punishment meted to Mr Shepherdson (*ie*, the fine of \$1,000 and the 12-month suspension) was severe, being the maximum sanction for each category. [\[note: 35\]](#) Mr Shepherdson also felt aggrieved that he was sanctioned over speaking out on a point of order at the 2016 AGM, when no other member has been disciplined in recent memory for similar or more egregious conduct at an annual general meeting. [\[note: 36\]](#) Dr Goh, a former president of the MC of SRC for 22 years, gave evidence that it was usual for the annual general meetings to be rowdy affairs. There were no disciplinary proceedings – much less one involving the fining and suspension of a member – on account of an altercation at an annual general meeting during Dr Goh's time as president of the MC. [\[note: 37\]](#)

63 Third, Mr Shepherdson was disappointed as he felt that he contributed much to SRC, and spent his "10 best years bringing the club to a lot of glory". [\[note: 38\]](#) During his stint as the GCB Chairman, he raised the profile of the sports sections at SRC. [\[note: 39\]](#) Mr Shepherdson, who is also a life member at the Eurasian Association, managed to forge stronger ties between SRC and the Eurasian Association. [\[note: 40\]](#) Dr Goh testified that Mr Shepherdson's contributions to SRC were recognised when he was awarded the Singapore Sporting Inspiration Award by the Singapore Sports Council. [\[note: 41\]](#)

64 Fourth, the humiliation experienced by Mr Shepherdson was of a public nature. [\[note: 42\]](#) The altercation between Mr Shepherdson and Dr Singh occurred before the 923 members of SRC who attended the 2016 AGM. [\[note: 43\]](#) The altercation culminated in SRC's decision to suspend Mr

Shepherdson from the club. Although Mr Shepherdson's suspension was not publicised, [\[note: 44\]](#) I accept Mr Shepherdson's testimony that the news of his suspension had spread to other members of SRC. [\[note: 45\]](#) This is corroborated by (a) Dr Goh's testimony that the news on Mr Shepherdson's suspension had spread by word-of-mouth to many of his friends at SRC [\[note: 46\]](#) and (b) Mr Shareef's concession during cross-examination that news of a suspension can spread very quickly amongst the members of SRC by word-of-mouth. [\[note: 47\]](#) Mr Shepherdson also sensed that the news of his suspension had spread to the members at the Eurasian Association due to the overlap in membership at both places. He noticed that members at the Eurasian Association were avoiding him, and he stopped going to the Eurasian Association after a while as he no longer felt comfortable there. [\[note: 48\]](#)

65 Fifth, the clear evidence is that Mr Shepherdson's behaviour was affected by the suspension from SRC. Mr Khemlani described Mr Shepherdson as a changed person who had lost his usual cheerfulness and who could not stop talking about how he was treated unfairly in this episode. [\[note: 49\]](#) Mr Shepherdson's wife, Ms Adelene, deposed as to how the MC's decision caused him to be moodier and more withdrawn. [\[note: 50\]](#) Mr Shepherdson became restless at home, and he reduced his visits to his children and grandchildren. [\[note: 51\]](#) Mr Shepherdson's behaviour largely returned to normal after this matter was decided in his favour. [\[note: 52\]](#) He now goes to SRC about once a week to meet with friends, although he has yet to return to any of the activities he used to enjoy. [\[note: 53\]](#)

66 Finally, Mr Shepherdson suffered from an adjustment disorder as a result of the suspension. An adjustment disorder, as Dr Fones explained in his affidavit of evidence-in-chief, is the development of "emotional or behavioural symptoms in response to an identifiable stressor [that] are out of proportion to the intensity of the stressor", thereby "leading to significant impairment in social, occupational and other important areas of functioning". [\[note: 54\]](#) Dr Fones described the adjustment disorder in Mr Shepherdson's case to be a process rather than an event: [\[note: 55\]](#)

Sometimes the effects of some of these stress ... will come on later. For example, the effects of -
-- in this case, we are talking about embarrassment and humiliation ... it's a process rather than an event. So indeed, as he goes through, he's trying to adjust to a different, I suppose, lifestyle because of his suspension, the people that he meets, how they ... react to him. Indeed, how much it is etched into his memory as well the impression of others, I will say that there are some aspects ... that may surface subsequent and later.

67 According to Dr Fones, Mr Shepherdson's adjustment disorder has resolved without the need for psychiatric treatment, [\[note: 56\]](#) and he described Mr Shepherdson's mental distress and emotional anguish to be of a mild and limited severity. However, Dr Fones accepted in cross-examination that he only examined Mr Shepherdson seven months after Woo J's decision in November 2017, and that Mr Shepherdson may have been more distressed in the months leading up to Woo J's decision. [\[note: 57\]](#) In my view, having considered all the evidence, Mr Shepherdson probably suffered a psychiatric condition of a "moderate" severity as a result of his suspension from SRC (see *Guidelines for the Assessment of General Damages* at 25-27).

68 Accordingly, taking into account the factors above, in particular (a) the effect of the suspension on Mr Shepherdson's behaviour, (b) the public nature of Mr Shepherdson's humiliation, (c) impact on Mr Shepherdson's social life for ten and a half months, (d) the adjustment disorder, and (e)

that Mr Shepherdson's behaviour appeared to have largely returned to normal after Woo J decided in his favour, I assess the mental distress suffered by Mr Shepherdson to be of a moderate to moderately severe nature.

69 For completeness, I do not accept SRC's contention that Mr Shepherdson exaggerated his symptoms of mental distress. [\[note: 58\]](#) I found Mr Shepherdson to be a credible witness. Dr Fones was also of the opinion that Mr Shepherdson was honest and forthcoming during the psychiatric examination on 11 June 2018. [\[note: 59\]](#) I also reject SRC's attempt to downplay the effect of the suspension on Mr Shepherdson by submitting that "suspensions are part and parcel of club membership" and that "[t]here had been 9 different membership suspensions from [SRC] since 24 August 2015". [\[note: 60\]](#) The fact that there had been other suspensions is irrelevant to the assessment of the suffering caused by a wrongful one and its impact on that particular member.

Step 3: Quantifying the Damages

70 I now address the quantification of damages. In terms of comparable cases, the decision of *Kay Swee Pin* comes to mind. The \$40,000 in damages awarded for mental distress appeared to be motivated by the one-year period of suspension and the significant degree of humiliation and embarrassment inflicted on the plaintiff (see para [39] above). In comparison with the facts of *Kay Swee Pin*, Mr Shepherdson's suspension is slightly shorter in duration, and the degree of humiliation and embarrassment suffered is arguably less pronounced because (a) the charges against him did not contain imputations of dishonesty and (b) his suspension was not publicised.

71 However, I decline to rely on *Kay Swee Pin* as a benchmark for mental distress damages. Instead, I prefer to have regard to comparable awards for general psychiatric conditions which are set out in the *Guidelines for the Assessment of General Damages* for two reasons.

(a) First, the *Guidelines for the Assessment of General Damages* represent the efforts of a team of authors distilling guidelines from a number of precedent cases. In contrast, AR Teo in *Kay Swee Pin* admitted that he did not have any precedents to rely on, and awarded damages "[b]ased on the rather limited material and arguments on the quantum of damages" before him (see [89]-[92]). Further, the *Guidelines for the Assessment of General Damages* was published in 2010, and AR Teo did not have the benefit of it when he decided *Kay Swee Pin* in 2008.

(b) Second, the plaintiff in *Kay Swee Pin* did not suffer any psychiatric injury of a serious nature or any long-term impairment to coping with the activities of daily life. Accordingly, the mental distress damages awarded in *Kay Swee Pin* is rather high when compared against the range of \$25,000 to \$55,000 recommended for an individual who suffers a severe psychiatric condition that affects his ability to return to employment permanently or even take charge of his daily affairs (see *Guidelines for the Assessment of General Damages* at 26).

72 Based on the *Guidelines for the Assessment of General Damages*, the range of \$3,000 to \$8,000 is recommended for psychiatric conditions of a moderate nature where the prognosis is good and the individual shows marked improvement with treatment (at 27). As for psychiatric conditions of a moderately severe nature where the person may have long-term problems coping with work life and social life, the range of damages is \$8,000 to \$25,000 (see *Guidelines for the Assessment of General Damages* at 26).

73 In this case, having assessed the mental distress suffered by Mr Shepherdson to be of a moderate to moderately severe nature, the appropriate range of damages should be \$8,000 to

\$25,000. In my view, the higher end of this range should be reserved for cases with long-term impairment, of which there is none here. That being said, it does appear that Mr Shepherdson suffered quite acutely for a while and developed a recognised psychiatric condition that affected both his social and family life. Mr Shepherdson's behaviour has not returned fully to normal, and there is still some form of continuing loss in the attenuation of the pleasure he gets from returning to SRC (see para [65] above). In the circumstances, I find it appropriate to award Mr Shepherdson \$14,000 in damages.

Conclusion

74 For the foregoing reasons, I assess the amount of damages for the deprivation of membership rights and privileges at \$3,600, and the damages for mental distress at \$14,000. The total quantum of damages awarded to Mr Shepherdson is \$17,600.

75 I will hear parties on interest and costs.

[\[note: 1\]](#) Affidavit of Evidence-in-Chief of Shepherdson Terence Christopher dated 14 September 2018 ("Shepherdson's AEIC") at para 19.

[\[note: 2\]](#) *Ibid.*

[\[note: 3\]](#) Affidavit of Evidence-in-Chief of Shareef Bin Abdul Jaffar dated 11 September 2018 ("Shareef's AEIC") at pp 36-37.

[\[note: 4\]](#) Shareef's AEIC at para 24 and p 38.

[\[note: 5\]](#) *Ibid* at para 25.

[\[note: 6\]](#) Prayer 4 of HC/OS 218/2017; Plaintiff's closing submissions ("PCS") at pp 17 and 22.

[\[note: 7\]](#) Defendant's closing submissions ("DCS") at paras 6-7.

[\[note: 8\]](#) Defendant's reply submissions ("DRS") at para 19.

[\[note: 9\]](#) DCS at paras 17-59.

[\[note: 10\]](#) *Ibid* at paras 60-68.

[\[note: 11\]](#) *Ibid* at paras 78-82.

[\[note: 12\]](#) Shepherdson's AEIC at para 5.

[\[note: 13\]](#) *Ibid* at para 10.

[\[note: 14\]](#) *Ibid* at paras 10-11.

[\[note: 15\]](#) *Ibid* at para 24.

[\[note: 16\]](#) Exhibit D-9; Notes of Evidence (4 October 2018) ("NE2"), p 30, line 5 to p 31, line 31.

[\[note: 17\]](#) Notes of Evidence (3 October 2018) ("NE1"), p 5, lines 23-32.

[\[note: 18\]](#) NE2, p 64, lines 2-4.

[\[note: 19\]](#) *Ibid*, p 77, lines 2-10

[\[note: 20\]](#) Shepherdson's AEIC at para 5.

[\[note: 21\]](#) Shareef's AEIC at para 27.

[\[note: 22\]](#) *Ibid* at paras 28-29, and pp 40-45.

[\[note: 23\]](#) *Ibid* at para 30, and pp 52-54.

[\[note: 24\]](#) NE2, p 47, lines 1 to 5.

[\[note: 25\]](#) Shareef's AEIC at para 30.

[\[note: 26\]](#) Shepherdson's AEIC at paras 46-47.

[\[note: 27\]](#) PCS at pp 17-18; Plaintiff's reply submissions at para 2.

[\[note: 28\]](#) DCS at paras 48-49.

[\[note: 29\]](#) DCS at paras 60-68.

[\[note: 30\]](#) Shepherdson's AEIC at paras 28, 39, 41, and 44.

[\[note: 31\]](#) Affidavit of Evidence-in-Chief of Calvin Fones Soon Leng dated 17 September 2018 ("Dr Fones' AEIC") at p 15; Affidavit of Evidence-in-Chief of De Roza Adelene Margareta dated 12 September 2018 ("Adelene's AEIC") at paras 17-18.

[\[note: 32\]](#) Dr Fones' AEIC at pp 15-17.

[\[note: 33\]](#) Shepherdson's AEIC at paras 11, 13 and 15.

[\[note: 34\]](#) Dr Fones' AEIC at p 24.

[\[note: 35\]](#) Shepherdson's AEIC at para 39.

[\[note: 36\]](#) NE1, p 25, lines 20-28; NE1 p 70, lines 10-16

[\[note: 37\]](#) NE1, p 99 line 19 to p 100, line2; NE1, p 102, lines 18-24; NE1, p 118, lines 3-19.

[\[note: 38\]](#) NE1, p 25, lines 27-28.

[\[note: 39\]](#) Shepherdson's AEIC at para 11.

[\[note: 40\]](#) *Ibid* at para 14.

[\[note: 41\]](#) Affidavit of Evidence-in-Chief of Goh Kok Guan dated 12 September 2018 ("Dr Goh's AEIC") at paras 10-13.

[\[note: 42\]](#) Dr Fones' AEIC at p 18; Notes of Evidence (5 October 2018) ("NE3"), p 9, lines 11-19.

[\[note: 43\]](#) Exhibit D-3.

[\[note: 44\]](#) Shareef's AEIC at para 23.

[\[note: 45\]](#) NE1, p 23, lines 21-32

[\[note: 46\]](#) Dr Goh's AEIC at para 21.

[\[note: 47\]](#) NE2, p 35, lines 5-8

[\[note: 48\]](#) Shepherdson's AEIC at para 42; NE1, p 51, lines 10-20

[\[note: 49\]](#) Affidavit of Evidence-in-Chief of Dayal Odhermal Khemlani dated 12 September 2018 at para 19; NE1, p 79, lines 7-10

[\[note: 50\]](#) Adelene's AEIC at para 18.

[\[note: 51\]](#) *Ibid* at para 20.

[\[note: 52\]](#) *Ibid* at para 21.

[\[note: 53\]](#) Dr Fones' AEIC at p 18.

[\[note: 54\]](#) *Ibid* at p16.

[\[note: 55\]](#) NE3, p 7, lines 13-20.

[\[note: 56\]](#) Dr Fones' AEIC at pp 16-17.

[\[note: 57\]](#) NE3, p 6 lines 22-28; NE3 p 7, line 4 to p8, line 11.

[\[note: 58\]](#) NE1, p 59, lines 2-4.

[\[note: 59\]](#) Dr Fones' AEIC at p 19.

[\[note: 60\]](#) DCS at para 82.

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