

**APPENDIX A –  
SPECIFIC ALLEGATIONS OF BIAS IN THE CONDUCT OF THE INQUIRY  
COMMITTEE PROCEEDINGS BY THE APPELLANT AND  
CORRESPONDING RESPONSES BY THE RESPONDENT**

**SPECIFIC ALLEGATIONS BY  
THE APPELLANT**

**RESPONSES BY THE RESPONDENT**

**Appellant’s Affidavit (“AA”), para 32(a):**

“When the 1<sup>st</sup> Prosecution witness was handed over for cross-examination the Board members started asking her about whether the patients who registered to see me at ECM were visiting me as patients or as friends. The questions were phrased in such a way as to lead the witness to say that I did not attend to those patients and no prescriptions were made by me. This can be found at page 19 of the transcripts of the proceedings filed on 8<sup>th</sup> October 2004.”

**Respondent’s Submissions**

**(“RS”), para 58:** The allegation must be read in context. Page 18 of the transcripts must also be referred to. The questions complained of by the appellant actually followed from questions asked by the respondent’s answers to these questions. The questions complained of were in fact clarificatory in nature.

**AA, para 32(b):** “In questioning the 1<sup>st</sup> Prosecution witness, one of the Committee members presupposed that there is a duty roster at ECM. He appeared to ask the question as if he had knowledge of the workings of ECM (Page 20 of the transcripts).”

**RS, para 59:** The question was not completely irrelevant. The Inquiry Committee (“IC”) comprised largely of TCM physicians who had knowledge as to how an institution such as ECM would function and, hence, “[t]he questions asked were based on their general knowledge of how such healthcare establishments are run”. In any event, the asking of such a question might have actually assisted the appellant inasmuch as if his name had been on the duty roster of ECM as an attending physician, this would have supported his argument from experience as a TCM practitioner.

**AA, para 32(c):** “In the midst of my Counsel cross-examining the 2<sup>nd</sup> Prosecution witness, the Committee stopped my Counsel from asking the witness about treatment rendered by me to a cleaning lady in the office although this would have been relevant to show that I was a physician (Page 37 of the transcripts).”

**AA, para 32(d):** “The Committee Chairman intervened when the 3<sup>rd</sup> Prosecution witness was cross-examined by my Counsel as to whether he was giving testimony in favour of the Complainant out of fear. The Chairman felt that that was not a relevant question (Page 47 of the transcripts).”

**AA, para 32(e):** “When the 4<sup>th</sup> Prosecution witness was giving evidence, the Committee intervened and prevented cross examination of the witness’s ability to remember facts from about 2 years prior to the hearing. This was relevant because the witness asserted that she could specifically remember that there were two signatures on the Certificate of Employment when she collected it two years prior to the hearing. This was absurd and my Counsel was attempting to test her memory in relation to other matters in the application handled by her. The Committee however intervened. (Page 67 of the transcripts).”

**RS, para 60:** The continued questioning of this particular witness was unnecessary as the situation was one where the appellant had apparently assisted a staff of ECM, as opposed to treating her as a patient per se.

**RS, para 61:** Such a line of questioning was unnecessary. There were also other witnesses who had given similar evidence, but who were no longer in the employment of ECM. **Counsel for the respondent** further clarified in her **oral submissions** that the question concerned was, *in any event, allowed subsequently* (see Transcript of Proceedings, vol 1 (“TP1”) at p 48).

**RS, paras 62 and 63:** Counsel for the appellant in fact subjected this particular witness’s memory to much testing during the IC hearing itself (see TP1 at pp 61-67). Further, the witness had confirmed that there had been 2 original signatures on the copy of the Certificate of Employment submitted by the appellant - which was, in fact, the crucial issue as opposed to the question as to whether or not she could recall after a lapse of 2 years what was the exact date of the document itself. In any event, the IC had heard both counsel for the appellant’s questions and

the witness's answers with regard to the contents of the copy of the Certificate of Employment and had taken note of the witness's evidence in so far as these questions were concerned. Such evidence was in fact extensive. In any event, as the appellant was represented by counsel throughout the proceedings, it was open to his counsel to object to any inappropriate cross-examination of the appellant's witnesses. It was equally open to counsel for the appellant to cross-examine the respondent's witnesses on any relevant aspect of the case. In fact, allegations of impropriety in the mode and/or manner of cross-examination constitute a mere afterthought on the part of the appellant.

*AA, para 32(f):* "Despite the fact the Complainant was the main Prosecution witness and the proceedings themselves arose out of his complaint, the Committee chose not to ask him too many questions. In fact, the number of questions asked span a mere two pages in the transcripts (pages 149 to 150). It has to be noted that when my Counsel questioned the Complainant about his personal grudge, the Committee limited the questions that my Counsel could ask. And subsequently when the Committee members themselves asked him questions they did not see it fit to explore as to whether the Complainant had his own agenda."

*RS, para 65: Pages 149 and 150* of the transcripts represented, in fact, only a small part of the proceedings – re-examination of the complainant by counsel for the respondent. Further, there was no obligation on the part of the Committee to ask any, save only relevant, questions. It was also incumbent on the *appellant's counsel* to cross-examine the complainant. "It is completely unfounded for the [appellant] to blame [the IC] for not questioning [the complainant] sufficiently when the [appellant] could have done so."

**Counsel for the respondent** did in fact point out in her **oral submissions** that there had been extensive examination-in-chief

and cross-examination with regard to the complainant which were to be found at TP1, pp 97-149 (with cross-examination commencing from pp 114 to 145). She also reiterated that the IC was really an adjudicating tribunal and that there was therefore no reason for it to elicit answers from witnesses unless there were queries in their minds not addressed by counsel. She reiterated, once more, that counsel for the appellant had had the opportunity to cross-examine the complainant.

**AA, para 32(g):** “In contrast to the Prosecution witnesses, my witnesses were subject to lengthy questions by the Committee members. At times my witnesses were treated like they were on trial. Miss Adeline Chiew was questioned for such a lengthy period of time by the Committee that this part of the transcripts stretches from page 206 to page 220. Similarly the Committee’s questions put to Mr Soh Kah Leong occupy pages 258 to 265 of the transcripts.”

**RS, para 65:** “[I]t is evident from the transcripts why Ms Adeline Chiew and Mr Soh Kah Leong (i.e. the [appellant’s] witnesses) were subjected to lengthy questioning by the [respondent’s] counsel and [the IC]. It was purely because of the way both witnesses answered questions put to them ... and the contradictory and inconsistent evidence given by both witnesses. The [respondent’s] witnesses on the other hand answered the questions posed to them directly. Therefore, there was no need for the [respondent’s] counsel and [the IC] to subject them to further examination.”

**Counsel for the respondent** pointed to one example of this in her **oral submissions** at TP1, p 215, where the witness concerned was not answering the question and therefore the Committee had to intervene.

**AA, para 32(h):** “When it came to my testimony, the Board took an unnecessarily antagonistic approach. Not only did they subject me to lengthy questioning, they also asked me irrelevant questions that were clearly intended to insult me and my knowledge of traditional Chinese medicine. I was asked questions about what I knew in terms of Chinese medicine. This was wholly [appellant] should have taken the unwarranted. The investigation was supposed to be about whether I practised as a physician at ECM or whether there was any forgery in relation to the Certificate of Employment. There was no need for the Investigation Committee to enter into an insulting line of questioning (Pages 358 to 372 of the transcripts).”

**AA, para 32(i):** “Even the focus of the inquiry in relation to the question of whether I was practising as a Chinese Physician at ECM was slanted towards determining the number of hours that I spent in attending to patients. They failed to focus on the definition of “practising” under the Traditional Chinese Medicine Practitioners’ Act which is broader. In fact my Counsel had to address the Investigation Committee on the terms of reference of hearing because of the way in which the focus had been shifted.”

**RS, para 67:** “[The IC] had embarked on that line of questioning to determine the [appellant’s] level of competence and knowledge in TCM, in an attempt to arrive at a finding that the [appellant] did in fact [practise] TCM. In fact, the [appellant] should have taken the opportunity to impress [the IC] on his so called extensive knowledge of TCM. [The IC] was in fact trying to elicit such evidence from him so that they may be able to take the position that the [appellant] is sufficiently qualified to practise TCM although he had over-stated his [practice] experience in his application. However, they were shocked to find that the [appellant’s] knowledge in TCM was seriously lacking.”

Reference, **counsel for the respondent** argued, should also be made to Mr Ng Cheong Kim’s (the Chairman of the IC’s) affidavit at para 46 to this effect (see Bundle of Affidavits, vol 1 at p 13 of Mr Ng’s affidavit).

Similar response as with regard to the last-mentioned allegation.