

Knight Glenn Jeyasingam v Law Society of Singapore
[2007] SGHC 105

Case Number : OS 506/2007
Decision Date : 06 July 2007
Tribunal/Court : High Court
Coram : Chan Sek Keong CJ; Andrew Phang Boon Leong JA; V K Rajah JA
Counsel Name(s) : Chelva Retnam Rajah SC and Lalitha Rajah (Tan Rajah & Cheah) for the applicant; Sharmini Yogarajah (Haridass Ho & Partners) for the respondent; Valerie Thean (Attorney-General's Chambers) for the Attorney-General
Parties : Knight Glenn Jeyasingam — Law Society of Singapore

Legal Profession – Reinstatement on roll of advocates and solicitors – Application made 12 years after striking off – Lawyer struck off roll after conviction for offence implying defect of character – Whether lawyer fit to be restored on roll – Section 102 Legal Profession Act (Cap 161, 2001 Rev Ed)

Legal Profession – Practising certificates – Whether public interest justifying imposing conditions on lawyer's practising certificate – Section 25A(2)(b) Legal Profession Act (Cap 161, 2001 Rev Ed)

6 July 2007

Chan Sek Keong CJ (delivering the grounds of decision of the court):

1 This is an application by Glenn Jeyasingam Knight (“the Applicant”) to have his name replaced on the roll of advocates and solicitors of the Supreme Court of Singapore pursuant to s 102(1) of the Legal Profession Act (Cap 161, 2001 Rev Ed) (“LPA”). At the conclusion of the hearing, we allowed his application. We now give our reasons for doing so.

Brief facts

2 The Applicant was admitted as an advocate and solicitor of the Supreme Court of Singapore on 11 July 1973. He had begun his career as a Deputy Public Prosecutor in the Attorney-General's Chambers from 1970. While still with the Attorney-General's Chambers, he obtained a scholarship to do his Masters in Law at Cambridge University in 1983. On 16 October 1984, he was appointed the Director of the Commercial Affairs Department (“CAD”) in the Ministry of Finance, a post he held until 21 March 1991.

3 The Applicant had a distinguished record of public service. According to L P Thean J (as he then was) in *Knight v PP* [1992] 1 SLR 720 at 729, [27], the Applicant:

... was responsible for the setting-up of the department [CAD] and also for the success of that department in the investigation and prosecution of commercial crimes. In 1989 he received a strong commendation from the Minister for Finance for outstanding leadership in setting up CAD, and in 1990 he was awarded the Public Administration Medal (Gold). In addition, he had served, among others, the positions of a lecturer/tutor in the Faculty of Law, National University; a consultant in the Practice Law Course organized by the Board of Legal Education; vice-chairman of the Board of Governors for four Anglo-Chinese Schools, and vice-chairman of the Board of Management of Anglo-Chinese Independent School.

4 On 20 May 1991, the Applicant was charged with, *inter alia*, having committed an offence under s 6(c) of the Prevention of Corruption Act (Cap 241, 1970 Ed). He had already been suspended from the Singapore Legal Service ("the Legal Service") prior to this on 22 March 1991, the day after he was arrested in connection with this charge. The charge ("the 1991 charge") against him read as follows:

You, Knight Glenn Jeyasingam, NRIC No 0356370/E are charged that you, on or about the 17th day of November 1989, in Singapore being an agent, to wit, the Director of the Commercial Affairs Department, Ministry of Finance, Singapore, did knowingly use with intent to deceive your principal, to wit, one Jaspal Singh, the Director (Corporate & Regulatory Affairs), Ministry of Finance, a document, to wit, a vehicle invoice of Ching Dtien Company dated 9th November 1989, in respect of which the said Jaspal Singh was interested and which contained a statement which was false in a material particular, to wit, that Ching Dtien Company had sold to you a Subaru Legacy 1.8 GL motor car for a sum of \$73,500.00 which to your knowledge was intended to mislead your principal into granting you a government vehicle loan of \$65,000.00, and you have thereby committed an offence punishable under Section 6(c) of the Prevention of Corruption Act, Chapter 241.

On 30 September 1991, the Applicant was convicted on his plea of guilt in the Magistrate's Court and was sentenced to one month's imprisonment in respect of the 1991 charge. This was reduced on appeal by the High Court on 6 March 1992 to one day's imprisonment and a fine of \$10,000 or in default to imprisonment of four months (see *Knight v PP*, [3] *supra*). The Applicant paid the \$10,000 fine. He was subsequently dismissed from the Legal Service.

5 On 19 August 1993, a disciplinary committee of the Law Society of Singapore ("the Law Society") was appointed to hear and investigate certain complaints made against the Applicant. The amended charge faced by the Applicant in the disciplinary proceedings read as follows:

You, Knight Glenn Jeyasingam, are charged that on the 30th day of September 1991 you were convicted on a charge that as an agent you used knowingly with intent to deceive your principal, one Jaspal Singh, the Director (Corporate & Regulatory Affairs) Ministry of Finance, a document, to wit, a vehicle invoice of Ching Dtien Company dated 9 November 1989, in respect of which the said Jaspal Singh was interested and which contained a statement which was false in a material particular, to wit, that Ching Dtien Company had sold to you a Subaru Legacy 1.8 GL motor car for a sum of \$73,500.00; which to your knowledge was intended to mislead your principal into granting you a government vehicle loan of \$65,000.00, an offence punishable under Section 6(c) of the Prevention of Corruption Act, Chapter 241 and that on appeal you were sentenced to a term of imprisonment of 1 day and a fine of \$10,000.00 and in default of payment thereof, a term of imprisonment of 4 months and you are thereby guilty of conduct implying a defect of character which makes you unfit for your profession within the meaning of Section 83(2)(a) of the Legal Profession Act (Chapter 161, 1990 Edition).

6 The disciplinary committee found that the offence for which the Applicant had been convicted implied a defect of character which made him unfit for the legal profession. Accordingly, cause of sufficient gravity existed for disciplinary action under s 83(1) of the Legal Profession Act (Cap 161, 1990 Ed). At the subsequent show cause proceedings before the court of three judges, the Applicant was struck off the roll: see *Re Knight Glenn Jeyasingam* [1994] 3 SLR 531. Although the offence for which the Applicant had been convicted was not at all connected with the discharge of the Applicant's professional duties as an advocate and solicitor, the court was of the view that it was inexcusable that the Applicant should have become a perpetrator of a crime of deceit when he was,

at the time of the offence, charged with the responsibility of overseeing the investigation and prosecution of commercial crimes as Director of the CAD, a position of not inconsiderable significance within the legal profession and one which frequently placed the Applicant in the public eye.

7 In 1998, the Applicant was charged with various charges under ss 403 and 408 of the Penal Code (Cap 224, 1985 Rev Ed), relating to certain instances of his conduct in the CAD prior to 1991. After trial, he was convicted of one charge for breach of trust under s 408 for misappropriation of \$1,396.39 as Director of the CAD from the CAD's client account with M & C Services Pte Ltd, and one charge of misappropriation under s 403 of the Penal Code for \$1,323.61 from the same client account. The Applicant was sentenced to one day's imprisonment and a fine of \$10,000, or, in default, to imprisonment of 100 days. He was acquitted of a third charge under s 403 of the Penal Code. We will come back to these offences later.

8 It would also be appropriate to set out the Applicant's employment history since his conviction in 1991. Between 1992 and 1994, the Applicant was engaged as a consultant by PT Singa Jaya, the owners of Palm Beach Resort, a hotel in Batam. After being struck off the roll in 1994, the Applicant worked on a project for four months with Tomlinson Antiques Pte Ltd to help the company improve its marketing techniques. Following that, in 1995, he assisted Credit Development Pte Ltd, the owner of High Street Centre, for a period of eight months in various matters relating to winding-up proceedings that had been instituted against it by a bank. From 15 January 1997 to 31 August 1998, the Applicant was employed by Straits Development Pte Ltd. Although the nature of the work is unknown, according to the Applicant's affidavit, he "reported to the Chairman on various issues and projects". From September 1999 to September 2004, the Applicant assisted Shinko Securities Co Ltd ("Shinko"), a Japanese stockbroking company, in connection with the enforcement of a Singapore judgment in Malaysia. Thereafter, the Applicant worked for his wife at her restaurant from November 2004 to December 2005. The restaurant has since closed down. In his affidavit, the Applicant stated that he had had no fixed employment since the restaurant closed down.

The law

9 The power of the court to replace on the roll the name of a solicitor whose name has been removed or struck off the roll is found in s 102 of the LPA (as amended by Act 42 of 2005) which provides as follows:

- (1) The court may, if it thinks fit, at any time order the Registrar to replace on the roll the name of a solicitor whose name has been removed from, or struck off, the roll.
- (2) Any application that the name of a solicitor be replaced on the roll shall be by originating summons, supported by affidavit, before a court of 3 Judges of the Supreme Court of whom the Chief Justice shall be one.
- (3) The originating summons shall be served on the Society which shall —
 - (a) appear at the hearing of the application; and
 - (b) place before the court a report which shall include —
 - (i) copies of the record of any proceedings as the result of which the name of the solicitor was removed from or struck off the roll; and
 - (ii) a statement of any facts which have occurred since the name of the solicitor was

removed from or struck off the roll and which in the opinion of the Council or any member of the [Council] are relevant to be considered or to be investigated in connection with the application.

Time period which has elapsed since the applicant was struck off the roll

10 Counsel for the Applicant, Mr Chelva Retnam Rajah SC, rightly pointed out that in an application under s 102(1) of the LPA, one of the factors that a court has to take into account in determining whether an applicant deserves to have his name restored to the roll is whether a sufficient period of time has elapsed since the time the applicant was struck off the roll and the time the application for restoration is made.

11 Although s 102 does not provide that a minimum period of time should have elapsed before an applicant may seek to be restored as an advocate and solicitor, it is a well-established rule that a significantly longer period than five years should have passed before he should consider making such an application: *Re Chan Chow Wang* [1982-1983] SLR 413; *Re Lim Cheng Peng* [1987] SLR 486; *Re Nirmal Singh s/o Fauja Singh* [2001] 3 SLR 608 ("*Re Nirmal Singh*"); and *Re Gnaguru s/o Thamboo Mylvaganam* [2004] SGHC 180.

12 The reason for this rule is that under s 83(1) of the LPA, the maximum period for which a lawyer may be suspended is five years, and a striking off should normally be more serious than a suspension. The courts have accordingly held that while an application for restoration to the roll might be made at any time, such an application would not be entertained unless it was made after a period significantly longer than five years from the time when the applicant was struck off the roll. He or she ought not to be placed in substantially the same position as one who has been suspended for the maximum period of five years under s 83(1) of the LPA: see [13] of *Re Nirmal Singh*. The overriding concern is that the application should not be made prematurely, having regard to the nature of the criminal or disciplinary offences that led to the applicant's disbarment.

13 In the present case, the Applicant was suspended as a legal officer on 22 March 1991 and it has already been some 12 years and eight months since he was struck off the roll on 8 September 1994. In fact, it has been 16 years since the Applicant ceased his duties as the Director of the CAD. The Applicant's contention that this application had not been made prematurely was not challenged by counsel for the Attorney-General, Ms Valerie Thean. Ms Thean argued, however, that for the purposes of assessing whether the application for restoration to the roll under s 102 had been made prematurely, the Applicant's period of suspension from the Legal Service ought not to be taken into account as it could not be said that the Applicant ceased practice voluntarily.

14 The question of whether a court should take into account the time period during which a lawyer had voluntarily ceased practice even before he was struck off the roll arose in *Re Lim Cheng Peng* ([11] *supra*). In that case, the court of three judges allowed the applicant, Lim Cheng Peng, to be restored to the roll even though there was only a relatively short intervening period of three years from the date the applicant was struck off the roll and the date the application for reinstatement was made. In so doing, Wee Chong Jin CJ, who delivered the grounds of decision of the court, said at 490, [25] as follows:

[W]e could not ignore the fact that Lim Cheng Peng had ceased practice since 31 January 1978 on his own volition. Moreover, some delay had been occasioned in the disciplinary proceedings. In the light of all the circumstances that prevailed in this case, we thought it fit, although not without some hesitation, that his name should be replaced on the roll. We would emphasize that this case turned entirely on its own special factual situation and should not be regarded as a

precedent by those who might be minded to make such an application before the expiration of five years from the date of the order of striking off. [emphasis added]

15 It would be necessary to set out the chronology of events that occurred in *Re Lim Cheng Peng*. Lim Cheng Peng was first informed sometime in October 1977 that the Law Society would like to inspect his clients' account. He then made full and complete restitution of all moneys misappropriated and voluntarily ceased practice on 31 January 1978. He was charged and convicted for criminal breach of trust under s 409 of the Penal Code (Cap 103, 1970 Ed) on 28 February 1981. Following his conviction, a disciplinary committee was appointed on 7 May 1981. Because of the delay in the disciplinary proceedings, he was not brought before the court of three judges until 9 April 1984 when he was struck off the roll. By then, Lim Cheng Peng had already ceased practice as an advocate and solicitor for more than six years from 31 January 1978 when he voluntarily stopped practising.

16 Ms Thean contended in her written submissions, however, that *Re Nirmal Singh* ([11] *supra*) stood for the proposition that if a lawyer ceased practice involuntarily, that period of time should be discounted in deciding whether the application for restoration to the roll had been made prematurely. We do not think that this is the *ratio* of the decision. In *Re Nirmal Singh*, the court dismissed the application as it was of the view, *inter alia*, that the application had been made prematurely. The applicant, Nirmal Singh, had filed the application to be restored to the roll on 3 April 2001 which meant that there was only an intervening period of five years and four months since he was struck off the roll by the court. Nirmal Singh argued, however, that following *Re Lim Cheng Peng*, the period during which he had ceased legal practice before the order for striking off should be taken into account, which meant that he had not practised for eight years. This was rejected by the court. L P Thean JA, who delivered the grounds of decision of the court, said at [16] as follows:

We accepted the applicant's statement of fact as deposed to in his affidavit that he stopped practice as from 31 July 1993. Presumably, at or about that time, the police had commenced investigations into his affairs and he was subsequently arrested. He was charged with six counts before the district court in August 1993; he was tried and convicted on 3 September 1993, and was sentenced to a term of imprisonment for 18 months and was fined \$5,000. As such, *his cessation from legal practice at that time was far from voluntary and could hardly be said to have been undertaken by him in recognition of or in atonement for his mistakes*. In this case, the period before the order for striking off was made could hardly be taken into account for the purpose of deciding whether or not sufficient time had elapsed for the present application. [emphasis added]

17 It is clear from the above passage that the court did not take into account the period during which Nirmal Singh ceased practice because it was not voluntary and was not done to atone for his transgressions (three convictions for corruption and one conviction for criminal breach of trust). In the present case, even if the period of cessation of legal practice before the order for striking off was discounted, the interval between his striking off and the date of his application for restoration was 12 years and eight months. Having regard to all the circumstances of the case, we were of the view that this was a sufficiently long period of time to justify his restoration to the roll.

Whether the applicant can now be relied upon to discharge the duties of an advocate and solicitor with honour and integrity

18 As Mr Rajah pointed out, however, another reason why this court has held that a sufficiently longer period of more than five years should have elapsed before a lawyer who has been struck off the roll should consider applying to be restored to the roll under s 102 of the LPA is that the applicant would have the opportunity to demonstrate to the court, from his conduct during the intervening

period, that he has fully repented, reformed and rehabilitated.

19 If this factor was considered in isolation, it is clear that there are no good reasons why a court, in considering whether an applicant deserves to be restored to the roll, should not take into account the applicant's conduct even before the order for striking off was made. Indeed, a court should take into account an applicant's conduct throughout the time period since he ceased legal practice whether voluntarily or involuntarily in assessing whether the applicant is now of such a reformed character that there is no likelihood of him repeating similar offences or any other offence in the discharge of his professional duties, and that the applicant can be relied upon to discharge the professional duties of an advocate and solicitor with honour and integrity.

20 As the court in *Re Ram Kishan* [1992] 1 SLR 529 pointed out at 533, [14], in an application for restoration, the onus is on the applicant to convince the court that "he is still a person on whose integrity and honour reliance may be placed". In the same case, the court also pointed out that its "primary duty [is] the protection of the interests of the public and the profession as a whole, over and above the [private] interests of the applicant" (*ibid*). Similarly, Thean JA said at [20] of *Re Nirmal Singh* ([11] *supra*) as follows:

In the final analysis, the question was really whether or not, on all the materials available before the court, the applicant could be said to be one who was fit to have his name restored on the roll. The court must be every bit as jealous of the honour of those admitted to the Singapore legal profession as a man is of his own reputation, for the integrity of the profession is [dependent] wholly on the character and virtue of its members. At the same time, we must be conscious of the ever-compelling need to protect the public from errant lawyers and the serious harm which such lawyers could inflict on the public and the reputation of the legal profession.

21 In the present case, the evidence showed that the Applicant had apparently led an unblemished life and had no further brushes with the law since he was suspended as a legal officer on 22 March 1991. While it is true that the Applicant was convicted of various offences under ss 403 and 408 of the Penal Code in 1998, it was not disputed that these offences arose out of the Applicant's dealings prior to 1991, while he was still the Director of the CAD.

22 In support of his application for restoration, the Applicant produced before us several letters written by his employers, former colleagues, church friends and prominent senior members of the Bar attesting to, *inter alia*, his good character, integrity, trustworthiness, repentance, reform and rehabilitation.

23 Ms Ibu Fatimah, the then director of PT Singa Jaya which owned Palm Beach Resort, Batam where the Applicant was engaged as a consultant after his 1991 conviction until 1994, wrote that the Applicant handled the resort's finances and was responsible for handling about \$60,000 every month on the resort's behalf. She attested to the Applicant's "impeccable" honesty and integrity.

24 The Deputy General Manager of the Foreign Funds & Securities Settlement Department of Shinko, Mr Tatsuo Masuda, who worked closely with the Applicant from 2000 to 2004, stated that he found the Applicant to be a "reliable and responsible person in terms of financial affairs".

25 The Applicant also impressed several of his former employers and colleagues with his love for and sound knowledge of the law. Mr Micky H S Hon, a director of Credit Development Pte Ltd which the Applicant was assisting in 1995 in respect of winding-up proceedings brought against it, said that he found the Applicant's legal advice to be "sound and balanced" and also described the Applicant as a person with a "wealth of knowledge". Mr Ong Chee Kuan, a partner from the Malaysian law firm,

M/s Lee Ong and Kandiah, also gave a glowing review of how the Applicant greatly assisted his law firm, which was acting on behalf of Shinko, to reach a settlement with the judgment debtor.

26 Various prominent senior members of the Bar have come forward to attest to the Applicant's love for the law, his remorse for his actions, and of their personal beliefs that it would be extremely unlikely that the Applicant would repeat any kind of act or omission that would attract disciplinary action in the event his application was allowed. Mr Harry Elias SC, who acted for the Applicant in the appeal in respect of his first conviction and subsequently in the show cause proceedings before the court of three judges, spoke of the Applicant's knowledge and love for the law and how it was "extremely unlikely" that the Applicant would commit "any kind of act or omission that would attract criticism or any disciplinary action". Mr Leo Fernando, a personal friend of the Applicant for the past 37 years testified to, *inter alia*, how much the Applicant was sorry for and "regret[ted] his actions which led to his convictions".

27 Mr K Shanmugan SC, who acted for the Applicant when he was charged in the Subordinate Courts in 1998, and Mr John Koh, an advocate and solicitor who was also once a CAD officer and an adviser to Goldman Sachs, Singapore, both attested to the Applicant's integrity, trustworthiness and good character. Mr Shanmugan testified to, *inter alia*, his belief that the Applicant wanted to, and would act "properly and professionally" and that he had the "character and integrity to be a good lawyer". Mr Koh testified to, *inter alia*, the Applicant's trustworthiness, good character and how the Applicant truly regretted his previous actions. Mr Koh also stated his belief that the Applicant would serve the profession "honourably and faithfully" if given the opportunity.

28 Mr Don Ho, a senior accountant, attested to how he found the Applicant to be "honest, fair, incisive and objective and generally an upright person" and his belief that the Applicant was unlikely to repeat his past mistakes.

29 The Applicant has also found spiritual help and guidance. According to his affidavit, he worships at the Covenant Community Methodist Church at Blackmore Drive, Singapore. The Applicant was a founding member of the Emmaus Fellowship in his church, which played a major role in setting up an Employment Assistance Scheme under the Board of Christian Social Concerns of the Trinity Annual Conference of the Methodist Church in Singapore. Since the setting up of the scheme, the Applicant has supposedly helped five to ten persons who lost their jobs find re-employment. The pastor of his church, Rev Dr Ngoei Foong Nghian, Principal of Trinity Theological College, wrote of how the Applicant had suffered much distress and undergone much soul-searching and self-examination.

30 Howard and Peggy Thomas, a couple whom the Applicant had helped in a civil case without charge, spoke of how the Applicant helped them and described him as a "man of integrity".

31 The various testimonials filed in support of the Applicant's application for restoration to the roll assisted this court in concluding that the Applicant can now be regarded as someone whom this court can place reliance upon to discharge the duties of an advocate and solicitor with honour and integrity. There was no reason for this court to think that the various referees from different walks of life who wrote letters in support of the Applicant's application for restoration to the roll were not sincere in their opinions. The evidence before this court was not challenged and we had no reason not to accept it.

32 The Attorney-General and the Law Society were also of the view that there were no good reasons for them to object to the Applicant's application for restoration to the roll.

33 Having regard to the evidence before us, we were of the view that the application should be

allowed and we thereupon ordered that the Applicant's name be restored to the roll. In making the order, we expressed the hope that the Applicant would live up to the expectations of all his former employers, colleagues, friends and senior members of the Bar who had vouched for his good character and trustworthiness.

Whether conditions should be imposed on the applicant's practising certificate

34 Counsel for the Attorney-General, Ms Thean, argued, however, that there were certain public interest considerations which would justify the Attorney-General requesting the Registrar to issue to the Applicant a practising certificate subject to the condition that the Applicant does not practise as a sole proprietor pursuant to s 25A(2)(b) of the LPA. Section 25A(2) of the LPA provides as follows:

Where a solicitor to whom this section applies makes an application for a practising certificate, the Attorney-General or the Council may, having regard to all the circumstances of the case, in writing request the Registrar —

(a) to refuse the application for a practising certificate; or

(b) to issue a practising certificate to the solicitor subject to such conditions as the Attorney-General or the Council may specify,

and the Registrar may, subject to subsections (6) and (7), comply with the request and notify the solicitor in writing.

35 At the outset, we need to make some observations on the stand taken by the Attorney-General. As a general rule, the court should not restore an applicant to the roll if he is not fit to have his name restored to the roll. In allowing a lawyer who has been struck off to be restored to the roll, the court must not be left with a lingering doubt about the applicant's fitness to be so restored. There may however be exceptional cases where the applicant, if restored to the roll, should not be allowed to hold clients' moneys for appropriate reasons. In such cases, it may well be appropriate for the court to impose a condition that the applicant should not hold clients' moneys. These will be cases peculiar to the circumstances of the relevant applicant.

36 This court must nevertheless consider the submissions of the Attorney-General carefully as he is charged with the duty of safeguarding the public interest. The Attorney-General's contention was that there were public interest considerations at stake, such as the public perception of the professional standards to which lawyers were being held accountable and the vigilance with which the public's interests were being safeguarded by the courts, if the Applicant were restored to the roll.

37 The public perception of the legal profession and the public confidence in the legal profession's disciplinary process were particularly important in the present case because the Applicant, at the time the offences were committed, was himself charged with the responsibility of overseeing the prosecution of commercial crimes in Singapore. It is axiomatic that he who is charged with the responsibility to enforce the law should not break the law. However, accepting this, this principle has to be applied in a reasonable manner. There is a place for the concept of proportionality and common sense in balancing the merits and demerits of the application of this principle.

38 Ms Thean acknowledged, however, that "the criminal law has punished [the Applicant] for those crimes" and that the sentences of one day's imprisonment and a fine of \$10,000 meted out by the respective courts for the 1991 and 1998 convictions showed that the offences committed by the Applicant were not sufficiently serious to merit a higher punishment.

39 The Attorney-General accepted that while there was dishonesty involved in the charges for which the Applicant was convicted, "regard must be given to the facts of each particular offence". However, as counsel for the Attorney-General did not elaborate further, we need to examine more closely the nature of the offences on which the Applicant was convicted.

40 In respect of the 1991 charge, the Applicant had dishonestly used the government vehicle loan of \$65,000, which he purportedly obtained to finance the purchase of a new car, to repay an existing car loan for his old car. While we do not wish to understate the serious lapses of the Applicant in committing the offences on which he was convicted, we need to point out that with respect to the 1991 offence, he was entitled to the government vehicle loan, for which he was under an obligation to pay back. The Government did not suffer any financial loss. One of the charges the Applicant faced in 1998 arose because he had pocketed the price of a business class air ticket to Perth even though he had flown to Perth on an official CAD trip using an economy class air ticket. The economy class air ticket was paid for by funds in the CAD's client account with M & C Services Pte Ltd, a company engaged to provide the CAD with support services, such as the booking of air tickets for CAD officers' travel arrangements. While the offence of criminal breach of trust was a serious one for a person of the Applicant's status and standing, the Attorney-General also accepted that the amount in question was relatively small.

41 Having regard to the nature of the offences for which the Applicant was charged, we had some doubts about the usefulness of the Attorney-General's suggestion that the Applicant's practising certificate be issued subject to the condition that the Applicant should not practise as a sole proprietor. If, because of the nature of the offences for which he was convicted, it was felt that the Applicant could not be trusted to hold clients' moneys, then the appropriate condition to be imposed would be that he should not be allowed to hold such moneys, rather than the harsher condition that he should not practise as a sole proprietor. Given the relatively small amount of money involved (and in the case of the car loan, that he had *misused* rather than *misappropriated* it, and that he had fully repaid it), the Applicant, in our view, had already been adequately punished for the offences he had committed. Hence, we expressed the view that it would not be fair to circumscribe the manner in which he should be allowed to practise his profession.

42 During the course of the hearing, however, counsel for the Applicant said that the Applicant was prepared to give an undertaking that he would not practise as a sole proprietor for the first two years if his application for restoration to the roll was allowed. The Applicant was also prepared to give an undertaking not to practise as a sole proprietor for the period thereafter without the Attorney-General's consent. However, as this was a matter that would have to be sorted out between the Applicant and the Attorney-General, we made no observations on the offer.

43 However, we do have some further observations to make on the approach to be adopted in applications of this nature. As we expect that more applications for restoration to the roll would be filed after our decision in this case, we would like to emphasise that we have not laid down a general principle that if an advocate and solicitor has been disbarred for any particular lengthy period of time, say ten years and longer, he will automatically be entitled to be restored to the roll if he has a subsequent blemish-free history and receives the support of prominent members of the legal community. Each case must be decided on its own facts. One of the most important considerations must be the nature of the transgression that had resulted in his disbarment in the first place. The transgression, in terms of its criminality and its gravity, will invariably feature prominently in the court's assessment of the adequacy of the period of time that has lapsed since the applicant has ceased practice. But equally, if not more, important would be its effect or potential effect on the integrity of the courts and the administration of justice. Every advocate and solicitor is an officer of the court and a serious failure to support and uphold the administration of justice cannot be lightly

papered over notwithstanding the passage of time. It is not possible to enumerate all the material factors. Indeed, as a matter of principle, it is possible that the transgression of the advocate and solicitor could result in his being disbarred for a very long time (although we hope that this would be rare) if the nature of his misconduct shows he does not deserve to be restored to the roll.

Conclusion

44 For the reasons given above, we allowed the application for restoration of the Applicant to the roll, with no order as to costs.

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