

25/82

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. 44 OF 1981

ON APPEAL FROM

THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

BETWEEN

H. L. WEE .. Appellant

AND

THE LAW SOCIETY OF SINGAPORE  
.. Respondents

(In the Matter of Originating Summons No. 55 of 1981)

In the Matter of the Legal Profession Act (Cap. 217, 1970 Edn)

AND

In the Matter of an Advocate & Solicitor

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I N D E X    O F    R E F E R E N C E

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I N D E X     O F     R E F E R E N C E

\*\*\*\*\*

BRADDELL BROTHERS  
Unit 430, 4th Floor  
Colombo Court  
North Bridge Road  
Singapore 0617

Filed this <sup>th</sup> 12 day of November 1981

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. OF 1981

ON APPEAL FROM

THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

BETWEEN

H. L. WEE .. Appellant

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IN THE JUDICIAL COMMITTEE OF THE PRIVY  
COUNCIL NO. OF 1981

ON APPEAL FROM

THE COURT OF APPEAL IN THE REPUBLIC  
OF SINGAPORE

BETWEEN

M. L. WEE .. Appellant

AND

THE LAW SOCIETY OF SINGAPORE

.. Respondents

(In the Matter of Originating Summons  
No. 55 of 1981)

In the Matter of the Legal Profession  
Act (Cap. 217, 1970 Edn)

AND

In the Matter of an Advocate & Solicitor

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M/s BRADDELL BROTHERS  
ADVOCATES & SOLICITORS  
Unit 430 4th Floor Colombo Court  
North Bridge Road Singapore 0617

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. OF 1981

ON APPEAL FROM

THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

BETWEEN

H. L. WEE .. Appellant

AND

THE LAW SOCIETY OF SINGAPORE

.. Respondents

(In the Matter of Originating Summons No. 55 of 1981)

In the Matter of the Legal Profession Act (Cap.217, 1970 Edn)

AND

In the Matter of an Advocate & Solicitor

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I N D E X O F R E F E R E N C E

\*\*\*\*\*

BRADDELL BROTHERS  
Unit 430, 4th Floor  
Colombo Court  
North Bridge Road  
Singapore 0617

Filed this 12<sup>th</sup> day of November 1981

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. 44 OF 1981

ON APPEAL FROM

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BETWEEN

H. L. WEE .. Appellant

AND

THE LAW SOCIETY OF SINGAPORE

.. Respondents

(In the Matter of Originating Summons No. 55 of 1981)

In the Matter of the Legal Profession Act (Cap. 217, 1970 Edn)

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. OF 1981

ON APPEAL FROM

THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

BETWEEN

H. L. WEE .. Appellant

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.. Respondents

(In the Matter of Originating Summons No. 55 of 1981)

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P A R T I

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BRADDELL BROTHERS  
Unit 430, 4th Floor  
Colombo Court  
North Bridge Road  
Singapore 0617

IN THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL

NO. OF 198

---

O N A P P E A L  
FROM THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

---

B E T W E E N :-

H.I. WEE ... Appellant

- and -

THE LAW SOCIETY OF SINGAPORE  
... Respondents

---

RECORD OF PROCEEDINGS

---

No. 1

AMENDED

STATEMENT OF CASE

1. Harry Lee Wee (hereinafter called "the Respondent") an Advocate and Solicitor of the Supreme Court of the Republic of Singapore of some thirty years standing, practises, and has at all material times practised, under the name and style of Braddell Brothers (hereinafter called "the Firm"). The Respondent was at various times a member of the Council of the Law Society of Singapore, and was the President of the Law Society for the period 1975 to 1977, inclusive.

2. In or about 1971, one S. Santhiran, an Advocate and Solicitor (hereinafter called "Santhiran") entered employment with the Firm as a legal assistant.

2.

3. In or about February 1976, the Respondent had reason to believe that Santhiran had misappropriated, in aggregate, a substantial sum standing to the credit of the clients account of the Firm.

10 4. In or about March 1976, Santhiran admitted to the Respondent that he, Santhiran, had misappropriated or otherwise misapplied sums totalling \$298,270.75 from the clients account of the Firm.

5. Between the 9th March 1976 and the 10th June 1976 Santhiran, with the knowledge and encouragement of the Respondent, made restitution to the Firm of \$297,956.12 in respect of monies misappropriated or otherwise misapplied by Santhiran as aforesaid.

20 6. In or about November 1976, the Respondent appointed Medora and Tong, a firm of public accountants (hereinafter called "the Accountants") to inspect the accounts of the Firm with a view to ascertaining the extent of the misappropriation or misapplication of funds by Santhiran from its clients account.

30 7. Notwithstanding the facts referred to in paragraphs 3 to 6 inclusive of this Statement of Case, the Respondent failed to make a report to the Police Law Society concerning the conduct of Santhiran, who continued in the employment of the Firm as an Advocate and Solicitor, albeit without salary, until he left the service of the Firm on the 21st December, 1976.

40 ~~8. In or about late April and or early May, 1977, the Respondent asked one Jamshid Medora, a partner of the Accountants having conduct of the inspection referred to in the preceding paragraph, to inform Santhiran that, or to the effect that:-~~

~~(i) so long as Santhiran made, or caused to be made, full restitution; and~~

~~(ii) applied on his (Santhiran's) own motion to have his (Santhiran's) name struck off the Roll of Advocates and Solicitors,~~

~~the Respondent would not report the matter to the Police.~~

10 ~~9.~~ 8. The Accountants delivered their report to the Respondent on or about the 25th May 1977. The Respondent first reported the conduct of Santhiran to the Police on or about the 26th May 1977, and wrote to the Law Society with reference thereto on the ~~27th May, 30th April, 1977.~~

20 ~~10.~~ 9. Santhiran was charged on five charges under section 408 of the Penal Code. One charge was proceeded with, the prosecution asking for the remaining four charges to be taken into consideration. Santhiran was convicted on the 10th May, 1978 and sentenced to 9 months' imprisonment, having admitted the facts pertaining to the charge that was proceeded with, and having consented to the four remaining charges being taken into consideration.

30 ~~44.~~ 10. By reason of the facts referred to in paragraphs 2 to ~~7~~ 8 hereof (inclusive). The Respondent was guilty of grossly improper conduct in the discharge of his professional duty within the meaning of section 84(2)(b) of the Legal Profession Act; further, or in the alternative, the Respondent was guilty of such conduct as would render him liable to be disbarred, struck off the Roll of the Court, suspended from practice or censured if a barrister or solicitor in England, due regard being had to the fact that the two professions are fused in Singapore.

40

10 ~~12. By reason of the facts referred to in paragraph 7 hereof in conjunction with facts referred to in paragraphs 2 to 7 hereof (inclusive), the Respondent was guilty of such conduct as would render him liable to be disbarred, struck off the Roll of the Court, suspended from practice or censured if a barrister or solicitor in England, due regard being had to the fact that the two professions are fused in Singapore.~~

~~13.~~ 11. It is submitted that the Respondent should be dealt with under section ~~84(4)~~93(1)(c) of the Legal Profession Act.

Dated the 14th day of March, 1979.

| Amended as underlined in red ink  
| this 23rd day of September, 1980.

Signed J. Grimberg

20

J. GRIMBERG

Solicitor for the Council of  
the Law Society of Singapore.



No.2

VERBATIM REPORT.In the  
Disciplinary  
Committee

DISCIPLINARY COMMITTEE PROCEEDINGS HELD ON  
TUESDAY, 23/9/80 IN THE CONFERENCE ROOM,  
SUBORDINATE COURTS, at 10.30 A.M.

No. 223rd  
September  
1980

BEFORE:

MR. C.C. TAN (Chairman)  
" PO GUAN HOCK  
" ERIC CHOA.

Respondent's  
Counsel's  
Opening Speech  
and  
Preliminary  
Submissions

10

Counsel For the Law Society: Mr. Joe  
Grimberg.

Counsel for the Respondent: Mr.C.W.G.  
Ross-Munro,  
Q.C.  
(with Mr.C.  
S. Wu)

-----

CHAIRMAN: Yes, Mr.Grimberg.

MR.GRIMBERG:

20

Sirs, I appear for The Law Society in  
these proceedings; my learned friend Mr.  
Ross Munro and my learned friend Mr.Wu  
appear for the Respondent.

If you have no objection, we would  
like pupils from our respective offices to  
be present.

CHAIRMAN: Yes.

MR. GRIMBERG:

30

Sirs, the first thing I have to do is  
to make application to you to amend the  
Statement of the Case; that is to say, the  
amendment is not of any great consequence  
and my learned friends have kindly indica-  
ted that they would not object to the  
amendment. So if I may take the liberty  
of handing up to you three copies.

I ask for formal leave to amend, and I have anticipated your leave by actually signing these copies and dating them today.

In the  
Disciplinary  
Committee

                      
No. 2

CHAIRMAN: Any objection?

MR. ROSS-MUNRO: No objection.

MR. GRIMBERG:

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

10 Sir, I am very much obliged to you. Sir, perhaps I had better take you through that statement of the case. It reads:

"Harry Lee Wee (hereinafter called the Respondent), an Advocate & Solicitor of the Supreme Court of the Republic of Singapore of some 30 years' standing practices and has at all material times practised under the name and style of Braddell Brothers (hereinafter called the Firm).

20 The Respondent was at various times a member of the Council of the Law Society of Singapore and was the President of the Law Society for the period 1975 to 1977 inclusive.

In or about 1971 one S. Santhiran (hereinafter called Santhiran) entered into employment with the firm as a Legal Assistant.

30 In or about February 1976 the Respondent had reason to believe that Santhiran had misappropriated as advocate a substantial sum standing to the credit of clients' accounts of the firm.

In or about March 1976 Santhiran admitted to the Respondent that he, Santhiran, had misappropriated or otherwise misapplied sums totalling \$298,000 odd from the clients' accounts of the firm.

40 Between 9th March 1976 and the 10th of June 1976 Santhiran with the knowledge and encouragement of the Respondent made restitution to the firm of \$297,000

MR. GRIMBERG (cont):

"odd in respect of monies misappropriated or misapplied by Santhiran as aforesaid.

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10 In or about November 1976 the Respondent appointed Medora & Thong, a firm of Public Accountants (hereinafter called the Accountants) with a view to ascertaining the extent of the misappropriation or misapplication of funds by Santhiran from its clients' accounts. Notwithstanding the facts referred to in paragraphs 3 to 6, inclusive, of this Statement of the Case, the Respondent failed to make a report to the Police concerning the conduct of Santhiran and continued in the employment of the firm as an Advocate & Solicitor, albeit without salary, until he left the service of the firm on 31st December" ---

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

20 Sir, before I leave that paragraph, a very obvious amendment which ought to have been made, because he is not charged with failing to report to the Police but to the Law Society - so I would like leave to amend the words "the Police" to "the Law Society".

30 My learned friend has no objection. I am greatly obliged. And if we can go on - my learned friend has pointed out yet another error, I am afraid. So: he "failed to make a report to the Law Society concerning the conduct of Santhiran who continued in the employment of the firm as an Advocate & Solicitor albeit without salary until he left the service of the firm on the 31st of December". My learned friend says it ought to be "the 21st of December". So I accept that, and I ask for leave to amend "31st of December" to 21st of December".

40 We then go over the page to a new paragraph 8:

"The Accountants delivered their report to the Respondent on or about the 25th May 1977. The Respondent first reported the conduct of Santhiran

MR. GRIMBERG (CONT):

In the  
Disciplinary  
Committee

"to the Police on or about 26th May 1977 and wrote to the Law Society with reference thereto on the 30th April 1977.

\_\_\_\_\_  
No. 2

10 Santhiran was charged on five charges under Section 408 of the Penal Code. One charge was proceeded with, the Prosecution asking for the remaining four charges to be taken into consideration.

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

Santhiran was convicted on the 10th May 1978 and sentenced to nine months' imprisonment having admitted to the facts pertaining to the charge that was proceeded with and having consented to all the remaining four charges to be taken into consideration.

20 By reason of the facts referred to in paragraphs 2 to 8 hereof inclusive, the Respondent was guilty of grossly improper conduct in the discharge of his professional duty within the meaning of section 84 (2) (b) of the Legal Profession Act.

30 Further, or in the alternative, the Respondent was guilty of such conduct as would render him liable to be disbarred, struck off the roll of the Court, suspended from practice or censured if a Barrister or Solicitor in England, due regard being had to the fact that the two professions are fused in Singapore.

It is submitted that the Respondent should be dealt with under Section 84 (1) of the Legal Profession Act."

40 Now, Sirs, at the outset I ought to tell you that the facts set out in paragraphs 1 to 8, inclusive, of the Statement of the Case are agreed. There is no dispute as to those facts, and so the result is from that, that I will call no evidence and the Law Society will rely on the documents

MR. GRIMBERG (cont):

In the  
Disciplinary  
Committee

which you will shortly be seeing on the Respondent's admissions as to the matters pleaded in paragraphs 1 to 8 of the Statement of the Case.

\_\_\_\_\_  
No. 2

My learned friend has kindly indicated that he also agrees as to what (was stated) in the context of paragraphs 1 to 9 inclusive. I am obliged.

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

10 So, as I say, we rely on the documents, we rely on the admissions as to the facts pleaded in paragraphs 1 to 9 and of course we rely on whatever may be elicited in the cross-examination of the Respondent, if he gives evidence, and on the cross-examination of his witnesses, if he produces any.

20 The case of the Law Society is that the Respondent's delay in reporting Santhiran's criminal breaches of trust of clients' monies to the Law Society amounted to grossly improper conduct in the discharge of his professional duty within the meaning of Section 84 (2) (b).

30 Now, Sir, you will have noticed that there is an alternative plea in the Statement of the Case under Section 84 (2) (h) - I think it is - and I must tell you immediately that my evidence does not support the alternative complaint, and I therefore abandon it.

CHAIRMAN: Which one, Mr. Grimberg? Which paragraph?

MR. GRIMBERG:

40 Paragraph 10 of the amended Statement of the Case. You will see that half way down that paragraph I say, "further, or in the alternative, the Respondent was guilty of such conduct as would render him liable to be disbarred," etc. etc. "in England, due regard being had to the fact that the two professions are fused in Singapore." That is being abandoned.

MR. GRIMBERG (cont):

Perhaps it might be an appropriate time for us to refresh our minds as to what Section 84 says, and perhaps I ought now to invite your attention to Section 84. Subsections (1) and (2) read as follows:

"(1) All advocates and solicitors shall be subject to the control of the Supreme Court and shall be liable on due cause shown to be struck off the roll or suspended from practice for any period not exceeding two years or censured.

(2) Such due cause may be shown by proof that such person -" and then we go to (b) -

"(b) has been guilty of fraudulent or grossly improper conduct in the discharge of his professional duty or guilty of such a breach of any usage or rule of conduct made by the Council under the provisions of this Act as in the opinion of the court amounts to improper conduct or practice as an advocate and solicitor;"

and I needn't trouble you with any of the other subsections because that is the subsection under which the Respondent now stands charged.

And so we must consider what professional duty in the context of Section 84 (2) means and to whom that duty is owed, and my submission to you is that an advocate and solicitor of this court owes a duty to his clients, to his profession and to the public at large.

Now, it is an admitted fact that by March 1976 the Respondent knew that Santhiran had misappropriated very nearly \$300,000 on Santhiran's own admission. By mid-June of the same year Santhiran, to the Respondent's knowledge - and indeed I plead with the Respondent's encouragement,

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No.2

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

10

20

30

40

MR. GRIMBERG (cont):

In the  
Disciplinary  
Committee

---

No. 2

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

10 and I say so now - made restitution to the Respondent's firm of about \$297,000. The Respondent took no steps to bring this certain knowledge to the attention of the Law Society either formally or informally until the end of March 1977; that is to say, until some 13 months from the first discovery by him of Santhiran's admitted criminal breaches of trust. And it would be my submission to you that this delay constituted a breach by the Respondent of his duty to his clients, to his profession and to the public at large, and that that breach amounted to grossly improper conduct within the meaning of Section 84 (2) (b). Now, Sir, at this early point I am sorry to say we arrive at questions over which my learned friend Mr. Ross-Munro and I are  
20 in contention - so far in friendly contention, but nevertheless contention - and the issues over which we are in contention are these, if I may put it to you in this way.

30 Firstly, I say that in determining whether the Respondent was guilty of grossly improper conduct, it is open to you to consider the natural and ordinary consequences of his delay in reporting to the Law Society, and I will tell you what I mean by that in a moment. That is the first point.

My learned friend says, "Well, you know, you can't deal with the consequences what might or might not have happened if the Respondent had reported, and what did flow from the fact that he has not reported is not something which your Committee, Sir, is entitled to take into account."

40 The second bone of contention between us is that I say that I am entitled, I say that I am entitled in opening to you now and that I am entitled to cross-examine the Respondent if he chooses to give evidence on the merits and truthfulness of the Respondent's explanations to the Law Society and to you for the admitted delay, and I am entitled to question his motives for the delay.

MR. GRIMBERG (Cont):

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10 So again, if I can describe in simple language the issue between us, my learned friend, as I understand it - the Respondent, as I understand it, will come before you and say, "Yes, there was a delay. I am sorry about it. Perhaps with the benefit of hindsight it would not have happened. But here are the explanations and these explanations really indicate that this was an error of judgment, and no more; and that certainly is not grossly improper conduct."

Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

I say to you, Sir, that I am entitled to investigate those explanations and if I consider fit, to question them and to put to the Respondent what I conceive his real motive for the delay was.

20 So those are the issues on which we are, as I say, in contention and my learned friend and I have therefore decided, subject to your approval, that we should submit to you for determination as preliminary issues in this investigation the following questions; and I will read out if we can agree the text of the questions:

30 (1) Whether you are entitled to consider for the purposes of this investigation the natural and probable consequences of the Respondent's admitted delay in reporting to the Law Society?

40 (2) Whether Counsel for the Law Society (that is me) is entitled to address you in opening and to cross-examine the Respondent if he chooses to give evidence on the merits and truthfulness of the Respondent's explanations for the admitted delay and the Respondent's motive for it.

So, Sir, with your permission, may I begin to address you on these two preliminaries? Much obliged.

CHAIRMAN: In respect of these two questions?



MR. GRIMBERG:

In the  
Disciplinary  
Committee

Yes. And then, depending on your determination of them, I will proceed with the investigation of the next question.

10 Question (1): my submission to you on that is this. It would be taking a wholly narrow, artificial, myopic and wrong view if, in considering whether the Respondent was guilty of grossly improper conduct, you ignored the obvious and natural consequences of his delay in reporting Santhiran's misappropriations. In my submission, the first obvious and natural consequence was that the Law Society was not placed in a position by its own machinery and, as a result of what would have been inevitable Police investigations, to take prompt steps leading to Santhiran's being struck off. The Law Society was not  
20 put in that position, nor were the Police put into that position of investigating.

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Respondent's  
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30 And the second consequence was that the public was exposed to the risk of Santhiran's continuing to commit the same or similar crimes of dishonesty, and I say that that factor or that risk - perhaps I ought to say that, that risk was the more acute when you consider that for a period of three or four months after the defalcations were discovered he was making substantial payments to the Respondent by way of restitution. What I am saying, Sir, is that while that was going on there was the real risk which may not have happened, but there was the real risk that Santhiran would steal from Peter to pay back to Paul. And I say to you that these are consequences that you must take into consideration in  
40 considering whether the Respondent's conduct was grossly improper.

Now I am mindful of the established rule - as I am sure you are - that you may only consider the charge before you, no other charges and no matters unrelated to the charges before you. That rule was one which was established in a recent case before the Privy Council and restated in

MR. GRIMBERG (cont):

Re Advocate and Solicitor.

In the  
Disciplinary  
Committee

MR. ROSS-MUNRO:

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Sir, I wonder if we could hand these. We have prepared the authorities on both sides, which would save Mr. Grimberg from going through them. (Tenders copies).

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CHAIRMAN: Yes, thank you. That is very nice of you.

10 MR. GRIMBERG:

The next I am referring you to now, Sir, is: 1978 2 M.L.J. 7 re Advocate and Solicitor. It is in the Bundle, Sir.

CHAIRMAN: On which page?

MR. WU: It is the third authority.

MR. GRIMBERG:

20 I'm much obliged. Now, I was just going to read the headnote on that, and I will read passages from the Judgement of the Learned Chief Justice, if my learned friend wished me to read other passages would he please let me know. The Headnote reads as follows:

30 "In this case as a result of a com -  
plaint by the Director of the  
C.P.I.B., the Council of the Law  
Society after referring the matter  
to the Inquiry Committee and deciding  
that there shall be a formal investi-  
gation, wrote to the Respondent  
informing him that there will be a  
formal investigation into the  
complaint of payment of monies to a  
tout for bringing in accident cases."

So that was the formal investigation.

"The matter was referred to the  
Disciplinary Committee, and the  
Disciplinary Committee then specified

MR. GRIMBERG (cont):

In the  
Disciplinary  
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"the following complaints against the Respondent:

- (1) Payment of monies to a tout for bringing in accident cases, and
- (2) receiving other than taxed costs from the accident victims.

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Respondent's  
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(continuation)

10

After hearing and investigating the matters the Disciplinary Committee submitted their report, in effect, stating that the charges were proved. An Application was thereupon made calling upon the Respondent to show cause why he should not be dealt with under Section 84 of the Act.

20

Held: By virtue of Section 88 of the Legal Profession Act, it is the Council of the Law Society that formulates charges against an advocate and solicitor and under Section 93 (1) of the Act a Disciplinary Committee appointed by the Chief Justice can only investigate matters referred to it by the Council and cannot decide of its own motion to investigate matters not specifically referred to it by the Council. Therefore all or any of the matters relating to the receiving and accepting of monies from accident victims other than taxed costs could not properly have been heard by the Disciplinary Committee and hence were not properly before the Court.

30

The charge under section 84 (2) (c) of the Act must be proved beyond reasonable doubt." And then "in this case the evidence" - I don't think we should be concerned about the rest of the Headnote, Sir.

40

Then I would like you to go to page 8, the next page and you would see in the middle of the left-hand column the letter that was addressed to the Respondent Ong Tiang Choon by the Law Society, in the centre of the page. You have it? It

MR. GRIMBERG (cont):

says "Ong Tinng Choon, Messrs. Ong Tiang Choon & Co." - you have that, Sir?

CHAIRMAN: Yes.

MR. GRIMBERG:

Therefore, the complaint says, "Dear Sir,

"Complaint by the Director, C.P.I.B.

I am directed to inform you pursuant to the provisions of Section 88 (1) (c) of the Legal Profession Act (Chapter 217) that the Council has determined that there shall be a formal investigation by the Disciplinary Committee into the following complaints against you, namely, payments of monies to a tout for bringing in accident cases."

And as you will have noticed from the Headnote the Disciplinary Committee in its wisdom brought in another charge.

And then we go to page 10 in that report, in the left-hand column, the first complete paragraph beginning with "The aforesaid application".

"The aforesaid application came up for hearing before us on the 5th Day of August/September 1977 when Counsel for the Respondent, Mr. Smith, referred us to Section 88 (2) of the Act and took the point that by virtue of the Council's said letter" -

that is the letter I have just read out to you -

"of September 16, 1976, the only matters that can properly be heard and investigated by the Disciplinary Committee were matters relating to what has been specifically referred to in the said letter, namely, payment of monies to a tout for bringing in accident cases and that

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(continuation)

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20

30

40

MR. GRIMBERG (cont):

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Disciplinary  
Committee

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10 "therefore the matters set out in paragraphs 4 and 5 of the amended Statement of the Case relating to receiving or accepting payment of monies for the two accident victims for so acting other than taxed costs, being contrary to Section So-and-So, could not lawfully be heard and investigated by the Disciplinary Committee.

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He submitted that the Disciplinary Committee had no power to hear and investigate matters other than those for which the Respondent had been specifically informed of by the said letter under Section 88 (2) of the Act."

20 And then, Sir, I think we can go to the next page 11 on the left-hand column, the third paragraph down, where the learned Chief Justice deals with that submission.

30 "In our judgment the point taken by Mr. Smith is a valid one. Consequent upon all this therefore all or any of the matters relating to the receiving and accepting payments of monies from accident victims other than taxed costs could not properly have been heard by the Disciplinary Committee and hence are not properly before us.

40 The only matter over which the Disciplinary Committee could have heard against the Respondent and which we therefore can now entertain are matters relating to payments of monies to a tout in bringing in accident cases. This fundamental error on the part of the Disciplinary Committee vitiates the whole of its findings as recorded in subparagraph So-and-So of the Report and render them a nullity and of no effect.

The finding of the Disciplinary Committee of a charge against the

MR. GRIMBERG (cont):

"Respondent under section 284 (2)(b) cannot therefore be supported on the grounds as stated in paragraph 13 (9) of the Report."

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Disciplinary  
Committee

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10 Now before I leave that paragraph, may I just direct your particular attention to one sentence in it? The second complete sentence beginning with "the only matters", as that seems to be the crux of it.

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Speech and  
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Submissions  
(continuation)

"The only matters which the Disciplinary Committee could have heard against the Respondent and which we therefore can now entertain are matters relating to payment of monies to a tout for bringing in accident cases."

20 And so in my submission what the Chief Justice was saying is that you can hear the charge against him and you can hear matters relating to that charge against him, but you can't hear anything else.

30 CHAIRMAN: Mr. Grimberg, may I interrupt you for a minute? I know we have been given a bundle of agreed documents. Do you have any communication in this case under section 88 (2) which is analogous to the letter referred to in this case?

MR. ROSS-MUNRO:

We have.

MR. GRIMBERG:

40 We have. My learned friend says we have. The letter, in our view, the letter that the learned Chief Justice was dealing with there is page 69 of the Blue Bundle, Sir. I shall be taking you through the entire agreed bundle, and it is right, with respect, Sir, that you should see it now.

[Reads]

MR. GRIMBERG (cont):

In the  
Disciplinary  
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No. 2

10 "I am directed to inform you that  
the Law Society of Singapore have  
accepted the findings of the Inquiry  
Committee as follows: (1) that there  
shall be a formal investigation by a  
Disciplinary Committee into the  
following complaint against your  
failure to report the criminal breach  
of trust committed by S. Santhiran  
when he was a Legal Assistant in the  
firm of Braddell Brothers to the Law  
Society earlier.  
An application was made to the Chief  
Justice under Section 90 of the Legal  
Profession Act and upon conclusion  
of the criminal proceedings."

Respondent's  
Counsel's  
Opening  
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Preliminary  
Submissions  
(continuation)

20 So you should ignore the next paragraph,  
nothing to do with us. So that was the  
equivalent letter, and in the letter they  
are talking about delay; failure to report  
earlier equals delay. And I am saying to  
you that anything relating to that matter,  
anything relating to that charge - put it  
in another way, any matter relating to that  
charge is a legitimate area for you to  
inquire into.

30 So I say to you on that authority  
that the consequences of failing to report  
are wholly relevant and related to the  
omission of not reporting earlier, with  
which the Respondent stands charged. The  
Respondent must be deemed to have intended  
the natural consequences of his omission.

40 Let me put it to you in another way:  
you are here investigating an admitted  
delay, and I hope I am not putting it too  
high from my point of view in saying that  
what the Respondent is asking you to do is  
to take into account his explanations by  
way of mitigating factors.

Now I say to you that you are  
entitled to set those mitigating factors  
against what the consequences, what the  
natural consequences of his omission were.  
And to say that you are precluded from

MR. GRIMBERG (cont):

In the  
Disciplinary  
Committee

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10 looking at those consequences seems to me  
to be like saying, by way of analogy, that a  
court hearing a charge of assault where  
that assault was admitted is not entitled  
to hear about the consequences of the  
assault to the victim. I say that in that  
analogy the court hearing that case is en-  
titled to say, "Well, what became of the  
victim? He was hit hard over the head.  
Did he become a vegetable, or did he walk  
out of the Outpatients Department with a  
small plaster on his head?" Because that  
surely would go into the gravity of the  
offence and that surely is what you are  
concerned with here, because it is the  
question of gravity which is crucial to the  
question as to whether the conduct of which  
the Respondent was guilty or the conduct  
20 with which he stands charged was grossly  
improper conduct.

Respondent's  
Counsel's  
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(continuation)

So the consequences are, in my  
submission, wholly relevant and a legitimate  
area for inquiry by you in this investigation,  
and I say that the 1978 case that I have just  
referred you to does not take away from that  
one jot.

30 So, Sir, I ask you to answer that  
question, the first of the two, in the  
affirmative.

The second preliminary question is the  
question of the merits and truthfulness of  
the explanations which the Respondent has  
given and may indeed amplify before you.  
Now I will - I am, in my submission, enti-  
tled to ask you to consider his explanations  
carefully and to draw conclusions from them  
other than those that the Respondent wishes  
you to draw, and if he gives evidence, I  
40 will, I submit, be entitled to cross-examine  
him and to direct my cross-examination to  
the merits and truth of his explanations.

If it occurs to you, in all fairness,  
that the explanations are unmeritorious or  
untruthful, then I must be entitled to put  
this to the Respondent and to suggest to



MR. GRIMBERG (cont):

him what I conceive to be the real motive for the delay.

My learned friend takes the view, as I understand it, that such a line of cross-examination which would be directed towards establishing a dishonourable motive would be improper as being directed to matters beyond the scope of your investigation.

10

Now if that is the burden of what he is going to say - and I apologise if I am wrong - but if I am right, then I say the proposition does not bear examination. If I can say it again: here we are concerned with an admitted and, in my submission, an inordinate delay in reporting serious criminal offences. Now whether that admitted delay amounted to grossly improper conduct must surely depend on the merits and truthfulness of the Respondent's explanations for it.

20

Thus the Respondent's motives for the delay become directly in issue, and it would be wrong, I submit, to expect me to cross-examine him with one hand tied behind my back, and to steer clear of any questions directed to truthfulness, merit and motive. I would put that, Sir, in another way: by offering explanations to the Law Society, he has put those explanations in issue, and I am fully entitled to open it, to open to you on the merits and truthfulness of those explanations and to cross-examine him on them if the Respondent should choose to give evidence.

30

So, in short, if I can put it colloquially, if Harry Wee is going to say to you, "Yes, there was a delay. I am sorry. It was an error of judgment which with the benefit of hindsight I would not have committed," it must be open to me to put it to you and to him that it was not an error of judgment at all, but calculated inaction with a particular motive.

40

In the  
Disciplinary  
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Respondent's  
Counsel's  
Opening  
Speech and  
Preliminary  
Submissions  
(continuation)

MR. ROSS-MUNRO:

In the  
Disciplinary  
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10            May it please you, Sir?    Sir, I am  
             sure you wouldn't put it in any way against  
             my client that this preliminary point has  
             been taken because I accept full responsibi-        No. 2  
             lity for it.    And so quite apart from in the        Appellant's  
             interest of my client, I would have thought        Counsel's  
             that it was right to do so from everybody's        Reply to  
             point of view, both my learned friend's        Preliminary  
             clients, Counsel and indeed yourselves        Submissions  
             because nothing would be worse than if in  
             fact you entered into matters that you were  
             not supposed to enter into and thus vitiating        23rd  
             the whole proceedings.    I don't really think        September  
             it would be in the interests of my client        1980  
             either.

20            So that is the reason why both my  
             learned friend and I thought it right that  
             you should try those preliminary points.    It  
             also has the practical benefit that if my  
             learned friend is right, then there are  
             probably additional witnesses and certainly  
             additional areas of evidence that I will  
             have to cover which otherwise I wouldn't  
             have to cover.    So again from a practical  
             point of view it is much better to get it  
             out of the way, as it were.

30            Sir, my learned friend took the simile of a  
             criminal offence with assault.    Sir, I  
             think, with respect, similes that are based  
             on criminal offences probably are not very  
             apt as far as this is concerned because it  
             certainly has been said in various English  
             authorities and I suspect in Singapore as  
             well, that it is a very serious matter to  
             allege grossly improper conduct against a  
             professional man and as such the Legal  
             Profession Act of course has been designed  
40            to make sure that there is natural justice  
             and make sure that the professional man who  
             is accused of professional conduct has  
             clear notice of the matters alleged against  
             him.

             And that is what the whole of this  
             part of the Act is really designed to see,  
             and so, as you know, the first step, so to  
             speak, after the complaint is that there is

MR. ROSS-MUNRO (cont):

an Inquiry Committee, and the professional man has the opportunity (1) of putting in his case in writing, and (2) go in before the Inquiry Committee and give his explanations. And that is in fact what happened in this case, as you see in my Volume I.

In the  
Disciplinary  
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No. 2

Appellant's  
Counsel's

10 So at that stage the Inquiry Committee has to speak, all the matters alleged against the professional man, and the professional man has the opportunity of dealing with all those matters put against him.

Reply to  
Preliminary  
Submissions

(continuation)

20 And it is for that reason, in my submission, that both in the Privy Council of England, which I will refer to throughout the proceedings and also in your Court of Appeal that one sees that the courts are very strict for the simple reason that what they are really saying is that at the stage in front of the Inquiry Committee on the one hand you, the Council, must produce all the matters that you put against him constitute grossly improper conduct, and secondly, you, the professional man, if you have got any sense, you will produce all the matters and defence, or certainly 98 per cent of them, because the Inquiry Committee will consider it and if they think on the professional man's explanation that there is no case, it will end there.

30

If, on the other hand, they think that there is a case to answer, then they say precisely what that case is. They give notice to the professional man, so he knows precisely what the charges against him, the specific charge or the specific matter that is referred to there - using that language - and then it comes before you.

40

And if before you matters are raised, we say, either by way of opening or by cross-examination which are matters that could have been put before the Inquiry Committee and the professional man could have given an explanation there and then, which might have been accepted, that it is then too late for the Law Society to raise specific

MR. ROSS-MUNRO (cont):

matters other than those that (1) the Inquiry Committee has (submitted), and (2) form part of the complaint.

That is the background and if I could now refer you to some of the documents, and I hope not to take too long as I probably will have to refer to two more cases as well.

10

The first document you should perhaps just look at is page 40 of Volume I, and you see the 18th of March 1978.

CHAIRMAN: Mr. Munro, may I interrupt?

MR. ROSS-MUNRO: Yes?

CHAIRMAN: This agreed bundle has been circulated, but not put in formally. Should you not put them in?

MR. GRIMBERG:

20

As you please, Sir. I am obliged to you. There are in fact two agreed bundles, the second one is being handed up now. Perhaps they can both go in.

CHAIRMAN: No, they ought to be identified by the marking.

MR. ROSS-MUNRO:

Could you refer to them as Volume I and Volume II?

30

CHAIRMAN: Volume I and Volume II. Both bundles are put in straight away.

MR. ROSS-MUNRO:

Straightaway; yes.

CHAIRMAN: Thank you.

In the  
Disciplinary  
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Appellant's  
Counsel's  
Reply to  
Preliminary  
Submissions

(continuation)

MR. ROSS-MUNRO:

In the  
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Now I was referring to page 40 in Volume I, and you will see that this is a letter addressed to Mr. Wee from the Chairman saying "The Inquiry Committee has decided of its own motion to inquire into your conduct in the following matters." And you will note the use of the word "matters", the term "matters".

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No. 2

Appellant's  
Counsel's  
Reply to  
Preliminary  
Submissions  
(continuation)

10                    "(e) The delay in reporting the defalcation in the accounts of Messrs. Braddell Brothers of which firm you were at the material time the sole proprietor" -

that is to say, forget about (b) - and then after the third paragraph you will see that they give some particulars of (a). They say in respect of (a) also:

20                    "Also according to the report made by you to the Law Society dated the 27th March 1977 the first defalcations were discovered in February 1976. ... .. further said in the report between 9th March 1976 and 10th June 1976 Mr. Santhiran repaid sums totalling \$297,976 to Messrs.Braddell Brothers ... defalcation of the firm's clients' accounts."

30                    So you see by way of particulars at that early stage it was simply what I may call on the delay point; nothing else. And on the facts, just as my learned friend Mr. Grimberg has told you today, there is no dispute.

40                    The next thing that happened, Sir, if you will just look at page 68 simply for the date, one sees that Mr. Wee was prepared to go in front of the Inquiry Committee on the 28th of March 1978. And so simply, to save time - I can show you some documents later if you wish to - what has happened is this: Mr. Wee has sent, I think, two explanations plus a large number of exhibits. In other words, he put his entire case in writing before this stage.

MR. ROSS-MUNRO (cont):

In the  
Disciplinary  
Committee

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No. 2

Appellant's  
Counsel's  
Reply to  
Preliminary  
Submissions  
(continuation)

10 And then on the 26th of May 1978 he appeared in front of the Inquiry Committee and gave oral evidence, and the Inquiry Committee then saw him. So they therefore had in front of them at that stage his entire defence in writing, plus his own oral evidence. And of course anything that they put to him at that stage, and if they wanted to say those explanations were dishonest or anything of that sort, they could have done so at that stage.

So they did not do so, and the next thing which happened, if you turn over the page at 69, is the letter that you have already seen, the 20th of July 1978. And you see once again that it is set out very carefully and very strictly:

20 "A formal investigation by the Disciplinary Committee into the following complaint against you, failure to report the criminal breach of trust committed by Mr. Santhiran when he was a Legal Assistant in the firm of Braddell Brothers to the Law Society earlier."

30 So there is the charge crystallised as delay, and nothing else; no other specific matter, if I may use the term no other specific matter mentioned, other than delay, had got on to the charge.

40 Now delay being the specific matter, the next thing which happened is that particulars of the specific matter or complaint are set out by the Law Society, which is the amended Statement of Case, and if you would look again at that - I think you have seen it once already - the facts set out there which are the particulars of the complaint are simply on the delay matter, the failure to report. One looks to see what the facts are - paragraph 3, his (discovery); and then paragraph 4, Santhiran's admission; paragraph 5, Santhiran making restitution; paragraph 6, the Respondent appointing

MR. ROSS-MUNRO (cont):

In the  
Disciplinary  
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10 accountants to find out the extent of  
misappropriations; paragraph 7, the  
allegation - that is admitted, of course -  
that he failed to make a report to the Law  
Society concerning the conduct of Santhiran  
continuing in the employment of the firm as  
Advocate and Solicitor until he left the  
service of the firm on the 21st of December;  
and paragraph 8 deals with the reports  
following on the Accountants' Report; then  
paragraph 9 is simply factual as to what  
happened to Santhiran.

\_\_\_\_\_  
No. 2

Appellant's  
Counsel's  
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Preliminary  
Submissions  
(continuation)

Now those are the particulars. I  
needn't bother you with paragraph 10 because  
that is the charge.

20 Those are the particulars and they  
are all particulars of delay. And of course  
by this time it is the 14th of March 1979.  
He had sent - Mr. Wee, the Respondent, had  
sent in his (explanation) before May 1978;  
the Inquiry Committee had considered the  
matter at an oral hearing on the 26th May  
1978, and now this is March 1979. So there  
is ample time if the Council of the Law  
Society wished to say, "Now in addition to  
the specific matter of delay, in addition  
to that I want to say, Mr. Wee, that your  
30 explanations which you put in writing to  
the Inquiry Committee and you have orally  
put before the Inquiry Committee - I want  
to say that you have dishonest, sharp or  
selfish motive, quite different from what  
you put in writing before the Inquiry  
Committee and what you said orally."

40 So my point there is there will be  
ample time in this amended Statement of  
Case for them to have done so if they had  
so wished. Whether - and I say this  
straight away in front of Mr. Grimberg -  
whether they could have done so is another  
matter because once the Inquiry Committee  
had specifically made one complaint only  
to be investigated, I rather doubt  
personally if that complaint could be  
enlarged simply by the service of an  
amended statement of case.

MR. ROSS-MUNRO (cont):

But my point is that there was ample time if they wanted to suddenly enlarge the scope, ample time to have done so long before the 14th March 1979.

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Disciplinary  
Committee

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Now those are the documents as such. Could I now ask you to start off by looking at the authorities?

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Reply to  
Preliminary  
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(continuation)

10                   Lau Liat Meng - Disciplinary  
                    Committee, 1966 2 M.L.J. at page 14.

And again, Sir, if I may with your permission do the same as my learned friend Mr. Grimberg, I will read the passages which I think are relevant to me, and of course I will read other passages which he wants me to read. It is not in the bundle, but separate. It is this one here (holding up in hand).

CHAIRMAN:    Yes.

20                   MR. ROSS-MUNRO:

30                   Sir, the Headnote reads: "Appellant, an Advocate and Solicitor, Singapore, was instructed by deceased boy's father to claim damages for the death of the boy. The appellant attended the Coroner's Inquiry, conducted investigations ... .. the Disciplinary Committee made an adverse finding against him on the ground that he received the said sum of \$500 as party-and-party costs over and above ... which should have formed part of these costs."

And then if you look to see the finding, the one you will want is No.5 going down there:

40                   "Natural justice requires adequate notice of the charges and provision of opportunity to meet them. This requirement was not met in relation to the adverse finding of receipt of \$500 by appellant ... .."



MR. ROSS-MUNRO (cont):

?

"against the appellant was allowed."

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10 So there are two charges brought before the  
Disciplinary Committee perfectly properly:  
one on the \$700, and one on the champertous  
agreement. Then presumably I assume under  
cross-examination or questioning at the  
actual hearing before the Disciplinary  
Committee, Respondent admitted that he  
took \$500 which he didn't account to his  
client, and there and then the Disciplinary  
Committee then took that into account.

Appellant's  
Counsel's  
Reply to  
Preliminary  
Submissions  
(continuation)

20 And then if you look at the judgment,  
I think one can go straight to page 144 -  
the right-hand column - the Privy Council  
goes through all the facts - in the fifth  
paragraph. Notwithstanding that no charge  
had been made in respect of \$500 the  
Disciplinary Committee held against the  
appellant, that is the one about grossly  
improper conduct and professional duty.

And then it really starts, the last  
four lines of the right-hand column on page  
144:

30 "While acknowledging the gravity of  
the admission made by the appellant  
as to \$500 which he put into his own  
pocket without disclosure to his  
client and as to which he gave no  
satisfactory explanation, it must be  
recognised that he was not charged  
with having made excessive charges  
... .. of opinion that  
the finding with regard to the \$500  
should be set aside."

40 The interesting (point) in my  
respectful submission in that case was  
that the \$500 matter probably arose out  
of cross-examination. All we know from  
the report is that the Respondent made an  
admission before the Disciplinary Committee.  
To make an admission, one must assume that  
he was asked the question. (Mr. Wu shows  
passage to Mr. Ross-Munro).  
Much obliged; perhaps I should just see

MR. ROSS-MUNRO (cont):

the passage. My guess was that, and my learned friend, Mr. Wu, says for once my guess was right.

Yes, [Reads] It is at page 143 in the right-hand column about the middle, starting with the third paragraph:

10 "... \$500 was untrue. They were unaware ... \$500 was paid to me apart from party-and-party costs by putting", etc, etc.

20 So it is quite clear that the \$500 which was not part of the original charge arose out of cross-examination, and the Respondent in cross-examination having admitted that he had taken \$500 and not accounted to his client, the Disciplinary Committee then took that into account. And the Privy Council said they were wrong. And so, that I think is why it is interesting - so let me say straight away I don't think, certainly I would hope so - I would be very surprised if Mr. Wec in cross-examination would say in answer to my learned friend, "Well, I had a dishonest motive. I have been telling a pack of lies to the Disciplinary Committee."

30 It is most unlikely. But just assume that he did. Then one would get the situation very similar to this, because if you take into account Mr. Wec's answer to a question put in cross-examination "Was this not a dishonest motive?" or whatever may be put - if you take that into account, in my respectful submission you come straight into this particular decision. Because it does not form part of the Inquiry Committee's findings; it does not form a part of the complaint; it does not form a part of the Statement of Case.

40

So that if my learned friend is allowed to put something which does not form part of the complaint and if he gets the right answers, either you, the Disciplinary Committee take into account -

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MR. ROSS-MUNRO (cont):

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in which case we would submit on this decision you shouldn't - the whole thing is vitiated; or you don't take it into account.

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10 Now if you don't take it into account, there is no purpose of having a cross-examination. So my submission is it isn't - there of course the facts are very different, but it is interesting from the point of view that it was a cross-examination case.

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20 And when one looks again, if one sees those facts, the \$500 did form part of the Inquiry Committee, did form part of the complaint, then you will probably be right, but what they are really saying there is that you really cannot, the Disciplinary Committee cannot inquire into matters that arose out of cross-examination and did not form part of the complaint which the Inquiry Committee has put before you, or rather the Law Society has put forward on the basis of investigation by the Inquiry Committee.

30 CHAIRMAN: Mr. Munro, would it be right to say that in this case the subject of the \$500 became the subject of a complaint by the Committee as a result of the Disciplinary Committee hearing?

MR. ROSS-MUNRO:

40 As a result of the Disciplinary Committee hearing it became certainly a matter that the Disciplinary Committee took into account, and shouldn't. Presumably there would be nothing to have stopped - I don't know what happened in this case, I suppose there will be nothing to have stopped the Law Society bringing fresh proceedings on the \$500, which presumably is what they should have done.

CHAIRMAN: I was trying to find out from this report how the Disciplinary Committee dealt with this

CHAIRMAN:	subject of \$500. Did it (cont) merely form part of the ground on which they made the decision of grossly improper conduct?	In the Disciplinary Committee <hr/>
MR. ROSS-MUNRO:	Yes, that appears on page 144.	No. 2  Appellant's Counsel's Reply to Preliminary Submissions (continuation)
CHAIRMAN:	Not a separate charge? Just a ground?	
MR. ROSS-MUNRO:	That is right. If you look at page 144, right-hand column, sixth paragraph. "Notwithstanding that no charge had been made in respect of the \$500, the Disciplinary Committee held against the appellant as one of the grounds" - as one of the grounds - "for their opinion that he was guilty of grossly improper conduct in the discharge of his professional duty."	
CHAIRMAN:	In that case may I ask, in order to clarify the issues, Mr. Grimberg, whether it is your intention to make the subject matter which is disputed one of the grounds for a charge, or merely in reference to the consequences?	
MR. GRIMBERG:	I am certainly not intending to inter- fere or tamper with the charge in any way at all, Sir.	
CHAIRMAN:	But would you be making use of this disputed matter as one of the grounds for grossly improper conduct?	
MR. GRIMBERG:	One of the ingredients of grossly improper conduct, yes.	
CHAIRMAN:	One of the ingredients?	

MR. GRIMBERG:

Yes, yes.

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CHAIRMAN: That is Question No.1?

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MR. GRIMBERG:

Well, Question No.1 and 2, Sir.

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CHAIRMAN: "Whether the Committee is entitled to consider for the purpose of this investigation the natural and probable consequences of the Respondent's admitted delay?"

Yes. Mr. Munro, you carry on.

MR. ROSS-MUNRO:

20

So you see, Sir, in that paragraph, page 144, right-hand column, it was one of the grounds for their opinion he was guilty of grossly improper conduct. I don't see in this context there is any difference between ground and ingredient. Certainly one can say it is one of the ingredients for their opinion that he was guilty of grossly improper conduct in that case. So obviously, being wise after the event. Being wise after the event. Now clearly what the Disciplinary Committee should have done in that case was that (1) they should have stopped the examination on \$500 if they could see it coming.

30

But assuming they couldn't see it coming, and the defendant admitted he received \$500, they would simply say, "Right, we will cast that out our minds. If you, the Law Society, want to bring fresh charges on the \$500 that is another matter. As far as we are concerned, we are dealing with the charges that have been put to us by the Inquiry Committee." That is my submission that they should have done, although it is easy to be wise after the event.

40

And similarly here, in my respectful

MR. ROSS-MUNRO (cont):

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submission, if this matter had not been put by way of a preliminary point to you, if Mr. Grimberg suggested by way of cross-examination to Mr. Wee, the Respondent, "Well, you have a dishonest motive. You told lies, what you said to the Inquiry Committee and what you wrote. Your real motive was (a), (b), (c), wholly dishonest ones, and therefore your behaviour was grossly improper":

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10

(1) In my respectful submission, you should have stopped the cross-examination (on my objection);

20

(2) If Mr. Wee had answered and said, "Yes, I do admit that I was thoroughly dishonest about this", you should have said, "Well, I am going to cast this out of my mind. That will be the subject matter of a further charge."

CHAIRMAN: You are dealing with Question 1, in other words?

MR. ROSS-MUNRO:

Sorry, Sir, I am dealing with Question 2.

CHAIRMAN: I was wondering whether you have finished with Question 1.

MR. ROSS-MUNRO:

30

No, on question 1, if I may, I will come back to the authority on it and then I will address you very shortly on Questions 1 and 2. So that is that authority which really deals with the cross-examination part.

Then if you would look at the case of Ratnam, which is in your bundle - I gathered, the last authority - that is Ratnam v. The Law Society, 1976:

40

"This is an appeal from the decision

Mr. ROSS-MUNRO (cont):

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10 "of the High Court, which decided that the appellant be struck off the roll. The appellant appealed to the Privy Council and the main grounds of appeal were (a) failing to give appellant notice of new or renewed inquiry after he was convicted in the High Court ... (b) despite the fact that appellant had pleaded guilty and been convicted of the offence ... the appellant was not correctly convicted; (c) although the appellant had admitted the charge ... appellant had in fact committed no offence under section 291 ... (d) the appellant's (sentence) was highly excessive.

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20 Hold: in dismissing the appeal (1) Section 37 (5) of the Legal Profession Act should be construed as an imperative provision, and as the Inquiry Committee did not comply with it, the second inquiry was a nullity...  
... (4) The conclusion ... was immaterial in view of the fact that it was invalid as regards Section 84 (2) (b)."

30 And if you turn over, Sir, to page 197 and see what the facts there are, look at the left-hand column of page 197 about two-thirds of the way down starting with the words "The inception of the disciplinary proceedings against the appellant".

40 So one sees two charges starting out as a result of the Attorney-General's letters: one is writing a certain letter which is grossly improper, that is the letter of August 1972; and secondly, causing files to disappear.

Then chronologically, the next thing that happened is the criminal proceedings before the man gets up to the disciplinary (committee) report, so you have the criminal proceedings between these two.

MR. ROSS-MUNRO (cont):

Then going right on to page 197, at the bottom: "August 17, 1972, the Respondent issued a written order ... .. October 7th, 1972, the Chief Justice appointed a Disciplinary Committee to hear and investigate the complaint."

So that shows the procedural steps taken under the Legal Profession Act.

10 Then "October 24, 1972, the appellant who was represented by Counsel pleaded guilty to the first charge against him, instigating the dishonest removal of property." Now that is the letter of the 3rd of August 1972.

20 [Reads on] "The learned Judge in fact took into account the fact that the Prosecution elected to proceed with the first. ... .. a certified copy of the record of proceedings of October 24, 1972."

Then the column goes on dealing with the various pleadings, and about two-thirds down - I don't think I need mention the left-hand column - it shows what happened at the Disciplinary Committee proceedings.

30 I think one can go on to page 199, right-hand column, almost at the bottom, starting with "failure to comply with Section 197 (5)". "It was (contended) on behalf of the appellant that failure by the Inquiry Committee to notify the appellant before investigation ... .. were vitiated depends on whether provisions of 87 (5) were imperative or directory, as these terms are used in law."

40 The difference between imperative and directory was explained, and then there are various quotations from the various authorities.

It is quite interesting in that case on the merits really. They go on to say:

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Appellant's Counsel's Reply to Preliminary Submissions (continuation)



MR. ROSS-MUNRO (cont):

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"There could be no question of failure of natural justice. ... Section 87 (5) must be considered as either imperative or directory. ... appellant suffered no prejudice from a failure of natural justice there could well be cases where serious prejudice might result and omission to give notice might result in such failure.

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It is no light matter for a professional man to have to appear before a Disciplinary Committee of his professional body. The person who is the subject matter of inquiry might well have such an answer."

(continuation)

And I should pay particular regard to that: "might well have such an answer."  
(Reads on):

20

"That the Law Society may determine that either no formal investigation was necessary under section 88 (1) (a) or that the case may be met by a penalty. ... Their Lordships therefore consider that section 87 (5) should be construed as an imperative provision. This ... that the second inquiry by the Inquiry Committee was a nullity."

30

And then they go on to say it is not conti... of the other ones where there is proper procedure and he was duly convicted.

So it is important for two reasons: one is, you see, on the facts of the particular case there was absolutely no breach of natural justice because the appellant had ample time before the Inquiry Committee took into account his conviction, the matter going before the Disciplinary Committee and saying what he wanted to say in front of the Disciplinary Committee; nevertheless, they say the provisions were imperative. They have to be followed strictly, and if they were not, the matter is vitiated.

40

MR. ROSS-MUNRO (cont):

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10 The second one, in my respectful submission, is an important authority as far as the case before you is concerned; it is this: that on the facts of that case, it starts off with two charges brought as a result of the Attorney-General's letter. One is writing grossly improper letter saying, "Do away with six cars". That is one charge. And then the second charge, that of taking away the files.

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Those two charges the Inquiry Committee investigated into. Then you have a plea of guilty on the latter point, and the taking away of the files was taken into consideration. That took place on the very same day as the Inquiry Committee had chosen - presumably somebody told them very quickly about it- they then took it into account.

20 Now it could well be said, in my respectful submission, taking those facts that the charge was taking away the files and that the consequences of taking away the files in those circumstances, if known to the authorities, would inevitably lead, and did lead, to a criminal conviction for the taking away offence. So, in other words, the consequence of the original charge brought by the Attorney-General of taking away files, the consequence was the criminal conviction; criminal proceedings followed by criminal conviction.

30

40 Nevertheless, they said that that was something the Inquiry Committee should not have taken into account. In other words, this is where (this case) as opposed to my case, that either they shouldn't inquire into that, or that they shouldn't have had matters put before them as they did, though he should have been convicted of taking away files which was the inevitable consequence of what he had done once the Attorney-General sent that complaint.

So, you see, that is why it is interesting for that matter. It also illustrates, as I say, the strictness with

MR. ROSS-MUNRO (cont):

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which the courts construe these relevant provisions under the Legal Profession Act for what, you may think, is a very proper reason. As the Privy Council said, it is a very serious matter that a professional man should be put before an Inquiry Committee or Disciplinary Committee.

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So, Sir, that is the reason we say that that second authority is relevant to your consideration. What is quite interesting is if you look at the Legal Profession Act at section 93 (1), and you see the first two lines:

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"After hearing and investigating any matter referred to it a Disciplinary Committee should record its findings in relation to the facts"---

20

So one sees there it is "any matter referred to it". And as these are quasi-criminal proceedings, of course in construing an Act of Parliament or a Statutory Instrument of course you will construe it strictly in favour of the defendant.

And so one sees there that that is what they are limited to, to recording any matter referred to it, and that brings me back to the 1978 authorities which Mr. Grimberg referred to you.

30

What you may think is quite interesting in that are the words used, that is the one in 1978. If you look at page 7, the Headnote, you would notice in the Headnote under (1), line 4:

40

"A Disciplinary Committee appointed by the Chief Justice can only investigate matters referred to it by the Council and cannot decide on its own motion to investigate matters not specifically referred to it by the Council."

Now those are the words that the Singapore Court of Appeal used - "not

MR. ROSS-MUNRO (cont):

specifically".

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10 And if one glances back in Volume I at page 69, keeping in mind those words "not specifically referred to it", and so in other words you may not investigate matters if they were not referred to you - one looks back to (page) 69. What was specifically referred to the Disciplinary Committee was failure to report criminal breach of trust committed by Mr. Santhiran to the Law Society.

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That was what was specifically referred to, and so, Sir, that in my submission is important: "what is specifically" is used on purpose, and as you see the other words used are: "matters", not charges. But "matters".

20 And so, Sir, those being the authorities, if I might, I hope very shortly, put before you really my submissions as to why you shouldn't allow, firstly, the consequences, and then, secondly, what I call the motive -- cross-examination on the motive issue.

30 As far as the consequences are concerned, we rely on the authorities that I have mentioned to you, and it would be, I am saying, unfortunate for everybody if it should turn out that all these proceedings might be vitiated simply due to them.

40 Secondly, there is a practical reason which is really this: that if one is going to inquire into the consequences even though my learned friend, in his usual fairness, has tried to limit those consequences, because "natural" and "probable" might be a whole host of them, but he has in fact limited them to what he says there, even with those limitations you are opening up a large amount of evidence. If I may just give one example - there may be others - if Mr. Grimberg says - yes, it is the second consequence - "exposes the public to risk and continuing to commit similar cases

MR. ROSS-MUNRO (cont):

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of dishonesty and matters of that sort,  
during the period while making restitution".

10 Well, if one is going to inquire into those consequences, I am going to have to call a certain amount of additional evidence, and indeed Mr. Wee would have to cover to show, for example, he will have to show in these letters - indeed, he has in anticipation in case Mr. Grimberg succeeds, he has put in certain documents in Volume II which would show that immediately he found out within a very short time he had written to the bank and taken Santhiran's off the list of signatories; he had got various people to watch over matters - all those matters which would have to be gone into on the question of consequences, if you are to go into that.

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20 On each consequence suggested by Mr. Grimberg we will have to call evidence to deal with it and try to satisfy you that it was not a real consequence or real risk of what might happen as Mr. Grimberg might suggest to you.

So that is my first point, on consequences.

30 My second point, on motive, is really this: that, if I may put it, some legal objections apply to the motive point as the consequences point on the same authorities, but in addition, apart from the legal point, we would say that it would be very unfair - I would put it much stronger in the consequences one - it would be very unfair if at this stage in September 1980 Mr. Grimberg was allowed, for the first time really, to suggest by way of cross-examination, and had indeed by way of opening, that Mr. Wee's motives for delay in reporting to the Law Society were dishonest motives. It would be, we say, very unfair firstly.

40 Mr. Grimberg:

I say "dishonourable"; I didn't say

Mr. Grimberg (cont):

"dishonest".

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Mr. Ross-Munro:

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Well, I am content with that - dishonourable motives. We say it is extremely unfair. Firstly, it means - everybody knows human beings - he may have several motives. You will then have to ascertain what is the principal motive.

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10                   That is No.1. That means Mr. Wee casting his mind back to 1976, March 1976, as to what his motive or motives could have been.

                  Secondly, we say that if this point, dishonourable motive, had been raised at an earlier stage before the Inquiry Committee, Mr. Wee might have satisfied the Inquiry Committee that there was no dishonourable motive, as mentioned in that Privy Council case.

20

Chairman: Have we got any evidence as to what happened in the Inquiry Committee?

Mr. Ross-Munro: Well, we never - obviously I can call the evidence of Mr. Wee. I am instructed, of course if it wasn't there I was instructed, and I will show you the documents to show what documents were sent to the Inquiry Committee, the massive complaint with a lot of exhibits mostly in Volume II - that was all before the Inquiry Committee, before the oral hearing, and then one knows there was an oral hearing on May 26th.

30

                  But I can easily show you all the documents in Volume II, a very full documentation before the oral hearing of Mr. Wee; and I am reminded by Mr. Wu that one of the letters I can show you is in Volume I, where it says quite clearly that the Inquiry Committee, nobody suggested dishonourable motive. Then if you look at page 40, Volume I, 18th March. Inquiry Committee:

40

Mr. Ross-Munro (cont):

(a) Delay, and they give particulars of delay. And then ignore (b), you will see that they give what (b) are. They say what the delays are; no suggestion there of any dishonourable motive.

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10 So taking that date, 18th March, I will try to answer your question in this way. The letter of 18th March makes it clear that there is no question of the Inquiry Committee suggesting any dishonourable motive. Mr. Wee received that letter of the 18th March and he therefore has to render an explanation relating - well, the two letters, he has to render an explanation of the delay matters.

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20 He then sends a large number of documents and explanations and matters of that sort. That all comes before the Inquiry Committee.

Then May 26th, Mr. Wee then appears before the Inquiry Committee.

30 My point is that if it has been suggested by anybody at that stage that he had a dishonourable motive, in other words that he was not telling the Inquiry Committee the truth on his documents, written explanations and all that, that it was not true, that the real motive was some other dishonourable motive, well, he would have an opportunity before the Inquiry Committee of saying, "No, this is absolute nonsense." And if the Inquiry Committee had accepted that, then nothing would be before you today.

40 Chairman: Well, Mr. Munro, the Inquiry Committee dealt with two matters. Although at this moment this item (b) is being discussed, this letter of 18th March, the Inquiry Committee has conducted, dealt with both matters, and in an Inquiry Committee questions would presumably be asked, and as we

Chairman: do not have a record of the proceedings of the Inquiry Committee I find it difficult to come to the conclusion that Mr. Wee never had a chance of answering any suggestion about dishonourable motive, because the second one also was before the Committee, and questions could not be distinguished.

10

And anybody, a member of the Committee asking the question could not say this question is in respect of item (a) or in respect of item (b).

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Mr. Ross-Munro: Oh, but, Sir, I have ignored item (b) and, as I understand it, Mr. Grimberg will correct me if I am wrong - but as I understand it, his suggestion of dishonourable motive has nothing to do with (b) at all.

20

Chairman: Well, let us put it the other way: supposing there is a motive that can arise by inference?

Mr. Ross-Munro: Yes.

Chairman: And a member of the Committee who has any sense at all would probably be led to ask him the question, "What is the motive for the delay?"

30

And you see, your case is for the purpose of natural justice - Mr. Wee is being surprised - to the suggestion that there has been a dishonourable motive, and that he has never had a chance for answering that suggestion.

40

But we don't know what happened in the Inquiry Committee, whether any such suggestion was put to him.

Mr. Ross-Munro: I think I can deal with that



Mr. Ross-Munro:  
(cont)

in this way. My case is not of course simply natural justice; my case is purely on the legal point of "imperative" of the Privy Council. That is my first case.

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My second one, on the natural justice point of view, is that the evidence before you, I can see, is quite clear, and I don't think this is controversial to Mr. Grimberg at all.

20

And as far as the Inquiry Committee is concerned, as is clear from their letter, they were inquiring into two matters: matter (1) was delay; matter (2) was something which, if true, could well have been a dishonourable motive - No. (b). They were not satisfied with (b) - I may say absolute on the evidence. Of course, I won't go into the evidence, but on seeing the evidence I will say, with respect, they are entirely right in respect of (b).

30

So then on (a). My point is that on (a) they are limited to delay only, and my instructions are that there is no question of anyone in the oral hearing on May 26th Mr. Wee and they had, there is no question of anyone suggesting a dishonourable motive to him other than (b). That is the only question which was rejected.

40

So, then, it is important, I think, to look at pages 68 and 69 together. They are having all that meeting

Mr. Ross-Munro:  
(cont)

on the 26th May. They asked him questions about (b) No doubt they don't think the evidence is strong enough, so that is out of the picture.

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The only other question is on what I call the delay matter. It is quite clear after hearing him on May 26th, they then on 26th July 1978 - we get the letter (at) 69 where it is quite clear there that the findings of the Inquiry Committee are simply "to investigate the following complaint against you:" - Only delay; nothing else.

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So what I am saying is that if there is some other dishonest motive other than (b), that has been rejected. So you can leave that aside. If there is some other dishonest motive which is being suggested that is something that the Council of the Law Society could have done much earlier. They could have said, "Well, no, it is not just delay because if it is delay alone, you know, it may be an error of judgment."

30

40

But delay, however excessive, seems to be rather a long way from grossly improper conduct. But if they wanted to say, "No, it is delay, but coupled with what makes it grossly" - they could have said, "But what makes it grossly improper was not just the delay. The motive behind it. It was the motive that was grossly improper."

Mr. Ross-Munro: And therefore the motive, coupled with the delay, makes it grossly improper. In other words, the motive is the vital thing of their case, is the main ingredient of their case.

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10

Now, if that is their case surely, with respect, I would have submitted it is something that should be put right from the beginning.

Chairman: Mr. Munro, in reading the agreed bundle of correspondence, I find that the Acting President of the Law Society, having received the Respondent's explanation for the delay, wrote again. I think the correspondence is quite clear.

20

Mr. Ross-Munro: Yes, for further explanations, and further explanations were sent; yes.

Chairman: Yes. Now what was the reason? We will have to go through all those letters because they are relevant, because those letters seem to imply that there was an inference of some motive which was not proper with regard to the delay.

30

Mr. Ross-Munro: I must say I read the letter, through the letter, but I certainly didn't gather that.

Chairman: I was reading it last night.

40

Mr. Ross-Munro: Might I just look at the agreed bundle and see the first letter is 3rd April as to report. Then there is the complaint against Santhiran. Then next at page 12 there is a complaint from the Police Authorities, with various exhibits.

Mr. Ross-Munro:  
(cont)

Then Mr. Grimberg has kindly mentioned maybe 66: 11th May. Yes, I think it would be perhaps 53, he sends his first explanations.

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Yes, if I can take you from 46 onwards. 46 would be the 19th April, and it starts the matter by saying, "I set out a brief outline my explanations." (continuation)

I think it must be "set out in brief outline". And those explanations and up with 50 - no, there is also a statement by Council. So you can take them up until 53.

20

Then at 53, the further more detailed explanations, and would you look at 55 because I think it may be the answer? He says "fuller details of these numerous changes are available."

Now the changes relate to Santhiran's change of front and admitting things and denying, etc. But he doesn't give the fuller details in that letter.

30

Then it goes on until 65, and then at 66 you get the letter of the 11th of May: "You are invited to appear before the Committee with a full explanation in writing. Please let us have seven copies of same as soon as possible." And I am open to correction, but I think that the full explanation which deals with various changes of front and all the rest of it is contained in Volume II.

40

Mr. Grimberg: No.

Mr. Ross-Munro: Sir, I am much obliged to my learned friend. I think that is

- Mr. Ross-Munro: the probable explanation,  
(cont) if one looks back at 46. He is  
there asked: he says in the  
third paragraph, "But I would  
add that the preliminary investi-  
gations in detail are available  
and will be given to you in  
writing on demand, or orally at  
any time."
- 10 Then after 66, he is asked for  
fuller explanation in writing, and  
he gave them in 53."
- Chairman: But may I refer you, Mr. Munro,  
to the letter at page 40? That  
is the Chairman's letter. After  
setting out the complaint, on the  
next page he writes:
- 20 "Please be good enough to let  
me have any explanation you  
wish to make in respect of the  
above matter."
- The explanation in respect of the  
delay in reporting the defalca-  
tions.
- Mr. Ross-Munro: Yes.
- Chairman: So the Law Society in its very  
first letter was concerned with  
the explanation for the delay in  
reporting defalcations.
- 30 Mr. Ross-Munro: Oh yes, it will also be part of  
their statutory duty under (75) to  
ask for an explanation.
- Chairman: Yes, and would not motive be re-  
levant to the explanation?
- Mr. Ross-Munro: Well, can I put it in this  
way: they asked on the 19th March  
pursuant to their statutory duty  
they called upon him for an  
40 explanation within 14 days. He  
then replied to that by page 46,  
and he gave an explanation, but  
he said it was brief and he

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Appellant's  
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Preliminary  
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(continuation)

Mr. Ross-Munro: could give more detail in  
(cont) writing or orally if required -  
that is paragraph 3, page 46.  
And so he said, "hence" - para-  
graph 3, page 46:

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"Hence my preliminary  
explanation was brief but I  
would add that preliminary  
investigations in detail are  
available and will be given  
in writing on demand or orally  
at any time if you consider  
appropriate you should proceed  
with this inquiry at this stage  
rather than to wait for final  
position of criminal proceeding  
against Santhiran."

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(continuation)

So he is giving his explanation.

20

Chairman: But may I refer you to the follow-  
ing pages, Mr. Munro? I think  
the whole page is relevant.

Mr. Ross-Munro: Page 47?

Chairman: Yes, 47.

30

Mr. Ross-Munro: (Reads) "After many confront-  
ations with Santhiran ... ..  
... The Police investigation  
would take very long. At the end  
of this period Santhiran retract-  
ed again and again. I persuaded  
him" ---

40

And then he goes on with that.  
And so on page 66, he, having  
said he could make a fuller  
explanation - going back to  
page 46, paragraph 3, explana-  
tions are brief, but full and  
more detail is available, they then  
took him up on his offer, page 66,  
and said "you are invited to fur-  
nish to my Committee a full  
explanation in writing. Please  
be good enough to let me have 7  
copies". And he then sent a  
fuller explanation, starting at

Mr. Ross-Munro: page 53.  
(cont)

Chairman: Yes, now the Respondent: would it be fair to say that the Respondent in his very first reply to the Council made the question of the motive for the delay, himself made the motive for the delay a very relevant matter by raising it himself, knowing that it is one of those compulsive inferences one must draw - what is the motive for the delay - because it must be assumed ---

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30

Mr. Ross-Munro: Yes, I was told about this, as to whether there is any real difference between reason for the delay and motive for the delay. Certainly if they mean the same thing - reason and motive - then he would certainly set out. He would say 13 months' delay which, prima facie, seems extraordinary. He was giving the reason why didn't report in 13 months, and he would say "My reasons are" - and I am perhaps going ahead of my defence, but you will hear him giving evidence. But basically the reasons were that without Santhiran's cooperation they couldn't find out not only the extent of the defalcations, but more important the individual clients, how much money each was owed and how much money could be cost.

40

When the amount of restitution came by June 1976 to just under \$300,000, Mr. Wee thought, and thought rightly, as was pointed out, that there was more money than that. The final count was three hundred and fifty thousand, so there was fifty more. He wanted from Santhiran that additional amount, so that is the reason he set out.

Chairman: He would call that justification for the delay which he would believe is quite (logical) in his own way. It is all right but the question is he himself has made it a relevant element on this question of delay. That is the reason, the motive for the delay.

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10 Mr. Ross-Munro: Can I just make clear for  
the moment I certainly don't in  
any way or certainly won't in  
any way object to any cross-  
examination on all these reasons  
he has given - what I call the  
ordinary reasons - of checking  
the accuracy of his accounts and  
saying, "Look, you have got the  
20 dates wrong. It should be three  
months." What I would say  
ordinary, to check the accuracy of  
the accounts, of course I do not  
object to. But what I am  
objecting to is that if it is  
suggested to him for the first  
time that there is a dishonour-  
able motive behind it - what the  
dishonourable motive behind it  
is I am not entirely clear at  
30 the moment. I have had one or  
two discussions with my learned  
friend, but if it is a motive,  
in other words not a delay  
because of error judgment  
because he must get from Santhi-  
ran his accounts, get all the  
cooperation and identify all the  
clients and all the rest of it,  
that is all a lot of hog-wash;  
40 the real motive, which is a  
dishonourable one is that you  
didn't report him for some  
totally different reason - a  
dishonourable one - that is  
what I am objecting to. It is  
something that has not been  
put before which would make it  
totally different to the charge.

I am perfectly clear if his



Mr. Ross-Munro: case is set out in the  
 (cont) Inquiry Committee and is given  
 in evidence in front of you,  
 and probably save more days, I  
 am perfectly happy of course  
 that the accuracy of all that  
 should be tested by cross-exami-  
 nation.

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Appellant's  
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10 But what I would be unhappy  
 is - I mean, I am taking it as  
 an example, I know this is  
 untrue - that assuming for the  
 moment Mr. Grimberg said, "No,  
 the true motive as to why you  
 didn't report is because Santhi-  
 ran was in fact paying you a  
 proportion of \$100,000 not to  
 report. That was the true  
 motive, a dishonourable motive."  
 20 Well now, that is something  
 which has never been put before  
 the Inquiry Committee, and in my  
 respectful submission can't be  
 put now. Well, if that is  
 right, that cannot be put as to  
 a dishonourable motive.

I am assuming that it is  
 suggested.

30 What I am saying is that I  
 don't object in any way to  
 ordinary cross-examination to  
 test the accuracy of the reasons  
 he gave the Inquiry Committee  
 before the Inquiry Committee -  
 that I do not object to at all.  
 What I do object to is that if,  
 in cross-examination, it is put  
 to him - it is put to him that  
 the motive for the delay was  
 40 something quite different from  
 what he put before the Inquiry  
 Committee, was a dishonourable  
 motive. When one tests it this  
 way, as I understand it, they  
 seem to have a mixture of civil  
 proceedings and criminal ones:  
 civil for pleadings, criminal  
 for burden of proof.

Mr. Ross-Munro: But if one looks at it  
 (cont) from a civil point of view, if  
 you have not pleaded anything  
 in reply to a pleading saying  
 the delay was due to the follow-  
 ing reasons and you don't deny  
 that, you are (prohibited)  
 there.

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 (continuation)

10 In the cross-examination,  
 you go up, you say "No, it  
 wasn't that at all. The real  
 reason was Santhiran paying you  
 a proportion of \$100,000." In  
 my submission, straight away in  
 the Civil Court the Judge would  
 say, "You cannot do that without  
 pleading it. This is part of  
 your case, you must plead it,  
 and I am not going to allow you  
 20 to until you amend and we must  
 have time to consider the amend-  
 ment." That is what would  
 happen.

30 But this, in my respectful  
 submission, is similar. If  
 Mr. Grimberg wants you to (look  
 into) the reason given by the  
 Respondent at the Inquiry Commit-  
 tee for the delay, well and good,  
 but if he wants to go further than  
 that with an affirmative case of  
 his own, namely, "No, you are  
 quite wrong. The reason for the  
 delay, the real reason for the  
 delay, the real motive behind it  
 was a dishonourable one - A, B  
 and C" - that is going beyond  
 that.

40 Chairman: He can't suggest it at all? Even  
 if he destroys the motive supplied  
 by the Respondent? Supposing he  
 had, by cross-examination, been  
 able to destroy the story of the  
 Respondent, namely, an (honour-  
 able motive), may he not supply  
 the vacuum and fill the vacuum?

Mr. Ross-Munro: No, certainly not.

Mr. Ross-Munro: He can't, by way of  
 (cont) cross-examination, put forward  
 an affirmative case that has  
 never been put forward before  
 and was never part of the Inquiry  
 Committee's.

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Chairman: Which brings me to another point,  
 Mr. Munro. You have cited to  
 us two cases where the court held  
 that the additional grounds for  
 decision were not in the origi-  
 nal charge?

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 (continuation)

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Mr. Ross-Munro: Yes.

Chairman: And those two cases there, those  
 new grounds were completely  
 different from the original  
 charge, or the grounds on which  
 the charge was made. But  
 Mr. Grimberg has read to us the  
 authority, the Judge's dictum  
 which says that where there is  
 a related matter then we are  
 entitled to bring it out. Do  
 you think that is a good accept-  
 able authority?

20

Mr. Ross-Munro: Of course, I wouldn't for a  
 moment dream of saying I wouldn't  
 accept the authority, but we  
 don't for a moment agree with  
 Mr. Grimberg on what is being  
 put there because you have to  
 see and look at what there is  
 relevant.

30

Chairman: Yes, let us look at that.

Mr. Grimberg: That is the Ong Tiang Choon  
 case.

Mr. Ross-Munro: On page 11, left-hand  
 column.

If you look at paragraph D or  
 at E, in fact:

40

"The only matters which the

Mr. Ross-Munro: "Disciplinary Committee  
 (cont) could have heard against the Respondent we therefore can now entertain are matters relating to claims of money,

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 Disciplinary  
 Committee

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10 "Matters relating" - it all depends as to what is meant by "matters relating". Now on the very facts of that case, if you turn back to page 7 to the Headnote, you will see that the two matters which were referred to the Disciplinary Committee: the first one was payment of money to a tout for bringing in accident cases, and the second one was receiving other than taxed costs from victim. It was found that was not (referred to).

Appellant's  
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 (continuation)

20 What they put in the Headnote is that those accident victims were brought in by the touts, so that you may well say that they are matters related, but the Court of Appeal found that they were not. If you like to see on the facts, page 8, right-hand column, the Amended Statement of Claim, and if you look at paragraph 3, the touting bit "between 1972 and 1979 Michael Lee Khoo Bok for reasons of accepting reward ... introduced about 10 accident victims to the said Ong Tiang Choon's office and the said Ong Tiang Choon acted for the accident victims and accepted them as clients all of whom were brought to him."

Then (4):

"Amongst the accident victims referred to in paragraph 3 thereof were one Patrick Lim and Romli bin Sulaiman."

Mr. Ross-Munro: So you see the two victims were among the 10 brought in by the tout, and yet the Court of Appeal didn't consider that that was a matter relating to touting. They were two separate matters: one was touting, and the other one was receiving other than taxed costs from accident victims who, one may say, were among the accident victims brought in by the tout.

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Appellant's  
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Preliminary  
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(continuation)

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20

So it is clear, in my submission - and I will show you other authorities in a moment - what the Disciplinary Committee should have heard are matters relating to payments of money to a tout. That construction is a pretty strict construction.

30

Of course, if you look at it broadly you may say, "Well, the tout brought in 10 victims, among them were two whom the Solicitor then tried to cheat on costs. The whole matter is related." But "No", says the Court of Appeal, "It is separate. One was touting, and the other was trying to cheat."

40

And if I could show you - because I think it is important - if you look, if you will, at Lau Liat Meng, which is the separate one not in your bundle, at page 141 at that Headnote:

"The appellant, an advocate and solicitor, was instructed by deceased's father ... ..  
... he took \$700."

Now that all arose from the same accident; it all arose from the same proceedings - the \$500 never accounted for, and the \$700 (on the solicitor and client

Mr. Ross-Munro: bill) - nevertheless the  
 (cont) Court of Appeal considered that  
 those were (not) matters related; in  
 other words one has to construe  
 matters related very strictly. Of  
 course looking at that case at first  
 glance, one might say, "Well, it all  
 arose out of the same facts; it all  
 arose out of the same legal proceed-  
 10 ings, and therefore the two separate  
 payments for costs, one of \$500 and  
 one of \$700 - they must be matters  
 related." But "No", says the Court  
 of Appeal, "They are not."

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 Disciplinary  
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 Appellant's  
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So that is the second authority -  
 that on the facts you have to con-  
 strue matters related very strictly.

And if you look at the third  
 20 example I give you, which is the  
 Katnam case in the Privy Council,  
 that is:

1 H.L.J., the last one, No.1.

If you look at page 197 you will see  
 what charges were brought in the  
 Attorney-General's letter, left-hand  
 column opposite the letter G:

30 "The Attorney-General by letter  
 made a complaint against the  
 appellant.  
 Held that appellant by virtue of  
 writing the letter of 2nd August  
 1972" ---

40 that is, writing to say that six cars  
 should be disposed of and causing  
 files to disappear, that is the sub-  
 ject matter of both the first and  
 second charges against the appellant.  
 So two charges, the second one of  
 which is causing the files to disappear.

Then you look at the right-  
 hand column and after "criminal  
 proceedings" opposite (c), and  
 you see the offence that he asked

Mr. Ross-Munro: to be taken into consideration was causing evidence to disappear. (cont)

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10 So again, at first glance, you might say, "Well, it is all related, you know - the matter of the Attorney-General's complaint of causing the files to disappear is related to the consequence of that." Which is the criminal conviction for causing evidence to disappear. Nevertheless, they said, "No, it is not sufficiently related."

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Appellant's  
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Preliminary  
Submissions  
(continuation)

Chairman: It is nearly one o'clock, and I think it is convenient ---

Mr. Ross-Munro: Yes, but could I just say one more thing, and I will finish.

20 It is a good illustration to see where the boundaries of matters related (end) for cross-examination. Mr. Wee goes into the witness box, gives his reasons for the delay as before the Inquiry Committee. He is cross-examined by Mr. Grimberg as to whether he is accurate on various dates. That seems to me to be matters related.

30 If, on the other hand, Mr. Grimberg puts an affirmative case that has never been put, namely, "No, your real motive is a dishonourable one"; that, it seems to me, is not related, in my respectful submission and should not be allowed.

I am sorry to have taken so long.

Chairman: It is a very difficult point.

40 Mr. Ross-Munro: It is, yes.

Chairman: Because the whole inquiry could depend on this: that either we render the whole inquiry invalid, or ---

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Committee

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Mr. Ross-Munro: I hope I have made myself clear. I am not suggesting Mr. Grimberg cannot test the accuracy of (dates) - it will be absurd to suggest that, but it is just that he cannot put a case that has never been pleaded before.

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Appellant's  
Counsel's  
Reply to  
Preliminary  
Submissions  
(continuation)

10

Chairman: Yes, it is difficult, because if we shut out what is proper evidence we would also be in trouble. So we are in a very difficult position.

Mr. Ross-Munro: Perhaps I can just say this- I won't say if you consider it is improper for me to say - but I think looking at the realities and publicity given to Mr. Wee's misfortune, everybody in the Tribunal will know that there have been criminal convictions. I understand that those criminal convictions are the subject matter of another inquiry, and so it may well be that if, in fact, this inquiry goes too far it might, so to speak, encroach on the territory of the other inquiry.

20

30

Chairman: Well, I don't know what the other charges are, I mean what the charges in the other inquiry are. But we must keep within our own absolute (bounds).

Mr. Ross-Munro: Yes, absolutely.

40

Chairman: So, we will adjourn till half-past two.

Mr. Grimberg: Sir, I was just going to suggest for your consideration - I can reply to my learned friend



Mr.Grimberg: very briefly in 10 or 15  
 (cont) minutes - I am just wondering  
 whether you would agree to sit  
 on, and take a much longer  
 adjournment. I think I will  
 be able to finish in about 15  
 minutes.

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Chairman: Yes, we would like to.

Appellant's  
 Counsel's  
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 Preliminary  
 Submissions  
 (continuation)

10 Mr. Grimberg: Now, Sir, I think, in  
 fairness to my friend in reply,  
 I must concede that the Inquiry  
 Committee was considering delay,  
 and that was what the Respondent  
 was called upon to explain. But  
 it is inherent in the fact that  
 we are in this room today  
 because those explanations were  
 not accepted. They suspected  
 for one reason or another.

20 Now with that in the back-  
 ground, let us consider the  
 various steps that took place  
 in this episode.

The first thing that happened  
 was under section 87 (1) (b),  
 the Inquiry Committee decided  
 of its own motion to inquire.  
 That is the first thing.

30 Having done so - sorry, not  
 having done so. The next thing  
 that happened was that it pro-  
 ceeded in accordance with  
 section 87 (5) (a), which has  
 been called the imperative sec-  
 tion, it posted to the Respond-  
 ent the complaint and asked him  
 to furnish his explanation.

40 Then the next thing that  
 happened was, having considered  
 those explanations both in  
 writing and when the Respondent  
 appeared before them, the  
 Council decided under section  
 88 (1) (c) that there should be  
 a formal investigation by a

Mr.Grimberg: Disciplinary Committee.  
(cont)

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Disciplinary  
Committee

And then we come, Sir,  
to section 93 (1) (a), and  
here the statute states the  
scope of your investigation in  
express terms, and I invite  
your attention to that section.

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Appellant's  
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(continuation)

Mr. Choa: Section?

Mr.Grimberg: Section 93, on what that  
section says:

10

"After hearing and investiga-  
ting any matter referred to  
it by a Disciplinary Committee  
shall record its findings in  
relation to the facts of the  
case and according to those  
facts shall determine -

20

(a) that no cause of suffi-  
cient gravity for disci-  
plinary action exists  
under section 84 of  
this Act; or

(b) that while no cause of  
sufficient gravity for  
disciplinary action exists  
under that section the  
advocate and solicitor  
should be reprimanded;  
or

30

(c) that cause of sufficient  
gravity for disciplinary  
action exists under that  
section."

And I ask you, what is it that that  
section brings directly into issue?  
And the answer is that it brings  
directly into issue the gravity of  
the offence with which the solicitor  
stands charged.

40

I put it in another way: the  
degree of seriousness. That is what

Mr.Grimberg: is crucial to your invest-  
 (cont) igation: the degree of  
 seriousness.

In the  
 Disciplinary  
 Committee

10 Sir, while I readily concede  
 that it is not permissible for  
 you to consider any additional  
 charge or any matters unrelated  
 to the present charge, you are  
 certainly entitled to take into  
 account all factors that tend  
 either to increase or, at the  
 other end of the scale, to  
 lessen the gravity or serious-  
 ness of the offence.

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20 Now it seems to me, Sir, to  
 be an extraordinary proposition,  
 with respect, to say that Mr.Wee,  
 the Respondent should be permit-  
 ted to say that this was an  
 error of judgment - the delay;  
 should be permitted to offer a  
 whole manner of explanations  
 for the delay, should be permit-  
 ted to say that there were no  
 adverse consequences flowing  
 from the delay - for example,  
 none of the clients were out of  
 their monies, Santhiran wasn't  
 going one way, or had he gone he  
 was being properly looked after -  
 30 to say all those things, all of  
 which go to the gravity of the  
 offence and for me not to be in  
 a position to put the opposite  
 contention.

That, it seems to me, would  
 be, with respect, a wholly  
 artificial concept.

40 My learned friend has referred  
 to Lau Liat Meng's case, to Ong  
 Tiang Choon in 1979, to Ratnam,  
 and, with respect, those cases -  
 as is clear from the reports -  
 did refer to charges which were  
 not preferred under section 87  
 (5) - whatever it was.

	Chairman: But in the Headnote it referred to charge?	In the Disciplinary Committee
	Mr. Ross-Munro: In the 1978 case, they referred to "matters", not "charges." In the language of page 11, the 1978 case - page 11 (c), (d) and (e), it is "matters" every time.	_____
		No. 2
10	Mr. Grimberg: I am sure that is right. Of course it is. But what the Court was referring to was a separate charge which the Disciplinary Committee had seen fit to prefer.	Appellant's Counsel's Reply to Preliminary Submissions (continuation)
20	Chairman: May I just clarify - one moment - that same case where the headnote reads just above 0: "The matter was referred to the Disciplinary Committee and the Disciplinary Committee then specified the following complaints against the Respondents."	
	They call it "complaints" there?	
30	Mr. Ross-Munro: That is what the Disciplinary Committee said, but the actual judgment at page 11 refers. The judgment given is that they could only investigate matters referred to them by the Council. That is between C and D.	
	Chairman: But that statement was made in relation to the complaint made.	
40	Mr. Ross-Munro: Oh certainly. Here there has been one complaint in the letter - 69. In our case the only complaint is - certainly related to matters complained, but, if I may say, the guts of the judgment is "matter", which is wider than complaint and wider than charges.	

Mr. Grimberg: But in answer to that, I would simply say, as I said in my opening earlier: and that is, so long as those matters are related to the charge, then clearly they must be matters to which you are entitled to direct your attention.

In the  
Disciplinary  
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(continuation)

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And so, Sir, I would say that there really cannot be any question but that you are entitled to consider the consequences, the likely consequences put it how you will. As I said on one preliminary question, you are entitled to look at the natural and probable consequences, and you are entitled to look at the motive because, as you have, with respect, pointed out in one of your interventions, these are matters which, apart from the question of investigating the motives... the Respondent himself has put in issue.

20

30

And so I would say really the answers to the two preliminaries must be in the affirmative.

Chairman: Mr. Grimberg and Mr. Munro, we think that in view of the importance of this decision, we would like to take time off to consider it and resume the hearing tomorrow morning, because there is no point in hearing for another hour. There is not much time.

40

Mr. Ross-Munro: Sir, would it assist you at all? I have written out in literally four lines what, in my respectful submission, you should do and you should not do in your investigation. It is simply the line where I have written out:

Mr. Ross-Munro: That the failure to  
(cont) report Santhiran to the Law  
Society, as particularised by  
the Amended Statement of the  
Case, is so grave as to amount  
to grossly improper conduct  
within the meaning of Section  
84 (2) (b).

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Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10

That is what the Council  
must prove beyond reasonable,  
and that is the sole matter ---  
sorry, I am going too fast? ---  
that is matter the Council must  
prove beyond reasonable doubt,  
and that is the sole matter  
into which you should inquire.

Appellant's  
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Chairman: Thank you very much.  
We will meet at 10.30 tomorrow  
morning.

20

(Hearing is adjourned at  
1.10 p.m., 23.9.80)

(Chairman added that unless  
Counsel and Parties received  
notice to the contrary,  
future hearings would take  
place in the Conference Room,  
Subordinate Courts).

30

DISCIPLINARY COMMITTEE PROCEEDINGS HELD  
IN COURT NO.23 SUBORDINATE COURTS, ON  
24TH SEPTEMBER 1980, AT 10.30 A.M.

(2nd Day) (Wednesday)

Before: Mr.C.C. Tan (Chairman)  
" Po Guan Hock,  
" Eric Choa.

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(Counsel and Parties - same as before)  
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Chairman: There are two preliminary questions which have been put up for decision by the Disciplinary Committee before investigation proceeds further, namely:

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No. 2

10 (1) In determining whether the Respondent was guilty of grossly improper conduct, is it open to the Committee to consider the natural and probable consequences of the Respondent's delay in reporting the criminal breach of trust by Santhiran to the Law Society?

24th  
September  
1980  
Chairman's  
Ruling

20 (2) Whether Counsel for the Law Society in his opening is entitled to address the Committee and in cross-examination of the Respondent to choose to give evidence on the merits and truthfulness of his explanation to the Law Society and his motives for the admitted delay, and to question the Respondent on the Respondent's motives for the delay?

30

40 Counsel for the Law Society maintains that in the case of question (1), the Committee is entitled to consider such consequences, and in the case of question (2) he is entitled to address the Committee and cross-examine the Respondent on the Respondent's explanations.

Counsel for the Respondent takes the opposite view. In support of his views, Mr. Grimberg referred to a passage from the Chief Justice's judgment in

Chairman: In the Matter of an Advocate  
(cont) and Solicitor

In the  
Disciplinary  
Committee

1978 Volume II M.L.J., at  
page 11.

\_\_\_\_\_

No. 2

I shall refer to this as the  
Ong Tiang Choon case which has  
been reviewed in the judgment  
itself. I quote:

Chairman's  
Ruling  
(continuation)

10

"The only matters which the  
Disciplinary Committee could  
have heard against the  
Respondent and which we  
therefore can now entertain  
are matters relating to  
payment of money to a tout  
for bringing in accident  
cases, the last being the  
charge."

20

Mr. Grimberg also maintains  
that the consequences and motives  
of failing to report until after  
a long delay are related to the  
charge.

30

Mr. Ross-Munro maintains that  
the consequences of the Respond-  
ent's delay in reporting to the  
Law Society are not matters  
related to the charge, nor also  
the motives of the Respondent  
for the delay. According to  
him, the charge, which appears  
on page 69 of Volume I of the  
agreed bundles of documents,  
should be adhered to strictly,  
namely, 11 - the charge:  
"Failure to report the criminal  
breach of trust committed by S.  
Santhiran when he was a Legal  
Assistant of the firm of  
Braddell Brothers to the Law  
Society earlier."

40

Mr. Munro further maintains  
that even if the Respondent  
should give evidence regarding  
his reason and motive for the



Chairman:  
(cont)

delay, Counsel for the Law Society should cross-examine the Respondent on the two matters only for the purpose of discrediting the Respondent, but not for supplying or proving new reasons or motives.

In the  
Disciplinary  
Committee

No. 2

Chairman's  
Ruling  
(continuation)

10

In support of his contention, Mr. Munro cited the case of Lau Liat Meng 1967, Volume II, M.L.J., 141.

Another case:

Isaac Paul Ratnam, 1976, Volume I, M.L.J. page 195.

And also the Ong Tiang Choon case.

20

In referring to the last case, Mr. Munro laid great stress on the dictum of the Chief Justice on the very point mentioned by Mr. Grimberg, which appears on page 10 of the report. I quote:

30

"The only matters that could properly be heard and investigated by the Disciplinary Committee were matters relating to what had been specifically referred to in the said letter, namely, the payment of monies to a tout in bringing in accident cases."

40

The Committee is of the view on the judgments in the three cases cited prohibit the Disciplinary Committee from hearing any charge or complaint beyond that laid by the (Council of) the Law Society, and in this case the Committee's investigation is restricted to the charge contained in the Law Society's letter to the Respondent dated 20th July 1978

Chairman: appearing on page 69 in In the  
(cont) Volume I of the agreed bundles. Disciplinary  
Committee

10 The Committee is also of  
the view that while it may be  
precluded from making any new  
or additional charge against  
the Respondent, this does not  
mean that the Committee is not  
allowed even to hear matters  
such as those referred to in  
questions (1) and (2) which, in  
the view of the Committee, are  
closely related to the charge  
and are relevant for the purpose  
of increasing or lessening the  
effect of the act complained of  
in the charge.

\_\_\_\_\_  
No. 2  
Chairman's  
Ruling  
(continuation)

20 The Committee is also satis-  
fied that the word "matter"  
used by the Chief Justice in  
the particular context of his  
judgment in the Lau Liat Meng  
case was used to refer to  
charges or complaints. In our  
view, where any matter is raised  
which is related to the charge  
and does not form the basis of a  
separate charge, the prohibition  
does not apply.

30 Our views are fortified by  
closer study of the reports of  
the two cases of Lau Liat Meng  
and Ong Tiang Choon.

The third case of Isaac Paul  
Ratnam is not (relevant.)

40 In the Lau Liat Meng case,  
the appellant appeared before  
the Disciplinary Committee on  
two substantive charges of  
grossly improper conduct. One  
charge was for the receipt of  
the sum of \$700, and the other  
charge was for entering into a  
champertous agreement. The  
receipt of the sum of \$500 did  
not form the basis of any

Chairman:  
(cont)

charge made by the Law Society and was totally unrelated, to the two original charges, but the Disciplinary Committee made this ground for the adverse finding and thereby vitiated the whole proceeding.

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Chairman's  
Ruling  
(continuation)

10

In the Ong Tiang Choon case, the Law Society decided that there should be an investigation into the complaint of payment of monies to a tout. Here again, the Disciplinary Committee made the mistake of adding another charge, namely, receiving other than taxed costs from accident victims. Here again, this additional charge vitiated the proceedings.

20

The use of the word "matter" by the Chief Justice in the two contexts referred to raised some doubts as to the extent of the meaning of the word intended by the Chief Justice. When such doubts arise, one is entitled to look at the ratio decidendi of the case for guidance.

30

In the report of the Ong Tiang Choon case where the relevant passages were cited and relied upon by learned Counsel for both sides, the ratio decidendi is that the Disciplinary Committee has no power to (traverse) the charge against the Respondent. That is all the Court decided in that case; and in the dictum in the judgment it is ... meaning it must not be one which enlarges the scope of the ratio decidendi.

40

The Committee therefore holds that in favour of the Law Society on both questions.

We can now proceed with the

Chairman: investigation.  
(cont)

In the  
Disciplinary  
Committee

Mr. Ross-Munro: Just before we proceed,  
Sir, I wonder whether my  
learned friend Mr. Grimberg can  
help me in this matter as far  
as the (questions) are con-  
cerned. I don't know, there  
are no particulars. Because I  
think one can see what the con-  
sequences may or may not be,  
but as far as some additional  
dishonourable motive are con-  
cerned which my learned friend  
Mr. Grimberg indicated, he might  
put, Sir, I wonder if I could  
at least have some particulars  
of what might be alleged before  
calling my evidence which  
document, it may be, a dishonour-  
able motive may be (alleged), on  
which I can in fact call evidence  
and start preparing to rebut it.  
Unless I know what affirmative  
case is put it is rather diffi-  
cult for me to do so.

\_\_\_\_\_  
No. 2  
Chairman's  
Ruling  
(continuation)

10

20

Chairman: Well, this is a matter which you  
could settle between yourselves.

Mr. Ross-Munro: Yes, I wonder if we can  
have a few minutes? Well,  
Mr. Grimberg and I have dis-  
cussed the matter between us  
and he indicated to me it is  
possible that he would put one  
particular matter, and I don't  
know whether there is any other  
matter that is going to be put  
or some other. I wonder if we  
could have, perhaps, five to  
ten minutes' adjournment?

30

40

Mr. Grimberg: I think I could probably  
clarify now, without really  
putting it in technical  
language; what I am going  
to suggest to you is that the  
motive was this: that reckless  
of the interest of clients, of  
the profession and of the public,

	<p>Mr.Grimberg: the Respondent was wholly (cont) preoccupied with the matter of recouping to the greatest possible extent the monies that Santhiran had taken so that he himself need not be answerable to his clients for any loss. You know, I wonder if that gives you ---</p>	<p>In the Disciplinary Committee <hr/>No. 2 Chairman's Ruling (continuation)</p>
10	<p>Mr.Ross-Munro: Absolutely; that is all I want to know. I am much obliged; thank you.</p>	
	<p>Mr.Grimberg: You know, I am not particu- larising in the language which, perhaps, I might have.</p>	
	<p>Mr.Ross-Munro: I am perfectly content with that,because that is an inference which may or may not be drawn, and I may not call any particu- lar evidence with that in mind on that point.</p>	
20	-----	
	<p>Mr.Grimberg: Sir, the point has come where I must look at the documents, the important ones. I am going to say at the outset that I am not going to take you through Volume II. My learned friend will do that. Those are not really my documents, and my learned friend will refer those to you.</p>	<p>Respondent's Counsel's Opening Speech (continuation)</p>
30		
40	<p>I would also, perhaps, have to say at the outset that you would recall the Inquiry Committee was looking into two matters. Whereas you are all looking at one (bundle), the documents in many cases deal with both and so, in fairness to the Respondent, there will be passages that I will ask you to totally ignore and there may be some passages that I ought to ask you to</p>	

Mr.Grimberg: ignore but don't; but  
 (cont) perhaps my learned friend will point that out. In the Disciplinary Committee

10 Page 1, Sir, is the letter to the Law Society from the Respondent dated the 30th April which constituted his first formal notice to the Law Society of Santhiran's conduct, which reads: No. 2 Respondent's Counsel's Opening Speech (continuation)

20 "Dear Sirs, I have to inform you that certain defalcations and misappropriations of monies from various clients' accounts and costs in my firm appear to have been carried out by S.Santhiran a former employee of this firm. Investigations were initially being carried out by members of my firm, and subsequently undertaken by independent auditors, Medora & Thong & Co. ... .."

30 I now produce the report which is a qualified report. I will shortly be presenting the complaint against S. Santhiran for action to be taken but currently .... It will have to be in the form of a supplementary report (from) Medora & Thong and will have to be read with the joint report."

40 Before I pass on that, I ought possibly to suggest to you that here was a report being made well over a year after the discovery, but the Respondent is still talking about defalcation in tentative terms as though it may or may not have taken place. If you look at the third line, he is talking about the same thing appearing to have been carried out by Mr.S. Santhiran,

Mr.Grimberg:	whereas in fact there	In the
(cont)	couldn't have been the slight-	Disciplinary
	est doubt in his mind that there	Committee
	had been defalcations.	

10	And you might also care to observe that the letter also makes no reference to the amounts involved when the misappropriation took place and when the existence of the misappropriation was discovered. And I am going to be bound to suggest to you that the thread that runs through all this correspondence is seemingly an anxiety on the part of the Respondent.	No. 2 Respondent's Counsel's Opening Speech (continuation)
----	--	---

20	Well, I will put it this way: the thread running through the correspondence seems to be a consciousness on the part of the Respondent that he should have reported the matter earlier. And that is why I say there was no reference to when, this initial letter, there is no reference as to when the defalcation was discovered. There is a suggestion that it may not have happened, and there is no suggestion of the amounts involved which would immediately draw to the Law Society's attention the seriousness of Santhiran's conduct.	
----	--	--

30		
40	Then, Sir, page 2 is the formal complaint to the Law Society by the Respondent dated the 27th of May, little less than a month after the less formal notification on page 1, and it simply enclosed the report and tells the Law Society that the Respondent has made a report also to the Commercial Crimes Department; and I think we ought, perhaps, to go through the whole of	

Mr. Grimberg: this complaint on page 3.  
(cont)

In the  
Disciplinary  
Committee

It says: (Reads)

10 "Some time in late February  
1976 we suspected that a  
former Legal Assistant S.  
Santhiran ... in November  
1971 had been unlawfully  
transferring monies from  
clients' accounts. ...  
It was first discovered by  
(Singa Ratnam) ... in the  
form of a crossed cheque  
issued in favour of the  
Comptroller of Income Tax  
from the account of Insur-  
ance Co. of North America.  
Copies of the cheque and  
the Ledger transfer of the  
20 said sum are attached and  
marked as Exhibits I and  
II."

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

Perhaps I should just pause  
here. I am certain that my  
learned friend has included  
these in Exhibit B.2.

I don't think they are really  
germane for my purposes. (Reads  
on):

30 "This sum was apparently  
utilised to pay Santhiran's  
income tax. At about this  
time our Despatch Clerk, Lee  
Kok Liang, also received com-  
plaints from relatives that  
they deposited \$1,250 with  
Santhiran during the period  
1974/1975 regarding a  
squatters matter without  
40 knowing much of what was  
done by Santhiran. Ong Swee  
Lim and Ong Swee Hock decided  
to change solicitors and  
appointed Chor Pee and Hin  
Hiong. ... ..

In all these cases no



Mr. Grimberg:  
(cont)

"authority or receipt appears to be given or received, no evidence supporting these were found in files. Where files are available, some are missing.

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

The following are illustrations of some of the unauthorised payments or transfers which have been going on:

(a) Sum of \$979.50 issued by crossed cheque ...

20

(b) Cheque drawn in favour of Singapore Building Society Ltd. from account of Nanyang Insurance Ltd. Santhiran had monies deposited in this Society.

The second method he used was transfer of accounts from one client to another .... set out in Exhibits B.2 and B.3. ...

30

The preliminary investigation showed that Santhiran took sums amounting to approximately \$395,000. When Santhiran was queried he gave various explanations for withdrawing from clients' accounts."

My copy is a bit vague; it is only this page. Is your page clear?

Chairman: No, it is blotted out.

40

(Mr. Wu: We have made extra copies of those

(Mr. Wu: defective pages. I am  
(cont) trying to find this one.  
These are the two defective  
pages. (Tenders fresh copies).

In the  
Disciplinary  
Committee

Mr. Grimberg: I am going to page 7 of the  
agreed bundle, page 5 of the  
report:

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

"The preliminary investiga-  
tion showed Santhiran took  
without authority for his own  
purposes sums amounting to  
approximately \$395,000. We  
insisted that until he proved  
that these withdrawals were  
proper he had to repay the  
amount not supported by re-  
ceipt or written instructions  
from clients. In March 1976  
he admitted wrongfully trans-  
ferred or taken or was unable  
to support items totalling  
\$298,000. Of this amount he  
returned sums amounting to  
\$256,000 to the firm.

20

...\$187,000 was put into a  
suspense account to enable the  
firm to sort out the costs due  
to the firm from monies due to  
the clients. Sums amounting  
to \$80,981.31 were refunded  
direct to clients' accounts.  
These were initialled by  
Santhiran in the Ledger. A  
list is attached, marked  
Exhibit G.

30

Subsequently we ascertained  
further amounts ... making a  
total of \$396,000 approximat-  
ely. Santhiran was then called  
in by me to verify the alleged  
payments; a few were verified.  
... ..

40

... Santhiran returned a  
further sum of money which  
was also added to suspense  
account. In the meantime

Mr. Grimberg:  
(cont)

"meantime \$58,000 were withdrawn to pay back to clients' accounts. A list of this is attached hereto and marked Exhibit H.

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

10

... In November 1976 Medora Thong & Co., Chartered and Public Accountants, were appointed to inspect and audit the accounts where Santhiran was involved. Santhiran agreed to the same. Preliminary investigation taken by Messrs. Medora Thong & Co. was completed at the end of December 1976.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

20

... said report shows two totals, the other one shows 262, making a grand total of \$494,000. After further checking, the amount was reduced by 24,000 to \$179,000, making a total of \$303,000.

30

Santhiran left the firm on the 22nd December 1976 but later informed the firm he would be available to answer any queries relating to withdrawals of clients' monies. In the meantime we requisitioned the bank to return various cheques.

40

... Despite opportunities given to Santhiran, he failed to produce evidence to support the other items. He was given five days on 10th March 1977 by Medora & Thong, but he failed to do so during that period.

Medora & Thong produced a written statement, and this is marked Exhibit J.

In the last few months Medora & Thong and Turquand

Mr.Grimberg (cont):

In the  
Disciplinary  
Committee

---

No. 2

"Young had been rechecking the accounts. ... qualified report under the Solicitors' Accounts Rules was filed with the Law Society.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

On 29th April 1977 after a joint qualified report had been completed Santhiran approached Medora & Thong & Co. and made certain representations on a few items.

... as a result of further investigations since the preliminary report ... certain amendments were made.

20

...Lee Kok Liang had observed him taking away files but Santhiran denied this. A specimen receipt is attached. This cannot be genuine as the sum involved was admitted to be not lawfully withdrawn. .... Exhibit G."

Sir, that is in appropriate detail, of course.

30

Chairman: The report refers to various exhibits and the figures appearing now have become more important, because in this report (they are) either blurred or blotted out. Are we able to see the exhibits later on?

Mr.Grimberg: Yes, they are in the other bundle - my learned friend will refer it to you.

40

I was saying this report does go into considerable detail, and it seems to me that members of the Committee, perhaps, ought to have it in the background of their minds, that this investigation into

Mr. Grimberg (cont):

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

Santhiran's conduct took place in two stages: first of all, there was an investigation by Braddell Brothers, the Respondent's firm; and then there was an investigation by Medora & Thong.

Now, the investigation carried out by the Respondent's firm took place between March 1976 and November 1976. From November 1976 until they (produced) their report in May 1977 the investigation was carried out by Medora & Thong. So there were two stages.

20

Now what emerges, for my purposes, from this report is that as a consequence of their own investigation, they discovered that \$395,415.75 had been taken by Santhiran. You see that at the top of page 7, Sir. If you look at the top of page 7 of the bundle you will see that the paragraph reads:

30

"The preliminary investigation showed Santhiran took without authority for his own purposes sums amounting to approximately \$395,415."

40

We don't know when that preliminary investigation took place, but it must have taken place some time before investigation was handed over, to Medora & Thong in November 1976, mainly(?) for the fact that a very substantial amount of money had been taken.

That is one thing that emerges from that report.

The other thing that emerges

Mr. Grimberg (cont):

In the  
Disciplinary  
Committee

10 from that report is that the Respondent chose not to tell the firm's auditors, and you might think, if you look at the foot of page 8, that this paragraph does not really explain to your satisfaction the reason for that. He says at the foot of the page: "For obvious reasons, it would have to be (kept secret) from Messrs. Turquand Young & Co." That explains why Hedora & Thong were appointed.

\_\_\_\_\_

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

20 You remember, Sirs, that Turquand Youngs were responsible, were the firm responsible for issuing the certificate on the basis of which both the Respondent and his Legal Assistants would be issued with practising certificates?

Chairman: It will be rather strange from this if he didn't.

30 Mr. Grimberg: Indeed, yes. I can quite appreciate, I can quite appreciate that when the Respondent discovered that these defalcations had taken place way back to 1972, that he would have been furious with Turquand Young because clearly in his mind, probably anybody else's, a great deal of responsible might have fallen on them, although we will see from the bundle later on that they said that he didn't employ certain procedures which they recommended.

40

At any rate, one would have thought that even if he hadn't complained against Turquand Young, that while reserving his

Mr. Grimberg (cont): position against them, he would have brought them into the investigation. But no, you will see quite clearly from the rest of the bundle that he deliberately kept the firm's auditors, however, who had been auditing the books of Braddell Brothers since before the Respondent became associated with that firm since before he ever joined them - they were deliberately left out of the investigation.

10

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

We go now to page 12 of the agreed bundle, Sir. This is a letter to the President of the Law Society from A.S.P. Roger Lim of the Commercial Crimes Division of the C.I.D. dated 17th February 1978 much later on in the episode and it says:

20

"The Commercial Crimes Division commenced investigation on one Santhiran for his alleged offence of criminal breach of trust ... .. had dishonestly misappropriated a sum of approximately \$350,000 from clients' accounts of Braddell Brothers.

30

In the course of our investigation the following became apparent:

- 40
- (1) defalcation of Santhiran was first discovered by Harry Wee, sole partner of Braddell Brothers in February 1976;
  - (2) Between 9th March 1976 to 10th June 1976 Santhiran repaid \$297,000 to Braddell Brothers .....

Mr.Grimberg (cont): ... In November 1976 Jamshid Medora ... was appointed by Harry Wee to carry out investigation.

In the  
Disciplinary  
Committee

... On 1st April 1977 Medora Thong sent their report to Braddell Brothers.

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

On 26th May 1977 Harry Wee sent letter to the Commercial Crimes Division alleging that Santhiran had unlawfully transferred monies from various clients.

On 24th June 1977 Harry Wee lodged formal complaint with Commercial Crimes Division of C.I.D.

20

... events leading to it are supplied in the statement... Wong Hong Foo, Public Accountant. Copies are enclosed marked A.3 and A.4. ...

Copy of Harry Wee's complaint marked A.1.

30

... he did not report the matter to anyone but proceeded to effect restitution of the property from 9th March to 10th June 1976. The auditor was not approached, until some nine months after discovery. ... as regards S. Santhiran" ---

That we must leave out - I am sorry.

(Reads on) Paragraphs 7, 8 and 9 -

40

"Harry Wee was still reluctant to allow his auditors to report on misappropriation by Santhiran in the Accountants' Report as required by section 75 of the Legal Profession Act. It appears that there may be a possible contravention of



Mr.Grimberg (cont): section 213 of the Penal Code on the part of Harry Wee. You may therefore wish to investigate the conduct of Harry Wee in this regard.

In the Disciplinary Committee

No. 2

The exhibits referred to in the statement are in the custody of Commercial Crimes Division.

Respondent's Counsel's Opening Speech (continuation)

10

You can get in touch with me if you want copies.

... sending this to the Attorney-General and the Commissioner of Police."

20

And then, Sir, we get the exhibits - page 16 are details of the sum of \$297,000 of which Santhiran made restitution. At the foot of page 16 we come to the statement of Medora.

Mr.Ross-Munro: I wonder if I might interrupt my learned friend coming to this stage at page 16. As my learned friend mentioned to you, there is only one charge, not the second point - you have decided on that. And, Sir, the difficulty with this - I have had a word with my learned friend on pages 16, 17 and 18, etc. Of course, I have had no opportunity of cross-examining Mr.Medora on that. Certain matters, certain ... the criminal proceedings.

30

40

As my learned friend indicated, bits of it related to the charge in front of you, bits of it related to the other charge. Of course, I have no objection to his reading it. Of course I know you will divorce the relevant bits from the irrelevant bits, but

Mr. Ross-Munro: I must say none of this  
 (cont) is evidence as such because  
 obviously one will have to  
 cross-examine Mr. Medora for you  
 to make up your mind as to  
 what (might) have been said.  
 But I mention them because  
 certainly it was said without  
 cross-examination in the cri-  
 10 minal proceedings; he being  
 a witness for the Prosecution,  
 certain matters were put to  
 him, including what was said  
 to the Police which was quite  
 contrary to the evidence before  
 the court.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

So certainly I wouldn't  
 like to think that what was put  
 in here is all necessarily  
 20 according to or, indeed, is  
 evidence. Subject to that,  
 I don't mind your seeing them  
 at all.

Chairman: If those matters are not  
 disputed and are relevant to  
 this charge, it would be very  
 easy.

Mr. Ross-Munro: Yes, I suspect much of  
 30 this is really irrelevant to  
 this charge.

Chairman: I think we will let Mr. Grimberg  
 deal with those parts that are  
 relevant.

Mr. Grimberg: Yes; I think, yes. I don't  
 think a great deal will turn  
 on this, and I will ask my  
 learned friend's assistance  
 in one or two respects when  
 40 I come to the parts which may  
 be of assistance to you.

You will see this is a  
 report late in November 1977  
 by Medora, and he says:

"Some time in November 1976

Mr.Grimberg: "Santhiran came to see me  
(ccnt) in my former office at Inter-  
national Plaza with a view to  
conducting an independent  
investigation.

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

This time Santhiran did not  
explain the exact nature of  
independent investigation,  
but stated Harry Wee will get  
in touch with me.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

A few days later Harry Wee  
rang me. Harry Wee and I  
were the only persons present  
in the meeting. He showed me  
J.P.91. ... as shown in the  
initial list" ---

If I can pause here. I have not  
been able to lay my hand on  
J.M.1, and I wonder if my  
learned friend can assist me in  
this.

20

Mr.Ross-Munro: You have it.

Mr.Grimberg: Is that it - I am much obliged.

(Reads): "Some of the clients have  
complained to staff about  
Santhiran ... payments by cheque  
under the instructions of San-  
thiran between 1972 and 1976.  
My main task is to check  
through relevant files to see  
whether documents are supported.  
Subsequently letter of appoint-  
ment dated 9th November, J.K.92,  
was sent to me by Braddell  
Brothers. I was supposed to  
sign and return the letter.  
However, I did not sign and  
return the letter to Braddell  
Brothers. I subsequently  
went to see Harry Wee ... and  
we agreed that paragraph A  
should be struck off. ....  
return to this matter."

30

40

If I can pause there again. I

Mr.Grimberg: would greatly appreciate  
(cont) my learned friend's assistance  
when we come to J.K.M.3.

In the  
Disciplinary  
Committee

Mr.Ross-Munro: I can certainly get hold  
of this. I think I have them in  
my hotel. I think my learned  
friend, when I show them to him,  
(will agree) they are undoubtedly  
irrelevant.

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

What it amounts to is that  
his terms of reference Medora  
thought was far too large in  
scope and will cost far too much  
money, and it was agreed later  
on to limit - but I will show you.

Mr.Grimberg: Well, if that is all they  
say, then they are not. (Reads  
on):

20

"These files were later sub-  
mitted. The investigations  
were" ---

Before I do that, was this a  
request by Mr.Wee or a joint  
request by Santhiran (and Wee)?

30

Mr.Ross-Munro: I think if we have got it  
here we can have a look because  
I am speaking from memory, but  
I am pretty certain both of  
them agreed there should be an  
investigation. But I think the  
letter would simply be from  
Mr. Wee.

Mr.Grimberg: Perhaps if you can just  
(let us have it).

Mr.Ross-Munro: Yes.

Mr.Grimberg: We will just go on.  
(Reads on):

40

"...Ramanujan it became clear  
to us that the system was in  
our opinion quite common.  
Due largely to the aforesaid

Mr.Grimberg: "weakness in internal  
 (cont) control we were not able to  
 come to a conclusion. All we  
 have done is to list various  
 payments which were not  
 supported by documents.  
 In addition to those we  
 examined at least another 80  
 to 100 files relating ...  
 ... were not supported by  
 adequate documentary evidence.  
 We invited Santhiran to assist  
 us in ascertaining the validity  
 of any items which he might wish  
 to explain. This was usually  
 done with the concurrence of  
 Mr.Wee. Santhiran was not  
 very cooperative in assisting  
 us. It was after many requests  
 that he gave his assistance.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

9. The above payments comprise  
 of Mr.Santhiran drawing out  
 bearer cheques. Several credit  
 balances were also transferred  
 by means of Ledger entry from  
 clients' accounts. ...

30

... \$350,000. Out of this  
 Santhiran paid back about  
 \$295,000, and this was put  
 back into Suspense Account."

So you should omit paragraph 15  
 as not being relevant to this  
 investigation.

40

Paragraph 16: "After we  
 consulted previous auditors,  
 Turquand Young, we subsequently  
 accepted to be joint auditors  
 with Turquand Young for  
 clients accounts for the  
 purposes of issuing the  
 Accountants' Report for the  
 year ending December 31st  
 1976.

Subsequently also accepted  
 appointment as auditors for  
 the year 1977."

Mr.Grimberg: Now the only thing I have In the  
 (cont) in mind, my learned friend's obser-Disciplinary  
 vation before I start to deal with Committee  
 this, the only point I would like  
 to draw your attention to, I  
 don't think it isdisputed at all, No. 2  
 is paragraph 14 at page 19, where  
 you will see that there came into Respondent's  
 existence a Suspense Account. Counsel's  
 10 And into that Suspense Account, Opening  
 the amounts paid by Santhiran by Speech  
 way of restitution went. And it (continuation)  
 was out of that the Suspense  
 Account with the Clients Accounts  
 were credited as and when those  
 Clients Accounts that had suffered  
 as a consequence of Santhiran's  
 misconduct were identified. So  
 the money went back to that  
 20 Suspense Account as and when they  
 identified Clients Accounts the  
 subject of defalcation. The  
 Clients Accounts were reimbursed.

But the important thing to  
 bear in mind from that investiga-  
 tion is that the Suspense Account  
 came into existence.

We go now to page 21. This is  
 the statement of Wong Siang Khoon.

30 Mr.Ross-Munro: May I just inform you that  
 I have formed the same observation  
 on this statement as the last one?

Mr.Grimberg: Yes, I would say perhaps  
 that I regard the contents, I re-  
 gard the statement in certain  
 respects to be quite important  
 in terms of the extent to which  
 the Respondent went to keep the  
 defalcation secret, and it may  
 40 be that afterwards my learned  
 friend and I will have to agree  
 what you can and what you can't  
 consider as evidence, and if the  
 area you can't consider as evid-  
 ence is too wide, I may have to  
 call witnesses in this respect.

Mr.Grimberg: So can I just reserve my In the  
 (cont) position to this extent, and read Disciplinary  
 this to you? (Reads): He says Committee  
 he is an Accountant, in paragraph \_\_\_\_\_  
 2. He goes on to say:

No. 2

10 "As far as the company records  
 show, Braddell Brothers was Respondent's  
 one of our clients as from Counsel's  
 1970 onwards. We ceased to be Opening  
 ... .. half-yearly auditing. Speech  
 After I took over as partner in (continuation)  
 charge of Braddell Brothers'  
 auditing I found the firm's  
 internal control systems were  
 rather faulty. ... 18th  
 November 1969."

20 Yes, talking about internal  
 controls, the whole of page 22 deals  
 with internal controls. So does  
 paragraph 6 of page 23.

Sir, could I go to paragraph 7  
 on page 23?

"In March 1977..." ---

You will bear in mind that was the  
 year after the defalcation was  
 discovered ---

30 "Again the matter of Suspense  
 Account was brought up by our  
 Supervisor, Victor Fernandez.  
 Mr. Harry Wee then informed him  
 about suspected defalcation of  
 Santhiran. Fernandez immediate-  
 ly brought the matter to my  
 attention, and I went to see  
 Harry Wee..... We were  
 informed that Santhiran had  
 misappropriated a large sum  
 of money from Clients Accounts  
 and it was first discovered in  
 40 September 1976."

Mr.Ross-Munro: It is an error.

Mr.Grimberg: My learned friend said that  
 was an error, but it was discovered

Mr.Grimberg: in March. (Reads):  
(cont)

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

"Mr.Wee said Medora & Thong was appointed to carry out an investigation... Mr. Wee explained the intention was to complete the investigation to ascertain whether the firms' or clients' accounts had been cheated, and having satisfied himself if that was the case the matter would be reported to the Police and the Law Society. We were disturbed that we were not informed at the time it was first noticed. We also felt there seemed to be a breach of the Rules of the Legal Profession Act. It was our intention to draw attention to the Law Society such a breach. However, Mr. Wee ... a note of the meeting was taken by Mr. Subramaniam. ... He also told us he would terminate our services.

20

Subsequently we had a meeting with Medora Thong & Co. ... We are unable to say conclusively that the amount stated in the joint report was actually misappropriated by Santhiran as we do not have the opportunity to interview any clients at all."

30

Now, I think what I want to draw from this statement are three or four facts, and I suspect that they are facts that my learned friend may not dispute. May I mention them, and perhaps you can indicate which of those facts you accept and which you don't?

40

It seems to me, Sirs, that these factors emerged from this report. No.1: that having discovered the defalcations in February/March 1976, the Respondent did not report the matter to his own firm of auditors.

(2) Did not inform them of the



Mr.Grimberg: appointment of Medora  
(cont) & Thong in November 1976.

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Disciplinary  
Committee

10 (3) Only told his own auditors  
of the misappropriations upon  
their own discovery of the Suspense  
Account in the course of explain-  
ing to them the reason for its  
existence, and only then told  
them of the defalcations which he  
himself had discovered a year  
previously.

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

Now I don't think there is  
anything controversial ---

20 Mr.Ross-Munro: I wonder if it is a  
practical matter, if I could  
check, perhaps at the adjournment,  
with Mr. Wee. I am quite sure one  
or two may be; it is possible it  
may be three, but I should check,  
subject of course to Mr. Wee's  
explanations. If we could agree,  
I wonder, as it is a practical  
matter if one can see what these  
three facts are because I think  
the last statement about internal  
control was not correct, and other  
bits exaggerated and would imply  
Braddell Brothers did not take  
notice.

30 So if I could check with Mr.Weel,  
I hope we will be able to ---

Mr.Grimberg: I am perfectly happy if you  
can do that, Sir.

40 Now we come to page 26, and this  
is a statement made by the Res-  
pondent himself to the Police  
in the course of their investiga-  
tion. It was made in July 1977,  
and he says there, Sir:

Paragraph 2 recites certain  
historical facts.

Paragraph 3: "Some time in  
November 1971 one Santhiran joined

Mr.Grimberg: "the firm as Legal  
(cont) Assistant. No contract or  
agreement was drawn between  
Santhiran and the firm.

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Disciplinary  
Committee

... money deposited either in  
cash or cheque were paid direct  
to the Legal Assistant handling  
the matter and on his instruc-  
tions the accounts clerk  
would deposit the money to  
clients' accounts. Their  
deposits would then be taken  
out from clients accounts, part  
transferred to office account as  
costs and balance refunded to  
the clients after being dealt  
with according to the matter  
handled. ... Normally the  
Legal Assistant in the firm  
deals only with the clients of  
the firm he is in charge of."

No. 2  
Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

Then, Sir, "Some time in February  
1976 I instructed Legal Assistants  
and Pupils to update their control  
of files."

From then onwards I think I  
might say this report is very much  
a repetition of the complaint to  
the Law Society.

Mr.Ross-Munro: Yes.

Mr.Grimberg: I think that is just a  
repetition of what we have already  
seen, so that we could happily go,  
I think, to page 33 where Mr. Wee  
makes a further statement.

He says - it is put to him:

"Why was the case reported  
only in June 1977 although  
it was first discovered in  
February 1976?"

And the answer is:

"We wrote to you in May 1977

Mr.Grimberg: "as soon as the independent  
 (cont) auditor has completed his  
 report. When the first defal-  
 cation was discovered there  
 was no admission by Santhiran  
 who said he was authorised by  
 client. Subsequently he  
 requested for time to do this  
 in. However, I demanded that  
 he repay back all the monies  
 that he had taken."

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

Mine has rather a gap, I am  
 afraid.

20

"From clients accounts ... he  
 agreed to do that, and we went  
 through the clients' books and  
 obtained a list of all the  
 monies he had taken. Within  
 about three months of the first  
 discovery date he repaid back  
 close to \$302,000. ... invest-  
 igation on these was done while  
 we got him to repay the money.  
 During and after this period it  
 also resulted in ushaving to  
 take more time. Meanwhile he  
 was at first producing receipts  
 or vouchers authorising payments.  
 This was unsatisfactory. Then  
 we insisted that he asked the  
 clients to come ... many turned  
 out to cover Santhiran, many  
 admitted they were covering for  
 him. In one or two cases he did  
 give them I.O.U's. ... ..

30

... in August 1976 he agreed  
 to us appointing a separate  
 independent auditor. Since then  
 the matter was in the hands of  
 the auditors.

40

When Medora furnished the main<sup>?</sup>  
 report some time in May and the  
 Police and the Law Society were  
 informed, my primary concern  
 was my office and clients'  
 accounts. I believe I have  
 recovered them all."

Mr.Grimberg: And then he was asked a lot of specific questions: "Was there any settlement between you and Santhiran?" I don't think that is relevant. It is more involved with the other. We ought really to ignore that last bit on page 35; that ought to be omitted.

In the  
Disciplinary  
Committee

---

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

I should make some comments on certain parts of that later on; and the only comment I make now is this: that in answer to the question, the specific question "Why was the case reported only in June 1977 although it was first discovered in February 1976", the Respondent gave no answer. And indeed I would respectfully suggest, and you may well think, that the first sentence of the answer is, perhaps, not strictly true when he says "when the first defalcation was discovered there was no admission by Santhiran who said he had been authorised by clients to deal with the money". Well, I don't know what he is referred to there. I suppose it could be the very first confrontation?

20

30

Mr.Ross-Munro: Yes.

Mr.Grimberg: I am much obliged. It may well be that he is referring to, but it is manifest very shortly afterwards Santhiran came clean and admitted the defalcation, and the only thing that was in doubt was the exact amount. At the first interview he denied - if my learned friend said that, I accept it.

40

But very soon, very soon - at any rate in March - the first discovery took place in February 1976; in March he

Mr. Grimberg: knew that a very substantial sum of money had been taken and Santhiran admitted it. And so what follows is really not an answer at all.

In the  
Disciplinary  
Committee

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No. 2

It is, with respect, a sort of smokescreen.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10 Then at page 36, Sir, there is another statement by Respondent, and he is asked another specific question:

20 "When you first discovered Santhiran had misappropriated sums from clients accounts, why did you not report it to the Law Society at that time as it is, or is it not, your duty as President of the Law Society to report improper conduct of a lawyer to the said Society?"

Answer:

30 "As I have mentioned earlier, in my statement after we first discovered Santhiran had misappropriated, he was suspended by me and kept under close supervision until he left the firm. ...before I report to the Police and/or the Law Society I must have a full answer of the figures.... it is my duty to report the matter to the Law Society but I was unable to do so until I received a full report from the auditor firm."

Question:

40 "Why? What have you done with them" -

It is not relevant one way or the other.

Mr.Grimberg: Sir, the answer to the  
 (cont) first question that he needed  
 to have the auditors' report  
 before referring to the Law  
 Society and to the Police, I  
 make no comment about that  
 because, as experienced lawyers  
 yourselves, you know simply  
 that is no answer.

In the  
 Disciplinary  
 Committee

---

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

Pages 37, 38 and 39 are  
 details of the sum taken by  
 Santhiran in 1975 - I don't  
 think we need to deal with.  
 Do you?

Mr.Ross-Munro: No, nothing at all.

Mr.Grimberg: I don't think we need  
 trouble you with 37 to 39,  
 inclusive.

20

Mr. Ross-Munro: May I again simply say -  
 it will save time - that we will  
 be calling, apart from Mr.Wee,  
 we will be calling the Office  
 Assistant, Miss Lisa Choo, and  
 she is the one who knows more  
 than anybody else about details,  
 much more than Mr.Wee himself.  
 And she will be giving evidence  
 on this.

30

Mr.Grimberg: I am much obliged, but I  
 certainly will not be troubling  
 you with these because it seems  
 to me, Sir, you are not really  
 concerned.

Chairman: No dispute.

Mr.Grimberg: You are not really concerned  
 about these, subject of course  
 to what my learned friend is  
 going to submit.

40

Page 40 is the letter from  
 the Chairman to Mr. Wee which  
 we have largely read, and  
 perhaps I should. It is dated  
 18th March 1978:

Mr.Grimberg: "The Inquiry Committee has In the  
 (cont) decided to inquire into Disciplinary  
 your conduct in the follow- Committee  
 ing matters: \_\_\_\_\_

(a) delay in reporting No. 2  
 defalcationof accounts"

We must ignore (b). The next  
 complete paragraph reads:

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

"Please let us have any ex-  
 planation you wish to offer  
 within 14 days in accordance  
 with section 67 (5) of the  
 Legal Profession Act and also  
 advise the Inquiry Committee  
 whether you wish to be heard  
 before the Inquiry Committee.

Please let me have your  
 explanation in sets of seven."

20

Then on page 42, Mr. Wee asked  
 for copies of the statement made  
 by Wong Siang Khoo, which we  
 have read, and copies of other  
 documents referred to in the  
 bundle were sent to him.

Page 43: he gets a letter  
 saying:

30

"With reference to your letter  
 exhibits are not with me...  
 My Committee have decided to  
 inquire into your conduct  
 concerning Santhiran, your  
 former Assistant on account  
 of your clients."

44: Wee replies to the  
 Chairman:

40

"Thank you for your letter of  
 22nd. Statements have been...  
 by the Police. I should be  
 grateful if you would request  
 them to let me have inspection  
 of the same."

Mr.Grimberg: I don't think we will  
(cont) trouble you with 45.

In the  
Disciplinary  
Committee

46 is Mr. Wee's explanation,  
and I think we ought to read  
that. Dated 19th April 1978,  
and he says:

\_\_\_\_\_  
No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

"In reply to your letter of  
18th March I will set out a  
brief outline my explanations.  
The Committee must be aware  
that Santhiran was now being  
charged with a number of  
charges in the Subordinate  
Courts, every one of the  
charges arising from defalca-  
tion in question. May I  
respectfully add the Committee  
is not ... to subpoena the  
witnesses ... I would add  
that the preliminary explana-  
tions in detail are available  
and will be given to you in  
writing on demand or orally."  
The very first ground of sus-  
picion came to my attention  
around late November 1976.  
My first reaction was horror  
and acute anxiety ... monies  
of clients' accounts to which  
he had access. I realised my  
immediate duty was to obtain  
as much assistance as possible.

20

30

... During this period I was  
completely satisfied I was on  
the right track to clarify  
the position... there was no  
question in my mind that if  
I made a partial report forth-  
with without adequate documents  
or even adequate overall  
picture of the real position  
I will dry up whatever little  
cooperation that have obtained  
from Santhiran.

40

I have every respect for the  
ability of the Police to  
investigate. In this particular



Mr. Grimberg: "case, however, I felt  
 (cont) I have achieved results for  
 the benefit of my clients,  
 including refund of monies  
 which Police investigation  
 would have taken very long to  
 clarify and perhaps even fail  
 to achieve.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

At the end of this period  
 Santhiran kept going back on  
 his tracks again and again.

... I asked for the appointment  
 of independent auditors. We  
 agreed on Medora Thong & Co.

This takes us to the second  
 period - November 1976 to May  
 1977.

20

...At about the time Turquand  
 Young & Co. had discussions with  
 the independent auditors Medora  
 Thong & Co., and it was agreed  
 that there should be a joint  
 accountants' report under the  
 Legal Profession Act.

30

... I contacted the former Vice-  
 President informing her I would  
 be making a complaint to the Law  
 Society.

On the same day, if my memory  
 serves me right, I saw the  
 Attorney-General personally and  
 informed him of the same.

40

Unfortunately... final part of  
 the independent report Medora  
 Thong & Co. handed to me only  
 on the 26th May when I wrote  
 promptly to the Law Society and  
 reported to the Police immediately  
 after."

We must omit page 49, but, Sir,  
 there is on page 49 a statement  
 which is independent, in my  
 submission, of the parts which  
 you ought not to look at, and

Mr.Grimberg: that part which is  
 (cont) independent of the forbidden  
 parts - if I may put it that  
 way - appears three lines above  
 the items (1), (2) and (3)  
 beginning "I naturally cannot  
 remember" - I would like to  
 read that because it is really  
 part of my case.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10 So I would ask you to ignore  
 everything that goes before the  
 line beginning "I naturally  
 cannot remember". If I may, I  
 would like to read that:

"I naturally cannot remember.  
 I know the position I took at  
 all times was along the follow-  
 ing lines:

- 20 (1) Santhiran to immediately  
 admit his misappropriation;
- (2) Santhiran should himself  
 agree to apply to the Law  
 Society to ask to be  
 struck off for unprofess-  
 ional conduct arising out  
 of misappropriation;
- (3) he undertook to pay all  
 the monies still owing;
- 30 (4) there should be an  
 appropriate guarantor of  
 such undertaking or  
 refund."

"I informed Mr. Medora (I would  
 ask) the Attorney-General whether  
 he would prosecute or not in the  
 circumstances" - I think we  
 ought to omit that paragraph.

40 "I suspected a substantial  
 restitution by Santhiran, I  
 nevertheless took the first  
 opportunity to make a report  
 both to the Law Society and  
 to the Police. Acutely

Mr.Grimberg: "embarrassed although I naturally was to have my conduct queried in this matter and conscious that it may seem I was dilatory, I ask that the Committee ... intricacies of clarifying questions of defalcations in clients' accounts and the immense amount of work involved. I believe have acted honestly in my clients' interest and know that you would have in no way condoned the unprofessional activities of Santhiran."

In the  
Disciplinary  
Committee  

---

No. 2  
Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

20

Now, Sir, there is at page 51, 52, a statement by Ramanujan, who is one of Medora's employees. My learned friend says it is a signed statement, or statutory declaration.

Mr.Ross-Munro: An exhibit to the statutory declaration.

Mr.Grimberg: Exhibit to the statutory declaration. If he says that, I accept it.

30

40

"I employed Medora & Thong to investigate the matter. General questions were put to him and a few specific questions were put to him. After a preliminary talk Santhiran came to the office but I did not speak to him at that time. Around this time he asked me many times about paying this amount and to ask Mr.Wee about dropping this action against him. I spoke to Mr. Wee, but he said he could not do it. It is not a question of money, but it is a question of principle.

... that was the last time I met Santhiran until 29th April 1977. ... I met Santhiran in Cecil Street. ... he contacted me over the 'phone on two or

Mr. Grimberg: "three occasions and asked  
 (cont) me to see Mr. Wee. I told him  
 what Mr. Wee said. He said that  
 even if he had paid before Mr. Wee  
 would go through all actions  
 against him.

In the  
 Disciplinary  
 Committee  
 \_\_\_\_\_  
 No. 2

10 ... around the latter part of  
 March. On the 29th April 1977  
 he met me at Medora & Thong and  
 we spent a few hours going through  
 the accounts when he made  
 representations on them. I  
 assisted Mr. Medora to check  
 the accounts for a few days.  
 ... I left Singapore for India  
 on 15th May and returned on 29th  
 May. I met Santhiran by chance  
 in Rangoon Road. He said it  
 would be unwise had he paid as  
 Mr. Wee wouldn't really let him  
 go."

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

20 My learned friend has asked me to  
 agree the facts so as to - before he  
 called him up. It seems to me that  
 really the contents of this document  
 go into a charge with which you are  
 not concerned, rather than with the  
 one with which you are concerned. I  
 certainly don't dispute this.

30 Mr. Ross-Munro: What it amounted to is  
 that certainly part of it goes into  
 a charge that you are not concerned  
 with, but there are parts, including  
 dates, showing what he was doing with  
 the accounts and how his letter of  
 the 29th April - Santhiran was  
 coming back with representations -  
 I will need that part as part of my  
 defence. So if my learned friend -  
 40 yes, I am calling, I will rely on  
 that ---

Mr. Grimberg: Yes, I certainly - I don't  
 think there is anything in that  
 statement which troubles me too  
 much; fair enough.

Mr.Grimberg: Now, Sir, we go to the  
 (cont) detailed report, the detailed  
 explanation. There is some  
 mystery as to when this detailed  
 explanation was supplied. But in  
 Mr. Wee's original letter, you  
 will remember he said "you will  
 have a detailed explanation if  
 you ask for that either orally  
 or in writing" - that is at  
 page 46, and clearly some  
 request was made for those  
 additional explanations. And  
 they were supplied. They may  
 have been supplied simultaneously  
 with the letter of 26th, or a  
 little afterwards; at any rate,  
 there they are.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

And in his detailed explana-  
 tion, Mr.Wee splits the episode  
 up, as I have done, into two  
 periods, what we might call the  
 pre-Medora & Thong period, and  
 the post-Medora & Thong period.

Page 53 - delay in making  
 report:

"(a) Delay in making - divisible  
 into two periods:

(1) discovery by staff of  
 Braddell Brothers between  
 February 1976" ---

30

Chairman: Mr.Grimberg, this page 53:  
 where does it come from?

Mr.Grimberg: Well, Sir, again if you look  
 at page 46, third paragraph,  
 Mr. Wee there says "Hence my  
 preliminary explanations are  
 brief, but I would add that  
 preliminary explanations in  
 detail are available and will  
 be given to you in writing on  
 demand or orally at any time  
 if you consider it appropriate".  
 Do you see that at page 46?

40

And then, having said that,

Mr.Grimberg: "The Law Society", if you  
 (cont) look at page 66, writes to him  
 and says: In the  
 Disciplinary  
 Committee

10 "I am in receipt of your letter  
 of 19th April which my  
 Committee notice is only  
 a preliminary explanation. No. 2  
 You are invited to furnish a Respondent's  
 full explanation in writing Counsel's  
 you may wish to. Please let Opening  
 me have seven copies of the Speech  
 same." (continuation)

So there they are asking for  
 the detailed explanation which  
 Mr.Wee has offered at page 46;  
 and he replies at page 67 to that  
 letter saying:

20 "In reference to your letters  
 of 11th and 12th, I believe  
 seven further copies of the  
 explanation were sent through  
 the Law Society to you. Pre-  
 liminary explanation referred  
 to in my letter of 19th April  
 1978, subject to oral explana-  
 tions or to the fuller details  
 under 1 (a) of page 2 of the  
 explanation is the explanation  
 requested."

30 It is a very convoluted para-  
 graph. I think what happened  
 was when he sent 45, he must have  
 also sent the detailed explana-  
 tion at 43 - is that right?

40 Mr.Ross-Munro: We can check with Mr. Wee.  
 I would have thought, my learned  
 friend (says) convoluted, that  
 he must have sent a preliminary  
 explanation in detail, probably  
 with that letter of the 15th May,  
 looking at the second paragraph:  
 the preliminary explanation in  
 detail (that is at page 53) is  
 the explanation.

I think by "explanation" as

Mr. Ross-Munro: opposed to "preliminary  
(cont) explanation in detail", he  
means the first one. If you  
look back to 46: what he says  
is the preliminary explanation  
is the thing that is available.

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Mr. Grimberg: I am entirely with you  
in your confusion, I may confess,  
as well. But nothing turns on  
this.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

Chairman: No, it is not very important  
whether it comes through one  
letter or the other, but what  
I am concerned about is the sudden  
appearance of this document in  
the bundle, and how does it  
come into existence?

Mr. Choa: You see, in page 65, it is  
dated 10th of May?

20

Chairman: So this apparently was submitted  
on 10th May, long after April the  
19th.

Mr. Ross-Munro: I think on the 15th May  
he would have sent this page 53.

Chairman: Well, subject to correction, can  
I enter this as enclosure here on  
page 67?

30

Mr. Ross-Munro: It was sent on the 10th  
May; I thought it was on the  
15th - sent on the 10th of May  
by Mr. Wee. No covering letter.

Mr. Grimberg: No covering letter; sent  
to the Inquiry Committee.

40

Yes, page 53, Sir. He says:  
" Delay in reporting defalcation  
divisible into two periods -  
(1) discovery by staff of  
Braddell Brothers between  
February and September 1976,  
(2) investigation by Medora  
and Thong between November 1976  
and May 1977.

Mr.Grimberg: Page 54, he deals with  
 (cont) the first period - February to  
 December 1976:

In the  
 Disciplinary  
 Committee

"It was not possible for the  
 staff to establish the amounts  
 and number of items involved.  
 Admissions were retracted and  
 figures were amended right  
 from the beginning.

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

... we discovered he had  
 entered into a contract at  
 Victoria Park, we pressed him  
 and he refunded \$267,000.

... new items of defalcation  
 were discovered. This altered  
 the total - \$296,000. Items  
 denied were also changed from  
 \$96,000 to \$113,000. In the  
 meantime he made further  
 payments.

20

... to appoint an independent  
 auditor. During this period  
 Santhiran had been suspended,  
 but from the documents we were  
 able to discover more defalca-  
 tions."

Then he comes to the second period:  
 November 1976 to May 1977:

"Investigation was in the hands  
 of Medora and Thong appointed in  
 December 1976. ... by May 25th  
 1977 the final figure was changed  
 to \$372,000. ... final  
 report, \$434,000.

30

... soon after my return I  
 repeatedly inquired from Medora  
 and Thong what the position was.  
 In March 1977 the auditors said  
 they had almost completed.  
 Turquand Young and independent  
 auditors agreed to make a joint  
 accountants' report under the  
 Solicitors' Accounts Rules.

40

In the latter part of March 1977



Mr.Grimberg: "I discussed the matter  
 (cont) with the Vice-President of the Law Society. I said there will be a delay. I will be making a report to the Police. ... joint accountants' report was not expected to be ready for another three weeks. I was involved in legal business in Hongkong and subsequently the Medico-Legal Society's visit to China.

In the  
 Disciplinary  
 Committee  
 \_\_\_\_\_  
 No. 2  
 Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

On April 27th I wrote to the Law Society about misappropriation of money by Santhiran. I would be presenting a complaint on Santhiran.

20

On 6th May 1977 I spoke to the Vice-President sometime after that ... again saw the Attorney-General.

... On 27th May I wrote to the Law Society enclosing my complaint and on the same day I wrote to the Police informing them of (misappropriation) by Santhiran.

30

... on 20th June 1977 the Police wrote to me to see the Head of C.I.D. I did so on the 24th June. Most of the files relating to the items concerning the defalcation could not be located.  
 ...

By August/September 1976 a fair number were available. ... He agreed to this and to cooperate" - that is Santhiran -

40

"He repeated that it was only just as he paid in substantial sums that he be given an opportunity to satisfy the auditors, and I agreed to this. I also wanted to know how the firm of auditors had failed to discover this. ... Medora and

Mr.Grimberg: "Thong were appointed  
(cont) in early November 1976.

It would not be possible to file a complaint or report until the independent auditors had completed their report... also Santhiran would have refused to cooperate to locate files.

10 ... this would have put us in a very embarrassing position. The Law Society or the Police would not be in any position to take action.

... There was in fact an item in the auditors' report which shows no (defalcation) as far as I am aware."

20 Now, Sr, on page 62 there are certain comments on the statement by Medora. There are parts of it which are objectionable, and I will omit them, and read the other parts. 62:

30 "Some time after the preliminary report was made Santhiran made a number of approaches to me and later through others, namely, Ramanujan. ... I had a few discussions with Mr.Medora complaining of the delay... I remember it was raised by him, one matter could not have been settled. I informed him that this was not possible...Santhiran should apply to the Law Society to be struck off. If this was done the matter would be placed before the Attorney-General for him to consider whether it is possible he would be prosecuted in the criminal courts as the matter was in his hands.

40 Mr. Medora appeared to have not understood or forgotten this."

We should omit the next paragraph, and the paragraph after that, and go on:

In the  
Disciplinary  
Committee

---

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

Mr. Grimberg: "I must also point out  
(cont) that in late March 1977 I  
reported the matter both to  
the Law Society and to the  
Police. Subsequently I wrote  
to the Vice-President of the  
Law Society that there was  
going to be a delay.

In the  
Disciplinary  
Committee

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10 ... by the last week of May  
1977 the machinery set in  
motion by the Law Society and  
the Police had taken place.  
I was available all the times."

And then he deals with Wong Siang  
Koon, which you have read.

20 "... from time to time they  
made comments some useful and  
others less so and mainly pro-  
cedural. ... It is correct  
that they were not informed of  
the defalcations by Santhiran...  
I complained that there had been  
clear evidence on their part that  
they had failed to check the  
defalcation. ... they became  
upset and angry that they had  
not been informed of the  
appointment and insisted on  
putting in a qualified report.  
30 As Messrs. Medora & Thong had  
not completed the report,  
Turquand Young & Co. could not  
have ... to be able to make a  
report. I also was apprehensive  
that they might attempt to  
cover up.  
I therefore terminated their  
appointment and appointed  
Medora and Thong in their place.

40 ... in the circumstances I  
agreed to their doing so as the  
independent auditors then  
assured me they would see to it  
there would be no attempt by  
Turquand Young & Co. to cover  
up their negligence."

Mr.Grimberg: Now, Sirs, may I tell you  
 (cont) what I consider fairly to be a  
 summary of Mr. Wee's explana-  
 tion, and if I leave anything  
 out of course the (defect) will  
 be cured by my learned friend.  
 What he says is that the reasons  
 for his delay were these:

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

(1) That the amount misappro-  
 priated could not be  
 ascertained with any  
 degree of certainty  
 because Santhiran was  
 being uncooperative, and  
 shifting his position  
 from one moment to the  
 next;

20

(2) Secondly, that once Medora  
 and Thong had been appoint-  
 ed, no report could be  
 made until their final  
 findings had been received;

30

(3) thirdly, that the respond-  
 ent was under heavy  
 pressure of work and that  
 this work and quasi-profess-  
 ional duty, such as going  
 with the Medico-Legal  
 Society to China, took him  
 away from Singapore for  
 long and crucial periods  
 during the investigations;

40

(4) That Medora and Thong took  
 much longer than was anti-  
 cipated to produce their  
 final report.

And I think (5), that finally,  
 had a report been made Santhiran  
 would have been or was likely to  
 have been even less cooperative.

Now I don't know how the  
 Respondent can even begin to  
 justify the delay for those reasons,  
 and if I can just put one of them  
 on one side straight away - I

Mr. Grimberg: mean, this business of  
 (cont) Santhiran being difficult and  
 uncooperative. One would have  
 thought that the very reason  
 for bring the Police - forget  
 about the Law Society for the  
 moment - one reason for bringing  
 in the Police is that they have  
 the muscle that the Respondent  
 and Medera and Thong lag. And  
 one would have expected Santhiran  
 to have been a good deal more  
 cooperative with the Police than  
 he was with the others who were  
 trying to establish the facts.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

30

40

But forget that for the  
 moment, I must submit to you,  
 Sirs, that these explanations  
 were really no more than a  
 fog generated by the Respondent  
 to cloud the vision of the  
 Inquiry Committee. But that  
 despite the fog, we see - if I  
 can mix the metaphor - we see  
 from the Respondent's own mouth  
 in a number of places patches  
 of clear blue sky to which I  
 will refer you in a moment, and  
 I am bound, with regret, to  
 submit to you that the Respondent  
 knew that he was answerable to  
 his clients for the money  
 Santhiran took, and that his  
 abiding preoccupation was to  
 keep as much of it back as he  
 could before appropriate steps  
 were taken - or, put it in  
 another way - before he fulfilled  
 his - what he knew to be - before  
 he fulfilled what he knew to be  
 his duty as a solicitor.

Sir, these patches of clear  
 blue sky, I call them, are  
 visible in places in the bundle  
 that I have just referred you to,  
 and I will refer you to them, if  
 I may.

Page 33 is the first reference

Mr.Grimberg: where he was asked by the  
 (cont) Inspector the specific question  
 "Why was the case reported only  
 in June 1977 although it was  
 first discovered in February  
 1976?" And he replies, "We  
 wrote to you in May 1977 since  
 the independent auditor had  
 completed his report when the  
 first defalcation was discover-  
 ed there was no admission by  
 Santhiran who said he had been  
 authorised by clients to deal  
 with the money. He was asked  
 to produce authority from the  
 clients. Subsequently he  
 requested for time to do this."

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

And then, Sir, "However, I  
 demanded that he repay back all  
 the monies that had been taken  
 by him from clients' accounts  
 until each client had proved he  
 had authorised him to (deal  
 with)."

And then, Sir, if you will  
 turn to page 35, second paragraph:

30

"My primary concern and res-  
 ponsibility are my clients  
 and their accounts. It is  
 of prime importance to re-  
 cover back as much money as  
 possible from Santhiran to  
 repay back into various  
 clients' accounts. I believe  
 I have recovered all."

40

Well, of course the fact of the  
 matter is that clients have no  
 concern at all because Mr. Wee is  
 a substantial person and they can  
 recover from him. What Mr. Wee  
 was anxious about is that he must  
 not put his hands in his own  
 pocket to take the money to  
 reimburse the clients when in  
 fact money was taken by Santhiran.

And then you see that theme

Mr.Grimberg: recurring at page 47 in  
 (cont) his letter to the Chairman of  
 the Inquiry Committee. If you  
 look at the penultimate para-  
 graph:

In the  
 Disciplinary  
 Committee

---

No. 2

10

"I have every respect for  
 the ability of the Police  
 investigators. In this  
 particular case, however, I  
 felt I was achieving results  
 for the benefit of my clients  
 including refund of monies which  
 the Police investigation would  
 have taken very long to clarify  
 and perhaps even fail to  
 achieve."

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

Page 47, Sir, penultimate para-  
 graph.

20

And then if you look at page  
 49, paragraph that I refer which  
 may still be in your mind, at the  
 bottom of page 49:

"I naturally cannot remember  
 but I know the position I took  
 at all times was along the  
 following lines:

30

- (1) that Santhiran should  
 make admission;
- (2) that he must agree to  
 apply to the Law Society  
 to be struck off;
- (3) that he undertook to pay  
 all the money still  
 owing;
- (4) that there should be an  
 adequate guarantor of  
 such undertaking or  
 refund" ---

and then over the pages:

40

"I informed Mr. Medora that a  
 few conditions were (made).

Mr.Grimberg: "The full facts should be  
(cont) placed before the Attorney-  
General with a view for his  
consideration whether he  
would prosecute or not in the  
circumstances."

In the  
Disciplinary  
Committee

-----  
No. 2

10 Now, Sir, that means what it  
says. "If he repays me I will  
support representations to the  
Attorney-General in an effort  
to avoid a prosecution, but of  
course the ultimate decision is  
in the hands of the Attorney-  
General.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

And then if you look at page  
62, we see that has occurred  
again at the foot of the page:

20 "I had a few discussions with  
Mr.Medora complaining of the  
delay in completing his report,  
and consequently Santhiran was  
practising for such a long  
time. I remember it being  
raised by him ... by being  
settled, and as has been my  
stand throughout I informed  
him this was not possible."

And over the page:

30 "Santhiran must show complete  
mitigation by admitting his  
misappropriation and he apply  
to the Law Society to be struck  
out for professional misconduct  
and also in mitigation if he  
undertake to pay and give an  
adequate guarantee for what  
was still owing. If this was  
done the matter could be  
40 placed before the Attorney-  
General for him to consider  
whether it was possible... he  
would be prosecuted in the  
criminal courts as the discre-  
tion to do so lay in his  
hands. Mr.Medora appears not  
to have" ---



Mr.Grimberg: We needn't bother.  
(cont)

In the  
Disciplinary  
Committee

So there is the theme occurring again: if he pays up and guarantees the amount outstanding still, then the Respondent would start - doesn't say in so many words, but it seems to me that is very strongly implied, it seems to me; he would support (representations) to the Attorney-General for consideration whether Santhiran would be prosecuted.

\_\_\_\_\_

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

20

30

Then, Sir, against the background of these passages, we have the knowledge in our minds that the firm's own auditors were not told of the defalcations when they would have come in to do their audit for the purposes of the 1976 practising certificates (in or around March 1976). It was discovered, if you remember, Sir, in February and March they were not told of the appointment of Medora and Thong, and that they only discovered the defalcations when they themselves stumbled on the Suspense Account in March 1977.

You may find that of itself surprising conduct in terms of---

40

Mr.Ross-Munro: I don't know - I hesitate to interrupt my learned friend, but I wonder whether this isn't going beyond what you should hear, namely, a different charge. My learned friend has been kind enough to say that the dishonourable motive, what he calls the dishonourable motive, was really what Mr.Wee wanted: the restitution. That he was doing everything to get restitution that was uppermost in his mind, to get all the money back. That, my learned

Mr. Ross-Munro: friend, was what his  
(cont) case was going to be when it  
was put to him.

In the  
Disciplinary  
Committee

Sir, whether or not it was  
right or wrong to tell his  
auditors who he thought were  
negligent in not discovering  
this in 1972, whether he thought  
was right or wrong was entirely  
irrelevant.

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

Chairman: Mr. Munro, you may rest assured  
that nothing would be made the  
subject of the second charge.

Mr. Ross-Munro: I was wondering whether  
it was relevant to find the part.  
My learned friend does not  
attach some importance to it,  
but he has made mention twice.  
Well, he had never told the  
auditors; secondly, he appointed  
Medora and Thong without telling  
his own firm of auditors. I just  
want to understand whether that  
is relevant, how it can be  
relevant. What my learned friend  
has indicated was he was suggest-  
ing motive, namely, that Mr. Wee  
thought of nothing but restitu-  
tion.

20

30

Chairman: Well, you will be given an  
opportunity later on to show  
that what he said is irrelevant  
to show it to me.

Mr. Ross-Munro: Yes, obviously I can lead  
evidence to say that Mr. Wee  
thought they were negligent,  
and therefore he (did not)  
tell the auditors. But, with  
respect, that is not relevant;  
that might simply waste a lot  
of time.

40

Chairman: Well, it is pretty near the  
border-line.

Mr. Ross-Munro: It seems to me to be

Mr. Ross-Munro: rather nearer towards  
 (cont) concealment. Concealment is  
 the subject matter of the  
 charge which is a matter more  
 (for) the Inquiry Committee, as  
 you know.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

10 Chairman: But if anything is said, I  
 would just say that while he is  
 addressing or while we are  
 listening to him we will not ac-  
 cept everything he says, but  
 subject to what you will have  
 to say, and anything that is  
 tantamount to a second charge  
 we shall purge from our minds  
 without making up our minds.  
 We have been fully educated on  
 this particular point.

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

20 Mr. Ross-Munro: Yes, simply that I didn't  
 want to waste time leaving wit-  
 ness to give the reasons why he  
 didn't tell the auditors whom he  
 thought negligent.

30 Mr. Grimberg: Sir, on this question of  
 auditors, I have given some thought  
 to it, whether it was right or  
 wrong for me to say. You have  
 ruled motive is relevant for  
 the purposes of this inquiry,  
 and it seems to me that it is  
 therefore quite proper for me  
 to deal with this question of  
 not telling Turquand Youngs  
 because it goes to the extent  
 to which the Respondent was  
 prepared to go in order to  
 keep the matter secret in order  
 to get the money from Santhiran.  
 And so, in my submission, it  
 40 is wholly relevant for you to  
 consider the fact that Mr. Wee  
 deliberately kept his firm's  
 long-established auditors in  
 the dark as to what happened  
 because he knew whenever they  
 came in they would insist on  
 making a qualified report,  
 insist on reporting to the

Mr.Grimberg: Law Society, and that  
(cont) would be the end of his chance  
to get his money back, and that  
happened as early as March/April  
1976.

In the  
Disciplinary  
Committee

No. 2

So, with respect to my  
learned friend, it seems to me  
that this line of inquiry is  
wholly legitimate.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

This might be an appropriate  
time for you?

Chairman: Thank you. You will be taking  
this afternoon?

Mr.Grimberg: Yes.

Chairman: So, we will make it half-past  
two.

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(Hearing is adjourned at 12.55 p.m.,24.9.80)

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(Hearing resumes at 2.35 p.m., 24.9.80)

Chairman: Yes, Mr. Grimberg.

20

Mr.Grimberg: I think I was saying just  
before the adjournment, I was  
suggesting just before the  
adjournment that the Respondent's  
failure to tell the firm's audi-  
tors the defalcations that he  
discovered them was in aid of  
his motive: to recoup as much  
of the misappropriated money  
as he could. And I suggest  
that it is a fair inference to  
draw that by telling the firm's  
auditors he might have jeopard-  
ised his prospects of recovering  
some or all of the money.

30

Mr.Grimberg: And then I must ask you  
 (cont) also, before I leave the ques-  
 tion of the auditors, to consi-  
 der how odd it is that the  
 Respondent should have sought  
 the agreement of Santhiran  
 before he appointed Medora and  
 Thong as a so-called independ-  
 ent auditor in November 1976  
 while keeping it secret from his  
 own auditors, and I suggest to  
 you that can only be explained  
 in one way: and that is that  
 if Santhiran agreed to appoint-  
 ment of Medora and Thong and if  
 Medora and Thong discovered that  
 even more money was missing he  
 could hardly, Santhiran could  
 hardly dispute that finding.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

Chairman: Dispute their?

Mr.Grimberg: Their finding in terms of  
 the Respondent saying, "Look,  
 they have found out some more.  
 You agreed to their appointment.  
 Pay me that money back."

30

I think that is the fairest  
 inference to draw from that, the  
 fact that he - I mean, otherwise  
 Medora and Thong saying, "This  
 scoundrel has taken \$300,000,  
 \$400,000 of your money. Get him  
 to agree". I mean, it is an  
 unthinkable thing to do.

40

There is one other I wanted to  
 talk about before the adjournment  
 that I wanted to draw your atten-  
 tion to in terms of drawing a  
 fair inference, and it has gone  
 out of my mind. But it will  
 come back, and I had perhaps  
 go on. And before I go to the  
 law, Sir, I think you may find  
 helpful this summary of the  
 chronological sequence of events  
 which I have shown to my friend,  
 that we agreed that this is  
 accurate.

Mr.Grimberg: (Tenders copies, and In the  
(cont) addressing the Secretary: Disciplinary  
"Could I give the original Committee  
to the Chairman?) \_\_\_\_\_

Chairman: You don't need to have this No. 2  
marked, do you?

10 Mr.Grimberg: Sir, well I suppose they Respondent's  
can be marked; I don't think Counsel's  
they should be called A. Shall Opening  
we call it - we are the applicant, Speech  
so it would be "A.1". We have (continuation)  
got Volumes I and II. We don't  
have any more exhibits, I don't  
think.

Chairman: I think Volumes I and II  
should be marked as "A.1" and  
"A.2".

Mr.Grimberg: Could you call this as  
"A.3"?

20 Chairman: As "A.3", yes. Exh.

Mr.Grimberg: I just take you quickly  
through this, if I may.

- 30
- (1) November 1971: Santhiran employed as a Legal Assistant by the Respondent, the sole proprietor of Braddell Brothers.
  - (2) February 1976: Respondent becomes aware that Santhiran misappropriated monies from the clients' accounts of Braddell Brothers.
  - (3) March 1973: Santhiran admits to the Respondent that he, Santhiran, had misappropriated sums totalling \$298,000.
  - 40 (4) Between 9th March 1976 and 10th June 1976 Santhiran makes restitution of \$297,000.

Mr. Grimberg: (5) November 1976: Respondent - In the  
 (cont) ent appoints independent Disciplinary  
 ent firm of accountants. Committee

(6) December 1976: Santhiran \_\_\_\_\_  
 ceased to be employed by No. 2  
 the Respondent.

10 (7) Late March 1977: Respondent Respondent's  
 informs Attorney-General and Counsel's  
 Vice-President, Law Society, Opening  
 of Santhiran's misconduct Speech  
 and states that complaint is (continuation)  
 forthcoming; that is verbal,  
 Sir.

(8) 30th April 1977: Respondent  
 reports Santhiran's mis-  
 appropriation to Law Society.

20 (9) 6th May 1977: Respondent  
 informs the Attorney-General  
 and Vice-President, Law  
 Society S.S. will be delayed  
 due to delay in finalisation  
 of accountants' report.  
 That again is a verbal  
 notification.

(10) 26th May 1977: Respondent  
 reports Santhiran to the  
 Police.

30 (11) 27th May 1977: Respondent  
 makes formal complaint to  
 the Law Society concerning  
 Santhiran.

(12) 27th May 1977: Police began  
 investigations - I don't  
 think that is actually  
 accurate.

40 Mr. Ross-Hunter: I think it is accurate with  
 this addition: I think it may  
 well be that the Police began  
 theirs, but Inspector Lim said  
 that he started in Commercial  
 Crimes on the 24th June. So  
 it may be the Police started  
 before, but he then started on

Mr. Ross-Munro: 24th June.  
(cont)

Mr. Grimberg: Would July be accurate?

In the  
Disciplinary  
Committee

Mr. Ross-Munro: I don't mind.

\_\_\_\_\_  
No. 2

Mr. Grimberg: Yes, Police began investigation on 27th May 1977.

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

(13) October/November 1977:  
Santhiran goes to Malaysia.

(14) 17th February 1978: C.I.D. complains to the Law Society concerning, inter alia, Respondent's delay in reporting - and that of course is page 12 in Volume I.

20

(15) 18th March 1978: Inquiry Committee writes to Respondent for his explanation - that is at page 40 of Volume I.

(16) 9th April 1978: Santhiran was arrested by Malaysian Police in Kuala Lumpur.

(17) 10th April 1978: Santhiran was brought back to Singapore.

(18) 11th April 1978: Santhiran was produced in court.

30

(19) 19th April 1978: Respondent provides preliminary explanation to Law Society accompanied by full details - actually wasn't accompanied by. We know that. That is pages 46 and 53, respectively, of Bundle A.

(20) 10th May 1978: Santhiran was convicted.



- Mr.Grimberg: (21) 11th May 1978: Letter from I/C to Respondent requesting full explanation. In the Disciplinary Committee
- (22) 11th May 1978: Letter Respondent to I/C pointing out that fuller details already sent. And that is 67. No. 2 Respondent's Counsel's Opening Speech (continuation)
- 10 (23) 24th May: Respondent requested by Inquiry Committee to appear before the Inquiry Committee on the 26th May. And that is at page 68.
- (24) Respondent notified that there is to be a formal investigation by Disciplinary Committee - and that is at page 68.
- 20 And (25) On the 23rd of April 1979 Santhiran was struck off.

Mr.Ross-Munro: '78 might have sounded more natural, but '79 it is. I don't think of taking up a point on that.

Mr.Grimberg: So, Sir, that would tell you the sequence of events as far as may be relevant for the purposes of your investigation. You may well think, looking at that, that at the point stated in item (2) the Respondent should have reported to the Law Society; and at a point stated at item (3) there was no possible excuse any longer for him not to report.

30

Now there is no doubt, and I am sure my learned friend will make much of it, and rightly so, there is no doubt that the action of the State against Santhiran after the report was made was not as expeditious and as prompt

40

Mr.Grimberg: as one would have hoped,  
 (cont) and that is quite plain in the  
 last item my learned friend has  
 asked me to include in that. It  
 took him until the 23rd of April  
 1979 for Santhiran to be struck  
 off.

In the  
 Disciplinary  
 Committee

No. 2

10

But of course in failing to  
 report or in not reporting in  
 February/March 1976, the  
 Respondent was not entitled to  
 assume that such delays would  
 occur; in fact they did occur  
 is wholly irrelevant, I suggest,  
 to your (confusions) in this  
 case. And undoubtedly there  
 were delays which ought not to  
 have taken place. So that  
 doesn't take away from the fact  
 that the Respondent should have  
 reported in February/March; he was  
 not entitled to assume, to say to  
 himself, Well, if I report now,  
 it is going to take such a long  
 time anyway. What is the point  
 of doing it?"

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

20

30

He was entitled to assume that  
 when he reported, prompt and ef-  
 fective steps in accordance with  
 the law and with the rules of  
 the profession would be taken.  
 The fact that they were not is,  
 in my submission, of no relevance.

40

So that really concludes what  
 I have to say about the agreed  
 bundle, about the facts to which  
 it refers and about the conclusions  
 and inferences I suggest that you  
 are entitled to draw from the  
 documents that you have seen.

I now come to the law on the  
 subject, and I don't think that  
 there is a great deal of argument  
 between my learned friend and I  
 as to the tests that you have to  
 apply in this case in determining  
 whether there has been grossly

Mr.Grimberg: improper conduct, and in determining to whom a solicitor owes a professional duty. In the Disciplinary Committee

Can I just start off by referring you to Lund, just two very brief references: Lund, the 1960 Edition. And may I just hand up to you page 49 and page 81? No. 2 Respondent's Counsel's Opening Speech (continuation)

10 (Tenders to the Committee).

Page 49 first. Just briefly they are talking here about non-statutory misconduct, and if you start at the top of the passage:

"49. Non statutory or other professional misconduct can be classified under the following main heads:

20 Convictions by criminal jurisdiction" ---

We are not concerned about that ---

- "(b) breaches of duty to the court;  
 (c) breaches of duty to the clients; and  
 (d) breaches of duty to third parties, including debts owed to other solicitors and to the public generally."
- 30

And then if you would go, Sir, to page 81, at the bottom of the page, the very last paragraph - reporting unprofessional conduct:

"Another question that is often asked is, are we under any duty to report to the Law Society suspected impropriety on the part of a solicitor? The Council has expressed the view that unless there are strong reasons to the contrary,

40

Mr. Grimberg: such as conflicting duty  
 (cont) towards his client, it is highly  
 desirable that a solicitor  
 should report immediately to the  
 Council any fact which gave him  
 a good reason to believe that  
 another solicitor may be guilty  
 of professional misconduct so  
 that the Council can investigate  
 the case as quickly as possible.  
 In the view of the Council that  
 is a professional obligation,  
 unpleasant though it may be,  
 which it is in the general  
 interest of us all it is your  
 duty to discharge, subject only  
 to the prior interests of your  
 clients."

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

And my (proposition) is that if  
 it is a duty to the court when  
 impropriety, suspected, arises,  
 then how much greater is that duty  
 when the impropriety is not only  
 suspected, but is a known fact?  
 And where the impropriety involves  
 the theft of large sums of clients'  
 money and there is a risk of repe-  
 tition, how much greater still is  
 the duty?

30

Sir, as you will recall, at the  
 beginning of my opening I dealt with  
 the classes of persons to whom a  
 solicitor's professional duty extends.  
 I told you I thought that his duties  
 extended to his clients, to the  
 profession and to the public, and  
 I rely for that on the passage at  
 the top of page 49 that I just  
 referred you to, if any reliance  
 is necessary.

40

So that what we have is this:  
 that a solicitor owes a duty, a  
 professional duty to his clients,  
 to the profession and to the  
 public, and we know that that  
 duty extends to reporting to the  
 Law Society when impropriety is  
 suspected, and so I must submit to

Mr.Grimberg: you that the greater the  
 (cont) awarcness, the greater the  
 impropriety - the greater the  
 awareness, the greater the  
 impropriety - the greater the  
 duty to report with all possible  
 particularity and promptitude.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

I say all possible particular-  
 ity advisedly because it may not  
 be possible when you first dis-  
 covered the impropriety you may  
 not be able to be as particular  
 as you would like. Indeed,  
 Mr. Wee was confronted with  
 just that problem in February  
 1976, and we can all imagine  
 ourselves in his shoes when he  
 discovered what happened. But,  
 nevertheless, forgetting about  
 the peril that he may have been  
 placed in personally, it is his  
 duty to report at once even if  
 he didn't say the exact amount  
 involved because there was other  
 machinery, perhaps more effective  
 than his own for determining that  
 question.

20

30

Now we know, I suggest to  
 you, Sir, the classes of people  
 to whom the duty extends, we  
 know the extent of the duty and  
 you must determine whether a  
 breach of that duty amounts to  
 grossly improper conduct; in  
 other words, with reference to  
 this case, whether a delay in  
 reporting to the Law Society of  
 13 months amounts to grossly  
 improper conduct.

40

The words - and I quote -  
 "grossly improper conduct in  
 the discharge of his professional  
 duties" - "grossly improper  
 conduct in the discharge of his  
 professional duties", which are  
 the words that appear in the  
 section mean conduct which is  
 dishonourable to the solicitor

Mr. Grimberg: as a man and dishonourable In the  
 (cont) in the context of his membership Disciplinary  
 of the profession. Committee

Sir, that definition of the words has received judicial approval in the Francis Seow case which I am just handing up to you.

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

(Tenders to Committee).

10

I don't think I need to trouble you too much with the facts of that case, but I think if you would turn to page 202 on the left-hand column, which is below half way down:

20

"Mr. Kempster, counsel for the respondent, while accepting the findings of fact challenges the conclusions arrived at by the Disciplinary Committee. He concedes in relation to the complaint regarding the letter of 3rd August that it was a highly improper letter for a solicitor to write on behalf of the client.

30

Mr. Kempster does not dispute that the test of what constitutes grossly improper conduct in the discharge of his professional duties under section 84 (2) is conduct which is dishonourable to him as a solicitor and dishonourable in his profession."

So there the definition received judicial approval.

40

And in another case that I would like you to look at, it is put in another way and in a way which, I think, is apt for you to apply in this case; and that is the case of -

Allinson v. General Council

Mr. Grimberg:  
(cont)

of Medical Education.

(Tenders to the Committee).

In the  
Disciplinary  
Committee

This was the case of a "vet"  
and I think perhaps I ought to  
take you to the Headnote on page  
750, Sir.

\_\_\_\_\_  
No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

"By the Medical Act the  
General Council of Medical  
Education and Registration  
was established, one of their  
duties being to keep a regis-  
ter of medical practitioners.

20

By section 29, if any regis-  
tered medical practitioner  
shall after due inquiry be  
adjudged by the General Coun-  
cil to have been guilty of  
infamous conduct in any  
professional respect, the  
General Council may direct the  
Registrar to erase the name of  
the medical practitioner from  
the register.

30

The General Council, acting  
under the foregoing section,  
held an inquiry into the con-  
duct of the plaintiff medical  
practitioner who is on the  
register.

40

It was found that he had  
published a great number of  
advertisements in the newspa-  
pers which contain ... upon  
medical men generally and  
their methods of treating  
patients and advice which  
would have nothing to do with  
them or their practice.

The advertisements also  
(invite) the public to apply  
to the plaintiff for his  
advice and state his address  
and the amount of fee he  
charges.

Mr. Grimberg: "The Council adjudged  
(cont) him guilty of improper  
conduct and directed his  
name to be erased from the  
register.

In the  
Disciplinary  
Committee

---

No. 2

10 Held, there was evidence  
upon which the Council could reasonably hold the plain-  
tiff to have been guilty in his conduct in a professional  
respect, and that is to say the court would not review  
their decision. Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

20 Further, that if it is shown  
that the medical man in the  
pursuit of his profession  
has done something with  
**regard to it which would be**  
reasonably regarded as dis-  
graceful and dishonourable to  
his professional brethren of  
good repute and competency,  
it is open to the Council to  
find that he has been guilty  
of infamous conduct in a  
professional respect."

30 The words of that, I thought  
that case was apt. Anyway what  
I want to say is that it is  
about a doctor, the section has  
different words to talk about  
infamous conduct, instead of  
grossly improper conduct, but the  
court held that the test was:  
would the conduct in question be  
reasonably regarded as disgraceful  
and dishonourable by his profession-  
al brethren of good repute and  
competency?

40 And so I submit to you, Sir,  
that you are in that position  
and nobody would be in a better  
position than you to decide  
whether in all the circumstances,  
when all the evidence has been  
led and examined, whether you  
as advocates and solicitors of



Mr.Grimberg: good repute and competency In the  
 (cont) would regard the conduct of the Disciplinary  
 Respondent in this case to be Committee  
 grossly improper, and I am not  
 going to refer you to them, but \_\_\_\_\_  
 you may care to read the judgment No. 2  
 of the Master of the Rolls,  
 Lord Esher, at pages 760 to 762, Respondent's  
 and of Lord Justice (Lopez) at Counsel's  
 pages 763 to 764. Opening  
 Speech

10

I won't take you through them (continuation)  
 now because, after all, you want  
 to take time to consider this  
 case and perhaps then you might  
 care to read those two judgments.

What I am saying to you here  
 is that, what I am suggesting to  
 you here is that the test for  
 grossly improper conduct in the  
 discharge of professional duties  
 is really not very different  
 from the test suggested by the  
 Court of Appeal in that case  
 for infamous conduct in a  
 professional respect. That is  
 to say, was the conduct such  
 that it would be reasonably  
 regarded as disgraceful and  
 dishonourable by lawyers of  
 good repute and competency.

20

30

And before I finish on that  
 score, I ought to refer you to  
 the Privy Council case of  
Rajasooria, which I think is in  
 your bundle?

Mr.Koss-Munro: Yes.

Mr.Grimberg: In my learned friend's  
 bundle, the case of -

40

Rajasooria v. Disciplinary Committee  
 (Mr. Wu: It is fourth case.)

Mr.Grimberg: It is the fourth case, I  
 am told, Sir. And that was  
 a decision of the Privy Council.

Mr. Grimberg: You have got the reference:  
(cont) 1955 M.L.J. 55.

In the  
Disciplinary  
Committee.

And there the Privy Council approves the "dishonourable both to himself and the profession" test that we saw in the Francis Seow case. But Lord Cohen, although he doesn't actually approve it in certain terms, referred to the Allinson test at page 70. Perhaps I could just read the passage on the right-hand side of the page beginning "Their Lordships"?

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

20

30

"Their Lordships (then referred) to complaint No.1. Mr. Gilts(?) asserts that once the Disciplinary Committee found there was no intention to deceive, it necessarily followed the Supreme Court could not find there was grossly improper conduct. He relied on the passage already cited from the judgment of Lord Esher in Re G. Meyer Tooke. Their Lordships, however, agreed that Acting Chief Justice Pretheros that an advocate and solicitor who knowingly and deliberately submitted a false document intending it to be acted upon is dishonourable both to himself and to his profession. This in itself involves an element of deceit.

40

... Their Lordships did not read into Lord Esher's word a statement that a finding of intending to deceive was always an essential element in grossly improper conduct.

... Lord Esher approves the test suggested by Lord Justice Lopez as follows."

And then he talks about the

Mr.Grimberg: professional brethren  
 (cont) test that I have just referred  
 you to, and seemingly approves  
 that in terms of the definition  
 of grossly improper conduct.  
 And he goes on to say that for  
 reasons stated, their Lordships  
 found themselves in complete  
 agreement with the Supreme  
 Court.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

And I can recall now what  
 I wanted to say to you earlier  
 on which had stuck in my mind;  
 and that is this: that you will  
 remember, if I may say so, the  
 words, throughout this wretched  
 episode, throughout the period  
 February 1976 to April/May 1977,  
 the Respondent held the office of  
 President of the Law Society;  
 he was the incumbent President  
 at the time.

20

And of course this last case  
 that I have referred you to  
 raises the element of deceit,  
 and you may think that you can  
 be deceitful by your silence as  
 much as you can by the words that  
 you utter, and if you would recall  
 that the Respondent was the  
 President of the Law Society  
 for this period, and if you re-  
 call that in the course of events  
 you, Sir, have sat on the Bar  
 Committee and on the Law Society,  
 if you recall that throughout that  
 period he would have been meeting  
 with his colleagues in the Law  
 Society both in Committee and  
 Sub-Committee, and if you would  
 remember that he hasn't uttered  
 a word to any of them during this  
 period while he knew what Santhi-  
 ran had done, you may think that  
 these are factors which should  
 weigh in your mind on what you  
 are being asked to consider is  
 the seriousness or gravity of  
 his conduct.

30

40

Mr.Grimberg: Sir, there was another  
 (cont) thing I ought to have pointed  
 out to you before I leave the  
 facts in the bundle, and that is  
 this: that it was evident in the  
 Respondent's own mind that there  
 was a danger inherent in the  
 fact that Santhiran was continuing  
 to practise because - and I think  
 this must be admitted, although  
 we haven't, I don't think,  
 discussed, my friend and I and  
 it doesn't appear in the chrono-  
 logy - after Santhiran left  
 Braddell Brothers in December 1976  
 he actually went into practice on  
 his own account.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

That is admitted? I am  
 obliged to my learned friend.

20

Nobody knew, outside of Braddell  
 Brothers' office, of what had been  
 done. And if you look at page 62  
 of the bundle - I am sorry to have  
 to take you back, it is just in  
 two places - if you look at the  
 foot of page 62, I have already  
 referred it to you in another  
 context, you see he says:

30

"I had a few discussions with  
 Mr.Medora complaining of the  
 delay in completing his  
 report and consequently  
 Santhiran was practising  
 for such a long time."

Do you see? I mean, it was  
 clearly in his mind that this  
 man should not be allowed to  
 go on practising or that something  
 ought to be done about it.

40

Throughout the period before  
 that, before December 1976, San-  
 thiran was practising in the  
 firm of Braddell Brothers, but  
 the Respondent has said in his  
 explanation that he was being  
 watched. Well now, I can only say

Mr.Grimberg: that if the Respondent  
(cont) repeats that assertion in the  
witness box, I shall have a lot  
to say to him about it in cross-  
examination.

In the  
Disciplinary  
Committee

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10 Now there could have been no  
doubt in the Respondent's mind,  
Sir, that Santhiran would be struck  
off as soon as the Law Society's  
machinery was put in motion,  
cumbersome though as we all know  
it has been known to be. No  
doubt at all Santhiran would be  
struck off. There could have been  
no doubt in the Respondent's mind.  
Striking off has been the standard  
penalty in Singapore in modern times  
where a solicitor has put his hand  
into the till, and I just read one  
20 citation in Re a Solicitor, 1936  
M.L.J., 241.

Perhaps I ought to hand that  
up to you. (Tenders to the Committee).

30 Where the amount involved, I  
think, was \$302.69. Granted that  
is a good deal more money than  
than it is now. And there the only  
question was whether the court had  
to consider, the only question the  
Court had to consider is whether he  
ought to be struck off the rolls  
or only a period of suspension  
from practice would be a sufficient  
punishment.

"We are of the unanimous  
opinion", says the Court - at  
page 241 on the left-hand side  
at the bottom, second last  
paragraph -

40 "the only question which we  
have to consider is whether  
he would be struck off the  
rolls or whether a period of  
suspension from practice  
would be a sufficient  
punishment. We are of the

Mr.Grimberg: "unanimous opinion that  
 (cont) our order should be that he  
 should be struck off the Rolls  
 for the following reasons, the  
 money in respect of which he  
 committed breach of trust was  
 money which came to his hand...  
 evidence of the client", etc.  
 etc.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

So really, you know, it has been  
 the standard sanction imposed by  
 the professional body and by the  
 courts in this country in modern  
 times, and there can be no doubt  
 in Mr. Wee's mind that a report to  
 the Law Society would have resulted  
 in Santhiran being struck off. He  
 had no business to assume that the  
 process of getting him struck off  
 would take a long time. His  
 business was to report it promptly.

20

30

So in terms of the explanations  
 offered to the Inquiry Committee,  
 I can only say this: that the  
 Respondent must have considered  
 them a good deal more naive and  
 ingenuous than they were if he  
 really expected his explanations  
 to be believed. As a solicitor of  
 some 30 years' standing and as  
 President of the Law Society it  
 must have been obvious to him that  
 the proper and honourable course,  
 irrespective of what loss might  
 occur to the Respondent himself,  
 was to report Santhiran's mis-  
 conduct to the Law Society as  
 soon as it was discovered.

40

At the risk of trying your  
 patience, Sir, I ought to repeat  
 that what was certain in February  
 1976 was that there had been  
 criminal breach of trust of a  
 substantial sum. And the fact  
 that - February/March 1976, I  
 should say - the fact that the  
 exact amount couldn't be deter-  
 mined with exactitude, the fact

Mr.Grimberg: that the Respondent was  
 (cont)busy and away from his practice  
 for long periods - and that fact  
 I at once concede, that fact I at  
 once concede: I can just imagine  
 what it was like at that time with  
 the Haw Par business going on - the  
 fact that he and the offender, San-  
 thiran, had agreed on an independ-  
 10 ent firm to determine unsupported  
 payments, the fact that the inde-  
 pendent firm took longer than  
 expected to do it - all these  
 explanations and all the others  
 that I have (enumerated) are, in  
 my submission, of no mitigating  
 or exculpatory significance what-  
 soever.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

20 So, Sir, I say to you, with re-  
 gret, that this is a clear case  
 made out against the Respondent under  
 section 84 (2) (b), and in all the  
 circumstances I further submit that  
 it is a case of the nature that  
 comes to be dealt with, falls to  
 be dealt with under section 84 (1).

Chairman: Which section is this - the  
 last section you quoted?

Mr.Grimberg: 84 (1), Sir.

30 Sir, subject to the small matter  
 of agreeing with my learned friend  
 what the agreed facts are going to  
 be with reference to Turquand  
 Youngs: not being told, you know,  
 we had a little grey area this morn-  
 ing - subject to that, that is the  
 case for the Law Society.

40 My learned friend and I will  
 get together after the adjournment,  
 perhaps tomorrow morning, to tell  
 you what the agreed facts are on  
 these matters.

Yes, I am very much obliged to  
 my learned friend Mr.Wu: when I  
 talked about 84 (1), I ought to be

Mr.Grimberg: talking about 93 (1) (c).  
(cont)

In the  
Disciplinary  
Committee

I have made that mistake in my pleading, have I? Yes, I am so sorry. I must once more, I am afraid, have to ask you for leave to have one more amendment: the paragraph 11 should be "93 (1) (c)"; my last remarks when I said "84 (1)", I ought to have said "93 (1) (c)". And I am obliged to my learned friend Mr. Wu for this.

No. 2

Respondent's  
Counsel's  
Opening  
Speech  
(continuation)

10

Thank you, Sir.

-----

Mr.Ross-Munro: Sir, before calling my evidence, of course I will be calling Mr. Wee and some other witness - at least one other witness I have - it would actually save time, strange as it may seem, for me to open briefly and deal with certain matters that I am hoping either are agreed or will be agreed, and then indicate to you very broadly what the particular main lines of our defence are.

Appellant's  
Counsel's  
Opening  
Speech

20

Sir, firstly, the chronology. I admit the chronology as such, there may be minor details like when the Police started investigation and whether Inspector Lim (started) on June 24th - broadly I agree with the chronology.

30

Secondly, I certainly hope with Mr.Grimberg that we do agree on the grey area. So the two facts are agreed, and the third one I am hoping we will be able to agree.

40

Thirdly, as far as the law is concerned, I would certainly agree that the test for grossly



Mr. Ross-Munro: improper conduct is the  
 (cont) test of dishonourable as a man  
 and in his profession and,  
 quite apart from the authorities  
 my learned friend cited to you,  
 there are several others both in  
 the Privy Council and in this  
 jurisdiction where they have  
 followed that test, including  
 that one for David Marshall,  
 which is in your bundle. So  
 there is no dispute as to the test.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

The Allinson was, I think,  
 perhaps almost in point; the  
 other ones are actually in point be-  
 cause it is infamous conduct, as  
 opposed to grossly improper con-  
 duct.

20

So there is no dispute in  
 law in so far as the test is  
 concerned as to whether there is  
 grossly improper conduct - that is  
 what the whole case is about.

30

The onus or burden of proof,  
 though I haven't had time to  
 agree with my learned friend, I  
 would be surprised if he doesn't  
 agree with me that it is the  
 criminal burden of proof, that is  
 beyond reasonable doubt.

And there is in fact the 1978  
 decision of Ong Tiang Choon of  
 the Singapore Court of Appeal  
 which specifically said (so).  
 That is in your bundle as well,  
 the 1978 authority.

I am told it is a House of  
 Lords finding.

40

Then if I may start off with  
 some concessions which, I think,  
 is going to limit the real  
 contest between my learned friend  
 and I. So far as the delay is  
 concerned, it is common ground  
 that Mr. Wee at least suspected

Mr. Ross-Munro: from what he was told  
 (cont) at the start, end of February  
 right to the beginning of March,  
 that there had been defalcations  
 by Santhiran, and certainly by  
 and large he was in a position to  
 be fairly certain of for reasons  
 which I will come to in a moment,  
 that there had been.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

That one would take us to March  
 1976, and we know that it was not  
 until the end of March 1977 that he  
 orally informed the Vice-President  
 of the Law Society. So on any  
 showing that is 13 months' delay  
 approximately. And on any showing,  
 prima facie that is far too long,  
 and so it would be part of our  
 defence to try and justify the 13  
 months as such.

20

With hindsight it clearly was an  
 error of judgment, it may or may  
 not be a grave error of judgment,  
 but we say that falls far short  
 of grossly improper conduct, and  
 indeed I will be referring at a  
 later stage to authorities on this  
 further point that even a grave  
 error of judgment is not the same  
 thing as grossly improper (conduct).  
 So to that extent we will not seek  
 to justify it by saying that in the  
 particular circumstances 13 months  
 is perfectly all right. With  
 hindsight it clearly isn't. The  
 (real) dispute is: does it  
 amount to a gross error of judgment,  
 as opposed to grossly improper  
 (conduct)?

30

Now that brings me to the facts,  
 and so again the first part I don't  
 think anybody is going to dispute.  
 It is clear that Mr. Wee was the  
 sole partner of Braddell Brothers  
 at the material time; that is to  
 say, February/March 1976 and June  
 1977. I mention that, Sir,  
 because, again with hindsight,

Mr. Ross-Munro: looking back at it, it  
 (cont) may well be that if you have  
 partners to discuss it with, you  
 may well have come to the conclu-  
 sion that the partners (would say),  
 "For God's sake, report it soon  
 and even if you only do a short  
 letter saying 'I can't tell you  
 very much at the moment because  
 I am going to have to report it'."

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

So to that extent you may  
 consider whether it is grossly  
 improper or maybe gross error of  
 judgment, and you must take into  
 account that he runs a one-man show  
 at that time. There were no other  
 partners from whom he could seek  
 advice.

20

Secondly, you hear that Mr. San-  
 thiran whom we know was employed in  
 1971 was in fact the Senior Legal  
 Assistant. There were in fact  
 at that time, in 1976, four Legal  
 Assistants and he was the senior  
 one.

30

And so far as the matters that he  
 dealt with right from the beginning  
 of his employment, as you have seen  
 from some of the documents there were  
 over a thousand files of which I  
 think about 300 were ... matters.  
 There is no dispute about that.

40

Right, the story really starts  
 thus, that right at the end of  
 February 1976 a pupil who was  
 there at Braddell Brothers dis-  
 covered what seemed to be a  
 suspicious entry in respect of  
 the transfer of a small amount  
 of money - \$318. He voiced his  
 suspicions to other members of the  
 staff; more or less at the same  
 time there was the uncle of one of  
 the employees who came in to  
 complain that caused members of the  
 staff to look around.

Mr. Ross-Munro: Mr. Wee was then  
 (cont) informed, and sought Mr. Santhiran  
 out for the first time in the  
 Conference Room of Braddell  
 Brothers. Again I have no rea-  
 son to doubt him, he saw  
 Santhiran for the first time  
 alone in the Conference Room.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's

Opening  
 Speech

(continuation)

10

We think either the 2nd or  
 the 3rd of March 1976. The 2nd  
 was a Tuesday, and the 3rd a  
 Wednesday.

By this time there were some six  
 matters that the staff had dis-  
 covered as being suspicious, and  
 the six matters totalled approxi-  
 mately thirty-nine to forty  
 thousand dollars.

20

Now at that first meeting, or  
 confrontation I think more accu-  
 rately, Santhiran denied any  
 dishonesty in all those matters.  
 It is right to say that Mr. Wee  
 didn't accept his denial as such,  
 and he suspected there was dis-  
 honesty, and indeed he was very  
 worried, it may not be the end -  
 the thirty-nine thousand. But  
 there may be other matters that the  
 staff hadn't discovered because,  
 after all, this is only a few days  
 later, and he immediately told San-  
 thiran that he was to wind up his  
 existing matter, check the files  
 that he was doing himself, prepare  
 notes on the updated position in  
 each file, estimate costs in respect  
 of this matter and, most particularly,  
 that he was no longer to sign cheques  
 or receive monies.

30

40

And having done that, Mr. Wee  
 also issued instructions to the  
 staff, and particularly the  
 accounts people, that they were  
 not to permit Santhiran to have  
 anything to do with finished  
 matters.

- Mr. Ross-Munro: The interview ended with  
 (cont) Santhiran, perhaps a little  
 illogically though still not  
 admitting any defalcations,  
 saying in the same breath that  
 he would repay the money without  
 specifying how much money it was;  
 and Mr. Wee in fact ordered him  
 to help the staff, to cooperate  
 to find out what the exact  
 position was.
- Chairman: This is all at the first  
 interview?
- Mr. Ross-Munro: By the first interview on  
 either the 2nd or the 3rd of  
 March. I suspect that this is  
 speculation - it is more likely  
 the 3rd March, because you will  
 see by the 5th March we find  
 Mr. Wee writing to the bank to  
 remove Santhiran from the list of  
 authorised signatories. And again  
 when you come to Volume II you  
 will see the letter.
- Now having done that, he  
 instructed the staff to work over  
 the week-end - that will be from  
 the 7th of March - to try and  
 ascertain with Santhiran's help  
 the extent of the defalcations,  
 the clients who were involved and  
 to get obviously the maximum  
 details about it.
- Now all the (time), the  
 person who took the main roll was  
 his Assistant lady in the office,  
 Lisa Choo. As I said, we will be  
 calling her here.
- Chairman: Her name is?
- Mr. Ross-Munro: Lisa Choo. And you will  
 hear from her details of the  
 multitude of lists that she and  
 the staff had put up and on  
 which Santhiran had to (sign),  
 and matters of that sort - all

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

Mr. Ross-Munro: the details would come  
(cont) through Miss Cheo because they  
were not within Mr. Wee's own  
personal knowledge.

In the  
Disciplinary  
Committee

10 But what happened next was  
this: that on Monday, which was  
the 8th of March, Lisa Cheo told  
him that the staff who had been  
going through these various  
documents over the week-end that  
they suspected that the amount  
missing was probably somewhere  
between two hundred and three  
hundred thousand dollars, as  
opposed to the thirty-nine and  
forty thousand which had first  
been reported.

No. 2  
Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

20 This, you will not be surprised  
to hear, was a great shock to  
Mr. Wee, who went straight to  
Santhiran's room, saw him and  
insisted that he should open his  
drawer.

Chairman: Open his drawer?

30 Mr. Ross-Munro: Yes, in his desk; and in his  
drawer, amongst other things, Mr. Wee  
found various bank deposit books  
and receipts showing that Santhiran  
had banked various sums of money,  
and on discovering this Mr. Wee  
said to Santhiran, "You must  
repay all the amounts that you  
have found are missing unless  
you can produce a voucher or a  
receipt to show that the monies  
had been paid over to clients, or  
otherwise give an explanation."

40 On the very next day Santhiran  
started to repay monies and they  
came mainly from these - but not  
wholly - from these various  
deposits. If I can give you  
the figures, I don't think there  
is going to be any dispute about  
this. It can be shown, if  
necessary.

Mr. Ross-Munro: On the 9th of March he  
 (cont) paid back \$79,000, and I think  
 it is seventy-five odd dollars -  
 I am leaving aside the cents for  
 the sake of brevity.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

12th March - paid back  
 \$87,146.

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

(Mr. Wu indicates Volume I (a), page 15).

10

Yes, I am much obliged to my  
 friend - you can find all the  
 details at page 15 in Volume I,  
 what dates.

If you will take the first  
 one in the list, you will have  
 to add the first two together, and  
 I hope they come to \$79,751.

20

And by the 18th March - I do  
 not think there is any dispute  
 about this - but on the 18th March  
 Santhiran had repaid \$267,956. I  
 will deal with the last repayment  
 of thirty thousand in May/June  
 later.

30

So that is the position and, in  
 my submission, perhaps a point of  
 some relevance in view of the  
 motive that my learned friend  
 Mr. Grimberg is saying Mr. Wee  
 had by the 18th March; that is  
 to say, within roughly a fortnight  
 of the first confrontation, Mr. Wee  
 had recovered \$267,956 which, on  
 any showing, was the bulk of the  
 money that he had been informed  
 by Lisa Choo to have been thought  
 to be missing.

40

You will recall on the 8th he  
 had been told one hundred and  
 eight to two hundred and three  
 thousand. So by the 18th March  
 he had recovered what in his  
 mind was the bulk of the money.

And we will contend that it is

Mr. Ross-Munro: unreal, and there is no  
 (cont) evidence to go to the contrary  
 to ascribe to Mr. Wee that his  
 failure to report after the 18th  
 March 1976 and not reporting till  
 March 1977 was due - as Mr. Grimberg  
 seems to think - to his sole motive  
 was to get restitution of all  
 the monies because, as we say, he  
 had recovered the bulk of what  
 he thought was the stolen monies  
 as early as 18th of March.

In the  
 Disciplinary  
 Committee  
 \_\_\_\_\_  
 No. 2  
 Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

Now, Sir, I ventured to  
 suggest yesterday that when one  
 is asked to cast one's mind back  
 four years to 1976 as to what  
 was your motive when you did  
 so-and-so, Sir, I venture to  
 suggest that it is very difficult  
 very often, because very often a  
 man or a woman might have several  
 motives. You may or may not be  
 able to say after two months one  
 was more important, but it  
 doesn't necessarily mean that  
 you could only have one motive.

20

But what Mr. Wee claims is  
 this: that he felt that if he  
 had reported Santhiran at this  
 stage he would have had no  
 cooperation from Santhiran and  
 that it was vital to his clients -  
 putting aside for the moment  
 Braddell Brothers' loss of costs  
 monies, I will come to that in  
 a moment - but vital from the  
 clients' point of view that he  
 should get that cooperation.

30

If I may dwell on that for  
 the moment because I think it  
 is<sup>a</sup>very important point so far  
 as the defence is concerned, as  
 a human being I have no doubt  
 that if he had paused at that  
 stage to analyse what is going  
 on in his mind on motives, I  
 have no doubt that very under-  
 standably any of the monies that

40



Mr. Ross-Munro: had been stolen that  
 (cont) in reality belonged to his firm  
 by way of costs obviously he  
 would want to recover. It is  
 perhaps a normal thing that any  
 man wants to recover property that  
 was stolen. But he felt, and I  
 would submit probably rightly,  
 however justified the delay, he  
 was probably right in deciding  
 that without Santhiran's coopera-  
 tion it would have been an  
 impossible task to find out not  
 only the extent of the defalca-  
 tion - that might have been,  
 possibly they are, different -  
 but to identify, to earmark how  
 much clients' money had been  
 stolen in respect of each indivi-  
 dual client.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

And that was the most serious  
 difficulty, for this reason: that  
 of this \$267,000 money, Mr. Wee  
 knew that some of it was what I  
 may call one hundred per cent  
 clients' money. That is to say,  
 for example, there may have been  
 settlement of some litigation, say,  
 \$10,000 and that \$10,000 was  
 clients' money assuch but some of  
 it represented technically clients'  
 money but in reality Braddell  
 Brothers' money, matters of costs,  
 that is to say monies which were  
 there but which would have been  
 paid to Braddell Brothers for  
 their costs.

30

40

So that was the first diffi-  
 culty: how much of this money was  
 clients' money and how much was  
 costs money. But of course it  
 didn't end there because once you  
 have found out how much was  
 clients' money and how much was  
 costs money, the next point was:  
 what was each individual client,  
 how much of that stolen money of  
 clients' money belonged to each  
 individual client?

Mr. Ross-Munro: And that is where the  
(cont) system, for example - rather  
important because the system that  
existed in Braddell Brothers at  
the time was the following:

In the  
Disciplinary  
Committee

No. 2

Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

10

A Legal Assistant did a  
case, under presumably the tech-  
nical supervision of Mr. Wee, but  
he was doing a particular case.  
If he sent a cheque to the  
client, on the cheque stub he had  
to put his initial. Again we  
will show you examples of this to  
make clear. He would have to  
sign his initials "S.S." so far  
as Santhiran is concerned, and  
on the cheque stub would be the  
name of the client. That seems  
to have been involved. Sometimes  
some cheque stubs also had the  
file number, but others didn't.

20

30

Now with those cheque stubs we  
went through, as indeed at the  
start had these two pupils, in  
detail. If you go through the  
cheque stubs from 1972 up to  
1976, you can imagine what the task  
of that is. You go through all the  
cheque stubs and you make a list  
of the ones which have got "S.S.".  
From there you can get the names  
of the clients. You can then go  
to the Ledger Book with the names  
of the clients.

40

The Ledger Book unfortunately  
does not give you the addresses of  
clients, and you will also have  
evidence at a later stage when I  
call Lisa Choo to try and identify,  
which is looking up the Telephone  
Directory, Companies' Directory,  
the Businessmen's Directory - all  
these. But all this does not give  
the file number. And in the file  
you would expect to find the  
various documents, receipts and  
matters of that sort.

Mr. Ross-Munro: And here was the position. In the  
 (cont) Having got your names of the clients from the cheque stubs, you then go to the Ledger Book where you get the names of the clients if it gives you the file (number). Even if you find the file, what actually happened - again you will hear evidence - was that Santhiran - I think the inference is irresistible - Santhiran in fact had certain files that were missing. And then later on sometimes when it would help him, to his own advantage, you would see the file. The file would mysteriously reappear. (He would say), "Here is the client. I have paid the money."

Disciplinary  
 Committee  
 \_\_\_\_\_  
 No. 2  
 Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

Secondly, sometimes there were files, but when you looked inside them vital documents were missing, receipts from clients and matters of that sort.

30

And so that was the actual position, and to make it worse, and again you will be shown examples - to make it worse - and you will be shown some examples - Santhiran also put false, misleading entries. And there was one example which was mentioned of an entry in the Ledger showing that, I think it was, \$500 had been paid on behalf of the client to a named person, and that named person turned out to be the very person the client was suing.

40

So without Santhiran's cooperation it was virtually impossible to find not only the extent of the defalcation, but, much more important, the individual client and how much he was paid.

And again Mr. Wee will deal

Mr. Ross-Munro: with this little detail  
 (cont) when he gives evidence. But I  
 am sure you can well imagine.  
 Just take one example, there may  
 be others. Assume a client (asks)  
 Santhiran to represent him in an  
 Order 14 matter. Santhiran won  
 and recovered \$5,000, and he  
 doesn't tell the client. The  
 client probably never heard of  
 Order 14. The result is that  
 the client might well wait a  
 couple of years before 'phoning  
 up and saying, "Hey, what has  
 happened to my case?" And so for  
 two years he would be out of his  
 money, even assuming later it  
 could be traced.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

30

There are many other difficul-  
 ties, and we will call the evidence  
 in detail on that, but this is the  
 basis and, in my respectful sub-  
 mission, it is (important) in view  
 of the motive that is being attri-  
 buted to Mr. Wee: that not only  
 had he recovered the bulk of the  
 money on 18th March, but there  
 these difficulties where it will  
 be quite silly and quite inaccurate  
 merely to say, "Well, you have  
 stolen the money. Money is missing.  
 You must pay it."

That is perfectly true, but  
 what money were missing? And how  
 do you find out, and how does the  
 client find out? what money is  
 missing, as far as he is concerned?

40

So that was, we say, the main  
 reason at that early stage and in  
 fact he didn't report, and that of  
 course, if you accept that, it is  
 highly relevant when considering  
 whether this delay is grossly  
 improper or merely an error of  
 judgment.

And I say straight away there  
 was nothing to prevent Mr. Wee

Mr. Ross-Munro: writing a short letter  
 (cont) to the Law Society dated 20th  
 March saying, "Look, there  
 have been defalcations. It is  
 all in a terrible mess. We are  
 trying to sort it out." And then  
 say, "We will let you know." He  
 undoubtedly could have done it,  
 With hindsight he should have  
 done it. We say it is not gross-  
 ly improper conduct that he  
 didn't.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

Now what then happened? The  
 next thing is really - I can go from  
 March to June 1976. During this  
 time - and I will be showing you  
 in Volume II the exact dates that  
 Mr. Wee was out of the country.  
 They are all taken at the agreed  
 stage, no difficulty - you will  
 see possibly at a later stage  
 between March and June 1976 he  
 was out of the country on legal  
 matters for four trips totalling  
 37 days.

30

During this period he was  
 dealing with the Haw Par-Slater  
 Walker matter. He would (recount)  
 to you what time it would take and  
 he would deal in detail with what  
 his (routine) schedule was, and  
 it is perhaps not surprising that  
 with both his trips abroad and  
 what he was doing at Haw Par,  
 among others, that trying to  
 ascertain with the cooperation of  
 Santhiran the monies, he left it  
 to his staff and, in particular,  
 Miss Lisa Choo.

40

Of course, if I may put it  
 from the document point of view,  
 they probably would have known  
 much more than Mr. Wee ever knows.  
 Probably it is not a legal matter  
 where you need a brilliant  
 lawyer. What you needed was  
 somebody who could pick their  
 way through all the documents

Mr. Ross-Munro: and lists and present  
 (cont) them to Santhiran and ask him  
 and point out directly matters  
 of that sort.

In the  
 Disciplinary  
 Committee

10 And therefore it will be Lisa  
 Choo who will be able to give you  
 what I call the details in this  
 period of the constant meetings  
 with Santhirangoing over the  
 lists and the various changes  
 of front that he had. During  
 this period he paid over an addi-  
 tional thirty thousand making by  
 June - I think part in May,  
 part was in June - making by  
 June, exact amount, \$297,956.

No. 2  
 Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

20 But though he paid back that  
 amount, which is just under \$300,000,  
 there were several changes of  
 front, changes of story, as you  
 will see from the point he brought  
 in clients: some of them clearly  
 were dishonest who lied for him;  
 and some of them firstly lied,  
 then later changed their minds.

30 And he also, as I have men-  
 tioned before, would suddenly -  
 surprise of surprise - produce  
 files that were hitherto missing,  
 and in the files were the documents  
 that would naturally help him and  
 would show generally in some cases  
 he actually had paid money to  
 clients and there were the re-  
 cepts. And the actual amounts  
 that the unfortunate Lisa Choo  
 was able to calculate were  
 changing constantly: at one  
 40 stage the amount was as high as  
 \$400,000; then he produced documents  
 and it went down, and then he would  
 show several others, another  
 \$15,000. And so it changed again.

And certainly towards the end  
 of the period Santhiran was taking  
 up the attitude, now that we know  
 the full facts the most impudent

Mr. Ross-Munro: attitude; of saying,  
 (cont) "Well, actually I paid you  
 \$297,000, but I have actually  
 overpaid you. It should be less  
 than that, and give me some time,  
 and I can prove to you it is less  
 than that."

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

And I say impudent, because  
 we now know finally from the  
 last report of Medora and Thong  
 given the following year - some  
 the following year - but the  
 actual amount missing, as far as  
 one can get accurately, was about  
 three hundred and fifty-one or  
 fifty-two thousand.

20

So in fact by June, July,  
 August 1976 when Santhiran was  
 taking this attitude of saying  
 "I have overpaid, and in fairness  
 you must give me an opportunity  
 (to prove) I had overpaid", in  
 reality he had in fact stolen  
 another fifty thousand or so.

30

And Lisa Choo, who, if any-  
 thing, one might have great  
 sympathy for in this case as far  
 as the work was concerned: she  
 found by August/September and told  
 Mr. Wee that really it was quite  
 impossible as far as she was  
 concerned - sudden changes of  
 front, and lists. She had done  
 (all she could) and she would not  
 go any further to get anything  
 more accurate.

40

At that stage Mr. Wee decided  
 that there should be in fact an  
 independent auditor. He asked  
 Santhiran, and there was an  
 attempt to get, I think, some  
 other auditor in either September  
 or October who demanded what he  
 thought, rightly or wrongly, an  
 excessive fee and finally we know  
 that on the 9th November Medora  
 and Thong were officially appointed.

Mr. Ross-Munro: Now, Sir, much has been  
 (cont) made by my learned friend  
 Mr. Grimberg about, "Oh well,  
 isn't it strange and suspicious  
 that Mr. Wee kept from his own  
 auditors, Turquand Young these de-  
 falcations, kept from them in  
 1976, and at the same time  
 appointed independent audi-  
 10 ters, Medora and Theng. And it  
 will be Mr. Wee's case: "Not  
 at all, because, notwithstanding  
 that Turquand Young, as one  
 knows, is an extremely well-known  
 (firm of) auditors", Mr. Wee  
 believed, and believed strongly  
 and perhaps with some justifica-  
 tion, that there was prima-facie  
 negligence by Turquand Young not  
 20 to have spotted this since 1972.  
 They were the firm's auditors  
 and the first defalcations were  
 in 1972/73, and yet they hadn't  
 been spotted at all. And he took  
 the view that they were negligent.  
 That was He.1.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

No.2: He had told Santhiran  
 that, in fairness, he was prepared  
 to have an independent auditor,  
 30 as opposed to Braddell Brothers'  
 own auditors. He was prepared to  
 have an independent auditor,  
 but Santhiran would have to pay  
 for it. It is right to say that  
 Mr. Wee didn't think very highly  
 of his chances of ever getting  
 any money out of Santhiran, but he  
 told Santhiran he would have to  
 pay. And then you may think I  
 40 have explained what my friend  
 thought very astonishing, that he  
 should ever ask this crook, or  
 whatever word my friend used to  
 describe Mr. Santhiran - scoundrel -  
 my learned friend expressed asto-  
 nishment that he should actually  
 ask this scoundrel for his  
 approval of an independent auditor.

But he did ask, was Santhiran



Mr. Ross-Munro: in favour of? He did  
 (cont) ask, and finally agreed it should  
 be Medora and Thong.

In the  
 Disciplinary  
 Committee

Now thereafter it is right  
 to say that the investigations  
 were conducted by Medora and  
 Thong from November 1976 onwards.  
 But it didn't mean that the  
 unfortunate Lisa Choo could turn  
 to other matters because of what  
 was happening, that the independ-  
 ent accountants/auditors, Medora  
 and Thong, were now investigating.  
 They were still using Lisa Choo  
 and others of the staff to obtain  
 whatever information they wished.

No. 2  
 Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

And again in Volume II you will  
 see a bundle of documents where  
 Lisa Choo writes to the banks  
 asking for various cheques and  
 matters of that sort - that is,  
 if I may put it, under the  
 direction of accountants. Rather  
 than doing it themselves, they  
 would say to Lisa Choo, "We would  
 like to see the following cheques.  
 Write the bank."

20

And so you see the investigation  
 goes on with this correspondence,  
 where Lisa Choo was still conti-  
 nuing the investigation, but under  
 the direction of the accountants.

30

Now Santhiran, we know - it is  
 common ground - left on the 21st  
 of December 1976.

The next now, so to speak,  
 (thing that happened) was in  
 January 1977. And again you will  
 see from the Passport of Mr. Wee  
 that he was in England, when  
 Santhiran 'phoned up Braddell  
 Brothers and asked whether he  
 could have certain files that  
 were clients with whom he had  
 been dealing. In other words,  
 it shows, by reason of his

40

Mr. Ross-Munro: demanding these files,  
(cont) that he was setting up practice  
elsewhere.

In the  
Disciplinary  
Committee

10 And so the staff telephoned  
Mr. Wee and asked what they  
should do, and Mr. Wee wrote a  
series of notes to the staff,  
which again you will find in  
Volume II. And among those  
notes, he says to one of the  
Legal Assistants, a lady - this  
lady called Miss Chan Lai Meng.  
He says to her that if necessary  
she could put in a short report  
if she thought it was necessary.  
He was in London at the time.

-----  
No. 2  
Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

20 Now I was hoping to call her -  
I didn't mention this to my  
learned friend Mr. Grimberg, I  
hadn't had time to - but I was  
instructed that on Sunday she  
was taken to hospital for appendi-  
citis. She has not come back  
from hospital. You will see a  
note, and Mr. Wee of course will  
prove the note himself.

30 And whilst this was going on  
with Mr. Wee in London and the  
staff of Braddell Brothers telling  
him the news that Santhiran was  
demanding from them those files,  
the other thing that was going  
on is this: that Lisa Choo was  
asked by Mr. Wee to start  
drafting a report or complaint  
to the Law Society, the idea being  
that she was the one who had all  
the figures and all the knowledge  
and all the meetings with Santhiran;  
40 and Mr. Wee would, so to speak,  
polish it up in proper form and  
it would be sent to the Law  
Society and to the Police as well.

And you will have the first  
draft that Lisa Choo did probably  
just before the 14th of January  
1977, which is the date, I think,

Mr. Ross-Munro: Mr. Wee left for England, In the  
 (cont) and that first draft, rightly Disciplinary  
 or wrongly, Mr. Wee didn't Committee  
 consider in any way - he either  
 called it nonsense or rubbish,  
 or words to that effect.

No. 2

10 Now though the first draft  
 which was described as nonsense  
 or rubbish we haven't got, but  
 what we have got is later drafts  
 and again they are all in Volume  
 II, several later drafts done by  
 Lisa Choo; and the earliest in  
 date is the 25th February and it is  
 headed: "Redraft". So clearly  
 there was a draft before the  
 25th February, and our evidence  
 will be that the very first one -  
 rubbish and all - was probably  
 20 shortly before 14th January. And  
 there are - I haven't counted -  
 six or seven redrafts before  
 the final complaint goes on to  
 the Law Society.

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

30 When Mr. Wee returned - and  
 again you will see the notes -  
 there is no doubt that he  
 exerted quite a considerable  
 amount of pressure both on Lisa  
 Choo to get the complaint out  
 and Medora to finish their report,  
 because what had happened at  
 Medora was this: that they had in  
 fact sent Mr. Wee a preliminary  
 report, I think, which he received  
 on the 29th December which showed  
 (amounts) stolen or missing just  
 under \$500,000, and that seemed  
 to Mr. Wee and the staff to be  
 40 far too much.

In other words, the accountants  
 had made a mistake, that Santhiran  
 hadn't stolen anything like the  
 amount of \$500,000 - I think it  
 is 496. So they asked Medora  
 and Thong to do a reconciliation  
 between that first report - 496,000 -  
 and one of, I think, Lisa Choo's

Mr. Ross-Munro: preliminary lists.

(cont) And that is a reconciliation that was done on the 26th January. Even then Medora and Thong didn't get the correct figure at that stage, but you will see again in Volume II the reconciliation on January 26th.

In the  
Disciplinary  
Committee

\_\_\_\_\_

No. 2

Appellant's  
Counsel's  
Opening  
Speech

10

Then, as we know from the agreed statement of Mr. Ramanujan, the accountant who was actually doing the work of Medora and Thong under the supervision of Medora, that they had various meetings with Santhiran in February. And finally you get Mr. Wee chasing (them) and on the 10th March he actually instructed Medora to give Santhiran five more days as a final notice.

(continuation)

20

Again, if I may put in fact in broad lines matters of detail: Santhiran was supposed to have a look at 13 files, but didn't turn up; 10th March, Mr. Wee allowed five days' notice; and that is the end of it. And this you will see in the report of Medora and Thong dated the 1st April, which again was shown.

30

Then, as we know, and there is no dispute about this chronology, in March he orally informed both the Vice-President of the Law Society and then the Attorney-General.

40

Then we know that the document sent on the 13th April, the report to the Law Society, and then 27th May the detailed complaint, and in the meantime again you will see that the final report from Medora and Thong isn't until June when you finally get this three hundred and fifty-one thousand. Indeed, I think there is even a further

Mr. Ross-Munro: report on 3rd September  
(cont) 1977.

In the  
Disciplinary  
Committee

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No. 2

Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

10 And so those are broadly the facts, and there are two other matters I should just mention so that you could have them well in mind when you hear Mr. Wee's evidence because they will be relevant for your consideration. And it is this: my learned friend and I have agreed in the chronology that item 13 of the chronology - October/November 1977, Santhiran goes to Malaysia, and just above it you will see item 12: 27th May 1977, Police began investigations.

20 At first glance it may look, "Well, isn't that a bit negligent of the Singapore Police who, being given a report in May 1977, yet let Santhiran go to Malaysia in October/November 1977?". It will help Mr. Wee and I will raise this point later on that in October/November 1977 the Police let him go; and the answer of the Police was that in fact they were having the local police in Malaysia keep an eye. They knew where he was and when they wanted to arrest him in Malaysia they could.

30

And indeed that is what in fact had happened. If you look at item 6, he was arrested by the Malaysian Police in Kuala Lumpur.

40 And so I mentioned that point because it seems fairly clear in Mr. Wee's evidence that the Police, even with the advantage of Medora and Thong's report which they had since May 1977, even with all the advantage of the work that has been done by Braddell Brothers and the

Mr. Ross-Munro: accountants, they still  
 (cont) weren't ready to arrest Santhiran until about April 1978. And that may well be somewhat relevant because, if it is said, "Well, if you had reported to the Law Society and the Police, say, on the 20th March, then it would have protected the public" - on the facts, that is not necessarily so, because in fact we know in this case that they did not arrest Santhiran until April 1977, which is some 13 months later.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

The second matter which is linked to this one is the position of the Law Society. We know in fact that Santhiran pleaded guilty on the 10th May 1978. So no question of further delay. He pleaded guilty on 10th May 1978 - item 20. He was not struck off until 23rd April 1979, which is 11 months later, and I am instructed of course - Sir, you will know, I don't know at all - I am instructed that there is nothing unusual at all in a gap of something like two years between a solicitor being found guilty of a serious criminal offence and being struck off.

And so that is a matter no doubt you will have to consider, you will have your own particular knowledge about it.

What did strike me as extraordinary - and I have discussed this with my learned friend Mr. Grimberg - looking at the Legal Profession Act - but I will address you on this at a later stage - it would seem as a matter of law on a construction of the Act, that there is no power to strike - let me start again. It would seem on a

Mr. Ross-Munro: construction of the Act  
 (cont) that if, say, on the 31st of  
 March 1976 Santhiran had  
 applied for a practising certifi-  
 cate and Mr. Wee had reported to  
 the Law Society all the details  
 so that by 31st March there was  
 a pretty strong case that there  
 was at least \$267,000 missing,  
 nevertheless, there is no  
 discretion at that stage to refuse  
 Santhiran his practising certi-  
 ficate.

In the  
 Disciplinary  
 Committee  
 \_\_\_\_\_  
 No. 2  
 Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

But it doesn't end there, as  
 you will see in a moment. But  
 not only that, as soon as he was  
 arrested, as he was in April  
 1978, and was convicted in May  
 1978, even after his conviction  
 there is no power to refuse a prac-  
 tising certificate on the basis -  
 (1) that he has his qualification  
 as a lawyer; and  
 (2) his case is ---

20

Chairman: I don't think that is quite  
 right, Mr. Munro. A solicitor  
 on the Rolls who applies for  
 a practising certificate must  
 produce an auditor's certifi-  
 cate clearing him, in effect  
 to show that he has not had  
 any financial defalcations.

30

Mr. Ross-Munro: I just wonder if you like  
 to glance at section 29 (1):

"Every solicitor shall in  
 every year before he does  
 any act in the capacity of  
 an advocate and solicitor  
 deliver or cause to be deli-  
 vered to the Registrar an  
 application for a practising  
 certificate in such form or  
 forms as may be prescribed by  
 and in accordance with rules  
 made under this section, the  
 application to be accompanied

40

Mr. Ross-Munro: "by -  
(cont)

In the  
Disciplinary  
Committee

- (a) a declaration in writing...
- (b) a certificate from the Council or such other evidence as the Registrar may require that he is not in arrears in respect of any contribution to the Compensation Fund ...
- (c) an accountant's report pursuant to section 75 of this Act or a certificate from the Council that owing to the circumstances of his case such a report is unnecessary;"

**That, as I understand it, is like Santhiran, is a mere employee.**

Chairman: Yes, but he still will have to get a certificate from the Council, a certificate from the Council. But the Council would not issue the certificate if it knows what happens?

Mr. Ross-Munro: I am not sure about that. But I must say, having looked at it, strange as it may seem, and then I should say the words "as the Registrar shall thereupon".

Chairman: Yes, the Registrar shall, but there is a control: that he shall only if all the requirements have been complied with, and if he is one who is not liable to produce an Accountant's certificate, then there is the other certificate which he has got to produce



Chairman: from the Council. And if  
(cont) the Council knows he has  
got the defalcation, the  
Council will not issue the  
certificate. I think that  
is the position.

In the  
Disciplinary  
Committee

---

No. 2

10 Mr. Ross-Munro: Well, Sir, perhaps I  
should mention that in my opening,  
if I might indicate that one of  
the matters, certainly surprising  
to me, was that on a proper con-  
struction of this - I will look  
again at the Rules - on a proper  
construction so long as he pays  
his dues as a lawyer, the  
Registrar shall issue a  
practising certificate and  
then until struck off, unlike  
20 in England where there is a  
special provision that if he is  
sent to prison you did not have  
to issue a practising certificate.

Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

30 But from what I can see, extra-  
ordinary as it may sound, even  
after he is convicted, goes to  
prison, sentenced to nine months,  
on remission he comes out six  
months later - which makes it  
November 1978, that he could  
have applied for a certificate  
after conviction in March 1979  
and still the Registrar couldn't  
have refused him one.

If I am right, sounds extra-  
ordinary.

Chairman: No, it isn't right. That is  
not the position, as far as  
I know, and there is a  
safeguard there.

40 Mr. Ross-Munro: But, as I say straight  
away, I am sure you know much  
more than I do in these matters -  
I know very little.

But if I may come back to the  
practice, if having looked again,

Mr. Ross-Munro: it would seem to me a  
 (cont) most extraordinary position.  
 It may be relevant, certainly  
 the Police matter is relevant, if  
 one speculated as to what would  
 have happened if just a short  
 report had been written at the  
 end of or early in March 1976 -  
 well, certainly from the Police  
 point of view it is unlikely  
 much would have happened because  
 when they heard he had made  
 \$260,000 restitution, perhaps  
 the urgency of the (matter) might  
 have been over.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

So those are the only matters  
 I want to raise.

Chairman: I think it is now time when  
 we usually stop hearing. It  
 will be convenient to resume  
 tomorrow morning at half-past  
 10 again.

20

Mr. Ross-Munro: Certainly.

Chairman: Thank you.

-----

(Hearing is adjourned at 4.30 p.m., 24.9.80)

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DISCIPLINARY COMMITTEE PROCEEDINGS HELD IN  
 COURT NO.23, SUBORDINATE COURTS, ON  
 25TH SEPTEMBER 1980, AT 10.35 A.M.

In the  
 Disciplinary  
 Committee

(3rd Day) (Thursday)

\_\_\_\_\_

No. 2

Before: Mr. C.C. Tan (Chairman),  
 " Po Guan Hock,  
 " Eric Choa.

25th September  
 1980

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(Counsel and Parties - same as before)

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Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

30

Chairman: You are ready?

In the  
Disciplinary  
Committee

Mr. Ross-Munro: Yes.

Mr. Grimberg: Before my learned friend starts, with your permission, Sir, I would like to make one clarification. You may remember that yesterday morning after you ruled in favour of the Law Society on the two preliminary points, my learned friend quite clearly asked me to particularise on the question of motive. He asked me to say what the Law Society is saying was the respondent's motive. You will recall that, and I stood up on my feet and indicated rather too spontaneously that I would say that the respondent's motive was to recover clients' monies that had been taken so that he wouldn't have to put his hand in his own pocket - do you remember that?

No. 2  
Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

10

20

30

It seems to me, Sir, that perhaps, in saying that, in particularising in that way I was limiting myself rather unnecessarily to clients' monies, and I have indicated to my learned friend in fact my case to you will be that not only was he concerned to recover clients' monies, but also concerned to recover firm's monies; that is to say, his own monies, and that was his motive in not reporting Santhiran.

Chairman: That arose from Mr. Munro's opening address?

40

Mr. Grimberg: Yes, I think it brought home to me that perhaps I should be - that is perfectly correct?

Mr. Ross-Munro: I am content as far as, as long as I knew that before putting Mr. Wee's case.

Mr. Ross-Munro: Sir, before I call him  
 (cont) there are one or two matters  
 that I should mention now. The  
 first one is that I have spoken to  
 my learned friend Mr. Grimberg  
 about time, and we feel that  
 there is a real risk that we  
 might not finish on Friday  
 afternoon, though we both  
 feel that there is a reasonable  
 chance that we would finish the  
 evidence by Friday afternoon.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Opening  
 Speech  
 (continuation)

10

20

And, Sir, I hope you wouldn't  
 mind my introducing a personal  
 matter: I am due to leave  
 Singapore on Saturday morning to  
 go to Hongkong, where I have to  
 arrange for conferences Saturday  
 afternoon, Sunday and Monday, and  
 then go back to England directly.

What I was wondering, Sir, was  
 that if we finish the evidence  
 by Friday afternoon - no difficul-  
 ty - if we finish the evidence by  
 Friday afternoon, but not the  
 speeches, I was wondering whether  
 the Disciplinary Committee could  
 possibly sit on Wednesday.

30

40

Now Mr. Grimberg has indicated  
 that that is all right as far as  
 he is concerned. He has pointed  
 out, as I understand, that you,  
 Sir, have a meeting at 3 o'clock  
 on Wednesday, and so also  
 Mr. Grimberg. But what we feel  
 is that if you were to sit at  
 half-past nine on Wednesday  
 morning, we would undoubtedly  
 finish our final speeches in good  
 time for both you, Sir, and  
 Mr. Grimberg to attend the meeting.

Chairman: Well, it is true that Mr. Grimberg  
 and I will be attending the  
 meeting at 3 o'clock in the  
 afternoon; but 9.30 in the  
 morning will be all right for  
 all the three members of the

Chairman: Committee.  
(cont)

Mr. Ross-Munro: I am very grateful. I hope it wouldn't arise, but it is possible we will finish by Friday.

In the  
Disciplinary  
Committee

---

No. 2

10 So if you can do that on Wednesday and we begin at 9.30, that will more or less guarantee that we will finish it in time for 3 o'clock.

Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

I am very much obliged, Sir.

Sir, the second matter is this: that I have now had an opportunity to look at the rules on Solicitors' Practising Certificate (to see if) you could refuse a solicitor a practising certificate till the man is struck off.

20 Sir, rightly or wrongly, in my submission it is right having looked at the rules, I am not going to take it any further because I think it is better for me to leave it till my closing speech. But if you could just bear that in mind that it will be my submission in my closing speech that, startling as it  
30 sounds, there is no power to prevent this man Santhiran from getting further practising certificates until he is actually struck off even if he has been convicted and sentenced to prison. I know it sounds astonishing, but that would be my submission and I am reasonably confident that I might be able to persuade  
40 you, Sirs.

Whether it is (necessary) to change the Rules is neither here nor there.

So I simply mention that at

Mr. Ross-Munro: this stage.  
(cont)

In the  
Disciplinary  
Committee

10 Thirdly, is the question of -  
we have two additional letters  
which we wish to add to Volume  
II, of which I have copies ready  
for you, simply something that  
really arose out of Mr. Grimberg's  
opening; and I will hand them  
now, if I may. (Tenders to  
Committee).

\_\_\_\_\_  
No. 2  
Appellant's  
Counsel's  
Opening  
Speech  
(continuation)

20 And lastly, you will recall,  
Sir, that we were to come to an  
agreement over the three facts  
whereby you could ignore the  
accountant's Police statement  
and then in exchange put the  
three facts before you, and  
that has been agreed between  
Mr. Grimberg and I. And I will  
be handing that to you as well.  
So if I could then hand in?  
(Tenders to the Committee).

The three additional letters  
are given to Mr. Wee to come in  
as evidence. I therefore ask  
him to read now.

Chairman: Mr. Munro, would you like to  
have those three marked in a  
bundle, as a bundle?

30 Mr. Ross-Munro: I thought of just putting  
them at the end of Volume II, the  
last page being 176. Perhaps  
we could just mark them as 177,  
178. 177 would be the first  
letter dated 17th of March,  
first page of the letter of 17th  
March; 178 will be the second  
page. 179 will be the first  
40 page of the 30th March reply,  
and 180 will be the second page  
of the letter of 30th March.

Sir, then if I may - the  
three facts, if I could hand  
those in? (Tenders to the Committee).

Mr. Ross-Munro: The first agreed fact (cont) would be: discovered defalcation in February/March 1976; the Respondent did not report the matter earlier. That is agreed.

In the Disciplinary Committee

\_\_\_\_\_  
No. 2

Secondly, did not inform of the appointment of Medera and Thong in 1976. That is agreed.

Appellant's Counsel's Opening Speech (continuation)

10

And third, the auditors, that is, Turquand Young, found out about the Suspense Account in or around July 1976. They checked with Santhiran who he said wanted proper (considerations) or something, in order to ask Harry Wee in December 1976 or January 1977, and he said, "We will see later about it", and Harry Wee informed auditors of defalcation in the first half of March 1977.

20

So, you see, you have the three dates. They found out on 11th July. They seemed to have - astonishing though it may be - they accepted Santhiran's explanation for about six months. They finally got around to checking with Mr. Wee, and he will tell you why he said, "We will see later about it." He wanted to get independent auditors, and rightly or wrongly - and I appreciate this is not something which you will have to address yourselves - rightly or wrongly felt that as auditors they were negligent in not having found out about these defalcations which had been going on since 1972 and 1973.

30

40

Chairman: Mr. Munro, I suppose this matter arose from Mr. Grimberg's reference to the statement by Wong Siang Khoon appearing on page 71?

Mr. Ross-Munro: That is right, and so

Mr.Ross-Munro: what we were agreed  
 (cont) on is that you could ignore  
 that statement and in return  
 you look at these three facts.

In the  
 Disciplinary  
 Committee

---

Chairman: Can we mark these?

No. 2

Mr.Ross-Munro: Yes, certainly.

Chairman: This is still your matter?

Mr.Grimberg: It is really a common  
 document.

10

Chairman: Common. We call it  
 "A.4".

Mr.Grimberg: It is a common document.

Mr.Ross-Munro: That is right.

20

And Sir, lastly, simply saving  
 a little time, my learned friend  
 Mr.Grimberg has agreed as a  
 matter of law that the burden of  
 proof that the Law Society has  
 got is to prove to your satisfac-  
 tion beyond all reasonable  
 doubt. There is a specific  
 1978 Singapore decision on it.  
 Sir, it is in fact a criminal  
 burden - beyond all reasonable  
 doubt.

30

Sir, I will now call Mr.We.  
 Again Mr.Grimberg has kindly  
 said to me that on all non-  
 contentious matters, subject to  
 your consent, I can lead as it  
 will go so much quicker as  
 there are, I think, a large  
 number of non-contentious  
 matters.

Mr. Wee, please.

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(The evidence portion is recorded in Part B)  
 (the numbering of which commences with No.1)  
 (on the first page.)

----- (10.50 a.m. 25.9.80)



IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. 44 OF 1981

ON APPEAL FROM

THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

BETWEEN

H. L. WEE .. Appellant

AND

THE LAW SOCIETY OF SINGAPORE

.. Respondents

(In the Matter of Originating Summons No. 55 of 1981)

In the Matter of the Legal Profession Act (Cap. 217, 1970 Edn)

AND

In the Matter of an Advocate & Solicitor

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P A R T I

(continued)

(Pages 173 to 520)

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2.	H. L. WEE		
	Examination		173-228
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	Questions by the Committee		296-314
	Lis Choo		
	Examination		315-348
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	Re-examination		356-358
	Questions by the Committee		358-366
	H. L. Wee		
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3.	Report of Disciplinary Committee	19th November 1980	461-501
	<u>IN THE HIGH COURT OF SINGAPORE</u>		
4.	Order to show cause	13th February 1981	502
5.	Judgment of the High Court Wee Chong Jin, C.J. J. Kulasekaram, J. F. A. Chua, J.	27th August 1981	502-518
6.	Formal Order of High Court	27th August 1981	518-519
	<u>IN THE COURT OF APPEAL</u>		
7.	Order for leave to appeal to the Judicial Committee of the Privy Council	14th September 1981	519-520
8.	Certificate of Security for Costs	3rd October 1981	520

PART B  
(EVIDENCE)

In the  
Disciplinary  
Committee

25.9.80

No. 2  
Evidence

MR. ROSS-MUNRO:

Sir, I will now call Mr. Wee.

Again, Mr. Grimberg has kindly said to me that on non-contentious matters, subject to your consent, I can lead as we will go so much quicker as there are, I think, a large number of non-contentious matters.

Respondent's  
Evidence

H.L. Wee  
Examination

10

Mr. Wee, please.

(Mr. H.L. Wee takes the Oath and steps into the Box).

H. L. WEE

(Examination-in-chief by Mr. Ross-Munro)

Witness: "Harry Lee Wee, 32 Parbury Avenue, Advocate and Solicitor. That is my present occupation.

20

I was admitted in 1948 and have been a sole proprietor in practice except for the years 1969 to 1972, when I joined Braddell Brothers."

Q. Now, Mr. Wee, I think that a lot of the files and matters were in some disorder in the earlier years 1972, 1973 - is that right? A. That is right.

30

Q. And I think that in 1974 you started to reorganise the office work - administration of the files? A. Yes, correct.

Q. And coming to what I call the relevant period - that is February/March 1976 until June/July 1977: taking

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- No. 2  
Evidence  
Respondent's  
Evidence  
H.L. Wee  
Examination  
(continuation)
- 10 Q. (cont) February/March 1976, I think you were the sole partner of Braddell Brothers, and I think that you had four Legal Assistants?  
A. At that time.
- Q. At that time. And Santhiran - sorry if I am going too fast. I will slow down, if I may. Santhiran was the Senior Legal Assistant at that time? A. That is correct.
- Q. And I think that there were also various pupils at that time, February/March 1976? A. Correct.
- Q. And one of the pupils was called Singa Ratnam? A. That is so, Sir.
- 20 Q. And right at the end of February 1976 or beginning of March 1976 I think Singa Ratnam suspected that Santhiran might have been dishonest over one account - I think it was about \$318? A. That is so, Sir.
- Q. And I think that more or less at the same time two clients came in - I think he was the uncle of one of your employees, Mr. Lee - also to complain about Santhiran? A. Yes, they came in about a day or two after I had confronted Santhiran.
- 30 Q. Well we will come to that if we may, then. And as a result of what you were told by your staff, did you, first of all, see Santhiran alone in the Conference Room of Braddell Brothers? A. I did.
- 40 Q. And would that be either Tuesday, the 2nd of March, or Wednesday, the 3rd of March, but you are not sure which one? A. Yes, I am not very sure; between.

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

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Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

10

Q. And at that stage when you confronted him, how many accounts had you been told were suspect - if we can use that word? A. Six accounts.

Q. And they totalled approximately how much? A. About eighty thousand.

Q. And what did you say, the gist of it, what did you say to Santhiran, and what did he say to you at that first confrontation on 2nd or 3rd March?

A. Well, I accused him of criminal breach of trust, but he denied it. This went on for quite a while. When I said quite a while - about 10 or 15 minutes.

20

Q. Did you accept his denial or did you think he was lying? A. I thought he was lying, Sir, but at the end of it he appeared to make a sort of semi-admission in the sense that he would try to mitigate what he had done.

30

Q. By mitigating what he had done. Did he say what he meant by that? A. He said he would refund these monies, and if I remember rightly, because of his denial, if he could not establish that they were proper payments - that means authorised payments ---

Q. If he could not establish they were authorised payments, what then?

A. He would repay this money.

Q. And did you then give him certain instructions as to what he was to do?

A. I told him that he was to stop doing work, except to wind up unfinished matters, close up files, put notes on those that were on-going; that all letters in and out would be vetted, that he was not to handle any monies whatsoever, and he would

40

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

No. 2

A. (cont) not be allowed to send or  
sign a cheque.

Evidence

Q. Was he at that time an authorised  
signatory? A. He was. And I  
subsequently ---

Respondent's  
Evidence

Q. Well, I will come to that in a moment.

H.L. Wee

10

A. Yes. I also said that - to stop the  
salary and in short, except for  
winding up his affairs, he was not to  
do any further work.

Examination  
(continuation)

Q. Except for winding up his affairs?

A. Yes.

Q. What about helping your staff to find  
out, to get to the bottom of the  
matter? Did you say, "Would you be  
prepared to help"? A. Yes. I asked  
him to assist the staff in sorting  
out the files and to let me know  
what other matters in which he had  
possibly put his hand into the till.

20

Chairman: Helping the staff in?

A. In, yes - in sorting out.

Q. Did he say whether he was prepared  
to do that? A. Yes.

30

Q. And having done that, did you give any  
instructions to your Accounts Depart-  
ment as far as Santhiran was  
concerned? A. Well, after this  
took place - I think it was on the  
next day or very soon after - one  
of my staff's relatives, a client  
for Santhiran - reported that he had  
been overcharged.

Q. In which way? A. On costs.

Q. On costs. By whom? A. By Santhiran.

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- |    |   |                                      |
|----|---|--------------------------------------|
|    | Q. And you say one of your employee's relatives. What was the name of your employee? A. Lee Kok Liang.  | No. 2<br>Evidence                    |
|    | Q. We will call him Mr. Lee. And what is his position in the firm? A. Well, he was basically a Despatch Clerk, but also the Bank Clerk.   | Respondent's<br>Evidence<br>H.L. Wee |
| 10 | Q. And when you say relative, did you know what sort of a relative - brother, uncle? A. I think that is an uncle.   | Examination<br>(continuation)        |
|    | Q. And? A. I will carry on?   |                                      |
|    | Q. Yes. A. After the incident I asked Lisa Choo to organise the staff that week-end to go through all the accounts that Santhiran had handled in the firm.  |                                      |
| 20 | Q. And what was Lisa Choo's position there? A. Well, she was really the Office Assistant.   |                                      |
|    | Q. And did you give any instructions either to Lisa Choo or to Mr. Lee or anybody else of the staff about Santhiran, any limitation on his activities? A. I advised, or rather I instructed that Lee, who was sitting quite near him in the waiting room section - I call it a waiting room, there are five Assistants plus the waiting room in that section - to keep as close or as close as possible a watch on Santhiran. |                                      |
| 30 | Q. Pausing there, I think you have had prepared a sketch. At a later stage I think you can prove it?<br>A. Yes.   |                                      |
| 40 | Q. But just at this stage, tell me  |                                      |

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 10 Q. (cont) where Mr. Lee is sitting?  
Could you see, by reason of the  
glass, Santhiran's room? A. Lee  
could see from where he was sitting  
a part of Santhiran's room because  
the partitions, the upper part of  
the partitions is made of glass,  
clear glass.
- Q. And what about Lisa Choo? Did you  
give her any instructions about ---  
A. Yes, I gave her instruction to keep  
an eye on him.
- Q. Now I think on the 5th of March you  
went to the bank? A. That is  
correct.
- Q. To take Santhiran's signature, or  
his authority to sign? A. Yes.
- 20 Q. So again you will see it all in  
Volume II. I will get the witness  
to prove these matters a little later  
when we come to the point.
- Chairman: To go to the bank, to?
- 30 Q. To take him off the list of authorised  
signatories. And over the week-end,  
that is to say the 6th and the 7th of  
March, did the staff under Lisa Choo  
go through whole lists or as much  
cheque stubs and make lists and  
matters of that sort? A. That is so,  
Sir.
- Q. But is it right that you yourself  
didn't take part in, so to speak,  
this earlier investigation going on  
by the staff? You left it to your  
staff, including Lisa Choo? A. That  
is correct.
- 40 Q. Now on the Monday following the  
week-end, which will be the 8th of

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Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)



H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee.

- 
- Q. (cont) March, did you see Lisa Choo?  
A. Yes.
- Q. And did she tell you about any results of the staff's investigations over the week-end into the defalcation?  
A. She told me that they discovered over two hundred thousand had been possibly monies that Santhiran had taken. The reason for saying this - if I may go on?
- Q. Yes. A. --- is that these were bearer cheques, and he had initialled the cheque stub.
- Q. If I can just clarify that. Is that part of your practice, that he had to initial the cheque stub? A. The system in Braddell Brothers up to the time that Mr.Ooi left was that every Legal Assistant who wanted to draw monies out of the clients' account had to give particulars which were recorded on the cheque stub and initial the same. The cheque itself would be signed either by a partner or by two authorised Legal Assistants if the partner was not available in Singapore.
- Q. And this was the system that ruled in Braddell Brothers for the other partners as well as you? A. That is right.
- Q. Was that still the system in March 1976? A. Yes.
- Q. So having been told by Lisa Choo that there were over \$200,000 missing, did you then go and see Santhiran?  
A. That was the first time I realised the enormity of the amounts involved.
- Q. And did you go and see Santhiran?

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
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- 
- No. 2
- Evidence
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Evidence
- H.L. Wee
- Examination  
(continuation)
- 10      A. Yes, I went and saw Santhiran and  
         told him ---
- Q. Where did you go and see him?
- A. In his room. And I told him what I  
         had heard, and I was very shaken and  
         I literally accused him of criminal  
         breach of trust.
- Q. Did you order him to do something?
- A. Yes.
- Q. What was that?    A. I was so upset at  
         that point that I told him to open his  
         drawer, which he at first refused.
- Q. Did he subsequently open his drawer?
- A. He did.
- Q. And what did you find in his drawer,  
         among other things?    A. I found his  
         deposits in Singapore Building  
20      Society and Hong Leong Finance, and  
         one or two other banks the names of  
         which I could not recollect because I  
         did not touch it; I just saw it in  
         the drawer when he opened it.
- Q. And having seen that, what did you  
         say to him?    A. I told him on every  
         amount that we discovered that he had  
         initialled for, particularly the  
         bearer cheques, he was to refund the  
30      monies to the firm provided he could  
         not prove, of course, that the monies  
         were genuinely paid to the clients.  
         I told him forthwith that day to  
         withdraw monies from one of those  
         accounts. I cannot remember which  
         one. I told him to start to get  
         the money "today, not tomorrow".  
         "Today."
- Mr. Choa: Please repeat.
- 40      Q. I told him to recover the monies

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Q. (cont) from those deposits forthwith.

No. 2

Q. And it is common ground, agreed by everybody, that between the 9th of March 1976 and the 18th of March 1976 Santhiran in fact repaid \$267,956 ---

Evidence

Respondent's  
Evidence

Mr.Cheat By March and June?

H.L. Wee

Q. By March 18th. A. Yes.

Examination  
(continuation)

10

Q. He started paying on the 9th, and then certain amounts were paid on the 12th, 13th and 18th. We have got the documents here.

Now when he repaid by 18th of March, when he repaid \$267,956, where did you put those monies that he had repaid? A. Some were repaid directly into the clients account and the balance into a Suspense Account, which I describe as my Account No.3, at the Four Seas Bank. My normal Office Account is at the Hongkong & Shanghai Bank, that means Account No.1. And Clients' Account.

20

Q. And at this stage, because we will take it all chronologically, at this stage on the 18th March when he repaid \$267,000, almost \$268,000, rightly or wrongly at that date how much of the monies that he had stolen did you think represent the \$268,000 - in other words, did you think it was half or quarter, or did you think it was the bulk of the monies? A. Well, I don't investigate, but from what I was told, about half of this, roughly, was clients' monies.

30

Q. I follow that, roughly, you were told by the staff, half of that money, about half of it was ( earmarked) was client's money, as opposed to costs?

40

A. Yes.

H.L. WEE  
(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

No. 2

Chairman: The witness said he was told by the staff. That information came from the staff at that stage?

Evidence

A. At that stage, yes.

Respondent's  
Evidence

10

Q. And I think it really came from Lisa Choo, I think the link man or link woman between you and the rest of the staff? A. Yes, that is right.

H.L. Wee

Q. Now you have been told on the Monday by Lisa Choo that over \$200,000 they thought was missing, by the 18th March he had actually repaid \$267,000 odd. That \$267,000 odd, did you think that that represented only a small proportion of what he had stolen, or did you think that it represented the bulk of the money that he had stolen or what, at that time? A. At that time it would be about fairly the bulk, at that point of time.

Examination  
(continuation)

20

Chairman: I have to record that properly, Mr.Munro?

Mr.Ross-Munro: Sir.

Chairman: At that time?

Mr.Ross-Munro: He thought this represented the bulk of the money.

30

Chairman: This sum of \$267,000?

A. That is right.

Chairman: Bulk of the money misappropriated represented clients' money.

Q. That is right. I used a rather strong term "stolen". Misappropriated is good enough. So the bulk of the

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

---

- 10 Q. (cont) monies had been repaid. Now, pausing there, on the 18th March, I just want to ask you one or two other matters. You have mentioned the question of cheque stubs, where the Legal Assistant would put his initial on if it was his actual matter and payment should be made. So if one looks at the cheque stub one would find the Legal Assistant's initial on it. Would you also find the client's name on it? A. Yes.
- 20 Q. And what about the file number?  
A. Sometimes.
- Q. Sometimes. So from the point of view of Lisa Choo and the staff doing their investigation over the week-end, they could look at the cheque book stubs and they could do what? A. Yes, they did it all over the week-end.
- Q. Yes, did they look at that and they could get from that, they could identify each time Santhiran's initial was shown on the cheque stub? A. That is right.
- 30 Q. And they could also see on the cheque stub the name of the client? A. That is right.
- Q. And sometimes, but not always, they could see the file? A. Yes.
- Q. Now with the name of the client, if they went to the Ledger Book and look up the name of the client from the Ledger Book, would they find his address? A. No.
- 40 Q. And would they find the file number in the Ledger Book? A. No, occasionally; but not always.

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 10 Q. Now at this stage, I would like you, if you would, to look at Volume II, and I want to ask for your comments on certain documents.  
Sir, what I thought I would do in the clearest way, I hope, is to do it in chronological order and as we cover certain months then we go to Volume II and he can prove the various documents rather than to ask you to go through it when you don't know the significance of some of the documents.
- Now, first of all, Volume 2, if one takes page 1 --- A. Yes?
- 20 Q. --- my learned friend Mr.Grimberg has come up to say that page 1 is agreed; if you look at the Passport dates, and I think this is a list of your absences abroad? A. Yes.
- 30 Q. And if I could just clarify onematter that has come up on several documents, we know that round about this period you were engaged, among other things, in, if I may put it, a heavy case - that is the Haw Par case, is that right? A. I was mainly engaged in the Haw Par case.
- Q. Haw Par case. I was going to ask you very roughly the dates. Can you tell me when was the first you started the Haw Par case and when you, so to speak, stopped being engaged? Just give us the rough dates. A. I started work at the end of November.
- Q. Of which year? A. Of 1975.
- 40 Q. 1975. November 1975. And when did you stop being engaged? A. Well, I was officially stopped at the end of September, but carried on.

No.2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Q. September 1976? A. 1976, yes.

No. 2

Q. Officially stopped September 1976, but you wanted to go on? A. No, I was asked to wind up the things that were still, carry on which I had been handling - in other words, I didn't take on any more new work of Haw Par. I had to wind up matters that were already in hand.

Evidence

Respondent's  
Evidence

H.L. Wee

Q. And that lasted how long? A. And that went on for some months.

Examination  
(continuation)

Q. Several months after September 1976?  
A. Several months, it was much later. And may I say that the Haw Par case involved me attending at the office of Haw Par a good part of the day.

Q. Again you just give the Committee some rough idea, what sort of proportion of the day did it involve you going to the Haw Par office? A. That would be about an hour or two occasionally in my office in the morning and before lunch I would be at Haw Par right throughout on the average up to 7 o'clock, and sometimes through dinner at Haw Par.

Mr.Ross-Munro: Sir, just before we leave that document, if my mathematics is correct, counting the first and not the last one, if you look at 1976, you see the 16th of April, which is the first absence abroad during the material time at the end of February.

If you look at 16th April to 30th (April),

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro: 8th June to 9th June,  
(cont) 11th June to 19th June.  
If you take these ab-  
sences - if my mathema-  
tics is correct, they  
total 37 days. Simply  
for your information.

No. 2

Evidence

Respondent's  
Evidence

10

Chairman:

Which items?

H.L. Wee

Mr.Ross-Munro:

Starting from the 16th  
April, because the  
first item is not going  
to be relevant because  
no discovery had been  
made. So starting from  
16th April to 30th; 15th  
May to 22nd; 8th to 9th  
June; and 11th June to  
19th June - 37 days.

Examination  
(continuation)

20

And the other one, simple  
mathematics if I am  
right, if one takes the  
16th April, 1976 to the  
27th April 1977 - you  
will recall that on the  
30th of April he wrote  
to the Law Society this  
first letter in Volume  
I - if you take 16th  
April 1976 to the 27th  
April 1977, that is  
roughly a year he was  
abroad for 91 days.

30

Mr. Choa:

Will you please repeat?

Mr.Ross-Munro:

Yes; between the 16th  
April 1976 and the 27th  
April 1977, which makes  
roughly a year he was  
abroad, if my mathematics  
is correct, for 91 days.

40

A. I think the last page you mentioned -



H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- 
- 10 A. (cont) is that the Hongkong? No. 2
- Q. Yes. A. Yes, I think it is 21st --- Evidence
- Q. No, no. Don't worry about that, Mr. Wee. Respondent's  
A. Sorry. Evidence
- Q. That was the last one I have taken  
into account. I have taken the H.L. Wee  
period 17th April 1976 to 27th April, Examination  
and I have shown you 27th April simply (continuation)
- because after that he had sensibly  
written his report. So that period of  
one year is 91 days.  
Then if you look over to the next  
document, now this is a sketch of your  
office lay-out, is that right?
- A. That is right.
- Q. And shortly they are for the rooms?
- A. That is right.
- 20 Q. And if one goes to Room 1, is that  
where Mr. Lee was? A. No.
- Q. Where was Mr. Lee? A. Mr. Lee was  
at a point just inside the door in the  
heading "Wait room"; it is a waiting  
room.
- Q. Where it says "Waiting room"? A. Yes.
- Q. If one went into the left-hand door  
and turn, he would be there? He  
would be there, yes.
- 30 Q. And where was Santhiran's room?  
A. In Room 5.
- Q. And you told the Committee already  
that there was a glass partition from  
what - halfway up, is it? A. Yes,  
that is right.
- Q. Waist up? A. Waist up.

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- No. 2
- Evidence
- Respondent's  
Evidence
10.                   "Please note the authority to  
                      Santhiran to sign cheques is  
                      now withdrawn."?
- H.L. Wee
- Examination  
(continuation)
- A. Yes.
- Q. That is what? We are told it is the 5th?
- A. It is the 5th of March - that is a  
clerical error.
- Q. Yes, and the answer, the 8th of March  
1976, is at 3A? A. Yes.
20.                   Q. Then if you go over to 38 of the  
                      Bundles, I see - yes - that is what  
                      you mean. I think if you take the  
                      numbers it is really page 5 if one  
                      sees there, the cheque stub. You see  
                      it is folded over at 15. I think  
                      those are the numbers, we have to use  
                      the pencil marks. No.5 has four  
                      cheque stubs? A. Yes.
30.                   Q. We take the top left-hand one, that  
                      is the 22nd of January 1976. You see  
                      that one? A. That is right, yes.
- Q. Now that one: would that have the  
name of the client? A. Yes, James  
Tan & Co.
- Q. Yes, and would it also have a file  
number? A. In this case, yes.
- Q. And where is the file number?
- A. At the bottom, just above printed  
cheque number.
- Q. So that is S.S./17875? A. That is

H.L. WEE

In the  
Disciplinary  
Committee

(Exam.in.chief by Mr.Ross-Munro,cont.)

No. 2

A. (cont) correct.

Q. And above that file number we see two initials: are they Santhiran's initials? A. Yes.

Evidence

Q. The name of the client, but no file number? A. That is right.

Respondent's  
Evidence

10

Q. S.S. So that is a sample of one with file number. And if you look at the top right-hand one, that also is S.S. That is the name of the client, is that right? A. That is right.

H.L. Wee  
Examination  
(continuation)

Q. Nanyang Insurance. And again that is a file number? A. That is so.

Q. And if you look at the two bottom examples there again with Santhiran's initials? A. Yes.

20

Q. The name of the client, but no file number? A. That is right.

Q. And again if you look at the bottom at the right-hand side there is the name of the client, the initial, but no file number? A. That is so, Sir.

30

Q. So these are just four examples to illustrate what has been said. Now, if you put away Volume II for the moment - we will go back to it at a later stage when we cover some more of your evidence. Now still at the stage of the 18th March 1976, when you had been repaid what you think are the bulk of the monies ---

Chairman: Mr. Munro, witness said he was told by the staff that it represented the bulk of the monies. Witness didn't say he thought it was.

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro: Yes, he did.

No. 2.

Chairman: Are you quite sure?

Evidence

Mr.Ross-Munro: Oh yes, I asked him specifically as to his belief at that stage; he said he believed. He had been told by the staff over \$200,000 and believed that the \$267,000 represented the bulk of the monies.

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

10

Q. That is correct, is it, Mr. Wee?

A. That is right.

Chairman: I will make the change, then.

Mr.Ross-Munro: I am much obliged; yes.

20

Q. Now at this stage, we are still on the 18th March, did Lisa Choo tell you anything as far as files were concerned, whether they were all there, or not there? A. Most of the files were missing that Santhiran dealt with in respect of these accounts where the monies were missing or stolen. Most of the files.

30

Q. And as far as the Ledger entries by Santhiran, Lisa Choo will tell you at this stage anything as to how many of the entries were accurate or how many were inaccurate? A. Well, she could get little information from these entries in the Ledger card, and obviously after checking with the counterfoil there appeared to be (little) falsehoods or lies written on his account. Some were apparent, but not all of them were apparent to me.

40

Q. I see. Some of the false signatures

H.L. Wee

In the  
Disciplinary  
Committee

(Exam.in.chief by Mr.Ross-Munro, cont.)

- 10 Q. (cont) were apparent and obvious,  
but others were not.  
Now we know the fact that even after  
Santhiran had repaid \$267,000 which  
you thought was the bulk of the  
monies, that you still didn't report  
it to the Law Society? A. That is  
right. Evidence Respondent's  
Evidence
- 20 Q. Not even a short little letter saying,  
"Well, we don't know the amount yet,  
and I will give you more details  
later"? A. Yes. H.L. Wee  
Examination  
(continuation)
- 30 Q. Now why didn't you at that stage, the  
18th March, just write a short letter  
to the Law Society saying, "We have  
discovered defalcations and when we  
have got to the bottom of the matter  
we will send you details later"?  
A. Well, although I thought that this  
was the bulk of the monies stolen,  
we were still finding - first of all,  
more accounts: that is one.  
(2) Admissions and denials on various  
lists prepared by Lisa Choo were being  
made by Santhiran. In other words, on  
the lists that he had admitted, he  
retracted and denied; and some he  
denied, he admitted. When we asked  
him for it he kept quiet and would  
say they were around somewhere; we  
made a search but we could not find.
- 40 Q. At this stage - and we are still  
round about 18th March, end of  
March - at this stage, how important,  
did you think, was the cooperation of  
Santhiran in order to get to the  
bottom of the matter? A. I would  
have been helpless if he wasn't  
around. Lisa Choo just had the  
name, clients' account, and in most  
cases no address. Our system as  
it existed then was the address, only  
place of address was unfortunately in

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

A. (cont.) the file.

No. 2

- 10 Q. Now, Mr.Grimberg has said in opening that the motive that he is going to suggest to you is that as a Solicitor who is responsible for clients' money that is lost, that your motive, was that you didn't report it to the Law Society because all you were interested in was getting restitution from Santhiran to save your own pocket - do you follow? A. Yes.
- Evidence  
Respondent's  
Evidence  
H.L. Wee  
Examination  
(continuation)
- 20 Q. Now, is Mr.Grimberg right or wrong?  
A. May I put it this way, Sir? I will not say that I didn't want to get back my money. That is very - I mean, there is nothing in my mind that would shake me from trying to recover more money if I could, but what ---
- Q. Take it slowly - it is important. So certainly that is one of the things in your mind, to recover more money, but what? A. The principal thing was, here was I with all these monies and no explanation, except lies from Santhiran.
- 30 Q. And why was that the principal thing? Did that affect, or who might have been affected? A. It would affect my clients. I would not be able to account to them. I wouldn't know which of my clients and to what amount, monies had been stolen.
- 40 Q. Now pause there, and I think it is an important matter. Now I want to ask you, you say that was the principal thing how it would affect your clients. Just to see whether we can clarify that. I was wondering if you can give me some examples of how the cooperation of Santhiran was vital, in your view, and that if you didn't have his

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 
- 10 Q. (cont) cooperation that there was a  
real risk that it might have affected  
innocent clients of yours - do you  
follow? So let us just see, can you  
give us -  
Let me just start off with this: can  
you give us any example, for example,  
as to how an innocent client might  
have suffered if you didn't have  
Santhiran's cooperation? A. Well,  
supposing he recovered money on a  
judgment and he ought to have and he  
will take the money out purportedly to  
repay the client, but in fact he pockets  
it. The client, until he came to the  
office one day in the future, would be  
out of pocket or will have a long  
delay before he recovered this money.  
That will be one instance, and it  
will ---
- 20 Q. When you say judgment, you mean  
Santhiran had recovered on Order 14,  
summary judgment? A. Order 14.
- 30 Q. Pocketed the money, not tell the  
client until the client got impatient;  
if he didn't contact the firm, he  
would have been out of his money?  
A. That is right.
- Q. And that presumably might have been  
the delay, depending on his impatience.  
And taking that example, how would it  
appear on the Ledger? A. It would  
show a payment in of the amount  
recovered, and a payment out on a  
fictitious name.
- 40 Q. Can you think of any other example  
where an innocent client would have  
been at risk unless Santhiran was  
prepared to cooperate? A. Where the  
client had died and perhaps there was  
no representation in the estate.

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- Q. We will take that slowly, it is very important. You said if a client had died? A. And nobody took up representation or knew of this matter. Evidence
- Q. What you mean is Santhiran had recovered money for a client but did not tell the client, the client then dies, his estate might not have known? Respondent's Evidence
- 10 A. Right. H.L. Wee
- Q. So they wouldn't claim on you and you wouldn't know anything about it either? A. No, it is just an account there; it just stands there, if I may say so literally for ever until the courts investigate it by going through; perhaps if it is a suit, we will go through the suit. This will all take time. Examination (continuation)
- 20
- Q. And then, still on the same topic: if Santhiran acted for one of your clients and recovered say, for example, \$10,000 but only accounted to the client for \$5,000, would you know about that? A. Yes, on this basis that he recovers money for the client, paid the client out a certain percentage purportedly to be the full amount recovered but in fact took the rest; in other words, if he recovered, say, \$10,000 he would give about four or five thousand to the client and keep the rest.
- 30
- Chairman: Mr.Munro, I think this requires a bit of filling in - the words "if he recovered ten thousand, paid the client five thousand, then he could keep the rest." May we know how? The method.
- 40
- Q. Yes. Let us start again. My fault,Iwent there too quickly. Let us say



H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- |    |   |   |
|----|---|---|
|    |   | No.2                                      |
|    | Q. (cont) Santhiran recovered for the client \$10,000? A. Yes.  |   |
|    | Q. He then falsely tells the client that he has recovered \$5,000? A. That is right.  | Evidence<br>Respondent's<br>Evidence      |
| 10 | Q. And the client accepts that false representation? A. He would draw a bearer cheque for ten thousand.   | H.L. Wee<br>Examination<br>(continuation) |
| 20 | Q. So the way he would do it - you say there are many examples in the Ledger if one looks at it if necessary - is that he would draw a bearer cheque for ten thousand; and then what would happen? A. He would give the client five. In many cases he forged the receipt. The client might sign another receipt which he would not put on the file, cash the cheque, keep five, and give five. Now that client would be quite satisfied, may never come back to this office unless Santhiran discloses to us that that part of that money belonged to that man. |   |
| 30 | Q. So if Santhiran didn't cooperate and didn't disclose, if Santhiran didn't bring back files, the files were missing, and then the client who was satisfied with the five thousand didn't telephone, it is perhaps logical what would happen is the client would have been defrauded of five thousand? A. That is right.   |   |
|    | Q. And you wouldn't know anything about it and the client wouldn't know anything about it? A. Yes.  |   |
| 40 | Q. And you had mentioned earlier of Mr.Lee's uncle who came in to complain about overcharging? A. Yes.  |   |

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Q. But let us assume if Santhiran took a thousand dollars for costs from the client and he pocketed five hundred of it - and the client, unlike Mr.Lee's uncle, didn't come in to complain?  
A. No.

No. 2  
Evidence  
Respondent's  
Evidence

10 Chairman: Is this an actual case, or hypothetical?  
Mr.Ross-Munro: This is an actual case, yes.

H.L. Wee  
Examination  
(continuation)

Chairman: Of Mr.Lee's uncle?

Mr.Ross-Munro: Yes, what happened with the uncle is that they did come in to complain, but if they hadn't, nobody would know anything about it.

20 Chairman: In other words, loss to the firm?

A. No, it is money belonging to the client.

Chairman: The client would have got back?

30 A. Would have got back the refund. Supposing if he deposited 1,500. The thousand would be cost and he paid off to the firm. \$500 he would pocket and say disbursement, but it is not cost; \$500 purportedly to Mr. X. The client wouldn't know. He thought he paid one thousand five, and that is it.

Q. So the client is satisfied, doesn't come back, nobody would know about it, you say, and the client would have suffered \$500? A. That is right.

Q. And if either the Committee or Mr.Grimberg would want it, are you in a position - you and Miss Choo -

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Q. (cont) to actually show from these books various (concrete) examples of these things actually happening?

No. 2

A. Yes, I can show some of them, Sir, and I would like to put the clients' Ledger to show the instances where he actually did this.

Evidence  
Respondent's  
Evidence

10

Q. I would formally put the book in as evidence, and then perhaps at a later stage if any one of them wants to ask, if Mr. Grimberg wants to ask you a question or the Committee would ask you a question ---

H.L. Wee  
Examination  
(continuation)

20

Chairman: Mr. Grimberg, this is where saving time comes in - has Mr. Grimberg had an opportunity of inspecting the book?

Mr.Ross-Munro: No.

Chairman: I think if Mr.Grimberg would say that he is satisfied, so that if he is satisfied ---

30

Mr.Ross-Munro: Am I right, Mr.Grimberg, it is all right so long as I can perhaps give Mr.Grimberg the books and on instructions because I am quite useless on books myself; but on instruction I can point out a couple of examples to Mr.Grimberg to show how it will be - but if he likes I may as well ---

40

(Mr.Ross-Munro confers) --- I am reminded the reason we couldn't show the book earlier was that we only obtained it this morning from the High Court.  
So perhaps to save time might I leave it this way then: that if either the Committee or Mr. Grimberg wish for some

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro: concrete examples  
(cont) from the book, you can  
actually show them; but  
some of them.Miss Choo will  
show the others.  
And so, may the book go  
in?

No. 2

Evidence

Respondent's  
Evidence

10

Chairman: So far as the Committee is  
concerned, if Mr.Grimberg  
is satisfied we don't  
think it is necessary for  
us to look.

H.L. Wee

Examination  
(continuation)

Mr.Ross-Munro: I think it will save  
time, and I will have a word  
with Mr.Grimberg later about  
it.

20

Q. Anyhow, these are all examples you say  
why, in your view, looking back to  
March 18 1976, in your view then it  
was vital to get Santhiran's cooper-  
ation? A. Yes.

Q. And so you say that was the particular  
reason why you didn't report this,  
that you thought it was essential in  
the client's interest to get the  
cooperation of Santhiran?

30

A. If I were left with that book and the  
sum of money, up to today I don't  
think I will be able to complete, I  
think, 95 per cent, Sir. We'd have been  
stuck up till now if I didn't have  
Santhiran because there were no files,  
no details, no particulars; names  
may or may not be fictitious;  
clients were not available and those  
that were available were trying to  
make up stories to cover Santhiran so  
that even if we do find a client  
there is no way of getting on with  
this clearing up of this mess,  
except with the help of Santhiran.

40

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

10

Chairman: What reply shall I record to your question, Mr.Munro? The witness gives a lot of reasons, gives a lot of details about what ought to be done, but your question was: was this a reason for not reporting? Have you got it?

Mr.Ross-Munro: I thought this witness had already said that his main reason for not reporting, not the only one.

20

Chairman: I know your immediate question, but I didn't quite get the reply. What was your reply?

A. The answer was "Yes". Sorry, Sir, I want to elaborate. I apologise.

Mr.Choà: "Cooperation is vital", and then you say?

30

Mr.Ross-Munro: "My main reason for not reporting was because I thought the cooperation of Santhiran was vital in the client's interest."

40

And you will recall that what he said earlier was that he wouldn't dispute for a moment that he was interested in getting back his money as well. So what he said was his main motive was in the client's interest, but he doesn't dispute at all that it would be the sole motive. Of course he would be interested in getting

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro: back his own money as  
(cont) well.

No. 2

- 10 Q. Now you had told the members of the Committee that there was nothing to stop you writing a short letter to the Law Society in March 1976, and then you say, "I will give the Law Society all the details when I have got to the bottom" - there is nothing to stop you. Looking back with hindsight, do you think you should have done that or not? H.L. Wee
- A. Yes, I think I should have taken advice. On looking back to it I think I made a mistake in not writing a short letter. Examination (continuation)
- 20 Q. And during the relevant period - by that I mean March 1976 until May 1977 - during those 14 months did you take legal advice from anybody else? Respondent's Evidence
- A. Until March, Sir, when I mentioned it to the Vice-President; until March, Sir.
- Q. So from March 1976 until the end of March 1977, when you mentioned it to the Vice-President of the Law Society you didn't take legal advice.
- 30 Chairman: "I did not take legal advice" - witness said something more until he?
- Mr.Ross-Munro: Until he saw the Vice-President in March 1977, who is Mrs. Bee See. Sir, I may say simply for assistance to you that when I call Lisa Choo, in Volume II you will find there three or four examples of false entries by Santhiran. And I don't think there is any dispute
- 40

H.L. WEE

In the  
Disciplinary  
Committee

(Exam.in.chief by Mr.Ross-Munro,cont.)

No. 2

Mr.Ross-Munro: about this, that  
(cont) during May and June 1976  
Santhiran paid back an  
additional \$30,000, making  
the payment back just under  
\$300,000 - \$297,000.

Evidence  
Respondent's  
Evidence  
H.L. Wee

A. Yes, that is so.

Examination  
(continuation)

10 Q. Now so far as the investigation is  
concerned, you mentioned to the  
Committee already Santhiran's changes  
of front, how files would come back  
and how he admitted certain things  
and then retracted them, etc. Did  
you yourself take a personal part in  
the investigation or did you leave it  
to the staff and, in particular, Lisa  
Choo? A. I left it to my staff. I  
20 just didn't have the time.

Q. And did there come a time in August,  
I think - August or September 1976 -  
when Lisa Choo told you that she really  
couldn't do any more than she had done  
already? A. That is right.

30 Q. To get to the bottom of it. And at  
this stage, August/September 1976, did  
she tell you what Santhiran's attitude  
was as far as the monies being repaid  
(were concerned)? A. Sir, we were  
reaching the stage where he claimed  
that he was paying too much. Sir, if  
I may, I must explain how this arose.  
The amounts I asked him to repay were  
the amounts he signed for. Some of  
those that he admitted, he demanded  
the repayment of the total sum.  
Then he turned round towards about  
40 July, August, and he said, "I think  
I did give some to the client." So  
now began thereverse process of me  
now getting into trouble. It would

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 
- 10 A. (cont) appear that I had taken too  
much of him, because "how do I get  
five thousand and the client not get  
a cent? I gave the chap two thousand,  
and I would pocket the three. So I  
should get the balance." I told  
him, "You have to prove", and he  
began to prove, and that is why I  
was getting a bit worried that this  
was getting out of hand, that he was  
going to produce the client to say  
that it wasn't the total amount he  
pocketed. So he began to reduce the  
amount that he had in fact stolen.
- 20 Q. Did Lisa Choo tell you that sometimes  
he produced files that before had  
disappeared, and now there was  
evidence in the files that the clients  
had generally been paid? A. That is  
right.
- 30 Q. And did she also tell you on occasions  
when clients came in and told a pack  
of lies to cover? A. Told lies to  
cover on his behalf, and one or two  
retracted these lies and came back  
and said, "We are not going to do this.  
We want some money, and not an I.O.U."
- 40 Q. And so Lisa Choo having informed you  
she couldn't do any more in August  
or September 1976 - I don't think  
there is any dispute about this - you  
decided to appoint an independent  
auditor? A. That is right.
- Q. Now the firm's auditors at that time  
were Turquand Young? A. That is right.
- Q. When you decided to appoint an inde-  
pendent auditor round about September  
1976, why did you decide to appoint  
an independent auditor, and not your  
own firm's auditor, Turquand Young?
- A. I could have perhaps forgiven

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)



H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 
- 10 A. (cont) Turquands' missing the tremend- No. 2  
ous (row) that was going on in March. Evidence  
In March there was an investigation and (he) produced a report, giving Respondent's  
my accountant's report. There was Evidence  
chaos in the office, and yet they never saw through that. Right in  
mid-year about July they came in H.L. Wee  
again, and they missed it again. We Examination  
have got hundreds of accounts where (continuation)  
monies are transferred from A to B, dormant accounts A to B. Anybody who  
is looking at the books would see that this account had been dead for about  
10 years, would show an entry to another account in the same book.
- 20 Q. I see - that dormant account suddenly came alive? A. That is right.
- 30 Q. And you didn't notice? A. I asked for some evidence of this movement. If they had been doing Braddell's accounts work at least 20 years earlier and they had seen this account had been dead for 10 or 15 years and suddenly it comes alive - not one, many; one or two you might miss - so they missed that. There was the Suspense Account and they said they asked Santhiran only a few days afterwards about it, and he told them ---
- Q. Let us just take it slowly.  
A. I am sorry - I am upset over this.
- Q. On the Suspense Account they asked Santhiran and he told what?  
A. He told something about property deals in my Account No.3; he is doing property deals.
- 40 Q. And do you know roughly when Santhiran told you that, what month? A. About July or August or September in the mid-year audit.

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 10 Q. And how long was it after that before they actually got to approach you about the Suspense Account? A. I think it was towards the end of the year, I can't remember, because they came in ---
- Q. December 1976? A. Yes, towards the end. I can't remember the exact time, and then I think they saw me with a report some time in January.
- 20 Q. You have just told us this - and we know as a fact, indeed we have gone through the list - that Santhiran had been misappropriating the money since 1972, and had Turquand Young, your auditors, at any time between 1972 and 1976 ever spotted any misappropriation?
- A. No.
- Q. Now the system in connection with Turquand - I will make it quite short, but rightly or wrongly, in September 1976 did you think that Turquand was negligent? Yes, or no? A. Very much, Sir.
- 30 Q. And so you decided to have an independent auditor. Now there is evidence that you asked Santhiran, so to speak, for his consent in matters of that sort. Why did you do that? A. Well, he was playing ducks and drakes with us, and he thought we were trying to pin him down or getting him to make admissions which he didn't want to make. So if we appointed Turquands, I was on the horns of a dilemma. I had no faith at that point of time in Turquands because I thought obviously they wouldn't like having discovery being told to them. Then I wanted Santhiran to cooperate by telling us more about these files, produce more files or give us more evidence on these accounts.
- 40

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 10 A. (cont) And the easiest way was to make him admit, and he was also saying, Sir, we are taking a bit too much.  
So we can clear it up with an independent accountant, rather than with us. I wanted in a sense to keep him cooperating.
- 10 Q. And with the appointment of an independent accountant, auditors, did you tell Santhiran who was to pay for that? A. Well, I had hoped he would pay for.
- Q. But did you tell him he was to pay?  
A. Yes.
- 20 Q. Although you told him he was to pay, did you genuinely think there was hope of your getting that payment out of Santhiran? A. No, Sir.
- Q. Now we know that Santhiran left your firm, I think on the 21st of December 1976, and I don't think there is a dispute over this - I should have mentioned the first independent auditors, Medora & Thong, were appointed, is that right? A. Yes.
- 30 Q. And that is the 9th November 1976?  
A. Yes, Sir.
- Q. And when they were appointed, what were they to do, Medora & Thong? What were their terms of reference, approximately? Perhaps you can tell us normally ---  
A. They would go through with Santhiran - first of all, they were to complete and check the list that we prepared.
- 40 Q. First, of all, they were to collate and prepare the list that Lisa Choo and the staff prepared? A. Then they would go through to see where there were

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- 10 A. (cont) office vouchers and receipts where there could be very little dispute that the monies had in fact been paid. And on the rest that were in dispute or still unexplained, they were to deal with Santhiran directly. So that at the end of it all we would have a final figure or a final report on the actual amount of defalcation.
- 20 Q. And bearing in mind that your staff and Lisa Choo had already done a considerable amount of work and compiled the lists, how long, did you think at that time when they were appointed, how long approximately were they likely to take before giving you a report? A. If, I had hoped, Santhiran cooperated I would have thought they could have done it in two months.
- 30 Q. And I should have asked out this small detail just to fill in the gap, so to speak. You have told us you decided on an independent auditor in September 1976. We know that Medora were not appointed until the 9th November 1976. Without going into too much detail, why was there a gap between September and November?
- 40 A. Before - I had a case in London in October. Before I left for London I agreed to appoint Mr.Gan of Hasnia Roslan and Gan - they are really a Kuala Lumpur firm. But when I was in London I was told that they wanted a rather large fee for this job and would not take an undertaking unless they - if I can put it - had a minimum of so much, with a possibility of charging more.
- Q. Open ended? A. Yes, it was a bit open ended at the other end.

No.2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE  
(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

Chairman: May we have the name of  
the Kuala Lumpur firm?

No. 2

A. Hasnia; they have an office here  
(Spelt - H-A-S-N-I-A).

Evidence

Q. What was the other name? A. Roslan  
and Gan.

Respondent's  
Evidence

H.L. Wee

10 Q. And so they wanted too much and you  
were in England at the time from 6th  
October to the 22nd October? A. That  
is right.

Examination  
(continuation)

Q. When you came back, did you then  
contact Medora & Thong? A. Yes, then  
Medora or Medora & Thong was appointed.

Q. So you thought it would take about two  
months and now I think, just to end  
up 1976 before coming to 1977 - on  
the 28th December 1976, I think, you  
received a preliminary account from  
Medora & Thong, preliminary report?

20

A. That is right.

Q. Now I would like you to look at Volume  
II again and what I propose to do -  
there are certain documents which are  
within Lisa Choo's personal knowledge  
and not Mr. Wee's - so as we go  
through the documents until the end  
of December I will indicate the ones  
about which Mr. Wee can give of his  
personal knowledge, and then we  
leave to Lisa Choo the things like  
lists and ledger. So I think,  
Mr. Wee, from this part at page 5  
now if you turn over to page 6 there  
is a lot of correspondence with  
banks? A. That is right.

30

Q. From page 6 until page 21, and I  
think that is something which Lisa  
Choo can deal with, as opposed to  
you, is that right? A. Yes.

40

H.L. VEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

Q. Perhaps if you leave that open and we will go on to a little bit of the evidence and I will come back to the documents, if I may. We know that you yourself left for England in 1977 on the 16th January and you came back on the 7th February?

Evidence

Respondent's  
Evidence

10

A. That is correct.

H.L. Wee

Q. 16th January to 7th February, Sir, at page 1, Volume II. Now taking the period in January, you received a preliminary report from Medora and Thong on the 28th December, and we will look at the report later. Taking the period 1st of January up to when you left for England on the 16th January, I just want to ask you this: as far as Santhiran was concerned, once the matter had been cleared up did you intend to report him to the Law Society, or did you intend to do nothing about it? A. I intended to report.

Examination  
(continuation)

20

Q. And what about the Police? A. Both.

Q. Now as far as the report to the Law Society was concerned the documents - had you given instructions that somebody in your staff should prepare that report to the Law Society and then you would polish it up? A. I think some time early in January I gave instructions to Lisa Choo to put up a draft.

30

Q. This is a draft report to the Law Society? A. Yes.

Q. And what was your intention after she had put up the draft? That you would polish it up, so to speak?

40

A. That is right.

Q. And I don't think there is any dispute

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 
- Q. (cont) from what you have told us already, Lisa Choo's knowledge of the details was far greater than yours? No. 2  
A. Very much. Evidence
- Q. Now before you left for England on the 16th January, did Lisa Choo produce to you a first draft report to the Law Society? A. Yes. Respondent's Evidence  
10 H.L. Wee
- Q. And what did you think of her first effort, her first draft report? Examination (continuation)  
A. I rejected it as useless, as being too vague. I then remember that I then asked her to work with one of the Legal Assistants on this - Miss Chan. Chan Lai Meng.
- Q. You call her Miss Chan - C-H-A-N?  
A. Yes.
- Q. You asked Lisa to work with Miss Chan, assist (her with) the report after you rejected the first one? A. That is right.  
20
- Q. And you then went to England?  
A. Yes.
- Q. And whilst you were in England, were you telephoned by some member of your staff? A. I was then 'phoned by Nelly Srivesti; then Chan Lai Meng came on the 'phone.  
30
- Q. Chan Lai Meng, Sir. That is the name I mentioned yesterday. We were hoping to call her but she went in for appendicitis on Sunday. And what was the nature, what was the reason for your staff calling you in London? A. It was because they informed me that Santhiran had gone to practise and was actually asking for files.  
40

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 
- Q. Was actually asking for files? No. 2  
A. I suggested to her that she could make a report to the Police about (there will be) defalcations. Evidence
- Q. This was Miss Chan? A. Yes, She was prepared to do so. Respondent's Evidence
- Mr. Choa: You said? H.L. Wee
- 10 A. If she was prepared to do so. Examination (continuation)
- Q. If she was prepared to do so? A.Yes.
- Q. She was to report to the Police immediately if she was prepared to do so at that stage? A. That is right.
- Mr.Choa: Who is this? Miss Chan?
- A. Miss Chan.
- Q. What effect did this have on your mind about Santhiran practising?  
20 A. Well, I got the shock of my life because I didn't think he would go out to practise as such or open a practice.
- Q. Actually asked you for files? A. Yes.
- Q. Now is it your practice both in Singapore and indeed when you were abroad to make notes and send instructions to your staff? A. Yes.
- Q. Now I would like you to look back, if you will, to Volume II. A. Yes.
- 30 Q. And if you look at - after the bank correspondence which we will get Lisa Choo to deal with - if you look at page 22 that is in pencil, Sir, on the top right-hand corner - I want to take you through part of this document, which is page 22, and it



H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

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- 
- 10 Q. (cont) is dated 25th January, 1977. No. 2  
Have you got that? A. Yes.
- Q. Now on the left-hand side, there is a Evidence .  
reference "W/CLE. What was that? Respondent's  
A. That is Lisa Choo. Evidence
- Q. CLE is Lisa Choo? A. That is right. H.L. Wee
- Q. Just underneath we see "CLM"? Examination  
A. That is Miss Chan. (continuation)
- Q. And we see "CLM" and the typing, and  
to the left of it there is also  
written "CLM" in writing, 25 R.77.  
Whose handwriting was that? A. That  
is Miss Chan's - her initials.
- Q. And this note: where would it be  
physically made? A. It was written in  
longhand in London, posted out to  
Singapore. The original was in the  
trial in court.
- 20 Q. So the original of this is in longhand  
and is an Exhibit in the criminal  
proceedings? A. That is right.
- Q. And this is typed? A. Yes.
- Q. And was this typed thing also an  
exhibit in the criminal proceedings?  
A. I can't quite remember what form it  
took, typed or ---
- 30 Q. So taking the first paragraph opposite  
"CLM", and then "(1) If you think it  
necessary you may proceed to make  
a short brief report .... .. letter  
as confidential as possible."  
If it is necessary "to make a short  
brief report" - now who was that  
report to be made to? A. All the  
way through I had this dual thing in  
my mind: both to the Law Society  
and the Police, and I think the same.

H.L. WEE

(Exam. in chief by Mr. Ross-Munro, cont.)

In the  
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Committee

- |    |  |   |
|----|--|---|
| 10 | <p>A. (cont) So in this particular case I think I would refer principally in my mind to the report - I can't quite recollect, Sir. It may be there was one other thing in my mind, if I may explain. He wanted files that might contain documents. Some of the files he wanted contain some documents, might contain evidence I want to keep.</p>  | <p>No. 2<br/>Evidence<br/>Respondent's<br/>Evidence<br/>H.L. Wee<br/>Examination<br/>(continuation)</p> |
| 20 | <p>Q. Let us take it slowly - some of the files Santhiran asked for, in your mind you thought they might include documents which would be necessary in the future? A. That is right. So I thought if anything went, it must go also definitely to the Police at this point.</p>  |   |
| 30 | <p>Q. So you are saying that you always had in your mind the dual thing: to make a report to the Police and the Law Society. Did you think probably this brief report would probably go to the Police? A. That is right.</p> <p>Q. And then it goes on in the third and fourth lines "on S.S. without a further statement which have ready for me when I get back." That was the further statement? A. Yes, that was the redraft, because she wasn't ready at the time I spoke to her on the 'phone. She hadn't completed.</p> |   |
| 40 | <p>Q. So the position there: the complaint, so to speak, to the Law Society would be the draft of the 15th January, which you termed useless. Lisa Choo was to do the redraft, helped by Miss Chan, and by the time you spoke to Miss Chan and Lisa on the 26th January this redraft had not been done? A. Yes.</p> <p>Q. And then you gave instruction No.2:</p>  |   |

- |    |  |                                      |
|----|--|--------------------------------------|
|    | H.L. WEE   | In the<br>Disciplinary<br>Committee  |
|    | (Exam. in chief by Mr. Ross-Munro, cont.)  |                                      |
|    | Q. (cont) handing over the files. That was handing over from Santhiran, is that right? A. Yes.   | No. 2<br>Evidence                    |
|    | Q. And (3), to see a number of pages which may be required as part of C.B.T. case - that is criminal breach of trust? A. That is correct.  | Respondent's<br>Evidence<br>H.L. Wee |
| 10 | Q. And so there you are warning that they mustn't be handed over to So-and-so; they are papers that may be required in the criminal breach of trust case? A. That is correct.                                      | Examination<br>(continuation)        |
| 20 | Q. And it may be absolutely obvious, but that can be made quite clear at this stage, was there any suggestion in your mind at all that you wouldn't eventually report him to the Police or the Law Society? A. No. |                                      |
|    | Q. Then (4), and then (5) is warning and underneath on the left-hand margin "CLE" - you told us that was for Lisa Choo? A. Yes.  |                                      |
|    | Q. And you say, "Have you completed your (a) report" - is that your report to the Police and the Law Society? A. Yes.  |                                      |
| 30 | Q. "(b) The subsequent matter, S.S...." the B.B. would be Braddell Brothers? A. That is right.   |                                      |
|    | Q. In which he claims to have costs refunded. Then the next one, CLM has got nothing to do with that? A. No.   |                                      |
|    | Q. Then if you turn over to page 23 where it is headed: "Disco bill Q.C.", the one following - nothing to do with this case at all? A. No.   |                                      |

- |    |  |   |
|----|--|---|
|    | H.L. WEE   | In the                                    |
|    | (Exam.in.chief by Mr.Ross-Munro,cont.)   | Disciplinary                              |
|    |  | Committee                                 |
|    |  | <hr/>                                     |
|    | Q. And I think page 24 has nothing to do with this case at all? A. No.   | No. 2                                     |
|    |  | Evidence                                  |
|    | Q. Then page 25, dated 12th February 1977 - by this time you were back in Singapore? A. That is right.   | Respondent's Evidence                     |
| 10 | Q. It is to Miss Chan: "Have you completed the proper statement re S.S. It is now over four weeks old." Now you have told us that the original draft was some time in January 16th, and now you are saying it is now over four weeks old; "have you completed the proper statement". Now as far as that original draft which was useless (is concerned) have you been able to find it? A. No, Sir. | H.L. Wee<br>Examination<br>(continuation) |
| 20 | Q. And then you say "S.H." - who is "S.H."? A. Steno. Stenographer.  |   |
|    | Q. And underneath that, "C.L.E." - that will be Lisa Choo - and "I need to review first statement first completed prior to your return from U.k." What about "prior to your return from U.K." - whose writing was that? A. That was Miss Chan's reply? This is an answer back to me.   |   |
| 30 | Q. From whom?<br>A. From Miss Chan.  |   |
|    | Q. And then "(2) ... occupied ... the work" - I don't think that matters. Then there is the 14th February 1977. And if you look at the left-hand column "W/MA" - who is that? A. That is the typist - my typist.   |   |
|    | Q. M.A. is the typist? A. Yes.   |   |
| 40 | Q. Then you see "Debit note", and then in brackets "L.T." - what is that, do you know? A. "L.T." might be the name   |   |

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- No. 2
- Evidence
- 10 Q. And underneath the note, "I spoke to you and C.L.E. the S.S. statement before I went to London", and then "C.L.M. see note." - would that be on 14th February?
- Respondent's  
Evidence
- Examination  
(continuation)
- A. That is my note to Chan Lai Meng and she acknowledged receipt. You will see on the left-hand, bottom.
- 20 Q. Yes, I see her initials with the date "14.2.77." Then page 26. "23rd February 1977 to C.L.M. When am I going to have the revised S.S. statement." Whose note would that be?
- A. That is my note to Miss Chan.
- Q. And then again there is an initial, and "C.L.E." - that is Lisa Choo - "and I will review the statement today."?
- A. That is right.
- Q. And 3rd of March. Again, is that your note to Miss Chan? A. That is right.
- 30 Q. "Ask C.L.E." - that is Lisa Choo - "if she has identified all exhibits and statements including letter (a) and check" and then there is again the initial.
- Then we go over to page 27 to the 5th March, and then I think that is a note, Miss - "C.L.M." - to you saying, "Spoken to Lisa Choo on the 'phone and she informed me (1) all exhibits are xeroxed and they are in file. Mr.Rama" -
- 40 that is the assistant of Medora & Thong?
- A. That is right.
- Q. And I think he was the one who was actually doing the work under the supervision of Mr.Medora? A. Yes, he is a Chartered Accountant.

H.L. WEE

In the  
Disciplinary  
Committee

(Exam.in.chief by Mr.Ross-Munro, cont.)

- 
- 10 Q. "...S.S. denial taking money...these letters had been given to Mr.Rama. See Mr.Rama." Is that you? A. That is me. No. 2  
Evidence
- Q. 7th March - is that another note from you to Miss Chan? A. Yes. Respondent's  
Evidence
- 10 Q. And what is P.1? I see "Please see (1) re S.S. account as to points raised by Miss Choo." It is a matter you asked Miss Chan to see? A. That is 7th March, that is right. It is a new, separate note. H.L. Wee  
Examination  
(continuation)
- 20 Q. Turning over to page 28, this unfortunately doesn't bear a date other than "Saturday", but does - if you look at paragraph 2 - talk about having you at the Ambassador Hotel, Hongkong, and we know that you went to Hongkong between 3rd of April and 21st of April? A. Yes.
- 30 Q. Bearing that in mind on a Saturday, can you roughly guess what the date would be when you went to Hongkong?  
A. I think on Saturday, the 3rd of April. I am not certain, I will have to - I think on a Saturday, and the date the 3rd of April when I entered Hongkong; I am guessing.
- Q. So it is probably the 3rd of April. Is that your note to C.L.M.?  
A. That is right.
- 40 Q. That is to Miss Chan. And you say, "My letter to Mrs. Quek will have to be sent subject to alterations." How did that come about? Which letter was this? Were you proposing to write a letter? A. Yes, and I think I made a suggestion. I did a draft before then to give it to her and I suggested to go on (with) additions

	H.L. WEE	In the
	(Exam.in.chief by Mr.Ross-Munro,cont.)	Disciplinary Committee
		<hr/>
	A. (cont) on it.	No. 2
	Q. And if you just glance at Volume I, the very first page, we know that you in fact ultimately wrote to Mrs.Quek Bee See on the 3rd of April?	Evidence Respondent's Evidence
	A. Yes.	
10	Q. Now just see "this letter will have to be sent subject to alterations"?	H.L. Wee
	A. Yes.	Examination (continuation)
	Q. You went away to Hongkong on the 3rd of April; you got back on the 21st of April and if you look back to page 1 of your Passport you went in again on 29th of April to Kuala Lumpur; it doesn't say when you came back?	
	A. That will be a one-day flight.	
20	Q. One-day flight. And so going back to page 28 at Volume II, you see your "letter to Mrs.Quek will have to be sent subject to alterations...(2) send the letter up..." and then "(3) if you feel you have to act without waiting for my return, make a brief report to the Police, please do so. First information to the Police should be as follows, with suitable amendments if necessary. I think letter would be better to make a report, and that would give me a chance to put it in," and you set out what the letter would be - is that right?	
30	A. That is right.	
	Chairman: The only date on this page is a "Saturday". Would you have the actual date?	
40	Mr.Ross-Munro: What this witness said was he is guessing: He thinks that he went to Hongkong, as you know, on 3rd April. When he went it was a Saturday and he thinks	

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro:itprobably is a note he  
(cont) would have written before  
leaving for Hongkong. But  
he is not absolutely cer-  
tain. He went to Hongkong -  
3rd April to 21st.

No. 2

Evidence  
-  
Respondent's  
Evidence

Chairman: 1977?

H.L. Wec

10

Q. 1977. And you drafted this letter  
in case Miss Chan thinks you should  
send in. "A former employee, S.  
Santhiran... has been under investiga-  
tion ... write to Vice-President of  
the Law Society and to Attorney-  
General" - I will come to that in  
your evidence later.

Examination  
(continuation)

20

"Legal Assistant in this firm." So  
that was the first draft; and then  
to Officer (in charge), Commercial  
Crime. "This letter should go out  
next week"? A. Yes.

Q. Do you know why it didn't go out?

A. My draft was not acted upon. Miss Chan  
didn't send it.

Q. And "(3)" - this is your note - "I have  
spoken to Medora and for me to settle"?  
That is writing to clients about  
amounts? A. Yes.

30

Q. The next matter, if you leave Volume  
II open, I think that Medora and  
Thong sent their first preliminary  
report. I think it was nearly  
\$500,000. I think you wanted a  
reconciliation, is that right?

A. Yes, I thought it was one hundred  
thousand too high.

40

Q. You thought that it was one hundred  
thousand too high and as a result of  
that did Medora and Thong do a  
reconciliation of your staff's  
figures and their figures?



H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

A. Yes, well I wasn't here.

No. 2

Q. You were not there. So simply to explain, Miss Choo can explain it better - but simply to identify the document, if you look at pages 30, 31 and 32, Sir, one can see, starting at page 30 one can see it is a reconciliation of our figures - that is Medora and Thong's figures and Lisa's figures, and I will get her to confirm. She knows about it. Then the next document, I think that is something you sent for Lisa, is it not? A. Yes.

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

10

20

Q. Next document, 35. It is headed "Summary of changes to defalcations, March to September 1976. Note 1 (a), the explanation." This document - was this ever sent to the Inquiry Committee or given to the Inquiry Committee? A. Yes, I handed it personally to the Inquiry Committee.

Q. On May 26th? A. Yes.

30

Q. Was this still another document? You have got his explanations, his detailed explanations, and this was handed to the Inquiry Committee on the 26th May. 35 to 68 - the whole, just to look at it. Lisa Choo will explain. If you would glance just to say what it is all about.

Chairman: Mr. Munro, you mentioned that document 35 was handed over to the Inquiry Committee?

Mr.Ross-Munro: Yes.

40

Chairman: And the rest of the documents were not? Were they also handed?

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

No. 2

A. Yes, they were.

Q. 35 to 68 were all handed over by Mr. Wee to the Inquiry Committee on the 26th May. A. That is right.

Evidence

Respondent's  
Evidence

Chairman: 26th of May?

H.L. Wee

Mr.Ross-Munro: 1978.

Examination  
(continuation)

10

Q. I merely asked you to just glance at 39 to show the type of lists. But I will ask Lisa Choo to deal with it because she knows much more than Mr. Wee about this matter. Then if one comes to page 69, these unfortunately have not been put in chronological order, but I think that is a draft of a report that was going to be sent to the Law Society - is that right? A. Yes.

20

Q. One of them - there are numerous ones, but I think if you look, Sir, at page 93 you will come to the first one in time. Unfortunately, they have not been put chronologically and some of them are not dated, but if you go to page 93, you will see there one which is headed "Redraft", and it has got "C.L.M." - which is Miss Chan - and "C.L.E." - which is Lisa Choo; and it is dated 25th February, 1977.

30

So you will see chronologically the first draft, the one that was useless, was before the 16th January. By the 25th January we know that Lisa Choo had not done the second draft that was produced on 25th February 1977.

40

Sir, again I will be calling Miss Choo on this. And, Sir, for your note I think you could say that at page 69 the various drafts, some of them dated and some not dated, go on from pages 69 to 118.

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

Chairman: They are all drafts?

No. 2

Mr.Ross-Munro: They are all drafts;  
but some are dated, some  
are not.

Evidence

Respondent's  
Evidence

10

Sir, I said "118" - I  
think it is 116. They are  
all drafts; they are the  
joint work of Miss Chan  
and Lisa Choo, and some  
dated and some not.

H.L. Wee

Examination  
(continuation)

20

Q. Now if you will put away Volume II  
for the moment. We have seen from  
those documents and those notes that  
you sent your staff from England in  
January, after January the 25th 1977  
and you had told Miss Chan that if  
she thought it necessary she could  
write a short report, you think, to  
the Police. You returned from England  
on the 2nd of February? A. That is  
right.

Q. On your return, had Miss Chan reported  
the matter to the Police or the Law  
Society? A. No, Sir.

Q. Was the report to the Law Society  
ready? A. No, Sir.

30

Q. I think we have seen that the first  
redraft was dated the 21st of  
February. Why didn't you yourself,  
when you came back after the 2nd of  
February, why didn't you report it  
to the Law Society? A. Because,  
Sir, I thought at that point of time  
that Medora's report should be about  
ready by then, so I could have sent  
it together with this draft that was  
ready on the - hopefully, during the  
next few weeks.

40

Q. And we know as far as that is

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

No. 2

- 10 Q. (cont) concerned that the first preliminary report was sent you on the 28th September, you then asked for reconciliation, which is 26th January, and you say by the time you came back early in February you expected that the Medora report would be ready very shortly? A. That is right. Evidence Respondent's Evidence H.L. Wee
- Q. Did you pressurise Medora at all to get on to it? A. Yes, I did. Examination (continuation)
- Q. And at that time, February, were they in contact still with Santhiran? A. I believe so.
- 20 Q. And if you would now go to Volume 2 to page 138, now that is a letter, I think I said 28th February - it should be 31st, that is the letter from Medora and Thong dated 31st December 1976 addressed to Braddell Brothers:
- "As a result of our investigation relating to clients accounts deemed to be covered by Santhiran ... .. merely covers the files given to us for examination as embodied in our terms of reference ... further assistance that you may require."
- 30 And they set out with a complete list that followed. Let us see if we can get to the end of it, and I think if you go to page 141, they at that stage made the total 462,692? A. That is right.
- Q. And they gave a sort of key - I.D.E.A., insufficient documentary evidence available; T.T. is telegraphic transfer; B.C. is bearer cheque - at the bottem? A. That is right.
- 40 Q. That is what they are saying - 462,692. And you said the staff

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- Q. (cont) thought that was about \$100,000 No. 2  
too much, and you asked for reconcilia-  
tion of January 26th? A. Yes. Evidence
- Q. So unfortunately they are not in  
chronological order - January 26th  
you all had a look at. Then if you  
go on in the bundle to 149 just to  
show the accounting bit of it. 149  
is 1st April; another report from  
Medora and Thong to Braddell Brothers,  
and that sets out the story as far as  
they are concerned, and if you just  
turn over the page I would just like  
your comments on paragraphs 10 and  
11 onwards. Respondent's  
Evidence  
H.L. Wee  
Examination  
(continuation)
- 10: "Jamshed Medora's assistant  
further examined ... unable to  
support that evidence. ...Santhiran  
examined on January 7th for about  
three hours ... February 7 1977  
Santhiran asked for 13 files to  
refresh his memory ... notified  
Miss Choo of Braddell Brothers to  
get it ready. In the meantime we  
requested the firm" - that is  
Braddell Brothers - "to obtain  
presented cheques from the bank as  
soon as possible."  
And then 15, "We then requested  
Santhiran to ask for explanation  
otherwise... asked once again to  
supply the necessary evidence."  
And then what I would like in 19 -  
"On or about March the 17th 1977  
at Mr.Wee's request, Mr. Medora  
spoke to Mr.Santhiran over the  
telephone about 4.30 and informed  
him of Mr.Wee's instructions. He  
was given a final five days within  
which the firm would ask for  
necessary evidence. ...Santhiran  
agreed."
- 20
- 30
- 40

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

- 10 Q. (cont) Did you actually do that -  
instruct your auditors to give him  
the final five days? A. Yes.
- Q. And then if you turn over the page  
152. There is a supplementary  
report dated 25th of May, and that  
brings the payment down to 372?
- 10 A. That is right.
- Q. Which is quite a difference from the  
original report which had been sent  
in, and there is a lot of explanations  
from Medora and Thong. We can just  
look and see if there are any other  
documents we would like you to  
comment on. I think therefore you  
can probably go on to 175, that is  
20 June the 7th. Medora and Thong are  
still adjusting from the 25th May  
(372), and now they are adjusting down.  
If one looks at page 176, you will  
see it is down to 351,025.A.Yes.
- Q. Now you have told us earlier that,  
rightly or wrongly, you took the view  
that Turquands had been negligent, and  
therefore you appointed independent  
auditors and you didn't tell Turquands  
about it - appointing independent  
30 auditors? A. That is right.
- Q. And then I think that there was  
conversation (about) defalcations in  
March 1977, and they said that they  
couldn't give you a clean accountants'  
report. I just want to deal with the  
last two letters, and that ends  
Volume II. Just a little more I want  
to ask you about in Volume II.  
40 Now for the sake of completeness,we  
have included there both Turquand  
Young's letter to you, 17th March,  
at 177, and your reply on the 30th  
March 1977. That is your reply I  
am interested in, but if you can just

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- 10 Q. (cont) glance at their letter of 17th March 1977 in paragraph (1), it mentions the Suspense Account in which there is a balance of 179,475. "Upon inquiry informed by you as to where the money will come ... the staff."  
Next paragraph, "On 10th March 1977 Mr. Wong Siang Khoon and Mr.Subramaniam had a meeting with you in your office ... September 1976." Had you ever done so in September?  
A. No, a mistake on their part.
- 20 Q. "... an agreement with your employee" about the investigation, etc; third paragraph, they say they have to make reference in accountants' report; and fourth paragraph, they are clearly annoyed that there is an investigation by Medera Thong, and they go on at page 178 to say the principal matters are causing concern as you didn't advise them of the defalcations but you instructed Medera and Thong not to communicate with us, Turquands, and you haven't told the Law Society about it, and solicitor must be practising on his own account.  
Now if you look at the last document, 30th March, at 179, your reply:
- 30 "We have your letter. Investigation took place before 1976. Investigation further carried out by independent auditor.... I took the view that whole system of auditing and your audit should be looked at thoroughly."
- 40 And at the date you wrote this letter, were you, rightly or wrongly - did you still think they were being negligent?  
A. Yes, I thought they were still negligent.

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Examination  
(continuation)

H.L. WEE

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

---

- 10 Q. "I would also point out the defect in your system... you will only be prepared to give a qualified report. I pointed out that in the light of what might prove to have happened... your discharge..." Rightly or wrongly, is that what you thought at the time? A. Yes. No. 2 Evidence Respondent's Evidence
- Q. "You will appreciate we have a duty to our clients to ascertain the true position." When you wrote that, you sincerely thought that to be so? A. Yes. H.L. Wee Examination (continuation)
- Q. And that in March 1976 you thought was the main reason you did not report to the Law Society, was that absolutely right? A. Yes.
- 20 Q. And today in 1980 do you still feel that if you had reported immediately, that your clients had a real risk of suffering? A. Yes.
- Q. I didn't read the last paragraph:
- "I might add that the report will in fact be made when Medora and Thong will have been appointed."
- 30 Now I have almost finished with Mr.We. If you had reported this matter in March 1976 to the Police and the Police had arrested Mr.Santhiran, rightly or wrongly, in your view was there anything to prevent Mr.Santhiran continuing to practise? A. No, not until he was struck off.
- Q. So if you stay there, Mr. Wee, at a later stage I think Mr.Grimberg would want to ask you some questions.
- 40 Chairman: It is now 5 minutes past one. It is time we have an



H.L. WEE  
(Exam.in.chief by Mr.Ross-Munro, cont.)

In the  
Disciplinary  
Committee

Chairman: adjournment as usual.  
(cont) We'll resume at half-past  
two.

No. 2

Evidence

(Hearing adjourns).

Respondent's  
Evidence

(Hearing resumes at 2.30 p.m.)  
25.9.1980

H.L. Wee  
Examination  
(continuation)

10

Mr.Ross-Munro: Sir, there are just  
two further very short  
matters that I want to  
mention. The first one is,  
could I formally have the  
book marked "R.1"? I am  
not going to refer to it  
at all but I would like it  
in the evidence, so to  
speak. Could it be marked  
"R.1"? It is the Eraddell  
Brothers' Ledger Book.

20

Chairman: It is the Ledger Book.

Mr.Ross-Munro: And the second one is,  
just one tiny matter I  
forgot to ask Mr. Wee and  
I want to ask him before  
I sit down and Mr.Wee is  
cross-examined.

Chairman: Yes.

(Witness steps into the Box)

30

H.L. WEE  
(Exam.in.cbief by Mr.Ross-Munro, cont.)

Q. Mr. Wee, we know from the agreed  
chronology here that item 13 was  
Santhiran going to Malaysia,

	H.L. WEE	In the Disciplinary Committee
	(Exam.in.chief by Mr.Ross-Munro,cont.)	
	Q. (cont) October/November 1977. We know that, this is part of the agreed chronology. A. Yes.	No. 2 Evidence
10	Q. Can you tell the Disciplinary Committee this: when Santhiran went to Malaysia in October 1977, did the Singapore Police know where he had gone? A. I think they did.	Respondent's Evidence H.L. Wee
	Q. And can you tell us how you know that? A. I had a conversation with Mr.(Lee) Wong.	Examination (continuation)
	Q. Who is he? A. He is the Officer investigating.	
	Q. Investigating the Santhiran case? A. Santhiran case.	
20	Q. Yes, you had a conversation with him? A. And he said that he was aware that he was in Kuala Lumpur, and he had asked or someone had asked the Police there to keep an eye on him.	
	Q. Someone there - meaning the Malaysian Police - to keep an eye on him? A. The Malaysian Police.	
-----		
	H.L. WEE	In the Disciplinary Committee
	(Cross-examination by Mr.Grimberg)	
30	Q. Mr. Wee, when Mr.Santhiran joined Braddell Brothers in 1971 do you know of how many years' standing he was? A. I don't remember now.	No. 2 Evidence Respondent's Evidence
	Q. Approximately? A. Could be about three or four years.	H.L. Wee
	Q. Three or four years. Now was he	Cross- Examination

H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

- 
- 10 Q. (cont) then or did he in due course  
become a married man? A. I didn't  
know of the event, but I knew he was  
married. No. 2  
Evidence
- Q. Did he have children? A. Yes. Respondent's  
Evidence
- 10 Q. And would it be right in saying that  
you had no reason to believe that  
he was a man of means? A. Correct. H.L. Wee  
Cross-  
Examination  
(continuation)
- Q. And just before you discovered the  
defalcations in February 1976, can  
you remember how much salary he was  
paid? A. No, I don't remember. I  
can't refresh my memory at the moment,  
I am sorry.
- Q. If you can perhaps say roughly?  
A. I think it was over a thousand dollars.
- 20 Q. \$1,200? A. Something like that.
- Q. Something like that, \$1200. Perhaps  
you can check on that on the adjourn-  
ment? A. Yes.
- Q. So that when you told him in March  
1976 that he was not, he would no  
longer be paid, at that time he would  
have been drawing approximately \$1,200?  
A. No.
- 30 Q. How much would he have been drawing  
then? A. At that time about - much  
more than that.
- Q. Can you give us an idea? A. But less  
than two; over a thousand five.
- Q. Over a thousand, but below two  
thousand? A. Yes, below two thousand.
- Q. Can you check on that figure?  
A. I will, yes.

H.L. WEE

In the  
Disciplinary  
Committee

(Cross-examination by Mr.Grimberg,cont.)

- Q. And by then of course he would have been something of the order of nine years' standing, eight or nine years' standing, is that correct? A. Yes. No. 2 Evidence Respondent's
- Q. And you have told us that in December 1976 he suddenly left your office? Evidence
- A. Yes. H.L. Wee
- 10 Q. In January 1977 you also told us while you were in London you learned that he had set up practice on his own? A. Yes. Cross- Examination (continuation)
- Q. And you told us this morning that when you left this, and I quote:
- "I gt the shock of my life because I didn't think he would go out in practice".
- 20 Q. You remember saying that this morning? A. Yes.
- Q. Did you think he would stay in your office indefinitely earning nothing?
- A. I only expected him to stay a month or two at that time.
- Q. But he in fact stayed until December, did he not? A. Yes.
- 30 Q. At which time Medora and Thong - I will call them M. and T. - at which time M. & T.'s final report was still being awaited. My question to you is, did you seriously expect Santhiran to go on indefinitely staying in Braddell Brothers collecting nothing and trying to keep a wife and children alive?
- A. Well, I didn't expect it at all.
- Q. You didn't, right. So that when he left you on the 21st of December 1976 it should have been perfectly

H.L. WEE

In the  
Disciplinary  
Committee

(Cross-examination by Mr. Grimberg, cont.)

- 
- 10 Q. (cont) obvious to you that he would go out and try and earn a living?  
A. Yes.
- Q. And as likely as not he would try and do so as an Advocate and Solicitor? A. No, I didn't think that.
- 10 Q. You didn't think that. Why not? You yourself have told us that unless he was, until he was struck off he could continue to practise. Why should he not go and practise the only profession he knew?  
A. But he knew that I was going to report him, that he would eventually be struck off.
- 20 Q. You knew that you were eventually going to report him, but of course he didn't know when? Did he? Because nine months had already passed without your reporting him. He didn't know that, did he? A. Well ---
- 30 Mr. Ross-Munro: I wonder, with respect - are these questions being asked of this witness as to the mind of somebody else saying "did you not think that Santhiran was, "what was going on in Santhiran's mind? That I would have thought was perfectly not permissible because this witness is going to say what was going on in Santhiran's mind at that time - I would have thought this is about as far as you can get where he was asked whether he didn't think. He made it clear to Santhiran he was going to report him, but I didn't expect him to go further on and say what
- 40

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Mr.Koss-Munro: was going on in  
(cont) Santhiran's mind unless it  
is suggested of course he  
had a conversation with  
Santhiran. Otherwise, it  
would be hearsay informa-  
tion.

No. 2

Evidence  
Respondent's  
Evidence

10

Mr.Grimberg: I am only trying to get  
into what was in witness's  
mind really.

H.L. Wee  
Cross-  
Examination  
(continuation)

Q. You see, I put it to you that it must  
have been or should have been obvious  
to you that, as likely as not,  
Santhiran having left your office  
would endeavour to continue earning a  
living as an Advocate and Solicitor?  
A. It is not.

20

Q. In any event you took no steps to  
ensure that he wouldn't? A. Not at  
that time. Can I qualify that? I  
was waiting for the report from Medora  
before making a complaint to the Law  
Society.  
Q. You knew that Santhiran was no more  
and no less than a criminal when he  
left your office? A. Yes.

Q. And a criminal at large? A. Yes.

30

Q. Now you told us this morning that you  
learned that Santhiran had set up on  
his own as a result of Miss Chan Lai  
Meng's telephone conversation with  
you. Can you tell us approximately  
at that point of time, January 1977,  
how old Miss Chan was? A. I think  
in her late twenties; probably in  
her late twenties.

40

Q. Late twenties. And of how many years'  
standing was she? A. She had been in

H.L. WEE

(Cross-examination by Mr. Grimberg, cont)

In the  
Disciplinary  
Committee

- 
- 10 A. (cont) a statutory board and joined private practice, so - what, practising or ---
- Q. Yes, when did she take out a practising certificate for the first time?
- A. Oh, about three years, but then she had been admitted before that because she read with me prior to joining a statutory board.
- Q. I was just looking at the List of Advocates and Solicitors who had taken out practising certificates, and I find her name: she was No. 437 out of 519 in the list for 1976. Do you have any reason to dispute that?
- A. No.
- 20 Q. She was admitted on the 16th January 1974, so that she was of three years' standing when she telephoned you in London and told you that Santhiran was practising. Now have you got Bundle B in front of you? A. Yes.
- 30 Q. May I invite your attention to page 22 of that bundle? That is, you told us, a typed version of the note you sent to Miss Chan immediately following the telephone conversation, and I direct your attention, if I may, to the first paragraph:
- "If you think it necessary you may proceed to make a short brief report based on Check Account A preferably of Santhiran without a further statement which if ready for as soon as I get back, but have the letter as comprehensive as possible."
- 40 There, you told us, you were telling Miss Chan to make a short brief

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

	H.L. WEE	In the Disciplinary Committee
	(Cross-examination by Mr. Grimberg, cont.)	
		<hr/>
	Q. (cont) report if she thought it necessary. Weren't you putting an enormous responsibility on a very young member of the Bar? A. Not really. Miss Chan is a very - if I may say so - very capable person.	No. 2 Evidence
10	Q. Nevertheless, very inexperienced? A. In what way?	Respondent's Evidence H.L. Wee
	Q. Member of the Bar. A. No, I (entrusted) to her very senior work because she was a very capable person.	Cross-exami- nation (continuation)
20	Q. You were giving her a discretion to do or not to do something which you yourself of 30 years' standing and President of the Law Society had omitted to do. Was that or was it not a decision of enormity for someone with three years' standing? A. I don't think so.	
	Q. Don't think so. A. The reason is that all she had to do is to make a preliminary report and the formal (one) will be made by me. That is all she had to do.	
30	Q. You say all she had to do was to make a preliminary report. Now this is something that you yourself had refrained from doing for the nine months previously. Were you surprised when you came back from London to find that she hadn't made the report then? A. No.	
	Q. Now I see from B.1 that you returned to Singapore on the 2nd of February, am I correct? A. Yes.	
40	Q. And having returned and found that Chan Lai Meng had done nothing you did nothing? A. What do you mean	



H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

A. (cont) "nothing"? I started chasing  
Mr. Medora.

No. 2

Evidence

Q. You did nothing in terms of making  
the report. A. That is correct, but  
may I qualify it? But I began chas-  
ing Mr. Medora for the report.

Respondent's  
Evidence

10

Q. Now I must put it to you that for  
all that you knew M. & T's final  
report would take another three  
months? A. I did not think so.

H.L. Wee

Cross-  
Examination  
(continuation)

Q. It did. A. It did. I did not  
think so at that time.

20

Q. And you knew, did you not, that all  
this while Santhiran was practising  
as an Advocate and Solicitor with  
none of the constraints that you had  
placed on him while he remained at  
Braddell Brothers? A. Yes, and that  
is the reason why I went after Medora.

30

Q. Now, I must, I am afraid, suggest to  
you that in the light of that know-  
ledge, your conduct in not making an  
immediate report - forget about the  
nine months previously to which I will  
come later - with that knowledge in  
mind with or without Medora and Thong's  
report, your omission to report to the  
Law Society was grossly improper - I  
must put it to you? A. I don't  
agree with you. With hindsight I  
might have taken advice.

40

Q. Now I just mentioned the constraints,  
so perhaps we might deal with the  
constraints that you placed on  
Santhiran while he spent nine months  
in your office.  
And I think I quote you correctly by  
saying that this morning you told  
the Committee that "except for

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- |    |   |   |
|----|---|---|
|    |   | No. 2   |
|    | Q. (cont) winding up he was to do no more work"? A. No, may I qualify that?   | Evidence  |
|    | Q. Is that what you said? A. Yes, that is what I said. Can I explain then?  | Respondent's Evidence                           |
| 10 | Q. One further (thing) before you do that, if you will just forgive me - and you also told the Committee that Santhiran was under close supervision?  | H.L. Wee<br>Cross-Examination<br>(continuation) |
|    | Mr.Ross-Munro: I do not think - he never said "under close supervision".  |   |
|    | Mr.Grimberg: I am so sorry; I beg your pardon. I withdraw that if you say he didn't say that.   |   |
| 20 | Q. Well, did you consider that he was under close supervision? A. You see, as far as I could do it, and it is my limitation of course. In my mind he was being watched and that, to that extent he was being supervised.  |   |
|    | Q. Was he under close supervision in your mind? A. In my mind, yes. In my mind he was, but I don't think other people think so.   |   |
| 30 | Q. You don't think other people think so. I think you wanted to clarify a previous earlier answer? A. Yes, there were two jobs that were going on that I asked him to complete: one was the Jacobson matter which he conducted, and it was a matrimonial dispute where the client insisted on him going on; and the other was a series of M. & G. matters |   |
| 40 | where he was investigating the conduct, M. & G. in passing out work   |   |

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- 
- 10 A. (cont) to various firms of solicitors. I had to keep him on that. No. 2
- Q. When you talk about M. & G., you mean Motor and General? A. Motor and General. Evidence
- Q. Motor and General, the motor insurers part of the Haw Par? A. Yes, that is right. Respondent's Evidence
- 10 Q. Did he in fact conduct those running-down cases for M. & G. when you handed them to him? A. A few only, yes. H.L. Wee
- Q. These were new cases, weren't they? Cross- Examination (continuation)
- 20 A. Yes, what I was trying to explain, the report was of M.& G. Therefore he was doing their work, at the same time making inquiries as to their conduct in the way they gave work to various firms of solicitors, and I was looking at that. I could not therefore withdraw suddenly the work that was being given to him by M. & G. That was part of the whole idea.
- Q. My question I put to you is a simple one: were the M. & G. matters that you gave Santhiran to handle new running-down cases? A. That is what I said. I said a few.
- 30 Q. You didn't say that there were new running-down cases? A. From M. & G?
- Q. Yes.
- Chairman: What is the meaning of "new"?
- Mr.Grimberg: In other words, fresh cases that come to Braddell Brothers.
- Chairman: After March?

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Mr. Grimberg: After March 1976.

No. 2

- 10 Q. Mr. Wee, you know after many years of service on the Law Society and on its predecessor body the Bar Committee, that the Rules about fees and compensation in running-down cases are prone to abuse, don't you? Our Law Reports are riddled with cases of solicitors who had disciplinary action taken against them for abuse of these Rules, right? A. Yes, there is an association governing it now, whereby all the monies go into the Public Trustee.
- 20 Q. Yes, and yet you personally handed to Santhiran new matters involving running-down cases? A. He didn't handle money at all. Yes, I gave him a few, but he didn't have to handle the money at all.
- Q. Did Santhiran also attend court on numerous occasions between March and December 1976? A. Well, I know it as of now. I am afraid I did not know.
- Q. Do you now know? A. Yes, but on very small matters.
- 30 Q. And do you now know that in fact Santhiran dealt with many matters outside the perimeters that you say you set for him during the period March to December 1976? A. I now know that he dealt with a number of them; a number. May I add to that? I also did not know - sorry, he was not in the office all day at any point of time.
- 40 Q. Yes, none of us are really.
- Chairman: "I also did not know"?

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Mr.Grimberg: Because, that he was not  
in the office all day.

No. 2

A. No, what I am saying, Sir, was that  
he was not the whole day, all the  
time in the office. He would be  
going in and out.

Evidence

Respondent's  
Evidence

10

Chairman: You knew or you did not  
know?

H.L. Wee

A. I did not know. He wouldn't be  
there the whole of the eight hours.

Cross-  
Examination  
(continuation)

Chairman: What you mean was he might  
he going outside?

A. Yes, what he might be doing.

Q. So that it would be fair to say,  
would it not, that he was really not  
under the close supervision that you  
thought he was under? A. It all  
depends, Sir, what you mean by "close  
supervision". In my mind, it was  
meant keeping an eye as much as I  
could on him through my staff and  
myself. If I am wrong, it is not  
the meaning of close supervision I  
do accept it is not what close  
supervision would literally mean.  
I don't want to waste your time, Sir.

20

Q. You were in no position yourself to  
keep an eye on him, were you?

A. When I was there, I did.

30

Q. Really in your absence from your  
office and your pressing work out-  
side, you were really in no position  
to keep an eye on him? A. Personally,  
no. I had my ears, but my ears were  
quite accurate, by listening ----

Chairman: You just said you were not?

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

A. Sorry, Sir. When I said that he didn't do anything especially when I was there. (He) would report it to me.

No. 2

Evidence

Chairman: In your office?

Respondent's  
Evidence

10 A. In my office. I can give you an example, if I may. You see him taking files out, and I'd call him up, "What do you mean by taking files out?" And he made some excuse he was preparing the Jacobsen case. And I said, "Stop it. You do all your work in the office."

H.L. Wee

Cross-  
Examination  
(continuation)

20 Q. The truth of the matter, really, is that you expect your clerical staff and your very young and inexperienced Legal Assistants to keep an eye on Santhiran, is that not the truth of the matter?

A. Yes, that is true that I used them to keep an eye, but the effective person would be myself.

Q. You think that was a responsible thing to do, to leave him under the supervision of your clerical staff and your very young Legal Assistants? Was that a responsible thing to do?

30 A. Well, they were only expected to report back to me and I would take action if I could on whatever I heard, and I moved very fast, if I may say so, if I heard anything.

40 Q. You were out of the country for 37 days between the months of March to December, weren't you? Now I want to move to another topic. You said again and again that you not only in this room, but also in your earlier explanations that you didn't report earlier because you wanted Santhiran's

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Q. (cont) cooperation from March 1976 onwards? A. Yes.

No. 2

Evidence

Q. But, Mr. Wee, you seemed to have said equally often that you were not getting this cooperation, is that correct? A. It is correct.

Respondent's  
Evidence

H.L. Wee

10

Q. And my next question to you is, why you on waiting? A. Because we still had dozens and dozens of questions unanswered, files still not restored, and the only person that could give us the information was Santhiran, or the only person to produce the files was Santhiran.

Cross-  
Examination  
(continuation)

If I may say so, Sir, he worked this thing to a fine art after five years, four years.

20

Q. Mr. Wee, I am sorry I don't understand you, and it may be that the members of the Committee may not understand you. If you didn't get his assistance and cooperation for months and months, what made you think that by waiting and waiting you would get it later? That is my question. A. Yes, I can give you the answer. Up till April the 19th when I thought everything was ready for the report he came up with files, questions and files - 19th April, I can't remember the date. It is towards the end of April.

30

Q. 31st? A. 31st. He called for a dozen files to look at, and said, "These items are not accurate." So Lisa Choo got the files, and I think Mr.Kama - I called him Kama for short - the auditor of Medora and Thong, that as far late as that he would still try to correct the position and put it back. That is a whole year past.

40

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

- 10 Q. That simply illustrates my point: the No. 2 man was not cooperating. He was shifting his ground from one year to the next, from one month to the next. Why wait? What made you think that he would be any more helpful next week, next month, next year? A. The answer to that point, Sir, is that when he brought these files, he was still trying to reduce the amount of claim. That is why he would go out. Whenever he thought we could reduce it we would get information, when we cut down the figure. So to that extent that was cooperation that we wanted, we sought for.
- 20 Q. Well, I must leave the weight of that answer to the Committee to assess and ask you my next question, which is this: What on earth made you think that your staff and your staff alone were competent to extract further clarification and explanation from Santhiran? A. That we are talking of -- I mean, narrow the date?
- 30 Q. Taking from March 1976 onwards? A. Well, after I put in Medora and Thong, that was the cut-out date, so ---
- 40 Q. Yes, put that to from March 1976 till November, by my learned friend qualified that because even after November it was Miss Choo, I think, who was helping Medora and Thong. But let us talk about March to November 1976. What made you think that only Miss Choo and your staff were competent to extract information from Santhiran? A. Sir, when we first found it out he, clamped up. All we had was the used cheques, and I asked him "You paid all the cheques?"

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)



H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

- 10 A. (cont) He clamped up. When we found the file, he kept quiet. He was (very) uncooperative at the beginning. That was the immediate reaction. "I am not telling you anything." Then when we began preparing the list, he began to talk. Now, he wouldn't talk to me, Sir, and he would not talk, as I thought then, to the Police. But he did talk to Miss Choo because he agreed. He begged her not to be hard. He agreed with my assistants or the pupils. In other words, he could to a certain extent work with them rather than with, shall I say, an outsider or a person in authority.
- 20 In that way they managed to query him and ask him questions about some of the accounts in that Ledger which nobody could answer, except him.
- Q. But at one and the same time you would say he was not cooperating, that he was vacillating, that he was shifting his ground, is that right?
- A. Yes.
- 30 Q. My question to you is: were there not others, such as the Police, better placed with all the powers available to them under the Criminal Procedure Code to deal with such vacillations, to deal with such reluctance, to deal with such an attitude of non-cooperation? A. Yes, (if) you are in a position to take him on three or four charges, charge him.
- 40 Q. I am talking of investigation.
- A. That is what I am saying - they will take him on whatever they find and he wouldn't cooperate on the rest; that is it.
- Q. And he wouldn't cooperate on the rest;

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

	H.L. WEE	In the Disciplinary Committee
	(Cross-examination by Mr.Grimberg,cont.)	
	Q. (cont) that is it. A. Yes.	No. 2
	Q. And you are then left carrying the baby, is that right? A. Not necessarily, Sir. I could try but I don't think I would be getting any cooperation from him at that time.	Evidence Respondent's Evidence
10	Chairman: I don't think witness understands you.	H.L. Wee
	Q. Sorry. If the Police charged him on the three or four, certain others he wouldn't cooperate and that would be that - using your language - whatever was left unsolved would be a personal loss to you, would it not? A. No, Sir, I would still go after him. It wouldn't necessarily be a total loss.	Cross- Examination (continuation)
20	Q. But, in fairness, your answer to the previous question suggests that your reluctance to tell the Police stem from the fact that they might go for the ones that they were able to prove and leave you holding the baby with the ones that they find difficult to prove, is that fair?	
30	A. That is one way of looking at it, Sir. That certainly was in my mind, that we sometimes cut corners and take what is there and go on. But it does not necessarily follow. It is just a matter of how you could lead a particular individual in question. It is a calculated risk.	
	Q. Mr.We, you told us before the adjournment that during these crucial 14 months you took no legal advice? A. Yes.	
40	Q. And I am bound to suggest to you that your duty was as plain as a pike-staff, and you needn't take legal	

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- 
- 10 Q. (cont) advice? A. I - it is a matter of opinion. No. 2
- Q. I see. Do you agree? A. No, I don't agree. I think I should have sought advice. Evidence Respondent's Evidence
- Q. Now let us just try and simplify this business of money. To put it in a nutshell, the money Santhiran was a mix of clients' monies and yours? H.L. Wee
- A. Yes, but that is you put it very widely. Cross-Examination (continuation)
- Q. And it is right, isn't it, that as far as clients' monies are concerned, the clients were entitled primarily to look to you for reimbursement?
- A. Yes.
- 20 Q. In the event, by June 1976 all clients' monies were happily recovered from Santhiran? A. As far as we knew at that point.
- Q. So far as you knew at that point, and that was the sum of approximately \$297,000 that you had received by June? A. Which included, yes, and it included clients' monies and costs.
- Q. That included clients' monies and your own? A. Yes.
- 30 Q. Now it is fair to say, isn't it, that by March 1976, you knew positively all the losses that Santhiran had caused you? A. Yes, up to a certain extent, limited.
- Q. You knew positively the losses caused you, the only answer was the amount?
- A. The amount and the particular clients.
- Q. Yes, the amount and the particular

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

- No. 2
- 10 Q. (cont) clients. Now we know that you refrained from telling your auditors. Would you agree with me that having been the auditors of Braddell Brothers since just after the war, they knew their way around your system of accounts better than anybody, except Miss Choo? A. They would know the outline - yes, I qualify that. I think one of the weaknesses of my auditors was they rarely sent for more than two years the same audit clerk, and that is one of the points that I made. That means that every two years, ~~Sr~~, a new chap would come in, not knowing the old system, depending on notes of his predecessor, so that we keep having little changes of auditing. It was the audit clerk really.
- Evidence  
Respondent's  
Evidence  
H.L. Wee  
Cross-  
Examination  
(continuation)
- 20 Q. You had changes of staff? A. No, Turquands had changes of staff.
- Q. Yes, I understand. And so? A. So they do not know their way around. We had hoped they would know as well as one would hope.
- 30 Q. In fact they told you again and again, didn't they, that your control was inadequate? A. Yes, not told me. They 'phoned me from time to time, and I did my best to rectify, but may I say this, Sir, to add to that? That I have old cashiers who were rather rigid in their ways and I left it - you know, I told them to do it and sometimes they did it, and sometimes they did it half-heartedly, Sir. But I did my best to try to comply with what they asked.
- 40 Q. Your main reason, you told us, for not telling them, Turquand Youngs - and

H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

- 
- 10 Q. (cont) correct me if I am wrong - is because you were convinced that they were negligent? A. Yes, or there was something basically wrong in their whole system of auditing that could allow a thief to get away over such a long period and to involve substantial sums of money. Evidence Respondent's Evidence
- 20 Q. Mr. Wee, forgive me, but if the same thing - forgive me for making the suggestion - if the same thing had happened to me, the first thing I would have done would have been to hold my auditors responsible for negligence? A. Sir, I have great respect for Counsel's views, but I don't know something about auditors. They vary in standards, first of all. They vary in systems of auditing. They vary in so many respects that you cannot say, "This is a negligent auditor" or a firm of auditors who are not quite up to the rules of the game because I did call at one point of time for what rules they follow on auditing solicitors' (accounts). I asked for it. H.L. Wee Cross-Examination (continuation)
- 30 Q. You were convinced, were you not, in your own mind that they were negligent? A. Either that or that the system of auditing is, if I may use the word, pretty poor.
- 40 Q. Well, the same thing? A. Well I - how do I usually .... in a negligent action? We all have different stands. I am so sorry I am making (this point), I didn't mean it, but Mr.Grimberg expressed an opinion. So you will forgive me.
- Q. Forgive me. I am suggesting to you that the natural thing for you to have done would have been to immediately

H.L. WEE

In the  
Disciplinary  
Committee

(Cross-examination by Mr.Grimberg, cont.)

- |    |  |                                      |
|----|--|--------------------------------------|
|    |  | No. 2                                |
|    | Q. (cont) put you on notice that you considered that they had been negligent and in breach of their duty to you as your professional auditors - just if you can say "Yes" or "No" to that, it would help?  | Evidence                             |
| 10 | A. I don't do that sort of thing. I would like to have more evidence. I am sorry I don't go round screaming---   | Respondent's<br>Evidence<br>H.L. Wee |
|    | Q. Did you scream at Santhiran?  | Cross-<br>Examination                |
|    | A. That he is a thief. The other man is negligent - quite a different kind.  | (continuation)                       |
|    | Q. I have to put it to you that you knew that a firm of standing, the auditors - never mind their competency - never mind their competency, you knew that a firm of the standing of Turquand Young would insist on the matter being referred to the Law Society? |                                      |
| 20 | A. No, I think they had the thought of twisting my arm.  |                                      |
|    | Q. And I put it to you that was the reason why you chose to keep it a secret from them? A. No, Sir.  |                                      |
|    | Q. You didn't proceed to tell ---  |                                      |
|    | A. Until I chose to tell.  |                                      |
|    | Q. You did keep it a secret from them until 1976? A. Yes, needn't tell, I did not tell them, but waited for them to tell me.   |                                      |
| 30 |  |                                      |
|    | Q. And you also kept it a secret from them that you had appointed M. & T.?   |                                      |
|    | A. Yes, that was deliberate because I didn't want them to interfere.   |                                      |
|    | Q. Now I must put it to you that your conduct in keeping these matters a secret from Turquand Young's was quite extraordinary as between one   |                                      |
| 40 |  |                                      |

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- No. 2
- Evidence
- Respondent's  
Evidence
- H.L. Wee
- 10 Q. I am not talking about the position  
as between Medora and Thong and  
Turquand Youngs. I am suggesting  
that your conduct as between one  
professional firm and another was  
quite extraordinary. Do you or do  
you not agree? A. No, Sir.
- Cross-  
Examination  
(continuation)
- 20 Q. No, very well. You didn't tell  
Turquand Young in March 1976 because  
you considered they had been negligent.  
Why didn't you appoint an independent  
firm straight away? A. At that point  
it did not appear necessary.
- Q. It didn't appear necessary. You felt  
that Miss Choc, working on her own,  
was the appropriate person to carry  
on the investigation? A. She had  
the help of other staff.
- 30 Q. Your clerical staff? A. No, and  
Miss Chan also and the other boys.  
They were Legal Assistants.
- Q. None of them of course had any  
accounting qualifications? A. None  
of them had any. I don't think we  
needed that, there is no information  
wanted.
- 40 Q. And of course we all know that  
throughout the period, February 1976,  
when the misappropriations were  
discovered, until March 1977, when  
you reported them you held office as  
President of the Law Society?  
A. Yes.

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- 
- 10 Q. And of course it goes without saying that you met in Committee and in Sub-Committee with your colleagues on the Council of the Law Society from time to time? A. Yes.
- Q. How often would you say you met them? Was it once or twice a month?
- 10 A. Not as such. I don't mean to give any indirect answer. Actually I did put it in conundrums. I didn't disclose my own troubles to them, but I did inquire what one did in such a situation, but never in relation to myself. In other words, I was trying to find answers to this problem.
- Chairman: You didn't know the answer?
- 20 A. I didn't quite know the answer. I thought I was going in the right direction and somehow I was taking a long time and having gone that far, I didn't know how to back out of it without - just like I made a decision to do it, do my own Police work, if I might put it that way. Then having gone that far, and having pushed that much, I didn't know which way to go.
- 30 As we went on, files were missing, files came back, figures were adjusted, clients confirmed, and clients - this is important, am I going too far? Sorry, I had better stop.
- Q. Doesn't it make you feel at all uncomfortable to meet your colleagues on the Council knowing what was going on in your office and saying nothing to anybody? Make you feel uncomfortable? A. Yes, after a while it did. After a while I thought it wasn't (cricket).
- 40

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)



	H.L. WEE	In the Disciplinary Committee
	(Cross -examination, by Mr.Grimberg,cont.)	
		-----
	Q. Now the appointment of M. & T. Was the prospective appointment of M. & T. discussed between you and Santhiran, for their appointment?	No. 2  Evidence
	A. Actually it was discussed with Mr. Gan, when the principle was agreed.	Respondent's Evidence
10	Q. Yes, but the identity of the firm was agreed between you and Santhiran?	H.L. Wee
	A. Yes.	Cross- Examination (continuation)
	Q. And the first contact with M. & T. was made by Santhiran? A. Yes.	
	Q. Wasn't it an extraordinary thing that you should consider it necessary to agree with this thief the identity and terms of appointment of an independent firm of auditors?	
20	A. No, to my mind that meant I will get his cooperation. He will not think that this man has his knife on him or was working only on my instructions.	
	Q. So the answer is you didn't think it extraordinary? A. No, not at all. Not in the particular circumstances of this one.	
30	Q. Why did you think that M. & T. would be any more successful in extracting the information from Santhiran than Miss Choo would be? A. Simple, they were independent, and Miss Choo is my employee, in the sense the independent auditor was one he agreed to, who had nothing to do with this before and could afford to be independent. And he could expect a fair chance to have his side of the story, if any, put up.	
40	That was the reason why I wanted him to agree to this action.	

	H.L. WEE	In the Disciplinary Committee
	(Cross-examination by Mr. Grimberg, cont.)	
		No. 2
10	Q. I have to suggest to you, Mr. Wee, that it went beyond that, that you saw fit to agree the appointment of Medora and Thong in order to improve your chances of recovery from Santhiran if M. & T's investigations showed that further sums had been misappropriated by Santhiran?	Evidence Respondent's Evidence
	A. No, Sir, at the point when he (agreed) he made it quite clear that it was only the monies, if anything, which was going to be reduced. So we thought no, we thought a few more items.	H.L. Wee  Cross- Examination (continuation)
20	Q. You thought? A. Yes, we thought, but he didn't, that this was the fairest way of settling it, get an (auditor) and let him decide it.	
	Q. You were satisfied in your own mind that he was owing you money? A. May I say this is subject to him disproving; subject, if he was in a position to do so.	
30	Q. Now I am bound to put it to you that your written explanations which you have repeated and in certain instances amplified before this Committee were a sham? Do you agree? A. No.	
	Q. Of course not? A. But I can support it.	
	Q. Can I just take you further? A. Yes.	
40	Q. That is my first proposition. And I must also put it to you, as I have done in my opening, that your abiding preoccupation was to exact complete restitution from Santhiran of both clients' monies and firm's monies so that you would not be out of pocket? That was your abiding preoccupation? A. It was not my abiding preoccupation,	

	H.L. WEE	In the
	(Cross-examination by Mr.Grimberg,cont.)	Disciplinary Committee
		<hr/>
	A. (cont) although I cannot say that it was not in my mind.	No. 2
	Q. That is a fair answer. You heard my suggestion in my opening when I was taking the Committee through the bundle - I don't want to do it again if I don't have to - that out of your own mind there were what I describe as patches of clear blue sky? You remember that yesterday?	Evidence Respondent's Evidence
10	A. Yes, I think I remember the passage blue skies.	H.L. Wee Cross- Examination (continuation)
	Q. Do you agree with me that time and again in the documents there is evidence of your insistence that you should recover everything that he took and in two instances you even talked about getting a guarantee?	
20	A. I think it will be clearer if I can get them one by one, so that it will be clearer. This way if I have to answer I will have to go into a long ---	
	Q. Yes, perhaps you can take Bundle A in your hands. Perhaps you should look at page 33 first.	
	Chairman: A.1?	
30	Q. A.1. You look at the centre of that page:	
	"However, I demanded that he repay back all the monies that had been taken by him from clients' accounts until each client had proved to have authorised or given a discharge" ---	
	I think they probably meant "unless each client had proved to have authorised or given a discharge".	
40	A. Until they have, yes.	

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- 
- Q. That is the first sign of your insistence on recovering the monies, was it not? A. This is where, the beginning.
- Q. That is the explanation you gave on the 16th August to the Commercial Crimes people? A. That is right. This is an extract from my complaint. I just told them at the beginning. "You give back all the monies that you initialled on the cheque stubs until you proved to the contrary, that they are authorised by clients or you get the receipt." That is right at the beginning.
- Q. That was your attitude in March 1976?  
A. Yes.
- Q. Very well. A. I hope that was not unnatural with the mess at that point.
- Q. Perhaps if you look at page 35, the first complete paragraph: "My primary concern and responsibility are my clients and their accounts. It is of prime importance to recover back as much money as possible from Santhiran to be repaid back into the various clients' accounts." "I believe I have recovered." It is another reference to your anxiety to recover the monies? A. Yes, but if you look at the one before, "my primary concern and responsibility are my clients and their accounts." Their accounts, not "and monies". Then I repeat again. It is because it is of prime importance to recover. It is of great importance. So if I may qualify: you must read the two together. If you just read one, it means I am after money. Just there, my primary concern are my clients and accounts.

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- Q. Ultimately, it was your responsibility to make reimbursement to clients who were able to establish that your firm owed them money? A. Yes, I would accept that. No. 2  
Evidence  
Respondent's  
Evidence
- Q. And then perhaps if you go to page 47, penultimate paragraph: H.L. Wee
- 10 "I have every respect for the ability of the Police to investigate, but in this particular case, however, I felt that I was achieving results for the benefit of my clients, including refund of monies which the Police investigations would have taken very long to verify perhaps and even fail to achieve." Cross-  
Examination  
(continuation)
- 20 What made you think that the Police would be less successful than you?  
A. You mean it is a matter of opinion. I felt in this particular case that this man who was ready to mitigate was the only man I could turn to for information. And if you please, Sr, from that again that I was achieving results to the benefit of my clients.
- 30 Q. And your benefit? A. Yes, I have never denied that. I can't pretend. How can I stand there and say "I don't want the money"?
- Q. And then if you go to page 49, Mr.We, the last three lines above the items 1 to 4:
- 40 "I naturally cannot remember but I know that is the position that I took at all times and one I sought to make clear was the long recurring one.  
(1) Santhiran's misappropriation;

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

- |    |   |   |
|----|---|---|
|    |   | No. 2   |
|    |   | Evidence  |
|    |   | Respondent's<br>Evidence                            |
| 10 | Q. (cont) "(2) Santhiran agreed to apply to the Law Society asking to be struck off for misappropriation of funds; (3) that he undertakes to pay all the monies; (4) that there should be an adequate guarantor of such undertaking to refund; and over the page, "I informed Mr. Medora that if these conditions were met the full facts should be placed before the Attorney-General with a view to his considering whether he would prosecute or not under the circumstances." | H.L. Wee<br>Cross-<br>Examination<br>(continuation) |
|    | A. In every case of asking ---  |   |
| 20 | Q. Can I just put a question on that?<br>A. Yes.  |   |
| 30 | Q. Were you there saying, or were you not, that if restitution was made you would support representations to the Attorney-General that Santhiran might not be prosecuted? A. No, Sir, the position was this: at that point of time representations had been made through another firm of solicitors not to send him to gaol. It is referred to in one of my reports - Mr. David Chelliah.   |   |
|    | Mr. Choa: At the time? David Chelliah?  |   |
| 40 | A. Around that time, David Chelliah approached me not to prosecute him. He also approached through Mr. Ramanujan, the Auditor, even with the offer to pay so that he would not be sent to gaol. So even Mr. Medora hinted at this, and I thought if I am to put this matter before, I would not necessarily support it; I would put this matter before the Attorney-General and leave   |   |

H.L. WEE

In the  
Disciplinary  
Committee

(Cross-examination by Mr.Grimberg, cont.)

- |    |  |   |
|----|--|---|
|    |  | No. 2   |
|    | A. (cont) it to the Attorney-General's Office to make a decision.  | Evidence  |
|    | The terms would be that he is clearly - in any of these mitigating cases that the accused person or persons charged has (or have) paid up - am I going too fast?   | Respondent's Evidence                               |
| 10 | So sorry. It is the normal procedure where you approach the Attorney-General's Office, to say the man is sorry and he has offered or has repaid the money that is stolen so that they can consider the case.   | H.L. Wee<br>Cross-<br>Examination<br>(continuation) |
|    | Q. Really what you are saying is that you would neither have supported nor resisted such representations?  |   |
| 20 | A. Yes, provided at that stage, Sir, I was looking for a way to get him to cough out.  |   |
|    | Q. Provided also you get all your money back, and the guarantee? A. No, Sir, I didn't say to get my money back; only the guarantee. But that is only an undertaking. If you look at the qualification before: that he apply to be struck out of his own admission.                             |   |
| 30 | Q. I am coming to that in a moment about the question of representation to the Attorney-General is dependent upon him paying the money back and giving you a guarantee or undertaking in respect of the refund? A. Yes, otherwise I could not put the proposition before the Attorney-General. |   |
|    | Q. And finally, if you look at page 62, where you repeat the sentiment at the bottom of the page, 62:  |   |
| 40 | "I repeat discussion with Mr.Medora complaining about delay in completing his report and finding Santhiran is  |   |

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

- 
- Q. (cont) "practising for such a long time ... and also in mitigation if he undertook to pay and give adequate guarantee for what he had (stolen)."
- A. That is the same thing.
- Q. That is the same thing. You were still looking to him, were you not?
- A. It is the same point.
- Q. Mr. Ross-Munro would like me to go on with the next paragraph:
- "If this question ... for the Attorney-General to consider whether he would not be prosecuted is the question ... long since."
- So really these are all conditions precedent for the matter to be placed before the Attorney-General's Office if you would get all your money back and, alternatively, in respect of anything that remained to be paid, that you would get a guarantee - that is the way you looked at it?
- A. No, Sir, not at all. It is just one of the things that you must do when you go to the A.G.'s Office to ask for a case not to be prosecuted.
- Q. So you were saying that you really were giving him some paternalistic advice? A. Yes.
- Q. You were? A. I gave him.
- Q. Now before we leave those passages, there occurs in two of them what I respectfully suggest was a stipulation that Santhiran should apply to have himself struck off? A. Which page?
- Q. I am talking about again pages 62 and

No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

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H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

Q. (cont) 63, and the previous reference,  
49 and 50. A. It is the same thing.

No. 2

Q. I know it is the same thing. Explain  
please. Would you explain, please, why  
was it necessary for Santhiran him-  
self to apply to be struck off?

Evidence  
Respondent's  
Evidence

10

A. Sir, what would happen is this: he  
would walk to the Council admitting  
his breaches. The minute he did  
that the Inquiry Committee would be  
appointed. On the basis of his  
admission. Write and apply to the Law  
Society to be struck off on the basis  
of breaches; he would write to the  
Law Society, apply to the Council on the  
basis of breaches to be struck out.  
The Council would move straight away  
to appoint an Inquiry Committee. He  
would go before it and admit his  
breaches, and the matter would then  
be referred back to Council for it  
in turn to (apply) for appointment of  
a Disciplinary Committee in the old  
way.

H.L. Wee

Cross-  
Examination  
(continuation)

20

It is slightly different now. First,  
the Council would have to send it to  
I.C. And then he would admit it  
before the I.C. In turn the I.C.  
would make recommendation, because  
you would have to go through statutory  
procedure and go back to the Council,  
who would turn just refer it for  
appointment of a D.C. Both would be  
straight forward. And he would then  
appear to show cause before the D.C.  
for him to be struck out. And that  
is what I wanted him to do.

30

40

Q. Mr. Wee, that is your explanation, but  
I am bound to suggest that if Santhiran  
applied to be struck out on his own  
admission, your own delay in failing  
to report or your own delay in reporting  
the matter promptly to the Law Society  
was much less likely to emerge,wouldn't

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

Q. (cont) it? A. I wonder - I don't think it is a fair question, I am sorry to say. That was furthest from my mind.

No. 2

Evidence

Q. It is true? A. No, Sir. It follows long before, if I may say so, before my arrest on a charge, on a separate charge in Malaysia, I was already charged with delay. This matter came long before the case of - criminal case.

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

10

Chairman: What is the purpose of your question, Mr. Grimberg?

Mr. Grimberg: My suggestion, Sir, is that at this time, rightly or wrongly, at this time I am talking about the earlier part of 1977 when these discussions were going on between Medora and Santhiran the witness, the Respondent, was saying what he should do is get himself struck out, pay me back, furnish a guarantee, admit all his misappropriations and apply to get himself struck out.

20

Now this was in the early part of May 1977 when nothing had emerged. Nothing had emerged, and my suggestion, before he was arrested and before anything else my suggestion is that if Santhiran had followed this procedure the fact of the Respondent's own delay was far less likely to emerge.

30

Mr. Ross-Munro: Sir, I think I have kept quiet for the moment, but I really think I should object. I understood from my learned friend yesterday that the motive for the delay in

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H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro: reporting was that  
(cont) he was thinking of (his  
own) pocket and costs to  
client.

Nº 2

Evidence

But this morning he made it  
clear it was something, and  
clients plus costs. Now as I  
understand it he is suggest-  
ing that as far as what is  
written there and suggestions  
of Santhiran being struck  
out were offered to conceal his  
own delay and therefore not  
getting into trouble.

Respondent's  
Evidence

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H.L. Wee

Sir, I would have thought,  
with respect, that my learned  
friend has made an extraordi-  
nary suggestion because once  
Medora and Thong as independent  
auditors (knew) of the defal-  
cations it would have come out  
anyway. But the point I am  
objecting to is, this is a  
suggestion of another dishonour-  
able motive. As I understand  
my learned friend, he is giving  
this as a dishonourable motive  
to the one he has mentioned  
yesterday and this morning,  
namely, that he had a dis-  
honourable or selfish motive  
of protecting his own pocket  
and nothing else; the motive  
now seems to be getting wider.

Cross-  
Examination  
(continuation)

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Chairman: I see your point. What  
Mr.Grimberg is getting  
at here is that he is not  
supplying a motive for the  
delay, but motive to  
conceal the delay here.  
It is a question aimed at  
that: a motive which will  
make the delay of even  
less importance, or even

40

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Chairman: if it is a delay - I don't  
(cont) think that is very  
relevant.

No. 2

Evidence

Mr.Grimberg: Well, I wasn't really  
aiming at that in cross-  
examining the witness, but I  
will take note. If I have  
gone too far, I withdraw it,  
but the question was going  
into this witness's credibili-  
lity.

Respondent's  
Evidence

10

H.L. Wee

Cross-  
Examination  
(continuation)

Q. Mr. Wee, your auditors, your firm's  
auditors, Turquand Young, used - did  
they not - to go round and do their  
examination, their investigation, for  
the purposes of issuing their account-  
ants' report for practising certifi-  
cate purposes in March/April of each  
year? A. It depends. It might be  
January/February because they tend to  
do the partial audit as well if we  
are ready. That means they may come  
as early as January if in December  
we tell them we are ready; they will  
come.

20

Q. Let us be more specific then. Let us  
go into the year 1976. Am I right  
that in the year 1976 they came to  
Braddell Brothers in March/April  
1976 for that purpose? A. Sir, I do  
not really recollect at that time.  
The office was pandemonium. The  
cheques, in the month of March, all  
over desks, accounts books, old  
papers - everything. The whole of  
the General Office was covered.  
The clerks - in fact some clerks  
had to leave.

30

40

Chairman: Mr. Wee, you remember  
telling the Committee  
that Turquand Young should  
have discovered the

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

Chairman: defalcation and in fact  
(cont) you made some derogatory  
remark that they failed  
to discover the defalca- Evidence  
tion even when they were in Respondent's  
the office in March though Evidence  
all that row was going on?

No. 2

10 A. That is correct.

H.L. Wee

Chairman: Would that not be pinning  
the thing down? Cross-  
Examination  
(continuation)

A. What I mean is, I didn't notice them.  
I knew they were - that is the point.  
I don't know they were there; I  
imagine they must have been there.  
In March at least, because the whole  
office was involved.

20 Chairman: Why must they be there in  
March?

A. Because the certificate, I understand,  
was prepared by the end of March.

Chairman: In other words, they  
suggested to you they were  
there in March and you  
actually assumed that they  
would be there?

A. That is right.

30 Chairman: But you are not prepared to  
say that is so. Is there  
some way of finding out?  
This is a fact that could  
be ascertained.

Mr. Ross-Munro: I will try to find out.  
I gather they were certainly  
there in June or July, but  
that will be in the second  
six months. I think it is

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Mr.Ross-Munro: clear, what he says.  
(cont) Then, if I may say so, to  
your question he is saying  
assuming they would be there  
but he himself has no re-  
collection of it. Certainly  
the office was ---

No. 2

Evidence  
Respondent's  
Evidence

10

A. You may remember I was in and out of  
the office. So I did not come back  
from the office ---

H.L. Wee

Cross-  
Examination  
(continuation)

Chairman: I am not blaming you in not  
knowing as a fact, but I am  
saying this is a fact which  
can be ascertained.

Mr.Ross-Munro: I suspect Miss Choo might -  
I will check up to see whether  
they were there in 1976.

20

Chairman: Would you like to suspend  
your cross-examination on  
this?

Mr.Grimberg: Yes, we can find that out,  
but I can still proceed along  
these lines, if you don't mind,  
Sir, and ask this witness  
whether in fact in March 1976  
his firm applied for practising  
certificates for himself and  
his assistants, including  
Santhiran.

30

A. The answer is yes. But may I qualify  
that? The system in my office is  
that if the accountants' report is  
ready, the Court Clerk would go round  
with the various forms to the various  
Assistants and myself and immediately  
he would ask them to sign. So to that  
extent my firm did that.

40

Chairman: Applications were made

	H.L. WEE	In the Disciplinary Committee
	(Cross-examination by Mr. Grimberg, cont.)	
	Chairman: separately? Forms were (cont) filled in separately?	No. 2
	A. That is right.	Evidence
	Q. The answer to my simple question is that in March 1976 an application was made by your firm for practising certificates for everybody?	Respondent's Evidence
10	A. Yes.	H.L. Wee
	Q. And that application will have been supported by Turquand Young's certi- ficate with Turquand Young's unqualified report, am I correct?	Cross- Examination (continuation)
	A. That last bit, correct.	
	Q. Last bit correct.	
	Chairman: We do not know that it was an unqualified report, is that right?	
20	Q. There was an unqualified report, a report which will have been prepared by Turquand Youngs at a time when you knew that Santhiran had dipped his hands into the till to the tune of well over \$200,000?	
	A. Yes.	
30	Mr. Ross-Munro: Again I am sorry to interrupt - are we not getting rather close to the second charge? What seems to be suggested here is that at the time when he knew of the de- falcations he permitted the accountants' report to go forward to get the practising certificate. That, I would have thought, is very much like some different charge.	
	Chairman: This is a matter that is	

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

No. 2

Chairman: connected; consequences  
(cont) of failing to report;  
this all flows from his  
failing to report.

Evidence

Respondent's  
Evidence

10

Mr.Ross-Munro: Well, this is March  
1976, 18th March 1976, or  
shortly before he knew that  
there had been defalcations  
although not the exact amount.  
He in fact had said, in  
answer to all your questions,  
that the application forms  
had been filled up separately  
and as a matter of course the  
right cheques would be sent  
on to the Law Society. I  
wonder to what extent your  
fresh questions are going into  
the consequences.

H.L. Wee

Cross-  
Examination  
(continuation

20

It seems that if my learned  
friend is suggesting that he  
should have reported immediate-  
ly within the next few days,  
not waiting until April the  
1st, but have it reported  
immediately, I can see that.  
But if he is merely saying  
that is the consequence of not  
reporting, say, by March 18th,  
delaying till the end of March  
for the practising certificate  
to be issued.  
But if he put it higher than  
that, I would have thought  
he was going beyond that.

30

40

Mr.Grimberg: With respect, I am not  
dealing with the consequences  
at this point of time. I am  
dealing really with the motive  
because, if you will remember  
I was suggesting that his  
motive was to keep everything  
quiet until he could get much



H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

No. 2

10 Mr.Grimberg: more money back, and  
(cont) I am suggesting that the  
reason why Turquand Youngs  
were being put in the position  
of putting in an unqualified  
report was that this matter  
was concealed from them in  
furtherance of that motive, in  
furtherance of preserving  
the status quo while efforts  
were made to recover money.  
It seems to me, really, to  
that extent this line of  
questioning is permissible.  
I am entirely in your hands  
about that.

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

20 Q. And so, Mr. Wee, if I may complete my  
question: that unqualified account-  
ants' report was prepared by Turquand  
Youngs at a time when you must or  
ought to have known that it was being  
prepared and at a time when you well  
know that Santhiran had put his hand  
in the till? A. I had it not in my  
mind at all, with my concern with my  
work on Haw Par and with the adminis-  
tration of my office. And I might  
30 add, I don't remember seeing that  
report. It need not come to me; it  
goes straight to the cashier.

Q. And if Turquand Youngs were in your  
office for the purposes of preparing  
this report in March 1976 the  
evidence of Santhiran's misappropria-  
tions will have been concealed from  
under their very noses, would it not?

A. In March?

40 Q. Yes, as they must have been, the  
evidence of Santhiran's known mis-  
appropriations must have been  
concealed from under their very  
noses? A. With great respect, I

H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

A. (cont) was just trying to describe it just now. Can I show that plan of the General Office?

No. 2

Evidence

Q. Let me immediately concede, Mr.We, that your office must have been in a state of abominable --- A. Yes,with cheque books and accounts books, paying-in slips - they were constantly there on the table. So anybody who is (half-minded) must know that someone is going through the accounts. This I thought about later on. I said, "Good Heavens. Here these fellows, if they had been there in the month of March, would have seen that going on."

Respondent's  
Evidence

10

H.L. Wee

Cross-  
Examination  
(continuation)

Q. The point I am making, Mr. Wee, is that although they may have been, nobody told them. Would they ---

20

A. Why should they be told?

Q. Why should they be told? A. I am so sorry, Sir - that is, Accountants' clerk going on rounds going through page after page, putting aside.

Chairman: Mr. Wee, when an audit (clerk) comes there is somebody in your office responsible for submitting the accounts?

30

A. That is right.

Chairman: And if there is any defalcation, should not that officer in charge tell the auditors of the defalcation?

A. No, Sir. I think they expected the man to know what was going on.

Chairman: Not necessarily.

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

A. I hate to say this: they know what is going on. All this was referring to Santhiran, and as far as the cashier is concerned, that cashier (will only) wait till you want the book, then she will pass the book.

No. 2

Evidence

Respondent's  
Evidence

10 Chairman: For four years from 1972 to 1976 they had missed it. Why should they be expected to know about 1976 when they missed it. That being so, would there not be an obligation to tell them of any defalcation?

H.L. Wee

Cross-  
Examination  
(continuation)

20 A. Sir, I at that point of time did not think of them at all. I wasn't aware as such of their presence in the office. I was away from about 11 o'clock, away from the office. When I did come back in one hour, the whole place looked a mess - cheque books and all kinds of papers dealing with the accounts. So I would have thought they would have seen and asked about this, "What is all this fuss?"

30 Chairman: Who is the member of the staff who has to deal with Turquand Young?

A. There were, I think, at that time two junior cashiers.

Chairman: Are they still around?

A. I don't know.

Q. What about Miss Choo? Would she be dealing with them? A. This is a cashier's job, not Miss Choo's at all.

Q. Did Miss Choo by any chance, with the defalcation fresh in her mind, come

H.L. WEE

(Cross-examination by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Q. (cont) running to you and say this  
is --- A. No.

No. 2

Evidence

Chairman: I would just ask you,  
when you filled up the  
form of application for  
the new practising certi-  
ficate at that particular  
time did it not occur to  
you the application must  
be supported by clean  
certificates from your  
auditors? You know about  
that?

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

10

A. Yes.

Chairman: All of us know. It didn't  
occur to you for a moment  
that they may not give you  
the certificate?

20

A. First of all, I think they would  
relate to the accounts the year  
behind and at that point they still  
hadn't ascertained, although I knew  
they had gone through it previously.  
I did not put my mind at all just as  
I had to sign a cheque.

Chairman: You didn't put your mind to  
it?

30

A. That is right. I had no excuse for  
it. I just said I didn't think  
about it. That is all.

Q. I have to, I am afraid, suggest to  
you, Mr.We, that taken in the  
aggregate your conduct throughout  
the period March 1976 to March 1977,  
both months inclusive, was grossly  
improper in terms of your delay in  
reporting to the Law Society?

40

A. No.

H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

---

No. 2

Q. You said "No". I must suggest to you, too, that you well knew where your duty lay but refrained from it because of the prospect of personal financial loss which you were anxious to (avoid)? A. No, Sir.

Evidence

Respondent's  
Evidence

10

Q. Did you ever consider that the high office you held imposed, if anything, a greater duty upon you to report the defalcation promptly? A. At that point when I made the decision to investigate this, within weeks I felt that if I made this report now it must be deadly right (in moving).

H.L. Wee

Cross-  
Examination  
(continuation)

Mr. Ross-Munro: Could you repeat that?

20

A. I felt within weeks of discovery of this defalcation, that whatever report I made would be deadly right.

Q. Would have to be deadly right?

A. Would have to be deadly right, and that I could not afford to make a fool of myself on allegations that I could not prove to the hilt.

Q. You had Santhiran's own admission, didn't you? A. If he didn't retract, retract it - which he did.

30

Q. I draw to the attention of the Disciplinary Committee yesterday a passage in the line which deals with the obligation to report even suspected impropriety. Were you familiar with that passage? A. No, but I can see that(provision). I haven't got it.

40

Q. Yes, indeed. (Shows to witness). Page 88. A. I have been trying to look for it in the new volume by the

H.L. WEE

(Cross-examination by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

---

A. (cont) the Law Society.

No. 2

Q. Sir, I think. That seems to impose an obligation even where there was a suspicion, and no more, doesn't it?

Evidence

A. The last bit, I have been trying to find this passage, the one issued by the Law Society officially. I

Respondent's  
Evidence

10

couldn't find it but I (came across) it in my research it does say at the end of it - I generally remember it - but it is in the last paragraph:

H.L. Wee

Cross-  
Examination  
(continuation)

"In the view of the Council it is a professional obligation, unpleasant though it may be, but it is in the general interest. It is your duty to discharge subject only to the prior interest of your client."

20

Q. I will come to that, but my first question to you is, were you aware of that passage? A. Generally, yes.

Q. And you say that it would not have been in the interest of your clients to report? A. Not in the position I was then.

30

Q. And you say it wouldn't have been in your interest because you would have been in a better position to extract from Santhiran information concerning the clients' accounts, you were in a better position than anybody else, correct? A. At that point.

Q. At that point. Even though as time went on it became quite apparent to you that Santhiran had, as you have said many times, become uncooperative.

40

A. Yes, but he did cooperate from time to time; he changed his stand.

Q. Sir, I am going to pass to another

H.L. WEE

(Cross-examination by Mr.Grimberg,cont.)

In the  
Disciplinary  
Committee

Q. (cont) topic now, and I wonder  
whether you might think that this is  
the proper time?

No. 2

Evidence

Chairman: Yes, this clock in fact is  
a bit slow. I assume you  
will take some more time?

Respondent's  
Evidence

Mr.Grimberg: Yes, I will take quite  
some more time.

H.L. Wee

10

Chairman: In that case we will ad-  
journ.

Cross-  
Examination  
(continuation)

Mr.Ross-Munro: I do not know if I  
can ask for a certain indul-  
gence? I wonder if there  
is any chance of our starting  
tomorrow at 9.30 or 10 o'clock?

Chairman: Yes, 10 o'clock, we do  
agree.

20

Mr.Ross-Munro: Because it is rather  
important that we should  
finish the evidence by  
tomorrow.

Chairman: Right, we will commence  
at 10 tomorrow.

Mr.Ross-Munro: I am very grateful, Sir.

{Hearing is adjourned at 4.30 p.m.,}  
25.9.80 }

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Disciplinary Committee Proceedings  
Held in Court No.23, Sub-Courts, on  
Friday, 26.9.80, at 10.10 a.m.

In the  
Disciplinary  
Committee

(4th Day)

No. 2

Before: Mr. C.C. Tan (Chairman)  
" Po Guan Hock  
" Eric Choa.

26th  
September  
1980

(Counsel and Parties -same as before)

Evidence

-----

Chairman:

Respondent's  
Evidence

10

Mr. Munro, before you begin,  
I would like to make a short statement  
relating to the findings of the  
Committee (on issues raised) on  
Wednesday morning.

H.L. Wee

Cross-  
Examination  
(continuation)

20

I find that in delivering the  
decision of the Committee I had in fact  
overstated the restrictions on the powers  
of the Disciplinary Committee. In fact  
my attention has been drawn to the  
Advocates and Solicitors (Disciplinary  
Proceedings) Rules, 1963. I understand  
it was supplied to everybody, but I have  
made extra copies here for your use.  
(Copies handed out).

30

I refer to Rule 10 on page 2,  
which I would like to read:

40

"If upon the hearing it shall  
appear to the Disciplinary  
Committee that the allegations  
in the statement of the case  
require to be amended or added  
to the Disciplinary Committee  
may permit such amendment or  
addition, or if in the opinion  
of the Disciplinary Committee  
such amendment or addition is  
not within the scope of the  
statement of the case, the  
Disciplinary Committee may  
require the same to be



	Chairman: (cont)	"embodied in a further statement of the case.	In the Disciplinary Committee
		Provided that if such amendment or addition shall be such as to take any party by surprise or prejudice the conduct of his case, the Disciplinary Committee shall grant an adjournment of the hearing as the Disciplinary Committee shall think fit."	_____ No. 2
10			Evidence Respondent's Evidence
		This Rule has in fact been referred to by the Privy Council in the Lau Liat Meng case on page 145 of the reports as to facilitate the (proceedings).	H.L. Wee Cross- Examination (continuation)
20		Now I do not think that any injustice has been done to the Law Society in this case as the Committee holds the view that the two matters in question need not, and should not form the subject matter of new charges, but are so closely related to the existing charge that they can be dealt with as being intrinsically bound. So that on that I shall therefore be modifying the grounds of our decision except in that small respect, although it does not affect what we (find).	
30			
	Mr. Ross-Munro:		
		In other words, you would have power but it does not really matter from the realistic point of view, if you take the view that they were so closely related that they can be dealt with.	
	Chairman:		
40		Unless, of course, the Law Society, in view of this section, wants to do otherwise, but I think the Law Society will be informed on the effect of the overstatement.	

Mr. Ross-Munro:

Yes.

Sir, might I just mention two very small matters? The first one is that my learned friend, Mr. Wu, who appears with me, unfortunately was notified yesterday that he had to attend the high court to give evidence today, and he wants me to send his apologies; and my learned friend Mr. Jansen is here in his place.

10

And, Sir, the other one was that I understand that, with your permission, the Tribunal Stenographer has very kindly said that my learned friend Mr. Grimberg and I could get the evidence of Mr. Wee before Tuesday so that we can read through, and so that when I come to my final speech I will have the advantage of reading through it. I mentioned it to Mr. Grimberg and he certainly would have no objection if you give permission.

20

Chairman: No objection whatsoever; if the transcript is available, then it will be available both to learned Counsel and to the Committee.

Mr. Ross-Munro:

I am very much obliged.

Chairman: Yes.

30

(Witness, H.L. Wee, steps into the Box)

H.L. WEE

(Cross-exam. by Mr. Grimberg, cont)

Q. Mr. Wee, I wonder if you would turn to page 51 of the bundle? A. Sir, may I reply to a point made with regard to Santhiran's salary. You have asked me to look up Mr. Santhiran's

In the  
Disciplinary  
Committee

-----  
No. 2

Evidence

Respondent's  
Evidence

H.L. Wee

Cross-  
Examination  
(continuation)

H.L. WEE

(Cross-exam. by Mr. Grinberg, cont.)

In the  
Disciplinary  
Committee

No. 2

A. (cont) salary. May I?

Q. Please do. A. He started with  
\$1,200 on 14.4.72.

Evidence

Chairman: By the way, Mr. Wee - you  
are on your former oath.

Respondent's  
Evidence

A. I am.

H.L. Wee

Chairman: Started on?

Cross-  
Examination  
(continuation)

10

A. One thousand two hundred on the 24th  
April 1972. And the next month, went  
up to one thousand four hundred. In  
November 1972 it went up to one  
thousand six; and in June 1973, one  
thousand eight; plus the yearly  
bonus.

Chairman: How much was the bonus?

A. Say, a month usually.

20

Q. So he was on one thousand eight  
hundred, was he, at the time you  
discovered the defalcation?

A. Yes.

Q. Yes, I was asking you if you were to  
turn to page 51 of Bundle A.1 ---

A. Yes?

Q. That is the Statutory Declaration of  
Rasnujan? A. Yes.

30

Q. And I think it is fair to say that  
you rely on that statement, don't  
you, to show that it was all along  
your intention to report Santhiran  
to the Police? A. One of the  
matters on which I rely.

Q. One of the matters on which you rely.  
And do you accept that that statement

H.L. WEE

In the  
Disciplinary  
Committee

(Cross-exam. by Mr.Grimberg, cont.)

No. 2

Q. (cont) accurately reflects what Santhiran told Ramanujan? A. Fair, yes. That is his statement, but I (reflect) that portion when he passed the information to me.

Evidence

Respondent's  
Evidence

10

Q. So you accept that Ramanujan has accurately reported what Santhiran told you, yes. Now I wonder if we could read together from page 51:

H.L. Wee

Cross-  
examination  
(continuation)

"Subsequently about 10th March I met him (Santhiran) at the junction of Cecil Street and Cross Street and we spoke for about five minutes.

20

... .. Santhiran rang me up after a few days, after the 26th March and I told him what Mr.Wee said. He then said that even if he had" ---

I would like you to pay attention to this sentence ---

30

"He then said that even if he had paid before Mr.Wee would go through all the action against him. ... .. I met him by chance in June 1977 in Serangoon Road. He said it would be unwise if he had paid as Mr.Wee would never let him go."

Now would you agree that what Mr.Santhiran feared was that - well put it this way in sequence, that one of the main thrusts of this statement was that you wanted Santhiran to pay up? A. No.

40

Q. You don't? A. He was trying to bribe, if you like - I put it that way, to lay off the report to the Police. That was the emphasis I got.

H.L. WEE

(Cross-exam. by Mr. Grimberg, cont.)

In the  
Disciplinary  
Committee

- |    |  |   |
|----|--|---|
| 10 | <p>Q. So you don't agree that one of the main thrusts is that you wanted him to pay up, and I suggest to you that what he feared was that having paid up in full, you would then report him? A. That might be in his mind, that I would complete my report both to the Law Society and to the Police. He was trying to buy me out, if you like to put it that way, from not pursuing the Police act, part of it.</p> | <p>No. 2<br/>Evidence<br/>Respondent's Evidence<br/>H.L. Wee<br/>Cross-examination<br/>(continuation)</p> |
| 20 | <p>Q. Perhaps you will just look at the last sentence:</p> <p style="padding-left: 40px;">"I met him by chance in June 1977 in Serangoon Road. He said it would be unwise.... as Mr. Wee would never let him go."</p>  |   |
| 30 | <p>What he feared, I suggest to you, is that after he had paid you - obviously it was what you wanted - you would report him?</p> <p>A. Yes, I think he always knew that I would report. Then he hoped that by offering these monies, by raising them, according to him, I would not pursue the Police side and that whatever he did would have not mattered.</p>  |   |
| 40 | <p>Q. So it seems to me that taking all the evidence into consideration, Santhiran's apprehensions were probably not far from the truth, Mr. Wee, and that the motive or what you hoped to achieve was to get - and that is precisely what he feared when he said at the bottom of the page "it would be unwise" - I paraphrase it - "if I paid him as Mr. Wee would never let me go"? A. No.</p>                    |   |
|    | <p>Q. No. If you look at the other bundle,</p>   |   |

H.L. WEE

(Cross-exam. by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

No. 2

10 Q. (cont) please - B.28. Now you told us, and I accept, that that was a note which you dictated to Miss Chan Lai Meng on Saturday the 3rd of April 1977, the day you went to Hongkong? A. Did you say "dictated"? No, I wrote it out and it was typed out.

Evidence

Respondent's  
Evidence

H.L. Wee

Q. Very good. And you left that note on Saturday the 3rd of April 1977 just before you went to Hongkong. And that note evidences, does it not, your final decision not to write to Mrs. Quek, your colleague on the Council of the Law Society? You had reached a positive decision then?

Cross-  
Examination  
(continuation)

20 A. No, I'd already reached a decision from the beginning. I had never thought that is a matter to be resolved itself in any other way other than by reporting both to the Law Society and to the Police. At this point accounts were almost ready; we were waiting for the joint accountants' report and Medora and Thong promised to let me have the rest.

30 Q. What we are concerned in this investigation is with your delay, and what I am suggesting to you is that the note at pages 28 and 29 represent a decision reached by you to the effect that no further delay was possible, and perhaps we just have a look at the first paragraph?

"My letter to Mrs. Quek would have to be sent subject to alterations."

40 I mean, it simply was no longer possible for you to hold a formal report back?

A. I disagree. I mean, the decision

H.L. WEE

(Cross.exam. by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

No. 2

A. (cont) could not have been crystallised at this stage.

Evidence

Q. And you returned from Hongkong on the 21st of April, and your first written report to the Law Society went out on the 30th April? A. That is right, with the joint accountants' which is a qualified report disclosing it. So a decision was already made long ago. It is just a matter of crystallising.

Respondent's  
Evidence

10

H.L. Wee

Cross-  
Examination  
(continuation)

Chairman: Was it 27th April?

Q. 30th April, Sir, that Mr. Wee came back from Hongkong on the 21st of April and A.1, when I say A.1 - again page 1 of A.1 - A.1 went out on the 30th of April. Bundle A, Sir. So I am suggesting to you that by this time, it was simply not possible for you to hold back your report to the Law Society any longer? A. That is not so. May I add that on the day I received the report, the accounts from Medora and Thong, the same day I sent over to the Law Society, or the next day.

20

Mr. Choa: Sent the report?

30

A. Report, complaint to the Law Society, and all the exhibits.

Mr. Choa: On the day?

A. I received the accountants' report from them.

Q. You turn to page 177 of Bundle B, that is the addition to Bundle B. You have that, Sir?

Chairman: You mean A.2?

H.L. WEE

(Cross-exam. by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

Mr. Grimberg: No, Sir, from the additions we had from Mr.Ross-Munro yesterday, right at the very end of the bundle.

Evidence

Chairman: That bundle is called A.2.

Respondent's  
Evidence

Mr.Grimberg: Is it? I am so sorry; right.

H.L. Wee

10

Q. Mr. Ross-Munro read that letter rather quickly yesterday. I would like to read that again; dated the 9th, it was addressed to you, "Personal & Strictly Confidential";

Cross-  
Examination  
(continuation)

20

"In the course of our audit of your firm's accounts for the year ending .. ... We have given the most serious consideration to the above matters and have to advise you that our views remain unchanged. The very matters which are causing us concern are -

30

- (i) you did not advise us of the alleged defalcation as soon as it was discovered;
- (ii) you instructed Medera and Thong not to communicate with us regarding their appointment investigating their accounts in breach of our Society rules;
- (iii) you have not apparently informed the Law Society of the position so that it might take action... having regard to the fact that the solicitor in question seems to have committed the defalcation by reason of his having undertaken to make repayment to you of part of the sum involved, and (2) he is now practising in his own account,

40



H.L. WEE

(Cross-exam. by Mr.Grimberg, cont.)

In the  
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Committee

Q. (cont) we shall be obliged in fairness to inform you we take advice as to what our responsibilities are on the matter."

No. 2

Evidence

Mr. Wee, I have to suggest to you that when that letter was received by you, you realised - if I may put it this way - that the cat was well and truly out of the bag?

Respondent's  
Evidence

10

H.L. Wee

A. No, Sir, I had already (resolved) to inform Messrs. Turquand Young of the defalcation. If I had not informed them, no cat would have got out of any bag.

Cross-  
Examination  
(continuation)

Q. Certainly you informed them, but the information was extremely belated, was it not? A. In March when they came in, when I told them to come in and I disclosed to them, or I told them that they did not find ---

20

Mr.Ross-Munro: Just a minute - you told them?

A. I told them about this. I told Turquands that they had failed to find the defalcations over the period of many years, and then told them that the monies recovered had been put either in Suspense Account or returned to clients, and that no one on their staff had noticed this or drawn my attention not only on the defalcations---

30

Mr.Choa: No one?

A. Not one of the staff had noticed the defalcation before me and had not drawn or seriously queried me over the Suspense Account.

Chairman: When was this?

40

A. Towards, in March - beginning of

	H.L. WEE	In the
	(Cross-exam. by Mr.Grimberg,cont.)	Disciplinary Committee
		<hr/>
	A. (cont) March or end of February when they came in.	No. 2
	Q. March 1977, right? A. Yes.	Evidence
	Chairman: Is that the interview referred to in this letter?	Respondent's Evidence
	A. It was just before then, that is right.	H.L. Wee
10	Q. That is the meeting of the 10th March, isn't it, referred to in the second paragraph? A. They were very upset and very angry, when I told this.	Cross- Examination (continuation)
	Q. So you told them, did you not, a year after the event? A. Yes.	
	Q. What I am saying to you now is that once Turquand Young had gone on record in the form of this letter, the cat was well and truly out of the bag, and there was no longer any question of any further delay being possible? A. That is not true, Sir. The whole town knew about Mr.Santhiran. My whole staff knew, so if it is a question - I do not know, the (allegation) about concealment, then the whole town knew.	
20	Q. Did the Law Society know? A. Well, I don't know whether they knew, but I am told in fact many of the members of the Law Society did know.	
30	Q. They were told? A. Later on. So it was known, it is an open secret. Then I appointed Medora, and that again made it quite open. There was no question of going out of it at that point.	

H.L. WEE

(Cross-exam. by Mr.Grimberg, cont.)

In the  
Disciplinary  
Committee

Q. Before I leave that letter, since you raised it, look at little (ii) on page 2 of the letter:

No. 2

Evidence

"You instructed Medora and Thong not to communicate with us regarding their appointment as investigating accountants."

Respondent's  
Evidence

H.L. Wee

10

That is not true, isn't it?

A. That is correct, but it is not a breach of any Society ----

Cross-  
Examination  
(continuation)

Q. Never mind about that. You did tell them that? A. Yes.

Q. I think in fairness, Mr.We, my learned friend Mr. Ross-Munro has read it, perhaps I should read your response to that letter; page 179, Sir. To Turquand Young dated 3rd March, nearly a fortnight later:

20

"I have your letter of the 17th. The alleged defalcation that we are having investigated took place before 9th September 1976. ... .. You would appreciate we have a duty to our clients to ascertain the true position. I might add that a qualified report will in fact be made by Medora and Thong whom we have appointed."

30

Did you have any further correspondence with Turquand Young after that?

A. They never replied to that letter.

Q. Did you have any further correspondence with them? A. In respect of this matter?

Q. In respect of any matter? A. I am sorry, there were many matters.

	H.L. WEE	In the Disciplinary Committee
	(Cross-exam. by Mr. Grimberg, cont.)	<hr/>
	Q. Did you have any further correspondence with them with reference to the incompetent or negligent manner in which you say that they performed previous audits? No? A. No.	No. 2 Evidence Respondent's Evidence
10	Q. Did you verbally or otherwise threaten to sue them for negligence? A. They indicated that they had taken legal advice in response to one of our conversations.	H.L. Wee Cross- Examination (continuation)
	Q. My question is, did you ever indicate to them verbally or otherwise that you would institute proceedings against them for negligence? A. No, not as such, but I feel they took a particular ---	
20	Q. And you hadn't in fact consulted anybody or issued any? A. That is correct.	
	Mr. Grimberg: I have no further questions.	
	-----	
	H.L. WEE	In the Disciplinary Committee
	(Re-examination by Mr. Ross-Munro)	<hr/>
30	Witness: Sir, while I am under cross-examination, Sir, could I just finish off the Ledger Book? Sir, I would like to refer to the pages in which Mr. Santhiran's accounts, as a matter of record, are involved in the Ledger.	No. 2 Evidence Respondent's Evidence H.L. Wee Re-examination
	Mr. Ross-Munro: I think leave that for the moment; we will deal with that later.	

H.L. WEE

(Re-examination by Mr. Ross-Munro)

In the  
Disciplinary  
Committee

No. 2

10 Q. I will bring Miss Choo to deal with the letter. We will only deal in re-examination with what is fresh in everybody's mind. Let us deal with the two letters first. You said, you were asked by Mr. Grimberg on March 10th when you saw Turquand, that you told them many other things, that they failed to discover it over many years, that none of the staff had done anything about it - in other words, you accused them in failing?

Evidence

Respondent's  
Evidence

H.L. Wee

Re-examination

A. Yes.

Q. You said they were upset and angry?

A. That is right.

20 Q. At that meeting on March 10th did they ever give you any explanation as to how they failed to spot Santhiran's defalcations for four years?

A. No, Sir.

Q. So there on March 10th you orally suggested negligence. Now we come to your letter of 30th March, which is at page 179, paragraph 2, third line. You then said to Turquand:

30 "I take the view that the whole system of auditing and your audit should be looked at thoroughly."

You did here? A. Yes.

Q. And on the next page, top paragraph, third line:

"Your discharge is over the manner in which the audit in previous years took place."

When the question of a qualified report raised an issue. So there you

H.L. WEE

(Re-examination by Mr. Ross-Munro, cont.)

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

Q. (cont) were suggesting those matters in writing, having on the 10th March orally accused them of negligence?

A. Yes.

Evidence

Q. And you said that Turquands never replied to this letter from that time?

Respondent's  
Evidence

10

A. I did take further steps - if I am allowed to say so - regarding their system of auditing by getting a Committee appointed. I did take further steps in the Law Society to have a Committee appointed to look into the system of auditing by Auditors of Solicitors' Accounts. And in fact a report has been issued as a result of that.

H.L. Wee

Re-examination  
(continuation)

20

Q. Now I want to go back to some answers you gave to my learned friend Mr. Grimberg yesterday. Mr. Grimberg has put to you on several occasions that your real motive was either a dishonourable or selfish one, namely, that you failed to report in order to save your own pocket - you appreciate that, don't you? A. Yes.

30

Q. And when he said your motive, as far as Mr. Grimberg is concerned, your sole motive. Now I want to ask you to look at some pages in Volume I which Mr. Grimberg somewhat eloquently described as some patches of blue sky. And if we could start out from page 35? A. Yes, Sir.

Q. Second paragraph: "My primary concern and responsibility are my clients and their accounts." Is that true?

A. That is very true.

40

Q. And "it is my primary concern to recover as much money as possible from Santhiran to be repaid back to various clients' accounts."

	H.L. WEE	In the
	(Re-examination by Mr. Ross-Munro, cont.)	Disciplinary Committee
		<hr/>
		No. 2
	Q. (cont) What do you mean by that? To repay that into various clients accounts? A. Well, whatever was recovered was to be immediately refunded back to the particular accounts of the clients he defalcated.	Evidence Respondent's Evidence
10	Q. If you knew? A. If I knew what they were, of course.	H.L. Wee
	Q. Then if you will go to 47 in the pen-ultimate paragraph:	Re-examination (continuation)
	"I have every respect for the ability of the Police Investigators. In this particular case, however, I felt I was achieving results to the benefit of my clients."	
	A. That is correct, Sir.	
	Q. Is that true? A. That is true.	
20	Q. And in your view and from your experience, once the Police had investigated and found clear evidence of some defalcations, do they necessarily go to the trouble or have they the manpower necessary to investigate further so that they get further details and find out exactly whether the money has gone to clients?	
30	A. In my serious answer, no. They do not extract the accounts.	
40	Q. If you had reported Santhiran to the Police in March 1976 and the Police did not have the benefit of all the work done by your staff and by Medora and Thong after March 1976, and if the Police had not had the cooperation of Mr. Santhiran, do you think the Police could have identified each individual account to find out how much was missing?	

	H.L. WEE (Re-examination by Mr. Ross-Munro, cont.)	In the Disciplinary Committee
	Chairman: Mr. Munro, 1976 is a long period. Could you just specify which part?	No. 2 Evidence
	Q. Yes, let me put it again. If in March 1976 ---	Respondent's Evidence
	Chairman: March?	H.L. WEE
10	Q. Say, the 16th March you reported to the Police - you follow? A. Yes.	Re-examination (continuation)
	Q. And the Police did not have the bene- fit of all the work which your staff, later and Hedera and Thong, did, and they didn't have the benefit of Santhiran's cooperation, do you think the Police could have traced each individual client in order to show how much each individual client had lost through Santhiran's defalcation?	
20	A. No.	
	Q. Then 49, 50 - slightly different point which Mr. Grimberg asked you some questions on. If you look at 49, and then 50; at the bottom of page 49, first of all where you say that you know the position that you took, and you set out four matters there.	
30	Now the first two: that Santhiran shall immediately admit the mis- appropriation, and that Santhiran shall himself agree to apply to the Law Society to ask to be struck out for unprofessional conduct arising out of misappropriation of funds. Now Mr. Grimberg has asked you or reminded you, and you have agreed that you are a Solicitor of some 30 years' standing and twice the Chairman or the President of the Law Society; you are a very experienced lawyer in Singapore. Can you tell us this: if	
40		



H.L. WEE

(Re-exam. by Mr. Ross-Munro, cont)

In the  
Disciplinary  
Committee

- |    |  |   |
|----|--|---|
|    |  | No. 2   |
|    |  | Evidence  |
|    |  | Respondent's<br>Evidence                              |
| 10 | <p>Q. (cont) Santhiran had admitted all misappropriations and had asked the Law Society to strike him out for unprofessional conduct and when the machinery was put in action and there was an Inquiry Committee but Santhiran, far from defending himself, told them that he was guilty - in your view, approximately how long would it have taken the Law Society to get Santhiran struck off with Santhiran's cooperation and full admission? A. I think it would be around over two months, and possibly by three.</p> | <p>H.L. Wee<br/>Re-examination<br/>(continuation)</p> |
| 20 | <p>Q. Whereas we know in fact that the Law Society got all the details of the complaint by May 1977 and it took them just under two years before Santhiran was struck off on the 23rd of April 1979? A. That is right.</p>   |   |
|    | <p>Q. So you say that if he had cooperated and asked the Law Society to strike him out, it might take two or three months? A. That is correct.</p>   |   |
|    | <p>Q. As it was, that was nearly two years?<br/>A. That is right.</p>  |   |
| 30 | <p>Q. Then if you turn over to page 50, the top paragraph. You see it says:</p> <p style="padding-left: 40px;">"I informed Mr. Medora that if these conditions were met the full facts could be placed before the Attorney-General with a view to considering whether he would prosecute or not in the circumstances."</p> <p>You see that? A. Yes.</p>  |   |
| 40 | <p>Q. Was it your intention to merely have the full facts placed before the Attorney-General, or were you going</p>  |   |

	H.L. WEE	In the Disciplinary Committee
	(Re-exam. by Mr. Ross-Munro, cont.)	
	Q. (cont) to try and persuade the Attorney-General not to prosecute?	No. 2
	A. I was only prepared to go as far as this: place the full facts before the Attorney-General and leave it at that, and get him to decide what he wants to do. That is all.	Evidence  Respondent's Evidence
10	Q. Now Mr. Grimberg, when putting pages 49 and 50 and the suggestion by you that Santhiran should himself agree for the Law Society to strike him out, he suggested to you that by suggesting that Santhiran ask to be struck out, your own delay in report- ing is less likely to be discovered, and in a quite polite way you said that you thought Mr. Grimberg's	H.L. Wee  Re-examination (continuation)
20	suggestion was so unfair. Can you tell us this: we know that Medora and Thong were appointed on the 9th of November 1976. To the best of your knowledge, they are a perfectly honest and proper firm of Auditors and Accountants? A. That is so.	
30	Q. And we know, of course, that they have got full cooperation from your staff as to the details of Santhiran's defalcations? A. Yes.	
	Q. And once Medora and Thong knew the full facts as far as your staff could ascertain them, in November 1976, do you think that there was any question of the matter remaining secret? A. Absolutely none.	
	Q. Then it was put to you a passage from Lund: page 81. Have you got that in front of you? A. No, Sir.	
40	(Mr. Grimberg hands copy to witness). A. Page?	

	H.L. WEE	In the Disciplinary Committee
	(Re-exam. by Mr.Ross-Munro, cont.)	
		<hr/>
	Q. 81, if my memory is correct. It is on the right-hand page at the bottom. The last two or three lines. Can you read this? A. (Reads): "In the view of the Council" - I will take the last sentence?	No. 2 Evidence Respondent's Evidence
10	Q. Last sentence. A. (Reads): "In the view of the Council that is a professional obligation, unpleasant though it may be but in the general interest of us all, it is your duty to discharge, subject only to the prior interest of your client."	H.L. Wee Re-examination (continuation)
20	Q. Subject only to the prior interest of the client. And rightly or wrongly, when you failed to report to the Law Society between March 1976 and March 1977 - rightly or wrongly - did you think you were acting in the best interest of your client? A. That is the primary importance was the interest of my client.	
30	Q. And I just want to see if I have got it quite clear - in answer to another question of Mr.Grimberg this morning I think you said that you reported to Mrs. Quek, the Vice-President of the Law Society, in late March 1979, or did you say "I gave her the draft of the complaint"? A. Yes.	
	Q. And was that draft more or less identical to the final draft that was sent later on there? A. It had most of the facts, but did not have Medora's - an extra.	
	Q. It had most of the facts and Medora's account? A. Yes, account.	
40	Mr.Ross-Munro: Thank you, Mr. Wee Perhaps members of the Tribunal	

H.L. WEE

In the  
Disciplinary  
Committee

(Re-exam. by Mr. Ross-Munro, cont)

No. 2

Mr. Ross-Munro: would like to ask  
(cont) questions.

(Questions suggested by Mr. Grimberg)

Evidence

Mr. Grimberg: I have some questions  
which I think perhaps may be  
relevant and perhaps which  
you may care to put to Mr. Wee  
to clarify our minds on the  
matter, and that is this:  
that when the report was  
ultimately made in C.90, what  
sums, if any, does Mr. Wee  
estimate remained unrecovered  
from Santhiran?

Respondent's  
Evidence

10

H.L. Wee

Re-examination  
(continuation)

Mr. Ross-Munro: In April, as opposed  
to May or June, because the  
reason I ask you is that the  
accountants' report - the  
first one, as you know, is  
31st of December, huge one.  
Then by the time there was a  
report to the Law Society, the  
second report - had come down  
to 272.  
Then there was a third report  
later in June, you will see  
in Volume II - would come to  
351. And I believe that is  
not in Volume II, I haven't  
seen it - there is even an  
additional report in September  
where, I think, there is some  
15,000, amount.

20

30

Mr. Grimberg: Well, I am naturally  
concerned with the 30th of  
April when the letter was  
written to the Law Society -  
that certain time. How much  
Mr. Wee considers was still  
unreturned.  
And the next point of time was  
when the formal report went in  
on the 27th of May.

40

H.L. WEE

In the  
Disciplinary  
Committee

(Questions suggested by Mr.Grimberg, cont)

No. 2

Evidence

Mr.Grimberg: If you please, you  
(cont) might care to ask these  
questions.

Respondent's  
Evidence

Mr.Ross-Munro: Yes, I would certainly.

10 Q. Taking first the last question that  
Mr.Grimberg would like put, that is  
on the 30th April - that is Volume  
I, first page, where you sent to  
the Law Society a copy of the joint  
report, which is a qualified report  
under the Solicitors' Rules - you  
follow?

H.L. Wee

Questions  
suggested by  
Mr.Grimberg  
(continuation)

20 Now there is the 30th of April 1977.  
Now at that stage, can you tell the  
Committee, as far as your mind was  
then on the 30th April, what you  
thought Santhiran's defalcations  
were?

Mr.Grimberg: Not recovered.

Q. Unrecovered defalcation, if you  
thought about it at all? A. I was so  
pleased to get this, I never read at  
all. I sent the report. I cannot  
remember now whether there was still  
money due. But Lisa Choo will be  
able to tell you more, but as far as  
I was concerned, that was it.

30 Q. You sent the report? A. Yes.

Q. And did you not know one way or the  
other as to whether there was full  
recovery? A. That is right.

Chairman: You were not concerned?

A. No, I just wanted the report.

Chairman: But did you recover  
anything afterwards?

A. No, Sir.

	H.L. WEE	In the Disciplinary Committee
	(Questions suggested by Mr.Grimberg,cont)	
	Chairman: Nothing else?	No. 2
	A. No.	Evidence
10	Q. And then, Mr. Wee, Mr.Grimberg would ask you the second question: on the 27th May - so that is 27 days later, when you enclosed your complaint to the Law Society, at that stage 27 days later, in your mind did you consider how much, if anything, you thought might still be stolen by Santhiran? A. No, Sir. I was concerned with is that this report was at last completed.	Respondent's Evidence H.L. Wee Questions suggested by Mr.Grimberg (continuation)
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	<u>Questions by the Committee:</u>	In the Disciplinary Committee
20	Mr. Choa: Mr. Wee, since the 30th April 1977, has there been any client coming forward, Santhiran's client coming forward to the firm of Braddell Brothers and giving you or the firm any money?	No. 2 Evidence Respondent's Evidence
	A. Yes, which we missed? Are you saying which we missed from this account?	H.L. Wee
30	Q. No, Santhiran's coming forward saying "I have got some money due to me from the firm"?	Questions by the Committee
	A. They will come - the bulk came when we wrote to them. And I think there was one odd one who didn't know a thing and just asked, "What happened to my case?"	
	Q. Many claimed?	
40	A. Many claimed. And when we looked at the account, it	

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- No. 2
- Evidence
- 10 Mr. Choa: But has the client  
(cont) suffered?
- Respondent's  
Evidence
- A. Yes, he has been out of  
pocket all these years he has  
not had his money until we  
refunded.
- H.L. Wee
- 20 Q. And as your firm collected for  
a particular client and the  
client comes to you to refer  
to it and I suppose to claim  
some money - has he got the  
money?
- Questions  
by the  
Committee  
(continuation)
- A. Yes.
- Q. So he is satisfied?
- A. Oh, yes.
- Q. So that what I am trying to say  
is whether or not there had been  
any Braddell Brothers' loss from  
any of these defalcations?
- A. Yes.
- 30 Q. In those cases handled by  
Santhiran, has there been any  
loss incurred by the firm?
- A. The firm has lost.
- Chairman: In costs or?
- A. In costs.
- Mr. Choa: Q. In costs. But how about  
clients' claims?
- A. No, we refunded all.
- 40 Q. So as far as clients are  
concerned they are all  
satisfied?
- A. Yes, after four years  
they are quite satisfied.

H.L. WEE

Questions by the Committee (cont):In the  
Disciplinary  
Committee

- |    |  |  |
|----|--|--|
|    | A. (cont) It may be some might<br>come one day.  | No. 2  |
|    | Mr. Choa: So far?  | Evidence   |
|    | A. None at the moment, none<br>for the last twelve months.<br>We have had no contact with<br>them. They had every<br>opportunity.  | Respondent's<br>Evidence                           |
| 10 |  | H.L. Wee   |
|    | Chairman: Mr. Wee you were asked yes-<br>terday that by the 18th March<br>as Santhiran repaid<br>\$267,936 into the firm's<br>account did you think that<br>was the bulk of the money? | Questions<br>by the<br>Committee<br>(continuation) |
|    | A. At that point of time.  |  |
|    | Q. At that point of time on the<br>18th March, you thought that<br>was the bulk?   |  |
| 20 | A. I thought that was the bulk.  |  |
|    | Q. But actually from the subse-<br>quent evidence you gave you<br>complained that you were kept<br>(guessing)?   |  |
|    | A. Yes.  |  |
|    | Q. There was a continuous change<br>from time to time of atti-<br>tude by him?   |  |
| 30 | A. That is right.  |  |
|    | Q. And in fact the amounts of<br>defalcation fluctuated<br>almost from month to month?   |  |
|    | A. Yes.  |  |
|    | Q. I give you the example so<br>that you know what you are<br>being told.<br>In March 1976 when you first<br>found out that there was<br>defalcation he admitted to                    |  |
| 40 |  |  |



H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |   |  |
|----|---|--|
|    | Chairman: having taken \$298,270. Then<br>(cont) when your staff got to him<br>and they found that there<br>was a sum of \$297,926 not<br>accounted for, but they were<br>still finding more items?   | No. 2<br><br>Evidence<br><br>Respondent's<br>Evidence              |
| 10 | A. Yes.<br><br>Q. And subsequently the amount<br>went to 360,786, in December<br>1976 Medora and Thong came<br>up with a figure of 494,000?<br>A. Yes, Sir.   | H.L. Wee<br><br>Questions<br>by the<br>Committee<br>(continuation) |
|    | Q. This was subsequently re-<br>placed with 303,751. Page 9 -<br>you will see this.<br>A. Yes, Sir.   |  |
| 20 | Q. And then when the two auditors<br>got together in their joint<br>account they finally agreed<br>on the figure of 351,095.90,<br>although Turquand Young<br>thought there was a slightly<br>bigger sum. So with all<br>these continuous changes to<br>you, you were not very sure<br>that you had received the<br>bulk of the money which you<br>repaid to clients'?  |  |
| 30 | A. You see - can I give the<br>first indirect answer? Yes.<br>Yes, your question first.<br>That is so, subject to the<br>following points. It was not<br>a question of only finding<br>more money. It was also that<br>some of the monies he had<br>admitted or he denied in fact<br>were payments already re-<br>ceived, which were sufficient.<br>To that extent there was a<br>movement throughout, but<br>there still remained at the<br>end of the day only a fairly |  |
| 40 |   |  |

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- (cont.) A. uniform amount even up to now. \_\_\_\_\_
- Chairman: And can you tell us at what stage was a sufficient sum recovered to meet defalcation of clients' money? No. 2 Evidence
- 10 A. I would say, looking back now I would have said we had known by the end of March or April 1976; will know more, I think, at the end of June. Respondent's Evidence H.L. Wee
- Mr. Choa: 1976? Questions by the Committee (continuation)
- Chairman: In fact by that time you had recovered also some of your own costs?
- 20 A. That is correct. May I qualify that a little bit, Sir? We ascertained at the point. Now we know that in fact all the clients' monies, but at that point we didn't know.
- Q. But when did you know?
- 30 A. Well, Sir, clients' monies are things that go on. For instance, a client just asked the question, a client popped up, "You never discovered this item." It was in fact from an earlier Ledger.
- Q. But you anyway got the feeling that the bulk of defalcations at the end of March had been recovered because of the payment of \$267,000?
- A. That is true, Sir. Generally, that is so.
- 40 Q. By that time, in other words, assuming - I am assuming for the moment - I am accepting your statement that you had the interest of your client primarily at heart? A. Yes.

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |  |  |
|----|--|--|
|    | Chairman: Now that being the case,<br>by the end of March the clients'<br>interest was hardly in<br>jeopardy? A. Very much.  | No. 2<br>Evidence  |
|    | Q. If you had recovered the<br>bulk? A. Sir, I didn't know<br>what we owed them.   | Respondent's<br>Evidence                                       |
| 10 | Q. Then how could you then make<br>the statement that you felt<br>the bulk of his defalcations<br>had been paid, had been re-<br>ceived? A. I thought we had<br>got enough money. But we<br>didn't know what we owed or<br>what was owed to us, because we<br>didn't have the file. If<br>Santhiran had not been there,<br>we would not have been able to<br>distinguish what was clients'<br>money and what were costs,<br>except for --- | H.L. Wee<br>Questions<br>by the<br>Committee<br>(continuation) |
| 20 |  |  |
| 30 | Q. Well, the question of allocation<br>and ascertaining the particulars<br>is another matter. What I am<br>talking about is the recovery<br>of lost money. You made a<br>statement that you felt at the<br>end of March the bulk of the<br>money was recovered? A. Yes.  |  |
|    | Q. What was your reason for taking<br>this view, this assurance?<br>A. Well, the feeling that we have<br>gone as much as we could into<br>the books and we hoped we<br>recovered all the items that<br>were being defalcated.  |  |
| 40 | Q. You hoped you had gone as far<br>as? A. As far as we could,<br>we trust, wherever possible<br>he took the money, and we   |  |

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |  |  |
|----|--|--|
|    | A. felt well we have got the bulk of the money now. That is all. I must just draw a line there. Then came the real trouble.  | No. 2<br>Evidence<br>Respondent's Evidence |
| 10 | Q. Having got that feeling, did you also have the additional feeling that the clients' monies were little in jeopardy?   | H.L. Wee                                   |
|    | A. Definitely no, Sir. I didn't even know where they were.   | Questions by the Committee                 |
|    | Q. Who? A. Most of the clients' files had vanished.  | (continuation)                             |
| 20 | Q. The question of files - the particulars can be gone into. It is a question of money, the recovery. The question of money is important? A. Sir may I humbly say this: I wasn't really worried about the money. I was worried about my clients and my report. |  |
|    | Q. But you were worried about your clients losing money?   |  |
|    | A. No, Sir, being unable to account to them.   |  |
| 30 | Q. Not bothered about your clients losing money? A. Of course I pay them. I am already in the red.   |  |
|    | Q. Your worry is not so much about losing money, but how to account to them? A. Yes.   |  |
|    | Q. In other words, particulars of what is owed them?   |  |
| 40 | A. Yes, but may I say this: the first time they made a search of accounts in the   |  |

H.L. WEE

Questions by the Committee (cont):In the  
Disciplinary  
Committee

- 
- No. 2
- Evidence
- Respondent's  
Evidence
- 10                   A. (cont) week-end I never  
                      asked them - I asked them how  
                      many accounts were involved?  
                      That was my greatest fear. I  
                      then asked them on Saturday  
                      and Sunday when I was in the  
                      office.
- 10                   Chairman: Right now on the 8th of March  
                      Miss Lisa Choc told you that a  
                      shocking sum was missing, and  
                      you really had a shock. Now,  
                      Mr. Wee, you are not only a  
                      lawyer of 30 years' standing  
                      but you also had very substan-  
                      tial experience of criminal  
                      matters? A. Earlier, yes.
- H.L. Wee
- Questions  
by the  
Committee  
(continuation)
- 20                   Q. Not so long ago, you had a  
                      rather well-known case - the  
                      South British Insurance Co.,  
                      which was a (big) case? A. Yes.
- Q. In other words, you are a  
                      proficient lawyer, criminal  
                      and civil? A. Sir, I am  
                      surprised.
- Q. But you had experience? A. I had  
                      experience.
- 30                   Q. Now with all your experience,  
                      when you discovered a defalca-  
                      tion like this, did you get an  
                      immediate reaction that this  
                      is a matter for the Police and  
                      for the Law Society? A. It  
                      went through my mind straight  
                      away, of course.
- 40                   Q. In fact you knew it was your  
                      duty to report to the Law  
                      Society? A. As soon as I had  
                      sufficient facts.
- Q. So that at what stage did you

H.L. WEE

In the  
Disciplinary  
Committee

Questions by the Committee (cont):

No. 2

Chairman: decide to delay the report so  
(cont) as to carry out the (investi-  
gation) stated in your letter?

Evidence

A. The minute when I found that  
we could not trace files that  
we did not have which were  
the accounts whose money we  
had to recover. Then I felt  
we must investigate.

Respondent's  
Evidence

10

H.L. Wee

Q. That was at the beginning?

A. Fairly near the beginning.

Questions  
by the  
Committee  
(continuation)

Q. In other words, your decision  
to delay the report was a  
deliberate one? A. Not in  
that sense of the word "I am  
not going to report".

20

Q. No, I am not saying you are  
not going to report. The delay  
in your report was intended?

A. Not in that true sense. I  
thought even in a few weeks  
I will get all the answers.

Q. Never mind that few weeks. It  
was still an intended delay.  
That is a simple question.

A. I am not trying to deceive - I  
am trying to formulate a point  
in my mind that I would delay.

30

Q. Then it was a deliberate delay.  
And one of the reasons why you  
delayed was given in this  
statement which has just been  
quoted by Mr. Munro, page 47  
of A.1:

40

"During this period I was  
completely satisfied that  
I was on the right track  
clarifying the position.  
... .. I have every

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- 10 Chairman: respect for the ability of Police investigators. In this particular case I felt I was achieving results to the benefit of my clients by having refund of the money. Police investigation would have taken too long and perhaps even fail to achieve.."
- 10 Evidence  
Respondent's  
Evidence  
H.L. Wee
- Now if there was any doubt as to whether the action was deliberate or not, you have given your reasons? A. Yes.
- 20 Q. In fact your reason for doing so is for the purpose of getting cooperation, the required information from Santhiran and keeping the matter out of the hands of the Police? A. Yes.
- 30 Q. So that all the actions, it was suggested, taken by you for the purpose of maintaining secrecy could be quite natural ones inasmuch as if you allowed Turquand Young to know about it there was going to be trouble. They would be against you?  
A. What can they do against me, may I ask? They are my professional (auditors).
- 40 Q. They would not give you a 'clean bill of health' in March 1976, so that you would not be able to get your practising certificate? A. That I put my mind on that, I would have seen them and explained the position.
- Q. But this would be a natural thing for keeping the thing
- No. 2  
Questions  
by the  
Committee  
(continuation)

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

No. 2

Chairman: secret.

(cont)

Another one is, if the Law Society got a report on this, then the Law Society would act against Santhiran - you would be placed in the same position as you feared. Similarly ---

Evidence

Respondent's  
Evidence

10

A. May I respectfully not agree about the Law Society? They could not do anything. What action, Sir, can a President of the Law Society take when they heard about it?

H.L. Wee

Questions  
by the  
Committee

(continuation)

20

Q. Exactly, that is the point I was coming to. When you say the whole town knew about it, when you say the Law Society did not take steps, I believe the Law Society will not take any steps unless a report is received. If a rumour reached the Law Society about this person, it is not likely to take action unless an actual complaint was laid? A. Well, Sir, we have under the Solicitors' Accounts Rules a method of appointing accountants to go into the picture. You could go in that way, but short of that you cannot stop him.

30

Q. But either way it is going to be difficult for you? A. I don't think so much.

40

Q. For the purpose of achieving - to get the information quietly and without any interference by a third party, right?

A. The Police would be my main worry, not the Law Society I would like to ask for the



H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |   |   |
|----|---|---|
|    | A. (cont) Law Society in making out a proper case - they would expect me to put in a proper case because I would have to give the chief evidence and lay all the facts.   | No. 2<br>Evidence<br>Respondent's Evidence            |
| 10 | Chairman: And you had great difficulty about getting practising certificates, too? A. Not for myself, but for Mr. Santhiran.  | H.L. Wee<br>Questions by the Committee (continuation) |
| 20 | Q. Mr. Wee, you told the Committee that you suspended Santhiran, you put him under suspension. Now, although you put him under suspension, he was expected to clean up outstanding matters which necessitated his going to court as well. Well, that is not really suspension? A. Well, Sir, to be quite honest I will be - well, my use of the word perhaps is not --- |   |
|    | Q. It is an overstatement?<br>A. Overstatement.   |   |
| 30 | Q. Now when you heard from your Assistant that Santhiran had gone out to practise, you sent a message?  |   |
|    | (Mr. Grimberg: A. 2 - page 22.)   |   |
|    | Q. (cont) Have you got it?<br>A. Yes.   |   |
| 40 | Q. (reads): "Item (2) Re handing over files wherever there was no discharge or doubt... refuse to hand over .... retained."<br>Are we to assume that apart from the qualifications  |   |

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |  |  |
|----|--|--|
|    | Chairman: regarding the files where the question of C.B.T. arose, he was to receive the other files? A. Yes, we couldn't stop him; we couldn't stop him.   | No. 2<br>Evidence<br>Respondent's Evidence         |
| 10 | Q. You couldn't stop him because he was a practising Solicitor?<br>A. Yes.   | H.L. Wee   |
|    | Q. And entitled to represent his clients? A. Yes, until he was stopped.  | Questions<br>by the<br>Committee<br>(continuation) |
| 20 | Q. Do you realise now the seriousness of keeping him in practice?<br>A. I have no doubt I have not perhaps acted - when I thought of it at that time in this way. For that reason I moved as far as I could after January(?).                    |  |
| 30 | Q. But having discovered what a scoundrel he was, was it necessary for you to allow him to take out another practising certificate in 1976? A. Sir, I assumed that he had already got it, and the only thing I would do was to try and stop him. |  |
|    | Q. March was the audit, and the new one was given in April?<br>A. Yes.   |  |
| 40 | Q. But you wanted him to help you wind up those cases and going to court as well?<br>A. In March 1976? You see, Sir, I mean depending on the month it will fall, because it is a matter of my signing cheque or signing my own application -     |  |

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |  |  |
|----|--|--|
|    | A. (cont) you follow me. It is something I didn't put my mind on at all. By the time we finished in March the certificate was already issued.  | No. 2<br>Evidence<br>Respondent's<br>Evidence                  |
| 10 | Chairman: Let us put it another way: you expected him to wind up this matter and go to court. How was he going to do it without a certificate?   | H.L. Wee<br>Questions<br>by the<br>Committee<br>(continuation) |
| 20 | A. That is my mind - I didn't think about. I thought he had already got it, but this is a mistake on my part. I cannot make an excuse.   |  |
| 30 | Q. Now you told us just now that if Santhiran had applied to be struck out it would be a straight forward process of two or three months, but in this particular case when you made the report the Society took nearly two years to have him struck out. Now let me look at it. The report to the Society was made on the 30th April 1977 - right? And Santhiran was arrested in April 1978. Would you agree that once Santhiran was arrested or once he went out of the jurisdiction of (the court) it is a danger to the public here if he wishes to be a practitioner. He ceased to practise here in October 1977. So when you reported on the 30th April to the Law Society, as it is not one of those straight forward admitted cases - you know the process - so there would have been an inevitable delay, right? And protracted proceedings. |  |
| 40 |  |  |

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

No. 2

Chairman: The protracted proceedings  
(cont) that took such a long time  
was unfortunately further  
protracted by your delay of  
one year in not reporting?

Evidence

A. Sr, this is a matter of opi-  
nion. I think that I got  
them all the facts ready.

Respondent's  
Evidence

10

Why they took so long I  
really didn't know. It should  
have been instantaneous. I  
have got all the figures and  
left them(with) the initials  
on the items. So I don't  
understand why there should  
have been any delay at all.  
After presenting the account-  
ants' report and his own  
initials on the Ledger, there  
should not have been any delay.

H.L. Wee

Questions  
By the  
Committee  
(continuation)

20

Q. But you were a President of  
the Law Society and should  
know that when a complaint is  
made it must, first of all,  
go to an Inquiry Committee?

A. Are you talking about the  
Police?

30

Q. No, I am talking about the Law  
Society. This is on (the  
question of) striking out. I  
am now talking about the Law  
Society. The Law Society  
wouldn't have to take that  
long except for the process.  
Here is the position.  
The Respondent would have to  
be given a copy to appear  
before the Inquiry Committee  
and the Disciplinary Committee,  
and this will take a long time,  
especially when you have to  
check (everything), so that over  
a long period it is quite a

40

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |  |  |
|----|--|--|
|    | Chairman: natural thing - it takes time<br>(cont) unless it is a straight<br>forward case? A. Or, if I<br>may put in an addendum, where<br>you have got a case "sewed up",<br>to use a colloquialism. Then<br>it shouldn't take so long.   | No. 2<br>Evidence<br>Respondent's<br>Evidence                  |
| 10 | Q. Then if a complaint is sewed<br>up on one side, the Inquiry<br>Committee must give the<br>Respondent a chance to reply<br>and must give the Respondent<br>time to prepare replies because<br>of the long and complicated<br>complaint against him. This<br>has to be gone through in both<br>Tribunals, and from there you<br>go to the Court of Appeal - it<br>is quite a natural thing? | H.L. Wee<br>Questions<br>by the<br>Committee<br>(continuation) |
| 20 | A. Yes.  |  |
|    | Q. But what I am suggesting to you<br>is that delay though there<br>must be, you added to the delay?   |  |
|    | A. With respect, Sir, I think I<br>saved them time by getting a<br>complete report.  |  |
| 30 | Q. You thought you saved them time?<br>A. And whatever you may say or<br>think, I really (contend) that<br>when I went in there would be<br>no opening for him to get out.   |  |
|    | Q. In fact you were taking on the<br>role of Police investigator.  |  |
| 40 | Mr. Po: Actually the delay is because<br>Police action had to be taken<br>first; and the Law Society<br>waited for the conviction.<br>The first letter written to<br>them, your complaint, was in<br>May 1977, formal complaint.   |  |

H.L. WEE

In the  
Disciplinary  
Committee

Questions by the Committee (cont):

- |    |                  |  |  |
|----|------------------|--|--|
| 10 | Mr.Po:<br>(cont) | At the same time you reported to the Police. Then the Police started the investigation. It took them one year to get a conviction. In May 1978 immediately, the day after conviction, the Lqw Society wrote to Santhiran.  | No. 2<br>Evidence<br>Respondent's<br>Evidence                  |
|    | A.               | I am afraid I can't account for this fact, why they waited, because they waited a few days. And I didn't have any particulars. In previous cases I have known of waiting to get a conviction - Paul Ratnam is one example. | H.L. Wee<br>Questions<br>by the<br>Committee<br>(continuation) |
| 20 | Chairman:        | When did you say you received news from your Assistants that Santhiran had gone out into private practice?   |  |
|    | A.               | Some time in January, when I was in London.  |  |
|    |                  | (Mr.Ross-Munro: 25th of January.)  |  |
|    | A.               | Around the 25th.   |  |
| 30 | Chairman:        | And he ceased to be employed in December 1976, he left your firm?  |  |
|    | A.               | He was never employed.   |  |
|    | Q.               | You mean he was not paid a salary? A. Yes.   |  |
|    | Q.               | And he was doing work for you? A. Yes.   |  |
|    | Q.               | What I mean to say is, were you here when he left your office, or in London? A. No, I was here.  |  |
|    | Q.               | And did you see him before   |  |

H.L. WEE

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

No. 2

Chairman: he left?  
(cont) A. No.

Evidence

Q. He just didn't turn up?

A. Didn't turn up.

Respondent's  
EvidenceQ. And when did you realise he  
was not turning up?A. Well, I heard that he removed  
his personal things.

H.L. Wee

10

Q. When was that? A. That was  
the time he left.Questions  
by the  
Committee  
(Continuation)Q. And how soon after that did  
you go to London? A. About two  
or three weeks.Q. Two or three weeks. And when  
you came back you started to  
press Medora and Thong for a  
report. He had already sub-  
mitted one in November.

20

(Mr. Ross-Munro: 31st Decdmbber.)

Q. 31st December. When you came  
back you pressed him for a ---

A. For a proper report.

Q. Did you press them before that  
December? A. Before I left for  
London, yes, I asked them:  
"Look, your previous report,  
it would appear, is quite  
wrong. Will you please  
get a reconciliation as  
soon as possible?".

30

Q. When was that? A. Just before  
I left.Q. Was that the first time you  
pressed them? A. It would be  
about the beginning because

H.L. WEE

In the  
Disciplinary  
Committee

Questions by the Committee (cont):

No. 2

A. (cont) they had just started work.

Evidence

Chairman: Would it also be about the time Santhiran left the office?

Respondent's  
Evidence

A. Soon after that, because I got worried there was no one to give assistance. He wasn't in the office any more.

10

H.L. Wee

Q. So you went to press Medora and Thong? A. That is right.

Questions  
by the  
Committee  
(continuation)

Q. In fact the matter assumed greater urgency, right?

A. Yes.

Q. Although it was suggested to you, I think, that it was because you could get no more money out of him? A. No.

20

Chairman: That is all.

-----  
(Witness stands down)  
-----

Mr. Ross-Munro: No further questions.

Sir, I will call Miss Lisa Choo who, I believe, is outside.

Mr. Grimberg has kindly said I can lead this witness on all non-contentious matters.

(Witness, Lisa Choo, appears.)



LISA CHOO

(Examination-in-chief by Mr. Ross-Munro)

In the  
Disciplinary  
Committee(Affirmed in English)  
No. 2

Q. Miss Choo, I wonder if we can hand up Evidence  
to you Volume II.

Chairman: Oh! Could I have the  
name of the witness spelt  
out to me? I am not very  
good at these names.

Lisa Choo  
Examination

10 Q. Just give your full name, can you?  
And your address.

A. Yes. Lisa - (spelt) L-I-S-A  
C-H-O-O L-A-N-G E-N-G. Block H,  
No.10-38, Blair Plain.

Q. And I think, Miss Choo, you started  
work with Braddell Brothers in  
September 1971? A. That is right.

20 Q. And I think, except for a short period  
of a couple of months in 1977, you had  
remained in their employment ever  
since? A. Yes.

Q. I think your official job is Typist  
and Office Assistant? A. Yes.

30 Q. Now I would like you to cast your  
mind back to end of February 1976 or  
beginning of March 1976. We know  
that a pupil, first of all, discovered  
what later turned out to be a defal-  
cation by Santhiran, and thereafter  
on either the 2nd or the 3rd of March  
1976 Mr. Wee saw Santhiran for the  
first time alone in the Conference  
Room? A. That is right.

Q. After that meeting Mr. Wee had with  
Santhiran in the Conference Room,  
did he give instructions to you and  
your staff to investigate? A. Yes.

Q. And what were those instructions?

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- Q. (cont) How were you to do it?  
A. He told me to go through the cheque stubs with Santhiran's initial on them.
- Q. My learned friend does not mind if I lead - yes, I think he told you to go through the cheque stubs and try and find out where Santhiran's initials "S.S." were? A. Yes, and we were to list them out.
- Q. List them out. You make a list?  
A. Yes.
- Q. And we know that those cheque stubs have the names of the clients?  
A. Yes.
- Q. So you can look at the Ledger and see the names of the clients? A. That is right.
- Q. And I believe as far as the investigation, I think there were certain instructions given to keep an eye on Santhiran, don't you, by Mr. Wee?  
A. Yes.
- Q. And also I think, you know, that letters were written to the bank to take him off the list of authorised signatories? A. Yes.
- Q. And whilst you and the staff were investigating Santhiran, on those dates did Mr. Wee come in?  
A. He came in on Saturday afternoon and Sunday morning.
- Q. And on the Monday morning back in the office, did you tell Mr. Wee approximately how much was missing, or perhaps I can lead - again there is no dispute about it - I

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

10

20

30

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

---

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

- 10 Q. (cont) think you told him that he was suspected in respect of over \$200,000? A. Yes.
- Q. And then you know Mr. Wee went off and saw Santhiran in his room?  
A. Yes.
- 10 Q. And did you thereafter continue the investigation? A. Yes, I did.
- Q. And still dealing for the moment with March - we will deal with it chronologically - we know that so far as Ledgers are concerned, there are the file numbers, is that right?  
A. Yes.
- Q. And there will be the addresses of clients? A. Yes.
- 20 Q. And when you tried to find the files - my learned friend has no objection - you found the files missing? A. That is right.
- Q. And during this time I think you saw Santhiran, is that right? A. Yes.
- 30 Q. And now if you take Volume II - and I would like you, if you will, to go through quite a few documents that I think you are the best person to explain. First of all, if you start at page 6, that is on the top left-hand corner, it should be in pencil. You see there, that is a letter from the Hongkong & Shanghai Bank, and it is an answer to a request in the letter of the 4th June - you see that? A. Yes.
- Q. And I think if you look up the references one sees your reference "W/CLE". Is that you - "C.L.E." is

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

-----  
No. 2

Q. (cont) you?           A. Yes.

Q. And they sent a photostat copy of  
the relevant cheque for your perusal  
and that seems to be Cheque 023617  
for \$60,200?           A. That is right.

Evidence

Lisa Choo

Examination  
(continuation)

10

Q. Can you remember why you (wanted)  
that specific cheque in June?

A. Yes, this - there was this client  
by the name of Lim Pee Koh ---

20

Q. We will take it fairly slowly because  
the Committee and Mr. Grimberg will  
have to take some of this down. There  
was the client?   A. There was this  
man's cheque made out to the Company,  
Wagrip (spelt) W-A-G-R-I-P - Kubber  
Company, I think. So if one looks  
at the Ledger the client was Lim Pee  
Koh. The client's name was Lim Pee  
Koh in the Ledger, but there was this  
crossed cheque made out to this  
Company's name. So when I asked him,  
when I asked Mr. Santhiran he told me  
to write to the bank to get this  
cheque, a copy of the paid cheque.

Q. At that stage was the file missing?

A. There wasn't any file.

30

Q. And because there wasn't a file, did  
that make you suspicious?   A. Yes.

Q. But in the event when you got the  
cheque back, this actually turned  
out for once that Santhiran was  
perfectly honest?   A. That is right.

Q. In this particular one it wasn't a  
dishonest transaction?   A. Yes.

Q. Dealing with page 7, you will see  
that there is a (gap) between  
those two and on page 7 you wrote,

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

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- Evidence  
Lisa Choo  
Examination  
(continuation)
- 10 Q. (cont) I think your initial "C.L.E." -  
26th November you wrote to the bank  
for all cheques drawn on the above  
account from 72 to 76? A. Yes.
- Q. Can you tell us did you do that on  
your own behalf or did someone  
instruct you to do that? A. This  
Mr. Medora instructed me to do that.
- Q. Mr. Medora - that is the Accountant?  
A. Yes.
- Q. And again page 8, again you were  
asking for a whole series of individual  
cheques. I think that is actually  
signed (by) Mr.We, but I see there  
are your initials here at the top?  
A. Yes.
- 20 Q. Again on whose instructions did you  
write? A. The Auditors, Mr.Medora.
- Q. And then the next one, page 10, there  
is another one referring to certain  
particular cheques. On whose instruc-  
tions did you write there? A. Those,  
I wasn't in the office. I think this  
letter was written by Miss Chan.
- 30 Q. Quite right - "C.L.M." would be  
Miss Chan, I follow.  
The next one, page 11, I think it  
was Miss Chan, too - "C.L.M."? A. That is right.
- Q. And next one, the 27th May, that one has  
both your references, I think - yours and  
Miss Chan? A. That is right.
- Q. Can you remember on whose instructions  
that was? A. Mr. Medora.
- Q. And that is the whole series of  
cheques going on for two pages?  
A. Yes.
- 40 Q. And then again page 14, 27th June. It  
has both your references and that is a

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

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Evidence

Lisa Choo

Examination  
(continuation)

- 10 Q. (cont) particular client's account and a cheque issued on the 4th August 1972 for 2,025. Do you know why you asked for that particular cheque? A. I think this was a new discovery at that time.
- Q. New discovery? A. That is right, and Mr. Medora said to write for the cheque.
- Q. And there is a similar letter, page 16. The 12th July, just one individual cheque. That is the cheque in 1974. Can you remember how that came about?
- A. Yes, on instruction of Mr. Medora again.
- Q. And page 17. Is that also on his instruction? A. That was a reply.
- 20 Q. Sorry - that is a reply. My mistake; yes. And page 18, the bank as well. And when you come to page 19, another letter from you, 4th August. I think there is your initial. Again whose instruction would that be? A. Mr. Medora.
- Q. And again I think 18th August, asking them for three more cheques. Whose instruction? A. Mr. Medora again.
- 30 Q. Now if you will next turn to page 32, which is the reconciliation. It is headed "Braddell Brothers' reconciliation, of our figures. Lisa's figures." That would be your figures, is that right?

Mr.Choo: Where is that.

Mr.Ross-Munro: It is at page 32.

Chairman: My document is headed "Medora Thong & Co."

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
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Committee

Mr.Ross-Munro: Oh, much obliged.

No. 2

Q. Page 30, and then we go on to page 32. Have you got page 30, Miss Choo? A. Yes.

Evidence

Lisa Choo

Q. That says "Reconciliation of our figures and Lisa's figures", and then total figures prepared by the firm - 405,669. Can you tell us when that first and original list was prepared?

Examination  
(continuation)

10

A. This list was handed to Mr. Medora when he was appointed. It was in November.

Q. So handed to Mr.Medora when appointed. We know that is the 9th November, and approximately how long before would the list have fallen to 405,699?

20

A. I think it should be about end of October and November.

Q. Just quickly going through the document, one sees the Braddell Brothers' list, so to speak - 405,669. And then the Accountants say, "Less items which in our opinion ought not to be included", and that shows total 41,230. That brings it down - 361,439. And then they add additional payments which should be included.

30

And you can go right to the end of the document, page 32, and those include - 139,991. And that makes the total, according to the Accountants, of 499,440.

Now we know this document was a reconciliation of the 26th January 1977. Did you see this document when it was sent to Braddell Brothers? A. Yes, I did.

40

Q. And when you saw that the Auditors, Medora, were saying they thought the figure was 499,440(?), did that

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

Q. (cont) surprise you? A. Yes.

No. 2

Q. Did you think it was more or less?

Evidence

A. I thought it was well above our figure.

Lisa Choo

Q. You thought it was, 494 was well above what you thought it was?

Examination  
(continuation)

A. Yes, that is right.

10

Q. The next document is 33, and that is dated 16th July, 1976 - you see that?

A. Yes.

Q. And it is headed "To get following files." And then there is the list. This was the list you handed to Santhiran, is that right? A. Yes.

Q. So I have counted - and I am hoping it is right - there are 48 files. And were these files missing? A. Yes.

20

Q. 16th July 1976. And were these, therefore, the files you were looking for and you couldn't find? A. That is right.

Q. Now during your investigation relating to the topic of files and investigating Santhiran's clients, the ones he was involved with on the files, did you actually find that where a client had several different matters there will be several different files? Did you find that? A. No, I found that he used one file number for all the letters relating to one client.

30

Q. I see. So just as an example, if a client has 20 different matters, there will be 20 different files, but each one would have the same file number?

A. No, a different file number; but I found in Santhiran's case he used



LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
CommitteeA. (cont) the same number for all the  
different matters.

No. 2

Q. So taking, first of all, Santhiran's  
case, you found that if he had a  
client, for example, on 20 different  
matters there will be 20 different  
files, that Santhiran would use the  
same file number for these 20? A.Yes.

Evidence

Lisa Choo

Examination  
(continuation)

10

Q. Was it usual or unusual as far as  
office procedure is concerned? A. It  
is unusual.Q. So in Santhiran's case there will be  
20 files, each in a different file  
but using the same file number for  
the lot.What was the correct office procedure  
as far as --- A. Each different  
matter should have a different  
number.

20

Q. Each different file should have a  
different number. And before your  
investigation started, did you or  
anybody in the office raise with  
Santhiran, "Instead of giving each  
file a different file number, you  
are just using one file number for  
all of them"? A. No.

30

Mr.Choa: May I interrupt? I was  
wondering whether Mr.Wee  
knew about this rather  
unusual way of Mr.Santhiran's  
(numbering) of these files?

A. You mean during the investigation?

Mr. Choa: He does not?

A. No.

Mr.Choa: He doesn't know.

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- No. 2
- Evidence
- Lisa Choo
- Examination  
(continuation)
- 10 Q. You will hear in a moment how much more difficult (it is) to trace when each file has got a separate file number. As far as the documents are concerned when you gave him a list of files on the 16th July during the investigation did he send the files? A. Yes, subsequently he did give me the files, but when I looked at it, it was a different file, I mean relating to a different matter in the Ledger.
- 20 Q. I see. Let us get it quite clear. So in the Ledger you might be investigating a certain matter, and you say Santhiran gave you a file that had nothing to do with the matter in the Ledger? A. That is right.
- Q. So did that help at all? A. No.
- Q. Now I would like you to look at the document, 35. You will recall this document was the one which Mr. Wee handed in to the Inquiry Committee on 26th May? A. Yes.
- 30 Q. I want to take you through the document, but before I do so we move on to page 39 onwards - there is a whole series. Just take 39. Were you responsible for compiling those various lists? A. Yes.
- 40 Q. Now I want to look back to page 35. The first paragraph. You can go through it paragraph by paragraph here. In March 1976 the preliminary investigation. Santhiran had taken without authority approximately around four hundred thousand. Of this amount Santhiran initially admitted he had wrongfully transferred

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
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Committee

Q. (cont) and taken 194,897.  
Then one sees in the margin (i),  
(ii), (iii), (iv), and if we could  
go through those - those are the  
numbered lists. So that if one  
looks at (1) one turns over to  
page 39.

No. 2

Evidence

Lisa Choo

Examination

10

Mr.Ross-Munro: Have you got that,Sir?(continuation)

Q. (cont.) And that has got a date  
"1976", admitted by Santhiran?

A. Yes.

Q. And you compiled that list? A. That  
is right.

Q. And the 76 would relate to the Santhi-  
ran matters of 76? A. That is right.

20

Q. So originally he was admitting those  
matters set out, those defalcations,  
and you see the total figure of  
91,850 there. Is that your handwrit-  
ing? A. Yes.

Q. And if one turns over to little (ii),  
we get the same typed list, but this  
time 1975. You gave to Santhiran?

A. Yes.

Q. And again you did that list? A. Yes,  
I did.

30

Q. And at page 42, one gets the total  
for the 75 of 86,105? A. Yes.

Q. Again that is your handwriting?

A. Yes.

Q. And turning over to page 43, same  
type of list for the 74 matters  
admitted originally by Santhiran?

A. Yes.

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

Q. And the total, 12,421? A. Yes.

No. 2

Q. And finally the 73 list, No. (iv),  
is 4,460? A. That is right.

Evidence

Q. And if you total all those amounts  
together, going back to page 35,  
does one get 108,000? A. Yes.Lisa Choo  
Examination  
(continuation)

Mr.Ross-Munro: I hope you follow, Sir?

10

Chairman: Except 73 left me bewil-  
dered; it wasn't page 73?Mr.Ross-Munro: No, it was a 1973  
matter. What Miss Choo is  
saying is if you add up all  
the total, they come up to  
194,097.

Chairman: Total of those?

20

Mr.Ross-Munro: Add up the lists of  
(i), (ii), (iii) and (iv),  
they come to 194,097.Q. I know it is a long time ago, Miss  
Choo, but doing the best you can,  
can you tell us approximately when  
Santhiran initially admitted that  
he had wrongfully misappropriated  
these amounts in the list? A. I  
think it was the third week of March.Q. About the 3rd week of March 1976?  
A. Yes.

30

Q. Going on at page 35. He would  
mark against the items where he  
had taken out totalling approximately  
9,161 by putting a question mark  
against those items. So if you  
glance, you will see little (v),  
(vi), (vii) and (viii). Little  
(v) is at page 45, and at page 45,

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- Q. (cont) little (v), we see again that for the 76 matters a list not admitted by Santhiran, and there is a total of 17,012. Again I think that is your handwriting? A. Yes.
- 10 Q. If you will go over the next page, 46 (vi), we see the same type of list of 75 matters, and that goes on to two pages to page 47, and for 75 matters the total is 75,039. And then if you go to the next list, 77, you will find at page 48, again one sees all the 74 transactions, and later 74,188. And again your handwriting. And next list (viii) is the '73 matters not admitted by Santhiran, and that is 54,823. Is that right? A. Yes.
- 20 Q. Again your handwriting, and if we add all those up together one gets 217,063 which he was not admitting? A. Yes.
- Q. Can you tell us again approximately the date when he told you he was not admitting those? A. It was at the same time.
- 30 Q. At the same time, so about the third week of March 1976. Lastly, the ones he couldn't recall one way or the other, you look at little (ix) and little (x). Little (ix) is page 50, and that headed "75 (i). To be confirmed by Santhiran. And that, I think, adds up to 4,842? A. Yes.
- 40 Q. And little (x) in respect of 73 transactions. That is to be confirmed by Santhiran? A. Yes.
- Q. And that is 4,390. Now on that page

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont.)

In the  
Disciplinary  
Committee

- 
- Q. (cont) 51, somebody has written "all admitted". Do you know whose handwriting that is? A. Mine. No. 2
- Q. That is your handwriting? A. Yes. Evidence
- Q. Did you put that on at the time the list was first compiled or did you put it later? A. Later. Lisa Choo
- 10 Q. How did it come about that later you wrote out on that list "all admitted"? Examination  
A. Later Santhiran told me he took them, and told me to bring them up as admitted. (continuation)
- Q. What he changed to "admitted"?  
A. Yes.
- 20 Q. Then go on to page 35, next paragraph. From the "not admitted" items he said he could revise the sums totalling 96,282. Did he tell you that again at about the same time, about the third week of March? A. Yes.
- Q. If you look at that last, it is No. (xi), page 52, which is headed "S.S. called in clients to certify." That goes on for two pages, 52 and 53, and at page 52, is that you who totalled 96,282? A. Yes.
- 30 Q. Miss Choo, we know - and there is no dispute about it - that by the 18th March, that is during the third week of March, 18th March Santhiran had repaid some \$267,000? Everybody agrees about that. A. Yes.
- Q. As far as that money was concerned, the \$267,000, without Santhiran's cooperation could you identify which monies belonged to each individual client from that bulk

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

Q. (cont) sum of \$267,000? A. No,  
impossible.

No. 2

Q. Now I just want to get a little  
detail as to why you couldn't identify  
without Santhiran's cooperation.  
Let us take the first thing. We know  
there is a Ledger with clients' names  
in them. As far as Santhiran's  
entries are concerned in that  
Ledger, did they help you all that  
much? A. No, just showed debit and  
credit.

Evidence

Lisa Choo

Examination  
(continuation)

10

Q. And when you investigated those  
entries, did you find that they were  
always accurate or were some false?  
A. The payee would be a fictitious name.

20

Q. The payee would be a fictitious name,  
and so far as the Ledger entries are  
concerned, would they actually be in  
the handwriting of Santhiran, or  
would he take it to somebody to put  
it in the Ledger? A. The system is  
that any Legal Assistant who wants a  
cheque would tell the cashier.

30

Q. Any Legal Assistant would send?  
A. Would send a cheque, he would give  
instructions to the cashier to draw  
out a cheque and just tell them whom  
to pay to, and the cashier would get  
out the cheque.

Q. What about the entry in the Ledger.  
It would be the --- A. The cashier's.

Q. And he would enter it on the  
instruction of the Legal Assistant?  
A. Yes.

Q. In our case, Santhiran? A. Yes.

Q. First of all, you say many entries

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

10 Q. (cont) in the Ledger were false.  
Again, I wonder if you can give us  
some rough idea - I don't think we  
will come to it - but so far as  
Santhiran was concerned in your  
investigation, so far as false  
entries were concerned, can you  
give us any rough idea - 10, 20, 30  
per cent? Would you say it was  
more than 50, or less than 50?

A. Well, more than 50; more than half.

Chairman: More than half.

20 Q. More than half the Santhiran entries  
turned out to be false or misleading.  
That is one reason.  
Let me just ask you about the second  
reason. We know that you have got  
copies of cheques by investigation.  
As far as the payee's names are on  
those cheques, were they always real  
payees? A. No.

Q. So the cheques often had payees who  
were fictitious, is that right?

A. That is right.

30 Q. Thirdly, if I may take you to the  
numbers, thirdly we know that the  
Ledger would have a client's name,  
but not his address? A. Yes.

Q. You told us in many instances that  
the files you found were missing?

A. Yes.

Q. Presumably the files, if they were  
properly kept, one would get the  
client's name? A. Yes.

40 Q. Now in cases where you had the  
client's name in the Ledger but  
when you searched for them and  
found the files missing, did you



LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- 
- 10 Q. (cont) personally at one stage try  
and trace all those clients? A. Yes,  
I did. No. 2  
Evidence
- Q. And did you spend many hours in  
trying to do that? A. Yes. Lisa Choo
- Q. And how did you try and trace their  
addresses? What did you look at? Examination  
(continuation)
- 10 A. I went through the Telephone Directory.
- Q. And was the client's name always  
there? A. We got the name but they  
would be the wrong party.
- Q. When you telephoned the client, you  
'phoned the wrong party. What about  
the Business Names Registry? Did you  
ever check that? A. Yes, I made a  
search but some of the companies were  
defunct.
- 20 Q. Just to illustrate your difficulties,  
on one occasion were you actually  
successful in contacting a client,  
I think he was a contractor - what  
was his name? A. Ng Yam Peng.
- Q. Ng Yam Peng - (spelt) P-E-N-G?  
A. That is right.
- Q. Did he actually come and see you?  
A. Yes, he did.
- 30 Q. Did you ask him specifically whether  
he had in fact received a certain  
bearer cheque you were investigating?  
A. Yes.
- Q. And what was his answer? A. He said  
he was very busy and he left  
everything to his lawyer, and he  
told me to check his lawyer.
- Q. And who was his lawyer? A. Mr.Santhiran.

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- 
- 10 Q. And the next matter where you said you needed Santhiran's cooperation, I think you touched on it already. You told us that in Santhiran's case it was contrary to the office procedure. You found that if you had clients who had several matters with several partners, there was only one file number? A. That is right.
- Q. To what extent was that going to be difficult to get to the truth of the matter? A. Because every time we thought we found that file and going through the Ledger we found it related to a different matter altogether.
- Chairman: It happened quite often?
- 20 A. Yes.
- Q. And on some occasions when you finally did manage to find the file or Santhiran sent the file back and when you looked inside, a lot of the documents were missing? A. Yes.
- 30 Q. Now taking the period between March 1976 when Santhiran's misappropriation was discovered, and December 1976, when you knew he left, can you help us on this: To what extent did Santhiran cooperate during that period? A. I would say he was fairly cooperative.
- Q. He was fairly cooperative. Though it is within your own knowledge occasionally he brought clients who told lies and then later retracted?
- A. Yes.
- 40 Q. So on the whole he was fairly cooperative, but on one occasion, I suppose, you would say he was

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

LISA CHOO

In the  
Disciplinary  
Committee

(Exam.in.chief by Mr.Ross-Munro,cont)

No. 2

Q. (cont) distinctly uncooperative or misleading? A. Misleading.

Evidence

Q. She said it would be fair to put it: on the whole he was fairly cooperative; on one occasion he was uncooperative and positively misleading. Now taking the period March 1976 to September 1976, that is to say when you yourself was personally doing the investigation before the Accountants - the idea of Accountants coming in - taking that period, by reason of Santhiran's cooperation, to what extent were you able to identify clients and the exact amounts that each client was owed? A. I was able to clear about half of what he paid.

Lisa Choo

Examination  
(continuation)

10

20

Q. Half of what he paid? A. The amount he paid back.

Q. The amount that Braddell Brothers paid back to the client? A. No, Santhiran paid back the amount of money, and I was able to identify whose money, the client.

Q. About half. The money paid back -you mean the 279,000? A. Yes.

30

Q. About half of that. Now assuming during this period that you had not got Santhiran's cooperation in explaining false entries and admitting certain things and matters of that sort - assuming that you had not got his cooperation at all, that he just left and you didn't see him any more - to what extent during the same period, March 1976 to September 1976; to what extent do you think you could have traced the individual clients and find out what monies were owed to each client?

40

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

In the  
Disciplinary  
Committee

A. I would say I would be able to have  
about 10 or 15 per cent.

No. 2

Chairman: That is, without his help? Evidence

A. Yes.

Lisa Choo

Q. Without. And what were the most  
important ways in which he was able  
to help to get to the bottom of it  
to find out which clients were owed?

Examination  
(continuation)

10

A. First of all, he was able to give me  
the address to contact clients. Then  
he was able to identify; for instance,  
he paid from different accounts,  
cheques. Where rightly should come  
from Account A, he paid from Account  
B. Then he would tell me to put it  
back - that way, you know.

20

Q. And as far as you told us about false  
names of payees on the cheques, did  
he occasionally admit they were false?

A. Yes, he did.

Q. Now we will come back to page 35, but  
just to give you a few examples of  
how Santhiran operated - perhaps I  
can ask you to go on to page 117.

30

Mr.Ross-Munro: Sir, might I apologise  
to the Committee (about) the  
documents, and I am not going  
to show the terrible photo-  
stats. It is no one's fault  
here; it is simply that they  
were used in another court  
and photostated time and  
again, and it is only with  
Miss Choo's help that one  
can actually read them.

40

Q. Now if you look at page 117, one sees  
at the top a cheque, and if you look  
at the payee's name, the only thing

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

Q. (cont) that seems to be clear was  
"Income Tax". What would that be?  
"Comptroller"? A. Comptroller of  
Income Tax.

No. 2

Evidence

Q. Comptroller of Income Tax. And if  
one looks at the signature, would  
that be Santhiran's signature?

Lisa Choo

Examination  
(continuation)

10

A. Yes.

Q. I can't see how much the amount is  
for - I don't think it really matters.  
Can you see that? A. I think it is  
380.

Chairman: Are you reading out from  
the copy?

A. No, I can't.

Chairman: You can't read that.

20

Q. I think one can get the thing in  
anyway from the Ledger. If you look  
at the bottom of the document, one  
sees "Insurance Co. of North America."?

A. Yes.

Q. Would that be the clients in the  
Ledger? A. That is right.

Q. And under the payee, "Comptroller of  
Income Tax"? A. Yes.

30

Q. And was this in fact the discovery  
the pupil made which first aroused  
suspicion as far as Santhiran was  
concerned? A. Yes.

Q. And if you turn over to the next  
document, which is page 118, that is  
a photostat of a ledger entry?

A. Yes.

Q. And if you look half way down, fourth

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

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Evidence

Q. (cont) item on the left, one can just see the words, "the cheques to ourselves, to our costs" - do you see that? A. Yes.

Q. The fourth item where it says - this time it's quite clear - you see the word "Mercedes Benz", the words before "cheques to ourselves" read underneath again the cheque "Comptroller of Income Tax" - is that right? A. Yes.

Lisa Choo

Examination

(continuation)

10

Q. And underneath that is something "Advance transfer to Ledger 380"?  
A. Balance transfer.

Q. Balance transfer. And looking at just that entry in the Ledger by itself, would you have any idea that Santhiran was in fact using the monies to pay the Comptroller of Income Tax \$380.10? A. No.

20

Q. And is that one of the matters that he subsequently admitted? A. Yes.

Q. So you say by simply looking at the Ledger it would give you no clue at all? A. No.

Q. But in fact that \$380 was used by Santhiran presumably to pay his own income tax? A. Yes.

30

Q. And after he admitted that particular dishonest transaction did you make him initial the entry? A. Yes.

Q. And if one looks at the right-hand column, the last column on the right, after the figure \$380, there is an "S.S.", and that is what you made him initial? A. Yes.

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

No. 2

Q. So that is one method he used, and you say without his cooperation anybody just looking at the Ledger would know no further? A. Yes.

Evidence

Lisa Choo

10

Q. Then turn over the page 119, if you look at the bottom of that page, one sees the clients Ong Swee Lim and Ong Swee Hock. I think those clients were the two uncles of Mr. Lee who came in and complained later? A. Yes.

Examination  
(continuation)

Q. Because nothing seemed to have been done. Now if you look at the cheque above for \$500 one sees that it is signed. Is that Santhiran's signature? A. Yes.

20

Q. And it is made out to Poh Soon Ming, is it? A. I think it is Peh Siang Ming.

Q. And who is Peh Siang Ming? A. He was one Lee's uncle was suing, the Defendant.

Q. He was the Defendant whom Lee's uncle was suing? A. That is right.

30

Q. Again if you look at the next document, a Ledger sheet equally illegible unfortunately - if you take about the middle of the page, one sees - is that the same, Ong Swee Hock? Is that right? A. Yes.

Q. "Re 67B Tampenis Road"? A. Tampenis Road.

Q. Is that what the litigation is about? A. Yes.

Q. That is opposite the column 750? A. Yes.

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

Q. And if you look at the next line on the left-hand column, it has got "Cheque to Peh Siang Ming re Tampenis Road, 500." And somebody has added up and put "1250."

Evidence

A. That is right.

Lisa Choo

10

Q. Again without Santhiran's cooperation, if one merely looked at that entry alone and you didn't realise that Mr.Peh Siang Ming was the Defendant in the action, would there seem to be anything wrong in there?

Examination  
(continuation)

A. I would not know whom Peh Siang Ming was.

Q. And again did Santhiran admit that one subsequently and did you make him initial it on the right-hand side?

20

A. Yes.

Q. Then again if you look at 121, one sees there under the Ledger entry, the client was the Estate of Soh Chuan Swee, and it seems to be for what - 977? A. Yes, 977.

Q. And the person who signed the cheque was Santhiran? A. Yes.

Q. And it is made out to Asia Life Assurance? A. That is right.

30

Q. And in fact did you subsequently discover from Santhiran that he was just paying insurance premium, his own personal insurance premium with this cheque? A. Yes.

40

Q. But if you just look at the Ledger alone and you didn't have his cooperation, if you look at the next page towards the bottom, I think the middle of the page, one gets the client's number and Soh Chuan Swee,



LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- Q. (cont) is that right? A. Yes. No. 2
- Q. Right, the last line: it says "cheque to the Asia Life Assurance Society, 977." A. Yes. Evidence
- Q. And again anybody just looking at the Ledger, would they see anything suspicious about that? A. No. Lisa Choo
- 10 Q. Perhaps I don't want to go into too much detail because I am sure you will find there are literally hundreds of examples like this, but just to see a different method that Santhiran (used) occasionally. Let us look at the next one, 173. Examination (continuation)
- 20 There the client was the Nanyang Insurance Co. So that is what you find on the Ledger. If you look at the cheque the payee is the Singapore Building Society Ltd. and again I see this time the actual signature is Mr. Wee himself? A. Yes.
- Q. And was it the practice when Mr. Wee was in the country, he signed the cheques, but if he wasn't, then they could be signed by a Legal Assistant? A. Yes.
- 30 Q. And subsequently did Santhiran admit to you on this occasion all he did was to steal the cheque going to the Singapura Building Society and just open out an account in his own name and pay the cheque? A. Yes.
- 40 Q. And again if one looks at the next document at the middle of the page, one sees a large sum - 4,000 - Singapore Building Society re settlement of stores. Somebody reading that alone, would he feel anything suspicious? A. No.

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- 
- 10 Q. But in fairness did Santhiran later  
tell you what he was going to do with  
that 41,000, having paid the Building  
Society, was to collect the interest  
and when the client finally wanted to  
get the money back he would then  
draw it out, give it to the client  
and take the interest - rightly or  
wrongly, is that what he told you  
he would do? A. Yes.
- 20 Q. And then I think, in order to save  
time, if you look at 125, 126. Take  
125 first. I can deal with it very  
quickly. I think this is another  
method where it says "Transfer to  
Java Singapore Trading Co. and those  
16 accounts, I think, were dormant  
accounts, and they total 13,124. Then  
he would draw a crossed cheque to  
that amount? A. Yes.
- 30 Q. And again if either my learned  
friend Mr.Grimberg or the Committee  
wants more examples and clarification  
on the Ledger Sheets you are in a  
position to help them on that, is  
that right? A. Yes.
- Q. And, Sir, I won't continue through  
those ledgers or cheques.  
But just, if you will go on to 132,  
there is just one example of a  
different method. 132, one sees the  
payee as a "C. Soh"? A. That is  
right.
- Q. Did that turn out to be a totally  
fictitious person? A. Yes.
- Q. And it is what - a bearer cheque?  
A. It is a bearer cheque.
- 40 Q. And again numerous examples on  
that. If you then look at 134.

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- 
- Q. (cont) Following the refund direct to clients' account, and it sets out the list and total is 80,181?  
A. Yes.
- Q. Was that in fact refunded in March, roundabout February and March?  
A. Yes.
- 10 Q. Without Santhiran's cooperation would it have been possible to identify which of those accounts and find out exactly the amount of money that was owed to them to pay it back? A. No.
- Q. If you look at the next page 135, 136, one sees again following the refund to clients' account, and they are all specific amounts for specific clients and they total to 68,029?  
A. Yes.
- 20 Q. And were these, in fact you were able to put them back and identify each client between April and roughly June or July 1976? A. Yes.
- Q. And again without Santhiran's cooperation could you in fact have been in a position to identify which of these clients and the exact amounts? A. No.
- 30 Q. Now if you will go back to 35, we know that on the 18th of March Santhiran repaid 267,000. After he had repaid that lump sum of money, so to speak, did you have a conversation with Mr. Wee about your difficulties in identifying that lump sum - what was owed to each client? A. Yes, I did.
- 40 Q. And what did he say to you?

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

A. He said "get Santhiran to help you to clear off the amount that was due to client."

Q. And thereafter did you devote most of your time the next three months to try to clear it up, identify each client and how much owed? A. Yes.

10 Q. I wonder if you can help us on this: when he told you to get Santhiran to help you to find out and identify each client and how much was owed, did he express any tremendous worry about the exact amount that had been taken to you? Did he seem worried about the actual amount that had been taken, or was his main worry trying to identify which client?

20 A. He said you must, you know, pay back to clients what is owed to clients at the time.

30 Q. Now if you will go back to page 35. We have got the first two paragraphs, 1 to No.9. Then he goes on later, he said the items totalling 9,161 were in fact taken by him, and he also admitted further sums totalling \$15,000, the items not in the admitted list, making a total of 26,000. And if we could just quickly look at the list at 12, you will see there subsequently admitted by Santhiran, and you totalled it to 26,073?

A. Yes.

40 Q. And again - I know dates are difficult because it is a long time ago - but can you tell us approximately when he conceded an item of 9,000, etc. was taken from him? Roughly, what month?

Chairman: Which amount?

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

In the  
Disciplinary  
Committee

No. 2

Q. The 9,000 which he originally put a question mark on, but later conceded were in fact taken by him. I was just wondering if she could put a rough date as to what it was?

Evidence

A. I think it would be end of March, beginning of April.

Lisa Choo

Examination  
(continuation)

10

Q. And then he also admitted further sums totalling 15,911 on the non admitted list - would that be about the same time? A. Yes.

Q. And so the matter was unchanged going on, and various sums in the year 73, 75, originally not admitted were remarked as admitted - what sort of dates was all this going on?

20

A. I think it was within the three months, March, April and May.

Q. In those three months - March, April, May? A. Yes.

Q. Then it goes on: "Total amount... 96,282, he was unable to support, but approximately as follows" - then you set out an admitted list - 194,897, and altered from "not admitted" to "admitted". So it gets up to 300,540. And then you said, "The above took place in March 1976". Do you think it is accurate - March 1976?

30

A. It is April, May.

Q. So 7th March really should be April, May? A. Yes.

Q. (Reads) "This period ... some 267", and that is all set out. Next paragraph, "Soon after Santhiran tried to retract his admission to only 300,541." Would that be also about the same period - March, April, May? A. Yes.

40

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

In the  
Disciplinary  
Committee

- No. 2
- Evidence
- Lisa Choo
- Examination  
(continuation)
- 10 Q. (Reads) "Clients were then called in to verify some of the amounts paid" - did you personally receive many of these clients once they came to the office? A. Yes, I did.
- Q. (Reads) "Then the amounts that were verified from the original 400,000 amounted to 413,731, and not 96,000 mentioned above ... .. between April and July", and you have given two more lists - 12A to 13A, so if you can just look at the lists. And that, I think, is the whole lot of receipts? A. Yes.
- 20 Q. And if one just glances over to 138, again a lot of receipts. 130 is in respect of James Tan. I see that is dated 4th June 1976? A. Yes.
- Q. Then C, and so on. And then just over the page at 37:
- "While this was going on we discovered further sums. He was asked to prove this has been paid."
- Would that be about June?
- A. Yes.
- 30 Q. And what is set out in P.14<sup>?</sup>, which is at page 66, the one headed "Supplementary List".
- By this stage in June 1976, was he taking the attitude he paid too much - 269,000? And was he given further opportunity to prove the fact that he had actually paid to clients? A. Yes.
- Mr. Choo: By June?
- Q. Yes, by June his attitude was he had paid too much. And in fairness

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

In the  
Disciplinary  
Committee

No. 2

Evidence

Lisa Choo

Examination  
(continuation)

10

Q. (cont) he should have been given an opportunity of proving this. I don't know if that can be a convenient moment? I am happy to say I will be, I expect, about another 10 minutes or a quarter of an hour, and I will be done with it as far as I am concerned.

Chairman: At half-past 2, then, we will meet again.

(Hearing is adjourned at 1 p.m.,26/9/80)

(Hearing resumes at 2.35 p.m.,26/9/80)

(Witness, Lisa Choo, steps into the Box).

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

20

Q. Miss Choo, if you look at page 39 in the second column, before the adjournment you just said that Santhiran wanted an opportunity to check because he had probably overpaid. Now going on: "He then made a fresh claim, that the total amount shown ... either by a Legal Assistant or through a clerk in charge of the matter" - and again approximately what would be the date of that - June, July or?

30

A. I think it was in May or June.

Q. And then again: "He wanted a chance to prove this - to reduce the amount by 40,056, and he has mentioned file 15."  
If you can just glance through that -

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

In the  
Disciplinary  
Committee

- Q. (cont) that is page 65, Sir. File 15. And so he began producing files and he reduced the amount by 40,056?  
A. Yes. No. 2  
Evidence
- Q. These files that were produced - again can you remember what date would that be - May, June?  
A. I think it is some time in June, July. Lisa Choo  
Examination  
(continuation)
- Q. These files he produced in June and July - had you been able to find them before he produced them? A. No.
- Q. But after he had produced them you were satisfied that he had been able to prove that there was 40,000 - 40,056? A. Yes.
- Q. Then it goes on: "Further sums totalling 19,117 were all" - this is explained in the next paragraph - total of 236; that is, the 98,000 was tentatively fixed as the amount missing.  
And then here comes the explanation on the 19,000:
- "One of the clients who originally called at the office, admitted receiving 66,896 withdrew his admission and said that only 50,794 had in fact been received. The rest of 16,102 was not paid. ... .. We checked this with Santhiran who admitted it by initialling against the Ledger ... he paid in."
- If one just looks at 13A, and then 16. 13A is page 56 now and shows a list there and underneath is the total admitted on Lim & Beng, \$68,605.50. Whose handwriting is that? A. It is mine.



LISA CHOO

(Exam.in.chief by Mr.Ross-Munro, cont)

In the  
Disciplinary  
Committee

No.2

Evidence

Lisa Choo

Examination

(continuation)

10

Q. And then if you glance at 16, at page 68, Sir. And so that is the 50,794 that the client, first of all, said he received - is that right - after, he withdrew his admission.  
And then going to the last two lines of page 57:

"... received some of the items, the denied items totalling 3,015".

Again you have got a list there which is 13J, which is at page 65. Let us go over the page, it may help you in this. The text says, if you look at 13J - it says you have the "15" somewhere?

20

A. No, here I gave the total. Whatever he signed for, I subtracted.

Q. I follow - those are little signatures then he received? A. Yes.

Q. There is a signature at 152, is that right? A. Yes.

30

Q. And then you go on: 2,152 made up of clients' accounts. and throughout the rest of the period the position was that the figures were changed, figures were checked and rechecked. "We continue to discover more missing files."

Now you said "continue to discover more missing files". We know he left in December 1976? A. Yes.

40

Q. And we know that you gave up and handed over to the Accountants in round about September. Between September 1976 and December 1976, was he still discovering ... from the missing files? A. Yes.

Q. And we know - just to end up the

LISA CHOO

(Exam.in.chief by Mr.Ross-Munro,cont)

In the  
Disciplinary  
Committee

- 
- No. 2
- Evidence
- Lisa Choo
- Examination  
(examination)
- 10 Q. (cont) chronology of the story -  
that round about end of August or  
September when you approached Mr.We  
and said you could not go on with  
the investigation? A. Yes.
- Q. And after that we know the Auditors  
were appointed in early November.  
And I think just two more items I  
want to ask you. We know that the  
first preliminary report from  
Medora and Thong was received by  
Braddell Brothers on the 31st  
December 1976? A. Yes.
- Q. Soon after that did Mr. Wee instruct  
you to start drafting a complaint  
**both to the Police and the Law  
Society?** A. Yes, he did.
- 20 Q. And the first attempt you made,  
when you showed it to Mr. Wee, was  
it (faired)? A. No, it was not.
- Q. And then if you perhaps look at  
page 93, that is headed "Redraft"  
and is dated 25th February 1977, and  
it has got both your initials and  
**Miss Chan's?** A. Yes.
- 30 Q. Mr. Wee told you, after your first  
attempt was unsatisfactory, that  
Miss Chan would help you in drafting  
the report? A. Yes, he did.
- Q. You would stay there, if you please.  
A. Yes.
-

LISA CHOO

(Cross-examination by Mr.Grimberg)

In the  
Disciplinary  
Committee

- 
- 10 Q. Miss Choo, could you just help me. What are your normal duties? As an Office Assistant. You describe yourself as Office Assistant. What are your normal duties? A. I do administration.
- Q. Administration? A. Yes, and Mr. Wee's work.
- Q. You mean typing? A. Yes.
- Q. So do I understand you to say that you were his Private Secretary?  
A. Yes.
- Q. You were his Private Secretary. And in addition to being his Private Secretary, you will be doing administration. What does that involve?  
A. Staff and all this - recruitment.
- 20 Q. Recruitment of staff. You have nothing to do with the accounts?  
A. No.
- 30 Q. Nothing to do with the accounts, and all through the months when you were doing, if I may say so, an extremely difficult job over the Santhiran misappropriations - all through these months were you still doing your normal duties as Mr. Wee's Private Secretary? A. At that time Mr. Wee was more involved in Haw Par, and we have another Secretary doing all the work.
- Q. You had another Secretary doing the Haw Par work, is that right?  
A. Yes.
- Q. And did you continue doing his non-Haw Par secretarial work throughout this period? A. That was, part of

No. 2

Evidence

Lisa Choo

Cross-  
Examination

LISA CHOO

(Cross-exam. by Mr.Grimberg,cont)

In the  
Disciplinary  
CommitteeA. (cont) that was given to the other  
Secretary.

No. 2

Q. And part of it you continued to do?  
A. Yes.

Evidence

Lisa Choo

10 Q. Now I wonder if you can help us on  
this. It was suggested to you by  
my learned friend Mr.Ross-Munro that  
Mr.Santhiran was uncooperative, but  
at one and the same time you told us  
that if Santhiran had not been  
cooperative you would not have been  
able to trace the various clients'  
accounts out of which monies were  
taken. Now ---

Cross-  
Examination  
(continuation)

20 Mr.Ross-Munro: I think, with respect,  
I don't think she said quite  
that. What she said was, in  
answer to my question, that  
during the period from March  
to December, sometimes he  
was cooperative and sometimes  
he was not cooperative; and  
she mentioned on the whole he  
was fairly cooperative. But  
occasionally he wasn't, and  
then she added: sometimes he  
was even positively misleading.  
30 And she gave an example about  
the ... Would that be fair?

Mr.Grimberg: Yes, may I take it from  
you?

Q. Was he generally cooperative or  
uncooperative? A. Cooperative.

40 Q. He was generally cooperative.  
Now you found him cooperative,  
Miss Choo. Do you think he would  
have been equally cooperative with  
anybody else who was investigating  
the matter? A. Well, at that time

LISA CHOO

(Cross-exam. by Mr.Grimberg,cont)

In the  
Disciplinary  
Committee

No. 2

Evidence

Lisa Choo

Cross-  
Examination  
(continuation)

- A. (cont) he used to come to me to do all the things when - you know - at one stage when he couldn't do. I brought him a pupil to assist him, but he didn't go to the pupil. He came to me.
- 10 Q. He would rather talk to you. Perhaps you can tell us this. You told us that he was generally cooperative. Did you sometimes get the impression that Santhiran himself was confused or that he simply couldn't remember some of the details with the best will in the world, did you get that impression? A. Yes.
- 20 Q. Yes. Did you ever get the impression, Miss Choo, that Santhiran was deliberately obstructive and deliberately misleading with you? A. Deliberately?
- Q. Yes, did you ever get the feeling that he was deliberately obstructing your investigations or deliberately trying to mislead you in any way? A. I don't think so.
- 30 Q. I think it is right, isn't it, that Mr.Santhiran joined Braddell Brothers more or less at the same time as you did? A. Yes.
- Q. Did you address him as "Mr.Santhiran"?  
A. Not always.
- Q. What did you call him, when you didn't call him "Mr.Santhiran"?  
A. Sometimes we were quite (informal) - called him "Santhiran".
- Q. "Santhiran"? A. Yes.
- Q. He was a qualified lawyer and you were a - if I may say so - Private

LISA CHOO

(Cross-exam. by Mr.Grimberg, cont)

In the  
Disciplinary  
Committee

- 
- Q. (cont) Secretary, Personal Secretary to Mr. Wee. You had no authority of any sort over him? A. I beg your pardon? No. 2  
Evidence
- Q. You had no authority over Mr.Santhiran. You couldn't order him to do this or that? A. No. Lisa Choo  
Cross-  
Examination  
(continuation)
- 10 Q. And if you cast your mind back to that confrontation that Mr.Wee had with Santhiran after the week-end when you discovered that over \$200,000 had been taken - you remember that confrontation he had in the room? After that time, am I right in saying that Mr.Wee seldom, if ever, took part or assisted you in your investigations of these defalcations? A. Yes.
- 20 Q. By the end of June 1976 Mr.Santhiran had repaid approximately \$297,000? A. Yes.
- Q. Were you as satisfied as you could be in your mind, Miss Choo, that all clients' monies that had been taken had by then been recovered?  
A. I do not think so because every time we looked we found new discoveries.
- 30 Q. Yes, perhaps I should pitch it a little bit lower. By the end of June 1976, did you think that the bulk of clients' monies had been recovered? A. June?
- Q. End of June, when you got 297, did you think the bulk of the clients' monies had been recovered?  
A. Yes.
- 40 Q. And the major problem after the end of June was to try and identify the clients from whom this money had

LISA CHOO

(Cross-exam. by Mr. Grimberg, cont)

In the  
Disciplinary  
Committee

- Q. (cont) been taken - that is right?  
A. Yes. No. 2
- Q. And by August and September, I think you told us before lunch, by August and September you had identified 50 per cent - or put it another way, you knew to whom 50 per cent of this money belonged? A. Yes. Evidence  
Lisa Choo  
Cross-Examination  
(continuation)
- 10 Q. By when, by what date approximately did you discover to whom the balance of the 50 per cent belonged? A. I was still carrying on. If you can tell me the precise, ask me the precise - I wouldn't know. We were working on it. Even M... and Mr. Wee said I couldn't go further.
- 20 Q. So when did you think you could identify, roughly, speaking, to whom the balance of the 50 per cent belonged? A. I almost writing to the Law Society about November.
- Q. About November? A. Yes.
- 30 Q. And by that time, Miss Choo, am I right in saying that whatever monies remained to be recovered wasn't clients' money at all. It was firm's money? A. That was what we thought at that time, yes.
- Q. That is what you thought at that time? A. Yes.
- 40 Q. Perhaps you will look at the bundle in front of you. I can't refer you to the pages because I don't know them. But you may know, may you not, that it was after the 30th April 1977. We know you typed the letter of 30th April. Mr. Wee formally reported the defalcation to

LISA CHOO

In the  
Disciplinary  
Committee

(Cross-exam. by Mr.Grimberg, cont)

No. 2

- 10 Q. (cont) the Law Society. Remember that? I will show you the letter. (Shown to witness) This letter. A.1, Evidence  
page 1. Now my question to you is, at that point in time, in your mind how much money still remained to be recovered from Mr.Santhiran, and if you like to look at the other big bundle, perhaps you like to, you could do so.  
Lisa Choo  
Cross-Examination (continuation)
- In other words, on the 30th April 1977, in your mind how much money still remained to be accounted for?
- A. 30th in April. March, April I wasn't at Braddell Brothers.
- Q. Oh, you weren't there?  
A. Yes.
- 20 Q. I didn't realise it was that time. When did you come back to Braddell Brothers? A. I think in May.
- Q. Turn over to the next page, will you? Can you just hold that up? Now what was the date of that? A. 27th May.
- Q. 27th May, and that is Mr.Wee's formal report, isn't it, to the Law Society about Mr.Santhiran? A. Yes.
- 30 Q. You typed that - probably you can't remember?  
Can you tell us from looking at Bundle B, the big bundle? Mr.Ross-Munro did not take you through at that point of time. Can you tell us what money you still thought Santhiran had to account for?  
A. At that time Medora told me it was around 350,000.
- Q. Altogether? A. Altogether.
- 40 Q. Out of which 297,000 had been



LISA CHOO

(Cross-exam. by Mr.Grimberg, cont)

In the  
Disciplinary  
Committee

- 
- Q. (cont) recovered? A. That is right. No. 2
- Q. So there was still about 50,000 to be recovered? A. Yes. Evidence
- Q. And all that money was office money, not clients' money? A. I am not very sure. Lisa Choo
- 10 Q. You are not very sure. Now you remember of course, Miss Choo, that Mr.Santhiran left the practice in, or left Braddell Brothers in December 1976? A. Yes. Cross-Examination (continuation)
- Q. Did he tell you if he was going? A. No, he didn't.
- Q. He just took his things and went? A. Yes.
- 20 Q. And do you remember it being discovered in January 1977 that he had set up his own practice? A. Yes.
- Q. That was when Mr.Wee was away in London? A. That is right.
- Q. And when that discovery was made, did you discuss the matter with Miss Chan Lai Meng? Did you discuss it with her? A. Chan Lai Meng - no.
- Q. Did she discuss it with you? A. No.
- 30 Q. Did she tell you that she had telephoned Mr. Wee in London to tell him? A. No.
- Q. If we can go back in time again to March 1976, while you were busy doing your investigations and Mr. Santhiran was in the process of repaying \$256,000, you remember, which he had done by the 18th - at about that

LISA CHOO

(Cross-exam. by Mr.Grimberg,cont)

In the  
Disciplinary  
Committee

Q. (cont) time did you recall Turquand Young's people coming in to the office for the purposes of doing their audit to prepare their Accountants' (certificate)? A. In March?

No. 2

Evidence

Q. March/April 1976? A. No.

Lisa Choo

Q. You don't remember that? A. No.

Cross-  
Examination  
(continuation)

10

Q. Do you know about the necessity for an Accountants' Report before Solicitors are issued with practising certificates - do you know about that requirement? A. I didn't know at that time.

Q. You did not know at that time. Now I am sure, Miss Choo, you had excellent secretarial qualifications. Do you have any accounting qualifications at all? A. I took it right up to the preliminary stage. That was only the basic. I attended a course.

20

Q. You attended a course, but you left without getting any qualification?  
A. Yes.

Mr.Grimberg: Thank you.

-----

LISA CHOO

Re-examination

(Re-examination by Mr.Ross-Munro)

30

Q. Just two very minor matters, Miss Choo, I want to ask you on. My learned friend Mr. Grimberg asked you various questions on how much time you devoted to the investigation and how much you and the other Secretary in Haw Par shared Mr.Wee's

LISA CHOO

(Re-examination by Mr. Ross-Munro, cont)

In the  
Disciplinary  
Committee

- 
- Q. (cont) personal typing (work).  
Again very roughly, one knows one cannot be accurate in the time, between March 1976 and, say, August 1976 what proportion of your time was spent doing personal typing for Mr. Wee?
- 10 A. I would say about three-quarters of my time was on Mr. Santhiran's matter.
- Q. About three-quarters of your time on Santhiran's matter? A. Yes.
- Q. And the only other very small matter I want to clear up is this: that you told the Committee, when giving evidence in chief, that generally between March 1976 and December 1976, generally Santhiran was co-operative, but sometimes he wasn't and on occasions could be deliberately misleading, and you quoted the example of bringing clients in who told lies?
- 20 A. Yes.
- Q. But my learned friend Mr. Grimberg asked you, did you think that Santhiran was deliberately trying to (disturb) the investigation, and I think you said, "I don't think so". I just wonder how that answer "I don't think so" ... up with the example you gave us, "Sometimes he would be trying to deceive" you?
- 30 A. Well, I will not say deliberately misled; maybe a slip of his mind because he was very confused at that time, and he came back and said he had forgotten, "Could you please change this?" He was very confused.
- 40 Q. When he brought clients who, first of all, told you lies and later retracted, as far as you can see was that a deliberate act of Mr. Santhiran or ---

No. 2

Evidence

Lisa Choo

Re-examination  
(continuation)

LISA CHOO

(Re-examination by Mr. Ross-Munro, cont)

In the  
Disciplinary  
Committee

Chairman: Or the clients? There are three alternatives. You asked the question: Was it the act of Santhiran, or was it the accused? There is a third alternative - was it the clients?

No. 2

Evidence

Lisa Choo

10

Mr. Ross-Munro: Very much obliged, Sir.

Re-examination  
(continuation)

Q. Perhaps you can help us when you saw these clients, the ones that first of all told you lies and later admitted it and told you the truth - did they tell you how they came back to the office? A. Mr. Santhiran told them to come in.

Mr. Ross-Munro: I don't think I can get very much ---

20

Chairman: It is difficult.

Mr. Ross-Munro: So that is all I would like to ask on these.

Questions by the Committee:

Questions  
by the  
Committee

Mr. Po: This question files - you said he brought these missing files to you. Did you ask him where he got these files from?  
A. At that time I did not ask him.

30

Q. You did not know where he got these files from?  
A. No.

Q. You never bothered to ask him?  
A. No.

Chairman: Mr. Munro, I believe yesterday when the question of Ledger Book came up, you thought it

LISA CHOO

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

No.2

Chairman: was a matter which was  
(cont) really more within the  
knowledge of this witness,  
Miss Choo, and I do not know  
whether you were waiting for  
Miss Choo to produce the  
book?

Evidence

Lisa Choo

Questions  
by the  
Committee

(continuation)

10

Mr. Ross-Munro: No, what we did was  
after the lunch adjournment  
I formally put in the Ledger  
asan exhibit, and we gave it  
a number, so that it is in  
evidence, and it is simply that  
I expect you may like to look  
at it yourselves, and I suspect  
with the very bad photostat  
in Volume II you may want to  
get a clearer copy. By look-  
ing at the Ledger you will be  
able to find it.

20

Chairman: Fine.

Mr. Ross-Munro: So anything, the Ledger  
should help.

Chairman: Miss Choo, you after going  
through those books for several  
months, you are quite familiar  
with the books by now?

30

A. Yes.

Q. You have given us some examples  
of how Santhiran managed to  
get money out of the office by  
false or fictitious entries  
this morning? A. Yes.

40

Q. Now we were given a few  
examples of how he had, the  
tactics which he had resorted  
to, and were actual examples  
of having taken place. Now, if  
I can read my handwriting, the

LISA CHOO

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |   |  |
|----|---|--|
|    | Chairman: first example is, one case<br>(cont) was suppose Santhiran re-<br>ceived money on a judgment;<br>he takes out the money osten-<br>sibly to pay the client<br>but ---  | No. 2<br><br>Evidence<br><br>Lisa Choo             |
| 10 | Mr. Ross-Munro: No, <del>Sir</del> , these were the<br>examples which Mr. Wee gave.<br>I think he gave five. Two of<br>those, I think, if not three<br>are theoretical, but a couple<br>of them were actual. But<br>three were theoretical; a<br>couple were actual. I suppose<br>Miss Choo gave actual examples<br>in the Ledger Book today.   | Questions<br>by the<br>Committee<br>(continuation) |
|    | Chairman: Those are real examples?  |  |
| 20 | Mr. Ross-Munro: There are literally<br>hundreds.  |  |
|    | Chairman: No, no. I mean they are the<br>type of examples.  |  |
| 30 | Mr. Ross-Munro: No, I think if I can make<br>that clear; it is probably my<br>fault: what Mr. Wee was doing<br>yesterday was to give five<br>examples, not necessarily the<br>only examples - the five ways<br>in which it could be done, at<br>least five by which clients<br>might suffer. Of those five,<br>I think three were theoretical,<br>like the Order 14 judgment.<br>And I think a couple of them<br>were actual ones. Certainly<br>Mr. Lee's uncle was a real one. |  |
| 40 | Chairman: Oh, I see. I was a little<br>bit, shall I say, misled and<br>confused because I did ask<br>whether this was an actual   |  |

LISA CHOO

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

Chairman: example. I got a "Yes" from  
(cont) you yesterday.

No. 2

Mr. Ross-Munro: Well, it was my fault.  
I did mention to my learned  
friend yesterday that a couple  
were actual.

Evidence

Lisa Choo

Questions  
by the

Committee

(continuation)

10

Chairman: So the example of \$10,000  
having been received from a  
client who had died - was  
that actual or ---

Mr. Ross-Munro: I think that is theoretical.

Chairman: Theoretical. And in the other  
case where no representations  
were taken out for a deceased  
person?

Mr. Ross-Munro: That is the same one.

Chairman: Same one. Right.

20

Mr. Ross-Munro: But I think Mr. Wee did  
want to. I think Mr. Wee can  
actually give you some more  
examples of actual ones because  
I know there is one additional  
one, an actual one that I didn't  
bother to ask him about. So if  
you want to I have no doubt you  
can ask him.

30

Chairman: My interest was aroused because  
of the fact that the example  
given was so unusual that I  
was wondering whether it  
actually happened.

Mr. Ross-Munro: But certainly there are  
actual ones, if you want them.

Chairman: Miss Choo, can you - when the  
sum of \$297,000 was recovered

LISA CHOO

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

No. 2

Chairman: in the month of March 1976  
(cont) from Santhiran you were in  
charge of the accounts them-  
selves. Can you tell us, did  
the amount come in one lump  
sum or in separate sums?

Evidence

Lisa Choo

A. Separate sums.

Questions  
by the  
Committee

10

Q. Did you happen to know where  
they came from?

(continuation)

A. There were two cheques with  
Santhiran's name. He handed  
to me - I think it was a Monday  
afternoon. He gave me two  
cheques and gave me a stack of  
fixed deposit receipts and  
told me to withdraw it. And  
then straight away he dictated  
a letter to me and said, "Send  
it off", which I did.

20

Chairman: When you handed over the  
accounts to Medora and Thong -  
first of all you recovered  
\$267,000 from Santhiran?

A. That is right.

Q. And by the time you handed over  
the accounts to Medora and  
Thong in November had any more  
money come in from Santhiran?

30

A. Yes, in May.

Q. In May. And after that, did  
you happen to have charge of  
this Ledger? After Medora and  
Thong came in?

A. I was still assisting them.

Q. Do you know whether there was  
any other money received  
after Medora --- A. I can't  
remember.

40

Q. You can't remember.



LISA CHOO

In the  
Disciplinary  
Committee

Questions by the Committee (cont):

Chairman: That is all I have to ask her.

No. 2

-----

Evidence

Mr.Grimberg: Sir, I am just wondering whether, as you know, sometimes our practice is to suggest that questions are put by the Tribunal. I wonder whether the Tribunal would care to ask this question: it appears that the Respondent chose to appoint in effect his Private Secretary to do this investigation. I wonder if you would care to - I leave it to you - to find the truth from her whether the accounts staff in the office could have (carried out) the investigation or whether they were prevented from doing it. If you feel you want to ask?

Lisa Choo  
Questions  
by the  
Committee  
(continuation)

10

20

Chairman: I think it is not relevant.

Mr.Ross-Munro: I don't mind.

Chairman: You understand the question?

A. Yes. You see, the old cashiers, all of them, left in February 1976 and I just took in two new girls in February 1976. They were fairly new; they didn't know what was going on. So Mr.Wee told me to help them to sort out, and that was how I was brought in.

30

Chairman: In practical effect you took charge of the Accounts Department, too?

A. No, you see, when Santhiran gave me the money to refund

40

LISA CHOO

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont)

- |    |   |  |
|----|---|--|
|    | A. the client, I just handed it to the cashiers and they would do the writing out in the book, and all that. They would do the actual accounting, whereas I am more on the investigation.   | No. 2<br>Evidence<br>Lisa Choo                     |
| 10 | Chairman: Two new cashiers came in?<br>A. Yes.  | Questions<br>by the<br>Committee<br>(Continuation) |
|    | Q. The two old ones had left, I see. And was there any more of the old staff left in the cashier' department?<br>A. No, these two.  |  |
|    | Q. When did they come in?<br>A. One, I think, came in mid-January, and one early February.  |  |
| 20 | Q. Oh, they came in before the (extra work)?<br>A. Yes.   |  |
|    | Q. Just then?<br>A. Yes.  |  |
| 30 | Q. So by March would you say that they had been able to sort of have a grip on the job or were they still new?<br>A. I think they were still new because when they just came one accountant walked away and there was nobody in the Accounts Department, so I just took in, shall I say, inexperienced girls. |  |
|    | Q. I see. That being the case, in the month of March did your office have to submit accounts for ---<br>A. I am not very sure. I do not know anything about the actual running of the accounts. I   |  |
| 40 |   |  |

LISA CHOO

In the  
Disciplinary  
CommitteeQuestions by the Committee (cont):

- |    |  |  |
|----|--|--|
|    | A. was more - I was brought into the picture more in the investigation to look into the Ledger Account, Cheque Account.  | No. 2<br>Evidence<br>Lisa Choo                     |
| 10 | Chairman: Doyou happen to know whether at that time Turquand Young's representative came into the office? A. When I was busy doing that I didn't see anybody at all, not in March definitely. Because, you know, I took out the Ledger. If at all they were auditing they would ask me for the Ledger; the Ledger was with me. So nobody came to see me. | Questions<br>by the<br>Committee<br>(Continuation) |
| 20 | Q. Nobody came in. Did you happento know whether there was anything done after March and April? A. Not in April. I think it was much later, the mid-yearaudit, because they wanted to see Mr. Wee; he wasn't in. So S.K. Lee who asked me to fix an appointment to see Mr. Wee was in the office to give a call.   |  |
| 30 | Q. Do you know who was in charge of applications to the Court for the issue of practising certificates? A. I think it was the Court Clerk.   |  |
|    | Q. The Court Clerk who was in charge? A. Yes.  |  |
| 40 | Q. And you would not know whether these applications had to be accompanied by an Accountants' Certificate? A. No.  |  |

LISA CHOO

In the  
Disciplinary  
Committee

Questions by the Committee (cont):

Chairman: You did not have anything to  
do with them?

No. 2

A. Yes.

Evidence

Mr. Ross-Munro: Much obliged; thank  
you, Miss Choo.

Lisa Choo

(Witness stands down)

Questions by  
the  
Committee  
(Continuation)

Mr. Ross-Munro: So that is our evidence.

10

Chairman: That is all the evidence.

By the way, Mr. Munro, I would  
like Mr. Wee to be recalled  
for just a couple of questions  
to clarify some of the state-  
ments which he had made. I  
had intended to ask him this  
morning but somehow I was  
sidetracked on this.

20

Mr. Ross-Munro: Surely - Mr. Wee, you  
go there.

(Witness, H.L. Wee, is recalled and  
steps into the Witness Box)

Evidence

H.L. WEE - Recalled

H.L. Wee

Chairman: You are on your former oath.  
A. Yes.

Recalled

Questions by the Chairman:

Questions  
by  
Chairman

30

Q. Mr. Wee, you told us this morning  
that you saw the Vice-President of  
the Law Society on - is it - in  
April? A. Before, before I went  
to China. May I refer?

H.L. WEE - Recalled (cont)

In the  
Disciplinary  
Committee

Questions by the Chairman:

- |    |  |   |
|----|--|---|
|    | Chairman: Yes.   | No.2  |
|    | (cont) A. Just at the end of March;<br>that was the beginning of<br>April.   | Evidence                                      |
|    | Q. End of March. She was your<br>Vice-President? A. That is<br>right.  | H.L. Wae<br>Recalled                          |
| 10 | Q. I would like to get clarifica-<br>tion as to the capacities in<br>which you saw each other.<br>Did you see her officially or<br>as a friend? A. No, I saw<br>her to tell her as the Vice-<br>President because I being the<br>President, I just saw her to<br>make a report about this matter,<br>that I have these defalcations<br>in my office and I was preparing<br>a report. | Questions<br>by<br>Chairman<br>(Continuation) |
| 20 | Q. You just told her you were<br>preparing a report? A. Yes, I<br>gave her a copy of the draft.  |   |
|    | (Mr.Ross-Munro: I think he did give her<br>a draft.)   |   |
|    | Q. Draft, that is right. Now why did<br>you give her a draft report?   |   |
|    | A. Because it wasn't ready yet.  |   |
| 30 | Q. Because you can't make use of the<br>draft. A. That is true. I said I<br>was still waiting for the Accountants<br>to complete the report.   |   |
|    | Q. So the subject was still kept 'on<br>the racks', if I may say so, because<br>it was not ready. A. The other<br>reason I was going to say was that<br>the two accountants were going to<br>make a (joint report).  |   |
| 40 | March is the deadline, so I had to   |   |

	H.L. WEE -- Recalled (cont)	In the Disciplinary Committee
	<u>Questions by the Chairman (cont):</u>	
	A. tell her, "Can you please give me a month?" We have a month's grace. So I asked if we could also be given a month's grace. Dual reason to see her.	No. 2 Evidence H.L. Wee
10	Chairman: You mentioned an Accountants' Report. Was it a qualified report? A. That is right.	Recalled Questions by Chairman (Continuation)
	Q. What was the qualification? It has never been (shown). What was the qualification?	
20	A. I haven't got a copy - the qualification is that an employee of Braddell Brothers had committed a defalcation. That is basically what it was about.	
	Q. And when did that report go to Mrs. Quek (the Vice-President)?	
	A. At the end of March.	
	Q. At the end of April?	
	A. That is right.	
	Q. So that the Law Society had what you call official notice about the defalcation at the end of April? A. Oh, yes.	
30	Q. And that qualification was accompanied by the Auditors' Report, joint Auditors' Report?	
	A. Yes, I think by 30th April. It should have, I think. May I mention (I) enclosed the Accountants' Report?	
40	Q. What sort of accounts were supplied by you to the Law Society when you applied for it in March? Whose accounts	

H.L. WEE - Recalled (cont)

In the  
Disciplinary  
Committee

Questions by the Chairman (cont)

- |    |  |  |
|----|--|--|
| 10 | <p>Chairman: did you use in March when you applied for a practising certificate? A. I used this report.</p> <p>Q. But this didn't come - in April? A. That is why I asked for permission to deliver my Accountants' Report at the end of April.</p> <p>Q. At the end of April?<br/>A. Yes, and I reported the defalcation to Mrs. Quek as the Vice-President officially. I said it didn't affect me; it affected my - what you call - Mr. Santhiran only.</p> <p>Q. Do you know when practising certificates were issued?<br/>A. I can't remember.</p> <p>Q. Was it before or after you came back from China?<br/>A. I left, Sir. So I don't know. I can find out, if you like, if I can.</p> <p>Q. Do you happen to have records?</p> | <p>No. 2<br/>Evidence<br/>H.L. Wee<br/>Recalled<br/>Questions by Chairman<br/>(Continuation)</p> |
| 20 | <p>Mr. Grimberg: Only from the answers given by the Respondent in cross-examination in other proceedings.</p> <p>Chairman: But this was for the 1977 certificate? A. That is right.</p> <p>Q. Now what happened as regards the 1976 certificate? Were they issued on the strength of Turquand Young's Certificate?<br/>A. And that is again, yes.</p>  |  |
| 30 |  |  |

H.L. WEE - Recalled (cont)

In the  
Disciplinary  
Committee

Questions by the Chairman (cont)

- |    |  |   |
|----|--|---|
|    | Chairman: That is about the time the defalcation was discovered in March 1976? A. That is right.   | No. 2<br>Evidence                             |
|    | Q. And there you had the advantage of the certificate?<br>A. Yes.  | H.L. Wee<br>Recalled                          |
| 10 | Q. And the other point is this: your Counsel referred you to this point, and also Mr. Grimberg - the four conditions which were set down, and then after they had been complied with there was this matter of reference to the Attorney-General.<br>Where did these four conditions  | Questions<br>by<br>Chairman<br>(Continuation) |
| 20 | come from? Did they come from you? A. Four conditions - yes.   |   |
|    | Q. You set the conditions?<br>A. Yes, I mentioned them to Mr. Medora.  |   |
| 30 | Q. And (the reference) to the Attorney-General presumably would have to be sponsored by you, even though you say you did not. This important matter would have to go to the Attorney-General. A. Not in this case. In this case I think Mr. Chelliah, who gave it to me - he would do it. I would take the negative attitude. I would say, "This is the position: so far as I am concerned, he has repaid so much. He is going to get himself struck off and would |   |
| 40 | give some sort of undertaking."  |   |
|    | Q. You were not undertaking the  |   |



	H.L. WEE - Recalled (cont)	In the Disciplinary Committee
	<u>Questions by the Chairman (cont)</u>	
	Chairman: responsibility; you were (cont) placing the matter before the A.G.? A. Yes.	No. 2
	Q. You were placing the matter before his lawyer?	Evidence
	A. His lawyer was sponsoring.	H.L. Wee
	Chairman: Thank you very much.	Recalled
10	Mr. Ross-Munro: Thank you, Mr. Wee.	Questions by Chairman (Continuation)
	(Witness stands down)	
	-----	
	Mr. Ross-Munro:	In the Disciplinary Committee
	Sir, that deals with my case.	
	Sir, if I might then address you on Wednesday on the matter? There is only one matter that helps at all. You will remember I did mention the question of the (Solicitors') Accounts Rules, as to whether or not one could stop someone practising even though they had been convicted or were going to prison, and I would mention that I have had the opportunity to look up the Rules.	No. 2  Appellant's Counsel's Closing Speech
20		
	I wonder whether I might, simply to save time, put in the Rules for you - I know you can get hold of them, but as I have got photostat copies I might as well. (Counsel tenders copies).	
30	Sir, again I am entirely in your hands, but my (address), good or bad, on the Rules and on the legal bit would only take me about 10 minutes, and I will address you generally on the	

Mr. Ross-Munro (cont):

law and on the facts on Wednesday.

Chairman: Yes, I think you might as well.

(3.30 p.m.)

Mr. Ross-Munro:

Sir, might I then start out by asking you before coming to the Rules, I would ask you to look at 29 (1) of the Legal Profession Act?

10

Section 29 (1), as you know, deals with the application that the solicitor makes for a practising certificate and it has to be accompanied by a declaration under (a): (b) a certificate from the Council or such other evidence as the Registrar may require that he is not in arrears in respect of any contribution; - those two matters - then (c):

20

"an accountant's report pursuant to section 75 of this Act or a certificate from the Council that owing to the circumstances of his case such a report is unnecessary".

So one sees that the thrust of the certificate of the Council is to show why it is not necessary to have the accountant's report.

30

Then, as I mentioned to you yesterday, one notes after (d), the Registrar shall thereupon issue a certificate. The word "shall" shows no discretion.

40

Then if you look at section 30: 30 (1) deals with disqualification for practising certificate. Then if you turn over the page to section 30, subsection (3), you will see: "A practising certificate issued to a

In the  
Disciplinary  
Committee

No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

Mr. Ross-Munro (cont):

In the  
Disciplinary  
Committee

10 "solicitor shall cease to have effect when he ceased to practise or he ceases to be employed as provided in this section". Those two matters. It doesn't, for example, say that it would cease to have effect if the solicitor is sent to prison. It merely at this stage says shall cease to have effect when he ceases to practise or he ceases to be employed as provided in this section.

\_\_\_\_\_  
t, No. 2  
Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

And section 32 deals with cancellation of practising certificates. And again, if you just glance from a negative point of view you will see nothing in section 32 saying there is power of cancelling a certificate when a goes to prison or is convicted - it is just negative.

20 Then if you come to the Rules, they are the Solicitors' Practising Certificate Rules, 1970, and if you look at Rule 7, Rule 7 is:

30 "An application for a certificate pursuant to the provisions of section 29 (1) (c) of the Act shall be made to the Council of the Law Society of Singapore in Form D and such certificate shall be in Form E."

Before referring you to the forms, if you just look at Rule 8:

"The Registrar or the Council may in his or its discretion require a statutory declaration or such other evidence as he or the Council may deem necessary" -

40 this is really important, the words, if you care to underline them - in support -

"in support of the facts, circumstances or particulars

Mr. Ross-Munro (cont):

In the  
Disciplinary  
Committee

---

"contained in any application  
or statement delivered under these  
Rules."

No. 2

10 Now there they are dealing with an  
application for a certificate under  
section 29 (1) (c), and what the  
Registrar or Council have discretion in  
is that they require a statutory declar-  
ation or such other evidence as they  
deem necessary in respect of the facts,  
circumstances or particulars contained  
in any application or statement deli-  
vered under these Rules is to be found  
in Form D.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

If you look at Form D, Form D is:

"Application for a certificate  
that an accountant's report pursuant  
to section 77 is unnecessary.

20 I, (full name) ... hereby apply  
for a certificate pursuant to the  
provisions of section 29 (1) (c)  
of the Legal Profession Act, 1966,  
that owing to the circumstances of  
my case it is unnecessary to  
deliver an accountant's report with  
my application for a practising  
certificate for the practice year  
ending ... on the ground that -

30 (a) I have not previously held a  
practising certificate in  
force

(OR)

40 (b) Since last holding a  
practising certificate in  
force in 19 , I have not  
practised nor have I held  
or received client's money.  
My last accountant's report  
was delivered on ... and  
covered the period from ...  
to ...

Mr. Ross-Munro (cont):

In the  
Disciplinary  
Committee

" (OR)

(c) Whilst I have in the twelve months preceding this application held a practising certificate in force, I did not at any time during that period practise on my own account either alone or in partnership and did not at any time during that period myself receive or hold client's money. Throughout that period I did not practise except as an employee of ...."

No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

So it brings you back straight to section 29 (1) (c), that is the section which says you must produce an accountant's report or certificate from an accountant to say in the circumstances of this case such a report is unnecessary. So that is what they are dealing with in that form.

20

And it goes on to say - certainly in my case - it is unnecessary to deliver an accountant's report "with my application for a practising certificate for the practice year ending ... on the ground that" - and the relevant one for our purpose is little (c): on the ground that "whilst I have in the twelve months preceding this application held a practising certificate in force, I did not at any time during that period practise on my own account either alone or in partnership and did not at any time during that period myself receive or hold client's money. Throughout that period I did not practise except as an employee".

30

40

And Form E, one sees the whole thrust of these forms is to explain why you don't need an accountant's report, why you only need a certificate

Mr. Ross-Munro (cont):

In the  
Disciplinary  
Committee

in your hands. That is the only thrust  
of the rules and forms.

Form E:

No. 2

10 "This is to certify that owing  
to the circumstances of the case  
of Mr./Mrs./Miss... the Council  
of the Law Society of Singapore  
is satisfied that it is unnecessary  
for him/her to deliver to you an  
accountant's report pursuant to  
section 77 of the Legal Profession  
Act, 1966, in respect of his/her  
application for a practising certi-  
ficate for the practice year  
ending...".

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20 Again you will see the whole subject  
matter of this is normally that of a  
solicitor in practice, practising on his  
own account who needs an accountant's  
report, but in certain circumstances a  
certificate would do, and the certifi-  
cate would then - there has to be an  
application under Form D.

30 Going back to Rule 8, the discre-  
tion of the Registrar or the Council is  
to require a statutory declaration or  
such other evidence as he or the Council  
may deem necessary in support of the  
application: that is to say, the  
application to explain why you don't  
need an accountant's report, namely,  
that you are an employee.

40 And so, my submission, on a  
proper construction, is - strange as it  
may sound, it seems to me - on a proper  
construction of the Act and Rules that  
if you are dealing with an employee,  
happily this doesn't happen with a  
solicitor who is a partner in the firm  
or carrying on in his own account  
because he has an accountant's report.  
So it does not happen, there is no  
lacuna, there is no gap there, and it

Mr. Ross-Munro (cont):

seems to me, with respect, that there is a gap in the case of a Legal Assistant like Santhiran, who is an employee.

In the  
Disciplinary  
Committee

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No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

His position is that he applies under section 29 (1); he is entitled to say, "I don't have to produce an accountant's report. I can get a certificate from the Council, and in the circumstances of my case such a report is unnecessary under 29 (1) (c). He then applies to the Council for such a certificate, and their only discretion is to ask him for further evidence or statutory declaration that he does come within (c) of Form D. Form D, little (c) is evidence that he does not need an accountant's report because he holds a practising certificate and "did not at any time during period practise on my own account either alone or in partnership and did not at any time during that period myself receive or hold client's money. Throughout that period I did not practise except as an employee."

20

30

So, in my submission, strange as it is, there would for the moment seem to be a lacuna through which an employee, a Legal Assistant who is merely an employee, if he commits acts of dishonesty even if he is arrested, even if he is convicted, even take the extreme of going to prison - he still cannot be struck off; or I will put it rather, he still cannot be refused a practising certificate until he is struck off.

40

And that brings you back to 29 (1), where once he produces a declaration, he has paid his dues and produces a certificate from the Council that the accountant's report is unnecessary, the Registrar shall thereupon issue it to the solicitor. So that, in my submission, would seem to be the position as it stands or I am certain

Mr. Ross-Munro (cont):

as it stood in March 1976; and so, if I may, then on Wednesday I can address you generally to say why that may be relevant for this particular case: that until he is struck off he can continue to practise.

In the  
Disciplinary  
Committee

---

No. 2

Sir, I don't know if that would be a convenient time to ---

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Chairman: Well, Mr. Grimberg, would you like to say anything in reply?

Mr. Grimberg:

Certainly, I prefer to reply in one go to everything, that is if I may, on Wednesday after my learned friend has finished.

20

Chairman: In other words, we will continue on Wednesday and finish on Wednesday.

Mr. Ross-Munro:

Yes, what I will be doing on Wednesday, just for your information, is simply refer you to a couple of cases on the law. As I said, I indicated already to my learned friend Mr. Grimberg I accept the definition Mr. Grimberg gave of "dishonourable as a man and dishonourable professionally".

30

But there is one case I want to show you to show that even grave errors of judgment is not enough; that does not come within "grossly improper conduct."

40

And also Mr. Grimberg, as you know, has agreed the burden of proof is the criminal one - beyond all reasonable doubt. And there is, in my submission, an interesting Singapore decision pointing out that



Mr. Ross-Munro (cont):

in the case of a disciplinary proceeding like yours where the burden of proof is beyond reasonable doubt, that you really must not draw inferences unless they are irresistible.

In the  
Disciplinary  
Committee

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No. 2

Chairman: Compulsive.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Mr. Ross-Munro: That is it. I am much obliged. Compulsive, and I will ask you to glance at it, though I suspect you know that already, and then I will go on to the actual facts.

Chairman: Do you like to meet at 10 or 10.30?

Mr. Ross-Munro: 10.30.

Chairman: 10.30. Well, we would prefer 10.30, too.

(Hearing is adjourned at 3.40 p.m., 26.9.80)

20

Disciplinary Committee Proceedings held in Court No.23, Subordinate Courts, on 1.10.80 at 10.30 a.m.

In the  
Disciplinary  
Committee

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(5th Day) (Wednesday)

No. 2

Before: Mr. C.C. Tan (Chairman),  
" Po Guan Hock,  
" Eric Choa.

---

1st October  
1980

Counsel and Parties - same as before.

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Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

30

Chairman: Mr. Munro, before you commence, I would like to mention a matter about the production of documents.

Mr. Ross-Munro: Oh, yes.

Chairman: When the agreed bundles of documents were being dealt with, I asked the question as to whether the exhibits referred to in the documents in the bundle which were not annexed to the bundle would be made available, and I was given an affirmative answer.

In the  
Disciplinary  
Committee

No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Mr. Ross-Munro: Yes, you mean the exhibits to the complaint to the Law Society?

Chairman: Yes.

Mr. Ross-Munro: Oh, then they ought to be found in Volume II.

Chairman: I mean for instance, you know, getting hold of Exhibit I - that is the joint qualified report that has not been gone into.

20

Mr. Ross-Munro: Now that isn't in Volume II, but I am sure ---

Chairman: That document has not been mentioned. I don't know whether that is in Volume II.

Mr. Ross-Munro: No, that is not in Volume II. Most of the exhibits are in Volume II, but you are perfectly correct - that is not. And I think we certainly should get hold of that.

30

Chairman: It is of some importance. It should be made available.

Mr. Ross-Munro: Yes, I will undertake that that be made available.

Chairman: Thank you.

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Mr. Ross-Munro: Sir, as we are on the documents, there is also a further document which I think should be included to have a complete picture. I imagine my learned friend Mr. Grimberg would have no objection. No. 2

In the  
Disciplinary  
Committee

10 Sir, if you look at Volume I and you look at page 70: now this letter is the letter that Mr. Grimberg wrote to the English Law Society, and the reply is at page 70. Now Mr. Grimberg didn't read those letters for perfectly proper reasons, as he was dropping the charge and therefore there is no need for him to show you the letters.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20 But I have got a point on them which may be helpful to my client, which is the reason why I draw your attention to it.

30 If you look at page 77, you will see that there is enclosed with the letter a copy of the Amended Statement of the Case in these proceedings. Now we don't find in Volume I that Amended Statement of the Case which was before the English Law Society, but they wrote their reply at page 72.

40 And in their reply at page 72 they said that, based on the facts in that Amended Statement of the Case, they took various views, including the last one in the last paragraph on gravity, of saying that their assessment of the gravity "leads us to believe that this surely is not ground for striking off or perhaps for suspension, but a substantial fine."

Now their view was expressed based on what was in this Amended Statement of the Case which is not

Mr. Ross-Munro: yet before you. So I  
 (cont) suggested to Mr. Grimberg  
 that it should be put forward  
 so that one has the whole  
 context, and Mr. Grimberg  
 agrees. We are perfectly  
 agreed that that should be so.

In the  
 Disciplinary  
 Committee

No. 2

10 So if I might put before  
 you what was sent to the  
 English Law Society, it is  
 different from the Amended  
 Statement of the Case point of  
 view, and then I will under-  
 take, coupled with my apologies,  
 to make sure there are two  
 other copies so that you each  
 would have a copy. For the  
 moment I have prepared only  
 one copy. (Tenders copy).

Appellant's  
 Counsel's  
 Closing  
 Speech

(Continuation)

20 Chairman: Yes.

Mr. Ross-Munro: That could go in as an  
 exhibit, and I think a copy  
 of the correspondence, too.

Chairman: This will be R.2.

Mr. Ross-Munro: R.2, yes.

30 And if you compare it to the  
 Amended Statement of the Case  
 which is before you, there  
 is one big difference, if I  
 may put it that way, one  
 substantial difference: and  
 that is if you look at  
 paragraph 10 of R.2, the one  
 before the English Law  
 Society ---

Chairman: At page 4?

Mr. Ross-Munro: At page 4, yes.  
 And that says, you will see:

40 "By reason of Respondent's  
 aforesaid delay in report-  
 ing Santhiran's criminal

Mr. Ross-Munro:      conduct to the      In the  
(cont)                Police and the Law Society,      Disciplinary  
                          respectively, the Respond-      Committee  
                          ent caused, permitted or  
                          enabled Santhiran to con-  
                          tinue to practise as an  
                          Advocate and Solicitor  
                          until 21st December 1976",  
                          etc.

---

No. 2

10

Now that is what was in front of you in your Amended Statement of the Case. If you look at your Amended Statement of the Case, paragraph 10 is much shorter and does not include the allegation that "he caused, permitted or enabled Santhiran to continue in practice".

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20

So the reason I thought it may be relevant for your consideration is on the question of gravity that the English Law Society were asked to assume on all those facts were correct, and on the assumption that all those facts were correct, including permitting Santhiran to continue in practice, they nevertheless - their view was this was a question of a fine, and not a question of suspension or striking off.

30

So, Sir, I am much obliged for that.

40

Now if I may address you, firstly, on the law on which I indicated two days ago that I don't really think there is any contention between my learned friend and I, even though I might wish to refer you to a couple of additional authorities to make various points. But I really don't think there will be much dispute, if any, between us.

Mr. Ross-Munro: Sir, firstly, grossly  
(cont) improper conduct. I would  
invite you to take the defini-  
tion that grossly improper  
conduct means conduct which is  
dishonourable to him as a man  
and dishonourable in his pro-  
fession.

In the  
Disciplinary  
Committee

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No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

You will recall that  
Mr. Grimberg referred you to some  
authority which stated this. He  
also referred you to the Allison  
authority, where they were dis-  
cussing slightly different points:  
infamous conduct. I would ask  
you, Sir, to say that infamous  
conduct is almost the same but  
not quite, that where you get a  
natural definition of grossly  
improper conduct under the very  
actual proceedings, that is the  
one you should concentrate on.  
But I don't think Mr. Grimberg  
will dispute that, and if you  
wanted any further authorities,  
there is an additional author-  
ity called:

Re David Marshall, 1972  
2 M.L.J. 221.

30

where the Singapore High Court  
took that as being the proper  
definition.

And Re David Marshall is  
one of the cases in your little  
bundle.

40

Now what is important for  
my purpose is to satisfy you  
that grossly improper conduct  
is something fairly extremely(?)  
dishonourable to him as a man  
and dishonourable in his  
profession. I have to satisfy  
you that it is more than a  
grave error of judgment, and I  
think that there is an English

Mr. Ross-Munro: case which is helpful  
 (cont) for your consideration which,  
 again, I hope, is in your  
 bundle, which is on all fours  
 with In Re Four Solicitors -  
7 Times Law Report, 672.

In the  
 Disciplinary  
 Committee

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No. 2

10 And if I could refer you to  
 some pages in that case, I  
 think it does give one some  
 useful definition as to what  
 is meant.

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

Chairman: My bundle, unfortunately, stops  
 at page 28, although in the  
 List of Authorities this case  
 was mentioned.

Mr. Ross-Munro: Yes, I must apologise.  
 I understand there are extra  
 copies. I apologise.

(Mr. Wu hands three further copies).

20 Chairman: Do you have three?

(Three copies are tendered).

Mr. Ross-Munro: Sir, it is quite a long  
 case, and what I have done is  
 that I have selected the passages  
 which I think are relevant and  
 of course additional passages  
 that Mr. Grimberg would want to  
 add to, I will do so.

30 The Headnote is mercifully  
 short:

"The Court held, on the facts,  
 that no charge of professional  
 misconduct, such as to warrant  
 the Court in exercising its  
 punitive jurisdiction had been  
 made out."

And then the facts were: That -

"The solicitors concerned  
 were the members of the firm

Mr. Ross-Munro: "of Snell, Son and  
(cont) Greenip, of who, however,  
though they were four in  
number, only two - the  
Senior Mr. Snell and  
Mr. Greenip - were really  
implicated.

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10 And the matter out of which  
the question had arisen  
was as to their conduct as  
solicitors for several gold  
companies, of one of which,  
the Etheridge Co., Mr. F.W.  
Snell was chairman as well  
as solicitor.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20 The firm acted as solicitors  
for the vendors to and the  
promoters of three companies,  
and subsequently acted for  
the other companies for the  
purpose of being consolidated  
into the Etheridge United Co."

30 Now there then follow eight  
charges, seven of which the English  
Law Society found not to be proved,  
so you can forget about them. It  
is only the eighth charge which is  
relevant to this, and the eighth  
charge, if you look about three-  
quarters down the right-hand  
column, one comes to the eighth  
charge starting with "The eighth  
charge".

40 "The eighth charge affects  
the respondent F.W. Snell as  
principally concerned in the  
formation of the Etheridge  
Companies, and to some extent  
the respondent W.M. Greenip as  
being cognisant of what was  
done, and the committee find  
it proved.

The committee do not say that  
a solicitor may, under no  
circumstances, act for both  
parties to a transaction, even when  
that transaction is a sale and



Mr. Ross-Munro: "purchase, but they  
 (cont) think that the solicitor  
 whenever he does so acts at his  
 own risk, and that if his action  
 is afterwards challenged he must  
 be prepared to show that both  
 parties were placed on equal  
 terms, and that he imparted to  
 each the whole of the informa-  
 tion which he possessed.  
 Especially must he be so  
 prepared when, as in the  
 present case, his remuneration  
 is excessive in amount as com-  
 pared with the services rendered.  
 In the present case the respond-  
 ent F.W. Snell voluntarily  
 placed himself in positions in  
 which the interests of his  
 clients were in direct conflict  
 and his own duties irreconcili-  
 able.  
 He did not and, indeed, he  
 could not, give to all his  
 clients the benefit of the know-  
 ledge which he possessed or  
 place them all on an equal  
 footing. In fact the respondent  
 F.W. Snell stated that he did  
 not consider he had any duty to  
 the new company while he was  
 chairman of the old company, and  
 did not think it any concern of  
 us to see that the public know  
 the difference."

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

So one sees that there is a  
 conflict of interest because there  
 he was acting for two companies  
 at a very high remuneration paid  
 by one client. It goes on to say:

"The committee find Mr. F.W.  
 Snell and Mr. Greenip, who knew  
 much if not all of what was  
 done, guilty of professional  
 misconduct in that they did  
 not properly protect the  
 interests of the different  
 parties whom they undertook to

Mr. Ross-Munro: (cont)	<p>"represent, or sufficiently insure that all those parties were placed on equal terms and possessed the same knowledge of facts. But having regard to the absence of complaint on the part of <u>bona fide</u> shareholders, the complete disproof of the specific charges made by the complainant, and the heavy loss which the solicitors have suffered, the committee submit for the consideration of the Court whether any further punishment, or any further punishment than the payment of the costs of the application and hearing, should be inflicted."</p>	<p>In the Disciplinary Committee <hr/>No. 2  Appellant's Counsel's Closing Speech (Continuation)</p>
10		
20		

So, in other words, they were finding professional misconduct though they were saying in view of those matters whether they have to be punished any further.

30	<p>And the solicitors appealed, and the learned Judges, having explained the delay (in delivering) judgment, went on to say "they now gave judgment exonerating the solicitors from anything which could be deemed to amount to professional misconduct. Indeed, as regarded the two younger Messrs. Snell, the charges had been withdrawn. The Judges concurred with the committee in acquitting all the solicitors of any fraud, and they went further than the committee in acquitting them of any professional misconduct whatever."</p>
40	

And further down on the left-hand column, the Judges say:

"I may state at once that I see no reason to question any

Mr. Ross-Munro: "single finding of  
(cont) fact in the report of  
the committee."

In the  
Disciplinary  
Committee

And that is quite important. So  
what they are really saying is, the  
facts are all agreed but on the  
facts which the committee found,  
the Judges did not think the  
committee should have found pro-  
fessional misconduct.

No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

And then at the bottom of the  
left-hand column and the top of  
the right-hand column, they point  
out the various charges made by  
Gardener either disproved or not  
proved.

And then on the fourth line of  
the right-hand column:

20

"The charge upon which the  
committee thought that a case  
of professional misconduct had  
been established against two of  
the solicitors was that 'they  
were guilty of improper and un-  
professional conduct in enabling  
the Etheridge group of companies  
to be brought out.' I do not  
propose to state the facts upon  
which the committee have come to  
the conclusion because my brother  
Wills has prepared a judgment in  
which this is very completely  
done. I will only say that,  
having carefully perused the  
shorthand-writer's notes of the  
evidence and arguments before the  
committee, I see no reason to  
disagree with their finding  
negating fraud.

30

40

Fraud being negated I am  
unable to assent to the conclu-  
sion arrived at by the committee  
such as to warrant the Court in  
exercising its punitive juris-  
diction has been made out. In  
order to authorise the Court to

Mr. Ross-Munro: (cont)	<p>"exercise that jurisdiction it is not, in my opinion, sufficient that the party charged has been guilty of grave errors of judgment, nor that he has accepted a position a highly sensitive and scrupulous solicitor would not accept, nor that he has accepted an amount of remuneration enormously in excess of the professional services rendered; but that something has been established showing either that his conduct in the management of the professional business intrusted to him has been fraudulent, or that he has neglected some positive duty to his client or clients, or if the conduct complained of be something <u>dehors</u> his professional behaviour - that it be of such a character as that if he had been guilty of it before applying to be admitted it would be properly deemed sufficient to warrant the refusal to admit him."</p>	<p>In the Disciplinary Committee</p> <hr/> <p>No. 2</p> <p>Appellant's Counsel's Closing Speech</p> <p>(Continuation)</p>
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20

30

And then it goes on - but it shows what that they were considering is that the solicitor certainly has not been acting in the highest traditions of the profession, as you can see:

40

"The particular matter in respect of which the committee find that two of the respondents were, in their opinion, guilty of professional misconduct was that he neglected, and purposely neglected, to cause to be inserted in prospectuses of certain companies to which he was solicitor, and which bought gold mines from a company of

<p>10</p> <p>20</p> <p>30</p> <p>40</p>	<p>Mr. Ross-Munro: (cont)</p>	<p>"which he was both chairman and solicitor, full information of the price at which all the sales and purchases of the property to the original company and to the companies who purchased portions of the property had been effected. I am unable to find any authority for the proposition that this was his duty as solicitor. The most that can be said upon the evidence which was before the committee seems to me only to amount to this - that he did a great many things which, if he had been thoroughly high-minded, he would not have done, even though it be quite a common practice for solicitors who act in such matters to do them. My brother Wills in his judgment has gone fully into these matters, and I will only say that I share in his regret that it should be possible for any solicitor being chairman and solicitor for a company selling two or three other companies to receive as a matter of course such sums as £1,000 from each for services such as those this gentleman rendered without being open to some punishment and beyond the censure which the chairman of the committee cast upon such conduct, and which we feel constrained to endorse."</p>	<p>In the Disciplinary Committee</p> <hr style="width: 100%;"/> <p>No. 2</p> <p>Appellant's Counsel's Closing Speech (Continuation)</p>
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Of course, £1,000 in 1891, as you can imagine, was a most enormous sum compared to the professional advice that he was giving, and that is what the Judge says;

Mr. Ross-Munro: "I think also, speaking In the  
(cont) for myself, that was not Disciplinary  
only imprudent, but wanting Committee  
in delicacy of feeling, for  
this gentleman, being chair-  
man of the selling company, No. 2  
to act as solicitor for any  
other party concerned in  
the sale of the property Appellant's  
to other companies or for Counsel's  
those other companies. Closing  
But I feel obliged to yield Speech  
to the argument of Sir H. (Continuation)  
Davey and Mr. Asquith, and  
to admit that, upon the  
findings of fact as we  
have them reported to us  
and as fully warranted by  
the evidence, no profession-  
al misconduct such as to  
bring the solicitor within  
the punitive jurisdiction of  
the Court was made out."

10

20

30

And then Mr. Justice Wills in his  
judgment, starting at page 674, but  
I can ask you to go straight to  
page 675, at the bottom of the  
right-hand column, about eight  
lines up from the bottom of the  
right-hand column - 675, where it  
says:

"I think the case might have  
been put higher in this  
respect" ---

You have that, Sir? ---

40

"and that a solicitor who  
chooses to place himself in  
an ambiguous position of this  
kind cannot complain if  
things which, were he  
independent and acting for  
one party only, would be  
treated as mistakes merely  
should be treated as wear-  
ing a much more serious  
complexion. But here, again,

Mr. Ross-Munro: "I am met by the fact  
 (cont) that the committee who heard and saw the witnesses have acquitted of any dishonest motives, and if the case is reduced to this - that from accepting such a position A has been led to do things which he had better not have done, even supposing them to have gone so far as to have subjected him to legal liabilities at the suit of those who were his clients, I can hardly call it professional misconduct, if he stands acquitted of all intentional dishonesty. The Court is asked not enforce a civil right of action, but to condemn and punish, which is a very different thing, and involves very different considerations. The finding of the committee puts this part of the case not upon any failure to give proper advice to any of the persons or companies I have enumerated, but upon a failure to give to intending or actual shareholders the same full information that A himself possessed. I think A owed no professional duty to such persons, and that, whatever may be thought of the good or bad taste or propriety of a good deal that was done, it cannot be called professional misconduct unless it was tainted with dishonesty - a position negatived by the finding of the committee. I regret much to be unable to support them in this instance in an attempt, with which one cannot but sympathize, to enforce and uphold a high

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

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Mr. Ross-Munro: "standard of conduct in  
 (cont) such matters as were before  
 them. But, thinking, as I do,  
 that they have taken an erro-  
 neously extensive view of the  
 professional and fiduciary re-  
 lations of a solicitor to an  
 intended company, and, being  
 satisfied that he is not the  
 solicitor to any of the intend-  
 ing shareholders as such, I am  
 unable to concur with the  
 committee in thinking that the  
 failure to tell in the prospectus  
 all that he knew that was  
 material is professional  
 misconduct."

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing Speech  
 (Continuation)

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So, Sir, I refer you to that to  
 show that in that case the Judges,  
 quite rightly, have a very poor  
 view of the solicitor: there was  
 a conflict of interest, not only  
 conflict of interest, but accepting  
 a very large remuneration from one  
 party only and, nevertheless, what  
 they in fact said was that the  
 solicitor was being cleared of any  
 dishonesty. What in fact remained  
 was lower than that, and the fact  
 that they were guilty of gross  
 errors of judgment - that is page  
 673 - that that was not enough for  
 professional misconduct as such.

So I thought it was useful to  
 refer you to that merely so that  
 you can keep your mind - as I am  
 sure you have - mainly on that.

40

But what is the standard that  
 is necessary to satisfy you of the  
 charge of grossly improper conduct  
 in this particular case. Sir,  
 that brings me to the burden of  
 proof.

Sir, that is agreed between my  
 learned friend and I: that the  
 Law Society must satisfy you,



Mr. Ross-Munro: really must satisfy you  
 (cont) beyond all reasonable doubt,  
 namely, the criminal burden of  
 proof. I am sure you don't  
 need authority for it, but if you  
 do it is the one in the bundle of:

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 Disciplinary  
 Committee

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No. 2

Ong Tiang Choon, 1978 2 M.L.J.,  
page 7.

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

And, Sir, in the circumstances  
 of this case in particular, in  
 my respectful submission that very  
 high burden of proof that is on  
 the Law Society to satisfy you  
 beyond all reasonable doubt may  
 well become very relevant or  
 certainly relevant and, Sir, for  
 this reason: that even if - and  
 when I address you on the facts  
 I am hoping to satisfy you of  
 course that there is absolutely  
 (no question) of grossly improper  
 conduct - that even if you thought  
 at the end of the day, well, it  
 is more probably not all; he was  
 just thinking of his own pocket  
 and wasn't thinking about his  
 clients at all, or matters of  
 that sort, probably; of course  
 you must still find that this  
 charge is not proved. And looking  
 at it from the other point of  
 view, the only way that you can  
 in fact find the charge proved is  
 that at the end of the day,  
 having considered all the evidence,  
 that you can say in all honesty  
 to yourselves, "We are sure that  
 the Law Society (has) established  
 the charge."

20

30

40

So that is obviously a very  
 high standard of proof that is  
 required.

And so the second reason why  
 it is very important is this:  
 that if you are trying to  
 establish that the Law Society

Mr. Ross-Munro: has a very high standard  
 (cont) of showing that it has to satisfy  
 the Tribunal, the Committee in  
 this case, beyond all reasonable  
 doubt, the quality of the evidence  
 that you must produce in order to  
 try and discharge that burden of  
 proof is necessarily a high one.  
 And the quality of that evidence,  
 in my submission, must be one of  
 two types: either it must be  
 generally direct impressive evi-  
 dence that you believe, or it  
 must be inferences from facts  
 that are irresistible inferences.  
 Now, Sir, this case is all about  
 inferences, and that is why I  
 don't apologise for wasting a  
 few minutes of your time, I am  
 in fact not wasting it, to address  
 you on inferences and on one  
 authority because I say it must  
 be an irresistible inference.

10

20

30

40

Now in many cases - and this  
 is one of them - you may have  
 certain given facts on which a  
 court or a tribunal or a committee  
 could draw two different inferen-  
 ces: one inference which is  
 adverse to a defendant, and one  
 inference which is favourable to  
 the defendant; and this would  
 be one of those cases. Now, in  
 my submission, you would in fact  
 be breaching your duty if you in  
 fact draw a hostile inference to  
 the defendant unless such an  
 inference was irresistible.

So, in other words, if there  
 are two or more inferences that  
 could be drawn, an inference  
 cannot be irresistible. Of  
 course if there is one inference  
 which is obvious and the other  
 inference is a fanciful one,  
 well then you could forget about  
 the fanciful one. But if there  
 are two or more inferences that

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 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

Mr. Ross-Munro: can be drawn, then you  
 (cont) <sup>not</sup> must, in my respectful submission,  
 you must not draw the one hostile  
 to the Respondent, unless you can  
 in all honesty say that that  
 inference was irresistible.

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 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

10 And so the authority for that  
 is Ong Tiang Choon case, 1978, 2  
M.L.J., which is in your bundle,  
 and I would like to refer you to  
 one or two fairly short passages  
 in that.

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

Sir, firstly, at page 7 in the  
 Headnote. You will remember,  
 Sir, this was a touting case, and  
 in the Headnote:

20 "Held under (2) the charge  
 under section 84 (2) (e) of  
 the Act must be proved beyond  
 reasonable doubt and in this  
 case the evidence was insuffi-  
 cient to justify the Disciplinary  
 Committee drawing the  
 irresistible inference which  
 led them to find that the  
 Respondent was guilty of the  
 charge. We make no order on  
 the application."

30 And it is interesting to see how  
 and on what evidence the Disci-  
 plinary Committee drew what they  
 thought was the irresistible  
 inference, and that is to be  
 found on page 9, left-hand  
 column. If you look at page  
 9, left-hand column, half way  
 down, you get paragraph 13 on  
 what the Disciplinary Committee  
 recorded, and if you look under  
 40 that paragraph 13 at little (ii),  
 the Disciplinary Committee said:

"It is true that there is no  
 direct evidence implicating  
 Mr. Ong Tiang Choon, P.W.I.,  
 or that Mr. Ong Tiang Choon

Mr. Ross-Munro: (cont)	"voluntarily acted in a manner to solicit or procure motor accident victims as clients. Bearing in mind that Mr. Ong Tiang Choon was a solicitor of 20 years' experience... the Disciplinary Committee finds it difficult to accept that Mr. Ong Tiang Choon was not aware of what his clerk and Ong Ching Wat were doing. The inference was irresistible that Ong Tiang Choon knew..."	In the Disciplinary Committee <hr/> No. 2 Appellant's Counsel's Closing Speech (Continuation)
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10

So that is what the Disciplinary Committee had found and what they said was the irresistible inference.

20

And one finds at page 12, left-hand column, what the Court said about that. And half way down, just below the letter (d), the Court said:

30

"A charge under section 84 (2) (e) is a serious charge and if found could attract the punishment of disbarment. It is settled law that the degree of proof is the same as in a criminal case and in the present case we are of the opinion that the evidence was insufficient to justify the Disciplinary Committee drawing the irresistible inference which led them to find the Respondent is guilty of the charge under section 84 (2) (e).

40

Accordingly we make no order on the application."

So, as I say, when I come to address you on the facts, this is a case where you find that nearly all of what we may call primary evidence in the evidence

Mr. Ross-Munro: particularly of Miss  
 (cont) Lisa Choo are not challenged.  
 The dispute is as to what are  
 the correct inferences to draw  
 from those unchallenged facts,  
 and that is why, in my submission,  
 it is of vital importance, in my  
 submission, that you approach the  
 question of inferences in that  
 manner indicated by the court  
 and that unless you find that  
 the inference is irresistible,  
 then that is something which you  
 should not draw inferences  
 hostile to the defendant.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

20

And, Sir, when one thinks of  
 the whole matter, with the deepest  
 respect it all makes, if I may say  
 so, common sense because in  
Katnam's case, which again is in  
 your bundle - I want to go  
 through it simply for one ground -  
 in Katnam's case, which is a Privy  
 Council case, Lord Simon at  
 page 200 said:

"It is no light matter for a  
 professional man to appear  
 before a Disciplinary Committee  
 of his professional body."

30

It is no light matter, and so I  
 think it follows as a matter of  
 logic that it will be utterly  
 wrong in a matter which was no  
 light matter that a solicitor  
 should be convicted of grave  
 offences simply by an inference  
 that could possibly be drawn,  
 as opposed to irresistible in-  
 ferences, which is another matter.

40

Sir, the last matter before I  
 get on to the facts is the state-  
 ment at page 81 in Lund which  
 Mr. Grimberg referred you to,  
 for which I am very grateful;  
 but in my respectful submission  
 to some extent it assists the

Mr. Ross-Munro: Respondent. Sir, at  
 (cont) page 81: obligation to report  
 unprofessional conduct. And if  
 I may just read the paragraph  
 and then make my two comments on  
 it, it says: "Another question" -  
 Have you got it, Sir?

In the  
 Disciplinary  
 Committee

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No. 2

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I am afraid there are so many  
 spare papers, it is rather diffi-  
 cult, that I am constantly losing  
 mine. Sir, page 81, last para-  
 graph:

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

20

"Another question that is  
 often asked is, are we under  
 any duty to report to the Law  
 Society suspected impropriety  
 about a solicitor?  
 Council is of the view that  
 unless there are strong reasons  
 to the contrary, such as a  
 conflict of duty towards his  
 client, it is highly desirable  
 that a solicitor shall report  
 immediately to the Council....  
 ... that another solicitor may  
 be guilty of professional  
 misconduct so that the Council  
 can investigate the matter as  
 quickly as possible. In the  
 view of the Council ... ..  
 it is your duty to discharge."

30

But again the words "subject only  
 to the prior interest of your  
 client."

40

Sir, I have two comments to make  
 to that. The first is, if you  
 suspect impropriety; if you  
 suspect impropriety or even if  
 you know of impropriety, normally  
 it is your duty to report it to  
 the Law Society but that is  
 subject to any conflict in duty,  
 any conflict in duty such as the  
 prior interest of your client.  
 That is point (1), comment on  
 (1).

Mr. Ross-Munro: Comment (2): in line  
 (cont) 5, they use the words "it is  
 highly desirable", and in the  
 last line but one they talk about  
 duty. This passage of course  
 does not help you one way or the  
 other on grossly improper conduct.  
 What it is really saying is that  
 assuming there is no conflict in  
 duty which you owe to a client -  
 that is very important in this  
 case - assuming there is no  
 conflict in duty, then you should  
 report it as highly desirable.  
 You should report it and, indeed,  
 it is your duty to report it; but  
 it goes further - breach of duty,  
 but it doesn't mean to say that a  
 breach of duty is necessarily  
 grossly improper conduct.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

20

30

So, in my submission, it doesn't  
 really help very much on the  
 grossly improper conduct point.  
 What it says is that if there is  
 a conflict in duty of the prior  
 interest of your client, there is  
 no duty to report as such. So  
 again, in my submission, it is  
 something which is helpful for  
 your consideration on this  
 particular case.

(Mr. Wu and Mr. Ross-Munro, sotto voce).

Sir, I am told that we now have  
 the joint report. I haven't  
 actually seen it myself at all,  
 but I am perfectly happy to put  
 it in as it is without actually  
 seeing it. (Tenders document).

That, I understand, will be R.3.

40

I don't know whether you wish to  
 read it first, and then for me to  
 continue or ---

Chairman: It might be interesting.

Mr. Ross-Munro: Yes, perhaps I should read it, too, in case there is something and I (proceeds to read in silence).

In the  
Disciplinary  
Committee

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Chairman: This is the exhibit referred to in the report by the Respondent?

No. 2

Mr. Ross-Munro: That I think is right. I think that is page 1, Volume I.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Chairman: Page 9, I think, referred to Exhibit I. Page 9 of Volume I.

Mr. Ross-Munro: Page 9, is it?

Chairman: Page 8.

Mr. Ross-Munro: Page 8, is it?

Chairman: So this is the document.

Mr. Ross-Munro: I am very sorry, I can't see it at page 8.

20

Chairman: In the middle of the page:  
"In the last few months Medora Thong & Co. and Turquand Youngs have been rechecking the accounts ..... a joint qualified report under the Solicitors' Accounts Rules. A copy has been filed with the Law Society."

30

Mr. Ross-Munro: I see what page 8 is. Yes, I see page 8: Joint report by auditors and a copy has been filed with the Law Society. Yes, that would be the copy.

Chairman: "On 29th April after the joint qualified report .... personal representation on three items containing the preliminary report of the accounts by Medora Thong & Co., Exhibit I, duly considered."



Mr. Ross-Munro: Yes, so that is no longer the joint; that would be Medora's own which brought it down finally to 315 in June.

In the  
Disciplinary  
Committee

---

Chairman: But this is the report? No. 2

Mr. Ross-Munro: This is the joint qualified report. Appellan'ts  
Counsel's

Chairman: Yes, dated 25th April. When was it submitted? Closing  
Speech  
(Continuation)

10 Mr. Ross-Munro: Sorry, Sir?

Chairman: Was this submitted separately, or with the report of the Respondent?

20 Mr. Ross-Munro: I just looked at page 1, I thought it was sent on the 30th April. Yes, if you look at page 1, Volume I, in the second paragraph it was sent - (Reads) "I enclose copy of the joint report, which is a qualified report."

30 Chairman: Perhaps, Mr. Munro, I ought to draw your attention to the fact that this report containing the breaches by an unnamed former Legal Assistant of the firm was sent in on the 30th of April, the first document which the Law Society got regarding the breaches in Braddell Brothers.

Mr. Ross-Munro: Well, not quite, as you remember Mr. Wee's evidence - round about end of March he had actually showed the draft complaint document to the Vice-President of the Law Society.

40 Chairman: Do we consider that an actual report to the Law Society on which action could be taken? It appeared to me a friendly discussion

Chairman: and even so a draft, a draft  
(cont) report, is not a report?

In the  
Disciplinary  
Committee

Mr. Ross-Munro: No, what he explained  
was that the draft complaint was  
the same as what was eventually  
sent in the month, later. What  
he didn't have was the auditors'  
report.

\_\_\_\_\_  
No. 2

10

Chairman: But no evidence has been  
produced to show that action  
was taken on that draft by  
the Vice-President. It could  
have been given to her for  
advice. One doesn't give a  
draft report unless it is for  
advice, normally?

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20

Mr. Ross-Munro: Yes, I mean it simply  
was dealing with it factually  
when he first delivered to the  
Deputy President of the Law  
Society - Vice-Chairman.

Chairman: Yes, this is the first  
official report?

Mr. Ross-Munro: Yes, it is an official  
report. And then within a very  
short time after, which was on  
the 27th of May, he sent the  
detailed complaint with all the  
exhibits that you have seen.

30

Chairman: The point I want to get at is  
the timing, Mr. Munro. You  
see, this is a very critical  
time of the year - in the  
month of April. That is  
the time when applications  
were made for the issue of  
practising certificates,  
and this document did not  
reach the Law Society  
(officially) until after the  
30th of April. The issue  
of practising certificates  
was over.

40

Mr. Ross-Munro: Yes, I will have to deal with that when I come to consequences; much obliged.

In the  
Disciplinary  
Committee

Chairman: Yes.

No. 2

Mr. Ross-Munro: Now, coming to the facts, Sir, I was kindly supplied yesterday with the transcript of the evidence which I have read through till late last evening, and it was quite clear from the transcript indeed, much as one would have expected, that none of Miss Lisa Choo's evidence was challenged at all. And indeed it is clear that a large part of Mr. Wee's evidence on facts, as opposed to inferences to be drawn from facts, (notably) the exhibits, the actual primary fact, that a very large part of his evidence was not challenged here.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

20

And so it seems to me helpful if I mention to you, as I understand it from the transcript, that the main relevant facts there are not challenged at all, and then look to see what inferences can be drawn.

30

And, Sir, as you know, late February a pupil discovered the first suspicious account of Santhiran's. First confrontation with Mr. Wee was 2nd or 3rd of March. There were then six accounts suspected, eighty thousand roughly involved, or seemed to be involved in the six accounts.

40

Santhiran denies dishonesty, to start with, though towards the end he was making a semi-admission by saying he would pay.

5th March, similarly. Mr. Wee then says, "Right, no more new work, except he mentioned at a

Mr. Ross-Munro: later stage that there  
 (cont) were two matters of Jacobson that  
 he thought it was right he should  
 continue. Most important - no  
 handling of cheques or anything  
 of that sort, and checking of  
 the letters he received, and he  
 then instructed Lisa Choo and  
 also Mr. Lee to keep an eye on  
 him.

10

That is the 5th of March:  
 we know of sending of the letter  
 to the bank to take him off the  
 authorised list of signatories.

Weekend of the 6th and 7th:  
 the staff goes through lots and  
 lots of documents starting with  
 the cheque book stubs with  
 Santhiran's initials. And Mr. Wee  
 didn't really take part in that -  
 at the time he was doing Haw Par.

20

On the 8th of March: little  
 pieces of evidence that Lisa Choo  
 told Mr. Wee that they suspected  
 that there was over two hundred  
 thousand missing, not eighty;  
 but over two hundred thousand.

30

Now what is quite interesting on  
 that is she did not say over three  
 hundred thousand; she said only  
 two hundred thousand, and that is  
 relevant for the matters that I  
 mention on the 2nd.

40

Mr. Wee, no doubt shattered by  
 this, goes along to Santhiran's  
 office, goes through the drawers  
 and finds various bank deposits,  
 and says, "You pay every penny  
 unless you can prove that you  
 actually paid the clients", or  
 words like that. We know, as  
 a result of that, Santhiran  
 started to repay, I think on the  
 8th and 9th, and by the 18th of  
 March there is \$267,000 odd he

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

Mr. Ross-Munro: repaid. And Mr. Wee  
(cont) says - and it is not challenged -  
that he thought that that repre-  
sented the bulk of the monies  
that Santhiran had taken.

In the  
Disciplinary  
Committee

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No. 2

10 And so the reason I mention the  
8th of March when Lisa Choo says  
"We suspect there was over two  
hundred thousand missing", and  
Mr. Wee's belief on receiving  
\$267,000 that the bulk of the  
monies had been repaid is because  
it does make a certain amount of  
sense. In other words, if he had  
been told by Lisa Choo that over  
\$300,000 were missing, or four  
hundred thousand or five hundred  
thousand, it might be quite  
different. But she says over  
20 \$200,000 were missing. He gets  
two hundred and sixty seven  
thousand and it is perhaps under-  
standable that he believes that  
the bulk has in fact been repaid.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

30 And indeed it was correct  
because we know the fact that  
the last figure of the auditors  
was three hundred and fifty-one  
thousand - three hundred and  
fifty-two; and two hundred and  
sixty-seven thousand would be  
the bulk of that.

So that brings one to the 18th.

40 Then Miss Lisa Choo referred in  
her evidence on dates about the  
third week-end of March - she  
couldn't be more precise than  
that; and she told you - all  
this is not challenged, as one  
would expect it - of what she  
found there. So you might  
feel a certain amount of sympathy  
for Miss Lisa Choo having to  
get to the bottom of this because,  
first of all, a lot of files were  
missing, the Santhiran ones.

Mr. Ross-Munro: Secondly, the files  
(cont) were there, but the documents were  
missing. Thirdly, we heard this  
peculiar thing of how he gave  
the same file number so that if  
a client had 20 matters, they  
would all get the same file  
number. So even when the file  
was brought back, sometimes it  
is a totally different matter.

10

Then if you look at the cheque  
stubs, sometimes it has a file  
number; sometimes it does not.  
It has a client's name.

Then if you look at the Ledger  
Account, you have got the name,  
but no address, and sometimes no  
file number. And even if the  
file number is missing, she  
would telephone the people saying  
"This is your name...", and so on.

20

And not only that, but the  
actual entry in the Ledger - a  
large proportion, say over 20 per  
cent, turned out to be false; as  
far as the cheques were concerned  
lots of the payee's name were  
fictitious.

30

Now all that is evidence and  
was never challenged at all. And  
so the importance of that really  
is this: that faced with that  
position, Mr. Vee took the view  
that without Santhiran's cooper-  
ation it would be impossible to  
get to the bottom of it.

40

Now, Sir, I will come on in a  
moment to inferences one way or  
the other, but here simply on the  
facts, the factual position, I  
would ask you to accept the  
factual position was that given  
that situation, without Santhiran's  
cooperation, it was not possible  
to get to the bottom of the

In the  
Disciplinary  
Committee

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No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

Mr. Ross-Munro: matter, and in particular (cont) it was not possible to identify which monies belonged to which individual client of the \$267,000 that Santhiran had repaid.

In the  
Disciplinary  
Committee

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No. 2

Chairman: Mr. Munro, you said that that was a situation which arose in the Respondent's mind, is it?

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10 Mr. Ross-Munro: Yes, certainly. I was, first of all, getting the factual one, and then I will come on to the very matter and I am just ending up Lisa Choo's evidence.

20 I can't remember whether in answer to me or in answer to Mr. Chairman, but she actually said that she thought that due to Santhiran's cooperation she was able to clear up about half of what he had paid, identify which clients they were in respect of, part of the two hundred thousand; whereas without his cooperation she thought it would only have been 10 to 15 per cent.

30 And, simply for your notes, Sir, you will find it in her evidence at pages 114 and 115 of the transcript.

And I used the sum 297 because I think she was referring to the total of the amount he had repaid; I suppose it is 267.

40 And what is also unchallenged - and again it gives a useful picture of Mr. Wee's mind in March (1976), Sir, is that Lisa Choo said that she had a conversation with Mr. Wee about this, and there are two passages of her evidence, both at page 121 of the transcript, and the two passages were - and you will be

Mr. Ross-Munro: able to see for your-  
 (cont) selves - the two passages were:  
 (1) when she asked Mr. Wee about  
 this, how was she going to  
 identify the \$267,000? Get  
 Santhiran to help you clear off  
 the amount that was due to the  
 clients - at page 121, at the  
 top of the page.

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

I asked the question "after  
 he had repaid that lump sum  
 money that is why you had spoken  
 with Mr. Wee about your difficul-  
 ties in identifying what was  
 owed to each client?" Answer:  
 "Yes, I did."  
 "What did he say to you? A. He  
 said 'Get Santhiran to help you  
 to clear up the amount due to  
 the clients'."

20

And later on about six lines  
 down:

"I wonder if you can help  
 us on this. ...Did he  
 express any tremendous worry  
 about the exact amount that  
 he had taken? ...A. He  
 said you must, you know, pay  
 back to the clients what was  
 owed to the clients at the  
 time."

30

Now that is her evidence as to  
 what he was saying at that time  
 in March 1976. And he himself  
 at page 40(?) was indicating that  
 the principal thing in his mind  
 was not being able to account  
 to the clients and identify  
 which client or what amount of  
 money he had stolen, or words  
 to that effect.

40



Mr. Ross-Munro: So you, therefore, not  
 (cont) only have Mr. Wee's own evidence  
 but you have it corroborated by  
 Miss Lisa Choo, and that con-  
 versation, as I say, was not  
 challenged at all.

In the  
 Disciplinary  
 Committee

---

No. 2

10 Now Mr. Wee, in his evidence,  
 gave four examples of how the  
 clients might suffer, and there  
 again simply for your notes,  
 that can be found on pages 14  
 to 16 inclusive.

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

20 You will remember one was the  
 Order 14 one; one was where  
 the client had died; one was  
 where Santhiran had only repaid  
 clients a portion of the monies  
 recovered there; and the  
 fourth one was where he took a  
 large amount of the costs to  
 account.

Now it is probably my fault  
 that I didn't make that clear to  
 you at the time, but what he did  
 say was some were theoretical  
 and some of them real examples.

30 And later Miss Lisa Choo  
 produced as her evidence the  
 Ledger Book, and I tendered the  
 Ledger Book. If any examples  
 are necessary and if my learned  
 friend thought it necessary we  
 could produce literally dozens  
 and dozens of real examples,  
 and I don't think there is any  
 real dispute. Some of them,  
 it was in the interest of time  
 that I didn't refer to - dozens  
 and dozens can be produced in  
 40 that way if Miss Lisa Choo - or  
 if anybody wishes her to show  
 actual examples. Whereas, you  
 know of one case, that was the  
 evidence that Mr. Lee's uncle  
 came along; if he hadn't come  
 along, they would have lost money.

Mr. Ross-Munro: Sir, dealing with that  
 (cont) matter, in my submission, there  
 can be really no doubt whatsoever  
 that without Santhiran's cooper-  
 ation a large number of Mr. Wee's  
 clients would have lost money  
 personally.

In the  
 Disciplinary  
 Committee

---

No. 2

10                   And so that is of vital  
 importance because, at first  
 glance, anybody who is in the  
 legal profession, I may say  
 including myself in this area -  
 but at first glance one tends to  
 say as solicitor responsible for  
 clients' money, the only person  
 going to lose the money is the  
 solicitor because he has to pay  
 over to the clients, and that is  
 20                   of course the first reaction of  
 any lawyer to this sort of cir-  
 cumstances.

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

30                   But when one looks at the facts  
 of this particular case that is  
 not so because in many cases the  
 client wouldn't realise that he  
 had lost money. Mr. Wee, without  
 Santhiran's cooperation, wouldn't  
 know that the client lost money  
 either. And so you get real  
 examples, both theoretical and  
 real, where if it had not been  
 for Santhiran clearing the matter  
 up there would be numerous clients  
 who had in fact lost money and  
 who would never be repaid for  
 the simple reason that they didn't  
 realise.

40                   And taking the judgment  
 example is perhaps the best that  
 we have: if Santhiran gets a  
 judgment for \$10,000 and pays  
 \$5,000 to the client and dishonest-  
 ly tells them that is what he  
 received, and the client believes,  
 and then he doctors the Ledger  
 Book, the client has \$5,000 - he  
 is satisfied; maybe never comes

Mr. Ross-Munro: back.  
(cont)

In the  
Disciplinary  
Committee

As far as Mr. Wee is concerned, without Santhiran's cooperation the fictitious entries in the Ledger Account, he can't see anything suspicious at all, but the net result is that that client will have lost \$5,000.

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No. 2

Appellant's  
Counsel's  
Closing  
Speech

10

So, in my submission, the evidence is all one way; it really isn't challenged: that without Santhiran's cooperation a large part of Mr. Wee's clients would have lost money. And that is the most important thing.

(Continuation)

20

The Order 14 example that was given which was a fictitious one, it wasn't a real one, is to my mind slightly less important because in the Order 14 one the client has been harmed, but hasn't necessarily lost money. He has been harmed because he had been kept out of his money possibly for a year or two, but sooner or later he would telephone and say, "What has happened to my case"; and at that stage it would be discovered. So that eventually he will get his money back. So his interest would be harmed by being kept out of the money for two years, as opposed to a permanent loss of money.

30

40

So it is a little less good as an example. But in my submission their evidence is quite important, and of course it is very important because you are left with this position: that without Santhiran's cooperation the clients would have lost money, and that is a fact. And we ask you to accept Mr. Wee's

Mr. Ross-Munro: evidence as corroborated by Lisa Choo, that he had this in mind. And indeed anyone who is a solicitor, an advocate, in that position, one would have imagined, would be absolutely horrified once you find that your Ledger Book is full of false entries, and that there are cheques floating around with fictitious payees, where there aren't even addresses for many of the clients, you receive a sum of money, \$267,000; any solicitor or advocate is going to say, "Look, I have got the money, but whose money is it?" "How on earth do I identify the individual client that belongs to, when I am faced with this sort of fraud and dishonesty?"

In the  
Disciplinary  
Committee

No. 2

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

And it really was quite a clever one, because simply by way of illustration - again in the interest of time - we only gave there two examples. You will recall Miss Lisa Choo's evidence: Santhiran didn't just use one method of fraud; he used several, you remember? Sometimes it was forgeries of the Ledger Accounts, sometimes one matter, if you remember - quite a bold one - when he really stole the cheque to a building society and just paid the cheque to the building society in his own name - \$41,000 - and covered it up with a false (entry).

So you might feel that on this part of the case there would really be no doubt whatsoever that any solicitor or advocate, faced with that situation and faced with the \$267,000 would say, "Well, it is impossible for me to find out which individual client is owed

Mr. Ross-Munro: which proportion of  
(cont) that two hundred and sixty-seven  
thousand, " without Santhiran's  
cooperation.

In the  
Disciplinary  
Committee

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No. 2

10 And so it is a very important  
part of the case, as you will  
appreciate, that if that is so,  
or even if you feel that there is  
a possibility that that is so -  
and one must prove beyond  
reasonable doubt - if that is  
so, then clearly it was in  
Mr. Wee's, in the interest of  
Mr. Wee's client to get Santhiran's  
cooperation. And so that, in my  
submission, is a very, very  
important part right at the  
beginning of story in March 1976.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20 I think one can say this in  
fairness to Mr. Wee: that on the  
actual figures as a result of  
getting Santhiran's cooperation  
and clearing up the vital thing,  
which individual client the  
money belonged to, he not only  
gets back \$297,000 out of  
\$351,000, which isn't bad going  
because in most cases of this  
kind, but he manages to identify  
30 each of the clients on the 297  
as far as he knows now in 1980.

So he has achieved at least  
this with Santhiran's cooperation:  
he has not only got all the money  
back for the clients, but he has  
managed to identify which client  
has which money.

Chairman: All the clients?

40 Mr. Ross-Munro: Oh yes, all of the  
clients. The only person who  
has lost is Mr. Wee because he  
has lost the difference between  
two hundred and ninety-seven  
thousand and three hundred and  
fifty-two thousand. They were

Mr. Ross-Munro: costs monies which he  
 (cont) obviously has lost, but as far  
 as the clients are concerned,  
 he really hasn't done badly, as  
 I say, with Santhiran's coopera-  
 tion, and on Miss Lisa Choo's  
 evidence.

In the  
 Disciplinary  
 Committee

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No. 2

10

And I think it is obvious  
 that without Santhiran's  
 cooperation clients would have  
 lost money to a large extent.  
 She said 10 to 15 per cent could  
 have been cleared up and only 50  
 per cent hasn't been cleared up,  
 she said, the date the accountants  
 came in.

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

20

So that is the position there.  
 And then the rest of the facts,  
 one can go quite quickly until  
 the end of the year. One knows  
 what happened was that by June  
 two hundred and ninety-seven  
 thousand was paid back. But then  
 Santhiran, you may think with a  
 certain amount of (ingenuity),  
 turned up to be able to say, "Oh,  
 I paid you too much. I must  
 have a chance in all fairness,  
 I must have a chance to show you  
 and prove to you that I have paid  
 you too much."

30

And so what happened? Files  
 that had hitherto disappeared  
 suddenly started to re-emerge,  
 and there were files that Santhiran  
 was able to show generally that he  
 had paid some clients. And I  
 think if you look again that  
 something like \$40,000 worth  
 that Santhiran managed to show  
 that he doesn't owe because he  
 actually paid clients.

40

But of course at the same time  
 they were then discovering further  
 defalcations which he hadn't  
 admitted.

Mr. Ross-Munro: So there you get the  
 (cont) position in June and July,  
 Santhiran saying "I must have an  
 opportunity of proving it" and  
 indeed proving it that he had  
 paid clients to the tune of forty  
 thousand, and then you see all  
 this happened.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

10

And then August/September,  
 the unfortunate Miss Lisa Choo  
 more or less raised her hand up  
 and said, "I really can't take  
 it any further."

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

20

And then the new accountants  
 the first one asked (to look)  
 into the accounts in September/  
 October; and then Medora and  
 Thong were appointed on the 9th  
 of November. They then started.  
 Mr. Wee's evidence is not  
 challenged: that he thought  
 they would take a couple of months  
 as after all they have had a lot  
 of - if I may respectfully put it -  
 the donkey work done by Lisa Choo.  
 You will see in Volume II all the  
 lists that she did, and one might  
 think that within her own means -  
 she is not a trained accountant -  
 she did a jolly good job because  
 she not only managed to get a  
 list of all the admissions, but  
 she made, you will recall,  
 Santhiran initial them. When he  
 admitted that he made a false  
 entry she made him initial it.  
 Today you can see all those  
 exhibits as some of the examples  
 that were given.

30

40

So that she not only cleared  
 all up, but really in fact did  
 a good job for the future,  
 pinning Santhiran down to various  
 admissions and then getting his  
 initials.

She then continued to help the

Mr. Ross-Munro: accountants and under  
(cont) their direction she of course  
wrote for numerous cheques  
from the banks, and matters of  
that sort.

In the  
Disciplinary  
Committee

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No. 2

And then Santhiran left without  
telling anybody on the 21st of  
December.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Then one comes to January.  
Now Mr. Wee left for England on  
January the 14th, and we know  
before that date he had got  
Miss Choo to do the first draft  
report to the Law Society. That  
seems to be the first stage but  
unfortunately did not meet with  
his approval - he described it  
as useless, something of that  
sort.

20

Then he went to England. Then  
he got a telephone call on January  
the 25th, and he gave his Legal  
Assistant, as she was, authority  
to make a short report. And one  
can quite sympathise with an  
Assistant, who was young, that  
she didn't. She waited for  
Mr. Wee to come back. He came  
back on the 2nd of February, and  
at that stage, having given his  
Assistant authority to make a  
report, which she didn't, one  
might say automatically, "Why on  
earth not make a report in  
February to the Law Society?  
You authorised your Assistant  
to do it. Why not do it yourself?"

30

40

And what he in fact, as I  
understand his evidence, was  
saying was that he was still  
waiting for Medora and Thong,  
if he had waited since two  
months more or less on that  
date - December/January - he  
assumed he was going to get it



Mr. Ross-Munro: quickly.  
(cont)

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10 If you look at documents in  
Volume II, after he returned you  
will see a constant pushing on  
the one hand of Miss Lisa Choo  
and Miss Chan to get a complaint,  
various notes of which you have  
seen; and on the other hand  
when he was pushing Medora.  
And Medora contacted Santhiran,  
who was still saying, "Well, I  
must be able to prove certain  
files."

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

And finally, you know from the  
Accountants' Report dated 1st  
April that on the 10th March  
Mr. Wee gave Medora instructions  
to tell Santhiran that he had a  
final five days.

20 Now those are facts as such,  
and then we know what happened  
with a qualified report which  
you have seen, and one knows he  
mentioned it for what it was  
worth to the Vice-Chairman of the  
Law Society at the end of March.  
He went to Hongkong and came back  
on the 30th April, as you will  
see at Volume I. And on May 27th  
30 he filed a complete report with  
all the documents.

So those are the facts.

Now if I may deal with  
Mr. Grimberg on inferences. And,  
first of all, motive. Again  
Mr. Grimberg on the first of  
several occasions, transcript  
page 56, says about three-  
quarters down:

40 "And I must also put it to  
you, as I have done in my  
opening, that your abiding  
preoccupation is a complete  
restitution from Santhiran

Mr. Ross-Munro: (cont)	"of both clients' monies and firm's monies so that you would not be out of pocket. A. Not my abiding preoccupation, although I cannot say it was not in my mind. Q. That is a fair answer."	In the Disciplinary Committee <hr/> No. 2
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10

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

So, you see, that is the suggestion which Mr. Grimberg is asking you and your Committee to draw that inference.

20

And Mr. Grimberg tries to support that inference in several ways. First of all, there were the references to what he called the blue skies, you will remember, in Volume I. Sir, I would have thought the patches of blue skies, if anything, were helpful to Mr. Wee. I won't read them now, but if you look at those blue sky references, you will find that Mr. Wee was always saying there that he was acting in the interest of his clients. Perfectly true he was demanding that Mr. Santhiran should make a full confession to the Law Society, that he should offer guarantees, matters of that sort, but on the very same page as the passages that Mr. Grimberg refers you to, you will see references to "the primary concern was my clients".

30

40

So, in my respectful submission, far from that being an irresistible inference that he was interested in money, it goes the other way to supporting the inference that Mr. Wee would ask you to make: namely, that he realised that he needed Santhiran's cooperation in

Mr. Ross-Munro: clearing up the muddle,  
 (cont) and that was in the interest of  
 his clients. And he was  
 perfectly frank, and indeed  
 Mr. Grimberg quite fairly said  
 it was a fair answer, when he  
 said to you, "Well, I am not  
 saying that I didn't care a  
 damn about my own pocket or  
 that would be absurd. All I  
 am saying is that my main  
 motive was to make sure that  
 my clients got the money back  
 and identified. And of course  
 if I can also get my own money  
 back, if I get my own money  
 back, all the better." Of  
 course that is a motive.

10

20

30

40

But I venture to suggest, as  
 I did at the beginning, a man  
 very often may have several  
 motives, and it is rare, indeed,  
 that you can say that is the  
 only motive a man had when he  
 acted in that way.

And so what Mr. Vee is saying  
 is, "My main motive at that  
 time honestly was the interest  
 of my clients, and I realised  
 the appalling position that I  
 couldn't identify. But of  
 course a subsidiary motive  
 would be if I can save my own  
 pocket, obviously that is some-  
 thing I will want to do."

Mr. Grimberg, as I understand  
 it, is really saying, "Oh no,  
 the sole motive you had was a  
 selfish motive." That, in  
 my respectful submission,  
 couldn't be a dishonourable  
 and selfish motive of just  
 thinking of your own pocket  
 and not thinking about the  
 public or clients or anything  
 of that sort.

Now the other way Mr. Grimberg

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Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

Mr. Ross-Munro: tried to support the  
 (cont) inference, as I understood him,  
 was to say, "Well, there are  
 lots of very funny, suspicious  
 things which went on as far as  
 you are concerned. When you  
 found (something wrong) you  
 never told your own firm of  
 auditors."

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

Well, Mr. Wee is saying, "You  
 may be right; you may be wrong",  
 but it is quite clear that he  
 took the view that Turquands had  
 been negligent in not spotting  
 this since 1972.

20

As I say, it is no part of my  
 case to allege negligence against  
 Turquands because that is not  
 what is being decided here, nor  
 (are they) represented. But  
 certainly what is quite clear  
 is, rightly or wrongly, that he  
 took that view that they were.  
 And, come to think of it, one  
 can understand why: because it  
 wasn't spotted for years. It  
 does seem strange.

30

And again there is corroboration  
 on that in the letters we put in,  
 you remember, several days ago,  
 the two letters of Turquands  
 where Mr. Wee says quite clearly  
 that he was suggesting to  
 Turquands in writing that they  
 were negligent, having told them  
 so orally on March the 10th.

40

So in my submission, if you  
 look at it, as indeed you must,  
 in my submission, Mr. Grimberg  
 has to prove irresistible infer-  
 ence ... Mr. Wee's motive.  
 The fact that he didn't tell the  
 auditors he thought them  
 negligent is another different  
 thing. And again human beings  
 act in quite different ways.

Mr. Ross-Munro: I think, quite honestly, In the  
 (cont) probably what I would have done and what Mr. Grimberg has Disciplinary  
 suggested he would have done, Committee  
 is that I would have telephoned  
 the auditors saying, "I think  
 you have been extremely negligent in No. 2  
 this and it may well be that you Appellant's  
 will be getting our solicitors' Counsel's  
 letter." Closing  
 Speech

10

But Mr. Wee had this undoubted- (Continuation)  
 ly extraordinary shock of a  
 trusted Legal Assistant, Senior  
 Legal Assistant defrauding a  
 large amount of clients' money,  
 putting him in a most appalling  
 position. And he obviously  
 took the view that he was not  
 going to say anything to the  
 auditors; he is just going to  
 tell them nothing. He wanted  
 to appoint Medora and Thong, an  
 independent firm as such. In my  
 submission, that doesn't help  
 Mr. Grimberg's inference at all.

20

The other one he mentioned was:  
 wasn't it extraordinary when you  
 are dealing with a crook like  
 Santhiran that you should actually  
 ask him for his approval in the  
 appointment of an auditor, and  
 that that in some way supported  
 the inference that he must have  
 had this selfish motive.

30

Again, Sir, when one looks at  
 the facts, in my submission, it  
 isn't really all that strange. .  
 Here was Santhiran claiming  
 that he had overpaid. Mr. Wee  
 says, "Right, you will have  
 somebody independent. You won't  
 have Lisa Choo - she is my  
 employee. An independent auditor  
 to confirm (if you had) over  
 paid." And he then says, "Right,  
 well, we will have Medora and  
 Thong."

40

Mr. Ross-Munro: Again, in my submission, In the  
 (cont) when one looks at the evidence, Disciplinary  
 whereas there is no real evidence Committee  
 to support Mr. Grimberg's  
 (argument) so far as their being  
 irresistible, there is a piece  
 of evidence, in my submission,  
 which goes quite a long way to  
 supporting the inference that  
 Mr. Wee asked you to make: and, Appellant's  
 Sir, it is this, that by 18th Counsel's  
 March two hundred and sixty-seven Closing  
 thousand had been repaid. Mr. Wee Speech  
 thinks that is the bulk of the (Continuation)  
 monies.

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 No. 2

10

20

Now if his only motive was  
 simply to preserve his own purse  
 and his own monies, if that is  
 the only motive, in his belief  
 he had got the bulk of the monies  
 back. You will have to look at  
 the transcript. My understanding  
 was he was saying the bulk of the  
 monies.

30

Will you check that with the  
 transcript? But my memory is it  
 was the bulk of the monies.  
 Then you would have expected  
 him to report him, Santhiran,  
 some time after the 18th of March.  
 He had got the bulk of the monies  
 back; why didn't he report then?  
 Instead of which, he wasn't report-  
 ing until May.

Yes, at page 7, middle of the  
 page:

40

"Now you have been told on  
 Monday by Lisa Choo that  
 over \$200,000 they thought  
 was missing by the 13th March  
 he had actually repaid  
 \$267,000 odd. That \$267,000  
 odd - did you think that that  
 represented only a small  
 proportion of what he had  
 stolen or did you think that

Mr. Ross-Munro: it represented the  
( cont) bulk of the money that he had  
stolen or what at that time?

A. At that time we have got  
fairly the bulk fairly the  
bulk at that point of time.

In the  
Disciplinary  
Committee

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Chairman: I have to record  
that properly,

Mr. Munro. At that time?

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Mr. Ross-Munro: He thought this  
represented the bulk of the  
money? Chairman: That this sum  
of \$267,000? A. That is right."

And then page 12, about the  
middle of the page:

"Now still at the stage of the  
13th March 1976 when you had  
been repaid what you think are  
the bulk of the money had this -

20

Chairman: Mr. Munro, witness  
said he was told by the staff  
that it represented the bulk of  
the monies. Witness didn't say  
he thought it was.

Mr. Munro: Yes, he did.

Chairman: Are you quite sure?

30

Mr. Munro: Oh yes, I asked him  
specifically as to his  
belief at that stage. He said  
he believed. He had been told  
by staff over \$200,000 and  
believed that the \$267,000  
represented the bulk of the  
monies. That is correct, is  
it, Mr. Wee? A. That is right."

40

So I think it is right to say in  
some ways this formed the bulk of  
the monies, and Mr. Grimberg is  
quite right that I rather foolishly  
agreed what Wee had said about the  
bulk of the monies represented  
clients' monies. Mr. Wee's belief  
was that two hundred thousand  
represented the bulk of the monies

Mr. Ross-Munro: stolen, and that tied  
 (cont) inwith Lisa Choo's evidence:  
 when she said two hundred thousand  
 was missing, she wasn't talking  
 about clients' monies, she was  
 talking about monies missing.

In the  
 Disciplinary  
 Committee  
 \_\_\_\_\_  
 No. 2

10 So, Sir, if that is right  
 therefore that piece of evidence  
 really goes quite a long way in  
 support of the inference that  
 Mr. Wee asked you to draw, namely,  
 that at that stage, the 18th of  
 March, at that stage he thought  
 he believed the bulk of the money  
 had been repaid. And if that  
 is right, then I put the question  
 tautologically: "Then why not  
 report it? You have got the  
 bulk of the money, if your only  
 20 interest or selfish interest was  
 getting the money back?"

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

Of course I don't have to draw  
 an irresistible inference - my  
 learned friend Mr. Grimberg will  
 have to satisfy you beyond reason-  
 able on that (point).

30 So that is the first one. And,  
 as I say, if you accept it, there  
 is clear evidence from Mr. Wee  
 his major motive - if I may put  
 it that way - his major motive  
 was protection of his clients  
 because he realised without  
 cooperation his clients would  
 lose, and that is more probable  
 to some extent from Lisa Choo's  
 own evidence as I have indicated  
 to you at the time.

40 So on one side you have  
 evidence; on the other side,  
 we would submit, there really  
 is no evidence, but certainly  
 it does not become an irresist-  
 ible inference.

Sir, secondly, on consequences.



Mr. Ross-Munro: Sir, I have dealt with  
(cont): that important point of law, and  
I won't repeat: that we say on a  
proper construction of the  
various rules that I have men-  
tioned the other day, on  
practising certificates. One  
was as to a Legal Assistant like  
Santhiran, as opposed to a  
partner or a person who is  
practising on his own as  
solicitor, that you cannot  
prevent him getting a practising  
certificate until he is struck  
off. That is my first submission;  
and to show you how it dovetails  
into my submission on consequences.

In the  
Disciplinary  
Committee

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No. 2

Appellant's  
Counsel's  
Closing  
Speech

(Continuation)

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Now, secondly, we know from the  
chronology that the Police took  
11 months to arrest Santhiran  
notwithstanding that they had  
the benefit from 13th June 1977  
onwards from all the documents  
and the search that Mr. Wee's  
staff had done, including in  
those documents, all those  
admissions that Lisa Choo had  
got, with Santhiran's admissions  
on them; notwithstanding that,  
they took 11 months to arrest  
him.

But that is not due to his  
leaving the country. You will  
recall that Inspector Wong, when  
Mr. Wee pointed out to him  
simply said that they did ask  
the Malaysian Police to keep an  
eye.

40

But when they eventually  
arrested him, they actually  
arrested him in Malaysia, in  
Kuala Lumpur. So that simply  
is the fact.

We also know simply as a fact -  
we will come to it in a moment -  
we know that when the Law Society

Mr. Ross-Munro: received the full facts  
 (cont) in May 1977 they took 23 months  
 to strike him off. Now, in my  
 submission, nobody is criticising  
 the Law Society for taking 23  
 months to strike him off. It is  
 obvious that they were awaiting  
 the results of the criminal  
 conviction; and that brings me  
 to, in my submission, a very  
 important point. The reason  
 why the Law Society would wait  
 until the criminal convictions is  
 one of fairness to a defendant,  
 because if a man is facing  
 criminal proceedings, to have an  
 internal charge before the  
 criminal proceedings are dealt  
 with - a trial which was not  
 privileged is obviously very  
 unfair.

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

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And the importance of that, in  
 my submission, is this: that the  
 Law Society, when faced with that  
 sort of thing - they have to do a  
 balancing act. They have to do a  
 balancing act: they have to  
 weigh up on the one hand the  
 possible danger to the public  
 of a solicitor continuing to  
 practise when the Law Society  
 has evidence that is disclosed.  
 That they have to weigh that up  
 on the one hand means manifest  
 unfairness to a man who is facing  
 criminal proceedings to actually  
 have a trial and strike him off  
 before criminal proceedings take  
 place.

40

So it is a balancing act, and  
 it is an important matter, and  
 in this case, in this very case,  
 the Law Society took 23 months  
 to strike him off. Quite  
 clearly, in my submission -  
 nobody is criticising the Law  
 Society in the slightest -  
 quite clearly, in my submission,

Mr. Ross-Munro: the Law Society did a  
 (cont) balancing act and thought that  
 it was more important to be  
 fair to Santhiran than the poss-  
 10 ibility - which may be rather a  
 remote possibility - of the  
 public being harmed by the fact  
 that Santhiran (was able) to  
 continue to apply for a  
 practising certificate.

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

He didn't - as far as I know  
 there is no evidence that he  
 did. But the balancing act is  
 the all-important matter, and  
 the reason why it is the all-  
 important matter is, if you put  
 yourselves in the shoes of  
 20 Mr. Wee in March 1976, he made  
 this discovery as told by Lisa  
 Choo of files missing, false  
 entries, and the rest of it -  
 he realised it was impossible  
 to in fact identify which clients  
 were owed which money of the  
 two hundred and sixty-seven  
 thousand without Santhiran's  
 cooperation. And so he did a  
 balancing act, as that is what  
 30 it amounts to. He did a  
 balancing act and he decided in  
 the interest of clients that it  
 was better to get to the bottom  
 of it with his cooperation and  
 identify the monies, rather  
 than reporting and not getting  
 his money.

And there was a little bit of  
 40 evidence on that again from  
 Miss Lisa Choo. No one  
 challenged it.

I think my learned friend  
 Mr. Grimberg asked about whether  
 Santhiran - not the exact words,  
 but whether Santhiran was more  
 likely to admit things and  
 corroborate with her rather  
 than with the Police or somebody

Mr. Ross-Munro: else. And if you will  
 (cont) recall, she said, "Yes", she  
 thought she did get quite a lot  
 more after that, and I think  
 Santhiran at one time was  
 aroused into tears, matters of  
 that sort. But the general  
 tenor of the evidence really  
 was that Lisa Choo in fact did  
 manage to quite some extent get  
 his cooperation over those  
 months after March.

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

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And Mr. Wee took the view,  
 rightly or wrongly, you may  
 well feel rightly there, that if  
 had reported it to the Police in  
 March, God knows when they could  
 arrest him. At least he seemed  
 to have taken the view, perhaps  
 very reasonably, "Well, if the  
 bulk of the monies have been  
 repaid there is no particular  
 urgency." But if had reported  
 him in March 1976, when the  
 Police got round to investigating  
 it, once they had an open and  
 shut case on a few counts, which  
 they would have had as Lisa Choo  
 had got Santhiran to sign them  
 when he admitted, they would  
 just use - if I may use the  
 vernacular - a few of the  
 admitted counts and leave it  
 to Mr. Wee to sort out the rest  
 on those matters on which  
 Santhiran had not pleaded guilty.

40

And so you may feel that on  
 the evidence here that Lisa  
 Choo probably was more able to  
 get Santhiran's cooperation  
 than the Police Officers  
 where you might just have  
 either (1) he said nothing, or  
 (2) when faced with signatures  
 on various items, he said "Oh,  
 I have got this". And the  
 Police would be satisfied that  
 he had pleaded guilty on those,

Mr. Ross-Munro: and sentence him to  
(ccnt) nine months. And Mr. Wee would  
be left with the same mess, as  
far as that is concerned.

In the  
Disciplinary  
Committee

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10 And, Sir, that, in my submission, No. 2  
again is a balancing act. He  
doesn't see. As I told you right  
at the beginning, looking back  
on it with hindsight, bearing in  
mind he could have written and  
saying, "Look, I have made this  
discovery. I am making enquiries.  
Once I have got to the bottom of  
it I will give you full details."  
He could have done it, he didn't  
do it. "I was undoubtedly wrong  
in not doing it, and that is an  
error of judgment."

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20 In my submission, that is a  
long, long way from grossly  
improper conduct, and the reason  
he didn't do it was this balancing  
act. He may be right, he may be  
wrong, but that is the reason.

30 So when one comes to the con-  
sequences, in my respectful  
submission one has in fact to  
consider it against that back-  
ground. As I say, there is no  
dispute - the Law Society took  
13 months before striking him  
off for perfectly proper and good  
reasons. The Police took 11  
months before arresting him, one  
assumes, for good reason. And he  
is left in that position where he,  
too, does a balancing act and, in  
my submission, and in particular  
if I am right - extraordinary as  
it may be - on this question  
40 that you cannot refuse a practis-  
ing certificate to Santhiran  
until he is struck off, when  
one analyses it in that way  
though you have ruled you are  
entitled to consider the conse-  
quences, that is not something

Mr. Ross-Munro: that will promote or (cont) expand what is an error of judgment into grossly improper conduct. In the Disciplinary Committee

Sir, that then is ---

No. 2

Chairman: Can you repeat it, Mr. Munro - the last statement of yours?

Mr. Ross-Munro: Yes.

Appellant's Counsel's Closing Speech (Continuation)

10

In the circumstances of this case and bearing in mind the matters that I have mentioned, that is to say, my legal point that you can't refuse a practising certificate, the fact that the Law Society took 23 months for perfectly proper reasons and the Police took 11 months, that even though one pays regard to consequences, in assessing the gravity of the delay to report, in the circumstances of this case the consequences cannot - I am giving a slightly different wording - cannot change the nature of the delay and promote what was an error of judgment into grossly improper conduct.

20

30

Sir, I am almost finished. I went through yesterday the matter but this is a matter I don't really think that is relevant on the delay, but it may or may not be on consequences, but it was the question of the auditors coming in: whether or not they came in in March 1976. As the evidence stands before you, Mr. Wee's evidence was it could be January or February. Then you, Sir, I think put to him some earlier evidence which suggested it could have been March, and he said he assumed it was March. He couldn't remember the one or the other, but he assumed it was March.

40

Mr. Ross-Munro: Lisa Choo, when asked,  
 (cont) said she couldn't remember the  
 auditors coming in in March.  
 She had the Ledger at the time,  
 and on the other hand she wasn't  
 the accounts girl, so to speak;  
 she was doing the investigation.  
 But as far as her recollection -  
 because we are talking of four  
 years ago - that she had no  
 recollection of them coming in  
 in March.

In the  
 Disciplinary  
 Committee

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No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

And I would have thought  
 that evidence really ends with  
 Lisa Choo.

Chairman: Well, I think the normal  
 procedure, in most cases, is  
 that the end of the year  
 accounts are audited for the  
 purpose of the Accountant's  
 Report, and the auditors  
 normally might start in  
 February or January, and it  
 goes on till March. It is  
 not really true that they do  
 it in one week; it takes  
 several weeks to do it.

20

Mr. Ross-Munro: So probably they started  
 in January/February and then kept  
 up till the end of March, maybe  
 they were during those three  
 months. I think that is as  
 clear as the evidence goes,  
 which isn't really clear.

30

Now, Sir, summing up, if I may,  
 really I say this then: that we  
 would say it is absolutely clear -  
 I don't want to put my case too  
 high on motive - that if I am  
 right in saying that Mr. Grimberg  
 must show and prove through  
 irresistible inference as to  
 Mr. Wee's motive, he has wholly  
 failed to do so, and that is  
 absolutely crystal clear. That  
 was No.1.

40

Mr. Ross-Munro: No. 2: if you accept my  
 (cont) submissions that in all the  
 circumstances, consequences  
 doesn't really build up to  
 grossly improper conduct, you  
 are really left with 13 months'  
 delay, and the reasons given  
 why: in the interest of the  
 client, that being the main  
 interest that without Santhiran's  
 cooperation they couldn't in  
 fact have identified the clients'  
 accounts as such.

In the  
 Disciplinary  
 Committee

No. 2

Appellant's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

20

Now if you accept that, in my  
 respectful submission, it is  
 perfectly simple that you will  
 no doubt be happy in the cir-  
 cumstances to say, "Well, we  
 accept that this does not amount,  
 is not of sufficient gravity to  
 amount to grossly improper conduct."  
 And that is the end of the matter.  
 That is what I am asking you to  
 do in my respectful submission  
 when bearing in mind the burden  
 of proof and the authority I  
 have shown you, that that is in  
 fact, we would submit, what you  
 should do.

30

40

Now if I might just - my last  
 matter - take the opposite side  
 of the coin. If, contrary to  
 all my submissions, you reject  
 them all, and you accept every-  
 thing that Mr. Grimberg says, in  
 my submission it would be wholly  
 wrong for you to do in particular  
 on the motive, but if you accept  
 everything he said, and you say,  
 "Right, we think that his sole  
 motive was to save his own purse" -  
 that is what it amounts to - "a  
 selfish motive to save his own  
 purse", and furthermore for all  
 the consequences of a practising  
 certificate, if you think it was  
 wrong on the legal point and all  
 the rest of the evidence goes



<p>Mr. Ross-Munro: against him. But in (cont) my respectful submission, if you look at it from that point of view, it still does not amount to grossly improper conduct. But it does amount to a grave error of judgment. It does amount to Mr. Wee's conduct being reprehensible, and in my submission it would be in circumstances such as that - and I am hoping you will never find it - but it is just simply if you find everything against him, in circumstances such as that, in my submission, that is the Legislature who did the Legal Profession Act and passed section 93 (1) (b). If I can ask you to look at that?</p>	<p>In the Disciplinary Committee</p> <hr/> <p>No. 2</p> <p>Appellant's Counsel's Closing Speech (Continuation)</p>
<p>10</p>	
<p>20</p>	

Section 93 (1) says:

"After hearing and investigat-  
ing any matter referred to it  
the Disciplinary Committee  
shall record its findings in  
relation to the facts of the  
case and according to those  
facts shall determine -

<p>30</p>	<p>(a) that no cause of sufficient gravity for disciplinary action exists" ---</p>
-----------	--

That is what, in my respectful  
submission, you should find, but  
if you find everything against  
Mr. Wee and reject all my sub-  
missions, then you have ---

<p>40</p>	<p>"(b) that while no cause of sufficient gravity for disciplinary action exists under that section the advocate and solicitor should be reprimanded."</p>
-----------	--

Mr. Ross-Munro: And I know "no cause of  
(cont) sufficient gravity" in our case  
means no grossly improper con-  
duct. That is the same thing -  
grossly improper conduct.

In the  
Disciplinary  
Committee

---

No. 2

10 So in my submission, that that  
last one I am certainly not  
inviting you to do it, but I am  
merely drawing your attention to  
it by merely saying if at the  
end of the day you accept what  
Mr. Grimberg said and not what  
I said, it is still not grossly  
improper conduct, but it is  
conduct which should be criticised,  
and that, Sir, 91 (b) is just the  
sort of section that could then  
come into play.

Appellant's  
Counsel's  
Closing  
Speech  
(Continuation)

20 Thus you will be able to say,  
"We find this does not amount  
to grossly improper conduct. On  
the other hand, we think it was  
sufficiently grave that he should  
be reprimanded."

But that is only my submission  
if Mr. Grimberg manages to satisfy  
you beyond all reasonable doubt.

I am sorry to have taken so  
long.

-----

30

(12.25 p.m.)  
1.10.80

In the  
Disciplinary  
Committee

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No. 2

Mr. Grimberg: Yes. Sir, I was conscious  
of the fact that we might have  
to rush through today and,  
being personally keen to finish  
by half-past three this after-  
noon, I have taken the liberty  
of having typed out my final  
submission to you which, if I  
may, I will hand up to you now.  
(Tenders copies.)  
40 And I think this would be of

Respondent's  
Counsel's  
Closing  
Speech

Mr. Grimberg: some help to you so  
 (cont) that you won't be writing notes  
 as we have seen you do sometimes.

In the  
 Disciplinary

\_\_\_\_\_  
 No. 2

10 Sir, perhaps before I turn to  
 this document, I ought perhaps  
 to explain the letters that my  
 learned friend referred to this  
 morning at pages 70 to 72 of  
 Bundle A. You will remember  
 that there was a letter of the  
 15th September 1979 to the  
 Secretary of the Law Society in  
 England which I had hoped to  
 rely on to some extent in regard  
 to the alternative plea - and  
 there I referred to an Amended  
 Statement of the Case.

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

20 My learned friend has quite  
 rightly pointed out that that  
 amended Statement of the Case is  
 not before you. I ought to  
 point out that it wasn't even  
 an Amended Statement of the Case;  
 it was an intended Amended  
 Statement of the Case. I  
 intended to apply to you to  
 amend in those terms, but never  
 did.

30 The reason why I didn't is  
 because it was pointed out to me,  
 quite correctly, by Mr. Wu that  
 in that proposed amendment I was  
 seeking to raise another charge  
 which would have flown in the  
 face of Lau Liat Meng and the  
 other cases. So I decided  
 not to apply for amendment in  
 those terms. But that is  
 how the reference to Amended  
 40 Statement of the Case arose:  
 it wasn't in fact an Amended  
 Statement of the Case; it was  
 an intended Amended Statement  
 of the Case, and I didn't  
 apply to amend in the event in  
 those terms.

Chairman: When did you abandon it?

Mr.Grimberg: I abandoned it before you on the first day of the Inquiry. I abandoned the alternative plea on the first day of this inquiry, of this investigation. This Amended Statement of the Case or so-called Amended Statement of the Case was never before you.

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

Respondent's  
Counsel's  
Closing  
Speech

10

Sir, if I may now then go to my submission? It is as follows:(Continuation)

Mr.Chairman, it may be convenient for you to begin by reminding yourselves, for the Nth time, of the charge - which is that the Respondent failed to report Santhiran's criminal breaches of trust earlier.

20

Your task is to determine whether, in failing to report earlier, the Respondent was guilty of grossly improper conduct. You have decided, in my respectful submission, correctly that in determining this question you are entitled to consider, firstly, the natural and probable consequences of the delay in reporting; and secondly, the merits and truthfulness of the Respondent's explanations for the delay, and the Respondent's motives for allowing a delay of 13 months, which the Respondent admits, to take place.

30

40

It has been conceded on behalf of the Respondent that he should have reported Santhiran's misconduct earlier. It was suggested that a short letter would have done, although why a short letter and not as long a letter as may have been necessary to place the full facts, as then known, before the Law Society, you may find it

Mr.Grimberg: difficult to understand.  
 (cont) It has been submitted to you  
 that whatever default, error of  
 judgment or impropriety the  
 Respondent was guilty of, it  
 did not amount to grossly  
 improper conduct justifying  
 disciplinary action.

In the  
 Disciplinary  
 Committee

\_\_\_\_\_  
 No. 2

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

Thus there has been an admis-  
 sion of some degree of default.  
 Indeed, you may think the fact  
 that the absence of a submission  
 of no case to answer at the end  
 of the Law Society's case, no  
 evidence having been called,  
 indicated an acceptance by the  
 Respondent that some explanation  
 was called for from him.

20

Now what emerged from the  
 Respondent's evidence - and when  
 I say Respondent's evidence, I  
 mean of course Respondent's own  
 evidence and that of his witness,  
 Miss Choo. And how does he  
 acquit himself?

I suggest the following emerged:

30

(i) that, by putting it at  
 its lowest, in late  
 February 1976 the Respondent  
 had reason to believe that  
 Santhiran was guilty of  
 criminal breach of trust of  
 a relatively small amount  
 of Clients' monies;

(ii) that, on the 8th March  
 1976 the Respondent had  
 positive knowledge of  
 defalcations exceeding  
 \$200,000.00;

40

(iii) that no report was made to  
 the Law Society (or the  
 Police) - and you will  
 find that in this catalogue,  
 I do repeat that on several

- |                         |  |                                       |
|-------------------------|--|---------------------------------------|
| Mr. Grimberg:<br>(cont) | occasions at the various stages at which I said it should have been obvious to the Respondent that a report was called for;  | In the Disciplinary Committee         |
|                         |  | No. 2                                 |
| 10                      | (iv) that by the 18th March 1976, Santhiran had made restitution of approximately \$267,000.00;  | Respondent's Counsel's Closing Speech |
|                         | (v) that no report was then made to the Law Society (or to the police);  | (Continuation)                        |
| 20                      | (vi) that Santhiran was kept on at Braddell Brothers, without a salary, ostensibly to wind up, but that during the period March to December 1976, he in fact dealt with new matters, went to Court on behalf of Clients and was "supervised", a solicitor of by then some 8 years' standing, by junior assistants, pupils and clerks;              |                                       |
| 30                      | (vii) that between March and November 1976, Santhiran's defalcations were investigated by Miss Lisa Choo, who gave as her occupation "office assistant", but who was, I submit, before the defalcation, no more or less than the Respondent's private secretary, with one or two other administrative responsibilities or qualifications whatever; |                                       |
| 40                      | (viii) that the Respondent did not tell his firm's auditors of the defalcation when he discovered it, despite the fact that he knew, or certainly  |                                       |

Mr.Grimberg: ought to have known, that In the  
(cont) on the basis of what would Disciplinary  
thus result in an unquali- Committee  
fied report by them he, and  
therefore Santhiran, would  
be issued with practising  
certificates; No. 2

- 10 (ix) that by the end of June Respondent's  
1976, Santhiran had made Counsel's  
restitution of about Closing  
\$297,000.00, and that in Speech  
the minds of the Respondent (Continuation)  
and Lisa Choo this represent-  
ed virtually all the Clients'  
money Santhiran had taken -  
I ought to say "all monies"  
when I used the word  
"Clients'". "All monies".
- 20 (x) that no report was made at that  
stage to the Law Society or  
to the Police;
- 30 (xi) that if the Respondent's  
concern at that stage was  
that although the money had  
been recovered, it remained  
necessary to identify the  
Clients' accounts from  
which it had been taken,  
clients' accounts relating  
to 50 per cent of the money  
taken had been identified  
by August/September 1976  
(see Lisa Choo in cross-  
examination);
- (xii) that by a couple of months  
later the remaining  
clients' accounts had also  
been identified (see Lisa  
Choo in cross-examination);
- 40 (xiii) that no report was then  
made to the Law Society  
(or the Police);
- (xiv) that in November 1976, by  
agreement between the

Mr. Grimberg: Respondent and Santhiran, In the  
(cont) Medora & Tong were appoint- Disciplinary  
ed to determine what Committee  
payments had been made on  
Santhiran's instructions  
for which supporting docu-  
ments did not exist;

No. 2

- 10 (xv) that the firm's auditors Respondent's  
were not told of Medora & Counsel's  
Tong's appointment; Closing  
Speech  
(Continuation)
- Indeed, Sir, I should have  
said that Medora & Tong  
were told specifically not  
to tell the firm's auditors  
because that is in Document  
called A.3 or A.4 of the  
bundle. Mr. Wee agreed  
with that.
- 20 (xvi) that on the 21st December  
1976, Santhiran, a married  
man with a family, who had  
received no remuneration for  
the previous nine months,  
removed his personal  
belongings from the offices  
of Braddell Brothers, and  
left the firm;
- 30 (xvii) that no report was then made  
to the Law Society (or the  
police);
- 40 (xviii) that on the 25th January  
1977, while in London, the  
Respondent was told that  
Santhiran had gone into  
practice on his own account.  
The Respondent left it to  
the discretion of an  
assistant solicitor of  
some three years' standing,  
whether to report the matter  
or not, but at the same time  
sanctioned the release of  
certain files to Santhiran -  
see A.2, page 22;



- |    |   |   |
|----|---|---|
|    | <p>Mr. Grimberg: (xix) that the young assistant, Miss Chan Lai Ming, did not then report to the Law Society (or the police), and that the Respondent on his return to Singapore on February 2, 1977, did not do so either;</p>  | <p>In the Disciplinary Committee</p>                                      |
| 10 | <p>(xx) that on the 10th March 1977 the firm's auditors raised with the Respondent the question of a suspense account which they had previously detected (see A.4), and the Respondent then told his auditors for the first time of the defalcations which he had discovered just over a year previously;</p> | <p>No. 2<br/>Respondent's Counsel's Closing Speech<br/>(Continuation)</p> |
| 20 | <p>(xxi) that no report was then made to the Law Society (or the police);</p>   |   |
| 30 | <p>(xxii) that the firm's auditors placed the position on record by a letter dated 17th March 1977 (A.2, page 177) to which the Respondent replied on the 30th March 1977 (A.2, page 179);</p>  |   |
| 40 | <p>(xxiii) that the Respondent's first formal notification to the Law Society was given on the 30th April 1977 (A.1, page 1);</p> <p>(xxiv) that the Respondent lodged a detailed complaint to the Law Society concerning Santhiran on the 27th May 1977 (A.1, pages 2 to 11).</p>                            |   |

I ask you, against this evidence, to consider the Respondent's root

Mr.Grimberg: explanation for his delay. In the  
 (cont) He said that to have reported Disciplinary  
 Santhiran earlier would have Committee  
 resulted in a drying up of inform- \_\_\_\_\_  
 ation from Santhiran, which was No. 2  
 crucial to tracing the defalcations, Respondent's  
 and the delay was the result of Counsel's  
 Santhiran's uncooperative attitude. The Respondent asks you Closing  
 to believe that he acted in Speech  
 clients' interests. (Continuation)

10

I suggest to you that this explanation was put paid to by the evidence of Lisa Choo.

It might be worth your while to look at the evidence while we are on the point - 127, 129B, at the very bottom of 127:

20

"I wonder if you can help us on this. It was suggested to you by Mr.Ross-Munro was uncooperative but at the same time you told us that...  
 ... sometimes cooperative and sometimes he was not cooperative",

30

and she mentioned on the whole he was fairly cooperative, but occasionally wasn't. She gave examples.

Would that be fair? That is my learned friend's recollection of what the witness said in examination-in-chief.

Then I go on:

40

"Q. Was he generally cooperative or non-cooperative? ....  
 Did you get the impression he was deliberately obstructive and misleading? A. Deliberately?  
 Q. Yes, did you get the feeling he was deliberately obstructing

Mr.Grimberg: "investigation? A. I  
(cont) don't think so."

In the  
Disciplinary  
Committee

Now the picture that emerges  
from that, Sir, I suggest is a  
picture of someone who was trying  
to be helpful, who was sometimes  
confused and had gaps in his  
recollection of events over a  
long period of time, but who was  
not, in the mind of the person  
who was charged with investigat-  
ing this matter, who was not  
misleading.

\_\_\_\_\_  
No. 2

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

10

And then, as regards Mr.Ross-  
Munro's recollection of what had  
happened, I would like to complete  
it - just look at page 114: if  
you look in the middle of that  
page there is the question "Now  
taking the period between March  
1976" - have you got it?

20

Chairman: Yes.

Mr.Grimberg: That is a question by my  
learned friend:

"Taking the period between  
March 1976, when Santhiran's  
misappropriation was discovered,  
and December 1976 can you help  
us on this? ... .. he was  
fairly cooperative though...  
occasionally he brought clients  
to tell lies, and then later  
retracted. Yes."

30

And you may think this is a  
legal question:

"So on the whole ... but on  
one occasion, I suppose he  
was distinctly uncooperative  
or misleading" and to that  
classic leading question, if  
I may say so, the answer is  
"Misleading".

40

Mr. Grimberg: "Q. She said it would be fair to put it: he was fairly cooperative; on one occasion he was uncooperative and misleading." In the Disciplinary Committee

\_\_\_\_\_

No. 2

And again there is a repetition of really what was in my learned friend's mind, but not in witness's mind.

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

10

So that is the only evidence from Miss Choo, in answer to a leading question: on one occasion, not often, on one occasion when clients were brought where she said he was misleading because clients told untruths. That is the evidence you have got.

20

And my submission to you really is that it is not true to say that Santhiran was uncooperative deliberately or otherwise. I think a picture of that ~~that~~ really emerges is that of a man who knew the game was up and who was trying to cooperate not only in terms of assisting with the tracing of clients' accounts but also in terms of money restitution.

30

So if I can take you back to perhaps page 5, paragraph 7 of my written note:

40

I suggest to you that this explanation was put paid to by the evidence of Lisa Choo. I referred you to the passages. Perhaps you ought to note there also page 114: "See also page 114", and then referring to Lisa Choo also, she said that Santhiran could not be said to have been deliberately obstructive, that he was trying to help, and that his inability at times to do so was,

Mr.Grimberg: in her view, the result  
(cont) of confusion and forgetfulness.

In the  
Disciplinary  
Committee

10 There is no evidence, apart  
from surmise on the Respondent's  
part , that a prompt report would  
have resulted in a refusal on  
Santhiran's part to cooperate.  
The evidence is that he tried  
his best to cooperate both in  
terms of tracing clients'  
accounts, and in terms of  
restitution.

\_\_\_\_\_ No. 2  
Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

20 You may therefore think that  
the Respondent's excuse, and I use  
the word advisedly, simply does  
not wash. Even if there was  
anything in it, by November 1976,  
clients' monies had been repaid  
in full and the sources of the  
defalcations traced. Still no  
report was made.

And, Sir, for that proposition  
perhaps you ought to have anote  
of where Mr. Wee says that from  
the evidence of Miss Lisa Choo.  
Sir, if you look at page 129,  
foot of the page - my question  
in cross-examination:

30 "By the end of June 1976  
Mr.Santhiran had repaid  
approximately \$297,000. Were  
you satisfied as you should  
be in your mind clients'  
monies that had been taken  
had by then been recovered?  
I do not think so because...  
every time we looked we  
found new discoveries ...  
... You knew to whom 50 per  
cent of this money belonged?  
Yes. By what date approxi-  
mately did you discover to  
whom the balance 50 per cent  
belonged? I was still  
carrying on. ... ..When  
did you think you could

40

Mr. Grimberg: "identify roughly  
(cont) speaking to whom the  
balance of the 50 per cent  
belonged? ... writing to  
the Law Society about  
November. About November?  
Yes."

In the  
Disciplinary  
Committee

\_\_\_\_\_  
No. 2

10 So by about November not only  
had they recovered all the clients'  
monies, but they knew to which  
clients the monies belonged.

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

So if I can go back to my typed  
submission in paragraph 8:

20 You may therefore think that  
the Respondent's excuse, and I  
use the word advisedly, simply  
does not wash. Even if there was  
anything in it, by November, 1976,  
clients' monies had been repaid  
in full and the sources of the  
defalcations traced. Still no  
report was made.

30 If you reject the Respondent's  
explanation, you are entitled by  
virtue of your answer to the  
second of the two preliminary  
issues, to investigate his real  
motive for the delay. The Law  
Society says that it was the  
result of the Respondent's  
anxiety to see himself repaid by  
Santhiran, irrespective of the  
Respondent's duties to the pro-  
fession, to his clients and to  
the public at large. You are  
entitled to consider the evidence  
that goes to this motive, and if  
you consider that the motive is  
40 made out, the evidence of the  
extent to which the Respondent  
was prepared to go to achieve  
that motive.

Mr.Grimberg: And then - subheading  
(cont) "Evidence of motive".

In the  
Disciplinary  
Committee

Throughout Bundle A.1 there  
recurs this theme - what Santhiran  
must do is to admit, and repay  
the amounts he has taken. Later  
this requirement is embellished -  
he must furnish a satisfactory  
guarantee for the repayment.  
The references are to be found  
as follows - and those are the  
various patches of blue sky  
that I referred you to in my  
opening. And I go on.

No. 2

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

Remember, Mr.Chairman, that  
these passages occur in the  
Respondent's explanations for  
his delay. Therefore, the in-  
sistence on restitution was  
occurring during the delay, and  
I submit was the reason for it.  
You have, too, this curious  
insistence that Santhiran should  
admit his guilt and apply to get  
himself struck off. The Respond-  
ent explains this by saying that  
this procedure would have  
resulted in Santhiran getting  
struck off sooner. I have  
difficulty in understanding why  
it would have been any quicker  
this way than if the Respondent  
had reported him, and then  
Santhiran had admitted his guilt.  
I am therefore bound to submit  
that the procedure stipulated for  
by the Respondent was so stipu-  
lated because the Respondent  
considered that, what would in  
those circumstances have been  
his failure to report, would  
have been less likely to surface.  
Clearly the Respondent knew that  
he had failed in his duty by not  
reporting - so, when he finally  
does report on April 30th, 1977  
(see A.1, page 1), he is still  
talking (13 months after the

Mr. Grimberg: event) about defalcations  
(cont) which "appear to have been  
carried out", and he omits to  
say when he discovered them.

In the  
Disciplinary  
Committee

---

No. 2

10

So I suggest to you that is  
the evidence that the Respondent  
was conscious that he had  
(defaulted) in not doing what he  
ought to have done, namely, to  
make a prompt report to the Law  
Society.

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

20

Still on the subject of motive,  
although the Respondent explained  
his failure to inform Turquand  
Youngs of the defalcation when  
it was discovered by saying  
that he considered them negligent  
for failing to detect it, nothing  
passed between the Respondent  
and Turquand Youngs after the  
Respondent's letter dated 30th  
March 1977 (see A.2, page 179).  
This was, I submit, a defensive  
letter. The Respondent never  
ever threatened these auditors  
with a claim for negligence, still  
less did he cause a writ to be  
issued.

30

Finally, on the subject of  
motive, I must make reference to  
the appointment of Medora & Tong  
an appointment that was made  
after, to all intents and purposes,  
all clients' monies had been re-  
covered and the accounts from  
which the monies had been taken,  
identified. The appointment was  
concealed from the firm's  
auditors, but most curiously of  
all, made with Santhiran's  
consent. In fact, as a con-  
sequence of the agreement to  
appoint Medora and Tong, it  
was Santhiran who first sought  
Medora out. What a strange  
course to take, when only firm's  
monies remained unaccounted for,

40



Mr.Grimberg: unless securing Santhiran's (cont) consent was intended to facilitate recovery from him when the amount still to be recovered had been ascertained by the auditors to whose appointment he had consented.

In the  
Disciplinary  
Committee

---

No. 2

10 "The extent to which the Respondent was prepared to go to achieve his motive". Under this head, I repeat the items which I have referred to as emerging from the evidence of the Respondent and his witness - the concealment from the auditors; the acceptance that as a result of the concealment, Santhiran would obtain a practising certificate for 1976/1977; the

20 delegation of the investigation for a period of six months to an unqualified person, who received no assistance from the Respondent; the appointment of independent auditors without reference to the firm's auditors; the exposure to the public of the risk arising from Santhiran setting up in practice on his own account, all this at a time when the Respondent was the incumbent President of the

30 Law Society, when he met his colleagues several times each month in the course of their business, and when he concealed from them what had transpired at the hands of Santhiran in his own firm.

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

40 That is the extent to which the Respondent was prepared to go to achieve what I submit was his motive, and I say that you are entitled to consider these factors in determining whether the admitted default amounted to grossly improper conduct.

As a result of your determination

Mr.Grimberg: of the first of the pre-  
 (cont) liminary issues, you are entitled  
 to consider the natural and  
 probable consequences of the  
 delay in reporting. The one  
 consequence, and the only one  
 I ask you to consider, is the  
 fact that Santhiran was able to  
 continue holding himself out to  
 his colleagues, his clients and  
 the public at large as an  
 Advocate and Solicitor of  
 unblemished reputation and  
 standing.

In the  
 Disciplinary  
 Committee

No. 2

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

20

30

It is suggested to you that,  
 upon a proper interpretation of  
 sections 29 and 30 of the Legal  
 Profession Act, read with the  
 Solicitors' Practising Certifi-  
 cate Rules, 1970, even if  
 Santhiran had been reported  
 promptly, he could not have been  
 deprived of a practising certifi-  
 cate, since he will not have  
 made the application as the  
 proprietor or partner of his  
 own firm. I agree that the  
 Act, and the Rules could have  
 dealt with the position with  
 greater felicity and clarity,  
 but I apprehend that if the  
 Respondent had reported Santhi-  
 ran's defalcations to his  
 auditors, the following would  
 have resulted.

40

Turquand Youngs would have  
 declined to submit an unqualified  
 report in March 1976 if they had  
 been told of Santhiran's misappro-  
 priations. They would have  
 given a certificate like R.4,  
 the document handed in this  
 morning, and Santhiran, as an  
 employee, had no accounting  
 responsibilities, and would  
 thus have applied for a certi-  
 ficate, in the Form D in the

Mr.Grimberg: Schedule to the Rules,  
 (cont) that an Accountants' Report was  
 not necessary. In that appli-  
 cation, he would have stated  
 that he was employed for the  
 twelve months preceding his  
 application by Braddell Brothers.

In the  
 Disciplinary  
 Committee

No. 2

10

May I ~~just~~ pause here, Sir - oh,  
 do you have in front of you the  
 Solicitors' Practising Certificate  
 Rules? And perhaps you should  
 also have in front of you a copy  
 of the Act.

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

20

You remember that it is provi-  
 ded under section 29 (1) (c)  
 that a solicitor must produce an  
 Accountant's Report or a certificate  
 from the Council and in the  
 circumstances of his case such a  
 report is unnecessary.

30

Now Santhiran, if you look at  
 the Rules, if you look at the Form  
 D in the Schedule to the Rules,  
 would have made an application  
 in that form for a certificate  
 as an Accountant's Report,  
 pursuant to section 77 was  
 unnecessary. And at the foot  
 of that form, you will see little  
 (c) and at the very end thereto  
 "I did not practise except as an  
 employee of" - Braddell Brothers,  
 you would say.

40

Now when that application went  
 in, the mind of the person who  
 was asked to issue that certi-  
 ficate would have immediately  
 been directed to the Accountant's  
 Report given for Braddell Brothers,  
 and he would immediately have seen  
 that that was a qualified report  
 and Santhiran would not therefore  
 have been granted a certificate  
 that he had asked for.

Mr.Ross-Munro: I hate to interrupt my

Mr. Ross-Munro: learned friend, but I only (cont) do so as I have only seen paragraph 17 just now (referring to Mr. Grimberg's written submission) but when my learned friend says "Turquand Youngs would have declined to submit an unqualified report in March 1976 if they had been told of Santhiran's misappropriations. As a result, the Respondent's own practising certificate would have been with held" - when we come to that the evidence which you now have is quite contrary.

In the  
Disciplinary  
Committee

No. 2

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

10

Mr. Grimberg: (sotto voce re slight departure from written submission).

20

Mr. Ross-Munro: Oh, my learned friend - my mistake by jumping up.

30

Mr. Grimberg: So you would say, Sir, he would not have got that certificate for which he was asking, and therefore the Registrar's obligation to issue a practising certificate under section 29 would not have arisen, and that is how a prompt report would have resulted in Santhiran not, in my submission, getting a practising certificate, but I am bound to concede the position could be made a lot clearer by legislation and Rules made out for it.

40

So if I can just go to paragraph 19. The Registrar would then have considered whether the sole proprietor of Braddell Brothers had obtained an unqualified accountants' report, since as the Respondent himself put it, his assistants came under his umbrella. Turquand Youngs would have issued a qualified report, clients' monies having been misappropriated, and the Respondent

Mr. Grimberg: would not have been granted In the  
 (cont) a certificate under section 29 (1) Disciplinary  
 (c). Committee

Mr. Ross-Munro: Again, I am sorry, but  
 I think it is the same point.  
 I do not think, with respect,  
 my learned friend could say  
 the Respondent would not have  
 been granted a practising certi-  
 ficate.

No. 2

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

Mr. Grimberg: Sorry.

Mr. Ross-Munro: Well, I am going to sit  
 down.

Mr. Grimberg: Would not have been granted  
 a certificate under section 29  
 (1) (c).

Mr. Ross-Munro: It is clear when you give  
 the certificate - we know that  
 (with all) the qualified certifi-  
 cate which you say this morning,  
 nevertheless Mr. Wee got the  
 certificate.

20

Mr. Grimberg: Mr. Wee has got that, but  
 Santhiran would not have got the  
 certificate because he would not  
 have got the certificate for  
 which he applied pursuant to---

Chairman: He would have got his certi-  
 ficate presumably because all  
 clients' monies had been repaid.  
 There was no more. The accounts  
 were clean, in his own words.

30

Mr. Ross-Munro: Yes, the accounts were  
 clean.

Mr. Grimberg: Santhiran would not have  
 got a certificate under section  
 29 (1) (c), and not having a  
 certificate the Registrar would  
 be under no obligation to grant  
 the certificate. Thus  
 Santhiran's application for a

40

Mr.Grimberg: certificate that an  
 (cont) Accountant's Report was  
 unnecessary having failed, the  
 Registrar would not have been  
 obliged to issue Santhiran with  
 a practising certificate under  
 section 29.

In the  
 Disciplinary  
 Committee

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No. 2

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (continuation)

10

It has also been suggested  
 to you that both the Law Society  
 and the police moved so slowly  
 after the report was eventually  
 made, that even if Santhiran had  
 been reported promptly, he would  
 not have been effectively dealt  
 with for a long time. I have two  
 things to say to that submission:  
 firstly, it is no part of a  
 solicitor's duty to consider,  
 when circumstances occur which  
 place upon him the duty to make  
 a report, that the Law Society  
 might or would take a long time  
 to deal with it. That, even if  
 true, takes nothing away from  
 his duty, which he must perform  
 at once. Nor is he entitled to  
 assume that there will be a  
 delay. Secondly, even if a  
 prompt report would have resulted  
 in delay you are, I suggest,  
 entitled to assume that, whatever  
 delay had occurred, it would  
 nevertheless have resulted in a  
 conclusion 13 months earlier than  
 the conclusion in this case took  
 to be reached.

20

30

40

As regards the law, there is  
 little in contention between  
 Mr.Ross-Munro and me. I accept  
 that the onus of proof is on the  
 Law Society to satisfy you  
 beyond reasonable doubt that  
 the Respondent was guilty of  
 grossly improper conduct. We  
 both agree that grossly improper  
 conduct means conduct which is  
 dishonourable to the solicitor  
 as a man and dishonourable in

Mr.Grimberg: the context of the profes-  
 (cont) sion. I have suggested an  
 alternative test could be whether  
 the conduct was such that it  
 would reasonably be regarded as  
 disgraceful or dishonourable by  
 lawyers of good repute and  
 competency.

In the  
 Disciplinary  
 Committee

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No. 2

Respondent's  
 Counsel's  
 Closing  
 Speech  
 (Continuation)

10

That really is a test on which  
 my learned friend and I agree  
 you (should look at) as to how  
 you would consider whether the  
 conduct is dishonourable in the  
 context of the profession unless  
 you do so as competent practition-  
 ers yourselves, and that is all  
 in the Rajasooria case - see  
 Rajasooria v. Disciplinary  
 Committee (1955) M.L.J. 65, per  
 Lord Cohen at pages 69 to 71.

20

30

I accept, too, that there is  
 some authority for the proposition  
 that an error of judgment, even a  
 grave error of judgment, does not  
 necessarily amount to grossly  
 improper conduct justifying dis-  
 ciplinary action. For the  
 reasons I have advanced it is  
 the case for the Law Society  
 that the Respondent's conduct  
 was not the result of an error  
 of judgment, but the result of  
 selfish motive, regardless of  
 the interests of others; that  
 it was therefore dishonourable  
 to him as a man and as a member  
 of the profession; alternatively,  
 that the conduct was such as you  
 would reasonably regard it as  
 disgraceful and dishonourable.

40

The Court in Re an Advocate  
 and Solicitor - that is the Ong  
 Tiang Cheon case appears to  
 have accepted as correct the  
 proposition that for a  
 Disciplinary Committee to draw  
 an inference from the evidence,

<p>Mr.Grimberg: such inference must be (cont) irresistible. If that is the law, then I respectfully submit that you would be fully entitled to draw the inference of selfish motive from the evidence. Once you reject the Respondent's explanation for the delay, you will ask yourselves: "What other possible explanation could there have been?", and you will draw the irresistible inference that there was none, other than that the Respondent wished to see himself repaid, and that there was little that he allowed to stand in the way of this objective, whatever the consequences.</p>		<p>In the Disciplinary Committee</p> <hr/> <p>No. 2</p> <p>Respondent's Counsel's Closing Speech (Continuation)</p>
<p>And if I may just pause for a moment and deal very briefly with the case my learned friend referred to this morning: the Ong Tiang Choon case, where the Court held the Disciplinary Committee had been wrong to draw a particular inference, is, in my submission, clearly distinguishable on the facts because there the evidence that Ong Tiang Choon knew what his client was doing was really extremely negative.</p>		
<p>But what you have in front of you is evidence of positive acts, positive omissions on the part of the Respondent from which I say, in aggregate, only one reasonable inference can possibly be drawn, not a number of infer- ences some of which are adverse to the Respondent and some of which are favourable to him, so that you must warn yourself against drawing the adverse ones and disregarding the favourable</p>		



Mr. Grimberg: ones. I say that only  
(cont) one inference is capable of  
being drawn by you if you  
look at the evidence in the  
aggregate.

In the  
Disciplinary  
Committee

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No. 2

10

My learned friend says to  
you, "Well, the inference I  
ask you to draw" - that is  
Mr. Ross-Munro - "is that it  
is clear that he was seeking  
to protect his clients'  
interest." Well, the  
Respondent admitted that  
the primary responsibility  
is to see his clients paid,  
so what interest was there  
to protect? The clients  
were protected by the fact  
that ultimately they could  
look to Mr. Wee (for indem-  
nity).

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

20

30

Are you going to accept  
that on the 8th March, when  
Lisa Cheo came to Mr. Wee and  
said, "Look, it is over  
\$200,000 that is taken,"  
was it really operating in  
his mind at that point of  
time when the report ought  
to have been made that there  
might be difficulty in trac-  
ing the specific accounts  
from which this money had  
been dipped into? Can it  
be said at that point of time  
he was envisaging this  
difficulty, and from that  
time on it was only that  
difficulty that caused him  
not to make the report?

40

And if you think that  
that is (absurd), then you  
are bound to come to the  
conclusion that really the  
only inference to draw, and

Mr.Grimberg: therefore the irresistible In the  
(cont) inference from all this, is Disciplinary  
the one that I assert. Committee

10

And so, Sir, I would suggest, in conclusion, that you may well arrive at your determination that this was a case of grossly improper conduct, that case being fully noted, and you should determine that a cause of sufficient gravity for disciplinary action does exist.

No. 2

Respondent's  
Counsel's  
Closing  
Speech  
(Continuation)

Chairman: Do you want to say anything, Mr. Ross-Munro?.

Mr.Ross-Munro: No, Sir.

20

Chairman: Well, thank you very much, Gentlemen, for the (points) which you have cleared before the Committee. And now we have to deliberate and write out our report.

Mr.Ross-Munro: Thank you, Sirs.

Chairman: Thank you very much.

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(Hearing concludes at 1.10 p.m.)

Wednesday, 1.10.60.

In the Matter of HARRY LEE WEE,  
an Advocate and Solicitor,

And

In the matter of the Legal  
Profession Act (Cap. 217).

No. 3

19th November  
1980

Report of  
Disciplinary  
Committee

10 1. We, the undersigned, CHYE CHENG TAN  
and ERIC CHOA WATT CHIANG, Advocates  
and Solicitors, were with Mr. ANTHONY  
PURDOM GODWIN appointed on the 13th day  
of December 1978 by the Chief Justice  
to be the members of a Disciplinary  
Committee to hear and investigate a  
complaint against the abovenamed  
advocate and solicitor. On the 26th  
day of December 1978, the Chief Justice  
by an instrument in writing made under  
the above Act, removed the said  
Mr. Anthony Purdom Godwin as a member  
of the Disciplinary Committee and  
20 appointed Mr. RODNEY STEPHEN BOSWELL,  
an advocate and solicitor, as a member  
in his place. The Committee on the  
17th day of January 1979 appointed  
Mr. STEVEN CHAN SWEE TECK, an advocate  
and solicitor, to be the Secretary of  
the Committee.

30 2. The Committee met on 18th April 1979  
at 11.00 a.m. in the Conference Room of  
Messrs. Tan, Rajah & Cheah for the  
purpose of fixing a date for the hearing  
of the Inquiry and at such date the Law  
Society was represented by Mr. SACHI  
SAURAJEN appearing on behalf of Mr. J.  
GRIMBERG, the Counsel for the Law  
Society, while Mr. C.S. WU appeared  
on behalf of the Respondent. At this  
hearing, Mr. Wu raised certain questions  
relating to the Statement of the Case  
and the hearing was adjourned to  
40 Tuesday, 8th May 1979, at 5.00 p.m.  
On the appointed date and time, the  
Committee met in the presence of Mr. J.  
Grimberg and Mr. C.S. Wu to hear the  
preliminary point intended to be raised  
by Mr. Wu. At this hearing, Mr. Wu

asked for clarification of paragraph 8 of the Statement of the Case. It was agreed that Mr. Wu and Mr. Grimberg should meet for the purpose of settling the issue with regard to paragraph 8 of the Statement of the Case and, in the meantime, the Inquiry was fixed for hearing from 8th October 1979 to 12th October 1979 (inclusive) with liberty to the parties to apply.

No. 3

Report of  
Disciplinary  
Committee

10

3. On 13th July 1979, the dates fixed for the hearing were vacated and the Committee fixed fresh dates for the hearing, namely, 15th October 1979 to 19th October 1979 (inclusive).

20

4. On 17th September 1979, Messrs. Donaldson & Burkinshaw, the solicitors for the Respondent, applied to the Committee for the hearing to be postponed to a date after 11th February 1980 on the ground that the Respondent was applying for his appeal against conviction to be heard in January 1980. The dates fixed for hearing in October 1979 were consequently vacated.

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5. Mr. Rodney Stephen Boswell, the third member of the Disciplinary Committee, died on the 7th day of December 1979, and the Chief Justice by another instrument in writing dated 8th January 1980 appointed the undersigned PO GUAN HOCK, an advocate and solicitor, as a member of the Committee in place of the late Mr. Rodney Stephen Boswell.

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6. On 23rd June 1980, the Respondent by a letter of that date informed the Secretary of the Committee that his firm had filed on his behalf a Notice of Motion on 3rd April 1980 which came before Mr. Justice Choer Singh in his appellate jurisdiction on 11th April 1980 and the learned Judge had adjourned the matter for a date to be fixed.

7. The Committee met on 14th July 1980 at 4.45 p.m. at the abovementioned Conference Room of Messrs. Tan, Rajah & Cheah and fixed 23rd September to 26th September (inclusive) 1980 for the hearing of the Inquiry.

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10 8. The Inquiry commenced as scheduled on 23rd September 1980 at 10.30 a.m. in the Conference Room of the Subordinate Court Building and from 24th September to 26th September 1980 in Court No. 23 of the same building. The Inquiry was adjourned from 26th September 1980 to 1st October 1980 on which date it was concluded at 1.15 p.m. The Respondent was represented throughout the hearing by Mr. C.W.G. ROSS-MUNRO, Q.C., assisted by Mr. C.S. Wu, except on 26th September 1980 when 20 Mr. W.E. JANSEN appeared in place of Mr. Wu. Mr. J. Grimberg represented the Law Society throughout the hearing.

9. The case against the Respondent is set out in the Amended Statement of Case which reads as follows:-

AMENDED

STATEMENT OF CASE

30 (1) Harry Lee Wee (hereinafter called "the Respondent"), an Advocate and Solicitor of the Supreme Court of the Republic of Singapore of some thirty years standing, practises, and has at all material times practised, under the name and style of Braddell Brothers (hereinafter called "the Firm"). The Respondent was at various 40 times a member of the Council of the Law Society of Singapore, and was the President of the Law Society for the period 1975 to 1977, inclusive.

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- (2) In or about 1971, one S. Santhiran, an Advocate and Solicitor (hereinafter called "Santhiran"), entered employment with the Firm as a legal assistant.
- 10 (3) In or about February 1976, the Respondent had reason to believe that Santhiran had misappropriated, in aggregate, a substantial sum standing to the credit of the Clients account of the Firm.
- (4) In or about March 1976, Santhiran admitted to the Respondent that he, Santhiran, had misappropriated or otherwise misapplied sums totalling \$298,270-75 from the Clients account of the Firm.
- 20 (5) Between the 9th March 1976 and the 10th June 1976, Santhiran, with the knowledge and encouragement of the Respondent, made restitution to the Firm of \$297,956-12 in respect of monies misappropriated or otherwise misapplied by Santhiran as aforesaid.
- 30 (6) In or about November 1976, the Respondent appointed Medora and Tong, a firm of public accountants (hereinafter called "the Accountants") to inspect the accounts of the Firm with a view to ascertaining the extent of the misappropriation or misapplication of funds by Santhiran from its Clients account.
- 40 (7) Notwithstanding the facts referred to in paragraphs 3 to 6 inclusive of this Statement of Case, the Respondent failed to make a report to the Law Society

concerning the conduct of Santhiran, who continued in the employment of the Firm as an Advocate and Solicitor, albeit without salary, until he left the service of the Firm on the 21st December, 1976.

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- 10 (8) The Accountants delivered their report to the Respondent on or about the 25th May 1977. The Respondent first reported the conduct of Santhiran to the Police on or about the 26th May 1977, and wrote to the Law Society with reference thereto on the 30th April 1977.
- 20 (9) Santhiran was charged on five charges under section 408 of the Penal Code. One charge was proceeded with, the prosecution asking for the remaining four charges to be taken into consideration. Santhiran was convicted on the 10th May, 1978 and sentenced to 9 months' imprisonment, having admitted the facts pertaining to the charge that was proceeded with, and having consented to the four remaining charges being taken into consideration.
- 30 (10) By reason of the facts referred to in paragraphs 2 to 8 hereof (inclusive), the Respondent was guilty of grossly improper conduct in the discharge of his professional duty within the meaning of section 84 (2) (b) of the Legal Profession Act.
- 40 (11) It is submitted that the Respondent should be dealt with under section 84 (1) of the

10. At the commencement of the Inquiry, two preliminary questions were submitted to the Committee for decision, viz:- Report of Disciplinary Committee

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(1) Whether the Committee was entitled to consider for the purposes of this investigation the natural and probable consequences of the Respondent's admitted delay in reporting to the Law Society.

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(2) Whether Counsel for the Law Society was entitled to address the Committee in opening and to cross-examine the Respondent, if he chooses to give evidence, on the merits and truthfulness of the Respondent's explanations for the admitted delay and the Respondent's motive for the delay.

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11. Counsel for the Law Society maintained that in the case of question No. (1) the Committee was entitled to consider such consequences and in the case of No. (2) he was entitled to address the Committee and to cross-examine the Respondent on the Respondent's explanations and motives. Counsel for the Respondent took the opposite view.

12. The reports of three cases were referred to by Counsel on both sides as being relevant to the issue before the Committee.

The cases are:-

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- (1) Lau Liat Meng v. Disciplinary Committee (1967) 2 M.L.J. 141,
- (2) Isaac Paul Ratnam v. Law Society of Singapore (1976) 1 M.L.J. 195, and



(3) In the Matter of an Advocate and Solicitor (1978) 2 M.L.J. 7 (hereinafter referred to as the "OTC" case).

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10 13. The two questions put to the Committee arose from the contention of Counsel for the Respondent that only one charge had been made against the Respondent and that appeared in the Law Society's letter of 20th July 1978 to the Respondent appearing on page 69 of the agreed bundle marked "A Vol.1", viz:-

" A formal investigation by a Disciplinary Committee into the following complaint against you, viz:-

20 Failure to report the criminal breach of trust committed by Mr. S.Santhiran when he was a legal assistant in the firm of Braddell Brothers to the Law Society earlier. "

(pp 21/22 of Transcript).

30 Counsel for the Respondent not only contended that no further charge could be added, but also that the matters referred to in questions (1) and (2) were not matters which related to the charge preferred by the Law Society, namely:- failure to report the defalcations to the Law Society earlier.

40 14. Counsel for the Law Society, while refraining from contending that he was entitled to raise new charges, maintained that the subject matter of the two questions were related to the charge preferred and did not constitute any new charge.

15. Before dealing with the authorities,

10 we feel that there has been some confusion in the use of the term "charge" and it would be useful to clarify the same. In disciplinary proceedings there are eleven specific charges contained in the eleven paragraphs (a) to (k) inclusive of Section 84 (2) which may be preferred against a respondent. In preferring any of these charges, it is necessary to set out the specific act complained of and on which the charge is founded and these acts are aptly described by Lord Hodson in his judgment in the Lau Liat Meng case as grounds of the charge.

20 16. In the present case, the charge against the Respondent is contained in paragraph 10 of the amended Statement of the Case, namely, that the Respondent was guilty of grossly improper conduct in the discharge of his professional duty within the meaning of Section 84 (2) (b) of the Legal Profession Act. The so-called "charge" of failure to report the criminal breach of trust committed by S. Santhiran when he was a legal assistant in the firm of  
30 Braddell Brothers to the Law Society earlier is merely a ground of the charge made under Section 84 (2) (b). As a charge such as that prescribed in Section 84 (2) (b) may be supported by more grounds than one, or a solicitor may be charged with more than one charge under Section 84 (2) (b), each supported by a different ground, there has arisen the loose practice  
40 of referring to these grounds as separate charges instead of grounds and in order to avoid confusion, we shall refrain from using the term "charge" except in its strict sense.

17. With regard to the powers of the Disciplinary Committee in respect of allowing new charges to be preferred,

although the Privy Council in its judgment in the Lau Liat Meng case appears to have laid down the law very clearly, the decisions in the other two cases cited above appear to have cast some doubts over what was otherwise a clear ruling.

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10 18. In the Lau Liat Meng case, the solicitor appeared before a Disciplinary Committee on two substantive charges of grossly improper conduct. One charge related to the receipt of \$700/- in breach of the Motor Vehicles (Third Party Risks and Compensation) Ordinance and the other to a champertous agreement. During the course of the hearing by the Disciplinary Committee, the solicitor admitted that although he had been paid the

20 Solicitor and Client costs, he, nevertheless retained the sum of \$500/- recovered from the other party as party and party costs. The receipt of this sum of \$500/- was not connected with the two original charges of grossly improper conduct which were founded on different grounds, but the Disciplinary Committee nevertheless made an adverse finding against the

30 solicitor of grossly improper conduct on the ground that he had received the sum of \$500/- over and above the Solicitor and Client costs. No amendment was made to the Statement of the Case in order to incorporate a new charge and as the retention of \$500/- was a surprise disclosure while the solicitor was under cross-examination, the Privy Council held that the adverse finding of the

40 Disciplinary Committee could not be upheld. The relevant part of the judgment of Lord Hodson appears on pages 144 and 145 of the Report, viz:-

" While acknowledging the

10 " gravity of the admission made  
by the appellant as to this  
\$500/- which he put into his  
own pocket without disclosure  
to his client and as to which  
he gave no satisfactory  
explanation it must be recog-  
nised that he was not charged  
either with having made  
excessive charges for profess-  
ional work or having committed  
any specific fraudulent act.  
The case against him was  
contained in the statement  
quoted above which was made  
pursuant to rule 2 of the  
Advocates and Solicitors  
(Disciplinary Proceedings)  
Rules 1963. It was once  
20 amended but no amendment was  
made or sought to be made  
after the appellant had made  
his admission: (See rule 10  
of the same Rules which  
expressly provide for amendment  
of or addition to the case).  
Formal amendment might have  
been dispensed with provided  
adequate notice of the charge  
30 had been given, but natural  
justice requires adequate  
notice of charges and also  
the provision of opportunity  
to meet them. This requirement  
was not met. "

40 19. According to Lord Hodson's  
judgment, the Disciplinary Committee  
has powers under rule 10 of the  
Advocates and Solicitors (Disciplinary  
Proceedings) Rules, 1963, during the  
course of a hearing to permit a  
further Statement of the Case con-  
taining new charges to be filed  
provided the solicitor is not taken  
by surprise and he is given an  
opportunity to prepare his defence  
to the new charge so that there will

be no denial of natural justice. In fact Lord Hodson went further and ruled that formal amendment might have been dispensed with provided adequate notice of the new charge had been given and the solicitor had an opportunity to meet it.

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10 20. Although the Lau Liat Meng case was dealt with when the Advocates and Solicitors Ordinance (Cap. 188) was still in force, we are unable to see any difference between the provisions of this Ordinance and those of the Legal Profession Act in respect of disciplinary proceedings which could affect the application of the judgment in the Lau Liat Meng case. The provisions of Sections 25 and 26 of the Ordinance are re-enacted in Sections 84, 86, 88 and 90 of the Legal Profession Act. The judgment of Lord Hodson is quite clear and unequivocal but there appears to be a minor departure from it in the case of Isaac Paul Ratnam. The Inquiry Committee in that case held an Inquiry under Sections 86 (2) and 87 (1) (a) of the Legal Profession Act, to enquire into two charges of grossly improper conduct under Section 84 (2) (b), the first of which related to an instigation to dishonestly remove property and the second to causing certain evidence of an offence for which his client was charged, to disappear. The solicitor appeared before the Inquiry Committee pursuant to a notice issued under Section 87 (5) and on the Inquiry Committee recommending that there should be a formal investigation, the Council of the Law Society applied to the Chief Justice for the appointment of a Disciplinary Committee.

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21. During the course of the hearing by the Disciplinary Committee, the solicitor was convicted in the Magistrate's Court on two counts relating to the two grounds of the charge preferred in the disciplinary proceedings then currently before the Disciplinary Committee. Upon the conviction of the solicitor, the Inquiry Committee decided on its own motion under Section 87 (1) (b) to enquire into the matter of the solicitor's conviction and without giving the solicitor an opportunity to be heard under the provisions of Section 87 (5) in respect of the new charge, proceeded to recommend a formal investigation under Section 88 (1) (a) in respect of both acts for which the solicitor was convicted. The same Disciplinary Committee was appointed and dealt with both charges, namely:-

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- (a) The charge of grossly improper conduct under Section 84 (2) (b) supported by the grounds mentioned in paragraph 20, and
  - (b) The charge that the solicitor had been convicted of a criminal offence, implying defect of his character which made him unfit for his profession within the provision of the Legal Profession Act under Section 84 (2) (a), the ground in support of this charge being the solicitor's conviction in the Magistrate's Court.

22. The Disciplinary Committee made adverse findings against the solicitor

on both charges. The High Court upheld the findings of the Disciplinary Committee and ordered that the solicitor be struck off the roll.

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10 23. Upon an appeal to the Privy Council, it was held that the failure of the Inquiry Committee to comply with Section 87 (5) of the Act which contained an imperative provision, rendered the second enquiry by the Inquiry Committee a nullity. The Privy Council, however, upheld the decision of the High Court on the charge made under Section 84 (2) (b) and further held that in considering the first charge, although the grounds of the charge did not refer to the conviction of the solicitor, the Court was nevertheless entitled to take the conviction into consideration and as  
20 relevant.

30 24. According to the report in the Malayan Law Journal, the Lau Liat Meng case was not cited in the report of the Isaac Paul Ratnam case. However, we find that the decision in this case is not entirely a departure from the ruling made in the Lau Liat Meng case. The Privy Council is, in this case, concerned with a defect in the proceedings resulting in a denial of natural justice which rendered the new proceedings before the Disciplinary Committee a nullity and not with the question of any new charge being added. Apparently the Disciplinary Committee was not in a position to cure the basic defect emanating from the Inquiry Committee enquiry.

40 25. The third case which we have called the OTC case appears to be the latest one relevant to the issues raised by the two questions put to the Committee. In this case, the Council of the Law Society after receiving the report of the Inquiry Committee wrote to the

Respondent Solicitor on 16th September No. 3  
1976 a letter containing the following:-

" Re: Complaints by the Director, Disciplinary  
CPIB. Committee

10 I am directed to inform you  
pursuant to the provisions  
of section 83 (1) (c) of the  
Legal Profession Act  
(Chapter 217) that the  
Council has determined that  
there should be a formal  
investigation by a Disciplinary  
Committee into the  
following complaints against  
you, viz:-

Payment of monies to a tout  
for bringing in accident  
cases."

20 26. The matter was referred to a  
Disciplinary Committee which then  
heard the following charges:-

30 (i) That the Respondent had  
directly or indirectly  
procured the employment of  
himself through or by the  
instructions of a tout to  
whom a remuneration for  
obtaining such an employ-  
ment had been given by  
him through his clerk  
within the meaning of  
Section 84 (2) (e) of the  
Legal Profession Act.

40 (ii) That the Respondent had  
done an act or acts which  
would render him liable  
to be disbarred or struck  
off the roll of the Court  
or suspended from practice  
or censured as a barrister  
or solicitor in England  
due regard being had to



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the fact that the two professions are fused in Singapore within the meaning of Section 84 (2) (h) of the Legal Profession Act. The grounds for this charge were that the Respondent whilst acting for certain victims in running down cases received payment for so acting other than taxed costs and that in each of the cases a sum of money was paid to a tout by his clerk with his knowledge.

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- (iii) That the Respondent had been guilty of grossly improper conduct in the discharge of his professional duty within the meaning of Section 84 (2) (b) of the Legal Profession Act. The grounds in support were similar to those of charge No.(ii).

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These charges were presumably framed after the Inquiry Committee had made its report and there was no allegation of any failure to serve notice under Section 87 (5) or any other basic defect in the proceedings before the Inquiry Committee.

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27. The Disciplinary Committee recorded adverse findings against the Respondent on all three charges and an application was made to the Court against the Respondent under Section 84 of the Act.

28. At the hearing before the Court, neither the Lau Liat Meng case nor Isaac Paul Ratnam case was cited and Counsel for the Respondent admitted that by virtue of the letter of 16th September 1976 written by the Council of the Law Society, the only matters that could properly be heard

and investigated by the Disciplinary Committee were matters relating to what had been specifically referred to in the said letter namely, the payment of monies to a tout for bringing in accident cases, and that the acceptance of monies from the two accident victims other than taxed costs could not lawfully be heard and investigated by the Disciplinary Committee. The High Court accepted the submission of Counsel and held that the findings of the Disciplinary Committee relating to the receipt of monies other than taxed costs were vitiated. This would mean that the Disciplinary Committee was not permitted to hear any charge based on the ground relating to the receipt of untaxed costs, but this decision of the High Court completely ignored the ruling of the Privy Council in the Lau Liat Meng case.

29. We found that the subject matter of the two questions put to us as preliminary issues were matters so closely related to the ground of the charge that we ruled in favour of the Law Society. The consequences flowing out of the Respondent's admitted deliberate delay to report and the motives flowing into his premeditated delay are so intrinsically connected with the ground of the charge that they cannot be said to constitute new grounds. Even if we had considered that they constituted new grounds (which we did not), we would have followed the ruling in the Lau Liat Meng case and permitted the requisite amendments or required an amended Statement of the Case under Rule 10 of the Solicitors (Disciplinary Proceedings) Rules 1963 as communicated by the Chairman to Counsel for both sides at the commencement of the hearing on 26th September 1960. (Pages 72 and 73 of transcript).

30. In the present case, the following facts are admitted or not in dispute, viz:-

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- (i) The Respondent has been an advocate and solicitor of the Supreme Court for some 30 years.
- 10 (ii) The Respondent was at all material times practising under the firm name of Braddell Brothers.
- (iii) The Respondent was the President of the Law Society for the period 1975 to 1977 (inclusive).
- 20 (iv) S. Santhiran was employed as a legal assistant by the Respondent in Braddell Brothers from November 1971 up to the time when his defalcation was discovered and continued to be so employed until December 1975.
- 30 (v) In February 1976, the Respondent became aware that Santhiran had misappropriated monies from the Clients' Account of Braddell Brothers.
- (vi) On 8th March 1976, the Respondent was informed by Lisa Choo, his stenographer and office assistant that Santhiran had misappropriated sums in excess of \$200,000/-.
- 40 (vii) On or about 8th or 9th March 1976, Santhiran admitted to the Respondent that he had misappropriated sums totalling

\$298,270-75 and between the 9th and 18th March 1978, he made restitution amounting to \$267,956-12.

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(viii) By 10th June 1976, the total restitution made by Santhiran amounted to \$297,956-12.

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(ix) In March 1976, after Santhiran had admitted the misappropriation and made restitution in the sum of \$267,956-12, the Respondent decided to delay making any report of Santhiran's misdeeds to the police or the Law Society and entrusted the investigation of the accounts involving Santhiran to his stenographer and office assistant, Lisa Choo, and his legal assistant, Chan Lai Meng, an advocate and solicitor of 2 years' standing. After the discovery of the defalcation, the Respondent kept Santhiran in the employment of Braddell Brothers for the purpose of winding up unfinished matters, closing up files and putting notes on those that were on-going. In the course of such duties, Santhiran also appeared in Court and handled new matters as a legal assistant of Braddell Brothers.

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(x) At the end of August 1976, Lisa Choo reported to the Respondent that she could not go on with the investigation.

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(xi) No report was made to Braddell Brothers' long-standing auditors, Messrs. Turquand Young, and in November 1976,

the Respondent with the agreement of Santhiran appointed another firm of Accountants, Medera Tong & Co., to inspect and audit the accounts where Santhiran was involved.

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10 (xii) Santhiran ceased to be employed by the Respondent in December 1976 by which time he had made restitution of all clients' money misappropriated by him and any outstanding shortage consisted of costs belonging to Braddell Brothers.

20 (xiii) The Respondent learnt that Santhiran was carrying on a legal practice in January 1977.

30 (xiv) A written report was made by the Respondent to the Law Society by a letter dated 30th April 1977 stating that: "Certain defalcations and misappropriation of monies from various clients' accounts and costs appear to have been carried out by S. Santhiran, a former employee of this firm."

(xv) A report of the defalcations was made by the Respondent to the police on 26th May 1977 and a formal complaint was made by the Respondent to the Law Society on 27th May 1977.

40 31. To revert to the charge against the Respondent of being guilty of grossly improper conduct in the discharge of his professional duty, we have to decide, having regard to

all the relevant facts and circumstances, No. 3 whether the act complained of, namely, the failure to report the criminal breach of trust committed by Santhiran earlier, (i.e. until 13 months after its discovery), is of sufficient gravity as to support the charge under Section 84 (2) (b). Report of  
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10 32. In support of its case that the Act complained of against the Respondent amounted to grossly improper conduct, Counsel for the Law Society, on the admitted facts and documents as well as the evidence given by the Respondent and his sole witness, submitted the following:-

20 (i) Santhiran was kept on at Braddell Brothers without salary, ostensibly to wind up, but that during the period March to December 1976 he in fact dealt with new matters, went to Court on behalf of clients and was "supervised" by a junior assistant, pupils and clerks.

30 (ii) Santhiran's defalcations were investigated by Lisa Choo, who gave as her occupation "Typist and Office Assistant" but who was, before the defalcations were discovered, nothing more than the Respondent's Private Secretary with one or two other administrative responsibilities but with no accounting responsibility or qualifications whatsoever.

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(iii) The Respondent did not tell his firm's auditors of the defalcations when he discovered them despite the

fact that he knew or certainly ought to have known that on the basis of what would thus result in an unqualified report by them he, and therefore Santhiran, would be issued with practising certificates.

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- 10 (iv) If the reason for holding up the report to the Law Society based on the need to identify the clients' accounts from which the money was misappropriated was a valid one, the report should have been made as soon as all the clients' accounts had, according to Lisa Choo, been identified by October/November 1976.
- 20 (v) Medora Tong & Co. were instructed to keep the matter away from the knowledge of the firm's regular auditors, Turquand Young.
- 30 (vi) When Santhiran, who had been working for the Respondent without receiving remuneration since March 1976, left the Respondent in December 1976 the Respondent again allowed the occasion to pass without making his report.
- 40 (vii) When the Respondent learned in January 1977 that Santhiran had gone into practice on his own, the Respondent again failed to make a report and even sanctioned the release of certain files to him; after having asked his own

female legal assistant of barely three years' standing to exercise her discretion as to whether a report should be made.

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- 10 (viii) That on 10th March 1977 when Turquand Young accidentally became aware of the defalcations and on 17th March 1977 wrote to the Respondent a letter placing on record, inter alia, the fact that the Respondent did not advise them of the alleged defalcations as soon as they were discovered, Medora Tong was requested not to communicate with them regarding Medora Tong's appointment, no report had been made by the Respondent to the Law Society having regard to the fact that Santhiran seemed to have admitted the defalcations and was practising on his own, the Respondent on 30th March 1977 wrote in reply to Turquand Young & Co. counterattacking them on their system of auditing.
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- (ix) The Respondent's first notification to the Law Society was on 30th April 1977 and his detailed complaint was lodged on 27th May 1977.
- 40 (x) According to the evidence of Lisa Choo, Santhiran was not deliberately obstructive although he suffered from confusion and forgetfulness. He did his best to cooperate



in terms of tracing clients' accounts and restitution. There was no excuse for any delay after October/November 1976 and the alleged motive of the Respondent did not wash.

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10 (xi) The real motive for the delay was the Respondent's anxiety to see himself repaid by Santhiran irrespective of the Respondent's duty to the profession, his clients and the public at large.

20 (xii) The appointment of Medora Tong was made in November 1976 by agreement with Santhiran, a scoundrel and a thief who had stolen about \$300,000/-.

30 (xiii) It was conceded by Counsel for the Respondent that on discovery of the defalcations it would have been better if the Respondent had written a short letter to the Law Society. There was no reason why he should not have written a letter setting out the facts as known to him.

33. In answer to the Law Society's case, the Respondent submitted the following in justification of the act complained of:-

40 (a) On or about 18th March 1976, after Santhiran had admitted the misappropriation of sums totalling \$298,270-75 and made restitution in the sum of \$276,956-12 which he felt constituted the bulk

of the misappropriated clients' money he became very concerned or even worried with the problem of how the various sums could be identified as belonging to which clients. He gave four examples of problems of how the clients would suffer:-

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- (i) If Santhiran recovered money on an Order XIV judgment and took the money out purportedly to pay the clients but in fact pocketed it himself, the client until he came to the office one day in future would be out-of-pocket or would have a long delay before he recovered this money.
- (ii) If a client had money with the office and died without anyone applying for representation to his estate, the money would remain in the office indefinitely until the Court investigated it, resulting in the persons entitled to the money being kept out of it.
- (iii) If Santhiran recovered \$10,000-- for a client and falsely told the client that he had recovered only \$5,000/- he could draw a bearer cheque for \$10,000/- and pay the client only \$5,000/-, he would then

forge a receipt for \$10,000/- or else fail to put the receipt on the file. In such a case, if the client accepted Santhiran's statement, he would never know that he had been deprived of part of his money.

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10 (iv) If Santhiran received \$1,500/- for costs and disbursements from the client and credited the client with having paid only \$1,000/- after pocketing \$500/-, the client would not know about it.

20 (b) As a result of his worries over cases such as those above quoted, the Respondent decided that he must obtain the cooperation of Santhiran for the purpose of clearing up the clients' accounts. With this object in view, the Respondent decided to delay reporting the defalcations both to the Law Society and the Police.

30 (c) Pursuant to the decision to delay reporting the defalcations, the Respondent, in the interest of his clients, entrusted the investigation to Lisa Choo and Chan Lai Meng as he felt that Lisa Choo was in a better position than the Police or any other outside agent to obtain the requisite particulars from Santhiran.

40 (d) The Respondent's reason for not reporting the matter after Santhiran had left him in December 1976 was that he wanted to have such report in hand before he informed the Law Society. When he learned that Santhiran had started his own practice, he still did not make

the report because he was still waiting for the results of the investigation by Medora Tong & Co.

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- 10 (e) On a proper interpretation of the Legal Profession Act and the Solicitors' Practising Certificates Rules, 1970, until an advocate and solicitor is struck off the roll there was nothing to prevent him from obtaining his annual practising certificate.

20 According to Counsel for the Respondent, even if a report had been made to the Law Society there was nothing which the latter could do to stop Santhiran from applying for and obtaining a practising certificate under Section 29 (1) of the Act. Until Santhiran was struck off the roll, the Registrar of the High Court was, according to him, obliged to issue such a certificate and the Council of the Law Society was also obliged to issue to Santhiran a certificate under Section 29 (1) (c) of the Act.

30 Furthermore, although a formal report against Santhiran was made by the Respondent to the Law Society on 27th May 1977, the Respondent was not struck off until 20th April 1979, and the consequences of the delay were not material.

- 40 (f) While it would have been advisable for the Respondent to write a short letter to the Law Society when he discovered the defalcations, the Respondent's failure to do so was nothing more than an error of judgment or at the worst a grave error of judgment, and not grossly improper

conduct.

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10 (g) In order to find the Respondent guilty of grossly improper conduct, the Law Society was imputing a dishonourable motive to the Respondent's failure to report Santhiran earlier. The burden of proof was on the Law Society and can only be discharged by direct evidence or an irresistible inference that such was the motive.

34. The first question which the Committee has to decide is whether the prior interest of the Respondent's clients justified his delay in reporting the matter to the Law Society.

20 We find that there was no such prior interest as the clients' money was never at risk. The Respondent admitted that if restitution was not made by Santhiran he would have to make good the defalcations.

30 35. The Respondent at the time of the discovery of the defalcations was the current President of the Law Society and an advocate and solicitor of 30 years' standing with very substantial experience not only in the practice of civil law, but also criminal law. He admitted that on discovery of the extent of the defalcations of Santhiran, it did occur to him that this was a matter that he should report to the Law Society but deliberately decided to delay reporting for the following reasons:-

40 (i) He immediately realised the enormous difficulty which would arise with regard to the clients' accounts if a report was

made to the Law Society  
or the police.

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(ii) He described four types of cases (some of them complicated hypothetical ones) where he would not be able to straighten the accounts without the cooperation of Santhiran.

10 (iii) In his view, neither the Law Society nor the Police would be able to achieve the objective as Santhiran would not cooperate with them and the source of information would dry up.

20 (iv) The police would follow its usual practice of discontinuing any probe started by them as soon as they had enough evidence on a few counts for the purpose of obtaining a conviction.

30 36. The Respondent denied that his real motive for delay was to obtain from Santhiran restitution of all monies misappropriated by Santhiran. Although all clients' money had been recovered by June 1976, a sum of about \$50,000/- for misappropriated costs still remains unrecovered, according to the evidence of Lisa Choo.

40 37. We are asked to believe that at the time when the Respondent was confronted with the shock of what had happened and fully realising the seriousness of the offence committed by Santhiran, the Respondent did, for the complicated reasons above recited, deliberately place the need for identifying his clients' accounts as of greater importance than that of reporting the serious improper conduct of Santhiran to the Law

Society.

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38. A passage from page 81 of Sir Thomas Lund's Guide to the Professional Conduct and Etiquette of Solicitors on the prior interest of clients as against the duty to report was cited to us by the Respondent's learned Counsel.

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Committee

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**39. The case for the Respondent** on this point, as on all the others, was very ably argued by his learned Queen's Counsel, but we are unable to accept the explanation offered to the Committee as the Respondent's assertion of the truthfulness and purity of his motive was not matched by his conduct, action and quality of his evidence.

20

40. The Respondent not only maintained the line as expounded by his learned Counsel that he was all along acting in the prior interest of his clients and there was a conflict between such interest and a duty to report without delay but also asserted that he was convinced that "he was on the right track." Such being the case, and even conceding for the moment that the Respondent's small team of workers would, as alleged by him, be more efficient than the Law Society and the police and they should be given the first opportunity for protecting his client's alleged interest, he should have made his report by October/November 1976 when the clients' accounts were all identified. (See page 130 of verbatim report of hearing of 26.9.1980.) He failed to do so, and almost immediately thereafter appointed a new firm of public accountants who were strangers to his office accounts to investigate

30

40

and make a report. This provided him with a new excuse for delaying the report to the Law Society, but it was an entirely new ground for delay which had nothing to do with his original one on which he maintained that there was a conflict of interest.

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10 After providing himself with a new excuse for the delay in reporting, he betrayed an inconsistency in the stand taken by him when, in January 1977, on learning that Santhiran had started practice on his own, he handed over the responsibility for reporting the matter to his young assistant, Chan Lai Meng, although at that point of time the accountants' final report had not yet been  
20 received.

41. Under cross-examination by Counsel for the Law Society, the Respondent disclosed that after the long delay of over a year he was in a quandary and was not sure how he should act or what he should do. We quote the following three questions and answers (See pages 54 and 55 of the verbatim report of hearing on  
30 25.9.1980):

Cross-examination by Mr. J. Grimberg:

" Q. How often would you say you met them (Respondent's colleagues on the Council)? Was it once or twice a month? A. Not as such. I don't mean to give any indirect answer. Actually  
40 I did put it in conundrums. I didn't disclose my own troubles to them, but I did inquire what one did in such a situation, but never in relation to myself.



" In other words I was trying to find answers to this problem.

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Chairman: You didn't know the answer?

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10 A. I didn't quite know the answer. I thought I was going in the right direction and somehow I was taking a long time and having gone that far, I didn't know how to back out of it without - just like I made a decision to do it, do my own Police work, if I might put it that way. Then having gone that far, and having pushed that much, I didn't know which way to go. As we went on, files were missing, 20 files came back, figures were adjusted, clients confirmed and clients - this is important, am I going too far? Sorry, I had better stop.

30 Q. Doesn't it make you feel at all uncomfortable to meet your colleagues on the Council knowing what was going on in your office and saying nothing to anybody? Make you feel uncomfortable?

A. Yes, after a while I did. After a while I thought it wasn't (cricket)."

40 42. It was therefore obvious that towards the end of 1976 when the Respondent's original excuse for not reporting was no longer available, he found himself in a quandary. If he really believed in the correctness of his action, there was no reason for him to temporize any longer and he should have made his

report without any hesitation or doubt in his mind by November 1976. His quandary could only have resulted from his realisation that the action taken by him was incorrect or even improper. By trying to sound his colleagues on the Council, he was in search of a case to put before the Council to justify his dilatoriness. His conversations with the Vice-President of the Law Society and the Attorney-General were nothing more than attempts of the same category, namely, attempts to ascertain how best he could get out of the fix he found himself in. He has tried to improve or embellish these conversations as reports but they were mere attempts to obtain legal advice as shown in the following passage from page 19 of the verbatim report of the hearing on 25.9.1980, viz:-

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Committee

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Q. (By Mr. Ross-Munro) Now you had told the members of the Committee that there was nothing to stop you writing a short letter to the Law Society in March 1976, and then say, "I will give the Law Society all the details when I have got to the bottom" - there is nothing to stop you. Looking back with hindsight, do you think you should have done that or not?

A. Yes, I think I should have taken advice. On looking back to it I think I made a mistake in not writing a short letter.

Q. And during the relevant period - by that I mean March 1976 until May 1977 - during those 14 months did

you take legal advice from anybody else?

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A. Until March, Sir, when I mentioned it to the Vice-President; until March, Sir.

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Q. So from March 1976 until the end of March 1977, when you mentioned it to the Vice-President of the Law Society you didn't take legal advice?

10

A. I did not take legal advice.

Chairman: "I did not take legal advice" - witness said something more until he?

Mr. Ross-Munro: Until he saw the Vice-President in March 1977, who is Mrs. Bee See.

20

We find that the Respondent has also on other occasions tried to create favourable impressions of his actions by such embellishments. To cite two examples:-

(a) To cover the ugly picture of having kept Santhiran, whom he described as a thief and a scoundrel, in his employment he boldly stated that he had Santhiran "suspended". Under cross-examination by the Chairman, he admitted that "suspended" was not the right word to use. (See page 95 of verbatim report of hearing of 26.9.1980).

30

We would have expected a person who had attained the position of President of the Law Society for two years and of some years' standing as

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10 a member of the Council to maintain  
a higher standard of forthrightness  
not only in his oral evidence, but  
also in his conduct and correspondence  
over this matter. Unfortunately,  
they are all littered with attempts  
to either cover up or embellish the  
facts, and we are obliged to disbelieve  
his explanation that his delay in  
reporting was motivated by the lofty  
objective given in respect of the  
first eight months and transformed  
into an entirely new motive after  
November 1976.

20 If the Respondent believed in  
the cause which he had so strongly  
put forth, namely, the prior interest  
of his clients, there was no reason  
why he should find himself in a  
position where he had to put up  
conundrums to his colleagues on the  
Council after the circumstances  
which might have supported his  
first alleged motive had dissipated.

30 43. Having disbelieved the  
Respondent's story, the Committee  
is entitled to look at the evidence  
produced before it to ascertain  
whether they disclose any other  
motive. We find that the evidence  
produced before the Committee very  
clearly lead to the irresistible  
inference that the motive for the  
Respondent's elaborate scheme for  
delaying the report was the intention  
to recover the misappropriated  
monies from Santhiran. In fact,  
some of the evidence is so clear  
that it can be regarded as direct  
40 evidence and not mere inferences.

44. The Respondent also disclosed  
his true intentions for the delay  
in his discussions with Jamshid  
Medora, as to the terms under which  
he would treat or deal with Santhiran.

The relevant section of his letter of 19th April 1978 addressed to the Chairman of the Inquiry Committee reads as follows:-

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10 "My conversation with Mr. Medora on this aspect could have taken place in May but not March 1977. His approach was to the same effect as Mr. Ramanujam's and I reiterated my position. The exact terms of my discussions I naturally cannot remember but I know the position I took at all times and one which I sought to make plain was along the following lines:-

- (1) That Santairon should immediately admit his mis-appropriations.
- 20 (2) That Vanthiron should himself agree to apply to the Law Society to ask to be struck out for unprofessional conduct arising out of misappropriation of funds.
- (3) That he undertake to pay all the money still owing.
- 30 (4) That there should be an adequate guarantor of such undertaking of refund.

I informed Mr. Medora that if these conditions were met, the full facts could be placed before the Attorney-General with a view of his considering whether he would prosecute or not in the circumstances."

(See pages 49 and 50 of Exhibit A.1).

40 It will be seen that as late as May 1977, when all clients' money had been recovered, he was still

pursuing Santhiran for "all the money still owing". When a creditor with a right to prosecute lays down four terms such as those above mentioned, no one can believe that there was to be no quid pro quo in return for these four terms. And yet the Respondent, in his usual evasive manner, was not prepared to commit himself as to what the terms were for and was prepared only to describe them as terms under discussion followed by the height of ambiguity, viz:-

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"I know the position I took at all times and one which I sought to make plain was along the following lines", etc.

20

"I informed Mr. Medora that if the conditions were met the full facts could be placed before the Attorney-General with a view to his considering whether he would prosecute or not in the circumstances."

30

45. As pointed out by Counsel for the Law Society, there were three other occasions when he showed that his main preoccupation was in the recovery of the money misappropriated, all appearing in Exhibit A, Volume I:-

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- (i) Page 33 - "However, I demanded that he repay back all the moneys that had been taken by him from clients' accounts", etc.
- (ii) Page 47 - "I have every respect for the ability of the Police to investigate. In this particular case, however, I felt that I was achieving results to the benefit of my clients, including refund of moneys which the Police investigations would have taken

very long to clarify and perhaps even fail to achieve."

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(iii) Pages 62/3 -

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10 "I had a few discussions with Mr. Medora complaining of the delay in completing his report and consequently Santhiran was practising for such a long time. I remember it being raised by him whether the matter could not be expedited by being "settled" and as has been my stand throughout I informed him this was not possible.

20 Santhiran must show complete mitigation by admitting his misappropriations and he apply to the Law Society to be struck out for unprofessional misconduct and also in mitigation if he undertook to pay and give an adequate guarantee for what was still owing."

30 46. With regard to the natural and probable consequences of the delay in reporting, the first consequence was that both the Respondent and Santhiran were able to obtain without any hindrance the practising certificates for the year commencing 1st April 1976.

40 Secondly, Santhiran, whom he described as a thief, was able to practise and see clients and, despite the so-called surveillance of the Respondent and his subordinates, to accept new business. In addition, he was able to leave the services of the Respondent and set up his own practice and obtain the files of old clients from the Respondent.

Thirdly, by the continued delay which extended to 30th April 1977, when a very bare report was

made to the Law Society, Santhiran was again able to obtain a practising certificate for the year commencing 1st April 1977. It is to be noted that the 30th April is the last day by which practising certificates must be issued to cover validity of acts done by solicitors with retroactive effect to 1st April. (See Sec. 29 (3) of the Legal Profession Act).

10

47. With regard to the issue of the practising certificate for the year commencing 1st April 1976, the Respondent, in order to make use of the services of Santhiran as he had intended, would require Santhiran to hold such a practising certificate. We set out here below a question and answer on this very point, viz:-

20

"Chairman: Let us put it another way: you expected him (Santhiran) to wind up this matter and go to court? How was he going to do it without a certificate?

30

A. That is in my mind - I didn't think about. I thought he had already got it, but this is a mistake on my part. I cannot make an excuse."

(See page 96 of the verbatim report of the hearing on 26.9.1980).

40

48. Counsel for the Respondent maintained that Santhiran would have been able to obtain a practising certificate even if a report had been made promptly by the Respondent until he was actually struck off. He based his argument on the line that the Council of the Law Society had no power to withhold its certificate



under the second part of paragraph (c) of subsection (1) of Section 29 of the Legal Profession Act.

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We cannot accept his contention and, in our view, we cannot believe that the Council of the Law Society would do such a preposterous thing as to issue such a certificate after having received a report that the applicant had misappropriated nearly \$300,000/- of clients' money.

20

Even if the arguments of Counsel for the Respondent on this highly technical issue were correct, we cannot, in the circumstances, accept them as relevant for reducing the gravity of the offence. In the judgment of Lord Simon of Glaisdale in the Isaac Paul Ratnam case, when the Privy Council was asked to consider whether a request made from Singapore to commit an offence in Kuala Lumpur could be regarded as an abetment of the offence in Singapore, His Lordship remarked on page 201:

30

"Before considering these arguments, their Lordships would remark that they are highly technical defences, even if valid, and, as such, would only have marginal significance to the consideration of the appellant's conduct under the Legal Profession Act, Section 34 (2) (b)."

40

49. In this case, the highly technical defence raised by learned Counsel for the Respondent will have even less significance since it was part of the Respondent's scheme that Santhiran would have to continue to hold a practising

certificate for the purpose of carrying out the duties allotted to him.

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Committee

10 50. We have no hesitation in finding that the consequence of the prolonged delay of 13 months before a report was made and thereby enabling Santhiran to continue in practice for another 13 months added very seriously to the gravity of the act complained of.

20 51. We have considered the submission of Counsel for the Respondent that the actions of the Respondent amounted, if at all, only to an error of judgment. We regret that we cannot accept this submission as it was not an isolated error, but a premeditated scheme of delay carried out by the Respondent for over 13 months.

30 We find the methods adopted by him to achieve his purpose dishonourable. Having decided to delay the reporting, the Respondent took great pains to ensure that the object of his scheme would not be prejudiced by any premature disclosure. His explanation for keeping his long-standing auditors in the dark when he appointed a new firm only serves to further discredit his evidence.

52. We therefore find that the Law Society has discharged its burden of proof as regards both the motive and consequences of the Respondent's action in delaying the making of the report to the Law Society for 13 months.

40 53. A solicitor who for the purpose of obtaining restitution from his legal assistant guilty of misappropriation of funds deliberately delays making a report of such

defalcations to the Law Society for 13 months and in consequence thereof enabled such guilty legal assistant to continue in practice is dishonourable to himself and to his profession.

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54. We therefore find that cause of sufficient gravity for disciplinary action exists under Section 84 of the Legal Profession Act and in exercise of the powers conferred on us by Section 93 (2) of the Act, we order that the costs of the Law Society of and incidental to this enquiry be paid by the Respondent, Harry Lee Wee.

55. The evidence adduced before the Committee consisted of the oral evidence of the Respondent and his stenographer Lisa Choo and the following documents:-

- (1) Exhibits A.1 and A.2 - two agreed bundle of documents.
- (2) Exhibit A.3 - Chronology of Events.
- (3) Exhibit A.4 - three Agreed Facts.
- (4) Exhibit R.1 - Ledger Book.
- (5) Exhibit R.2 - Amended draft Statement of the Case submitted to the U.K. Law Society.
- (6) Exhibit R.3 - Accountants' Report.

The above exhibits (except Exhibit R.1 which is in the custody of the Registrar of the Supreme Court ) are forwarded herewith, together with copies of:-

- (a) Amended Statement of the Case.
- (b) Verbatim Report of the proceedings.

Dated this 19th day of November, 1980.

Signed  
\_\_\_\_\_  
(CHYE CHENG TAN).

Signed  
\_\_\_\_\_  
(ERIC CHOA WATT CHIANG).

Signed  
\_\_\_\_\_  
(PC GUAN HOCK).

No. 4

ORDER TO SHOW CAUSEIn the High  
Court of  
Singapore

10 Upon the application of the Law Society of Singapore by Originating Summons dated the 31st day of January, 1981, and Upon Reading the affidavit of Steven Chan Swee Teck filed on the 4th day of February, 1981 And Upon Hearing the Solicitors for the Applicants IT IS ORDERED that Harry Lee Wee, an Advocate and Solicitor of the Supreme Court, do show cause why he should not be dealt with under the provisions of section 84 of the Legal Profession Act (Chapter 217) in such manner as the Court shall deem fit.

No. 4

13th February  
1981Order to  
Show Cause

Dated the 13th day of February, 1981.

Sgd. Yap Chee Leong  
ASSISTANT REGISTRAR

No. 5

JUDGMENT OF THE HIGH COURT

No. 5

27th August  
1981

20 Coram: WEE CHONG JIN, C.J.  
T. KULASEKARAM, J.  
F.A. CHUA, J.

Judgment of  
the High  
Court

30 The respondent, Harry Wee, is a senior member of the legal profession. He was admitted as an advocate and solicitor of the Supreme Court in 1948 and has since been in continuous practice. He was President of the Law Society for three years from 1975 to 1977 and during this period and for many years previously he practised under the firm name of Braddell Brothers of which he is the sole proprietor.

In 1971 he employed S. Santhiran, an advocate and solicitor, as a legal assistant in Braddell Brothers. In February, 1976 he became aware that Santhiran had misappropriated monies from the Clients' Account of Braddell Brothers and on 8th

March 1976 he was informed by his stenographer and office assistant, Miss Lisa Choo, that Santhiran's misappropriations exceeded \$200,000/-.

In the High Court of Singapore

No. 5

27th August 1981

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On the same day or the following day Santhiran confessed and admitted that the sums misappropriated totalled \$298,270.75 and between 9th and 18th March 1976, Santhiran made restitution amounting to \$267,956.12. After Santhiran had admitted the misappropriations and made restitution of \$267,956.12 the respondent decided to delay reporting Santhiran's misdeeds to the police or to the Law Society and entrusted the investigation of the exact extent of Santhiran's misappropriations and the clients whose monies in the Clients' Account had been affected to Miss Lisa Choo and a legal assistant in the firm, Miss Chan Lai Meng, an advocate and solicitor of two years standing.

Judgment of the High Court

(continued)

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After discovery of Santhiran's misdeeds the respondent kept Santhiran in his employment for the purpose of winding up unfinished matters, closing up files and putting notes on those that were on-going. In the course of such duties, Santhiran, to the knowledge of the respondent, also appeared in the courts and also handled new matters as a legal assistant of Braddell Brothers.

In the High Court of Singapore

30

By 10th June 1976, the total restitution made by Santhiran amounted to \$297,956.12. At the end of August 1976 Miss Lisa Choo reported to the respondent that she could not continue the investigation.

No. 5

27th August 1981

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In November 1976, the respondent with the agreement of Santhiran, appointed a firm of accountants, Medora, Tong & Co. to inspect and audit the accounts in which Santhiran was involved. This appointment was not disclosed by the respondent to Braddell Brothers', long-standing auditors, Turquand Youngs. The respondent also did not inform his regular auditors of Santhiran's misappropriations from the 'clients' account.

Judgment of the High Court

(continued)

20

In December 1976, when the respondent was absent from Singapore, Santhiran ceased his employment with Braddell Brothers by which time he had made total restitution of all clients' money he had misappropriated and any outstanding shortage in the Clients' Account consisted of costs belonging to Braddell Brothers. Santhiran then set up a practice on his own and the respondent first knew this in January 1977.

In the High Court of Singapore  
 No. 5  
 27th August 1981

On 30th April 1977 the respondent wrote a letter marked "Private and confidential" to the Law Society, attention Mrs. Quek Bee See, who was then the vice-President of the Law Society. The letter reads:-

Judgment of the High Court  
 (continued)

"Dear Sirs,

I have to inform you that certain defalcations and misappropriations of moneys from various clients' accounts and costs in my firm appears to have been carried out by S. Santhiran a former employee of this firm. Investigations were initially carried out by members of my firm and subsequently undertaken by independent auditors, M/s. Medora Tong & Co. who have produced a report.

They and our usual auditors M/s. Turquand Youngs & Co. have just completed the report under the Solicitors' Accounts Rules. I enclose a copy of their joint report which is a qualified report.

I will shortly be presenting the complaint against S. Santhiran for action to be taken but currently he has since the said report made certain representations or supplied information to M/s. Medora Tong & Co. which will have to be in the form of a supplementary report to M/s. Medora Tong & Co's report and which will have to be read with the joint report".

On 26th May 1977 the respondent reported Santhiran's defalcations to the police and on 27th May 1977 wrote a letter marked "Private and Confidential" to the Law Society as follows:-

In the High Court of Singapore

No. 5

"Dear Sirs,

re: S. Santhiran

27th August 1981

10 I refer to my letter dated 30th April 1977 and now enclose my Complaint against the abovenamed. Judgment of the High Court

I have made a report to Commercial Crime on this matter". (continued)

20 The "Complaint" is a nine page typewritten document to which is annexed several "Exhibits". One exhibit is the Preliminary Report of Medora, Tong & Co. and another is the Supplementary Report of Medora, Tong & Co. which gives the sum of \$372,109.90 as the estimated amount which appears to have been unlawfully transferred and the sum of \$297,956.12 as the amount which Santhiran returned to Braddell Brothers,

30 The facts which we have set out are undisputed. They show that the respondent delayed for a period of approximately fourteen months before reporting to the Law Society that Santhiran, a legal assistant of his firm and a practising member of the profession had admitted committing criminal breach of trust. The undisputed facts further show that the respondent continued to keep in his employment as a qualified legal assistant of his firm with authority to handle legal work both in the office and in the courts on behalf of clients of the firm. The respondent, even after he became aware that Santhiran had set up a practice on his own, continued to delay for four months to report Santhiran's misdeeds to the Law Society and to the police.

40 The respondent vacated office as President of the Law Society in December 1977. On 18th March 1978 the new President as Chairman of the Inquiry Committee of the Law Society wrote to the respondent as follows:-

"Dear Sir,

In the High  
Court of  
Singapore

The Inquiry Committee has decided of its own motion to inquire into your conduct in the following matters:-

\_\_\_\_\_  
No. 5

- 10 (a) the delay in reporting the defalcations in the accounts of Messrs. Braddell Brothers of which firm you were at the material time the sole proprietor;
- 20 (b) the statement made by Mr. Jamshid Medora to the Police to the effect that you had asked him (in his capacity as your firm's Accountant) on at least two (2) occasions to speak to Mr. Santhiran (your former Assistant) informing Santhiran that as long as he admitted the defalcations and applied on his own motion to have his name struck off the Roll of Advocates and Solicitors and satisfied you of repayment of the balance of the moneys taken by him, that you would not report the matter to the Police and prefer charges against Mr. Santhiran.
- 30

27th August  
1981

Judgment of  
the High  
Court

(continued)

40 In respect of (a) aforesaid, according to the report made by you to the Law Society dated 27th March 1977, the first defalcations were discovered in February 1976 and Mr. Santhiran was said to have admitted sometime in March 1976 that he had wrongfully transferred and taken or was unable to support items totalling \$298,270.75. Further you say in your report that between 9th March 1976 and 10th June 1976, Mr. Santhiran repaid sums up to a total of \$297,956.12 to Messrs. Braddell Brothers for the defalcations on the firm's Clients' Account.



10 In respect of (b) aforesaid, I enclose herewith xerox copy of a letter dated the 17th February 1978 from ASP Roger Jim Cher Kwan for the Head of the Commercial Crime Division, Criminal Investigation Department, Singapore, addressed to the President of the Law Society, together with xerox copies of the enclosures mentioned therein, including the statement by Mr. Jamshid Medora made to Det/Insp Wong Cheu Wen on the 1st November 1977.

In the High Court of Singapore

\_\_\_\_\_  
No. 5

27th August 1981

Judgment of the High Court

20 Please be good enough to let me have any explanation you wish to offer in respect of the above within fourteen (14) days in accordance with section 87(5) of the Legal Profession Act and also advise the Inquiry Committee whether you wish to be heard by the Inquiry Committee.

(continued)

For the convenience of the Inquiry Committee please let me have your explanation in septuplicate.

Yours faithfully,

Sd: Phyllis P.L. Tan  
Chairman "

30 The respondent gave a written explanation and also appeared before the Inquiry Committee of the Law Society in May 1978. On the 20th July 1978 he was informed by a letter from the Secretary of the Law Society that the Council had accepted the findings of the Inquiry Committee that there shall be a formal investigation by a Disciplinary Committee into the following complaint against him, viz:-

40 "Failure to report the criminal breach of trust committed by Mr. S. Santhiran when he was a Legal Assistant in the firm of Braddell Brothers to the Law Society earlier".

A Disciplinary Committee, upon an application by the Council to the Chief Justice under section 90 of the Legal Profession Act, was

appointed to hear and investigate the complaint against the respondent. Of the three members of the Disciplinary Committee two were former Presidents of the Law Society.

In the High Court of Singapore

No. 5

The case against the respondent before the Disciplinary Committee was set out in an Amended Statement of Case which reads as follows:-

27th August 1981

10

" Amended Statement of Case

Judgment of the High Court

(1) Harry Lee Wee (hereinafter called "the Respondent") an Advocate and Solicitor of the Supreme Court of the Republic of Singapore of some thirty years standing, practises, and has at all material times practised, under the name and style of Braddell Brothers (hereinafter called "the Firm"). The Respondent was at various times a member of the Council of the Law Society of Singapore, and was the President of the Law Society for the period 1975 to 1977, inclusive.

(continued)

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(2) In or about 1971, one S. Santhiran, an Advocate and Solicitor (hereinafter called "Santhiran"), entered employment with the Firm as a legal assistant.

30

(3) In or about February 1976, the Respondent had reason to believe that Santhiran had misappropriated, in aggregate, a substantial sum standing to the credit of the Clients account of the Firm.

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(4) In or about March 1976, Santhiran admitted to the Respondent that he, Santhiran, had misappropriated or otherwise misapplied sums totalling \$298,270.75 from the Clients account of the Firm.

(5) Between the 9th March 1976 and the 10th June 1976, Santhiran, with the knowledge and encouragement of the Respondent, made restitution to the

Firm of \$297,956.12 in respect of monies misappropriated or otherwise misapplied by Santhiran as aforesaid. In the High Court of Singapore

- 10 (6) In or about November 1976, the Respondent appointed Medora and Tong, a firm of public accountants (hereinafter called "the Accountants") to inspect the accounts of the Firm with a view to ascertaining the extent of the misappropriation or misapplication of funds by Santhiran from its Clients account. No. 5 27th August 1981 Judgment of the High Court (continued)
- 20 (7) Notwithstanding the facts referred to in paragraphs 3 to 6 inclusive of this Statement of Case, the Respondent failed to make a report to the Law Society concerning the conduct of Santhiran, who continued in the employment of the Firm as an Advocate and Solicitor, albeit without salary, until he left the service of the Firm on the 21st December, 1976.
- 30 (8) The Accountants delivered their reports to the Respondent on or about the 25th May 1977. The Respondent first reported the conduct of Santhiran to the Police on or about the 26th May 1977, and wrote to the Law Society with reference thereto on the 30th April 1977.
- 40 (9) Santhiran was charged on five charges under section 408 of the Penal Code. One charge was proceeded with, the prosecution asking for the remaining four charges to be taken into consideration. Santhiran was convicted on the 10th May, 1978 and sentenced to 9 months imprisonment, having admitted the facts pertaining to the charge that was proceeded with, and having consented to the four remaining charges being taken into consideration.

(10) By reason of the facts referred to in paragraphs 2 to 8 hereof (inclusive) the Respondent was guilty of grossly improper conduct in the discharge of his professional duty within the meaning of section 84(2)(b) of the Legal Profession Act.

In the High Court of Singapore  
 \_\_\_\_\_  
 No. 5  
 27th August 1981

10 (11) It is submitted that the Respondent should be dealt with under section 84(1) of the Legal Profession Act".

Judgment of the High Court  
 (continued)

At the commencement of the hearing the Disciplinary Committee was informed that the facts set out in paragraphs 1 to 9 of the Amended Statement of Case were agreed facts. In his Opening Counsel for the Law Society said:-

20 "The case of the Law Society is that the Respondent's delay in reporting Santhiran's criminal breach of trust of clients' monies to the Law Society amounted to grossly improper conduct in the discharge of his professional duty within the meaning of section 84(2)(b) of the Legal Profession Act."

30 The Law Society, relying on the Respondent's admission of the facts set out in the Amended Statement of Case, called no evidence and rested its case, in the words of its Counsel, as follows:-

40 "As a solicitor of some 30 years standing and as President of the Law Society it must have been obvious to him that the proper and honourable course, irrespective of what loss might occur to the President himself, was to report Santhiran's misconduct to the Law Society as soon as it was discovered."

The respondent, though admitting in the words of his Counsel that on any showing the delay of 13 months before he orally informed the Vice-President of the Law Society of Santhiran's defalcations was "prima facie .... far too long", sought by giving evidence and

calling witnesses to try and justify the delay and to support his contention that it was a mere error of judgment on his part. It was also contended on his behalf that even if the delay amounted to a gross error of judgment, such delay according to decided authorities, did not amount to grossly improper conduct within the meaning of section 84(2)(b) of the Legal Profession Act.

In the High Court of Singapore

\_\_\_\_\_

No. 5

27th August 1981

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As the respondent had indicated the nature of his defence, the Law Society took the view (which view was disputed) that it was entitled to address the Disciplinary Committee in opening and to cross-examine the respondent if he chose to give evidence before the Disciplinary Committee to explain the admitted delay in reporting to the Law Society on the merits and truthfulness of the respondent's explanations for the admitted delay and his motive for the delay.

Judgment of the High Court

(continued)

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The Law Society also took the view (which was also disputed) that the Disciplinary Committee was entitled to consider for the purposes of its investigation the natural and probable consequences of the respondent's **admitted delay in reporting to the Law Society.**

30

Consequently, the Disciplinary Committee was invited to determine "as preliminary issues" the following questions:-

"(1) Whether you are entitled to consider for the purposes of this investigation the natural and probable consequences of the Respondent's admitted delay in reporting to the Law Society?

40

(2) Whether Counsel for the Law Society is entitled to address you in opening and to cross-examine the Respondent if he chooses to give evidence on the merits and truthfulness of the Respondent's explanations for the admitted delay and the Respondent's motive for it?".

The Disciplinary Committee ruled in favour of the Law Society.

In the High Court of Singapore

After hearing the evidence of the respondent and the witnesses called on his behalf the Disciplinary Committee found the delay of 13 months before the respondent orally informed the Vice-President of the Law Society, of which he was then the President, was not an error of judgment but a premeditated scheme of delay. The Disciplinary Committee found that the respondent, having decided to delay making a report to the Law Society, took great pains to ensure that the object of his scheme would not be prejudiced by any premature disclosure. The Disciplinary Committee found that the motive for the deliberate long delay was for the purpose of obtaining restitution from Santhiran and that the method adopted by the respondent to achieve his purpose was dishonourable.

No. 5

27th August 1981

Judgment of the High Court

(continued)

The Disciplinary Committee also found that the consequences of the respondent's long delay in reporting Santhiran's defalcations were -

- (1) Santhiran was able to continue to practise as a legal assistant in the respondent's firm, to see clients and to accept new business for the firm and on leaving the firm to set up his own practice in January 1977 and obtain files of old clients from the respondent;
- (2) Santhiran was able to obtain without any hindrance a practising certificate for the year commencing 1st April 1976; and
- (3) Santhiran was able to obtain a practising certificate for the year commencing 1st April 1977.

In the result, the Disciplinary Committee found that cause of sufficient gravity for disciplinary action against the respondent exists under section 84 of the Legal Profession Act.

The respondent now appears before us to show cause why he should not be dealt with under section 84 of the Legal Profession Act. He relies on four main submissions which are:-

In the High Court of Singapore

No. 5

- 10 (1) The Disciplinary Committee wrongly allowed the Law Society to put forward an affirmative case that the respondent's motive for failing to report was dishonourable. 27th August 1981 Judgment of the High Court
- (2) The Disciplinary Committee wrongly went outside the complaint that they were called upon to investigate in order to inquire into the alleged consequences of the failure to report. (continued)
- 20 (3) Alternative to (2), if the Disciplinary Committee were entitled to consider these consequences they attached far too much weight to them in all the circumstances of the case.
- 30 (4) The Disciplinary Committee ignored a large amount of unchallenged evidence that was favourable to the respondent and drew inferences unfavourable to him which they were not entitled to do.

40 We will deal with the fourth submission first. The respondent's main defence was that after Santhiran had made restitution of \$267,956.12 within 10 days after having admitted misappropriating \$298,270.75 from the clients account of the firm, he became worried over the problem of how the sums misappropriated could be identified as belonging to which clients. He decided he had to obtain Santhiran's co-operation for the purpose of solving the problem and with this object in view he decided to delay reporting Santhiran's defalcations to the Law Society and the Police. His view was that neither the Law Society nor the Police would be able to achieve that objective as Santhiran would not co-operate with them.

The Disciplinary Committee disbelieved the respondent's explanation for the delay in reporting. In their long and careful Report of their findings and determination the Disciplinary Committee said:-

In the High Court of Singapore

No. 5

27th August 1981

Judgment of the High Court

(continued)

10

"We would have expected a person who had attained the position of President of the Law Society for two two years and of some years' standing as a member of the Council to maintain a higher standard of forthrightness not only in his oral evidence, but also in his conduct and correspondence over this matter. Unfortunately, they are all littered with attempts to either cover up or embellish the facts, and we are obliged to disbelieve his explanation that his delay in reporting was motivated by the lofty objective given in respect of the first eight months and transformed into an entirely new motive after November 1976".

20

30

In our opinion, having disbelieved the respondent's explanation for the delay in reporting promptly Santhiran's defalcations, the Disciplinary Committee was entitled from the evidence before them to draw the inference that the respondent's motive for the long delay in reporting to the Law Society was his intention to obtain full restitution of the misappropriated monies from Santhiran.

40

There was evidence that by November 1976 the clients to whom the sum of approximately \$297,000/- (which amount Santhiran had repaid by June 1976) belonged to had been identified and that by November 1976 the respondent thought that whatever monies remained to be recovered from Santhiran was the firm's money. The first report to the Law Society was in March 1977 which was five months after all the firm's clients had been identified and all clients' monies had been recovered. The Disciplinary Committee was, in our opinion, amply justified in disbelieving the respondent's explanation for the delay and in finding that the motive for the respondent's delay in reporting promptly



to the Law Society was to obtain total restitution from Santhiran.

In the High Court of Singapore

We would add that in our opinion no court, in the particular circumstances of this case, would lightly disregard the findings of fact by a committee of three senior practising members of the profession, two of whom have been Presidents of the Law Society. We accept their findings.

No. 5

27th August 1981

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We deal now with the first and second submissions. Sections 87(5) and 93(1) of the Legal Profession Act read as follows:-

Judgment of the High Court

(continued)

"S.87(5) Before any inquiry or investigation begins in respect of any matter -

(a) the Inquiry Committee shall post or deliver to the advocate and solicitor concerned -

20

(i) ... ..

(ii) a notice setting out any or any further particulars that may be necessary to disclose the reason for the inquiry or investigation ...".

30

"S.93(1) After hearing and investigating any matter referred to it a Disciplinary Committee shall record its findings ...".

40

It is contended that a Disciplinary Committee can only hear and investigate matters which are referred to it and that in this case the only matter that was referred to the Disciplinary Committee was the respondent's failure to report earlier to the Law Society the criminal breach of trust committed by Santhiran when he was a legal assistant in the respondent's firm. The submission, as we understand it, is that the matter which the Disciplinary Committee was empowered to hear and investigate was whether the delay of 13 months in reporting Santhiran's defalcations

amounted to improper conduct. If that was so, it is further submitted that by inquiring and investigating into the motive for the delay - which is admitted - and the consequences of the delay, which were matters not specifically referred to it by the Council, the Disciplinary Committee had erred fundamentally. The respondent relied on the case "In the Matter of an Advocate and Solicitor" [1978 (2) MLJ 77]

In the High Court of Singapore  
—  
No. 5  
27th August 1981

We reject this submission. The case relied on is clearly distinguishable. In that case the matter referred by the Council to the Disciplinary Committee was the complaint against the solicitor of payment of monies to a tout for bringing in accident cases. Subsequent to the appointment of the Disciplinary Committee to hear and investigate into that matter (or complaint or charge) the Law Society in their Amended Statement of the Case alleged that the solicitor had received or accepted payment of monies from two accident victims for so acting other than taxed costs in contravention of the Motor Vehicles (Third Party Risks and Compensation) Act. The court held that these new allegations were matters which had not been specifically referred to the Disciplinary Committee by the Council and that under section 93(1) of the Legal Profession Act the Disciplinary Committee can only investigate matters referred to it by the Council.

Judgment of the High Court  
(continued)

In the present case the matter referred by the Council to the Disciplinary Committee was the respondent's failure to report earlier the criminal breach of trust by Santhiran, a legal assistant in the respondent's firm. This was the very matter which the Inquiry Committee in their notice by the letter of 18th March 1978 to the respondent was inquiring into. The respondent's motive for the admitted delay of thirteen months would have been highly relevant to whether the conduct complained of was improper conduct and, if so, was "grossly improper conduct" within the meaning of section 84 of the Act. So too would the consequences which flow from the admitted delay.

10 It is to be observed that the respon- In the High  
dent's line of defence, which was made known Court of  
to the Law Society at the commencement of the Singapore  
proceedings before the Disciplinary  
Committee, was that he had an explanation  
for the long delay in reporting Santhiran's  
defalcations to the law Society which would  
show that the respondent had committed an  
error of judgment and no more and if so,  
would not, as a matter of law, amount to  
"grossly improper conduct".

\_\_\_\_\_

No. 5

27th August  
1981

20 In those circumstances we are of the  
opinion that the Disciplinary Committee  
could properly inquire into the respondent's  
motive for the admitted delay and into the  
consequences of such delay.

Judgment of  
the High  
Court

(continued)

20 The third submission is that the  
Disciplinary Committee attached far too much  
weight to the consequences of the delay in  
all the circumstances of the case. We do  
not propose to deal with the submission in  
support of this contention except to say  
that, apart from the consequences, we accept  
the findings of fact and the inferences from  
the facts made by the Disciplinary Committee.

30 It follows that we are satisfied that  
the respondent has been guilty of grossly  
improper conduct in the discharge of his  
professional duty within the meaning of  
section 84(2)(b) of the Act.

40 With regard to the penalty we cannot  
disregard the fact that the respondent was  
at all material times the incumbent President  
of the Law Society, that the delay was  
premeditated, that the respondent took great  
pains to ensure that the object of his scheme  
would not be prejudiced by premature disclosure  
and that the method adopted to achieve his  
purpose was dishonourable. We cannot disregard  
the fact that the respondent, to whom his  
legal assistant had admitted criminal breaches  
of trust in respect of clients' monies held  
by the firm, did not immediately report the  
matter to the Law Society but continued to  
allow the offender to actively practise  
his profession as a member of the respondent's  
firm in order to enable the respondent to  
obtain full restitution from the offender.

Having regard to all these circumstances our order is that the respondent be suspended from practice for a period of two years. The respondent must pay the costs.

In the High Court of Singapore

No. 5

Sgd. WEE CHONG JIN  
CHIEF JUSTICE  
SINGAPORE

27th August  
1981

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Sgd. T. KULASEKARAM  
(T. Kulasekaram)  
Judge

Judgment of  
the High  
Court

Sgd. F.A. CHUA  
(F.A. Chua)  
Judge

(continued)

Singapore, 27th August, 1981.

No. 6

No. 6

FORMAL ORDER OF THE HIGH COURT

Formal Order  
of the High  
Court

CORAM: THE HONOURABLE MR. JUSTICE WEE CHONG  
JIN, CHIEF JUSTICE, SINGAPORE  
THE HONOURABLE MR. JUSTICE F.A. CHUA,  
JUDGE, SUPREME COURT, SINGAPORE  
THE HONOURABLE MR. JUSTICE T.  
KULASEKARAM, JUDGE, SUPREME COURT,  
SINGAPORE

20

27th August  
1981

IN OPEN COURT

This 27th day of August, 1981

30

The application of the Law Society of Singapore by Originating Summons dated the 31st January, 1981, coming on for hearing on the 17th, 18th and 19th March, 1981, And Upon Reading the Order herein dated the 13th February, 1981, And Upon Hearing Counsel for the Law Society of Singapore and for Harry Lee Wee it was ordered that the said application should stand for Judgment and the said application standing for Judgment this day in the presence of Counsel for the parties IT IS ORDERED that:-

1. The said Harry Lee Wee be suspended from practice as an Advocate and Solicitor of the Supreme Court for a period of two (2) years as from the date hereof.

In the High Court of Singapore

\_\_\_\_\_ No. 6

2. The costs of the Applicants be taxed and paid by the said Harry Lee Wee.

27th August 1981

Dated the 27th day of August, 1981.

Formal Order of the High Court

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Sgd. Yap Chee Leong  
.....  
ASSISTANT REGISTRAR

(continued)

No. 7

In the Court of Appeal

ORDER OF COURT OF APPEAL GRANTING LEAVE TO APPELLANT TO APPEAL TO JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

\_\_\_\_\_ No. 7

Coram: THE HONOURABLE THE CHIEF JUSTICE  
THE HONOURABLE JUSTICE F.A. CHUA  
THE HONOURABLE JUSTICE LAI KEW CHAI

14th Sept. 1981

IN OPEN COURT

Order of Court of Appeal Granting leave to Appellant to Appeal to Judicial Committee of the Privy Council

20

UPON Motion preferred unto the court this day by Mr. Wu Chang-Sheng Counsel for Harry Lee Wee, the Applicant herein And Upon Reading the Affidavit of the said Applicant filed herein on the 4th day of September 1981 And Upon Hearing Counsel for the Applicant as aforesaid and Mr. Joseph Grimberg Counsel for The Law Society of Singapore the Respondent herein IT IS ORDERED:-

30

1. That the said Applicant do have leave to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council against the whole of the judgment of the Court made under section 98(6) of the Legal Profession Act (Cap. 217, 1970 Edition) delivered herein at Singapore on the 27th day of August 1981; and

of the

2. That the Applicant do give security in the sum of \$5,000/- for the Respondent's costs in the said appeal.

Dated this 14th day of September 1981.

Sgd. Tay Yong Kwang  
.....  
ASSISTANT REGISTRAR

In the Court  
of Appeal

No. 7  
14th Sept.  
1981

Order of  
Court of Appeal  
Granting leave  
to Appellant  
to Appeal to  
Judicial  
Committee of  
the Privy  
Council  
(continued)

No. 8

CERTIFICATE FOR SECURITY FOR COSTS

This is to certify that the abovenamed Appellant has deposited with the Accountant-General the sum of Five Thousand dollars by way of security for the Respondents' costs of the appeal herein.

Dated this 3rd day of October 1981.

Sgd. Yan Chee Leong  
.....  
ASSISTANT REGISTRAR

No. 8

3rd October  
1981

Certificate  
for security  
for costs

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. 44 OF 1981

ON APPEAL FROM

THE HIGH COURT IN THE REPUBLIC OF SINGAPORE

BETWEEN

H. L. WEE .. Appellant

AND

THE LAW SOCIETY OF SINGAPORE

.. Respondents

(In the Matter of Originating Summons No. 55 of 1981)

In the Matter of the Legal Profession Act (Cap. 217, 1970 Edn)

AND

In the Matter of an Advocate & Solicitor

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P A R T I

\*\*\*\*\*

BRADDELL BROTHERS  
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