

Tse Kam Ho (the “Respondent”)

- *Rules 10(1) and (2), 10A and 11(1) and (2) of the Solicitors’ Accounts Rules (the “SAR”)*
- *Rules 2(d), 5B(1) and (2) of the Solicitors’ Practice Rules (the “SPR”)*

Hearing Dates

4 and 5 June 2014

Findings and Order

13 August 2014

Having considered the affidavit filed by the Law Society and the exhibits thereto and given the admission of the Respondent to the First to Fourth Complaints and the Respondent’s Agreed Facts, the Solicitors Disciplinary Tribunal (“Tribunal”) found the Respondent guilty of First to Fourth Complaints.

The Complaints laid against the Respondent were as follows:

First Complaint

Between 1 April 2007 and 31 December 2009, whilst the Respondent was the sole proprietor of Messrs. Tse and Associates (the “Firm”), he breached Rule 10(1) and (2) of the SAR in that despite repeated warnings by the Law Society, the Respondent had failed to keep properly written up books and accounts. The books and accounts kept by the Firm were not complete and failed to:

- i) show all dealings with clients’ money held, received or paid by the Respondent and any other money dealt with by the Respondent through a client account; and
- ii) to distinguish such money held, received or paid by the Respondent on any other account.

All these dealings should have been recorded in the books and accounts within three working days after the date of such dealings.

Second Complaint

Between 1 April 2007 and 31 December 2009 (or within such shorter period or periods during these years), the Respondent failed to provide any monthly reconciliation statements of client accounts and listing of client ledger balances in accordance with Rule 10A of the SAR.

Third Complaint

The Respondent and the Firm, breached Rule 5B(1) and (2) of the SPR and Rule 11(1) and (2) of the SAR, in that the Respondent had failed to produce such books of account, bank passbooks, bank statements, statements of account, vouchers every three months for the period of two years between 1 January 2008 and 31 December 2009 as required by the Law Society in pursuance of its resolution recorded in its letter dated 31 January 2008.

Fourth Complaint

The Respondent breached Rule 2(d) of the SPR in that he had persistently failed to maintain proper accounting

documents and records over a substantial period of time and ignored the requests and warnings made by the Law Society in respect of the provision of accounting documents and such conduct was unbecoming of a solicitor under the common law.

The Tribunal, having considered the Respondent's submissions in mitigation, ordered, inter alia, that:

(1) In respect of the First Complaint, the Respondent be fined HK\$25,000;

(2) In respect of the Second Complaint, the Respondent be fined HK\$15,000;

(3) In respect of the Third Complaint, the Respondent be:

(i) censured;

(ii) fined HK\$40,000; and

(iii) suspended from practice as a solicitor for a period of one year, and after the said period of one year, the Respondent be allowed to practise only as an assistant solicitor, but not as a sole proprietor or partner, for a period of three years under the supervision of a solicitor of not less than ten years' good standing;

(4) In respect of the Fourth Complaint, the Respondent be:

(i) censured;

(ii) fined HK\$50,000; and

(iii) suspended from practice as a solicitor for a period of one year, and after the said period of one year, the Respondent be allowed to practise only as an assistant solicitor, but not as a sole proprietor or partner, for a period of three years under the supervision of a solicitor of not less than ten years' good standing.

For the Third and Fourth Complaints, where periods of suspension from practice are imposed, such periods shall run concurrently (which shall result in a suspension for a total period of 12 months).

(5) The Respondent shall over the period of 36 months commencing from the date of his suspension, enrol in courses amounting to no less than 20 RME points related to the practice of solicitor's accounts under the Compulsory Professional Development programme run by the Law Society; this sentence imposed upon the Respondent is in addition to the yearly RME requirements that the Respondent has to comply with; written approval shall be sought from the Law Society as to whether any course fits the purpose of the Tribunal's Order dated 13 August 2014 and permission for which, from the Law Society shall not be unreasonably refused. Provided always that no less than six such points must be earned within the period of 12 months commencing from the date of his suspension; and no less than 14 such points must have been earned within 24 months commencing from the date of his suspension;

(6) The Respondent is to pay the fine above totalling HK\$130,000 by monthly instalments with the first instalment of HK\$10,000 to be paid on or before 31 August 2014 and the balance of HK\$120,000 by 12 monthly instalments of HK\$10,000 each to be paid on or before the last day of each month thereafter; and

(7) The Respondent shall pay the costs of the Law Society of these proceedings, and the costs of the Tribunal's clerk, to be taxed if not agreed on an indemnity basis.

Representation (Disciplinary Proceedings):

Mr. Stephen W.K. Lau, Prosecutor, for the Law Society

Mr. Robert Tibbo, instructed by Messrs. Benny Kong & Yeung, for the Respondent

Mr. Louis K.L. Fung, Clerk to the Tribunal

Tribunal Members:

Mr. Keith Martin Brandt (Chairman)

Dr. Stephen T.F. Ching

Mr. Simon J. Reid-Kay

[The Respondent filed a Notice of Appeal dated 20 August 2014 (CACV 182/2014).

On 25 June 2015, the Court of Appeal dismissed the Respondent’s appeal with costs to the Law Society on a party and party basis.]

Representation (Appeal):

Mr. Jonathan Chan, instructed by Messrs. Poon & Cheung, for the Respondent

Mr. Jason Karas (Solicitor Advocate), instructed by Messrs. Chui & Lau, for the Law Society