

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR  
DR TEO TIONG KIAT ON TUESDAY, 28 JANUARY 2014 (AT 2 PM)**

**Disciplinary Tribunal:**

Prof Raj Nambiar (Chairman)  
Dr Khoo Chong Yew  
Mr James Leong (Legal Service Officer)

**Counsel for the SMC:**

Mr Philip Fong  
Mr Lionel Chan  
(Harry Elias Partnership LLP)

**Counsel for the Respondents:**

Dr Myint Soe  
(MyintSoe & Selvaraj)

**DECISION OF THE DISCIPLINARY TRIBUNAL**

*(Note: Certain information may be redacted or anonymised to protect the identity of the parties.)*

**Introduction**

1. The Respondent Dr Teo Tiong Kiat was the driver of a motor vehicle involved in a fatal road traffic accident involving 2 cyclists on 21 March 2010 at about 9:25pm. The road traffic accident resulted in the death of one cyclist Mr A and grievous hurt to the other cyclist Mr B. These proceedings emanate from the Respondent's convictions on 25 May 2012 before the Subordinate Courts as per the table in [2] of the Agreed Statement of Facts as follows:

<b>S/No.</b>	<b>Charge No.</b>	<b>Manner Dealt with</b>	<b>Sentence &amp; Other Orders</b>
1	DAC 19114/2011	Convicted after Trial	1 week's imprisonment.
2	DAC 19115/2011	Convicted after Trial	2 weeks' imprisonment.  Disqualified from holding or obtaining all classes of driving licence for a period of 5 years with effect from date of release from prison.

S/No.	Charge No.	Manner Dealt with	Sentence & Other Orders
3	DAC 19116/2011	Convicted after Trial	1 week's imprisonment.
4	MAC 5943/2011	Pleaded Guilty and Convicted	2 weeks' imprisonment.  Disqualified from holding or obtaining all classes of driving licence for a period of 5 years with effect from date of release from prison.
5	MAC 5944/2011	Pleaded Guilty and Convicted	1 week's imprisonment.  Disqualified from holding or obtaining all classes of driving licence for a period of 5 years with effect from date of release from prison.

2. The Respondent was sentenced in total to 4 weeks imprisonment with effect from 1 June 2012 and disqualification from holding or obtaining all classes of driving license for 5 years with effect from the date of his release from prison. Consequent to this, the Respondent was referred to this Disciplinary Tribunal (Tribunal) by the Singapore Medical Council (SMC) and the Notice of Inquiry (NOI) dated 1 October 2013 was duly served on him to attend a Pre-Inquiry Conference (PIC) on 21 November 2013. In essence, the SMC charges relate to the 3 "hit and run" offences that the Respondent was convicted after trial on, and not the 2 charges for negligent driving that he had pleaded guilty to. Counsel for the Respondent indicated at the PIC that the Respondent was not contesting the proceedings and a hearing date was fixed for the Tribunal hearing.

### **SMC Charges**

3. Details of the 3 Criminal Convictions upon which the 3 SMC charges have been framed are set out at [8] of the Agreed Statement of Facts as follows:

<p>DAC 19114/2011</p>	<p>Dr Teo was the driver of motor vehicle bearing registration no. SJF2290R, which was involved in a road traffic accident on 21 March 2010, at about 9.25 pm, along Clementi Road towards Upper Bukit Timah Road around lamp post 202, Singapore;</p> <p>Dr Teo failed to stop after the road traffic accident, whereby serious injuries were caused to the pedal cyclist, Mr B, and death caused to a pedal cyclist, Mr A which was an offence under section 84(1) read with section 84(7) of the Road Traffic Act (Cap 276, 2004 Rev Ed) ("the Act") and punishable under section 131(2) of the Act.</p>
<p>DAC 19115/2011</p>	<p>Dr Teo was the driver of motor vehicle bearing registration no. SJF2290R, which was involved in a road traffic accident on 21 March 2010, at about 9.25 pm, along Clementi Road towards Upper Bukit Timah Road around lamp post 202, Singapore;</p> <p>Dr Teo failed to render such assistance as may be reasonably in his power after the road traffic accident, whereby serious injuries were caused to a pedal cyclist, Mr B, and death caused to a pedal cyclist, Mr A, which is an offence under Section 84(3) read with section 84(7) of the Act and punishable under section 84(8) read with section 84(9) of the Act.</p>
<p>DAC 19116/2011</p>	<p>Dr Teo was the driver of motor vehicle bearing registration no. SJF2290R, which was involved in a road traffic accident on 21 March 2010, at about 9.25 pm, along Clementi Road towards Upper Bukit Timah Road around lamp post 202, Singapore;</p> <p>Dr Teo did move his vehicle without the authority of a police officer after the road traffic accident, whereby serious injuries were caused to a pedal cyclist, Mr B, and death caused to a pedal cyclist, Mr A, which is an offence under Section 84(4) read with section 84(7) of the Act and punishable under section 84(7) read with section 131(2) of the Act.</p>

### **Agreed Statement of Facts & Agreed Bundle**

4. An Agreement Statement of Facts and an Agreed Bundle of Documents were admitted at the hearing before the Tribunal. In the concluding paragraph of the Agreed Statement of Facts, the Respondent “...admits that he is guilty of committing offences implying a defect in character which makes him unfit for the medical profession within the meaning of section 53(1) (b) of the Medical Registration Act (Cap 174) in relation to the 3 charges preferred against him”. This was confirmed by the Respondent at the hearing, who reiterated that he was conscious that under section 53(3) of the Medical Registration Act (Cap 174), the convictions at the criminal trial were final and conclusive, and there was no intention to challenge the same.

### **Submissions on Sentencing**

5. In their written and oral submissions on sentence, Counsel for the SMC noted that “hit-and-run” related offences are viewed as very serious offences. Counsel for the SMC further noted that the failure of a registered medical practitioner to render assistance in a “hit-and-run” accident caused by him severely affects the public’s confidence in the medical profession. In this regard, the sentence to be meted out should, *inter alia*, reflect the severity of the 3 Criminal Convictions and should seek to restore the public’s confidence in the medical profession. To assist the Tribunal, Counsel for the SMC also tendered a precedent chart setting out the sentences meted out which arise from a respondent doctor’s criminal convictions which either relate to offences involving fraud/ dishonesty or offences which imply a defect in character which makes the doctor unfit for the profession.

6. Counsel for the SMC noted that there were no local precedents directly on point, and the only similar case involved a United Kingdom (UK) Nursing and Midwifery Council registered nurse was distinguishable as far more serious. The UK case involved drunken driving and a much stiffer sentence of a 5-year and 4 months imprisonment. The disciplinary proceedings in the case of the nurse also included the offence of causing death by careless driving when under the influence of drink, while the 2 negligent driving offences in the Respondent’s criminal proceedings did not form any part of our present disciplinary proceedings.

7. In essence, apart from submitting that a censure and/or fine alone would be inadequate and that an order for suspension should be imposed at the very least, the SMC had no other specific submission on the penalty.

### **Mitigation**

8. In his written mitigation, Counsel for the Respondent outlined the circumstances on the day that led to the accident which gave rise to the criminal convictions. It was highlighted that while pleading guilty to 2 charges of negligent driving, the Respondent had contested the 3 "hit and run" charges as he felt he could not plead guilty to something he did not commit. It was also pointed out that the decision to contest was made after much distressful thought knowing that legal costs would escalate and the publicity of trial would bring much distress to his family and all parties concerned.

9. Insofar as the present proceedings were concerned, the Respondent was not contesting the charges, which all arose out of the same road accident. While recognising that the principle of *autrefois convict* did not apply, Counsel for the Respondent urged the Tribunal to consider the immense suffering already undergone by the Respondent, including the humiliation of the prison sentence. Submitting that any period of suspension would be harsh since the Respondent had already been unable to work or earn a proper living during the criminal trial, his Counsel submitted that an enhanced fine would be appropriate as a suspension would be tantamount to a second and separate term of imprisonment. It was also submitted that any suspension would affect the income and livelihood of the Respondent's employees.

10. As for personal factors, the Respondent was now 66 years of age and he was suffering from hypertension and high cholesterol. Testimonials from his fellow professionals and ex-patients were annexed to the written mitigation attesting to his many outstanding qualities and professionalism as a doctor and friend. In oral submissions, Counsel for the Respondent stressed the fact that the Respondent had fallen asleep was impliedly accepted by the Prosecution and was not refuted by the Trial Judge. Counsel for the Respondent noted that the case was also distinguishable from the UK one as our sentence was much lower, with the highest being two weeks. The Respondent had also returned within 30 minutes, unlike the typical hit-and-run case.

## **Analysis**

11. In arriving at the appropriate sentence, we gave full credit to the Respondent for not contesting the instant charges before the Tribunal and accepting responsibility for his actions. We appreciated the reasons why he had contested the 3 “hit-and-run” charges before the Subordinate Courts and note that he was perfectly entitled to claim trial as he did. He also did not appeal the trial judge’s decision. We also gave due regard to his hitherto unblemished record and the testimonials received from his peers and patients. It was also pertinent to note this was his first SMC proceedings after many years of medical practice. We further noted his deep remorse and wish to pay respects to the deceased Mr A at the hospital, which did not materialise on the advice of the Police.

12. On the other hand, we did not consider the arguments in relation to the humiliation he has suffered as a result of the trial and prison term to be strong mitigating factors. Similarly, we were not persuaded by Counsel for the Respondent’s submission that any sentence of suspension would be harsh as it was tantamount to a second term of imprisonment that would also impact the income and livelihood of his employees. In our view, these are the unfortunate but natural consequences of such matters. To rule otherwise would mean that credit was being given to the Respondent on account of his economic status as an employer, which in our view was not a legitimate mitigating factor.

13. As for the sentencing precedents highlighted by Counsel for the SMC, we did not find them particularly useful or relevant since they were all distinguishable on the facts and generally pertained to offences involving fraud, dishonesty and even violence, for which a suspension and/or striking off was clearly merited. Another common thread was the element of pre-meditation found in most, if not all the cases cited. As for the sole UK decision involving the nurse that was on point, the facts were far more serious involving drunken driving and additional charges that were not present in our case, as very fairly highlighted by Counsel for the SMC in their submissions. That said, the Tribunal fully agreed with the SMC’s submissions that “hit-and-run” offences were extremely serious and something that society frowned upon.

14. Considering the dearth of direct sentencing precedents in situations such as this, we approached the matter from first principles and analogy to disciplinary proceedings in the legal profession. In the *Law Society of Singapore v Kurubalan s/o Manickam Rengaraju* [2013] 4 SLR 91, the Court of Three Judges touched on the

general principles of sentencing under the Legal Profession Act (Cap 161) at [36] as follows:

36 We begin with the general sentencing principles set out in *Law Society of Singapore v Ong Lilian* [2005] SGHC 187 at [9]:

This court had in numerous cases declared that the disciplinary powers under s 83 of the LPA serve three distinct objects ... The first is to punish the errant solicitor for his misconduct. The second is to deter other like-minded solicitors from similar defaults in the future. The third is to protect public confidence in the administration of justice.

15. Insofar as punishing the Respondent for his conduct was concerned, all loss of life and injury on the road is serious, and the Respondent's conduct in leaving the scene of the accident cannot be condoned in any way. As noted by Chief Justice Chan Sek Keong in *Public Prosecutor v Lee Cheow Loong Charles* [2008] 4 SLR(R) 961 at [41]: "*The act of hit-and-run is not the act of a decent and responsible human being. Fleeing from the scene after knocking down a person is a cowardly and irresponsible act*". Furthermore, the submission by Counsel for the Respondent that the Respondent's failure to render assistance did not make any difference to the outcome is without any merit and a submission that was expressly rejected by Chief Justice Chan Sek Keong in the aforesaid case of *Public Prosecutor v Lee Cheow Loong Charles*. The submission that the Respondent's presence in a state of shock would not be of help was also speculative at best. Given that the Respondent is a medical practitioner, the submission also runs contrary the SMC's Ethical Code and Ethical Guidelines. In any event, the presence of the 3<sup>rd</sup> cyclist who was able to call for help was purely fortuitous, and not something that the Respondent should be given any credit for in terms of mitigating value.

16. That said, we are mindful that all 3 SMC charges emanate from the same transaction. It is also pertinent to note as highlighted by Counsel for the SMC that the 2 charges of causing death and serious injury by negligent driving to which the Respondent had pleaded guilty before the District Court are not the subject matter of the SMC proceedings at hand. We also note that a traffic accident is something that no right minded motorist seeks or wants to be involved in, thus the need to deter others from such behaviour is perhaps not as strong.

17. Insofar as protecting the public and ensuring that the Respondent would not reoffend, we note that beyond the five years disqualification from driving ordered by the District Court, the Respondent has also voluntarily undertaken to the Tribunal not to

drive again for the remainder of his life. In fact, he had voluntarily stopped driving immediately after the accident. To this end, the risk of reoffending and repeating the harm is significantly reduced. As for restoring public confidence in the medical profession that may have been shaken by this case, we feel that this can also be achieved through a high fine, and not only through a suspension as submitted by Counsel for SMC. As noted previously, the offences in question, while undeniably serious, are nevertheless not pre-meditated ones involving fraud, dishonesty or violence, for which suspension if not striking off were clearly warranted to punish, deter and protect.

18. Having regard to the aforesaid, the Tribunal is of the view that a substantial fine was the most appropriate punishment in the circumstances, and there was no need to impose any suspension given all the circumstances of the case. For the avoidance of doubt, we would add that had the Respondent been drunk and/or had he not returned to the scene of the accident, albeit much later, we would certainly have taken a different view of the matter and would have been quite inclined to impose a suspension.

#### **Orders by this Disciplinary Tribunal**

19. Accordingly, the Disciplinary Tribunal determines that the Respondent:-
- (a) pay a penalty of \$ 20,000;
  - (b) be censured;
  - (c) give a written undertaking to the SMC that he will not apply for a driving license or drive in future or engage in the conduct complained of and any similar conduct; and
  - (d) pay the cost and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

#### **Publication of Decision**

20. We order that the Grounds of Decision be published.

21. The hearing is hereby concluded.

Dated this 28<sup>th</sup> day of January 2014.