

Duo sent to jail for champerty after review of sentences

25 November 2014

A consultant and a solicitor, charged by the ICAC, were today (Tuesday) sent to prison to serve their respective jail terms of 26 months and 38 months for champerty in civil actions for compensation claims totalling over \$7.3 million after the Court of Appeal (CA) allowed a review of their suspended sentences.

Ip Hon-ming, 61, a consultant of Quickway Professional Consultants Limited (Quickway), and Gary Yeong Yun-hong, 46, a partner of Yeong & Co. (Y&C), a solicitors firm, were earlier found guilty at the District Court in April this year of 25 counts of champerty, contrary to Common Law. Ip alone was convicted of a similar offence.

Ip was sentenced to 12 months' imprisonment, suspended for 18 months, by Judge Ms Amanda Woodcock, while Yeong was jailed for 15 months, suspended for two years.

The Department of Justice (DoJ) subsequently made an application for a review of their sentences. The application was heard by Mr Justice Michael Lunn, Vice President of the CA, Mr Justice Ian McWalters, Justice of Appeal, and Mr Justice Derek Pang Wai-cheong, Judge of the Court of First Instance.

In handing down its judgment today, the CA allowed the DoJ's application and set aside the suspended jail terms of the respondents.

Mr Justice Lunn, who gave the judgment, said the original sentences imposed on the respondents were both wrong in principle and also unduly lenient.

The nub of the gravity of the commission of the offences lied in the fact that the offences were committed over a period of more than five years and involved 26 claimants and over \$7.3 million in damages, Mr Justice Lunn said.

"By the champertous agreements the proper conduct of these civil actions on behalf of the complainants was put at risk," he said.

Mr Justice Lunn said the appropriate starting point for sentence was three years' imprisonment for Ip and four years' imprisonment for Yeong. After the appropriate discount of 10 months in view of various factors, including their good character and current jail terms substantially in excess of that imposed earlier, Ip and Yeong were jailed for two years and two months and three years and two months respectively.

The case arose from a corruption complaint. Subsequent ICAC enquiries revealed the above offences.

The court heard that between November 2001 and April 2007, Ip and Yeong unlawfully made champertous bargains with 26 clients to unlawfully maintain civil actions in Hong Kong involving those clients as plaintiffs and various companies and persons as defendants.

The agreements signed by those claimants stipulated that they would not have to pay Y&C any legal fees during the process of civil claims, and agreed to pay 20 per cent of the damages or settlement amounts recovered if the claims succeeded, the court heard.

Neither Ip nor Yeong had explained to the claimants that they could apply for legal aid. Had they known that they could apply for legal aid, they would not have engaged the services of Ip.

After obtaining compensation totalling about \$7.3 million for personal injuries in those traffic and occupational accidents, the claimants gave Ip 20 per cent or over \$1.4 million. Yeong fraudulently obtained over \$3.8 million to be paid to Y&C as costs by the defendants in the civil actions, the court

was told.

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上訴庭改判兩人「包攬訴訟」入獄

2014年11月25日

一名顧問及一名律師，在涉及賠償金額共達七百三十萬多元的民事索償中「包攬訴訟」，被廉政公署拘控。兩名被告其後裁定罪成判處緩刑，律政司就兩人的判刑申請覆核，上訴庭今日(星期二)改判兩人分別入獄二十六個月及三十八個月。

葉漢明，六十一歲，捷利專業顧問有限公司(捷利)顧問，及楊潤康，四十六歲，楊潤康律師行合夥人，於今年四月在區域法院同被裁定二十五項分享訴訟成果罪名成立，違反普通法。葉另被裁定一項相類罪名成立。

法官胡雅文判處葉入獄十二個月，緩刑十八個月，而楊則判監禁十五個月，緩刑兩年。

律政司其後就兩人的判刑申請覆核。申請由上訴法庭副庭長倫明高法官、上訴庭法官麥偉德及原訟法庭法官彭偉昌審理。

上訴庭今日頒下判詞，批准律政司的申請並撤回兩名答辯人的緩刑刑期。

倫明高法官在判詞中指出，答辯人的原來刑期在原則上錯誤，亦不當地過輕。

法官續稱，答辯人所犯罪行性質嚴重，有關罪行事實上持續超過五年，涉及二十六名申索人及賠償金額達七百三十多萬元。

他又表示：「涉案的分享訴訟成果協議，損害為投訴人提出的民事索償適當地進行。」

法官亦指葉的量刑起點應為三年，而楊則為四年。不過，考慮到多項因素，包括兩人品格良好及是次判刑遠較前次判刑為重，因此同獲扣減十個月刑期。葉被判監兩年零兩個月，而楊則被判入獄三年零兩個月。

廉署較早時接獲貪污投訴，調查後揭發上述罪行。

案情透露，葉及楊於二〇〇一年十一月至二〇〇七年四月期間，在二十六名客戶作為原告和多間公司及人士作為答辯人的民事索償案件中，與有關客戶在香港非法作出分享訴訟成果的協定。

有關申索人簽署的協議中訂明，他們在民事索償過程中，毋須向楊潤康律師行支付任何法律費用，但同意向其支付索償成功獲發賠償或和解的兩成款項。

不過，葉及楊均未有向申索人解釋他們可申請法律援助。若他們得悉可以申請法援，便不會採用葉的服務。

案情透露，有關申索人其後在多宗交通及工傷意外中導致個人受傷共獲賠償約七百三十萬元後，把當中的兩成金額，即逾一百四十萬元給予葉。楊則詐騙有關民事索償的答辯人須向其律師行支付共逾三百八十萬元的訟費。

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