

DAVID WILLIAM GUNSON (the Respondent)

Principle 1.02 of Hong Kong Solicitors' Guide to Professional Conduct

Hearing date: 27 February 2002

Tribunal decision: 20 March 2002

On 20 March 2002, the Solicitors Disciplinary Tribunal found that the following complaint against the Respondent was proved:

Misconduct or conduct unbefitting a solicitor and an officer to the Court, in breach of Principle 1.02 of the Hong Kong Solicitors' Guide to Professional Conduct in that, as had been found and held by the Honourable Mr Justice Chung of the High Court of the Hong Kong SAR:

- He breached an undertaking given by him to the High Court in January 2001 in the course of proceedings in a High Court Action to the effect that he would within 14 days pay or cause to be paid unconditionally the sum of A\$247,090.94 to a company;
- In giving the undertaking, he had no reasonable ground to believe that he was in a position to comply with it;
- He had no reasonable excuse for not complying with the undertaking;
- In breaching the undertaking, he was in contempt of Court; and
- The contempt of Court committed by him was very serious.

The Tribunal ordered that:

- The Respondent be suspended as a solicitor for 3 years;
- There be no order as to the interparte costs up to and including the hearing on 31 October 2001 (interlocutory applications). The inter-parte costs thereafter be to the Applicant, to be taxed, if not agreed, on a full indemnity basis;
- The costs of the Clerk as from 1 November 2001 be borne by the Respondent and to be taxed, if not agreed, on a full indemnity basis;
- The costs of the investigations by the Law Society of Hong Kong on the matters contained in the charge dealt with by the Tribunal on 27 February 2002 (substantive hearing) be borne by the Respondent and to be taxed, if not agreed, on a full indemnity basis.

Mr Ashley Burns instructed by Messrs Emersons for the Law Society.

Mr Christopher Erving of Messrs Erving Brettell for the Respondent.

Tribunal Members

Mr Chan Kai Wing (Chairman)

Mr Chui Pak Ming

Mr Michael Robert Mann