

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
HIGH COURT ACTION NO. 731 OF 2017

14 DEC 2017



BETWEEN
KOO MING KOWN

Plaintiff

AND

THE BAPTIST CONVENTION OF HONG KONG
operating as PUI CHING PRIMARY SCHOOL

Defendant

BEFORE THE HONOURABLE MADAM JUSTICE LISA WONG IN CHAMBERS

ORDER

UPON the application of the Plaintiff made by way of Summons filed herein on 12 May 2017

AND UPON reading the Affirmation of Keith Man Kei Ho together with exhibits filed herein on 12 May 2017

AND UPON reading the Plaintiff's Submissions on the Scope of the Permanent Injunction filed herein on 10 November 2017 and the Plaintiff's Submissions filed herein on 4 December 2017 in compliance with the Order made by the Honourable Madam Justice Lisa Wong on 30 October 2017

AND UPON hearing Counsel for the Plaintiff and Counsel for the Defendant

IT IS ORDERED that:-

1. A final injunction restraining the Defendant (whether by itself or through its servant(s), agent(s) or otherwise) from howsoever publishing, republishing and causing the publication or republication of and/or participating in the publication or republication of:

- 1.1 The Defendant's circular published on or around 6 September 2016 (a copy of which is annexed hereto as **Annexure 1**);
 - 1.2 The Defendant's declaration entitled "浸聯會就顧明均入稟申請浸聯會清盤一事之聲明" published on or around 14 November 2016 (a copy of which is annexed hereto as **Annexure 2**); and
 - 1.3 The Defendant's Chinese press release published on or around 29 December 2016 (a copy of which is annexed hereto as **Annexure 3**).
2. A final injunction restraining the Defendant (whether by itself or through its servant(s), agent(s) or otherwise) from howsoever publishing, republishing and causing the publication or republication of and/or participating in the publication or republication of any words which may have the following defamatory meanings concerning the Plaintiff:
 - 2.1 The Plaintiff won the High Court Civil Action 1339/2014 ("**Civil Action**") by reason of procedural manoeuvre and/or technicality and not because his case has merits;
 - 2.2 Despite the winning, the Plaintiff's factual assertions in the Civil Action were not true;
 - 2.3 The Plaintiff's harassing conduct caused serious financial hardship to a charitable and/or educational and/or religious organization;
 - 2.4 Despite the court's order obliging the Plaintiff to negotiate with the Defendant regarding the amount of interest that should be repaid to him, the Plaintiff unreasonably refused to engage in such negotiation;
 - 2.5 The Plaintiff acted unreasonably and/or unjustifiably in applying for the winding-up of the Defendant without giving prior notice and/or warning to the Defendant;
 - 2.6 The Plaintiff applied for the winding-up of the Defendant *mala fide* with the

motive of generating fears and chaos;

- 2.7 The Plaintiff brought a wholly unmeritorious application for winding up with the view to harassing the Defendant;
- 2.8 The Plaintiff deliberately abused the court's process;
- 2.9 The Plaintiff acted unreasonably in applying for the winding-up of the Defendant;
- 2.10 The Plaintiff deliberately and maliciously abused the court's process by commencing the winding up of the Defendant;
- 2.11 The Plaintiff deliberately incapacitated a charitable organization causing hardship to peoples in need and to the Defendant's staff and students;
- 2.12 Hardship on peoples in need and the Defendant's staff and students were caused by the deliberate, unreasonable and unjustifiable behaviour of the Plaintiff; and
- 2.13 The Plaintiff's pursuit of the Companies (Winding-Up) Proceedings No. 386/2016 is inappropriate, which also causes the legal representatives of the Defendant to deploy great effort in making the validation order in respect of the Defendant's transactions."

Dated the 8th day of December 2017.

Registrar

Annexure 1

是次被判敗訴的主要原因，是程序敗訴而非事實敗訴，意思是並非因為培正小學在籌款興建大樓之事上做錯了甚麼事情，法院亦未有作出任何事實上的裁定。在訟案中，原告方要求我們提供大量資料，其中包括部份根本不存在的資料，例如按過去我們的會議常規，通常以舉手大多數贊成通過議案，但對方要求我們提交決議案時，是以幾票對幾票通過，與及誰投票成票，誰投票反對。基於以上原因，控方指我方未能提供足夠資料，因而被判敗訴。現時我方正在尋求法律意見，再決定下一步行動。

唯我方亦須先退還該筆捐款連利息，超過 2000 萬元，這對培正小學來說當然會帶來沉重的經濟負擔，甚至可能要考慮發動募捐以舒緩壓力。但作為辦學團體，浸聯會及培正小學管理委員會，不會將壓力轉嫁到學生及家長的身上，雖然我們正在面對困難的日子，但仍然會竭力為學生提供最優質的教學質量及良好的學習環境，讓培正小學不但保持一貫水平，更希望可以不斷進步。

現時，顧明均先生仍在不同議題上與浸聯會作出多翻糾纏，故懇請各堂會為浸聯會及培正小學禱告，亦更積極給予鼓勵與支持，讓我們可以走過這艱難日子，見證主恩典的豐厚。

祝 主恩滿溢

此致

各浸信堂會 / 福音堂
堂主任 / 教牧同工

Annexure 2

浸聯會就顧明均入稟申請 浸聯會清盤一事之聲明

1. 本聯會已向顧明均先生退還2,000萬元捐款。
2. 連帶的利息費用，法庭判決由雙方自行協議。
3. 律師及會計師的計算下，浸聯會願意支付30多萬的利息，惟顧先生不願商討，堅持1,400萬高額利息賠償。
4. 顧在沒事先通知下入稟法院申請本聯會清盤，意在製造恐慌。
5. 浸聯會代表律師已於11月3日向法庭申請擱置追討款項，聯會亦會與律師全力處理清盤案件。
6. 律師表示堂會在浸聯會托管的資產，包括物業及現金皆不會受到任何影響。



Annexure 3

即時發放

致 港聞／教育版記者、編輯及採訪主任：

2016年12月29日

無理清盤呈請癱瘓香港浸信會聯會運作
浸聯會籲相關人士撤銷清盤

早前，培正小學顧明均先生的官司結束，培正小學已向顧明均先生全數退還 2,000 萬元捐款，並願意向顧先生支付 30 多萬的利息費用，但顧明均先生堅持索取 1,400 萬的無理高額利息賠償，浸聯會並不同意此利息計算方法並願意與對方繼續商討，惟對方拒絕話之外，更在明知浸聯會有足夠資產情況下突然入稟法院，申請浸聯會清盤。

浸聯會與代表律師已馬上向法院申請撤銷該清盤案件，惟法院處理需時。銀行亦因應清盤呈請，結果在 12 月 19 日自動凍結浸聯會的帳戶，一度嚴重影響甚至癱瘓了浸聯會及屬下教會、幼稚園、自修室、社福組織等機構的日常運作，各機構無法維持正常務，妨礙浸聯會發放薪金及津貼予同工及屬下機構，影響過萬名服務受眾外，在各單位任職的同工、宣教士、教職員學生亦無辜受害。

一年一度的聖誕節應該普天同慶，浸聯會上下卻因他人濫用司法程序而徒添不必要的煩惱憂心。

最終經過浸聯會與代表律師的艱苦努力下，法庭終於在 12 月 28 日下午頒令，正式解除銀行對浸聯會帳戶的凍結。浸聯會預計銀行帳戶將於 12 月 30 日（星期五）正式解凍，屆時浸聯會屬下機構的所有服務運作亦會馬上回復正常。

在過去數年，浸聯會面對種種衝擊，全賴各位同工緊守崗位，克盡己任，令浸聯會得以團結一心渡過難關。然而，有關人士一而再，再而三的無理入稟，實屬刻意針對及濫用司法程序，最終幾乎癱瘓浸聯會上下運作，同工、教職員與學生首當其衝，受到無辜牽連。幸蒙主佑，並得浸聯會上下齊心，以及法律團隊的努力，才得以化解危機。

為免同類事件再次發生，以及維護浸聯會上下之尊嚴莘莘學子的學習環境，浸聯會在此呼籲相關人士主動撤回清盤呈請，並停止一切有關浸聯會與培正的不利行動及言論。

完 -

本新聞稿由香港浸信會聯會發放

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HIGH COURT ACTION NO. 731 OF 2017

If you, the named Defendant "THE BAPTIST CONVENTION OF HONG KONG operating as PUI CHING PRIMARY SCHOOL" herein neglect to obey this Order, you may be held to be in contempt of Court and liable to process of execution to compel you to obey it.

Dated the 14th day of December 2017.


WILKINSON & GRIST
Solicitors for the Plaintiff

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KOO MING KOWN

Plaintiff

AND

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HONG KONG operating as PUI CHING
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Defendant

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Dated the 8th day of December 2017.

Filed on the 14th day of December 2017.

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