



V. HAU & Chow, Solicitors
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DX-009231

Our Ref: AC/K/17728/2021(07/26/27)

Your Ref: To be advised

9th February 2021

Chief Executive of Hong Kong SAR
Tamar, Hong Kong

BY FAX (2509-0580)
& BY POST

Attn.: Mrs. Carrie Lam

Dear Mrs. Lam,

**Re: Request for Revocation of Appointment of Chan Chi Mong Hopkins
as Justice of the Peace**

We act for Mr. Koo Ming Kown.

It is our understanding that Mr. Chan Chi Mong Hopkins (“**Mr. Chan**”) was appointed as Justice of the Peace (JP) by the Hong Kong Special Administrative Region on 1st July 2015. It is also our understanding that pursuant to Section 6 of the Justices of the Peace Ordinance (Cap. 510) (“**the Ordinance**”), the Chief Executive of Hong Kong may revoke the appointment of a justice of the peace if at any time after the appointment, that justice of the peace has been convicted in Hong Kong of an offence in respect of which he has been sentenced to imprisonment.

In this regard, we are instructed to report to your goodself that Mr. Chan was found guilty of contempt of Court in HCMP No. 937 of 2020 (in which our client is the Applicant), and was sentenced to imprisonment for 6 weeks. We enclose herewith copies of the (1) Order made by The Honourable Madam Justice Au-Yeung and (2) the Judgment on Sentence both dated 21st December 2020 in HCMP No. 937 of 2020 for your consideration.

Because of the aforementioned, our client believes, which we also agree, that Mr. Chan is no longer suitable to be appointed as the justice of the peace and his appointment should be revoked. Therefore, our client will be most grateful if you could exercise your power to revoke the appointment of Mr. Chan as the justice of the peace in Hong Kong. For your information, our client had, through his former solicitors, Messrs. How & Co., written to Mr. Chan’s solicitors on 1st February 2021 requesting Mr. Chan to resign from his office of justice of peace but regrettably, no reply has been received from Mr. Chan at all. A copy of the letter from Messrs. How & Co. to Messrs. K. M. Lai & Li dated 1st February 2021 is enclosed for your reference.

Partners: Vincent W. S. Hau LL.B. 侯穎承律師
Flora H. Y. Tsui B.A. Spec. Hon., JD 崔可欣律師
Associates: Johnny C. Y. Ip LL.B. 葉俊遠律師
Emily W. T. Ho B.A. Econ., LL.B. 何穎桐律師

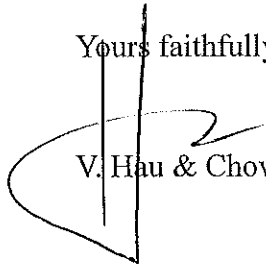
Aaron M. P. Chow LL.B. 周明寶律師
Cyrus K. Y. Kong LL.B. 江家勇律師
Icy P. L. Ng LL.B. 吳冰鑾律師
Wilson C. S. Ting LL.B. 丁志成律師

Gary W. P. Hau LL.B. 侯穎平律師
Simon C. H. Lo LL.B. 盧卓謙律師
Samuel T. Y. Leung B.SocSc (PSA), JD 梁天恩律師

Furthermore, as an addition piece of information for your consideration, we are instructed to enclose herewith a copy of our client's email to the Chief Secretary dated 12th April 2019 and the email in reply from the Director of Administration dated 7th May 2019 for your attention, the contents of which are self-explanatory.

If you think necessary, our client is very willing to attend your office to have meeting(s) with you and/or your representative(s) to further discuss with you on the matters stated above. Meanwhile, should you have any enquiry or want to have a meeting with our client, please feel free to contact our Mr. Aaron Chow at 2248-3328 or Mr. Gary Hau at 2248-3323.

Yours faithfully,



V. Hau & Chow

Encl.

- c.c. (1) Mr. Cheung Kin-Chung,
the Chief Secretary of Administration
(By Fax (2524-5695) Only);
(2) Messrs. K.M. Lai & Li,
Solicitors for Chan Chi Mong Hopkins
(Ref.: JL/18/62503/2020)
(By Fax (2868-0186) Only);
(3) Media in Hong Kong; and
(4) client

AC/GH/sl

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Aaron Chow

寄件者: Joyce Wong <joyce@royalskyasia.com>
寄件日期: 2019年4月12日星期五 13:29
收件者: cso@cso.gov.hk; admwing@cso.gov.hk
副本: '香港培正同學會黎藉冠前會長 Michael Lai (Email 2)' <mcklai@hotmail.com>; Tiffany Tse; Jessica Wong; Eva Tang; Pinky Leung; Mana Yeung
主旨: 有關：陳之望因博士學歷虛假及複製論文而欠缺誠信應立即革除太平紳士及香港浸信會聯會之公開聲明
附件: 香港培正同學會關於香港浸信會聯會向顧明均學長刊登道歉聲明事.pdf; Ming Pao_BCHK Apology letter_2019.02.27.pdf; Sky Post_BCHK Apology letter_2019.02.27.pdf; am730_BCHK Apology letter_2019.02.27.pdf; Metro Daily_BCHK Apology letter_2019.02.27.pdf
重要性: 高

致 政務司司長張建宗先生

副本抄送 政務司司長政務助理劉理茵女士

公關公司 供發放到各香港傳媒單位

尊敬的張司長：

有關：陳之望因博士學歷虛假及複製論文而欠缺誠信應立即革除太平紳士及香港浸信會聯會之公開聲明

本人顧明均，為香港培正前名譽校董及培正校友。自 2015 年揭發培正中小學前校監陳之望的博士學歷虛假及複製論文後，本人及一眾培正校友不斷向培正學校的辦學團體香港浸信會聯會（因信託關係，包括培正校名及土地，而成為受託人進而成為培正學校之辦學團體）舉證陳的博士學歷虛假及複製論文而欠缺誠信，要求立即將陳在培正學校及浸聯會內的所有職務革除。可惜，浸聯會前領導層黑箱作業，是非不分，互相包庇坦護指陳的博士學歷並無問題，繼續任用作為校監。

而經查證後得知陳於同年 2015 年 7 月 1 日被任命為太平紳士，續向前政務司司長即現今行政長官林鄭月娥女士投訴陳之望欠缺誠信而不適合繼續擔任太平紳士。及後陳更被揭發涉多宗不當行為，如陳作為董事的浩熙建築公司涉太和

圍標案、其作為校監的浸信會奧基幼稚園安插影子職員及濫收裝修費，以及其作為九龍塘浸信會主席涉毆打同工月會女主持（據知陳更在警察到場調查時即自稱太平紳士）等。遺憾地，前政務司司長林鄭女士只擺出一副官僚作風，將本人的投訴置若罔聞，未有作任何回覆及處理。前政務司司長林鄭女士坐視不理，本人亦逼不得已於 2016 年訴諸法庭，控告前政務司司長林鄭女士失職，未有確保太平紳士任命之人選為合適及適當，要求將陳為太平紳士及法定機構之職位立即革除（HCA 2336/2016）。可惜，前政務司司長林鄭女士作為太平紳士遴選委員會主席，職責為太平紳士提名及推薦作審議把關，但一直失職推卸責任，藉詞太平紳士的委任人為行政長官，致誠信對太平紳士之重要不顧，最後更將本人的案件申訴剔除。

在前政務司司長林鄭女士不予行動的情況下，本人唯有繼續以其他官司追究浸聯會正視陳的誠信問題。最終在 2019 年 2 月 27 日成功令浸聯會新領導層推翻過往決定，提出經過重覆審核陳的學歷、論文及本人為原告方的證據後，自願在多份報章刊登公開聲明，指因陳之望虛假博士學歷及抄襲論文，肯定認為陳並非適合及適當人選擔任培正小學校監，承認當初審核相關資料有欠謹慎及妥當而公開認錯道歉（見附件 4 份報章）。培正同學會亦發出通告欣悉浸聯會新領導層開明，公開承認前校監陳之望並不是一個具誠信而適合擔任學校領導的人，並立即撤銷陳擔任浸聯會屬下學校校董職務（見附件培正同學會通告）。浸聯會知錯能改，撥亂反正，表示出負責任的態度，難能可貴。

敬請司長慎重考慮是否應效法浸聯會重新深入檢討此事，簡單地直接質詢陳之望其學歷是真是假，並負起責任審視陳在欠缺誠信下仍為太平紳士是否合適及適當，否則將來問題爆發至不可收拾地步而經法律審判陳需入獄服刑時，司長應如何向香港社會公眾作出負責任的解釋交代？敬請司長垂注三思應如何盡職跟進為要。

順頌

台安

培正小學前名譽校董及培

正校友

顧明均 敬啟

二零一九年四月十二日

Joyce Wong

For and on behalf of Mr. MK Koo

Manager (Legal and Administration)

Royal Sky (Asia) Limited

Unit 1201, 12/F, Tower 1, Lippo Centre, 89 Queensway, Admiralty, HK

Tel: (852) 2263-1008 Fax: (852) 2263-1001

Aaron Chow

寄件者: adm-gen_ofc_cso@cso.gov.hk
寄件日期: 2019年5月7日星期二 15:42
收件者: Joyce Wong
主旨: Fw: 有關：陳之望因博士學歷虛假及複製論文而欠缺誠信應立即革除太平紳士及香港浸信會聯會之公開聲明

顧先生:

你於2019年4月12日致政務司司長辦公室的電郵已轉交行政署跟進，我獲授權回覆。

本署備悉你在上述電郵表達的意見和建議。行政長官會根據《太平紳士條例》決定委任太平紳士的相關事宜。

我們不評論個別個案。

行政署長
(李薇 代行)

From: Joyce Wong <joyce@royalskyasia.com>
To: "cso@cso.gov.hk" <cso@cso.gov.hk>, "admwing@cso.gov.hk" <admwing@cso.gov.hk>,
Cc: "香港培正同學會黎精冠前會長 Michael Lai (Email 2)" <mcklai@hotmail.com> <mcklai@hotmail.com>, Tiffany Tse <tiffany@jointpr.hk>, Jessica Wong <jessica.wong@jointpr.hk>, Eva Tang <eva@jointpr.hk>, Pinky Leung <Pinky@royalskyasia.com>, Mana Yeung <mana@royalskyasia.com>
Date: 12.04.2019 13:29
Subject: 有關：陳之望因博士學歷虛假及複製論文而欠缺誠信應立即革除太平紳士及香港浸信會聯會之公開聲明

致 政務司司長張建宗先生
副本抄送 政務司司長政務助理劉理茵女士
公關公司 供發放到各香港傳媒單位

尊敬的張司長：

有關：陳之望因博士學歷虛假及複製論文而欠缺誠信應立即革除太平紳士及香港浸信會聯會之公開聲明

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作為校監的浸信會奧基幼稚園安插影子職員及濫收裝修費，以及其作為九龍塘浸信會主席涉毆打同工月會女主持（據知陳更在警察到場調查時即自稱太平紳士）等。遺憾地，前政務司司長林鄭女士只擺出一副官僚作風，將本人的投訴置若罔聞，未有作任何回覆及處理。前政務司司長林鄭女士坐視不理，本人亦逼不得已於2016年訴諸法庭，控告前政務司司長林鄭女士失職，未有確保太平紳士任命之人選為合適及適當，要求將陳為太平紳士及法定機構之職位立即革除（HCA 2336/2016）。可惜，前政務司司長林鄭女士作為太平紳士遴選委員會主席，職責為太平紳士提名及推薦作審議把關，但一直失職推卸責任，藉詞太平紳士的委任人為行政長官，致誠信對太平紳士之重要不顧，最後更將本人的案件申訴剔除。在前政務司司長林鄭女士不予行動的情況下，本人唯有繼續以其他官司追究浸聯會正視陳的誠信問題。最終在2019年2月27日成功令浸聯會新領導層推翻過往決定，提出經過重覆審核陳的學歷、論文及本人為原告方的證據後，自願在多份報章刊登公開聲明，指因陳之望虛假博士學歷及抄襲論文，肯定認為陳並非適合及適當人選擔任培正小學校監，承認當初審核相關資料有欠謹慎及妥當而公開認錯道歉（見附件4份報章）。培正同學會亦發出通告欣悉浸聯會新領導層開明，公開承認前校監陳之望並不是一個具誠信而適合擔任學校領導的人，並立即撤銷陳擔任浸聯會屬下學校校董職務（見附件培正同學會通告）。浸聯會知錯能改，撥亂反正，表示出負責任的態度，難能可貴。

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順頌

台安

校友

二零一九年四月十二日

Joyce Wong

For and on behalf of Mr. MK Koo

Manager (Legal and Administration)

Royal Sky (Asia) Limited

Unit 1201, 12/F, Tower 1, Lippo Centre, 89 Queensway, Admiralty, HK

Tel: (852) 2263-1008 Fax: (852) 2263-1001

培正小學前名譽校董及培正

顧明均 敬啟

Sole-Proprietor: Mr. HOW, Chun Fai 侯振輝律師 LL.B, B.A. (Hons.)
Tel 電話: (852) 2789 3202; 2789 3210 Fax 傳真: (852) 3011 3167
E-mail 電郵: howandcohk@outlook.com Website 網址: http://howandco.com/



侯振輝律師行

Room 710, 7th Floor, Yip Fung Building, No. 2-18 D' Aguilar Street, Central, Hong Kong
香港 中環 德己立街2-18號 業豐大廈 7字樓 710室

By Fax (2868 0186) Only

Your Ref: JL/18/62503/2020
Our Ref: 150/19

1 February 2021

Messrs K. M. Lai & Li,
23rd Floor, Regent Centre,
No. 88 Queen's Road Central,
Hong Kong.

Dear Sirs,

HCA 2337/2016
Plaintiff: Koo Ming Kown

We refer the above action.

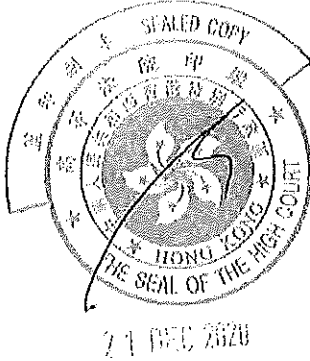
As your client has now been convicted of contempt of court and sentenced to a term of imprisonment in the contempt proceedings of HCMP 937/2020, we are of the view that pursuant to section 6(1) of the Justices of the Peace Ordinance (Cap. 510) ("**the Ordinance**"), the Chief Executive may revoke his appointment as a justice of the peace in view of such conviction and imprisonment and/or consideration that, having regard to the public interest and all other circumstances, your client is no longer fit and proper to remain appointed.

Kindly indicate within the next 3 days whether your client will resign his office of a justice of the peace pursuant to section 7 of the Ordinance, failing which we will take action without further notice, including but not limited to contacting the Chief Executive and/or the media for the purpose of the above revocation of appointment.

Yours faithfully,

How & Co.
c.c. client

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MISCELLANEOUS PROCEEDINGS NO. 937 OF 2020



IN THE MATTER of an Application on behalf
of KOO MING KOWN against CHAN CHI
MONG, HOPKINS for an Order of Committal

and

IN THE MATTER of an Order dated 3rd June
2020 granted in High Court Action No. 2337
of 2016

and

IN THE MATTER of Order 52 rule 3, Rules
of the High Court

BETWEEN

KOO MING KOWN

Applicant

And

CHAN CHI MONG, HOPKINS

Respondent

BEFORE THE HONOURABLE MADAM JUSTICE AU-YEUNG IN COURT

ORDER OF COMMITTAL

UPON the application of the Applicant by way of Originating Summons filed herein on
the 30th day of June 2020

AND UPON reading the 14th Affirmation of Koo Ming Kown filed on the 19th day of
June 2020 in HCA 2337/2016 together with the exhibits referred to therein, the Statement in

Support of an Application for Leave to Make an Application for Committal filed on the 19th day of June 2020 in HCA 2337/2016, the 3rd Affidavit of Chan Chi Mong, Hopkins filed on the 17th day of June 2020 in HCA 2337/2016, the Affirmation of Law Choi Lan filed on the 8th day of September 2020 together with the exhibits referred to therein, the Affidavit of Ale Sujana filed on the 8th day of September 2020 together with the exhibit referred to therein, the Affidavit of Chan Chi Mong, Hopkins filed on the 4th day of November 2020 together with the exhibit referred to therein, the Affirmation of How Chun Fai filed on the 18th day of November 2020 together with the exhibit referred to therein, the Affirmation of Koo Ming Kown filed on the 18th day of November 2020 together with the exhibits referred to therein, the 2nd Affidavit of Chan Chi Mong, Hopkins filed on the 26th day of November 2020 together with the exhibits referred to therein, the 3rd Affidavit of Chan Chi Mong, Hopkins filed on the 14th day of December 2020 and the Affidavit of Yeung Pee Tak Peter filed on the 14th day of December 2020 together with the exhibit referred to therein

AND UPON hearing leading counsel for the Application on the 14th day of December 2020 and the Solicitors for the Applicant, and counsel for the Respondent on the 14 day of December 2020 and the Solicitors for the Respondent

AND it appearing to the satisfaction of the Court that the Respondent Chan Chi Mong, Hopkins has been guilty of contempt of court in failing to comply with the Order made by Deputy High Court Judge Le Pichon on the 3rd day of June 2020 in HCA 2337/2016 to:-

- (1) within 14 days from 3 June 2020 serve on the Plaintiff his Answers to the Plaintiff's Request for Further and Better Particulars of the Defence of the 3rd Defendant annexed to the Plaintiff's summons filed herein on the 24th day of October 2018 in HCA 2337/2016 ("Limb 1"); and
- (2) produce within 7 days from 3 June 2020 the original of the certificate described in item 5 of the list attached to the Plaintiff's summons filed herein on the 30th day of October 2018 in HCA 2337/2016 ("Limb 2").

IT IS ORDERED that for his said contempt, the Respondent do stand committed to Prison to be there imprisoned for a period of:-

1. 2 weeks in respect of breach of Limb 1; and
2. 6 weeks in respect of breach of Limb 2,

from the date hereof, both periods to run concurrently.

IT IS FURTHER ORDERED that costs of the contempt proceedings (inclusive of the application for leave) be to the Applicant, with certificate for one junior counsel, on indemnity basis, summarily assessed at HK\$500,000.

Dated the 21st day of December 2020.

Registrar

HCMP 937/2020

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MISCELLANEOUS PROCEEDINGS NO. 937 OF 2020

IN THE MATTER of an Application
on behalf of KOO MING KOWN
against CHAN CHI MONG,
HOPKINS for an Order of Committal
and
IN THE MATTER of an Order dated
3rd June 2020 granted in High Court
Action No. 2337 of 2016
and
IN THE MATTER of Order 52 rule 3,
Rules of the High Court

BETWEEN

KOO MING KOWN

Applicant

and

CHAN CHI MONG, HOPKINS

Respondent

ORDER OF COMMITTAL

Dated the 21st day of December 2020

Filed the 21st day of December 2020

HOW & CO.

Solicitors for the Applicant,
Room 710, 7/F, Yip Fung Building,
2-18, D'Aguiar Street,
Central, Hong Kong.

Tel: 2789 3202 Fax: 3011 3167
Ref: 150/19-OS

HCMP 937/2020
[2020] HKCFI 3128

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MISCELLANEOUS PROCEEDINGS NO 937 OF 2020**

IN THE MATTER of an Application
on behalf of KOO MING KOWN
against CHAN CHI MONG,
HOPKINS for an Order of Committal

and

IN THE MATTER of an Order dated
3rd June 2020 granted in High Court
Action No 2337 of 2016

and

IN THE MATTER of Order 52 rule 3,
Rules of the High Court

BETWEEN

KOO MING KOWN Applicant

and

CHAN CHI MONG, HOPKINS Respondent

Before: Hon Au-Yeung J in Court

Date of Hearing: 14 December 2020

Date of Judgment on Sentence: 21 December 2020

JUDGMENT ON SENTENCE

Introduction

1. This judgment is to be read with my judgment dated 4 November 2020 whereby I found the charge of contempt of court proved beyond reasonable doubt against the Respondent.

2. The Order that was breached required the Respondent to produce his PhD certificate (“**Certificate**”) and to provide further and better particulars. The contempt in relation to provision of further and better particulars was purged on 29 October 2020, about a week before the hearing of the committal proceedings took place.

3. The contempt in relation to the Certificate has not been purged. The Respondent only produced an apostillized copy of the Certificate. Inexplicably, it now appears that the Respondent has 2 “original” Certificates, which were never produced.

Undisputed principles on sentencing

4. The relevant sentencing principles have been summarised in *Bruno Arboit as sole liquidator of Highfit Development Co Ltd v Koo Siu Ying (No 2)* [2016] 3 HKLRD 154 at §§2 to 8, Au-Yeung J:

“2. The starting-point is to acknowledge that contempt of civil court orders is a serious matter and that court orders are made to be obeyed. A prime consideration of the court in sentencing contempt is to ‘signal importance of demonstrating

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to litigants that the orders of these courts are to be obeyed'. By 'litigants', it is clearly referring to litigants in general and not just the contemnor himself.

3. The object of the sentence is both to punish conduct in defiance of the court's order and to serve a coercive function by holding out the threat of future punishment as a means of securing the protection which the order was primarily there to do. ... The court has to balance the 2 objects.

4. The sentence for contempt may range from a fine to a term of imprisonment. The UK Contempt of Court Act 1981 imposes a maximum term of 2 years' imprisonment but Hong Kong does not have that statutory limit.

5. Imprisonment should be regarded as a sanction of the last resort. Any custodial sentence should be as short as possible consistent with the circumstances of the case.

6. The court may suspend a term of imprisonment for such period or on such terms as the court deems fit: ... Order 52, rule 7. This is an "absolute discretion" but it would be difficult to think of circumstances where a suspended order should be made when nothing further remains to be done to comply with the order.

7. The court will consider if there are:

- (a) Aggravating factors;
- (b) Mitigating factors; and
- (c) Acts to purge the contempt.

8. Relevant factors (which are not exhaustive) include:

- (a) The nature of the order and breach in question, and the extent of the breach.
- (b) Whether the contempt was contumacious or unintentional, the reasons, motives and state of mind.
- (c) Whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy.
- (d) Whether the contemnor appreciates the seriousness of the deliberate breach.
- (e) Whether the contemnor has cooperated."

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B 5. The Court should examine the context in which the contempt
C had arisen, the effect of the breach on the Applicant, the aggravating factors,
D the mitigating factors and the personal circumstances of the respondent.

E 6. Where there are aggravating factors of the respondent being
F uncooperative and dragging his feet before the application for leave to
G commit for contempt was made, an immediate custodial sentence of
H 3 months may be appropriate: see §43 of *Bruno Arboit v Koo Siu Ying*
I (*No 2*), *supra*.

J 7. Where there were two or more distinct breaches, either
K consecutive or concurrent terms may be appropriate and it is incumbent on
L the court to clarify which approach is being adopted: *Miller on Contempt*
M *of Court*, 4th ed, §12.115.

N 8. The burden of proving that the contempt has been purged rests
O on the respondent. It does not have to be beyond reasonable doubt but
P there must be credible evidence to satisfy the court of the purging.

Q *Context in which the contempt has arisen*

R 9. The Order was simple in terms. There should be no difficulty
S in understanding what needed to be done. The Respondent has had many
T chances before and after commencement of the contempt proceedings to
U comply with the Order, which were not taken. He had been warned by the
V Applicant's solicitors of the serious consequences of non-compliance by
letters. Despite DHCJ Le Pichon's remark that he was *prima facie* in
contempt, he persisted in his non-compliance. He even evaded service of
the originating summons.

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10. The Respondent claimed that he had a lapse of judgment and delayed in giving instructions to his solicitors to comply with the Order. These were hollow excuses as he had knowledge of the Order and had not delayed in seeking to appeal against other parts of DHCJ Le Pichon's order.

Steps to purge the contempt

11. The further and better particulars were provided only 4 months after the deadline under the Order.

12. As for the Certificate, the Respondent (or his former solicitors at one time) has all along been in possession of what he considered to be the original until he handed it to his current solicitors to comply with the Order.

13. The Respondent did purport to produce his Certificate but it turned out to be an apostillized copy ("**Apostillized Certificate**"). He averred that this was the only certificate that he had ever been given upon completion of his doctorate degree at the European University of Ireland. He had always thought that it was the original.

14. After the Apostillized Certificate was produced for inspection, the Applicant's solicitors quickly drew to the Respondent's attention that the original certificate ("**1st Certificate**") had been produced earlier in a related case, HCA 1619/2014. The Applicant sought the Respondent's consent to produce a copy of the photo of the 1st Certificate to the Court.

15. That suggestion was brushed aside by the Respondent on the excuse that no leave has been obtained from the Court to disclose

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documents used in another case. The Respondent maintained that the 1st Certificate was the same as the Apostillized Certificate.

16. On the morning of this hearing, the Respondent lodged his 3rd affidavit and emails from the Applicant, which disclosed without doubt that the 1st Certificate and Apostillized Certificate were not the same. The material visual differences of the 2 Certificates are that:

- (a) The golden seal on the left bottom of each document has different orientation;
- (b) The position of the signature of the Academic Vice-President on each document is different from the other; and
- (c) The signature of the Academic Vice-President on each document is not identical to each other.

17. The Respondent had checked with his former solicitor in HCA 1619/2014 but the latter could not recall if the certificate he had seen was the original or not. The Respondent then surmised that the 1st Certificate was lost or misplaced. He claimed that his mixing up of the 2 Certificates was due to honest and genuine mistake.

18. This Court does not have to resolve the questions of whether there was more than one original, whether they were genuine or not and whether the Respondent had made an honest mistake. Those are for trial. What is relevant is that the Respondent's attitude in purporting to produce the Certificate under threat of contempt proceedings was cavalier and unnecessarily contentious.

19. In summary, not only had the Respondent dragged his feet but the breach of the Order was totally inexcusable and egregious. His apology to the Court carried little weight.

Prejudice to Applicant

20. I agree with Mr Yu SC that the failure to supply the further and better particulars has hindered the proceedings in HCA 2337/2016. The prejudice was, however, limited, having regard to the fact that the case has only reached the stage of close of pleadings notwithstanding its commencement in 2016.

21. In relation to the Certificate, the Applicant seeks a declaration in HCA 2337/2016 that the Respondent is not a fit and proper person to serve as the supervisor of Hong Kong Pui Ching Primary School, on the basis that he has falsely claimed that he had a doctorate degree. The Certificate is referred to in the Respondent's defence.

22. Without the Certificate, the case could still proceed. It would only strengthen the Applicant's case. Accordingly, the non-production of the original Certificate caused limited prejudice to the Applicant.

Mitigating factors

23. The clear record of the Respondent is irrelevant. As stated in *Bruno Arboit*, §37, the public must not be misled to believe that there is always one chance of disobeying a court's order.

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24. Similarly, the Respondent's contribution to society is irrelevant as his breaches were not purportedly to benefit society.

25. The personal financial condition of the Respondent is relevant only to quantum in the event a fine is imposed. There is no suggestion that if he received a custodial sentence, someone would be left without care.

26. The hostile series of litigation is not a mitigating factor in itself. It is, however, relevant as part of the overall circumstances to consider.

27. As pointed out by Ms Leung, the Applicant has commenced no less than 10 cases since 2014 against the Respondent and other parties. The recurrent theme therein was the Respondent's alleged false doctorate degree and how he has allegedly brought disrepute to the organizations that he served. Out of those 10 cases, 6 were struck out.

28. The Respondent claims that the Applicant spared no expense to bring him down. The litigation has cost the Respondent time, costs, his management posts in Pui Ching schools and various organizations, and loss of his post as INED in listed companies. The litigation caused the alumni to be badly divided. The litigation has not come to an end despite the Respondent stepping down as supervisor to the Pui Ching Primary School.

29. The Applicant has been criticized as a "vindictive litigant" conducting a "personal campaign" against the Respondent's academic record. The multiple proceedings premised on the same allegation have been described as a campaign of "vilification rather than a genuine attempt

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B to seek relief from the court: *Koo Ming Kown v Securities & Futures*
C *Commission*, HCA 2599/2016, 21 July 2017, Master M Wong.

D 30. In HCA 1619/2014, 2 June 2017, A Chan J even refused to
E grant leave to the Applicant to commit the Respondent for contempt.
F A Chan J stated that the Applicant's own case suggested that he may be
G a vindictive litigant. There was an obvious risk that the contempt
H proceedings would be used by him to harass the respondent prior to
I conclusion of that action (§22).

J 31. Despite these judicial comments on the Applicant's litigation
K conduct, there was no excuse for the Respondent to flout a court order.

L 32. What I consider to be relevant is that, although not a valid
M defence, there was a ring of truth when the Respondent said he did not want
N to face the reality that his professional and social status was crumbling
O down due to the Applicant's personal vendetta and the Respondent had
P only wanted a moment of escape.

Q 33. The Respondent has already suffered loss of reputation and
R his breach of Order relating to the Certificate may have adverse impact on
S his defence in HCA 2337/2016, a case where precisely his doctorate degree
T and integrity are in issue. Litigation is still going on between the Applicant
U and the Respondent and it is important for the Respondent to abide by court
V orders instead of "escaping from them".

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34. Overall, the mitigating factors are the Respondent's admission of liability, expression of remorse, the little prejudice caused to the Applicant and the overall progress of the case.

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The appropriate sentence

35. Although imprisonment is a sanction of the last resort, the Respondent's conduct justifies a term of imprisonment for 2 weeks in relation to the provision of further and better particulars and 6 weeks in relation to the Certificate. As the 2 limbs of the Order were interlocutory in nature and were supposed to be performed in close proximity of time, the sentences should run concurrently.

36. I have considered the authorities in which the sentence was suspended: *Secretary for Justice v Chan Oi Yau Riyo* [2020] 3 HKLRD 494, Coleman J; *Secretary for Justice v Cheng Lai King* [2020] HKCFI 2687, Coleman J. The damage to the victims caused by the defendants' breach of an anti-doxxing injunction in both cases was more far-reaching than in this case. However, the defendants were quick in purging the contempt. In the present case, purging of the contempt as regards the Certificate is nowhere in sight. I therefore decline to suspend the sentence.

Costs

37. Costs are in the discretion of the Court. I take into account all the circumstances, in particular the conduct of each party and the question of proportionality highlighted in §14 of PD14.3.

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38. The Applicant has put forth a costs statement in the region of \$2 million for proceedings that lasted about 6 months. I shall not engage in a mini-taxation but will only deal with matters of principle and in a broad brush approach.

39. Notwithstanding the Respondent's concession (rightly, in my view) to bear indemnity costs, and his own conduct in relation to the Certificate which increased the costs of the Applicant, I find the amount claimed to be disproportionate to the issues at stake:

(1) The Court is most grateful to Mr Yu SC for his assistance. However, given the simple nature of the Order and the conduct in contempt, the engagement of senior counsel was disproportionate to the issues at stake. The costs claimed were more of a harassment on the Respondent than justified by complexity of the proceedings.

(2) The issue taken as to truthfulness of the further and better particulars was unnecessary in the present proceedings.

(3) The amount of time spent by solicitors on perusal, legal research and preparation for hearings was excessive, given the engagement of counsel.

(4) No costs are chargeable for preparing and approving a costs statement, whatever the basis of costs awarded.

40. I therefore make an order that the Respondent do bear the Applicant's costs, with certificate for one junior counsel, on indemnity

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basis. On a *nisi* basis, I summarily assess the costs in the amount of \$500,000.

Order

41. I commit the Respondent for contempt and sentence him to 2 weeks' imprisonment for failure to provide further and better particulars and 6 weeks' imprisonment for failing to produce the original Certificate. The imprisonment shall run concurrently, making a total of 6 weeks.

42. Costs of these contempt proceedings are to be borne by the Respondent on indemnity basis. On a *nisi* basis, the costs are summarily assessed in the amount of \$500,000.

43. I thank counsel for their assistance.

(Queeny Au-Yeung)
Judge of the Court of First Instance
High Court

Mr Benjamin Yu, SC leading Ms Bianca Yu, instructed by How & Co, for the Applicant

Ms Joyce Leung, instructed by K.M. Lai & Li, for the Respondent