香 港 醫 務 委 員 會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr HO Patrick Chi Ping (Reg. No.: M03837)

Date of hearing: 11 May 2021 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr MA Chung-yee, Arisina
Dr LAM Ho
Ms HUI Mei-sheung, Tennessy, MH, JP
Mr WOO King-hang

Legal Adviser: Mr Edward SHUM

Senior Government Counsel representing the Secretary: Miss Vienne LUK

The Defendant is not present.

1. The charges against the Defendant, Dr HO Patrick Chi Ping, are:

"That he, being a registered medical practitioner:

(a) was convicted of one count of conspiring to violate the Foreign Corrupt Practices Act ("FCPA"), four counts of violating the FCPA, one count of conspiring to commit money laundering, and one count of committing money laundering on 5 December 2018; and

(b) has been guilty of misconduct in a professional respect in that he failed to report to the Medical Council the conviction(s) mentioned in paragraph (a) above within 28 days of the conviction(s), contrary to section 29.1 of the Code of Professional Conduct published in January 2016.

In relation to the facts alleged, he has been guilty of misconduct in a professional respect."

Preliminary Issues

2. Before this inquiry began, the Legal Officer told us and we are satisfied upon reading the relevant Affirmation of Service that the Notice of Inquiry dated 20 January 2021 (together with a copy of the Medical Practitioners (Registration & Disciplinary Procedure) Regulation, Cap. 161 E ("the Regulation") and a copy of the Practice Directions on Disciplinary Inquiries issued by the Council ("the Practice Directions") were duly served on the Defendant by post to his last known address in accordance with section 51 of the Regulation.

3. It is also evident to us from reading the correspondence subsequently exchanged between the Defendant's former solicitors and the Secretary, copies of which were annexed to the relevant Affirmation of Service, that the Defendant decided on his own volition not to be present either by himself or by his legal representative despite he has been duly served with the Notice of Inquiry dated 20 January 2021.

4. For these reasons, we decide to proceed with this inquiry in the absence of the Defendant.

Facts of the case

5. The name of the Defendant has been included in the General Register from 8 January 1980 to the present.

6. There is no dispute that the Defendant was convicted after trial by a jury sitting in the District Court for the Southern District of New York of the United States of America on 5 December 2018 of the criminal offences, which now form the subjects of disciplinary charge (a) against him. The Defendant was subsequently sentenced by the trial judge to 36 months' imprisonment and fined US$400,000.

7. The Defendant lodged an appeal against his criminal convictions to the United States Court of Appeals for the Second Circuit but his appeal was dismissed on 29 December 2020.

8. The Defendant had through his former solicitors informed us that he had lodged a further appeal against the decision of the Court of Appeals for the Second Circuit to the higher court in the United States but the outcome of his appeal is still unknown.

Findings of the Inquiry Panel

9. There is no dispute that the Defendant was convicted of the criminal offences, which now form the subjects of disciplinary charge (a). Our attention was drawn by the Legal Officer to the Press Release issued by the United States Attorney's Office after the Defendant's convictions and we accept that these criminal offences were punishable by imprisonment under the laws of the United States of America.

10. Accordingly, our disciplinary powers over the Defendant under section 21(1)(a) of the Medical Registration Ordinance ("MRO") are engaged.

11. Section 21(3) of the MRO stipulates that:

"Nothing in this section shall be deemed to require an inquiry panel to inquire into the question whether the registered medical practitioner was properly convicted but the panel may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence."

12. In this connection, we noted from reading the Judgment of the United States Court of Appeals For the Second Circuit that the background to the appeal was as follows:

"*The evidence at trial established that Ho used his position as an officer or director of a U.S.–based non-governmental organization ("NGO") to engage in two bribery schemes for the benefit of China CEFC Energy Company Limited ("CEFC Energy"), a for-profit conglomerate based in Shanghai…*

… As relevant to this case, Ho engaged in two schemes—the "Chad scheme" and the "Uganda scheme"—to advance CEFC Energy's commercial interests.

A. Chad Scheme

Around September 2014, a CEFC Energy official asked Ho to arrange a meeting with the President of Chad, Idriss Deby ("Deby"), to help CEFC Energy pursue business in Chad. Ho agreed and asked a former President of the UN General Assembly, Vuk Jeremic, for an introduction to Cheikh Gadio, a former Foreign Minister of Senegal who knew Deby…

Later that year, Ho and a delegation from CEFC Energy met with Deby in Chad on several occasions. At the first meeting, in November 2014, Deby invited CEFC Energy to consider an opportunity to acquire an oilfield in Chad…

The second meeting took place on December 8, 2014, at Deby's presidential compound and involved a delegation from CEFC Energy, Ho, Gadio… as well as Deby and his chief of staff. The participants discussed the Chadian oilfield opportunity, and at the end of the meeting, the CEFC's delegation presented Deby with wrapped gift boxes. Deby did not open the boxes until after the meeting; when he did, he found that the boxes contained $2 million in cash. Deby called Gadio… demanded that he return to the compound.

When Gadio arrived, Deby expressed outrage that the boxes contained cash, Deby asked Gadio if he knew in advance about the cash gift, and Gadio responded that he did not. At Deby's request, Ho, Gadio, and the CEFC delegation met with Deby and his chief of staff the next day… At that meeting, Deby expressed shock and anger at receiving cash, and explained that he did not know "why people believe all African leaders are corrupt."…

Ho responded that he was "very impressed by [Deby's] reaction and… attitude,"…, while members of the CEFC delegation insisted that the cash had been intended as a donation to the country, not as a bribe to Deby. Deby replied that "donations are not made this way" and again refused to accept the cash…Ultimately, the delegation promised a formal letter of donation to be used for Chad. Ho subsequently drafted a letter to that effect, which Gadio revised and delivered to Deby…

In exchange for setting up the meetings in Chad, Gadio sought a written contract with CEFC Energy to formalize his role and ensure his compensation for assisting the company in acquiring business in the Chadian oilfields… Ultimately, CEFC NGO paid Gadio $400,000 for his work in Chad. Nevertheless, despite Gadio's connections and Ho's efforts to negotiate a deal for oil rights, the parties failed to secure a deal.

B. Uganda Scheme

Also in 2014, Ho sought an introduction to Sam Kutesa—the Minister of Foreign Affairs for Uganda…—for the purpose of helping CEFC Energy develop business in Uganda's oil fields. Ho contacted Kutesa's office at the UN in New York and introduced himself as the "Deputy Chairman and Secretary General" of CEFC NGO…

Around February 2016… Kutesa, through his wife, solicited a bribe from Ho to be disguised as a payment to a charitable foundation. Ho requested, and ultimately received, authorization from the chairman of CEFC Energy to make a half million dollar payment to Kutesa's charity. Ho then contacted Kutesa to advise him that the payment would be made and to procure an invitation to the inauguration of Ugandan President Yoweri Museveni, who was Kutesa's brother-in-law. Ho told Kutesa that he would bring executives from CEFC Energy to discuss business opportunities in Uganda.

On May 5, 2016, Ho caused a wire transfer of $500,000 to be sent from CEFC NGO to an account belonging to the Food Security and Sustainable Energy Foundation at Stanbic Bank in Kampala, Uganda, as donation to the foundation designated by the Kutesas… Ho and a CEFC Energy delegation attended the inauguration in May 2016, and met with Museveni, Kutesa and others. After the trip, Ho emailed the Kutesas and reiterated that CEFC Energy was anxious to partner with the Kutesas' family businesses. About five months later, Kutesa's wife told Ho about a confidential opportunity to acquire a Ugandan bank. Ho referred the matter to another CEFC Energy executive to handle; but it appears that CEFC Energy ultimately did not complete a deal in Uganda.
…"

13. In finding the Defendant guilty, the jury ought to have in our view been satisfied beyond reasonable doubt that these facts of the prosecution case were established on the evidence.

14. Through his former solicitors, the Defendant argued in the correspondence with the Secretary that it would not be fair in the circumstances to continue with the disciplinary inquiry at this stage when the outcome of his appeal is still pending. We disagree.

15. Although it is open for the Defendant to go behind the criminal convictions, this would in our view only be justified in exceptional circumstances [see: *Ratnam v The Law Society of Singapore*; Privy Council Appeal No. 10 of 1974 at p.11]. However that may be, the real point is that the Defendant never provides us with any evidence, and let alone in our view sufficient evidence, to question the correctness of his criminal convictions. To the contrary, his appeal was unanimously dismissed by the United States Court of Appeals for the Second Circuit.

16. For these reasons, we do not find it unfair to treat the criminal convictions to which disciplinary charge (a) relate as conclusively proven against the Defendant.

17. Accordingly, we also find the Defendant guilty of disciplinary charge (a).

18. Turning to disciplinary charge (b), misconduct in a professional respect merely means that the Defendant has by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong.

19. In this connection, we bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.

20. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine disciplinary charge (b) carefully.

21. There is no dispute that the Defendant did not report his criminal convictions to the Medical Council within 28 days from 5 December 2018. And it is clearly stipulated in section 29.1 of the Code of Professional Conduct ("the Code") that:

"*A doctor who has been convicted in or outside Hong Kong of an offence punishable with imprisonment or has been the subject of adverse findings in disciplinary proceedings by other professional regulatory bodies is required to report the matter to the Council within 28 days from the conviction or the adverse disciplinary finding, even if the matter is under appeal. Failure to report within the specified time will in itself be ground for disciplinary action. In case of doubt the matter should be reported.*"

22. Given the nature and gravity of the criminal offences to which his convictions relate, we find it inexcusable for the Defendant not to report them to the Council within the prescribed time limit. In our view, the Defendant's conduct in this regard has fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the Defendant guilty of disciplinary charge (b).

Sentencing

23. The Defendant has a clear disciplinary record.

24. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendant for the criminal offences to which his convictions relate for a second time. Rather, it is to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding its high standards and good reputation.

25. We acknowledge that there is no evidence to show that the Defendant committed the criminal offences to which disciplinary charge (a) relate by using or engaging his status as a registered medical practitioner. However, whilst it was open for the Defendant to pursue another career or business, it does not follow in our view that he would be free to carry on the other activity free from all ethical or professional constraints.

26. We are particularly concerned about the huge amount of bribes involved and the fact that both the Chad and Uganda schemes were premediated and well-organized over a period of time. However, we appreciate that the Defendant had a distinguished career serving the medical profession and the local community for many years.

27. Taking into consideration everything in the round including but not limited to the nature and gravity of the criminal convictions, we order in respect of disciplinary charge (a) that the name of the Defendant be removed from the General Register for a period of 12 months.

28. We have considered whether the removal order may be suspended. The Defendant does not advance any mitigation plea and we do not know whether he has sufficient insight into his wrongdoings. Given the nature and gravity of the criminal convictions to which disciplinary charge (a) relate, we do not find it an appropriate case for suspension of the removal order.

29. We further order in respect of disciplinary charge (b) that a warning letter be issued to the Defendant.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
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