board of architects singapore

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Our Ref : BOA 116.2 (Circular)

31 July 2008

To All Registered Architects

Dear Sir/Madam

PRACTISING CERTIFICATES FOR ALL REGISTERED ARCHITECTS

1. Please refer to the Board's circular dated 10 July 2007 to all supervising directors regarding `Practising Certificates for all Registered Architects in your Employment'.

2. Arising from the recent publicity on four errant lawyers who were prosecuted for practising without valid practising certificates, the Board would like to remind all Registered Architects to ensure that they hold a valid practising certificate if they are providing architectural services in Singapore. The Straits Times articles on the prosecution of the 4 errant lawyers published on 17 May 2008 and 9 July 2008 are extracted at **Annex A** for your information.

3. For practising architects, Section 10(6) of the Architects Act states that any person who contravenes subsection (1), (2), (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 6 months or to both.

4. Section 12 (2) states that any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000 and, for a second or subsequent conviction, to a fine not exceeding $5,000. Sections 10 and 12 of the Architects Act are extracted at **Annex B** for your reference.

5. Section 18 (1) states that where a registered architect desires to engage in the practice of architecture in Singapore after 31st December of any year, he shall, not later than 1 December of that year, apply for a practising certificate authorizing him to engage in the practice of architecture during the ensuing year.

6. We would thus appreciate it if all Registered Architects currently practising either as sole-proprietors or partnerships or in the employment of licensed corporations, licensed partnerships, or limited liability partnerships to abide by the above provisions.

NG LYE HOCK, LARRY
REGISTRAR

ANNEX A1 PQ

The Straits Times 17 May 2008

Errant lawyers: Law Society 'slow to act'

By Khushwant Singh

A SPECIAL court that deals with errant lawyers has questioned why it took years for Singapore's legal watchdog to start disciplinary hearings against four solicitors who practised without licences.

The Court of Three Judges made the comment yesterday as it weighed the cases of the four lawyers, who face penalties ranging from a fine to being struck off the rolls.

Chief Justice Chan Sek Keong said: "If matters had been heard earlier, they could have served a two-year suspension, for example, and be back in practice."

The CJ was referring to Mr Mahadevan Lukshumayeh, Mr Bhaskaran Shamkumar, Mr Leo Chin Hao and Ms Jasvendar Kaur, who have been brought before the special court by the Law Society.

Pointing out that the four are unable to practise until disciplinary proceedings have been completed, the court asked why the hearings took between two and three years to begin.

The four lawyers have already been tried in the criminal courts and convicted of operating without the certificate that allows them to practise law and appear in court. Three were jailed while the fourth was fined.

Yesterday, the lawyers pleaded for leniency, saying they committed the offences not for financial gains, but to help their clients.

The Law Society's lawyer, Mr Tan Cheow Hung, said that it had been waiting for the four lawyers to be prosecuted in the criminal courts, which was completed only in November 2006.

When contacted by The Straits Times, a Law Society spokesman said that it "subsequently learnt of the convictions from the media".

Once the Law Society obtained the particulars of the charges against the four, steps were taken to bring them before the Court of Three Judges, the spokesman replied in an e-mail.

In the court, lawyers for Mr Lukshumayeh, Mr Shamkumar and Mr Leo said that their clients practised without a certificate mainly to polish off ongoing cases while winding down their firms.

Ms Kaur, who represented herself, said she did not collect fees for work done while she was without a practising certificate.

Mr Lukshumayeh's lawyer said that his client forgot to renew his certificate in time and mistakenly thought he could never do it again.

The $119,000 he earned from the offences barely covered overheads, his lawyer said.

After closing his firm in October 2003, Mr Lukshumayeh confessed his wrongdoing to the Law Society and the Commercial Affairs Department.

As the court needed time to consider the different circumstances of the four cases, CJ Chan reserved judgment.

The date of the next hearing has yet to be announced.

They practised without a licence

Mr Bhaskaran Shamkumar, 41
» Called to the Bar in 1995
» Practising certificate expired in March 2003
» Pleaded guilty to two charges of preparing papers for the magistrate courts between May and September 2003
» Three other charges taken into consideration during sentencing
» Paid back $6,900 in fees collected
» Jailed for a month in June 2005

ST PHOTO: SHAHRIYA YAHAYA

Mr Mahadevan Lukshumayeh, 49
» Called to the Bar in 1991
» Practising certificate expired in March 2002
» Pleaded guilty to six charges, including filing court documents in the months after his licence expired
» 43 similar charges taken into consideration during sentencing
» $119,000 in fees collected from these violations
» Jailed nine months in May 2005

Ms Jasvendar Kaur, 39
» Called to the Bar in 1996
» Practising certificate expired in March 2005
» Pleaded guilty to lying to a district judge about her professional status, as well as to four other charges of attending a chambers hearing and writing letters identifying herself as an advocate and solicitor between April and May 2005
» 38 charges taken into consideration during sentencing
» Fined $4,000 and jailed a month in November 2006

ST PHOTO: WONG KWAI CHOW

» Mr Leo Chin Hao, 38
» Called to the Bar in 1995
» Practising certificate expired in March 2003
» Pleaded guilty to one charge of sending letters identifying himself as an advocate and solicitor between April 16 and May 6, 2003
» Three similar charges taken into consideration during sentencing
» Made restitution of the $3,900 in fees collected
» Fined $1,000 in February 2005

ST PHOTO: ABDUL AZIZ HUSSIN

ANNEX A2

THE STRAITS TIMES WEDNESDAY, JULY 9 2008

»LICENCE-LESS PRACTICE

4 errant lawyers barred from practising

Banned for six to 18 months, three would have had to wait longer if not for Law Society's delay in bringing charges

BY K.C. VIJAYAN
Law Correspondent

THE four lawyers had already been dealt with by the criminal courts for practising without a certificate.

Three did time in jail and one was fined.

Yesterday, they were told they could not obtain a practising licence yet – each had been barred from doing so for between six and 18 months.

This is the first time that lawyers who did work for clients without a valid certificate had been hauled up for misconduct by the Law Society to face the Court of Three Judges, led by Chief Justice Chan Sek Keong.

But three of the lawyers would probably have had to wait longer to get back into practice, if the Law Society had brought charges against them early.

Mr Mahadevan Lukshumayeh, 49, would have had to wait three to four years instead of 18 months, the longest ban which the court decided on.

He was convicted in court in April 2005, jailed for nine months and prosecuted by the Law Society only last year for the professional misconduct.

Mr Bhaskaran Shamkumar, 41, was barred from getting a certificate for nine months; and his former partner, Mr Leo Chin Hao, 38, for six months.

Again, the three-judge court made it plain that the ban would have been twice as long if not for the Law Society's delay in initiating proceedings.

Both men were convicted in 2005 – Mr Shamkumar being jailed for one month and Mr Leo fined $1,000 and were likewise hauled up before a disciplinary committee only last year, which recommended that the case be referred to the court.

The fourth lawyer, Ms Jasvendar Kaur, was given a 15-month ban as the court held there was no "significant delay" on the Law Society's part in moving charges against her.

Ms Kaur, 39, whose court charges included lying to a district judge, had been fined $4,000 and jailed for a month in Nov 2006.

Mr Lukshumayeh's lawyer Abraham Vergis argued that the nine-month prison term following the criminal court conviction was sufficient punishment and to some extent, served the same purpose for the present proceedings.

But the judges made it clear that disciplinary proceedings are different from criminal proceedings although they arise from the same facts.

Of the four, Mr Lukshumayeh spent the most time – 18 months – practising without a certificate, they noted.

They also rejected the lawyer's argument that Mr Lukshumayeh faced financial difficulties, which was why he did not apply for a certificate. The judges said that dire financial straits "can never be an excuse for wrongful conduct".

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Annex B

ARCHITECTS ACT 1991

Section 10 -
Illegal practice

10.- (1) Subject to the provisions of this Act, no person shall draw or prepare any architectural plan, drawing, tracing, design, specification or other document intended to govern the construction, enlargement or alteration of any building or part thereof in Singapore unless the person is -

(a) a registered architect who has in force a practising certificate; or

(b) under the direction or supervision of a registered architect who has in force a practising certificate.

(2) Subject to the provisions of this Act, no person shall sign and submit to a public authority (as defined in section 3(4) -

(a) any architectural plan, drawing, tracing, design, specification or other document intended to govern the construction, enlargement or alteration of any building or part thereof in Singapore; or

(b) any report, certificate or other document relating to the construction, enlargement or alteration of any building or part thereof which is required by any written law to be signed by an architect, unless the person is a registered architect who has in force a practising certificate.

(2A) Any document that is signed in contravention of subsection (2) shall be invalid.

(3) Subject to the provisions of this Act, no person shall -

(a) use verbally or otherwise the word "architect" or any of its derivatives in connection with his business designation, or any other words, name or designation that will lead to the belief that the person is an architect unless the person is a registered architect; or

(b) advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to supply architectural services in Singapore, unless the person is a registered architect who has in force a practising certificate, a licensed corporation, a licensed partnership or a partnership consisting wholly of registered architects:

(4) Nothing in subsection (3)(b) shall apply to prevent a corporation or limited liability partnership that ceases to have in force a licence from carrying on any activity necessary to the winding up of the corporation or limited liability partnership

(5) Subject to the provisions of this Act, no person shall -

(a) supply or offer to supply architectural services in Singapore;

(b) Deleted by Act 18/2003, wef 01/01/2004.

unless the person is -

(i) a registered architect who has in force a practising certificate and is doing so on his own account or as a partner in a licensed partnership, a licensed limited liability partnership or a partnership consisting wholly of registered architects who have in force a practising certificate;

(ii) an allied professional and is doing so only by reason of being a partner in a licensed partnership or limited liability partnership; or

(iii) a licensed corporation or limited liability partnership.

(5A) Notwithstanding subsection (5), a builder may supply or offer to supply architectural services in Singapore in connection with any building works which he undertakes to carry out if the architectural services are provided by a person referred to in subsection (5)(i), (ii) or (iii).

(6) Any person who contravenes subsection (1), (2), (3), or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 6 months or to both.

Section 12 -
Employment of unregistered architect prohibited.

12.- (1) Subject to the provisions of this Act, no person shall employ as an architect any person who neither is a registered architect nor has in force a practising certificate.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000 and, for a second or subsequent conviction to a fine not exceeding $5,000.

Section 18 -
Practising Certificates

18.- (1) Where a registered architect desires to engage in the practice of architecture in Singapore after 31st December of any year, he shall, not later than 1st December of that year and in such form and manner as may be prescribed, apply for a practising certificate authorising him to engage in the practice of architecture during the ensuing year.

(2) Notwithstanding subsection (1), where a registered architect applies for a practising certificate for the first time after registration under section 15, the application may be made at any time during the year and the registered architect may be issued a practising certificate for the remainder of the year in which the application is made.