IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 237

Suit No 744 of 2018 (Assessment of Damages No 1 of 2023)

Between

3D Infosystems Pte Ltd
(formerly known as 3D
Networks Singapore Pte Ltd)

… *Plaintiff*

And

(1) Voon South Shiong
(2) Sunway Digital Pte Ltd

… *Defendants*

JUDGMENT

[Damages — Assessment]
[Confidence — Law of confidence — Remedies — Account of Profits]
[Confidence — Law of confidence — Remedies — Damages]
[Tort — Conspiracy]
[Tort — Inducement of breach of contract]

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v
Voon South Shiong and another

[2024] SGHC 237

General Division of the High Court — Suit No 744 of 2018 (Assessment of Damages No 1 of 2023)
Chan Seng Onn SJ
4–8, 25–27 March, 1, 24, 26 April, 19 June, 9 July 2024

16 September 2024 Judgment reserved

Chan Seng Onn SJ:

Introduction

1 3D Infosystems Pte Ltd ("the plaintiff") is a Singapore-incorporated company that is engaged in the supply, installation and implementation of information technology systems.[1] Mr Voon South Shiong ("the first defendant") was an employee of the plaintiff and last held the positions of Country Manager, Singapore and Head of Global Accounts Management before he left the plaintiff on 15 April 2018.[2] Sunway Digital Pte Ltd ("the second defendant") is a

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1 1st Defendant's Closing Submissions dated 5 June 2024 ("1DCS") at para 4.

2 1DCS at para 5; 1st Affidavit of Adrian Anand Ambrose dated 29 August 2018 ("AAA-1") at para 6.

company incorporated in Singapore in January 2018 and is involved in the provision of digital transformation systems.

2 I found the first and second defendants liable to the plaintiff on 18 July 2022 and ordered damages to be assessed (see *3D Networks Singapore Pte Ltd v Voon South Shiong and another* [2023] 4 SLR 396 (the "Liability Judgment")). The first defendant was found liable for breach of contract and his implied duties of good faith and fidelity (the "Implied Duties"). The first defendant was also found liable for fraudulent misrepresentation, breach of confidence, inducing breach of contractual obligations of confidence, unlawful means conspiracy and lawful means conspiracy. The second defendant was found liable in unlawful and lawful means conspiracy as well as inducing breach of contractual obligations of confidence.

3 My detailed findings in relation to liability are set out in the Liability Judgment and are summarised at [197] therein. The facts of the case and *dramatis personae* are also comprehensively canvassed in the Liability Judgment. I adopt the definitions previously set out in the Liability Judgment, unless otherwise stated.

4 This judgment assesses the extent of damages to be paid by the first and second defendants to the plaintiff.

Agreed Head of Claims

5 In the course of the assessment of damages, parties have come to an agreement in relation to a number of claims. The agreed heads of claim are set out in the following table. Since parties have reached an agreement, I will not examine the agreed quantum of damages to be accorded to each of these claims.

Description of Liability	Quantum (S$)	Payable by
Breach of contract and Implied Duties, and fraudulent misrepresentation by the first defendant in manipulating records to obtain higher payments of OTE to Lisa Gwee (Liability Judgment at [197(a)(vii)] and [197(b)])	16,076.93[3]	First defendant
Breach of contract and Implied Duties, and fraudulent misrepresentation by the first defendant in manipulating records to obtain higher payments of OTE to Andrew Tan (Liability Judgment at [197(a)(vii) and [197(b)])	75,320.00[4]	First defendant
Breach of contract and Implied Duties, and fraudulent misrepresentation by the first defendant in approving reimbursement claims from Lisa Gwee with no ostensible link with the plaintiff (Liability Judgment at [197(a)(viii) and [197(b)]	4,230.93[5]	First defendant
Breach of contract and Implied Duties by first defendant in working for Beesket Juice Bar during his working hours with the plaintiff and procuring Lisa Gwee to do the same (Liability Judgment at [197(a)(vi)]	219.99[6]	First defendant

[3] Plaintiff's Closing Submissions dated 5 June 2024 ("PCS") at p 37 Annex A S/N 1; 1DCS at para 20.

[4] PCS at p 37 Annex A S/N 2; 1DCS at para 21.

[5] PCS at pp 37–38 Annex A S/N 3; 1DCS at para 20.

[6] PCS at p 38 Annex A S/N 4; 1DCS at para 23.

Breach of contract and Implied Duties by first defendant in assisting the second defendant in procuring business of CWT Ltd (Liability Judgment at [197(a)(iv)] Liability of defendants for lawful and unlawful means conspiracy for the first defendant assisting the second defendant in procuring the business of CWT Limited. (Liability Judgment at [197(e)–(f)])	5,310.97[7]	First and second defendants, jointly and severally
Breach of contract and Implied Duties by the first defendant in assisting the second defendant in procuring the business of AT&T (Liability Judgment at [197(a)(v)] Liability of defendants for lawful and unlawful means conspiracy for the first defendant assisting the second defendant in procuring the business of AT&T (Liability Judgment at [197(e)–(f)]	2,527.35[8]	First and second defendants, jointly and severally

6 However, parties were not able to come to an agreement on the other claims, some of which involve large sums. These heads of claim shall be the focus of this judgment.

Claim 1: Damages for Teambuilding Exercise

7 The first disputed head of claim relates to the damages to be paid by the first defendant for his breach of contract and Implied Duties, specifically, in relation to the misuse of the plaintiff's employees for a "team-building exercise". In the Liability Judgment, I found that the first defendant had misused

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7 PCS at p 43 Annex A S/N 12; 1st Defendant's Reply Submissions dated 19 July 2024 ("1DRS") at para 41; 2nd Defendant's Closing Submissions dated 5 June 2024 ("2DCS") at paras 153–154.

8 PCS at p 43 Annex A S/N 13; 1DRS at para 42; 2DCS at paras 156–157.

the plaintiff's employees from 29 June to 3 July 2015 to sell fruit juice and prepare marketing materials for Beesket Juice Bar ("Beesket"), under the guise of a team-building exercise (at [197(a)(vi)]). The first defendant was the sole director and shareholder of Juice Master Pte Ltd ("JMPL"), which engaged in the business of selling fruit juice through Beesket. I found this "team-building exercise" to be a farce concocted by the first defendant to divert the plaintiff's employees to benefit his own business.

8 The plaintiff claims $38,212.59 under this head of claim, quantifying this sum by calculating the salary paid to the plaintiff's employees for the amount of time spent on Beesket's business during working hours.[9] The plaintiff submits that this is a fair reflection of the plaintiff's loss in having its employees appropriated for the first defendant's own interests.[10]

9 The first defendant's position is that notional or no damages should be awarded for this head of claim.[11] The first defendant takes issue with the manner of computation by the plaintiff, arguing that the plaintiff has not furnished any evidence that the plaintiff had indeed suffered a loss that can be quantified based on the hourly rate of the employees over the duration of the "team-building exercise".[12] The first defendant submits that the plaintiff's manner of computation is premised on the value of the work done for Beesket, as opposed to loss suffered by the plaintiff, which this claim for a breach of contract should be based on.[13]

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9 AEIC of Adrian Anand Ambrose (Assessment of Damages) dated 2 October 2023 ("AAA-AEIC") at p 51; PCS at para 13.

10 PCS at para 14.

11 1DCS at para 30.

12 1DCS at paras 25–26.

13 1DCS at para 27.

10 The first defendant further points out that some of the employees were still able to achieve their performance targets in spite of the "team-building exercise", and that the contributions of an employee cannot be derived or valued based on a pro-rated daily basis as an employee may work longer hours on other days to make up for any delayed work.[14] The first defendant seeks to draw a distinction between employees subject to a corporate key performance indicator ("KPI") and employees working on day-to-day tasks (*ie,* a server or store manager).

11 Lastly, the first defendant contends that there was some degree of team-building that took place in the exercise, as the employees from different business units had the opportunity to collaborate and work together in a task.[15] I note that the first defendant does not challenge the quantification of the number of hours spent and the monthly salary of the employees involved.

12 In my judgment, the plaintiff's claim of $38,212.59 is a reasonable sum to compensate for the loss suffered by the plaintiff as a result of the "team-building exercise". I accept that the plaintiff's proposed methodology provides a fair estimate of its loss, as the employees, being diverted to assist in Beesket's business for that duration, were effectively absent from work. The salary paid by the plaintiff to its employees for the period of the "team-building exercise" would be a reasonable estimate of the loss of the employees' services for that period of time.

13 While the first defendant's argument that employees could still meet performance targets is attractive at first blush, the value of services under an

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14 1DCS at para 27.

15 1DCS at para 29.

employment contract can still be fairly estimated using the salary and working hours as a primary metric. In the present case, under the relevant contracts, the performance targets are tied directly to an employee's *bonus* and not *salary*; an employee who makes zero sales in a month would still be entitled to his salary as long as the employee is present during working hours.[16] Furthermore, even if a particular employee had still reached his performance goals in spite of his attendance of the "team-building exercise", the employee could have brought in *even more* sales and revenue for the employer during that period of time.

14 The plaintiff's proposed methodology is also consistent with s 28 of the Employment Act 1968 (2020 Rev Ed) ("EA"), which allows an employer to deduct an employee's salary on account of the employee's absence. Section 28(2) of the EA stipulates that the deduction:

> … must not bear a larger proportion to the salary payable at the gross rate of pay to the employee in respect of the salary period for which the deduction is made than the proportion the period for which the employee was absent bears to the total period within such salary period during which the employee was required to work by the terms of his or her employment …

In other words, an employer is entitled to deduct up to the pro-rated sum of the employee's salary for an employee's period of absence. This manner of calculation is consistent with the plaintiff's proposed methodology, which is similarly based on the diverted employee's salary pro-rated to the number of days of absence.

15 Furthermore, a brief survey of the authorities fortifies my conclusion. In *Miles v Wakefield Metropolitan District Council* [1987] 1 AC 539, the House of Lords considered whether the defendant council should be allowed to deduct

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[16] Notes of Evidence ("NE") 4 March 2024 at pages 196 to 198.

a pro-rated sum from the plaintiff's salary for refusing to conduct weddings on Saturday, which was part of his duties. The plaintiff was supposed to work for three hours on Saturday, and 37 hours for the whole week. The defendant council withheld 3/37ths of his salary for that week, and the plaintiff sought to claim the withheld sum from the defendant council. The House of Lords found that the defendant council was entitled to withhold that sum.

16 The court reasoned that the defendant council lost the benefit of the plaintiff's services during the period of time the plaintiff had shirked his duties. The court quantified the loss of the plaintiff's services by taking reference to the salary payable for those days of service. Lord Templeman of White Lackington astutely observed (at 560), in the context of an industrial action, that:

> … A strike may involve the employer in loss of profits but it is impossible to show that any particular proportion of the loss is attributable to the industrial action of any individual worker. If a chauffeur goes to strike for one day, his employer may only suffer the inconvenience or enjoyment of driving his own car for once. My Lords, an employer always suffers damage from the industrial action of an individual worker. The employer suffers the loss of the services of the worker. *The value of those services to the employer cannot be less than the salary payable for those services,* otherwise most employers would become insolvent.
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> In the present case, if the council were obliged to pay for the services of the plaintiff on Saturday morning, the council would suffer the loss of money thus paid for services to the public which the plaintiff declined to perform. A man who pays something for nothing truly incurs a loss. *The value of the lost services cannot be less than the value attributable to the loss hours of work* …
>
> [emphasis added]

17 Similarly, Lord Oliver of Aylmerton noted (at 568) that:

> … The simple fact would be that the council had suffered damage to the extent that it was liable to pay for what was, in effect, a period of voluntary absence from work and I see no particular difficulty in quantifying that damage, since the employee could hardly contend successfully that that of which

> his employer had been deprived by his absence (i.e. his services) was worth less than the sum which he was claiming to be paid for them …

18 In *Schonk Antonius Martinus Mattheus and another v Enholco Pte Ltd and another appeal* [2016] 2 SLR 881 ("*Schonk*"), the Court of Appeal observed that an employer may be entitled to withhold payment of salary where there is a total failure of consideration (*Schonk* at [12]). The Court of Appeal considered that this total failure of consideration may manifest if the employee does nothing during at least a part of this period of his employment (*Schonk* at [12]).

19 Thus, I am satisfied that the plaintiff's proposed methodology in calculating the pro-rated salary of the employees involved for that period of time is a reasonable quantification of the value of the plaintiff's loss of its employees' services as a result of the "team-building exercise". Accordingly, I find the first defendant to be liable to the plaintiff for $38,212.59 under this head of claim.

Claim 2: Account of profits for the first defendant's disclosure of business plans

20 The second disputed head of claim concerns the first defendant's disclosure of confidential information in providing business plans to the second defendant. In the Liability Judgment, I found that the first defendant was liable in breach of confidence for preparing and communicating business plans for the setting up of the second defendant (at [197(c)]). The first defendant was also found liable for breach of contract and his Implied Duties in relation to this disclosure (at [197(a)(i)]). Further, I found that the plaintiff was entitled to elect for an account of profits in relation to the breach of confidence in the preparation of business plans for the second defendant (at [201]). The plaintiff has chosen to do so for this head of claim.

21 The main issue with this head of claim is *how* to quantify the profit to be disgorged from the first defendant, given that the sums paid by the second defendant to the first defendant were by way of consultancy fees through JMPL, with no indication as to how much was paid for the first defendant's breaches of duty and how much was paid for the first defendant's legitimate work. The plaintiff quantifies its claim for an account of profits in reliance of the formula of A – B = C.[17]

(a) Component A: This represents the first defendant's total monthly compensation, commission and consultancy fees received from the second defendant through JMPL from May 2018 to March 2021. The plaintiff quantifies this component to be $933,300.

(b) Component B: This represents the total value of the first defendant's legitimate services provided to the second defendant from May 2018 to March 2021. The plaintiff quantifies this component to be $407,464.

(c) Component C: This represents the remuneration that can be attributed to the first defendant's breach of duty and can be the subject of an account of profits. The plaintiff quantifies this component to be $525,836.

22 The first defendant argues that no portion of his income should be attributed to his breaches of confidence, and he was remunerated by the second defendant solely for his legitimate work for the second defendant.[18] In the alternative, the first defendant submits that the plaintiff has understated his

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17 PCS at para 25.

18 1DCS at para 46.

seniority and experience level in pegging his remuneration, and that his work experience specific to the IT industry should be acknowledged and given due recognition. The first defendant's case is that drawing upon objective salary indicators available from the public domain, the second defendant has not overpaid the first defendant, and even on the lowest end of the salary scales, there would only be a notional overpayment of $1,040.[19]

23 As a preliminary note, I accept that the plaintiff's proposed formula is workable. In a claim for an account of profits, the profits sought to be disgorged must be caused by the breach of duty (*UVJ and others v UVH and others and another appeal* [2020] 2 SLR 336 at [98]). Thus, the profit, if any, attributable to a breach of duty must be identified, isolated and quantified. I am satisfied that the plaintiff's proposed formula sufficiently addresses this requirement of a causal link; under the formula, the component of the first defendant's remuneration attributable to the breach of duty is to be isolated and claimed, while the component attributable to legitimate work done for the second defendant ought to be left untouched.

24 I acknowledge that assumptions would have to be made and relied upon in this method of quantification. After all, there was no discussion whatsoever between the first and the second defendant as to how much remuneration could be properly attributed to the confidential information that the first defendant brought over to the second defendant. Nonetheless, as the Court of Appeal in *MFM Restaurants Pte Ltd and another v Fish & Co Restaurants Pte Ltd and another appeal* [2011] 1 SLR 150 ("*MFM*") acknowledged, "some educated guesses have to be made – regardless of the precise methodology ultimately adopted by the court" (at [62]). In such circumstances, "the court will simply do

[19] 1DCS at para 46.

the best that it can, having regard to all the circumstances before it" (*MFM* at [62]).

Component A: Total remuneration of first defendant

25 The first issue relates to the quantification of the total remuneration paid to the first defendant. The second defendant, from the period of May 2018 to March 2021, paid monthly consultancy fees to the first defendant's company, JMPL, which was wholly owned by the first defendant. The first defendant does not dispute that these monthly consultancy fees were ultimately for his benefit as remuneration for his full-time services to the second defendant.

26 The first defendant quantifies his remuneration for the entire period of his services with the second defendant to be $898,300.[20] This is computed with reference to the first defendant's remuneration of $26,000 per month from May 2018 to June 2020[21] (amounting to a subtotal of $676,000) and $24,700 per month from July 2020 to March 2021 (amounting to a subtotal of $222,300).[22]

27 However, the invoices from November 2019 to May 2020 (a total of seven months) indicated that $31,000 was paid per month by the second defendant to the first defendant for consultancy services.[23] It is the plaintiff's case that these monthly payments of $31,000 reflected an increase in remuneration paid to the first defendant for the associated months. Accordingly, the monthly uplift of $5,000 for a total uplift of $35,000 during that period should be accounted for in the first defendant's total remuneration, which would

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20 1DRS at para 13.

21 1DCS at para 41.

22 1DCS at para 43.

23 30 AB 300–306.

give a total of $933,300. The first defendant's position is that these increased payments were attributable to lump sum reimbursements for expenses incurred in those seven months, and that his remuneration for those months remained at $26,000.

28 In my judgment, the plaintiff has not sufficiently proven, on a balance of probabilities, that the monthly uplift of $5,000 for the first defendant's consultancy services can be properly attributed to the first defendant's remuneration as opposed to reimbursement for his expenses.

29 The plaintiff drew my attention to two invoices – dated April 2019 and May 2019 – which had particularised and displayed the general expenses claims ($635.35 and $742.66 respectively) as a separate line item on the invoice.[24] The plaintiff argues that these two invoices establish that the second defendant could and would particularise any claims for expenses as a separate line item. Hence, the second defendant, as inferred from prior practice, would have particularised the claim for expenses as a separate line item on the invoice if the uplift had indeed been meant as a reimbursement.[25] The plaintiff further points out that the first defendant has not furnished any evidence to show his expenses for business development.

30 However, in my judgment, the first defendant has adequately explained the uplift for those few months. The first defendant's position is that the monthly uplifts were meant to serve as lump sum reimbursements for previous unclaimed general expenses, while the previous invoices were particularised through

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[24] PCS at para 30; 15th Affidavit of Voon South Shiong dated 15 February 2024 ("VSS-15") at pp 44–45.

[25] PCS at paras 30–31.

receipts to reimburse for one-off expenses. I find this explanation to be persuasive. It seems inherently unlikely to me that the first defendant's remuneration would remain steady at $26,000 from May 2018 to October 2019, increase by $5,000 or 19% to $31,000 from November 2019 to May 2020, before dropping back down to $26,000 in June 2020 and falling even further to $24,700 in July 2020 during the COVID-19 crisis.[26] Such a large fluctuation, in the form of a drastic increase in remuneration for seven months followed by two consecutive monthly drops, does not make much sense. In my opinion, the invoice for June 2020 is indicative that the first defendant's remuneration was still pegged at $26,000 for that period.

31 Furthermore, I find the first defendant's testimony to be credible. The first defendant expressed in cross-examination that Mr Eric Sng ("Mr Sng"), the second defendant's director who was called as the second defendant's witness, could testify and corroborate his account.[27] Even though the plaintiff did not pursue this line of inquiry with Mr Sng in cross-examination, this indicated that the first defendant was confident that his account would be corroborated by Mr Sng.

32 Thus, I find the total amount of remuneration properly attributed to the first defendant for his work for the second defendant to be $898,300. I am not satisfied on a balance of probabilities that the uplift of $35,000 over the seven months period can be properly attributed to the first defendant's remuneration, as opposed to reimbursement for his expenses.

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26 NE 25 March 2024 at page 13 line 16.

27 NE 25 March 2024 at page 63 line 18.

Component B: Value of the first defendant's legitimate services

33 The second issue relates to the value of the first defendant's legitimate services for the second defendant. The plaintiff quantifies this value to be $407,464.00.[28] The plaintiff derives this amount from the median monthly salary of $13,500 associated with the role of a Business Development Manager in the Information & Communications sector, as obtained from the Ministry of Manpower's official website, multiplied by the number of months the first defendant worked in the second defendant (35 months), and subsequently adjusted to take into account wage growth.

34 In contrast, the first defendant relies on the 2024 Technology Salaries Guide in Singapore, compiled by Morgan McKinley (the "Morgan McKinley salary guide"), as a benchmark.[29] The first defendant pegs his salary to be based on either consulting with 15 years and above experience, which yields an annual salary range of $350,000 to $550,000, or direct sales with 15 years and above experience, which yields an annual salary range of $350,000 to $450,000. Relying on the average salary of $450,000, the first defendant argues that there is no basis to infer that the second defendant had paid him any amount for the breaches of duty. Even if the lower end of the scale ($350,000) were adopted instead, the first defendant would only be liable for a notional sum of $1,040.00.[30] In my opinion, the Morgan McKinley salary guide, which measures specifically the salaries of the technology sector, provides a better indicator than the Ministry of Manpower's statistics, which reflects the salaries associated with the more general Information & Communications sector.

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28 PCS at para 37.

29 1DCS at para 40.

30 Exhibits D-5,6,7,8.

35 In my judgment, neither the plaintiff nor the first defendant's proposed methods of calculation provide the best way to quantify the value of the first defendant's legitimate services. During cross-examination, the first defendant broke down his job scope into three major components and assigned a weightage to each component of work – 50% for Solution & Technology Strategy Development, 30% for Regional Strategic Partnership Development, and 20% for Pricing Strategy/Analyst.[31] I find this breakdown to be useful in determining a value to be attributed to his services. Indeed, the plaintiff's own case is that the first defendant has been involved in pricing strategy and decisions in his role with the second defendant. Pegging his salary solely to that of a Business Development Manager may not be sufficiently representative. In my opinion, two components – Solutions & Technology Strategy Development and Regional Strategic Partnership Development – can in turn be seen to represent different facets of the plaintiff's work in business development.

36 At the hearing, the plaintiff submitted a table of calculations,[32] premised on the first defendant's job scope and salary indicators extracted from Morgan McKinley, even though the plaintiff ultimately did not rely on these calculations in its submissions. The plaintiff further pro-rated the respective salary indicators according to the first defendant's breakdown of his job scope. The table of calculations is reproduced below.

Scope	**Solutions & Technology Strategy Development**	**Regional Strategic Partnership Development**	**Pricing Strategy and Analysis**	**Value of First Defendant's Services**
Weightage	50%	30%	20%	-

[31] Exhibits D-9-13.

[32] Exhibit P-25.

Lowest salary tier (S$) (5-10 years of experience)	180,000 p.a. 90,000 for 50%	170,000 p.a. 51,000 for 30%	60,000 p.a. 12,000 for 20%	153,000 p.a. 446,250 for 35 months
Middle salary tier (S$) (10-15 years of experience)	250,000 p.a. 125,000 for 50%	195,000 p.a. 58,500 for 30%	100,000 p.a. 20,000 for 20%	203,500 p.a. 593,541 for 35 months
Highest salary tier (S$) (15 years of experience	350,000 p.a. 175,000 for 50%	220,000 p.a. 66,000 for 30%	160,000 p.a. 32,000 for 20%	273,000 p.a. 796,250 for 35 months

37 In my opinion, an appropriate benchmark for the value of the first defendant's services would be to take reference to the middle to highest tier of the table in relation to Solutions & Technology Strategy Development and Strategic Partnership Development and the highest tier for Pricing Strategy and Analysis. When the first defendant was recruited to join the second defendant in 2018, he had over 16 years of experience in the industry.[33] However, as acknowledged by the first defendant, the scope of his work in the plaintiff and in the second defendant was at least moderately different.[34] In the plaintiff, the first defendant had oversight over the sales team and operational team.[35] In the second defendant, the first defendant did not oversee the sales team and the

[33] NE 25 March 2024 at page 5 lines 2 to 4.

[34] NE 25 March 2024 at page 53 lines 14 to 23.

[35] NE 25 March 2024 at page 52 lines 16 to 18.

operational team; instead, his role primarily related to giving advice on business development opportunities to further expand the company.[36]

38 I find that this change in job scope justifies applying a discount to the first defendant's work experience, with reference to the salary benchmarks referred to above. Nonetheless, I note that the first defendant's experience in sales and operations would inform his business development advice and his work experience would be largely transferrable, especially since he was working in the same industry and would be broadly familiar with the industry players. Furthermore, his experience in sales and operations directly translates into experience in pricing strategy and analysis. Hence, I am satisfied that the middle-to-highest salary tier and the highest salary tier would be an appropriate benchmark for the first defendant's business development services and his pricing strategy and analysis services respectively.

39 Therefore, I estimate the value of the first defendant's services to be $150,000 per annum in relation to Solutions and Technology Strategy Development, $62,250 per annum in relation to Regional Strategic Partnership Development, and $32,000 per annum in relation to Pricing Strategy and Analysis, for a total of $244,250 per annum. The total value of the first defendant's services for 35 months would work out to $712,395.83.

Component C: Amount of profit to be accounted for

40 Deducting Component B from Component A, I find that the first defendant is liable to the plaintiff for a sum of $185,904.17. This represents the first defendant's remuneration associated with his breach of confidence in the

[36] NE 25 March 2024 at page 53 lines 6 to 10.

preparation of the second defendant's business plans, to be disgorged in an account of profits.

Claim 3: Damages for the solicitation of employees

41 The third disputed head of claim relates to the defendants' solicitation of the plaintiff's Former Employees and the damages to be paid thereof by the defendants. In the Liability Judgment, I found the first defendant to be liable for breach of contract and his Implied Duties for assisting in the second defendant's solicitation of Ms Lerraine Chua and Ms Alicia Tan (at [197(a)(ii)]). I also found both defendants to be liable in unlawful means conspiracy for the plaintiff's contractual breaches as well as lawful means conspiracy for the plaintiff's contractual breaches and the solicitation of the Former Employees apart from Ms Chua and Ms Tan (at [197(f)]).

42 The plaintiff seeks a sum of $175,604.40 against the defendants jointly and severally.[37] This sum is broken down into two components – (a) $97,283.40 to compensate for the plaintiff's headhunter fees in replacing its employees Bryan Tay, Kurniawan Chandrajaya and Yeo Choon Seng; and (b) $78,321.00 to compensate for the plaintiff's loss as a result of the solicitation of the Former Employees, quantified as three months' profit in 2018 that the plaintiff had lost.

43 In addition, the plaintiff seeks a sum of $181,836.70 against the first defendant,[38] premised on the first defendant's purported consent to liability of $269,638.90 under this head of claim at the hearing. The sum of $269,638.90 is broken down into (a) S$156,443.40, being the plaintiff's headhunter fees along with the additional salaries that the plaintiff had to pay for the some of the

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37 PCS at para 40.

38 Plaintiff's Reply Submissions dated 9 July 2024 ("PRS") at para 24.

employees and (b) S$113,205.50, being the plaintiff's loss of profit. The plaintiff derives the sum of $181,836.70 by taking the difference of $269,638.90 and 50% of the sum of $175,604.40 (*ie,* $269,638.90 – (0.5 x $175,604.40)). The plaintiff argues that the first defendant should be held to his consent.[39]

44 Alternatively, the plaintiff argues that the court may order the defendants to be jointly and severally liable for the sum of $269,638.90, subject to the condition that the plaintiff may only recover up to $175,604.40 from the second defendant. The plaintiff submits that this is a workable order, ensuring that the plaintiff may hold the first defendant to his consent and claim from him the full sum of $269,638.90 while limiting recovery against the second defendant.

Purported consent by the first defendant

Did the first defendant consent to the sum?

45 I will first consider the issue of whether the first defendant had consented to the plaintiff's quoted sum of $269,638.90, such that there is a settlement between the plaintiff and first defendant on this head of claim. The plaintiff cites two instances, during the course of the hearing, where the first defendant appeared to have given his consent.

46 The plaintiff points towards the consent furnished by counsel for the first defendant, Mr Hua, on behalf of the first defendant during the hearing on 8 March 2024. The plaintiff further argues that the first defendant had also personally consented to the sum during the hearing on 25 March 2024.

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[39] PRS at paras 31–32.

47 The relevant extracts of the transcripts are produced here for reference.[40]

> MR HUA: Your Honour will recall that I had earlier, in addressing the formula proposed by Ms Toh at column C, agreed and accepted the sum of $156,443.40.
>
> COURT: If you want to change that, it's okay, I mean up to you. This is all ––
>
> MR HUA: I still retain my agreement. I also took the position, Your Honour, that I'm agreeable to – that I dispute the concept of being – one, able to –
>
> COURT: It's just the quantification?
>
> MR HUA: One, being able to claim loss of profits. I also said that, but in the event my position was not accepted, I will accept the sum of $113,205.50
>
> My clarification involves this, Your Honour. Given that I had earlier taken the position that if my dispute on the concept doesn't hold true and doesn't see fruit, then, in the alternative, I will accept $113,205.50.

48 I find that at that particular point in the hearing, Mr Hua had expressed consent to the claim of $156,443.40 for the headhunter fees and the additional salaries that the plaintiff had to pay for the some of the employees. However, consent in relation to the loss of profit claim was only limited to a quantification of $113,205.50. The first defendant had not accepted the principle behind the loss of profit claim, arguing that there were other causative factors, and thus there was no consent to the loss of profit claim as a whole.[41]

49 However, after some back and forth, Mr Hua expressed consent on behalf of the first defendant to the claim of $113,205.50.[42]

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40 NE 8 March 2024 at page 106 line 15 to page 107 line 5.

41 1DCS at para 60.

42 NE 8 March 2024 at page 111 line 2 to page 112 line 2.

> COURT: Let me finish. She was just saying, "I will go and get some figures, but I'm happy to live with that number. I just put a number there" – – it's basically an offer. If you accept the offer, she's not going to go there and she just closes the loop. She's just making an offer without a basis
>
> MR HUA: Your Honour, that's the thing. I want to say I accept $113,205.
>
> COURT: If you accept the offer, then Ms Toh doesn't have to go anywhere with trying to prove that there were additional customers possibly that they could have obtained with the superman [*ie* plaintiff where the all the former employees had not been solicited and had not left the company].
>
> MR HUA: Your Honour, and I wanted to say that I had earlier also said I accept 113 if my consenting – –
>
> COURT: Then you don't go and say, "Oh, subject to my formula being wrong", it's either you accept the number – – it's like settlement. I don't care what is the basis, I just accept, we all go home. Never mind who is right or wrong already. You follow me? The more you put in a condition, oh, subject to me, my formula being right – – then only when my formula is wrong, then I accept it – –
>
> MR HUA: I see where I've been unclear and – –
>
> COURT: Then it's very difficult to handle
>
> MR HUA: *So, your Honour, I accept. Let me communicate my position very clearly: I accept $113,205.*
>
> [emphasis added]

50 During the hearing on 8 March 2024, after the abovementioned series of exchanges and further discussions as to the workability of different judgment sums in relation to the first and second defendants with joint and several liability, I summarised the discussion as such:[43]

> COURT: You still have to see how it works out, but you hear Mr Hua already, his client doesn't want to take the risk. He accepts that. Whatever the formula, he

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43 NE 8 March 2024 at page 118 lines 7 to 18.

> accepts that for this item, it's 113, and plus 156, finish.
>
> MS TOH: Okay.
>
> COURT: For Mr Chia, I'm not sure what his position is. So is there a binding settlement as far as this item is concerned vis-à-vis Mr Hua's -- because offer already accepted. I mean, essentially, I put that, you know. If you accept, you say, okay, by consent Mr Hua accepts this. Put it down as a line, Ms Toh.
>
> MS TOH: Yes.

51 Counsel for the first defendant, Mr Hua did not object to my characterisation of the positions taken by the first defendant. Indeed, Mr Hua noted that he "[did not] like to play dice".[44]

52 Subsequently, during the plaintiff's cross-examination of the first defendant on 25 March 2024, counsel for the plaintiff took the opportunity to confirm with the first defendant on his consent to the various agreed heads of claim.[45] Counsel for the plaintiff questioned the first defendant specifically as to whether he agreed to be liable for $269,638.90 under this head of claim.

> Q. Serial Number 7. This, Mr Voon, okay, pertains to your liability for the conspiracy with the 2nd defendant for setting up the 2nd defendant by disclosing the business plans and also for providing feedback on the 2nd defendants namecards. Your counsel has inform [*sic*] the court that you agree that you are liable for $269,638.90. Can I just confirm this?
>
> A. Yes.

53 The transcript is clear. I find that the first defendant did consent to the sum of $269,638.90 for this head of claim.

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44 NE 8 March 2024, page 119 line 4.

45 NE 25 March 2024 at page 67 lines 4 to 12.

Did the first defendant withdraw his consent during cross-examination?

54 The first defendant's position is that it had unequivocally withdrawn any such prior consent in the course of the first defendant's cross-examination by the plaintiff.[46] The first defendant points towards the following exchange on 1 April 2024 between him and the counsel for the plaintiff, Ms Toh, as proof that he had withdrawn his consent.[47]

> Q. Okay. So in that case, Mr Voon, do you not agree that these headhunter fees do not take into account the value of these confidential information that you have given to Sunway Digital?
>
> A. I disagree with that. Because at the end of the day, I said that this has been taken into account for the clause that has been asked and claimed twice.

55 However, I find that the first defendant has misconstrued the exchange. This exchange must be interpreted and read with the larger context. The headhunter fees mentioned in this exchange refers to the hypothetical headhunter fees that *the second defendant* would have to expend to hire employees but for the first defendant's assistance in the solicitation of the Former Employees. It did not refer to the *plaintiff's* headhunter fees which are the subject of this head of claim. The second defendant's headhunter fees were used, not to quantify the *loss suffered by the plaintiff* as a result of the solicitation, but to estimate the costs saved by the second defendant as a result of the first defendant's assistance in solicitation. These cost savings were in turn relied on by the plaintiff to estimate the additional salary (over and above the salary for his legitimate services) that the first defendant would have received attributable to his breaches of duty to be disgorged under the account of profits.

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46 1DRS at para 22.

47 NE 1 April 2024 at page 79 lines 14 to 20.

The plaintiff reasoned that the costs saved by the second defendant in terms of the headhunter fees would be reflected to *some extent* in the first defendant's remuneration above and beyond his remuneration for the ordinary legitimate services provided.

56 As such, this exchange does not reflect withdrawal of consent. The plaintiff did not double claim for headhunter fees, and this was promptly clarified by Ms Toh and myself immediately after the exchange.[48]

> Q. Mr Voon, just to explain, the plaintiff' position is not just single-fold. It is two-fold. On one hand, there's a claim for damages for the conspiracy that, I suppose, is considered from the perspective of the plaintiff's loss. The plaintiff has a separate claim against you and the plaintiff has elected for an account of profits against you and this is what we are dealing with today.
>
> Anyway, I think, your Honour, I think this is probably as far as I can take it in terms of --
>
> COURT: Yes, the way I'm using -- thinking of this headhunter fees is that you are trying to quantify what the 2nd defendant paid him in excess for the value he brings in --
>
> MS TOH: Yes.
>
> COURT: -- which is the part we are, for the whole of this morning, trying to do. So the headhunter fees will be something that, maybe from the point of view of the value he brings in, apart from the other aspects of work which he says is his professional work, it will give us an idea of maybe some value that Mr Samuel may have attributed to him. This is from that angle. It's not as if he's double counting, he's just saying, 'Okay, you bring in this, you have added value to me, I pay you a bit more in salary to compensate'. So it helps -- it gives a guide, some kind of guide, as to what might be the amount. So it's from this angle that I'm looking at it. You get the picture? So -- but if -- if it is the case that Mr Voon has, apart from the disgorgement, paid for it

[48] NE 1 April 2024 at page 79 line 21 to page 81 line 17.

> elsewhere, I'm not sure where, can you identify for me where it has been paid for by Mr Voon, in what aspect? So I'm not clear on that one.
>
> Okay, never mind, I think we can leave it –
>
> MS TOH: Sorry, was that for me, your Honour, or Mr Voon?
>
> COURT: Ms Toh. Was it calculated elsewhere and in what form?
>
> MS TOH: No, your Honour, you're absolutely correct in what your Honour had just described, which is that we were looking at the perspective of the loss to the plaintiff due to their acts of solicitation of the employees.
>
> COURT: That loss to the plaintiff was calculated on the basis of the headhunter fees which you all paid, right, separately to engage those new people.
>
> MS TOH: That was one of the components.

57 Therefore, I find that the first defendant did not withdraw his consent during cross-examination. The first defendant was confused and thought that there was an overlap in claims. However, this confusion was subsequently dispelled, and neither the first defendant nor his counsel sought to clarify his position or withdraw his consent during the oral hearings subsequent to this exchange. Hence, I find that the first defendant's consent to the liability of $269,638.90 was still standing at the conclusion of the oral hearings.

Should the first defendant be permitted to withdraw consent in closing or reply submissions?

58 Next, I consider the issue of whether the first defendant should be allowed to withdraw his consent in his closing and reply submissions.

59 I pause to observe that the plaintiff's and first defendant's positions on this issue have not been entirely consistent and there appears to be some degree of confusion. The plaintiff, in its closing submissions, only argued that the first

defendant consented to $113,205.50 for loss in profit, and did not assert that the first defendant consented in relation to $156,443.40 for the headhunter fees and the additional salaries that the plaintiff had to pay for the some of the employees. The first defendant did not even address this issue of consent in its closing submissions by seeking permission to withdraw his consent, and continued instead its argument against the plaintiff's claim on principle and quantification. As a result, I convened a clarificatory hearing on 19 June 2024 and directed parties to address me on this issue.

60 The plaintiff, in its reply submissions, subsequently revised its position in relation to the consent sum, and argued for the sum of $269,638.90. The first defendant, in its reply submissions, only addressed the plaintiff's contention for $113,205.50 in the plaintiff's closing submissions. However, the first defendant's arguments were equally applicable to the sum of $269,638.90 as it went to the issue of consent for both sums.

61 The plaintiff argues that it would be prejudiced by the first defendant's withdrawal of consent at the closing submissions stage. The plaintiff's position is that counsel for the plaintiff, in reliance on the first defendant's agreement, did not further cross-examine the first defendant in relation to this head of claim.

62 I find that the first defendant should not be permitted to withdraw his consent and should be held to his agreement irrespective of the outcome of the final decision of the court in relation to this aspect of the quantification of the plaintiff's claim as between the plaintiff and the second defendant. First, the first defendant, in agreeing to the sum, consciously chose to enter into a gamble. Should the head of claim be quantified at an even higher sum, the first defendant would have benefitted from the gamble. Even if the head of claim is concluded at the consented sum, the first defendant would still have benefitted from

reduced costs. Therefore, the first defendant should not be allowed to resile from his agreement and the gamble that he had consciously entered into, even though the second defendant may successfully argue for a lower quantum for this head of claim in the course of the hearing.

63 Second, permitting the withdrawal of consent would prejudice the plaintiff. As rightly pointed out by the plaintiff, the first defendant was not cross-examined on this particular issue. The first defendant's evidence and position on this issue could not be tested in reliance on this agreement. The first defendant could have raised this issue and sought permission to withdraw its consent at any time during the hearing, when cross-examination of the first defendant on this issue would still have been possible upon permission being granted. The first defendant's withdrawal of consent only in its closing and reply submissions is much too belated.

64 While I acknowledge that this case, with its numerous heads of claim, may lead to some degree of confusion, it is incumbent on counsel to adroitly navigate the complexities of the case and meticulously keep track of the status of each head of claim. When counsel may be uncertain as to the status of a claim, counsel should surface these concerns and seek clarification as soon as possible, such that prejudice may be avoided or at the very least, minimised. There were two more days of hearing after the first defendant had purportedly and impliedly withdrawn his consent on 1 April 2024. The first defendant had ample opportunity to expressly raise its concerns in relation to the agreed sum during the hearing and seek the necessary clarification.

65 As such, I find that the first defendant's consent to the agreed sum of $269,638.90 stands. I will turn next to the second defendant's liability under

this head of claim, before considering the appropriate order to be made to allocate liability.

Liability of the second defendant

66 To recap, the plaintiff seeks a sum of $175,604.40 against the second defendant jointly with the first defendant after some adjustments were made to the quantum of the claim in the plaintiff's closing submissions. This sum is broken down into two components – (a) $97,283.40 for the plaintiff's headhunter fees in replacing its employees; and (b) $78,321.00 for the plaintiff's loss as a result of the solicitation of the employees, quantified at three months' profit in 2018 that the plaintiff had lost.

Plaintiff's headhunter fees

67 The plaintiff claims $97,283.40 in headhunter fees expended to recruit replacements for three of the solution consultants – Bryan Tay, Kurniawan Chandrajaya and Yeo Choon Seng.[49] The plaintiff has chosen not to pursue its claim for the increase in salary of the replacements as compared to the Former Employees, as it had previously sought to do earlier in the proceedings. The second defendant does not dispute the quantification of the headhunter fees, but argues that there were salary savings and a reduced payroll as a result of lower salaries paid to some of the other newly recruited employees, amounting to $141,438.60 over a 12-month period, which should be used to offset the headhunter fees.

68 In my judgment, the headhunter fees are recoverable as mitigation costs. If no replacements were made, the plaintiff's loss of four out of five solution

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[49] Exhibit P-22.

consultants (Bryan Tay, Liau Ling Kai, Kurniawan Chandrajaya and Yeo Choon Seng) in a short span of three months (March 2018 to June 2018) would likely have a negative effect on the plaintiff's business operations.[50] Conceiving the plaintiff's business as an integrated whole, with multiple interlocking cogs in a larger well-oiled machine, the loss of a cog is likely to impede its proper functioning. The role of a solutions consultant in the customer procurement team is to draw up designs in the tender for presentation to the prospective client.[51] This would form an integral part of a successful tender to bring in business for the plaintiff. I find that the plaintiff acted reasonably in hiring headhunters to find replacements at short notice for its solution consultants, and costs associated with such a reasonable measure are recoverable. As noted above, the second defendant has not challenged the reasonableness of the plaintiff's hiring of headhunters.

69 I reject the second defendant's position that cost savings resulting from the solicitation of the Former Employees should be used to offset this head of claim. While benefits arising from a breach can be considered in the assessment of damages, the second defendant has not proven that the plaintiff benefitted from the solicitation.

70 I accept that factually, the plaintiff has paid a lower amount in salary to some of its replacement employees as compared to the Former Employees. Nonetheless, this does not necessarily equate to a benefit to be taken into account in the assessment of damages. First, the defendants' calculation of salary savings includes the periods where the Former Employees were not yet replaced. An employment contract goes two-ways – when an employee has left

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50 AAA-AEIC at para 64.

51 NE 25 March 2024 at page 125 lines 10 to 21.

the employer, the employer may enjoy cost savings in terms of unpaid salary. But the employer also loses the benefit of the employee's services. Hence, it cannot be right to have regard solely to the unpaid salaries and quantify it as a benefit without having regard to the corresponding loss in services to the employer.

71 Second, I find that it is improbable that the services of the former employee and new employee can be directly comparable to the degree that the salary difference can be relied upon as a benefit. After all, a new employee may be performing at a lower capacity than a former experienced employee.

72 As such, I find that the plaintiff is entitled to claim $97,283.40 in headhunter fees as mitigation costs.

Plaintiff's loss in profits

73 The plaintiff's position is that it required time to replace the Former Employees as well as to acclimatise the replacement employees before the replacement employees could work at full capacity. The plaintiff argues that the average time taken to replace the Former Employees was about two months, and the employees would require about one month to be familiar with and attain the level of productivity of the Former Employees.[52] As such, the plaintiff's claim for damages in terms of loss of profit is quantified to be the profit that the plaintiff would have earned over three months in 2018 had the Former Employees not been solicited.

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52 PCS at para 44.

74 The plaintiff quantifies this sum to be $78,321.[53] This sum is derived by adding the actual revenue, material costs and salary costs of the second defendant for financial year 2019 ("FY2019") to the actual revenue, material costs and operating costs of the plaintiff for the same financial year. This formula would effectively amalgamate the plaintiff and the second defendant into one hypothetical company, in which the Former Employees did not leave the plaintiff, but the plaintiff still hired new employees. Since the Former Employees did not leave the plaintiff in this amalgamated company, the business that the Former Employees had in fact brought to the second defendant (and associated costs) would, in this hypothetical scenario, be attributed to the amalgamated company. Effectively, the plaintiff seeks to quantify the profit that the Former Employees would have brought to the plaintiff in three months, had the Former Employees remained with the plaintiff. The plaintiff's table of calculations is reproduced below.[54]

Item	**Second Defendant FY2019**	**Plaintiff FY2019**	**Hypothetical FY2019**
Revenue (S$)	2,579,947	24,709,155	27,289,102
Material Costs (S$)	(2,062,396)	(18,017,576)	(20,079,972)
Operating Costs (S$)	-	(6,238,757)	(6,238,757)
Salary costs of former employees + first defendant	(657,090)	-	(657,090)

[53] PCS at para 45.

[54] PCS at para 46.

Profit in 12 months (S$)	-	-	313,283
Profit in three months (S$)	-	-	78,321 (rounded off to the nearest dollar)

75 The second defendant argues that this hypothetical amalgamated company is founded on unreasonable assumptions.[55] First, the second defendant submits that many of its customers were not previously customers of the plaintiff and were not poached over.[56] Second, the second defendant submits that since the plaintiff had a previous trend of decreasing revenue from FY2017 to 2019, a hypothetical revenue of $27,289,102 would represent a reversal of this downward trend and is inconsistent with historical data.[57] Third, the second defendant argues that there must be a corresponding increase in operating costs associated with the hypothetical amalgamated company, as there is no evidence that the plaintiff has excess operating capacity that could accommodate such a significant increase in business and personnel.[58] Lastly, the second defendant argues that additional service engineers would be required to handle the increase in number of contracts, and this should also be reflected as additional costs to the hypothetical amalgamated company, quantified at $240,000 for 12 months.[59]

76 I find that the plaintiff's proposed calculation table does not support its case at all. In fact, it undermines the plaintiff's case as it shows that the plaintiff

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55 2DCS at para 27.

56 2DCS at para 27.

57 2DCS at para 28.

58 2DCS at para 29.

59 2DCS at para 30.

did *not* suffer a loss in profits. By the plaintiff's own calculations, the second defendant had suffered *a loss* in FY2019 of $139,539. As a result, the hypothetical amalgamated company would make *less money* than the plaintiff had in FY2019 – the plaintiff made $452,822 in FY2019, as compared to $313,283 that the hypothetical amalgamated company would make in the same financial year. Construing the sum of $78,321, this sum represents the *reduced profit* of the hypothetical amalgamated company in three months. The calculations suggest that the plaintiff may actually be *better off* without the Former Employees.

77 Hence, I do not need to turn to the second defendant's counterarguments in relation to the proper means of calculation. The plaintiff has failed to adduce sufficient proof to show that it suffered a loss in profits as a result of the solicitation of its Former Employees.

78 In its reply submissions, the plaintiff advances an alternative argument for a conventional award of damages of $78,321.00.[60] The plaintiff refers to the case of *Schonk* as authority that if the plaintiff fails to prove the quantum of damages sought, the court may still consider the available evidence and order a proportionate and equitable award in the circumstances of the case (*Schonk* at [24]).[61] The plaintiff argues that its business operations was disrupted by the loss of a substantial portion of its customer-procuring team, and this had handicapped the plaintiff for a period of time, even if replacement employees were subsequently hired.[62]

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60 PRS at para 63.

61 PRS at paras 64–66.

62 PRS at para 67.

79 In my judgment, the plaintiff is entitled to a conventional award of $50,000. While the plaintiff may not have been able to prove a loss based on its financial year accounting, I am satisfied that the plaintiff had suffered a loss in capacity in the period of March to April 2018, when the Former Employees left the plaintiff to join the second defendant and when its replacement employees would have needed some time to get up to speed. This would likely have resulted in some difficulty in procuring customers for that period of time. Even though the plaintiff managed to bounce back from the loss of its employees to make a profit in FY2019, the plaintiff had nonetheless suffered a loss of business capacity in in the period of transition, and this ought to be compensated for.

80 Additionally, I am satisfied that the plaintiff would have incurred some cost, beyond headhunting fees, in processing the Former Employees' resignations and the replacement employees' training and recruitment. The plaintiff's human resources staff, for example, would likely have had to put out job advertisements and process incoming job applications. The plaintiff's remaining customer-procuring team would likely have had to train the replacement employees and guide them as to the company's internal processes. This conventional award would also go to address these unquantifiable costs. Hence, I find that a conventional award of $50,000 is an appropriate sum to address the plaintiff's losses as a result of the solicitation of its employees.

Allocation of liability

81 I now turn to the appropriate order to be made to give effect to the findings under this head of claim. I find that an appropriate order would be for the first and second defendants to be held jointly and severally liable for $147,283.40 ($97,283.40 in mitigation costs + $50,000 as a conventional

award), with the first defendant being additionally held solely liable for $122,355.50 as a result of his consent. In effect, the first defendant would be held liable up to his consent sum of $269,638.90, while the second defendant would only be held liable up to the quantum of damages proved at trial, $147,283.40.

Claim 4: Damages for the disclosure of the plaintiff's Internal Manuals

82 The fourth disputed head of claim concerns the first defendant's disclosure of the plaintiff's Guide to Business Conduct and Ethics, Employee Handbook and IT Service Management Services Manual ("ITSMS Manual") (collectively, the "Internal Manuals") to the second defendant.

83 In the Liability Judgment, I found the first defendant liable for breach of contract and Implied Duties, as well as breach of confidence, for disclosing the plaintiff's Internal Manuals to the second defendant (at [197(a)(i)] and [197(c)]). Further, I found the first and second defendants jointly liable in lawful and unlawful means conspiracy for the first defendant's breach of contract (at [197(e)–[197(f)]). I note that I did not find the second defendant liable for breach of confidence as it was not sufficiently articulated in the pleadings (at [155]–[156]).

84 For this head of claim, the plaintiff claims $25,612.06 in damages against the defendants jointly and severally.[63] This is broken down into $224.78 for the Guide to Business Conduct and Ethics, $16,988.89 for the Employee Handbook (excluding Appendix 5), $2,331.72 for Appendix 5 of the Employee Handbook and $6,066.67 for the ITSMS Manual.[64]

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63 PCS at paras 59–60.

64 PCS at para 60.

85 The plaintiff relies on the case of *I-Admin (Singapore) Pte Ltd v Hong Ying Ting* [2020] 1 SLR 1130 ("*I-Admin*"), which found the plaintiff to be entitled to an award of equitable damages in a breach of confidence claim, even though it may be too speculative or difficult to determine the exact loss that the plaintiff suffered. The court, in assessing a claim for equitable damages, "is not limited to any specific basis for assessing damages" (*I-Admin* at [73], citing *Lunn Poly Ltd and another v Liverpool & Lancashire Properties Ltd and another* [2006] 2 EGLR 29 at [22]). This confers upon the court "the flexibility to determine the manner in which damages should be assessed" (*I-Admin* at [77]). In *I-Admin*, the Court of Appeal observed that equitable damages for a breach of confidence can be assessed at the value of the confidential information, which can be measured in terms of the costs saved by a party in taking that information (at [76]–[79]). The plaintiff derives the amount of its claim by taking reference to the time spent by its employees in compiling the Internal Manuals multiplied by the employees' daily salary,[65] arguing that since the second defendant would require a similar amount of time to draft such Internal Manuals, this amount would roughly approximate the second defendant's cost savings.

Applicability of equitable damages

86 At this juncture, it is apposite to note that, as mentioned at [83] above, I only found the first defendant to be liable for breach of confidence in equity but not the second defendant. However, the plaintiff has framed its claim for equitable damages against *both* defendants. The second defendant rightly points out that its liability with respect to the Internal Manuals is only in lawful and unlawful means conspiracy in relation to the first defendant's breaches of

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65 PCS at p 40.

contract, which is a tortious claim founded on breach of contract, and not breach of confidence in equity. A breach of contractual confidentiality obligation and a breach of confidence are distinct causes of action with distinct liability regimes (see *Adinop Co Ltd v Rovithai Ltd and another* [2019] 2 SLR 808 at [37]–[41]). The former is rooted in the common law while the latter is equitable in nature. I am now faced with the question of whether an award of equitable damages can be ordered against the second defendant, when no breach of confidence claim is established.

87 I decline to make an award of equitable damages in relation to this head of claim against the second defendant. In *I-Admin,* the Court of Appeal noted that historically, equitable damages have been ordered by the English courts for "purely equitable rights, including breaches of confidence" (at [74]). A brief survey of local case law also shows that equitable damages have, so far, primarily been analysed in relation to claims for breaches of confidence (see for *eg*, *Lim Suk Ling Priscilla and another v Amber Compounding Pharmacy Pte Ltd and another* [2024] 1 SLR 741 at [31]; *Jethanand Harkishindas Bhojwani v Lakshmi Prataprai Bhojwani (alias Mrs Lakshmi Jethanand Bhojwani) and others* [2022] 3 SLR 1211 at [121]).

88 I pause to observe that while it is established that the Singapore courts have the jurisdiction to award equitable damages (*I-Admin* at [77]), the courts must still consider if equitable damages are an appropriate remedy for a particular cause of action. In *Turf Club Auto Emporium Pte Ltd and others v Yeo Boong Hua and others and another appeal* [2018] 2 SLR 655 ("*Turf Club Auto*"), the Court of Appeal observed that for a conspiracy to injure premised on breaches of contract, the plaintiff' remedial position for the tortious claim would be identical as the remedial position for the underlying claim for a breach

of contract, as the tort was to thwart the proper performance of the contract (at [387]).

89 The general purpose of damages in contract law is to compensate the plaintiff and to place the plaintiff in the same position as if the contract had been performed (see *Turf Club Auto* at [123]–[124]). Equitable damages, with its flexibility in quantifying damages, appear to be a departure from orthodox compensatory remedies available for breaches of contract. Without the benefit of detailed argument on the availability of equitable damages for a claim of conspiracy premised on contractual breaches, it would be unsafe for me to decide the issue and make such an order.

Internal Manuals

90 Next, I turn to quantify the first defendant's liability in equitable damages for the disclosure of the Internal Manuals. The plaintiff has relied on *I-Admin* for the proposition that it does not have to prove use of the Internal Manuals to establish damages in a breach of confidence claim.[66] The plaintiff cites *I-Admin* at [66]:

> … It is not necessary to consider whether these disclosures did in fact constitute wrongful use. It follows from our findings above that the respondents' very possession of the appellant's client data without its consent amounted to a breach of confidence.

91 In *I-Admin*, even though the Court of Appeal did not find that there was wrongful use, the court nonetheless ordered equitable damages to be assessed against the defendants in terms of the value of the confidential information. The plaintiff relies on this and argues that a lack of use of the Internal Manuals is

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66 PCS at paras 61–62.

not a defence to the claim for damages. The plaintiff seeks to quantify damages in terms of the value of confidential information in the Internal Manuals, by measuring the costs that the second defendant would have incurred in developing the Internal Manuals. This, in turn, is measured by calculating the costs that the plaintiff had incurred in creating the Internal Manuals.

92 In response, the second defendant argues that in *I-Admin,* the respondents had used the confidential information.[67] In contrast, in the present case, there was no such finding of fact, and no evidence has been tendered by the plaintiff to show that the second defendant had used the plaintiff's confidential information.[68] In the Liability Judgment, there was only a finding of *transmission* of the Internal Manuals from the first defendant to the second defendant.[69] Hence, the second defendant's position is that there would be no basis for an award of damages beyond a notional amount. The first defendant aligns himself with the second defendant's position.

93 In my judgment, *I-Admin* can be distinguished on the facts from the present case. In *I-Admin*, the Court of Appeal acknowledged that the respondents had been "able to refer to and even extract content from the appellant's confidential information" and had "used the appellant's materials as a 'springboard' […] to create their own intellectual property" (at [78]). This was the basis of the Court of Appeal's quantification methodology, as the respondents "were saved the additional expense of compiling this information themselves or having to employ additional members of the staff" (*ibid*). The Court of Appeal further directed that (at [79]):

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67 2DRS at para 19.

68 2DRS at para 19.

69 2DRS at para 21.

> [I]n determining the appropriate award, the Judge ought to consider the additional cost that would have been incurred by the third respondent to create the different elements of its payroll software without any reference to the appellant's materials. Besides the financial expense the respondents would have incurred to develop these components independently, it may also be relevant to look at the reduction in the time taken to set up the third respondent's business, allowing it to commence profit-making earlier. Taken together, this would provide a quantifiable impression of the value of the appellant's information to the respondents.

94 In my opinion, the Court of Appeal's method of quantification in *I-Admin* was inextricably tied to the finding that the defendants had relied on and referred to the confidential information in the development of its own materials. This reliance on and reference to the confidential information formed the basis of the court's consideration of the defendants' overall resulting cost savings, as a proxy, to determine the value of the confidential information and the appropriate measure of equitable damages. In contrast, in the present case, the plaintiff is essentially arguing that the second defendant saved cost by merely possessing the confidential material, without proving that the second defendant had relied on or referred to the confidential material to develop its own materials. This cannot be the case.

95 As perceptively observed by Professor Ng-Loy Wee Loon SC in *Law of Intellectual Property of Singapore* (Sweet & Maxwell, 3rd Ed, 2021) at para 41.3.4, in *I-Admin*, "there was a 'causal connection' between the plaintiff's information and defendants' materials, even if the connection did not take the form of the plaintiff's information residing in the defendant's materials". I find that this causal connection was the basis of the Court of Appeal's finding that equitable damages can be assessed by reference of the defendants' cost savings in developing its payroll software. For this Court to rely on the *I-Admin* cost savings approach in assessing equitable damages, as the plaintiff suggests, the

Court must first find that the second defendant referred to the confidential information and "used" it as a springboard. If the second defendant did not refer to the confidential information whatsoever, there is no basis to find cost savings associated with the defendants' use of confidential information, and the basis for assessing equitable damages in *I-Admin* would not be applicable.

96 Furthermore, I find that the plaintiff has not been precise as to the quantification method propounded in *I-Admin* for equitable damages. The plaintiff argues that the reference point should be the additional costs incurred by the second defendant *to develop an exact copy of the Internal Manuals* without reference to the plaintiff's Internal Manuals. This is the basis of the plaintiff's emphasis on the time spent by its employees in drafting the Internal Manuals. However, I find that a close reading of *I-Admin* (see [93] above) shows that the reference point should be the additional costs incurred by the second defendant to develop *its own equivalent manuals* without reference to the Internal Manuals. The premise of such an approach is that the second defendant must have referred to the Internal Manuals in developing its own materials. The time spent by the plaintiff's employees in drafting its Internal Manuals is thus not directly relevant.

97 In my judgment, the plaintiff has generally failed to show, on a balance of probabilities, that the second defendant enjoyed cost savings in the drafting of its own materials as a result of the breach of confidence. The plaintiff's reliance on the *I-Admin* cost savings approach to quantify equitable damages is misguided.

98 The plaintiff, in its closing submissions, could only point to two concrete instances of use – the use of the plaintiff's Employee Handbook for comparison purposes, which was conceded by the second defendant's chief operating

officer, Mr Samuel Tan, during the liability trial,[70] as well as a reference to the Employee Handbook to determine that the plaintiff provided medical insurance for its staff.[71] The plaintiff has not furnished proof that the Guide to Business Conduct and Ethics and IT Service Management Services Manual had been referenced in any way by the second defendant in the development of the second defendant's own materials, so as to result in cost savings in the second defendant's drafting exercises. The plaintiff also has not tendered any evidence that the Employee Handbook was referred to in drafting the second defendant's own employee handbook.

99 The second defendant avers that it did not refer to the Internal Manuals in drafting its own materials. In relation to the Guide to Business Conduct and Ethics, the second defendant's position is that its equivalent of the guide was a one-page document titled "Code of Conduct & Business Ethics Policy – Annual Staff Declaration Form".[72] In contrast, the plaintiff's Guide to Business Conduct and Ethics was five pages long.[73] In relation to the ITSMS Manual, the second defendant's witness, Mr Sng, testified that the second defendant had engaged an external consultant to produce a document on IT security in accordance with ISO standards sometime after 2018, and no reference was made to the ITSMS Manual.[74]

100 In relation to the Employee Handbook, Mr Sng further testified that the second defendant had originally published a ten-page version of the Sunway

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70 NE 10 September 2021 at page 63 line 18 to page 64 line 2.

71 5 AB 334.

72 30 AB 234.

73 AAA-AEIC at Tab 32.

74 NE 26 April 2024 at page 33 line 2 to page 34 line 13.

Employee Handbook on 5 January 2018,[75] before the Sunway Employee Handbook was subsequently updated on 28 January 2019 and 1 November 2019. Since the Internals Manuals were transmitted only on 26 January 2018, the Employee Handbook could not have been used as reference in the drafting of the original Sunway Employee Handbook. Furthermore, the Sunway Employee Handbook was only updated on 28 January 2019, about a year after the transmission of the Internal Manuals.

101 Thus, I reject the plaintiff's claim for $25,612.06 in damages. In the first place, the premise of the claim is misconceived. As mentioned above, the plaintiff should not have quantified the claim based on the defendants' hypothetical costs in creating the Internal Manuals from scratch but rather should have taken reference to the defendants' cost savings in creating their own internal manuals by reference to the Internal Manuals. Regardless, I am satisfied that the plaintiff has failed to show on a balance of probabilities that the second defendant had saved cost in the drafting of its own materials as a result of the confidential information.

102 However, I find that a conventional award of $1,000 against the first defendant would be appropriate, in so far as the plaintiff has managed to establish two instances where the second defendant had referred to the Employee Handbook. This conventional award acknowledges and affirms the plaintiff's interest in protecting the confidentiality of its Internal Manuals. Furthermore, I bear in mind the general availability of comparable employee handbooks, guides to business ethics and IT service management manuals online. In my opinion, the Internal Manuals are not so exclusive as to justify a

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75 Exhibit 2D-24.

higher conventional award. I am satisfied that the award of $1,000 fairly reflects the value of the confidential information.

Claim 5: Damages for inducing Ms Lee's breach of contract

103 The fifth disputed head of claim relates to Carol Lee's ("Ms Lee") breach of contract in preparing and disclosing a confidential list of equipment and services provided by the plaintiff to Singapore Power ("SP") as well as projects undertaken by the plaintiff for SP ("SP Inventory List"). In the Liability Judgment, I found the second defendant to be liable for inducing of Ms Lee's breach of her contractual confidentiality obligation in her disclosure of the SP Inventory List (at [197(d)]). I further found both the first and second defendant to be liable in unlawful and lawful means conspiracy for the inducement of breaches of contract (at [197(e)–(f)]).

104 The plaintiff claims a total of $57,510.00 in damages for this head of claim against the defendants jointly and severally. This sum comprises two components – $8,370.00, being the salary paid by the plaintiff to Ms Lee for her last month of work where she was carrying out the second defendant's instructions in the preparation of the list; and $49,140.00, being the purported manpower costs saved by the second defendant by using the list in its tenders or submissions to SP.[76]

Salary paid to Ms Lee

105 First, the plaintiff claims $8,370.00, being the salary paid by the plaintiff to Ms Lee for her last month of work in May 2018.[77] The plaintiff points out that

[76] PCS at para 75.

[77] PCS at para 75(a).

Ms Lee testified that her last day of work was supposed to be 28 April 2018, but she was asked to stay on for an additional month to end-May to compile the SP Inventory List.[78] In the Liability Judgment, I found that Ms Lee had stayed on for that month at the request of the second defendant and compiled the list for the second defendant's use. The plaintiff notes that according to Ms Lee's testimony, she was ready to hand over all her work relating to the plaintiff by the end of April. The plaintiff thus argues that Ms Lee's salary for that month should be claimable as compensation for the plaintiff's loss, given that the plaintiff did not receive the benefit of her services.

106 The defendants argue that the SP Inventory List was circulating as early as 10 May 2018 within the second defendant.[79] Ms Esther Foo ("Ms Foo"), an employee of the second defendant, had circulated the list to various other employees by email. The defendants further submit that since the SP Inventory List was completed by 10 May 2018, there was no proof that Ms Lee was working exclusively for the second defendant after the completion of the list.[80] Thus, the defendants' case is that the claimable salary should only be for the period up to 10 May 2018.

107 The second defendant further argues that Ms Lee had also sent the SP Inventory List to her colleague at the plaintiff, Mr Jason Ong, on 30 May 2018, her last day of work with the plaintiff.[81] The second defendant points to this as evidence that the SP Inventory List was also of benefit to the plaintiff and that Ms Lee had also done work for the plaintiff. Thus, the second defendant

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78 NE 1 December 2020 at page 134 line 17 to page 135 line 11.

79 AAA-AEIC at Tab 22.

80 1DRS at para 34.

81 2DCS at para 80; 20 AB 246, NE 6 March 2024 at page 167 lines 1 to 17.

suggests that notwithstanding its position that it had not used or benefitted from the SP Inventory List, the plaintiff and second defendant should bear the cost of the list equally.[82]

108 In my judgment, the plaintiff is entitled to claim for Ms Lee's salary for the full period of May 2018. Even though the evidence shows that the list had been circulated on 10 May 2018, I find that Ms Lee would have had to follow-up and address several queries that had been directed to her as indicated in the SP Inventory List attached to the 10 May 2018 email. This is supported by evidence which shows multiple logins by Ms Lee from 1 May 2018 to 22 May 2018.[83] Regardless, it would appear to me that the direct cause of Ms Lee staying for this additional one month is the second defendant's request for her to obtain the information for the second defendant's benefit, since by her own testimony, she was ready to hand over all her work by the end of April 2018. There was also no evidence that Ms Lee had done any other substantial work for the plaintiff. Thus, I am satisfied that the first and second defendant should be liable to compensate for the plaintiff's loss in paying for Ms Lee's salary for the month of May 2018, quantified at $8,370.00.

Value of the SP Inventory List

109 The plaintiff claims an additional sum of $49,140.00, which the plaintiff argues reflects the value of the SP Inventory List. The plaintiff relies again on *I-Admin*, submitting that the value of the SP Inventory List can be quantified in terms of the costs saved by the first and second defendant in taking the information.[84]

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82 2DCS at para 83.

83 17 AB 101.

84 PCS at para 75(b).

110 However, I find that the plaintiff's reliance on *I-Admin* in this present case is misconceived. The method of quantification for equitable damages in *I-Admin* was applied for *breach in confidence in equity*. In contrast, in the present case, I only found the second defendant liable for inducing a *breach of contract* by Ms Lee and the first and second defendants liable for lawful and unlawful means conspiracy for *inducements of breaches of contract*. Even though the contractual term relates to the Confidentiality Obligation, and Ms Lee could very well have been found to be in breach of confidence in equity, it remains the case that an action in inducement for breach of contract is different from breach of confidence in equity and the remedies associated with each cause of action are different. As canvassed in [86]–[89] above, remedies for breach of contract are fundamentally compensatory in nature and aim to restore a plaintiff to the position as if the contract had been performed. The plaintiff's claim of S$49,140.00 departs from orthodox contractual principles. I therefore decline to make an order for equitable damages against the first and second defendant for this head of claim.

111 Regardless, even if I had found that a measure of equitable damages could be ordered against the first and second defendant, the plaintiff has failed to furnish sufficient evidence to prove the second defendant's cost savings in the sum of $49,140.00. Reviewing the available documentary evidence, only two instances of use have been established. First, the second defendant sent the SP Inventory List to SP, which, according to Ms Foo (a witness for the second defendant at the liability trial) was pursuant to a request of SP.[85] Second, in the

[85] 12 AB 172.

10 May 2018 email, Ms Foo flagged a possible business opportunity to the first defendant by referring to the SP Inventory List.[86]

112 The plaintiff bases its claim of $49,140.00 on the second defendant's cost savings.[87] The plaintiff suggests that the SP Inventory List could be used by the second defendant to start early preparation of SP tenders, to approach and negotiate with distributors in advance or to understand SP's network infrastructure and equipment.[88] The plaintiff further argues that the second defendant would save manpower costs as less time would be spent in gathering information on SP. The plaintiff submits that the SP Inventory List would save approximately six days of work per tender or two months of work per year by a sales administrative representative. Since the SP Inventory List contains information on contracts that expired as late as 2022, the plaintiff argues that it would remain useful for five years from 2018 to 2022. The plaintiff thus derives the claim for $49,140.00 in terms of ten months' worth of a sales administrative representative's salary, pegged at $4,914 per month.[89]

113 However, I find that the plaintiff's suggestions lack any hard evidence and are merely conjectures, and no other concrete instances of use could be identified. The plaintiff is essentially speculating without proof that the SP Inventory List had in fact been used and does not furnish any basis to support its estimate of the second defendant's time savings. Therefore, even if I had found equitable damages to be applicable in this cause of action, I would have

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86 NE 7 September 2021 at page 122 lines 10 to 17; NE 27 March 2024 at page 91 line 25 to page 92 line 8.

87 PCS at para 95.

88 PCS at paras 91–93.

89 PCS at para 95.

declined to award the sum of $49,140.00 and instead accorded a conventional award to the plaintiff in recognition of the two identified instances of use.

114 Accordingly, I find the first and second defendant jointly and severally liable for $8,370 in relation to the inducement of Ms Lee's breach of her contractual confidentiality obligation.

Claim 6: Damages in relation to the SCADA 227 Project

115 The sixth disputed head of claim concerns the SCADA 227 Project, for which the plaintiff's tender bid was rejected in favour of the second defendant's bid. Notably, the plaintiff's bid ranked second to the second defendant's winning bid.

116 In the Liability Judgment, I found the first defendant to be liable for breach of contract and his implied duty of good faith and fidelity for disclosing the plaintiff's pricing strategy in relation to the SCADA 227 Project (at [197(a)(iii)]). The first defendant is also liable in breach of confidence for the disclosure (at [197(c)]). Both defendants are liable in lawful and unlawful means conspiracy for the first defendant's contractual breaches, and lawful means conspiracy for the solicitation of the Former Employees (at [197(e)–(f)]). Pursuant to these breaches, the plaintiff has elected to claim for a loss in profit in relation to the SCADA 227 Project against the defendants jointly and severally.

Causation

117 The plaintiff claims for a loss of profits in relation to the SCADA 227 tender. To do so, the necessary causal link must be present. The plaintiff argues that but for the disclosure of the plaintiff's pricing strategy and the solicitation

of the Former Employees, the plaintiff would have been able to secure the SCADA 227 Project over the second defendant.[90] The plaintiff's case is that the second defendant used the plaintiff's pricing strategy to undercut its bid, and that the solicitation of the Former Employees allowed the second defendant to capitalise on the familiarity and track record of the Former Employees while working for the plaintiff in handling SP projects.

118 The defendants argue that the plaintiff would not have been able to secure the SCADA 227 Project in any event. The first defendant submits that there was no evidence that the second defendant had used the pricing strategy.[91] Further, the defendants propose a mode of assessing SP's decision-making process – the Borda scoring method – and argue that based on this scoring method, the second defendant would still have won the tender had the plaintiff submitted a bid with the lowest price.[92] Additionally, the defendants argue that the second defendant could have hired other employees from the open market with the necessary qualifications, even if the second defendant did not solicit the Former Employees.

119 I am satisfied that on a balance of probabilities, the plaintiff would have won the SCADA 227 Project but for the defendants' breaches and conspiracy. I reject the first defendant's assertion that there was no evidence of use by the second defendant of the plaintiff's pricing strategy. During the trial on liability, Mr Samuel Tan acknowledged in cross-examination that the second defendant

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90 PCS at para 101.

91 1DCS at para 79.

92 1DCS at paras 85–86; 2DCS at para 96.

had taken into account the plaintiff's pricing strategy in calibrating its bid and undercutting its competitor when bidding for the SCADA 227 Project.[93]

120 Furthermore, the SP report ("SCADA Report"), which evaluates the tenders for the SCADA 227 Project, is illuminating.[94] The SCADA Report shows that the plaintiff was assessed to have submitted the second lowest complying offer at $2,598,938, as compared to the second defendant's lowest complying offer at $2,470,908. The SCADA Report also sets out its evaluation framework and the weightage accorded to each consideration – 35% on the base price, 15% on the total five-year comprehensive maintenance price, 35% on compliance and prior experience in OT networks, and 15% on the migration strategy to achieve the overall desired outcome for the project. The offer price comprises the base price along with the total five-year comprehensive maintenance price. I am satisfied that had the second defendant not taken into account the plaintiff's pricing strategy, the second defendant's bid would likely have been higher than the plaintiff's, and that the pricing strategy played a significant, if not determinative, role in the outcome of the tender.

121 Further, I find that the defendants' solicitation of the Former Employees played some role in the second defendant's ability to secure the bid. Out of the five employees assigned by the second defendant to the SCADA 227 Project in its proposal to SP, three were the plaintiff's former employees – Ms Alicia Tan (as the Accounts Manager), Mr Joseph Lim (as the Project Manager) and Mr Kurniawan Chandrajaya (as the Solutions Consultant).[95] It was conceded by the first defendant that these three employees were assigned to the project as they

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93 NE 13 September 2021 at page 199 line 20 to page 201 line 20.

94 30 AB 326.

95 23 AB 126, 130.

would be, in the assessment of Mr Samuel Tan, the most effective people in the second defendant to secure the bid.[96]

122 The plaintiff emphasises the roles that each of the three former employees played in the bid. First, the plaintiff argues that Mr Joseph Lim was marketed as a senior project manager, and that his qualifications were expressly taken into consideration by SP as SP had found that the "[d]esignated PM has prior experience with OT Networks".[97] Further, the plaintiff's position is that Mr Joseph Lim was far more qualified than the other project manager in the second defendant's employ at that time, Ms Foo. Second, the plaintiff highlights that the second defendant had specifically sought Ms Alicia Tan for poaching on the basis of her experience as account manager serving SP when she was employed by the plaintiff.[98] Third, the plaintiff points out that Mr Kurniawan Chandrajaya had designed the tender proposal and that *all* the Solution Consultants in the second defendant's employ at that time were the plaintiff's Former Employees.[99]

123 The defendants' response is that these three employees are not irreplaceable and that had the three employees not been solicited from the plaintiff, the second defendant would have hired other employees with similar qualifications and experience and put them forward for the SCADA 227 Project.[100] The defendants point towards the plaintiff's hiring of replacements for the Former Employees within around one to two months as evidence that the

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96 NE 25 March 2024 at page 120 line 10 to page 121 line 9.

97 PCS at para 107; 30 AB 326.

98 PCS at para 113; 6 AB 19.

99 PCS at para 114.

100 2DRS at paras 33 and 53.

second defendant could have hired comparable employees from the open market.

124 I find that there is some force in the defendants' response. Assuming that no solicitation took place, the second defendant, which was incorporated in January 2018, might still have had enough time to scale up its operations and hire its own employees with comparable qualifications by October 2018, when the tender was published. Furthermore, by the plaintiff's own account, it was able to replace its Former Employees within three months of departure, with many of the replacements being equally or even more qualified than its Former Employees.[101]

125 However, I find that the specific work experiences of the Former Employees would have contributed, to some degree, to the success of the bid. It is difficult to precisely determine how SP had considered the detailed experience and work history of each individual employee – while 35% of the assessment was based on compliance and prior experience, there is no further, more detailed breakdown as to how SP took into consideration the years of experience and past involvement in SP projects in assessing the bid.

126 Nonetheless, SP likely would have attributed some degree of recognition and trust to persons who have had experience managing projects for or working with SP in some capacity. Mr Joseph Lim had experience managing SP projects.[102] Furthermore, the evidence shows that Ms Alicia Tan's experience working as the Accounts Manager for SP while in the employ of the plaintiff was the reason why she was urgently solicited from the plaintiff to join the

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101 Exhibit P-22.

102 23 AB 144.

second defendant.[103] In my opinion, even if the second defendant could have recruited comparable employees in terms of general work experience, the second defendant would have faced greater difficulty in finding employees who had worked specifically on SP projects and who might enjoy greater trust and confidence with SP. Thus, while the three Former Employees were not irreplaceable, I find that Mr Joseph Lim and Ms Alicia Tan's history working with SP may not be so easily replicable. In my mind, this would have weighed, to some degree, in the 35% portion of the assessment associated with compliance and prior experience.

127 At the hearing, Mr Sng, the second defendant's witness, proposed evaluating the plaintiff's probability of winning the tender using the Borda method. The Borda method assigns a ranking to each evaluative input and applies the weightage assigned to each evaluative input to ensure that all considerations are taken into account in the final assessment. However, while there is some attractiveness to such a mathematical model in determining the tender outcomes, I find that it is insufficiently nuanced. For example, in the assignment of weightages, the model assumes that compliance and experience each weigh equally in the 35% assessment associated with compliance and experience. Furthermore, in my opinion, the outcome of the Borda scoring method is ultimately dependent on how one calibrates the parameters and factors for adjustment. For instance, the plaintiff takes issue with the second defendant's failure to attribute a score to its network engineers.[104] Furthermore, the proposed scores of the plaintiff and second defendant are also so close as to not be helpful. For instance, the plaintiff suggests that if the second defendant had the lowest bid, the second defendant would still have scored 4.2 while the

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103 6 AB 19.

104 Exhibit P-22.

plaintiff would have scored 4.2875.[105] In contrast, the second defendant suggests that it would have scored 4.2 while the plaintiff would have scored 4.115.[106] In my opinion, the Borda method merely purports to put hard numbers to an exercise that fundamentally remains a guessing game. Thus, I do not find much guidance from the Borda model.

128 On a balance of probabilities, I am satisfied that the plaintiff would likely have secured the SP SCADA 227 Project but for the defendants' breaches and conspiracy.

Quantification of claim

129 Having found but-for causation established, I move on to quantify the head of claim. The plaintiff quantifies this head of claim as the loss of profit that it would have obtained from the SCADA 227 Project, derived from the tender price of the project, $2,598,938.00, multiplied by an estimated profit margin.[107]

130 The plaintiff estimates this profit margin to be 18.66%.[108] This number is derived from the plaintiff's theoretical profit margin for past SP projects of comparable scale at the tender stage.[109] The defendants argue that this estimated profit margin is unrealistic as it does not account for other factors such as cost overruns and currency fluctuations which may have an impact on the actual profit margins at the conclusion of a project.[110] Instead, the defendants estimate

105 Exhibit D-20.

106 Exhibit P-29.

107 PCS at para 119.

108 PCS at para 120.

109 AAA-AEIC at para 98-99, Tab 46.

110 1DCS at para 82.

that the plaintiff's profit margin should be 10.37% (rounded up). This number is derived from the weighted average of the actual profit margins for the plaintiff's SP Projects above S$500,000.[111]

131 I prefer the defendants' estimated profit margin of 10.37%. The plaintiff's proposed profit margin of 18.66%, as conceded by the plaintiff, is an average of theoretical profit margins at the tender stage.[112] It does not take into account cost overruns and currency fluctuations, which would eat into the theoretical profit margin. Hence, this profit margin of 18.66% is entirely speculative. The defendants' proposed profit margin of 10.37%, on the other hand, is derived from the plaintiff's actual profit margins from past projects, which would account for unforeseen contingencies such as cost overruns and currency fluctuations. Furthermore, the defendants' proposed profit margin is derived from SP projects above S$500,000; this is a fair point of reference, since large-scale projects would tend to involve a lower profit margin.

132 Thus, applying the defendants' estimated profit margin of 10.37%, I find the first and second defendants to be jointly and severally liable to the plaintiff for a sum of $269,509.87 for this head of claim.

Claim 7: Damages in relation to the OEM2 Project

133 The seventh disputed head of claim relates to the OEM2 Project, which the plaintiff failed to win. In the Liability Judgment, I found the first defendant to be liable for breach of contract and his implied duty of good faith and fidelity for disclosing the plaintiff's pricing strategy in relation to the OEM2 Project (at [197(a)(iii)]). The first defendant is also liable in breach of confidence for the

111 2DCS at para 127; Exhibit 2D-9.

112 NE 5 March 2024 at page 88 line 2 to page 89 line 25.

disclosure (at [197(c)]). Both defendants are liable in lawful and unlawful means conspiracy for the first defendant's contractual breaches, and lawful means conspiracy for the solicitation of the Former Employees (at [197(e)–(f)]). Pursuant to these breaches, the plaintiff has elected to claim for a loss in profit in relation to the OEM2 Project against the defendants jointly and severally.

134 In the first round of bids, the plaintiff's tender price was the highest amongst the four bidders, while the second defendant's tender price was the second lowest. Accordingly, the plaintiff was eliminated from contention for the tender. The three lowest bidders were then invited for direct negotiations for price reductions, and after negotiation, the second defendant submitted the lowest offer and was accordingly awarded the contract. The plaintiff's claim is premised on a deprivation of its opportunity to be invited for a second round of direct negotiations with SP, as a result of the first defendant's disclosure of pricing strategy and the solicitation of the plaintiff's employees.

135 The table summarising the respective bids, as set out in the OEM2 tender report,[113] is reproduced below.

Tenderer	**After Tender Clarification No.1 (TCQ) (S$)**	**After Negotiation (S$)**	**Reduction after Negotiation**
3D Networks (the plaintiff)	4,008,142	Not listed for negotiation	Not applicable
Bidder A	3,751,430	3,193,476	15% reduced (% rounded up) ($557,954)

[113] 30 AB 334.

Bidder B	3,400,608	3,169,360	7% reduced (% rounded up) ($231,248)
Sunway (the second defendant)	3,654,266	3,052,688	16% reduced (% rounded down) ($601,578)

136 The plaintiff argues that, even though the plaintiff did not rank second to the second defendant, the disclosure of the plaintiff's pricing strategy and solicitation of the Former Employees had assisted the second defendant to win the tender. The plaintiff's case is that without the pricing strategy, the second defendant would have tendered at a higher price than the plaintiff and the plaintiff would have been one of the three lowest bidders to be invited for direct negotiations. This meant that the plaintiff lost the opportunity to be invited for direct negotiations and in turn, to reduce the price, rectify the technical deviation and win the tender.

137 The plaintiff submits, in reliance of *Schonk*, that the court should award a conventional award of damages for the defendants' wrongdoing even if the plaintiff fails to prove the quantum of loss of profits. The plaintiff further cites the *locus classicus* case of *Chaplin v Hicks* [1911] 2 KB 786 ("*Chaplin"*) as authority that damages should still be payable even in the existence of a contingency and when it may be impossible to determine the outcome of further negotiations.

138 On the other hand, the defendants argue that the necessary causal link is not made out and that the assessment of damages is too remote at law. The defendants point out that the plaintiff's failure to win the bid can be attributed to its own uncompetitive pricing and that the plaintiff would never have won the OEM2 tender.

139 As a preliminary note, I find that the plaintiff's case with respect to this head of claim has not been run with clarity. It is unclear if the plaintiff is claiming for *a loss of chance* or a *loss of profits*. I shall now characterise the plaintiff's claim. While the plaintiff cites the case of *Chaplin* and has framed its closing and reply submissions in terms of a deprivation of chance or opportunity, the plaintiff has not sought to quantify the chance that it would have had but for the defendants' conduct. Instead, the plaintiff has claimed for the profit it would have earned had it won the project, derived from the *entire tender price* multiplied by an estimated profit margin, without any discount associated with a claim of loss of chance. This formula is entirely inconsistent with a claim for a loss of chance. In *Crescendas Bionics Pte Ltd v Jurong Primewide Pte Ltd and other appeals* [2023] 1 SLR 536, the Appellate Division of the High Court astutely observed that (at [43]):

> It follows that for the purpose of the loss of chance doctrine, the favourable outcome should not be identified by reference to the exact quantity of the value lost. Instead, it should be characterised at a lower level (*eg*, the chance of winning a beauty contest or of securing a contract with a third party) upon a comparison between the state of affairs in the breach position and the hypothetical no-breach position, this being part and parcel of the loss identification and factual causation assessment.

140 The plaintiff, throughout the course of the hearing and in its submissions, has sought to claim for a full measure of its loss of profits and has not articulated what its chance to win the tender and secure the contract should be. In the absence of a number to quantify the plaintiff's chance, I cannot evaluate the plaintiff's claim as a loss of chance. As such, I will construe the plaintiff's claim as a straightforward claim for a loss in profits and not as a claim for a loss of chance. The implication of this is that the plaintiff must prove that but for the defendants' conduct, the plaintiff would have obtained the OEM2 contract.

141 In my judgment, the plaintiff has not discharged its burden of proof to show, on a balance of probabilities, that it would likely have secured the OEM2 contract but for the defendant's conduct.

142 I find that the plaintiff's tender price was simply too uncompetitive. For the plaintiff to have been chosen as one of the three lowest bids for direct negotiations in the second round, the second defendant must have tendered above the plaintiff's tender price. In my opinion, this would have been unlikely to happen, even if the second defendant did not have the benefit of the plaintiff's pricing strategy. Notably, the second defendant would have had to increase its tender price by $353,876 (or 9.68%) from $3,654,266 to $4,008,142, which is quite a significant sum. Furthermore, two other bidders had tendered at prices significantly lower than the plaintiff ($3,400,608 and $3,751,430) without the benefit of the plaintiff's confidential pricing strategy. This indicates that the second defendant, in any case, would likely have priced its bid below the plaintiff's.

143 In addition, even if the plaintiff was successfully chosen for the second round, it would have had to renegotiate its tender price. Even assuming that the second defendant was knocked out and thus could not recalibrate its tender price, the plaintiff, in the second round of negotiations, would still have had to lower its initial tender price of $4,008,142 below Bidder B's putative winning tender price of S$3,169,360. This would require a reduction of $838,782 or about 20.9% from its initial bid. This is not considering a potential increase in the plaintiff's costs associated with remedying its technical deviation and extending the warranty period of three years to five years as required for the router.

144 Taking reference to the plaintiff's proposed estimated profit margin of 18.66% multiplied by the plaintiff's tender price of $4,008,142, the plaintiff's estimated profit from the OEM2 contract would be $747,919. Deducting the plaintiff's estimated profit from its tender price, the plaintiff's estimated costs associated with the OEM2 contract would be $3,260,223. As acknowledged by Mr Ambrose, the plaintiff's witness, the plaintiff is unlikely to cut its price and tender a bid below its estimated cost.[114] The plaintiff, being an established company, would not have the motivation to deliberately undercut to gain a foothold in the market. Hence, I find that the plaintiff has not proven on a balance of probabilities that it would likely have secured the OEM2 contract.

145 I also decline to make a conventional award of damages, as the plaintiff has not shown that there was a loss of profits. The situation before me is readily distinguishable from the case of *Schonk*. In *Schonk*, the Court of Appeal noted that a definite loss of profits was caused by the defendant's breaches of duty, and the issue before the court only related to the *quantification* of this loss (at [24]). In contrast, I find that the plaintiff, in failing to prove *causation*, failed to show that there was a loss of profits in the first place. A conventional award of damages, which is typically meant to surmount evidential difficulties in *quantification*, is thus not called for. Therefore, I am of the opinion that a conventional award of damages is not appropriate in this case.

146 As a side note, I observe that the plaintiff's claim for its loss of profits should not have been based on its tender price of $4,008,142. To have stood a chance of securing the OEM2 contract, it is evident that the plaintiff would have to adjust and lower its tender price below that of its competitors in the second round of negotiations, so as to reflect a potential winning price. The plaintiff's

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114 NE 6 March 2024 at page 97 line 23 to page 99 line 13.

claim should thus be premised on, not its original tender price, but a hypothetical lower tender price that it would have to bid at in order to secure the OEM2 contract. However, since I have found that causation in relation to this head of claim is not made out, it is unnecessary to expound further on this point.

Claim 8: Damages in relation to the preparation of quotations for LEAP Networks and Acoustic Lighting System Pte Ltd

147 The eighth disputed head of claim concerns the first defendant and Mr Yeo Choon Seng's ("Mr Yeo") involvement in assisting the second defendant in preparing two quotations for Leap Networks Pte Ltd ("Leap Networks") and one quotation for Acoustic Lighting System Pte Ltd ("A&L"), while they were still in the plaintiff's employ.

148 In the Liability Judgment, I found the first defendant liable in breach of contract and his Implied Duties for assisting the second defendant in procuring the business of LEAP Networks and A&L (at [197(a)(iv)]). I further found both defendants liable for inducing Mr Yeo's breach of his contractual confidentiality obligation and liable in lawful and unlawful means conspiracy for the inducements of breach of contract (at [197(e)–(f)]).

149 The plaintiff claims a total of $37,965.66 in relation to this head of claim, comprising $525.66 in terms of salary paid to the first defendant for the four hours spent working on the second defendant's quotations to LEAP Networks instead of the plaintiff's work, and $37,440.00 being the value of the confidential Cisco equipment price lists provided by Mr Yeo to the second defendant in the preparation of the LEAP Networks quotation.

Salary paid to the first defendant

150 The plaintiff claims $525.66 in terms of salary paid to the first defendant for working on the second defendant's quotations[115] while in the employ of the plaintiff. This is quantified based on four hours' worth of the first defendant's salary. The second defendant accepts the plaintiff's quantification of the claim. However, the first defendant's case in his closing submissions is that he only took three hours to prepare both quotations, as these quotations were only one and a half or two pages in length.

151 I find that the plaintiff is entitled to claim for $525.66 for four hours of the defendant's salary. The first defendant conceded in cross-examination that the two quotations for LEAP Networks would have taken two hours of work each.[116] Furthermore, in cross-examination, the first defendant expressly consented to liability for $525.66 or four hours' worth of his monthly salary.[117] Since the second defendant has also consented to this amount, it is sufficient to dispose of this issue.

Inducement of Mr Yeo's breach of contract

152 Next, I turn to the plaintiff's claim for the value of the confidential information that was procured by Mr Yeo. This confidential information pertains to the Cisco equipment price lists that Mr Yeo obtained in his capacity as the plaintiff's employee for Mr Samuel Tan so as to prepare the LEAP Network quotations. The plaintiff quantifies the value of confidential information as $37,440.00.

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115 4 AB 305 and 4 AB 355.

116 NE 1 April 2024 at page 65 line 20 to page 65 line 24.

117 NE 1 April 2024 at page 70 line 15 to page 71 line 14.

153 This amount is derived from two months' worth of Mr Yeo's salary. The plaintiff's case is that since Mr Samuel Tan could not have configured the product requested for, did not know the price lists and was unable to navigate the Cisco portal, a reasonable alternative for the second defendant would be to hire an employee like Mr Yeo for two months to perform the tasks and generate the price lists.

154 The defendants first argue that Mr Yeo did not spend any working hours on the price lists. Alternatively, the defendants aver that the time spent by Mr Yeo in preparing the price lists was at most two hours. The defendants point out that even applying *I-Admin*, the documents prepared were only one and a half to two pages and may only have taken Mr Yeo a quarter of a day to prepare.[118] As such, measuring cost savings in terms of two months of a hypothetical employee's salary is excessive. The second defendant suggests that a fairer approach would be to take reference to the actual time spent in preparing the quotation, which would be, at most, a quarter of a day or about two hours.

155 In my judgment, the plaintiff's claim in terms of equitable damages, premised on *I-Admin,* is similarly not applicable here. In the Liability Judgment, the first and second defendants were found jointly liable for inducing Mr Yeo's breach of a contractual confidentiality obligation. As explained in [86]–[89] above, the *I-Admin* approach in determining equitable damages was propounded in relation to a breach in confidence and not a breach of contract. I therefore decline to make an order for equitable damages.

156 I move on to consider an appropriate quantum of damages to be awarded for the inducement of Mr Yeo's breach of his contractual confidentiality

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118 AAA-AEIC at Tab 48.

obligation under orthodox contractual compensatory principles. I am satisfied that on a balance of probabilities, Mr Yeo had carried out work for the second defendant during office hours while employed by the plaintiff. While most of the emails sent by Mr Yeo were sent after office hours (*eg* 7.14pm, 8.15pm, 11pm), Mr Yeo did reply to Mr Samuel Tan's request to "supply the missing information (highlighted in green) for those missing items in the excel file" at 4.18pm on Thursday, 1 February 2018.[119] The plaintiff is thus entitled to claim for loss as a result of the appropriation of Mr Yeo's time during working hours. The defendants' position is that at most, it took two hours for Mr Yeo to provide the information in the price list. The plaintiff did not put forward an alternative number. I am satisfied that a conventional award of damages quantified at two hours of Mr Yeo's salary appropriately compensates the plaintiff's loss in terms of the misappropriation of Mr Yeo's time. I therefore find the first and second defendants to be jointly and severally liable for $214.43 in relation to the inducement of Mr Yeo's breach of contract.

157 In total, the first and second defendants are jointly and severally liable for $740.09 in relation to the breaches associated with LEAP Networks and Acoustic Lightning Systems Pte Ltd.

158 For completeness, even if equitable damages were an appropriate remedy, the plaintiff's claim of $37,440.00 should not be granted. The plaintiff's reliance on two months as the multiplicand is, in my opinion, extravagant. Counsel for the plaintiff explained that the second defendant would have hired someone like Mr Yeo, and since the two quotations straddled January and February 2018, this hypothetical employee would have to be hired for two

119 AAA-AEIC at Tab 48.

months.[120] However, the plaintiff's argument misses the forest for the trees. The plaintiff's emphasis on cost savings is misconceived as in *I-Admin,* the cost savings are ultimately used as a guide to measure the *value of confidential information* for equitable damages to be assessed. The plaintiff's proposed quantification method is an overly formalistic construction of cost savings, which may not serve much use in measuring the value of the confidential information. The plaintiff's proposed quantification ignores the fact that an employee hired for two months would have worked on other projects and contributed far more than the price lists. A more appropriate measure of the value of the confidential information would have been to take reference to the number of hours actually spent by Mr Yeo in preparing the price list.

Claim 9: Damages in relation to Infocomm Leaders Golf competition and Fortinet correspondence

159 The plaintiff claims a sum of $2,365.46 for the first defendant's breach of his Non-conflict Obligation by forwarding two emails from the Infocomm Leaders Golf competition and Fortinet to the second defendant while the first defendant was still working for the plaintiff.[121] This is quantified in terms of one day's worth of the first defendant's salary for the invitation and correspondence respectively, for a total of two days' worth of the first defendant's salary. In the Liability Judgment, I found that this diversion of emails amounted to a breach of the first defendant's Non-conflict Obligation (at [102]), and the second defendant would also be liable for this breach due to the lawful and unlawful means conspiracy between the first and second defendants (at [197(e)–(f)]).The

120 NE 1 April 2024 at page 64 line 18 to page 65 line 14.

121 PRS at para 117.

Golf competition email relates to an invitation to provide sponsorship,[122] while the Fortinet email concerns the provision of products.[123]

160 I note that this claim was articulated late in the proceedings. It was relatively unexplored during the hearing and was only brought to the fore by the first defendant on his own accord, when he conceded liability of $2,365.46 in relation to this head of claim in his closing submissions. Curiously, the plaintiff did not include this head of claim in its claims table relied on during the trial nor did the plaintiff include this head of claim in its closing submissions or the summary table annexed. The plaintiff only included this head of claim in its reply submissions after taking notice of the first defendant's closing submissions.

161 I find that there is an agreement between the plaintiff and the first defendant as to liability under this head of claim. The issue is whether the second defendant can also be found liable for this diversion of opportunities, pursuant to the finding of liability in lawful and unlawful means conspiracy for the breaches of contract. The second defendant did not submit on this head of claim in its closing and reply submissions.

162 In my judgment, this liability of $2,365.46 cannot be extended to the second defendant. As a preliminary note, I find that the second defendant had adequate notice of the claim. First, the plaintiff had included this head of claim in the AEIC of Mr Ambrose, the plaintiff's Regional Legal Counsel.[124] Even though the plaintiff did not specifically quantify its claim as $2,365.46, this

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122 2 AB 256.

123 7 AB 2.

124 AAA-AEIC at paras 101, 104-105.

nonetheless would have put the second defendant on notice in relation to a claim premised on these facts. Second, during the hearing, counsel for the first defendant, Mr Hua had cross-examined the plaintiff's witness, Mr Ambrose, on the amount of time to be attributed to the diversion of the Golf invitation and Fortinet correspondence.[125] Counsel for the second defendant was present. Third, this head of claim was raised in the first defendant's closing submissions which would have given notice to the second defendant to address the claim in its reply submissions.

163 However, it is trite that consent is necessary to bind a party to an agreement on liability. If liability is not established by consent, an agreement cannot be established by acquiescence. A plaintiff would still bear the burden of proof to prove its case on a balance of probabilities, even when the defendant has not made any submissions on a particular issue (see my observations in *Smile Inc Dental Surgeons Pte Ltd v OP3 International Pte Ltd* [2020] 3 SLR 1234 at [7]–[8]). I find that the plaintiff has not discharged this burden of proof. The plaintiff has furnished no evidence whatsoever or any doctrinal basis to justify the quantification of this head of claim based on two days' worth of the first defendant's salary. Indeed, I pause to observe that the attribution of one day's salary to the simple act of forwarding an email, which may only take a few minutes at best, does not seem to cohere with common sense. Hence, I find that the second defendant has not consented to this head of claim and the plaintiff's burden of proof has not been discharged. I therefore only find the first defendant solely liable to the plaintiff, on the basis of consent, for $2,365.46.

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125 NE 7 March 2024 at page 95 line 24 to page 96 line 25.

Conclusion

164 To sum, I allow judgment in the sum of S$445,685.57 against the first defendant solely and S$433,741.68 against the first and second defendants jointly and severally. The computation of the judgment sums is reflected in the table set out below.

Head of Claim	Sole Liability of First Defendant (S$)	Joint and Several Liability of First and Second Defendant (S$)
Damages in relation to unauthorised payments to Lisa Gwee	16,076.93	-
Damages in relation to unauthorised payments to Andrew Tan	75,320.00	-
Damages in relation to unauthorised reimbursements to Lisa Gwee	4,230.93	-
Damages for working for Beesket and procuring Lisa Gwee to work with Beesket	219.99	-
Damages for breach of contract, implied duties, lawful and unlawful means conspiracy in relation to CWT Limited	-	5,310.97
Damages for breach of contract, implied duties, lawful and unlawful means conspiracy in relation to AT&T	-	2,527.35
Damages for the "team-building exercise" for Beesket	38,212.59	-

Account of profits for the first defendant's disclosure of business plans	185,904.17	-
Damages for the solicitation of employees	122,355.50	147,283.40
Damages for the disclosure of internal manuals	1,000	-
Damages for inducing Ms Lee's breach of contractual confidentiality obligation	-	8,370
Damages in relation to the SCADA 227 Project	-	269,509.87
Damages in relation to the OEM2 Project	-	-
Damages in relation to preparation of quotations for LEAP Networks & Acoustic Systems Pte Ltd	-	740.09
Damages in relation to diversion of opportunities for the Infocomm Leaders Golf Competition and Fortinet correspondence	2,365.46	-
Total liability	445,685.57	433,741.68

165 I will hear parties on cost if parties are unable to reach an agreement.

Chan Seng Onn
Senior Judge

Toh Wei Yi, Poon Pui Yee and Louise Lin (Harry Elias Partnership LLP) for the plaintiff;
Hua Yew Fai Terence (Rex Legal Law Corporation) for the first defendant; and
Chia Foon Yeow and Lewis Lew Jia Rong (Loo & Partners LLP) for the second defendant.
