

# THE LAW SOCIETY OF SINGAPORE

## GUIDANCE NOTE 3.10.2

[Formerly GN 2013, para 6; Council's Guidance Note 2 of 2009]

### **REPLACEMENT ON ROLL OF SOLICITOR WHO HAS BEEN STRUCK OFF**

1. Under section 102(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ('LPA'), the court may, if it thinks fit, order the Registrar to replace on the roll the name of a solicitor (as defined by the Act) who has been removed from, or struck off, the roll.
2. Sections 102(2) and 102(3) of the LPA provide for the procedure to be complied with for an application for replacement on the roll. The application is to be made by originating summons supported by an affidavit. The originating summons is to be served on the Society who shall appear before the hearing and place before the court a report which shall include copies of the record of the proceedings leading to the solicitor being struck off the roll and a statement of the facts that have occurred since the solicitor was removed/struck off the roll which in the opinion of Council or any member of the Council are relevant to be considered or to be investigated in connection with the application.
3. The LPA does not provide for any specific information that needs to be disclosed by the applicant for the purpose of the application and in order for the court to determine if he/she is fully rehabilitated to practice and should be replaced on the roll as a matter of public interest and public confidence in the legal profession.
4. This has led the court in *Kalpanath Singh s/o Ram Raj Singh v Law Society of Singapore* [2009] 4 SLR(R) 1018, to observe that it was good practice to make full disclosure of all relevant information in all future applications for replacement on the roll. This was to remind the applicant of the need to furnish all relevant information in his/her application.
5. The Council of the Law Society in consultation with the Attorney-General, sets out in paragraph 6 below the information that ought to be disclosed in an affidavit in support of an application for replacement on the roll under section 102 of the LPA. This is to bring to the attention of the court information pertaining to the grounds for disqualification as prescribed under the LPA.
6. In particular, the affidavit should contain, amongst other things, disclosure of the following:
  - (a) if there was/were any pending disciplinary or other criminal or civil action(s) or matter(s) including regulatory action(s) against the applicant in any jurisdiction at the time of the removal/striking off and the outcome (if any) including but not limited to any conviction or sentence to imprisonment;
  - (b) if there was/were any subsequent disciplinary or other criminal or civil action(s) matter(s) including regulatory action(s) against the applicant in any jurisdiction after the removal/striking off and the outcome (if any) including but not limited to any conviction or sentence to imprisonment;
  - (c) if the applicant is an undischarged bankrupt in any jurisdiction;
  - (d) if the applicant has entered into a composition with his/her creditors or a deed of arrangement for the benefit of his/her creditors in any jurisdiction;

- (e) if the applicant has one or more outstanding judgments against him/her in any jurisdiction amounting in the aggregate to \$100,000 or more which he/she has been unable to satisfy within six months from the date of the earliest judgment;
- (f) if the applicant has been found under any relevant legislation including the Mental Capacity Act (Cap 177A, 2010 Rev Ed) to be of unsound mind, suffering from mental disorder, lacking capacity and/or incapable of managing himself/herself and/or his/her affairs;
- (g) if the referees opining to the applicant's fitness to practice and rehabilitation are known to the applicant in an official and/or professional capacity;
- (h) if the applicant is incapacitated by illness or accident or physical or mental condition which is relevant to his/her capacity to attend to his/her practice;
- (i) if the applicant's right to practice in any other jurisdiction is subject to any restriction(s), condition(s), suspension or has been stopped; and
- (j) if the period that has transpired between the date the applicant ceased practice to the date of the application.

Date: 1 June 2018

**THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE**