

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

DAC-914272-2021 and 2 others

Public Prosecutor

Against

Teo Teng Beng

BRIEF ORAL GROUNDS

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Introduction

1 These brief oral grounds for verdict may be supplemented by full written grounds in due course, if the need arises.

2 There is no law requiring an investor to be prudent, logical and prophetic. On the contrary, investors may sometimes be sentimental, complacent or even greedy. As such, an investor who takes risks, loses money on a trade or buys high does not *ipso facto* break the law.

3 However, when there are attempts to influence the price of a stock and thus engender a false or misleading appearance of the price of the stock, then it is an offence even if the alleged acts share the characteristics of trades entered into by an illogical or unsavvy investor.

4 The present charges against the accused allege that the accused had engaged in a course of conduct to create a false appearance with respect to the price of the securities of Raffles United Holdings Ltd (“**RUHL**”), a company then listed on the Mainboard of the Singapore Exchange (“**SGX-Mainboard**”).

5 The dates involved are as follows:

- Charge 1: 29 June 2017 – 4 October 2017 (“**Period 1**”)
- Charge 2: 27 October 2017 – 6 November 2017 (“**Period 2**”)
- Charge 3: 22 January 2018 – 17 April 2018 (“**Period 3**”)

6 In the case of Period 1, the trades were purportedly carried out by the accused on the share trading account of Mr Teo Teng Ho @ William (“**William**”), the accused’s brother, opened with CIMB Securities (Singapore) Pte Ltd (“**CIMB Account**”). In the case of Periods 2 and 3, the trades were purported carried out by

one Gonzales Michelle Ibanez (“**Michelle**”) on her trading account opened with Philip Securities Pte Ltd at the accused’s instructions (“**PS Account**”).

7 The terms used to refer to the orders placed and trades done through the CIMB Trading Account and the Philips Trading Account are defined as follows:

- (a) “**CIMB Relevant Trades**” refers to the trades which are the subject of Charge 1;
- (b) “**CIMB Relevant Orders**” refers to the orders which resulted in the CIMB Relevant Trades;
- (c) “**PS Relevant Trades**” refers to the trades which are the subject of Charges 2 and 3; and
- (d) “**PS Relevant Orders**” refers to the orders which resulted in the PS Relevant Trades.

8 The terms used to refer to the requirements for companies listed on the SGX-Mainboard at the material time are defined as follows:

- (a) “**VWAP**” refers to volume-weighted average price *per* share of a stock;
- (b) “**MTP Requirement**” refers to the requirement to maintain a VWAP *per* share of at least \$0.20;
- (c) “**ADCP**” refers to the average daily closing price *per* share of a stock;
- (d) “**Market Cap Requirement**” refers to the requirement to maintain an average daily market capitalisation of at least \$40,000,000 over a six-month period;

- (e) “**SGX Requirements**” refer to the disjunctive requirements to meet the MTP Requirement or the Market Cap Requirement;
- (f) “**ADCP Requirement**” refers to the minimum ADCP in order to meet the Market Cap Requirement;
- (g) “**Review Period 1**” refers to the period 1 Dec 2016 to 31 May 2017;
- (h) “**Review 1**” refers to the review conducted by SGX at the end of Review Period 1 on 1 Jun 2017;
- (i) “**Review Period 2**” refers to the period 1 Jun 2017 to 30 Nov 2017;
- (j) “**Review 2**” refers to the review conducted by SGX at the end of Review Period 2 on 1 Dec 2017; and
- (k) “**Review Period 3**” refers to the period 1 Dec 2017 to 31 May 2018.

9 The ADCP Requirement for RUHL at the material time was \$0.1709.

Expert Evidence

10 Mr Bok Chwee Wei (“**Bok**”) and Mr Esmond Choo Liong Gee (“**Esmond**”) were called by the Prosecution and the Defence, respectively, as expert witnesses. Unsurprisingly, Bok and Esmond drew diametrically opposing conclusions from their respective reviews of the CIMB Relevant Trades and the PS Relevant Trades (collectively, “**Relevant Trades**”). They also adopted different parameters in their review of the Relevant Trades.

11 Bok reviews the Relevant Trades on the respective days in the context of the following four common trade characteristics that evince the intent to influence a stock’s share price (“**Characteristics**”):

- (a) Consistent pattern or activity in or near the close of market trading (“**Pattern**”);
- (b) Orders have impact or the ability to set or influence the closing share price (“**Impact**”);
- (c) Orders must have sufficient quantity to impact or set the closing price (“**Quantity**”); and
- (d) Orders lack economic sense (“**Sense**”).

12 Esmond reviews the Relevant Trades using indicators that are similar but not identical to the Characteristics. The indicators that Esmond adopts (“**Indicators**”) are:

- (a) Trading pattern, which is similar to Pattern;
- (b) Economic sense, which is similar to Sense;
- (c) Timing and size of trades, which appears to incorporate elements of Pattern and Quantity; and
- (d) Motive, which is not specifically one of the Characteristics.

13 Furthermore, Esmond approaches the Indicators with reference to the frequency of the alleged manipulative trades relative to *all* the market trading days in Review Period 1 and Review Period 2 as well as other market trades by unrelated participants.

14 Esmond also considers that the Relevant Trades are financially sound from an investment point of view given that:¹

¹ Esmond’s expert report at 7-8.

- (a) the net asset value (“NAV”) per share was above the ADCP of \$0.171 for RUHL to attain a Market Cap of at least \$40,000,000; and
- (b) RUHL was profitable for 4 out of 5 years between FY2014 and FY2018.

15 I am grateful for the evidence of Bok and Esmond which have greatly assisted the court. However, given the facts of the present case, I prefer the evidence of Bok over Esmond specifically in relation to the Relevant Trades for a number of reasons. I will explain some of the more pertinent ones in turn.

16 First, there is no evidence that NAV, profitability and other financial fundamentals are necessarily the sole determinants of the share price of a stock, since listed companies cut across a myriad of industries for which different types of financial data hold varying degrees of relevance and importance. Furthermore, participants invest in the shares of listed companies for different reasons and with different time horizons in mind. RUHL is a good example of a stock where the share price has been trading below the NAV for a period of time.

17 Second, while I appreciate that it is sometimes relevant to consider the proportion of alleged manipulative trades *vis-à-vis* all market trades, it is not necessarily the key consideration in every case. The present case is quite different from the 2013 penny-stock manipulation case involving Asiasons Capital Ltd, Blumont Group Ltd and LionGold Corp Ltd (collectively, “ABL”) where the perpetrators acted in concert to push up the share price of ABL astronomically over an approximately one and a half year period. In the present case, the accused only needed to nudge the price of RUHL’s shares above the ADCP Requirement. Furthermore, while there have been egregious cases where large numbers of

manipulative trades take place frequently over an extended period of time, this cannot be the case in all instances for various reasons, for example:

- (a) the perpetrator may have been stopped in his tracks by the authorities;
- (b) the perpetrator may just be inept or lacking in resources or opportunities; and
- (c) the perpetrator may just be tactical to avoid detection.

18 Third, Esmond pointed out more than once in his expert report that exceeding the “best ask” price is a sign of a manipulative trade. For instance, at paragraph 42 of his expert report, he stated:

At all times, TTH did not buy above the best ask prices which would have been a clear sign that he was deliberately setting a new “high” in the daily closing price...

19 There is evidence that a number of the Relevant Orders were entered above the “best ask” price, most of them within Period 1. As such, by inference based on Esmond’s assessment, these must be manipulative trades.

20 All considered, I found Bok’s granular assessment of the Relevant Trades to be preferable given the limited extent of the accused’s enterprise to merely bring the share price of RUHL over the ADCP Requirement.

The accused’s intention

21 The Defence’s case is that the accused has no reason to push up the share price of RUHL for the following reasons:

- (a) To meet the SGX Requirements, the accused could have just consolidated the shares of RUHL;

- (b) Even if the MTP is not met, RUHL can still be listed on the Catalist Board of the Singapore Exchange (“**SGX-Catalist**”); and
- (c) The accused always had the intention to privatise RUHL and would have benefited from a lower share price.

Share consolidation

22 Even though the evidence suggests that one of the ways of meeting the MTP Requirement is to consolidate the shares of RUHL, this will lead to a reduction of the number of shares in RUHL.² Given that RUHL is already an illiquid stock, Esmond explained that share consolidation may not be a panacea to the depressed share price of RUHL.³

I won't be too concerned. I just consolidate my shares to---to meet MTP. Why certain companies are reluctant could be if they consolidate and then the share price still continue to drift down, then they may have to keep on doing it, right? So, it's a bit troublesome.

23 The accused also stated in his investigation statement recorded on 4 May 2018 at 09:54 h that share consolidation was not viable for an illiquid stock like RUHL:⁴

Question 123 Were there any other solutions that were discussed?

Answer Not that I know of. I recall that there was some discussions on consolidating the RUHL shares to fulfil the MTP requirement. However, we were not in favour of this

² NE Day 14 at 45.

³ NE Day 22 at 138.

⁴ Exhibit D18 at 30.

solution as the counter was already illiquid to begin with and any share consolidation will worsen the liquidity further.

Relegation to the SGX-Catalist

24 The accused had stated in his statement to the Commercial Affairs Department (“CAD”) dated 3 May 2018 at 16:12 h that it was important for RUHL to be listed on the SGX-Mainboard:⁵

Question 95 Why is it important for RUHL maintain the mainboard listing?

Answer From the company’s perspective, having the mainboard listing would mean that the company would have better recognition and this would mean the shell value for a mainboard listed company is worth more than the shell value catalist listed company. It would also be easier to get investors to buy a mainboard company as opposed to a catalist company. ...

...

Question 99 Do you have anything that you wish to add to your statement?

Answer ... In our particular case, do we try to maintain the share price of RUHL to adhere to SGX requirement or do we allow the share price to drop and result in our company downgraded to the catalist board? If that happens (ie. The company loses its mainboard listing status), the worth of RUHL is reduced. ...

⁵ Exhibit P22 at 20-22.

25 Mr Esmond testifies that there are some benefits to being listed on the SGX-Mainboard rather than the SGX-Catalist and explains why some people still aspire to be listed on the SGX-Mainboard:⁶

Well, certain catalyst stocks are big. Let's say, for example, venture capital is a mainboard company, but they started life as a catalyst stock. And when you go to the mainboard, you---you aspire to be put on some kind of index, whether it's STI or whatever. And when you go into that, category, your share price---your shares tend to be higher. Share price tend to be higher and more liquid because people are tracking or investor, professional investors, are tracking index. Their performance, like the---the VWAP price that I was talking to you about is measured by how you perform relative to the index, right? So, there---there---there could be a possibility or manipulation intent to---to be a mainboard company to---to make it to the index, but this ambition will never exist for RUHL which is a small cap stock living in the big cap world.

...

... wanting to be a mainboard company versus a second board company. Certain---it's important to some people, not saying that it's important to Mr Teo, but that's one possibility, the---the---the honour of being a mainboard company. So, but in the main, I think the---the main reason is a mainboard company may be regarded more highly for---for---for a large company or relatively large company, but for a small company like RUHL, don't think it makes a lot of real difference.

Past attempts to privatise RUHL

26 Finally, although the Defence has adduced evidence to show that the accused had, through various corporate vehicles, attempted to acquire more shares of RUHL between 2009 and 2014, this is quite a different thing from saying that the accused had the intention to delist and privatise RUHL. On the contrary, the accused had stated

⁶ NE Day 22 at 138-139.

in his investigation statement that “[b]efore this episode, I have never thought about delisting.”⁷

27 Furthermore, the offer document for Raffles United Pte. Ltd.’s mandatory unconditional cash offer for Kian Ho Bearings Ltd (subsequently renamed to RUHL) dated 19 Jun 2014,⁸ expressly states at paragraph 6.2:

6.2 **The Offeror’s Intentions for [Kian Ho Bearings Ltd].** It is the intention of the Offeror that [Kian Ho Bearings Ltd] continues to carry on its existing business and maintains its listing status on the SGX-ST.

Evidence of the accused’s intention for RUHL to meet the SGX Requirements

28 In contrast to the accused’s purported nonchalance over RUHL’s inability to meet the SGX Requirements, there is overwhelming evidence to the contrary.

29 First, the accused had admitted in a number of his investigation statements to the CAD that he had the intention to meet the MTP requirement. The following are some examples:

Question 86 Do you know if the management of RUHL had instructed any employee to trade in RUHL shares?⁹

Answer I knew that Michelle Gonzales owned shares in RUHL. On and off, I told her that RUHL is a good share to buy, but the company’s share price was way below the NTA. But back of my head, m intention was to use Gonzales as a means to trade in RUHL shares so as to meet the SGX’s VWAP

⁷ Exhibit P22 at 53.

⁸ Exhibit D10.

⁹ Exhibit P22 at 17-20.

requirement. I heard from Faith about the VWAP requirement and she told me that for the company to meet the VWAP requirement, the company's closing price would have to be above about 17.2 cents. I thought it would be easy to meet this VWAP requirement since all I have to do is to make sure that RUHL's closing price have to be above 17.1 cents. So I intended to have Gonzales to buy RUHL shares so that the closing price of RUHL will be above 17.1 cents. I know that I could get her to trade because I knew she would follow my instructions. But I also know that buying RUHL shares is a good investment. And if the shares bought by Gonzales were to ever lose money, I would pay her for her losses. ...

...

Question 92 In general, at what time of the day will you instruct Gonzales to place the trading instructions?

Answer Usually after 4 pm.

Question 93 Why after 4 pm?

Answer The purpose was to ensure that the closing price of RUHL shares stay above 17 cents. So we had to place the orders later in the day. If she had placed it earlier in the day and support the price at 17 cents, other people may sell down the shares to below 17 cents. Then Gonzales may not have sufficient funds to keep buying up the share price to 17 cents repeatedly. Generally that is the case.

There are also instances when I told Gonzales to place an order at 16 or 17 cents so that if other market participants had wanted to sell down the shares, there would be a cushion

to sustain the share price. But Gonzales does not have strong financial means, so usually the buffer would be small like less than 1,000 or 500 shares but I am not sure.

Question 94 Was the purpose of pushing up the RUHL shares to 17 cents was to ensure that RUHL adhere to the SGX requirement and hence maintain the mainboard listing?

Answer Yes.

...

Question 104 Do you know if the management of RUHL had instructed any employee to trade in RUHL shares?¹⁰

Answer [I]nitially I said that my intention was to use Gonzales as a means to trade RUHL shares up to fulfil the SGX requirement. That is not to accurate. My initial thought was that since RUHL trading liquidity and volume is so low and the gap between the best bid and best ask prices of RUHL shares are huge, it would be very easy to push up the RUHL share price to meet the SGX requirement of achieving a market capitalization of \$40 million. We just needed to trade small quantities of shares (either 100 or 1000 shares) to push up the price substantially. This method is also cost efficient because sometimes it only takes a few hundred dollars to execute the trades so as to achieve the target share price of about 17.1 cents so as to achieve a market capitalization of \$40 million. Previously, I had said that her trades was to achieve a vwap of 17.1 cents for RUHL shares. I may have confused that with the market cap requirement. The 17.1 cents was not to achieve the vwap requirement set by SGX,

¹⁰ Exhibit D18 at 25.

but to achieve the market capitalization requirement instead.
 If the RUHL share price were to close above 17.1 cents, the market capitalization of RUHL would be above \$40 million and we will fulfil the SGX requirement.

30 Second, there is evidence of the accused’s internal communications with the staff of RUHL that acknowledged and alluded to the need to act to correct the depressed share price of RUHL, for instance:

(a) On 28 Jun 2017, the accused responded “So we have to move up” and “Remind tmrw” in the “Raffles Property Group” internal group chat when Ms Faith Kristine (“**Faith**”), RUHL’s operations support director, provided the following information:¹¹

Dear All,

Pls be informed we didn't meet the SGX VWAP requirement as at today:

- 6mth VWAP: 15.95 cents (SGX MTP: 20cents)

- 6mth Market cap: \$39.4m (SGX req: \$40m)

Closing market cap: \$33.0m

Closing share price: 14.1cents

(b) On 9 Oct 2017, the accused expressed his concerns to Mr Koh Hai Yang, at one time RUHL’s Business Development Director, over possible relegation of RUHL from the SGX-Mainboard to the SGX-Catalist:¹²

Time	Sender	Message
08:23:33 h	Accused	HY, do u know who has been queuing 100,000 to sell at 0.20? We r in danger to go into 2 nd board

¹¹ Exhibit P14.

¹² Exhibit P12.

08:25:27 h	Hai Yang	So far I did not touch the shares since we last spoke...
...		
10:44:58 h	Accused	It's got to be someone we know. Giving us problem to stay in Mainboard. As I said the price is too low earlier

The investigation statements of the accused and Michelle

31 The accused and Michelle had given a number of investigation statements under s 22 of the Criminal Procedure Code 2010 which inculcate the accused. For the purpose of these oral grounds, I will not be quoting all the inculpatory portions of the investigation statements in detail, save to state some general observations as follows:

- (a) The accused's investigation statements disclose his concerns over RUHL's inability to meet the SGX Requirements, his thought processes as well as his strategy for RUHL to meet the SGX Requirements; and
- (b) Michelle's investigation statements set out the accused's instructions to her to purchase RUHL shares at certain prices and times.

32 The following are some relevant extracts from the accused's statement dated 3 May 2018 at 16:12 h:¹³

Question 89	When did you start getting Gonzales to trade in RUHL shares for the purpose of pushing up the RUHL closing share price to 17 cents so as to meet the VWAP requirement?
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¹³ Exhibit P22 at 19-20.

later in the day. If she had placed it earlier in the day and support the price at 17 cents, other people may sell down the shares to below 17 cents. Then Gonzales may not have sufficient funds to keep buying up the share price to 17 cents repeatedly. Generally that is the case.

There are also instances when I told Gonzales to place an order at 16 or 17 cents so that if other market participants had wanted to sell down the shares, there would be a cushion to sustain the share price. But Gonzales does not have strong financial means, so usually the buffer would be small like less than 1,000 or 500 shares but I am not sure.

33 The oral testimonies of the accused and Michelle in court contradict many parts of the investigation statements. However, whereas the investigation statements are clear, detailed and corroborated in large part by extrinsic evidence, including call logs as well as records of Whatsapp and WeChat communications which substantially match the orders and trades data of RUHL, I find the oral testimonies of the accused and Michelle to be illogical, incoherent and unreliable.

34 In the case of the accused, he comes across as a mindful and cautious witness who takes time to understand the questions before answering. However, when asked to explain the inconsistencies between his oral testimony and his investigation statements, the accused flip-flops on various aspects of his evidence, including documents shown to him when the investigation statements were recorded, and demonstrates that he is flippant about being truthful as he has admitted that there are truths and untruths within certain investigation statements. The accused also resorts to bare denials when confronted with irrefutable facts without any logical or reasonable explanation.

35 Where Michelle is concerned, her oral testimony, peppered with sobs and tears, and delivered in English or Tagalog from time-to-time, is largely incoherent and *non sequitur*. From the outset, Michelle appears sheepish or embarrassed. I am mindful that Michelle is still working for the accused and this may have engendered internal conflict when she is testifying in court. During Michelle's cross-examination, she admits that she is "ashamed" while testifying in court and that she had told the CAD the truth:¹⁴

Interpreter On behalf of the witness again, she thinks that she feels so ashamed to know that the boss is listening and what had transcribed.

Q But what did she do to make---to her boss that she feels ashamed that her boss is listening?

A Your---Sir, I didn't know that all these statements that I say to him will be here---will---will be discussed here. Because when I go to the---to the police, I already told them----I already told them that---that I---I---I made---I made about this statement, and then I did not expect---I said many things. I did not expect that I still come here and he will listen.

...

Q So, now I'll just rephrase. You're ashamed that your boss is listening, and he has sight of your CAD statements. And the main reason for that, of feeling ashamed, is that you can---he can see that you lied to the CAD, correct?

A I told the CAD, Your Honour, the truth, Your Honour.

¹⁴ NE Day 12 at 80-82.

36 While Michelle makes some allegations about being shouted at or threatened by Ms Low Qiu Ying (“**Recorder**”), the recorder of Michelle’s investigation statements, or some other officer from the CAD, I am not satisfied that these allegations are borne out based on the evidence of the Recorder and serious inconsistencies in Michelle’s own evidence.

CIMB Relevant Orders and CIMB Relevant Trades

37 The facts surrounding the opening of the CIMB Account are not in dispute. It is also not disputed that no authorisation form was executed by the accused to give instructions to Mr Lim Wee Yang Kelvin (“**Kelvin**”).

38 The Prosecution’s case is that the accused had utilised the CIMB Account to place orders for RUHL shares in order to set a floor to the share price of RUHL. The gravamen of the Prosecution’s evidence is that the accused had initiated the opening of the CIMB Account and that the accused had instructed Kelvin to place all the orders in Period 1. In this regard, the Prosecution tenders call records to show that the accused had called Kelvin prior to the orders placed for many of the trades in Charge 1. Kelvin also testifies that all the relevant orders were placed at the accused’s instructions.

39 The accused’s contention is that the CIMB Account was opened by William and that the trades were initiated by William rather than the accused.

40 Neither the Prosecution nor the accused called William as a witness at trial.

41 Given the evidence that supports the Prosecution’s case, *ie.* that the CIMB Relevant Orders were placed by the accused, it is curious that the accused has declined to call William to displace this evidence. This is especially so since William is the accused’s brother and is listed on the Defence’s list of witnesses prior to the commencement of trial. While there may be other reasons other than that William’s

evidence would be detrimental to the Defence's case, the accused's failure to call William results in there being nothing to corroborate the accused's bare assertion that he was merely conveying William's instructions to Kelvin.

42 I also find it inexplicable that the accused had declined to execute the authorisation form for the CIMB Account to instruct Kelvin on behalf of William. While the accused has not provided any substantive or meaningful reason for not executing the authorisation form, there is evidence that he is mindful of the constraints he has in trading in RUHL shares due to his position:¹⁵

Question 139 Were there any follow-up actions or proposed plan for the company to adhere to the market cap requirement after you know that all that required was for RUHL closing share price to be above 17.1 cents?

Answer I thought it would be easy to keep the closing price at 17.1 cents. **But because of the administrative work required to disclose my trades if I were to buy at 17.1 cents, I did not buy.** Since Gonzales was already buying/trading she can help the company to comply. There was no other people whom I told to trade in such manner.

(Emphasis added.)

43 Indeed, I have difficulty appreciating the accused's reason for purportly conveying instructions William's instructions to Kelvin. As far as the accused is concerned, he testifies that he transferred all his RUHL shares to his children in 2014 and that he ceased trading in RUHL shares thereafter.¹⁶ In the accused's oral testimony, he is initially ambivalent about whether William was indeed overseas when

¹⁵ Exhibit D18 at 33.

¹⁶ NE Day 14 at 34.

he instructed Kelvin although he eventually accepts that William was probably in Singapore.¹⁷ However, since the evidence suggests that the instructions came from the accused rather than William, directly or indirectly, and since the accused has stopped trading in RUHL shares, then the trades that came about from the CIMB Relevant Orders cannot be *bona fide* trades.

44 Therefore, I am satisfied that the purpose of opening the CIMB Account was primarily for the accused to trade in RUHL shares without any documentary trail to link such trading activities to him.

45 Even though not every one of the CIMB Relevant Orders was preceded by a telephone call by the accused to Kelvin, Kelvin had testified that there were other modes by which the accused and Kelvin communicated which would not be reflected in the call logs. Based on the trading pattern between 29 June 2017 and 4 October 2017, as well as the evidence that all the CIMB Relevant Orders were placed by the accused, I am satisfied beyond reasonable doubt that the CIMB Relevant Trades that resulted from the CIMB Relevant Orders were procured by the accused with the purpose of creating a false appearance with respect to the price of RUHL shares.

PS Relevant Orders and PS Relevant Trades

46 I am satisfied beyond reasonable doubt that the PS Relevant Orders and resulting PS Relevant Trades were instructed by the accused for the purpose of creating a false appearance with respect to the price of the securities of RUHL for the following reasons, some of which are discussed above:

¹⁷ NE Day 15 at 84; NE Day 17 at 27.

- (a) The accused's and Michelle's investigation statements which state that the accused had asked Michelle to execute trades to prop up the price of RUHL shares; and
- (b) the Whatsapp and Wechat communications between the accused and Michelle either before or after the bulk of the PS Relevant Orders.

Conclusion

47 In conclusion, I am satisfied that the Prosecution has proven all three charges against the accused beyond reasonable doubt. Accordingly, I find the accused guilty and I convict him of all three charges.



Terence Tay
District Judge

10 February 2026