



THE
LAW SOCIETY
OF HONG KONG
香港律師會

34th POLA SUMMIT

6 - 8 JUNE 2024 | HONG KONG

SUSTAINABILITY OF THE LEGAL PROFESSION GLOBALLY





**SESSION 1 – KEYS TO SUSTAINABILITY OF THE
LEGAL PROFESSION
PROLIFERATION OF UNREGULATED LEGAL
SERVICES**

**BY MOHAMAD EZRI B ABDUL WAHAB;
PRESIDENT, MALAYSIAN BAR**

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RELEVANCY OF THE TOPIC

Police: CBT cases involving lawyers on the rise



By FARIK ZOLKEPLI

NATION

Saturday, 18 May 2024



KUALA LUMPUR: Cases of embezzlement involving lawyers are on the rise, as seen in Bukit Aman statistics.

There have been 22 criminal breach of trust (CBT) cases so far this year with losses amounting to RM19mil, said Commercial Crime Investigation Department (CCID) director Comm Datuk Seri Ramli Mohamed Yoosuf.

Statement by Director of Bukit Aman
Commercial Crime Investigation
Department (CCID),
Datuk Seri Ramli Mohamed Yoosuf,
pertaining to the total of RM19mil in
losses that have been recorded in 22
criminal breach of trust (CBT) cases
involving lawyers

RELEVANCY OF THE TOPIC

Press Release | The Ongoing Fight against Dishonesty in the Legal Profession

29 May 2024 8:46 am



*Mohamad Ezri b
Abdul Wahab*
President, Malaysian Bar



The Malaysian Bar takes note of the recent comments made by the Director of the Commercial Crime Investigation Department ("CCID") of the Royal Malaysia Police (Polis Diraja Malaysia, "PDRM"), Dato' Sri Ramli Mohamed Yoosuf, pertaining to the total of RM19 million in losses that have been recorded in 22 criminal breach of trust cases involving lawyers.

Dato' Sri Ramli highlighted a case involving a police report made by a company director who alleged that a law firm had acted fraudulently in a sale and purchase transaction of a piece of land in Plentong, Johor, resulting in a loss of RM4.8 million.

It is incumbent upon us to clarify that the said case, in fact, involves an individual who is not a lawyer. The Malaysian Bar lodged a police report regarding the individual concerned on 8 March 2024 at the Dang Wangi Police Station, and a statement pursuant to section 112 of the Criminal Procedure Code was recorded on the same day.

THE TOUTING CRISIS

MACC arrests two bank officers for allegedly soliciting bribes



By RSN MURALI

NATION

Thursday, 18 Apr 2024 12:26 PM MYT



MELAKA: Two bank officers have been arrested by the Malaysian Anti-Corruption Commission (MACC) for allegedly soliciting bribes totalling RM316,064 from several law firms here.

Chambering students acting as touts



By TARRENCE TAN

NATION

Thursday, 11 Mar 2021

PETALING JAYA: Unscrupulous legal firms have now resorted to using chambering students to solicit clients at magistrates' courts, say several senior criminal lawyers.

THE TOUTING CRISIS



- Section 94(3)(h) of the Legal Profession Act 1976 and Rule 51 of the Legal Profession (Practice & Etiquette) Rules 1978 distinctly view touting as professional misconduct and that it may lead to sanctions, suspension or being struck off the Roll.
- Section 15A of the Minor Offences Act 1955 states that any person found guilty of touting commits an offence “punishable with a fine not exceeding five hundred ringgit or with imprisonment for a term not exceeding six months or to both”.
- The Rules and Rulings of the Bar Council also sets out the prohibition of the practice of touting.

DETRIMENTAL EFFECTS

1. Erosion of Public Trust

- **Misleading Representation:** Individuals posing as qualified legal professionals without the requisite training and licensing can provide incorrect or substandard legal advice. This leads to negative experiences and outcomes for clients.
- **Damage to Reputation:** When the public encounters fraudulent practitioners, it damages the overall reputation of the legal profession. Legitimate lawyers and law firms suffer from a diminished perception of reliability and trustworthiness.
- **Loss of Confidence:** The public may lose confidence in the legal system's ability to protect their interests, undermining the justice system's integrity and effectiveness.

2. Compromise of Legal Standards and Ethics

- **Lack of Accountability:** Unregulated individuals are not bound by the Legal Profession Act 1976 or the ethical standards set by the Malaysian Bar. This lack of accountability can lead to unethical practices, such as overcharging or providing false assurances to clients.
- **Professional Misconduct:** Touting often involves misleading advertising and solicitation, which are unethical practices that undermine the professional standards maintained by licensed advocates and solicitors.
- **Substandard Services:** Unqualified practitioners are not subject to the rigorous education, training, and continuing professional development required of licensed lawyers, leading to a lower quality of legal services.

3. Legal and Financial Risks for Clients

- **Inadequate Legal Protection:** Clients relying on unqualified individuals are at risk of receiving incorrect legal advice, which can result in unfavorable legal outcomes, including losing cases or incurring penalties.
- **Financial Loss:** Clients may suffer financial losses due to poor legal representation or fraudulent schemes. Without proper recourse to professional indemnity insurance, these clients often have limited options for recovering their losses.
- **Judicial Inefficiency:** The judiciary may face increased inefficiency and backlog due to improperly handled cases by unqualified practitioners, requiring more resources to rectify these errors and ensure justice is served.



The Compensation Fund, established in 1978, serves to alleviate losses incurred by the public due to the dishonest conduct of an advocate and solicitor. It is mandatory for every Member of the Malaysian Bar to make an annual contribution towards the fund. Individuals who have suffered losses as a result of such dishonesty can apply for grants from the Compensation Fund, subject to meeting specific criteria. Over the years, the fund has disbursed millions of ringgits to affected individuals.

AVAILABLE MECHANISMS



If found guilty of misconduct, the Disciplinary Board may impose one or more of the following penalties or punishments:

- A. Reprimand or censure.
- B. Imposition of fine not exceeding RM50,000.
- C. Suspension of the advocate and solicitor from practice for such period not exceeding five years.
- D. Striking the advocate and solicitor off the Roll of Advocates and Solicitors.
- E. Order of restitution to the advocate and solicitor of the complainant's monies

CAMPAIGN AGAINST TOUTING



Circular No 075/2023
Dated 14 Mar 2023

To Members of the Malaysian Bar

Touting — Abhorrent to the Legal Profession and Detrimental to Public Interest

It is a cardinal rule that every advocate and solicitor shall at all times uphold the dignity and high standing of the legal profession. Accordingly, it is contrary to the rules of etiquette for an advocate and solicitor to engage in any activity to solicit business by improper means.

Bar Council expresses its grave concerns on the allegations of touting being practised within the legal profession. It cannot be gainsaid that there are clear prohibitions against touting — an offence that attracts punitive consequences.

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EFFORTS TAKEN IN 2023

- Issued Circular No 075/2023 dated 14 Mar 2023 entitled “Touting — Abhorrent to the Legal Profession and Detrimental to Public Interest” regarding the setting-up of an online report log, which allows Members of the Bar and the public to report matters pertaining to touting. A poster with a QR code for quick access to the report log was also disseminated online;
- Sought the opinion of the relevant parties to ensure that an investigation unit could be set up. The reports submitted to the online report log were mostly not accompanied by evidence but efforts are made to investigate the complaints received.
- Requested relevant Bar Council committees to investigate Rulings 14.23 and 17.08 of the Rules and Rulings of the Bar Council and whether they should be amended to ensure its relevance and effectiveness. AHCT is currently collating the views received and a report will be presented to the Bar Council;

NEED FOR REFORM

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National Awareness Programs: Launch comprehensive national campaigns to educate the public about the risks of using unqualified legal service providers.



Establishing a dedicated task force, in collaboration with law enforcement agencies, to monitor, investigate, and prosecute cases of unauthorized practice.

Amend Section 15A of the Minor Offences Act 1955 to provide for stricter penalties

Leveraging Technology. Digital Verification Tools: Introduce digital tools and mobile applications that allow the public to scan and verify the licenses of advocates and solicitors.

CONCLUDING REMARKS

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The road to successfully eradicating touting and unregulated legal services is a long one – but the tapestry of success is woven with threads of collaboration.





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QUESTIONS?

