

**ROBERT TIBBO**

*B.Eng.-Chemical Engineering (McGill), LL.B. (Auckland), G.D.LL (Melbourne), P.C.LL (Hong Kong),  
Certified Mediator (HKMC)*

**Barrister-at-Law**

**EASTERN CHAMBERS**

Suite 223, 2/F., Midland Plaza

328 Queen's Road Central

Hong Kong

Tel: 852-2815-3879

Fax: 852-2545-0722

Email: [robert.tibbo@easternchambers.com](mailto:robert.tibbo@easternchambers.com)

23 November 2018

Ms Maggie Wong SC  
Honorary Secretary (2016/17 - 2018/19)  
Hong Kong Bar Association  
LG2 High Court  
38 Queensway, Hong Kong

**BY Email**

[complaints@hkba.org](mailto:complaints@hkba.org)

[info@hkba.org](mailto:info@hkba.org)

19 (nineteen) pages

**Re: Robert Tibbo, Barrister-at-law  
Pending Disciplinary Complaint, Investigations and referral of further  
complaints to Bar Disciplinary Tribunal  
Discipline 17/2012, Discipline 15/2015, Discipline 01/2017 (Anonymous-Snowden  
Complaint 1), Discipline 01/2017 (Immigration-Snowden Complaint 2),  
Discipline 03/2017 and Consolidated Discipline 06/2017, 17/2012 (failure to  
comply), 15/2015 (failure to respond), 01/2017(1) (failure to respond), 01/2017(2)  
(failure to respond).**

---

I refer to the letter addressed to me from Ms “Maggie Wong” dated 6 November 2018. I also acknowledge the content of that letter being the decision by the Bar Council on several disciplinary matters to refer 5 (five) new complaints (per the Schedule attached to your (Maggie Wong) letter) brought against me. The Bar Council has apparently resolved that my “alleged” conduct be inquired into by the Barristers Disciplinary Tribunal (“BDT”). The Bar Council has stated that it will accordingly submit the disciplinary matters to the Convenor pursuant to section 35(1) of the Legal Practitioners Ordinance (“LPO”) for enquiry, adjudication and determination.

Before I address the content of your letter, I must set out certain facts on the structure, formation, composition, practises and procedures of the Bar Council, and its’ Standing Committee on Discipline (“SCD”). Furthermore I will set out the established practises and

procedures for the Bar Council to receive and act on any complaint(s) made to the Hong Kong Bar Association (HKBA), the formation of the BDT, appointment and formation of the BDT Panel, appointment of the Tribunal Convenor (TC) and Deputy Tribunal Convenor, and appointment of members from the BDT Panel to form the BDT. I have provided parts of the relevant legislation of the LPO in the attached Annex, which I will refer to in this letter.

The process of any complaint made against a barrister starts with a complaint(s) to the Bar Association. The Bar Council will then refer the complaint(s) to the Standing Committee on Discipline (SCD). The SCD investigates the complaint(s) and after completing that task subsequently provides advice to the Bar Council on whether to take action against a barrister and if so what action is appropriate.

The Bar Council then considers whether or not there is a *prima facie* case and whether the facts of the case may warrant suspension or disbarment of the given barrister. See s. 35(1) LPO.

Pursuant to s. 34 LPO (See Annex), it is the Chief Justice who appoints both Barristers and lay persons as members of the BDT Panel. In particular, the Chief Justice appoints 6-15 Barristers of Senior Counsel rank, 6-20 Barristers, and no more than 25 (twenty-five) lay persons to the BDT Panel. The term of appointment is to be no more than 5 (five) years at a time, and panel members can be re-appointed by the Chief Justice after each term has expired. Barrister may not sit on the Bar Council whilst sitting on the BDT Panel. The Chief Justice also appoints the Tribunal Convenor.

Pursuant to s. 35A LPO, once the Bar Council refers a complaint to the Tribunal Convenor, he/she shall select 3 (three) BDT Panel members to sit on the BDT. One must be 1 (one) Barrister of Senior Counsel status, 1 (one) junior status Barrister and 1 (one) lay person to lawfully form a BDT. The Barristers Disciplinary Tribunal Proceedings Rules, Cap 159P also apply.

The Bar Council will instruct a Solicitor and have a Barrister briefed to prosecute the complaints against the defendant barrister. The Barrister has no protection from any adverse legal costs order made by the BDT as the Bar Council has designated that no barrister shall have professional indemnity insurance for protection within BDT proceedings. The Bar Council has such a regime in place as it views adverse legal costs orders to be part of sentencing and punishment of a defendant barrister. Legal costs of BDT proceedings, if going to trial, are likely to be in the millions of dollars (Hong Kong currency).

The BDT proceedings Order includes a “**Sentence**” based on punishment and penalties and thus is a quasi-criminal proceeding.

**2017 BDT Proceedings**

***Discipline 17/2012***

*18 March 2017 – 29 July 2017*

*Trivial and stale proceedings heard after 5 (five) Years after the complaint*

I first make reference to the BDT proceeding brought against me in ***Discipline 17/2012***. This proceeding was brought against me after almost 5 (five) years of inexplicable delay. Due to its triviality, these complaints would never have been referred to any bar disciplinary tribunal in any other common law jurisdiction. Having this trivial complaint hanging over my head and then the BDT being formed after almost 5 (five) years was highly prejudicial to me.

Mr. Grossman, acting for me, described the Bar Council actions as amounting to hounding me over 5 (five) years. The Oxford Dictionary definition of the verb “hound” is “*Harass, persecute, or pursue relentlessly*”. On any view this amounts to serious prejudice against me for 5 (five) years, and this was not taken into account by the BDT in its Statement of Findings and Order of 27 July 2017. The BDT instead chose to turn a blind eye to this fact and make a factual finding that “*Nothing was said to us about the delay having affected Mr Tibbo, however.*”

Mr Grossman described the Complaints referred to the BDT by the Bar Council as something beyond his comprehension why after 5 (five) years this should have been done. He also described the Complaints as a “*disgrace*” and “*...trivial rubbish...*” which should have never been referred to by the Bar Council by the BDT.

On 14 May 2015, the Bar Council resolved to refer the complaints to the BDT for inquiry (almost 3 (three) year late). Nevertheless the Bar Council never bothered to actually communicate its decision to the Tribunal Convenor until 24 February 2017 (almost 2 years late). I highlight the following in relation to the BDT Discipline 17/2012:-

1. The Bar Chairman was Paul Lam SC of “**Parkside Chambers**”;
2. Prior to 24 February 2017 (on or about December 2017), the Bar Council instructed Kwok, Ng and Chan law firm as Solicitors for the Bar Council;
3. In about December 2017, Mr Giles Surman, barrister-at-law, was briefed as counsel for the Bar Council. Mr Surman is from “**Plowman Chambers**”
4. On 18 March 2017, Mr Edward Chan SC, the Tribunal Convenor, appointed the following BDT Panel members to the BDT and its Chairman:-

- (1) Mr Nigel Kat SC, Barrister-at-law of **Parkside Chambers** (and also appointed as BDT Chairman). Mr. Kat is from the same Chambers as the Bar Chairman;
- (2) Mr Derek Chan Barrister-at-law of “**Plowman Chambers**”, being in the same chambers as counsel for the Bar Council Mr Giles Surman (as it happens he shared the same room with Mr Surman for a number of years); and
- (3) A lay person, Mr Chew Fook Aun.

Thus it can be seen that the respective barristers on the BDT were also chamber-mates with the prosecuting Counsel for the Bar Council and Bar Chairman (Chan and Surman both from **Plowman Chambers**; and Kat and Lam both from **Parkside Chambers**). Thus there existed obvious conflicts of interest existing between BDT members sharing chambers with the prosecuting Counsel and Bar Chairman, which apparently was of no concern to the Tribunal Convenor.

Between March 2017 and June 2017, the BDT aggressively sought to expedite the BDT hearing and did so with the substantive hearing held in the High Court on 29 June 2017. I had admitted to the 3 (three) complaints based on the risk of the BDT ordering enormous legal costs against me at a full trial. I did NOT admit these complaints based on my admitting culpability. My counsel Mr. Clive Grossman submitted to the BDT that I admitted to these complaints to avoid a long trial and implicit in that the risk of enormous costs, such costs the Bar Counsel prosecutor himself recognised would exist under such a scenario. Further written submission were made by my Counsel. On 27 July 2017 the BDT rendered its Statement of Findings and Reasons for Order.

**Snowden Complaint Commenced Communicated on 8 March 2017 and no disclosure from SCD  
until 3 August 2017(after BDT Proceeding ended)**

*8 March 2017 – 3 August 2017*

The conduct of the Bar Council and SCD in relation to the Anonymous Complaint in Reference Discipline 01/2017 which I was first notified of by the Mr. Anson Wong SC Chairman of the SCD in his letter to me dated 8 March 2017 was unusual. This was an anonymous complaint in relation to my client Mr. Edward Snowden (“Snowden Complaint”).

I was appalled that the Bar was prepared to consider an anonymous complaint of any nature. I am not aware of any Bar Association in the common law world that would consider proceeding based on an anonymous complaint. The breach of common sense was frightening.

From 5 April 2017 onwards, I communicated to Anson Wong SC of the SCD, my grave concerns about this Anonymous complaint. On 10 May 2017 I wrote to the SCD demanding disclosure:-

**“Due to the anonymous source and nature of your complaint, the extraordinarily wide scope of questioning put to me in your list of questions, and the nature of such questions, I do hereby make specific requests to the Bar Council and Standing Committee on Discipline, to make the following disclosures to me at the earliest time.**

**Request for Disclosure**

Please provide the following information, documentation, audio, etc.:-

**Anonymous Complaint**

- (1) **Exact date of the “Anonymous” complaint and where and by whom it was received;**
- (2) **The Identity of the “Anonymous” Complainant;**
- (3) **The mode and/or form of that complaint i.e. oral, written, by fax, email, by hand, etc.;**
- (4) **A full copy of the “Anonymous” complaint document (s), including any envelope, etc.;**
- (5) **If the “Anonymous” complaint was verbal / oral, an audio of that complaint if it was recorded or delivered in a recorded audio format;**
- (6) **Notes and written statement(s) by the person who received that verbal /oral audio complaint;**
- (7) **Please provide a fully copy of all documentation contained in the Standing Committee on Discipline file Ref: “Discipline 01/2017”**

**Bar Council - Annual General Meeting held on Thursday 19 January 2017**

- (8) **Full minutes of the Bar Council - Annual General Meeting held on Thursday 19 January 2017 meeting;**
- (9) **Audio recording of that meeting; and**
- (10) **All other documents concerning discussions raised by the Bar Council about an unnamed “Canadian” national who is also a member of the Hong Kong Bar and the identity of that Canadian barrister.**

*At all material times up to present day, Mr Snowden’s case has involved the greatest sensitivity. In particular a fundamental and crucial part of my role as counsel has been to ensure that at all material times I have acted in his best interests and ensuring absolute trust and confidence is maintained. **The present inquiry, with its “Anonymous” source** and extraordinarily wide scope and many of your questions having no relation or rational connection to the **2 (two) anonymous complaints, raises very serious concerns about the identity of the “Anonymous” source and his/her/their motivations** as it may relate to Mr Snowden himself.”*

I made reference to the 2 (two) anonymous complaints which were the two complaints set out on the first page of the letter from Anson Wong SC dated 8 March 2017, namely that (1) I put my asylum and refugee claimant clients in danger and/or undesirable positions; and (2) I engaged in unacceptable (if not disgraceful) touting. As far as I was aware at that stage a

single anonymous complaint had been made to the HKBA communicating these 2 (two) complaints.

In my letter to Anson Wong SC I made the express request that the above mentioned disclosure be made to me within 1 (one) month:-

*"Under all the circumstances, I would hope that the **requested disclosures be made to me within 1 (one) month from the date of this letter, namely on/or before 9 June 2017.**"*

Thus at all material times the source, identity, number of anonymous complaints and number of anonymous complainants was concealed from me until after I admitted to the 2017 BDT proceeding. In fact in the 8 March 2017 letter from Anson Wong SC he clearly communicated that there was only 1 (one) complaint implying 1 (one) complainant. That could not have been more misleading.

I also demanded the documentary evidence and communications held by the SCD, Bar Council and its members relating to the racially motivated slur made against me at the 19 January 2017 Annual General Meeting by one or more Bar Council members. The racially motivated comments were made against me in relation to the wide media coverage of the Snowden Refugees who sheltered Mr. Edward Snowden in June 2013.

I heard nothing more from the SCD until after the BDT proceeding had been completed and after the Statement of Findings and Sentence (Order) was delivered on 27 July 2017. At no time between 8 March and 3 August 2017 did the SCD or Bar Council disclose anything to me to indicate the true nature of the anonymous complaint.

**SCD de minimus but material disclosure**

*3 August 2017*

On 3 August 2017, Anson Wong SC of the SCD made disclosure of 3 (three) documents to me (a total of 3 (three) pages). Anson Wong SC refused to make disclosure to me of existing documents relating to this complaint citing they were privileged and confidential or not in existence.

The attached 3 (three) pages to the 3 August 2017 letter contained information that was a complete shock to me. The documents were:-

- (1) Two typed-up anonymous complaints; and
- (2) A communication of the National Post story on my clients, the Snowden Refugees to former bar Chairman Winnie Tam SC.

There were in fact 2 (two) separate anonymous complaints. The complaints were both anonymous. Each complaint was typed as being from a “Large Group of Exasperated Barristers” without any signatures thereon. All complaints were made on 9 September 2016, the day Oliver Stone’s film Snowden was released and 2 (two) days after the National Post, New York Times and Handelsblatt published simultaneous articles on the Snowden Refugees and my role in acting for Mr Snowden. See attached hereto copies of the 2 (two) anonymous complaints.

These 2 (two) anonymous complaints were apparently before Bar Council when they moved to instruct counsel to proceed with the first complaint against me, a complaint that had insufficient importance to be dealt with for five years.

I was shocked by this as it was evident only at that time that the complaints came from the members of the HKBA, and that it was 2 (two) large anonymous groups. At that point I recognised that this could be the entire membership of the HKBA and at a minimum hundreds of barristers. It was at that stage that I realised that the Bar Council, the SCD, the Tribunal Convenor and the 3 (three) appointed BDT members could be included in the large number of barristers allegedly included under the Anonymous Snowden Complaint. There was no way for me to be able to rule out that the Bar Council, SCD, Tribunal Convenor and 2017 BDT members were not included in the large group of barristers having made the Anonymous Snowden Complaint. I realised at that point that I had submitted myself to a biased tribunal (2017 BDT), based on the concealment of material information and documentation from me.

To get to the bottom of this most unsatisfactory matter and the apparent egregious conduct of Anson Wong SC, the SCD and Bar Council, I wrote to Anson Wong SC on 24 August 2017. In my letter I specifically made reference to the 2017 BDT matter as it was fully relevant to my unknowingly submitting to an apparently tainted and biased jurisdiction.

*“In relation to the above mentioned 4 (four) complaints, the recent BDT matter under Discipline 17/2012 and in particular, the content of your 1<sup>st</sup> letter dated 3 August 2017*

*(Discipline 01/2017), extremely serious issues and concerns are raised that necessitate legal advice.*

*Beyond the significant constraints on my time, I am currently in the process of obtaining legal advice from Queen's Counsel and he will require time to provide that advice. As of consequence, I will require further time to fully address the above complaints. I am advised by Queen's Counsel that he will require at least 3 (three) months to provide such advice. Thereafter I will be in a position to fully address the above complaints."*

The SCD wrote back to me indicating they would grant me one last time extension up to and including 24 November 2017. It is highlighted that the Bar Council referred to the SCD 3 additional complaints all between 27 January 2017 and 3 August 2017

**Discipline 15/2015**

**Discipline 01/2017 (8 March 2017 Anonymous Snowden Complaints)**

**Discipline 01/2017 (3 Aug 2017 2<sup>nd</sup> Snowden Complaint from Immigration Department)**

**Discipline 03/2017**

Thus in the span of about 6 (six) months the Bar Council referred 4 (four) sets of complaints against me, five to the SCD for investigation and 1 (one) to the Tribunal Convenor (2017 BDT decided on 27 July 2017), all in parallel, but all the while exercising a tactic of material non-disclosure of the Anonymous Snowden Complaints.

On 18 December 2017, Anson Wong SC of SCD wrote accusing me of failing to reply / provide information concerning the 3 (three) sets of complaints the SCD were investigating. I was provided with a reply deadline of 22 December 2017 to this accusation, which may lead to a fifth complaint to the bar Council. I replied in writing on 22 December 2017 as follows:-

*"This delay has been due to firstly, **the Queen's Counsel requiring more time to provide legal advice** to me (due significantly to his own full diary). **Secondly concerning the 2 (two) Snowden Complaints (8 March and 3 August 2017) the requested disclosure requested of the SCD in my letter of 10 May 2017 has not been made in full and based on the SCD letter of 23 August 2017, further disclosure is requested (as set out below) and is required by Queen's Counsel before final advice is provided (Please refer to my letter of today Re: Snowden Complaint). Thirdly, due to extraordinary circumstances relating to the Snowden Refugee TCAB appeals, coupled with the arbitrary and obstructive conduct of the Director of Immigration, I have been overwhelmed by USM and TCAB filing dates confined to late August to early December 2017, which has exhausted my capacity to address numerous complaints made by the Bar Council, the Bar Complaints also contributing to creating further strain and difficulty.***

*I emphasize that the above factors have had a very significant cumulative impact causing delay in my being able to address "All" complaints."*



**2<sup>nd</sup> Demand for Disclosure concerning Anonymous Snowden Complaint**

22 December 2017

On 22 December 2017 I wrote to Anson Wong demanding a second time the disclosure I had requested in 10 May 2017 and further disclosure based on the de minimus but highly material disclosure of the 2 (two) large groups of barristers anonymous Snowden Complaints. I wrote the following:-

**“The Anonymous Source of the formal complaint**

*I have carefully considered the ‘Anonymous Complaint’ and have been advised by Queen’s Counsel that the following particulars are required to be disclosed, per my first request dated 10 May 2017. Thus I request a second time, disclosure of:-*

- (1) The exact number of the anonymous complainants in the “Large Group of Exasperated Barristers”; and*
- (2) the full identities of each and every anonymous complainant member of the “Large Group of Exasperated Barristers”.*

*Furthermore:-*

- (3) How was the. Anonymous Complaint delivered to and received by the Bar Association / Bar Chairman (addressee)? Please provide a copy of the envelope which the Anonymous Complaint was delivered in, and the identity of the person(s) who delivered it.*

*The SCD wholly failed to respond to my clear request for the identities of those members of the Bar whom made the said “Anonymous Complaint”. I do have a right to know whom my accusers are, which is fundamental to being afforded a fair procedure, which inherently requires necessary transparency and accountability.*

*No rational basis exists for a large number of barristers to conceal their identities, intentionally hiding behind the unknown collective of “Large Group of Exasperated Barristers”. This raises significant questions about the legitimacy, merit and evidential foundation of this “Anonymous Complaint”. A large number of barristers have withheld their identities which is extremely disturbing in itself. It necessarily raises issues of whether such complaint has been made in good faith, considering these large numbers of barristers choose to hide their identities.*

**All Relevant Documentation**

*In relation to my previous request concerning disclosure of all documentation relating to this complaint and investigation, it is formally requested, also a second time, that:-*

- (4) A full copy of all documentation contained in the SCD file and /or within the capacity of the SCD to obtain (Ref: “Discipline 01/2017”), be disclosed including the documents and communications alleged to be “...privileged and confidential”*

*It is not seen on what legal basis that the documents you have in hand, or have the capacity to obtain, should not be disclosed to me, whether or not the SCD views them as being ‘...privileged and confidential.’*

*In light of the extremely wide scope and nature of the investigation brought against me, the ambiguity of the SCD admitted complaints being made in “...broad terms...” and based on 4 (four) news articles, the serious and anonymous allegations made (without particulars being provided to me and based on what was written in the media), the enormous legal costs (The Bar Professional Indemnity Insurance does not apply as the Bar Association has stated that legal costs are part of the punishment of a barrister), and penalties involved (including financial penalties), in the event of this matter going before a Bar Disciplinary Tribunal (“BDT”), the SCD decision to withhold documentation that relates to this complaint and investigation, is not accepted.*

*Clearly there were communications to the Bar Council from 6 September 2016 onwards, and before the AGM on 19 January 2017, communications within the “Large Group of Exasperated Barristers”, and communications within the Bar Council (in both written and oral forms). There were certainly written and oral communications with and within the Bar Council leading up to and including 19 January 2017. There were also communications within the Bar Council and to the SCD, in both written and oral forms, from 19 January 2017 up to and including the date of the formal “Snowden Complaint”.*

**Bar Council - Annual General Meeting held on Thursday 19 January 2017**

*On 19 January 2017, clear reference was made by certain Bar Council members clearly identifying me by my nationality and through other references, and making negative and prejudicial statements about me. That is a fact.*

*The fact that the SCD decided not to look any further into this specific aspect of the matter (Despite the highly prejudicial discussion held at the AGM), is of grave concern. The Anonymous Complaint in itself, the Bar Council referring to me at the AGM and complaining about me, and the subsequent Bar Complaint letter with its list of questions (lifted in part from the Anonymous Complaint letter from the “Large Group of Exasperated Barristers”), makes the discussions concerning and related to me, that took place at the AGM, of very significant relevance to the present SCD complaint and investigation.*

*As of natural consequence, I also require the following to be disclosed (my second request) earlier, rather than later:-*

*(5) The Full 19 January 2017 AGM minutes in transcript and hand written note forms.*

*Serious issues of significant concern exist, based on the SCD having only “...reviewed materials concerning the AGM and is presently unable to identify any such alleged discussions.” The discussions concerning me and related issues that took place at the AGM were led by certain members of the Bar Council. That is a fact.*

*It is also requested that the following be disclosed:-*

*(6) All other documents/communications (including emails, SMS texts, Whatsapp texts, etc.) concerning discussions raised by the Bar Council about an unnamed “Canadian” national who is also a member of the Hong Kong Bar, and the identity of that Canadian barrister.*

*As previously stated in my letter of 10 May 2017, at all material times up to present day, Mr Snowden’s case has involved the greatest sensitivity. In particular, a fundamental and crucial part of my role as counsel has been to ensure that at all material times I have acted in his best interests and have ensured absolute trust and confidence is maintained.*

*Under no circumstances will I breach Mr Snowden’s trust and confidence. I will not disclose any privileged communications or make further disclosures beyond what already exists in the public domain. As for the Snowden Refugees (The refugees whom provided food, shelter, kindness and had shown humanity to Mr Snowden), I will not breach their respective trust and confidence. I will not disclose any privileged communications or make further disclosures beyond what already exists in the public domain.*

*The present inquiry, with its “Anonymous” source of a “Large Group of Exasperated Barristers”, an extraordinarily wide and ambiguous scope of questions (many of which have no relation or rational connection to the Anonymous Complaints, and were obviously lifted from the Anonymous Complaint letter, and put in the complaint letter list of questions), is in an unacceptable state. It is so unsatisfactory that it puts the propriety of the present SCD investigation into serious doubt.”*

**And**

*“I do not want to give the impression that I am reluctant to defend my conduct. I believe it was in the tradition of a bar that is independent of government and of outside pressures, including pressure from foreign governments. However, given the racially discriminatory remarks about a Canadian barrister and the extraordinary decision to act on an anonymous complaint, which could have come from a foreign agency, I really must insist on a fair process that is my right as a member of the Bar Association.*

*As it stands, the evidence on hand strongly indicates that the present SCD complaint and investigation is predicated upon prejudice rather than reason and concealment in place of disclosure.*

*I require the above information and documents as requested above at items (1) to (6) inclusive, be disclosed to me at the earliest time. I require such information and documents for my consideration and the consideration of Queen’s Counsel, before I am able to obtain full legal advice. I require that legal advice before I make any written substantive reply to the SCD.”*

It is evident that the SCD investigation and its failure to make the necessary disclosure was unacceptable. To answer to any of the complaints at that state was not possible. I clearly requested disclosure, and based on that to obtain legal advice from Queen's Counsel and to thereafter provide a reply to all SCD complaint inquiries.

In relation to the 2017 BDT proceeding you, Ms Maggie Wong, in your letter dated 12 December 2017 made many inaccurate and erroneous statements and allegations against me. I replied to each and every request and addressed numerous allegations in my letter to you dated 22 December 2017:-

*“The factual omissions and erroneous statements in the chronology contained in your letter, as I have identified above, are significant and misrepresent in material aspects what occurred between 28 November and 1 December 2017.”*

On 28 December 2017 I wrote to the former Bar Chairman Paul Lam SC, that I was unable to attend at the Bar Association to receive advice from him pursuant to the 2017 BDT Order (Sentence) as I had to leave Hong Kong on the evening of 30 November 2017. I proposed meeting on the evening of 29 November 2017 or early morning on 30 November 2017. The former Bar Chairman refused despite indicating he could meet me on the earlier dates if good and satisfactory reasons were provided. I provided such reasons to the former Bar Chairman which he rejected out of hand and in fact refused to believe that I had left the jurisdiction on 30 November 2017.

The former Bar Chairman, Paul Lam SC, failed to answer my reply to the content of your letter dated 12 December 2017. Furthermore, the former Bar Chairman insisted I attend at the Bar Association on 3 January 2018. You failed to reply to my letter to you dated 22 December 2017 and have not denied the numerous inaccurate and erroneous statements you made, despite Charles Tsang writing to me on 28 December 2017 that the Bar Council was seeking instructions from you.

I have received no reply to my 3 (three) letters dated 22 December 2017, two letters to Anson Wong SC and one letter to you. As a consequence the Bar Council and SCD have failed and effectively refused to address and comply with my demands for disclosure concerning the Anonymous Snowden Complaints.

The Bar Council has apparently not considered that by taking up the Anonymous Snowden complaints, each allegedly from a significant number of barristers, it has irretrievably compromised its impartiality in this matter and in the matter of any complaints outstanding against me.

There is no way to be certain that none of the anonymous barristers are members of council who have participated in any of the discussions concerning discipline proceedings against me. There is, further, no way of being certain that the potential members of the BDT to which these matters are being referred are or are not included among the anonymous complainants. Any pretense of impartiality is accordingly a sham.

I am advised that the disciplinary process initiated by Bar Council is vitiated by the logical perception of potential bias and that as a result any BDT constituted to hear the charges against me lacks jurisdiction. I would be making a mockery of our judicial system by submitting to its alleged jurisdiction. These principles unfortunately override the specific terms of the ordinance. I am not certain how the Bar Council and BDT lawfully proceed from this point, but it has brought itself to this point by apparently giving serious consideration to improper matters.

Had I realized that Bar Council had compromised its impartiality before its consideration of the 2017 BDT proceedings (Discipline 17/2012), I would have immediately rejected their jurisdiction at the time and not pleaded.

The information that should have been provided to me by Bar Council to establish this point was not provided as it should have been. In any event, a plea to a tribunal without jurisdiction is void. Nevertheless I made attempts to comply with the direction of the tribunal and was denied by the chair. It is evident that I am and will be denied a fair process and hearing.

The final potential charge is coloured by the potential for complainants against me to have been included among the decision makers, with a real apprehension of bias.

None of the charges include any element of moral turpitude, nor could they. Even if they were all proved true in every detail, which, I suggest, they cannot be, they amount to at most minor sins that do not justify the amount of effort put into attempting to cause difficulties for me.

It was improper to consider any anonymous complaint, and in particular an anonymous complaint that could have been made by members of the Bar Council, the SCD, the BDT and others involved in ascertaining the merits of the complaint or part of the BDT process. Considering an anonymous complaint is itself evidence of bias and abuse of process given that the Bar Council of any other common law jurisdiction would never stoop to that action.

The Bar Council, SCD, Tribunal Convenor, BDT Panel Members and any future BDT have irretrievably lost jurisdiction and to proceed any further against me in both the unfinished 2017 BDT Proceedings, the pending 4 (four) investigations of the SCD

As of consequence to proceed against me on the current referral of 5 (five) fresh complaints to Tribunal Convenor to be inquired into by a BDT, and on any of the pending complaints being investigated by the Hong Kong Bar and the pending BDT (Discipline 17/2012), would amount to a clear and present abuse of power amounting to an affront to justice.

Sincerely Yours

A handwritten signature in black ink, appearing to read 'Robert Tibbo', written in a cursive style.

---

Robert Tibbo

## Annex

### *s. 34 Barristers Disciplinary Tribunal Panel*

*(1)The Chief Justice is required to appoint a Barristers Disciplinary Tribunal Panel consisting of—(a)no fewer than 6 and no more than 15 practising Senior Counsel of Hong Kong; and(b)no fewer than 6 and no more than 20 other practising barristers of at least 7 years’ standing; and(c)no fewer than 5 and no more than 25 lay persons who are not, in the opinion of the Chief Justice, in any way connected with the practice of the law. (Replaced 94 of 1997 s. 8)*

*(2)A member of the Bar Council is not eligible to be appointed to or remain on the Panel.*

*(3)A person appointed to the Panel shall be appointed for a term specified by the Chief Justice not to exceed 5 years but may be reappointed for a further term or terms.*

*(4)The Chief Justice shall appoint one of the barristers on the Panel as the Tribunal Convenor for a 3 year term and he may appoint one or more other barristers on the Panel as Deputy Tribunal Convenors for 3 year terms.*

*(5)A Deputy Tribunal Convenor designated by the Tribunal Convenor may act in place of the Tribunal Convenor whenever the Tribunal Convenor is prevented from exercising the Tribunal Convenor’s functions because of illness, absence from Hong Kong or any other cause. (Added 94 of 1997 s. 8)*

### *s. 35 Complaint about barrister’s conduct*

*(1)Where the Bar Council considers that the conduct of a barrister should be inquired into as a result of a complaint being made to it or otherwise, the Bar Council shall submit the matter to the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel.*

*(2)Where a complaint is made to the Bar Council and the Bar Council does not submit a matter to the Tribunal Convenor under subsection (1) within 6 months after receiving the complaint the Chief Judge may, on application by any person or on his own initiative, submit the matter to the Tribunal Convenor if he considers that the Bar Council ought to have done so. (Amended 23 of 2002 s. 107)*

*(3)A matter submitted to the Tribunal Convenor must include or be accompanied by particulars of the conduct that is to be inquired into and by particulars of any associated allegations of misconduct. (Added 94 of 1997 s. 9)*

### **s. 35A Barristers Disciplinary Tribunal**

**(1) On receiving a submission under section 35, the Tribunal Convenor of the Barristers Disciplinary Tribunal Panel is required to appoint from the Panel—(a) a Senior Counsel; and (b)a barrister who is not a Senior Counsel; and(c)a lay person.**

*(2) The persons so appointed constitute a Barristers Disciplinary Tribunal to inquire into the conduct of the barrister concerned.*

*(3) When constituting a Barristers Disciplinary Tribunal, the Tribunal Convenor is also required to appoint one of its members as chairman of the Tribunal.*

(4) A Barristers Disciplinary Tribunal may be constituted by the chairman and by one other member designated by the chairman for the purposes only of—(a)giving directions or making orders for the conduct of an inquiry under section 36; and(b)announcing the findings of the Tribunal with respect to the inquiry.

(5) A member of a Barristers Disciplinary Tribunal who becomes a member of the Bar Council ceases to be a member of the Tribunal.

**s. 36 Powers of Barristers Disciplinary Tribunal**

(1A) A Barristers Disciplinary Tribunal may inquire into the conduct of any person in respect of which it was constituted. (Added 61 of 1992 s. 20)

(1) For the purpose of conducting an inquiry, a Barristers Disciplinary Tribunal shall have all such powers as are vested in the Court or in any judge in the course of any action or suit in respect of the following matters—

- (a)enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (b)compelling the production of documents;
- (c)punishing persons guilty of contempt;
- (d)ordering an inspection of any property;
- (e)conducting every examination of witnesses; and
- (f)adjourning any meeting from time to time and from one place to another,

and a summons under the hand of the chairman of a Barristers Disciplinary Tribunal may be substituted for and shall be equivalent to any form of process capable of being issued in any action or suit for compelling the attendance of witnesses or the production of documents and any warrant of committal to prison issued for the purpose of enforcing any such powers must be signed by the chairman but must not authorize the imprisonment of any offender for a period exceeding 1 month. (Amended 94 of 1997 s. 12)

(2) The Commissioner of Police and all police officers, officers of the court, gaolers and bailiffs of the court are required to give their utmost assistance to every Barristers Disciplinary Tribunal and to every chairman thereof, in the enforcement of documents, warrants and orders issued in accordance with subsection (1) or otherwise.

(3) Every member of a Barristers Disciplinary Tribunal shall have the like protection and privileges, in relation to any action or suit brought against him for any act done or omitted to be done in the execution of his duties as such member, as is given by any law to a magistrate acting in the execution of his office.

(4) All proceedings of a Barristers Disciplinary Tribunal are privileged. (Replaced 61 of 1992 s. 20)

(5) A Barristers Disciplinary Tribunal constituted to inquire into the conduct of a person may inquire into other conduct of the person, but only if—

- (a)the person has been given reasonable notice and adequate particulars of that other conduct; and
- (b)the Tribunal is satisfied that that other conduct is related to the first-mentioned conduct. (Added 94 of 1997 s. 12)

(6) The power conferred by subsection (5) is exercisable only on the application of—

- (a)the Bar Council in the case of a matter submitted to the Tribunal Convenor under section 35(1); or
- (b)the Chief Judge in the case of a matter submitted to the Tribunal Convenor under section 35(2). (Added 94 of 1997 s. 12. Amended 23 of 2002 s. 108)

(7) Notice is not reasonable for the purposes of subsection (5) if it is less than 7 days. (Added 94 of 1997 s. 12)



*(8) A Barristers Disciplinary Tribunal may make such order as to the payment by a party to an inquiry of the costs incurred in conducting the inquiry as it thinks just. Such an order may direct that the costs are to be taxed by a Master of the High Court on a full indemnity basis. (Added 94 of 1997 s. 12. Amended 25 of 1998 s. 2)(Amended 61 of 1992 s. 20)*

9 September 2016

The Chairman  
Hong Kong Bar Association



Dear Chairman,

**Re: Robert Tibbo : Barrister**

Please find enclosed a copy of the leading Canadian national newspaper The National Post, in its very recent publication.

- 1) Tibbo has been quoted and provided photographs of himself and others. He has put his lay clients seeking refugees status in danger by providing highly confidential details permitting the publication of their details and photos for publication.
- 2) These persons now will never be able to be resettled in a third country.
- 3) The whole article is disgraceful touting and a hagiography of Tibbo (by Tibbo).
- 4) It is disgraceful that Tibbo should be photographed and visiting Snowden in Moscow, as Snowden is an international fugitive on every Interpol Stop List.
- 5) This is all highly damaging to the HK Bar.

The enclosure does NOT print out the many (colour) photographs of Tibbo's HK clients identifying them by name and address. Go to:

<http://news.nationalpost.com/features/how-edward-snowden-escaped-hong-kong>

for the full article

TAKE ACTION PLEASE

Large Group of Exasperated Barristers

9 September 2016

The Hon. Secretary  
Hong Kong Bar Association



Dear Chairman,

**Re: Robert Tibbo : Barrister**

Please find enclosed a copy of the leading Canadian national newspaper The National Post, in its very recent publication.

- 1) Tibbo has been quoted and provided photographs of himself and others. He has put his lay clients seeking refugees status in danger by providing highly confidential details permitting the publication of their details and photos for publication.
- 2) These persons now will never be able to be resettled in a third country.
- 3) The whole article is disgraceful touting and a hagiography of Tibbo (by Tibbo).
- 4) It is disgraceful that Tibbo should be photographed and visiting Snowden in Moscow, as Snowden is an international fugitive on every Interpol Stop List.
- 5) This is all highly damaging to the HK Bar.

The enclosure does NOT print out the many (colour) photographs of Tibbo's HK clients identifying them by name and address. Go to:

<http://news.nationalpost.com/features/how-edward-snowden-escaped-hong-kong>

for the full article

TAKE ACTION PLEASE

Large Group of Exasperated Barristers