

1 **3rd JULY 2008 @ 9.00 A.M.**

2

3 **Continued Hearing of E.P. No. 26-01-2008-I**

4

5 **Parties as before**

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7 Dato' Shafee I have complete my examination in chief of PW 1.

8

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10 **Cross-Examination of PW 1 by Mr. Alvin Yong**

11 **Witness re-affirmed and states in Mandarin**

12

13 Q I refer you to page 3(1) of your petition i.e. your first charge. I also
14 refer you to Exh. P-3(14) which is at page 27 of PBD i.e. the article
15 appearing in the respondent's website. Can you tell the Court what
16 is the meaning of "Temporal Injury"?

17 A Temporal Injury is psychological injury.

18

19 Q I refer you to page 3(1) of your petition i.e. your first charge. I also
20 refer you to Exh. P-3(14) which is at page 27 of PBD i.e. the article
21 appearing in the respondent's website. Are you saying that by

1 what is stated in Exh. P-3(14), the respondent was guilty of an
2 offence of the corrupt practice of undue influence by resorting to
3 threaten infliction of temporal injury to induce the voters in the
4 said constituency to vote for the respondent?

5 A Yes.

6

7 Q Are you saying that by what is stated in Exh. P-3(14), the
8 respondent was guilty of an offence of the corrupt practice of
9 undue influence by resorting to threaten infliction of temporal
10 injury to interfere with the free exercise of the electoral rights of
11 those non-Muslim voters in the said constituency?

12 A Yes.

13

14 Q Are you saying that by what is stated in Exh. P-3(14), the
15 respondent was guilty of an offence of the corrupt practice of
16 undue influence by resorting to threaten infliction of temporal
17 injury to attempt to interfere with the free exercise of the electoral
18 rights of those non-Muslim voters in the said constituency?

19 A Yes.

20

1 Q In paragraph 3(1) of the petition, you have used the words
2 “Spiritual Injury”. Can you tell the Court what you understand by
3 “Spiritual Injury”?

4 A This is an injury spiritually and religiously.
5

6 Q Are you saying that by what is stated in Exh. P-3(14), the
7 respondent was guilty of an offence of the corrupt practice of
8 undue influence by resorting to threaten infliction of spiritual
9 injury to induce the voters in the said constituency to vote for the
10 respondent?

11 A Yes.

12 Q Are you saying that by what is stated in Exh. P-3(14), the
13 respondent was guilty of an offence of the corrupt practice of
14 undue influence by resorting to threaten infliction of spiritual
15 injury to interfere with the free exercise of the electoral rights of
16 those non-Muslim voters in the said constituency?

17 A Yes.
18

19 Q Are you saying that by what is stated in Exh. P-3(14), the
20 respondent was guilty of an offence of the corrupt practice of
21 undue influence by resorting to threaten infliction of spiritual

1 injury to attempt to interfere with the free exercise of the electoral
2 rights of those non-Muslim voters in the said constituency?

3 A Yes.

4

5 Q What do you understand by the words “Physical Damage”?

6 A Physical Damage means bodily damage but in this case there is
7 only psychological and emotional influence.

8

9 Q Are you saying that by what is stated in Exh. P-3(14), the
10 respondent was guilty of an offence of the corrupt practice of
11 undue influence by resorting to threaten infliction of physical
12 damage to induce voters in the said constituency to vote for the
13 respondent?

14 A Not physical injury.

15

16 Q Now you are using “physical injury”. What do you mean by that?

17 A It means bodily damage.

18

19 Q When you say “physical injury”, do you mean “physical damage”?

20 A I think the definition of damage and injury is different and the
21 allegation here did not mention about physical injury.

22

1 Q In light of the answer you have just given, I ask you again. Are
2 you saying that by what is stated in Exh. P-3(14), the respondent
3 was guilty of an offence of the corrupt practice of undue influence
4 by resorting to threaten infliction of physical damage to induce
5 voters in the said constituency to vote for the respondent?

6 A Yes, emotional damage, spiritual damage but not physical damage.

7

8 Q In your petition you used the phrase “harm to religious premises”.
9 What do you mean by “Harm to religious premises”?

10 A It means this is a harm in respect of religious matter.

11

12 Q Are you saying that by what is stated in Exh. P-3(14), the
13 respondent was guilty of an offence of the corrupt practice of
14 undue influence by resorting to threaten infliction of harm to
15 religious premises to induce voters in the said constituency to vote
16 for the respondent?

17 A Yes.

18

19 Q Are you saying that by what is stated in Exh. P-3(14), the
20 respondent was guilty of an offence of the corrupt practice of
21 undue influence by resorting to threaten infliction of harm to

1 religious premises to interfere with the free exercise of the electoral
2 rights of those non-Muslim voters in the said constituency?

3 A Yes.

4

5 Q Are you saying that by what is stated in Exh. P-3(14), the
6 respondent was guilty of an offence of the corrupt practice of
7 undue influence by resorting to threaten infliction of harm to
8 religious premises to attempt to interfere with the free exercise of
9 the electoral rights of those non-Muslim voters in the said
10 constituency?

11 A Yes, all the three question that were asked is almost the same.

12

13 Q What do you understand by the phrase “loss of
14 religious freedom”?

15 A It means the loss of the freedom to choose the religion.

16

17 Q Are you saying that by what is stated in Exh. P-3(14), the
18 respondent was guilty of an offence of the corrupt practice of
19 undue influence by resorting to threaten infliction of loss of
20 religious freedom from other person to induce voters in the said
21 constituency to vote for the respondent?

22 A Yes.

1 Q Are you saying that by what is stated in Exh. P-3(14), the
2 respondent was guilty of an offence of the corrupt practice of
3 undue influence by resorting to threaten infliction of loss of
4 religious freedom from other person to interfere with the free
5 exercise of the electoral right of those non-Muslim voters in the
6 said constituency?

7 A Yes.

8 Q Are you saying that by what is stated in Exh. P-3(14), the
9 respondent was guilty of an offence of the corrupt practice of
10 undue influence by resorting to threaten infliction of loss of
11 religious freedom from other person to attempt to interfere with the
12 free exercise of the electoral right of those non-Muslim voters in
13 the said constituency?

14 A Yes.

15

16 Q Can you tell me what do you understand by the phrase “threaten
17 fear of temporal injury”?

18 A It means emotional threatening.

19

20 Q Are you saying that by what is stated in Exh. P-3(14), the
21 respondent was guilty of an offence of the corrupt practice of
22 undue influence by resorting to threaten fear of temporal injury to

1 induce the voters in the said constituency to vote for the
2 respondent?

3 A Yes.

4

5 Q Are you saying that by what is stated in Exh. P-3(14), the
6 respondent was guilty of an offence of the corrupt practice of
7 undue influence by resorting to threaten fear of temporal injury to
8 interfere with the free exercise of the electoral right of those non-
9 Muslim voters in the said constituency?

10 A Yes.

11

12 Q Are you saying that by what is stated in Exh. P-3(14), the
13 respondent was guilty of an offence of the corrupt practice of
14 undue influence by resorting to threaten fear of temporal injury to
15 attempt to interfere with the free exercise of the electoral right of
16 those non-Muslim voters in the said constituency?

17 A Yes. The same questions, the same answer.

18

19 Q Are you saying that by what is stated in Exh. P-3(14), the
20 respondent was guilty of an offence of the corrupt practice of
21 undue influence by resorting to threaten fear of spiritual injury to

1 induce the voters in the said constituency to vote for the
2 respondent?

3 A Yes.

4

5 Q Are you saying that by what is stated in Exh. P-3(14), the
6 respondent was guilty of an offence of the corrupt practice of
7 undue influence by resorting to threaten fear of spiritual injury to
8 attempt to induce the voters in the said constituency to vote for the
9 respondent?

10 A Yes.

11

12 Q I refer you to paragraph 3(1) of your petition. Do you agree with
13 me that you contended that the respondent is also guilty of
14 threatening fear of physical harm of religious premises?

15 A Yes.

16

17 Q Are you saying that by what is stated in Exh. P-3(14), the
18 respondent was guilty of an offence of the corrupt practice of
19 undue influence by resorting to threaten physical harm to religious
20 premises to induce the voters in the said constituency to vote for
21 the respondent?

22 A Why every time almost the similar questions. Yes.

1

2 Q Are you saying that by what is stated in Exh. P-3(14), the
3 respondent was guilty of an offence of the corrupt practice of
4 undue influence by resorting to threaten physical harm to religious
5 premises to interfere with the free exercise of the electoral rights of
6 those non-Muslim voters in the said constituency?

7 A Yes.

8

9 Q Are you saying that by what is stated in Exh. P-3(14), the
10 respondent was guilty of an offence of the corrupt practice of
11 undue influence by resorting to threaten physical harm to religious
12 premises to attempt to interfere with the free exercise of the
13 electoral rights of those non-Muslim voters in the said
14 constituency?

15 A Yes.

16

17 Q Are you saying that by what is stated in Exh.. P-3(14), the
18 respondent was guilty of an offence of the corrupt practice of
19 undue influence by resorting to threaten loss of religious freedom
20 to induce the voters in the said constituency to vote for the
21 respondent?

22 A Yes.

1 Court Court adjourned for 15 minutes.

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15 **SGD: JUSTICE DATUK CLEMENT SKINNER**

16 **Judge**

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1 **Court resumes at 11.45 a.m.**

2 **Parties as before**

3

4 **Continued Cross-Examination of PW 1 by Mr. Alvin Yong**

5

6 Q Are you saying that by what is stated in Exh. P-3(14), the
7 respondent was guilty of an offence of the corrupt practice of
8 undue influence by resorting to threaten fear of loss of religious
9 freedom to induce the voters in the said constituency to vote for the
10 respondent?

11 A Yes.

12

13 Q Are you saying that by what is stated in Exh. P-3(14), the
14 respondent was guilty of an offence of the corrupt practice of
15 undue influence by resorting to threaten fear of loss of religious
16 freedom to interfere with the free exercise of the electoral rights of
17 those non-Muslim voters in the said constituency?

18 A Yes.

19

20 Q Are you saying that by what is stated in Exh. P-3(14), the
21 respondent was guilty of an offence of the corrupt practice of

1 undue influence by resorting to threaten fear of loss of religious
2 freedom to attempt to interfere with the free exercise of the
3 electoral rights of those non-Muslim voters in the said
4 constituency?

5 A Yes.

6

7 Q Do you agree that all the answers you have given me to all the
8 questions I have asked you so far are premised on your allegation
9 that Exh. P-3(14) was published by the respondent?

10 A The website is belong to Chong Chieng Jen but the contents
11 belongs to Smith.

12

13 Q You have not answered my question. Do you agree that all the
14 answers you have given me to all the questions I have asked you so
15 far are premised on your allegation that Exh. P-3(14) was
16 published by the respondent?

17 A Yes.

18

19 Q You have also said in paragraph 3(1) of your petition that
20 Exh. P-3(14) was published with the knowledge of the respondent.
21 Can you tell the Court whether you are saying Exh. P-3(14) was

1 published by the respondent or not by the respondent but with his
2 knowledge, which one is it?

3 A This is published with his knowledge because it is his website.

4

5 Q Are you saying that Mr. Chong Chieng Jen did not published it but
6 have knowledge of it because it was on his website?

7 A Yes.

8

9 Q I refer you to paragraph 3(1) of your petition. Are you saying he
10 has knowledge of it or he has consented to the publication?

11 A He knows and he consented because it appears on Mr. Chong
12 Chieng Jen's website.

13

14 Put That Mr. Chong Chieng Jen neither knew nor consented to the
15 publication of Exh. P-3(14) in his website.

16 A I disagree.

17

18 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
19 you to pages 32 to 33 of PBD. Are you saying that by what is
20 stated in Exh. P-4(a) and (b), the respondent was guilty of an
21 offence of the corrupt practice of undue influence by resorting to

1 threaten infliction of temporal injury to induce the voters in the
2 said constituency to vote for the respondent?

3 A Yes.

4

5 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
6 you to pages 32 to 33 of PBD. Are you saying that by what is
7 stated in Exh. P-4(a) and (b), the respondent was guilty of an
8 offence of the corrupt practice of undue influence by resorting to
9 threaten fear of temporal injury to induce the voters in the said
10 constituency to vote for the respondent?

11 A Yes.

12

13 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
14 you to pages 32 to 33 of PBD. Are you saying that by what is
15 stated in Exh. P-4(a) and (b), the respondent was guilty of an
16 offence of the corrupt practice of undue influence by resorting to
17 threaten infliction of spiritual injury to induce the voters in the said
18 constituency to vote for the respondent?

19 A Yes.

20

21 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
22 you to pages 32 to 33 of PBD. Are you saying that by what is

1 stated in Exh. P-4(a) and (b), the respondent was guilty of an
2 offence of the corrupt practice of undue influence by resorting to
3 threaten fear of spiritual injury to induce the voters in the said
4 constituency to vote for the respondent?

5 A Yes.

6

7 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
8 you to pages 32 to 33 of PBD. Are you saying that by what is
9 stated in Exh. P-4(a) and (b), the respondent was guilty of an
10 offence of the corrupt practice of undue influence by resorting to
11 threaten infliction of damage to religious freedom and premises to
12 induce the voters in the said constituency to vote for the
13 respondent?

14 A Yes.

15

16 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
17 you to pages 32 to 33 of PBD. Are you saying that by what is
18 stated in Exh. P-4(a) and (b), the respondent was guilty of an
19 offence of the corrupt practice of undue influence by resorting to
20 threaten fear of damage to religious freedom and premises to
21 induce the voters in the said constituency to vote for the
22 respondent?

1 A Yes.

2

3 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
4 you to pages 32 to 33 of PBD. Are you saying that by what is
5 stated in Exh. P-4(a) and (b), the respondent was guilty of an
6 offence of the corrupt practice of undue influence by resorting to
7 threaten fear of harm to religious freedom and premises to induce
8 the voters in the said constituency to vote for the respondent?

9 A Yes.

10

11 Q Can you tell the Court what you meant by the phrase “economic
12 loss upon the Chinese and Non-Muslim” which you used in your
13 petition at paragraph 3(2)?

14 A All the major contract was monopolized by certain companies and
15 the national wealth was not fairly distributed.

16

17 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
18 you to pages 32 to 33 of PBD. Are you saying that by what is
19 stated in Exh. P-4(a) and (b), the respondent was guilty of an
20 offence of the corrupt practice of undue influence by resorting to
21 threaten infliction of economic loss upon the Chinese and Non-
22 Muslim voters in the said constituency to vote for the respondent?

1 A Yes.

2

3 Q I refer you to paragraph 3(2) at page 6 of your petition. I also refer
4 you to pages 32 to 33 of PBD. Are you saying that by what is
5 stated in Exh. P-4(a) and (b), the respondent was guilty of an
6 offence of the corrupt practice of undue influence by resorting to
7 threaten fear of economic loss upon the Chinese and Non-Muslim
8 voters in the said constituency to vote for the respondent?

9 A Yes.

10

11 Q Can you tell the Court is your allegation in this charge at paragraph
12 3(2) of your petition premised on your allegation then Exh. P-4(a)
13 and (b) were published by the respondent personally?

14 A Yes.

15

16 Q Is it your allegation that Exh. P-4(a) and (b) were published by the
17 respondent personally or circulated with his consent, which one is
18 it?

19 A With his consent.

20

1 Q Is it your allegation that Exh. P-4(a) and (b) were published by the
2 respondent personally or circulated with his knowledge, which one
3 is it?

4 A With his knowledge.

5

6 Q Are you saying it is circulated by him personally with his
7 knowledge and with his consent. Are you saying all three?

8 A With his knowledge and with his consent.

9

10 Mr. Alvin Yong I have complete my cross-examination.

11

12

13 **Cross-Examination of Pw 1 By Mr. Wong Ho Leng**

14

15 Q I refer you to your address that you gave in your Election Petition
16 No. 223-G, Jalan Satok, Kuching. Do you stay there?

17 A No.

18

19 Q Can I know from you whether this address is in the constituency of
20 Bandar Kuching?

21 A Yes.

22

1 Put You are not telling the truth.

2 A I disagree.

3

4 Q Is this address stated in you I/C?

5 A Yes.

6

7 Q In your evidence in chief yesterday, you said your address was Lot
8 11614, Lorong 12, Jalan Stutong, Kuching. Do you live there?

9 A Yes.

10

11 Q Is this address within the constituency of Bandar Kuching?

12 A No.

13

14 Q You said you are a Christian?

15 A Yes.

16

17 Q Can I know from you what is your denomination?

18 A I belong to S.I.B.

19

20 Q Do you know what SIB stands for?

21 A I don't know.

22

1 Q Where is the Church?

2 A At Hope Church, Kuching.

3

4 Q How often do you go to this Church?

5 A Before I suffering dialysis, I go to the Church almost every week
6 but after my dialysis I seldom go.

7

8 Q When did you require dialysis?

9 A 13.01.2007.

10

11 Q You said before you require dialysis, you go to Church every week.

12 So, you must be familiar with the Church Elders and Pastors?

13 A Yes.

14

15 Q Can you name one or two of your Pastors?

16 A My Pastor is a lady then we only called her Pastor.

17

18 Q Can you let us know her name?

19 A Pastor Chieng Kong Chieng.

20

21 Q So, you only know one Pastor?

22 A In our Chinese section, there is only one Pastor.

1 Q After you require dialysis, how often you go to the Church?

2 A Not very often. But my wife keep on going every week.

3

4 Q Does the Church you go to have a lot of “Dayaks”?

5 A No, because we are in Chinese Section.

6

7 Q How many section were there in you Church?

8 A Three. Chinese, English and Iban / Bidayuh.

9

10 Q The words Iban / Bidayuh generally refers to Dayaks, does it not?

11 A Yes.

12

13 Q Do you know whether the Dayak congregation is sizeable in your

14 Church?

15 A Yes, it is.

16

17 Q Do you discuss current issues with your Church Elders?

18 A Yes.

19

20 Q You discuss politics with them?

21 A I did but not very often.

22

1 Q What are the issues apart from politics you discussed with your
2 Church Elders?

3 A Religious matters and general topics.
4

5 Q How long have you been a Christian?

6 A I was baptized almost nine years ago.
7

8 Q Do you attend bible studies in your Church?

9 A Yes.
10

11 Q Do you and your Church Elders discuss on the issue concerning
12 “murtad”?

13 A I don’t know what murtad is.
14

15 Q Murtad is the conversion out of Islam. Do you and your Church
16 Elders discuss on the issue concerning “murtad”?

17 A No.
18

19 Q Do you and your Church Elders discuss the banning of the term
20 Allah to be used in the Bahasa Malaysia version of the bible?

21 A No.
22

1 Q Do you think banning the use of term Allah in Bahasa Malaysia
2 version of the bible can be very sensitive to Christian?

3 A Yes.

4

5 Q Would you agree with me that issue concerning the ban of the use
6 of the word Allah is an important issue for discussion by the
7 people?

8 A Yes.

9

10 Q And this is especially the case because a lot of the Dayaks
11 congregation can only understand Bahasa Malaysia version of the
12 bible?

13 A Yes.

14

15 Q Therefore, politicians must discuss the issue. Am I right?

16 A Yes.

17

18 Q Would you agree with me that responsible politicians must take up
19 the issue?

20 A This is politics. Normally in the Church we don't discuss politic.

21

1 Q You have not answered my question. Would you agree with me
2 that responsible politicians must take up the issue?

3 A Yes.

4

5 Q Have you heard the case of Lina Joy?

6 A Never.

7

8 Q Have you ever heard of the destruction of Orang Asli Churches?

9 A I heard but I cannot verify.

10

11 Q You heard this before the election. Am I right?

12 A Yes.

13

14 Q To be specific, you heard it years before the election?

15 A Yes but I never verified.

16

17 Q Would you agree that you heard about the issue of destruction of
18 Orang Asli Churches happened in about 2005?

19 A Yes.

20

1 Q Can you tell the Court why despite having heard about the issue in
2 2005 on a matter concerning the destruction of Churches you have
3 up to now not verified?

4 A Because during the years I was sick. I was not enthusiastic in a lot
5 of things.

6

7 Q Have you ever heard that some people had to be buried as a
8 Muslim when they died despite the objection of the family?

9 A Yes.

10

11 Q You heard about this long before you surfed the website of the
12 respondent?

13 A yes.

14

15 Q You heard about the case of the Malaysian Mount Everest climber,
16 Moorthy that he had to be buried as a Muslim despite objection by
17 his family?

18 A Yes.

19

20 Q Having heard of that, have you ever shown concern to it?

21 A No.

22

1 Q This fact about a person having to be buried after death is crucial to
2 the dignity of human being, am I right?

3 A Yes.

4

5 Q Have you ever heard that somebody's wife have been detained by
6 the Islamic Religious Authority?

7 A No.

8

9 Q You have required dialysis since January 2007, since when have
10 you suffered the illness?

11 A From the day I started dialysis.

12

13 Q What was the illness?

14 A I suffer from diabetes.

15

16 Q How much you have to pay for your dialysis treatment per month?

17 A About RM920.00.

18

19 Q Who paid the cost?

20 A My son.

21

22 Q How many children do you have?

1 A Three. Two boys and one girl.

2

3 Q How much is your household income?

4 A About RM3,000.00 to RM4,000.00 per month.

5

6 Q How do you understand by the term “Household Income”?

7 A The total income of the household.

8

9 Q How many of your children are living with you?

10 A One and his name is Kho Guan Chiang.

11

12 Q What is his job?

13 A He is Junior Bank Officer.

14

15 Q Do you know how much his income?

16 A I never ask, around RM2,000.00 to RM3,000.00.

17

18 Q Who else live with you?

19 A My wife.

20

21 Q Does she have any income?

22 A No.

1 Q Do you have any income?

2 A No.

3

4 Q In what year did you retire from Tractors Malaysia?

5 A I resigned about 30 years ago.

6

7 Q And you said at that time you were a Sales Manager?

8 A Yes.

9

10 Q When you have no income yourself, how could you afford to pay
11 the deposit for this petition?

12 A I have my savings.

13

14 Q Can you let us know how much is your saving?

15 A Is it necessary to tell? RM20,000.00.

16

17 Q May I know which bank?

18 A CIMB Bank but at the moment it is less than RM1,000.00.

19

20 Q Can we have your bank book this afternoon?

21 A Yes.

22

1 Q When you have no income yourself, who pay the fees for your
2 team of lawyers for this petition?

3 A I pay myself. This is the arrangement between myself and my
4 lawyers.

5

6 Q Have you fully pay your team of lawyers?

7 A Partially.

8

9 Q Do you know a gentleman by a name of Yong Kim Mui?

10 A I heard his name before but not familiar.

11

12 Q 50 years ago you stayed at India Street?

13 A No, I stayed at Ban Hock Lane.

14

15 Q Same place, isn't it?

16 A Almost. Now I see Mr. Yong Kim Mui sitting behind in Court.

17

18 Q You know somebody by the name of Tan Teng Kuang?

19 A Yes. He is in court as well.

20

21 Q They were your childhood friends?

22 A Yes, because we are staying in not far.

1 Q Did you meet them yesterday in Court?

2 A Yes.

3

4 Q Did you tell them someone paid you a million ringgit to file this
5 petition?

6 A Yes because out of anger.

7

8 Q Were you in Court on 29.05.2008?

9 A Yes.

10

11 Q Do you know why you were here?

12 A To file the petition and pay the deposit.

13

14 Court This case is adjourned to this afternoon at 2.30 p.m. for
15 continued hearing.

16

17

18

19

20

21 **SGD: JUSTICE DATUK CLEMENT SKINNER**

22 **Judge**

1 **3rd JULY 2008 @ 2.40 P.M.**

2

3 **Continued Hearing of E.P. No. 26-01-2008-I**

4

5 **Parties as before**

6

7 **Continued Cross-Examination of PW 1 by Mr. Wong Ho Leng**

8 **Witness reminded of oath**

9

10 Mr. Wong I wish to put on record that I wasn't aware that Yong Kim
11 Mui and Tan Teng Kuan were in Court though they are
12 potential witnesses. I have now made sure that they are not
13 in Court.

14

15 Q Have you brought along your bank book?

16 A Yes.

17

18 Q Can you show it to me?

19 A Yes. (Bank book shown to counsel).

20

21

1 Q Is this the only savings book you have?

2 A I got others.

3

4 Q Can you let this Court know if you have any other bank accounts?

5 A Malayan Banking.

6

7 Q Is that all?

8 A Yes.

9

10 Q How many accounts that you have at Malayan Banking?

11 A One.

12

13 Q Do you remember how much money you have in that account at
14 this moment in time?

15 A Less than RM100.00.

16

17 Q Why did not you bring Malayan Banking Savings Book along?

18 A I don't use it for quite sometime.

19

20 Q Do you still have the savings book?

21 A No, I don't know where it is.

22

1 Q You opened this savings account at CIMB Bank on 28.04.2008.

2 Am I correct?

3 A Yes.

4

5 Q You filed this petition also on 28.04.2008, am I right?

6 A Yes.

7

8 Q On 28.04.2008, you deposited a sum of RM7,000.00 into CIMB

9 Bank Berhad, am I right?

10 A Yes, correct.

11

12 Q Where did you get the money from?

13 A It is my own savings.

14

15 Q Where did your savings money come from?

16 A My son.

17

18 Q Where did you put the money before depositing it into the Bank?

19 A In my house.

20

21 Q Why did you develop interest in the Bank on the day you filed the

22 Election Petition?

1 A After paying the deposit for my election petition in cash, I still had
2 balance of money. That is why I opened my account at CIMB
3 Bank.

4

5 Q What time did you put the money in the Bank?

6 A In the afternoon. I can't remember the time, between 2.00 p.m. to
7 4.00 p.m.

8

9 Q Can I have it from you again, who paid the money for the election
10 petition deposit?

11 A I hand over the cash to the lawyer.

12

13 Q Where did you get the cash from?

14 A From my cash savings at home.

15

16 Q You mean, you kept your money at home?

17 A Yes.

18

19 Q RM17,000.00 in cash at home?

20 A Yes.

21

22 Q So, you only have RM17,000.00 in cash at home?

1 A I had more than that, I had about RM20,000.00 of which I used
2 RM3,000.00 for other purposes.

3

4 Q What are this other purposes?

5 A Stand by for my dialysis expenses.

6

7 Q Is that all?

8 A And some personal pocket money.

9

10 Q How much did you standby for dialysis expenses?

11 A About RM3,000.00.

12

13 Q That ends up with having nothing left for your lawyers?

14 A I said before I have arrangement with my lawyers to pay partially.

15

16 Q But, you have about RM20,000.00 at home, you spent
17 RM10,000.00 as a deposit for the election petition, you spent about
18 RM3,000.00 as standby for dialysis expenses, you left a little for
19 personal pocket money, you put RM7,000.00 exactly in CIMB
20 Bank Berhad, you made partial payment to your lawyers, you are
21 already in deficit. Would you agree?

1 A Because I have deposit of RM10,000.00 my lawyers assured me
2 that this case can win and then I can take back my RM10,000.00.

3

4 Q You have not answered my question. Mathematically, you are
5 already in deficit?

6 A Maybe just enough.

7

8 Q You were a Sales Manager before you resigned 30 years ago, so I
9 presume you can do Mathematical calculations very well?

10 A Yes.

11

12 Q Who decided to get Senior Counsel in this petition?

13 A In the first place, I was dealing with Mr. Ling as my lawyer. He
14 told me that maybe some other Senior Counsel wants to help and I
15 say I don't mind.

16

17 Q When did you approach Mr. Ling?

18 A About two weeks after the election results.

19

20 Q Did you know Mr. Ling before?

21 A I know him but not very familiar.

22

1 Q Did you fly to Bintulu?

2 A No, we met in Kuching.

3

4 Q So, Mr. Ling is the one who approached you?

5 A No, it was through a friend.

6

7 Q What is the name of your friend?

8 A Mr. Teng Lung Tai.

9

10 Q Is he the brother of Assistant Minister Datuk Teng Lung Chi?

11 A Yes.

12

13 Q Do you know Assistant Minister Datuk Teng Lung Chi is a leader

14 of SUPP?

15 A One of the leaders.

16

17 Q You know Teng Lung Tai before the election?

18 A About 6 years.

19

20 Q Did he know your financial position?

21 A He doesn't know.

22

1 Q Let us get this very clear. Did you approach Teng Lung Tai for the
2 purpose of filing this election petition?

3 A Yes.

4

5 Q Or was it Teng Lung Tai who approached you?

6 A It was I.

7

8 Q Did Teng Lung Tai help you to decide to file this petition?

9 A No, Teng Lung Tai informed me there is a famous lawyer for
10 election petition. So I asked him to make arrangement to discuss
11 with the lawyer.

12

13 Q Where did you meet Teng Lung Tai?

14 A I think in a food stall.

15

16 Q Where did you meet Mr. Ling?

17 A At the hotel lobby.

18

19 Q What hotel?

20 A Holiday Inn.

21

22 Q Did Teng Lung Tai accompany you in the discussion?

1 A No.

2

3 Q Were there any further meetings between you and Teng Lung Tai
4 after that?

5 A Not very often.

6

7 Q How many further meetings?

8 A After I met Mr. Ling, I saw Mr. Teng Lung Tai more frequently.

9

10 Q Can you tell the Court the reasons you saw Mr. Teng Lung Tai
11 more frequently?

12 A Because Mr. Ling was seldom here. His office was in Bintulu.

13

14 Q Is that all?

15 A Yes.

16

17 Q You are trying to tell this Court that Mr. Teng Lung Tai acted as a
18 proxy to Mr. Ling?

19 A No.

20

21 Q So, you met Mr. Teng Lung Tai not very often but how often after
22 you engaged Mr. Ling?

1 A Two or three times a week?

2

3 Q For how many weeks that you see him?

4 A Two to three weeks.

5

6 Q Am I right to say each time you met up with Mr. Teng you will be
7 discussing about the election petition?

8 A Yes, because he is very concerned.

9

10 Q You said that you have made partial payment to your lawyer, how
11 much have you paid?

12 A It is not convenient to disclose.

13

14 Q I asked you this again. You said that you have made partial
15 payment to your lawyer, how much have you paid?

16 A The first time I only paid RM1,000.00.

17

18 Q How about the second time?

19 A I promised to pay but I didn't pay at all.

20

21 Q So, you only pay RM1,000.00?

22 A Yes.

1 Q You have the receipt with you?

2 A No. It is only an understanding.

3

4 Q After you have made up your mind to file the election petition and
5 after you have met up with Mr. Teng Lung Tai, two or three times
6 a week for two or three weeks, did you go to Genting Highlands
7 for a holiday?

8 A No.

9

10 Q You have been visiting Genting Highlands frequently, haven't
11 you?

12 A I haven't been there for five years.

13

14 Q Prior to the five years, you had been frequently visiting Genting
15 Highland's Casino?

16 A Not frequently, maybe once or twice a year.

17

18 Put That you were frequently visiting Genting Highland's Casino.

19 A I disagree.

20

21 Put That you lost a lot in the Genting Highland's Casino.

22 A No, no such thing.

1 Q You owe debt to anybody?

2 A No.

3

4 Q Has any judgment in Court being entered against you?

5 A No.

6

7 Q Has any bankruptcy proceedings been initiated against you?

8 A No.

9

10 Q Do you know a company by a name of Lee Chuan Hong Sdn.
11 Bhd.?

12 A Yes.

13

14 Q Did you owe this company money?

15 A It was about 15 years ago. Yes.

16

17 Q Have you paid the money?

18 A No.

19

20 Q I refer you to an order against you on 31.07.1990 which entered a
21 judgment against you for a sum of RM5,450.00. So, that judgment
22 you have not settled. Am I right? (Witness shown document).

1 A No, I have not.

2

3 Q I refer you to a bankruptcy notice against you on 09.06.1992
4 (Witness shown document). Do you agree?

5 A Yes.

6

7 Q And the bankruptcy notice was taken because you did not settle the
8 judgment sum, am I right?

9 A Yes.

10

11 Q And by this date, 09.06.1992 the judgment debt amounted to
12 RM7, 056.11, correct?

13 A According here, yes.

14

15 Mr. Wong I tender the order of judgment against Kho Whai Phiaw
16 dated 31.07.1990 as an exhibit.

17

18 Dato' Shafee I object. I do not know whether this judgment was accurate.

19

20 Court Order of judgment against Kho Whai Phiaw dated
21 31.07.1990 is mark as ID-1.

22

1 Mr. Wong I apply for the bankruptcy notice against Kho Whai Phiaw
2 dated 09.06.1992 to be marked as ID-2.

3

4 Court Bankruptcy Notice against Kho Whai Phiaw dated
5 09.06.1992 to be marked as ID-2.

6

7 Q Can you see a copy of the Request for issue of I Bankruptcy Notice
8 dated 05.06.1992?

9 A Yes, I see it now.

10

11 Mr. Wong I apply for the bankruptcy notice against Kho Whai Phiaw
12 dated 09.06.1992 to be marked as ID-3.

13

14 Court The Request for issue of I Bankruptcy Notice dated
15 05.06.1992 to be marked as ID-3.

16

17 Mr. Wong I tender the savings book account of Kho Whai Phiaw at
18 CIMB Bank as an exhibit.

19

20 Dato' Shafee No objection.

21

22

1 Court Savings book account of Kho Whai Phiaw at CIMB Bank is
2 mark as Exh. D-4. The original passbook is to be handed
3 back to the witness and a photocopy of it to be retain in
4 Court as the exhibit.

5

6 Q You admitted that you owed the money to Lee Chuan Hong Sdn.
7 Bhd.?

8 A I do not admit that I owe money to Lee Chuan Hong Sdn. Bhd.

9

10 Q Did you buy the Electoral Rolls, Exh. P-2?

11 A No.

12 Q Someone bought the Electoral Rolls for you?

13 A No.

14

15 Q I refer you to Exh. P-2. Who bought it for you?

16 A I don't know. The lawyer arranged it.

17

18 Q I come back to the issue of your other savings account at Malayan
19 Banking. You said you could not locate your savings book for that
20 account. Am I right?

21 A Yes.

22

1 Q Would you agree that you can get a copy of the statement from the
2 bank?

3 A This savings account was opened in Kuala Lumpur. I did not
4 update the savings account, maybe it is closed.

5

6 Q Am I right to say that you opened this account in Kuala Lumpur
7 during the time when you were working there?

8 A No.

9

10 Q Were you in Kuala Lumpur around 1992?

11 A Yes.

12 Q Your address in your petition, 223-G, Jalan Satok, Kuching, you
13 said it is in Bandar Kuching constituency. Did you say that this
14 morning?

15 A Yes.

16

17 Q Do you maintain that?

18 A Yes.

19

20 Q I want to give you the whole bundle of Electoral Rolls, Exh. P-2. I
21 would like you to point out that 223-G, Jalan Satok, Kuching is
22 within Bandar Kuching constituency?

1 A No. It is not within Bandar Kuching constituency.

2

3 Q In other words, you have given to the Court two addresses. Both
4 are not within Bandar Kuching constituency, am I right?

5 A Yes.

6

7 Q In June 1992, did you live in 223-G, Jalan Satok?

8 A Yes.

9

10 Q Do you still live there?

11 A No, I moved to Jalan Stutong.

12

13 Q When did you move to Jalan Stutong?

14 A 01.01.2008 but the house is still there.

15

16 Q Under whose name?

17 A Under my wife and my son's name.

18

19 Q So, you don't stay there anymore?

20 A Not since 01.01.2008.

21

22

1 Q Having filed this election petition and having engaged a team of
2 lawyers, who would pay for their expenses?

3 A I will pay for the expenses.
4

5 Q Do you know how much these election expenses have been so far?

6 A My own estimate is about RM5,000.00 to RM10,000.00.
7

8 Q You said in your estimate RM5,000.00 to RM10,000.00. Is there
9 somebody else who help you to estimate?

10 A No, I estimated it by my own.
11

12 Q This will not include the expenses in future, do you understand
13 that?

14 A Yes.
15

16 Q Have you paid this RM5,000.00 to RM10,000.00 so far?

17 A No.
18

19 Q Were you in Court on 29.05.2008 when the Motion to admit your
20 Senior Counsel was mentioned in Kuching Court?

21 A Yes.
22

1 Q Did you meet your old time friend by the name of Yong Kim Mui?

2 A Yes.

3

4 Q How long have you been friends?

5 A I never been friend to him. He is only my childhood friend. He
6 was my neighbor not my friend.

7

8 Q He was you neighbor during those times 50 years ago in India
9 Street?

10 A He stayed at India Street but I stayed at Ban Hock Lane.

11

12 Q To get a correct picture, those days you stayed at no. 1 Ban Hock
13 Lane?

14 A Yes.

15

16 Q Two of you grew up together?

17 A Yes.

18

19 Q You played cards together?

20 A I can't remember. It was so long ago.

21

22 Q You played Mahjong together?

1 A Very seldom.

2

3 Q You played Black Jack together?

4 A Maybe.

5

6 Q On 29.05.2008 between 2.20 p.m. and 2.45 p.m., Mr. Yong Kim
7 Mui and yourself communicated with each other face to face in
8 Court?

9 A No. I met him outside the Court in the precinct of the Court.

10

11 Q You met each other in the corridor of the Court?

12 A Yes.

13

14 Q You had a good talk with Mr. Yong Kim Mui, am I right?

15 A No, not a good talk.

16

17 Q But nevertheless, you talked?

18 A He talked.

19

20 Q You told Mr. Yong Kim Mui that you were paid to commence this
21 petition?

1 A Yes because he talked sarcastically and insulted my personality.
2 He questioned me about how much do I get? He asked if it was
3 RM60,000.00 or RM100,000.00. I told him angrily more than one
4 million.

5
6 Put You are not telling the truth now in this Court.

7 A No, whatever I said in the Court is true.

8

9 Q You told Mr. Yong Kim Mui that there were three reasons why you
10 filed this petition:-

11 (1) You want to break the record as a first voter to file an
12 Election Petition;

13 (1) So, that all Malaysian will know Kho Whai Phiaw;

14 (2) You had been paid handsomely.

15 Did you say that?

16 A No.

17

18 Q You also told Mr. Yong that the Judge would not be so brainless to
19 convict Mr. Chong Chieng Jen based on two pieces of white paper
20 that you have. Did you say that?

1 A Mr. Yong asked me the chances of winning and I said Mr. Chong
2 Chieng Jen have won by quite a majority of votes. I humbly said
3 that this was not an easy case to win. That is all.

4

5 Court This case is adjourned to 4th July 2008 at 9.00 a.m. for
6 continued hearing.

7

8

9

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20

21 **SGD: JUSTICE DATUK CLEMENT SKINNER**

22 **Judge**