

DENTISTS REGISTRATION ORDINANCE (Chapter 156)

ORDER MADE BY THE DENTAL COUNCIL OF HONG KONG

It is hereby notified that the Dental Council of Hong Kong ('the Council'), after due inquiry held on 1 December 2016 in accordance with section 18 of the Dentists Registration Ordinance, Chapter 156 of the Laws of Hong Kong, found Dr TONG Yat-him, Clement (Registration No. D03608) guilty of the following charges:—

'In 2015, he, being a registered dentist:—

- (i) sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of a prize-awarding voting activity on the services provided by him in the internet and such activity amounted to advertising and/or canvassing for the purpose of obtaining business and patients; and/or
- (ii) sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of photos, videos and/or other posts on his Facebook Page under the name of '唐逸謙牙科中心 Dr. Clement Tong Dental Centre' (or otherwise known as '康雅牙科中心 Conya Dental Centre'), which promoted his professional services;

and that in relation to the facts alleged, either singularly or cumulatively, he has been guilty of unprofessional conduct.'

On 13 April 2015, a Ms. YIU Yee-ling ('Ms. YIU') filed a complaint via e-mail to the Council about the violation of the Council's requirements on dissemination of information to the public by Dr TONG's feature page on Facebook named 'Dr. Clement Tong Dental Centre' ('the Centre') in respect of both its contents and layout. Ms. YIU attached to her e-mail copies of screenshots of websites, which showed that the Centre hosted a dental photography voting contest under the name of 'My Most Favourite Dr. Clement Tong's Dental Services' ('the Voting Contest'). The screenshots also showed that the Voting Contest was organized and managed by a third-party activity platform named 'Appro Solutions' ('Appro') with an internet link of (<http://www.appro.com.hk>) ('Appro's Link'). They also showed a number of dental photographs (12 in total) of which voters could cast votes and the voters would have the chance to win abundant prizes, and the 1st, 50th, 100th, 250th, 300th, 400th, 450th, 500th, 600th, 700th, 800th, 900th, 1000th, 1200th, 1400th, 1600th, 1800th, 2000th voter would win an electric toothbrush at \$850, on a first-come-first served basis. They also showed that voting had started and would end on 30 April 2015 at 24:00 hours, and winners would be announced on the Centre's Facebook page on 2 May 2015.

On 22 April 2015, the Council received a complaint letter dated 20 April 2015 from the Hong Kong Dental Association ('HKDA') against Dr TONG for unacceptable practice promotion and canvassing. HKDA enclosed in its letter *inter alia* copies of a number of pages printed out by a Mr. CHAN Chi-hin ('CHAN'), the executive officer of HKDA, from the Centre's Facebook page on 15 and 17 April 2015 ('the Centre's Facebook Pages'). From the Centre's Facebook Pages, it could be seen that they contained a large quantity of dental surgery photos, videos, photos of dental implant and periodontal disease treatment, excerpts of media coverage, commercial promotion for orthodontic products (Invisalign) and/or such other posts. They also contained information and promotion of the Voting Contest, and directed voters to click into the Appro's Link should they wish to vote. CHAN had made a Statutory Declaration. CHAN stated that he had clicked into the Appro's Link, and it led him to the webpages of Appro. CHAN printed out a number of pages from the webpages of Appro on 15 and 17 April 2015 ('the Appro's Webpages'). The company profile of Appro, as shown from the Appro's Webpages, stated that it provided innovative marketing solutions and guaranteed a boost in turnover for all industries by canvassing for voters online, and 'no win, no fee'. The Appro's Webpages also provided some examples, which included the Voting Contest of the Centre.

At the inquiry, Dr TONG admitted that in 2015, photos, videos and other posts were published on a Facebook page for his practice under the name of the Centre. The contents of such posts were promotional of his professional services. Dr TONG admitted that he had sanctioned, acquiesced in and failed to take adequate steps to prevent the publication of such posts on the said Facebook page. Dr TONG also admitted that in or about April 2015, a prize-awarding voting activity (which was originally intended to end on 30 April 2015) on the services provided by him was published on the internet, which amounted to advertising or canvassing for obtaining

business and patients for himself. Dr TONG admitted that he had failed to prevent the activity from taking place. Dr TONG did not contest unprofessional conduct in respect of both charges (i) and (ii).

The Council made the following findings:—

Charge (i)

The Council had no hesitation to hold that the Voting Contest was for the sole purpose of advertising and/or canvassing for the purpose of obtaining business and patients. In any event, Dr TONG admitted that the Voting Contest amounted to advertising or canvassing for obtaining business and patients for himself. Dr TONG further admitted that he had failed to prevent the Voting Contest from taking place.

The Council was satisfied that Dr TONG's conduct was seriously below the standard expected amongst registered dentists. It would be regarded as disgraceful and dishonourable by registered dentists of good repute and competency.

The Council therefore found Dr TONG guilty of charge (i).

Charge (ii)

From the Centre's Facebook Pages, there were a number of such posts of photos, videos and/or other posts. For example:—

- (i) There was a post on '9 March', with the following statement 'Dr. Clement Tong Dental Centre provides dental implant treatment. Dental implant treatment should be performed as soon as possible after extraction in order to avoid affecting the growth of other teeth'.
- (ii) There was another post on '15 Dec 2014' with the following statement 'Christmas is only ten days away! Are you ready for a party? How to make yourself the focal point of the whole party? Apart from beautiful appearance and clothing that may attract people's attention, a fascinating smile will also leave a good impression. Have you had scaling and polishing this year yet? If your teeth are not white enough after the last scaling, why not take the chance to have a bleaching treatment during the holiday?' [original Chinese version of the last sentence is '...如果洗完都唔夠白，仲唔快D趁假日前來漂牙?']

According to section 1.2.1 of the Code, information provided by a dentist must be presented in a balanced manner, and both advantages and disadvantages of the efficacy of particular treatment must be set out. The Council considered that the aforesaid posts were not presented in any balanced manner and consisted of very little to no information to educate the public, and the main thrust of which was mainly to invite the viewers to consult Dr TONG. There were a number of other similar publications throughout the Centre's Facebook Pages. The Council had no hesitation that these publications were aiming at soliciting or canvassing for patients. In any event, Dr TONG also admitted that the contents of these posts were promotional of Dr TONG's professional services. Dr TONG also admitted that he sanctioned, acquiesced in and failed to take adequate steps to prevent the publication of such posts on the Centre's Facebook Page.

Dr TONG's conduct was seriously below the standard expected amongst registered dentists. It would be regarded as disgraceful and dishonourable by registered dentists of good repute and competency.

The Council therefore found Dr TONG guilty of charge (ii).

Having regard to the gravity of the case, the Council made the following orders:—

- (a) In respect of charge (i), Dr TONG be reprimanded.
- (b) In respect of charge (ii), Dr TONG be reprimanded.
- (c) The orders above be published in the *Gazette*.

In accordance with section 18(5) of the Dentists Registration Ordinance, the orders of the Council shall be published in the Government of Hong Kong Special Administrative Region Gazette. The full judgment of the Council is published in the official website of the Dental Council (<http://www.dchk.org.hk>).