

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of Hearing: November 23 & 30, 2017

Panel: Melina Laverty, Chair; Moira Calderwood and Daphne Simon, Members

Re: Wei Tan (Report No. 6550)
o/a Angel Beauty Health Centre
Applicant for the Renewal of Holistic Centre's Licence No. B30-3618550
And
Applicant for the Renewal of Holistic practitioner's licence No. T30-3485653
And
Alice Spa Inc.
o/a Alice Spa
Wei Tan, President
Holder of Holistic Centre's Licence No. B30-4063660

Counsel for Municipal Licensing and Standards: Ms Lauren Elliott

Interpreter: (English-Mandarin) Ms Renee Xu

SUMMARY

In December 2015, Toronto's Municipal Licensing and Standards Division (MLS) advised Ms Tan her Holistic Centre Licence for Angel Beauty Health Centre would be the subject of a review, as Ms Tan had failed to report three convictions, and thus was in breach of a condition imposed on her licence by the Tribunal in July 2013. In September 2017, MLS further advised Ms Tan that her Holistic Centre Licence for Alice Spa would also be subject to a Tribunal review.

After hearing the evidence and submissions of the parties, the Tribunal renewed Ms Tan's Holistic Practitioner Licence and the Holistic Centre Licence for Angel Beauty Health Centre, and imposed a probationary period and other conditions on those licences as detailed below. The Tribunal also imposed the same probationary period and conditions on the Holistic Centre Licence for Alice Spa.

INTRODUCTION

1. In October 2004, MLS issued a Holistic Practitioner's Licence to Ms Tan. In April 2007, MLS issued a Holistic Centre Licence to Ms Tan, which is operating as "Angel Beauty Health Centre." In May 2010, MLS issued a Holistic Centre Licence to Ms Tan, which is operating as "Alice Spa." These three licences were before the Tribunal.

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2. On July 26, 2013, the Tribunal considered these licences. MLS brought these licences before the Tribunal as Ms Tan had ten convictions under the under the City of Toronto Municipal Code (“the Code”) and Alice Spa had one charge and one conviction under the Code, and there had been a complaint registered against Ms Tan and Alice Spa. That day, the Tribunal accepted a resolution agreed to by the parties, and issued the licences with conditions, including an immediate five-day suspension, three-year probation, and a reporting requirement.
3. On October 23, 2015, the Tribunal considered the licence of Alice Spa and Ms Tan’s Holistic Practitioner Licence, after Ms Tan failed to report by-law charges incurred by Alice Spa to MLS within five business days. That day, the Tribunal accepted a resolution from the parties and issued Ms Tan’s Holistic Practitioner Licence and the Holistic Centre Licence of Alice Spa again with conditions, including an immediate 21-day suspension, three-year probation, and a reporting requirement.
4. On December 23, 2015, MLS sent Ms Tan a letter advising that the licence for Angel Beauty Health Centre would be the subject of a review, as Ms Tan had failed to report three convictions, and was thus in breach of the reporting condition imposed on her licence in July 2013.
5. On September 14, 2017, the Tribunal adjourned this matter so that MLS may amend the report to include information with respect to the Holistic Centre Licence for the business operating as Alice Spa.
6. On September 29, 2017, MLS sent Ms Tan a letter advising that the Holistic Centre Licence for Alice Spa would also be subject to a review by the Tribunal.

ISSUE

7. The Tribunal needed to determine:
 - a. if Ms Tan had breached the conditions the Tribunal placed on her licence, either on July 26, 2013 or October 23, 2015, by failing to report to MLS any charges or convictions either against her or one of the holistic centres that she operates; and
 - b. whether the charges and convictions under the Code either against Ms Tan, and/or one of the two holistic centres that she operates, provide reasonable grounds to believe that:
 - i. Ms Tan will not operate a holistic centre and/or as a holistic practitioner in accordance with the law, and with honesty and integrity;
 - ii. that her carrying on of the operation of a holistic centre and/or as a holistic practitioner will result in a breach of the law; or

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- iii. that her operation of a holistic centre and/or as a holistic practitioner would infringe or endanger public health and safety.

EVIDENCE OF M.L.S.

Ms Elliott called Olga Kuztelska, MLS Supervisor, as a witness. Ms Kuztelska was affirmed and testified as follows:

8. She is familiar with and signed MLS Report No. 6550 (dated June 22, 2017, pages 1 to 60). There are five updates to the report: dated August 10, August 29, September 13, October 2, and November 22, 2017. Only the update dated October 2, 2017 is numbered (pages 61 to 68), while the other four updates are MLS charts, with the Ministry of the Attorney General Integrated Court Offences Network (ICON) data used to create them. Report No. 6650 and the five updates were entered as Exhibit 1 without objection, and hereafter is referred to as “the report.”
9. She reviewed Ms Tan’s licensing history with MLS, including the three licences before the Tribunal.
10. She indicated that the Code requires the owner of a Holistic Centre to hold a valid Holistic Practitioner Licence.
11. The Tribunal minute from September 14, 2017, indicates MLS would like to add information from a third licence held by Ms Tan to Report 6650, and she noted that information, with respect to Alice Spa, was added as an update, dated October 2, 2017, and numbered pages 61 to 68.
12. The Tribunal minute from July 26, 2013, involved the same three licences now before the Tribunal. On that day, the licences were issued with conditions, including an immediate five-day suspension, and placed on three-year probation, during which time if Ms Tan or Alice Spa incurred any new charges or convictions, they must notify MLS within five (5) business days. During the probationary period, if MLS has concerns with any new charges or convictions, those matters along with the prior report could be brought back for a full hearing.
13. The Tribunal minute from October 23, 2015 documented that Ms Tan had breached her reporting condition, and that Ms Tan’s Holistic Practitioner Licence and the Holistic Centre Licence for Alice Spa were issued, immediately suspended for 21 days, and placed on three-year probation, during which time if Ms Tan or Alice Spa incurred any new charges or convictions, they must notify MLS within five (5) business days. During the probationary period, if MLS has concerns with any new charges or convictions, those matters along with the prior report could be brought back for a full hearing.

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14. MLS sent Ms Tan a letter dated December 23, 2015, informing her of a hearing regarding charges and convictions under the Code against Angel Beauty Health Centre, and Ms Tan's failure to report those charges.
15. Ms Tan and/or Angel Beauty Health Centre incurred five charges in 2016, while the licences were under probation:
 - a. On April 13, 2016, they received two charges (fail to post licence and fail to post licence and unlock doors when posted to do so). The latter charge was reported to MLS one year and six days late, and the other charge was not reported to MLS.
 - b. On September 10, 2016, they received two charges (provide services in unlicensed holistic centre and principal means of access locked), which were not reported to MLS.
 - c. On December 3, 2016, they received one charge (fail to keep proper records), which was not reported to MLS.
16. The MLS chart on pages 25 to 27 of the report shows a total of 20 charges and 10 convictions under the Code against Ms Tan and/or Angel Beauty Health Centre. The charges or convictions happened before October 23, 2015. The 10 convictions, at lines 2, 3, 4, 5, 7, 10, 12, 13, 16 and 20 of the chart, are for offences that happened between September 2010 and January 2015. The convictions were for not keeping the premises in a sanitary condition or tables in good repair, locking doors, constructed to hinder or prevent enforcement, hiring of an unlicensed person, owner of a body rub parlour without a licence, and permitting services to an uncovered person.
17. Ms Tan has had a reporting condition on the three licences before the Tribunal since 2013. Thus she should have reported charges 1 to 9 on the MLS chart on pages 25 to 27. Some of these charges were reported on time; however, the convictions were either reported late, and in two cases were not reported at all.
18. There is one recent charge (holistic owner open after hours) against Alice Spa on February 8, 2017 (page 51 of the report).
19. The MLS chart for Alice Spa of charges or convictions before October 23, 2015, shows a total of 14 charges and nine convictions from July 2014 to August 2015, and all fines paid (page 53 to 54 of the report). These include convictions for fail to keep patient records, fail to post and unlock doors when posted to do so, holistic owner no licence number on advertising, locking doors, table not in good repair, and fail to post list.
20. A paralegal reported five convictions to MLS: two for Alice Spa on January 13, 2016, and three for Ms Tan on December 1, 2015 (page 55 of the report).
21. The November 22, 2017 update shows four charges. The two charges from offences on April 13, 2016 were withdrawn on October 26, 2017, while the

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other two charges (from offences on December 3, 2016 and April 10, 2015) are still before the courts.

Ms Tan was offered the opportunity to cross-examine Ms Kuztelska. Ms Tan wished to provide evidence to contradict information in the report. The panel explained to Ms Tan that she could not provide evidence until she was affirmed and would have the opportunity to do so later, and at this time, she can only ask questions of Ms Kuztelska. Ms Tan indicated she had no questions for Ms Kuztelska.

Panel members questioned Ms Kuztelska and she testified as follows:

22. When asked why this matter has not been before the Tribunal sooner, given MLS sent Ms Tan a letter in December 2015, nearly two years ago, Ms Kuztelska indicated that reports are drafted and then prioritized by urgency as there are limited hearing dates. This matter was not considered to be a health and safety issue, or to put the public at risk. As a result, this matter was a lower priority.
23. She confirmed there were currently three charges still before the courts.
24. She explained that the conviction regarding safekeeping was with respect to not having a place for clients to safely store valuables when receiving services.

Ms Elliott did not call any other witnesses.

APPLICANT'S EVIDENCE

Ms Tan called Mr. Ronald Wu, who was affirmed and testified as follows:

25. He is a real estate agent.
26. He attended the MLS offices in the East York Civic Centre to assist Ms Tan with her licence renewals as he speaks good English as well as Mandarin.
27. He could not initially recall the year he attended, but later indicated he attended twice to assist with renewals, and believes this happened in 2014 and 2015.
28. He recalls meeting with Mr. Terry Van Elswyk, then Supervisor of Licensing Services, on both occasions. At one of the renewals, Mr. Van Elswyk told Ms Tan that she had another ticket, and would have difficulty renewing her licence. He questioned why Mr. Van Elswyk told Ms Tan about the ticket and why she had not received anything in the mail about such a ticket.

Ms Elliott cross-examined Mr. Wu and he testified as follows:

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29. He met Mr. Van Elswyk when Ms Tan last renewed her licence. He believes it was October 2015. He was there to help her with the renewal. The licence was renewed that day.
30. He has met Mr. Van Elswyk twice: once by the staircase area, and the second time near to the licensing office on the second floor.
31. Mr. Van Elswyk warned Ms Tan about a new ticket and said, "You will have difficulty."

Panel members questioned Mr. Wu and he testified as follows:

32. He has known Ms Tan for about 10 years. He was her real estate agent and assisted her with some purchases. He attended MLS to assist her as a friend. Ms Tan did not pay him to help her; rather he assisted her as he does others in the community because of his knowledge of English and Mandarin. Similarly he attended the "Queen Street" courthouse to help her there.

The hearing resumed on November 30, 2017. On that day, Ms Tan testified on her own behalf via an interpreter. Ms Tan was affirmed and testified as follows:

33. She has been in the holistic centre industry for 10 years. The past five years have been a "nightmare." In her first five years of operation, she took care of and paid her tickets herself. Five years ago, she retained a lawyer, and would give any tickets she received to him. She has been so stressed about her business that she is unable to eat or sleep, and started to lose her hair.
34. She was able to handle the initial tickets herself because they required attendance at the Scarborough courthouse. Her stores are in Scarborough and she was able to attend court. Once the tickets issued required her to attend the courthouse downtown on Queen Street, she was unable to attend as she did not know how to get to that courthouse via public transit.
35. Once she had a lawyer, she needed to attend the lawyer's office. Her lawyer contacted then MLS supervisor (Mr. Van Elswyk). She became concerned they would close down her businesses. After that time, all the tickets issued against her or her businesses required attendance at the Queen Street courthouse. She believes this was done intentionally as MLS and/or her lawyer knew she did not like to go downtown. All the neighbouring businesses which were issued a ticket had to go to the Scarborough courthouse. She was the only Scarborough business owner who had to go downtown. When she did attend the courthouse downtown, she asked others attending and they all were from businesses operating downtown. She is also concerned her lawyer wanted the tickets to be handled downtown as he could then charge more money.
36. She paid her lawyer in cash, and was never given a receipt. She believes that her lawyer wanted cash payment so he could share this money with others, including MLS staff and City by-law officers. In particular she believes her

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lawyer shared the money with Mr. David Williams, by-law officer, and Mr. Van Elswyk.

37. She eventually had to close two of her stores.
38. She asked the Tribunal to look at page 23 which shows that one particular by-law officer (Mr. Williams) gave all the tickets. Many times he gave a ticket for offences that did not occur, or for which he had no evidence. For example, her holistic centres always have the door open, and yet she was ticketed for locking the door.
39. The tickets are “cancelled” automatically after one year. After about one year, a by-law officer would attend the centres, and issue a new ticket.
40. Her staff told her the doors are always unlocked.
41. She questions why the by-law officer (Mr. Williams) never handed the tickets directly to her or her staff but instead gave the ticket to his supervisor, Mr. David Kugelman, who then gave the ticket to another by-law officer, Mr. Neil Merrigan.
42. On March 28, 2017, a by-law officer (Mr. Merrigan) attended the centre at 7:37 pm, and gave the ticket to her in an odd manner. Mr. Merrigan pulled the ticket out of his coat and gave it to her as if he was “a thief.” [Ms Tan re-enacted what happened for the Tribunal and indicated that he reached into his coat to get the ticket and thrust it toward her.] She confronted him about why he gave the ticket to her in that manner. That day, he refused to provide his name, business card, or other identification. Ultimately, he gave the name of his supervisor (Mr. Kugelman) and she made an appointment with the latter. When she met with the supervisor, she asked why the officer acted in that way when he gave her the ticket.
43. She has noticed that 90 percent of the tickets she has received were issued by the same by-law officer (Mr. Williams). She believes that Mr. Van Elswyk, Mr. Williams and her lawyer worked together like a “criminal gang.” She would like to be treated fairly and would like the Tribunal to investigate the lawyers, MLS staff and officers involved.
44. When she has gone to court about some of the tickets, the judge “cancelled” or withdrew them. The judges now know her story very well.
45. She attended the Tribunal in October 2015, and her licences were suspended for 21 days, including the licence for Alice Spa, even though she was told her licence for that spa was “fine.” Mr. Van Elswyk told her she could renew that licence.
46. Another time she attended MLS offices and Mr. Van Elswyk told her she could not renew her licence, and she questioned on what day a ticket had been issued to Angel Spa, as she had been there every day and nobody had given

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her a ticket. Mr. Van Elswyk claimed Mr. Williams gave her the ticket. Coincidentally Mr. Williams was at the MLS offices and bumped into them in the hallway. She confronted Mr. Williams who said that he had not attended the Angel Spa. She was very angry with Mr. Van Elswyk, and felt that he was after her money. Mr. Van Elswyk told her she needed to attend court for the ticket, and she told Mr. Van Elswyk, "If you do this I will tell everyone what you did to me." Mr. Van Elswyk told her to get a lawyer and to tell the truth. She said to Mr. Van Elswyk, "I will tell the media (CP24, etc.) and after that I will jump from the CN Tower."

47. Someone has died because of this case, and the police are aware. The police told her to come here to tell her story. After she got the tickets initially and her licences were suspended, she blamed herself. She was very upset and crying while she was driving. She was unable to see, and hit someone with her car. The person died, and she lives with the shadow of someone's death hanging over her every day.
48. She knows others operating holistic centres, and they do not have many tickets. She tries to organize her business very well. She has told other business owners of her story, and to not use the same lawyer. After that the lawyer called her day and night, and left threatening voicemails. She was concerned and went to the police, and they listened to the voicemail, and said it was not a good way for a lawyer to treat you.
49. She has much evidence she can show to support her story. She feels she is at a disadvantage because she does not speak English well, and is concerned other people who come to Canada and have poor English skills are similarly disadvantaged. She does not know why she continues to receive tickets. She feels as if she has been treated unfairly and never expected this to happen in a country like Canada.
50. When she came to the Tribunal the first time, her lawyer and Mr. Van Elswyk spoke, but nobody asked for her point of view. They made up stories, then the Tribunal closed her stores.
51. She ended up paying her lawyer lots of money.
52. She blamed herself for everything.
53. She asks that the Tribunal compare how many tickets her spa has received to other spas.

Ms Tan was asked if she had any documents to submit to the Tribunal. Ms Tan stated that she did not have anything to submit, and pointed to the MLS report (Exhibit 1) saying the information was in that report.

Ms Elliott cross-examined Ms Tan and she testified as follows:

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54. When questioned about what evidence she had of the many serious allegations she has made against MLS staff and her lawyer, she indicated she did not have further documents to support those allegations. She also indicated she did not have a copy of the voicemail message she took to the police. She stated that she told the truth today.
55. When questioned about the July 2013 Tribunal appearance and the proposed resolution, she indicated that she agreed to that settlement and the five-day suspension because her lawyer told her to do so. She did not want her licence to be suspended but she did not feel she had any choice.
56. When questioned about the reporting requirements in the 2013 resolution, she indicated she was aware that she was required to report charges and convictions within five days.
57. When questioned about the October 2015 Tribunal appearance and the proposed resolution, she indicated that she agreed to it, but felt she had not choice in the matter. She admitted that it was a compromise.
58. She agreed that there were five new charges against her or her centre as outlined on page 15 of the report. When asked about the fact four charges had not been reported to MLS, she indicated that the tickets “were made up.” She did not record those tickets. She did not keep track of them, and she did not report them, except one which she admits she reported to MLS over a year later.
59. She did not have a lawyer after October 2015.
60. When asked if some of the tickets were withdrawn due to delay, she indicated she was not sure, did not know which ticket was being referred to, and did not understand the question.
61. With regard to the charges before October 2015, she indicated that she did not know why she got these tickets, no one showed her the photographs to prove any of these things happened, such as photographs to prove her washroom was not clean.
62. After the first Tribunal hearing, she gave her tickets to her lawyer. Then the Tribunal closed her two stores. She does not think the first Tribunal decision was fair. She was not wrong. The stories were made up by other people. They were “made up” tickets.
63. When questioned about the past convictions, she indicated that she was not guilty.
64. When questioned about the four convictions related to “locking doors,” she could not recall if she went to court, and if she pled guilty, and said she does not know who gave the tickets. She claims the spa doors are always open,

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and she has a notice posted that says the doors must be open, and her staff know the law about the doors, and follow the law.

Panel members questioned Ms Tan and she testified as follows:

65. She does not operate any other businesses aside from the two holistic centres. This is how she supports herself. She does not support anyone else.
66. She did hire a paralegal after she no longer trusted her lawyer. She did give tickets to a paralegal at one point.
67. When directed to look at page 55 of the report, which shows a paralegal firm in January 2016 reporting convictions to MLS, she indicated that she does not believe she continued to have that firm represent her after that time.
68. She only has one staff member at each location aside from herself. Her staff know to call her if a by-law officer attends one of the centres. People do not want to work for her because they know that the by-law officers will be in attendance.
69. She was asked about the November 20, 2017 court date regarding the charge against Alice Spa and indicates that matter was postponed.

Ms Tan did not call any other witnesses.

CITY'S SUBMISSIONS

In her closing submissions, Ms Elliott, on behalf of MLS, submitted that Ms Tan's three licences (the Holistic Practitioner Licence and the two Holistic Centre licences) should have conditions imposed on them, including a 35-day suspension and three years of probation. In particular, she submitted that:

70. Ms Tan has made a series of unfounded, and frankly incredible, allegations against MLS and her former lawyer, including that Ms Tan believes MLS and her lawyer are conspiring against her. She has provided no concrete evidence of these allegations, including for example the voicemails she said she had received. MLS requests that the Tribunal disregard these allegations entirely.
71. The Tribunal has a narrow jurisdiction and is here to consider whether Ms Tan has operated her businesses in accordance with the law, and whether Ms Tan followed the conditions imposed on her licence by the Tribunal.
72. Ms Tan and Alice Spa have a lengthy list of charges and convictions under the Code. As outlined in the report, since 2010 there have been ten convictions against her and/or Angel Beauty Health Centre and nine convictions against Alice Spa.
73. Ms Tan has also appeared before the Tribunal twice before today. Both times she entered into a settlement with the MLS in which she agreed to a

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suspension, reporting requirements, and a probationary period. Since the last Tribunal appearance in October 2015, Angel Beauty Health Centre has incurred five new charges under the Code, but Ms Tan only reported one of those charges to MLS, and in that case she reported the charge more than one year late. Alice Spa was also charged in 2017, and Ms Tan did not report this to MLS either.

74. The Tribunal suspended the three licences for five days in 2013, and for 21 days in 2015. These are serious penalties that reflect MLS's concerns at the time. Even though in October 2015, Ms Tan received an escalated penalty (that is, a significantly longer suspension), this did not lead to change, and Ms Tan did not correct her conduct or take responsibility for it. Ms Tan says that her centre doors are "always open," yet she has been convicted nine times for having the doors locked. Ms Tan has resorted to incredible allegations in order to avoid taking responsibility for her actions. Ms Tan has shown herself to be ungovernable. The Tribunal imposed conditions on her licences twice and both times the conditions were breached.
75. However, the records for the three licences do show improvement since the last time Ms Tan was before the Tribunal, that is, improvement in terms of the underlying conduct as opposed to her ability to comply with the reporting requirement. Prior to October 2015, there were 34 charges against the licences and since October 2015 there have only been six charges.
76. Two of the licences (Alice Spa and the Holistic Practitioner Licences) are still under probation until October 23, 2018. MLS is satisfied that a three-year probation period on all three licences starting immediately is appropriate. Because of administrative changes at MLS, whereby staff are able to obtain updates of charges and convictions electronically, there will no longer be a reporting requirement. During the probationary period, MLS will monitor the businesses more closely.
77. In 2013, the licences were suspended for five days. In 2015, the licences were suspended for 21 days. MLS is of the view that a longer suspension is appropriate and requests the Tribunal suspend the licences for 35 days.

APPLICANT'S SUBMISSIONS

Ms Tan submitted that:

78. She was able to renew the licence for Alice Spa in July 2017 without an issue. [She later submitted that the renewal occurred in January 2017 rather than July 2017.] Alice Spa has a good record, and no conditions should be imposed on that licence.
79. Before the 2013 Tribunal appearance, she did nothing wrong, and she ended up with a suspension and a three-year probation. Given that she did nothing wrong, why should she follow the conditions imposed by the Tribunal? Many other holistic centres have more tickets than her centres and none of them

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have had to go to the Tribunal. Her first mistake five years ago was to give her tickets to a lawyer to handle.

80. The next time she receives a ticket from a by-law officer, she indicated she would do everything required by law. She would also consider hiring an office manager to assist with the running of the business.
81. Currently, there is limited business in the neighbourhood where she operates. She is concerned about losing staff, which happened after her last Tribunal hearings when her licences were suspended.
82. She is also travelling back and forth to China to care for her elderly mother who is ill.
83. She is looking for the Tribunal to consider what she has said today and provide a reasonable and fair decision.
84. She would like the Tribunal to issue licences for her spas, and then she would like to sell the businesses. She would like to live a peaceful and less stressful life, and also take care of her mother.

After deliberations, when the Tribunal returned to issue its oral decision, Ms Tan asked to submit further evidence. The Tribunal did not accept evidence at this point in the proceedings. During the hearing, both the Chair and Ms Elliot had asked Ms Tan several times if she had any documents to submit, and she replied that she did not.

DECISION

85. In considering whether to renew, grant or deny a licence, and whether to do so with or without conditions, the Tribunal must balance the protection of the public interest with the need of the licensee to earn a living.
86. Section 545-4 C of the Toronto Municipal Code sets out the grounds for denying renewal of a licence, including the following:
 - a. The conduct of the applicant affords reasonable grounds for belief that the applicant has not carried on, or will not carry on, his or her trade, business or occupation in accordance with law and with integrity and honesty; or
 - b. There are reasonable grounds for belief that the carrying on of the trade, business or occupation by the applicant has resulted, or will result, in a breach of this chapter or any other law; or
 - c. The conduct of the applicant or other circumstances afford reasonable grounds for belief that the carrying on of the business by the applicant has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, the health or safety of other members of the public.

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87. Having weighed the evidence, the Tribunal is satisfied that MLS has shown that there are reasonable grounds to believe that Ms Tan will not operate her business in accordance with the law, or that her carrying on of the business may result in a breach of the Code. The Tribunal noted that Ms Tan did not take responsibility for her past conduct or failure to operate her businesses in accordance with the law. The thrust of her evidence was to deny or explain away her charges or convictions. She did not acknowledge that her convictions show she has not always complied with the Code. She did not acknowledge that she had ever done anything wrong, in spite of many charges and convictions over the years.
88. In addition, by breaching conditions the Tribunal imposed on her licences in July 2013 and October 2015, the Tribunal has concerns about Ms Tan's governability. With regard to those conditions, Ms Tan also did not take responsibility for failing to report charges or conditions to the MLS, even though she admitted to knowing she was responsible for doing so.
89. Prior to the last Tribunal hearing in October 2015, Ms Tan had 34 charges and 19 convictions in connection with her operation of two holistic centres and providing services a holistic practitioner. Between September 2010 and October 2015, there were 20 charges and 10 convictions against Ms Tan and/or Angel Beauty Health Centre. Between July 2014 and October 2015, there were 14 charges and 9 convictions against Alice Spa. This is a significant amount of charges and convictions in a relatively short period of time.
90. There is no question her record has generally improved since the October 2015 Tribunal order. Since then, Ms Tan and/or one of her holistic centres has been charged six times. Of those charges, two are still pending, and four of them have since been withdrawn or dismissed. The pattern of improving compliance is most evident for Alice Spa, as there were 12 charges in 2014, two charges in 2015 and only one charge in 2017. With respect to Angel Beauty Health Centre, the pattern is less clear, as there were seven charges in 2010, three charges in 2011, five charges in 2014, four charges in 2015, and five charges in 2016. That said, four of the five recent charges against it have been withdrawn.
91. While the general improvement in compliance was a positive factor in Ms Tan's favour, the Tribunal was concerned that Ms Tan failed to accept responsibility for any of the charges or convictions against her or her holistic centres, either recent ones or from the past. Ms Tan suggested that there was a conspiracy on the part of MLS, her lawyer and a by-law officer, and that she was treated unfairly by MLS in various ways, such as by having to attend court downtown rather than in Scarborough, by receiving tickets that were unwarranted and in excess of those operating similar businesses, among other things.

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92. Ms Tan suggested one by-law officer (Mr. Williams) issued 90% of the tickets against her and did so without any evidence. In reviewing the Report (Exhibit 1), it is apparent that tickets have been issued by several different by-law officers. In our view, even if most of the tickets were issued by one by-law officer, this does not suggest anything untoward. To the extent, as Ms Tan claims that a by-law officer issued tickets to her or one of her holistic centres without sufficient evidence, it would be up to a court to decide the merits of that evidence.
93. Ms Tan also alleged that her lawyer, MLS staff, and/or City by-law officers, conspired against her, and operated like a “criminal gang” with the aim of taking money from her. Ms Tan did not provide any evidence to support these allegations, other than her own testimony, which the Tribunal did not find credible. Ms Tan’s witness, Mr. Wu, mentioned seeing Mr. Van Elswyk when they attended MLS to renew some of Ms Tan’s licences, but his evidence fell very short of in any way supporting Ms Tan’s allegations of conspiracy. Though Ms Tan claimed to have received threatening unprofessional voicemails and to have made a police report, she did not submit either the voicemail or any documents to support that she made such a report. The Tribunal’s jurisdiction is limited to the issuance, renewal, revocation or placing of conditions on licences; we have no authority to investigate if a lawyer, City by-law officer or MLS has engaged in improper conduct. Even if we did have such jurisdiction, aside from Ms Tan’s testimony, we were provided with no credible evidence to support her allegations.
94. The Tribunal was troubled by Ms Tan’s inability to abide by the reporting requirements the Tribunal imposed on her licences in July 2013 and October 2015. This raised concerns about Ms Tan’s governability and her ability to respect the Tribunal’s orders. Ms Tan stated that she did not feel compelled to fulfill the conditions which the Tribunal imposed, because the Tribunal’s first order was wrong, and at the time she did not feel she had any input into the decision and her lawyer did all the talking.
95. Ms Tan suggested at various times she relied on either her lawyer or paralegal to report her tickets, and that she just gave them the tickets. Even if we accept that at certain times Ms Tan relied on her lawyer or paralegal to report new charges or convictions, Ms Tan herself stated that after October 2015, she no longer had a lawyer, and after January 2016, she did not have a connection with the paralegal firm. Yet Ms Tan still failed to reported new charges to MLS. In addition, it appears generally when Ms Tan did have a legal representative, the charges and convictions were reported to MLS. We were also struck by the fact that Ms Tan never said that she realized she should make efforts not to incur tickets in the first place.
96. The Tribunal was somewhat reassured by the fact that Ms Tan did indicate if she were to receive another ticket she would respond to it accordingly and that she would consider having a manager to assist with or make the changes needed to ensure compliance with the law.

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97. In its determination of whether a licence should be issued, refused, or have conditions placed upon it, the Tribunal also considered section 545-3 B (3)(c) of the Toronto Municipal Code, that is, Ms Tan's need to earn a living.
98. For over 10 years, Ms Tan has supported herself as a holistic practitioner and by operating a series of holistic centres. Her holistic centres do not currently have many staff. She told the Tribunal there is normally only one person in attendance at either centre, and she is often the sole practitioner at one location. Ms Tan told the Tribunal she has no dependents though travels periodically to China to care for her elderly mother. In the Tribunal's view, Ms Tan's need to earn a livelihood provides an additional reason in favour of renewing her licences.
99. Despite Ms Tan's clear livelihood needs and general improvement in complying with the law, the Tribunal remained concerned about her ability to comply with the law because she continues to incur new charges, and does not seem to take responsibility for her past failures to comply with the law, even when she or her business has been convicted under the Code. As such, the Tribunal felt it necessary to impose conditions on Ms Tan's licences. All three licences will be on probation for three years, until November 30, 2020. The Tribunal noted that even if we had not ordered this, two of the licences would have remained on probation for a year based on the Tribunal's October 2015 order. Probation means that Ms Tan and her businesses are under increased monitoring and scrutiny by MLS. Ms Tan has suggested she has been unfairly targeted over the last five years, and the Tribunal wishes to remind her that she was placed on probation in 2013 and that does mean her businesses were subjected to increased monitoring by MLS.
100. The Tribunal decided to suspend the licences for fourteen days to impress upon Ms Tan our concerns about her governability by failing to comply with past conditions imposed by the Tribunal on her licence, and her failure to accept responsibility for the charges and/or convictions incurred on her licences.
101. In 2013, at her first Tribunal appearance, Ms Tan had incurred many charges and convictions, and the Tribunal accepted a settlement from the parties, which included a five-day suspension. In 2015, at her second Tribunal appearance, Ms Tan had incurred further charges, and failed to report charges and convictions as required by the Tribunal's 2013 order. The Tribunal again accepted a settlement from the parties, which included a 21-day suspension. MLS proposed increasing the suspension to 35 days as the 21-day suspension had not led to compliance; however, the Tribunal felt a 14-day suspension was sufficient. Unlike prior appearances, on the present occasion, Ms Tan has shown improvement in her underlying behaviour in that she has incurred fewer charges over time, and most of those charges have been withdrawn and/or dismissed, but at the same time her compliance and governability remain a concern. Weighing these factors, the Tribunal decided a 14-day period of suspension was appropriate.

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102. Though it is true, as raised by Ms Tan, that Alice Spa has the most improved compliance as compared to Angel Beauty Health Centre, even if we had not suspended that licence, it would have been suspended by virtue of the Code, since to operate a holistic centre, a person must also hold a valid Holistic Practitioner's Licence.

ORDER

For the reasons set out above:

Ms Tan's Holistic Practitioner Licence and the Holistic Centre Licence B30-3618550, operating as Angel Beauty Health Centre, will be renewed, effective immediately, with the following conditions:

- (1) Immediately upon being issued, the licence will be placed on probation for a period of three (3) years to commence on the date of issuance, and will be suspended for fourteen (14) days;
- (2) During the probationary period, if MLS has concerns with any new charges or convictions, those matters and Report No. 6550, and any updating material, may be brought back before the Tribunal for a full hearing.

Effective immediately, the following conditions are also imposed on Holistic Centre Licence B30-4063660, operating as Alice Spa:

- (1) Immediately upon being issued, the licence will be placed on probation for a period of three (3) years to commence on the date of issuance, and will be suspended for fourteen (14) days;
- (2) During the probationary period, if MLS has concerns with any new charges or convictions, those matters and Report No. 6550, and any updating material, may be brought back before the Tribunal for a full hearing.

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Originally Signed

Melina Lavery, Chair

Panel Members: Moira Calderwood and Daphne Simon concurring

Reference: Minute Nos. 326 & 327/17

Date Signed: December 14, 2017