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**Dismissal of Bank's Top Executives**

*Ab Jabar bin Ab Rahman v Kuwait Finance House (Malaysia) Sdn Bhd*  
(Industrial Court Award No 936 of 2018)

| by Shariffullah Abdul Majeed, Farah Dini Zaini and Aida Yasmin  
Cheree Mohamad |

Last Tuesday (24 April 2018), the Industrial Court upheld the dismissal of three senior management employees of a bank — the Deputy Chief Executive Officer, the Acting Commercial Head of Banking and the Director of Credit and Operations Administration.

They were dismissed following a domestic inquiry into their misconduct over non-compliance with Bank Negara Malaysia's Guidelines and the bank's own Corporate and Commercial Risk Policy. As a result of the non-compliance, a number of facilities granted by the bank ended up being classified as *Non-Performing Financing*.

The Industrial Court held that the employees had been justifiably dismissed:

- i. In the case of the Deputy Chief Executive Officer, for approving the issuance of the bank's Credit Memorandum and Credit Proposal without satisfying all the requirements outlined in its internal policies and guidelines. Further, his failure to initiate a special review and financial risk assessment when required had exposed the bank to unnecessarily excessive risk;
- ii. In the case of the Acting Commercial Head of Banking, for her failure to conduct careful and in-depth analysis prior to recommending approval of the bank's Credit Memorandum without ensuring that the necessary requirements were fulfilled including the aggregation of proportionate guarantees and replacement collateral;
- iii. In the case of the Director of Credit and Operations Administration, for his failure to execute his duty as outlined in his employment contract as well as the bank's internal policy when he entered into an agreement on behalf of the bank

without ascertaining that the contracting party had complied with the terms of the relevant facilities agreement.

The Industrial Court went on to say that long-serving employees holding high managerial posts in a bank were expected to be well-versed with its internal policies and guidelines. Therefore, their failure to comply amounted to serious misconduct warranting dismissal.

The Industrial Court also found that the three employees had failed to discharge their fiduciary duty to the bank and its customers.

The employer was represented by partners Dato' Thavalingam C Thavarajah and Shariffullah Abdul Majeed of [Lee Hishammuddin Allen & Gledhill](#).

**Shariffullah Abdul Majeed, Farah Dini Zaini** (Pupil-in-Chambers) and **Aida Yasmin Cheree Mohamad** (Pupil-in-Chambers)

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