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## Why you should keep important WhatsApp messages



In the absence of any documents, Whatsapp messages may be a lifesaver that can bail you out in a business-related dispute. PHOTO: REUTERS



**Tan Ooi  
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Invest Editor

**SINGAPORE** - If you use WhatsApp or similar messaging services to discuss matters with your business partners and customers, make sure you keep a good record of these communications.

In the absence of any documents, these messages may be a lifesaver that can bail you out in a business-related dispute.

This is especially so if you like to make deals verbally, or rely on "a gentleman's agreement".

A verbal agreement is good under the law but it has a big disadvantage if the party you deal with is no gentleman. When this happens, it becomes a contest between your word and his.

Even if you are telling the truth, you are still faced with the challenge of proving that the other party is a liar.

Thankfully, the Singapore High Court recognises the common practices of people using mobile phones to send messages and it will treat these seemingly banal exchanges as contemporaneous evidence to prove whether an event happened or otherwise.

In the case involving a business consultant who sued a media company for breaching a verbal agreement to pay him for bringing in business, Judicial Commissioner (JC) Philip Jeyaretnam showed how such messages were used to resolve a legal dispute.

## Proof of the discussion

During the trial, both sides were at loggerheads over what was said at a crucial meeting in December 2018: The consultant said he should receive a 10 per cent commission over the entire project costs while the then-company chairman claimed it was only 3 per cent of a part of the project.

In trying to uncover what had transpired during the meeting, the judge looked at the parties' conduct after the meeting.

A day after the meeting, the judge noted that the consultant sent a WhatsApp message to a common friend to relate the good news that the chairman gave him a 10 per cent commission.

The friend then replied, saying that he was very happy for the consultant and that he should continue to work hard for the chairman, who was described as "a good man" by the friend.

The next day, the consultant took a screenshot of the exchange and sent it to the chairman, who then responded with a short message: "We help each other."

JC Jeyaretnam wrote in his judgment that these messages were significant proof that both sides had agreed that the commission would be 10 per cent of the contract amount at the meeting.

The consultant, he noted, would not have sent a message to his friend about the 10 per cent if this was not true. If this message wrongly reflected the agreement, the chairman would have immediately denied it upon receipt of the screenshot of the messages. Moreover, the man did not stay silent - he responded as a friend might, saying they "help each other".

The judge took this message to mean that just as the consultant had helped the chairman by introducing and helping to secure the contract with a big client, the chairman was helping him in relation to the commission.

Unfortunately for the consultant, the chairman's actions did not match his words, the judge said.

## Proof of people's action

The way you respond to your messages can sometimes speak volumes of your character as well as the truth of what is being discussed. This was what the judge had found when he analysed the messages, based on his observation of the parties' behaviour during the trial.

He noted that the then chairman was a calm, careful and methodical person, and not someone who would leave uncorrected a point that would implicate his company.

The consultant, on the other hand, was more "emotional and impulsive", in that he had rushed to the chairman's office to get the amount agreed, and that he had also repeated the point that he was getting 10 per cent of the contract value twice in other WhatsApp messages, a few months after the first exchange.

It would have been simple for the chairman to type out a quick response to correct this if the claim was untrue. But the fact that he did not do so confirmed that he did not contest the consultant's account of what had transpired when they met in person, the judge found.

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## What you should do

The mobile messaging system may be a good platform to build business relationships or even hold an informal business negotiation.

But you should know that you cannot rely on it entirely if you want things to run smoothly for your business.

Yes, you can sue your partner and use the messages as proof but you would not want to do this each time you run into problems because legal suits are expensive and time-consuming.

So what should you do?

After each successful negotiation over an informal mobile exchange, follow up on the points raised in a discussion by drafting a simple agreement that the parties can sign.

In discussing the terms of the business, you should correct any significant points that you find are inaccurate or wrongly reflected.

Don't just remain silent or worse, respond to other points without correcting the errors, because the other party can then say that you have indirectly agreed to their points, based on your messages.

Just remember that written words are often easier to prove than words that are spoken.

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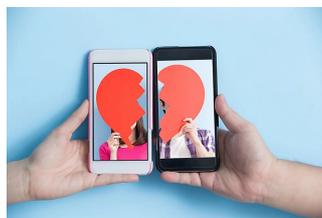
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