

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

BETWEEN:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

-and-

CHRISTOPHER MARK HUTCHINGS

Respondent

**SRA's Skeleton Argument
for Substantive Hearing of 13/10/25
(6/10/25)**

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Preliminary matters

Purpose and Scope of this Skeleton Argument

1. This Skeleton Argument is served in accordance with the standard directions. It sets out the SRA's position with respect to preliminary issues that may arise and summarises the allegations and the evidence relied upon. So far as the latter section is concerned, for the avoidance of doubt, that part is provided for the assistance of the Tribunal and the Respondent as indicative of the way in which the Applicant ("the SRA") intends to open and, in due course, present its case. It does not, and does not purport to, detail every point of law or evidence upon which the SRA may rely upon at the hearing; and the SRA reserves the right to amend and augment its case, both in opening and in the presentation of its case.

Relevant Directions

2. Directions were made as to the management of the substantive hearing at the Case Management Hearing (CMH) of 19/6/25 (Memorandum of that hearing [F#8 (F40 – F52)]¹) which included the adoption of an anonymisation scheme and directions as to the hearing of some of the evidence in private.
3. As the Memorandum of that CMH explains, both the privacy and the anonymisation measures – as described below – were, in the Tribunal's view, necessary in order to protect material subject to legal professional privilege (LPP), on the basis that such measures constituted the least incursion possible into the principle of open justice, in circumstances in which the alternative would be for the Tribunal to hear all evidence and submissions relating to the privileged information in private: see, in particular, CMH Memorandum, paras 6, and 30 – 36.
4. In particular, the Tribunal directed that:

¹ References in this form are to the caselines pagination and item number.

- 4.1. Any oral evidence from any witness (including the Respondent) relating to the underlying litigation (which means evidence of and submissions relating to the events up to the signing of the Consent Order) is to be heard in private at the Substantive Hearing (paras 63.3 and 63.4).
 - 4.2. Client B shall give evidence wholly in private at the Substantive Hearing (para 63.2).
 - 4.3. The Anonymisation Schedule as agreed between the parties be used for the Substantive Hearing (para 63.1). The latest iteration of the Anonymisation Schedule, to which that order referred, is at **[A#3 (A40 – A44)]**. Essentially, the anonymisation scheme adopted is as follows: all natural and corporate persons other than the Respondent and his relevant colleagues at his firm, Hamlins LLP (“Hamlins”), are anonymised; as are the facts and relevant entities relating to the underlying litigation; as are the dates relating to the underlying litigation and relevant publications. Outside of the anonymisation scheme is the chronology (the dates of which are not anonymised) of a period commencing sometime after the publication of Publication 2, and running from early September 2018 and up to and beyond the telephone conversation on 18/10/18, which is the subject matter of the allegations.
5. The Division of the Tribunal appointed for the substantive hearing has subsequently made further decisions and orders, namely, that:
- 5.1. the Respondent's application for Counsel L to give evidence in private is granted. (Decision sheet 1/9/25 **[F#9 (F53)]**);
 - 5.2. pursuant to Rule 35(9) of the Solicitors (Disciplinary Rules) 2019, the Tribunal orders that the disclosure or publication of any matter likely to lead to the identification of any person, entity or other matter anonymised in the proceedings is prohibited. (Ibid.; Order 4/9/25 **[F#10 (F 54)]**.)

Press attendance at private session

6. The question of whether members of the accredited press should be able to attend those parts of the hearing that are to be held in private was reserved by the Tribunal at the CMH of 19/6/25. The Tribunal determined that any decision in that regard was one that should be made by the panel hearing the substantive application.

(Memorandum of that hearing [F#8 (F40 – F52)] at para 36; see also the background to that decision in an application by Mr Moloney on behalf of the press, at para 5.) This request has been repeated in the e-mail [N#4 (N39 – N40)] which accompanied the Non-Party Disclosure application from Megan Davis at Spotlight on Corruption for copies of documents in the case [N#3 (N37 – N38)].

7. The SRA recognises that in determining what is required, the Tribunal will need to take proper account of both the inviolable nature of legal professional privilege, as it applies to the particular facts of the case, and the weighty consideration of the principle of open justice. For the present, the SRA reserves its position on this question, until such time as it is in possession of any developed written submissions on the point or that it becomes apparent that there will be none.

Abuse of process and/or procedural impropriety

8. The SRA responded to submissions to this effect contained in the Respondent's Answer [T/39 – 116]² in its Reply of 2/10/24, at paras 2 – 12 [T/117 – 126]. The Respondent has not subsequently indicated an intention to pursue these submissions and the certificates of readiness (“COR”) filed by the parties, containing an agreed timetable by the parties (Respondent's COR [G#5 (G35-G46 esp. at G40)]; SRA COR [G#7 (G48-G59)]), provides for no time to be set aside for the determination of these issues. Accordingly, the SRA understands that these points are abandoned by the Respondent.
9. For the avoidance of doubt, the SRA contends that if these issues are to be pursued, they would need to be argued and determined by the Tribunal as preliminary issues, and the SRA provided with proper particulars of any contended prejudice and given sufficient time to respond thereto

Introduction

10. The case against the Respondent relates to his work as a solicitor at Hamlin's, where at the relevant time he was a partner and the head of the Entertainment, Marketing and Intellectual Property department. He is a specialist in contentious media

² References in this form are to the pagination in the Core Bundle as paginated in caselines in section T. NB. The cross-references in the anonymised and annotated Rule 12 statement in the Core Bundle contains cross-references to the Core Bundle with the prefix “CB/”, although the pagination that follows corresponds to the [T/] references.

disputes, with a particular focus on defamation, privacy and copyright matters. (See his witness statement [T/130 –164].)

11. The allegations against him focus on a telephone call with a fellow professional, Solicitor G, also a specialist in media law, which took place on 18/10/18. (Solicitor G is now a partner, but was a senior associate at the time.) It was prearranged. They were both representing their respective clients: the Respondent representing client A, and Solicitor G representing Client B.
12. The background, in the broadest sense, is this. Following a history of previous litigation between the 2 clients, the Respondent was trying to use the leverage of a threat of further litigation to extract a benefit from Client B, a copyright licence of value to his client. The threat of further litigation was based on the Respondent's contention that Client B was in contempt of court, as a result of matters stated in their recent publication, Publication 2, and that, consequently, they were liable, amongst other things, to be committed to prison for contempt. The threat was, therefore, one with very serious consequences.
13. The SRA alleges that, in the course of the conversation, the Respondent knowingly said two things to Solicitor G that were untrue. This is allegation 1.1.
14. The allegation is derived from the evidence of Solicitor G themselves, who relies on a note that they made shortly after the call, recording both matters (a telephone attendance note ["TAN"] made the following day) and what the SRA says amounts to compelling supporting evidence in the form of the surrounding correspondence and events.
15. The two things were:
 - 15.1. [allegation 1.1.1]. that he [the Respondent] had spoken to counsel [Counsel M, instructed on behalf of his client, Client A] and that he [The Respondent] had been told [by counsel] that his client [Client A] had a ***strong case for bringing contempt proceedings***, and/or
 - 15.2. [allegation 1.1.2]. That ***Client A had only heard yesterday about references to themselves in Publication 2***, or words to that effect.
16. In doing so, the SRA alleges that the Respondent:

- 16.1. breached any or all of Principles 2 (act with integrity) and 6 (behave in a way that maintains the trust the public places in you and in the provision of legal services) of the SRA Principles 2011 ("the Principles");
 - 16.2. failed to achieve Outcome 11.1 (you do not take unfair advantage of third parties in either your professional or personal capacity) of the SRA Code of Conduct ("the Code"); and
 - 16.3. did so dishonestly (with dishonesty alleged as an aggravating feature, rather than an ingredient of the above-mentioned allegations).
17. The SRA further alleges that the threat of litigation, in the circumstances, was improper. This is allegation 1.2, which specifically alleges that, in the course of that telephone conversation with Solicitor G, the Respondent ***“improperly made a threat of litigation”***.
18. In doing so, the SRA alleges that the Respondent:
- 18.1. breached any or all of Principles 1 (uphold the rule of law and proper administration of justice) 2 (act with integrity) and 6 (behave in a way that maintains the trust the public places in you and in the provision of legal services) of the Principles; and
 - 18.2. failed to achieve Outcome 11.1 (you do not take unfair advantage of third parties in either your professional or personal capacity) of the Code.
 - 18.3. (Dishonesty is not alleged in relation to allegation 1.2.)

Allegation 1.1 (untruthfully [falsely and/or misleadingly] and dishonestly stating to Solicitor G that Counsel M had advised that Client A had a *strong case* for bringing contempt proceedings and that Client A had *only heard yesterday* about the references to themselves in Publication 2)

The Respondent's position

19. The Respondent denies that he said that Counsel M had stated that there was a “*strong case*” for bringing contempt proceedings, as alleged in allegation 1.1.1. (Answer [T/39-116] at para 5.b.).
- 19.1. He relies on a script for the telephone call [T/471-472] that he had prepared in advance of the call. He maintained that he prepared and stuck to the script, and that the script supports his position. He also relies upon the presence of

his colleague, Mr Galbraith, at the call, and the absence in Mr Galbraith's note of any indication of a deviation from the script. (Answer [T/39-116] at para 120 et seq.).

- 19.2. In the alternative, he asserts that if he did say the words alleged then this was an example of him "*misspeaking*" / "*an innocent slip of the tongue*" (ibid., at para 135.).
 - 19.3. He denies the allegation that he was dishonest in these respects (ibid., at para 140).
20. The Respondent denies that he said in the call that '*Client A had only heard yesterday about Publication 2*' (Answer [T/39-116] at paras 7(d), 142). (It is common ground that Client A was aware of the publication of Publication 2, which had been published some weeks earlier, considerably in advance of the telephone call.) The specific points that the Respondent raises in response (Ibid. at para 142 et seq.) include:
- 20.1. There is no history of Client B or Solicitor G complaining about this matter (ibid., at para 142);
 - 20.2. It would involve an improbable contraction of activity in 24 hours, including taking instructions from counsel, which would not have been credible to Solicitor G at the time (ibid., at paras 147 – 150);
 - 20.3. The motives ascribed to the Respondent by the SRA for making such a false statement (which are returned to below in their context) are an inadequate explanation (ibid., at paras 151 – 158);
 - 20.4. It is more likely that Solicitor G was confusing what the Respondent said about Publication 2 being "*a new issue*" (ibid. paras; 158 – 159);
 - 20.5. As with allegation 1.1.1, in the alternative, he asserts that if he did say the words alleged then this was an example of him "*misspeaking*" / "*an innocent slip of the tongue*" (ibid., at para 161).

Factual Background

The wider factual background: the underlying litigation and Consent Order

21. The wider factual background to all the allegations, including allegation 1.2, consists of earlier '*underlying litigation*' between Client A and Client B, which had involved both the Respondent, representing Client A, and Solicitor G, representing Client B.
 - 21.1. Little will be said about it in the public hearing³.
 - 21.2. That is because the Tribunal has already ruled, at an earlier hearing, that all submissions and evidence relating to the underlying litigation will be heard in private⁴.
 - 21.3. The Tribunal explained that both the private hearing and the extensive anonymisation regime adopted in this hearing were necessary in order to protect material subject to legal professional privilege, on the basis that such measures constituted the least incursion possible into the principle of open justice, in circumstances in which the alternative would be for the Tribunal to hear all evidence and submissions relating to the privileged information in private.
 - 21.4. Gender neutral pronouns are adopted herein when speaking of anonymised persons.
22. Without entering into the history of the underlying litigation, the essential context to understanding the subsequent events can be briefly described⁵.
23. Client B is a journalist. In the course of one of their publications, Publication 1, they made allegations of widespread corruption in relation to a matter, and named Client A as a lawyer providing legal services connected to the matter. The Respondent represented Client A and was involved in the bringing of a legal claim

³ It is set out in the Rule 12 Statement ("R12") at paras 8 and 9.

⁴ CMH 19/6/25 Memorandum of that hearing [F#8 (F40 – F52)] at paras 6 and 30 – 36.

⁵ This is an anodyne summary of matters already ventilated in a public hearing in this matter. Mention has already been made by counsel for the Respondent in an open hearing, at the CMH of 19/6/25, of this much: the fact that there is a "Scandal" connected to the underlying litigation (Memorandum of that hearing [F#8 (F40 – F52)] para 25); the fact that the underlying litigation concerned serious allegations made against Client A by Client B, which were (said to be) subsequently admitted to be false and defamatory (ibid., para 20); and the settlement of the underlying litigation between Client A and Client B by way of a consent order (ibid., para 41).

by Client A against Client B for libel. That claim was brought to an end by the parties agreeing the terms of a consent order (“the Consent Order”). Counsel were instructed, for the purposes of that claim, by Client A, through the Respondent. One of the counsel was Counsel M. In particular, Counsel M was the *'architect'*⁶ of the Consent Order.

Post-Consent Order concerns and the desire for a copyright licence

24. Following the Consent Order, Client A's legal team, including the Respondent, had a number of concerns.

24.1. First, they believed that there had been breaches of the Consent Order, by the continued publication of certain matters by Client B themselves in Publication 1.

24.2. Secondly, they believed that similar content had been republished by third parties.

25. At that point, and prior to the publication of Publication 2 by Client B, the Respondent and his colleagues at Hamlins were actively considering the possibility of trying to obtain a copyright licence from Client B for the benefit of Client A. The purpose, and benefit to Client A, of such a copyright licence was that it could be used as a *'take down'* remedy, to try to get the third-party *republishers* of the material in question to remove it, on the basis that it infringed Client B's copyright in the material⁷. So, the licence, if granted, would enable them to stand in Client B's shoes and demand that the publication should cease.

Publication 2, and the events in the run-up to the call of 18/10/18

26. The immediate background to the telephone conversation of 18/10/18 was the subsequent publication by Client B of a further publication, Publication 2. Client B had discussed the content of Publication 2 with their legal representative, Solicitor G, prior to its publication⁸. Publication 2 explored the same allegations of widespread corruption as Publication 1, but did not mention Client A by name.

⁶ See Respondent's comments [T/406-407]; statement [T/148] para 91.

⁷ See R12 statement, para 11; and the reference to the email at [T/397].

⁸ Client B statement, para 21 [T/220].

27. The events that followed, in the run-up to the telephone conversation of 18/10/18, provide important context for the telephone call and the related allegations. They are the documents referenced in the rule 12 statement at paras 13-32 (to which some reference will be made). The SRA submits:
- 27.1. There was never a belief, or basis for a belief, on the part of the Respondent (or his colleagues at Hamlins) that the case for a contempt order was strong. To the contrary, there was a recognition from the outset that there were a number of substantial obstacles to overcome (principally that the Consent Order was wider than the court would provide and that Client A wasn't actually named in Publication 2). See esp. [T/406-407] (R12, para 16).
- 27.2. The strategy put before Counsel M was a fully worked up 'prepackaged' one by the Respondent and Hamlins comprising a two-stage approach: first, threatening contempt proceedings in relation to the alleged breaches through Client B's publications, without mentioning a copyright licence; and secondly and subsequently, using the leverage of that threat to try to extract a copyright licence to deal with the separate issue of third-party publications. See esp. [T/406-407] (R12, para 16); [T/410] (R12, para 18).
- 27.3. Counsel M was consulted and provided a strictly preliminary analysis that the argument for contempt arising from Publication 2 amounted to "*a reasonably arguable case*", which was based on a complicated analysis in fact and law [T/423-426] (R12, para 20). In fact, Counsel M never expressed a final view on the merits of an action for contempt or gave the '*green light*' to threatening such an action [T/437] (R12, para 22). The Respondent recognised that, in order for Counsel M to form a final view and give a '*green light*', Counsel M would need to be provided with further information (ibid.). It was Client A who pushed for the threat to be made anyway, on the basis that they wanted to apply pressure through the threat to get the passages removed, without any intention to litigate the contempt action [T/447] (R12, para 23). That they had no intention to litigate was a consistent position on the part of Client A: [T/406] (R12, para 17); [T/457] (R12, para 25); [T/454] (R12, para 26); see also [T/514] (R12, para 58).

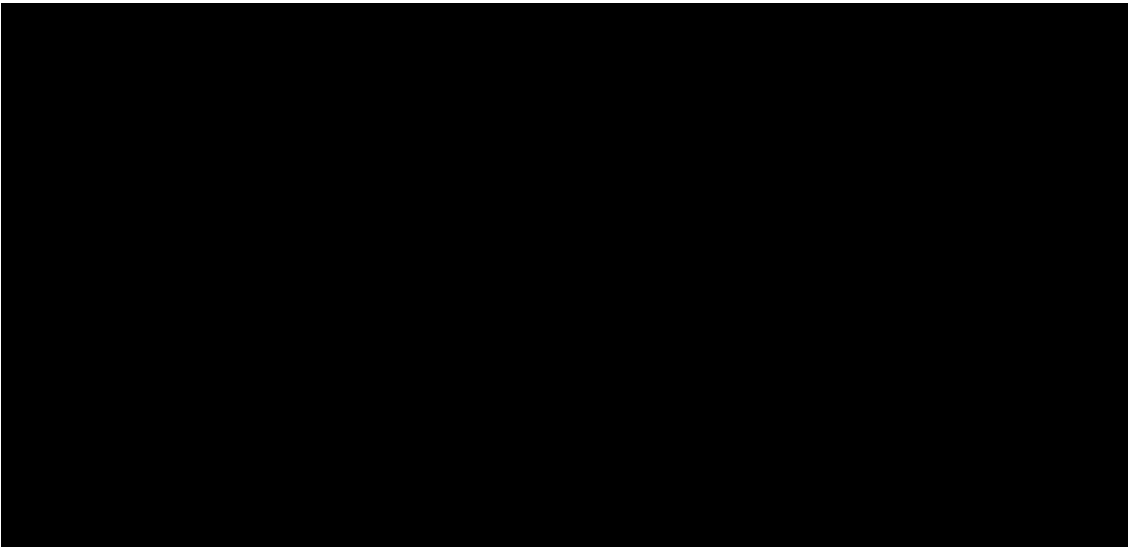
- 27.4. In the end, that strategy (of threatening but not litigating contempt proceedings) caused its own difficulty. It did not allow for the making of the threat without getting to the bottom of the merits or the question of whether Client A would follow through with the threat. That was because Counsel M advised that if they made the threat of contempt proceedings, there was no ducking the issue of whether Client A was going to litigate for contempt; and counsel M repeatedly emphasised the danger of using the threat of contempt proceedings (for which the remedy was committal to prison) to obtain the different remedy of a copyright licence, one that was not available for contempt proceedings, because that would look like blackmail and would be the improper use of the threat of litigation to obtain an improper collateral gain [T/457] (R12, para 25); [T/458] (R12, para 28).
- 27.5. The solution adopted by the Respondent was not to obtain a final view from Counsel M as to the merits of contempt proceedings or to engage with Counsel M's advice about the dangers of improper threats for collateral gains. Instead, he proceeded to plan a phone call to Solicitor G to implement the plan that he had put to Counsel M in the first place: to use the threat of contempt proceedings to try to get the copyright licence. Nor did he get Client A to indicate definitively whether they wished to go to court. See: [T/459-462] (R12, para 30); [T/463] (R12, para 31); [T/464] (R12, para 31).

The scripts for the calls

28. On the day of the telephone call, 18/10/18, there was an exchange of emails between the Respondent and Solicitor G to arrange a mutually convenient time to speak. The call itself took place at about 5 pm.
29. On the same day, in the morning, the Respondent sent a series of emails to Client A, copying in his colleagues, Callum Galbraith and Tom Forshaw, attaching 3 sequential versions of the 'script' for the call that he had prepared [T/467 – 472], each of which bears the title "*Script for call with Company H*". He described the first one in the covering email [T/468] as "*a short summary of the points I intend to make on the call*". It is self-evident that the documents are indeed no more than summaries, in truncated note form, of evolving points to be made.

30. There is a comparison of the key passages contained in the rule 12 statement, at para 33, set out helpfully in a table which illuminates the differences between the 3 drafts [T/16].
31. The scripts map out, essentially, the prepackaged strategy that the Respondent first presented to Client A on 2/10/18 [T/406-407] and about which he sought advice from Counsel M the following day on 3/10/18 [T/410], which was to use the threat of contempt for breaches of the Consent Order by Client B through their publications to leverage a copyright licence to address third-party publications. (There is a development of the prepackaged strategy in that, instead of having 2 stages, with the first stage involving keeping quiet about the real purpose of leveraging a copyright licence with the threat of contempt proceedings, the plan in the scripts is for the whole of the strategy to be implemented at the same time in a single telephone call.) The principal complaint relates to publication 2, which is described as a *"new issue"* (see para 3 of the final script [T/471]) although complaints are also made about publication 1.
32. There are 2 evolving components emphasised and compared in the table in the rule 12 statement: a part dealing with contempt of court and the advice received from counsel as to its likelihood of being established and its seriousness; and a *"way out"* section, proposing the alternative of a copyright licence. The final version also contains a *"willingness to issue"* section (para 12) and an *"only alternative section"* (para 14) which details that, if option one (i.e. the way out) is not accepted, the client will be *"left with only alternative, which [they] instructs me [they] will pursue, to bring contempt proceedings, get the book pulped ..."*

33.



33.1.

33.2.

33.3.

33.4.

33.5.



Solicitor G's account; and support for it in subsequent events and correspondence

34. Solicitor G gives an account, supported by his TAN, made the following day [T/317 – 318] which indicates that his recollection of the conversation reflects the basic structure mapped out in the Respondent's script. He is clear that the matters alleged in allegation 1.1 were said in the course of that conversation. He recalls regarding the call as unusual and the threat of contempt proceedings by the Respondent surprising. They recall, and the TAN records, that they took issue with the suggestion that Publication 2 was in breach of the Consent Order, making the point that it did not refer to Client A and asserting that the terms of the Consent Order permitted Client B to write about the corruption in question (the subject matter of their Publications 1 and 2) particularly where no reference was made to Client A.
35. The TAN records that one of the reasons Solicitor G regarded the proposal as “unusual”, and said as much to the Respondent in the course of the call, was that the Respondent confirmed that if Client A got what they wanted, i.e. the copyright licence, they were content to leave Publication 2 unamended. The TAN includes this passage:
- “[Solicitor G] said that leaving aside the merits of that point, was CH suggesting that if [Client B] did cooperate then [Client A] would be content to leave [Publication 2] unamended ...? CH said that he would have to take instructions on that precise point, but, generally, yes his client couldn't 'have his cake and eat it'. His client's position may be different on electronic copies of the book. [Solicitor G] said this was a somewhat unusual proposal to say the least.”
36. Solicitor G produces (in his second statement [T/237]) the metadata which confirms that the TAN was created and modified in the afternoon of 19/10/18. Solicitor G states that the TAN was drafted entirely from recollection, without any intermediary note, even to the extent of recording (accurately) the page numbers of documents mentioned by the Respondent. (If accepted, that is plainly an indication of the

precision and accuracy of his recollection.) The TAN [T/317] records the matters pleaded in allegation 1.1 and related passages of significance, including:

- 36.1. *"[Client A] had heard only yesterday about references to [themselves] in the book, which CH was absolutely confident were in breach of the order";*
 - 36.2. *"CH had gone to counsel on the issue, who had advised that [Client A] was entitled to bring committal proceedings against [Client B] over the breach. Counsel had advised that there was a strong contempt case".*
 - 36.3. *"CH's Counsel had now advised that [Client A] had a strong basis for bringing contempt proceedings against [Client B]".*
37. Subsequent events (as set out in the rule 12 statement at paras 37 – 58) lend support to Solicitor G's account. They do so, as set out further below, in the following respects:
- 37.1. First, the Respondent conspicuously failed to dispute Solicitor G's clear assertion in correspondence that the Respondent had asserted that there was a *"strong basis"* for the contempt proceedings, despite the Respondent addressing his mind to that very issue in his reply. That gives the lie to the Respondent's subsequent denial that he had used those words.
 - 37.2. Secondly, when Solicitor G accused the Respondent of improperly threatening contempt to leverage a copyright licence, in language that echoed strikingly Counsel M's warning to the Respondent of the impropriety of that very conduct, the Respondent - himself also echoing strikingly the very same language - first denied the accusation, and then, when accused of blackmail by Solicitor G, backed off seeking the copyright licence. In those circumstances, the Respondent was plainly conscious of his own flagrant disregard of the warning given to him by Counsel M against making a threat in those terms, a fact also confirmed by correspondence from his colleague, Mr Galbraith, with the client, copying in the Respondent [T/498]. Further, the fact that the Respondent backed off, indicates the Respondent's consciousness of the impropriety of the threat itself, when it was called out as *'blackmail'* by Solicitor G.

- 37.3. Thirdly, they establish, beyond doubt (and contrary to the written evidence of Client A as to his secret, but uncommunicated, intention⁹) that, to the knowledge of the Respondent and his colleagues at Hamlins, Client A never intended to follow through with the threat of bringing contempt proceedings to a conclusion. That underscores that the Respondent's plan, subsequently carried out, to say that Client A did have that intention, in the Respondent's final script for the telephone call of 18/10/18, was false and/or misleading.
38. The relevant subsequent events include the following:
- 38.1. An email in the afternoon of 19/10/18 [T/315 –316] from Solicitor G to Client B attached the TAN, confirming its existence at a time that corresponds to the creation and modification times in the metadata.
- 38.2. An email dated 22/10/16 from Solicitor G to the Respondent [T/325-326] communicated that Client B was not prepared to agree to the proposal, which Solicitor G, reflecting the language of Counsel M (although they wouldn't have known that), described as "*improper*" on the basis that "*the threat of criminal sanction cannot be used to extract an ancillary or unwarranted benefit*". Significantly, it included the passage: "*You said that (1) your client has a strong basis for bringing committal proceedings against our client...*"
- 38.3. On 23/10/18, [T/487 – 488] the Respondent forwarded to Client A that email, and they agreed to dispute the suggestion that the strategy adopted in the telephone call was improper. Significantly, neither of them balked at Solicitor G's suggestion that the Respondent had spoken of a "*strong basis*" for bringing committal proceedings.
- 38.4. On 26/10/18, the Respondent replied by email [T/493 – 494] to Solicitor G's email of 22/10/18. The reply was a bullish rebuttal of the suggestion of

⁹ See Witness Statement of Client A, paras 25-30 [T/174-186]. In any event, as Client A recognises, whatever may have been his secret intention, the Respondent *understood* that he had no intention of litigating the contempt: see his paras 29-30, and his reference to the Respondent's email of 8/10/18 [T/433] (Rule 12, para 21). The Tribunal is respectfully reminded of the SRA's position in its NOTE for CMH 19/6/25 at para 21 [I#7 (178-187 at 186)] that, notwithstanding the SRA's acceptance that the conditions for a Civil Evidence Act application were met with respect to Client A, "[M]uch of the contents of the statement [of Client A] is, however, disputed and would have been subject to cross-examination had the witness attended [and] If the witness does not attend, the Applicant will submit that relevant factors reduce the weight that should properly be accorded to the evidence, pursuant to s.4 of that Act."

impropriety, disputing that Client A had (through the Respondent) *"raised the spectre of committal proceedings so as to improperly extract a collateral benefit"* (echoing the warning that he had been given by Counsel M). The Respondent did not take issue with the suggestion that he had spoken of a *"strong basis"* for bringing committal proceedings. Further, the Respondent specifically addressed the advice that had been received, stating in his email *"I contacted you having already received advice as to the strength of my client's position in this regard."*

38.5. On 26/10/18, Solicitor G responded [T/499 – 500] to the Respondent's email of 26/10/18. (This followed consultation with his client, Client B, in which they discussed whether Client A's threat constituted blackmail, and Client B discussed approaching the SRA, as indeed they subsequently did.) Solicitor G's email made similar points to the Respondent, contending that *"the threat of a contempt application (including the threat of serious criminal sanction), an additional threat to have the book pulped, both used as leverage for your 'request' for a copyright licence"* came across *"to us as blackmail"*¹⁰. He asked that Client B's demand be withdrawn.

38.6. On 31/10/18, the Respondent's colleague, Callum Galbraith, sent an email to Client A [T/498], copying in the Respondent. It contains a revealing passage that confirms that both the Respondent and his colleagues at Hamlins were conscious that they had departed from the advice of Counsel M: *"As you know, Counsel M's advice was not to seek the licence alongside threatening a committal application, we will need to involve [them] if the matter proceeds but [they] will certainly reiterate his earlier advice."*

¹⁰ In fact, the comparison has traction. By Theft Act 1968, s. 21(1) *"A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—(a) that he has reasonable grounds for making the demand; and (b) that the use of the menaces is a proper means of reinforcing the demand."* By Theft Act 1968, s.34(2) ... (a) *"'gain' and 'loss' are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; ..."* By Theft Act 1968, s.4(1) *"(1) 'Property' includes money and all other property, real or personal, including things in action and other intangible property."* That is apt to include a licence in intangible property, such as copyright. A demand with menaces will be unwarranted unless D genuinely believes both that there are reasonable grounds for making the demand, and that it is proper to reinforce it with those particular menaces: see Blackstone's Criminal Practice 2025, para B5.56.

38.7. On 8/11/18, The Respondent sent an email to Solicitor G [T/501] responding to his email of 31/10/18. Amongst other things, it withdrew the request for a copyright licence, stating "*...For the avoidance of any doubt, our client does not seek any copyright licence as referred to in your earlier correspondence, but this is not because we consider that your legal arguments have merit, we do not*".

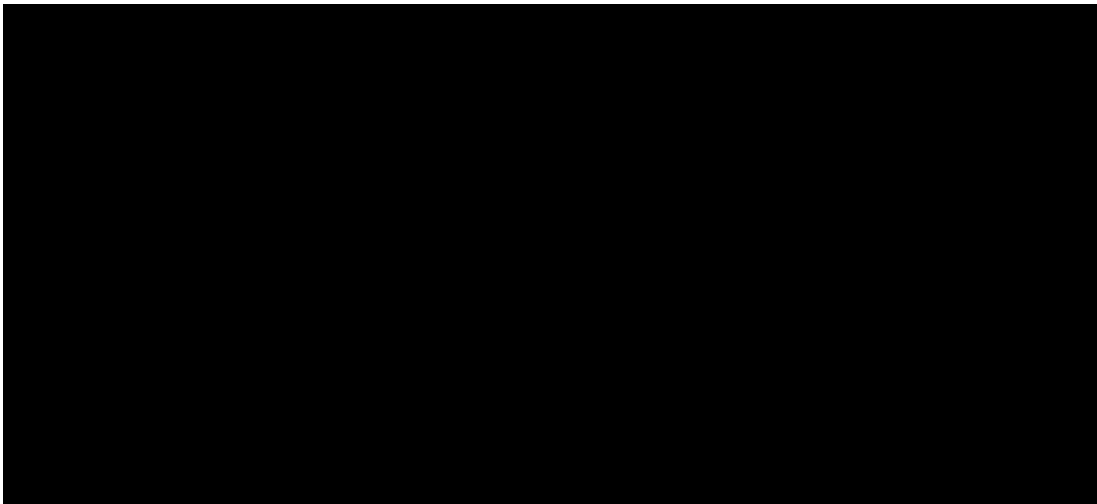
38.8. On 5/12/18, another email from Mr Galbraith to Client A, copying in the Respondent [T/514], discussed the mechanics of serving a committal order on Client B. It is clear that, notwithstanding the contemplation of the possibility of upping the ante in that way, it remained the case that such a course was being contemplated on the basis that Client A continued to have no intention of actually litigating contempt proceedings. It contains this passage: "*There is no case law which I can locate which addresses when you need to issue the proceedings after the Order is served but that's irrelevant given you do not intend to go down this route.*"

The SRA's case on allegation 1.1

39. The SRA's detailed arguments are set out in the rule 12 statement at paras 69 – 82.

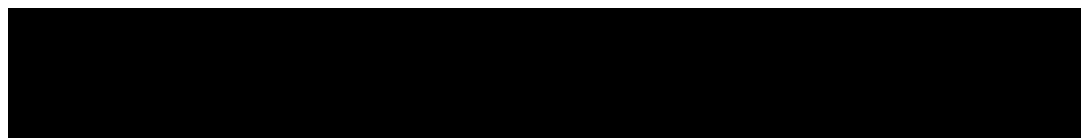
40. In summary, and with some supplementation to address the developed arguments in the Respondent's Answer, the SRA contends as follows.

41.



42. The evidence of Solicitor G, on the balance of probabilities, is to be preferred to the Respondent's account.

43.



- [REDACTED]
44. The subsequent history of communications between the Respondent and Solicitor G lends support to the latter's position. The Respondent did not baulk at Solicitor G's assertion that he had spoken of there being a "*strong basis for bringing committal proceedings*" [T/325-326]. The Respondent had only purported to convey the advice of counsel, not his own. So, he could not have understood this to be a reference to anything other than what he had said counsel had advised. When Solicitor G called out the impropriety of what they characterised as blackmail, in terms that were redolent of the language used and the warning given by Counsel M, the Respondent backed off and withdrew the request for a copyright licence, when that was the only real objective all along.
45. As for allegation 1.1.2, the SRA advances 2 motives to explain why the Respondent made a false statement as to when Client A became aware of Publication 2 (rule 12 statement, paras 70 – 71)
- 45.1. First, that it was to explain not mentioning the letter of 11/10/18 [T/459]. As set out in the rule 12 statement, at para 359, this was a communication complaining only about matters relating to Publication 1. It was sent at a time when Counsel M was raising issues about the impropriety of using the threat of contempt proceedings for a collateral gain, and prior to the Respondent and Client A deciding not to follow that advice. In its context, therefore, it was somewhat artificially advancing one complaint whilst deferring the more difficult one.
- 45.2. Secondly, the falsity conveyed the advantageous impression that the proposal was being advanced speedily as a response to Publication 2. That would tend to strengthen the (untrue) suggestion that Client A was intent on proceeding immediately to issue contempt proceedings if Client B did not take the '*way out*' offered. (The original plan was to use similar subterfuge, by keeping quiet in the stage 1 threat of contempt phase about the stage 2 leveraging of the copyright licence phase.)
46. The further arguments advanced in the Respondent's Answer in relation to allegation 1.1.2 are misconceived:

- 46.1. The Respondent's reliance on the absence of a complaint by Client B or Solicitor G, as a matter that undermines the allegation is, as a matter of logic, a bad point. The reason that there is no history of Client B or Solicitor G complaining about this matter is because they did not know, and could not know, that it was a false statement. That was a matter only known to the Respondent and his team, and, in due course, the SRA, through its investigation of this matter
- 46.2. Contrary to the Respondent's case, there was nothing in the false assertion itself to alert Solicitor G to its falsity. There is nothing remotely improbable about speedy action in many forms of litigation, including defamation cases. It is common knowledge that speed and urgency is often required in order to try to minimise the harm caused by a continuing wrongful act, such as defamation. That is the purpose, for example, behind urgent cease and desist letters.

Allegation 1.2 (improperly making a threat of litigation)

The Respondent's position

47. The Respondent's submissions, which are a mixture of law and fact, are set out in his Answer [T/39-116]. They are summarised in the SRA's Reply [T/117-126] at paras 15 – 16. Essentially, the Respondent contends that the obtaining of a copyright licence was not collateral to the grievance caused by Publications 1 and 2; that Client A had not ruled out bringing contempt proceedings; and that Counsel M did not take a different view, or, if he did, he was wrong.

Facts

48. The relevant facts are those set out above in relation to allegation 1.1.

The SRA's position

49. The SRA's position is set out in the rule 12 statement at paras 76 – 82 and supplemented in the SRA's Reply [T/117-126] at paras 13 – 14 and 19 – 24 and further supplemented herein. In summary:
50. The SRA identifies the applicable obligations as being those expressed in the SRA's report, *'Walking the line: The balancing of duties in litigation'* (March 2015), namely, the obligation to balance duties in litigation and the 2 prohibitions set out

therein at page 2 [X 433] pleaded in the Rule 12 statement (para 81) of unduly prioritising the solicitor's client's interest over their other duties, by (i) predatory litigation against third parties and (ii) abuse of the litigation process.

51. The case law relied upon by the Respondent is not directly applicable to settlement discussions, but is illuminating as to what constitutes abusive litigation practices in that context.
52. In this instance, the pursuit by the Respondent on behalf of his client of the copyright licence was abusive viewed through either prism, because of the disconnection between the contended grievance and the benefit being sought. The disconnection is obvious and manifest, i.e. threatening contempt proceedings for the contended breaches by Client B in Publications 1 and 2 to leverage a copyright licence to deal with third-party publications, with no real intention of litigating the contempt proceedings, and in the face of warnings and contrary advice given by his own counsel.
53. In the absence of testimony from Counsel M, the Tribunal will have to go on what Counsel M is recorded as having said in the contemporaneous documentation, its objective meaning, and how the documents show it was understood at the time by the Respondent. Nobody else's opinion on the subject matters, since that was the only legal advice the Respondent received at the time, and he purported to be following it in his relevant communications with Solicitor G.
54. In fact, the only connection between the copyright licence being sought and threat of contempt being made was Client B themselves. Client B had within their gift something that Client A wanted, in the ability to grant a copyright licence, and Client A had a means to threaten Client B with unrelated contempt proceedings to try to get it. That is why Solicitor G and Client B considered that the Respondent's conduct was improper and "*came across ... as blackmail*". They were right to so regard it.

PAUL OZIN KC

MICHAEL COLLIS

6 October 2025