

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10954-2012

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

SAMRHAN IQBAL First Respondent

And

RODNEY NKRUMAH-BOATENG Second Respondent

Before:

Mr D. Green (in the chair)

Mrs J. Martineau

Mr S. Marquez

Date of Hearing: 1st August 2012

Appearances

Mr Mark Cunningham QC instructed by Mr Peter Steel, solicitor of Capsticks Solicitors LLP, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

The First Respondent did not attend and was not represented.

The Second Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegation against the First Respondent was:
 - 1.1 In breach of Rules 1.02 and 1.06 of the Solicitors' Code of Conduct 2007 ("the SCC") he involved himself and his firm in a proposed transaction to procure a sham marriage for a putative client in order to facilitate a false application for resident status in the UK; or alternatively
 - 1.2 In breach of Rule 5.01(1)(a) of the SCC he failed to exercise appropriate supervision over staff.
2. The allegation against the Second Respondent was:
 - 2.1 In stating that he was a solicitor, when he was not; and
 - 2.2 In advising on and seeking to arrange a sham marriage in the UK, the Second Respondent failed to act with integrity and it was undesirable for him to be involved in a legal practice in one or more of the ways mentioned in Section 43(1)(A) of the Solicitors' Act 1974 as amended.

It was the Applicant's case that the First and Second Respondents' conduct was dishonest but it was not necessary for dishonesty to be made out for the allegations to be sustained.

Documents

3. The Tribunal reviewed all of the documentation submitted on behalf of the Applicant and the Respondents, which included:

Applicant:

- Application dated 9 March 2012;
- Rule 5 Statement and Exhibit "PS1" dated 9 March 2012;
- Service bundle – various dates;
- Copy electronic Proof of Delivery dated 24 May 2012;
- Notices to Admit dated 16 April 2012;
- Correspondence – various dates;
- Schedule of Costs dated 27 July 2012.

First Respondent:

- Correspondence – various dates

Second Respondent:

- Statement and exhibit of the Second Respondent dated 12 September 2011
- Correspondence – various dates

Preliminary Matter (1)

4. Mr Cunningham acknowledged that in the absence of both Respondents, the Tribunal had to be satisfied as to service. He referred the Tribunal to the Service Bundle.
5. Mr Cunningham said that the only issue appeared to be in relation to the First Respondent and his address; it had been stated that he lived at number 29 but it appeared to be number 28. Mr Cunningham confirmed that certain correspondence, including the Notices to Admit, had been sent to number 29 initially but that the First Respondent had replied, specifically to the Tribunal's Notice of Pre-Listing Day dated 15 March 2012, which the First Respondent had responded to by completion and return to the Tribunal of his Questionnaire.
6. Mr Cunningham submitted that this was suggestive of documentation having reached the First Respondent albeit having been sent to number 29. He said that it was inconceivable that a stranger would have completed the Questionnaire. In addition, the Tribunal's Admin Office had produced the Proof of Delivery signature document for the special delivery letter dated 23 May 2012 which had notified the First Respondent of the dates of the substantive hearing; it was dated 24 May 2012 and stated "Printed Name: IQBAL ". Mr Cunningham submitted that was sufficient to evidence that the First Respondent had received and been notified of the dates of the substantive hearing and that he had been properly served.
7. The Tribunal had regard to the Service Bundle and the submissions on behalf of the Applicant as to service and it was satisfied that good service had been effected on both Respondents. The Tribunal directed that the hearing should proceed in the absence of the First and Second Respondents.

Preliminary Matter (2)

8. Mr Cunningham informed the Tribunal that whilst the Applicant's legal representatives had served Notices to Admit upon both of the Respondents it had as a precaution also requested its witness Mr Mahmood to be on standby should either of the Respondents have attended and sought to challenge evidence in spite of the Notices.
9. Since neither of the Respondents had attended, Mr Cunningham requested that the witness be released since he needed to leave London.
10. The Tribunal considered the request and decided that the witness could be released but not until midday so as to ensure that the Respondents were definitely not attending and had not merely been delayed due to transport issues or similar due to the Olympics.

Factual Background

11. The First Respondent was admitted to the Roll of Solicitors on 1 November 2004. He no longer held a practising certificate. At the material times he had practised as a member of IH Solicitors ("the firm"). The firm had closed on 30 September 2009.

12. The Second Respondent had been employed as a clerk by IH Solicitors and his name had never appeared on the Roll of Solicitors.
13. On 18 June 2009 two undercover journalists employed by the former News of the World (“NoW”) newspaper had visited the offices of the firm. One of the journalists had posed as an Indian national who was interested in arranging a marriage of convenience, for the purpose of obtaining a visa to remain in the United Kingdom. The other journalist had posed as his friend. Both journalists had used covert video and audio surveillance equipment.
14. During the meeting on 18 June the Second Respondent had advised the journalists about making arrangements to enable the ‘client’ to marry a European national. He had also advised about the documentation which would be required by the Home Office as evidence that the marriage was genuine. The Second Respondent had told the client that the costs of preparing the application and of arranging the marriage would be £12,000.
15. After the initial meeting with the Second Respondent, the clients had been introduced to the First Respondent who had also advised them how to make an application to the Home Office for permission to marry.
16. The journalists had attended three further meetings at the firm’s offices on 19 June 2009, during which they had again worn covert video and surveillance equipment. They met the Second Respondent on each of the three occasions and, during the third meeting, they were introduced to the proposed “bride”. The journalists had left the meeting on the premise of going to get the money and documentation required to start the process for applying for permission to marry. They had not returned and an article had been printed in the NoW on 28 June 2009 (“the Article”).

Witnesses

17. There were no witnesses but the Tribunal viewed in its entirety the video surveillance footage of the meetings between the First and Second Respondents and the NoW journalists which had taken place on 18 and 19 June 2009.

Findings of Fact and Law

18. **The allegation against the First Respondent was:**

Allegation 1.1: In breach of Rules 1.02 and 1.06 of the Solicitors’ Code of Conduct 2007 (“the SCC”) he involved himself and his firm in a proposed transaction to procure a sham marriage for a putative client in order to facilitate a false application for resident status in the UK; or alternatively

Allegation 1.2: In breach of Rule 5.01(1)(a) of the SCC he failed to exercise appropriate supervision over staff.

The allegation against the Second Respondent was:

Allegation 2.1: In stating that he was a solicitor, when he was not; and

Allegation 2.2: In advising on and seeking to arrange a sham marriage in the UK, the Second Respondent failed to act with integrity and it was undesirable for him to be involved in a legal practice in one or more of the ways mentioned in Section 43(1)(A) of the Solicitors' Act 1974 as amended.

Submissions on behalf of the Applicant

- 18.1 Mr Cunningham referred the Tribunal to the transcripts of the meetings on 18 and 19 June 2009 between the NoW journalists and the Respondents. He also referred to the video surveillance footage which the Tribunal had viewed in its entirety and upon which the Applicant relied. The video footage spoke for itself.
- 18.2 Mr Cunningham referred the Tribunal to the allegations as set out in the Rule 5 Statement and which alleged in respect of the First Respondent that he had acted without integrity and had diminished the trust the public had in him and in the legal profession by having involved himself in the procuring of the sham marriage in order to facilitate a false application to the Home Office. Mr Cunningham said that the First Respondent had also failed to exercise appropriate supervision of his staff, namely the Second Respondent.
- 18.3 In respect of the Second Respondent, Mr Cunningham said that he had stated he was a solicitor when he was not and he said that it was evident from the video footage that the Second Respondent had clearly confirmed to the two journalists when asked by them that he was a solicitor. Further, that by advising on and seeking to arrange the sham marriage he had acted without integrity and should not be involved in legal practice.
- 18.4 Mr Cunningham said that dishonesty was alleged as to both of the Respondents and he confirmed that the test to be applied by the Tribunal was that set out in the case of Twinsectra v Yardley [2002] UKHL 12 being the combined objective and subjective tests.
- 18.5 Before playing the video footage, Mr Cunningham had referred the Tribunal to the correspondence and documentation which had been received from the First and Second Respondents. He referred to the letter from the firm/the First Respondent dated 1 July 2009 which had been received three days after the NoW article had been published on 28 June 2009. The letter stated:
- “We wish to make absolutely clear from the outset that the report is false and has no basis in fact.
- We became aware that something was wrong during the reporter’s visit to our office on Thursday 18 June 2009. During the first meeting Mr Boateng became suspicious of the ‘clients’, what they wanted and their true motives. He decided to continue with the conversation to see exactly what they wanted. Mr Boateng then brought them downstairs and asked them to wait in reception. They themselves wanted to speak to Mr Iqbal before they left”.
- 18.6 Mr Cunningham questioned whether the Second Respondent had appeared suspicious on the video or had queried the journalists’ motives. He said that the meeting had appeared seamless and the Second Respondent had been constant.

18.7 The letter continued:

“Mr Boateng then spoke to Mr Iqbal and Miss H informing them of what had happened and what they were asking for. It was quickly decided to go along with it to the extent that we could have documentary evidence and could report this approach to the police and relevant authorities. In all, we panicked at the aggressiveness and openness of the approach”.

18.8 Mr Cunningham asked the Tribunal to have regard to the video footage and whether or not it was possible that any such decision making could have been undertaken in the period of time suggested which in reality had been approximately one minute and four seconds and whether it was evident that the Respondents had “panicked” or the journalists had been aggressive.

18.9 The letter further stated:

“Mr Iqbal then went out to the reception area, not wanting them to come into his office, and spoke to them for about 2 minutes...”.

18.10 Mr Cunningham submitted that it had been considerably longer than two minutes and the Tribunal had to ask itself whether the First Respondent was genuine or not.

18.11 By a further letter to the Applicant dated 25 April 2010, Mr Cunningham said that the First Respondent had stated:

“I wish to make it clear that this whole incident was a bad error of judgement on the part of myself and my colleagues at the time at IH Solicitors LLP. We were caught off guard and with surprise, as a result of which we panicked and believed we could gather evidence to report these two unknown individuals to the relevant authorities. As our statement to the Law Society makes clear, we were wrong to try and entrap them and instead feel into their trap.

But I would like to put it on the record that regardless of what the transcripts or dvd shows, there is no evidence to substantiate the allegations. I certainly had no intention to carry out what I was saying to entrap these individuals. Whatever was said, was said with the sole intention of obtaining their documents and providing them to the authorities”.

18.12 Mr Cunningham said that this was the basis of the Respondents’ defence of “reverse entrapment”.

18.13 The letter continued:

“...

My brief meeting with these two men shows the manner in which I spoke to them. I was nervous and wanted them to leave. I only spoke in Punjabi because they insisted. All I wanted was for them to hand over their documents

...

You will see that I spoke to them in our reception area as I did not want them to come into my office and wanted them to leave as quickly as possible.

Knowing what Rodney [the Second Respondent] had told me that these men wanted us to arrange a sham marriage and that they were offering thousands of pounds in return, I almost said anything to get them out of the office”.

18.14 Mr Cunningham said that the Tribunal had to ask itself whether the First Respondent was nervous as he had stated. Mr Cunningham submitted that he had appeared the reverse; at ease and entirely comfortable. He said that there had been no “offer” from the journalists but rather they had been told what the cost was by the Second Respondent.

18.15 Mr Cunningham referred to the Statement of the Second Respondent dated 12 September 2011, which stated:

“...

I find it totally surprising Mr. Iqbal’s attempt in that letter [25 April 2010] to distance himself as far as possible regarding this incident. Prior to my conversation with these men in my office upstairs, Mr. Iqbal and I had had a detailed discussion in his office regarding exactly what to say to them when they arrived, and it is incorrect for him to claim he had no idea I had gone to that extent in my conversation with them...”.

18.16 Mr Cunningham said that the suggestion was that the whole of the Second Respondent’s conduct had been “play acting” and he submitted that there had been no such play acting at all.

18.17 In relation to the transcripts Mr Cunningham confirmed that these had been served upon the First and Second Respondents and no objections had been raised by them or received from them.

Direct evidence of the sham marriage

18.18 Mr Cunningham referred the Tribunal to the transcript of the first meeting on 18 June 2009, which stated:

“RN [Second Respondent]: ...We have contacts with someone who can provide us with a girl.

MM [NoW journalist]: For marriage?

RN: Yes. I hope we are talking on the same page...

MM: Yeah, yeah, sure...

...

MM: You see, obviously it’ll be a total, what they call a marriage of convenience.

RN: Oh, of course I understand...

MM: He’s not going to live with her because he’s already married in India.

RN: No, no, no, that’s fine. I’m just trying to...

RN: Don’t worry, I’m not suggesting that he goes and gets married to her and live [sic] with her. The girl is fully aware. Her aims are financial.

MM: And he won't have to live with her or anything like that?

RN: No, I don't think the girl would want to live [sic] .

MM: No, no, sure. There's no living.

...

RN: You do not have to live with her. Of course you don't have to live with her, she doesn't want to live with you. Ok? Because we always say, it's a financial thing. That's why money is exchanging hands. She is getting paid. However, there will be some homework for you to do. You have to persuade the Home Office that the relationship is genuine.

...

MM: And what's the cost for this?

RN: The total cost including the application to the Home Office fees, everything comes to £12,000.

MM: Ok.

RN: Now half of that needs to be paid up front before we start the process.

...

MM: Ok. So when can we see one of the girls then?

RN: When you are ready I can speak to the guy today".

18.19 Mr Cunningham submitted that it was explicit that what was being discussed was a sham marriage and that it was not genuine but had to be made to look genuine.

18.20 The second meeting had taken place in 19 June 2009. Mr Cunningham submitted that it was this which implicated the First Respondent and he referred the Tribunal to the transcripts, which stated:

"SI [the First Respondent]: There's no guarantee in work like this. I tell every client, even if it's a simple thing, there's no guarantee. If you go now, God forbid, something could happen, there's no guarantee. But minimum risk.

MM: Ok. The girl, will she know that this is a marriage of convenience?

SI: Of course, of course.

...

MM: But the firm won't have to live with him?

SI: No, no, no. The girl doesn't have to live with him. They meet...

MM: They're married on paper, that's it?

SI: Yeah".

18.21 Mr Cunningham submitted that the First Respondent's involvement in the sham marriage arrangements was explicit and he had openly acknowledged that it would be a sham marriage.

18.22 At the third meeting on 19 June 2009, Mr Cunningham said that the Second Respondent had stated:

“NW [journalist]: Right, everyone says...do you think this is the best way for him to stay in the country.

RN: I think so”.

18.23 Mr Cunningham submitted that this was evidence of the Second Respondent’s involvement in facilitating the false application for resident status by virtue of the sham marriage.

18.24 Further evidence of the sham marriage was seen and heard at the further meeting on 19 June and Mr Cunningham referred the Tribunal to the transcripts which stated:

“NW1: Does she know obviously that everything’s...?”

RN: Of course.

NW1: Maybe make it clear to her that she knows just in case...

RN: No, it’s usually the girls who want to make it clear, I’ve got a boyfriend, don’t hold my hand. She knows everything, he has briefed her, I have briefed her.

...

NW1: ...Are you married?

RN: No I’m not.

NW1: Why not?

RN: I’m not in a hurry. What’s the point?

NW1: Go on, you’re arranging everybody else’s marriages.

RN: I watch and I learn”.

18.25 Mr Cunningham submitted that this showed that the Second Respondent knew it was a sham marriage and that if not, he would have denied it when mentioned by the journalist but he did not.

18.26 Mr Cunningham referred to the Second Respondent having requested documentation from the journalist which would have supported the false application to the Home Office. He said that the request for utility bills and the suggestion by the Second Respondent that the girl and the journalist should meet and take photographs of themselves together was clear evidence of the contrivance to fool the authorities that the marriage was genuine when it was not.

18.27 Mr Cunningham submitted that the Second Respondent had been used to dealing with clients seeking sham marriages and that the First Respondent had been used to having such clients. He referred the Tribunal to the transcripts which stated:

“RN: Sam [the First Respondent] is the senior partner of the firm but he does conveyancing mostly. I’m the immigration person. So everything...everything these people who come to him on a personal basis it ends up with me...” and

“RN: ...In my personal, I have done quite a lot of these thing, personal experience, no one has been called for interview in any Home office (sic) application I’ve done in the past five years, and I’ve done quite a lot” and

“AK [journalist]: We’ve spoken to him [Second Respondent] and its ok, but is there any danger?”

SI: No there is no danger. Look, he’s explained there are two stages, yeah.

AK: Right Sir.

SI: If the first stage is done, then it’s absolutely nothing. The risk is at the first stage. When we apply, when we submit the first application for the certificate, yeah. There, there is a risk. Mr X gave you our number didn’t he?

AK: Yeah.

SI: The same thing happened with him, once the certificate comes then the Second application, we almost guarantee it, yeah. There can be a problem at the beginning because we don’t know what records the Home Office have on you

...

SI: That’s even better because what normally happens with people doing this kind of job, they’re overstayers...

...

SI: We don’t pick any girl. You are saying that you want to do it, he’s said that you will come tomorrow...It’ll take time because we are careful. The previous case we’ve done, we changed the girl in the middle of it... ”.

18.28 Mr Cunningham submitted that the journalists request for the sham marriage was not the first and that the First Respondent had clearly been familiar with the procedure for a sham marriage, as had the Second Respondent. On the video footage, Mr Cunningham said that the First Respondent had appeared completely at ease and familiar when discussing the procedure with the journalists and nothing suggested that he had been nervous as he had stated in his correspondence. Mr Cunningham said that use of the word “normally” and “the previous case” also suggested complete familiarity with the sham marriage procedure.

18.29 Mr Cunningham submitted that arranging sham marriages to enable false applications to be made to the Home Office was common business for the firm/the First and Second Respondents. The transcripts stated:

“RN: He deals directly with her with money. So our financial transaction between us is between us and then when we (sic) finished with you we call him in and deal with him and he deals with the girl. That’s the structure we’ve been working with...

...

RN: ...You know, it’s a structure that we have worked out, this isn’t the first time we are doing this with him. We do this with him on a fairly regular basis so there is no problem with him”.

18.30 Mr Cunningham said that the Second Respondent had met with the girl who was the proposed wife to be and he had stated to the journalists:

“RN: When she came I said to her, I’ll find you a nice husband. Aaah? [laughs]. She’s nice, I chatted to her, I like her, she’s very interesting. She speaks very good English, as I say she was born...usually I don’t like it when they don’t speak very good English because it gets complicated but when the certificate comes and you are getting ready to go to marry then you can exchange details and get to know each other better”.

- 18.31 Mr Cunningham submitted that the video footage and so the transcripts contained multiple examples of the First and Second Respondents having known that the marriage would be a sham and that they were completely familiar with the sham marriage process.

“Reverse entrapment” defence

- 18.32 In the absence of the Respondents and at the request of the Tribunal, Mr Cunningham addressed the “reverse entrapment” defence which had been put forward by the First Respondent on behalf of both of them. He said that the Respondents’ case was that they had intended to trap the two ‘clients’ [the journalists] and report them to the relevant authorities and that their conduct had been wholly based on that.

- 18.33 Mr Cunningham referred the Tribunal again to the letter from the First Respondent dated 1 July 2009 which he had written on behalf of himself and the Second Respondent and which had detailed their plan to play along with the journalists and to obtain documentary evidence from them which could then be passed to the police and the authorities. The letter stated:

“...

In the end, they left our office on the premise that they were going to their car to get the documents and money. We had planned to call the police as soon as we had sight of these...”.

- 18.34 Mr Cunningham said that had not happened and no report had been made to the police by the First or Second Respondent. The further letter dated 25 April 2009 had also referred to the plan to entrap the journalists and provide their documents to the authorities. Mr Cunningham said that letter appeared to have been written on behalf of both Respondents but if not, it had certainly been provided on behalf of the First Respondent.

- 18.35 The letter dated 25 April 2009 stated:

“I have now viewed both dvds several times and cannot believe what Rodney did. I was aware of all the meetings and that Rodney was going to get a friend to come in and pretend to be ‘the girl’ as these men had made it clear that only once they were happy with ‘the girl’ would’ (sic) they proceed...”

In this respect, I can only apologise and unequivocally state that my intention was not to breach any of my duties as a solicitor nor to bring the profession into disrepute. I simply made the wrong decision and got carried away with what Rodney was telling me.

...

I would ask you to keep in mind that these two men targeted us and clearly entrapped us. They came to us, we did not go to them. In many ways, they led the conversations and controlled what was being said. We failed to see what was happening and thought we were going to catch them.

For my part, it is now clear that not only were these two men working to entrap me, but Rodney played a big part in it as well...

...I am also confident that in any other case we would have been successful in obtaining their documents and doing society a service”.

- 18.36 Mr Cunningham submitted that in spite of the suggested altruistic motive, the Respondents had had no such intention and their purported defence of entrapment was not a genuine one. He said that the First Respondent had referred to the entrapment defence again in a further letter to the Applicant dated 5 August 2011, which stated:

“ ...

As for your first two allegations, I have made it clear in my previous response that although things were said to entrap this client...

...

...I had believed that we had frightened away a dodgy ‘client’ who caught on that we would pass his details to the authorities...

It is also submitted that on the combined objective/subjective dishonesty test this matter must fail as no actual act took place, and in any event what was said was not intended as being dishonest. This is to say that although objectively it may seem that something dishonest may be taking place, subjectively my intention was simply to be in a position to report this ‘client’ to the relevant authorities...”.

- 18.37 Mr Cunningham again referred the Tribunal to the Statement of the Second Respondent in which he stated that he and the First Respondent had discussed the matter in detail prior to the Second Respondent speaking to the journalists and it was incorrect for the First Respondent to have claimed that he had no idea of the extent to which the Second Respondent would go in his conversation with them. The Second Respondent had also stated:

“...Mr Iqbal...had expressly made it clear to me that people from his ethnic minority group need to be fully assured that there was a good chance they would get what they (sic) seeking and therefore needed to be properly ‘battered up’ if we were to secure their return and thereby inform the relevant authorities...”.

- 18.38 Mr Cunningham submitted that there was clearly a difference in the recollections of the First and Second Respondents and a discrepancy in their respective accounts as to when they had formulated their entrapment plan.

- 18.39 Mr Cunningham invited the Tribunal to consider what it had seen on the video surveillance footage and that the reality was that it had not been “reverse entrapment” as suggested by the Respondents but a series of “authentic” episodes in which both Respondents had been involved in offering to arrange a sham marriage. He said that neither of the Respondents had looked remotely nervous or suspicious but entirely

comfortable in their conversations with the journalists and their contact with them generally.

- 18.40 Mr Cunningham submitted that the Respondents could have contacted the police on 18 June 2009 after their first contact with the journalists. They contended that their plan had been formulated on that date and there was no reason why they could not have contacted the police then or later on 19 June as by then they had the journalists contact numbers and their own recollection of the various conversations. Mr Cunningham said that the reality was that they had done nothing at all. He said that in the letter dated 1 July 2009 the firm had also threatened to make a complaint to the Press Complaints Commission (“PCC”) “regarding the underhand and disgusting tactics used by this ‘journalist’ and also in the manner in which he has reported it” but no such complaint had been made.
- 18.41 Mr Cunningham told the Tribunal that it was also not credible that the girl (S) and P (Mr X) had attended to “take part” in the entrapment as suggested by the Respondents’ defence. There had been every day detail in their conversations as seen by the Tribunal and it was evidently not scripted or contrived.
- 18.42 Mr Cunningham submitted that the reverse entrapment defence was incredible and not one upon which the Tribunal could rely.
- 18.43 Having regard to the allegations including dishonesty, Mr Cunningham submitted that if the Tribunal found the allegations proved, dishonesty was intrinsic to its findings; on the combined test of the standards of reasonable and honest people, the Respondents had been dishonest and by those standards, they could not have failed to realise that they had acted dishonestly. Mr Cunningham submitted that the Respondents had recognised the illegality of their actions as they had argued on the basis of their purported defence that they intended to involve the police.

Submissions of the First Respondent

- 18.44 None other than his written evidence.

Submissions of the Second Respondent

- 18.45 None other than his Statement and written evidence.

The Tribunal’s Findings

- 18.46 The Tribunal applied its usual standard of proof namely beyond reasonable doubt.
- 18.47 The Tribunal found allegations 1.1 and 1.2 proved against the First Respondent and allegations 2.1 and 2.2 proved against the Second Respondent on the facts and on the documents. The Tribunal also found dishonesty proved against both Respondents.
- 18.48 The Tribunal firstly had regard to the Respondents’ purported defence of “reverse entrapment” and whether it was satisfied on the evidence that the Respondents had only involved themselves in the proposed sham marriage arrangement in order to report the ‘clients’ [journalists] to the police and the authorities.

- 18.49 Having had regard to all of the video surveillance footage in the absence of the Respondents, the transcripts and the First and Second Respondents' own written evidence, the Tribunal had not found the latter credible and it had not accepted the Respondents' reverse entrapment defence. It found the video evidence to have been incontrovertible and that the Respondents had been confident and at ease when in discussions with the journalists, with no suggestion of nervousness or panic as contended by them.
- 18.50 The Tribunal found that it was not credible that the First and Second Respondents would have had the level of knowledge they did about sham marriage procedures had they not had previous involvement in such arrangements. It noted that neither of the Respondents had raised any objections to either the video footage or the transcripts and despite having threatened to report the journalists to the PCC, they had not done so. It was evident that they could have contacted the police and the authorities on 18 or 19 June 2009 but they had not done so.
- 18.51 The Tribunal accepted that there was some discrepancy regarding the First and Second Respondents' accounts as to when they had formulated the reverse entrapment defence, which was not credible. Had they genuinely not been prepared to even entertain such a matter, they would have denied any involvement immediately the journalists had contacted them and turned them away. The firm/First Respondent had written to the Applicant three days after the NoW article had been published and it had only been then that the reverse entrapment defence had been referred to.
- 18.52 Having not found any credence in the Respondents' defence, the Tribunal had regard to the allegations against the First Respondent. It found proved that the First Respondent had been involved in the proposed transaction to procure the sham marriage in order to have facilitated a false application to remain in the UK and by his conduct, it found that he had breached Rules 1.02 and 1.06 of the SCC; he had acted without integrity and had diminished the public's confidence in the profession.
- 18.53 The Tribunal was satisfied so that it was sure with regard to allegation 1.2 that the First Respondent had been involved with the Second Respondent in the sham marriage arrangement and that he had been responsible for the Second Respondent's work, the latter being an unadmitted person.
- 18.54 In relation to the allegations against the Second Respondent, the Tribunal had regard to allegation 2.1 and that it had seen on the video footage the Second Respondent clearly confirm to the journalists that he was a solicitor when he was not. The Tribunal found allegation 2.1 unequivocally proved.
- 18.55 The Tribunal was satisfied on the evidence in relation to allegation 2.2 that the Second Respondent had advised on and sought to arrange the sham marriage to facilitate a false application for resident status in the UK and that by his conduct, he had acted without integrity.
- 18.56 The Tribunal had regard to the dishonesty allegation against the Respondents and whether the combined test as set out in *Twinsectra* had been met. The Tribunal found the Respondents to have been dishonest by the standards of reasonable and honest people on the objective test. As to the subjective test, the Tribunal found that they must have known that what they were doing was wrong and so it found the

Respondents to have been dishonest on the subjective test also. In addition, the Tribunal found that by their own defence, the Respondents must have known that their conduct was dishonest and involved illegality.

Previous Disciplinary Matters

19. None.

Mitigation

20. None.

Sanction

21. The Tribunal had found the allegations against the First Respondent and Second Respondent proved. It had found dishonesty proved against both Respondents.
22. The Tribunal considered that the conduct on the part of the First and Second Respondents had been disgraceful and they had acted without integrity and in the case of the First Respondent, that he had diminished the trust and public confidence in the profession. The core duties underpinned all other rules and a solicitor's professional obligations and responsibilities and the First Respondent had treated the latter with contempt.
23. In relation to the Second Respondent, the Tribunal had a duty to ensure that he was not able to work in a legal environment again without due and proper supervision and subject to appropriate permission being granted by the Applicant if it consented to him so doing.
24. The Tribunal had a duty to protect not only the public interest but also the reputation of the profession which it sought to maintain by ensuring that appropriate sanctions were imposed on those appearing before it.
25. In the circumstances, the Tribunal ordered that the First Respondent be struck off the Roll of Solicitors and that a Section 43 Order be made in respect of the Second Respondent.

Costs

26. Mr Cunningham submitted that whilst the First Respondent had sought to lay blame on the Second Respondent who he contended had gone further than agreed, that was not credible and the First Respondent was complicit and as responsible as the Second Respondent. He submitted that the investigation by the NoW had been justified and appropriate action had been taken by the Applicant as a result of that.
27. Mr Cunningham asked the Tribunal to summarily assess the costs allowing for certain deductions in relation to his fees and those of the Applicant's legal representatives as to attendance at the hearing. He said that he had spent some considerable time preparing his cross examination albeit that had not been necessary since the Respondents had not attended.

28. In response to a question from the Tribunal, Mr Cunningham said that this was an important case for the Applicant which whilst not particularly complicated, was high profile.
29. The Tribunal noted that the Respondents had been served with the Schedule of Costs but had made no representations. It summarily assessed the costs in the sum of £33,500 in favour of the Applicant to be paid by the First and Second Respondents on a joint and several basis.

Statement of Full Order

30. The Tribunal Ordered that the Respondent, Samrhan Iqbal, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay jointly and severally with the Second Respondent the costs of and incidental to this application and enquiry fixed in the sum of £33,500.00 inclusive of VAT and disbursements.
31. The Tribunal Ordered that as from 1st day of August 2012 except in accordance with Law Society permission:-
- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Rodney Nkrumah-Boateng;
 - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Rodney Nkrumah-Boateng;
 - (iii) no recognised body shall employ or remunerate the said Rodney Nkrumah-Boateng;
 - (iv) no manager or employee of a recognised body shall employ or remunerate the said Rodney Nkrumah-Boateng in connection with the business of that body;
 - (v) no recognised body or manager or employee of such a body shall permit the said Rodney Nkrumah-Boateng to be a manager of the body;
 - (vi) no recognised body or manager or employee of such a body shall permit the said Rodney Nkrumah-Boateng to have an interest in the body;
- And the Tribunal further Ordered that the said Rodney Nkrumah-Boateng do pay jointly and severally with the First Respondent the costs of and incidental to this application and enquiry fixed in the sum of £33,500.00 inclusive of VAT and disbursements.

Dated this 23rd day of August 2012
On behalf of the Tribunal

D. Green
Chairman