

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11022-2012

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

ASIF AKBAR SWATI

Respondent

Before:

Mr A. N. Spooner (in the chair)

Mr E. Nally

Mrs S. Gordon

Date of Hearing: 7th March 2013

Appearances

Ms Katrina Wingfield, Solicitor, Penningtons Solicitors LLP, Abacus House, 33 Gutter Lane, London EC2V 8AR for the Applicant.

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent, Asif Akbar Swati, were that:-
 - 1.1 He had acted in breach of the Solicitors Accounts Rules 1998 (“SAR 1998”) and the Solicitors Accounts Rules 2011 (“SAR 2011”) in particular:
 - 1.1.1 Rule 32(1) SAR 1998/Rule 29.1 SAR 2011 - accounting records of client money received and office money relating to any client;
 - 1.1.2 Rule 32(2) SAR 1998/Rule 29.2 SAR 2011 - records of client money in client cash account;
 - 1.1.3 Rule 32(4) SAR 1998/Rule 29.4 SAR 2011 - records of dealings with office monies relating to client matters;
 - 1.1.4 Rule 32(7) SAR 1998/Rule 29.12 SAR 2011 - reconciliations every 5 weeks;
 - 1.1.5 Rule 19(1)(b) SAR 1998/Rule 17.1(b) SAR 2011 - receipt and transfer of monies in settlement of unpaid professional disbursements;
 - 1.1.6 Rule 7 SAR 1998/Rule 7.1 SAR 2011 - breach of the Rules to be remedied promptly;
 - 1.2 He had acted in breach of Rule 20.05 of the Solicitors Code of Conduct 2007 (“SCC 2007”) and Principle 7 of the SRA Principles 2011 in that he failed to provide an Investigation Officer with details of sums payable to Med Check Limited;
 - 1.3 He had acted in breach of Rule 5.01 SCC 2007 and Principle 8 of the SRA principles 2011 and Outcomes 7.1 or 7.2 or 7.6 or 7.8 in that he failed to make arrangements for the effective management of his firm;
 - 1.4 He had acted in breach of Principle 7 of the SRA Principles 2011 in that he failed to achieve Outcome 10.06 by failing to co-operate fully with the SRA and the Legal Ombudsman in relation to complaints made.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent, which included:

Applicant:

- Application dated 27 June 2012;
- Rule 5 Statement dated 27 June 2012 and exhibits “KEW1” and “KEW2”;
- Bundle of documents relating to Med Check Limited;
- Witness Statement of David Bailey dated 15 January 2013;
- Applicant’s Opening Submissions dated 5 March 2013;

- Applicant's Schedule of Costs dated 6 March 2013.

Respondent:

- None

Tribunal:

- Memorandum of Application for Substituted Service dated 4 September 2012.

Preliminary Matter

3. Ms Wingfield told the Tribunal that service of the proceedings had proved difficult, there having been no communication with the Respondent since January 2012. When the proceedings had been returned to the Tribunal undelivered, she had made a number of enquiries with a view to effecting service. These had not proved fruitful and on 4 September 2012 the Tribunal had made an Order for substituted service. That Order had permitted service by sending the application together with the date of the substantive hearing and any supplementary statements, applications or notices to the Respondent's last known email address ("the email address") accompanied by advertisement in a newspaper local to Abbotabad, Pakistan where the Respondent had resided prior to the address shown on the Applicant's records. Due to the considerable difficulties encountered when attempting to place such an advertisement, the Tribunal had dispensed with that particular requirement in early January 2013.
4. The email address had been used successfully by the SRA in August 2011 and had also been confirmed as the address upon which to contact the Respondent by his former employees, who were acting for him in respect of a county court claim against him, in August 2012.
5. The proceedings and notice of the hearing had been served using the email address on 7 January 2013. Whilst the Respondent had not responded in any way, in Ms Wingfield's submission, Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules ("the Rules") permitted the Tribunal to proceed in the absence of the Respondent and/or his representative if it was satisfied that notice of the hearing has been served in accordance with the Rules. Service had been effected pursuant to the amended Order for substituted service made under Rule 10(1)(c) of the Rules and therefore the Tribunal was entitled to conclude that notice had been served in accordance with the Rules.
6. In Ms Wingfield's further submission the principles laid down in the cases of R -v- Jones [2002] UKHL5 and Tait -v- the Royal College of Veterinary Surgeons [2003] UKPC34 were met and the Tribunal was able to proceed in the Respondent's absence.

The Tribunal's Decision on the Preliminary matter

7. The Tribunal would proceed to hear the matter in the absence of the Respondent. It was satisfied that notice of the hearing has been served in accordance with the Rules. It had heard from Ms Wingfield of the attempts to serve the proceedings and notice of hearing on the Respondent and of the relatively recent confirmation of the email

address. The Tribunal had also applied the principles set out in R -v- Jones and Tait -v- the Royal College of Veterinary Surgeons and had been mindful of its discretion to proceed with the hearing, balancing fairness to the Respondent with the public interest in proceeding with cases as expeditiously as possible. In all of the surrounding circumstances, the Tribunal did not believe that any adjournment would result in obtaining a response from the Respondent or his attendance and had concluded that on balance it was right that the matter should proceed today.

Factual Background

8. The Respondent was born on 5 August 1957 and admitted as a solicitor on 15 December 2006. At all material times, he practised on his own account as Drummond Walker Solicitors, latterly at Office 69, Saturn Facilities Management Buildings, 12 -14 Park Street, Luton LU1 3EP (“the firm”).
9. A decision to intervene into the firm was made on 7 February 2012 at which time it was also resolved to refer the conduct of the Respondent to the Tribunal.
10. On 4 July 2011, an inspection of the books of account and other documents of the firm was commenced by Mr Bailey, an Investigation Officer, (“IO”) employed by the Solicitors Regulation Authority (“SRA”). The inspection resulted in the preparation of a Forensic Investigation Report dated 14 September 2011 (“the FI Report”). At the time of the inspection, it was understood that the Respondent was in Pakistan.
11. Mr S, a Registered Foreign Lawyer, told the IO that the firm, which had been established in 2008, had originally operated from offices in Wembley, Middlesex and had moved to Luton on 1 May 2011. Mr S informed the IO that the Respondent had left for Pakistan in April 2011 and that a Mr Q had been placed in charge in the Respondent’s absence. Mr S indicated that the firm undertook personal injury work under Conditional Fee Arrangements and did not operate a client account.
12. On 5 July 2011, Mr Q provided copies of resignation letters from himself and Mr S, dated 1 March 2011, which had been forwarded to the SRA. Mr S indicated that he had withdrawn his resignation and that he and a paralegal assisted Mr Q.
13. The IO established that the firm held three office bank accounts, all of which were only operable by the Respondent. No client bank accounts were held. The books of account were not maintained in accordance with the guidelines for accounting procedures and systems in Appendix 3 to the SAR. The IO identified breaches which were set out in the FI Report. In particular, the firm was receiving funds in settlement of claims for costs which included professional disbursements. These were retained in office account without settlement of the unpaid professional disbursements.
14. The IO raised his concerns with Mr S who indicated that he had discussed the situation with the Respondent and the Respondent was of the view that if a liability had been incurred on credit, the money received was not client money and therefore there was no breach of the SAR.

15. The IO was unable to establish the total amount due in respect of professional disbursements and Mr S undertook to discuss the matter with the Respondent and revert to the IO.
16. On 4 August 2011, Mr S informed the IO that the Respondent was still in Pakistan. He said that the Respondent had indicated that he would deal with matters. Mr S informed the IO that there were court proceedings in relation to one creditor, Med Check Limited, in the sum of £12,756 in relation to the period between December 2009 and June 2010.
17. The IO wrote to the Respondent on 4 August 2011, requesting a detailed reconciliation in respect of five creditors, including Med Check Limited. The Respondent replied on 18 August 2011. The Respondent indicated that a sum of £18,552 was due to Prime Medical and £39,267.50 was due to Maxwell Health Care. He indicated that insofar as Med Check Limited was concerned, they had been paid in relation to all settled cases and they were demanding extra money. The Respondent stated again that monies received in relation to medical disbursements were office monies and there was no liability to clients. Utilising the figures provided by the Respondent, the IO estimated a minimum liability of £70,575.50 as at 31 May 2011.
18. The IO contacted the managing director of Med Check Limited who provided information and copy invoices. The IO also reviewed files and two of these were exemplified in the FI Report.

Ms F

19. Ms F instructed the firm regarding a road traffic accident which occurred on 19 October 2009. A medical legal report was provided by Med Check Limited on 21 December 2009. An invoice was supplied on 5 February 2010.
20. On 26 November 2010, a cheque was received by the Respondent on behalf of the claimant in the sum of £2,100. On 15 December 2010, a cheque was received in the sum of £2,502.44 payable to the firm. A statement of costs found on the file in that amount included reference to the sum of £475 in relation to a medical report. There was nothing on the file to indicate that this sum had been paid to Med Check Limited or that they were demanding extra money.

Mr I

21. Mr I instructed the firm in relation to a road traffic accident which occurred on 15 December 2009. A medical report was provided by Med Check Limited on 20 March 2010 and an invoice was supplied in the sum of £400. The claim was settled and on 12 August 2010, two cheques were received from the defendant's solicitors in respect of damages.
22. A statement of costs on the file showed a figure of £1,981.50 which included the sum of £400 in relation to a medical report. A cheque in this sum was received on 4 October 2010. There was nothing on the file to indicate that this sum had been paid or that Med Check Limited was demanding extra money.

23. During the inspection it was apparent that Mr Q was no longer actively involved in the firm but Mr S was actively involved instead. Mr S informed the IO that the Respondent had never been to the Luton office. He was not able to produce any accounting records and stated that none were kept. He was unaware as to whether any designated deposit accounts were held or if there was an overdraft facility. He did not know if there was a written complaints procedure or an equality and diversity policy and he indicated that there had been no training on money laundering. Mr Q informed the IO that he was not authorised to act as a supervisor or manager and that he did not assume responsibility for supervision of staff or client matters. The Respondent was asked about the arrangements for the management of the firm. In a letter dated 18 August 2011, the Respondent asserted that both Mr Q and Mr S were still working at the firm.
24. The Respondent was sent a copy of the FI Report under cover of a letter dated 14 September 2011. The Respondent replied in a letter dated 26 September 2011. He denied that client monies were held by the firm and suggested that payments had been made to Med Check Limited in advance and that there was no cash shortage. He denied that there were any issues regarding the management and supervision of the firm.
25. There was further correspondence in November and December 2011 during which the Respondent maintained that he did not deal with client money and that Rules 29 and 32 of the SAR did not apply.
26. The IO returned to the firm's offices in January 2012 and found that they were locked. Mr S and Mr A, a paralegal worker, were found to be working for another firm in the same building.
27. A caseworker employed by the SRA contacted the Respondent by email on 10 January 2012. The Respondent denied that the firm had ceased to practice. He indicated that the post was regularly checked and scanned to him and that he was dealing with client matters.
28. On 1 February 2012, an SRA caseworker wrote to the Respondent in relation to his apparent failure to cooperate with the Legal Ombudsman ("LeO") in relation to two complaints from former clients, a Miss K and a Mr K. The letter set out the chronology of the complaints and referred to the fact that detailed responses had not been provided by the Respondent. No reply was received to that letter.
29. On 16 March 2012, an authorised officer referred the conduct of the Respondent to the Tribunal.
30. On 30 March 2012, an SRA caseworker wrote to the Respondent regarding a further referral from the LeO in relation to a complaint by Mr A-S. The letter set out the chronology of the complaint and referred specifically to an email received from the Respondent's firm on 19 December 2011. No response was provided by the Respondent and he did not reply to the caseworker's letter.
31. On 3 May 2012, an authorised officer referred the matter to the Tribunal.

Witnesses

32. Mr David Bailey, Investigation Officer of the SRA, gave sworn oral evidence.
33. In his evidence Mr Bailey confirmed that he had carried out the forensic investigation at the firm and that the FI Report dated 14 September 2011 was true to the best of his knowledge and belief. He described the office premises as consisting of a small room with a single desk. When he had first attended at the firm Mr S and a Mr A had been present; Mr A was a foreign lawyer who had not completed the transfer test. At that stage Mr Q had resigned but he still came into the office from time to time. In that regard Mr Bailey told the Tribunal that Mr Q had resigned on 10 May 2011 and that his resignation letter, a copy of which was in the exhibit bundle, was dated 10 May and not 5 October, as the date had been inverted.
34. There were no secretarial staff at the firm and there had been no accounts kept but Mr Bailey said that he had obtained bank statements and creditors invoices. He had also requested client files from a list that he had constructed but many had been unavailable as they had either been sent off to other firms or could not be found. Those files that he had inspected had been in reasonable order. On some files there had been a small schedule of disbursements.
35. Mr Bailey said that he had been given at least ten files and in only one of the matters had the monies received by the firm consisted of a combination of their costs and the client's judgement monies. In all other cases a cheque had been sent direct to the plaintiff. The issue that had arisen at the firm had been in relation to professional disbursements.
36. Mr Bailey agreed that the situation in the Respondent's office had existed over a lengthy period of time. He had contacted Mr S the week before he initially intended to commence the inspection and had been asked to delay it as the Respondent had said that he was returning to the country on 1 July 2011. However the Respondent had still not been present when he commenced the inspection on 4 July 2011. In August 2011 the Respondent had still not returned to the country and the IO had emailed him on 4 August 2011 asking what arrangements had been put in place for the effective management of the firm in his absence and for the detailed position on five creditors of the firm that he was particularly interested in due to the volume of correspondence from them; the Respondent had replied on August 18 2011. The Respondent had sent schedules detailing current balances outstanding and reconciliations concerning Prime Medical and Maxwell Healthcare. These schedules were exhibited to the FI Report.
37. Mr Bailey had returned to the firm in January 2012 to find the premises locked and he had spoken to Mr S who had said there was no access to them.
38. There had then been some further correspondence with the Respondent from the SRA concerning the premises and the apparent ceasing of trading by the firm. The Respondent had replied on 12 January 2012 that the firm had not yet ceased to practise but would cease in the near future.

39. Mr Bailey confirmed that he had calculated a minimum liability to clients of £70,575.50 on 31 May 2011, which included £57,819.50 to be paid to Prime Medical and Maxwell Healthcare and £12,756 due to Med Check Limited.

Findings of Fact and Law

40. The Tribunal treated each of the allegations as having been denied by the Respondent. The burden was therefore on the Applicant to prove each allegation beyond reasonable doubt.
41. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
42. Ms Winfield took the Tribunal through the Rule 5 statement and the accompanying exhibits. She also referred to the contents of her note relating to her opening submissions.
43. Ms Wingfield told the Tribunal that the IO had been unable to find any accounts or records relating to the accounts and that the IO had concluded that none were kept. There had been effective abandonment of the practice by the Respondent. The practice had been left in the care of a Registered Foreign Lawyer, Mr S, who denied that he was in charge and who had no knowledge of the firm's records, books and accounts, and Mr Q who was working in a supermarket. There were a number of very serious allegations before the Tribunal, including in particular a failure on the part of the Respondent to keep proper accounts.
44. **Allegation 1.1 He had acted in breach of the Solicitors Accounts Rules 1998 ("SAR 1998") and the Solicitors Accounts Rules 2011 ("SAR 2011") in particular:**
- 1.1.1 Rule 32(1) SAR 1998/Rule 29.1 SAR 2011 - accounting records of client money received and office money relating to any client;**
- 1.1.2 Rule 32(2) SAR 1998/Rule 29.2 SAR 2011 - records of client money in client cash account;**
- 1.1.3 Rule 32(4) SAR 1998/Rule 29.4 SAR 2011 - records of dealings with office monies relating to client matters;**
- 1.1.4 Rule 32(7) SAR 1998/Rule 29.12 SAR 2011 - reconciliations every 5 weeks;**
- 1.1.5 Rule 19(1)(b) SAR 1998/Rule 17.1(b) SAR 2011 - receipt and transfer of monies in settlement of unpaid professional disbursements;**
- 1.1.6 Rule 7 SAR 1998/Rule 7.1 SAR 2011 - breach of the Rules to be remedied promptly;**

Allegation 1.2: He had acted in breach of Rule 20.05 of the Solicitors Code of Conduct 2007 (“SCC 2007”) and Principle 7 of the SRA Principles 2011 in that he failed to provide an Investigation Officer with details of sums payable to Med Check Limited;

Allegation 1.3: He had acted in breach of Rule 5.01 SCC 2007 and Principle 8 of the SRA principles 2011 and Outcomes 7.1 or 7.2 or 7.6 or 7.8 in that he failed to make arrangements for the effective management of his firm;

Allegation 1.4: He had acted in breach of Principle 7 of the SRA Principles 2011 in that he failed to achieve Outcome 10.06 by failing to co-operate fully with the SRA and the Legal Ombudsman in relation to complaints made.

- 44.1 Ms Wingfield told the Tribunal that the IO had found three office bank accounts, two of which had debit balances. Mr S took his instructions from the Respondent who was the sole signatory on the bank accounts. No reconciliations were produced by the Respondent, no client cash accounts or client ledgers were maintained. In spite of the accounts rules breaches having been brought to the attention of the Respondent by the IO, the breaches continued.
- 44.2 Both the cases of Ms F and Mr I involved road traffic accident claims made on behalf of the Respondent’s clients. In both cases settlement cheques were received which included payment for medical reports which should have been paid to Med Check Limited. There was nothing on the files to indicate any such payment. In the case of Ms F there was a statement of fixed recoverable costs at page 38 of the exhibit bundle showing £475 in respect of a medical report and an invoice for that amount on 21 December 2009 had been noted by the IO at page 34. This was part of the amount claimed by Med Check Limited. The IO had asked about issues with Med Check Limited and Mr S had said that the Respondent had told him that any comment would not be appropriate as there were ongoing court proceedings. The Respondent provided the claim form that had been filed by Med Check Limited at the Northampton County Court for the sum of £14,073.19. The Respondent had said in his letter to the SRA of 26 November 2011 that he had filed a defence but it could be seen at the end of the additional small evidence bundle that that the defence had been struck out and judgement entered. The Respondent had made an unsuccessful attempt to appeal the judgement.
- 44.3 Mr S had also said that he had discussed the accounts with the Respondent on 6 July 2011 and the Respondent had also covered the matter in his letter of 26 November 2011 to the SRA. It was the Respondent’s position that if a liability had been incurred on credit, the money received was not client money and the firm was therefore not in breach of the SARs. It was also the Respondent’s case that since Rules 29 and 32(1) and (2) of SAR 2011 were only applicable to firms holding clients’ money and operating a client account, these Rules did not apply to the firm as it did neither of these things. However, in Ms Wingfield’s submission, this position was inconsistent with a correct reading of the SARs. The payments received, in the form of settlement funds, in respect of the costs of medical reports were unpaid professional disbursements and were therefore client money. In this regard the Tribunal was directed to Rule 19 and guidance note (i) to SAR 2011 Rule 17 and the definition of “professional disbursement” at Rule 2(2)(s) of SAR 2011. In any event, it was beyond

doubt that the Respondent handled office monies in respect of client matters, and yet did not keep properly written up records as required by Rule 32(1).

- 44.4 It was also the Respondent's case that the alleged cash shortage of £57, 819.50 to be paid to Prime Medical and Maxwell Healthcare had been reduced to £49, 819.50 and that these were charges for medical reports of different clients and had been wrongly identified as cash shortages. With regard to Ms F and Mr I the firm had received payment for these two clients in October and December 2010. Payment in respect of these two clients had in fact been made in advance in June 2010 and Med Check Limited had accepted that fact. In Ms Winfield's submission, the evidence before the Tribunal in this regard, which had been cited by the Respondent, did not support his assertions. A letter to Med Check's solicitors dated 21 June 2010 from the firm did include a payment of £2000 but this payment was in respect of settled cases not including those of Ms F and Mr I, as could be seen from the letter in the small additional evidence bundle.
- 44.5 In Ms Wingfield's submission the Respondent had, by his actions in effectively abandoning the firm, failed to comply with his obligations to make arrangements for its effective management. Mr S told the IO that Mr Q had been left in charge of the practice but Mr Q informed the IO that he was not authorised to act as a supervisor or manager of the firm. The IO asked Mr S who was responsible for the day to day maintenance of the books and records of the firm and Mr S said that no records were being kept.
- 44.6 The IO had found the firm's premises to be locked when he returned to the offices in January 2012. It was the Respondent contention that the IO had attended on a day that the firm was not open. He stated that Mr Q and Mr S were still working there but the firm did not open daily and no new instructions were being taken.
- 44.7 Ms Wingfield directed the Tribunal's attention to those parts of the evidence bundle which documented the Respondent's failure to co-operate with the Legal Ombudsman at KEW2.
- 44.8 The Tribunal had read most carefully all of the documentation in the case and listened to what Ms Winfield had had to say, both in relation to her submissions on behalf of the Applicant and her account of the Respondent's explanations which had been provided to the SRA and were in the exhibit bundle.
- 44.9 The Tribunal had examined the Respondent's contention that Rules 29 and 32 of the SAR 2011 was not applicable in the context of a firm that did not hold client money or operate a client bank account. However, the definition of 'client money' in the SAR 2011 did not support this interpretation, unpaid professional disbursements were defined as client money and therefore Rules 32 and 29 did apply to the firm. It followed that, since it had been shown that the Respondent had kept no books of account or ledgers nor performed reconciliations, allegations 1.1.1 to 1.1.4 were substantiated. It had been shown that there was no client account maintained by the Respondent and there was a clear breach of Rule 19(1)(b) and 17(1)(b) relating to the handling of unpaid professional disbursements the subject of allegation 1.1.5. The Tribunal had also heard that, having been informed of the breaches of the Rules, the Respondent had taken no steps to remedy the breaches. The Tribunal was accordingly

also satisfied that allegation 1.1.5 had been substantiated. The Tribunal found Allegation 1.1 and each of its particulars 1.1.1 to 1.1.5 proved beyond a reasonable doubt on the facts and documents before them.

- 44.10 In regard to allegation 1.2, the Tribunal was satisfied so that it was sure that the Respondent had failed to provide Mr Bailey with details of sums payable to Med Check Limited. The Respondent had alleged that Med Check Limited had been paid in full for settled cases. It had been shown that the Respondent's assertion that Med Check Limited had been paid in advance in respect of Mr I and Ms F was incorrect and these sums were still payable. It had also been shown that Med Check Limited had obtained judgement against the Respondent for monies owing. The Tribunal found allegation 1.2 proved beyond a reasonable doubt on the facts and documents before them.
- 44.11 It was abundantly clear to the Tribunal from the evidence presented that there was no one left in charge of the firm in the Respondent's absence and that he had effectively abandoned the practice. He had made no proper arrangement for the effective management of the firm in his absence. The Tribunal found allegation 1.3 proved beyond a reasonable doubt on the facts and documents before them.
- 44.12 The Tribunal was satisfied on the evidence produced by the Applicant at exhibit KEW2 that the Respondent had failed to cooperate with both the Legal Ombudsman and the SRA and was therefore in breach of Principle 7 of the SRA Principles 2011. The Tribunal found allegation 1.4 proved beyond a reasonable doubt on the facts and documents before them.

Previous Disciplinary Matters

45. None.

Mitigation

46. There was no mitigation before the Tribunal but the Tribunal had taken careful note of the Respondent's statements in correspondence with the SRA.

Sanction

47. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.
48. The Tribunal had found each of the allegations before it proved beyond reasonable doubt and regarded the breaches taken as a whole to be serious. No accounting documents had been found or produced to the IO and even after the breaches were pointed out to him the Respondent failed to do anything to rectify them. There had been no effective management of the firm which had been intervened into due to abandonment by the Respondent. Whilst there was no allegation of dishonesty or evidence that any client had suffered as a result of the Respondent's behaviour, the Respondent had been in material breach of his obligations to clients.
49. The Tribunal had fully considered all of the sanctions available. The Respondent's behaviour suggested a marked lack of appreciation of the seriousness of his actions

and a cavalier approach to his responsibilities to the public and the profession. In all of the surrounding circumstances it was the Tribunal's determination that the reasonable and proportionate sanction was one of indefinite suspension.

Costs

50. The Applicant's original schedule of costs was in the sum of £26,044.90 and had been served on the Respondent using the email address on the evening of 6 March 2013. However, Ms Wingfield had reviewed the schedule of costs in light of the fact that the hearing having taken less time than had been anticipated and now asked for Applicant's costs of £23,644.90. No information was available concerning the Respondent's means.
51. The Tribunal reviewed the revised costs schedule and expressed disappointment that it had not been possible to send it to the Respondent until the previous evening. Ms Wingfield apologised for the late service of the Schedule.
52. The Tribunal believed that the costs applied for were still high for a case of this nature where there was a small office, a limited number of documents and a failure to engage by the Respondent. Since there also seemed to be some duplication of effort between her and her assistant, Ms Wingfield was asked to address the Tribunal further.
53. Ms Wingfield told the Tribunal that there had been some duplication of effort as whilst she had drafted the Rule 5 Statement, her assistant had had to read into the files when it had been thought that witness statements would be obtained; in Ms Wingfield's submission it was not proper that she as the advocate should obtain witness statements. However, ultimately no witness statements had been obtained as the potential witnesses had declined to give them.
54. The Tribunal had put the case into an overall context and was disappointed to see no meaningful breakdown of the figures relating to costs. The Tribunal did believe that the costs were too high for a case of this nature and accordingly the costs would be reduced from those sought by the Applicant. The Tribunal would award costs in the sum of £18,500.

Statement of Full Order

55. The Tribunal Ordered that the Respondent, Asif Akbar Swati, solicitor, be suspended from practice as a solicitor for indefinite period to commence on the 7th day of March 2013 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £18,500 inclusive of VAT and disbursements.

Dated this 17th day of April 2013

On behalf of the Tribunal

A. N. Spooner
Chairman