SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11118-2013

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

PRINCEWILL EDWIN ANYAKUDO Respondent

Before:

Mr S. Tinkler (in the chair)
Mr J.P. Davies
Mr M. Palayiwa

Date of Hearing:
25th July 2013, 25th October 2013 and 5th December 2013

Appearances

Robin Havard, Solicitor of Morgan Cole LLP, Bradley Court, Park Place, Cardiff CF10 3DP for the Applicant

The Respondent appeared.

JUDGMENT

Allegations

1. The allegation against the Respondent, Princewill Edwin Anyakudo, was that, having been employed or remunerated by a solicitor, but not being a solicitor, he had, in the opinion of the Applicant, occasioned or been party to, with or without the connivance of the solicitor by whom he was or had been employed or remunerated, acts or defaults in relation to the solicitor's practice which involved conduct on his part of such a nature that, in the opinion of the Applicant, it would be undesirable for him to be employed or remunerated by solicitors in connection with their practices.

1.1 In respect of Ms RO, it was alleged that the Respondent:

(i) Conducted Ms RO's matter without the knowledge and consent of his principal Mr GA

(ii) Failed to provide any information to Ms RO in relation to her matter, including client care information

(iii) Withheld monies received from Ms RO, purportedly on behalf of his firm, from the firm's client account

(iv) Retained and, it was alleged, misappropriated monies received from Ms RO, purportedly on behalf of his firm, for his own use and without authority

(v) Failed to act in Ms RO's best interests

(vi) Submitted "the First Application" and "the Second Application" to the Immigration and Nationality Directorate on behalf of Ms RO which he knew or ought to have known, contained false information

(vii) Deliberately misled his employer as to the true position in connection with Ms RO's matter and provided false and/or misleading information in response to enquiries put to him.

In respect of allegations 1.1(iii) to 1.1(vii) it was alleged that the Respondent had acted dishonestly.

1.2 In respect of Mr PI, it was alleged that the Respondent:

(i) Conducted Mr PI's matter without the knowledge and consent of his principal Mr GA

(ii) Failed to provide any information to Mr PI in relation to his matter, including client care information

(iii) Transferred Mr PI's matter to a new firm of Solicitors, RS & Co Solicitors, without his express authority and consent

(iv) Was paid money by Mr PI on account of costs, purportedly on behalf of his firm, but failed to pay that money into the firm's client account

(v) Retained and, it was alleged, misappropriated monies received from Mr PI, purportedly on behalf of his firm, for his own use, and without authority

(vi) Failed to act in Mr PI's best interests and in accordance with his instructions

(vii) Failed to notify Mr PI of the outcome of the application [to the UK Border Agency]

In respect of allegation 1.2 and in particular by reason of allegation of 1.2(v) it was alleged that the Respondent had acted dishonestly.

Documents

2. The Tribunal reviewed all the documents including

Applicant

- Rule 8 Statement dated 3 January 2013
- Documents relating to complaint by Ms RO as scheduled
- Documents relating to complaint by Mr P.C. Irechukwu as scheduled
- Letter from Mr Havard to the Respondent dated 25 April 2013
- Notice under Rule 13(6) of the Solicitors (Disciplinary Proceedings) Rules 2007 dated 25 April 2013 in respect of the statement of Mr P.C. Irechukwu dated 13 December 2012 and Mr VH dated 11 February 2013, with attached:
    - Statement of Mr P.C. Irechukwu dated 13 December 2012 with exhibit PCI 1
    - Statement of Mr VH dated 11 February 2013 with exhibit VSH 1
- Letter from RS & Co to the United Kingdom Border Agency dated 27 October 2010
- Letter of Authority from Mr P.C. Irechukwu to RS & Co dated 22 November 2011
- Letter of Authority from Mr P.C. Irechukwu for RS & Co to the United Kingdom Border Agency dated 22 November 2011
- Receipt stamped by RS & Co dated 22 November 2011
- Second witness statement of Mr P.C. Irechukwu dated 14 October 2013 with exhibit PC12
- Office copy entries for the Respondent's home address
- Judgment in the case of Ojelade v The Law Society [2006] EWHC 2210 (Admin)
- Judgment in the case of Gregory v The Law Society [2007] EWHC 1724 (Admin)

Respondent

- Document bundle filed after conclusion of the hearing on 25th July 2013
- Tier 4 application in respect of Mr P.C. Irechukwu dated 27 October 2010

- E-mail from the Respondent to Mr P.C. Irechukwu dated 3 July 2012 timed at 19.39 with attached "Additional grounds of appeal in support of my application"
- Detailed Written Submissions handed to the Tribunal on 5 December 2013
- Letter faxed to the Tribunal on 4 December 2013 with attached:
    - Approximate schedule of earnings and expenditure per month with attachments
    - Copy application to HM Courts & Tribunals Service dated 22 December 2009 relating to representation by the Respondent of Mr GO Determination and Reasons by the Asylum and Immigration Tribunal of an appeal by Mr GO on 22 December 2009

Preliminary Issues

25 July 2013

3. For the Applicant, Mr Havard reminded the Tribunal that when the substantive trial was adjourned at a hearing on 26 June 2013, directions were made by the Tribunal including, following the numbering of the memorandum of the hearing:

> "13.1 The substantive hearing be adjourned and re-listed for hearing on Thursday 25 July 2013 to commence at 10 am with a time estimate of one day;
>
> 13.2 By 11 July 2013, the Respondent do file and serve a statement setting out which of the allegations in the Rule 8 Statement are admitted and which are denied, which facts are admitted and which are denied, and in the case of those allegations and facts which are denied, the basis of such denial;
>
> 13.3 By 11 July 2013, the Respondent do file and serve any witness statements upon which intends to rely;
>
> 13.4 By 11 July 2013, the Respondent do file and serve any other documents upon which he intends to rely;
>
> 13.5 By 18 July 2013, the Respondent do file and serve a statement detailing his means together with any supporting documentation and as referred to in the letter from the Tribunal dated 22 March 2013;"

Mr Havard submitted that so far as he was aware the Respondent had not complied with any of the above directions. Mr Havard had now provided the Respondent with copies of various case law decisions to which he intended to refer but he had not had substantive discussions with the Respondent or received documents from him.

4. The Tribunal reminded the Respondent that on the previous occasion, directions had been given that this hearing should commence at 10 am (the Respondent had been late for the previous hearing). The Tribunal had noted that the Respondent had again arrived late and had brought documents. This was not helpful to the administration of

justice or to the Applicant and although the Respondent's conduct would not impact on the Tribunal's decision making, it was pointed out to him that it had made life more difficult for the parties and the witness. The Respondent was invited to inform the Tribunal what allegations in the Rule 8 Statement were admitted and which were denied.

5. The Respondent apologised for his late arrival and his non-compliance with the Tribunal's directions. He attributed his lateness to an obligation to visit a sick family member. The Respondent repeated an explanation he had given at the earlier hearing that he had had problems with his post in that a number of people occupied the address where he lived and sometimes took his mail in error. However, he confirmed that he was still at the address he had occupied at the date of the June 2013 hearing.

6. The Tribunal enquired of Mr Havard whether he intended to rely on witness statements from Mr Paul Irechukwu ("Mr PI") and Mr VH. Mr Havard informed Tribunal that he understood that the Respondent wished to put certain questions to Mr PI who was keen to put his side of things and was in attendance for this hearing. Mr VH could not be present for this hearing but Mr Havard invited the Tribunal to admit Mr VH's statement dated 11 February 2013 into evidence. So far as Mr Havard could recall, the Respondent had not raised any question about receiving the witness statements and notice which Mr Havard had issued dated 25 April 2013 and which had been sent to the address at which the Respondent had confirmed both in June 2013 and at this hearing that he resided. The Respondent had not issued any counter notice in respect of the witness statements. Mr Havard also pointed out that the statement of Mr VH broadly just introduced documents concerning the complaint of Ms RO. Mr Havard confirmed that the Rule 8 Statement issued in January 2013 and the documents that he intended to rely on, were included in the document bundle exhibited to the Rule 8 Statement and referred to in Mr Havard's letter of 25 April 2013 to the Respondent. In that letter he had incorporated Civil Evidence Act notices regarding documents in the Applicant's bundle and included a Form 6 notice under the Solicitors (Disciplinary Proceedings) Rules 2007 with the witness statements of Mr Irechukwu and Mr VH.

7. The Respondent agreed that while he did not agree with it all, he had read Mr VH's statement in the Applicant's bundle. He also stated that recently someone had telephoned him and said that Ms RO wanted to speak to him from Nigeria and he had said that he could not speak to her but that he could provide the address of Mr VH's firm KL. The Respondent stated that he had provided the individual who called him with details of KL.

8. The Tribunal considered that the witness statement of Mr VH had been properly served on the Respondent under Rule 14 and directed that it be admitted to evidence. As to the statement of Mr PI, he could adopt it when giving oral evidence at this hearing.

9. The Respondent stated that he wished to rely on the documents which he had brought to the Tribunal and but they needed to be sorted and photocopied. His explanation for not having served these documents earlier as required by the Rules included that he had had been unable to obtain access to files and that potential witnesses did not wish to give evidence including because they did not wish to be involved with the

Applicant. The Respondent stated that he had obtained some documents two weeks before the hearing but that some were still emerging including what he submitted was a key letter of authority signed by Mr PI. The Respondent applied for these documents to be admitted into evidence.

10. For the Applicant, Mr Havard asked the Tribunal to note that he had had little or no opportunity to consider the Respondent's latest documents but as he did not wish to further delay matters he did not object to them being introduced. Given more time there were matters which he might have followed up and enquired about but the Applicant was keen this case should reach a conclusion (the substantive hearing having already been adjourned once before.) Mr Havard submitted that the Respondent had paid scant or no regard to the Tribunal's authority.

11. Having considered the submissions by the Respondent and Mr Havard, the Tribunal determined that while the Respondent had failed to comply with the directions of an earlier division of the Tribunal and only served documents on the day of this hearing, in the interests of justice the Tribunal would admit them into evidence.

12. The Tribunal directed that the bundle of documents which the Respondent had prepared should be served upon the Tribunal by 6 pm on 25 July 2013. It emphasised that only documents which were relevant were to be included and they must be documents which had already been placed in the provisional bundle earlier that day. If the Respondent wished to file other documents, he would need the permission of the Tribunal and should send such documents in advance to Mr Havard so that Mr Havard might consider whether he wished to oppose the application. The Tribunal indicated that neither party should assume that any further documents would be admitted.

13. The Respondent indicated that he might wish to introduce witness evidence although he had no current application to make to introduce a specific witness. Mr Havard informed the Tribunal that he would resist the admission of any such evidence, as the Respondent had already been given the opportunity to file and serve witness statements. Mr Havard invited the Tribunal to order that there should be no further documents or witness evidence beyond the Respondent's bundle. The Tribunal indicated that it would not make such an order; any party could apply to put in new evidence but there would be a very high standard to meet to succeed in such an application. The Tribunal could not refuse to allow the Respondent to make an application in that respect, however the Tribunal was prepared to give strong guidance that it was highly unlikely to accept further documents or witness evidence without compelling reasons.

14. The case proceeded but it became clear that it could not be completed and had to be adjourned part way through the witness evidence of Mr PI. The Tribunal confirmed that although the witness had been sworn, it would be in order for Mr Havard and Mr Delme Griffiths of his firm to communicate with the witness in respect of the documents in the bundle which were to be served later that day which the witness had not yet seen, and in relation to which he may need to give evidence. The Tribunal noted that the additional costs occasioned by the part hearing were entirely caused by the inability of the Respondent to arrive on time or comply with the Tribunal's directions.

15. The Tribunal made further directions which in the main updated the directions which had been made on 25 June 2013 and with which the Respondent had not complied.

25 October 2013

16. The matter was scheduled to resume at 10 a.m. on 25 October 2013. By that date, the Respondent had only complied with the direction to file and serve by 6pm on 25 July 2013, the bundle which he had prepared earlier in the day. He had done this before leaving the Tribunal on the day of that hearing. He had not complied with other directions. At 10 am on 25 October 2013, the Respondent was not present. Mr Havard attempted but was unable to contact the Respondent who telephoned the Tribunal at around 10.30 am to advise that he was on his way and would arrive in approximately 30 minutes. The Tribunal understood that during the course of the conversation, the Respondent stated that he was shocked about the hearing date although he subsequently confirmed that he was aware on at least the previous day of the hearing on 25 October. At around 11.10 am, the Deputy Clerk telephoned the Respondent back and he gave an updated estimated time of arrival. The Tribunal decided that the Respondent had every opportunity to attend at the stated start time and noted the further unexplained delay in his arrival time and that it was not clear to the Tribunal that he was definitely even on his way. Accordingly, it was not appropriate to wait any longer and the hearing of preliminary matters commenced at 11.22 am on the basis that the Tribunal would update the Respondent on any decisions made or matters discussed if and when he arrived.

17. Mr Havard sought permission to introduce a second witness statement dated 14 October 2013 from Mr PI who was in the precincts of the Tribunal and ready to resume cross examination by the Respondent. Mr Havard submitted that he applied on the same basis as he had set out in an email to the Respondent and in the absence of a reply from him, it was difficult to anticipate points that might be put to Mr PI in cross examination and Mr Havard submitted that in the light of the numerous directions and reminders which had been given to the Respondent to file a response, it would be fair to allow the second witness statement as it might shorten further cross examination of Mr PI, if indeed the Respondent arrived in time to resume it. Mr Havard confirmed that he had served the witness statement by post and email on the Respondent. The Tribunal was content for the witness statement to be admitted but as the Respondent had claimed to be on his way, it deferred recalling the witness.

18. Mr Havard confirmed to the Tribunal that the Respondent had not responded to any documents or e-mails since the last hearing on 25 July 2013. Mr Havard's letter dated 14 October 2013 serving the second witness statement and e-mails dated 17 October and 23 October 2013 (the latter serving a costs schedule) referred to the hearing date and start time. Mr Havard also confirmed that neither he nor, so far as he was aware, anyone from his office had heard from the Respondent since the last hearing.

19. The Tribunal then considered how best to take the matter forward under Rule 21(3) which provided that the Tribunal might regulate its own procedure subject to the provisions of its Rules. The Tribunal considered that the cross examination conducted by the Respondent had been problematic in several respects and considered how it might be made more focused and relevant.

20. The Respondent then entered the court room at 11.32 am. The Chairman pointed out to the Respondent that this was the third occasion on which he had been before the Tribunal in this matter and on each occasion he had failed to attend at the required time; it could not have been more clearly stated that this hearing was to commence at 10 am. The Tribunal took its role in the regulation of the profession very seriously and regarded the Respondent's cavalier attitude as very regrettable. It invited the Respondent to explain why, having received proper notice on several occasions about the time and date of this hearing he had arrived late and had not complied with the directions previously given.

21. The Respondent apologised to the Tribunal but stated that he had never received any notice of hearing from the Tribunal; he had been away from home seeking work and had telephoned a cousin the previous day to have letters read to him and that was how he had learned of the second witness statement of Mr PI and the hearing details which were in the heading to the covering letter. It was pointed out to him that the Tribunal had evidence that the Tribunal office had sent notification of this hearing to him by letter and e-mail on 1 August 2013. The Respondent stated that he had only returned home from Northampton by car in the early hours of the morning of the hearing and that he had previously stated to the Tribunal that he had trouble with e-mails. He stated that the only letter he had received from the Tribunal was one relating to its publications policy. The Respondent further stated that he had had to walk from Blackheath to the Tribunal and had called the Tribunal office when it opened to check if there was a hearing. He stated that there was absolutely no way that he would not want to be at the Tribunal by 10 am. The Respondent pointed out that he had complied with the direction to file and serve a bundle on 25 July 2013. He agreed that he had not complied with the other directions made on that day relating to filing a response to the allegations and serving a statement of his means but stated that he gave some information about his means at the last hearing, that he had no income and had not been working. During the course of the hearing, the Respondent indicated that he now regarded a letter that he had written to Mrs RA of RS in response to Mr PI's complaint about him as his statement to the Tribunal. The letter consisted of five handwritten pages and stopped abruptly. The Respondent when asked on the final day of the hearing was unable to supply any remaining page(s).

22. The hearing resumed after the Tribunal had advised the Respondent that it had admitted into evidence Mr PI's second witness statement and shared with the Respondent its intentions in respect of the order in which to proceed with the matter and reminded the Respondent about the manner of conducting cross examination. The Respondent noted these directions and did not disagree. The Tribunal also clarified that the Respondent might succinctly put matters that went to the witness's credibility and if the Respondent and the witness could not agree, the Tribunal would note the position.

23. During the course of the hearing the Tribunal raised again the issue of the attendance of the witness Mr VH. Mr Havard submitted that as his statement had been properly served under the Rules with a Form 6 to which the Respondent had not responded, the Applicant might rely on the statement without the attendance of Mr VH.

24. Late in the afternoon of 25 October 2013, the Tribunal expressed its concern that it would not be possible to conclude the matter before 8 pm on this Friday evening.

Although the Respondent had contributed to the difficulties by his repeated late attendance and his failure to put anything in writing in spite of the clear directions given by the Tribunal, its primary concern must be the interests of justice and fairness. For the Applicant, Mr Havard expressed extreme concern about the position that the Applicant found itself in through no fault of the Tribunal. He offered to finish his cross-examination of the Respondent on the basis that it was unsatisfactory to adjourn when someone was under oath. However the Tribunal pointed out that it had a reasonably significant number of questions to put to the Respondent. The Respondent offered to make submissions in writing which he stated he could complete in two or three days. The Tribunal expressed some scepticism as he had been invited on numerous occasions to do just that, including at the last hearing and he had failed to do so. Mr Havard did not oppose the Respondent's suggestion, provided the Respondent did not go beyond the evidence already submitted to the Tribunal as he had already had months to make submissions. Mr Havard wished to place on record that whatever the outcome of the matter, and he submitted that the evidence against the Respondent was overwhelming, the Applicant would seek costs against him. He also indicated that if the Respondent sought permission of the Tribunal to introduce further evidence which he indicated that he might do, the Applicant would object strenuously.

25. The Tribunal had regard to the fact that the Respondent had informed the Tribunal that he had only returned to London in the early hours of the morning, and several hours of hearing and deliberation were still required to complete the matter. There were a number of competing interests including the protection of the public and the reputation of the profession. The Respondent indicated that he had not been attached to any firm since leaving RS & Co; he submitted that the community of immigration lawyers was a close one and firms were aware of the ongoing Tribunal proceedings (and so would not employ him). The Tribunal took into account that the Respondent was not currently involved in the legal profession. In all the circumstances the Tribunal considered that it was in the interests of justice to adjourn the hearing but that a new hearing date and time should now be fixed. For safety's sake the Tribunal would set aside a whole day. The Tribunal made clear that the hearing would commence at 10 am and if the Respondent was not present, the Tribunal would resume the hearing without him and that consequently he might lose the opportunity to put points before it. The Respondent should also assume that the costs of the accumulated delay which were attributable to his lateness would be taken into account in determining costs at the end of the day. The Respondent repeated his intention to submit written submissions and said that he would arrive at 9 am for the adjourned hearing. The Tribunal indicated that it could not fetter its discretion to receive an application from the parties for the submission of further evidence but reminded them that a very high standard of relevance would be applied in arriving at a decision. The Tribunal decided that it would again give directions that the Respondent should file a statement of means showing income and expenditure and also suggested to Mr Havard that it would be of assistance if an updated schedule of costs could be served. The Tribunal made directions accordingly and adjourned the case to 10 am on 5 December 2013.

5 December 2013

26. The hearing was scheduled to commence at 10 am. The Respondent arrived at just after 10.30 am, having telephoned earlier to say he was stuck in traffic. The matter commenced later than planned because one of the division of the Tribunal hearing the case was held up in another court. The Respondent was invited to use the time to prepare written submissions to expedite the hearing, which he had offered to do at the last hearing but not done.

27. On 4 December 2013, the Respondent faxed a bundle of documents to the Tribunal, two of these related to Asylum and Immigration Tribunal proceedings involving Mr GO, one sheet to Ms IR's finances (see the matter of Ms RO below) and the remainder to the Respondent's finances. The Tribunal admitted the last category of documents but not the first two into evidence and reminded the parties that if they wished to introduce new evidence then an application had to be made to the Tribunal.

Factual Background

28. Throughout the material time, the Respondent was a case worker employed by Mr GA, a sole practitioner trading as GA Solicitors ("GAS") in London. As sole principal, Mr GA was responsible for the supervision of the Respondent.

29. The Respondent ceased employment with GAS in or around May 2011.

30. The proceedings related to the Respondent's conduct in acting for individuals in immigration matters.

Ms RO

31. In or around January 2009, Ms RO consulted the Respondent for advice in relation to her immigration status. Mr VH of KL later acted for Ms RO and provided documentation for these proceedings which he had been given in relation to her complaint to the Legal Ombudsman about the Respondent's handling of her matter. It included an undated letter in which Ms RO set out her version of events. It appeared to be a reply to a letter sent to her by Mr VH on 1 March 2011 although she referred to his letter as being dated 10 March 2011. Ms RO stated:

> "…in 2009 I went to see him [the Respondent] as a solicitor laying my case to him, he told me (sic) was going to help me get my papers, he told me that he would carry out an application as a dependant under EEA citizen, and also charged me the sum of £1,700 as my fee. In relation to this matter, [the Respondent] gave me a receipt of 300 pounds as proof and said he will give me more receipts later but never did even though I innocently trusted him as my solicitor; fortunately I still have this receipt in my possession as proof. As my solicitor, [the Respondent] gave me some documents as proof to me for the application he made to the UKBA on my behalf after so much persuasion from me as I did not hear any news or receive any letter from him to say he had done the application, this documents which I still have as proof but I also showed you a copy when I came to meet you [Mr VH] in your office over my

> situation. So [the Respondent] denying me is something I'm really shocked over as I trusted him as a solicitor acting on my behalf.
>
> [The Respondent] is denying me but is forgetting that not only did he have legal association with me but I have been to his office and during one of my visit to the office I came along with a friend. It is unfortunate he is saying he never opened a file in my name but documents he gave me shows he made applications with my name attached to an EEA national application.
>
> I would also say after almost a year of not hearing any news about the application made and having collected all his money in full, I began to pressurise [the Respondent] that was when he told me that the EEA national in question had withdrawn her application that I should not worry he would help me out. The next time I heard from my former solicitor, he said he had attached my name as the dependant of a [Mr EM] of whom I have no knowledge of, now I know he must have done all these (sic) just to ensure I never got back my money, it is unfortunate as it is not my desire to get [Mr EM] into any trouble, obviously [the Respondent] has been dubious to me because he saw my desperate condition. Unfortunately I came to [the Respondent] for a solution and all he did was take advantage of my condition of wanting to legalise my stay.
>
> It is obvious [the Respondent] has not only defrauded me but is denying not having any form of the business as a solicitor with me.
>
> Please (sic) attached to this letter all copies of documents given to me by [the Respondent] throughout the time he acted as my solicitor who works for [GA] concerning all legal issues I came to him for. I must say that I will not be surprised I am not the only one [the Respondent] has defrauded and treated in such a manner when all I did was to go to a lawyer who I trust to help get my stay legalised in united kingdom. "

32. The receipt to which Ms RO referred bore the words "Part of agreed fee for Dependency EEA Application".

33. There was a letter dated 17 January 2009, which appeared to be an application to the Immigration and Nationality Directorate on behalf of Ms RO for "Confirmation of Right of residence in the United Kingdom as a dependent of [Ms IR]". This application ("the First Application") was on headed paper of GAS and was signed by the Respondent. The reference on the letter was PA/1232, a reference which Mr GA later said referred to another client and which the Respondent said he had used in error. It was disputed whether this letter had been despatched.

34. By letter dated 19 February 2010, the Respondent wrote to the United Kingdom Border Agency ("UKBA") in relation to an outstanding application relating to a Mr EM (the "Second Application"). It was termed the "legacy application" and claimed that Ms RO was related to Mr EM a Nigerian who was described as having two other female dependants a Miss CO and a Miss KN in addition to Ms RO.

35. On 20 June 2010, the Respondent wrote again in respect of this application, chasing progress. The letter stated inter-alia:

> "We write in respect of Ms [RO], who is a dependant of Mr [EM], a Nigerian national referred to in relation to the above Legacy application which is still outstanding at the Home Office…
>
> We write to confirm that as a dependant on an outstanding application which has not been resolved, she is entitled to remain in the United Kingdom, until the resolution of the case."

Both letters were sent on GAS headed paper and had the reference PA/1161.

36. By letter dated 17 January 2011, Mr VH, instructed by Ms RO, wrote to GAS seeking an explanation of the applications. Following further correspondence on 29 March 2011, a complaint was lodged on Ms RO's behalf with the Legal Ombudsman who reported the matter to the Applicant pursuant to section 143 of the Legal Services Act 2007.

37. In the course of the investigations by the Legal Ombudsman and the Applicant, comments were sought and obtained from Mr GA. On 12 October 2011, the Applicant wrote to the Respondent setting out the allegations that had been made against him and inviting his response. No reply was received however it appeared that the Respondent no longer resided at the address used. The Applicant also wrote on 28 October 2011 to the same address, on 23 November 2011 to his current address and on 23 March 2012 to three addresses including his current address. By letter dated 8 June 2012, the Applicant wrote to the Respondent at his current address enclosing "Casenotes" dated 7 June 2012 relating to Ms RO and Mr PI inviting his comments.

38. On 14 June 2012, the Respondent contacted the Applicant by telephone. He confirmed that he had been away, that he had now received the Casenotes and that he would provide his comments to the Applicant but no comments were received.

39. By letter dated 28 June 2012 sent to the current address and another address the Respondent was notified that the matter has been referred to an Adjudicator.

<u>Mr PI</u>

40. Mr PI was a Nigerian national resident in the UK, subject to immigration control. He was at the relevant time studying for an LLM in human rights law at a university in London. The history of his matter was disputed between the parties but in summary Mr PI made various applications to the UKBA in which he said that the Respondent was involved. The first related to obtaining a Certificate of Marriage. Mr PI set out his version of events in his first witness statement. Although aspects of that version were disputed by the Respondent, it is set out here in part as it was referred to during the hearing:

> "During the course of my studies, in early February 2010, I was about to be married and was making arrangements for the wedding. On the basis that I then resided in the UK pursuant to a student visa, I was required to apply to

> the UK Border Agency ("UKBA") for a Certificate of Marriage. This was a requirement for all persons subject to immigration control who wished to get married. My partner, now my wife, was also, and remains, subject to immigration control.
>
> I discussed this issue with my elder sister and she happened to mention that a student friend of hers had previously utilised the services of … the Respondent in this action, for a visa application. She suggested he may be able to help me and obtained, from her friend, his mobile telephone number which she provided to me
>
> I telephoned [the Respondent] and arranged to meet him at the office of [GAS] at…
>
> When I arrived to meet him, at the agreed time, [the Respondent] was not in the office. The receptionist told me he was out. I had to wait approximately two hours before he arrived, at which point we went into a meeting room within the office to discuss my requirements with him.
>
> I do not recall [the Respondent] making any reference to his background, qualifications or position within GAS. I simply assumed that he was appropriately qualified to advise me as an employee of that firm.
>
> [The Respondent] indicated that for the initial consultation the fee was £75. I paid him this money in cash. No receipt was provided nor was I given any information about the firm. We simply discussed the process in very general terms and [the Respondent] indicated that it would cost a further £500 should I wish to instruct him to make the application on my behalf.
>
> During the course of our meeting we were interrupted by a gentleman who seemed to be a senior colleague of [the Respondent's] who asked him how much he had been paid for the consultation. The Respondent said £50, despite the fact that I had given him £75. He gave the colleague £50 and kept £25 among his papers. I looked at the Respondent in surprise but said nothing. I assumed that he had financial difficulties and needed extra money.
>
> After some initial advice about the application I said I would think about things and left the office. In the light of the information he gave me, I did some research online and discovered that the application process was, on the face of it, relatively straightforward. I therefore made the application myself which was successful."

41. Subsequently as his leave to remain in the UK under a student visa was due to expire on 30 September 2010, Mr PI needed to seek an extension of that visa. He also covered that matter in his statement and described the early stages as follows:

> "Application for an extension to my student Visa
>
> Whilst my LLM program had been scheduled to finish in the summer of 2010, in September 2010 I was still in the process of completing my studies and had

to complete two module re-assessments. My student visa was due to expire and I therefore required an extension. The date of expiry was 30 September 2010.

I had a lot on at the time, particularly in dealing with administrative matters with the University and I was late in dealing with my visa application. I therefore decided to get some help with the visa extension application and I rang [the Respondent] on 20 September 2010 with a view to engaging him to make the application on my behalf. When I spoke with him I confirmed that I was in the process of re-registering for the two modules on the LLM programme and that I did not want to have to focus on both that and the application I was required to make to the UKBA to extend my visa, particularly as time was becoming critical. As part of the re-registration process, the University was required, on my behalf, to apply to the UKBA for a CAS (Confirmation of Acceptance of Studies). Without a CAS, the visa application would have been unsuccessful and I wanted to focus on that and other administrative issues. With that in mind, I decided to instruct the Respondent to prepare and send the visa application to the UKBA on my behalf.

On 21 September 2010 we discussed my application on the telephone and he asked me to go to see him with all the relevant documents. I was then working part-time at a… store and we agreed to meet after my shift finished. Because this was after office-hours I agreed to meet him in Peckham, South London, where he lived.

I did not finish my shift until approximately 10 pm and I also had to go home first to collect the relevant paperwork. I accordingly did not get to Peckham to meet with him until around midnight. I took a bus to Peckham library where he was waiting for me. We did not go to his house and simply met in the street.

I gave him all the relevant documents, including my admission letter from ...University, a letter concerning the payment of fees and information regarding my previous LLM results. I had also taken the precaution of taking some money from my bank account anticipating that he would require a payment to be made. I took out £280.

We discussed the application very briefly and it was agreed I would go to his office to go through everything afterwards. He told me that I needed to pay him £650 in total for the application. When I said I did not have that much money on me, he asked how much I did have and when I said £280, he asked for that. He told me to pay the balance when I attended the office.

I did not receive a receipt from [the Respondent] in relation to the deposit, or any other confirmation in writing, or any confirmation from him/GAS of my instructions. There was therefore no written confirmation of the quote of £650 which he said would be the total cost the application…

42. Mr PI went on to state that he instructed the Respondent to finalise and lodge the application with the UKBA prior to the expiry of his visa at the end of September 2010 and that on 26 September 2010 Mr PI attended the Respondent at the offices of GAS. He also stated that at that meeting the Respondent indicated that more information was required from Mr PI which he obtained and provided to the Respondent at a further meeting in Peckham on 28 September 2010. The Respondent was said to have confirmed at that meeting that the application would not be lodged without Mr PI paying the balance of the fee owed. Mr PI deposited the sum of £400 directly into the Respondent's bank account on 29 September 2010 and Mr PI produced a receipt which identified the account as belonging to the Respondent. He stated that he received no receipt for this payment or for the earlier payments that he asserted that he had made and was not provided with an invoice for the work undertaken by the Respondent.

43. Mr PI maintained that having paid the money he provided a cheque to the Respondent for the fee, and instructed the Respondent to lodge the application which included his passport which was retained by the Respondent with the UKBA but that the Respondent did not actually lodge the application. In his statement Mr PI said:

> "He [the Respondent] eventually agreed to meet me in the evening on 26 October at a cyber cafe in Peckham. I demanded that the form be sent and, whilst I was in the cafe he [the Respondent] prepared the papers including a covering letter. He printed the letter on headed notepaper for a different firm of solicitors [RS] which he signed in front of me. When I asked him about this different firm he told me he was working for two firms, which I again was not happy about as he had not told me. In any event I took all the papers from him and sent the application myself on 27 October 2010…"

44. On 27 October 2010 a "Tier 4" application was submitted signed by the Respondent describing the Respondent as a case worker at RS & Co Solicitors ("RS"). The Tribunal was provided with a copy of RS's letter of 27 October 2010 submitting the Tier 4 application; a letter from Mr PI to the UKBA dated 27 October 2010 authorising RS to act on his behalf; a document headed "LETTER OF AUTHORITY" from the witness to the firm RS authorising it to act on his behalf in relation to his immigration matter under two reference numbers; and a document headed "Receipt" stamped by RS acknowledging receipt from the witness of £100 towards the consultation for his appeal/application for leave to remain. Both the last two documents were dated 22 November 2011.

45. By letter dated 21 December 2010, the UKBA wrote to RS confirming that the application had been refused. Mr PI maintained that he was not notified of that refusal. In any event there was no right of appeal against that decision because it had been filed late.

46. The UKBA letter stated:

> "Your client's application has been refused for the reasons set out in the enclosed notices. Please ensure that these are passed onto your client(s) immediately."

At Section C: Right of Appeal, the document stated:

> "You made an application on 27 October 2010. However, your leave to enter expired on 30 September 2010. You therefore did not have leave to enter at the time of your application.
>
> There is no right of appeal against this decision.
>
> You have no right to stay in the United Kingdom and are liable to be removed. You must leave as soon as possible…"

47. Mr PI subsequently made a fresh application to the UKBA for a post-study working visa and Biometric Residence Permit on 20 May 2011 under Tier 1. The UKBA notified refusal of this application to him by letter dated 1 August 2011. The second decision was on the basis that:

> "We have considered your application on behalf of the Secretary of State and your application has been refused under the Immigration Rules
>
> YOU DO NOT HAVE A RIGHT OF APPEAL AGAINST THIS DECISION – SEE SECTION B.
>
> In making the decision to refuse your application, careful consideration has been given to the following:
>
> On 05 February 2009 you were granted leave to enter the United Kingdom as a student until 30 September 2010…
>
> …
>
> The reasons for this decision are detailed below:
>
> You have stated that you were in the UK as a student throughout your period of UK study.
>
> From the evidence provided we have been able to determine that you did not possess valid leave to remain a student after the expiry of your leave on 30 September 2010."

At Section B: RIGHT OF APPEAL, the document said:

> "You made an application on 20 May 2011. However, your leave to enter expired on 30 September 2010. You therefore did not have leave to remain at the time of your application.
>
> There is no right of appeal against this decision."

48. Mr PI subsequently made an application for permission for judicial review of the first decision including on the basis that he had not been notified of it. The Respondent accompanied Mr PI to the Royal Courts of Justice to issue the application and Mr PI stated that the Respondent demanded and received payment in the sum of £200 from Mr PI for which no receipt was provided. The application was unsuccessful and Mr PI was ordered to pay a contribution to the UKBA's costs in the sum of £400.

49. Mr PI made a complaint about the Respondent by letter dated 16 September 2011 to the Office of the Immigration Services Commissioner ("OISC") and copied the complaint by letter dated 22 September 2011 to GAS. Mr GA responded on 30 September 2011 recording that Mr PI had visited him in August 2011 and they had discussed the matter, that Mr GA confirmed to him that GAS had no record of him ever having been listed as a client and that the Respondent had not had any dealings with the firm since early that year. Mr GA recommended that Mr PI complain to RS first and if he was not happy with their resolution, contact the Legal Ombudsman. On 20 October 2011 Mr GA, in correspondence with the Applicant sent copies of Mr PI's letter of 22 September 2011 and enclosures along with his own reply.

50. On 23 February 2012, the Applicant wrote to the Respondent setting out the allegations against him and inviting his response. The letter was sent to three addresses including that at which the Respondent agreed he currently resided. No response was received.

51. The Applicant wrote subsequent letters dated 8 March and 23 March 2012 to which there was no response. The Casenotes which were sent to him by letters dated 8 June 2012 in respect of which the Respondent contacted the Applicant by telephone on 14 June 2012, included Mr PI's complaint.

52. By letter dated 28 June 2012, the Respondent was notified that the matter had been referred to an Adjudicator.

Witnesses

53. Mr Paul Irechukwu gave evidence. On 25 July 2013 he confirmed the truth of his statement dated 13 December 2012. On 25 October 2013 he confirmed his second witness statement dated 14 October 2013 save that he wished to add to paragraph 17 that the Respondent was never part of his wife's case. His wife had her own solicitors and did not want the Respondent's involvement with her appeal at any time.

54. The witness stated that if his application was submitted before the visa expired he could continue as a student and to work while the application was considered. The Respondent had failed to follow the deadline the witness set him. The Respondent told him not to worry.

55. The witness agreed that he became aware on 30 September 2010 that the Tier 4 application had not been sent from GAS and the only reason he remembered being given for that was that the Respondent was moving firms; the Respondent was trying to calm him down. The Respondent had said that he was moving to a particular firm but the witness did not know the name of it; the first day that he saw RS's headed paper and heard of RS was on 26 October 2010. By 26 October 2010, the witness

could not bear it anymore and met the Respondent at a cyber cafe near Peckham library and had to take the application from the Respondent and send it by special delivery on 27 October 2010 because apparently nothing was happening. The witness confirmed to the Tribunal that before then it was his belief that GAS was his solicitor. He had not asked to be transferred to RS before that date. The witness's instructions to the Respondent had been to send the application from GAS. The witness warned the Respondent that the application would fail but agreed to it being sent from RS in October because he wanted to prove that everything they were doing was "a nullity". The witness stated that he typed the letter of authority dated 27 October 2010 submitting the Tier 4 application when he had "wrestled" the forms from the Respondent. He wrote the letter to play along.

56. The witness stated that the Home Office told him that if he had an outstanding application he could apply to vary the conditions so they could consider a new visa. He sent an application but then he received the refusal of the Tier 4 visa extension application. He called the Respondent who wanted to file for judicial review because he said that the decision on the extension application had not been received. The Respondent then said he wanted to file another application on the basis of the witness's fundamental (human) rights to a tribunal. The witness had paid the £400 costs awarded against him in the judicial review which failed.

57. The witness described the consequences of the refusal of the extension to his student visa; he lost his job and was stopped from working, he spent over £5,000 on different attempts to deal with his immigration status, he had had an application for a university place to undertake a doctorate refused and his wife and children had suffered serious trauma and psychological problems. He had been told by the UKBA that he could apply for a visa on Form FLR(O) (Application for leave to remain in the UK in a category not covered by other application forms and for a biometric immigration document). That application was being considered. He now had an LLM.

58. In cross examination by the Respondent, the witness stated that he had studied law and practised for a time in Nigeria. He had undertaken human rights cases He then applied to enter a Masters programme in the United Kingdom in 2009/10. He had first visited the Respondent's office on the recommendation of his older sister. He agreed that he had known the Respondent's brother in school. He had paid £75 in cash to the Respondent (in respect of the Certificate of Marriage matter) and asked for a receipt but did not get one. The witness stated in evidence that he had not challenged the Respondent's retaining £25 of the money because the witness was not practising in the UK and did not know the rules; he did not know the layout of the firm and who was who and wanted to appear normal. He had paid the Respondent on trust. The Respondent did not introduce the individual who walked into the meeting but the witness assumed he was Mr GA. The witness also stated that he had not asked Mr GA for a receipt because they had not finished the matter, they were in the middle of a conversation when the individual walked in. They continued the discussion when he went away. It was the witness's first visit to the office. The witness rejected the Respondent's suggestion that the witness had paid £50 and not £75 in respect of the Certificate of Marriage consultation and that Mr GA had taken £50 in front of the witness. He had told his wife about it; he told her everything. As to whether he had asked his wife to provide a statement, she had written some letters for him and would be willing to come forward.

59. The witness stated that RS did not know about the letter of authority dated 27 October 2010 addressed to the UKBA and he had written it because the Respondent told him to. He did it because he was ready to play along. The Respondent told him on 26 October 2010 that he wanted to send the application on a different letterhead and the witness said "OK". The letter of authority was to go with the application form. The witness was adamant that he had never instructed the Respondent to undertake his matter at RS. The witness was in limbo; all he was doing had come to a standstill. In response to being asked why the pages which he had submitted with his complaint, showed the form as coming from RS (a page not included in the Respondent's bundle), the witness maintained that he had never instructed the Respondent to send the form from RS and that it was printed at GAS. He agreed however that on 26 October 2010 he knew that the form had not been sent in and that he had provided the letter of authority for RS thus authorising the form to be sent in from RS and that he had said to send it in.

60. The witness was referred by the Respondent to a statement in Section A of the refusal letter which included:

> "You have claimed that Mr [TI], is your financial sponsor and he has provided Halifax bank statements to show proof of funds, however, you have omitted to demonstrate your relationship with your sponsor, by way of legal guardianship or otherwise. Mr [TI] is also not deemed as an official sponsor, as he has failed to demonstrate any links to a company or government body. In the light of this the Halifax Bank statements cannot be taken into account. Therefore, the Secretary of State is not satisfied that you have provided the specified documents to show that you are in possession of sufficient funds, as detailed in Appendix C of the immigration rules and it has therefore been decided that you have not met the rules to be granted leave to remain as a Tier 4 (General) Student Migrant"

The witness rejected the suggestion by the Respondent that he had asked the Respondent to give him a cheque in order to "beef up" his accounts. He stated that his instructions to the Respondent ended on 29 September 2010 and that he had sufficient funds in his account after 30 September 2010. He had no problem with paying the university; he had paid £11,000 for the LLM and he paid Home Office fees. The witness also rejected the suggestion that when they had met at Peckham library, in respect of the proposed meeting at RS to discuss the witness's complaint, the witness had calculated all the monies that he paid solicitors and asked for £3,000 from the Respondent. The witness denied that he was encountering difficulties in getting a sponsor to provide money to meet Home Office requirements and asked the Respondent for a £2,000 cheque. He stated that he did not need or receive any support from the Respondent and did not receive any cheque from him.

61. The witness was asked why, in sending a copy of the Tier 4 application form to the Applicant along with his complaint, he had omitted some pages including the section of the form relating to why he was out of time. (On page 12 of the form in the Respondent's bundle it was stated:

> "THE STUDENT HAS OVERSTAYED SINCE SEPTEMBER 30TH 2010 BECAUSE HE HAS RE-ENROLLED TO RE-SIT TWO COURSE

> MODULES.PLEASE REFER TO HIS CAS LETTER DETAILS AND RECENT RE-ENROLMENT DOCUMENTS")

The witness responded that he had provided what he thought would be most helpful to the Tribunal and had not meant to mislead. He rejected the suggestion that the reason the application was sent in out of time was because he did not pass his exams until re-sitting (he agreed had re-sat two modules.)

62. In connection with the omitted pages, the witness explained that in order to obtain the Confirmation of Acceptance for Studies ("CAS") letter from his university he had to be registered there; the CAS letter was not fundamental to his application but his right of appeal was. The witness rejected the suggestion that the application could not be sent in because he could not provide the CAS letter from his university because without it the application would fail. The witness stated that the UKBA refusal letter of his extension application dated 21 December 2010 gave many reasons but they were overtaken by events as he had lost his right of appeal. The witness testified that he had received his CAS letter on 6 October 2010 and the most important document for the application was his passport (which the Respondent retained) and that he had told the Respondent that the CAS letter could be done later. The attention of the witness was directed to page 28 of the application form which included:

> "Students must send the required evidence as specified in this application form and the Tier 4 of the points-based system Policy Guidance. Failure to submit required evidence is likely to lead to refusal of the application."

Under the heading "Points Scoring Area" was listed "Possession of Confirmation of Acceptance for Studies (CAS) (30 points)". The witness was asked how he could have signed the Tier 4 application form in September 2010 if he did not know the date of his CAS letter. The witness responded that he had told the Respondent to tell the UKBA that he had applied for the letter. As to any proof the witness had that he had instructed the Respondent to submit the form without the letter, the witness stated that he had told the Respondent by telephone that morning.

63. The witness was adamant that he had not visited GAS in October 2010.

- On the first occasion when he went to GAS regarding his Certificate of Marriage application and waited two hours for the Respondent, he was not told where the Respondent was; he waited by reception.

- The witness did not initially go to the GAS office when he instructed the Respondent to deal with his Tier 4 visa extension application.

- Later they met in the office two or three times (the witness said in his first statement that he had attended the GAS office briefly on 25 September 2010; the Respondent was not there, the witness waited for him and by the time he arrived there was insufficient time to go through everything and he was asked to return the next day which he did and in his first witness statement he also said that on that occasion the Respondent printed off the Tier 4 application. The witness clarified that when he referred in his first witness statement to a red file being

opened in his presence, he was not referring to a file being entered in the firm's register but his forms being placed in a file.

- The witness stated that he had gone to GAS much, much later in August 2011 when he was complaining, because it had been said that the case was not registered with GAS. He had telephoned and sent his university receipts to GAS and Mr GA said that he checked to see if the witness was registered with the firm and he was not, but he acknowledged that the Respondent had been working there. The witness stated that he did not deal direct with Mr GA before then because he trusted the Respondent's instructions.

- The Respondent put it to the witness that the only time that the witness came to GAS was when he wished to seek advice about the Certificate of Marriage and that the witness informed him that he was married and wanted to follow the Certificate of Marriage procedure so that the wife could be added to the Tier 4 application. The witness stated that he had completed on the Tier 4 application that he was single because he and his wife had at that time had carried out some of their traditional rites but were not married before the law; they married in May 2011.

64. The witness stated that he had not received a copy of the Home Office decision of 21 December 2010 refusing his Tier 4 application; the first he heard of the decision was when the Treasury Solicitor responded on 15 September 2011 to his judicial review application stating in the summary grounds of defence that the information in his application for permission that his Tier 4 application was outstanding was incorrect. The witness stated that he had asked the Respondent on numerous occasions about the Tier 4 application and the Respondent said that he was not aware of the outcome.

65. As to his later contacts with RS, the witness had first visited an office in one place but they had moved and he went to the new office. The witness stated that he had been to RS several times and the Respondent was not there. He had first been in contact with RS on 31 October 2011, this spilled over into November 2011 (this was the meeting to which the Respondent had been invited) and he ceased contact with RS on 7 July 2012. The witness explained that when he said in his statement that he had gone to RS on 31 October 2011, this was because RS had received a letter from the Legal Ombudsman, and invited him to visit their office. The Respondent had not been talking to him at the time. The witness had asked RS about his case and had been told that the Respondent had never worked with that firm rather that they had interviewed him and he had made off with some of their headed notepaper. The witness later received a telephone call from RS when he had been told that the decision letter of 21 December 2010 had come to that firm and that they had called the Respondent twice but he was not interested. The witness stated that the woman he had seen at RS, to whom he showed the letter that the Respondent had written on their headed paper, told him that the firm had similar issues with the Respondent but that she could not do anything until the principal was there and she was travelling at the time. The woman told him to come back on 21/22 November 2011 when she opened a drawer in an inner office and brought out the Home Office decision which was on file and photocopied it. The witness had complained to the Legal Ombudsman about RS because they had held the refusal letter for 11 months without justification and he

considered it should have been handed to him. The witness stated that he asked RS what he could do and they said they would have a look to see and asked him to pay a fee of £100, hence the receipt dated 22 November 2011 and a letter of authority of the same date. They called him after three weeks and said he should come to the office. They said they had looked into the matter and there was nothing they could do about it. As to why the witness had waited a whole year after the application was made to go to RS when he had known that the application had been made in the name of that firm, he responded that while he knew that the application had been bound to fail he did not have the evidence to prove it and he did not know for sure that the application would fail (and had not been aware of the decision until the judicial review proceedings). RS was handling his First-tier Tribunal matter (see below). The Respondent was aware that he was going through immigration procedures at the time of the judicial review. The witness rejected the suggestion from the Respondent that he had visited RS on 11 and 17 July 2012 and asked for counsel's opinion. He suggested that what the Respondent described as extended notes that RS made for the witness, had been "made up" by the Respondent himself.

66. The witness disputed the Respondent's assertion that two years after the Respondent had left RS; the witness had met the Respondent several times and come to him for legal advice. The witness maintained that he had not contacted the Respondent after the application for permission for judicial review was turned down. The Respondent had asked him to bring his wife's case to the Respondent but she had said "no". The witness had conducted his wife's case. However the witness agreed that the Respondent had sent the witness an e-mail on 3 July 2012 headed "Additional grounds of appeal in support of my application" in respect of the witness's wife. The Respondent had also telephoned the witness and he met the Respondent at Peckham library with the refusal of visa extension decision in December 2011. They met for the purpose of resolving matters; RS had suggested that both the Respondent and the witness meet with them but the Respondent said RS was making trouble. The Respondent had asked how could he help the witness and his family and that was how the drafting in respect of his wife's matter had come about. The Respondent's drafting had not been used. The Respondent had known that the witness needed assistance because his wife had a right of appeal. The Respondent had asked at the judicial review proceedings if he could assist the witness who said "No." The witness attributed the Respondent's knowledge of his e-mail address to the fact that he had sent Respondent the CAS letter by e-mail which the Respondent denied. He also stated that his wife's application was nearly the same as his own and that when they met at Peckham library, the witness had handed the Respondent a copy of the decision relating to him. He had done this because he needed to discuss issues with the Respondent. The witness also stated that at the time the Respondent sent him the advice; the witness had no immigration application on-going.

67. The witness stated that he did not know where the Respondent lived because he had not previously seen him. The witness was asked to clarify a reference in his letter to the OISC:

> "On September 21 2010, I met him again. This time because it was very late at night he directed me to his residence in Peckham… "

The witness stated that he had not gone to the Respondent's residence; he meant the area of his residence. He was also asked to clarify regarding a letter of 10 September 2011 which he had received from Mr GA, which said:

> "I understand from your letter dated 22 September 2011 the following:
>
> …
>
> You met Mr Anyakudo on September 21 2010 late at night at his residence in Peckham…"

The witness repeated that he had never met the Respondent at his residence; he did not know him before then. The witness insisted that the meetings in the cyber cafe and at bus stops had taken place; they had been held there because of the circumstances around the meetings when it was not convenient to meet at the firm's offices (i.e. it was late at night); the witness stated that he knew where the cafes were but he did not know their names; one was by Peckham library.

68. As to the payments he had made to the Respondent and what he thought they were for the witness stated that in respect of the Tier 4 visa extension application, the circumstances and payments were:

- On 21 September 2010, the witness had called the Respondent, as he needed his matter to be done quickly. The witness gave the Respondent £280 in cash because the witness had some money with him. The sum of £280 was because he was having general discussions with the Respondent who said that he would charge £650 for a straightforward application. It was what the witness would call an initial deposit to show his seriousness.

- A bank receipt dated 29 September 2010 acknowledged payment of £400 into the Respondent's personal account. The witness had spoken to the Respondent that day regarding the urgency of the matter. He had intended to pay £250 but the Respondent asked for the whole amount; the Respondent said that the managing partner (Mr GA), would need it to let the Respondent register a case at the firm. As to why the witness had paid the £400 into the Respondent's personal bank account (rather than to the firm), he was constrained at the time; he had to go to school to register. He had trusted the Respondent's judgement; the Respondent was acting for him and so he asked for the Respondent's bank account details and paid the money into a branch of the Respondent's bank and then went to the firm to finish the matter. That was the first and only time that he had done it. He had written the Respondent's bank account details on a piece of paper and the Respondent had sent them to his phone. The Respondent had also stated that he would post the witness's visa extension application on 29 or 30 September 2010 at the latest and that he would keep the special delivery postal slip as evidence that the application had been sent before the expiry of the witness's student visa. The witness stated that this was the last instruction which he had given the Respondent before paying the money into the Respondent's account. He received no receipts before then and so he was being very careful.

- The witness stated that he had had to pay the £400 into the Respondent's account because he was not sure what was going on and had received no receipts. He considered that the Respondent was playing some game and he paid £400 through Santander to prove that there was a contact between them. The Respondent put it to the witness that when the witness paid £400 into his account on 29 September 2010, it was because the witness had asked the Respondent to help him and the Respondent said that the Home Office fee would be £375 and £25 for commission on a postal order. The witness rejected the suggestion; he had paid the Home Office by cheque. The witness also rejected the suggestion that he had paid in the £400 when the Respondent told him that Mrs RA of RS would not submit his application without him making payment and that the witness said he would provide a cheque. The witness stated that he did not know who Mrs RA was. The witness stated that he had never received any letter from RS regarding the £400.

- On 3 August 2011, the witness received the refusal of the application and called the Respondent. The witness stated that he had not paid any further money until the application for permission for judicial review and then because the Respondent said that he would take measures to correct the situation. The witness gave him a few days and on 8 August 2011 they went to the High Court together and filed for Judicial Review. The witness paid £60 to the High Court. They then went to a shopping Mall at the Elephant and Castle where the witness went to a cash machine; the Respondent insisted on payment of £200. When the witness asked why, the Respondent told him it was a continuation of what they were doing. The witness obtained £200 from a cash point and gave it to the Respondent.

- The witness had handed a cheque to the Respondent for £357 to the Home Office on 29 September 2010 because of the need to act quickly. This had happened close to the Respondent's home as they were meeting after office hours. He withdrew the cheque and wrote a new one on 15 October 2010 in the same amount. In cross examination by the Respondent, the witness stated that his reason for withdrawing it was because "it had stayed too long with him" and was "looking rough". The witness produced a cheque book which he showed to the Tribunal indicating the counterfoil for the September and October 2010 cheques. That second cheque was in the envelope with the forms which the Respondent handed over to him on 26 October 2010.

- The Tribunal asked the witness to clarify, because from what he said he had been asked to pay £650, he had paid £280, (leaving a balance of £370) and he then decided to pay £400. The witness agreed that this was the case and stated that he had said "Yes: let's finish up the case"; he felt comfortable with the responses the Respondent gave him. He had overpaid the Respondent £30 (£680 as opposed to £650). He said in his first statement that this was a way of encouraging the Respondent to get his application finalised.

69. As to receipts, the witness had asked for one on the first occasion when he paid the £75. He had asked for receipts several times but received none when he went to the office. He was supposed to pick up receipts on 30 September 2010. As to why he had not contacted Mr GA about the lack of receipts, the witness stated that the Respondent was his contact at the firm and the witness felt his only option was to be calm and patient. The witness explained that the reason he had not complained about the

Respondent until August 2011 was that he did so when he had proof that the Respondent was telling lies. He had first complained to the OISC, which told him to complain to GAS and he sent his complaint to GAS.The witness agreed that he was aware that he was supposed to obtain a client care letter and stated that he was aware that he should receive some receipts. The witness rejected the suggestion that during the two hours he had waited in reception on his first visit in connection with the marriage certificate, he would have seen signs stating that anyone making payments to the firm should ask for a receipt; he stated that there were no such signs. The Respondent challenged the witness as to why having asked for receipts between February 2010 and 2011 and not having received any, he still felt confident to make payments to the Respondent. The witness responded that the initial £75 had been a consultation fee after which he had not returned to the firm (in that matter) and the second payment of £280 was for ongoing services and he had given the Respondent some leeway.

70. In respect of his later application for a "biometric" visa, the witness confirmed that the UKBA wrote directly to him about the biometric process and invited him for biometric testing on 30 November 2010 and the witness called the Respondent and told him. The witness considered that the Home Office had written to him direct about the biometric testing because those were the Home Office rules. The witness confirmed that this was consistent with his more recent experience of biometric testing.

71. The Tribunal asked the witness to confirm his legal qualifications and whether in the same circumstances in Nigeria, he would have checked with a solicitor and the witness stated that he was a human rights lawyer and not a commercial lawyer; he worked on trust so he had come to the Tribunal to state his case because he felt that the Respondent's conduct was below standard; his behaviour was unprofessional.

72. The witness agreed that as well as filing an application for judicial review he had been allowed to apply to the First-tier Tribunal although out of time under its discretionary powers. The application was refused (after a hearing on 7 October 2011) on the basis that he could not succeed as his Tier One application was made at a time when he did not have pre-existing leave to remain in the UK. This was a mandatory condition and one which he did not fulfil. He did have a right of appeal under the Human Rights Act and his appeal to the First-tier Tribunal was also based on his Article 8 rights. The witness failed on that ground also on the basis that he had not spent much time in the UK. His application for permission to appeal to the Upper Tribunal was also refused. That notice was sent to the witness (on 16 November 2011) to his home address because the Respondent had put the witness's address on the application. The witness had represented himself.

73. **The Respondent** gave evidence and except where set out below it is recorded under the appropriate allegation. The Respondent testified that his legal training had included a period of time spent in Israel when he had gained an LLM. He was not yet qualified as a solicitor and had worked with various firms. He wished to obtain a training contract. Mr GA had promised him a training contract but had given one to someone else. Mr GA owed him money. He had worked for Mr GA for two years and undertook Mr GA's advocacy. The Respondent stated that he had undertaken over 800 appeal hearings for various firm of solicitors. The Respondent stated that he loved doing advocacy. In cross examination, the Respondent qualified his statement about

the number of hearings he had undertaken to say that they were cases and appeals and not all of the cases went to appeal. The Respondent was unable to recall the exact date when he had ceased to be employed by Mr GA and joined RS. The Respondent left GAS because he thought that Mrs RA of RS would give him a training contract. He had worked for RS for a month or two and then realise that Mrs RA would not pay him for legal visits (to clients) and decided that he would have nothing to do with her. The Respondent's brother also worked at the firm and was not being paid. When he left RS, the Respondent had left a lot of files there and told Mrs RA to write to them (the clients). The Respondent testified that he had tried several times to get something from Mrs RA about the workings of her office but she did not want to have anything to do with him when she knew of the Applicant's involvement.

74. In cross-examination, Mr Havard took the Respondent through the detail of the correspondence which the Applicant had sent to him in respect of both Ms RO and Mr PI's matters. Mr Havard gave the Respondent the benefit of the doubt; some letters had gone to a former address but the letter of 8 June 2012 from the Applicant had been sent to the Respondent's latest address and after he contacted the Applicant on 14 June 2012 acknowledging that he had received the Casenotes regarding Ms RO's matter, he did not make a response. The Respondent stated that he had contacted the Applicant and spoken to Ms DH on 14 June 2012 when he realised the matter of Ms RO has gone so far. Mr GA was upset with him. Ms RO's file was missing from the office. The Respondent accepted that he had not written to explain that. The Respondent stated that he had answered the Tribunal but agreed that although he had telephoned on 21 February 2013 and indicated that he would submit a written response, he had not done so. The Respondent agreed that what he referred to as his handwritten response was in fact a letter addressed to Mrs RA of RS but stated that he had also submitted it to the Tribunal. It was put to him that he had shown complete disrespect for the Tribunal by his repeated late arrivals and failure to comply with directions. The Respondent stated that he had apologised and explained the circumstances and that if he had disregarded the Tribunal he would not have attended the hearing; on 25 October 2013 he had walked all the way from Blackheath and had a serious headache. The difficulties he had in not responding to most of the Applicant's letters were when he had hit a brick wall when trying to get documents from solicitors and he had tried to obtain witnesses. The Respondent referred to some earlier letters from the Applicant which had been sent to an address at which he no longer lived and stated that as a student member of the Law Society he had updated his address. The initial investigation by the Applicant was largely undertaken without the Respondent's knowledge or letters were sent to his address of 1998/1999. The Respondent rejected Mr Havard's suggestion that he had acted dishonestly with Ms RO and Mr PI; he had been trusted by Mr GA to undertake a lot of cases for him and by a lot of firms and there had been no allegations from them.

Findings of Fact and Law

(The submissions recorded below include those made orally at the hearing and those in the documents. Paragraph numbers in quotations have generally been omitted.)

75. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the

Protection of Human Rights and Fundamental Freedoms. The Tribunal took note of the fact that the Respondent had not responded to the Civil Evidence Act Notices and while it considered that the fact that Mr VH and Ms RO were not in court did not assist the Respondent, the Tribunal could take account of the fact that he challenged their account of what happened at the hearing rather than in response to the CEA notices but noted that the Tribunal was hearing his challenge for the first time.

76. **Allegation 1.1 In respect of Ms RO it was alleged that the Respondent:**

(i) Conducted Ms RO's matter without the knowledge and consent of his principal Mr GA

(ii) Failed to provide any information to Ms RO in relation to her matter, including client care information

(iii) Withheld monies received from Ms RO, purportedly on behalf of his firm, from the firm's client account

(iv) Retained and, it was alleged, misappropriated monies received from Ms RO, purportedly on behalf of his firm, for his own use and without authority

(v) Failed to act in Ms RO's best interests

(vi) Submitted "the First Application" and "the Second Application" to the Immigration and Nationality Directorate on behalf of Ms RO which he knew, or ought to have known, contained false information

(vii) Deliberately misled his employer as to the true position in connection with Ms RO's matter and provided false and/or misleading information in response to enquiries put to him.

In respect of allegations 1.1(iii) to 1.1(vii) it was alleged that the Respondent had acted dishonestly.

Submissions for the Applicant

76.1 For the Applicant, Mr Havard reminded the Tribunal in respect of the allegations concerning Ms RO and Mr PI of the nature of the order sought order under section 43 of the Solicitors Act 1974 (as amended) by reference to the judgment in the case of Gregory v The Law Society [2007] EWHC 1724 (Admin), where Mr Justice Treacy said:

> "I turn next to consider section 43 in its broadest terms. Section 43 is not punitive in nature. It is there to protect the public, to provide safeguards and to exercise control over those who work for solicitors, in circumstances where there is necessity for such control shown by their past conduct. Its purpose is to maintain the good reputation of and maintain confidence in, the solicitors' profession…"

This judgment confirmed principles established in the case of Ojelade v The Law Society [2006] EWHC 2210 (Admin) where Mr Justice Ouseley said:

> "… The starting point is that section a section 43 order is not a punishment. As was submitted by the Law Society to the Tribunal, and as is plainly correct, section 43 is a regulatory provision designed to afford safeguards and exercise control over those employed by solicitors when in any given case that was considered to be appropriate. It should not be viewed as a punishment. The fundamental principle involved was the maintenance of the good reputation of the solicitors' profession, both in the interests of the profession and of the public. The collective reputation of that profession was of importance to the public and there had to be confidence in solicitors and in those employed by solicitors' firms. I agree with those comments. That is the purpose of it."

76.2 Mr Havard submitted that the judgment was most important for this case where it said:

> "… It is not right for someone who was employed by Firm A to act and appear on behalf of someone who is not a client of that firm and instead to act on behalf of the client of another firm with whom he has no connection. It is a good illustration, notwithstanding the mitigation that has been put forward, of the circumstances in which an error of judgment of that sort requires somebody to work under close supervision."

76.3 Mr Gregory had been the subject of an allegation of dishonesty in other proceedings and acquitted. Mr Justice Treacy went on to say:

> "True it is that he was acquitted of acting dishonestly in either case, but section 43(1)(b) does not require a finding of dishonesty. Such a finding would strengthen the case for an order, but conduct falling short of that may suffice if it was of a nature which made it undesirable for the person concerned to be employed in connection with a solicitors practice…
>
> I note that in the case of Ojelade v The Law Society [2006] EWHC 2210 (Admin), this court declined to interfere with findings made in relation to "a serious error of judgement" on a single occasion, albeit a judgement that the unwell respondent had been forced into making at the last minute. That gives some indication, although it is not binding on his court, of the level of conduct which is capable of attracting an order pursuant to section 43(1)(b).

And

> "… The Tribunal was looking at an accumulation of conduct which led it to conclude that it would not be desirable for Mr Gregory to be employed by a solicitor in connection with his practice."

76.4 Mr Havard submitted that the purpose of section 43 was not just to prohibit someone from practising but to do so unless and until a firm that wished to retain him had obtained the prior approval of the Applicant.

76.5 Mr Havard also referred Tribunal to the case of Twinsectra Ltd v Yardley [2002] UKHL 12 because this matter involved allegations of dishonesty and Twinsectra set out the test for a finding of dishonesty:

> "… there is a standard which combines an objective and a subjective test, and which requires that before there can be a finding of dishonesty it must be established that the defendant's conduct was dishonest by the ordinary standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest. I will term this "the combined test."

Lord Hutton had also said in that case:

> "Therefore I consider that the court should continue to apply the test and that your Lordships should state that dishonesty requires knowledge by the defendant that what he was doing would be regarded as dishonest by honest people, although he should not escape a finding of dishonesty because he set his own standards of honesty and does not regard as dishonest what he knows would offend the normally accepted standards of honest conduct."

Mr Havard submitted that even if the Tribunal did not find dishonesty proved there were sufficient factual issues to give concern on behalf of the Tribunal that the Respondent should not practice without the Applicant's approval that he should be employed or remunerated.

76.6 Mr Havard submitted that there were two separate and distinct cases which caused Applicant significant concern; both were immigration matters referred by the Legal Ombudsman in which the Respondent purported to act for Ms RO and Mr PI and that although the Respondent had been employed at the material time by GAS, he had made a reference to some arrangement with RS but Mr Havard had not obtained any response from the Respondent about that so all he had were the documents contained in the Applicant's bundle regarding the participation of RS in Mr PI's matter.

76.7 In respect of Ms RO, the Tribunal had her statement in the form of a letter to Mr VH. Mr Havard submitted that while he did not have concrete evidence in any of the documents to prove that the entire sum of £1,700 referred to by Ms RO in the letter as having been "charged" to her had been paid; he could prove that £300 was paid at the outset and if he could satisfy the Tribunal that it had been paid and that it never reached the client account of the firm, his case would be made out. Ms RO said that she had been charged which begged the question if she had handed the money over, where was the invoice to show that the charge had been made. Once she had consulted the Respondent, he requested an amount on account. The Applicant's bundle contained a receipt dated 22 January 2009 acknowledging payment of "Cash" "Three hundred part of agreed fee for dependency EEA application". Mr Havard submitted that this was consistent with Ms RO's account and that the signature on the receipt was the Respondent's.

76.8 Mr Havard referred the Tribunal to a letter of 17 January 2009 which he submitted was signed by the Respondent and was the First Application that he lodged for her. Ms RO stated via letters dated 18 February 2011 and 15 April 2011 sent on her behalf

by Mr VH to GAS and the Legal Ombudsman respectively that she was not made aware of the nature of the First Application and had no knowledge as to its contents. The letter from KL dated 15 April 2011 referred to Ms RO being described:

> "as a family member of a Lithuanian national by the name of [IR]. [Ms RO] confirms that she has never met Ms [IR] and is certainly not her family member."

Mr Havard submitted that Ms RO confirmed that she had contacted the Respondent regarding lack of progress in the matter and been told that Ms IR had withdrawn her application but that he the Respondent would help her out.

76.9 There was then the Second Application and Ms RO's concerns regarding it. On 17 January 2011, KL wrote to GAS on her behalf including:

> "We also ask that you confirm the allegations that Ms [RO] has put forward against the company, namely that she was added as a dependent on a "legacy" matter when she was not aware of the principal applicant or the two dependent children added to the application. This is a serious allegation and we therefore ask that you provide your comments to this aspect of Ms [RO's] case."

The Respondent signed a letter in reply on 24 January 2011 under reference PA/1232, including:

> "Further to your letter of 27th January 2011 and the requests and clarification that you seek, [Ms RO] was supposed to be a dependent of a European national but the application did not go ahead as the European person decided not to proceed with the application and collected her documents, [Ms RO's] documents were also given to her at that time."

Mr Havard presumed that Ms RO's documents had been given to IR.

76.10 In relation to the Second Application, Mr Havard also took the Tribunal through the correspondence; the Respondent's letter of 24 January 2011 to KL stated:

> "In respect of the allegation that you have raised regarding the Legacy Application, I am not aware of that and it is best that you clarify that from [Ms RO]"

Mr Havard submitted that it was difficult to understand how the Respondent could deny knowledge of Mr EM's application bearing in mind the letters which he had sent on 19 February 2010 (letter to the UKBA detailing Ms RO as one of Mr EM's dependants) and 20 June 2010 (addressed "To Whom It May Concern" and confirming that Ms RO was a dependant on an outstanding application by Mr EM). By letter dated 15 February 2011, the Respondent added that no file had been opened in Ms RO's name. Mr Havard submitted that it was important that no file was opened because £300 had been taken by the Respondent and there was no indication of a client care letter or terms and conditions of retainer sent to Ms RO. Mr Havard queried why no file was opened and submitted that it gave credibility to the rest of what Ms RO said. On 16 February 2011, Mr GA wrote further to Mr VH asking for

Ms RO's comments on the Respondent's replies to date. On 18 February 2011, KL wrote to Mr GA setting out its concerns. In response, Mr GA put a number of allegations to the Respondent in writing as follows with the Respondent's replies:

> Mr GA: "Allegation 1
> It is alleged that [Ms RO] paid you the sum of £1700 for an immigration application (EEA or other)"
>
> Respondent: "No such sum was paid. The office has a standard receipt and copies of payment are kept for record purposes."
>
> Mr GA: "Allegation 2
> It is alleged (second proposed application) that it was after [Ms RO] queried the nature of the first application and in particular asked you to justify the fees previously paid in relation to her immigration matters, it was at that stage you stated a fresh application would be submitted to the UKBA."
>
> Respondent: "No query was made"
>
> Mr GA: "Allegation 3
> It is alleged that your reply of 6 November 2010 is inconsistent with your reply of 24 January 2012 in that you stated you are not aware of any EEA application"
>
> Respondent: "There is no inconsistency. No EEA application was sent to Home Office"
>
> Mr GA: "Allegation 4
> It is alleged that you made her a dependant of a legacy application of [Mr EM] a person she had not previously met and no prior knowledge
>
> [Ms RO] confirmed she has a copy of your letter dated 17 January 2009 addressed to the Home Office in relation to the proposed EEA application"
>
> Respondent: "I am not aware that she has not met [Mr EM]"
>
> Mr GA: "Allegation 5
> It is alleged a file was opened in her name.
> What is the legal basis of the proposed EEA application to the Home Office?"
>
> Respondent: "No file was opened in her name."

By letter of 1 March 2011, a copy of the Respondent's response was provided to KL. They in turn sought Ms RO's comments which she provided and which are quoted earlier in this judgment.

76.11 Mr Havard submitted that the Respondent denied that any sum of £1,700 had been paid but did not dispute the payment of £300. He also disputed that Ms RO queried the nature of the First Application and that she asked him to justify the fees paid previously; he also denied being aware that she had not met Mr EM. Mr Havard

submitted that it appeared that the Respondent had not checked that Ms RO was a dependant of Mr EM. The Respondent had not responded to the Applicant or served a counter notice and thus his correspondence with Mr GA was in evidence. Mr Havard relied on all points made by Mr GA in the course of the investigations by the Legal Ombudsman and the Applicant as recorded in the Rule 8 Statement. Mr GA confirmed that:

- Ms RO was never a client of his firm
- Ms RO's matter was concealed from him
- His firm received no monies from Ms RO and there were no records in his possession that related to her
- No receipt was issued to Ms RO on behalf of his firm
- He did not possess copies of the applications made by the Respondent on Ms RO's behalf
- He identified a client file belonging to Mr EM with reference PA/1161 which was opened on 15 July 2008. The file contained no note of any instructions to add Ms RO as a dependant on any application made on Mr EM's behalf
- File number PA/1232, referenced in the First Application related to a client named Ms EMW and not Ms RO
- The letters dated 17 January 2009, 19 February 2010 and 20 June 2010 were signed by the Respondent
- The handwriting on the receipt provided to Ms RO was that of the Respondent
- Mr GA referred the conduct of the Respondent to the Home Office's Immigration Crime Unit
- Mr GA sought the Respondent's comments in response to the allegations put to him by the Legal Ombudsman; however despite assurances that he would provide a final response, the Respondent declined to do so and did not attend the office after that point.
- Mr GA refunded Ms RO the sum of £300 on the basis of the receipt provided to her by the Respondent

Mr Havard could not inform the Tribunal whether any progress was made in respect of Mr GA's reference to the Home Office's Immigration Crime Unit.

76.12 Mr Havard informed the Tribunal that there was no evidence on the file of a response to the application to the Immigration and Nationality Directorate by the letter dated 17 January 2009 for IR. The Tribunal was referred to a letter from KL dated 18 February 2011 which included:

> "…I wish to clarify Ms [RO's] position at this stage and that is, that none of the concerns raised in our previous correspondence have been adequately addressed by [the Respondent] in his correspondence of 15th February 2011, 24th January 2011 and 6th November 2010.
>
> [The Respondent] stated in his correspondence 24th January 2011 that Ms [RO] was supposed to be a dependant of a European national and that the application did not go ahead as the European person decided not to proceed with the application and collected her documents. The paragraph goes on to state that Ms [RO's] documents were also given to her at that time.
>
> Ms [RO's] position is that she paid the sum of £1700 to [GAS] for assistance in her immigration matters. She was not made aware as to the nature of the proposed application that was to be submitted to the United Kingdom on her behalf. She was certainly not made aware that she was to be the dependant of a European national who was reportedly exercising Treaty Rights in the United Kingdom…"

Mr Havard accepted that perhaps ultimately the application did not go ahead but submitted that in any event it was clear that Ms RO did not have any knowledge of IR and the letter the Respondent drafted claimed that she did. The matter was a complete mess.

76.13 The Respondent wished to have admitted as evidence (just before the Tribunal retired to consider its findings), a copy of the letter from KL dated 4 November which he said was endorsed in handwriting by Mr GA: "PA [the Respondent] kindly transfer this file today 5 Nov 2010". He wished to adduce it to prove that Mr GA was aware of Ms RO. Mr Havard objected to this late admission of evidence. He referred the Tribunal to the exhibits to VH's statement which already included an unendorsed copy of the letter dated 4 November 2010 from KL asking GAS to transfer Ms RO's file to KL. On 6 November GAS replied in a letter signed by the Respondent confirming that Ms RO was:

> "a dependant on a client's application and is not the main applicant. We have contacted her and explained the situation to her and also informed her that the main Applicant does not wish to transfer his file from us. We have also informed her about the latest update on the matter, and the correspondence we have recently had with the Home Office in respect of the application....If however Mr [RO] still wishes to withdraw herself from out (sic) client's application as a dependant, she should inform us and we will notify the Home Office accordingly. It does not seem so from the notes of our recent conversation with her.
>
> It is clear from the above that she had no free standing application at the Home Office but is dependent on a person's application. We hope the above explanation will clarify the issues clearer to you.
>
> Do not hesitate to contact us and ask for Mr PRINCEWILL EDWIN, if you need further clarification in respect of the above matter."

There was then an attendance note dated 23 November by SH of KL recording that SH had called GAS to speak to the Respondent who was not available but called back. The note recorded:

> "Incoming call from Mr Princewill Edwin informing me that as she was dependant on another person's case and that person does not want to transfer, he has no documents to transfer to me.
>
> In turn I informed Mr Edwin that according to the documents I had, she was the main applicant in a previous European case and Mr Edwin said yes but it was a long time ago. I stated that neither (sic) the less a file must exist within the company for the client.
>
> I then enquired as to whether Mr Edwin was in fact a solicitor as I was slightly concerned about the level of competence shown in relation to the previous application and in particular I put forward the allegation to Mr Edwin from [Ms RO] that she does not know the main application (sic) who she is dependant of.
>
> I left it with Mr Edwin to reconsider the position of the company after he gets back to the office on Thursday and for him to call me with details of how he wishes to proceed with this matter.
>
> I also advised Mr Edwin that, after he stated he would like [Ms RO] to attend at his office that I would place it on record that as of today's date I do not wish him to contact my client and that any correspondence should be made through me that relates to [Ms RO]."

On 17 December 2010 KL wrote to GAS referring to a telephone conversation with the Respondent and asking that any documents GAS held regarding Ms RO be forwarded to KL. GAS replied on 31 December 2012 by enclosing a copy of its 6 November letter. On 17 January 2011 KL wrote, including:

> "...Subsequent to speaking to [the Respondent], it was clarified that Ms RO made an application for a Residence Card under the Immigration Regulation (EEA)2006b under her own right. She was not therefore at this stage a dependant on any other claim. Ms [RO] should therefore have a file in her own name. [The Respondent] confirmed that that he would clarify the situation with this office in relation to whether Ms [RO] has her own file.
>
> Your correspondence also contains a reference PA/1232 which seems to refer to our client's matter with [GAS]. Please confirm whether this reference number relates to our client's file of papers.
>
> We also ask that you confirm the allegations that Ms [RO] has put forward against the company, namely that she was a dependant on a "legacy" matter when she was not aware if the principal applicant of the two dependent children added to the application. This is a serious allegation and we therefore sake that you provide your comments on this aspect of Ms [RO's] case.

> Finally we ask that you confirm the legal basis of the application that was made on our client's behalf for a Residence Card on the basis of her alleged friendship with an EEA national in the United Kingdom.
>
> We look forward to receiving your correspondence as a matter of urgency and ask that you confirm whether you do hold a file under our client's name."

On 24 January 2011 GAS wrote to KL including;

> "Further to your letter of 17 January 2011 and the requests and clarification that you seek [Ms RO] was supposed to be a dependant of an (sic) European national but the application did not go ahead as the European person decided not to proceed with the application and collected her documents, [Ms RO's] documents were also given to her at that time.
>
> In respect of the allegation you have raised regarding the Legacy Application, I am not aware of that and it is best that you clarify that from [Ms RO].
>
> We hope that the above did answer your questions regarding the issues raised in your letter of 17 January 2011.
>
> Do not hesitate to contact us, and ask for MR PRINCEWILL EDWIN, if you need further clarification in respect of the above matter."

On 15 February 2011, GAS wrote

> "We write in respect of the above named person and in particular reference to your transfer of file request.
>
> We have again today received a letter from you regarding her matter. A letter was sent out addressing your earlier concerns. We have again resent it by fax and we are enclosing this additional copy by post.
>
> I wish to bring to your knowledge that no file was opened in [Ms RO's] name..."

On 16 February 2011, Mr GA wrote to KL:

> "I have now reviewed the file reference PA/1232 being dealt with by case worker [the Respondent].
>
> I understand from the file that replies have been made to your letters of 17 January 2011 and 14 February 2011.
>
> I believe your concerns have been fully addressed and also it would be helpful if you could get your client's comments on the replies the caseworker had made to your letters..."

Mr Havard submitted that none of this involved Mr GA being involved in or aware of the file at all on the face of the documents.

Submissions and evidence of the Respondent

76.14 The Respondent testified that he had undertaken a hearing for Ms RO's son in an immigration matter in the Asylum and Immigration Tribunal. He had someone to say that he was a dependant. The right to work subsisted pending the outcome of such an application and the Respondent stated that people made such applications just to have that right. Ms RO's son could not produce evidence that he was a family member and the Respondent advised him not to appeal further because he would fail. Ms RO had said that the Respondent might help her to make a dependency application. The Respondent had told her to come when ready. The Respondent stated that Ms RO had then come to the office with a Lithuanian woman Ms IR who said that Ms RO was her dependant. The Respondent had asked how she could be and said that the application was ludicrous. Ms IR had brought a copy Lithuanian passport and the Respondent had told her that Mr GA had to review all documents and he said they had to be original. In respect of the letter of application for Ms IR dated 17 January 2013 on the GAS file, the Respondent stated that he had provided this letter to Mr GA and told him it had not been sent although the Respondent agreed that it was not marked as a draft and was dated and signed by him. He stated that both KL and Mr GA knew it had not been sent. He had challenged them to get in contact with the UKBA. If the letter had been sent, the Respondent invited the Tribunal to ban him for life. As to why he had prepared the letter if he considered the application to be ludicrous, the Respondent stated that a letter would be prepared when the client made an application and it would then be edited. It was similar to what Ms RO's son had done. The Respondent had signed the letter in anticipation of it being posted; the client said she would come back with the documents and she never did. As to whether the Respondent considered the application credible, he stated that a certified copy of Ms IR's passport had been provided and he had told Ms RO to bring something to link her to Ms IR. The Respondent clarified that the 'dependant' might not be a direct family member of the person in respect of whom they were claiming dependency. There could be a dependency if someone was paying rent and expenses; the Respondent did not know if Ms IR was helping Ms RO financially. Her status would not be illegal if she could provide evidence. He clarified that he found out that Ms RO was in the UK "illegally" when he told her to bring further documents linking her to Ms IR's address and she had brought her passport which had no stamp in it showing that she was entitled to remain in the UK. The Respondent's view was that someone was in the UK illegally if they had to apply to remain but that Ms RO could legalise her position by making an application.

76.15 The Respondent also maintained that the IR application was not sent in when he was referred to the 22 January 2009 receipt and he stated that Ms RO was not a client at that time. The £300 was a consulting fee until she came with documents. The receptionist and not the Respondent had taken the £300 from Ms RO and that was why later Mr GA could make the refund to Ms RO. The receipt was in the Respondent's handwriting. The Respondent testified that when someone came to the firm, they took instructions and opened a temporary file for them. The Respondent told Ms RO that the application would not succeed unless she brought documents; if he sent in the application she would lose her money as the Home Office would write back saying it was an attempted application. Many people did that. The Respondent stated that Ms RO had only paid £300; there was no evidence that she had paid money to him. The Respondent challenged whether it was reasonable that she and Ms IR

would have paid £1,700. The Respondent testified that Ms RO had not paid the balance of £1,400 to him as she claimed. He did not know if she had paid it to Mr GA. She had asked for a receipt for the £300, why not for a further payment? It was Mr GA's office and the Respondent did not know if the £300 paid by Ms RO went into client account.

76.16 Ms RO then came with Mr EM a Nigerian client of Mr GA. Mr EM said he was looking after her. The Respondent told Mr EM that he would have to bring his passport. The Respondent had put Ms RO's name on Mr EM's application because she said she was dependent on him. The Home Office would write to the main Applicant and not to the dependants and so the Respondent could not produce a (Home Office) letter. The Respondent stated that Ms RO had referred many clients to him. She wanted a letter saying she was a client of the firm; the Respondent said that he could give her a letter saying that she was a dependant (the 20 June 2010 letter). He had made a mistake in one letter in respect of the file number and KL Law had exploited that. Ms RO had gone back to Nigeria. She called the Respondent and said she was going to the United States; she still called him.

76.17 In cross examination, Mr Havard referred the Respondent to a statement made by Ms RO where she said:

> "The next time I heard from my former solicitor, he said he had attached my name as a dependant of Mr [EM] of whom I have no knowledge of…"

The Respondent denied that he was making up his account of what had happened; Ms RO has come with Mr EM and two other ladies who he said were his dependants. If that was not the case, why did Mr EM not complain about them being added to his application? Mr EM and Ms RO both told the Respondent that she was his dependant. The first time she came she had brought an unstamped Nigerian passport which had been issued in the UK. Normally they would not be issued unless the applicant produced a police report about having lost their passport. The Respondent submitted that it was not even Ms RO's application; it was Mr EM's; she was not a client of Mr GA; he could confirm that. The Respondent agreed that the letter of 19 February 2010 to the UKBA giving details of Mr EM's dependants including Ms RO had been sent and that he had signed it. When the UKBA was about to decide the application it would ask if there were dependants. The Respondent also explained that the letter dated 20 June 2010 and headed "To Whom it May Concern" was written by reference to Ms RO and Mr EM in respect of EM's outstanding legacy application in case the police should stop her so that she could show that there was an application to the UKBA pending.

76.18 In respect of the answers which the Respondent had given in writing dated 1 March 2011 to questions posed by Mr GA in a memorandum dated 23 February 2011, when the Respondent said: "I am not aware that she has not met Mr [EM]", in answer to the question "It is alleged that you made her a dependant of a legacy application of Mr [EM] a person she had not previously met and no prior knowledge (sic)", this was because the application had been outstanding for over two years and she was not part of it when it was originally made. He did not know when the application went in, that Mr EM and Ms RO had not met. Then they came in together in about February 2010. As to why he did not mention that he was aware that they came together to his office,

the Respondent stated that sometimes in the difference between cultures things were lost in translation; this was the way that he had put it.

76.19 The Respondent confirmed that he did not open a file for Ms RO; she was going to be a client but she did not return; she was about to go to Nigeria to see what money she could raise. There was no client care letter for her in respect of the dependency application because the application related to Mr EM. Ms RO was not telling the truth about having never met Mr EM and Mr GA was not telling the truth in his letter of 12 May 2011 to the Immigration Crime Unit about the EM application. The Immigration Crime Unit had come to the Respondent's house early in the morning, and took away his things; they investigated for two months and then called to say that there was no case to answer and he could collect his things. The Respondent felt that if Ms RO were at the Tribunal she would say that none of the things alleged were true.

76.20 The Respondent submitted that Mr GA was fully aware that Ms RO had paid £300 and this was why he sought to introduce into evidence the copy letter dated 4 November which he asserted was endorsed by Mr GA dated 5 November 2010 authorising the transfer of the file to KL. The Respondent submitted that it showed that Mr GA was aware of Ms RO. The Respondent submitted that Mr GA opened and saw all incoming letters. The Tribunal did not admit the endorsed letter dated 4 November 2010 into evidence at this late stage because the Respondent had had every opportunity to produce it previously, but noted that it did not evidence any prior specific knowledge of the existence of the file or client, merely a direction to deal with an administrative task.

Findings of the Tribunal in respect of Allegation 1.1

Allegation 1.1 - In respect of Ms RO, it was alleged that the Respondent:

(i) Conducted Ms RO's matter without the knowledge and consent of his principal Mr GA

76.21 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and the witness statement of Mr VH and exhibits. In evidence which the Respondent had not initially challenged, Mr GA stated that he did not know about Ms RO. The Tribunal had also taken particular note of the correspondence between Mr GA and KL in January and February 2011 and it was satisfied on the evidence that Mr GA did not know about Ms RO's matter until KL began writing to GAS about it. The Tribunal did not consider that the fact that GAS had apparently acted for Ms RO's son in an immigration matter fixed Mr GA with any knowledge of his mother's subsequent legal affairs nor was there any evidence to contradict Mr GA's statement. The Tribunal found allegation 1.1(i) proved to the required standard.

Allegation 1.1(ii) He failed to provide any information to Ms RO in relation to her matter, including client care information

76.22 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and the witness statement of Mr VH and exhibits. The Tribunal found that Ms RO was a client of the firm GAS

and was a client from the point where the Respondent started advising her in respect of the potential application set out in the letter he prepared dated 17 January 2009 to the Immigration and Nationality Directorate detailing Ms RO as the Applicant for confirmation of right of residence in the UK as a dependant of Ms IR. Ms RO came to the firm for advice which the Respondent admitted; she paid at least £300 for the advice and was its client. This applied whether the letter of application was sent or not. The Respondent admitted in evidence that he had not sent Ms RO a client care letter or otherwise treated her as a client. The Tribunal found allegation 1.1(ii) proved to the required standard.

Allegation 1.1(iii) He withheld monies received from Ms RO, purportedly on behalf of his firm, from the firm's client account

Allegation 1.1(iv) He retained and, it was alleged, misappropriated monies received from Ms RO, purportedly on behalf of his firm, for his own use and without authority

(These allegations are reported on together as they were interconnected.)

76.23 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and the witness statement of Mr VH and exhibits. Allegation 1.1(iii) related to the sum of £300 and other monies alleged to have been paid to the firm GAS by Ms RO. The Tribunal found that the sum of £300 had been paid by Ms RO. As to the additional amount of £1,400 there was uncertainty as to whether it had been allegedly paid in one lump sum with the £300 or in several amounts subsequently. There was no evidence produced as to when, and to whom, it had been paid. No invoices had been raised for any of the money. The Respondent stated in evidence that Ms RO paid £300 to the firm's receptionist and admitted that he signed a receipt for it, a copy of which was before the Tribunal. The Tribunal considered that the Respondent had raised sufficient doubt as to whether the £300 had been paid to the Respondent or to GAS via the receptionist, and as to whether £1400 had been paid at all, and that allegation 1.1(iii) and therefore allegation 1.1(iv) were not proved to the required standard. As the allegations were not found proved the issue of dishonesty did not arise.

Allegation 1.1(v) He failed to act in Ms RO's best interests

76.24 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and the witness statement of Mr VH and exhibits. The Tribunal had found proved that there were shortcomings in the way the Respondent treated Ms RO (allegation 1.1(ii)) but not the allegations relating to the money which she paid to the firm GAS (allegations 1.1(iii) and (iv)). In respect of the applications that the Respondent prepared for Ms RO to the Immigration and Nationality Directorate, if the version of events in Ms RO's letter was accepted the Respondent had submitted an application on behalf of Ms RO in respect of her being a dependant of Ms IR which was demonstrably untrue. The Respondent was adamant that it had not been submitted but only prepared in readiness contingent upon Ms RO producing the required supporting evidence which he stated she did not do. There was no corroborating evidence that the application was submitted, such as a receipt or correspondence from the UKBA. The Tribunal found that the Respondent's evidence raised doubt regarding Ms RO's application and

whether it had been submitted, (either with or without her knowledge) and thus did not find the allegation proved in relation to Ms RO and Ms IR. In respect of the application based on a dependency on Mr EM, the Respondent was equally adamant that Ms RO came to the office with Mr EM and that she consented to be his dependant. Whilst the Tribunal had significant doubt regarding the credibility of the Respondent's evidence, especially in the light of Ms RO's admitted evidence, given the standard of proof required the Tribunal considered that the Respondent had raised sufficient doubt as to whether he had acted with Ms RO's explicit instructions given at a meeting or whether alternatively he had acted without her knowledge, and as such the Tribunal did not find allegation 1.1(v) proved overall to the required standard. As the allegation was not found proved the issue of dishonesty did not arise.

Allegation 1.1(vi) Submitted "the First Application" and "the Second Application" to the Immigration and Nationality Directorate on behalf of Ms RO which he knew or ought to have known, contained false information

76.25 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and the witness statement of Mr VH and exhibits. The Tribunal had found as a fact that there was insufficient evidence that the first application (the IR matter) was submitted. The Respondent said he was dubious as to its authenticity; he called it ludicrous in evidence and said he did not submit it because he did not think that it would succeed. However, the Tribunal was satisfied from the correspondence with the Immigration and Nationality Directorate that the Second Application was submitted. Ms RO later denied knowing Mr EM but the Respondent testified that they had visited the firm GAS together. On Ms RO's evidence the Respondent submitted the entire form without her knowledge and approval. Even on his own evidence the Respondent took no steps whatsoever to check that Ms RO was a dependant of Mr EM either at the alleged meeting or subsequently. This resulted in him either actually knowing, or involved him wilfully closing his eyes to, the information in the form being false. He was already on notice that the application might be false as he had already had, according to his own experience, the experience of preparing the dubious application connected with Ms IR. The Tribunal therefore found that in respect of the Second Application allegation 1.1(vi) was proved to the required standard.

76.26 It was then necessary for the Tribunal to consider whether dishonesty was established on the basis of the two limbed test in the case of Twinsectra Ltd v Yardley [2002] UKHL 12. The Tribunal considered that after having had the experience of the proposed First Application which he himself described as "ludicrous", in submitting the Second Application the Respondent had even if the alleged meeting with Ms RO and Mr EM taken place, at best deliberately closed his eyes to the issue of dependency and at worst had knowingly accepted the dependency as being fabricated and false. He made absolutely no enquiries despite being on very clear notice that he should do so. That action satisfied the objective test in Twinsectra. The Tribunal was also satisfied to the required standard that, based on his knowledge of the history of the client's efforts to establish a dependency, the Respondent knew that in acting as he did he was dishonestly making the application. There was no credible, honest explanation. The Tribunal noted that this conclusion was reached even if the evidence of Ms RO that she had never even met Mr EM was put to one side – even if the Respondent were believed that there had been a meeting at which Mr EM, Ms RO and

others had attended, he had by his own admission wilfully and deliberately then made the application, which was as a matter of act, false. Accordingly the Tribunal found dishonesty to have been proved to the required standard in respect of the Second Application.

Allegation 1.1(vii) He deliberately misled his employer as to the true position in connection with Ms RO's matter and provided false and/or misleading information in response to enquiries put to him.

76.27 The Tribunal considered the submission for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and the witness statement of Mr VH and exhibits. The Tribunal considered that crucial to its finding was the interpretation to be placed on the Respondent's responses dated 1 March 2011 to the enquiries from Mr GA. The Tribunal, having heard oral evidence from the Respondent, considered that while the answers were opaque and could be read in different ways the information that the Respondent provided was not on every interpretation deliberately false or misleading and therefore that allegation 1.1 (vii) was not proved to the required standard. As the allegation was not found proved the issue of dishonesty did not arise.

77. **Allegation 1.2 In respect of Mr PI it was alleged that the Respondent:**

(i) Conducted Mr PI's matter without the knowledge and consent of his principal Mr GA

(ii) Failed to provide any information to Mr PI in relation to his matter, including client care information

(iii) Transferred Mr PI's matter to a new firm of Solicitors, RS & Co Solicitors, without his express authority and consent

(iv) Was paid money by Mr PI on account of costs, purportedly on behalf of his firm, but failed to pay that money into the firm's client account

(v) Retained and, it was alleged, misappropriated monies received from Mr PI, purportedly on behalf of his firm, for his own use, and without authority

(vi) Failed to act in Mr PI's best interests and in accordance with his instructions

(vii) Failed to notify Mr PI of the outcome of the application to the UK Border Agency ("UKBA")

In respect of allegation 1.2 it was alleged that the Respondent had acted dishonestly in particular by reason of allegation of 1.2(v).

Submissions for the Applicant

77.1 Regarding Mr PI's matter, Mr Havard relied upon the statement of Mr PI dated 30 December 2012 and his witness evidence

77.2 Mr Havard submitted that no receipt was given to Mr PI when he visited the Respondent at GAS in connection with the Certificate of Marriage nor was he provided with any client care letter or information about the basis of the retainer or terms of business. When Mr PI contacted the Respondent again on 21 September 2010 looking for an extension of his student visa, he believed the Respondent still to be working for GAS and qualified to advise him appropriately. Mr Havard referred the Tribunal further to Mr PI's statement which stated that Mr PI instructed the Respondent to finalise and lodge the Application with UKBA prior to the expiry of his visa at the end of September 2010. On 26 September 2010, Mr PI attended upon the Respondent at the office of GAS. The Respondent opened a file in Mr PI's presence and commenced work on the application. Again there was no client care letter or indication about the costs in writing. The Respondent then met with Mr PI and informed him that the fee for completing the application would be £650 but this was not confirmed in writing and at no point was Mr PI provided with any information in relation to his instructions. No receipt was provided to him for the deposit of £280 which he paid. It could be said that that Mr PI was naïve but he trusted the Respondent to do right by him. He said:

> "As I had the money to pay the fee, because he had been recommended to me by my sister and because of the urgency of the situation I agreed to proceed on that basis. I explained to him the urgency of the matter and he told me not to worry. I subsequently left him and returned home…"

77.3 At that meeting, the Respondent indicated that more information was required from Mr PI, which he obtained and provided to the Respondent at a further meeting in Peckham on 28 September 2010. The Respondent confirmed at the meeting on 28 September 2010 that the application would not be lodged without Mr PI paying the balance of the fee owed. Mr PI deposited the sum of £400 which was more than the balance, directly into the Respondent's Santander bank account on 29 September 2010. The fee for the application was therefore paid to the Respondent directly. Mr PI did not receive a receipt for this payment, or the earlier payments and was not provided with an invoice for the work undertaken, purportedly on behalf of GAS, by the Respondent. Mr Havard referred the Tribunal to the receipt from Santander dated 29 September 2010 in respect of sum of £400 cash paid into the Respondent's account and pointed out that the only recipient mentioned was the Respondent and all this tied in with what Mr PI alleged. By letter dated 30 September 2011, Mr GA confirmed that there was no record of Mr PI ever having been listed as a client of GAS. The monies paid to the Respondent by Mr PI, purportedly on behalf of GAS, in the sum of £755 (£680 plus the earlier £75) were not paid into the firm's client account. The Respondent received £680 and was instructed to lodge Mr PI's application for an extension of his student visa which he did not do until 27 October 2010, four weeks after its expiry despite Mr PI making it clear that it had to be submitted by the end of September 2010. The document was sent under cover of a letter from RS and Mr PI said that he was until then totally unaware the Respondent had a connection with or was retained by RS. On the form, the Respondent put himself forward as part of RS.

Whatever the Respondent said, Mr PI said that he never instructed RS to act on his behalf. In his statement, Mr PI said that during the period from 30 September to 27 October 2010 he spoke to the Respondent on many occasions and that they met on 26 October 2010 as Mr PI described in his statement and in evidence.

77.4 Mr Havard referred to the fact that by a letter dated 21 December 2010 to RS, the UKBA advised its refusal of the application. Mr PI would say that he was never notified by RS or the Respondent or anyone else of that decision. One of the reasons his application was refused and there was no right of appeal so far as the UKBA was concerned was that he should not have been in country after 30 September 2010 in any event, hence the urgency of his application for a visa extension to be submitted before the end of September 2010. Mr PI would say that totally unaware of this decision; he made his next application to the UKBA following the conclusion of his studies for a post study working visa. By letter dated 1 August 2011, Mr PI was informed by the UKBA that this application had been refused.

77.5 Mr Havard submitted that everything fell as a consequence of the Respondent's failure to submit Mr PI's application for an extension of his student visa before 30 September 2010. Once Mr PI was aware of the notification of the second decision he contacted the Respondent who indicated that this was all a mistake, an error by the UKBA and the Respondent advised him to file a judicial review application on the basis that he had not received notification of the earlier decision notwithstanding that it had been sent to RS. The Respondent prepared the papers for Mr PI and attended the Royal Courts of Justice with him to issue the claim. Mr PI said that the Respondent demanded £200 more from him on account before he was prepared to submit the application for permission and that Mr PI had to go to a cash point and withdraw the money so that the application could be made. Once the facts emerged about the way the application had been refused, the application for permission to apply for judicial review was refused and Mr PI was ordered to pay £400 towards the costs of UKBA.

77.6 Mr Havard referred the Tribunal to the detail of his allegations against the Respondent including that Mr PI had never been provided with a client care letter; there was no retainer with GAS or with RS whom Mr PI said he had never instructed. Quite a substantial amount of money had been paid to the Respondent by Mr PI which it was submitted the Respondent had misappropriated. There was no record of the money being paid into a firm's client account and Mr Havard submitted that the Respondent failed substantively to act in Mr PI's best interests and failed to communicate with him about the various applications and Mr Havard maintained that irrespective of the allegation of dishonesty, (although he submitted that dishonesty was made out), there was a clear case that an order under section 43 was required in order to ensure that Respondent's work was properly and carefully supervised. Mr Havard accepted that the Tribunal might feel that Mr PI was naive but admitted that that was no excuse for what he alleged the Respondent had done. In the case of Ojelade, an error of judgement had justified the making of such an order and Mr Havard submitted that the Respondent's conduct went way beyond an error of judgement. There was no suggestion that Ms RO and Mr PI were known to each other and the Tribunal might consider the one corroborated the other. Mr Havard invited Tribunal to make a section 43 order.

Submissions and evidence of the Respondent

77.7 The Respondent relied on his letter of response to Mr PI's complaint to Mrs RA (undated) as his statement. Mr PI had been referred to him by someone for whom the Respondent had done work and had called the Respondent and the Respondent had said that he could come in to see him. Mr PI had known the Respondent's brother; they studied at the same university. At the time of Mr PI's arrival at GAS, the Respondent was in court and so Mr PI waited for him. He was a fee earner; he did not just work 9 am to 5 pm. The Respondent told him that the consultation fee in respect of the Certificate of Marriage would be £50. The arrangement in the firm was that Mr GA would give fee earners 50% of what they received. When a new client attended for a one-off consultation, a file would not be opened. Sometimes the matter was a minor question which would end there. They did not open a file for one time advice. The Respondent had to follow the practice of the firm. Mr GA said such a person was not a client. The Respondent said he now felt they should be classified as a client. Mr GA used the money; the Respondent thought some went to petty cash for water and paper. Mr GA had been about to go out and he asked for the fee of £50 and then returned £25 of it to the Respondent. The Respondent stated in cross examination that it was completely untrue that Mr PI had given him £75. The money was given to a secretary. Mr PI did not ask for any receipt. The Respondent asserted that he did not give a receipt for the money as he did not collect the fees. Also there were notices all over the reception area about obtaining receipts. The Respondent had tried to obtain witnesses to confirm in respect of Mr PI's matter that there were signs in the reception of GAS about receipts but they would not come forward. On that occasion Mr PI did not come back. After some months he returned, and made reference to his wife. The Respondent asked Mr PI how it was that Mr PI had asked him to go through the Certificate of Marriage procedure and Mr PI told him that his wife was on a working holiday, not in the UK as the spouse of a student.

77.8 The Respondent testified that Mr PI said that he wanted to meet the Respondent's brother; they had tea and the Mr PI came to the Respondent's home on three different occasions. Mr PI told him that he did not have money to satisfy the Home Office and asked the Respondent for money; his sponsor would not provide it. The Respondent said that he would give Mr PI a cheque. Mr PI had come to his home and said he had financial troubles and the Respondent lent him money. Mr PI had visited his home twice to give the Respondent documents.

77.9 The Respondent stated that when he and Mr PI met in respect of the Tier 4 application, he had told Mr PI that he was leaving GAS. He told Mr PI that when Mr PI contacted him. The Respondent had told Mr PI that the CAS letter was needed and Mr PI said that the university would not give it to him. Mr PI told the Respondent to submit the application as it was. The Respondent testified that he had told Mr PI that if he submitted a Tier 4 Extension application without the CAS letter the application would be refused; Mr PI tried to insist and the Respondent said if he wanted to send it he should do so himself. It was not the Respondent's failure that the application did not go in, in time. Mr PI had asked the Respondent once "What if I put this in?" (before the end of September 2010) and the Respondent told him that he did not have the documents to put it in. The Respondent could not submit an "empty" application form. The Respondent testified that Mr PI had not asked him to submit it before the end of September but if he had, the Respondent would not have done it.

Mr PI asked was it a possibility and the Respondent told him no, that it would be refused and that he would then come back to blame the Respondent.

77.10 The Respondent testified that Mr PI said that he would use the cheque which the Respondent gave him to satisfy the Home Office and so the Respondent asked for it back. Mr PI would not return it and so the Respondent cancelled the cheque. Towards the last day (of the deadline period) Mr PI told the Respondent to send the application. The Respondent told Mr PI that he was at RS and Mr PI said that he could not come (to the office) and the Respondent said that Mr PI could put the money into his account. The money was initially meant to be for the Home Office. The Respondent had said that he would give it to Mrs RA.

77.11 RS had called the Respondent about Mr PI's complaints because a file had been opened with the Respondent's initials. The Respondent had met Mr PI at Peckham library and asked how they could resolve the matter.

77.12 The Respondent did not accept that the amounts Mr PI stated that he paid were correct. For the judicial review the Respondent had been paid £45 while GAS charged £5,000 for such a case. The Respondent had undertaken the work in person and told Mr PI that to go to court would need a solicitor. The Respondent was going through bankruptcy but if he helped Mr PI, Mr PI would just give him £50. He had tried to call Mr PI twice asking what would he gain and why he was blaming the Respondent as the Respondent could not send his Tier 4 application without the CAS letter and the Respondent had helped Mr PI and his wife.

77.13 The Respondent denied that he had obtained £280 from Mr PI in cash for the Tier 4 application. The only money Mr PI paid him was £400, initially for the Home Office fee as to £375 for the fee and £25 for the postal order and then he changed his mind and said to pay it to RS. The Respondent challenged the reliability of Mr PI's evidence.

- The Respondent stated that Mr PI was supposed to pay RS a fee of £750, a figure set by Mrs RA of RS for the visa extension application but the Respondent did not know if he had paid it because the Respondent left the firm. There was a fee schedule in the office and Mr PI was supposed to pay £1,000, half of which would come to the Respondent but the Respondent thought he might be able to get the fee discounted; he spoke to Mrs RA and she said Mr PI could pay £750. The £400 paid into the Respondent's account went to Mrs RA and half of it came to the Respondent. Mrs RA asked him for it. He could not point to any reference to this payment in the undated letter to RS which the Respondent had asked to stand as his statement but pointed out that the final page of the letter was missing. He had to give Mrs RA the full £400 because he had to tell her what the client had paid and she gave him £200. He believed that Mrs RA prepared an invoice which she kept in the file. He had not sent Mr PI an invoice from GAS or RS but thought Mrs RA might have done. The Respondent denied that he was making all this up. He had wanted to keep quiet because he wanted to get a training contract. The Respondent questioned why Mr PI had issued the second cheque saying that the first was too old.

- The Respondent rejected the account of events on 8 August 2011 the day of the judicial review permission application in Mr PI's first statement:

> "When we were outside the Court building he asked for a £200 payment as a fee for preparing the Judicial Review application and for going to Court. I was really unhappy with this and we had an altercation. Although I was very unwilling, he would not take no for an answer and so I went to a nearby ATM and paid him. He did not provide me with a receipt."

The Respondent submitted in respect of the £200 which Mr PI said he had paid the Respondent on that day, that Mr PI stated in his witness statement that the Respondent asked him for £200 outside the court building which was the Royal Courts of Justice in Holborn and he went to a nearby cash machine and gave it to the Respondent.. The money was withdrawn as Mr Havard pointed out in Elephant and Castle. The Respondent asked: why would Mr PI withdraw the money outside the court if he had done it at Elephant and Castle; the bank statement had the letter "E&C" Shop" after the narrative for an entry on that day (timed at 16.08). If he had withdrawn the money at Elephant and Castle why not give it to the Respondent then.

77.14 The Respondent testified that he had not sent Mr PI a client care letter in respect of the visa extension application; RS would have done so. He was not aware of Mr GA or RS sending one.

77.15 In respect of Mr PI's loss of his right to appeal because the application was not submitted before 30 September 2010, the Respondent stated that he knew from a case when he was a student that Mr PI had an Article 8 right to appeal a refusal of the visa extension. He also knew that if Mr PI got all the required material together and applied, even if he was out of time, he would succeed but he did not have the documents. Also judicial review could be sought and Mr PI did that and failed. The Respondent stated that immigration law was not simple; the UKBA had to go back to the reasons at the time of the decision and so Mr PI would have had to reapply (rather than appeal) if he had new information. The Respondent asserted that Mr PI had misled him in trying to put his form in on the basis that he was a single person and that he had also misled the Respondent about his wife coming to the country. In order to end the matter Mr PI wanted the money that he had paid to barristers including that relating to his wife's matters amounting to £3,000 and he would then forget the whole thing. The Respondent stated that Mr PI had told him that he, the Respondent could work to make the money.

77.16 In respect of Mr PI saying that he was not aware until later that the Respondent was involved with RS, the Respondent stated that this was not true; Mr PI had made and signed a letter of authority to RS, himself dated 27 October 2010.

77.17 The Respondent stated that when the decision on the Tier 4 application came through, Mr PI's telephone number and address were on RS's file. He did not tell Mr PI of the refusal because he was no longer with RS. He had not been with any firm for a year and a half now.

77.18 As to the judicial review, the Respondent stated that Mr PI had obtained his details through the Respondent's brother and contacted him and asked what he could do and

the Respondent said judicial review. The Respondent then assisted him; Mr PI did not know where the court was.

77.19 The Respondent asserted that Mr PI had begged him to do things for him and the Respondent had done so pro bono. The Respondent stated that he had a list of the matters that he had undertaken for Mr GA and Mr PI's name was not on it; he was not a client of GAS; he just came in for advice, paid £50 of which Mr GA gave the Respondent half.

77.20 In respect of the letters which RS had written to the Respondent about Mr PI's matter, they had used an address from which he had moved. One day the Respondent had bumped into a person who lived there who told him that there were a lot of letters for him; he asked for the letters and they included the letters from RS. Mr PI's complaint was against RS and so that was why the Respondent did not attend the proposed meeting. There was someone at RS who could support the Respondent's version of events but would not come to give evidence.

77.21 In his written submissions the Respondent asserted that Mr PI was not a credible witness on the basis that the Respondent alleged Mr PI tried to mislead the Applicant and the Tribunal and in support he made various points including that:

- Mr PI stated that he was not aware that his application was sent from RS but admitted that he wrote a letter of authority to RS which he signed.

- Mr PI stated that he sought no further advice from RS but the Respondent asserted that he had produced evidence to show that despite having an ongoing complaint against RS he recently sought advice from them and paid RS further money to assist him.

- Mr PI stated that he was unaware of RS's office but admitted that he had been to their old and new offices.

- At the hearing Mr PI stated that he did not know the Respondent's residence but in his statement stated that he was at the Respondent's residence. He was at the Respondent's flat twice.

- Mr PI came to GAS initially to seek advice in how to marry while he was already married to his wife.

- Mr PI told the Tribunal that he had not been in touch with the Respondent but could not explain how he was emailing the Respondent to assist him on his wife's case while he was still reporting the Respondent to the Applicant. The Respondent submitted that when he provided proof that Mr PI was emailing the Respondent he was surprised.

- Mr PI stated that he made cash payments to the Respondent paying by card or cash but had never produced any proof. The Respondent did not deny that Mr PI gave him £400, but he claimed that sum of £400 was later paid by the Respondent to RS. The Respondent submitted that there was no iota of proof from Mr PI that RS disputed receiving that £400. Instead they needed more from him because his

fee for the application was £750 and that explained why RS was asking him for further funds when he attended their office.

- The Respondent interpreted Mr PI's evidence as being to the effect that he had no onward appeal following the refusal of his Tier 4 application. The Respondent took the view that when the Respondent highlighted the facts Mr PI could not offer any explanation. It was now known that both appeals and the judicial review application were refused.

- The Respondent further submitted that:

    - Mr PI claimed maximum points to renew his visa but upon investigating it was revealed that he had zero points leading to the refusal of his application. The rule of Tier 4 which he applied under stated clearly the need to meet the criteria, which involved progress of study by issuance of a CAS letter. He was not issued with one of these because he failed some courses.

    - Mr PI knew from the outset that availability of funds from a sponsor was also a requirement and that he did not have a sponsor but claimed maximum points on this category. Upon the investigation he was awarded zero points by the Home Office as he had no funds as required to support his studies.

  The Respondent asserted that he informed Mr PI that progression confirmed by a CAS letter and fund availability were crucial. Mr PI had the Respondent issue him a cheque of over £3,000 or less (sic). When the Respondent found out he was to use it to "beef up" his account the Respondent asked for his cheque (back) and Mr PI still had it to this day. The Respondent had since cancelled the cheque.

- The Respondent derided Mr PI's explanation as to why he cancelled a cheque and issued the Respondent with another one, stating that the cheque he wrote 10 days before was old. When he was asked why he gave the Respondent more money than required, he stated that he gave the Respondent an extra £25 as a goodwill gift. That was not credible as the Respondent asserted that Mr PI was struggling with funds at that point in time.

- Mr PI stated that he made payments but produced no receipts.

77.22 The Respondent submitted that the reasons for refusal of Mr PI's Tier 4 application were clear; he did not meet the requirements. He was duly informed of the documents he needed to produce for his application. The reason for out of time submission of his application was on the application form and he signed the application form. The Respondent further submitted that Mr PI was not happy only because his application was refused. Before the refusal he had no problem with the Respondent or RS. When they tried to resolve the matter peacefully he wanted £3,000 from the Respondent and money from RS. When they refused Mr PI reported them to the Applicant. The Respondent also submitted that Mr PI was a learned person qualified over 10 years and could seek alternative representation. After all the things that he alleged happened, why did he come back to the Respondent?

Tribunal's findings in respect of allegation 1.2

The facts in respect of this allegation were hotly disputed between the Respondent and Mr PI who gave oral evidence. There were various aspects of the matter in respect of which the Respondent's extremely lengthy cross examination of Mr PI went into considerable detail. While appreciating that this matter was something about which both individuals felt strongly, the Tribunal considered that in the main the detail was ultimately not material to the specific allegations although it went to credibility. The detail is only referred to in the following findings where it was considered material. The Tribunal had to rely on the evidence including its assessment of the oral evidence that it heard.

Allegation 1.2 In respect of Mr PI it was alleged that the Respondent:

(i) Conducted Mr PI's matter without the knowledge and consent of his principal Mr GA

77.23 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. The Tribunal found that as a matter of fact prior to 22 October and possibly even as late as 27 October 2010 Mr PI was represented by GAS and he believed himself to be represented by GAS. However there was no evidence that Mr GA knew that Mr PI had retained the Respondent; no client care letter was issued and the evidence of Mr GA in his letter to Mr PI of 30 September 2011 was that he had no record of Mr PI as a client of GAS. The Respondent was clearly in the process of leaving GAS and seeking other employment and undoubtedly this alongside the chaotic nature of the Respondent's administration resulted in the fact that Mr GA was unaware of the matter. The Tribunal found allegation 1.1(i) proved to the required standard.

Allegation 1.2(ii) He failed to provide any information to Mr PI in relation to his matter, including client care information

77.24 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. In respect of the Tier 4 application, the Respondent admitted in cross examination that he did not provide a client care letter to Mr PI from either of the firms GAS or RS and was not aware if either firm had done so. The Tribunal found allegation 1.1(ii) proved to the required standard.

Allegation 1.2(iii) He transferred Mr PI's matter to a new firm of Solicitors, RS & Co Solicitors, without his express authority and consent

77.25 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. The Tribunal noted that the Tier 4 application dated 22 October 2010 which Mr PI testified that he had posted showed the firm acting for him to be RS and he had signed a letter of authority dated 27 October 2010 addressed to UKBA for RS to act. The Tribunal found allegation 1.1(iii) not proved to the required standard.

Allegation 1.2(iv) He was paid money by Mr PI on account of costs, purportedly on behalf of his firm, but failed to pay that money into the firm's client account

77.26 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. It was agreed by the parties that a sum of £400 had been paid into the Respondent's personal bank account. It was a matter for debate whether it was initially intended to be by way of payment on account of costs not yet invoiced or for disbursements not yet incurred in the form of a fee to the Home Office. In any event it should have been paid into client account and the Respondent had not paid it into the client account of either GAS or RS. As to the other monies which Mr PI alleged he had paid to the Respondent in cash and which the Respondent denied receiving, there was insufficient evidence to prove Mr PI's assertions to the requisite standard and the Tribunal found that there was a doubt that the other sums had been paid. The Tribunal found allegation 1.1(iv) proved to the required standard but only in respect of the sum of £400.

Allegation 1.2(v) He retained and, it was alleged, misappropriated monies received from Mr PI, purportedly on behalf of his firm, for his own use, and without authority

77.27 The Tribunal considered the submission for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. There was documentary evidence that Mr PI made the payment of £400 into the Respondent's bank. However, the Respondent testified that he had passed the sum of £400 to Mrs RA of RS, raising doubt as to whether he had misappropriated it. The Tribunal therefore found that allegation 1.1(v) was not proved to the required standard and accordingly the question of dishonesty did not arise.

Allegation 1.2(vi) He failed to act in Mr PI's best interests and in accordance with his instructions

77.28 The Tribunal considered the submission for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. There was a severe conflict of evidence between the Respondent and Mr PI and significant confusion about why the Tier 4 application was not submitted at the end of September 2010. The Tribunal found that the Tier 4 application was not complete on 30 September 2010 and the Respondent's explanation that he did not submit it on that account as it was bound to be rejected, and informed Mr PI of this was plausible. The Tribunal therefore found allegation 1.1(vi) not proved to the required standard.

Allegation 1.2(vii) He failed to notify Mr PI of the outcome of the application to the UK Border Agency ("UKBA")

77.29 The Tribunal considered the submissions for the Applicant and the Respondent and the evidence including the oral evidence of the Respondent and of Mr PI. The Respondent admitted that he did not notify Mr PI of the failure of his Tier 4 application but the Tribunal was satisfied on the evidence that the Respondent had left RS by the time that the refusal was notified to the firm and so it was no longer the Respondent's duty to notify Mr PI. Accordingly the Tribunal found that whilst

allegation 1.1(vii) was factually proved it did not give rise to any breach of obligation or wrongdoing by the Respondent.

Previous Disciplinary Matters

78. None

Mitigation

79. The Respondent made various points in his substantive submissions which were relevant to mitigation and they are therefore recorded under this heading. He submitted that he had suffered a lot because of the complaint Mr PI brought and had not worked for a long time and was in debt. He had three sons and mortgage arrears and bankruptcy proceedings, all he felt were triggered by the acts of Mr PI. The Respondent was still an unqualified person. He apologised if the Tribunal found that he had made mistakes. He did not set out to make Mr PI lose his case. He did not defraud Mr PI or Ms RO. The Respondent knew there was a need for people to lay complaints. The Respondent did not want to study for three years and not realise his dream. He had spoken to lawyers willing to take him on for free training and work experience to qualify but all were unsure what the outcome of the Applicant's case would be. It would be a disaster for the Respondent if he was not allowed to practise again. He knew regulation was very important for the practice especially for unqualified persons but they learned in the process. He learned as he went along including that he should not show too much compassion to clients and should deal with them professionally. The Respondent apologised for arriving late at every single hearing before the Tribunal.

Sanction

80. The Tribunal had regard to the fact that a section 43 order was a regulatory measure designed to give proper control over the work of a Respondent and to provide a safeguard for the public rather than a punishment. The Tribunal had found a number of the allegations against the Respondent proved, including one of dishonesty. This dishonesty did not relate to money but to a false submission to the UKBA which was an equally serious matter. The other matters in themselves involved serious failings in the way in which the Respondent looked after clients and administered his practice, and indeed to even recognise when someone was a client. The Tribunal was very concerned by the complete lack of insight shown by the Respondent into how to conduct his dealings with clients including the handling of client money. The Tribunal was quite satisfied that the Applicant had established that an order under section 43 was appropriate in the circumstances.

Costs

81. Mr Havard applied for an order for costs in the sum of £27,267.99. He submitted that if the Respondent had behaved more respectfully to the Tribunal, Mr Havard would not have had to attend the Tribunal on four separate occasions to obtain the order; it was not the fault of the Applicant and it would be very unfair if the Applicant had to bear the burden of the amount of time that had to be devoted to the matter. The Respondent had given a string of excuses as to why he could not get to the Tribunal

on time. Mr Havard had provided a schedule of costs to him on each occasion. Mr Havard submitted that the application had been justified; a significant number of the allegations had been found proved including one of dishonesty. All had been properly brought. The time claimed for was probably an underestimate. Mr Havard further submitted that the Respondent had been provided with information about the case of The Solicitors Regulation Authority v Davis and McGlinchey [2011] EWHC 232 (Admin) and while the Respondent had provided some information about his financial means it fell a long way short of the requirements set out in that case. His "Approximate schedule of earnings and expenditure per month" bore no statement of truth and was not signed. There was some information about income and outgoings but no documents in support. The schedule indicated that the Respondent received rent of £200 per month from a lodger. There was some documentation about the Respondent's bank account but Mr Havard did not know its relevance or its provenance. Mr Havard had obtained office copy entries relating to the Respondent's residence. The Respondent had had months to produce information about his mortgage and the value of his flat but had not done so. There were pending bankruptcy proceedings but the Respondent was not subject to a bankruptcy order and was challenging those proceedings. On 26 June 2013, the Tribunal had directed that "By 18 July 2013, the Respondent do file and serve a statement detailing his means together with any supporting documentation and as referred to in the letter from the Tribunal dated 22 March 2013" The Respondent had not complied. The Respondent had only sent the documents about his means at 11.30 pm the previous night and Mr Havard had only received it on the morning of the hearing. Mr Havard asked the Tribunal to make an enforceable order for costs against the Respondent.

82. The Respondent informed the Tribunal that he had a two bedroom flat and a lodger. He had children and had received support financially from his wife and family and received no state benefit. His wife had a share in the flat. He was unable to afford representation. He had not worked for a long time. He agreed that he had been late on every single occasion but submitted that he had made it to court for each day of the hearing. The pending bankruptcy proceedings arose out of proceedings bought against him by the local authority in respect of council tax on another flat which he had owned but which had been repossessed. He proposed to appeal. The council had put a charge on his present flat. He had bought the present flat for £107,000 in 2003. It was possibly worth £135,000, certainly over £100,000 with a mortgage of about £115,000 or £120,000. The Respondent stated that he did not receive emails from Mr Havard which Mr Havard handed up to the Tribunal, the most recent being 4 December 2013 because he had forgotten his password and had told Mr Havard to write to him. The Respondent challenged the sum total of costs and asserted that he was unaware of the early stages of the investigation and that Mr Havard had just written a couple of letters to him. He denied that he had received schedules of costs.

83. The Tribunal considered the submissions for the Applicant and of the Respondent. The allegations had been properly brought and the order sought had been granted. The extra amount of the Applicant's costs relating to the hearings was largely the Respondent's fault; he had been warned several times about the importance of arriving on time and failed to take heed causing many hours of delay. He had failed to comply with directions on documents and admissions that would have saved significant time and effort. As an experienced litigator, the Respondent was aware that costs would fall to the person who had caused them to be incurred. The Tribunal also

took into account that not all the allegations had been proved; that some of the Applicant's work related to the firm GAS and that the Applicant sent some of the earlier correspondence to an address no longer occupied by the Respondent. The Tribunal accordingly made a reduction in the costs requested to reflect this. As to whether an immediate order should be made, the Respondent had been given ample opportunity to provide evidence of his means. It was clear from the information he had provided that there was equity in the Respondent's property which was registered in his sole name. The Tribunal summarily assessed costs at £25,000 and made an order in that amount against the Respondent.

Statement of Full Order

84. The Tribunal Ordered that as from 5th December 2013, except in accordance with Law Society permission:-

(i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Princewill Edwin Anyakudo

(ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Princewill Edwin Anyakudo

(iii) no recognised body shall employ or remunerate the said Princewill Edwin Anyakudo

(iv) no manager or employee of a recognised body shall employ or remunerate the said Princewill Edwin Anyakudo in connection with the business of that body;

(v) no recognised body or manager or employee of such a body shall permit the said Princewill Edwin Anyakudo to be a manager of the body;

(vi) no recognised body or manager or employee of such a body shall permit the said Princewill Edwin Anyakudo to have an interest in the body;

And the Tribunal further Orders that the said Princewill Edwin Anyakudo do pay the costs of and incidental to this application and enquiry fixed in the sum of £25,000.

Dated this 22nd day of January 2014
On behalf of the Tribunal

S. Tinkler
Chairman