

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11417-2015

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

ELVIN DAVID BLADES,

First Respondent

GAVYN ANDREW SIMPSON,

Second Respondent

NILANTHA RANJAN BANDRA HERATH MUDIYANSELAGE

Third Respondent

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Before:

Mr K. W. Duncan (in the chair)  
Ms A. Banks  
Mrs L. Barnett

Date of Hearing: 25 April 2016

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**Appearances**

No parties were required to attend as this application was dealt with on the papers.

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**MEMORANDUM OF APPLICATION TO APPROVE A  
REGULATORY SETTLEMENT AGREEMENT**

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## Background

1. The Tribunal had before it the Application and Rule 5 statement dated 6 August 2015 and undated Regulatory Settlement Agreements (“RSAs”) signed by the First and Second Respondents.
2. The allegations contained in the Rule 5 statement, in respect of all three Respondents, were that they:-

- a) Failed to take out and maintain professional Indemnity Insurance (“PII”) for the period 1 October 2012 to 30 September 2013 but continued to practise under the style of Harrow Solicitors & Advocates (“the Firm”) during this period in breach of:

Rule 5.1 of the SRA Indemnity Insurance Rules 2012 (“SIIR 2012”); and/or Principles 4, 6 and/or 8 of the SRA Principles 2011 (“the Principles”) or any of them.

- b) Failed to take out and maintain PII for the period 1 October 2013 to the closure of their Firm in January 2014, but continued to practise under the style of Harrow Solicitors & Advocates during this period in breach of:

Rule 4.1 and 5.1 of the SRA Indemnity Insurance Rules 2013 (“SIIR 2013”)

and/or;

Principles 4, 6 and/or 8 of the Principles.

3. The further allegation against the First Respondent only was that:

On or about the 12 December 2012, he made a statement within an application for renewal of the registration of an Authorised Body which he should have known to be untrue at the time that it was made in breach of Principles 6 and/or 7 of the Principles.

## Submissions for the Applicant

4. On 21 April 2016 the Applicant wrote to the Tribunal and informed the Tribunal that it had proposed RSAs to the First and Second Respondents and that they had accepted them. Copies of the proposed RSAs, signed by the First and Second Respondents respectively, were provided to the Tribunal. The Applicant sought leave to withdraw the proceedings against the First and Second Respondents on the basis of the RSAs with no order as to costs (costs having been agreed between the parties). The Applicant also sought leave to withdraw the proceedings against the Third Respondent on the basis that the Applicant would refer the proceedings against him to an SRA adjudicator. The Applicant did not seek an order for costs against the Third Respondent.
5. All three Respondents had filed and served an Answer to the Rule 5 statement. The Applicant had reviewed the allegations in light of the Respondents’ Answers and concluded that it was no longer in the public interest to pursue the second allegation

and that there were evidential issues in respect of proving the third allegation to the required standard. The Applicant considered that whilst there was evidence of breaches in respect of the first allegation it was possible for matters to be appropriately addressed by way of RSAs.

6. On 19 April 2016 the First Respondent signed a RSA which admitted that the Firm failed to take out and maintain PII for the period 1 October 2012 to 30 September 2013 but continued to practise under the style of Harrow Solicitors & Advocates during this period in breach of: Rule 5.1 of the SIIR 2012; and/or Principles 4, 6 and/or 8 of the Principles or any of them. On 20 April 2016 the Second Respondent signed a RSA and made the identical admission.
7. The RSAs agreed by the First and Second Respondents provided that they each pay a fine of £2000 and included an agreement that they would not act in any way inconsistent with the RSAs, and made provision for publication of the outcome in the interests of transparency and open justice.
8. There was no agreement with the Third Respondent as to an outcome. He had returned to his native Sri Lanka. The Applicant proposed that the first allegation against him be put to an SRA Adjudicator for an internal sanction.

### **Mitigation**

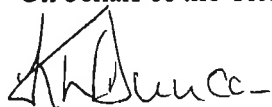
9. By way of mitigation, the First and Second Respondent put forward the fact that they were in contact with the Applicant as they were taking steps to close down the Firm and that they followed the advice given by the Applicant in order to voluntarily close the Firm and did voluntarily close the Firm. The Applicant accepted this mitigation.

### **Decision of the Tribunal**

10. The Tribunal considered carefully the RSAs provided, and the content of the letter dated 21 April 2016 from the Applicant. The First and Second Respondents had made an admission and put forward mitigation in the RSAs. The Third Respondent was no longer in the jurisdiction and the Applicant proposed to proceed with an internal sanction in respect of the first allegation only.
11. The Tribunal was satisfied that, in this particular case, taking into account the nature of the allegations and circumstances, it was appropriate, proportionate and in the public interest for matters to be dealt with by way of RSA with each of the First and Second Respondents and for the Tribunal proceedings against the Third Respondent to be withdrawn. Accordingly, the Tribunal made the following Order:
  - 11.1 Upon the filing of the RSAs signed by the Applicant and the relevant Respondents leave is granted to the Applicant to withdraw the proceedings against the First and Second Respondents with no order as to costs.
  - 11.2 On the basis that the conduct of the Third Respondent complained of be referred without delay to a SRA adjudicator leave is granted to the Applicant to withdraw the proceedings against the Third Respondent with no order as to costs.

11.3 The substantive hearing listed on 3-5 May 2016 is vacated.

Dated this 28<sup>th</sup> day of April 2016  
On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'K. W. Duncan', written in a cursive style.

K. W. Duncan  
Chairman