SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11785-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

GURDEEP SINGH MARWAH Respondent

Before:

Ms T. Cullen (in the chair)
Mr P. Housego
Mrs S. Gordon

Date of Hearing: 9 October 2018

Appearances

Andrew Bullock, barrister, of The Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Applicant.

The Respondent did not attend and was not represented.

PUBLIC JUDGMENT

THIS IS THE PUBLIC JUDGMENT IN THIS CASE WHICH HAS BEEN REDACTED TO PROTECT THE RESPONDENT'S PRIVATE AND FAMILY LIFE.

Allegations

1. The allegations against the Respondent were that:

1.1 The Respondent provided misleading information to an SRA Supervisor in telephone calls on 17 and 23 January 2017 by incorrectly stating that Professional Indemnity Insurance was in place, when in fact there was no insurance in place. In doing so the Respondent breached all or alternatively any of Principles 2, 6 and 7 of the SRA Principles 2011 and failed to achieve Outcome 10.3. It was alleged the Respondent had acted dishonestly.

1.2 The Respondent failed to comply with the requirement under Rule 8.3(a) and Rule 8.7(a) of the SRA Authorisation Rules 2011 for authorised bodies to submit an annual return and periodic fee each year. The Respondent therefore acted in breach of Principle 7 of the SRA Principles 2011 and/or failed to achieve Outcome 10.6 of the SRA Code of Conduct 2011.

Documents

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

Applicant:

- Application dated 1 February 2018 together with attached Rule 5 Statement and all exhibits
- Statements of Costs dated 8 October 2018 and 1 February 2018

Respondent:

- Letter dated 24 March 2018 from the Respondent to the Tribunal

Preliminary Issues

Service of Proceedings

3. The Respondent did not attend the hearing and was not represented. Mr Bullock, on behalf of the Applicant, confirmed the Respondent had been served with notice of these proceedings and the hearing date at his last known address. Mr Bullock stated the Respondent had acknowledged receipt of the documents on 22 March 2018 and had written a letter to the Tribunal dated 24 March 2018 in which he confirmed he did not contest the findings of the investigation brought against him. He had stated he accepted full responsibility for his conduct and that he did not intend to attend the Tribunal hearing.

4. The Tribunal considered all the documents and the submissions of the Applicant. The Tribunal noted that notice of the proceedings had been served on the Respondent by the Tribunal by a letter dated 14 February 2018 which was confirmed as delivered on 15 February 2018. That letter attached a number of documents including the Tribunal's Standard Directions which stated the case was listed for a substantive hearing on Tuesday 9 October 2018 at 10am. The Tribunal was satisfied that the Respondent had been notified of these proceedings and the substantive hearing date in accordance with Rule 10 of the Solicitors (Disciplinary Proceedings) Rules 2007.

Application to Proceed in the Respondent's Absence

5. Mr Bullock submitted the Respondent had indicated in his letter to the Tribunal dated 24 March 2018 that he did not intend to attend the Tribunal hearing. Accordingly, Mr Bullock submitted the Respondent was clearly aware of the hearing and had voluntarily absented himself. Mr Bullock made an application for the hearing to proceed in the Respondent's absence.

The Tribunal's Decision

6. The Tribunal was mindful that it should only decide to proceed in the Respondent's absence having exercised the utmost care and caution. The Tribunal took into account the criteria set out in the case of R v Hayward and Jones [2001] QB 862 and General Medical Council v Adeogba [2016] EWCA Civ 162 (18 March 2016) when considering whether it was appropriate to proceed in the Respondent's absence.

7. The Respondent had confirmed in his letter of 24 March 2018 that he accepted full responsibility for his conduct and did not intend to attend the Tribunal hearing, which he referred to as being "listed around September 2018". The Tribunal was satisfied that the Respondent was aware of these proceedings and that he had made a decision not to attend the hearing and had therefore voluntarily absented himself. There was nothing to suggest that he would attend a hearing on a future date if the case was to be adjourned. The Tribunal noted Tait v Royal College of Veterinary Surgeons [2003] UKPC 34 extended these considerations to regulatory proceedings such as this hearing. That case also indicated that "*waiving the right to appear*" is better considered as "*voluntarily absented himself from the proceedings*". The Panel also considered GMC v Adeogba and GMC v Visvardis [2016] EWCA Civ 162, particularly paragraph 19 which suggests that Tribunals should proceed with hearings unless there is good reason not to do so.

8. There was no such good reason in this matter. The Tribunal also took into account the nature of the allegations which had been made against the Respondent. These involved an allegation of dishonesty. It was in the public interest that matters should be concluded expeditiously. The Tribunal was satisfied that the Respondent had chosen not to attend the Tribunal hearing and it was in the public interest for the hearing to proceed in the Respondent's absence.

Factual Background

9. The Respondent, born in 1968, was admitted to the Roll of Solicitors on 17 February 1997.

10. At all material times, the Respondent practised as a sole practitioner of G S Marwah ("the firm") from 8 Branding Court, Jesmond, Newcastle-upon-Tyne, NE2 1TN from 1 September 2001 until the firm ceased on 29 December 2016. The Respondent did not hold a current practising certificate at the time of the hearing.

11. On 26 January 2017, a Forensic Investigation Officer ("FIO") from the Solicitors Regulation Authority ("SRA") visited the Respondent's firm and produced an investigation report dated 8 March 2017.

Allegation 1.1

12. In January 2017, the firm did not appear on the "Insured Firm Report" provided to the Applicant by participating insurers. The Applicant's records showed that the Firm had professional indemnity insurance ("PII") until 30 September 2016. As the firm had not obtained new cover, it had entered the extended policy period ("EPP") on 1 October 2016. The EPP comprised of a 30 day extended indemnity period ("EIP") from 1 October to 30 October 2016, and a 60 day cessation period from 31 October to 29 December 2016.

13. During the EIP the firm could continue to trade as normal, including taking on new clients, and there was no obligation on the firm to wind down. If the firm was able to obtain insurance during this period, that cover would be backdated to the original renewal date of 1 October 2016.

14. During the cessation period the firm could continue to look for insurance and if obtained, that would be backdated by the new insurer to 1 October 2016. During the cessation period, the firm was required to put in place plans for the orderly wind down of the practice. If insurance could not be obtained, the firm was required to close by 29 December 2016.

15. A Regulatory Supervisor employed by the SRA contacted the Respondent by telephone on 17 January 2017 to seek clarification of the professional indemnity insurance position of the firm. The Respondent stated during the call that he had professional indemnity insurance in place but he did not have the details as he was about to go to court. He agreed to provide a copy of the insurance certificate to the Supervisor by 5pm on Thursday 19 January 2017. An email was sent to the Respondent immediately after the telephone call confirming this conversation.

16. No response was received from the Respondent by 19 January 2017. The Supervisor telephoned the Respondent on 23 January 2017. During this call the Respondent confirmed he had professional indemnity insurance in place and was chasing his broker for the certificate. The Respondent confirmed he would provide a copy by 10am that day and also submit the firm's practising certificate and registration renewal application and fees. The Respondent did not forward a copy of the professional indemnity insurance certificate to the Supervisor.

17. On 26 January 2017, the Supervisor and a FIO attended the Respondent's office at which point the Respondent confirmed he did not have professional indemnity insurance in place.

18. During an interview with the FIO and the Supervisor on 26 January 2017, the Respondent was asked "When did you find out that you had not obtained PII?" The Respondent replied:

> "Knew I had no insurance from September 2016 as I hadn't applied.
> I take full responsibility for not having insurance and am fully aware that it is my own fault."

19. The Respondent confirmed he had not carried out any legal work since September 2016 and referred to personal problems which had taken up most of his time. He was asked what steps he had taken to obtain PII. He stated:

> "In touch with [PE] (broker) but I didn't complete the forms in time. So forms weren't submitted. I have had some personal circumstances that had taken over my life. I have been ill with the stress it has caused ....."

Allegation 1.2

20. The Authorisation Rules 2011, Rule 8.3(a) and 8.7(a) required the Respondent to submit an annual return and periodic fee by 31 October 2016. The Respondent failed to do this.

21. The Applicant emailed the Respondent on 19 December 2016 and 30 December 2016 requesting the firm's practising certificate and registration renewal application. The Respondent failed to reply. He also failed to submit the firm's practising certificate/registration renewal application and fees by 10am on 23 January 2017, despite informing an SRA Supervisor that he would do so.

22. In an interview with the FIO, the Respondent was asked why he had failed to respond regarding this matter to which he stated:

> "Because I was terrified of telling the SRA and what might happen. I've always been scared of the SRA although never been in trouble with the SRA. Due to my personal circumstances I was not thinking in a rational way. I understand I should have told the SRA the position and I can only apologise for my conduct."

23. The Respondent also stated during the interview that he had received the SRA's emails but was not aware of the voicemail messages. He stated:

> "I didn't open the emails as I was petrified."

24. The Respondent sent a letter to the SRA dated 15 April 2017 in which he stated:

> ".....my personal circumstances had become and continue to remain so utterly grave that the decisions I made were completely irrational and very poor.....
>
> .....The investigation conducted by Ms Bond as per the submitted FI Report is accurate and I do not intend to embellish or challenge its findings.
>
> I accept the findings of all the allegations made against me.

In mitigation I would be grateful to be permitted to say the following.

In 17 years of being a sole practitioner I have never advised or afforded advice to any client without having valid PII or a valid practising certificate.

In fact, even as my business was without clients I tried to keep it afloat in the face of adversity by paying out more than £6000 in PII and practising certificate fees over the previous two years.

Furthermore, at no point have I ever behaved in a manner which has breached the trust of the public or a client in over 2 decades of service.

I have served the Law Society and my clients with the utmost integrity and honesty throughout my career as a Solicitor.

The exceptional personal circumstances of this matter, I hope, would indicate that this was an isolated incident, albeit serious, and the likelihood of a further occurrence is remote. Meant with respect, I hope that my overall conduct and regulatory history will be taken into account.

I fully appreciate that the SRA are committed to working with solicitors to maintain regulatory standards and am familiar with all provision(s) in respect of behaving in a way that maintains the trust of the public in you and the profession which are relevant in this matter.

I cannot emphasise how deeply I regret my conduct and can only hope that the SRA take into account my ongoing exceptional personal circumstances, which I continue to battle through to this day, when deciding on the action to be taken against me."

Witnesses

25. No witnesses gave evidence.

Findings of Fact and Law

26. The Tribunal had carefully considered all the documents provided, and the submissions of the Applicant. 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.

27. **Allegation 1.1: The Respondent provided misleading information to an SRA Supervisor in telephone calls on 17 and 23 January 2017 by incorrectly stating that Professional Indemnity Insurance was in place, when in fact there was no insurance in place. In doing so the Respondent breached all or alternatively any of Principles 2, 6 and 7 of the SRA Principles 2011 and failed to achieve Outcome 10.3. It was alleged the Respondent had acted dishonestly.**

27.1 Mr Bullock referred the Tribunal to a witness statement from the SRA Supervisor, Mr Tiwana dated 23 August 2017 in which he had confirmed the content of telephone conversations he had had with the Respondent on 17 and 23 January 2017.

27.2 Mr Bullock also referred the Tribunal to the test for dishonesty as set out in the case of Ivey v Genting Casinos (UK) Ltd t/a Crockfords. Firstly the Tribunal was required to ascertain the actual state of the Respondent's knowledge or belief as to the facts. Having done so, the Tribunal had to consider whether the Respondent's conduct was dishonest by the standards of ordinary decent people.

27.3 The Tribunal noted from the Respondent's letter dated 24 March 2018 that he had confirmed the facts of his case were correctly detailed and that he did not intend to contest the findings of the investigation brought against him. He had also confirmed, in his letter to the Applicant dated 15 April 2017 that he accepted the findings of all the allegations made against him.

27.4 It was clear to the Tribunal, having considered the witness statement of Mr Tiwana, that the Respondent had provided misleading information to him, as he had informed Mr Tiwana during the telephone calls on 17 and 23 January 2017 that he had got professional indemnity insurance in place when this was clearly not true.

27.5 The Tribunal particularly noted that Mr Tiwana had made a telephone call to the Respondent on 23 January 2017 at 8.10am requesting an explanation as to why he had not responded to earlier emails dated 17 and 20 January 2017, or the voicemail message left on 20 January 2017. This was an unusual time for professional calls to be made by a regulator but it did explain why the Respondent had said he would provide a copy of his insurance certificate by 10am that same day.

27.6 The Tribunal also noted from the Forensic Investigation Report dated 8 March 2017 that the Respondent had not had any live client matters at the firm for the last 12 to 18 months and there had been no financial transactions since August 2016. He had informed the SRA Supervisor and the FIO during his interview on 26 January 2017 that he was not aware of the requirement to inform the SRA when he entered the extended policy period and that he thought he could tell the SRA the position once he had secured insurance cover.

27.7 The Tribunal was satisfied that, by providing misleading information to the regulator, the Respondent had failed to act with moral soundness, rectitude and had failed to act with a steady adherence to an ethical code. As such he had failed to act with integrity and had breached Principle 2 of the SRA Principles 2011. The Respondent had also failed to comply with his legal and regulatory obligations and deal with his regulator in an open, timely and co-operative manner. He had therefore breached Principle 7 of the SRA Principles 2011. The Respondent had also breached Outcome 10.3 as he had failed to notify the SRA of any material changes to relevant information about himself, which included a serious failure to comply with or achieve the Principles, rules, outcomes and other requirements of the Handbook. The Tribunal had no doubt that providing misleading information to one's regulator was a serious matter, particularly when it concerned professional indemnity insurance which was in place to protect clients.

27.8 The Tribunal was also satisfied that the Respondent had behaved in a way that did not maintain the trust the public placed in him or in the provision of legal services. The public expected solicitors to provide correct and accurate information to their regulator and failure to do so undermined that trust. The Respondent had thereby also breached Principle 6 of the SRA Principles 2011.

27.9 In relation to the issue of dishonesty, whilst the Tribunal noted the Respondent was going through some difficult personal circumstances at the time, the Tribunal was satisfied that when the Respondent informed Mr Tiwana that he had professional indemnity insurance in place on 17 and 23 January 2017, he knew that this was not true. The Respondent had admitted during his interview with the FIO and the Supervisor on 26 January 2017 that he had not completed the renewal forms for his professional indemnity insurance in time and therefore it was clear he knew on 17 and 23 January 2017 that he had not had any professional indemnity insurance in place since the end of September 2016. The reason the Respondent gave for misleading the SRA was that he was "terrified of telling the SRA and what might happen". This confirmed that he knew he had no insurance and was simply trying to delay informing his regulator of the true position. The Tribunal was satisfied that this conduct would be regarded as dishonest by the standards of ordinary decent people who would expect solicitors to be truthful with their regulator. The Tribunal found that the Respondent had acted dishonestly.

27.10 The Tribunal found Allegation 1.1 proved in full both on the Respondent's admissions and on the documents provided.

28. **Allegation 1.2: The Respondent failed to comply with the requirement under Rule 8.3(a) and Rule 8.7(a) of the SRA Authorisation Rules 2011 for authorised bodies to submit an annual return and periodic fee each year. The Respondent therefore acted in breach of Principle 7 of the SRA Principles 2011 and/or failed to achieve Outcome 10.6 of the SRA Code of Conduct 2011.**

28.1 Mr Bullock submitted that the Respondent had failed to submit his application for renewal of his practising certificate or his firm's annual authorisation return. He submitted that if the Respondent had made a decision not to continue with his practice, then he should have arranged for the practice to be wound up in a proper and orderly manner.

28.2 The Respondent had admitted in his letter of 15 April 2017 that he accepted the findings of all the allegations made against him. In his letter of 24 March 2018, the Respondent confirmed he did not contest the findings of the investigation and that he accepted full responsibility for his conduct.

28.3 During his interview with the SRA Supervisor and FIO on 26 January 2017, the Respondent had confirmed that he had not given any legal advice or carried out any legal work since September 2016 and he admitted he had failed to respond to the SRA regarding the renewal of his practising certificate and authorisation of his practice.

28.4 It was clear to the Tribunal that the Respondent had failed to submit his firm's practising certificate and registration renewal application and fee by 31 October 2016. As a result of this, he had failed to comply with Rule 8.3(a) of the SRA Authorisation Rules 2011

which required every authorised body to pay the appropriate prescribed periodical fees to the SRA by the prescribed state. The Respondent had also failed to comply with Rule 8.7(a) of the SRA Authorisation Rules 2011 which required an authorised body to complete and provide to the SRA an information report on an annual basis in the prescribed form and by the prescribed state. As a result of this, the Respondent had failed to run his business or carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles. He had thereby breached Principle 7 of the SRA Principles 2011.

28.5 The Tribunal found Allegation 1.2 proved both on the Respondent's admissions and on the documents provided.

Previous Disciplinary Matters

29. None.

Mitigation

30. Although the Respondent had not attended the Tribunal hearing, he had provided the SRA with documents concerning his personal circumstances at the material time. In his letter to the Applicant dated 15 April 2017, the Respondent had referred to his "utterly grave" personal circumstances which had led to him making decisions that were "completely irrational and very poor". He referred to his personal circumstances over the 3 year period prior to the material time.

31. In a further letter to the Applicant dated 28 June 2017, the Respondent provided more information about his personal circumstances. He provided more detailed information about his personal circumstances and some supporting documents. He stated his ability to make rational decisions had been totally impaired due to the unparalleled stress of the situation. The Respondent stated he had never had any intention of being dishonest or fraudulent, and that he had not taken on or advised any client during the period over the material time.

32. The Respondent stated in his letter of 28 June 2017 that his health had deteriorated significantly. The Respondent stated that he had been placed in an extremely difficult situation because he could not reveal the extent of his health issues to any medical professional due to the potential adverse consequences that could arise. The Respondent considered himself to be trapped in a "no-win situation". As a result of this, the Respondent stated he had little medical evidence to support the assertion about his health.

33. The Respondent in his letter of 28 June 2017 stressed that in 17 years of being a sole practitioner he had never advised or afforded advice to any client without having valid professional indemnity insurance or a valid practising certificate. He stated he had served his clients with utmost integrity and honesty throughout his career as a solicitor and that he considered his isolated conduct was due to his exceptional personal circumstances. He expressed his regret and confirmed that he was presently unemployed.

34. Attached to the Respondent's letter was a detailed chronology dated from February 2013 to June 2017 and other documents which gave details of his personal situation throughout that period. Also attached was an extract from the Respondent's medical records dated December 2013 to May 2014 as well as letters from the Respondent's GP dated 23 and 30 May 2014. The Respondent had also attached a copy of a witness statement which had been provided to the police dated 21 December 2016.

Sanction

35. The Tribunal had considered carefully the Respondent's documents. The Tribunal referred to its Guidance Note on Sanctions when considering sanction. The Tribunal also considered the aggravating and mitigating factors in this case.

36. In the Respondent's chronology a number of dates between October 2016 and February 2017 were particularly pertinent and contained details of various events that had occurred during that time.

37. The Tribunal firstly considered the Respondent's culpability. Whilst the Tribunal found the Respondent was culpable for his actions, it also took into account his circumstances at the time. The decisions the Respondent had made to provide misleading information to the regulator were not planned, but had been a spontaneous reaction to each of the phone calls he had received on 17 and 23 January 2017, the second of which was made very early in the morning at 8.10am. Indeed in response to that call, the Respondent had promised to provide his indemnity insurance certificate two hours later which was a strange response given that he knew that he did not have one to provide and there was no prospect that he would be able to do so. This demonstrated to the Tribunal his rather irrational thought process at a time when he was under significant personal stress. The Tribunal did not find that the Respondent had deliberately misled the regulator.

38. The Tribunal found that the Respondent's failure to submit his annual return and fees was also not deliberate. He was not dealing with any clients at that time and had not done so for a number of months. Whilst the Tribunal accepted that the Respondent was distracted by the stress of his personal circumstances at the material time, compliance with regulations was important to ensure the public are protected. This was more in the nature of oversight than a deliberate action or omission. The attention of the Respondent was fully engaged in his personal circumstances and he was, in reality, not in practice at all at the time. The level of culpability in this highly unusual circumstance was low. All the evidence of the career of the Respondent was of meticulous attention to regulatory requirements, and had the Respondent resumed practice there is no reason to doubt that he would have ensured that he was insured and properly up to date with regulatory requirements.

39. The Tribunal took into account that the Respondent was an experienced solicitor who had been qualified for some 21 years. He had made reference to his fear of his regulator which was no doubt compounded by his stressful personal circumstances at that time. The Tribunal noted that no harm had been caused to clients as a result of the Respondent's conduct as he had not dealt with *any* client matters for some 12 to 18 months prior to the investigation. He had therefore not acted for any clients during the period that he had not had professional indemnity insurance in place or failed to renew

his annual returns to the SRA. However, there had been some harm to the reputation of the profession as solicitors were expected to be truthful with their regulator and they were expected to run their businesses effectively and in accordance with the SRA Principles. The Tribunal concluded the Respondent's level of culpability was low.

40. The Tribunal then considered the harm caused by the Respondent's conduct. The Tribunal had already found that no client had suffered as a result of the Respondent's conduct but it was clearly not acceptable for any solicitor to mislead the regulator. This was a serious matter and therefore some harm had been caused. In this case, the Tribunal found that the Respondent did not intend to cause any harm, nor did he foresee what that harm might be due to his personal state of mind at that time.

41. The Tribunal then considered the aggravating factors in this case and identified those as follows:

- The Respondent had acted dishonestly;
- Although the Respondent's conduct in dishonestly providing misleading information to the regulator occurred twice, the Tribunal had found he had acted reacted spontaneously on both occasions within a short period of time due to the stress he had been suffering in his personal life;
- The Respondent ought reasonably to have known that his conduct was in material breach of his obligations to protect the public and the reputation of the legal profession;
- The Tribunal had already found that there had been no impact on members of the public but there had been the potential for harm to the reputation of the legal profession.

42. The Tribunal then considered the mitigating factors and identified those as follows:

- The two spontaneous incidents of dishonestly misleading his regulator had taken place in a short period of time and related to the same matter;
- The Respondent had made early, open and frank admissions;
- His conduct had not been deliberate or calculated;
- The Respondent had been candid showing genuine insight and remorse;
- The Respondent had cooperated with both his regulator and these proceedings;
- The Respondent had a previously long unblemished history;
- There was no conceivable advantage to the Respondent who was not in fact practising as a solicitor, having had no clients for many months, and he was not seeking any. Nor was there any conceivable disadvantage to anyone, for the same reason. Furthermore it was inconceivable the true position was not going to emerge,

as in the first call the Respondent was asked for, and promised to provide in an impossibly short time a copy of a document that did not exist. This was not a premeditated or rational thought for personal advantage, which is often the hallmark of dishonesty.

43. The Tribunal considered each of the available sanctions in turn. This was not a case where it would be appropriate to make No Order or order a Reprimand or a Fine as none of these sanctions were sufficient to mark the seriousness of the misconduct. It was very serious to dishonestly mislead the regulator who was acting in the public interest making sure the public were properly protected. Solicitors were expected to be open and frank with their regulator in order to allow it to carry out its duties effectively.

44. The Tribunal also decided that a restriction order would not be appropriate in this case as it was difficult to formulate conditions that would address the misconduct in this case, or indeed dishonesty.

45. The Tribunal then considered whether a Suspension would be the appropriate penalty. The Tribunal was particularly mindful of the case of the case of SRA v Sharma [2010] EWHC 2022 (Admin) in which Coulson J stated:

> "(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the roll, see Bolton and Salisbury. That is the normal and necessary penalty in cases of dishonesty, see Bultitude. (b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances, see Salisbury. (c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself; whether it was momentary, such as Burrowes, or other a lengthy period of time, such as Bultitude; whether it was a benefit to the solicitor (Burrowes), and whether it had an adverse effect on others."

46. The Tribunal considered carefully whether there were exceptional circumstances in this case. There had been two spontaneous responses from the Respondent to early morning telephone calls in a short period of time, whilst he was dealing with acute, chronic and distressing personal circumstances. Most people would not expect to receive a call from their regulator at 8.10am.

47. The Respondent had failed to submit his annual returns at a time when he was preoccupied with other pressing personal matters. The Respondent's personal circumstances were not contested by the Applicant and nor was there any dispute that the Respondent had not carried out any client work for at least twelve months prior to January 2017. No harm had been caused to any individual client and the Respondent had not held any client funds. There was no criticism of how the Respondent had run his practice over a period of seventeen years as a sole practitioner since 2001. The Tribunal was satisfied that he was not a risk to the public.

48. The Tribunal took into account that the Respondent had been embroiled in highly stressful personal circumstances which had been ongoing for a period of three years prior to the material time, and which appeared from his correspondence to have been all consuming. The Respondent was candid in providing explanations and it was clear

that he had been completely absorbed in his situation at the time. Indeed, he accepted this and that it had led to his conduct which he now accepted was entirely wrong.

49. The Tribunal accepted the Respondent's explanation as to why he had not been able to produce any medical evidence to support the issue of his mental health. He had found himself in a difficult position in that respect.

50. The Tribunal concluded that the Respondent had acted dishonestly at a time when he was suffering from acute personal stresses and was not thinking rationally. The Tribunal found that there were exceptional circumstances in this case as the Respondent had found himself in an extremely challenging, difficult and stressful situation. The Tribunal concluded that there had been what could be described as a "perfect storm" which had impacted on the Respondent's ability to think clearly and act with a level head.

51. Each division of this Tribunal contains a lay member to ensure that the public perception is fully weighed. The solicitor members of the Tribunal pay great heed to the contribution of the lay members. The decisions of the Tribunal affect the reputation of the profession to which the other members of the Tribunal belong, and so the solicitor members are also acting as the guardians of that reputation.

52. The Tribunal was satisfied that, given the exceptional circumstances, it would be disproportionate in this case to permanently remove the Respondent's ability to practice on the basis of his response to two unscheduled telephone calls made to him by the regulator at a time when he was experiencing severe personal stress. The Tribunal concluded that a Suspension of six months was sufficient to reflect the seriousness of the conduct in this case and to protect the reputation of the legal profession. It was sufficient to maintain public confidence in the legal profession.

53. Accordingly, the Tribunal Ordered that the Respondent be Suspended from practice as a solicitor for a period of six months.

Costs

54. Mr Bullock requested an Order for the Applicant's costs. He provided the Tribunal with a Statement of Costs containing a breakdown of those costs which amounted to £6,423.05. Mr Bullock accepted that some adjustment would need to be made to the costs. The time claimed for preparation was higher than the actual time he had spent and the hearing had taken less time than had been estimated.

55. Mr Bullock reminded the Tribunal that the Respondent had failed to file a Statement of Means or any evidence to support his assertion that he was receiving benefits.

56. The Tribunal had considered carefully the Statement of Costs and made reductions for the time claimed for preparation and the hearing time as requested by Mr Bullock. In addition, the Tribunal considered that the time claimed for reviewing documents of 8 hours and the time claimed for drafting and reviewing the Rule 5 Statement of 12 hours were excessive, given that this was a relatively straightforward matter. The Tribunal also reduced the amount of time claimed for those. Having made reductions for all of these items, the Tribunal assessed the Applicant's total costs in the sum of

£5,000. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant's costs in the sum of £5,000.

57. In relation to enforcement of those costs, the Tribunal noted the Respondent had stated in his letter of 24 March 2018 that he was living in rented accommodation and receiving state benefits. The Tribunal had particular regard for the case of SRA v Davis and McGlinchey [2011] EWHC 232 (Admin) in which Mr Justice Mitting had stated:

> "If a solicitor wishes to contend that he is impecunious and cannot meet an order for costs, or that its size should be confined, it will be up to him to put before the Tribunal sufficient information to persuade the Tribunal that he lacks the means to meet an order for costs in the sum at which they would otherwise arrive."

58. In this case the Respondent had not provided any documentary evidence of his income, expenditure, capital or assets and therefore it was difficult for the Tribunal to take a view of his financial circumstances. As such, the Tribunal did not consider this was a case where there should be any deferment of the costs order.

Statement of Full Order

59. The Tribunal Ordered that the Respondent, GURDEEP SINGH MARWAH, solicitor, be suspended from practice as a solicitor for the period of 6 months to commence on 9 October 2018 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

Dated this 16th day of January 2019
On behalf of the Tribunal

T. Cullen
Chair