

The Tribunal's decision dated 9 March 2023 is subject to appeal to the High Court (Administrative Court) by the Respondent. The Order remains in force pending the High Court's decision on the appeal.

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12111-2020

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

ASIF SALAM

Respondent

Before:

Mr E Nally (in the chair)
Mrs F Kyriacou
Mrs L McMahon-Hathway

Date of Hearing: 31 October, 1, 2 and 4 November 2022
and 8 – 9 February 2023.

Appearances

Benjamin Tankel, Counsel, of 39 Essex Chambers, 81 Chancery Lane, London, WC2A 1DD
for the Applicant.

The Respondent represented himself.

JUDGMENT

Allegations

1. The allegations against the Respondent were that, while in practice as a solicitor and sole practitioner at Salam & Co Solicitors Limited (“the Firm”):
 - 1.1 Whilst advising Client A on a possible visa application for her husband, he:
 - 1.1.1 Introduced her to an accountant for the purposes of her obtaining false documentation to support the application, and by reason of such failure breached one or more of Principles 1, 2 and 6 of the SRA Principles 2011;

PROVED

and

- 1.1.2 Failed to advise Client A that applying for a spousal visa on the basis of false documentation was unlawful, and by reason of such failure breached one or more of Principles 1, 2 and 6 of the SRA Principles 2011.

NOT PROVED

2. The Respondent acted dishonestly in respect of allegation 1. Dishonesty is not an essential ingredient to the allegation.

PROVED IN RELATION TO ALLEGATION 1.1.1

Executive Summary

3. Mr Salam was an immigration solicitor at the material time. He was recorded (audibly and visually) advising an undercover journalist posing as a client how to obtain fraudulent accountancy evidence in support of an application for a spousal visa. The recordings were broadcast as part of the British Broadcasting Corporation (“BBC”) radio programme and podcast series known as “File on Four”.
4. Mr Salam denied the allegations in their entirety and asserted various defences at different stages of the investigation and the Tribunal proceedings. In summary Mr Salam asserted that, (a) he was conducting research, (b) he was play-acting, (c) the accuracy of the recordings deployed against him were questionable and (d) he was the victim of a conspiracy.
5. The Tribunal accepted the evidence advanced by the Applicant and rejected Mr Salam’s assertions. The Tribunal therefore found the factual matrices of Allegation 1.1.1, the associated Principle breaches and dishonesty proved on a balance of probabilities.
6. The Tribunal found Allegation 1.1.2 not proved on the basis that it was intrinsically linked to and encapsulated by Allegation 1.1.1. Furthermore, it was not supported as pleaded in the recorded exchanges between Mr Salam and the undercover reporter. In those circumstances, and for the reasons set out fully below at §38.9 – 38.14, the Tribunal considered Allegation 1.1.2 not proved.

Sanction

7. Mr Salam was sanctioned by an Order Striking him from the Roll of Solicitors. He was further Ordered to pay the Applicant's costs in full of £68,374.40.

Documents

8. The Tribunal considered all of the documents contained in the electronic hearing bundle on the CaseLines platform which included:
- Rule 12 Statement dated 21 July 2020 and Exhibit HVL1;
 - Respondent's Answer to the Rule 12 Statement dated 15 September 2020 and associated documents;
 - Respondent's witness statements dated 2 August 2020 and 12 January 2021;
 - Applicant's skeleton argument for the substantive hearing dated 27 October 2022;
 - Respondent's skeleton argument for the substantive hearing dated 28 October 2022;
 - Applicant's reply to the Respondent's skeleton argument dated 28 October 2022;
 - Applicant's Schedule of Costs dated 24 October 2022; and.
 - Respondent's Personal Financial Statement (as amended in manuscript) dated 9 February 2023.

Preliminary Matter [Day 1]

9. *Respondent's application for proceedings to be stayed*

Respondent's Submissions

- 9.1 Mr Salam applied for the proceedings to be stayed as a consequence of more "prosecutorial misconduct by the Applicant ... being committed and coming to light since the last Application refused by the Tribunal on 9 November 2021" broadly summarised as:
- (i) False and misleading statements being made to the Court of Appeal.
 - (ii) Misleading claims on the Schedule of costs regarding a forensic report and work on witness statements.
 - (iii) Failure to make a telephone attendance note of "investigation calls" or, alternatively, the destruction of such records.
 - (iv) False statements made in defence of applications lodged by Mr Salam for judicial reviews 3 and 4.
 - (v) Counsel instructed by the Applicant mis spoke, which was interpreted by Mr Salam as having "lied" in submissions before the Tribunal on 30 September 2020.
 - (vi) "Blocking of evidence and creating false ones".

- 9.2 Mr Salam contended that “proceedings may kindly be stayed in view of the law laid down by the Supreme Court and the Court of Appeal.”

Applicant’s Submissions

- 9.3 Mr Tankel opposed the application and reminded the Tribunal that it was the third or fourth application for a stay of proceedings as an abuse of process made by Mr Salam, all of which had been determined and refused. Mr Tankel submitted that the present application was “just a repeat of applications which had previously been made and that the Tribunal does not have the jurisdiction to consider what is in effect an appeal or a repeat application with no substantial difference”.
- 9.4 For the avoidance of doubt however, Mr Tankel proceeded to address the bases of Mr Salam’s application and submitted that (i) was refuted and was a matter for the Court of Appeal, was advanced and rejected by the Tribunal in Mr Salam’s last application for a stay of proceedings in respect of which Mr Salam was refused permission for judicial review by the Administrative Court.
- 9.5 With regards to (ii), Mr Tankel submitted that the costs claimed reflected initial enquiries with regards to the preparation of a forensic examination of the recordings. The costs were properly incurred despite the fact that no such expert was ultimately instructed. Mr Tankel reminded the Tribunal that the ground advanced had been previously rejected by the Tribunal in relation to applications for disclosure and refusal of permission for judicial review by the Administrative Court.
- 9.6 With regards to (iii), Mr Tankel submitted that there was nothing suspicious about communications between Capsticks and the BBC Legal being claimed under the “Witness Statement” heading. Those communications culminated in the witness statement from Paul Grant.
- 9.7 With further regards to (iv), Mr Tankel submitted that the absence of telephone attendance notes simply did not amount to prosecutorial misconduct.
- 9.8 With regards to (v), Mr Tankel submitted that the Applicant did not make false statements to the Administrative Court but that if Mr Salam wanted to pursue such an allegation, he should do so in that jurisdiction.
- 9.9 With regards to (vi), Mr Tankel submitted that the concession by counsel having “mis spoken” was not synonymous as having “lied”. Mr Salam’s deploying that as a ground for a stay of the proceedings had been advanced and refused “many times by the Tribunal and the Admin[istrative] Court”.

The Tribunal’s Decision

- 9.10 The Tribunal carefully considered the application for the proceedings to be stayed as an abuse of process. In so doing it determined that every basis advanced by Mr Salam had been previously considered and rejected by either the Tribunal, the Administrative Court or the Court of Appeal. There was no power in the Solicitors (Disciplinary Proceedings) Rules 2019 for the Tribunal to revisit repackaged but previously determined decisions. Mr Salam was well aware that the proper course to challenge the

same was via judicial review in the Administrative Court and the appellate process within that jurisdiction.

9.11 The Tribunal therefore REFUSED the application.

Factual Background

10. Mr Salam was a solicitor who specialised in immigration law having been admitted to the Roll of Solicitors in 2007. He was the approved manager, Money Laundering Reporting Officer (“MLRO”), Compliance Officer for Legal Practice (“COLP”) and Compliance Officer for Finance and Administration (“COFA”) of Salam & Co. Solicitors Limited (“the Firm”), Cheshire at all material times. The Firm’s main areas of practice were (a) company and commercial law, (b) employment law, (c) family law and (d) immigration law. Mr Salam was one of two directors at the Firm.

The initial telephone call

11. On or around 1 December 2016, an undercover reporter posing as a potential client (“Client A”) had an initial telephone conversation with Mr Salm relating to her seeking assistance from Mr Salam for an application for a spousal visa. Client A conducted a covert audio recording of the meeting which was subsequently transcribed. Conversations which took place in Urdu were translated for the purpose of that transcript.
12. During the initial telephone conversation Mr Salam stated that the requirements of such an application were too complicated to explain over the telephone particularly given the limited income of Client A. When asked whether she could increase her income, Mr Salam stated that she needed to obtain a second job.
13. During that initial telephone conversation, Client A discussed an alternate route to obtaining a spousal visa in circumstances where she did not meet the minimum income requirements colloquially known as the ‘Surinder Singh immigration route’ (“the Singh Route”). The Singh Route provided for an individual living in a European Economic Area country with an eligible British (or other EEA resident) family member to apply for a family permit. No minimum income threshold requirement of the British family member applied to application pursuant to the Singh Route.
14. Mr Salam stated that if Client A made an in person appointment he could discuss other matters further with her. Client A sought clarification of what he meant, Mr Salam stated “You say there is another way. There is a way which is not very straight that I can’t discuss over the phone”.

The First Meeting

15. Client A met with Mr Salam at the Firm’s premises on or around 2 December 2016. Client A again conducted a covert audio recording of the meeting which was subsequently transcribed. Conversations which took place in Urdu were translated for the purpose of that transcript.

16. Client A informed Mr Salam that she wanted to make an application for her husband to come to the UK from Pakistan. She reiterated that which had been discussed during the initial telephone call, namely that she earned £12,000.00 per annum and held savings of £3,000.00.
17. Mr Salam enquired whether she could obtain a second job to which Client A advised she could not. The following exchange ensued:

“... ”

Mr Salam You should, you should, I think they're not paying you well. So, the other option which I was trying to tell you because a lot of people are in difficulty. So, you can go to some accountant and ask them to get you a second job, on paper at least, so they can do that. We don't get involved but it's between you and them.

Client A Okay. Do you know anybody?

Mr Salam All accountants are naughty.

Client A Right, okay. So, what do I say to them?

Mr Salam You say, 'This is what I need', openly.

Client A What, what do I need? I just need another job.

Mr Salam You, you need to have payslips and bank statements so that they will rotate the money to your bank also.

Client A So, I don't have to do the job? When you say they rotate my money what do you mean?

Mr Salam They will pay you for the second job -

Client A They will pay me?

Mr Salam ... because it's their money, then you only have to show that you are working and you are getting paid.

Client A Sorry, I don't mean to be thick, I don't understand what do you mean. So, I give them money?

Mr Salam No. Yeah, something like that. Look, if they employ you for a job caring, say, £600 a month this is what you need in addition to £12,000 a year so £600 per month. So, what they will do is you pay them £600 and they will pay £600 into your bank account net of the tax, they will take the tax and things off, and issue you a payslip for £600. This is what is main priority, so it's your money, you give it them, they give it to your bank account

- so that your bank shows you getting second job payment ... and they will give you a payslip.
- Client A Right, okay. But I don't know anybody.
- Mr Salam We will monitor you. Don't worry. We will help you with all the process.
- Client A Right. But, so the only thing I need to give you then is what, what do I need to give you? Just bring my wage slips in and -
- Mr Salam A lot of other things also but since we are to wait for six months in doing all this here we will tell you what else you need to do...
- ...
- Mr Salam We charge £900 - but we won't charge you any extra for six months that we will be working with you. Because normally what happen, people come, they have everything so in a month's time we finish it off.
- Client A Will I have to pay the accountant extra?
- Mr Salam I can't get involved to who is paying us or anything like that. You will never tell me you have given him £600 or. . . I will only monitor your paperwork and see everything is going fine.
- Client A Okay.
- Mr Salam So, that, you can negotiate with him, whatever. If you don't like the man if I give you a reference then go to anyone else. All, they're all into these things...
- ...
- Mr Salam ... take six months. Either you find a job which is the best thing to do, a genuine, or go and get it done from the accountant. The Surinder Singh, I don't recommend ...
- ...
- Mr Salam We do help people exaggerate their circumstance, make them look more compelling. There are limits, but we don't simply say something which is totally ... dodgy..."

The Second Meeting

18. On or around 6–7 December 2017, Client A met with Mr Salam again at the Firm's premises. Client A conducted a covert video and audio recording of the meeting which

was subsequently transcribed. Parts of the conversations which took place in Urdu were translated for the purpose of that transcript.

19. Client A reminded Mr Salam of her financial position. Mr Salam reiterated that she did not meet the minimum financial threshold required for spousal visa applications. The following exchange ensued in relation to the fee of £900 suggested by Mr Salam for assisting in Client A's potential spousal visa application:

“... ”

Client A So, for the £900, what do we get for £900? How can you help us?

Mr Salam ... we will provide you advice ... we will provide you guidance, how to go about it, that's the most important thing that we do. Then we do the application form online form ... Then we pay all your fees through your card or whatever from here. You book an appointment for him to go to the embassy from here. We do the application pack, everything, from here ...

It's a lot of work if you do it properly...

Client A ... you said there's a solution.

Mr Salam ... there's is a dodgy way of doing it either, if you want to do the proper way it is to go and find a second job...

... the dodgy thing is you ask an accountant to create you as an employee with someone for six months because you need at least for six months...

... those payslips, your bank statement should reflect payments coming in from the employer and payslips will permit you from the accountant.

Client A ... this is somebody that you know or do I have to find a person then?

Mr Salam I will send you to someone. I don't get involved into it more than that - ... - because it's something ethically I should not get involved. I'm just trying to help you, nothing more than that. We will just monitor everything. Every month you just send us a copy of your wage slips and bank statements.

Client A This person will or do I have to go and collect them?

Mr Salam You can arrange with him howsoever, but we need to have them every month. so that if there is something wrong I will give you a call ...

- Client A ... Will you have a word with the accountant then?
- Mr Salam Yes, if there's a problem ...
- Client A Right, okay, yeah, yeah.
- Mr Salam ... I'll show you something. This is what, the real, the real thing, not something like manufactured that we are discussing. Even in the real world, what happens is: This is someone who has been refused we just prepare letter asking them to review it and the issues were that you are getting ...
- Client A Okay. Is this somebody whose application you did from the beginning?
- Mr Salam No.
- Client A No. No, okay.
- Mr Salam The problem is this is real one, nothing dodgy...
- Client A ... But can I just check with you in terms of the accountant then, I'm going to have to give him money then, aren't I, to
- Mr Salam I don't get involved in that.
- Client A But what, how will that accountant help me then? ...
- Mr Salam If you're, if, say, your short by, say, £600 a month, you will give him £600 and he will settle it, go to the employer bank account and from there he will transfer £600 to your bank account and that's what I mean you will pay him £600 in cash...
- Client A ... Okay. Would you speak to the accountant first though or do I go straight to that person?
- Mr Salam No, you can go there straight, tell them I have referred you so then they know.
- Client A Can I just, I mean, have you done this before? Has it worked? Do -
- Mr Salam It works every time... This way, this is a shortcut solution.
- Client A So, I'm not doing the job?
- Mr Salam Of course not.

- Client A You know, like, you were saying you're going to monitor them, so you will check the wage slips to make sure they're doing everything -
- Mr Salam You have to, you have to give that, give us the wage slips and bank statements every month -
- Client A Every month.
- Mr Salam Immediately, the moment you get them...
- Client A Do you know how much the accountant might charge me to do this or is it all included? ...
- Mr Salam ... this is between you and them. You negotiate with him, don't tell me how much he's charging you, I've never asked and, and I've told them, 'You don't tell me otherwise I'm a party to it. I don't want to.
- Client A So, you can't tell me who they are now or. . . ?
- Mr Salam No, I can give you their number and - if there is an issue you let me know. It's not that I won't do anything, the only thing is I can't get involved in dodgy stuff in-depth.
- Client A Do –
- Mr Salam ... if there is an issue you let me know. It's not that I won't do anything, the only thing is I can't get involved in dodgy stuff in-depth...
- Client A Many thanks. what is the accountant's number? ... Is he our own kind [i.e. Pakistani]?
- Mr Salam Yes, Daysi 1 [i.e., Pakistani]. Only Daysi 1 people engage in number 2 [i.e. counterfeit/dodgy] work ... Daysi people are the best in doing number 2 work. Even in immigration, you can see that all the good consultants are Pakistani.
- Client A Right
- Mr Salam The barristers' work is done by the English but we tell them only that much as required..."

20. Mr Salam proceeded to provide Client A with the accountants' telephone number and the following exchange ensued:

"...

- Client A Many thanks. But please talk to him now; you're going to talk to him on my behalf as well, aren't you?

Mr Salam Wait a second. Is your name Samina?

Client A Yes.

[Mr Salam called the accountant]

Mr Salam He's not answering.

Client A Can I leave it with you? Because I think you've got . . .

Mr Salam I am going to give you this. Note this too. I don't know why the zero is not there. Add a zero to it. This too is Wajid's number.

Client A Aren't these the people who own the cash and carry?

Mr Salam Yes. They have a Cash and Carry too.

[Wajid answered the telephone]

Mr Salam ...How are you? Is everything fine? We haven't chatted for many days. It's kind of you. I have a client here. She needs something for her spouse's visa. Her name is Samina. She's a good lady, it is right to help her, you know? ... Okay? I have given to her your mobile number. It's Mrs Samina..."

21. At the conclusion of the Second meeting, Client A paid a fee of £50.00 to the Firm.
22. On 15 December 2016, the Mr Grant (Senior Broadcast Journalist) sent a letter to Mr Salam in which he put the BBC investigation findings to him and invited a response. Mr Salam responded on 22 December 2016 by way of email in which he denied any wrongdoing and asserted that he was also conducting research in the field. Mr Salam stated:

"...We confirm that we have never advised any client or anyone else to circumvent the law..."
23. On 4 January 2016, Mr Grant sent an email to Mr Salam in which he challenged the position advanced above. Mr Salam replied on 5 January 2016 and maintained that he was conducting research and stated:

"... Anyhow in case you have any evidence to suggest anything real I would be happy to comment further..."
24. On 17 January 2017, BBC Radio 4 broadcast a documentary on its "File on 4" programme entitled "Breaking into Britain." The broadcast included part of the recordings made of the discussions between Client A and Mr Salam.
25. On 19 June 2017, the Applicant commenced a 'no notice' investigation into the Firm. That initial investigation was closed on 1 February 2018 so that the full recordings could be obtained from the BBC. The Applicant requested the full recordings from the

BBC by way of a statutory notice (a production order pursuant to section 44B of the Solicitors Act 1974) on 19 April 2018. The Applicant subsequently opened a further investigation into the Firm on 20 June 2018. During the course of that investigation, Mr Salam made the following assertions:

- **25 June 2018** (email to FIO)
He was play acting, there was no real client, no real advice was given and he was conducting research as opposed to real work. Mr Salam further questioned the accuracy of the recordings.
- **30 August 2018** (email to FIO)
He could not be sure of the accuracy of the recordings, Client A was an imposter sent by a rival solicitor and he was therefore play-acting.
- **3 September 2018** (Forensic investigation interview with the FIO and Mr Shields)
He was play acting and questioned the accuracy of the recordings.
- **8 November 2018** (response to the s.44B Production Notice)
He was play acting, questioned the accuracy of the recordings and asserted that he was the victim of a conspiracy:

“... ”

§12 I do not believe to have said all what is in the videos and audios. It has been nearly 2 years and I cannot remember exact words. Even otherwise it was loose talk with a character who did not admittedly appear to be a genuine prospective client. I refer to the reporters own admission at the end, page 23, line 19??? I am so predictable???. This is what the reported and myself admit. This was not a conversation involving a prospective client. ??

§13 I still believe that one of the Pakistani business competitors was behind all this. The story on the radio starts saying that a whistle blower informed the BBC of such practice going on. In the radio story if any country was mentioned it was Pakistan again and again every time. All professionals visited were of Pakistan origin, reporter from Pakistan, characters as sponsors and applicants all from Pakistan or of Pakistan origin. Who would have written the script, easy guess. ??????

§14 It could not be a genuine concern for the BBC, it was common knowledge that from 2013 (after the new Rules were introduced in 2012) the Immigration Department had become very tough rather harsh in accepting sponsor???'s wages if not from reputed companies or of government employees. The HO would reject earnings on objections like when they called the employer of the sponsor no one answered the phone and therefore the earnings could not be verified or like the address of the employer does not appear like a commercial premises on google maps. At the last meeting I produced some Court decisions from 2014 where such refusals were criticised and struck down. ??..."

- **7 April 2020** (representations to the Applicant upon notice of referral to the Tribunal)
He was play-acting and questioned the accuracy of the recordings.

26. At all times, either expressly or implicitly, Mr Salam denied having acted dishonestly.

Witnesses

27. The written and oral evidence of witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence of all witnesses. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

28. The following witnesses gave oral evidence:

- Mr Paul Grant (Senior Broadcast Journalist employed by the BBC).
- Mr Mike Shields (Forensic Investigation Manager employed by the SRA).

Matters Arising During the Course of the Substantive Hearing

Day 2

29. *Proceedings adjourned due to ill health of the Respondent*

29.1 Partway through Mr Salam's cross examination of Mr Shields, proceedings were adjourned due to Mr Salam becoming unwell; he received emergency medical attention.

Day 3

30. *Respondent's written application to adjourn the proceedings*

The Respondent's Submissions

30.1 Mr Salam applied by email during the evening to adjourn the substantive hearing in the following terms:

“... No position to attend tomorrow or in the next few days.

Will need rest to recover to be well enough.

Please request Panel to re-fix for later. Will be grateful.

Will send you any report when I get from hospital...”

The Applicant's Submissions

30.2 Mr Tankel did not oppose the adjournment application in principle.

The Tribunal's Decision

- 30.3 The Tribunal carefully considered the application and noted that, despite his illness, Mr Salam continued to engage with the proceedings during the evening for which the Tribunal was grateful. It appeared to the Tribunal that Mr Salam wanted to be present but due to unforeseeable circumstances in him becoming unwell was unable to do so. The Tribunal noted that the Applicant did not oppose the application.
- 30.4 The Tribunal therefore GRANTED the application to adjourn. There were three days remaining of the substantive hearing listing. The Tribunal directed that the final day (4 November 2022) be retained for a remote case management hearing with the parties present for directions to be issued.

Day 4

31. *Case Management Hearing*

The Respondent's Submissions

- 31.1 Mr Salam attended the hearing remotely and referred the Tribunal to his written application for directions that he had just filed that day (dated 4 November 2022). In short, Mr Salam sought directions from the Tribunal to compel the Applicant to carry out "missed investigations" with regards to:
- (i) Interviewing Client A, the "accountant" and Paul Grant.
 - (ii) Reviewing the conversations on 13 occasions between Capsticks and BBC as indicated in their emails listed in the Respondent's Application of 22 September 2022.
 - (iii) Testing/forensic examination of the recordings to verify the "presumption of correctness".

The Applicant's Submissions

- 31.2 Mr Tankel maintained that all directions sought related to issues previously raised and adjudicated upon. Mr Tankel further submitted that the scope of the Applicant's investigation was a matter for the Applicant and not for the Tribunal.

The Tribunal's Decision

- 31.3 The Tribunal refused Mr Salam's application for directions in its entirety. The Tribunal was independent, objective and impartial. It had no role, and nor should it, on the scope of the Applicant's investigation and the evidence it relied upon. Any evidential gaps or deficiencies fell to be addressed in the adjudication process.
- 31.4 The Tribunal adjourned the hearing part heard to resume in person, with Mr Shields concluding his evidence remotely if he so elected, on 8 – 10 February 2023.

Matters arising during the part heard period

32. *Respondent's written application to adjourn the proceedings dated 27 January 2023.*

The Respondent's Submissions

32.1 Mr Salam applied for an adjournment of the resuming hearing as a consequence of his continued ill health. His application was supported by a letter from his GP and a medical appointment letter for 13 February 2023.

The Applicant's Submissions

32.2 The application was opposed on the grounds that the medical evidence relied upon did not comply with the Tribunal's Guidance Note on Adjournments. The Guidance made plain that in order to substantiate an application to adjourn predicated on ill-health, the "reasoned opinion of an appropriate medical adviser" was required. The GP and appointment letter did not meet that threshold.

The Tribunal's Decision

32.3 The application was REFUSED on the papers on the grounds of (a) non-compliance with the Tribunal's Guidance Note on Adjournments, (b) the lengthy procedural history of the case, (c) the fact that Mr Shields remaining under oath and part way through his evidence and (d) the overarching public interest in the expeditious adjudication of allegations.

33. *Respondent's written application to adjourn the proceedings dated 2 February 2023*

The Respondent's Submissions

33.1 Mr Salam applied for an adjournment of the resuming hearing as a consequence of:

"...an Application [he had made] to Set Aside A Judgement of the High Court on the ground of having been obtained by Fraud and Misrepresentation, has been made in the High Court on 30 January 2023 in which an interim order has been requested to restrain the SDT and the SRA from proceeding in the meantime..."

The Applicant's Submissions

33.2 The application was opposed in the following terms:

"... In brief, the Respondent's adjournment application is made on the basis that the Respondent has made applications to the Administrative Court which include an urgent application restraining next week's hearing from proceeding. The Administrative Court has made no such injunction, and there is no indication as to when or if it ever will. The mere existence of Mr Salam's application is not a good reason to adjourn next week's hearing.

Moreover, Mr Salam's application to the High Court is both abusive and totally without merit..."

The Tribunal's Decision

33.3 The application was REFUSED on the papers on the grounds that (a) the High Court application remained undetermined, (b) there was no procedural bar to continuing with the Tribunal proceedings, (c) the existence of parallel extant civil proceedings in the Divisional Court by virtue of the Respondent's latest application to that court was not sufficient to prevent the case from proceeding, (d) the impact of an adjournment on the Applicant and Mr Shields who was partway through his evidence, (e) the overarching public interest in the expeditious adjudication of allegations and (f) Mr Salam's statutory right of appeal following the conclusion of Tribunal proceedings.

Day 5:

34. *Respondent's written application for the Chair to recuse himself dated 5 February 2023*

34.1 Prior to inviting submissions from the parties, Mr Nally stated in open session that, despite his extensive involvement in the proceedings to date having (a) sat on case management hearings on 3 August 2021, 5 August 2021 and 4 November 2022, (b) considered interlocutory applications filed by Mr Salam on 17 October 2022 and (c) chairing the substantive hearing from 31 October 2022, at no point did he recognise Mr Salam or the Firm.

34.2 Mr Nally confirmed that, in respect of the case involving Mr Salam and his Firm, he (a) had no knowledge of the same, (b) was a consultant in the commercial department, (c) did not know the client and (d) was not asked to give an opinion on the case concerned.

34.3 Mr Nally further confirmed that, upon receipt of Mr Salam's application, he had made no enquiries within his firm in that regard and he did not intend to do so.

The Respondent's Submissions

34.4 Mr Salam invited the Tribunal to consider his application previously filed. He submitted that the Chair, Mr Nally, should recuse himself from the proceedings in circumstances where (a) Mr Salam had lost confidence in the manner in which his "case has been dealt with," (b) "an ongoing commercial tenancy matter in which your Solicitor's firm M/s Fieldings Porter obtained an order for their clients for nearly £100,000 against me in 2021 with recent further proceedings to increase the costs claim to £92,000. I allege fraud and fake documents in this case" and (c) Mr Salam requested "consideration of the case by a differently constituted Tribunal for the sake of fairness. I apologise for anything offensive and request your good self to please forgive me for that and to kindly consider my request positively for which I will be grateful."

The Applicant's Submissions

34.5 Mr Tankel opposed the application which it submitted, did not meet the legal tests regarding bias. The fact that Mr Salam felt “uncomfortable” was not sufficient. Mr Salam had not been able to demonstrate actual or perceived bias. Previous decisions adverse to Mr Salam did not give rise to bias.

34.6 Mr Tankel referred the Tribunal to the test for bias promulgated in Locabail (UK) Ltd v Bayfield Properties Ltd [2000] QB 451 namely:

“... ”

§22 ... “Although it is important that justice must be seen to be done, it P is equally important that judicial officers discharge their duty to sit and do not, by acceding too readily to suggestions of appearance of bias, encourage parties to believe that by seeking the disqualification of a judge, they will have their case tried by someone thought to be more likely to decide the case in their favour.” ...

§24 ... “As a general rule, it is the duty of a judicial officer to hear and determine the cases allocated to him or her by his or her head of jurisdiction. Subject to certain limited exceptions, a judge or magistrate should not accede to an unfounded disqualification application.” ...

34.7 Mr Tankel further referred the Tribunal to the Court of Appeal decision of Baker v Quantum Clothing Group [2009] EWCA Civ 566 in which it was held:

“... §6 It is not open to a party which thinks it has grounds for asking for recusal to take a leisurely approach to raising the objection. Applications for recusal go to the heart of the administration of justice and must be raised as soon as is practicable...” ...”

34.8 Mr Tankel noted that the issue of Mr Nally’s firm acting in proceedings against Mr Salam/or his client in 2021 had never been raised by Mr Salam before, and not in advance of the last hearing in October 2022, when it would be expected to have been raised. Mr Salam filing the application one working day prior to the resuming substantive hearing following numerous failed applications to adjourn the same was, Mr Tankel submitted, an attempt to derail the proceedings and should not be entertained.

The Tribunal's Decision

34.9 The Tribunal carefully considered the competing submissions and applied the Locabail test to the application.

34.10 In so doing, the Tribunal determined that (a) Mr Nally had no knowledge of the underlying litigation between his firm and Mr Salam’s firm, (b) Mr Salam failed to identify any conflict directly attributable to Mr Nally, (c) Mr Nally was a consultant in his firm with no fiduciary duties to the same and no financial interest in the outcome of the underlying litigation, (d) the underlying litigation was entirely unrelated to the

allegations that fell to be considered by the Tribunal, (e) the substantive hearing was part heard and the public interest weighed in favour of concluding the same, (f) despite extensive involvement in the proceedings from 2021 which resulted in Mr Nally's name appearing on decision sheets as well as memoranda in that regard, the issue of recusal had not been raised by Mr Salam prior to the day before the resuming hearing was due to commence and (g) adverse previous decisions made against Mr Salam did not constitute sufficient reason to meet the high bar for recusal.

34.11 The Tribunal therefore REFUSED the application.

35. *Respondent's application to adjourn the proceedings*

The Respondent's Submissions

35.1 Mr Salam submitted that, given the refusal of his application for Mr Nally to recuse himself from the proceedings, he was "not ready" to proceed. Mr Salam stated that was because Mr Shields was required to conclude his evidence in person. Mr Salam further stated that he wanted to participate in person also "despite [his] illness".

35.2 Mr Salam relied upon a letter from his GP dated 24 January 2023 which referred to a recent decline in his health and further treatment proposed.

35.3 Mr Salam further relied upon an email he received on 7 February 2023 from his GP which stated:

"... Thank you for your recent e-mail in regard to postponing your tribunal. Unfortunately the criteria that the court have given in order to postpone the tribunal (e.g. a lack in capacity or unable comply with the directions) you do not meet. Despite this being a distressing time for you and it understandably having an affect on your ... health you still retain capacity and therefore I'm unable to provide evidence that the court require to postpone. I hope you understand and will continue to support you during this difficult time..."

The Applicant's Submissions

35.4 Mr Tankel opposed the application on the ground that Mr Salam not being ready to proceed did not constitute sufficient reason to for an adjournment of the proceedings.

35.5 With regards to the remainder of Mr Shields' evidence being given remotely, Mr Tankel stated that it was made clear in the directions issued on 4 November 2022 and the decision sheet dated 31 January 2023 that Mr Shields could give evidence remotely. The decision sheet also records that the option to participate remotely was also extended to Mr Salam.

The Respondent's Submissions in Response

35.6 Mr Salam reiterated that he was not ready to proceed, was not prepared and had only attended the resuming hearing remotely for the purpose of the recusal application. Mr Salam stated that if Mr Shields was not attending the resuming hearing in person then he had no further cross examination.

The Tribunal's Decision

- 35.7 The Tribunal carefully considered the competing submissions of the parties and applied the Guidance Note on Adjournments.
- 35.8 The Tribunal noted Mr Salam had made three applications to adjourn on the bases of (a) ill health, (b) extant appeals for permission lodged at the Court of Appeal on 30 January 2023 and (c) recusal of the Chair, all of which had been refused.
- 35.9 The Tribunal noted that the most recent medical evidence, the GP email dated 7 February 2023, relied upon by Mr Salam confirmed that he retained capacity to participate in the proceedings.
- 35.10 The Tribunal therefore REFUSED the application to adjourn.

Findings of Fact and Law

36. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (on the balance of probabilities). The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
37. **Allegation 1.1.1 The "introduction"**

The Applicant's Case

Mr Grant's evidence in chief

- 37.1 Mr Grant confirmed that the content of his witness statements dated 11 February and 8 October 2020 were true to the best of his knowledge and belief. He adopted them as his evidence in chief and elaborated on the same in response to supplementary questions posed by Mr Tankel.
- 37.2 In so doing, Mr Grant stated that a confidential whistle-blower had raised concerns about some immigration solicitors advising the public how to circumvent immigration rules by using fake documentation. Mr Grant oversaw the BBC investigation into that claim which commenced by researchers "cold calling" solicitors in the Greater Manchester area. Mr Salam was one of them. The call, made on or around 1 or 2 December 2016 to Mr Salam by Client A, was recorded via speaker phone on the handset and also a recording device.
- 37.3 Following that initial telephone call, Mr Grant sought and obtained approval from the BBC Editorial Policy Department then subsequently a senior editorial figure within his department in order to conduct a covert audio recording on a mobile telephone in respect of the First Meeting at the Firm's premises.

- 37.4 Following the First Meeting, approval was sought and obtained to record the Second Meeting by way of a hidden camera as well as audio recording on a mobile telephone. Mr Grant drove Client A to the Firm and waited in the car for her to return. On her return to the car, Client A gave Mr Grant the recording equipment used and Mr Grant went to the BBC studios, Media City. Mr Grant took the SD card out of the recording device and downloaded it onto his laptop and a hard drive, both of which were password protected and neither of which were accessible by a third party.
- 37.5 Mr Grant stated that prior to broadcasting the documentary “Breaking Into Britain”, it was reviewed by his editor as well as “Programme Legal Advice” as it was ordinarily the case with any programme that was “legally contentious”.
- 37.6 Mr Grant confirmed that following the broadcast of the podcast, Mr Salam did not lodge a complaint with the BBC or with Ofcom. Mr Grant stated that a week prior to the commencement of the substantive hearing before the Tribunal he received a “Letter Before Claim” from Mr Salam which threatened litigation to recover damages for breach of his privacy.

Cross examination of Mr Grant

- 37.7 Mr Salam, who was self-represented, repeatedly put to Mr Grant that the “original” recordings had been “wiped out”. Mr Grant maintained that they had not, they had been recorded onto hired equipment, then downloaded from the hire SD card onto his laptop and a hard drive following which the SD card was “wiped” and returned along with the recording equipment so hired.
- 37.8 Mr Salam questioned Mr Grant as to the discrepancy in length of the telephone and video recordings with regards to the Second Meeting. Mr Grant stated:
- “...There were obviously two recordings, one was recording on the telephone, the mobile phone, and the other was obviously the audio visual recording. There was a short bit of recording before I think the reporter met Mr Salam that wasn’t sent [to the Applicant] initially, purely by error, and as soon as we were made aware of that it was sent ...”
- 37.9 Mr Salam sought to cross examine Mr Grant about correspondence between the Applicant and the BBC Litigation Department in relation to the disclosure of recordings and the provision of witness statements. Mr Grant was not privy to those exchanges and therefore could not comment or speculate.
- 37.10 Mr Salam posed questions regarding the integrity of the recordings and asked what the process was when the same was challenged. Mr Grant responded:
- “... obviously there’s a whole editorial process that goes through. In terms of the actual video, I was there at the time and so I know about the provenance of that. We have an editor who goes through what we’re going to put on the programme. We have programme legal advice ... So there are many layers of verification...”

37.11 Mr Salam put to Mr Grant what he suggested was a discrepancy in his first witness statement in which he stated:

“...§8 I can confirm that I had not edited or altered the recordings I provided to BBC Litigation and, to the best of my knowledge, they were not edited or altered in any way between being recorded and disclosed to the SRA...”

and his second witness statement in which he stated;

“... §7 I can confirm that I did not edit or alter the recordings whilst they were in my possession...”

37.12 Mr Grant responded:

“... there’s no specific reason for that. As I say, I stand by that I didn’t, and to the best of my knowledge nobody else did...”

Mr Shields evidence in chief

37.13 Mr Shields confirmed that the content of his witness statement dated 24 August 2020 was true to the best of his knowledge and belief. He adopted it as his evidence in chief and elaborated on the same in response to supplementary questions posed by Mr Tankel.

37.14 In so doing, Mr Shields confirmed that he did not carry out the forensic investigation. He managed the FIO who did and he oversaw the process. The FIO had sadly died prematurely prior to the commencement of the Tribunal proceedings. Mr Shields stated:

“... there were two investigations. I was the manager at all times. The process is that when we undertake an investigation, our forensic investigation officers provide us with monthly reports so I would have seen the monthly reports and discussed matters of the investigation with the forensic investigation officer. I did attend the final interview in Birmingham and was involved in the interview process. Following that, the forensic investigation officer will have drafted her report. I reviewed it, made some comments, and then the report was finalised and issued internally...”

Cross examination of Mr Shields

37.15 Mr Salam asked Mr Shields why the first investigation, when the FIO attended the Firm in 2017 and reviewed files, was not mentioned in the Forensic Investigation Report before the Tribunal. Mr Shields replied:

“... because there was no misconduct or any issues found in those files of yours that she looked at during the first investigation period before we obtained the information from the BBC...”

She didn’t report in her forensic report anything about that. What she did report on was the concerns that we identified as a result of the information provided by the BBC...”

37.16 Mr Salam asked Mr Shields why the integrity of the recordings had not been forensically tested. Mr Shields replied:

“... the information that we got from the BBC, which is a well-established national broadcasting corporation, which we didn’t feel ... I’m guessing this, what we would have thought at the time, but we wouldn’t think that there was any issue with the accuracy of it...”

37.17 Mr Salam questioned Mr Shields as why the Applicant did not seek a witness statement from the BBC, Client A or the “accountant” during the course of the forensic investigation. Mr Shields replied:

“... We weren’t engaging with the BBC. It was our lawyers, Capsticks, that were engaging with the BBC. They subsequently obtained a statement from the BBC, but it wasn’t anything to do with the investigation team...”

Once a forensic investigation report has been issued, the forensic investigation team do not have an active involvement in the passage of the report internally ... supervision department would commission the investigation team to do further investigative work. That hasn’t happened...

I think the view we took was that we had the evidence by way of the disclosure that the BBC provided. We interviewed yourself. The evidence was such that we would not have decided that we needed to interview the reporter or the accountant, because we felt the evidence spoke for itself...”

Professional Misconduct

Principle 1 of the SRA Principles 2011 required Mr Salam to “uphold the rule of law and the proper administration of justice.”

37.18 Mr Tankel submitted that in circumstances where Mr Salam was willing to facilitate, by way of introducing Client A to the “accountant”, the creation of false documentation to support an application to the Home Office, plainly contravened Principle 1.

Principle 2 of the SRA Principles 2011 required Mr Salam to “act with integrity.”

37.19 Mr Tankel submitted that Mr Salam failed to act with moral soundness, rectitude and steady adherence to an ethical code. Advising Client A to circumvent the accepted legal process applicable to spousal visa applications, amounted to a grave departure from the standards expected of him as a solicitor. Mr Tankel therefore contended that in so doing, Mr Salam breached Principle 2.

Principle 6 of the SRA Principles 2011 required Mr Salam to “behave in a way that maintains the trust the public places in you and in the provision of legal services.”

37.20 Mr Tankel averred that Mr Salam ought reasonably have known that the public would not expect a solicitor to facilitate the creation of false documents which would subsequently be relied upon by a government department.

37.21 Mr Tankel therefore submitted that public confidence in Mr Salam and in the provision of legal services was demonstrably undermined by Mr Salam's conduct contrary to Principle 6.

Dishonesty

37.22 Mr Tankel relied upon the test promulgated in Ivey v Genting Casinos (UK) t/a Crockfords [2017] UKSC 67 namely:

“... when dishonesty is in question the fact finding tribunal must first ascertain (subjectively) the actual state of the individuals knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practise determinative) going to whether he held the belief, but it is not an essential requirement that his belief must be reasonable, the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to the facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he was done is, by those standards, dishonest...”

37.23 With regards to Mr Salam's subjective state of mind at the material time, Mr Tankel submitted that he was aware at the very least that there was a significant risk that Client A intended to make an application for a spousal visa in reliance upon false documentation. Mr Salam was aware that he had introduced Client A to the “accountant” who would produce the false documentation in respect of a fictitious second job and associated pay slips in order to support an application for a spousal visa.

37.24 With regards to the objective element of the Ivey test, Mr Tankel submitted that ordinary decent people would view Mr Salam's conduct in that regard to be dishonest because:

- (i) Mr Salam was offering to take steps, in the form of an instruction to an accountant in the knowledge that the purpose of such an introduction would be to facilitate the creation of false misleading documentation for the purposes of supporting a spousal visa application. An honest solicitor would not have made such an introduction at all.
- (ii) Mr Salam was intentionally choosing to ignore the possible deception that would likely be the basis for Client A's spousal visa application. An honest solicitor in the position of Mr Salam would have been careful to satisfy himself that he was not facilitating a spousal visa application predicated upon false documentation before undertaking further work on the client's behalf.
- (iii) An honest solicitor would have immediately advised Client A that the consequences of making a marriage visa application on this basis were that he would be breaking immigration laws that could result in criminal sanctions.
- (iv) An honest solicitor would further advise client that they could not act for her in making an application in reliance on a relationship which was not genuine.

37.25 Mr Tankel therefore submitted that the Tribunal could find the aggravating feature of dishonesty proved in respect of Allegation 1.1.1.

The Respondent's Case

Submission of no case to answer

The Respondent's Submissions

37.26 At the conclusion of the Applicant's case, Mr Salam submitted that there was no case for him to answer on the basis that the quality of evidence presented was of poor quality and incomplete. Mr Salam averred that in circumstances where the recordings were not accurate, contained no metadata, were deliberately wiped out and were not forensically tested therefore "other evidence" was important. Mr Salam stated that the Applicant was "sitting on evidence", "telling lies" and "did everything to make forensic testing impossible".

37.27 Mr Salam submitted that the only evidence against him were the videos which he invited the Tribunal to "disregard altogether" on the basis that the originals were not available and they were unlawfully obtained.

The Applicant's Submissions

37.28 Mr Tankel submitted that Mr Salam had failed to focus on the legal test applicable for a submission of no case to answer to succeed. Mr Tankel surmised that Mr Salam's submissions were predicated on the second limb of the test namely that the Applicant's evidence was tenuous given Mr Salam's (a) challenge regarding the provenance of the video recording, (b) allegations regarding the conduct of the Applicant and (c) perceived disadvantage in light of the fact that Client A did not give evidence.

37.29 With regards to (a), Mr Tankel submitted that the video recording, taken at its highest, absent any evidence of tampering was sufficient to establish a case for Mr Salam to answer. Mr Tankel observed that Mr Salam never put to either witness that the video was fabricated. In order for the submission to succeed on this basis, Mr Salam was required to "completely demolish the credibility of the recordings" which, Mr Tankel submitted, he had not.

37.30 With regards to (b), Mr Tankel made plain that he did not accept the "objectionable" allegations made about the Applicant and did not propose to respond to the same.

37.31 With regards to (c), Mr Tankel reminded the Tribunal that Client A was an undercover investigative journalist, it was a matter for the Applicant how to present its case and there was no property in a witness.

The Tribunal's Decision

37.32 The Tribunal carefully considered the submission of no case to answer advanced by Mr Salam. The Tribunal noted that a "case to answer" was defined in Rule 2(1) of the Solicitors (Disciplinary Proceedings) Rules 2007 as "an arguable or prima facie

case.” That fell to be determined by using the test promulgated in R v Galbraith (1981) 73 Cr App R 124, CA_namely:

“...

1. If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.
2. The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence.
 - a. Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.
 - b. Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness’s reliability or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.... There will of course, as always in this branch of the law, be borderline cases. They can safely be left to the discretion of the judge...”

37.33 The Tribunal was therefore not assessing whether it would find the allegations levelled against Mr Salam proved, but whether, at this stage, it could find the allegations proved.

37.34 In considering whether there was a case to answer the Tribunal confined itself to consideration of the evidence called by the Applicant. It could not, and did not, take into account potential evidence that Mr Salam may elect to give or call. Similarly the Tribunal could not, and did not, speculate as to any evidence that the Applicant could have but did not adduce.

37.35 The Tribunal noted that Mr Salam did not seek to suggest that this was a case of mistaken identity. He accepted being party to all exchanges recorded with Client A adduced in evidence against him. The Tribunal therefore approached the submission of no case to answer under the second limb of the Galbraith test, namely that the evidence relied upon by the Applicant was tenuous in character.

37.36 The evidence before the Tribunal was essentially the audio recordings of the initial telephone call and the First Meeting as well as audio and video recording of the Second Meeting. Transcripts were prepared in respect of all audio recordings. Contained within the transcripts were passages translated from Urdu into English. The translation was undertaken by Ubiquis and certified as accurate by way of a translation certificate dated 15 October 2021. Ubiquis were a recognised translation service routinely instructed by a variety of Courts and Tribunals. Live evidence was received from Mr Grant and Mr Shields which had been tested by cross examination. The Tribunal had no difficulty in

concluding that the evidence was not inherently weak, vague or inconsistent. Taken at its highest, the Tribunal, properly directed, could find the allegations proved.

37.37 The Tribunal therefore REFUSED Mr Salam’s submission of no case to answer and proceeded to hear his case.

37.38 Mr Salam elected not to give evidence. The Tribunal reminded him of Rule 33 of the Solicitors (Disciplinary Proceedings) Rules 2019 which provides:

“... ”

Where a respondent fails to—

(a) ...

(b) give evidence at a substantive hearing or submit themselves to cross-examination; and regardless of the service by the respondent of a witness statement in the proceedings, the Tribunal is entitled to take into account the position that the respondent has chosen to adopt and to draw such adverse inferences from the respondent’s failure as the Tribunal considers appropriate...”

37.39 Mr Salam maintained his position and chose to present his case in reliance upon the evidence he had filed and by way of closing submissions. At all times Mr Salam denied, either expressly or implicitly, having acted dishonestly.

37.40 By way of a witness statement dated 2 August 2020, Mr Salam contended that he was the victim of a BBC conspiracy. He asserted that the BBC:

“... ”

xv. potentially developed a case against migrants generally and particularly against Pakistani migrants and Pakistani lawyers, apparently for a underlining racial agenda, focused on Pakistani migrants and Pakistani lawyers; portraying a bad image of migrants and Pakistani lawyers;

xvi. misled the general public that Pakistanis were “breaking into Britain” illegally by using false earnings documents to join their Pakistani partners in the UK creating a hype against them particularly and against migrants generally;

xvii. attempted, I strongly believe, to influence the Supreme Court and interfering in their work while they were writing their judgement in MM Lebanon on the point of earnings of partners-sponsors impacting thousands of them bringing partners from overseas, there was a somewhat favourable judgement but the parts relating to relief for partners were not implemented by the Home Office ignoring the Supreme Court directions, thus may also had influenced the Home Office against migrants; it is not uncommon that the Government would at times do that, only a couple of days back it was in the press that the Government through MI6 had tried to interfere with proceedings before Lord Justice Singh and when confronted they apologized to the Lord Justice; ...”

37.41 By way of his Answer to the Rule 12 Statement dated 15 September 2020, Mr Salam asserted that, in all of the recordings, he was play-acting. He further questioned the accuracy of the recordings and maintained that he was the victim of a BBC/SRA conspiracy. In particular:

“...

[play-acting]

§5 My case is that I could say from my experience and the circumstances that she was not a real client but was acting. That there was no case and no husband to sponsor. There could therefore be no advice.

§6 She was clearly an actor/imposter, I have always denied that I took her as a prospective client or that she appeared to me as such. She was very obvious as not a real client but a character or actor and my claim matches her own admission. When she left my office she told her friend waiting outside in a car, that “I am so predictable”, this is in the recording and transcript (page 23). She was declaring that her cover was blown, that it was obvious to others that she was not a real prospective client but a reporter or actor...

§10 There was accordingly no failure on my part to advise any client that it was unlawful to apply on basis of false documentation. There was no client, no case, no papers and no advice or occasion for an advice. She had no intention to use any real or false documentation as she did not have any application. I knew she was messing and I got into play acting, which I now realise was a mistake. I should have acted professionally even with an actor/reporter or should have refused to get into any conversation. I assure there is no element of dishonesty in this mistake...

[accuracy of recordings]

§16 When I point out that the recordings are unreliable and inadmissible evidence, they ignore the evidence that they get from the BBC that the recordings were off the record, no record held, no approvals obtained for secret recordings, no Programme Legal Advice, no referrals, privacy, accuracy and authenticity provisions of the BBC Guidelines and Guidance flouted.

§17 They conceal all this and ‘negotiate’ a Witness Statement from the BBC, a page and a half, so as not to answer these questions as put to him or say any of this and just to say that the recordings have not been tempered, and in hearsay that no one else has tempered them!!...

[BBC/SRA conspiracy]

§68 SRA argues why would BBC would do all this. Apart from reasons like in Primark I have provided enough material to show that have done dodgy stuff, off the record, illegally and contravening its own Guidance.

- §69 It is now no secret that the Government has a policy in place to bully what they call ‘activist lawyers’ helping migrants. They had a video recently taken off apologetically while the Law Society and the Bar condemning this. However, the policy has not been discontinued as later clearly spelt out by the Home Secretary. BBC is an organ of the Government and is expected to promote the Government policies inspite (*sic*) of whatever they would claim.
- §70 I may be one of the victims being on the list of activist Solicitors!
- §71 The present Govt is openly anti-migrant and anti-immigration and are trying their best to block the access to justice for the migrants by making it very difficult for their lawyers to operate.
- §72 There is no reason why the SRA should become part of this campaign against Solicitors.
- §73 I am caught in something which is a policy matter for the Government, to curb immigration by not letting the immigration lawyers do their work with commitment to the migrants...”

37.42 By way of a Witness Statement dated 12 January 2021, Mr Salam continued to question the accuracy of the recordings and maintained that he was the victim of a BBC/SRA conspiracy. In particular:

“...

[accuracy of recordings]

- §1 I have been facing this investigation for the 4th years now due to the tactics of the SRA who have dragged the matter only to somehow prove me guilty knowing that the video and audio recordings being used against me are not authentic. To make it impossible for me to prove the tempering in the videos, the recordings have been deleted and the recording device and memory cards have been claimed as not available...
- §7 The recordings were made in December 2016 allegedly by the BBC. I have been challenging from Day 1 that this would be a plot by a competitor who previously made a number of complaints against my firm to the SRA all of which were thrown out. This time it appears that they have used the BBC to produce a radio programme using the recordings arranged by them and the SRA and BBC have been keen to use these against me despite knowing that these are not genuine...
- §19 I have been insisting on forensic testing of the recordings and the Producer appears in person with the record. In an email dated 7 October 2020 | asked Capsticks to arrange for the Producer to appear in person with the record to give evidence at the hearing. The next day I was provided the 2nd Witness Statement saying for the first time that the

recordings had been wiped out after the BBC's investigation, this would be somewhere in December 2016. I believe the SRA and the BBC have deliberately procured a false statement from the Producer to block the forensic testing. The 29 January 2019 email from SRA to BBC asked for a confirmation as to who held the original recordings. The BBC's response is being concealed. They SRA again asked BBC on September 2020 to confirm that they still held the original recordings. It is obvious that in January 2019 the BBC's undisclosed response would have been that they held the recordings, if their response was that these were wiped out then the SRA would not have asked later on September 2020 "do you still hold the recordings". This implies that the recordings were not wiped out in December 2016 possibly destroyed as a plan in light of negotiations in September 2020 which have not been disclosed and only a telephone note of 3 September 2020 is available to say that the recordings were wiped out, not saying when..."

37.43 By way of a skeleton argument dated 28 October 2022, Mr Salam continued to question the accuracy of the recordings and maintained that he was the victim of a BBC/SRA conspiracy.

37.44 In his oral submissions to the Tribunal, Mr Salam maintained the positions set out above and relied upon a document filed on 9 February 2023 (at the invitation of the Tribunal), in which he stated:

"...

[Allegation 1.1.1]

§1 ... the translation of the conversation with the Accountant is provided by the SRA as under:

"I have a client here. She needs something for her spouse's visa. Her name is Samina. She's a good lady, it is right to help her, you know? Okay? I have given to her your mobile number. It's Mrs Samina."

§2 The translation does not sound good though R cannot remember the exact words said in Urdu language. The sound in the video is not clear. Anyhow, in the brief conversation with the Accountant, there is no mention of any false documentation nothing like what is being alleged, no fake 2nd (*sic*) employment or pay slip or any documentation or anything of the sort.

§3 There has been no documentation from any Accountant or anywhere. There was no file opened for the Reporter, no application prepared, nothing.

§4 There is still retained the option I gave ... that she can rely on savings in bank of £32,500 to cover the shortfall in earnings and this level of savings can be between the two, i.e., the husband's savings in Pakistan

can also be counted. There was no client, no husband to be sponsored, no possible visa application, no advice.

- §5 My case is that I could say from my experience and the circumstances that she was not a real client but was acting. That there was no case and no husband to sponsor. There could therefore be no advice. She was clearly an actor/imposter, I have always denied that I took her as a prospective client or that she appeared to me as such. She was very obvious as not a real client but a character or actor and my claim matches her own admission. When she left my office she told her friend waiting outside in a car, that “I am so predictable”, this is in the recording and transcript (page 23). She was declaring that her cover was blown, that it was obvious to others that she was not a real prospective client but a reporter or actor.
- §6 It transpired that Mr Wajid, the “Accountant” was in fact not an Accountant, he could not even otherwise be found in any searches for Accountants. The reporter already knew him and in the end of the recording ... she herself tells her colleague that she knew that person as an owner of a big cash and carry. The BBC later interviewed the so-called Accountant but the interview notes have not been disclosed. The SRA also issued notice u/s 44BB for interviewing him but they claim not to have interviewed him. R lost connection with Mr Wajid because of the BBC interviewing him.
- §7 ...
- §8 The ‘Accountant’ was an important witness for SRA as the only allegation is that R introduced the reporter to an Accountant so that she could get false documentation for sponsoring her husband for a partner visa. On the other hand, the evidence of the Reporter has also been blocked. Mr Grant confirmed in his evidence on 31 Oct 2022 that the BBC never asked him for the Reporter’s interview.
- §9 Mr Paul Grant was not interviewed in the investigation, his WS was prepared by the SRA/Capsticks as now confirmed. In fact no witness was ever interviewed by SRA presumably because the SRA after finding issues with the recordings (emails of 15 January 2019 and 29 January 2019 M202-205) may have dropped the case but Capsticks picked it up and therefore there has been little role of SRA after 29 January 2019 and the investigation or whatever done since then has been done mainly by Capsticks who have only been blocking evidence and the truth to push the case to a close while R has been trying to get to the truth but the resistance has been immense, like the Investigation notes on case files have been disclosed after 5 years, still there would be an overall Report on the files which is not disclosed...

[Allegation 1.1.2]

She did discuss misuse of the ‘Surinder Singh Route’ for bringing her husband through falsely sponsoring him from an EU country. At X41-43, I warned her at length not to go for that route in an unlawful way, saying like:

“... you’ll need to go there and live properly.”
 “People have been prosecuted for fraud because what they have done, these dodgy advisors, they’ve taken £10,000 - £12,000 from people”
 “I never get a single client like that, I don’t do dodgy stuff like that.”
 “Well, they’re all so dodgy, I have no, no connection with them”
 “No. You should not know these people who are only after your money.”
 “No, they, they’re all sharks, no ... “
 “Do it properly.”

She next day confirmed that she understood what I explained.

Thus, there is no failure to advise as alleged.

Re: Dishonesty

There is no question of any dishonesty. There has been no client, no applicant, no application, no advice and no failure to advise against unlawful acts. Both the Allegations are baseless and the dishonesty allegation stemming from there is equally baseless.

Since my clear perception was that she was an imposter, which has proved to be right. I believed she was sent by a Competitor (details with the SRA) and I still believe he is behind the recordings and has used the BBC against me.

Since she was not real, the discussions were informal involving some loose talk and play acting and some lack of professional discussion. I regretted and apologised to the SRA in the initial phase for indulging in such discussion which I should not have engaged in...”

The Tribunal’s Findings

37.45 The Tribunal carefully considered the evidence before it. In so doing, it determined that the audio and video recordings as well as the transcripts made in that regard were reliable and accurate. There was nothing in evidence to suggest otherwise beyond Mr Salam’s bald submissions in that regard. The Tribunal rejected as completely without foundation Mr Salam’s assertions that the recordings had been tampered with such that they did not present the full picture. It had been open to Mr Salam to instruct and rely upon expert evidence in order to substantiate his submissions regarding the accuracy or otherwise of the recordings relied upon by the Applicant. Mr Salam elected not to do so. The Tribunal was required to adjudicate upon the allegations on the evidence before it in circumstances where there was no evidence which led it to question the veracity of the recordings. The Tribunal relied upon the same.

37.46 The Tribunal considered the following excerpts of the recordings of as particularly pertinent:

“... We do help people exaggerate their circumstance, make them look more compelling. There are limits, but we don't simply say something which is totally - dodgy. So, within limits we can help you with your dilemmas...

I offered you to some accountant, did I? ...

... we will provide you guidance, how to go about it, that's the most important thing that we do. Then we do the application form online from here...

... Then we pay all your fees through your card or whatever from here. You book an appointment for him to go to the embassy from here. We do the application pack, everything, from here ...

... The solution, now coming to the solution ... If you don't do it then, there's is a dodgy way of doing it either, if you want to do the proper way it is to go and find a second job...

... because it's something ethically I should not get involved. I'm just trying to help you, nothing more than that. We will just monitor everything. Every month you just send us a copy of your wage slips and bank statements....

... You can arrange with [the “accountant”] howsoever, but we need to have them every month. so that if there is something wrong I will give you a call and say, What are you doing?’- ...

... Yes, if there's a problem then I will ask [the “accountant”] ...

... I'll show you something. This is what, the real, the real thing, not something like manufactured that we are discussing. Even in the real world, what happens is: This is someone who has been refused we just prepare letter asking them to review it and the issues were that you are getting ...

... this is real one, nothing dodgy...

... If you're, if, say, your short by, say, £600 a month, you will give [the “accountant”] £600 and he will settle it, go to the employer bank account and from there he will transfer £600 to your bank account and that's what I mean you will pay him £600 in cash...

... No, you can go there [to the “accountant”] straight, tell them I have referred you so then they know...

... This way, this is a shortcut solution.

... [Client A] I'm not doing the job? [Mr Salam] Of course not...

... this is between you and [the “accountant”]. You negotiate with them, don't tell me how much he's charging you, I've never asked and, and I've told them, ‘You don't tell me otherwise I'm a party to it. I don't want to...

... I can give you their number and ... everything and if there is an issue you let me know. It's not that I won't do anything, the only thing is I can't get involved in dodgy stuff in-depth...

[Mr Salam called the "accountant"]

... I have a client here. She needs something for her spouse's visa. Her name is Samina. She's a good lady, it is right to help her, you know? ... ? I have given to her your mobile number. It's Mrs Samina..."

- 37.47 On the face of the recordings, it was plain that Mr Salam introduced Client A to an "accountant" for the purpose of facilitating a fraudulent spousal visa application. He did so by suggesting the use of an "accountant" to substantiate a fictitious second job so that Client A met the financial threshold requirements for the application. Mr Salam provided the name, location and contact telephone number of the "accountant". Mr Salam made the telephone call to the "accountant" in the First Meeting and explained who Client A was before passing the telephone over to her to continue the conversation. Taken as a whole and in the context in which the exchanges took place, the Tribunal readily concluded that Mr Salam knew exactly what he was doing. Put bluntly, that he was facilitating a means for Client A to make a fraudulent spousal visa application.
- 37.48 During the course of the First and Second Meetings, Mr Salam repeatedly referred to the "proper" approach to spousal visa applications and the "dodgy" route that he was suggesting. Mr Salam sought to distance himself from the arrangement between Client A and the "accountant" but in contradiction of that stance made plain that he would be involved in the application process including by reviewing the fictitious payslips, completing the application form and the like.
- 37.49 The Tribunal considered the various defences advanced by Mr Salam in writing and by way of submissions. The Tribunal rejected them in their entirety as inconsistent, totally implausible and disingenuous. On the contrary, Mr Salam's moral compass appeared at times to the Tribunal to have been pointing in entirely the wrong direction.
- 37.50 Mr Salam's contention that he was play-acting was at odds with the ebb and flow of his interactions with Client A which appeared natural and authentic. The suggestion that he was conducting research was not remotely plausible, generally asserted and ridiculous.
- 37.51 Mr Salam's attacks on the accuracy of the recordings were also considered to be without foundation. They had been considered and arguments raised by Mr Salam attacking the recordings had all been determined against him following numerous failed applications that he had previously made (a) to the Tribunal for a stay of proceedings as an abuse of process on 30 October 2020, (b) for permission to the Administrative Court for judicial review of that Tribunal decision (and other decisions made at subsequent Case Management Hearings) and (c) for permission to appeal to the Court of Appeal (Civil Division) against the Administrative Court refusal of permission.

- 37.52 Mr Salam’s outlandish suggestion that he was the victim of conspiracy between the BBC, the Applicant and the government was an ill-disguised and misconceived attempt to deflect attention away from his misconduct.
- 37.53 Mr Salam’s allegations impugning the conduct of the Applicant were pugnacious but quite unsubstantiated.
- 37.54 For the avoidance of doubt, the Tribunal did not draw an adverse inference as a consequence of Mr Salam’s failure to give evidence. The Tribunal did not consider it necessary to do so given the strength of the evidence against him.
- 37.55 The Tribunal therefore found the factual matrix of Allegation 1.1.1 **PROVED** on a balance of probabilities.
- 37.56 Mr Salam instigated and participated in a potential scheme which encouraged illegality designed to mislead the Home Office and the British Government which was plainly contrary to the rule of law, demonstrably lacked integrity and flagrantly undermined public trust in him and the profession. The Tribunal therefore found, by virtue of Mr Salam’s conduct, breaches of each of Principles 1, 2 and 6 **PROVED** on a balance of probabilities.
- 37.57 With regards to the aggravating feature of dishonesty, the Tribunal determined that Mr Salam’s state of mind at the material time was that (a) he knew Client A did not meet the financial threshold for a spousal visa application, (b) he advanced a proposition in order for her to fabricate a second job and falsely inflate her income, (c) he knew that any application he drafted on her behalf would be predicated on the fabricated payslips, (d) he repeatedly referred to the arrangement as “dodgy”, The Tribunal had no hesitation in equating this vernacular term to dishonesty in the context in which it was used by Mr Salam (e) he was well aware of the dubious nature of the arrangement given his efforts to distance himself from interactions between Client A and the “accountant” and (f) he knew that the Home Office would rely upon the false payslips in its consideration of the application. Indeed Mr Salam’s offer to monitor the payslips for errors could have bolstered that deception. The Tribunal determined that ordinary decent people would consider such -conduct to be dishonest and therefore found the aggravating feature of dishonesty **PROVED** on a balance of probabilities.

38. **Allegation 1.1.2 - The failure to advise Client A of the unlawfulness of the application**

The Applicant’s Case

- 38.1 Mr Tankel relied upon the evidence set out above at §37.1 – 37.21 in relation to Allegation 1.1.1.

Professional Misconduct

- 38.2 **Principle 1** was, Mr Tankel submitted, plainly breached by Mr Salam. Immigration laws governed all applications for spousal visas. Mr Salam deliberately sought to assist Client A in circumventing the same by proactively introducing her to an “accountant”

in order to mislead the Home Office. In so doing he failed to uphold the rule of law and proper administration of justice contrary to Principle 1.

- 38.3 **Principle 2** was, Mr Tankel submitted, plainly breached by Mr Salam in that he (a) failed to give Client A full and frank advice that it was unlawful to submit false documentation with the purpose of securing a spousal visa, (b) failed to advise Client A that he would not be able to act for her if the documentation were false, (c) made clear that he would assist Client A with the application in circumstances where he knew or ought to have known that there was a real risk that the application would be based upon false documentation and (d) advised Client A about practical steps that should be undertaken in making the application when he knew or ought to have known that there was a real risk that the documentation underpinning the visa application would not be genuine.
- 38.4 **Principle 6** was, Mr Tankel submitted, plainly breached by Mr Salam in that he (a) failed to advise Client A that submitting false documentation would be a breach of immigration laws and (b) demonstrated his willingness to enable her to produce false evidence to support an application thereby based on deception. Mr Salam should reasonably have known that the public would expect solicitors not to allow themselves to become involved in false applications.
- 38.5 Mr Tankel therefore submitted that public confidence in Mr Salam and in the provision of legal services was demonstrably undermined by Mr Salam's conduct contrary to Principle 6.

Dishonesty

- 38.6 Mr Tankel relied upon the submissions set out above at §37.21 – 37.24 to submit that Mr Salam acted dishonestly in respect of Allegation 1.1.2.
- 38.7 He further submitted that Mr Salam knew that Client A was not referring to a genuine second job and documentation, and that Client A would be submitting an application to the Home Office in the knowledge that the underlying documentation was not genuine. Mr Salam referred to such arrangements as dodgy and refrained from discussing it in the initial telephone call. Mr Tankel contended that was indicative of his dishonest frame of mind.

The Respondent's Case

- 38.8 Mr Salam maintained his position not to give evidence and advanced his case by way of the submissions set out above at §37.28 - §37.33.

The Tribunal's Decision

- 38.9 The Tribunal noted that Allegation 1.1.2 was pleaded in the allegations at the start of the Rule 12 Statement as:

“Failed to advise Client A that applying for a spousal visa on the basis of false documentation was unlawful, and by reason of such failure breached one or more of Principles 1, 2 and 6 of the SRA Principles 2011.”

38.10 Within the body of the Rule 12 Statement, in the narrative which set out the submissions advanced by the Applicant regarding Principle breaches, Allegation 1.1.2 was pleaded as:

“Whilst advising Client A on a possible visa application for her husband, he failed to advise Client A that in applying for a spousal visa on the basis of false documentation demonstrating the Home Office’s required level of earnings was unlawful, and by reason of such a failure breached one or more of Principles 1, 2, and 6 of the SRA Principles 2011.”

38.11 The Tribunal was concerned at the inconsistency but considered the mischief sought to be addressed in Allegation 1.1.2 as Mr Salam’s failure to advise Client A as to the unlawfulness of making a spousal visa application predicated on false documentation.

38.12 The Tribunal had found, under Allegation 1.1.1, that Mr Salam repeatedly described his “solution” to Client A as “dodgy”. In so doing the Tribunal had found that he, in the colloquial language deployed by him, conveyed that the “solution” was outwith immigration legislation which was demonstrably understood by Client A in the following exchange:

“... ”

[Client A] I’m not doing the job?

[Mr Salam] Of course not...”

The Tribunal also considered that the exchanges between Client A and Mr Salam actually explored routes to circumvent the spousal visa application rules by “dodgy “ means. Taken in their context it could not be said that Mr Salam was “ failing to advise “ Client A as pleaded .Both knew full well that what was being proposed was unlawful

38.13 Allegation 1.1.2 was inelegantly drafted and duplicitous in nature. The Tribunal considered that it added nothing to the gravamen of Allegation 1.1.1, was disproportionately and unnecessarily pursued.

38.14 The Tribunal therefore found Allegation 1.1.2 NOT PROVED.

Previous Disciplinary Matters

39. None.

Mitigation

40. Mr Salam reiterated the defences deployed during the substantive hearing, all of which had been rejected by the Tribunal, in mitigation. He submitted that the lack of disclosure on the part of the Applicant and the delay in the proceedings demonstrably showed that “they’re lying not me”.

41. Mr Salam reminded the Tribunal that he had a 43-year unblemished record within the profession. He was approaching retirement and had been the victim of “much misfortune and bad luck”. The investigation and proceedings had impacted on him, with regards to his health, and his family, with regards to the attendant circumstances. Mr Salam submitted that he had “suffered enough” and urged the Tribunal to adopt a “sympathetic view” towards sanction.

Sanction

42. The Tribunal referred to its Guidance Note on Sanctions (Tenth Edition: June 2022) when considering sanction cognisant of the fact that the purpose of sanction was to preserve the overarching public interest which comprised of (a) the need to protect the public from harm, (b) the need to declare and uphold proper standards within the solicitor’s profession and (c) the need to maintain public confidence in the regulatory framework.
43. Given the serious finding of dishonesty, it was plain to Tribunal that other measures such as making no Order, imposing a reprimand, financial penalty, restrictions on Mr Salam’s practice or a term of suspension from the Roll were neither appropriate nor proportionate.
44. The Tribunal found no exceptional circumstances either in the submissions that had been advanced by Mr Salam or evident on the face of the papers, and accordingly that the only sanction which sufficiently met the overarching public interest was an Order striking Mr Salam from the Roll of Solicitors.

Costs

The Applicant’s Application

45. Mr Tankel applied for costs in the sum of £68,374.40 as particularised in the Applicant’s Statement of Costs dated 24 October 2023. Mr Tankel submitted that the costs should be awarded in full despite the fact that Allegation 1.1.2 was found not proved given that it “didn’t add anything to the costs [incurred] thus should have no bearing [on the application].”.
46. Mr Tankel reminded the Tribunal of Rule 43 of the Solicitors (Disciplinary Proceedings) Rules 2019 which provides:

“...

(4) The Tribunal will first decide whether to make an order for costs and will identify the paying party. When deciding whether to make an order for costs, against which party, and for what amount, the Tribunal will consider all relevant matters including the following—

- (a) the conduct of the parties and whether any or all of the allegations were pursued or defended reasonably;

(b) ...

- (c) whether the amount of time spent on the matter was proportionate and reasonable;
- (d) whether any hourly rate and the amount of disbursements claimed is proportionate and reasonable;
- (e) the paying party's means..."

47. With regards to (a), Mr Tankel submitted that the allegations were reasonably pursued against Mr Salam but that he defended them in a highly unreasonable manner given the number of judicial reviews and applications to adjourn the proceedings many of which were totally without merit and abusive. Mr Tankel referred the Tribunal to the observations of Mr Justice Kerr KC on 21 October 2022 in which he refused permission to judicially review the Tribunal's earlier decisions, in which he held:

“§15 This is the latest in a series of attempts by the claimant by applications to this court to obstruct the disciplinary process and prevent the SRA from holding him accountable before the SDT for his alleged wrongdoing. If he continues to make unfounded and abusive applications to this court of a similar nature, it is likely that a civil restraint order of some kind will be made against him...”

48. Mr Tankel further referred the Tribunal to the observations of Mr Justice Coulson with regards Mr Salam's application for permission to the Court of Appeal (Civil Division) to appeal against the decision of Mr Justice Kerr KC on 9 November 2022 in which he held:

“§15 ... [Mr Salam] has sought to challenge every single decision made against him, regardless of the nature of decision, and regardless of the case management nature of those decisions. He has treated each hearing and each decision as if it were a state trial. He has failed to consider, let alone apply, the applicable principles. No irreparable harm flows or can flow from any of the decisions that are under review. In essence, all that has happened is that the SDT has refused to strike out the proceedings before the final hearing...”

§17 ...[Mr Salam] has approached the disciplinary proceedings in completely the wrong way, and wasted an enormous amount of time and costs In so doing. The [Mr Salam's] approach to judicial review, and these knee-jerk applications for permission to appeal, may reflect badly on him at the final hearing, but that is no-one's fault but his own...”

49. Mr Tankel submitted that the judicial observations set out above were compelling in relation to the unreasonable conduct of Mr Salam in the Tribunal proceedings.

50. With regards to (c) and (d), Mr Tankel averred that the time spent by the Applicant in bringing the proceedings was reasonable and proportionate in circumstances where (i) the proceedings had been ongoing for two and a half years, (ii) the substantive hearing took six days and (iii) there were five case management hearings, some of which were listed for one day, in relation to interlocutory applications.

51. With regards to Mr Salam's ability to meet any Order for costs, Mr Tankel reminded the Tribunal of Rule 43(5) of the Solicitors (Disciplinary Proceedings) Rules 2019 which provides:
- “...If the respondent makes representations about the respondent's means, the representations must be supported by a Statement which includes details of the respondent's assets, income and expenditure (including but not limited to property, savings, income and outgoings) which must be supported by documentary evidence...”
52. With regards to the amended Statement of Means filed by Mr Salam, Mr Tankel remarked that whilst that stated the family home was owned by Mrs Salam. That assertion could not be reconciled with the Official Entry uploaded from His Majesty's Land Registry which stated that it was jointly owned by Mr and Mrs Salam. The Official Entry further revealed a Charging Order dated 6 January 2022 in the following terms “... on the beneficial interest of Sheikh Asif Salam made by the County Court Money Claims Centre on 4 January 2022”.
53. The property was, according to the Official Entry, purchased for £350,000.00 and Zoopla valued the same as at November 2022, between £593,000.00 - £725,000.00. There was no mortgage on the property.
54. Mr Tankel therefore submitted that Mr Salam held a significant asset which, notwithstanding his limited income, enabled him to meet the application for costs in full.

The Respondent's Submissions

55. Mr Salam stated that he ceased practising as a solicitor in August 2021. His most recent tax return disclosed an income of £20,000.00. He further stated that he had “lost it all”.
56. Mr Salam contended that whilst the family home was not re-mortgaged his wife “pays for everything”. With regards to the Charging Order, Mr Salam submitted that he consented to the same and that he meets that debt by way of payment by instalments.
57. Mr Salam stated that he was “in a very bad state and [could not] even afford a solicitor to defend [him].”

The Tribunal's Decision

58. The Tribunal carefully considered the application for costs and GRANTED the same in principle. The allegations against Mr Salam were reasonably pursued in the public interest and rightly brought.
59. With regards to the quantum of costs, the Tribunal determined that the amount sought was reasonable and proportionate in circumstances where:
- (i) The proceedings had been ongoing for two and a half years.

- (ii) There had been five case management hearings, one of which lasted a full day in respect of Mr Salam's application for proceedings to be stayed as an abuse of process.
 - (iii) Mr Salam made *at least* 17 interlocutory applications in the Tribunal proceedings.
 - (iv) The Applicant instructed a medical expert to examine Mr Salam as a consequence of him raising concerns regarding his health.
 - (v) Mr Salam made *at least* five applications made during the course of the substantive hearing.
 - (vi) The substantive hearing had to be adjourned part heard given Mr Salam becoming unwell.
60. The Tribunal approached Mr Salam's Statement of Means (as amended) with caution in light of the inconsistencies contained therein regarding the family home. The Tribunal relied upon the HM Land Registry Official Entry and the Zoopla valuation to ascertain Mr Salam's legal and equitable interest in the same. It found that Mr Salam potentially held significant equity in the family home irrespective of his limited income such that he was able to meet the quantum of costs claimed.
61. The Tribunal therefore GRANTED the application for costs in full.

Statement of Full Order

62. The Tribunal Ordered that the Respondent, ASIF SALAM, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £68,374.40.

Dated this 9th day of March 2023
On behalf of the Tribunal



E Nally
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
9 MAR 2023