

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12126-2020

BETWEEN:

SHADAB AHMED KHAN

Applicant

and

SOLICITORS REGULATION AUTHORITY

Respondent

Before:

Mr E Nally (in the chair)

Miss H Dobson

Dr A Richards

Date of Hearing: 18 December 2020

Appearances

Mr Jonathan Goodwin, solicitor advocate, of Jonathan Goodwin Solicitors Advocate Ltd, 69 Ridgewood Drive, Pensby, Wirral CH61 8RF for the Applicant.

Ms Grace Hansen, counsel, of Capsticks LLP, 1 St George's Road, London SW19 4DR instructed by the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Respondent.

JUDGMENT

Application

1. On 11 September 2020 the Applicant, Shadab Ahmed Khan, applied for his name to be restored to the Roll of Solicitors. The Application was supported by a statement also dated 11 September 2020, with exhibits. The Applicant had been struck off the Roll by Order of the Tribunal made on 9 November 2011. The Tribunal's Judgment (case number 10727/2011) was dated 15 December 2011.
2. The Tribunal issued directions on 16 September 2020 which, amongst other matters, required the Respondent, the Solicitors Regulation Authority ("SRA") to respond to the Application by 14 October 2020 and listed the Application for hearing on 18 December 2020. The Respondent filed and served its Response, with supporting documents, on 21 October 2020, an extension of time having been granted, and the Applicant filed and served a Reply to that Response on 3 November 2020.
3. The matter was listed for hearing on 18 December 2020.

Documents

4. The Tribunal reviewed all the documents submitted by the parties, which included:

Applicant

- Application dated 11 September 2020
- Applicant's statement dated 11 September 2020 with exhibits including:
 - Tribunal's Findings in matter 9808/2007 arising from a hearing on 22 April 2008
 - Indictment and Certificate of Conviction relating to the Applicant's convictions on 30 September 2009 and sentencing on 23 October 2009
 - Sentencing remarks of HHJ Cahill QC
 - Tribunal Judgment in matter 10727/2011 heard on 9 November 2011
 - Ruling of HHJ Belcher in Proceeds of Crime application, 29 September 2014
 - Tribunal Judgment in matter 11723/2017 dated 30 January 2018
 - Bundle of testimonials/references
 - Advertisements in the Law Society Gazette and Asian Express September 2020
- Reply to Respondent's Response dated 3 November 2020
 - Jidefo v Law Society [2007] EW Misc 3 (EWLS)
 - Re a solicitor No.13 of 2009 (R. Masrur)
 - Guidance Note on other Powers of the Tribunal -3rd Edition - November 2019
 - Ellis-Carr v SRA
 - Re a Solicitor No.5 of 1990
 - Re a Solicitor No. 11 of 1990

Respondent

- Response to the Application, dated 21 October 2020 with supporting documents including:
 - Bolton v Law Society [1994] 2 All ER 486 ("Bolton")
 - Thobani v SRA [2011] EWHC 3783 (Admin) ("Thobani")
 - SRA v Kaberry [2012] EWHC 3883 (Admin) ("Kaberry")

- Re a Solicitor [1991]
- Respondent's statement of costs dated 11 December 2020

Other

- Guidance Note on Other Powers of the Tribunal (December 2016)

Preliminary Matter

Advertisement of Application

5. The Tribunal noted that the hearing of the application had been advertised in the Law Society Gazette on 28 September 2020 and in the Asian Express in September 2020, and was satisfied that it had been advertised in accordance with Rule 17 (6) of the Solicitors (Disciplinary Proceedings) Rules 2019 ("the Rules") albeit the advertisement had not been placed on the Tribunal's website until 15 December 2020.

Applicant's Submissions

6. Mr Goodwin reminded the Tribunal of its powers and said that under the Tribunal's Guidance Note on Other Powers of the Tribunal (December 2019) ("the Guidance") the Tribunal had the power to restore to the Roll the name of a former solicitor whose name has been struck off and that an application in such a case had to be supported by a statement setting out:
 - details of the original order of the Tribunal leading to strike off
 - details of the Applicant's employment and training history since the Tribunal's order of strike off
 - details of the Applicant's intentions as to and any offers of employment within the legal profession in the event that the application is successful.
7. Mr Goodwin submitted that notwithstanding a consideration of the factors set out above and for which the Tribunal would be provided full information the core function of the Tribunal was to determine whether the Applicant had shown that he was a fit and proper person to be restored to the Roll of Solicitors and in considering this issue Mr Goodwin reminded the Tribunal to note that no dishonesty had been alleged or proved against the Applicant in any court or tribunal.
8. Therefore, this was not a dishonesty case and the Applicant did not need to show that there were exceptional circumstances and, as set out in paragraph 8 of the Guidance, in a case where strike off was imposed for disciplinary matters not involving dishonesty, the prevailing advice from the higher courts was that provided by Lord Donaldson in Case No. 11 of 1990 (unreported) in which the Tribunal should ask:

"If this was the sort of case where, even if the back history was known (that is whatever explanation and mitigation was available to explain why the solicitor committed the original offence) and without the explanation as to what has

happened subsequently, the members of the public would say “that does not shake my faith in solicitors as a whole.”

9. Mr Goodwin submitted that in order to restore the Applicant to the Roll, the Tribunal must be satisfied that the Applicant had been totally rehabilitated and that public confidence in the profession would not be damaged, and, that given the efforts made by the Applicant over the years since strike off the Tribunal would be satisfied in both regards.

Background history

10. The Applicant was born in 1971. He was admitted to the Roll of Solicitors on 3 November 1997 and was employed by RCY Solicitors in 1995 as a Trainee Solicitor. After qualification, the Applicant specialised in commercial and residential conveyancing and company/commercial law at RCY Solicitors.

Criminal conviction and sentence

11. On 30 September 2009 following a trial at Leeds Crown Court, the Applicant was convicted of one count of money laundering and two counts of failing to disclose knowledge or suspicion of money laundering. The Applicant became involved in assisting a drug dealer to launder the proceeds of his crime through various conveyancing transactions in the course of acting as a solicitor. The trial Judge found that the Applicant had failed to report “suspicious” transactions that were “glaringly obvious”.
12. The Applicant chose not to give evidence at the hearing, which the trial Judge found “*astonishing for a man of his purported good character and as part of his defence, hid behind the practices of his community of assisting others within the community*”. The trial Judge noted that in doing so, he brought that practice into disrepute.
13. The Applicant was sentenced to a total of four years’ imprisonment of which he served two years in prison.

Strike off

14. The Applicant appeared before the Tribunal on 9 November 2011 after having been convicted at Leeds Crown Court of the above offences. The allegation against the Applicant before the SDT was that having been convicted on 30 September 2009 at Leeds Crown Court of the offences of one count of money laundering and two counts of failing to disclose knowledge or suspicion of money laundering he acted with a lack of integrity and in a way that was likely to diminish the trust which the public had in him and the profession contrary to Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 (“SCC”). The Applicant admitted the allegation.
15. At the conclusion of the hearing the Tribunal found the allegation proven. It ordered that the Applicant be struck from the Roll of Solicitors and further ordered him to pay the SRA’s costs in the agreed sum of £1,750.00. The Tribunal set out its detailed reasons for making that Order in its written findings dated 15 December 2011.

Previous matter before the Tribunal

16. On 22 April 2008, the SRA had made an application to the Tribunal in respect of the Applicant's conduct. It was alleged that the Applicant had breached the Solicitors Practice Rules (then in force) in requiring and receiving profit costs from clients whilst informing such clients that such sums taken by him represented disbursements made on the clients' behalf.
17. The Firm had charged disbursements to clients that were over and above the fees specified in the bills. These charges were in respect of the Firm's indemnity insurance, telegraphic transfer fees and telephone and fax calls. For the period of September 2004 to August 2005 these additional charges amounted to a total of £39,486.00.
18. The Tribunal found the allegation substantiated and considered it proportionate and appropriate to impose a reprimand upon the Applicant as the breach was accepted to have been a technical error and not deliberate.

First application for restoration to the Roll of Solicitors.

19. On 26 September 2017, the Applicant applied for his name to be restored to the Roll of Solicitors. In essence, on that occasion the Tribunal found that the testimonials for the Applicant, and his work for a charitable organisation, did not outweigh the damage to the reputation of the profession which would be caused by restoring to the Roll an individual who had been convicted and sentenced for very serious offences, when he did not yet appear to have the necessary insight to understand the gravity of the offences and his role in them. On 5 January 2018 the application was refused.
20. On that occasion the Tribunal noted that the application had been made about six years after the strike-off decision and some 12 years after the commission of the relevant offences and it was accepted by the Tribunal that the passage of time since the strike-off decision may have been sufficient. In the event, the Tribunal refused the application on the basis that the Applicant had failed to show sufficient insight and rehabilitation.

Timing of the present application

21. Mr Goodwin referred to the Tribunal's Guidance Note with regard to rehabilitation. It was noted that the Tribunal would generally regard an application for restoration made within six years of the strike off order to be premature. That six-year period had passed in November 2017 and nearly three years had elapsed since the last application for restoration had been made.
22. Mr Goodwin said that given the indication regarding the timing of the application for restoration made by the Tribunal in 2018 he invited the Tribunal to consider that this new application for restoration to the Roll was not premature.
23. The Applicant was now 49 years of age and nearly ten years had passed since the Applicant had been struck from the Roll with the criminal matters which had formed the basis for this sanction occurring some fifteen years previously and over twelve years had passed since he had received the Reprimand. Mr Goodwin invited the Tribunal to

regard that earlier, technical, matter as not significant or material to the present application.

24. With respect to matters for which the Applicant had been struck off the Roll Mr Goodwin submitted that the sentencing Judge had categorised the Applicant as having been naive in involving himself in the conveyancing transactions and that in a later confiscation hearing which had taken place before HHJ Belcher in 2014 this Judge had also accepted that naivety rather than greed had been behind the Applicant's part in the activity and it was found that the only money the Applicant had derived from the criminal offences had been his firm's conveyancing fees in the two transactions, totalling only £979.98.
25. Mr Goodwin said that since the time the Tribunal had considered the Applicant's first application for restoration to the Roll the Applicant had worked diligently to reach insight on his behaviour.
26. It was said by Mr Goodwin that the Applicant now appreciated the seriousness of his conviction and he was genuinely remorseful and to this end he had been helped and mentored by Mr Ivan Krolick of counsel who had acted for the Applicant from 2012 and through the confiscation proceedings.
27. Mr Goodwin submitted that through Mr Krolick's help the Applicant had come to realise that he had excused and minimised his role and involvement in the matters for which he had been convicted by the jury and the Applicant had come to accept that the Tribunal had correctly refused his previous application to be restored to the Roll on the basis that he had had little real insight on his conduct.
28. Contained within his letter to the Tribunal Mr Krolick included a portion of an e-mail he had sent to the Applicant setting out his views and in which he had not pulled his punches:

“What you have done is to apply a whitewash to yourself.... What you need is counselling, which forces you to realise what you did was serious and criminal. So far as motive is concerned, I suspect that . . . the direct and indirect benefit you obtained was sufficient for you to minimise the suspicion which you undoubtedly held, hoping that, in fact, the transactions would not turn out to involve criminal property. You took a risk, and the risk materialised, and you have been punished for it. And you lost your status in the community which you have served so well. You would never do that again. It seems to me that, once you have taken that on board, an application to take up employment with a solicitor should be pursued. . . . I wish you all the best. I'm sure that you will not have liked the first half of this email, but I believe that it may benefit you.”
29. In a number of counselling sessions that followed Mr Krolick assisted the Applicant to fully appreciate that the jury's verdict involved a finding that the Applicant had proceeded with the conveyancing transactions at a time when he actually held suspicions about them and in such circumstances he had been wrong to have proceeded with them.

30. In his letter, Mr Krolick explained further:

“I have since held a number of telephone conversations with Mr Khan, and it is my belief that he has finally understood the effect of the jury’s verdict on Count 2 (he was acquitted of the more serious Count 1). Effectively, the counselling which I adumbrated in my email to him has been given, by me. Although not a personal friend (I have never met him socially), I do have a high regard for Mr Khan. I am not a member of his religion, but I am aware that he does very good work amongst the Muslim community in Bradford. He is intelligent, and hardworking, and I believe that he is still young enough to have learned greatly from his cathartic experiences of the last 12 years. I consider that he ought to be given the opportunity to work in the legal profession again.”

31. Mr Goodwin said that to the Applicant’s credit he had reflected on the assistance given to him by Mr Krolick and had allowed sufficient time to pass before making a further application to the Tribunal in order to ensure that the insight, which hitherto he had lacked, was now profoundly embedded within him.

32. In this regard Mr Goodwin referred to the Applicant’s witness statement in which the Applicant stated that he:

“...sincerely and unreservedly apologise[d] to the public, my family and the profession for my conduct that led to my convictions; I have and remain deeply ashamed of what I have done; and I truly accept that my convictions are serious matters, which necessitated reflection and insight and this is imbued within me and the manner in which I conduct myself.

My remorse is plain, absolute, sincere and unwavering. I fell short of what was expected of me. However, I have no intention of ever repeating the events or the circumstances that led to the conviction. I have and firmly intend to continue adhering to the highest professional standards and codes and to proceed with caution and utmost care and diligence.”

Rehabilitation and future intentions

33. Mr Goodwin submitted that the Tribunal could be satisfied that the Applicant had been rehabilitated and he said that the process of rehabilitation had started when the Applicant was in prison serving his sentence. During the second year of the two years he had served in custody the Applicant had been trusted to leave on licence and he had been given permission to do voluntary work at a Bradford community charity called Grange Interlink where he assisted generally, drafted contacts and handled money. Mr Goodwin said that to the Applicant’s credit, he had not betrayed that trust shown to him and had always abided by the terms of his licence.

34. Further, whilst in prison the Applicant had voluntarily assisted others with improving their English and maths skills. This was something he had chosen to do and again this demonstrated the Applicant’s character and that his commitment to rehabilitate had started soon after his conviction.

35. Mr Goodwin said that the Applicant had worked in positions of responsibility since 2010 and had endeavoured 'to work his passage back to the profession' by seeking out positions which demonstrated he could work in positions of trust. Since leaving prison the Applicant had continued to do voluntary work with Grange Interlink as a senior administrator in the charity and he had also volunteered to work for the Save the Mothers Trust, another charitable organisation, where amongst other things he advised on some legal matters; drafted documents and was a mentor.
36. Mr Goodwin referred the Tribunal to the references which had been provided to the Applicant by those who knew him from his work at Grange Interlink and Save the Mothers Trust and which he said demonstrated, objectively, the Applicant's rehabilitation.
37. Mr IK at Grange Interlink stated in his reference, dated 17 August 2020, that he had known the Applicant for over sixteen years and that that the Applicant's "*honesty, independence and integrity are unquestionable.*" Mr ZH from Save the Mothers set out in his reference, also dated 17 August 2020, that the Applicant "... *is unquestionably a fit and proper individual and I wholeheartedly support this application to become a solicitor again...*"
38. The Applicant had also endeavoured to carry out voluntary work as a Paralegal with Bradford Council. The Applicant had ensured that as part of his application he made full and frank disclosure about the findings made by the Tribunal in 2008; his conviction; the 2009 Sentencing Remarks; the 2011 Tribunal's findings and the 2014 Ruling. To his credit, and despite the turbulent economic climate faced by many in 2015 in which vacancies were in short supply, the Applicant was successful in obtaining the post.
39. However, Mr Goodwin explained that the Respondent was later informed that in order to work at the Council as a paralegal he would require approval/authorisation under s.41 of the Solicitors Act 1974 (as amended).
40. Unfortunately for the Applicant the Council was not willing to go through the process of making an application under s.41 and the Applicant lost the opportunity to work as a paralegal.
41. However, it later transpired that the indication to the Council made by the SRA that the Applicant had required s.41 approval for the particular role had been incorrect and no such permission had in fact been required.
42. Mr Goodwin submitted that if the SRA had given correct advice, the Applicant may have been able to take up a role which would have shown even more compellingly that he was suitable to work in the legal field and which would have provided him with a longer period of time to demonstrate this fact.
43. Mr Goodwin said that the Applicant had been prevented from travelling further afield to seek out relevant posts due to his son's serious health problem which was of such a degree and nature that it required him to remain close by in the Bradford area in case his son required transport to hospital and also be available to assist school staff in dealing with any urgent problems which occurred. Mr Goodwin told the Tribunal that

the Applicant had also been a carer for his elderly parents. The need to be in or close to Bradford for these personal, family reasons meant that the Applicant's job search was restricted.

44. In April 2018 the Applicant was entrusted to work in the legal department of Bradford Council as a Legal Officer and the following year whilst he was still working at the Council Certus Solicitors LLP ("Certus") submitted a s.41 Application on 22 April 2019 which was approved by the SRA in July 2019. The approval granted to him by the SRA permitted the Applicant to work at this firm of solicitors.

45. In approving the application for the Applicant to work at Certus as a paralegal the SRA Adjudicator stated:

"the Applicant had expressed that his "remorse is plain, absolute, sincere, unconditional and unwavering" and considering the time elapsed since his conviction and strike off, Mr Khan's statements regarding his involvement in the events leading to his conviction and his continued employment at the Council, I deem there to be sufficient rehabilitation to consider approving employment under the Policy. I have therefore carefully considered the employment proposed and whether it can adequately mitigate the risks identified above.

In regard to his employment for the Firm, Mr Khan will be set very specific tasks and will be working closely with and under the direct supervision of Mr A".

46. Mr Goodwin submitted that whilst there was a distinction between approval under s.41 and restoration to the Roll there could be no logical difference between them with respect to a finding that there had been sufficient rehabilitation.

47. At the time of the present application for restoration to the Roll the Applicant had been working at Certus as a paralegal and his employment had commenced there on 12 August 2019.

48. With respect to the Applicant's work at Certus Mr Goodwin referred to a reference from Mr NA, a partner at Certus, dated 19 August 2020 in which Mr NA confirmed his willingness to retain the Applicant's services as a solicitor if his name was restored to the Roll. It was pointed out by Mr Goodwin that Mr NA had made the offer in the full knowledge of the strike off order and the reason for it.

49. Mr NA said that he was only aware of one occasion in which the Applicant's role with the firm had attracted publicity. An article in *RollOnFriday* in November 2019 rehearsed the facts of the Applicant's case and confirmation that he had been allowed by the SRA to work at Certus. The article recorded that a spokesperson for the SRA said that it would not approve employment if it believed there was a risk to the public.

50. Mr NA said there were safeguards in place to ensure the protection of the public and to this end the Applicant did not have his own caseload and that all the Applicant's work was supervised by Mr NA who also had access to all the Applicant's e-mails.

51. Mr Goodwin informed the Tribunal that there would be no objection to restrictions being placed on the Applicant's practice should the Tribunal consider that he was a fit and proper person to be restored to the Roll.
52. Mr Goodwin referred to the Applicant's witness statement, which set out the many steps he had taken to keep up to date with legal matters, including reading articles and periodicals, and attending training courses to ensure that he was up to date in the areas of law in which he wanted to practice.

Public confidence

53. In SRA v Kaberry [2012] EWHC 3883 (Admin), at paragraph 64, it was stated by Elias LJ that the correct test to be applied on an application for restoration was:

"... would the public have confidence in the solicitors' profession if it admits a person with the disciplinary and personal history of the respondent, in circumstances where it had recognised that it had to act on the assumption that there was some culpability, and having regard to the amount of losses..."

54. Mr Goodwin submitted that there was distinction to be drawn between cases in which dishonesty had been found, as in Kaberry, and those cases, such as the Applicant's case, in which there had been no findings of dishonesty, and, as he had stated earlier, it was not incumbent upon the Applicant to show that there was some exceptional factor in his case to enable a decision on restoration to be made by the Tribunal.
55. Mr Goodwin also referred to the cases of Thobani v SRA [2011] EWHC 3783 (Admin) and Jidefo and others v Law Society [No.6 of 2006] and in particular the matter of Ms B [No.11 of 2007]. Mr Goodwin said that these were all cases in which the issue of dishonesty had featured. The door to re-admission to the profession would not be closed if exceptional circumstances could be established. In the case of Ms B she had pleaded guilty to and was convicted of several counts of theft, an offence of dishonesty, prior to admission as a solicitor. Sir Anthony Clarke MBE had stated,

"...It seems to me that there is likely to come a time in the not too distant future in which it will be possible to say, both that [Ms B] is not a risk to the public and that the time has come when the reputation of the profession will be better served by the admission of [Ms B] with all that she has to offer both the profession and its clients than by her continued exclusion. The Law Society was, however, entitled to conclude that that time has not yet come."

56. Ms B was subsequently admitted as a solicitor in 2011 and in Mr Goodwin's submission the absence of dishonesty in the Applicant's case made the arguments for his restoration even more compelling particularly as the SRA, with respect to the Applicant's s.41 application had decided that he had been rehabilitated sufficiently and it had granted approval/authorisation for the Applicant to be employed in a reputable solicitors' firm as a paralegal where he had worked without any problem or inconvenience to the public since August 2019.

57. Mr Goodwin commented that the solicitors' profession was a compassionate one in which, in those cases where it was deserved, the reputation of the profession would be enhanced in the eyes of the public if it was willing to give a person who had erred a second chance.
58. Here, the Applicant had demonstrated his total rehabilitation and the Tribunal could be satisfied that public trust and confidence in the profession would not be damaged by readmitting the Applicant given the efforts he had made in gaining meaningful insight on his conduct; his work both within and without the legal sphere; his determination to keep himself up to date on law and procedure and the offer made to him by Mr NA to work as a solicitor at Certus. Further, the impressive references and testimonials from members of the profession provided the Tribunal with persuasive and compelling reasons to restore the Applicant to the Roll.
59. Mr Goodwin reiterated the core points of the application as follows:
- With the help of Mr Krolick the Applicant had reflected and matured in his understanding of the actions which had led to his conviction and strike off; he now had the genuine insight which he had lacked three years ago when he made his first application for restoration to the Roll.
 - The reputation of the profession would be served by his restoration to the Roll and not by his continued exclusion.
 - The door to restoration should not, in deserving and appropriate cases, be permanently closed.
 - If the Applicant had not satisfied the Tribunal that he was a fit and proper person to be readmitted to the profession then this raised the valid question: what more could he do?
 - Mr Goodwin said that if the Tribunal saw fit to restore the Applicant to the Roll he would be required to apply for a practising certificate which itself could be subject to conditions.

Witness – The Applicant

60. The Applicant gave evidence and he confirmed that the contents of his witness statement dated 11 September 2020 were true to the best of his knowledge, information and belief. The Applicant adopted the submissions made on his behalf by Mr Goodwin.
61. In cross-examination by Ms Hansen the Applicant agreed that in 2018, when he made his first application for restoration to the Roll, he had not accepted the basis of the conviction. However, he said that he now accepted without question the basis of the jury's verdict i.e. that he had been suspicious of the conveyancing transactions which he worked on and completed. The Applicant now accepted that he should have ceased to act.

62. The Applicant agreed that he had been convicted of serious offences and that through his actions a very large sum of criminal money had been laundered which he estimated to have been in the region of £224,000.00. The Applicant stated that he did not seek to go behind the convictions and he was very sorry for what he had done, not only for himself but for what he had put his family through: this was something he would never repeat.
63. The Applicant agreed with Ms Hansen that his work at Certus had been interrupted by the Covid 19 pandemic and that he had been furloughed for a number of months from March 2020 and had only returned in July 2020 and was working three days' a week. The Applicant said that this interruption to his work had been through no fault of his own but he accepted that it had reduced the amount of time before making the present application in which he could garner greater experience of working in a modern solicitors' firm and legal environment.
64. The Applicant accepted that as part of the permission granted to Certus under the s.41 application to employ him as a paralegal he had been made subject to very stringent conditions under which he had to be directly supervised by one named person and that if that person was absent from the firm's office for a whole day or more, the Applicant could not attend the office or carry out any work. Further, the Applicant was prevented from receiving or having access to client money and he was not able to supervise staff or have direct access to clients.
65. It was put to the Applicant and accepted by him that the conduct for which he had been struck from the Roll had called into question his integrity and trustworthiness as a solicitor but he said that he had worked tirelessly in the intervening years to rehabilitate himself both on a professional and personal level and he considered the evidence in this regard which had been presented to the Tribunal demonstrated the commitment he had made. The Applicant said that had reacquired integrity he had lost over a decade ago and the public could have confidence that he would not fall into such error again: fifteen years had elapsed since he was involved in the matters which had given rise to conviction and he was now rehabilitated and should be given the opportunity of being readmitted.
66. In answer to questions from the Tribunal the Applicant said that the turning point in his insight was the time he spent with Mr Krolick and to whom he owed a debt of gratitude. Prior to this the Applicant had been in denial with respect to his convictions and had rationalised his involvement but he now accepted that under his watch he had allowed two conveyancing transactions to proceed and about which he had had his suspicions. In allowing the transactions to proceed he accepted that he had assisted very serious criminals. The Applicant said that he recognised that he had not only damaged the reputation of the profession but he had brought harm and shame to his family for which he was deeply sorry.
67. With respect to his work at Certus the Applicant told the Tribunal that he was involved in aspects of civil litigation and property law. His role in this niche practice was mainly to do with picking apart documents where things had gone wrong and analysing what had happened and then making recommendations to be taken forward by his supervisor, Mr NA.

68. With respect to his work for the charity Save the Mothers this involved providing assistance to families in poorer countries by providing the means to access education and to obtain clean drinking water. The work of the charity also extended to this country with anti-bullying classes for children and help with maths and English.
69. The Grange Interlink charity was based in Bradford and provided help to the elderly of that area. The Applicant said that he had worked for the charity when on day release from prison but had enjoyed the work so much he had continued to work with the charity ever since up to the present time.
70. The Tribunal noted that the Applicant had carried out substantial charity work and had an obvious willingness to help others. However, it was put to him by the Tribunal that part of the trusted role of a solicitor is to recognise the circumstances when they should decline to help or to act and the question was asked of the Applicant as to whether he possessed the strength or the ability to say 'no' if such circumstances arose. In response to this question the Applicant said that there were '*roads that he would now not go down*' and he explained that he had received offers of work which he had chosen not to accept because of the element of risk to which he would be exposed. The Applicant said that he had matured and was now much better at saying 'no'.

Respondent's Submissions

71. Ms Hansen said that the Respondent objected to the Applicant being restored to the Roll and she set out the approach which the Tribunal would need to consider before making its determination.
72. The broad legal principles which applied to questions concerning the discipline of solicitors and in particular to the proper approach of a Tribunal when considering whether to restore a struck off solicitor to the Roll, were to be found in the judgment in Bolton v The Law Society [1994] 1 WLR 512 and 2 All ER 486. In the course of his Judgment, Sir Thomas Bingham, the Master of the Rolls stated:

...it is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness ... Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal....

A profession's most valuable asset is its collective reputation and the confidence which that inspires. Because orders made by the Tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment have less effect on the exercise of this jurisdiction than on the ordinary run of sentences imposed in criminal cases. It often happens that a solicitor appearing before the Tribunal can adduce a wealth of glowing tributes from his professional brethren. He can often show that for him and his family the consequences of striking off or suspension would be little short of tragic. Often he will say, convincingly, that he has learned his lesson and will not offend again. On applying for restoration after striking off, all these points

may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation.

All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness..... The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price..."

73. The test to be applied therefore was whether the Applicant was a fit and proper person to be restored to the Roll. In this case the Applicant's convictions had been for very serious matters which went to the heart of the Applicant's duties as a solicitor and in such circumstance restoration should be viewed as an 'exceptional remedy'.
74. Ms Hansen referred the Tribunal to decisions which provided guidance as to the Tribunal's exercise of its discretion under s.47(2) of the Solicitors Act 1974:
- SRA v Kaberry [2012] EWHC 3883 (Admin) in which Elias J recited the test to be applied (see paragraph 53 above)
 - Thobani v SRA [2011] EWHC 3783 (Admin) in which Burnett J said:

"What is being considered is the past conduct of an applicant, an evaluation of risk for the future should someone be restored to the Roll, and importantly, public confidence in the solicitors' profession."
 - Re A Solicitor No 5 of 1983, where Lord Donaldson said:

"I cannot see how the Disciplinary Tribunal would have agreed to his being restored without having ... been given positive evidence of his active good character and his trustworthiness in some other context; either by employment with a solicitor with leave of the Law Society or by employment in some other position which involved trust. "
75. Ms Hansen submitted that the various themes emerging from these authorities were reflected within the approach to applications for restoration to the Roll encapsulated in the Tribunal's own Guidance ' which set out that an application for restoration is not an appeal against the original decision to strike off and that the Tribunal's function when considering an application for restoration is to determine whether an applicant has established that they are now a fit and proper person to have their name restored to the Roll. To this end:
- A finding of dishonesty by the Tribunal or a criminal conviction recorded against an applicant involving dishonesty can constitute an almost insurmountable obstacle to a successful application for restoration.
 - The period which has elapsed since the order of strike off/removal was made. Save in the most exceptional circumstances an application for restoration to the Roll

within six years of the original strike off is likely to be regarded by the Tribunal as premature.

- Evidence of rehabilitation. This will usually require detailed evidence of substantial and satisfactory employment within the legal profession since the period of strike off.
 - The applicant's future employment intentions and whether another solicitor would be willing to employ the applicant within a practice in the event that the applicant's name is restored.
 - The extent to which the applicant has repaid any losses sustained by others as a result of the applicant's original misconduct, including any fines and cost orders made by the Tribunal. The applicant must be in a position to demonstrate that he/she has made a sustained effort to meet any such liability.
76. Ms Hansen noted that given the passage of time since the Applicant was struck off his application was not to be disregarded solely by reference to the time which had elapsed since the order striking the Applicant from the Roll. Ms Hansen also accepted that the references which the Applicant had set before the Tribunal demonstrated that he had been involved in his local community and that there was evidence that the Applicant had completed CPD courses which showed that he had undertaken a number of commercial property, company/commercial law, financial management and compliance courses.
77. However, Ms Hansen said that the evidence of rehabilitation was limited and needed to be balanced against the seriousness of the offending and in her submission the Applicant's restoration to the Roll would not be appropriate given the nature and seriousness of the Applicant's conviction and the fact that the conduct giving rise to the conviction had occurred in the course of the Applicant's practice as a solicitor. To allow the Applicant to be restored to the Roll in such circumstances would impact adversely on public confidence in the profession.
78. Ms Hansen said it was because the Applicant had been a solicitor that a criminal gang had been able to launder a significant sum of money which were the proceeds of serious crime. The trial Judge's sentencing remarks and the sentence she imposed, supported the view that the offences were serious and as such would cause significant damage to the reputation of the profession.
79. With respect to the Applicant's legal experience Ms Hansen observed that the Applicant was employed by Bradford Council as a Legal Officer and engaged in both regulated and unregulated activities from early 2018 until April 2019 when his contract expired, however, it was to be noted that this employment had only lasted for approximately 12 months.
80. On 22 April 2019, Certus made an application to the SRA, pursuant to s.41 of the Solicitors Act 1974 (as amended) for permission to employ the Applicant as a paralegal. This application was granted by the SRA in July 2019 and the Applicant commenced working as a paralegal at Certus on 12 August 2019 and in the reference provided by a partner of Certus it was confirmed that should the Applicant's Application be

successful, the firm would employ the Applicant as a solicitor. However, in Ms Hansen's view his experience of working at Certus had been curtailed by the Covid 19 pandemic and again the Applicant had only managed to obtain limited relevant experience.

81. Further, with respect to this employment Ms Hansen said that the position taken by the SRA in determining that the Applicant had been sufficiently rehabilitated for the purposes of the s.41 application was not inconsistent with its position as Respondent in this case that the Applicant was not sufficiently rehabilitated to be readmitted to the Roll because in her submission the two applications were intrinsically different: the application for restoration to the Roll was not one concerning a mere matter of employment but involved the use of the protected title of solicitor and all that it entailed.
82. Bearing in mind all these matters Ms Hansen said that the essential issues for the Tribunal to consider were the protection of the public and maintenance of public confidence in the good reputation of the solicitors' profession. It was clear from the judgment in Bolton that the public were entitled to have confidence that any solicitor they instruct would be a person of unquestionable integrity, probity and trustworthiness and in the view of the Respondent the limited evidence of recent rehabilitation had to be balanced against the Applicant's conviction for serious offences involving money laundering in relation to drug dealing for which he received a substantial sentence of imprisonment.
83. Ms Hansen submitted that in all the circumstances this was not an exceptional case and the Applicant was not a suitable person to be admitted to the Roll and if the Tribunal permitted the Applicant's restoration to the Roll public confidence in solicitors would be undermined.

Applicant's Further Submissions

84. In response to the Respondent's submissions, Mr Goodwin reminded the Tribunal that the cases to which the Respondent had directed it had involved findings of dishonesty. In the Applicant's case there had been no finding of dishonesty by any court or tribunal and consequently there was no requirement for the Tribunal to find exceptional circumstances to justify a decision to restore the Applicant to the Roll.
85. Mr Goodwin said that the evidence presented to the Tribunal of the Applicant's rehabilitation was compelling and the fact of rehabilitation had already been accepted by the Respondent when it had determined his s.41 application for the purposes of working as paralegal at Certus. There could be no gradation of rehabilitation: one was either rehabilitated or one was not.
86. Mr Goodwin submitted that the Applicant had now gained genuine insight and that the reputation of the profession would be enhanced by his readmission. The Applicant no longer presented a risk to the public and that weighing in the balance all the steps taken by the Applicant to rehabilitate himself against the seriousness of the convictions the Tribunal should, in the exercise of its discretion, restore him to the Roll.

The Tribunal's Decision

87. The Tribunal carefully considered the oral representations made on the Applicant and Respondent's behalf, the documents submitted and the oral evidence of the Applicant. It noted that it was for the Applicant to satisfy the Tribunal that:
- the Applicant had been totally rehabilitated and
 - public confidence in the reputation of the profession would not be damaged by readmitting the Applicant to the Roll.
88. The Tribunal considered that in order to reach a decision on the two matters set out above the core question to determine was whether the Applicant had established that he was a fit and proper person to have his name restored to the Roll.
89. The Tribunal noted that at the heart of this case were the three offences upon which the Applicant had been convicted. The offences had been very serious and he had committed them whilst working as a solicitor and because he had been a solicitor. Due to his actions very serious criminal activity had taken place in which substantial sums of money generated from illegal drugs had been laundered through the Applicant's business. It had been said that the Applicant had been naïve in becoming involved and that greed had not been a motivating factor, however, when the offences had been committed by him he had been aged between 32 and 34 and he had had between six and eight years post qualification experience as a solicitor: he therefore had had sufficient experience at that time to understand what he was doing and he should have declined to act.
90. The Applicant's offending had resulted in the imposition of a sentence of four years' imprisonment which on any objective view was a significant custodial sentence.
91. The Tribunal noted that the offending had been inherently serious but it had not included any element of dishonesty. Whilst much of the case law to which it had been directed related to matters in which dishonesty had been central the Tribunal accepted that in considering the submissions for and against this Applicant's restoration to the Roll it would not be required to find exceptional circumstances.
92. However, in the circumstances of the Applicant's case, the nature of the offending, the significant sums of money involved and the length of sentence imposed upon him the hurdle the Applicant had to overcome in order to be restored to the Roll remained a very high one.
93. The Tribunal would take as its lodestar guidance the matters set out in Bolton v Law Society that any solicitor to whom the public turns for help must be of unquestionable integrity, probity and trustworthiness.
94. That said, the Tribunal was mindful of the following matters set out by Lord Donaldson in Re a Solicitor No.5 of 1990 in which he said:

“There is Parliamentary intention that in some circumstances it must be possible for somebody to have been involved in a situation which justified their being struck off the Roll for having brought the profession into disrepute and been unfit to be solicitors, but in which, nevertheless, thereafter, by their own efforts or - otherwise, a different situation would arise in which it is right that they should be permitted to be restored to the Roll. That is clearly the Parliamentary intention.”

95. Additionally, the Tribunal considered the comments of Collins J in Ellis-Carr v Solicitors Regulation Authority in which was stated that in an application for restoration to the Roll, the Tribunal, in its discretion must consider:

“the present and the future ... he should be judged on the basis of what he now is and whether there is any real prospect that ... he can be regarded as someone who is fitted to be on the Roll of solicitors?”

96. The Tribunal was therefore faced with balancing the seriousness of the conduct which had resulted in the Applicant’s strike off from the Roll in November 2011 and the steps the Applicant had taken over a number of years up to the date of this hearing in seeking to rehabilitate himself and reacquire his integrity.
97. The Tribunal reminded itself that nearly a decade had elapsed since the time the Applicant was struck off the roll in November 2011 and that the events giving rise to the strike off and his earlier conviction in 2009 dated back to 2003 and 2005. In that time much water had passed under the bridge and the Tribunal accepted that the timing of the application was not premature and that sufficient time had elapsed since the date of the first application the Applicant had made for restoration in 2018 for further reflection on the Applicant’s part.
98. With respect to rehabilitation the Tribunal noted, and accepted, that the Applicant had done much and his journey towards rehabilitation had commenced soon after his conviction in 2009.
99. The Tribunal accepted that whilst in prison the Applicant had utilised his time well by assisting in the teaching of English and Mathematics to fellow inmates. He later achieved positions of trust and responsibility in working with Grange Interlink and Save the Mothers Trust and the Tribunal acknowledged the comments set out in the references from IK, the Chief Executive Officer of Grange Interlink, and ZH the Chairman of Save the Mothers Trust. His continued involvement with both charities demonstrated a sustained and genuine commitment.
100. Further, aside from the interruption of one year (October 2009 - October 2010), the Applicant had continued to engage in unregulated legal activities within and for the community since October 2010 and regulated legal activities from April 2018 to the present day. From April 2018 onwards, the Applicant was employed by Bradford Council as a Legal Officer for over a year and had engaged in both regulated and unregulated activities.

101. From August 2019 to the present the Applicant had engaged in both regulated and unregulated activities whilst employed by Certus following the approval by the SRA of Certus' s.41 Application in July 2019.
102. It had been unfortunate that the Applicant's employment with Certus had been interrupted by the Covid 19 pandemic, however, the Tribunal had been impressed by the testimonial provided by Mr NA of Certus who had set out a balanced and fair assessment of the Applicant's character and abilities. Mr NA struck the Tribunal as being a thorough and cautious man who had been aware of the publicity his employment of the Applicant had generated but maintained that he would not have approved his employment if he had considered there was a risk to the public.
103. The Tribunal noted that Mr NA was prepared to offer the Applicant a post as a solicitor in his firm if the Tribunal restored him to the Roll and that he would continue to supervise the Applicant as he had done so when the Applicant worked as a paralegal.
104. The Tribunal acknowledged that the Applicant had made great efforts in his continuing knowledge of law and keeping abreast of changes in the law and the regulatory framework. The Tribunal noted that the Applicant has read up to date periodicals, articles, books, case reviews and completed training courses provided by various providers detailed in the hearing bundle as well as undertaking extensive research in various areas of law relevant to his work and to this extent the Tribunal was prepared to accept with respect to his level of competence that he was 'fit' to practise if the decision was taken to restore him to the Roll.
105. However, the question remained whether the Applicant was of 'proper' character to be restored to the Roll and this was perhaps a deeper and more complex issue to determine. In this regard the Tribunal was prepared to accept that the testimonials presented to it demonstrated significant evidence of the Applicant's rehabilitation.
106. With respect to the s.41 approval given to him by the Applicant to enable him to work as a paralegal at Certus the Tribunal recognised that rehabilitation for the purposes of working as a paralegal was qualitatively different to rehabilitation for the purposes of being restored to Roll. Nevertheless, the decision made at the s.41 adjudication was a significant moment and signpost that the Applicant had made progress in this regard. However, the Tribunal had to be satisfied in the case of restoration beyond that context that the Applicant had had a "*total change of heart ...and a change of character*" as per Lord Donaldson in Re a Solicitor No8 of 1995 (unreported).
107. A 'total change of heart' required insight and it was this aspect of rehabilitation which had been absent when the Tribunal had considered the Applicant's first application for restoration to the Roll in 2018. It had been apparent to the Tribunal on the last occasion that:

"the Applicant could not bring himself to accept the decision of the jury which was that, as a minimum, he had suspicions about the transactions. The Tribunal could not be satisfied that the Applicant had shown any, or sufficient insight into the seriousness of the offences of which he had been convicted. The lack of acceptance indicated that the Applicant could not show complete remorse for

his actions and could not be said to have shown that he was a fit person to be restored.”

108. The question of insight was therefore the pivot upon which the balancing exercise of the seriousness of the conduct leading to strike off and a finding of total rehabilitation hinged.
109. The Tribunal had heard evidence from the Applicant who had subjected himself to cross-examination. The Tribunal noted that he had not been obliged to give evidence and it considered that the Applicant had given his evidence in a straightforward and non-combative manner.
110. The Tribunal considered that the Applicant had clearly reflected on his conduct and had matured in understanding and the Tribunal accepted as credible and truthful the Applicant’s assurance that he now had the ability to say ‘no’ to matters which would present him with pitfalls and risks.
111. The Tribunal recognised that the Applicant had not sought to go behind the convictions and that he now accepted that at the relevant time he had either known or suspected he was dealing with criminal property and he ought not to have continued with the two conveyancing transactions. The Tribunal accepted that the Applicant now recognised the damage he had caused to the profession and the harm he had brought upon his family by associating himself with serious criminal activity.
112. The acceptance of his full role in the offences was an important point and marked a breakthrough in the Applicant’s level of insight. To this end the Tribunal recognised the invaluable assistance the Applicant had been given by Mr Krolick . who had worked with the Applicant and had helped the Applicant to grasp the extent to which he had rationalised the gravity of his conduct to himself and others in order to make it sound more acceptable and that he was deeply sorry for that outcome.
113. The Tribunal was impressed by the comments made by Mr Krolick to the Applicant which appeared to sum up matters well:
- “...what you did was serious and criminal. So far as motive is concerned, I suspect that the direct and indirect benefit you obtained was sufficient for you to minimise the suspicion which you undoubtedly held, hoping that, in fact, the transactions would not turn out to involve criminal property. You took a risk, and the risk materialised, and you have been punished for it. And you lost your status in the community which you have served so well. You would never do that again. It seems to me that, once you have taken that on board, an application to take up employment with a solicitor should be pursued.”*
114. The Tribunal was satisfied that the Applicant now saw matters as they truly were and he had removed the gloss which he previously applied.
115. The Tribunal had the onerous responsibility to balance the leading authority of Bolton with other cited authorities noted above including in particular the comments of Lord Donaldson in Re a Solicitor Number 5 reminding the Tribunal of the Parliamentary intention engaged in a case such as this one. The Tribunal considered

that the element of genuine insight when added to the steps the Applicant had taken to seek rehabilitation and the length of time which had elapsed since the matters giving rise to the misconduct had taken place were sufficient on this occasion to tip the balance in the Applicant's favour, albeit this had been a fine balance.

116. The particular and complex circumstances presented by the Applicant in this case allowed the Tribunal to exercise its discretion with an element of compassion. The Tribunal was satisfied that this was one of those narrow category of cases where there was a route back into the profession for those who had made demonstrable, credible and real steps to rehabilitate themselves as the Applicant had done.
117. Therefore, having carefully considered all the evidence presented to it the Tribunal was satisfied that the Applicant had been totally rehabilitated and that public confidence in the reputation of the profession would not be damaged by readmitting the Applicant to the Roll and might indeed be enhanced by a demonstration to the public of a profession with compassion in the right circumstances and which embraces genuine rehabilitation.
118. However, restoration to the Roll was a first step and the Tribunal considered that the public would expect extra safeguards to be set in place and to this end the Tribunal would impose restrictions on the Applicant's future practice as set out later in the judgment. The Tribunal decided that the restrictions it imposed should be indefinite in relation to particular areas of risk (sole practice, employment approved by the Respondent and provisions related to financial control and management) unless relaxed in the future by an application under the liberty to apply provision. In relation to partnership or equivalent a minimum of three years prior to that mode of practice being permissible was appropriate to maintain public confidence.
119. The application for restoration was granted.
120. The Tribunal thanked Mr Goodwin and Ms Hansen for their thorough and thoughtful submissions in this difficult case.

Costs

121. Ms Hansen for the Respondent made an application that the Applicant should pay the Respondent's costs of the case, and referred to a costs schedule dated 11 December 2020.
122. That schedule put the total costs claimed at a fixed fee of £3,000.00 including VAT and Ms Hansen submitted that the costs claimed were reasonable and were commensurate with the complexity of the case. This was an application which had been brought by the Applicant and the Tribunal would have expected the Respondent to engage with the proceedings which had taken one day to determine.
123. Mr Goodwin submitted that whilst the Applicant had no application with respect to his costs the Tribunal should make no order for the Respondent's costs given that the Applicant had been successful in his application.

124. Mr Goodwin said that the Respondent's claim for costs was excessive, amounting to about six full days in which there appeared to be an element of duplication of work. However, the schedule provided no hourly rate or detailed breakdown of the work carried out by the Respondent and nothing upon which the Tribunal could make a sensible assessment of the costs.

The Tribunal's Decision

125. The Tribunal carefully considered the costs claimed by the Respondent. The Tribunal was not minded to reduce the costs claimed by the Respondent and it was satisfied that it should order the Applicant to pay the Respondent's costs of this application as claimed which appeared to the Tribunal to be proportionate and reasonable.
126. There had been a clear public interest in the Respondent responding to, and critically examining, the Applicant's application for restoration to the Roll in circumstances where the misconduct which had given rise to strike off had originated in convictions for serious criminal offences and in which the Applicant had received a custodial sentence of four years' imprisonment. The public would expect the Regulator to engage fully in such a case and deal with it with requisite seriousness and to this end it had quite properly discharged its duty to the public and the Tribunal.
127. The Tribunal considered that the work carried out by the Respondent was reasonable and proportionate, as were the costs claimed by the Respondent. The Tribunal observed that even if the Respondent had adopted a neutral position on the application (which it had not) then the case would still have taken a full day to hear and determine.
128. The Tribunal ordered the Applicant to pay the Respondent's costs in full.

129. Statement of Full Order

1. The Tribunal Ordered that the application of SHADAB AHMED KHAN for restoration to the Roll of Solicitors be **GRANTED** and it further Ordered that he do pay the costs of the response of the Law Society to this application fixed in the sum of £3000.00.
2. The Tribunal further Orders that the Applicant be subject to conditions imposed by the Tribunal as follows:
 - 2.1 The Applicant may not:
 - 2.1.1 Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body;
 - 2.1.2 Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body for a period of 3 years from the date of this Order;
 - 2.1.3 Be a Compliance Officer for Legal Practice or a Compliance Officer for Finance and Administration;
 - 2.1.4 Hold client money;

- 2.1.5 Be a signatory on any client account;
- 2.1.6 Work as a solicitor other than in employment approved by the Solicitors Regulation Authority.
3. There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 2 above.

Dated this 25th day of January 2021
On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'Edward Nally', with a stylized flourish at the end.

E Nally
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
25 JAN 2021