SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12315-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

HABIB-UR- RAHMAAN MAROOF. Respondent

Before:

Mr J P Davies (in the chair)
Miss H Dobson
Mr P Hurley

Date of Hearing: 7 June 2022

Appearances

There were no appearances as the matter was dealt with on the papers.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations made against the Respondent were set out in a Rule 12 Statement dated 15 March 2022 and were that:

1.1. On dates between approximately January 2011 and June 2011, he committed up to seven offences of aiding and abetting tax evasion in Germany and/or one offence of attempted tax evasion by acquiescence in Germany; and that, in doing so, he breached Rule 1.02 and/or Rule 1.06 of the SRA Code of Conduct 2007.

1.2. On dates between approximately March 2018 and 15 May 2019 he failed to respond adequately or at all to the SRA's requests for information (including a Notice issued pursuant to s44B of the Solicitors Act 1974); and that, in so failing, he:

1.2.1. breached Principle 7 of the SRA Principles 2011;

1.2.2. failed to achieve Outcome 10.6 and/or Outcome 10.8 under the SRA Code of Conduct 2011.

2. Dishonesty was alleged in relation to the Respondent's conduct described at 1.1 above.

Admissions

3. The Respondent admitted the above allegations.

Documents

4. The Tribunal considered all the documents contained within an electronic bundle prepared and agreed by the parties.

Background

5. The Respondent was admitted to the Roll of Solicitors on 3 April 2000. At the date of the Rule 12 Statement, the Respondent did not hold a current practising certificate but remained on the Roll as a non-practising solicitor.

6. On 23 October 2015, the Respondent was convicted in a German criminal court of "*aiding and abetting in tax evasion, in five specific cases, with two cases of tax evasion and with attempted tax evasion*".

Application for the matter to be resolved by way of Agreed Outcome

7. The parties invited the Tribunal to deal with the allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

8. The proposed sanction was that the Respondent be struck off the Roll of Solicitors.

Findings of Fact and Law

9. The SRA was required to prove the allegations 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 his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.

11. The Tribunal considered the Guidance Note on Sanction (9th Edition/ December 2021) ("the Sanctions Guidance"). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.

12. The Tribunal observed that the Respondent had been convicted of serious offences involving dishonesty which struck at the heart of what the public would expect of a solicitor, namely that they "*may be trusted to the ends of the earth*" as per Bolton v Law Society [1994] 1 WLR 512. He had also admitted that his conduct described in allegation 1.1 was dishonest.

13. The Sanction Guidance states at [51] that: "*A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).*" The Tribunal did not consider there were exceptional circumstances present such that a lesser sanction was warranted. The Respondent had accepted in the Statement of Agreed Facts and Outcome that this was "plainly" not a case in which striking off would be a disproportionate sanction.

14. The protection of the public and public confidence in the profession and the reputation of the profession required no lesser sanction than that the Respondent be removed from the Roll. The Tribunal found that the proposed sanction of striking the Respondent from the Roll was appropriate, proportionate and in accordance with the Sanctions Guidance.

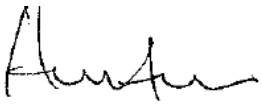
Costs

15. The parties agreed that the Respondent should pay costs in the sum of £1,000. The Tribunal determined that the agreed amount was reasonable and appropriate, taking into account the Respondent's financial means as set out in his statement of 20 May 2022. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

Statement of Full Order

16. The Tribunal ORDERED that the Respondent, HABIB-UR-RAHMAAN MAROOF, 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 £1,000.

Dated this 20th day of June 2022.
On behalf of the Tribunal



J P Davies
Chair

Case number: 12315-2022

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

B E T W E E N:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

HABIB-UR-RAHMAAN MAROOF

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

A. Introduction

1. By an application and statement dated 15 March 2022 made by Rory Thomas Mulchrone on behalf of the Applicant, the Solicitors Regulation Authority Limited ("the SRA"), pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019, the SRA brought proceedings before the Solicitors Disciplinary Tribunal ("the Tribunal") making allegations of misconduct against Mr Habib-ur-Rahmaan Maroof.

2. The matter has been listed for substantive hearing before the Tribunal from 28 -30 June 2022.

3. The Respondent filed an Answer to the Rule 12 statement on 2 May 2022 in which he made full admissions. The Respondent is prepared to make full admissions to the allegations against him, and subject to the Tribunal's approval, to accept a sanction which is commensurate with the Tribunal's Guidance Note on Sanction (9th edition) ("the Guidance Note").

4. The sanction proposed is that the Respondent is struck off the Roll of solicitors.

5. In the event that the Tribunal approves the outcome proposed in this document, the Respondent agrees to contribute to the SRA's costs of the application and enquiry, in the

agreed sum of £1,000.00 including VAT. In reaching agreement on this figure, the SRA has had due regard to the Respondent's means.

6. The SRA has considered the admissions made and whether those admissions and the outcome proposed in this document meet the public interest having regard to the gravity of the matters alleged. The SRA is satisfied that the admissions and outcome satisfy the public interest.

B. Admissions

7. The Respondent admits all of the allegations against him pleaded at paragraph 1 of the Rule 12 statement, namely that:

"… having been admitted as a Solicitor of the Senior Courts:

1.1. On dates between approximately January 2011 and June 2011, he committed up to seven offences of aiding and abetting tax evasion in Germany and/or one offence of attempted tax evasion by acquiescence in Germany; and that, in doing so, he breached Rule 1.02 and/or Rule 1.06 of the SRA Code of Conduct 2007.

1.2. On dates between approximately March 2018 and 15 May 2019 he failed to respond adequately or at all to the SRA's requests for information (including a Notice issued pursuant to s44B of the Solicitors Act 1974); and that, in so failing, he –

1.2.1. breached Principle 7 of the SRA Principles 2011;

1.2.2. failed to achieve Outcome 10.6 and/or Outcome 10.8 under the SRA Code of Conduct 2011.

2. Dishonesty is alleged in relation to the Respondent's criminal conduct described at 1.1 above but proof of dishonesty is not required in order to establish that the Respondent has been properly convicted of such offences under German law."

C. Agreed Facts

8. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraph 7 above are agreed between the SRA and the Respondent.

Professional details

9. The Respondent was admitted to the Roll of Solicitors on 3 April 2000. According to Law Society records, his areas of practice are (or have been): crime – general; litigation – general; and personal injury. The Respondent does not hold a current practising certificate but remains on the Roll as a non-practising solicitor.

Background

10. The conduct alleged came to the attention of the SRA on or before 13 February 2017, following a self-report from the Respondent. Further details were provided on 29 January 2018. The Respondent had applied for a renewal of his practising certificate for the year 2017/ 2018 and stated that he had been remanded in pre-trial custody in Germany in January 2015.

11. It transpired that, on 23 October 2015, the Respondent had been convicted in a German criminal court (Nürnberg-Fürth Regional Court – Criminal Chamber 12) of "*aiding and abetting in tax evasion, in five specific cases, with two cases of tax evasion and with attempted tax evasion*". The convictions relate to what is known as a VAT 'carousel fraud'.

12. Prior to his convictions, the Respondent had been extradited from the UK to Germany pursuant to a European Arrest Warrant (the "EAW"). In translation, the EAW particularised the Respondent's alleged offending in this way:

> "*(1) The requested person is a member of a group which combined for the purpose of carrying out a "carousel" VAT fraud while trading or purporting to trade in electrical power. The object was to make fraudulent claims to input tax.*
> "*(2) The companies involved in the carousel in Germany were ASM Trading GmbH Capital Inc (headquarters in Berlin) ("ASM"), Energy Plus GmbH (headquarters in Nuremberg and Berlin) ("EP"), and ABM Online GmbH (headquarters in Munich) ("ABM").*
> "*(3) ASM was the "missing trader". ASM purported to issue invoices whose effect was to enable EP and ABM to make claims for input tax. The invoices were false because the underlying business was fictitious. There were purchases of electricity but they were sourced outside the EU. ASM did not submit monthly VAT returns as they were obliged and on which they would have been liable to pay VAT to the German tax authority. The warrant lists five invoices for the months of January to May 2011 inclusive purportedly issued by ASM to EP. The total sum invoiced was 19.4 million euros, of which the VAT component was 3.4 million euros.*
> "*(4) Using the fictitious invoices EP submitted false claims for input tax. As I have said, EP in fact made purchases of energy from other countries and sold on in particular to ABM. The electricity was resold by ABM into other countries VAT free, enabling ABM falsely to claim the input tax from the German tax authority.*
> "*(5) The loss to the German tax authority was 1.8 million euros…*
> "*… Maroof was a member of this organisation, which controlled the operation of this VAT carousel from Great Britain. Here he associated at least with the persons with the aliases 'Pablo', 'Roger' and 'Professor/ David' in order to evade VAT taxes on a Europe-wide scale by means of such carousels. The accused Maroof was one of those responsible for the company Envirigo AB, with headquarters in*

Sweden, which was conductive towards the carousel transactions by supplying Energy Plus GmbH with electricity. Together with the members of the organisation in Germany, the accused Maroof also organised the numerous invoice chains of the carousel."

13. The SRA's duly appointed expert, Krause & Kollegen, summarised the Respondent's conduct in the following way: *"The Nuremberg-Fürth Regional Court found that Mr Maroof's conduct constituted criminal assistance by omission to the tax evasion committed by those responsible at ASM, Energy Plus and ABM. Enverigo was a relevant part of the system, as it caused VAT-free deliveries of electricity from other EU countries to Energy Plus. Mr Maroof was the shareholder of Enverigo and its managing director. As principal, he had the duty to organise the operation of the company in such a way that no criminal contributions to the V AT carousel were made from within his company. Since he did not intervene against the participation in the V AT carousel made by the other managing director Sjöberg, he aided and abetted by failing to intervene. Mr. Maroof at least acquiesced in the fact that the ASM, Energy Plus, and ABM businesses were evading sales taxes by substantial amounts."*

14. The Respondent and others being extradited under the EAW had challenged its validity, initially before District Judge Goldspring and, on appeal, before the Divisional Court. That appeal was dismissed by Pitchford LJ and Cox J on 23 October 2014 (*Maroof et al v Germany* [2014] EWHC 3788 (Admin)). In doing so, the Court summarised the case against the Respondent as follows: "*Maroof was responsible for the supply of non-EU electricity to the conspirators. He was also implicated in the creation of false invoice chains… The allegation here is that it was the appellants who were manipulating the companies to commit the individual offences to which I have referred with the ultimate object of defrauding the German tax authority of input tax… In summary, it is alleged that the appellants controlled the activities of the companies that, in turn, failed to make returns, or alternatively made false returns, to the German revenue authority with the intention of making fraudulent claims.*"

15. It does not appear to have been contended in the extradition proceedings that extradition to Germany would infringe the Respondent's rights and freedoms as guaranteed by any of Articles 3 (Prohibition of torture), 5 (Right to Liberty and Security), 6 (Right to a fair trial) and 7 (No punishment without law) of the European Convention on Human Rights.

16. On the Respondent's account to the SRA he had maintained his innocence throughout the criminal proceedings, but ultimately agreed to a lesser charge in order to ensure that he could return to the UK quickly. He stated he agreed to a charge of "*aiding and abetting by omission*". The Respondent stated that he only agreed to the plea bargain because of a medical condition, which was worsened by spending 22 hours per day locked up in a cell. However, and as now set out in the Respondent's formal Answer to the Tribunal, the Respondent admits the allegations in full.

TThe conviction and judgment

17. By a judgment of the Nürnberg-Fürth Regional Court dated 23 October 2015, the Respondent was sentenced (according to the certified translation obtained by the SRA): "*… to a term of imprisonment of 2 years and 4 months on grounds of aiding and abetting in tax evasion in five specific cases, with two cases of tax evasion and with attempted tax evasion*". He was also ordered to "*bear the costs of the proceedings*". The judgment stated: "*In the first six months of 2011 the companies Enverigo AB, ASM Trading GmbH, Energy Plus GmbH, and ABM GmbH together with other companies were involved in electric current transactions which were undertaken with the sole purpose of evading Value Added Tax. For this purpose, under the leadership of one or more persons unidentified, a concerted system was set up. The defendant Maroof was involved in this in such a way that he, as the sole owner of Enverigo AB, and as Managing Director of Enverigo AB, after becoming aware of the illegal nature of the planned transactions, did not prevent Enverigo AB from becoming embroiled in the system. Within this system, ASM Trading GmbH evaded taxes in the total amount of 3,693,564.21€, Energy Plus GmbH 635,541.57€, and AMB Online GmbH 2,883,560.01€*". The judgment stated that it was based on a "*plea bargain.*"

18. The judgment stated under "*Findings in respect of the factual events*" that "t*he Defendant has admitted his contribution to the events in full"* and that "*the Chamber has no doubt with regards to the correctness of the Defendant's confession. The Defendant has provided statements rich in detail, and has also provided details with regard to the background of his involvement and of other background persons, which are conclusive in themselves. The statements by the Defendant accord with the other evidence provided… The statements by the Defendant also concur, moreover, with the results of the investigations undertaken by the witness public Attorney Koch*".

19. Under the heading, "*Legal assessment*", the Court went on to hold that: "*The Defendant is guilty of seven counts of aiding and abetting tax evasion and one count of attempted tax evasion by acquiescence*". The Court recorded a number of provisions of German law apparently broken by the Respondent in this regard.

20. In determining penalty, the Court identified as a mitigating factor the fact that the Respondent had made a "*full confession*".

21. The SRA's duly appointed expert, Krause & Kollegen, have also confirmed that: "*The judgement is based on a plea bargain. However, this does not imply a different standard in the clarification of the offence and the question of guilt. The court was convinced that Mr Maroof was guilty of the offences under conviction."*

Allegation 1.1 – aiding and abetting tax evasion in Germany
Status of the German convictions

22. It is fully acknowledged that:
    22.1. Rule 32(1) of the Solicitors (Disciplinary Proceedings) Rules 2019 is not engaged here because this was not "*a conviction for a criminal offence in the United Kingdom*".
    22.2. The wording of Rule 32(2) is materially different to earlier iterations of the rules (e.g. Rule 15(2) of the Solicitors (Disciplinary Proceedings) Rules 2007), which contained no such jurisdictional limitations, such that foreign convictions were automatically admissible as conclusive proof of guilt, at least in the absence of exceptional circumstances.[1]

23. It is nevertheless the SRA's case that the German convictions and judgment are admissible as conclusive proof of the Respondent's guilt and that, absent any exceptional circumstances, the Tribunal should not go behind the findings of the German criminal court but should take them at face value: Rak-Latos v General Dental Council [2018] EWHC 3503 (Admin) *per* Pepperall J at [24]-[27]. The proper way to challenge a criminal conviction is by way of an appeal: Shepherd v Law Society [1996] EWCA Civ 977. The SRA is not aware that the Respondent has appealed his German convictions at all, still less successfully. An email from his German lawyer dated 22 January 2020 indicates that no appeal was even attempted.

24. The inclusion of the words "*in the United Kingdom*" in Rule 32(1) cannot have been intended by Parliament to fetter the Tribunal's long-standing ability to discipline solicitors convicted of serious criminality in respectable jurisdictions. That would lead to absurdity – excluding reliance upon, for example, Manx, Channel Island and Gibraltar convictions (which, prior to 25 November 2019, would have stood as conclusive proof of the facts). Rather, it should be understood as a 'safety valve'; preventing automatic and unfair reliance on convictions: (i) from jurisdictions of dubious credibility, such as North Korea, the Russian Federation and Iran; and/or (ii) for 'offences' which are no longer offences under domestic law, such as blasphemy.[2]

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[1] For example, in El Diwany 11990-2019, the respondent was struck off for harassment offences committed in Norway (and for failing to disclose the same to the SRA). That outcome was upheld by Saini J on appeal to the High Court ([2021] EWHC 275 (Admin)), the learned judge noting (at [54]) that: "*Norway is a Council of Europe Member and party to the ECHR. In principle another state party like the UK is entitled to proceed on the basis that Norway's justice system is Article 6 and Article 10 compliant*". The Court of Appeal refused to grant Mr El Diwany permission to bring a further appeal.
[2] This is not however to say that there must necessarily be an equivalent offence under domestic law. In Tesler 11076-2012 the Respondent had admitted to and been convicted of bribery offences in the United States. At the time the offences were committed, there was no equivalent to them in English law of which Mr Tesler could have been convicted. The Tribunal nevertheless appears to have accepted the submission of Geoffrey Williams QC for the SRA that "*the United States was not a jurisdiction which should cause the Tribunal any concern*".

Breaches

25. The Respondent's criminal offending by participating in a VAT carousel fraud (even by acquiescence) constituted a serious failure to act with integrity, i.e. with "*moral soundness, rectitude and steady adherence to an ethical code*": Hoodless v Financial Services Authority [2003] UKFSM FSM007 at [19]. He therefore breached Rule 1.02 under the SRA Code of Conduct 2007.

26. In assessing whether an individual has shown a lack of integrity, their state of mind is a relevant (but not necessarily determinative) consideration. In Newell Austin v Solicitors Regulation Authority [2017] EWHC 411 (Admin), Morris J said (at [50]).

> "*At one extreme, if the person is unaware of the relevant conduct, there can be no lack of integrity. At the other extreme, actual knowledge or recklessness in the sense of being aware that the conduct posed a risk and consciously taking it, will be highly likely to give rise to a finding of lack of integrity. However I accept the SRA's submission that it is wrong to define lack of integrity as requiring recklessness. Lack of integrity does not necessarily involve risk taking. So for example, the solicitor who dips into the client account with the intention of putting the money back lacks integrity because a client account is sacrosanct and regardless of the risk of the money not being repaid.*"

27. In Wingate v Solicitors Regulation Authority [2018] EWCA Civ 366, the Court of Appeal held that:

> "*[100] Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty… a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse.*
>
> "*[101] The duty to act with integrity applies not only to what professional persons say, but also to what they do. It is possible to give many illustrations of what constitutes acting without integrity. For example, in the case of solicitors: i) A sole practice giving the appearance of being a partnership and deliberately flouting the conduct rules (Emeana); ii) Recklessly, but not dishonestly, allowing a court to be misled (Brett); iii) Subordinating the interests of the clients to the solicitors' own financial interests (Chan); iv) Making improper payments out of the client account (Scott); v) Allowing the firm to become involved in conveyancing transactions which bear the hallmarks mortgage fraud (Newell-Austin); vi) Making false representations on behalf of the client (Williams)…*
>
> "*[103]… A professional disciplinary tribunal has specialist knowledge of the profession to which the respondent belongs and of the ethical standards of that profession. Accordingly such a body is well placed to identify want of integrity. The decisions of such a body must be respected, unless it has erred in law.*"

28. The Respondent's offending was also contrary to Rule 1.06 of the Solicitors Code of Conduct 2007 ("*You must not behave in a way that is likely to diminish the trust the public places in you or the legal profession*"). Solicitors are officers of the Court. Members of the public do not expect officers of the Court to engage in or facilitate unlawful tax evasion either at home or abroad. Doing so is wholly unbefitting of a solicitor and liable to bring the profession into serious disrepute. In that regard, and while of course a matter for the Tribunal alone to determine, it is noteworthy that the German court appears to have proceeded on the assumption that the Respondent's professional career was "*in all likelihood*", at an end.

Allegation 1.2 – failure to cooperate with the SRA's investigation, adequately or at all

29. The correspondence between the SRA and the Respondent demonstrates that from 28 March 2018 to 15 May 2019, the Respondent did not reply, adequately or at all, to correspondence and enquiries from the Investigation Officer. This included: a statutory Notice under s44B of the Solicitors Act 1974 (as amended) dated 26 November 2018 requiring the production of information and documents**,** and an explanation with warning ('EWW') letter dated 1 April 2019 within the timescale specified.

30. It follows that the Respondent:
    30.1. breached Principle 7 of the SRA Principles 2011 ("*you must… comply with your legal and regulatory obligations and with your regulators and ombudsmen in an open, timely and co-operative manner*");
    30.2. failed to achieve Outcome 10.6 ("*you co-operate fully with the SRA and the Legal Ombudsman at all times including in relation to any investigation about a claim for redress against you*") and/or Outcome 10.8 ("*you comply promptly with any written notice from the SRA*") under the SRA Code of Conduct 2011.

Dishonesty

31. The SRA relies on the test for dishonesty confirmed by the Supreme Court in Ivey v Genting Casinos [2017] UKSC 67, which applies to all forms of legal proceedings:

> "*62 ... Successive cases at the highest level have decided that the test of dishonesty is objective. After some hesitation in Twinsectra Ltd v Yardley [2002] UKHL 12; [2002] 2 AC 164, the law is settled on the objective test set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan [1995] 2 AC 378: see Barlow Clowes International Ltd v Eurotrust International Ltd [2005] UKPC 37; [2006] 1 WLR 1476 ... The test now clearly established was explained thus in Barlow Clowes by Lord Hoffmann, at pp 1479-1480, who had been a party also to Twinsectra:*
>
> > *"Although a dishonest state of mind is a subjective mental state, the standard by which the law determines whether it is dishonest is objective. If by ordinary standards a defendant's mental state would be characterised as dishonest, it*

is irrelevant that the defendant judges by different standards. The Court of Appeal held this to be a correct state of the law and their Lordships agree." ...

"*74 ... The test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: see para 62 above. When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional 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 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 has done is, by those standards, dishonest.*"

32. In view of the repeated references in the judgment to the Respondent having "*acquiesced*" in the fraudulent actions of others (or words to that effect), the SRA emphasises that a finding of dishonesty against a solicitor does not necessarily require a finding that they are themselves guilty of fraud. It is sufficient that a solicitor has 'turned a blind eye' to fraud or to its obvious hallmarks: Metcalfe v Solicitors Regulation Authority [2021] EWHC 2271 (Admin).

33. It is the SRA's case that ordinary, decent people would regard the Respondent's conduct giving rise to his conviction as dishonest. Accordingly, the Tribunal is invited to find dishonesty as an aggravating feature of the misconduct.

34. In particular, the SRA relies upon the following aspects of the judgment:
    34.1. "*At the latest in November or December 2010, the Defendant recognised that his business partners were intending to integrate another company into the electricity business, regarding which he at least harboured the suspicion that this would function as a "missing trader", and would not be generating any VAT*"**.**
    34.2. Under the heading "*Wrongful intent on the part of the defendant*" – "*The defendant at least acquiesced in the fact that, as a result of the transactions… Value Added Tax would be unlawfully reduced by considerable amounts*".
    34.3. "*The defendant has admitted his contribution to the events in full.*
    34.4. "*The defendant is guilty of seven counts of aiding and abetting tax evasion and one count of attempted tax evasion by acquiescence.*"
    34.5. "*The defendant aided and abetted*" named individuals "*convicted elsewhere, in committing tax evasion by acquiescence. The defendant had control of all the shares in Enverigo AB, and was the Managing Director… therefore he served as a guarantor, since he was in a position to influence the operational organisation in such a way that operations-related criminal acts could have been prevented.*"

34.6. "*Even if the Defendant originally assumed that the planned transactions were legal, nevertheless, as from the time at which he realised that the transactions were aimed at Value Added Tax evasion, he should have taken measures which would have prevented*" a named individual "*convicted elsewhere, from being able to access any further contributions from Enverigo AB to the VAT carousel*".

34.7. "*The Defendant acted with wrongful intent. He at least acquiesced in awareness that the purpose of the system was, in an illegal manner, to derive a profit from the business by way of the German Value Added Tax*".

34.8. "*In an overall appraisal of the circumstances of the actions, the content of wrongful and culpable action of acquiescence is no less than that of active undertaking*".

34.9. "*The full confession by the Defendant has also been taken into account in his favour*".

34.10. "*Counting against the Defendant is the consideration that, in total, Value Added Tax to the amount of 7,212,665.79€ was unlawfully reduced. Also counting against the Defendant is the fact that the system which he supported here comprises a substantial organization and therefore criminal energy*".

D. Proposed sanction

35. Subject to the Tribunal's approval, it is agreed that the Respondent be struck off the Roll of solicitors.

36. The Respondent has admitted dishonesty. The Tribunal's "Guidance Note on Sanction" (9th edition), at paragraph 51, states that: *"A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin))."*

37. In *Sharma* at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

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

38. The case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors. The parties consider that in light of the admissions set out above, the proposed outcome represents a proportionate resolution of the matter which is in the public interest.

E. Costs

39. As noted above, subject to the approval of this agreed outcome proposal, it is agreed that the Respondent should pay £1,000.00 including VAT towards the SRA's costs of the application and enquiry. The SRA is satisfied that this is a reasonable and proportionate contribution by the Respondent in all the circumstances, and takes into account the Respondent's means.

Signed:

Name: Habib-ur-Rahmaan Maroof

Date: 26-05-2022

Signed:

Name: Mark Rogers, Partner, Capsticks Solicitors LLP
On behalf of the Applicant

Date: 27 May 2022