

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12333-2022

## BETWEEN:

GABRIEL YAAKOV  
(Formerly GABRIEL EZEH GABMAN)

Applicant

and

SOLICITORS REGULATION AUTHORITY LTD

Respondent

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Before:

Mr E Nally (in the chair)  
Miss H Dobson  
Mrs S Gordon

Date of Hearing:  
23 August 2022

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## Appearances

Khan Sepehar Ehtesham Khan, solicitor advocate of Adam Bernard solicitors for the Applicant.

Inderjit Johal, barrister of the Solicitors Regulation Authority for the Applicant

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## JUDGMENT ON AN APPLICATION FOR RESTORATION TO THE ROLL

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## **Executive Summary**

1. The Applicant, Mr Yaakov, applied for restoration to the Roll, having been struck off in 2009 following criminal convictions at Croydon Crown Court in 2008. Mr Yaakov was unsuccessful, and his application was refused. He was ordered to pay the SRA's costs of defending the application in the sum of £3,521.

## **Preliminary Issue – Applicant's name**

2. The Applicant's current name was Gabriel Yaakov. He had changed his name by deed poll from Gabriel Ezeh Gabman in 2012, though he continued to use his previous name for professional purposes. The Applicant told the Tribunal, under oath, that the change of name was for religious reasons but that he remained widely known as Mr Gabman.
3. The Applicant had been struck off the Roll in 2009 under his previous name, had lodged this application for restoration to the Roll in his previous name and had placed the advertisements required by Rule 17 of the SDPR 2019 in his previous name.
4. At the hearing, Mr Khan and Mr Johal agreed that it would have been preferable for the Applicant to have placed the advertisements referring to both names. However, Mr Johal did not object to the application proceeding, on the basis that the previous name was the name by which the Applicant had been known when he was in practice.
5. The Tribunal was content to proceed on this basis on this occasion, though it agreed that both names should ideally have been included in the advertisement. In view of the fact that the Applicant's legal name was Gabriel Yaakov, Tribunal documents, including this Judgment, describe the Applicant him as Gabriel Yaakov, formerly known as Gabriel Ezeh Gabman. During the hearing, at the Applicant's request, the Applicant was described and addressed as Mr Gabman.

## **Background**

6. On 8 October 2009, Mr Yaakov had been struck-off the Roll and ordered to pay costs in the sum of £1106.62.
7. On 21 November 2008 the Applicant had been convicted at Croydon Crown Court of two counts of assisting unlawful immigration into EU member states and one count of possession of a false identity document with intent. He had been sentenced to a total of four years imprisonment following his trial.
8. The allegation against the Applicant before the Tribunal had been that he had acted in breach of Rules 1.01, 1.02 and 1.06 of the Solicitors Code of Conduct 2007 by virtue of his conviction and imprisonment.
9. When sentencing the Applicant, the Judge had stated:

“You are a dishonest crook, swindler and cheat. You were a solicitor. You are a disgrace to that profession. People came to you looking for assistance, legitimate assistance and it is quite clear that you knew exactly what you were

doing. You paid scant regard to the laws of the land in relation to immigration ..... you preyed upon vulnerable people.”

10. On 25 May 2022 the Applicant had lodged an application for restoration to the Roll. He had placed advertisements in the Law Society Gazette and in Newham Voices and these met the requirements of the Tribunal’s rules. The Tribunal had received no contact from any members of the public in response to the advertisements.

### **Summary of Applicant’s Evidence and Submissions**

11. Mr Yaakov gave evidence in support of his application. He adopted his two witness statements as his evidence in chief.
12. Mr Yaakov told the Tribunal that he continued to maintain his innocence in relation to the criminal convictions. He had attempted to appeal and had been in contact with a firm of solicitors while he was still in prison. He had been unable to pursue the appeal for financial reasons as he had not been granted Legal Aid.
13. Mr Yaakov told the Tribunal that since his release from prison he had tried to obtain employment in the profession but without success. He explained that this was due to a reluctance on the part of firms to take him on having been struck-off. He told the Tribunal that he had approached approximately 400 firms, 200 of whom he knew personally, all unsuccessfully. One firm had taken him on in 2014 but had terminated the arrangement after five days. Mr Yaakov told the Tribunal that his current offer of the opportunity of employment to which he had referred in one of his witness statements was made by the same person who had briefly employed him in 2014. He had not spoken to her since then to re-confirm the offer, believing it would be inappropriate to do so until he had achieved restoration to the Roll. In cross-examination, Mr Yaakov told the Tribunal that he did not know that firms could have applied for permission from the SRA to employ him.
14. Mr Yaakov had re-taken his LLB and Legal Practice Course (LPC) and had taken a LLM since his strike-off. He had also worked pro bono as a housing adviser at a charity in Holborn and as an examination invigilator at Kings College. Mr Yaakov stated that he had not taken advice before embarking on his academic studies and that he put in the effort involved so as to avoid becoming stale in relation to the law. He told the Tribunal that he enjoyed representing people and being able to make a difference. In cross-examination, Mr Yaakov told the Tribunal that he had not taken any courses on the Code of Conduct since completing the LPC, which contained an ethics module, in September 2020.
15. Mr Yaakov told the Tribunal that the key lesson he had learned from the conviction and subsequent strike-off was to be much more careful about who he trusted. He told the Tribunal that he had been careless and had trusted the wrong people and that was what had led to his conviction. Mr Yaakov told the Tribunal that he remained well liked by former clients, former solicitor colleagues and members of his local community, notwithstanding the fact he had been convicted and struck-off the Roll.

16. In cross-examination, Mr Yaakov denied disrespecting the Crown Court but that he maintained he had not committed the offences for which he was convicted. Mr Yaakov told the Tribunal that he believed he had new evidence, by which he meant evidence that had come to light post-conviction, which he hoped to have considered on a future appeal, which he still intended to lodge if he was able to. This related to his conviction for assisting unlawful immigration into an EU Member State and consisted of two emails from his former employees, which he put before the Tribunal.
17. In relation to the conviction for possessing a false identity document with intent, Mr Yaakov told the Tribunal that this had come about when he obtained a Nigerian passport that he believed to be genuine, on account of his having applied for it through what he believed at the time were formal channels, but turned out to be false.
18. Mr Yaakov told the Tribunal that he had no testimonials from solicitors supporting his application. The reason for this was that he had not sought them because he tended to only know the individuals socially and so did not consider that they could offer a useful testimonial for him.
19. In submissions, Mr Khan told the Tribunal that the convictions were spent and that Mr Yaakov had been punished and served his sentence. As a result of those events, Mr Yaakov had become more careful. Mr Khan submitted that Mr Yaakov had been “vicariously liable”, rather than directly liable, as a result of trusting “blindly” the people who had worked with him.
20. Mr Khan submitted that the two most important reasons for Mr Yaakov being struck off were to uphold trust and confidence in profession and deterrence. There had been no gain for him or loss to another and the public had not made complaints against him.
21. Mr Khan submitted that the work undertaken by Mr Yaakov involved being in positions of responsibility and trust. He compared the role of exam invigilator as similar to the role of the SRA as the invigilator of solicitors.
22. Mr Khan addressed the point made by Mr Johal about the lack of testimonials. He submitted that people who would have been otherwise willing to help him were scared of being investigated if they did so. In addition, nobody could vouch 100% for someone’s credibility unless they were with them all the time.
23. Mr Khan submitted that Mr Yaakov had learnt his lesson and the SRA could keep a close eye on him should he return to the Roll. He submitted that it was not in the interests of the profession to keep Mr Yaakov off the Roll. Mr Khan drew an apparent analogy between these circumstances and that of someone convicted of rape in that such an individual was eventually readmitted to society without restrictions. Mr Khan submitted that there was no evidence to suggest that public confidence would be marred or compromised by Mr Yaakov being restored to the Roll. If there was then this would have been apparent by way responses to the advertisements. Mr Khan told the Tribunal that Mr Yaakov still hoped to lodge an appeal and indeed was doing so “indirectly” by maintaining his innocence.
24. Mr Khan invited the Tribunal to carry out a subjective analysis and to restore Mr Yaakov to the Roll.

## Summary of Respondent's Submissions

25. Mr Johal opposed the application and submitted that public confidence was of “cardinal importance”. Mr Johal submitted that the main reason for opposing the application was that the conduct was so serious that it would undermine public confidence to restore Mr Yaakov to the Roll. He submitted that this was not an exceptional case.
26. Mr Yaakov had been convicted of two offences of dishonesty and received a substantial custodial sentence, a reflection of how seriously the offences were regarded. Mr Johal referred the Tribunal to SRA v Kaberry [2012] EWHC 3883 (Admin) in relation to Mr Yaakov’s continued denial of his guilt in respect of the convictions. He noted that at [66] Elias LJ stated:
- “I do not say, as Mr Dutton submitted, that it would be impossible to demonstrate that one had rehabilitated sufficiently to be restored to the Roll if there was still denial of any wrongdoing. But I do accept that such denial will obviously be an important factor.”
27. Mr Johal submitted that Mr Yaakov’s evidence cut across the jury’s findings. There were no exceptional reasons to go behind the convictions and Mr Yaakov had provided no fresh evidence, contrary to his submissions. Mr Johal submitted that the emails were not probative and should be given little weight.
28. In relation to rehabilitation, Mr Johal submitted that one would usually expect to see detailed evidence of rehabilitation within the profession. The potential offer of employment was eight years old, Mr Yaakov had provided no testimonials from the person making the offer or even confirmation that she was aware of the application for restoration. Mr Johal described it as “surprising” that no testimonials had been provided from solicitors, former clients or anyone in a position of trust.

## The Tribunal's Decision

29. The Tribunal had regard to the relevant section of the Guidance Note on Other Powers of the Tribunal (5<sup>th</sup> Edition – December 2021), which set out the relevant factors to be considered when determining an application for restoration to the Roll.
30. The basis of the decision to strike Mr Yaakov from the Roll in 2009 had been the criminal convictions referred to above. The Tribunal reminded itself of Rule 32(1) of the SDPR 2019:
- “32.—(1) A conviction for a criminal offence in the United Kingdom may be proved by the production of a certified copy of the certificate of conviction relating to the offence and proof of a conviction will constitute evidence that the person in question was guilty of the offence. The findings of fact upon which that conviction was based will be admissible as conclusive proof of those facts save in exceptional circumstances.”
31. The Tribunal noted that Mr Yaakov continued to deny his guilt in relation to the convictions, though he accepted he had been convicted. The convictions stood as conclusive proof of his guilt, save in exceptional circumstances. The Tribunal

considered whether Mr Yaakov's evidence or submissions amounted to exceptional circumstances, such as would permit the Tribunal to go behind the convictions. The Tribunal found no exceptional circumstances for a number of reasons.

32. Firstly, Mr Yaakov had not lodged an appeal against either conviction. The Tribunal noted his evidence relating to funding, but it also noted that an appellant did not require representation to lodge an application for leave to appeal. Mr Yaakov had, however, undertaken his LLB, LLM and LPC, no doubt at some considerable expense – money that could have been put towards representation in an appeal.
33. Secondly, the Tribunal rejected the submission that Mr Yaakov had presented evidence to the Tribunal that cast doubt on his convictions. The two emails he relied on were dated 2010 and 2014 respectively, so while they post-dated the trial they were not matters that had recently come to light. They were vague, did not address the specifics of the offence relating to assisting unlawful immigration into the European Union and were irrelevant to the possession of the false passport with intent offence. The accounts given in the emails were not supported by any witness statement and even if they had been, the contents as set out in the emails were of no probative value.
34. Thirdly, the concept of vicariously liability was not applicable to these convictions, both of which required proof beyond reasonable doubt of intent. Mr Yaakov had not been convicted vicariously of either offence. The Tribunal rejected the submissions as to vicarious liability as flawed.
35. The biggest hurdle to Mr Yaakov's application was the seriousness of the convictions, which had come after a contested trial and had not been appealed, and which had resulted in a substantial term of imprisonment. Mr Yaakov had told the Tribunal that he still had hopes of being able to mount a successful appeal against the convictions. The Tribunal noted Rule 32(3) of the SDPR 2019, which stated:

“(3) Where the Tribunal has made a finding based solely upon the certificate of conviction for a criminal offence which is subsequently quashed the Tribunal may, on the application of the Law Society or the respondent to the application in respect of which the finding arose, revoke its finding and make such order as to costs as appear to be just in the circumstances.”
36. The effect of this was that if Mr Yaakov was to have his convictions quashed successfully, he had a remedy under Rule 32(3) to apply at that stage to the Tribunal to revoke its 2009 finding.
37. The Tribunal considered the submissions as to rehabilitation. The Tribunal considered the analogy with a defendant convicted of rape to be unhelpful and unfortunate. The circumstances were entirely different.
38. The Tribunal recognised that credit was due to Mr Yaakov for the efforts he made to pursue his legal studies and obtain gainful employment. The Tribunal noted Mr Yaakov's voluntary role and his work with the OISC regulated firm. Mr Yaakov had not been able to secure gainful employment in legal profession, which he would have been able to do if he persuaded people to apply for permission to employ him. The result was that the work Mr Yaakov had done was very thin in context of legal skills.

39. Mr Yaakov had not put any evidence before the Tribunal that any solicitor was willing to employ him. The potential offer made to him in 2014 to apply for the role of caseworker was not a guarantee of a job. Further, it was eight years since that offer had been made and he had not re-confirmed it before making this application.
40. The Tribunal was troubled by the low level of insight shown by Mr Yaakov into the convictions, for the reasons set out above in relation to his attitude towards the jury's findings. The Tribunal concluded that a fit and proper member of the profession would need to appreciate the seriousness of the conduct that led to the convictions, particularly as the conviction for facilitating illegal entry into the European Union related directly to his work as a solicitor.
41. The Tribunal recognised that there was no evidence of any loss to clients (save for the judge's reference to those who had sought his advice prior to his conviction) and that there had been no responses to the advertisements placed by Mr Yaakov as part of this application.
42. The Tribunal reminded itself of Bolton v Law Society [1994] 1 WLR [512] at [15]:

“To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires.”
43. The key question for the Tribunal was whether the confidence of the public could be maintained if Mr Yaakov was re-admitted in light of the criminal convictions for which he was struck off. Taking all the above factors into account, the Tribunal was not satisfied that Mr Yaakov was a fit and proper person to be restored to the Roll and his application was therefore refused.

### **Costs**

44. Mr Johal sought the SRA's costs in the sum of £3,521, which were set out in the costs schedule served prior to the hearing. Mr Johal confirmed that the anticipated disbursements had been incurred.
45. Mr Khan submitted that Mr Yaakov had suffered “enough of a blow” by losing his application. He was earning £400 per week and had no significant capital or assets. Mr Khan invited the Tribunal to make no order for costs, such that each party would bear their own costs.

### The Tribunal's Decision

46. Mr Yaakov had been unsuccessful in his application and so the starting point was that an order for costs ought to be made in the SRA's favour. The Tribunal considered the

Respondent's costs schedule and was satisfied that the work undertaken was reasonable and proportionate.

47. Mr Yaakov had given evidence as to his means, which had not been challenged. He would have known that if he brought the application unsuccessfully that he would face a costs order. The costs were modest and the Tribunal was not satisfied that there was any good reason to shift the burden of defending the application onto the profession. The Tribunal therefore ordered that Mr Yaakov pay the costs fixed in the sum of £3,521 as claimed.

### **Statement of Full Order**

48. The Tribunal Ordered that the application of GABRIEL YAAKOV, formerly known as GABRIEL EZEH GABMAN for restoration to the Roll of Solicitors be **REFUSED** and it further Ordered that the Applicant do pay the costs of and incidental to the response to this application fixed in the sum of £3,521.00.

Dated this 16<sup>th</sup> day of September 2022

On behalf of the Tribunal



E Nally  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**16 SEPT 2022**