The Tribunal's decision dated 28 March 2024 is subject to appeal by the High Court (Administrative Court). The Order remains in force pending the High Court's decision on the appeal.

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12498-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

MICHAEL JOHN LITTLE Respondent

Before:

Mrs C Evans (in the chair)
Mr J Abramson
Ms K Wright

Date of Hearing: 31 January – 2 February 2024

Appearances

Andrew Bullock, barrister of the Solicitors Regulation Authority Ltd for the Applicant.

The Respondent represented himself on 31 January 2024.

JUDGMENT

Allegations

1. The allegations against Mr Little were that having been admitted as a Solicitor of the Senior Courts:

1.1 On 10 April 2018 he was convicted by the United States District Court (Southern District of New York), after trial, of 19 counts, including 12 counts alleging that on dates between 2001 and 2012 he:

1.1.1. Conspired with others to defraud the Internal Revenue Service of the United States of America ("the IRS"). (one Count).

1.1.2. Had corruptly obstructed the due administration of the IRS. (one Count)

1.1.3. Aided and assisted the preparation of false IRS forms (ten Counts).
and in doing so he breached Principles 2 and/or 6 of the SRA Principles 2011 ("the 2011 Principles").

PROVED

1.2 His actions, as referred to in relation to the 11 counts included at paragraphs 1.1.2 and 1.1.3 for which he was convicted, involved him making statements to third parties in correspondence dated 1 July 2011 and/or 28 October 2011, using his status and letterhead as a solicitor of England and Wales, that were misleading and which he knew, or ought to have known, were liable to be misleading. In doing so he thereby:

a) Insofar as such conduct took place on or around 1 July 2011, or up to and including 5 October 2011, breached Rule 1.02 and/or Rule 1.06 of the Solicitors' Code of Conduct 2007 ("SCC 2007")

b) Insofar as such conduct took place on or around 28 October 2011, or on or after 6 October 2011, breached Principles 2 and/or 6 of the 2011 Principles.

PROVED

The SRA relied both upon the fact of Mr Little's convictions and the facts and matters found proven in the findings of the Court.

1.3 In addition, dishonesty was alleged in relation to Mr Little's conduct referred to at Allegations 1.1 (1.1.1 to 1.1.3) and 1.2. Dishonesty was alleged as an aggravating feature in relation to the misconduct but was not an essential ingredient in proving the Allegations, with proof of dishonesty not required to establish that Mr Little was duly convicted of the offences in question under US law.

PROVED – 1.1/1.2

Executive Summary

2. Mr Little was convicted in the USA of the offences set out in the Allegations and below. He sought to have the proceedings before the Tribunal stayed for lack of jurisdiction, but this was refused. Mr Little attended part of the substantive hearing. The Tribunal found the Allegations proved in full.

Sanction

3. Mr Little was struck off the Roll and was ordered to pay £11,393.25 in costs.

Documents

4. The Tribunal considered all of the documents in the case which were included in an electronic bundle.

Preliminary Matters

5. Application to prohibit the Respondent from making an application to stay proceedings

5.1 At a Case Management Hearing (CMH) held on 23 November 2023, Mr Little had submitted that the proceedings against him should be stayed. As part of those submissions, he had argued that the Tribunal had no jurisdiction to hear the case against him. The Tribunal at that CMH had directed that this issue be dealt with at a hearing on 31 January 2024, to be followed, if his argument was unsuccessful, by the substantive hearing commencing the following day. The Tribunal made the following direction on this point;

> *"By no later than 4:30 p.m. on Tuesday 7 December 2023 Mr Little is to file and serve a document, supported with relevant law and authorities, setting out his jurisdictional challenges to the instant proceedings."*

5.2 Mr Little had not complied with that direction. Instead, on 7 December 2023 he had written to the Tribunal stating that he declined to take further part in the proceedings.

5.3 On 7 January 2024 Mr Little sent the Tribunal and the SRA a 'Letter before Claim', indicating his intention to seek a judicial review of the Tribunal's decision of 23 November 2023 unless the Tribunal stayed the proceeding and/or the SRA withdrew the proceedings until the resolution of matters before the Bar Standards Board and his ongoing appeals in the United States of America.

5.4 On 25 January 2024 Mr Little had lodged an application for judicial review, including an application for urgent consideration. The matter was considered by Ritchie J on 30 January 2024, who made the following Order;

> *"1. The application for urgent consideration is refused.*
> *2. The application for interim relief is refused.*
> *3. The application for permission to apply for judicial review is refused.*
> *4. No order for costs."*

5.5 The matter therefore remained listed for a hearing before the Tribunal starting on 31 January 2024. Mr Bullock, on behalf of the SRA, applied for Mr Little to be barred from making an application for a stay on the grounds that he had failed to comply with the directions made by the Tribunal on 23 November 2023.

5.6 In the course of submissions on this application, both parties covered much of the ground in relation to the substantive application for a stay. Those elements of the submissions are set out under separate headings below so that the arguments advanced in respect of each application advanced are easier to follow. Therefore, only those relevant to the application to bar Mr Little are summarised under this heading.

Applicant's Submissions

5.7. Mr Bullock submitted that the starting point was that Mr Little had failed to comply with the direction made at the CMH on 23 November 2023. The Tribunal, therefore, should not entertain any application for a stay. It should instead proceed to hear the substantive hearing, which was listed for the following day.

5.8 Mr Bullock told the Tribunal that there was no properly formulated application to stay or dismiss these proceedings on basis of lack of jurisdiction. Mr Bullock submitted that what Mr Little had presented amounted to complaints made without reference or authority and which were incoherent. Mr Bullock submitted that clear directions had been made and ignored, and Mr Little could not expect to turn up at the hearing expecting to be heard in those circumstances.

5.9 Mr Bullock told the Tribunal that there were four issues foreshadowed by Mr Little in correspondence, which he submitted were neither correct nor supported by any authority. Mr Bullock submitted that Mr Little's approach to the proceedings was disorderly and disruptive and should not be permitted.

Respondent's Submissions

5.10 Mr Little told the Tribunal that, at the CMH in November and in correspondence prior to that, he had made clear his position that the Tribunal had no jurisdiction over him. The reasons for this position were set out in the correspondence to which Mr Bullock had referred. Mr Little described himself as a "former solicitor" although he conceded that he had paid £25 in 2014 to remain on the Roll.

5.11 Following the CMH, Mr Little had indicated that he would be seeking a judicial review of the decisions take at that hearing. Mr Little submitted that he was in poor health and was of limited resources. The application for judicial review had only been determined the day before this hearing.

5.12 In response to a request for clarification from the Tribunal, Mr Little confirmed that, in the time between the CMH and this hearing, he had been engaged on the judicial review matter and the appeals process in the USA.

The Tribunal's Decision

5.13 The Tribunal had regard to the overriding objective, set out in Rule 4(1) of the Solicitors (Disciplinary Proceedings) Rules 2019 ("SDPR 2019").

5.14 Mr Little's failure to comply with the Tribunal's directions was a serious matter and was highly regrettable. Tribunal directions were of paramount importance and failure to comply with them without good reason would often be fatal to a subsequent application that had been the subject of those directions.

5.15 The Tribunal considered each case on its own facts. It noted that Mr Little was not represented and that he had distilled the four grounds of his application in his letter before claim dated 7 January 2024. The Tribunal noted that Mr Bullock had clearly been able to engage with those grounds and respond to them. He had done so in responding to the application for judicial review and had addressed them in detail in the course of his submissions as to non-compliance with directions. In this instance, therefore, it was evident that the SRA was not prejudiced by the failure to comply with the directions and could argue its position in an effective manner.

5.16 The Tribunal also noted that allowing Mr Little to make oral submissions in support of his argument that proceedings should be stayed would not derail the substantive hearing in the event that he was unsuccessful.

5.17 The Tribunal therefore refused Mr Bullock's application and proceeded to hear and consider the application for a stay.

6. Application to stay proceedings

Mr Little's Submissions

6.1 In his letter before claim dated 7 January 2024, Mr Little set out the four grounds on which he relied in support of his application for a stay.

Ground 1:
The SRA's powers do not extend to former solicitors.

Ground 2:
Conviction remains under appeal in New York and therefore remains sub judice and accordingly is not ripe for review.

Ground 3:
Claimant is a Respondent in parallel proceedings brought by his regulator, the Bar Standards Board, to be proved to the criminal standard; SDT tribunals are to be proved to the civil standard.

Ground 4:
SRA statutory powers are limited to powers to sanction solicitors for criminal offences committed in England and Wales.

6.2 In respect of Ground 1, Mr Little submitted that he was a barrister and a former solicitor and that the SRA (and, by extension, the Tribunal) therefore had no jurisdiction over him. Mr Little told the Tribunal that he had been a solicitor on 1 July 2011, but had ceased to be so from 4 July 2011. Therefore, arguably, the only part of the Allegations that the Tribunal could consider would be those relating to the letter dated 1 July 2011.

6.3 Mr Little referred the Tribunal to a request to come off the Roll in 2014 which he claimed had not been actioned by the SRA.

6.4 Mr Little's remaining grounds were without prejudice to his position in respect of Ground 1.

6.5 In respect of Ground 2, Mr Little's submission was essentially that the Tribunal proceedings should be stayed until the conclusion of the appeal process in the USA relating to his convictions. He submitted that until that had occurred, the matters were 'sub judice'. This was a reference to a petition of 'Coram Nobis' that Mr Little had filed with the court in the USA. If granted, this was a legal order allowing a court to correct its original judgment upon discovery of a fundamental error that did not appear in the records of the original judgment's proceedings and that would have prevented the judgment from being pronounced. Mr Little told the Tribunal that this petition was still under consideration by the Judge in the District Court. Until it was determined, he submitted, the Tribunal could not proceed to consider the Allegations brought by the SRA.

6.6 In respect of Ground 3, Mr Little told the Tribunal that he was also facing proceedings brought by the Bar Standards Board (BSB) relating to the convictions in the USA. There was no date for when those matters may be heard. Mr Little submitted that it was a breach of natural justice and of his Article 6 rights to have the Tribunal matters proceed while the proceedings brought by the BSB were extant. Mr Little referred the Tribunal to R v Senior Coroner [2020] UKSC 46.

6.7 Mr Little noted that the Bar Tribunal Adjudication Services (BTAS), which would hear the case brought by the BSB, still applied the criminal standard of proof (beyond reasonable doubt), in contrast to this Tribunal, which applied the civil standard (balance of probabilities). Mr Little submitted that a situation could arise where this Tribunal found matters proved and the BTAS found matters not proved, meaning he would have different decisions on the same facts. Mr Little described such a scenario as absurd and illogical and one that would undermine confidence in the legal profession. Mr Little submitted that he could not have a fair hearing as he was unable to call witnesses before this Tribunal, but he was able to do so in the BTAS. Mr Little submitted that there was no prejudice to the SRA in this matter being adjourned until the conclusion of the BSB proceedings before the BTAS.

6.8 In relation to Ground 4, Mr Little submitted that the Tribunal had no jurisdiction to impose sanctions on him for convictions outside England and Wales, as Rule 32(1) of the SDPR 2019 was not engaged given that the convictions were in the USA. Mr Little submitted that the submission by the SRA in the Rule 12 Statement that the limitation was a *"safety valve"* to prevent reliance on convictions in *"jurisdictions of dubious credibility, such as North Korea, the Russian Federation and Iran"* did not assist it as conviction rates in the USA were 99.7%. Mr Little had stated in his letter before action

that *"a defendant in a North Korean, Russian or Iranian criminal trial has a far better chance of acquittal than in the United States."*

Applicant's Submissions

6.9 Mr Bullock opposed all four grounds advanced by Mr Little.

6.10 In respect of Ground 1, Mr Bullock submitted that Mr Little's position was "surprising" in that in his letter before action, Mr Little had accepted the definition of a solicitor under the Code of Conduct as being someone who has been admitted as a solicitor and is on the Roll.

6.11 In respect of Ground 2, Mr Bullock submitted that there was no explanation as to why a pending 'Coram Nobis' petition meant that the Tribunal had no jurisdiction. Mr Bullock submitted that the fact that a form of appeal was pending in another jurisdiction did not deprive this Tribunal of jurisdiction to hear allegations of professional misconduct.

6.12 Mr Bullock submitted that if Mr Little's convictions were to be overturned, there were a number of options open to him to have the Tribunal's decision revisited.

6.13 In respect of Ground 3, Mr Bullock submitted that it was not clear why the different standards of proof applied by different tribunals deprived this Tribunal of jurisdiction. Mr Bullock submitted that different regulators applied different codes of conduct and there was no basis to argue that one should be deprived of bringing a case because the relevant tribunal had adopted a different standard of proof.

6.14 In respect of Ground 4, Mr Bullock submitted that Mr Little's attempts to bracket the District Court with Iran or North Korea as "risible". Mr Bullock submitted that if convictions for serious offending outside the United Kingdom fell outside the Tribunal's jurisdiction, then that would mean that a solicitor guilty of such offences could not be sanctioned by the Tribunal. Mr Bullock submitted that Rule 32(1) dealt with admissibility and not jurisdiction.

6.15 Mr Bullock referred the Tribunal to Re: A Solicitor (Ofosuhene) [1997] CO 2860/96 in support of his opposition to Mr Little's submissions.

The Tribunal's Decision

6.16 The basis of Mr Little's application for a stay was that the Tribunal lacked jurisdiction to hear the Allegations against him. In determining this application, the Tribunal had regard to the oral and written submissions of the parties, and it considered each Ground advanced by Mr Little in turn.

6.17 In respect of Ground 1, the Tribunal noted that Mr Little appeared to have conflated being on the Roll with having a practising certificate. It was entirely possible to be on the Roll but not to hold a practising certificate. Therefore, any parts of Mr Little's grounds that relied on that distinction were made on a mistaken basis and rejected. It was not sufficient for a solicitor wishing to come off the Roll to simply describe

themselves as a "former solicitor". It required a formal application to be made and granted before this could happen.

6.18 Mr Little had been admitted to the Roll in 2008 and remained on it as at the date of this hearing. The Tribunal noted the contents of the witness statement of Philip Conlon, Team Leader in the SRA Authorisation Department. Mr Little had not exercised his right to notify the SRA that he wished to cross-examine Mr Conlon, and the Tribunal was therefore entitled to give full weight to Mr Conlon's evidence. In that statement, Mr Conlon had stated:

> *"6. A copy of the Summary tab from Mr Little's SRA record is exhibited to this statement as Exhibit PC1. This shows that he was admitted to the Roll on 15 October 2008 and remains on the Roll."*
>
> *"8. A copy of the Applications & Cases Tab from Mr Little's SRA record is exhibited to this statement as Exhibit PC3. This shows only two completed applications or cases. One related to Mr Little confirming his remaining on the Roll in 2014. The second is his application on 17 September 2022 for removal from the Roll, that I was considering. There were no other applications for removal from the Roll shown on the SRA records.*
>
> *9. The 2014 record relates to a 'Keeping of the Roll' exercise that the SRA ran in that year. The SRA records show that Mr Little paid the £20 fee that was payable by all solicitors remaining on the Roll but without a practising certificate, with the case being completed on or around 21 June 2014. A copy of an overview page from those records is exhibited to this statement as Exhibit PC4."*

6.19 The Tribunal found that the evidence showed that Mr Little was on the Roll and had been so since 2008, without interruption. That time period spanned the dates of the criminal offences for which he had been convicted in the USA.

6.20 On the basis that Mr Little was on the Roll, he was within the definition of a "solicitor" in the Solicitors Act 1974, and therefore fell under the regulatory jurisdiction of the SRA and the disciplinary jurisdiction of the Tribunal.

6.21 The fact that Mr Little was also a barrister was of no relevance. There was nothing in the Solicitors Act 1974 that referred to an individual ceasing to be a solicitor by reason of being called to the Bar. The consequence of Mr Little being dual-qualified as a solicitor and barrister, in circumstances where he had not come off the Roll, was that he fell under the jurisdiction not only of the SRA but also the BSB.

6.22 The Tribunal therefore rejected Ground 1.

6.23 The Tribunal moved on to consider Ground 2. It noted that Mr Little had already been unsuccessful in two appeals. The 'Coram Nobis' petition was a challenge to the decision of the Court but was not an appeal. There was no evidence that the 'Coram Nobis' procedure meant that discussion of the convictions was 'sub judice'. In any event, the basis of Ground 2 was flawed. Even if Mr Little did have appeal proceedings

pending, there was no authority or statutory basis to lend support to his submission that the Tribunal had no jurisdiction over him until those appeals were exhausted.

6.24 If, in due course, the Tribunal went on to make adverse findings based on those convictions and if those convictions were subsequently quashed, then Mr Little had various remedies open to him at that stage.

6.25 The Tribunal therefore rejected Ground 2.

6.26 In relation to Ground 3, Mr Little had provided no authority to support his submissions. The fact that proceedings were also being pursued by the BSB did not deprive the Tribunal of jurisdiction. The Tribunal would delay matters only if it was satisfied that to proceed would 'muddy the waters of justice'. That was a different question to that of jurisdiction. In any event, the Tribunal did not see how the waters of justice would be muddied by the proceedings continuing before this Tribunal. The BSB operated a separate code of conduct and the BTAS would make its own determinations based on that code and in line with its own procedures.

6.27 The fact that that the BTAS applied a different standard of proof was factually correct, but Mr Little had not demonstrated how that deprived this Tribunal of jurisdiction or how it breached his Article 6 rights. He had not explained how R v Senior Coroner assisted his submissions.

6.28 The Tribunal therefore rejected Ground 3.

6.29 In respect of Ground 4, the Tribunal noted that Rule 32(1) was an evidential rule and not a jurisdictional limitation. The fact that the conviction did not take place in the United Kingdom did not mean that the SRA could not take any action in respect of it – such a proposition would run entirely contrary to public policy. If Rule 32(1) was not engaged, all that meant was that the conviction amounted to proof, but not conclusive proof of the conduct alleged. The Tribunal addressed that point during the substantive hearing. For these purposes, the Tribunal was clear that the absence of Rule 32(1) engaged did not mean that the Tribunal had no jurisdiction to hear the case.

6.30 The Tribunal dealt with the submission about "safety valves" and jurisdictions such as Iran and North Korea when it considered whether Rule 32(1) was engaged during the substantive hearing. The key determination at this stage was that these were evidential points, not jurisdictional ones.

6.31 The Tribunal therefore rejected Ground 4.

6.32 The Tribunal refused Mr Little's application for a stay of proceedings.

7. Application for adjournment

7.1 In the course of his submissions in respect of his application for a stay, Mr Little invited, presumably in the alternative, the Tribunal to adjourn the substantive hearing until the conclusion of his 'Coram Nobis' petition and the BSB proceedings. Mr Bullock opposed that application.

7.2 The Tribunal had regard to the Guidance Note to Rule 23 (Adjournments) – 6 November 2019. As noted above, the circumstances in which parallel proceedings would justify an adjournment were rare, as set out in paragraph 6:

> *"The existence or possibility of criminal proceedings unless the criminal proceedings relate to the same or substantially the same underlying facts as form the basis of the proceedings before the Tribunal AND there is a genuine risk that the proceedings before the Tribunal may 'muddy the waters of justice' so far as concerns the criminal proceedings. Proceedings which are not imminent will not usually meet this criterion. Civil proceedings are even less likely to do so."*

7.3 The proceedings brought by the BSB were clearly not criminal proceedings and the criminal proceedings in the USA were concluded. The petition of 'Coram Nobis' did not amount to criminal proceedings.

7.4 There was a public interest in the serious allegations faced by Mr Little being determined in a reasonable timescale. There was no basis on which an adjournment could be justified, and the Tribunal refused this application.

8. Application to proceed in absence

8.1 During the course of submissions in relation to the application to stay proceedings, on the first day of the hearing, Mr Little told the Tribunal that he would not be returning the following day as he was "exhausted by the proceedings".

8.2 Subsequent to that, at lunchtime, Mr Little indicated that he was not feeling well and would be unable to return for the afternoon. The Tribunal adjourned the matter until the following morning. Mr Little was sent a copy of the Guidance Note to Rule 23 by the clerk.

8.3 On the second day of the hearing (which was also listed as the first day of the substantive hearing), Mr Little did not attend. Mr Little had provided the Tribunal with a GP's fitness to work note the previous afternoon. This referred to him suffering from exhaustion and stress. The Tribunal decided to put the matter back until 12 noon to give Mr Little the opportunity to attend or provide further medical evidence if he was not intending to attend. This time would also allow him to make any submissions he wished in relation to Ofosuhene, to which Mr Bullock had referred the previous day before the luncheon adjournment. At 12 noon, if Mr Little was not present, the Tribunal would hear an application to proceed in absence. Mr Little was emailed by the clerk to inform him of the Tribunal's decision.

8.4 Mr Little did not attend the hearing thereafter. By the time the Tribunal resumed at 12 noon, it had received an email from Mr Little informing it that he was awaiting a referral to a psychiatrist. Mr Bullock duly applied to proceed in the absence of Mr Little.

Applicant's Submissions

8.5 Mr Bullock submitted that the email from Mr Little and the fit note from his GP was not accompanied by an application to adjourn the hearing to obtain the reasoned opinion

of an appropriate medical examiner. Mr Bullock reminded the Tribunal that Mr Little had indicated an intention not to attend, prior to complaining of ill-health.

8.6 Mr Bullock submitted that there was little evidence of ill-health. The fit note did not state that Mr Little was unfit to take part in proceedings and the complaint referred to the previous day in Court related to physical rather than mental health issues.

The Tribunal's Decision

8.7 The Tribunal considered the representations made by the Applicant. Mr Little was aware of the date of the hearing as he had been present the day before, and SDPR Rule 36 was therefore engaged. The Tribunal had regard to the criteria for exercising the discretion to proceed in absence as set out in R v Hayward, Jones and Purvis [2001] QB 862, CA by Rose LJ at paragraph 22 (5) which states:

> *"In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case including, in particular:*
>
> *(i) the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;*
> *(ii) …;*
> *(iii) the likely length of such an adjournment;*
> *(iv) whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;*
> *(v) …;*
> *(vi) the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;*
> *(vii) …;*
> *(viii) …;*
> *(ix) the general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;*
> *(x) the effect of delay on the memories of witnesses;*
> *(xi) …;"*

8.8 In GMC v Adeogba [2016] EWCA Civ 162, Leveson P noted that in respect of regulatory proceedings there was a need for fairness to the regulator as well as a respondent. At [19] he stated:

> *"…It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage with the process. The consequential cost and delay to other cases is real. Where there is good reason not to proceed, the case*

should be adjourned; where there is not, however, it is only right that it should proceed".

8.9 Leveson P went on to state at [23] that discretion must be exercised:

> "*having regard to all the circumstances of which the Panel is aware with fairness to the practitioner being a prime consideration but fairness to the GMC and the interests of the public also taken into account*".

8.10 The Tribunal acknowledged that Mr Little was not practising and was therefore not a risk to the public. It was also the first listing of the matter and Mr Little had complained of ill-health at lunchtime the previous day.

8.11 The Tribunal noted that there was no application to adjourn on the grounds of health and that Mr Little had indicated that he would not be attending the hearing. At the time he had given that indication he had not suggested that he was unfit to attend or not well enough to participate in the proceedings. There was no medical evidence to suggest that he was unfit to attend. The fit note referred to unfitness to work but did not deem him unfit to attend a remote hearing.

8.12 In the absence of suitable medical evidence, the Tribunal took into account that Mr Little had not complied with any directions in the proceedings thus far. There was no prospect of compliance with future directions that the Tribunal may issue, for example if it directed him to serve medical evidence by a certain date. There was no guarantee he would attend any future hearing given his indication the previous day that he would not be attending the rest of the hearing in any event.

8.13 The potential prejudice to proceeding was that Mr Little had not yet responded to Ofosuhene, on which Mr Bullock had relied at a late stage in his submissions. However, Mr Little had addressed the Tribunal orally the previous day and had been given the opportunity to either attend or make written submissions on this authority.

8.14 If it turned out that he was not fit to attend, Mr Little had a remedy in the form of the right to apply for a re-hearing under Rule 37 of the SDPR 2019.

8.15 The Tribunal therefore granted the application to proceed in absence. It then proceeded to determine the application for the stay, the details of which are set out above under separate heading.

8.16 The Tribunal, having refused the application for a stay, had proceeded to hear the opening of the SRA's case. Mr Bullock closed the SRA's case at approximately 1.55pm the same day. The Tribunal then retired to deliberate until the following morning.

8.17 At approximately 2.50pm, the Tribunal's attention was drawn to an email received from Mr Little at 1.15pm, when the hearing had been in progress. This email attached a letter from Dr Brian Wells, a Consultant Psychiatrist which stated:

> *"This 74 year old lawyer has been well known to me for over 30 years. He is currently in a state of high stress and exhaustion. He has been advised by his GP and therapist to avoid stressful and work-related situations until further*

notice. I am mindful of his previous [physical medical history redacted]. I am making arrangements for him to be seen at the earliest opportunity for a full psychiatric assessment by an eminent colleague. Cooperation by all concerned will be appreciated, and important for his overall health."

8.18. The Tribunal reviewed the contents of this letter and considered whether there was anything contained in it that would change the Tribunal's decision to proceed in absence.

8.19 The Tribunal noted that this was not a medical report and so did not provide any new or additional information as to Mr Little's health. It referred to advice from Mr Little's GP and therapist. The Tribunal had seen no documentation from Mr Little's therapist. The fit note from the GP referred to work, not "stressful" situations. There was no evidence that Dr Wells had carried out his own assessment of Mr Little and there were no timescales as to when any such assessment might be carried out. There remained no application for an adjournment.

8.20 The Tribunal was satisfied that had it had this letter before it when considering the application to proceed in absence, it would have still granted the application. The Tribunal therefore continued to deliberate on the Allegations. Mr Little was informed of this decision.

8.21 On the morning of the third day of the hearing (2 February 2024), the Tribunal received an email chain forwarded by Mr Little. This confirmed that an assessment by a psychiatrist had been arranged for Saturday 3 February by Zoom. Mr Little told the Tribunal in his email that the report would be forwarded to the Tribunal and the SRA as soon as it was received.

8.22 The Tribunal reviewed the email exchanges and again considered whether there was anything contained in it that would change the decision to proceed in absence. The only difference in the position was that Mr Little now had an appointment to see a psychiatrist. That aside, the situation was unchanged and there was no basis on which the Tribunal considered it appropriate to adjourn the matter. The Tribunal therefore proceeded with the hearing.

8.23 There was further communication from Mr Little once the Tribunal's findings had been announced. This is set out below under the headings relating to sanction and costs.

Factual Background

9. Mr Little was admitted to the Roll of Solicitors on 15 October 2008 and ran his own firm, Little & Co from June 2009 to July 2011. At the time of the hearing, he was on the Roll of Solicitors as a non-practising solicitor as he did not hold a current Practising Certificate.

10. Mr Little was also a barrister regulated by the Bar Standards Board and an attorney in New York State in the USA.

11. The background to the convictions was Mr Little's role in facilitating tax evasion by a wealthy family after the death of the patriarch of the family, Mr Seggerman.

12. Allegation 1.1

12.1 The underlying issues which led to the charge and conviction of conspiracy to defraud the IRS, were described by the US Appeal Court as:

> *"…a scheme to conceal assets from the IRS. After the death of [Mr Seggerman] in 2001, Little and a foreign associate gathered millions of dollars held in [Mr Seggerman's] undisclosed offshore accounts and placed them in a Swiss trust called Lixam Proviso. Little then helped transfer the Lixam assets under the guise of gifts or loans to [Mr Seggerman's] surviving spouse and children. He was paid about half a million dollars for his role."*

12.2 The issues relating to the conspiracy charge, and the connected charges of aiding and assisting the preparation of false IRS forms and corruptly obstructing an IRS investigation, were summarised by the trial Judge.

12.3 Mr Seggerman died in May 2001, leaving behind a multimillion-dollar inheritance to his wife, Mrs Seggerman and children – much of it in overseas accounts. Mr Little assisted the family in "funnelling these assets into the US in a manner that avoided IRS detection".

12.4 Mrs Seggerman was an executor of Mr Seggerman's estate but did not report the undeclared offshore assets to the IRS as required by US law. The assistance began in 2001. Mr Little and a Swiss lawyer met with members of Mr Seggerman's family at a New York hotel to discuss the offshore assets. It was set out that significant funds to be inherited by Mrs Seggerman would be moved into a trust of which Mr Little and the Swiss lawyer would be trustees. The trust, named "Lixam", was established in Switzerland.

12.5 Funds subsequently flowed from Lixam into a dormant company in the US called Steiner Productions ("Steiner"), controlled by Mrs Seggerman. The funds transfers were documented as 'loans' from Lixam to Steiner. During the trial, evidence was given that Mr Little had asked one of Mr Seggerman's children, Yvonne Seggerman ("YS") to become a one-percent owner in Steiner, as someone was needed to file tax returns on Steiner's behalf who was unlikely to:

> *"draw any attention to themselves because they're gainfully employed and least likely to draw IRS scrutiny".*

12.6 The trial Judge stated that the evidence given was that, in recruiting YS, Mr Little had explained that the money would be documented as loans and:

> *"assured her that [his accountant] would make the tax returns look legitimate".*

12.7 Between 2001 and 2010 over $3 million flowed from Lixam to Steiner and subsequently to Mrs Seggerman in this manner, and Mr Little charged fees of over half a million dollars for his services.

12.8 In 2010, the IRS began investigating Mrs Seggerman's foreign bank and financial accounts. Mr Little began working with other US attorneys and accountants in relation to her position and response to the IRS.

12.9 The conspiracy charge related to Mr Little conspiring to defraud the IRS by impeding its ability to ascertain and collect income and estate taxes. The nine counts of aiding and assisting the preparation of false IRS forms related to the preparation of tax forms on behalf of Mrs Seggerman, which were used to report transactions with foreign trusts and receipts of foreign gifts. The Judge stated that the corroborated testimony of others was that Mr Little repeatedly told them that the funds flowing from Lixam to Mrs Seggerman were "gift[s]" from the Swiss Lawyer, rather than payment from a trust set up using Mr Seggerman's funds.

12.10 The assurances provided on this issue included correspondence dated 1 July 2011 by Mr Little using the letterhead of his then firm of solicitors.

12.11 This same conduct was also noted by the Trial Judge as being behind the conviction for

> *"Corruptly obstructing…the due administration of the IRS".*

13. Allegation 1.1.1

13.1. This related to the conviction for conspiracy to defraud the USA (specifically, the IRS) and to commit offences against the USA. The prosecution case referenced the overall scheme and actions alleged, comprising allegations of various acts over the 11-year period. The conduct started before Mr Little's admission as a solicitor and continued after.

13.2 The jury were directed that when considering the charge, for a guilty verdict they were required to find that there was a conspiracy or agreement with at least one of the unlawful objectives or goals as charged; that Mr Little knowingly and wilfully became a member of the conspiracy, with this not being the product of mistake, accident or mere negligence; and that at least one overt act was committed in furtherance of the conspiracy.

13.3 The Judge stated in his sentencing remarks that Mr Little had been "actively engaged" in the premise of the conduct, namely that "[Mr Seggerman's] offshore accounts would not be known to the IRS". In his earlier dismissal of Mr Little's application for acquittal, the Judge confirmed that he was satisfied that the evidence was sufficient for the jury to find that Mr Little:

> *"Knew of a plan to funnel [Mrs Seggerman's] inherited offshore assets into the US without properly reporting it to the IRS or paying taxes on it."*

13.4 This was established to the Court's satisfaction from evidence that Mr Little was present at the hotel meeting where the proposal of setting up a trust was discussed; that the proposed trust that was discussed was subsequently set up, with Mr Little as trustee; that Mr Little was involved in the transferring of the funds via Steiner; and the request to involve YS in helping to ensure the tax returns looked "legitimate".

13.5 The Judge found that Mr Little was:

> *"a key part" in the criminal enterprise that used a "level of sophistication that successfully avoided detection by the IRS [for many years], and probably would have continued to do so had not UBS made certain disclosures".*

He concluded that section of his considerations by finding that Mr Little had used sophisticated means that were *"clever, but not clever enough".*

13.6 The transfers of the offshore funds from Lixam via Steiner continued until on or around 2010, while according to Mr Little's own correspondence the payments from the underlying offshore trust later continued via his English solicitors' firm, while he was practising as a solicitor.

14. Allegations 1.1.2 and 1.2

14.1 The indictment regarding this matter (Count one) referred to a wide range of issues, but when summarising the evidence on Mr Little's first application for a re-trial, the Judge focused on events from 2010 – 2012 regarding the IRS investigation.

14.2 After the IRS began investigating Mrs Seggerman's foreign bank and financial accounts, Mr Little began working with others on responding to the IRS investigation. A specific US tax form was used to report transactions with foreign trusts and receipts of foreign gifts to the IRS.

14.3 The evidence was that Mr Little had, after learning of the IRS investigation, told accountants on numerous occasions that the funds flowing from the Lixam trust to Mrs Seggerman were "pure gifts" (or similar) from the Swiss lawyer. On the basis of the representations made to them by Mr Little, the accountants prepared the relevant Annual Return forms for the years 2001 to 2010, stating that the funds transferred via Steiner to Mrs Seggerman were gifts and filing these with the IRS. The forms were filed between on or around 20 October 2010 and 20 January 2012. Reference was also specifically made to written representations on this issue that Mr Little had made as a Solicitor of England and Wales, on his solicitors' letterhead. Various emails from him referred to being sent in his role as a solicitor, with a copy of one letter and email from July and October 2011 being referred to in sentencing submissions as a "key piece of correspondence". The letter dated 1 July 2011 was from Mr Little and forwarded as a Solicitor of England and Wales by email on 28 October 2011 (Allegation 1.1.2).

14.4 The Judge considered this correspondence and Mr Little's representations in sentencing. The Judge directly quoted the letter Mr Little had sent as a solicitor and commented that the content was *"untrue and sold on the basis of the honour of the profession"* and that *"You put your credibility on the line in that letter…you have used your status as a lawyer to sell it".*

14.5 The Judge described what Mr Little had said in his letter as a:

> *"whopper of a lie".*

14.6 The Judge had instructed the jury that the government were required to prove an affirmative act, and that to act corruptly is to act with the:

> *"intent to secure an unlawful advantage or benefit either for oneself or for another".*

14.7 The Jury found the charge proved to the criminal standard. The Judge, on appeal/review, remained satisfied that the jury finding on this issue was sound.

15 Allegations 1.1.3 and 1.2

15.1. The representations and involvement of Mr Little referred to above were also found to consist of aiding and assisting the preparation of false IRS forms. This related to counts ten to nineteen on the Indictment.

15.2 The requirements for a finding by the jury, under the US Criminal Code, were that Mr Little aided, assisted, procured, counselled, advised or caused the preparation and presentation of a tax return; that the return was fraudulent or false as to a material matter; and that Mr Little's actions were wilful. The Jury found these matters proved.

15.3 Mr Little was therefore found to the criminal standard to have aided and assisted the preparation of false IRS forms by setting out information described as lies, including by reference to correspondence sent using his role as a Solicitor of England and Wales.

Findings of Fact and Law

16. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the Allegations to the standard applicable in civil proceedings (on the balance of probabilities). The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with Mr Little'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.

17. The Tribunal read all the papers in the matter and listened to the oral submissions of Mr Bullock, as well as noting the written submissions provided by both parties. The Tribunal noted that Mr Little had not submitted an Answer, despite directions to do so, and that his submissions in these proceedings had been focused on his arguments relating to jurisdiction and his application for a stay of proceedings. The Tribunal understood that Mr Little denied all the Allegations, asserted that he had been wrongly convicted and maintained his innocence. Mr Bullock's submissions are briefly summarised below.

18. Applicability of Rule 32(1)

18.1 Rule 32(1) of the SDPR 2019 stated as follows:

> *"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."

Applicant's Submissions

18.2 Mr Bullock submitted that the Tribunal should treat Mr Little's convictions in the USA in the same way as they were convictions in the United Kingdom – namely admissible as conclusive proof of the facts.

18.3 Mr Bullock submitted that the convictions were admissible under section 7 of the Evidence Act 1851 and under Rule 27(2) of the SDPR 2019.

18.4 Mr Bullock relied on Rak-Latos v General Dental Council [2018] EWHC 3503 (Admin) per Pepperall J at [24]-[27]:

"24. Rules 57(5)-(6) of The General Dental Council (Fitness to Practise) Rules Order of Council 2006 provide:

"(5) Where a respondent has been convicted of a criminal offence-

(a) a copy of the certificate of conviction, certified by a competent officer of a court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and

(b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.

(6) The only evidence which may be presented by the respondent in rebuttal of a conviction certified or extracted in accordance with paragraph (5) (a) is evidence for the purpose of proving that the respondent is not the person referred to in the certificate or extract."

25. In Shepherd v. The Law Society [1996] EWCA Civ 977, a solicitor who had been convicted of fifteen offences of dishonesty and sentenced to three years' imprisonment appealed against the decision of the Solicitors Disciplinary Tribunal to strike him off the roll. He argued that the tribunal had been wrong to refuse to allow him to adduce evidence to prove that he was not in fact guilty of the offences. Giving the judgment of the Divisional Court, Lord Taylor CJ considered the well-known case of Hunter v. Chief Constable of West Midlands Police[1982] A.C. 529in which it was held to be an abuse of process to mount a collateral challenge to a conviction in a civil action. So, equally, Lord Taylor held that it would have been an abuse of process to have allowed Mr Shepherd in his disciplinary hearing to mount a collateral challenge to his convictions.

26. Similarly, Lord Hoffmann said in Kirk v. The Royal College of Veterinary Surgeons[2004] UKPC 4, at [6] that the effect of comparable provisions in the Veterinary Surgeons Act 1966 was "to preclude the practitioner from denying the truth of any facts necessarily implied in the conviction." In that connection,

Lord Hoffmann cited the observation of Viscount Simon LC in The General Medical Council v. Spackman[1943] A.C. 627, at pages 634-635, that:

> *" ... the decision of the council is properly based on the facts of the conviction, and the practitioner cannot go behind it and endeavour to show that he was innocent of the charge and should have been acquitted."*

27. Here, rules 57(5)-(6) were not engaged since the conviction was not in a UK court. Nevertheless, in my judgment, the PCC was right to take the conviction at face value and to reject evidence in which Mrs Rak-Latos sought to present an account of events that was inconsistent with her conviction. Further, it was right to characterise Mrs Rak-Latos's approach to the case as an attempt to minimise her involvement and to identify her clear lack of insight into the seriousness of her conviction."

18.5 Mr Bullock submitted that this was not a case where the offences for which Mr Little was convicted in the USA would not be offences under UK law. There was no suggestion that the convictions were obtained by fraudulent means or by oppression or torture. The convictions took place in a reputable jurisdiction following trial by jury and were proved beyond reasonable doubt.

18.6 Mr Bullock submitted that the inclusion of the words "in the United Kingdom" in Rule 32(1) of the Rules could not have been intended by Parliament to fetter the Tribunal's longstanding ability to discipline solicitors convicted of serious criminality in respectable jurisdictions.

18.7 He submitted that it was a 'safety valve' to prevent automatic and unfair reliance on convictions from jurisdictions of dubious credibility and/or for 'offences' which were no longer offences under domestic law.

The Tribunal's Decision

18.8 The Tribunal noted that Rule 32(1) specifically included reference to convictions in the United Kingdom. There was no qualification relating to "jurisdictions of dubious credibility" and to attempt to create one would require the Tribunal to carry out an evaluative assessment of the "credibility" of criminal justice systems around the world. This was not a task that fell within the Tribunal's remit and would require, at a minimum, expert evidence on the point. The Tribunal noted that in Rak-Latos, the Court accepted that the equivalent rules were not engaged on account of the conviction having occurred outside the United Kingdom.

18.9 Rule 32(2) dealt with findings in civil courts and Tribunals outside England and Wales. Although this did not specifically deal with criminal convictions in foreign jurisdictions, the Tribunal concluded that the wording of Rule 32(2) came closest to dealing with this type of conviction. The Tribunal determined that the status of a criminal conviction in a foreign jurisdiction was that it was admissible as proof, but not conclusive proof, that the individual was guilty of the offences. The Tribunal therefore had evidence of the convictions having taken place, in the form of the certificate of

conviction, and it had the details of the Judge's remarks based on the evidence presented to the jury.

19. **Allegation 1.1**

Applicant's Submissions

19.1 Mr Bullock submitted that Mr Little had lacked integrity. He referred the Tribunal to Wingate v Solicitors Regulation Authority [2018] EWCA Civ 366 in relation to the test for integrity.

19.2 Mr Bullock submitted that a solicitor convicted of serious criminal offences of the USA, resulting in a custodial sentence of 20 months, amounted to a lack of integrity. He submitted that conviction for such matters was particularly serious for a member of a profession whose reputation depended on trust. Mr Bullock therefore submitted that Mr Little had breached Principle 2. By the same logic, he submitted that there had been a breach of Principle 6. Mr Little's status as a solicitor was well known and was referred to during trial. He was referred to as a "British Solicitor" or "British Lawyer" in media reports. During the trial reference was made to his status as a solicitor in the context of correspondence he had produced in which he was found to have used his status to "sell" to others what was described by the Judge as a "whopper of a lie".

19.3 Mr Bullock further submitted that Mr Little's conduct had been dishonest. This submission applied to Allegations 1.1 and 1.2. He relied on the test set out in in Ivey v Genting Casinos [2017] UKSC 67. Mr Bullock submitted that although the offences were not offences of dishonesty per se, nevertheless, dishonesty was inherent in the very concepts of being involved in defrauding of tax collection agencies, acting voluntarily and intentionally to violate a known legal duty, acting corruptly and knowingly disseminating false and/or misleading information to others. Mr Bullock reminded the Tribunal of the Judge's remarks in relation to those matters. Mr Bullock submitted that the conduct resulting in the convictions would be regarded as dishonest by the standards of ordinary decent people.

The Tribunal's Findings

19.4 The evidence of the convictions was, as discussed above, proof but not conclusive proof of the facts giving rise to them. Mr Little had not provided an Answer and had not attended the hearing to give evidence. Mr Little had not disputed that the convictions had occurred, though he strenuously denied that he was guilty and was continuing to seek to challenge the verdicts in the USA.

19.5 The Tribunal had before it a large number of documents from the trial in the USA including, but not limited to, the Judge's sentencing remarks. The Tribunal noted that the offences for which Mr Little had been convicted had been proved beyond reasonable doubt. The Tribunal found the factual basis of Allegation 1.1 proved on the balance of probabilities.

Principles 2 and 6

19.6 Mr Little's convictions were for serious criminal offences carried out over a number of years. The Tribunal was satisfied that it was entirely contrary to the ethical standards of the profession to be engaged in serious criminality. Further, it inevitably undermined the confidence the public would have in Mr Little and the provision of legal services. The Tribunal found the breaches of Principles 2 and 6 proved on the balance of probabilities.

Dishonesty

19.7 The test for considering the question of dishonesty was that set out in Ivey at [74] as follows:

> "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: ….. 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 knowledgeable belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder 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."

19.8 The Tribunal applied the test in Ivey and in doing so, when considering the issue of dishonesty adopted the following approach:

- Firstly, the Tribunal established the actual state of Mr Little's knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held.

- Secondly, once that was established, the Tribunal then considered whether that conduct was honest or dishonest by the standards of ordinary decent people.

19.9. The Tribunal noted that in order for Mr Little to have been convicted of the offences he faced, the prosecution in the USA had needed to prove knowledge and intent on his part. They had done so beyond reasonable doubt as the jury's verdicts made clear. The Tribunal accepted the submission of Mr Bullock that the offences themselves connoted a state of knowledge that would be considered dishonest by the standards of ordinary decent people. The Tribunal therefore found the allegation of dishonesty proved on the balance of probabilities in relation to Allegation 1.1.

20. **Allegation 1.2**

Applicant's Submissions

20.1. Mr Bullock again submitted that Mr Little had lacked integrity in relation to this Allegation. He referred to the letter described by the Judge as a "whopper of a lie". Mr Bullock submitted that any formal dissemination of misleading information relating to a known legal investigation was a serious matter for a solicitor. A solicitor acting with integrity would not have asserted a misleading position in formal correspondence, especially when the concealed information was central to the ongoing legal investigation. Mr Little had misleadingly described financial and tax arrangements he had been connected with for many years, using his status and letterhead as a solicitor in doing so.

20.2 Mr Bullock further submitted that Mr Little's conduct was damaging to public trust in the Respondent and the profession or provision of legal services and therefore in breach of Rule 1.06/Principle 6.

20.3 As noted above, Mr Bullock also submitted that Mr Little's conduct was dishonest.

The Tribunal's Findings

20.4 The conduct alleged under this Allegation underpinned the convictions referred to at Allegation 1.1. The Tribunal's assessment of the convictions is set out above and is not repeated here. The Tribunal found the factual basis of Allegation 1.2 proved on the balance of probabilities.

Principles 2 and 6/Rules 1.02 and 1.06

20.5 The letter dated 1 July 2011 was on headed paper bearing Mr Little's title as a solicitor, as did the email forwarding the letter on 28 October 2011. The email itself did not add to the provision of misleading information, but by attaching a letter which was misleading, it repeated the misconduct. The Tribunal was satisfied that sending a letter and then re-sending it several months later, when it contained misleading information amounted to a lack of integrity and would undermine the trust the public placed in Mr Little and in the provision of legal services. Mr Little had included his status as a solicitor in order to lend credibility to the false representations contained in the letter of 1 July 2011. The Tribunal found the breaches of Principles 2 and 6 and Rules 1.02 and 1.06 proved on the balance of probabilities.

Dishonesty

20.6 Mr Little's state of mind was that he knew he was deceiving the tax authorities and that he knew the truth of the accounting position. Mr Little had been seeking to give impression that the trustee in Switzerland was providing assistance payments to Mrs Seggerman and that the pool of funds was a gift, when he knew the actual source of monies was her late husband's off-shore estate. He would have known this not to be true in his capacity as a trustee. It therefore followed that Mr Little had known the contents of the letter were untrue at the time of writing them.

20.7 The Tribunal was satisfied that Mr Little's actions would be considered dishonest by the standards of ordinary decent people and found the allegation of dishonesty proved in relation to Allegation 1.2.

21. **Allegation 1.3**

21.1 This was the aggravating factor of dishonesty, on which the Tribunal made findings as it dealt with each individual Allegation above.

Previous Disciplinary Matters

22. There were no previous findings at the Tribunal.

Mitigation

23. The Tribunal rose to allow Mr Little an opportunity to either attend or to make any written submissions he wished to in relation to mitigation or costs. Mr Little responded by email as follows;

> *"Dear Tribunal-*
> *Given my present medical condition I am unable to attend via zoom to make any representations at this time. In respect of costs, I am impecunious and ask to be allowed to make representations at a time when I can better express myself and organise records. I have no assets. I live on a £450 State Pension and a £1,000 per month part time consultancy - which I will not be able to fulfil until I Recover. I am subject to a $4 million restitution order - which is being appealed in the NY matter and I owe in excess of £250,000 in loans to friends who have supported me over the past 12 years -*
> *Michael Little"*

Sanction

24. The Tribunal had regard to the Guidance Note on Sanctions (June 2022). The Tribunal assessed the seriousness of the misconduct by considering Mr Little's culpability, the level of harm caused together with any aggravating or mitigating factors.

25. In assessing Mr Little's motivation, the Tribunal had regard to the Judge's sentencing remarks:

> *"Why did he do it? The "why" is not always of critical 3 importance in a sentencing decision. Here it appears that there were multiple factors. On one hand, there was a sense of honour and duty to his deceased business associate and concerns for the well-being of his wife Anne. But there was also the prospect of a steady stream of handsome fees for his services. These fees could be expected to continue through the life of Anne. Had Anne and the family chose to pay taxes owed and be forthright, the management of the affairs of Harry's offshore assets would likely have fallen to others."*

26. In assessing culpability, the Tribunal found that he was motivated by the intention to conceal the true sum of taxation due to the IRS. His actions were clearly carefully planned. The scheme had begun at the hotel meeting and continued from there. The Tribunal recognised that the convictions related to Mr Little's conduct in relation to one family and was not part of wider criminality. Mr Little had used his professional status as a solicitor, which was a trusted position, to advance his actions. His experience of

tax matters was extensive, even if his experience as a solicitor was less so. The Tribunal found that Mr Little had full responsibility for his actions, having played an active role.

27. In assessing the harm caused, the Tribunal found that Mr Little's actions represented a complete departure from integrity, probity and trustworthiness, resulting in his incarceration for serious criminal offences, which caused great harm to reputation of the profession. There was obvious harm caused to the IRS in circumstances where they were deprived of revenue.

28. The misconduct was aggravated by the fact that the conduct was dishonest, involved commission of criminal offences, continued over a period of time, was deliberate, and which Mr Little would have known was a material breach of his professional obligations.

29. The Tribunal was unable to identify any mitigating factors in the Guidance Note that applied to this case.

30. The Tribunal noted that Mr Little had no previous matters before the Tribunal and took into account his age. It accepted that he was under stress and took into account that he had various proceedings ongoing in recent years. There was no evidence of any misconduct before or since these convictions. The Tribunal also took into account the mitigating factors identified by the Judge when passing sentence.

31. The matters were too serious for a reprimand, fine or suspension to be an appropriate sanction. The Tribunal noted that the usual sanction where misconduct included dishonesty would be a strike-off and the Tribunal had regard to in Solicitors Regulation Authority v Sharma [2010] EWHC 2022. The circumstances in which such a sanction was not imposed were exceptional, described in Sharma as:

> *"a small residual category where striking off will be a disproportionate sentence in all the circumstances ..."*.

32. In Solicitors Regulation Authority v James [2018] EWHC 3058 (Admin) at [101], Flaux LJ set out the basis on which question of exceptional circumstances was assessed:

> *"First, although it is well-established that what may amount to exceptional circumstances is in no sense prescribed and depends upon the various factors and circumstances of each individual case, it is clear from the decisions in Sharma, Imran and Shaw, that the most significant factor carrying most weight and which must therefore be the primary focus in the evaluation is the nature and extent of the dishonesty, in other words the exceptional circumstances must relate in some way to the dishonesty."*

33. The Tribunal considered whether the circumstances in this case were exceptional, having regard to James. There were no exceptional circumstances advanced, and the Tribunal was unable to identify any from the evidence before it.

34. The only appropriate sanction that could be justified in this case was that Mr Little be struck-off the Roll.

Costs

35. Mr Bullock applied for costs in the sum of £11,393.25. This was a reduction from the estimated claim of £12,758.25. Mr Bullock told the Tribunal that he had reduced his claim on account of the hearing having taken less time than estimated. He reduced his claim to deduct one hour from the day of legal argument, four and a half hours for the first day of the substantive hearing and five hours for the second day.

36. The Tribunal reviewed the cost schedule and was satisfied that the revised amount claimed was reasonable and proportionate, particularly taking into account the reductions referred to above.

37. The Tribunal had regard to Barnes v Solicitors Regulation Authority [2022] EWHC 677 (Admin) and the importance of making a "reasonable assessment of the current and future circumstances" in relation to Mr Little's ability to pay. However, Mr Little had not complied with directions that required him to provide a statement of means. There was therefore no basis to reduce the costs further on account of Mr Little's means, notwithstanding his email which attached no documentary evidence.

Statement of Full Order

38. The Tribunal ORDERED that the Respondent, MICHAEL JOHN LITTLE, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £11,393.25.

Dated this 28th day of March
On behalf of the Tribunal

C Evans

C Evans
Chair