SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12547-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

MATTHEW MOGHAN RAJAMOHAM CHELLAM Respondent

Before:

Mr R Nicholas (in the Chair)
Ms B Patel
Ms E Keen

Date of Hearing: 13 June 2024

Appearances

Andrew Bullock, barrister of Solicitors Regulation Authority Ltd of The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent, Mathew Moghan Rajamohan Chellam, made by the SRA are that:

1.1. Between April 2011 and August 2014, he made or caused to be made fraudulent applications to the Home Office for Non-EEA residence cards with the intention of assisting unlawful immigration into EU member states and, in doing so breached any or all of Principles 1, 2 and 6 of the SRA Principles 2011. In doing so, he breached one or both of Principles 2 and 6 of the SRA Principles 2011 and/or failed to achieve Outcome 11.1 of the SRA Code of Conduct 2011.

1.2. Between October 2012 and January 2013, he provided immigration advice and services when he knew or ought to have known that he was not qualified to do so and, in doing so breached any or all of Principles 1, 2 and 6 of the SRA Principles 2011.

1.3. He sought to avoid his removal from the United Kingdom when his leave to remain ended by falsely representing to the Home Office that he was in a genuine marriage to an EEA national. In doing so he breached any or all of Principles 1, 2 and 6 of the SRA Principles 2011.

2. In relation to each of the above allegations, the Applicant relied respectively upon:

2.1. The Respondent's conviction for the offence of assisting unlawful immigration into EU member states contrary to Section 25(1) of the Immigration Act 1971 as evidence that the Respondent was guilty of that offence and upon the findings of fact upon which that conviction was based as proof of those facts.

2.2. The Respondent's conviction for the offence of providing immigration advice or immigration services contrary to Section 91 of the Immigration and Asylum Act 1999 as evidence that the Respondent was guilty of that offence and upon the findings of fact upon which that conviction was based as proof of those facts.

2.3. The Respondent's conviction for the offence of seeking to obtain leave to remain in the United Kingdom, by deception contrary to Section 24(1)(a) of the Immigration Act 1971 as evidence that the Respondent was guilty of that offence and upon the findings of fact upon which that conviction was based as proof of those facts.

3. The Respondent did not attend the hearing and was not represented, and there had been no engagement from the Respondent throughout the proceedings.

Documents

4. The Tribunal had, amongst other things, the following documents before it:

- Rule 12 Statement and Exhibit 1 (marked "MD") dated 18 January 2024
- Applicant's Schedule of Costs dated 6 June 2024

Preliminary Matters

Proceeding in the Respondent's Absence

5. Counsel for the Applicant informed the Tribunal that the Respondent had not applied to adjourn or vacate the hearing and there had been no engagement from the Respondent throughout the proceedings.

6. Counsel set out the relevant chronology and, in establishing proper service of the proceedings on the Respondent, Counsel referred to the facts that the Respondent had returned to India and that his current address in India was unknown, that this Tribunal had already ordered that service be effected on an email address which the Respondent had used to communicate with the SRA up to the stage where these proceedings were issued, and that none of the emails sent to the Respondent on that address, including three separate ones informing him of the hearing date, had bounced.

7. It was submitted that in accordance with the relevant case law, there was a compelling public interest and it was in the interests of justice to proceed without adjournment and in the Respondent's absence.

8. The Tribunal was aware of the decisions in General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 16231 which in turn approved the principles set out in R v Hayward, R v Jones, R v Purvis QB 862 [2001], EWCA Crim 168 [2001] namely that proceeding in the absence of the Respondent was a discretion which a Tribunal should exercise with the utmost care and caution bearing in mind the following factors:

   - The nature and circumstances of the Respondent's behaviour in absenting himself from the hearing;
   - Whether an adjournment would resolve the Respondent's absence;
   - The likely length of any such adjournment;
   - Whether the Respondent had voluntarily absented himself from the proceedings and the disadvantage to the Respondent in not being able to present his case.

9. It was held in Adeogba that in determining whether to continue with regulatory proceedings in the absence of the accused, the following factors should be borne in mind by a disciplinary tribunal:-

   - the Tribunal's decision must be guided by the context provided by the main statutory objective of the regulatory body, namely the protection of the public;
   - the fair, economical, expeditious and efficient disposal of allegations was of very real importance;
   - it would run entirely counter to the protection of the public if a Respondent could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process; and

- there was a burden on all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made against them. That is part of the responsibility to which they sign up when being admitted to the profession.

10. Bearing those factors in mind and applying them to the circumstances of this case along with the submissions made by Counsel, the Tribunal considered the Respondent had been served in accordance with Rule 44 and was or ought to have been aware of the date of the proceedings. The Tribunal concluded that the Respondent's non-attendance was voluntary. It was in the interests of justice to proceed with the hearing in the Respondent's absence on the basis that it did not appear that an adjournment of any length would ensure the Respondent's attendance.

11. The Tribunal also took into account the serious nature of the allegations which had been made against the Respondent. These involved events that had allegedly taken place between 2011 and 2013 which had come to the Applicant's attention in 2015. A significant period of time had elapsed since then and it was therefore in the public interest that this case should be concluded expeditiously and without further delay.

12. The Respondent had a duty to engage but had not done so.

Factual Background

13. The Respondent, who was born in March 1979, is a solicitor having been admitted to the Roll on 01 February 2013. He applied to become a solicitor through the Qualified Lawyers Transfer Test (QLTT) route as he was already a Legal Advocate in India. He provided evidence to show that he was of suitable character and the SRA relied on this evidence to grant his admission onto the Roll of Solicitors on 01 February 2013.

14. The Respondent last held a Practising Certificate for the practice year 2015 to 2016, which was free from conditions. He does not hold a current Practising Certificate.

15. The conduct in this matter came to the attention of the SRA on 06 November 2015. The Respondent self-reported and confirmed that he had been charged with criminal offences under the immigration legislation and that he was contesting those charges (MD, X42 - X43).

16. On 12 September 2016, at Snaresbrook Crown Court, the Respondent was convicted of one count of assisting unlawful immigration into an EU member state contrary to Section 25(1) of the Immigration Act 1971, five counts of providing immigration advice, contrary to Section 91 of the Immigration and Asylum Act 1991, and one count of seeking to obtain leave to remain in the United Kingdom by deception, contrary to Section 24A(1)(a) of the Immigration Act 1971. He was sentenced to a total term of imprisonment of eight years.

17. On 19 December 2016, the Respondent explained to the Applicant that an application for permission for leave to appeal had been lodged. On 27 February 2017, an SRA Investigation Officer temporarily closed the investigation into the Respondent's conduct pending the outcome of the appeal.

18. On 4 October 2021, the Respondent made an application for a practising certificate for the 2021/2022 practising year. It was at this point the Applicant became aware that the matter had erroneously been closed. The investigation was re-opened.

Findings of Fact and Law

19. The Applicant 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.

20. **Allegation 1.1**

20.1 The Respondent stood trial for assisting unlawful immigration into an EU Member State contrary to Section 25(1) of the Immigration Act 1971 before Snaresbrook Crown Court. The Respondent pleaded not guilty. He was subsequently found guilty at trial following a unanimous verdict of the Jury on 12 September 2016. He was sentenced to eight years imprisonment.

20.2 The Judge in the sentencing remarks, dated 12 September 2016 confirmed (MD, X46, paragraph C - F):

> *"You, as a lawyer, having been admitted to practice in England as a foreign lawyer and later admitted to the roll of solicitors in England and Wales, were actively engaged in these numerous applications by these individuals, to breach, on any view, our [?] important immigration controls. You did so by means of sham marriages between otherwise illegal immigrants and EU nationals. Your activities were based on an exploitation of the relatively informal arrangements which apply to customary marriages and proxy wedding ceremonies in Ghana and that was with a view to abusing the UK immigration laws on the pretext that there was some kind of spousal connection, and you went further, because you were instrumental also in exploiting the rules by creating the fiction that a number of your clients were eligible to remain in the United Kingdom as extended family members because of their purportedly enduring and durable relationships with EEA nationals.*
>
> *There was a sophistication in your approach. In short, your business, your practice, was to provide clients with a template application, a package of false or fictitious documentary evidence and above all, and this must be stressed, the professional assurance to the Home Office that comes with applications submitted by solicitors and legal representatives. That assurance was to the effect that these applications were genuine and based on true information. Of course, we now know that nothing could be further from the truth."*

20.3 Rule 32(1) of the Solicitors (Disciplinary Proceedings) Rules 2019 provides that:

> *"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."*

20.4 The Tribunal was not provided with any exceptional circumstances and accordingly those findings of fact which satisfied Section 25(1) of the Immigration Act 1971 as confirmed by the certificate of conviction were conclusive proof of Allegation 1.1.

20.5 It was also noted that the Respondent's conviction received nationwide media attention in the Daily Express and Daily Mail newspapers with articles being published on 13 September 2016 (MD, pages X74 - X81).

Principle 1 SRA Principles 2011

20.6 The Respondent deliberately made fraudulent applications to the Home Office for Non-EAA residence cards. As the Judge remarked, this was *"a serious aggravating feature and that is that you were a lawyer at the time, providing legal services to clients who no doubt were paying handsomely for your corrupt services. On the other hand, you represented yourself as being properly and professionally retained in relation to those clients when dealing with the Home Office and the Home Office, of course, were being asked by you to make important decisions in relation to these applications."* (MD, page X48, paragraph E - F). Such conduct is a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings. The Respondent thereby failed to uphold the rule of law and the proper administration of justice in breach of Principle 1.

Principle 2 SRA Principles 2011

20.7 In Wingate and Evans v Solicitors Regulation Authority [2018] EWCA Civ 366, it was said that:

> *"In professional codes of conduct, the term 'integrity' is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members… The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards."* (paragraph 97)

20.8 The Respondent's conduct which led to his conviction in Snaresbrook Crown Court on 12 September 2016 for assisting unlawful immigration into an EU member state was in breach of his duty to act with integrity in that he had failed to act with *"moral soundness, rectitude and steady adherence to an ethical code"* (as per Newell-Austin v SRA [2017] EWHC 411 cited in Wingate). He thereby breached Principle 2.

20.9 Incidentally, Counsel for the Applicant highlighted the Judge's sentencing remarks that

> *"You spun a veritable web of lies and deceits. It was so obviously deceitful, misleading and downright false and yet you pursued this lie throughout the case. I regret to say, Mr Chellam, that reflects, in truth, your true personality, that you are prepared to lie, and lie under oath before a jury, and this from a lawyer who purports to abide by the more honourable ethics of the legal profession."*

Principle 6 SRA Principles 2011

20.10 Principle 6 of the SRA Principles 2011 requires solicitors to behave in a way that maintains the trust the public places in them and in the provision of legal services. The trust that the public places in solicitors, and in the provision of legal services, depends upon the reputation of the solicitors' profession as one in which every member may be trusted to the ends of the earth. The conviction of a solicitor for a serious criminal offence leading to the imposition of a custodial sentence and attracting adverse publicity undermines the trust that the public places in solicitors and the provision of legal services.

20.11 The sentence imposed by the Court shows that the Court determined that the offence was the most serious, and the public would not expect a solicitor to assist unlawful immigration into an EU Member State, and therefore the Respondent's actions would undermine the trust and confidence the public place in the legal profession. The Respondent has therefore breached Principle 6 of the SRA Principles 2011.

Outcome 11.1 of the SRA Code of Conduct 2011

20.12 The Applicant did not pursue or substantiate its allegation pertaining to Outcome 11.1 and the Tribunal made no finding in that regard.

21. **Allegation 1.2**

21.1 The Respondent stood trial for providing five counts of immigration advice contrary to Section 91 of the Immigration and Asylum act 1991 before Snaresbrook Crown Court. The Respondent pleaded not guilty. He was subsequently found guilty at trial following a unanimous verdict of the Jury on 12 September 2016. He was sentenced to 12 months imprisonment on each of those counts. This was a concurrent sentence to run with the sentence imposed in relation to the matters which are the subject of Allegation 1.1.

21.2 The Judge in the sentencing remarks, dated 12 September 2016 confirmed (MD page X46, paragraph G and page X47, paragraph A - B):

> *"Again, in blatant breach of the law, between October 2012 and January 2013, you were actively involved in providing such services for a number of applicants seeking to renew their deed to remain in the United Kingdom. Looking at that list of names in the indictment contained in the particulars to those counts, there can be little doubt that each of these applicants and their applications were false in the same way as the many others that you acted for and of course, you were fully aware that such contract was contrary to the law; there was evidence before me that you had attempted to obtain the required authority to provide such advice and services at bail and then of course, you were the subject of a caution for earlier conduct from the Office of Immigration Supervision."*

21.3 Section 84 of the Immigration and Asylum Act 1999 (MD, pages X103 - X106) prohibits the provision of immigration advice or immigration services unless the person in question is a qualified person. Qualified persons are required either to be registered with the Office of the Immigration Services Commissioner (OISC) or to be Solicitors, Barristers or Legal Executives regulated by their own professional bodies. Section 91

of the Immigration and Asylum Act 1999 confirms a person who provides immigration advice or immigration services in contravention of Section 84 or of a restraining order is guilty of an offence (MD, pages X107 - X109).

21.4 The Respondent at the time of the alleged conduct above was not admitted to the Roll of Solicitors or registered with OISC. He became a solicitor through the QLTT route given that he was already a Legal Advocate in India. He provided evidence to show that he was of suitable character and the Applicant relied on this evidence to grant his admission onto the Roll of Solicitors on 1 February 2013.

21.5 Counsel for the Applicant relied on the cases of Re A Solicitor (Ofosuhene) [1997] C.L.Y. 3375 and Christian Jideofo V The Law Society [2007] (MD, pages X82 - X102). Paragraph 11 (MD, page X87) refers to the unreported case of Ofosuhene, in which Rose L.J had stated:

> *"it seems to me that if, in the past, one who is now a solicitor has behaved in a way which is incompatible with such standards, it is, and should be open to the tribunal to say so and to control the circumstances in which, if at all, he or she should continue to practice in the future… Whether in a particular case past conduct is compatible with the accused continuing in practice will depend, plainly on the nature of the conduct as proved before and assessed by the tribunal".*

21.6 In the case of Jideofo V The Law Society [2007] stated (MD, page X88, paragraph 14), Sir Anthony Clarke MR stated:

> *"It would be irrational to hold that a different test applies where matters come to the Law Society's attention pre-admission from the case where those matters come to its attention post-admission. Whether they are discovered pre or post admission the question remains the same, namely whether the relevant evidence demonstrates that the person concerned is a fit person to be a solicitor".*

21.7 This Tribunal accordingly found that it has jurisdiction to hear an application in relation to conduct which occurred prior to admission to the Roll of Solicitors and to assess whether the solicitor should be subject to disciplinary sanction.

21.8 Those findings of fact were conclusive proof of those facts given that the Tribunal was not provided with any exceptional circumstances under Rule 32(1) of the Solicitors (Disciplinary Proceedings) Rules 2019 that would indicate otherwise.

Principle 1 SRA Principles 2011

21.9 As the Judge remarked the Respondent's conduct in deliberately and repeatedly providing immigration advice and/or immigration services was a *"blatant breach of the law, between October 2012 and January 2013, you were actively involved in providing such services for a number of applicants seeking to renew their deed to remain in the United Kingdom"* (MD, page X46, paragraph G). Such conduct is a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings by ensuring that only those who are subject to appropriate regulatory oversight are able to act on behalf of a potentially vulnerable class of consumers of legal services. The Respondent thereby

failed to uphold the rule of law and the proper administration of justice in breach of Principle 1.

Principle 2 SRA Principles 2011

21.10 By virtue of the Respondent's conduct which led to his conviction in Snaresbrook Crown Court on 12 September 2016 for providing immigration advice and services when he knew or ought to have known that he was not qualified to do so, the Respondent failed to act with integrity in that he has failed to act with moral soundness, rectitude and steady adherence to an ethical code.

21.11 A solicitor acting with integrity would not have committed a crime repeatedly. The gravity of the offence was reflected in the Respondent's custodial sentence. In accordance with Wingate, a solicitor who has been found guilty of committing such a criminal offence may properly be said to have conducted himself in a manner lacking in moral soundness, rectitude and steady adherence to an ethical code/ the ethical standards of the profession so as to lack integrity in breach of Principle 2 of the SRA Principles 2011. The Respondent therefore breached Principle 2 of the SRA Principles 2011.

Principle 6 SRA Principles 2011

21.12 Principle 6 of the SRA Principles 2011 require solicitors to behave in a way that maintains the trust the public places in them and in the provision of legal services. The trust that the public places in solicitors, and in the provision of legal services, depends upon the reputation of the solicitors' profession as one in which every member may be trusted to the ends of the earth. The conviction of a solicitor for a serious criminal offence leading to the imposition of a custodial sentence and attracting adverse publicity undermines the trust that the public places in solicitors and the provision of legal services.

21.13 As the Judge remarked "*There is little doubt that the conviction of a lawyer, in a criminal court, represents a very low point of an otherwise honourable professional body. It undermines the very core of what such a profession represents. It diminishes the importance of societal role that lawyers play in any system of justice and in the eyes of the public at large. The integrity, reputation and reliability which reposes of lawyers is degraded when such conduct comes to these courts and is proven against a lawyer"* (MD, page 47, paragraph F and G). The Respondent therefore failed to behave in a way that maintains the trust the public placed in him and in the provision of legal services and has breached Principle 6 of the SRA Principles 2011.

22. **Allegation 1.3**

22.1 The Respondent stood trial for one count of seeking to obtain leave to remain in the United Kingdom by deception, contrary to Section 24A(1)(a) of the Immigration Act 1971 before Snaresbrook Crown Court. The Respondent pleaded not guilty. He was subsequently found guilty at trial following a unanimous verdict of the Jury on 12 September 2016. He was sentenced to 18 months imprisonment. This was a concurrent sentence to run with the charges in Allegation 1.1 and 1.2.

22.2 In the sentencing remarks the Judge confirmed (MD, page X47, paragraph B) that *"you were also convicted on count seven of this indictment of seeking to avoid your own removal from the United Kingdom, when your leave to remain here had come to an end, by falsely representing that you were in a genuine marriage to an EEA national."*

22.3 Those findings of fact were conclusive proof of those facts given that the Tribunal was not provided with any exceptional circumstances under Rule 32(1) of the Solicitors (Disciplinary Proceedings) Rules 2019 that would indicate otherwise.

Principle 1 SRA Principles 2011

22.4 The Respondent falsely represented to the Home Office that he was in a genuine marriage to an EEA national when he was not. As the Judge remarked *"Your conduct, criminal conduct strikes at the very heart of these immigration controls…"* (MD, page X48, paragraph A). Such conduct is a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings. The Respondent thereby failed to uphold the rule of law and the proper administration of justice in breach of Principle 1.

Principle 2 SRA Principles 2011

22.5 By engaging in conduct which led to his conviction in Snaresbrook Crown Court on 12 September 2016 for seeking to obtain leave to remain in the United Kingdom by deception, the Respondent failed to act with integrity in that he has failed to act with moral soundness, rectitude and steady adherence to an ethical code.

22.6 A solicitor acting with integrity would not have committed such a crime. The gravity of the offence was reflected in the Respondent's custodial sentence. The Respondent therefore breached Principle 2 of the SRA Principles 2011.

Principle 6 SRA Principles 2011

22.7 The conviction of a solicitor for a serious criminal offence leading to the imposition of a custodial sentence and attracting adverse publicity undermines the trust that the public places in solicitors and the provision of legal services. The Respondent therefore failed to behave in a way that maintains the trust the public placed in him and in the provision of legal services and has breached Principle 6 of the SRA Principles 2011.

23. **The Tribunal's Findings**

23.1 The Tribunal reviewed all the material before it and, for all the reasons stated above, found the allegations proved at the requisite standard.

Previous Disciplinary Matters

24. There was no record of any previous disciplinary findings by the Tribunal.

Mitigation

25. The Respondent had not engaged with the proceedings but the Tribunal considered all information before it which the Tribunal could factor into its decision below.

Sanction

26. The Tribunal had regard to the Guidance Note on Sanctions (10th Edition – December 2022).

27. The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

28. The approach set out in Fuglers and Others v Solicitors Regulation Authority [2014] EWHC 179 (per Popplewell J) was followed:

> *"There are three stages to the approach… The first stage is to assess the seriousness of the misconduct. The second stage is to keep in mind the purpose for which sanctions are imposed by such a tribunal. The third stage is to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question."*

29. In assessing culpability, the Tribunal took account of the fact that the Respondent's motivation for the misconduct was for monetary gain, the fact that the misconduct arose from carefully planned actions including by using sham marriages with a view to abusing applicable laws, and that the circumstances giving rise to the misconduct were under the direct control of the Respondent and concluded that Respondent's level of culpability was extremely high.

30. In assessing harm, the Tribunal noted that the Respondent's conviction had received nationwide media attention in the Daily Express and Daily Mail newspaper with articles being published on 13 September 2016 (MD, pages X74 - X81) and found that the misconduct of Respondent had caused tremendous harm to the reputation of the legal profession.

31. As aggravating factors, the Tribunal identified that:

- the misconduct constituted various criminal offences;
- the misconduct was deliberated, calculated and repeated, and that it was continuing over a period of time;
- the Respondent concealed his wrongdoing including before the jury;
- there was no doubt that the Respondent knew or ought to have known that his conduct was in material breach of the obligations to protect the public and the reputation of the legal profession.

32. The Tribunal further considered the following:

- that there had been some delay, but that that delay had been caused primarily by the criminal proceedings;

- that the Respondent had self-reported that he had been charged with criminal offences, but had not made any admissions at an early stage and had instead actually concealed the misconduct until the jury's unanimous verdict against him;

- that there had been no credible evidence of any insight, remorse or regret at any stage by the Respondent.

33. On the basis of the above, and given the seriousness of the misconduct, the Tribunal did not consider that a fine or suspension would be sufficient or appropriate. The Tribunal ordered that the Respondent be struck off the Roll of Solicitors.

Costs

34. Counsel for the Applicant relied on the Schedule of Costs dated 13 June 2024 which had already factored in the reduction of hearing time given the absence of the Respondent. Counsel submitted that since the Applicant had proved its case, it was entitled to those costs.

35. The Tribunal found the case had been properly brought by the Applicant and ordered costs in the claimed sum of £4,058.00.

Statement of Full Order

36. The Tribunal ORDERED that the Respondent, MATHEW MOGHAN RAJAMOHAN CHELLAM, 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 £4,058.00.

Dated this 5th day of July 2024
On behalf of the Tribunal

R Nicholas

R Nicholas
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
5 JULY 2024