

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12518-2023

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

ZAHID AKHTAR

Respondent

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Before:

Ms A Kellett (in the Chair)

Ms T Cullen

Ms E Keen

Date of Hearing: 26 and 28 November 2024 and 22 January 2025

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## **Appearances**

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

The Respondent represented himself.

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## **JUDGMENT**

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## **Allegations**

1. The allegations against the Respondent, Mr Zahid Akhtar, by the SRA are that while in practice as a freelance solicitor:
  - 1.1 From around 28 February 2022 to at least around 25 July 2022 he undertook immigration work as a solicitor when he was neither a recognised sole practitioner nor a manager, employee or member of an authorised body, and therefore breached any or all of:
    - 1.1.1 Principles 2 of the SRA Principles 2019.
    - 1.1.2 Regulation 9.5 of the SRA Authorisation of Individuals Regulations 2019; and
    - 1.1.3 Regulation 10.1 of the SRA Authorisation of Individuals Regulations 2019.

### PROVED

- 1.2 On or around 1 April 2022 and / or 8 July 2022<sup>1</sup> he provided inaccurate and/or misleading information to the SRA in relation to him undertaking immigration work, and in doing so, he was dishonest, and therefore breached any or all of:
  - 1.2.1 Principle 2 of the SRA Principles 2019;
  - 1.2.2 Principle 4 of the SRA Principles 2019;
  - 1.2.3 Principle 5 of the SRA Principles 2019;
  - 1.2.4 Paragraph 7.4(a) of the SRA Code of Conduct for Solicitors, RELs and RFLs;
  - 1.2.5 Paragraph 7.6(c)(i) of the SRA Code of Conduct for Solicitors, RELs and RFLs; and
  - 1.2.6 Paragraph 7.6(c)(ii) of the SRA Code of Conduct for Solicitors, RELs and RFLs

### NOT PROVED

## **Executive Summary**

2. The Respondent is a solicitor having been admitted to the Roll of Solicitors on 15 September 2014. The first recorded employment for the Respondent on SRA records commenced on 25 November 2019 when he was stated to be a freelance solicitor at “Zahid Akhtar”.
3. On 9 February 2023 the First Tier Immigration and Asylum Chamber reported to the SRA that the Respondent was trading from an unregulated entity. The SRA conducted an investigation which brought about an allegation against the Respondent that he had undertaken immigration work as a solicitor when he was neither a recognised sole practitioner nor a manager, employee or member of an authorised body, and had

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<sup>1</sup> As amended, see Paragraph 21 below.

therefore breached elements of the SRA Principles 2019 and the SRA Authorisation of Individuals Regulations 2019. This was the basis of Allegation 1.1.

4. The Respondent was also alleged to have dishonestly provided inaccurate and/or misleading information to the SRA in relation to him undertaking immigration work. This was the basis of Allegation 1.2.
5. The Tribunal found Allegation 1.1 proved in its entirety. In relation to Allegation 1.2, the Tribunal found that the Respondent had not acted dishonestly and consequently found Allegation 1.2 not proved.
6. The Tribunal Ordered that the Respondent be suspended from practice as a Solicitor for a period of 12 months to commence on the 22<sup>nd</sup> day of January 2025 and imposed a Restriction Order containing conditions that would apply should the Respondent return to practice.

### **Sanction**

7. The Tribunal Ordered that the Respondent be suspended from practice as a Solicitor for a period of 12 months to commence on the 22<sup>nd</sup> day of January 2025.
8. Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed indefinitely by the Tribunal as follows:

The Respondent may not:

- Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body; or as a freelance solicitor; or as a solicitor in an unregulated organisation;
  - Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;
  - Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
  - Hold client money;
  - Be a signatory on any client account;
  - Work as a solicitor other than in employment approved by the Solicitors Regulation Authority Ltd.
9. There is liberty to either party to apply to the Tribunal to vary the conditions set out above.
  10. The Tribunal's sanction and its reasoning on sanction can be found [\[here\]](#)

## Documents

11. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):
  - Rule 12 Statement and Exhibit ECP1 dated 23 November 2023.
  - Respondent's Answer dated 23 December 2024.
  - Respondent's Amended Answer to the Rule 12 Statement and Skeleton Argument dated 30 April 2024.
  - Applicant's Statement of Costs dated 15 January 2025.

## Preliminary Matters

12. There were three preliminary applications by the Applicant relating, firstly, to anonymity of clients referenced within the evidence. Secondly, regarding the inclusion of findings by the Bar Standards Board ("BSB") made in respect of an individual referenced within the Respondent's case and thirdly, an application to correct a minor typographical error contained within Allegation 1.2 by amending a date.
13. The Respondent made one application in the course of the hearing relating to the admission of late evidence. This consisted of a series of emails exchanged between his email address and a HM Courts & Tribunals Service ("HMCTS") email address.

### *Anonymity*

14. The Applicant applied for anonymity in respect of Client A and B. The basis of this application was to maintain and protect the Legal Professional Privilege ("LPP") relating to these individuals and entities. That LPP had not been waived. The Application was not opposed by the Respondent.

## The Tribunal's Decision

15. The starting point was to consider whether LPP had been waived or not. In circumstances where it had not been waived, it was absolute, as emphasised in *SRA v Williams* [2023] EWHC 2151 (Admin). The application was therefore granted in order to protect the LPP of Client A and B. It was necessary to take all reasonable steps to preserve this right, including by avoiding any jigsaw identification.

### *BSB findings - Mr James P. Dean*

16. The Applicant applied for disciplinary findings made by the BSB in respect of Mr Dean to be included within the hearing bundle so the parties could refer to them.
17. Mr Dean was referenced within the Respondent's case as it was under his supervision that the Respondent claimed to be acting when conducting immigration work on behalf of clients. Following the Applicant instigating these proceedings against the Respondent, Mr Bullock had identified that Mr Dean had separately been the subject of

disciplinary proceedings by his own regulator (the BSB) in which he was disbarred<sup>2</sup>. The allegations against Mr Dean arose from similar facts to the Respondent's case. The BSB findings stated that:-

*“Mr James Dean, a practising barrister, failed to act with honesty and with integrity in that he falsely confirmed to the Bar Standards Board by email dated 27 January 2020 and to OISC by email dated 21 June 2020 that he had ceased supervising immigration advisers at a firm known as Ebrahim & Co whose registration as immigration advisers had been cancelled by the OISC on or around 15 August 2017, when in fact he had not ceased to do so.”*

18. Mr Bullock submitted that out of fairness to the Respondent the BSB findings should be included and made available to the Respondent. Mr Bullock stated that the findings were disclosable and relevant to these proceedings.
19. The Respondent supported the Applicant's application and submitted that he would like to refer to the findings in his submissions.

#### The Tribunal's Decision

20. The Tribunal accepted Mr Bullock's submission that the BSB findings in respect of Mr Dean were relevant to the proceedings and should be included within the bundle out of fairness to the Respondent. The Tribunal therefore granted the application.

#### *Amendment to Allegation 1.2*

21. Mr Bullock submitted that the date within this allegation should have stated 8 July 2022 as opposed to 8 July 2023 and that this was the result of a typographical error. The Respondent did not oppose the application to amend the allegation and confirmed that he had understood the correct date to be 8 July 2022. The application to correct the date was granted by the Tribunal

#### The Tribunal's Decision

22. The Tribunal noted that the typographical error in Allegation 1.2 was inconsequential and caused no prejudice to the Respondent who did not oppose the application. It was important that the allegation was corrected to ensure accuracy and the Tribunal therefore granted the application.

#### *Respondent's Application – late evidence*

23. The Respondent indicated that he had located emails exchanged between himself and HMCTS concerning access to the HMCTS portal, through which the Firm's cases were progressed. He applied for their admission as late evidence as he had previously been unaware of them.
24. There were two emails in the chain, the first dated 15 May 2023, was a request for technical assistance from HMCTS as the Firm had been attempting login to its “My

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<sup>2</sup> The BSB findings were subject to appeal as at the date of this hearing.

*HMCTS*” account but were unable to do so. That email was sent from an address [zaktarlawyeradvocate@gmail.com](mailto:zaktarlawyeradvocate@gmail.com) to [contactia@justice.go.uk](mailto:contactia@justice.go.uk)

25. The second email was exchanged between the same email addresses on 6 June 2023 with HMCTS informing the Respondent that the account had been suspended in line with the Respondent’s request made on 12 May 2023. HMCTS also apologised for the delay in actioning the request.
26. In addressing the Tribunal, the Respondent posited why, if he had requested that HMCTS suspend the account on 12 May 2023, would he be contacting HMCTS on 6 June 2023 to request technical assistance in accessing the account. The Respondent submitted that the emails demonstrated that he did not create the “*My HMCTS*” account and that others within the Firm were communicating with HMCTS using his email account.
27. Mr Bullock noted that this was the first occasion that the Respondent suggested that the “*My HMCTS*” account had been created by someone else and he confirmed that the application was opposed on four grounds.
28. Firstly, the emails provided were partial extracts from a larger chain, and the forwarding message had been omitted. Therefore, it was unclear who sent the emails, to whom, or what else was included in the email chain.
29. Secondly the fact that the emails were forwarded raised doubts regarding their authenticity. The concern is that forwarded emails can be altered, and without the full context, it’s questionable the extent to which the Tribunal could be sure that they were genuine.
30. Thirdly Mr Bullock submitted that there was no explanation as to why these emails were only presented during the hearing, especially since they should have been available at earlier stages of the case. Mr Bullock submitted that the relevance of the emails would have been apparent to the Respondent as the Applicant’s investigation progressed towards the substantive hearing. The emails could have been introduced at any one of the opportunities available to the Respondent. These included when the Respondent had provided detailed submissions to the Applicant in response to the allegations in June 2023, December 2023 and May 2024. Mr Bullock submitted that it was noteworthy that the Respondent had declined to do so.
31. Fourthly Mr Bullock submitted that the emails were of limited probative value. They were sent approximately a year after the period relevant to the allegations and were not exculpatory. The emails purportedly indicated that at least two people had access to the “*My HMCTS*” account. The Respondent accepted that he was one of the people with access to the account and the Applicant’s case was that he was conducting immigration work through it. In that respect the emails were consistent with the Applicant’s case and with the Respondent’s Answer as provided to the SRA on 23 June 2023.
32. Mr Bullock therefore invited the Tribunal to refuse the Respondent’s application and exclude the late evidence.

## The Tribunal's Decision

33. The Tribunal noted that the late evidence was not strictly relevant given the dates of the emails. The emails were sent/received between the Respondent's email address and HMCTS approximately a year after the period relevant to the allegations. However, the Respondent was unrepresented and the Tribunal considered that it would be in the interests of justice for the late evidence to be ventilated and questions asked to determine what (if any) weight could be attributed to it when determining the allegations against the Respondent and so granted the application.

## **Background**

34. The Respondent is a solicitor having been admitted to the Roll of Solicitors on 15 September 2014.
35. The first recorded employment for the Respondent on SRA records commenced on 25 November 2019 when he was stated to be a freelance solicitor at "Zahid Akhtar". Generally, a solicitor will only be able to provide reserved legal services as a solicitor through an entity that is authorised to do so. However, if a solicitor practises on their own account they can provide reserved legal services without being authorised as a recognised sole practice if they meet the conditions set out in regulation 10.2(b) of the Authorisation of Individuals Regulations.
36. Regulations 9.5 to 9.7 of the SRA Authorisation of Individuals Regulations 2019 refer to Immigration work and state that:

*"9.5 Subject to regulation 9.7, if you are a solicitor, an REL or RFL you may undertake immigration work, provided that such work is undertaken:*

*(a) through an authorised body;*

*(b) through an authorised non-SRA firm that is a qualified person under the Immigration and Asylum Act 1999;*

*(c) as an employee, for your employer or work colleagues; or*

*(d) through a non-commercial advice service which is registered with the Office of the Immigration Services Commissioner or is otherwise a qualified person under the Immigration and Asylum Act 1999.*

*9.6 Where you undertake work under regulation 9.5(c) or (d) above, this must be undertaken by you personally and not by another person on your or your employer's behalf unless such person is a qualified person under the Immigration and Asylum Act 1999 other than under section 84(2)(e) of that Act.*

*9.7 If you undertake immigration work through a body which is registered with the Office of the Immigration Services Commissioner, other than as permitted under regulation 9.5(d), you must be registered as an individual with the Office of the Immigration Services Commissioner or otherwise qualified to provide such services under the Immigration and Asylum Act 1999 and must undertake such work in that capacity.*

*9.7A For the purposes of regulation 9.7, you are not otherwise qualified to provide services under the Immigration and Asylum Act 1999 by virtue of your authorisation by the SRA to practise as a solicitor, an REL or RFL.*

*9.7B Where you are undertaking work under 9.7 above, in the event of any conflict between the SRA's regulatory arrangements and any requirements placed on you by the Office of the Immigration Services Commissioner, the latter shall prevail.*

*9.7C Nothing in regulations 9.5 to 9.7B restrict you from undertaking immigration work if you fall within section 84(6) of the Immigration and Asylum Act 1999."*

37. The purpose of those regulations is to ensure that solicitors dealing with potentially vulnerable clients are only doing so when they are suitably qualified, and the appropriate safeguards are in place. Freelance solicitors are not permitted to carry out immigration work under Regulation 9.5.
38. SRA Guidance entitled - 'Preparing to become a sole practitioner or an SRA-regulated freelance solicitor' (the SRA Guidance) states: "You must get your practice authorised if you provide immigration, claims management (including employment claims) or regulated financial services and are not regulated by another suitable regulator.." A copy of the SRA Guidance was sent to the Respondent on 8 March 2022.
39. On 9 February 2023 Michael Clements, President of the First Tier Immigration and Asylum Chamber ("the Immigration Tribunal") ("Mr Clements") made a report to the SRA and to the Office of the Immigration Services Commissioner ("OISC") that the Respondent was trading from an unregulated entity along with his unregulated colleague Ms Mizbah Atcha ("Ms Atcha").
40. Mr Clements' letter stated that Ms Atcha had attended at the Immigration Tribunal at Feltham as representative in two appeals. Ms Atcha stated in notices pursuant to Section 84 of the Immigration and Asylum Act 1999 that she was authorised to appear before them because she was supervised by a solicitor, the Respondent.
41. The Immigration Tribunal wrote to the Respondent asking him and Ms Atcha to respond and confirm the basis on which they were authorised to act in the matter.
42. On 22 January 2022 the Respondent responded to the Immigration Tribunal maintaining why he thought he was entitled to carry out immigration work.
43. The allegations against the Respondent arose from the report to the SRA sent by Mr Clements.

#### **Witnesses**

44. The Respondent initially indicated that he would be giving evidence as part of his defence. Mr Bullock indicated that if cross-examined there was a risk of the Respondent self-incriminating. Mr Bullock stated that whilst naturally reluctant to show his hand regarding topics for cross-examination it was necessary, out of fairness to the Respondent, to address this issue in advance.



45. Mr Bullock informed the Tribunal that were it to be put to the Respondent that he had carried out immigration work when not authorised to do so he may admit an offence under the Immigration and Asylum Act 1999 and conversely were the Respondent to submit that he had permitted others to improperly operate the Firm's "My HMCTS" account, this came with the risk of the Respondent admitting an offence under the Fraud Act 2006.
46. Mr Bullock emphasised that the Applicant did not of course seek to establish that the Respondent had committed any criminal offence/s. Instead, the Applicant's submission was that out of fairness to the Respondent he should be warned in advance as to the risk of giving evidence on oath before the Tribunal that may inadvertently amount to self-incrimination regarding potential criminality.
47. The Tribunal considered that it was appropriate that the Respondent be administered with a warning against self-incrimination in advance of giving evidence. The Respondent was duly informed that "*he may claim privilege against self-incrimination if compelled to disclose information that would tend to expose him to criminal proceedings for an offence or the recovery of a civil penalty.*"
48. The proceedings were adjourned on 28 November 2024 until 22 January 2025 to provide the Respondent with an opportunity to take legal advice before giving evidence. The Tribunal also invited the Respondent to consider whether he required an interpreter to assist in his giving evidence as he had referenced that English was not his first language and he was concerned about expressing his case clearly.
49. At the resumption of proceedings on 22 January 2025 the Respondent indicated that he would not be giving evidence but instead relying on his detailed Amended Answer and Skeleton Argument. The Respondent confirmed that did not require an interpreter as his written submissions articulated his position clearly to assist the Tribunal in determining the allegations. The Respondent confirmed that his command of and understanding of English was such that an interpreter was unnecessary.
50. No oral evidence was received and the Tribunal considered all of the evidence and submissions made by the parties, which, so far as relevant, is quoted or summarised in the Findings of Fact and Law below.

### **Findings of Fact and Law**

51. 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 the Respondent's rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
52. **Allegation 1.1 - From around 28 February 2022 to at least around 25 July 2022 he undertook immigration work as a solicitor when he was neither a recognised sole practitioner nor a manager, employee or member of an authorised body**

### The Applicant's Case

52.1 Mr Bullock prefaced his submissions by emphasising that the Respondent was an immigration practitioner throughout and as such would always have needed to be authorised to undertake this work pursuant to the SRA Authorisation of Individuals Regulations 2019. Admittance to the roll as a solicitor did not automatically provide the Respondent with that entitlement. The Respondent's assertion that he was practising as a freelance solicitor was of limited relevance in that context.

52.2 The Respondent had advanced several inconsistent explanations in responding to the Applicant's case prior to the hearing. Initially the Respondent had stated<sup>3</sup>:-

*"I most sincerely and genuinely apologize for my genuine mistake in undertaking immigration work. In the hindsight I believe I ought to have known better the SRA rules on this [sic]"*

52.3 In subsequent written submissions to the SRA dated 7 May 2024 the Respondent stated that:-

*"All the immigration matters listed in the Appellant's bundle against me were not mine nor were handled by me. These were of the clients of Ebrahim & Co. and were handled by Mr. Ebrahim & Miss Atcha. My role in the organization was of a clerk / typist. I was drafting letters & legal documents..."*

*"While I supported working alongside Mr. Ebrahim & Miss Atcha, I never expressly consented to them to use my name for Immigration work. I believe they did not need my cover as they were supervised by Mr. J.P.Dean. I always advocated for operating through a formally constituted, legitimate platform. I was not in favour of them using my name without proper authorization from the relevant regulatory body, the SRA (Solicitors Regulation Authority), and referring to me as their supervisor which of course I was not. Whenever I raised my concerns with them, they told me that, as a solicitor, I could undertake immigration work as it was a non-reserved activity and I could also supervise them being a solicitor. However, I believed authorization was necessary, as it would ensure compliance with legal and ethical standards. Although I couldn't compel them to share my understanding because of their seniority and experience, however I remained steadfast in my belief that proper authorization was essential. Therefore, I made several inquiries with the SRA for clarification; however, instead of providing a clear answer, they always made reference to the SRA Regulations to be checked by ourselves, which were then interpreted by them in accordance with their own understanding of the rules. Moreover, my circumstances also left me confused & indecisive ... and my non-assertive nature and reliance & obligation to them, influenced my reluctance to challenge their actions assertively."*

52.4 Mr Bullock clarified that Allegation 1.1 applied to the period 28 February 2022 to 25 July 2022 however the evidence to which he was referring the Tribunal ran from 4 April 2022 onwards and so the Applicant's case was restricted to events after that date until 25 July 2022.

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<sup>3</sup> In his Answer to the Applicant's Rule 12 statement dated 23 December 2024

- 52.5 Mr Bullock submitted that the SRA was advised by Mr Clements that Ms Atcha had attended at the Immigration Tribunal in Feltham on 14 January 2022 as the representative for Client A in an appeal matter and for 6 linked cases in another appeal matter with the lead appellant being Client B.
- 52.6 In order to appear before the Immigration Tribunal, representatives are required to complete a notice explaining how they are complying with Section 84 of the Immigration and Asylum Act 1999. The notices were completed to indicate that Ms Atcha was authorised to appear as she was supervised by a solicitor (the Respondent).
- 52.7 Following receipt of the letter from Mr Clements an Investigation Officer in the employment of the SRA (the Investigation Officer) wrote to the Respondent advising him of the SRA's concerns that he was providing immigration work as a freelance solicitor, and supervising individuals not regulated by the SRA in their providing immigration work, which is not permitted under the SRA's rules. The Investigation Officer also clearly stated that the Respondent should not be undertaking immigration work.
- 52.8 The Respondent replied on 1 March 2022. In his letter he stated that "*once I received [the SRA's] kind correspondence of 7th December 2020, I believe I then complied by registering as a Freelancer which was kindly and duly approved*".
- 52.9 On 8 March 2022 the Investigation Officer replied to the Respondent repeating that "*as set out in the guidance, as a freelance solicitor you cannot do immigration work*", and providing him with a copy of the Guidance.
- 52.10 The Respondent replied on 15 March 2022. In his letter he stated that:
- "I most respectfully and humbly wish to continue to remain a freelance solicitor undertaking in my own name solely non-reserved immigration work and seek authorisation to do so as this is mainly my sole livelihood. Towards this I have submitted the relevant application for it be expedited and processed quickly and in order for me to continue working in my own name. I seek to practice on (sic) my own name and provide immigration service to the public. Your guidance and letter has been helpful and I did not intend to be in breach of the requirements."*
- 52.11 The Respondent also referred to previous correspondence with the SRA which caused him to believe that he was authorised to work in his own name. He further stated that:
- "My understanding is that the whole point and purpose of Registering as a freelance SRA regulated Solicitor was that to practise (sic) on my own account in order to provide immigration service to the public as authorised. As immigration is non-reserved activity for a solicitor, the nature of my work required no authorisation especially following the regulatory reforms of 25/11/2019 and by the fact that I worked in my own name"*.
- 52.12 The Investigation Officer replied on 17 March 2022 setting out why the Respondent was not authorised to undertake immigration work and advising him to immediately

cease undertaking immigration work until he could meet one of the requirements under Regulation 9.5 of the SRA Authorisation of Individuals Regulations 2019.

- 52.13 On 23 March 2022 the Respondent applied to the SRA's Authorisation department to become authorised as a recognised sole practice, stating "*I also wish to continue to be a freelance solicitor to carry out non reserved immigration services*".
- 52.14 The Respondent subsequently withdrew this application on 19 August 2022 pending the outcome of the SRA's investigation. On the same day, the Respondent provided the Investigation Officer with a number of documents including a copy of his application. He also referred to previous correspondence with the SRA regarding his practice and repeated that he believed that he met the SRA guidance requirements of 25 November 2019.
- 52.15 It is noted that the Respondent has corresponded with the SRA over a number of years regarding his immigration practice:
- In 2016 the Respondent asked the SRA for confirmation that he was able to undertake immigration work. A Contact Centre Officer employed by the SRA replied on 21 July 2016 stating, "*You are able to do any work for which the term Solicitor may be used, and for which you are duly qualified*".
  - The Respondent stated that he was advised by the SRA over the telephone on 17 August 2017 that he was permitted to work as an immigration practitioner (and other unreserved activities) in his own right, and that he required no formal approval to undertake immigration work.
  - The Respondent has stated that on 10 October 2017 the SRA confirmed in writing that immigration work was not defined as reserved work under the SRA rules and nor does the Legal Services Act 2007 define immigration work as reserved work for a solicitor (but he did not provide a copy of that letter).
  - On 20 February 2020 the SRA advised the Respondent that they had added the work category of 'Immigration and Nationality' to his details on MySRA.
- 52.16 However, a Letter of Guidance was sent to the Respondent on 7 December 2020, informing him of the applicable rules and regulations with regards to immigration work and specifically the SRA Authorisation of Individuals Regulations, regulations 9.5 - 9.7B.
- 52.17 Mr Bullock submitted that if aspects of the correspondence which the Respondent received from the SRA prior to 28 February 2022, as summarised above, had left him uncertain as to the circumstances in which a solicitor could undertake immigration work, this would have been resolved by the letters of 28 February, 8 and 17 March 2022 which made it clear that the Respondent could not undertake immigration work as a freelance solicitor.
- 52.18 In the email of 28 March 2022, the Investigation Officer again detailed the specific circumstances in which the Respondent could undertake immigration work and

reiterated that he was in breach of the SRA's regulations until his application for authorisation as a Sole Practitioner was approved.

- 52.19 The Respondent acknowledged this email on 30 March 2022, and asked for a period of grace of 21 days to enable him to conclude pending administrative matters so that clients were not prejudiced. He also confirmed that *"In the meantime I intend to not undertake Tribunal attendance work nor take on new work under Z. Akhtar"*
- 52.20 The request for a period of grace was refused by the Investigation Officer on 31 March 2022 who also advised the Respondent that:-

*"You are not currently authorised by the SRA to provide immigration work to clients in your current arrangement working as a freelance solicitor. By continuing to provide immigration work you will be in breach of our rules and regulations .... You should therefore cease undertaking all immigration work on behalf of clients immediately until such time that you comply with our requirements under the Regulations..."*

- 52.21 The Respondent acknowledged this email the same day, stating *"I will not undertake work in the name of Z. Akhtar until the outcome of my application"*. The Investigation Officer sought confirmation from him that neither he nor Ms Atcha had ceased undertaking immigration work on behalf of clients, and the date that he ceased undertaking immigration work.
- 52.22 On 1 April 2022 the Respondent emailed the Investigation Officer stating that *"I have ceased undertaking immigration work on 31.03.2022"*. On 25 April 2022 SRA wrote to the Immigration Tribunal for any information and evidence that showed that the Respondent had or may have been undertaking immigration work.
- 52.23 On 29 April 2022 the Immigration Tribunal provided a list of appeals where the Respondent was listed as representative. Further information was received from the Immigration Tribunal on 16 May 2022 when the Immigration Tribunal also stated that *"of continuing concern is that [the Respondent] remains on the record of acting in the list of appeals sent previously and attached again. Until he comes off the record notices will automatically be sent to them as representative"*.
- 52.24 The information provided by the Immigration Tribunal indicated that the Respondent had submitted four applications for appeals on behalf of clients as Legal Representative onto the Immigration Tribunal's Core Case Database (CDD) on 4 April, 25 April, 26 April and 6 April 2022. He also made submissions dated 6 April 2022 and had failed to remove himself from the record as acting in the list of 67 appeals previously provided by the Immigration Tribunal.
- 52.25 On 22 June 2022 the Investigation Officer asked the Respondent for his explanation about the information received from the Immigration Tribunal.
- 52.26 The Respondent provided his response on 5 July 2022 in which he stated that *"after 1 April 2022 work was undertaken under the name of JP Dean (Direct Access Barrister) associated with the organisation of Z Akhtar / JP Dean / Assoc (Organisation No 813166)"*. This was the SRA number for Zahid Akhtar Freelance Solicitor. He also

stated that “*work continues to be undertaken in the name of J P Dean and another (Yasmin Ebrahim-Wright (Consultant / Practising Barrister)).*” He also referred to his correspondence with the SRA from September 2020 which predated the Letter of Guidance and the very detailed correspondence from the Investigation Officer clearly setting out that the Respondent did not meet the requirements to practice immigration law.

- 52.27 On 8 July 2022 the Respondent responded to the Investigation Officer’s email of 7 July 2022 stating, “*I most sincerely, genuinely and honestly did not mean to be inconsistent with my replies nor did I intend to mislead and I apologize (sic) to the SRA if my replies came across in that manner*”. The Respondent again stated that he believed he was able to work but that “*In the meantime I will cease work altogether until you kindly revert to me*”.
- 52.28 Further correspondence passed between the Investigation Officer and the Respondent between 11 and 28 July 2022 with the latter again providing copies of the historic correspondence with the SRA and repeating that he worked under J P Dean, a qualified person under the Immigration and Asylum Act 1999 and who met the requirements of Section 84(2) as his work colleague.
- 52.29 The Investigation Officer wrote to Mr Dean and Yasmin Wright (Ms Wright) on 24 August 2022.
- 52.30 On 7 September 2022 Ms Wright replied to the Investigation Officer advising that although she had been instructed by the Respondent and his associates, she did not have formal arrangements and she had not supervised him.
- 52.31 The same day the Respondent forwarded a response from Mr Dean to the Investigation Officer. In that response, Mr. Dean stated that he had worked with the Respondent professionally on immigration work since 1 September 2017. He also stated that he did not supervise the Respondent nor did he have any formal written arrangements with the Respondent.
- 52.32 On 11 October 2022 the Investigation Officer received a witness statement from Ms Louisa Goodfellow, who was employed in the Appeals, Litigation and Admin Review Directorate, part of Visas, Information and Passports, within the Home Office (Ms Goodfellow).
- 52.33 In her statement, Ms Goodfellow stated that:

*“According to my preliminary checks, the Home Office has received numerous representations/ submissions from [the Respondent] and his associates from the 1st April 2022, operating from 1 - 3 Lancelot Road. Many of those representations have also been sent to the First Tier Tribunal of the Immigration and Asylum Chamber for appeal hearings on behalf of clients. I attach a schedule listing some examples as Exhibit EX/LG/01. Please note that these are only a small sample, there are more submissions being sent to Appeals, Litigation & Admin Review and also to other parts of the business, e.g. National Removals Command”.*

- 52.34 The Schedule attached to Ms Goodfellow's witness statement details 18 emails received from the Respondent's [zakhtarlawyeradvocate@gmail.com](mailto:zakhtarlawyeradvocate@gmail.com) email address between 1 April and 25 July 2022. She also provided a bundle of documentation referred to in that Schedule.
- 52.35 Mr Bullock emphasised that emails in the bundle were sent in the name of "J.P.Dean/Zakhtar/Assoc" however, the Respondent had previously been advised on numerous occasions of the circumstances set out by Regulation 9.5 of the SRA Authorisation of Individuals Regulations in which he could undertake immigration work, with which this did not comply.
- 52.36 The Respondent had therefore, in Mr Bullock's submission, clearly continued immigration work whilst not authorised to do so and notwithstanding the assurances he had provided to the SRA that he had ceased undertaking it.

#### Breaches of the Principles and Regulations

- 52.37 The Applicant maintained that a member of the public would expect a solicitor to ensure that they complied with their regulatory obligations and to follow the rules set by their regulator which exist for their protection. They would expect a solicitor to cease to undertake work that they were not authorised to do immediately upon being notified that they were not so authorised. Consequently, the public would be concerned that the Respondent had continued to undertake immigration work from 28 April 2022 onwards in the knowledge that he was not permitted to do so by the SRA as his regulator.
- 52.38 By acting for potentially vulnerable clients in circumstances when he was not authorised to do so, and when he had been informed that he was not authorised to do so, the Respondent failed to act in a way that upheld the public trust and confidence in the solicitors' profession and in legal services provided by authorised persons, and therefore breached Principle 2 of the SRA Principles 2019.
- 52.39 By undertaking immigration work as a freelance solicitor, as opposed to through an authorised body or one of the other categories permitted by Regulation 9.5, the Respondent breached that regulation of the SRA Authorisation of Individual Regulations 2019.
- 52.40 In order to undertake immigration work, the Respondent needed to be either a recognised sole practitioner or manager, employee or member of an authorised body. By undertaking immigration work whilst not employed by an authorised body the Respondent was acting as a sole practitioner when his practice was not authorised as such, and therefore breached Regulation 10.1 of the SRA Authorisation of Individual Regulations 2019.

#### The Respondent's Case

- 52.41 The Respondent had indicated that he would not be giving evidence (see paragraphs 44 - 50 above) and instead made submissions and invited the Tribunal to consider his written responses to the allegations.

- 52.42 The Respondent firstly emphasised that any changes in his previous responses to the Applicant's case during the course of the investigation were as a result of his employment circumstances which compromised his independence and freedom to respond as he would have wished to. In his written submissions dated 30 April 2024 the Respondent stated:-

*"I wish to explain the reason why my case evolved over time and I made deviation from my previous response to the SRA allegations against me. Please note that all my communications with the SRA & SDT prior to 15.12.2023 were not independent and were made through my former employer Ebrahim & co, hereinafter referred as E & Co. (Headed by Mr. Ebrahim & Miss Atcha). Therefore, those communications with the SRA and the SDT did not truly represent me and instead contained the view point and understanding of the SRA Regulations by my former employer – E & Co. However, after ending my employment with E & Co. around 15.12.2023, I could now freely clarify my position and provide the real reasons behind breach of alleged SRA regulations by me."*

- 52.43 By way of background concerning his role and duties the Respondent stated in his written submissions dated 30 April 2024:-

*"Please note that I never acted as an independent solicitor nor offered immigration services independently. In 2006/2007, I started working for an immigration law firm, Ebrahim & Co. – a partnership between Mr. Ebrahim & Miss M. Atcha, which continued until 15.12.2023.*

*IMPORTANT- In Sep 2017, Mr. James P. Dean (Direct Access Barrister) took over all the clients of Ebrahim & Co. after it ran into trouble. With Mr. Ebrahim & Miss. Atcha, I also started working under the supervision of Mr. James P. Dean - Direct Access Barrister. All the immigration matters listed in the Appellant's bundle against me were not mine nor were handled by me. These were of the clients of Ebrahim & Co. and were handled by Mr. Ebrahim & Miss Atcha.*

*My role in the organization was of a clerk / typist. I was drafting letters & legal documents, composing emails, filling forms, photocopying/scanning documents, and managing postal services. My role throughout my time with organization remained unchanged. I was paid fixed weekly pay. Sometime [sic] I was required to note down the purpose of new clients visiting our office before being advised by Mr Ebrahim or Miss Atcha. Often I would give information to the clients about the documents they need for their matters.*

*... After registering as a solicitor in Sept 2014, I was required to gain further experience for three years to start my independent practice. Given my existing employment with the aforementioned organization, I continued working with them".*

- 52.44 The Respondent acknowledged that immigration work had been carried out under his name but he asserted that he had never given explicit consent for it. The Respondent explained that after being admitted as a solicitor in 2014, he had expected his former



employer to help set up a legitimate, authorised entity for the work. He had followed his employer's advice and registered as a Freelance Solicitor.

- 52.45 The Respondent explained that his former employer, Ebrahim & co, had lost its registration with the OISC in September 2017, and its clients were subsequently transferred to Mr. James P. Dean, a Direct Access Barrister. He, along with his employers, had continued working under Mr. Dean's supervision.
- 52.46 The Respondent claimed that when he discovered immigration work had been carried out in his name, he had felt powerless to stop it, largely due to his personal circumstances and the dominance of his employers.
- 54.47 The Respondent further noted that his employers had argued that, as a solicitor, he did not need specific authorisation to undertake immigration work, as it was considered a non-reserved activity, and that he had the authority to supervise it. Despite his reservations, he had felt unable to challenge his employers due to his trusting and non-assertive nature.
- 54.48 The Respondent clarified that he had never intended for immigration work to be conducted under his name without the necessary SRA authorisation and that he had never profited from the use of his name. The Respondent emphasised that his financial circumstances had remained unchanged, evidenced by bank statements showing no deposits from clients or significant payments made reflecting immigration work undertaken.
- 52.49 The Respondent asked the Tribunal to consider whether he had been under significant influence from his employer and unable to prevent these actions, and whether he should have been penalised for circumstances he believed had been beyond his control.
- 52.50 The Respondent invited the Tribunal to regard him as a victim of circumstance. The Respondent's position was invidious as his colleagues had created the HMTCS account without his knowledge and when he did find out this had occurred he felt unable to take decisive action to prevent it although he did make attempts in this regard. The Respondent conceded that his loyalty to his colleagues was an important factor which limited his capacity to act and to ensure that matters were regularised in line with his regulatory obligations.

### The Tribunal's Findings

- 52.51 The Home Office evidence adduced by the Applicant indicated that that the Respondent was undertaking immigration work as a solicitor between (at a minimum) 1 April and 25 July 2022. The Applicant had established that the Respondent was neither a recognised sole practitioner nor a manager, employee or member of an authorised body at the time the immigration work was undertaken.
- 52.52 The Respondent provided several explanations for his actions at different stages of the regulatory process. It was noteworthy that his initial position was to apologise to the Applicant, accepting that he had undertaken immigration work, ascribing the non-authorised work to a misunderstanding of the rules. The Respondent's position was modified in his later responses to the Applicant and the Tribunal as the Respondent

suggested that the immigration work had been conducted in his name in circumstances in which he could not prevent his colleagues continuing and latterly (at least to some extent) without his knowledge.

- 52.53 The Respondent had submitted that he felt a degree of helplessness when he became aware that immigration work was continuing in his name. The Tribunal found that this explanation was not credible given the options available to the Respondent to inform the Court and/or his regulator in line with his professional obligations when he found himself in that position.
- 52.54 The Tribunal found the Respondent's differing explanations irreconcilable. The Respondent had elected not to give evidence and the numerous inconsistencies in his case remained unresolved. The Tribunal found that the Respondent's submissions lacked credibility and did not properly or consistently explain his actions over the period cited within the allegation.
- 52.55 On a minimum of six occasions between December 2020 and March 2022 the Applicant had communicated with the Respondent detailing the regulatory requirements necessary for undertaking immigration work. The Respondent was told expressly that he must not act by the Applicant on 31 March 2022.
- 52.56 A solicitor receiving a letter from his regulator informing him that he must not act would immediately come off record and communicate with his clients to ensure they were made aware that they would require alternative representation. Anything other than those steps would fail clients as the solicitor would be aware that they could not take the necessary actions on their behalf.
- 52.57 Immigration work can have life changing impact on clients which emphasises the importance and responsibilities incumbent upon professionals practising in that area. A solicitor would be aware of the professional obligation to check they are qualified and their practising arrangements are regularised before undertaking work in that area. This obligation would have been clear to the Respondent given his communication with the Applicant.
- 52.58 The Tribunal found the underlying facts proved in the context of Allegation 1.1. By acting for potentially vulnerable clients in circumstances when he was not authorised to do so, and when he had been informed that he was not authorised to do so. The Tribunal found that the Respondent failed to act in a way that upheld the public trust and confidence in the solicitors' profession and in legal services provided by authorised persons, and therefore breached Principle 2 of the SRA Principles 2019.
- 52.59 The Tribunal found that by undertaking immigration work as a freelance solicitor, as opposed to through an authorised body or one of the other categories permitted by Regulation 9.5, the Respondent breached that regulation of the SRA Authorisation of Individual Regulations 2019.
- 52.60 In order to undertake immigration work, the Respondent needed to be either a recognised sole practitioner or manager, employee or member of an authorised body. By undertaking immigration work whilst not employed by an authorised body he was acting as a sole practitioner when his practice was not authorised as such, and therefore

the Tribunal found that the Respondent breached Regulation 10.1 of the SRA Authorisation of Individual Regulations 2019.

- 52.61 The Tribunal found Allegation 1.1 **proved** in its entirety on a balance of probabilities.
53. **Allegation 1.2 On or around 1 April 2022 and / or 8 July 2022 he provided inaccurate and/or misleading information to the SRA in relation to him undertaking immigration work, and in doing so, he was dishonest**

#### The Applicant's Case

- 53.1 This allegation arose from the same facts as detailed above at Allegation 1.1.
- 53.2 Mr Bullock submitted that the Respondent provided untrue and misleading information to the SRA on two separate occasions. Firstly, on 1 April 2022 the Respondent emailed the Investigation Officer stating that *"I have ceased undertaking immigration work on 31.03.2022"*.
- 53.3 Mr Bullock stated that the information provided by the Immigration Tribunal established that the Respondent had not ceased undertaking immigration work on 31 March 2022 as stated in that email of 1 April 2022. The Respondent submitted four applications for appeals on behalf of clients as Legal Representative onto the Immigration Tribunal's Core Case Database on 4 April, 25 April, 26 April and 6 April 2022. He also made submissions dated 6 April 2022 and had failed to remove himself from the record as acting in the list of 67 appeals previously provided by the Immigration Tribunal.
- 53.4 Secondly on 8 July 2022 he stated that *"In the meantime I will cease work altogether until you kindly revert to me"*.
- 53.5 In her witness statement, Ms Goodfellow stated that:
- "According to my preliminary checks, the Home Office has received numerous representations/ submissions from [the Respondent] and his associates from the 1st April 2022, operating from 1 - 3 Lancelot Road. Many of those representations have also been sent to the First Tier Tribunal of the Immigration and Asylum Chamber for appeal hearings on behalf of clients. I attach a schedule listing some examples as Exhibit EX/LG/01. Please note that these are only a small sample, there are more submissions being sent to Appeals, Litigation & Admin Review and also to other parts of the business, e.g. National Removals Command."*
- 53.6 The Schedule attached to Ms Goodfellow's witness statement detailed 18 emails received from the Respondent's [zakhtarlawyeradvocate@gmail.com](mailto:zakhtarlawyeradvocate@gmail.com) email address between 1 April and 25 July 2022.
- 53.7 Mr Bullock submitted that this evidence clearly demonstrated that the Respondent was sending emails until 25 July 2022 which directly contradicted the assurances the Respondent gave to the Investigation Officer that he *"will cease working altogether until you kindly revert to me"*.

- 53.8 The Respondent had informed the SRA in an email of 1 April 2022 that he had ceased undertaking immigration work on 31 March 2022. Mr Bullock emphasised the inconsistencies in the Respondent's case that arose from that statement. If on the Respondent's case the immigration work was conducted by others after this point without his knowledge that begged the question what the Respondent was doing at the firm after that date as he remained remunerated over a period of approximately 8 months until he left the practice in December 2023 whilst, on his case, not undertaking any work.
- 53.9 Mr Bullock submitted that the Tribunal should regard the varying factual accounts provided by the Respondent with scepticism. The Respondent had stated in his submissions prior to the substantive hearing that his late, radical, change in his defence case was on the basis that he could not be frank with the SRA or Tribunal when still involved with the firm because of undue influence from his colleagues. Mr Bullock stated that the difficulty with that explanation is his submissions in which he raised the undue influence were dated after he had ceased working there and so concerns about what his former colleagues may do if were to be frank with the SRA would have fallen away by that point.
- 53.10 Mr Bullock invited the Tribunal to regard the Respondent's varying factual accounts as little more than a series of lies to conceal his own culpability.

#### Breaches of the Principles and SRA Code of Conduct for Solicitors

##### Principle 2

- 53.11 The public would expect any statement made by a solicitor to be strictly true and accurate, especially when corresponding with his regulator in respect of an ongoing investigation in respect of his conduct. By confirming to the SRA that he was no longer undertaking immigration work when he knew, or should have known, that this was not true, the Respondent necessarily diminished the trust the public placed in him and in the provision of legal services and therefore breached Principle 2 of the SRA Principles 2019.

##### Principle 4

- 53.12 The Applicant relied upon the test for dishonesty stated by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 67, which applies to all forms of legal proceedings, namely that the person has acted dishonestly by the ordinary standards of reasonable and honest people:

*“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that*

*the defendant must appreciate that what he has done is, by those standards, dishonest.”*

53.13 In relation to the Respondent’s understanding of the material facts and his state of knowledge at the material time/s between 1 April and 25 July 2022 when informing the SRA that he had ceased to under immigration work, Mr Bullock submitted that the Respondent knew and / or believed:-

- That he was responding to enquiries made by his regulator in connection with its oversight of his activities;
- That he was under a duty to co-operate with those enquiries and hence to be truthful when providing those responses;
- That he was continuing to undertake immigration work, notwithstanding his assurances to the SRA to the contrary;
- That there was disparity of knowledge between the SRA and himself, in that the SRA did not know that the statements he was making were untrue;
- That the SRA would, or would be likely to, expect him to be truthful in all his dealings with it;
- Consequently, that his statements would, or might be liable to mislead the SRA;
- That he did not have any formal work arrangements with Mr Dean and / or Ms Wright;
- That neither Mr Dean nor Ms Wright were supervising his immigration work as he alleged;
- That he was not entitled to undertake immigration work as a freelance solicitor.

53.14 In these circumstances, the Respondent’s conduct in making statements to the SRA in which he assured the SRA that he was no longer undertaking immigration work which were untrue and which he knew were untrue at the time they were made was dishonest by the objective standards of ordinary decent people. He therefore breached Principle 4 of the SRA Principles 2019.

#### Principle 5

53.15 Solicitors must act with integrity. In *Wingate and another v Solicitors Regulation Authority* [2018] EWCA Civ 366 it was said that integrity connotes adherence to the ethical standards of one’s own profession.

53.16 A solicitor of integrity is expected to be scrupulous about the accuracy of all statements made by him in connection with his practice. Such a solicitor also co-operates fully with his regulator. A solicitor of integrity would therefore ensure that he was truthful in all his dealings with his regulator and would not give misleading information to them. By providing misleading information to the Investigation Officer on two separate occasions

stating that he was no longer undertaking immigration work when he knew or should have known such statements were not true he failed to act with integrity and therefore breached Principle 5 of the SRA Principles 2019.

- 53.17 Paragraph 7.4(a) of the SRA Code of Conduct for Solicitors, RELs and RFLs.
- 53.18 By providing untrue and misleading information to his regulator that he was no longer undertaking immigration work when he knew he was in fact continuing to undertake such work the Respondent failed to provide full and accurate information to the SRA when requested. He therefore breached paragraph 7.4(a) of the SRA Code of Conduct for Solicitors, RELs and RFLs. Paragraph 7.6(c) (i) of the SRA Code of Conduct for Solicitors, RELs and RFLs.
- 53.19 By failing to promptly advise the Investigation Officer that notwithstanding his previous assurances to the SRA he was continuing to undertake immigration work he failed to notify the SRA promptly of material changes to the information he had previously provided to the SRA about him and his practice. He therefore breached paragraph 7.6(c) (i) of the SRA Code of Conduct for Solicitors, RELs and RFLs. Paragraph 7.6(c) (ii) of the SRA Code of Conduct for Solicitors, RELs and RFLs.
- 53.20 By failing to promptly advise the Investigation Officer that the information he had previously provided wherein he stated that he was no longer undertaking immigration work was false, misleading, incomplete and / or inaccurate he breached paragraph 7.6(c) (ii) of the SRA Code of Conduct for Solicitors, RELs and RFLs.

#### The Respondent's Case

- 53.21 The Respondent had indicated that he would not be giving evidence (see paragraphs 44 - 50 above) and instead made submissions and invited the Tribunal to consider his written responses to the allegations.
- 53.22 In his amended response to the Applicant's Rule 12 Statement dated 30 April 2024 the Respondent stated:-

*"The SRA alleges that I misled or misrepresented when I informed them that I had stopped undertaking immigration work.*

*My Response: When I made the undertaking to the SRA, it was an earnest and sincere commitment on my part. There was no intention to mislead or misrepresent SRA. How could I be foolish enough to continue working in breach of my undertaking to the SRA, thinking that it would go unnoticed by them, especially when they were already investigating me and had provided a long list of immigration work undertaken in my name? Why would I make such a mistake, knowing it would be easily caught by the SRA, particularly when they were already tracking the immigration work done in my name and I was fully aware of the consequences I would face for it? This raised a question why did this happen? I have attempted [sic] to answer it here. After giving my undertaking to SRA, I was confident that my former employers would not undertake immigration work in my name, based on their assurance. However, to my dismay and disappointment, I later discovered that my*

*employer continued to use an HMCTS account created under my name to conduct appellate immigration work. This revelation left me feeling utterly betrayed and powerless. Despite my efforts to communicate with the SRA in good faith, I now realize that my trust was misplaced. I deeply regret any misunderstanding that may have arisen from my communication with the SRA, as it was made in earnest based on the information and assurance provided to me by my employers.”*

53.23 In written submissions dated 8 May 2024 the Respondent stated:-

*“No misrepresentation to the SRA*

*I did not mislead, misrepresent, or lied to the SRA when I wrote to [the SRA Investigation Officer] on 01.04.2022 about ending immigration work. My undertaking to her was genuine and made in good faith. I wrote to her after speaking to Mr Ebrahim & Miss Atcha and getting their assurance that no more immigration work would be undertaken in my name, however, to my disappointment and frustration they regretfully continued using my HMCTS account for the immigration Appellate work.”*

53.24 In response to a query by the Tribunal during the hearing regarding HMCTS’ confirmation that 67 of the Respondent’s cases remained ongoing in March 2022, the Respondent explained that Mr Dean was supervising them and stated that he must have been operating the HMCTS account. The Respondent referred the Tribunal to the BSB findings in relation to its findings against Mr Dean which included a failure “...to act with honesty and with integrity in that he falsely confirmed to the Bar Standards Board by email dated 27 January 2020 and to OISC by email dated 21 June 2020 that he had ceased supervising immigration advisers at a firm known as Ebrahim & Co whose registration as immigration advisers had been cancelled by the OISC on or around 15 August 2017, when in fact he had not ceased to do so.”

53.25 The Respondent further stated that it was difficult to assert himself in preventing his colleagues from continuing to operate but that the SRA investigation gave him the “excuse” to withdraw from working with them which he welcomed.

53.26 The Respondent submitted that no one would knowingly breach an undertaking to his regulator to stop the immigration work knowing that to do so would be career suicide. The Respondent insisted that he did not represent a single one of his appellate clients in Court and did not receive remuneration in relation to those cases.

53.27 The Respondent reiterated that he held a minor position and that his colleagues controlled the practice in reality. Circumstances had made it difficult for him to leave his position but that was his intention. The Respondent stated that he made it clear to his colleagues that they must stop using his details and HMCTS account after his engagement with the SRA commenced.

### The Tribunal’s Findings

53.28 In determining this allegation, the Tribunal was required to consider whether the Respondent dishonestly provided inaccurate and/or misleading information to the SRA

regarding undertaking immigration work. The remainder of the allegation would become engaged should a finding of dishonesty be made by the Tribunal as the allegation was contingent on that finding.

- 53.29 The Tribunal had been referred to the test for dishonesty stated by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 67. The Tribunal firstly considered the actual state of the Respondent's knowledge or belief as to the facts.
- 53.30 The Respondent was said to have provided misleading assurances on 1 April 2022 when informing the Applicant that "*I have ceased undertaking immigration work on 31.03.2022*" and 8 July 2022 when he stated in communication with the Applicant that "*In the meantime I will cease work altogether until you kindly revert to me*".
- 53.31 The evidence disclosed by the Home Office indicated that immigration work had continued throughout the period April – July 2022 from the Respondent's HMCTS account. The Tribunal was critical of the Respondent for remaining on record for the clients referred to in the Home Office evidence after 31 March 2022. There was no evidence that the Respondent had attended any court personally to represent these clients.
- 53.32 In considering whether the Respondent was dishonest in his 1 April and 8 July 2022 communications the Tribunal noted that on 1 July 2022 the Respondent had sent an email to the Applicant which clarified that the HMCTS account was "*...maintained for the organisation and it was initially created in my name in 2020 for the purpose of the organisation to function administratively. Work continues to be undertaken but in the name of J.P. Dean and another (Yasmin Ebrahim-Wright consultant / practising barrister) until the outcome of my pending application.*"
- 53.33 The Respondent had further communication with the Applicant on 8 July 2022 in which he reiterated that the immigration work had effectively been transferred to Mr Dean who the Respondent understood to be separately authorised to conduct immigration work. The Respondent invited the Applicant to revisit their prior communications dating back to 2017 which had disclosed his working relationship with Mr Dean.
- 53.34 The Tribunal found that the Respondent was ill-advised to carry on as he did and the findings in relation to Allegation 1.1 spoke to the regulatory breaches that arose from his failure to comply with the requirement/s to be properly authorised to conduct immigration work. Allegation 1.2 however required narrow consideration of the Respondent's understanding of the facts when communicating with his regulator to determine whether he had been dishonestly misleading on (or around) 1 April and/or 8 July 2022.
- 53.35 The Applicant had informed the Respondent that he must cease work and the Respondent's reply to the Applicant on 8 July 2022 indicated that he thought transferring everything into Mr Dean's name would regularise their working arrangements. Although this was overtly ill-advised and an unreasonable conclusion on the Respondent's part, the Tribunal was satisfied that this was the Respondent's genuine understanding of the facts at the material time.



- 53.36 The burden of proof remained on the Applicant and given its findings in relation to the Respondent's genuine, albeit unreasonable, understanding of the facts the Tribunal was not satisfied on a balance of probabilities that the Respondent acted dishonestly on 1 April 2022 and / or 8 July 2022 when he provided inaccurate and/or misleading information to the SRA in relation to him undertaking immigration work. This finding was made on the basis of the totality of the evidence that spoke to the Respondent's understanding of the facts and was not a positive affirmation of the Respondent's case.
- 53.37 A finding of dishonesty was a pre-requisite for the remainder of the breaches contained within Allegation 1.2 to be engaged. As the Tribunal had found that the Respondent had not acted dishonestly Allegation 1.2 was not proved.

### **Previous Disciplinary Matters**

54. The Respondent had no previous disciplinary findings recorded against him.

### **Mitigation**

55. The Respondent stated that the facts presented by the Applicant were largely accepted however he invited the Tribunal to consider that in context, he was a victim of circumstance in the wrong place at the wrong time. The Respondent had long-term professional ties to his colleagues and he was grateful to them for their previous support. This made it difficult for him when attempting to regularise the regulatory position and he could not prevent his colleagues from acting. This situation was exacerbated by his poor health which limited his ability to take action to correct matters.
56. The Respondent reiterated that immigration is not reserved work and therefore he thought he could undertake it as a solicitor, particularly as he was acting under the umbrella of Mr Dean.
57. The Respondent emphasised that he did not gain financially from any work on behalf of the clients cited in the Applicant's case and that did not represent any of them personally in court.
58. In his written submissions the Respondent had stated: -

*"I earnestly request the Solicitors Tribunal to take a lenient and sympathetic approach in considering my matter. As the sole breadwinner of my young family, any sanction against me would have serious ramifications for their well-being and livelihood"*

*"Throughout this challenging ordeal, I have maintained a deep respect for the integrity of our profession and the regulatory processes overseen by the SRA. I am committed to cooperating fully to ensure that this matter is resolved with fairness and compassion."*

*"I never acted in prejudice to my clients and always acted in their best interests"*

*“I believe I ought to be given another opportunity to prove my commitment to SRA rules / my profession”*

*“I believe I have now learned my lesson and in the future undertake to practice in accordance with the SRA practice rules – to uphold the public trust and confidence in the profession.”*

## **Sanction**

59. The Tribunal had regard for its Guidance Note on Sanction (10<sup>th</sup> Ed) and the proper approach to sanctions as set out in Fuglers and others v SRA [2014] EWHC 179.
60. The Tribunal assessed the seriousness of the misconduct by considering the level of the Respondent’s culpability and the harm caused, together with any aggravating or mitigating factors.
61. The Tribunal found that there had been a significant failure by the Respondent to ensure requisite understanding of and compliance with the regulatory obligations incumbent upon him as a solicitor practising immigration law.
62. The Respondent was in direct control of and was responsible for the circumstances giving rise to the misconduct. The misconduct arose from his day-to-day practice and was not spontaneous but rather sustained and repeated. The allegations arose from a continuing course of conduct, notwithstanding the repeated warnings from his regulator which should at the very least have caused the Respondent to make enquiries as to what was required to regularise his position, before taking the necessary steps to ensure compliance. The Tribunal found that the Respondent’s culpability was high.
63. The purpose of the regulations breached by the Respondent is to ensure that solicitors dealing with potentially vulnerable clients are only doing so when they are suitably qualified, and the appropriate safeguards are in place. Although there was no primary evidence of harm to clients, the Respondent’s conduct negatively impacted upon the reputation of the profession. The Tribunal assessed the level of harm arising from the Respondent’s misconduct as moderate.
64. In respect of identifying aggravating features the Tribunal considered that this was misconduct where the respondent knew or ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession.
65. The Respondent ought to have been particularly alert regarding his obligations having been warned by his regulator. The Respondent should have raised the compliance issues with Mr Dean, his regulator and the Court. The misconduct was deliberate, calculated and repeated over a sustained period.
66. The Respondent had blamed others for his misconduct and persisted in this submission during the substantive hearing. The Respondent made submissions during his mitigation that indicated an ongoing failure on his part to understand the regulatory obligations for compliant immigration practice. These were also regarded by the Tribunal to be aggravating features.

67. The Tribunal found that the Respondent lacked insight and a proper understanding of the seriousness of his actions. The Respondent remained unaware of the basis of his wrongdoing. The Respondent's misunderstanding of the regulatory position in the context of the allegations persisted throughout, up to and including at the substantive hearing.
68. The Tribunal was referred to the Respondent's health in the course of his submissions but did not consider this to have been directly related to his misconduct.
69. As part of his rehabilitation the Tribunal would expect that before he seeks to return to practice, the Respondent has taken steps through further training and education to properly understand his regulatory obligations and the purpose of those regulations.
70. The Tribunal determined that No Order, a Reprimand or a Fine were inadequate sanctions. None of these options were commensurate with the seriousness of the misconduct or the risk to the public and the reputation of the profession.
71. The Tribunal determined that a suspension from the Roll was the appropriate penalty in this case. Public confidence in the legal profession demanded no lesser sanction. The Tribunal identified the need to protect both the public and the reputation of the legal profession from future harm from the Respondent by removing his ability to practise, but neither the protection of the public nor the protection of the reputation of the legal profession justified striking off the Roll.
72. The Tribunal therefore imposed a suspension from the Roll on the Respondent for a period of 12 months. Additionally, the Tribunal considered that restrictions on the Respondent's practice were necessary and appropriate to ensure the protection of the public and the reputation of the legal profession from future harm by the Respondent.
73. Accordingly, the Tribunal ordered that:- Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed indefinitely by the Tribunal as follows:
74. The Respondent may not:
  - Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body; or as a freelance solicitor; or as a solicitor in an unregulated organisation;
  - Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;
  - Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
  - Hold client money;
  - Be a signatory on any client account;

- Work as a solicitor other than in employment approved by the Solicitors Regulation Authority Ltd.
- There be liberty to either party to apply to the Tribunal to vary the conditions set out at above.

## Costs

75. Mr Bullock applied for costs on behalf of the Applicant and referred the Tribunal to the Applicant's Statement of Costs dated 15 January 2025. Mr Bullock clarified that the amount claimed was £13,119.50, which included the hearing days in November 2024, but with a reduction to take account of the resuming hearing concluding in less time than anticipated.
76. Mr Bullock submitted that although the Applicant had succeeded in only one of the two allegations brought, this should not lead to a significant reduction in costs as Allegation 1.2 was effectively a sub-set of Allegation 1.1 arising from the same factual matrix. Therefore, any reduction on that basis should be modest.
77. Mr Bullock conceded that the Tribunal was bound to consider the Respondent's financial circumstances and ability to meet any costs ordered by the Tribunal.
78. The Respondent did not oppose the Applicant's application for costs however he invited the Tribunal to have regard for his means and current financial circumstances. The Respondent had provided evidence indicating that he had significant liabilities. The Respondent stated that he was not currently in employment and he submitted that taking everything into account it would be difficult to satisfy any costs order awarded to the Applicant.
79. The Tribunal assessed the Applicant's Statement of Costs in detail, guided by reference to Rule 43 of the Solicitors (Disciplinary Proceedings) Rules 2019, and had regard for the conduct of the parties (including the extent to which the Tribunal's directions and time limits imposed had been complied with), whether the amount of time spent on the matter was proportionate and reasonable and whether any or all of the allegations were pursued or defended reasonably.
80. The Respondent had been partially successful in defending the allegations pursued by the Applicant and therefore, in considering the Respondent's liability for costs, the Tribunal had regard for the reasonableness and manner of the Applicant in pursuing the allegation on which it was unsuccessful and its case generally.
81. The Tribunal accepted the submission of Mr Bullock that Allegation 1.2 did arise from the same facts as Allegation 1.1. The allegation was properly brought and it was reasonable for the Applicant to have pursued it, however the Tribunal determined that it would be appropriate to reduce the costs claimed to £12,000.00 accordingly.
82. In view of the financial information and submissions by the Respondent the Tribunal considered whether any costs ordered were unlikely ever to be satisfied on any reasonable assessment of the Respondent's current or future circumstances. The Tribunal was satisfied that there was reasonable prospect that the Respondent's ability

to pay costs would improve at some time in the future and accordingly only reduced the costs ordered from £12,000.00 to £9,500.00 in view of the Respondent's current financial circumstances.

83. The Tribunal ordered that the Respondent do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,500.00.

**Statement of Full Order**

84. The Tribunal ORDERED that the Respondent, ZAHID AKHTAR solicitor, be SUSPENDED from practice as a Solicitor for the period of 12 months to commence on the 22<sup>nd</sup> day of January 2025 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,500.00.

Dated this 1<sup>st</sup> day of May 2025

On behalf of the Tribunal

*A. Kellett*

Ms A Kellett  
Chair