

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12629-2024

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

CHRISTOPHER MARK HUTCHINGS

Respondent

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Before:

Mrs L Boyce (in the chair)

Mrs A Sprawson

Mr B Walsh

Date of Hearing: 13 - 17 October, 20 November, and 8 December 2025

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**Appearances**

Paul Ozin KC of 23 Essex Street, 1 Gray's Inn Square, Holborn, London WC1R 5AA and Michael Collis of Capsticks LLP for the Applicant.

Ben Hubble KC and Will Cook, both of 4 New Square Chambers, 4 New Square, Lincoln's Inn, London, WC2A 3RJ, instructed by DAC Beachcroft LLP for the Respondent.

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**JUDGMENT**

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## Allegations

1. The allegations made against Mr Hutchings by the Solicitors Regulation Authority Limited ("SRA") were that: whilst working as a solicitor at Hamblins LLP ("the Firm"), he:
  - 1.1. On or around 18 October 2018, in a telephone call with Solicitor G made the following assertions which were false and/or misleading:
    - 1.1.1 That he had spoken to counsel and that he had been told that his client had a strong case for bringing contempt proceedings, or words to that effect; and/or
    - 1.1.2 That Client A had only heard yesterday about the references to him in Publication 2 or words to that effect,

and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011 ("the Principles") and failed to achieve Outcome 11.1 of the SRA Code of Conduct 2011 ("the Code").
  - 1.2 On or around 18 October 2018, in the same telephone call with Solicitor G improperly made a threat of litigation, and in doing so breached any or all of Principles 1, 2 and 6 of the Principles and failed to achieve Outcome 11.1 of the Code.
2. In addition, Allegation 1.1 above was advanced on the basis that Mr Hutchings conduct was dishonest. Dishonesty was alleged as an aggravating feature of the misconduct, but proof of dishonesty was not required to establish the allegation or any of its particulars.

## Executive Summary

3. The Tribunal was not satisfied that in the telephone call; Mr Hutchings had made false and or misleading assertions. Accordingly, allegation 1.1 was dismissed. The Tribunal's reasons can be accessed here:
  - [Allegation 1.1](#)
4. The Tribunal was not satisfied that in the telephone call; Mr Hutchings had made an improper threat of litigation. Accordingly, allegation 1.2 was dismissed. The Tribunal's reasons can be accessed here:
  - [Allegation 1.2](#)

## Applications

5. A number of applications were made during the course of the proceedings. Those applications and the Tribunal's decisions are contained in Appendix 1 to this Judgment.

## Documents

6. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):

- Rule 12 Statement and Exhibit [[here](#)]
- The Respondent's Answer and Exhibits [[here](#)]
- Applicant's Reply to the Answer [[here](#)]
- Applicant's Skeleton Argument [[here](#)]
- Respondent's Skeleton Argument [[here](#)]
- Applicant's submissions on costs
- Respondent's submissions on costs

### **Professional Details**

7. Mr Hutchings was a solicitor having been admitted to the Roll in October 1992. At the material time, he was a partner in the Firm and the head of the Entertainment, Marketing, and Intellectual Property department. He held an unconditional Practising Certificate.

### **Factual Background**

8. On 20 January 2023, Client B raised a complaint with the SRA in respect of Mr Hutchings and the Firm in relation to threats that Client B believed had been made regarding Publication 2.
9. Earlier, Client B had started publishing details of a scandal (the Scandal) across several articles in Publication 1. Some of these articles included reference to the Agreement between the Fund and Company E.
10. Some of Client B's articles referred to the involvement in the Agreement of Client A, whilst he had been working at Company F, acting for Company E. These articles also made reference to a High Court decision.
11. Client B was approached by Mr Hutchings, who was acting for Client A, in relation to these articles. A Court of Appeal decision had served to reverse some of the findings in the High Court decision to which Client B had made reference. Client B sought legal representation from Solicitor G at Company H. The claim from Client A culminated with Client B agreeing to amend several articles, removing reference to Client A, and agreeing to the terms of a Consent Order.
12. Shortly after agreeing the Consent Order, Client B published Publication 2. Whilst Publication 2 did not make reference to Client A, it did refer to Publication 1 which detailed the Scandal.

### **Witnesses**

13. The following witnesses provided written statements and gave oral evidence:
  - Client B
  - Solicitor G
  - Mr Hutchings
  - Mr Galbraith
  - Counsel L

14. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

### Findings of Fact and Law

15. 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 Mr Hutchings' 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.

### Dishonesty

The test for dishonesty was that set out in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 at [74] as follows:

*“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 factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”*

### Integrity

The test for integrity was that set out in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366, as per Jackson LJ:

*“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 ... [Professionals] are required to live up to their own professional standards ... Integrity connotes adherence to the ethical standards of one’s own profession.”*

16. **Allegation 1.1 - On or around 18 October 2018, in a telephone call with |Solicitor G made the following assertions which were false and/or misleading: (1.1.1) That he had spoken to counsel and that he had been told that his client had a strong case for bringing contempt proceedings, or words to that effect; and/or (1.1.2) That Client A had only heard yesterday about the references to him in Publication 2 or words to that effect; and in doing so breached any or all of Principles 2 and 6 of the Principles and failed to achieve Outcome 11.1 of the Code.**

### The Applicant's Case

- 16.1 The Applicant's Case was detailed in the Rule 12 Statement and its Skeleton Argument which can be accessed using the links contained in the documents section of this Judgment above.
- 16.2 In summary, Client B had made a number of allegations and named Client A as a lawyer providing legal services connected to that matter in Publication 1. Client A brought libel proceedings and instructed Mr Hutchings. The proceedings were terminated by way of a Consent Order.
- 16.3 Mr Ozin KC submitted that following the Consent Order, Client A and his legal team were concerned that (i) the Consent Order had been breached by Client B's continued publication of certain matters in Publication 1 and (ii) content from Publication 1 had been republished by third parties.
- 16.4 In order to resolve the concern of republication in particular, Client A's legal team were considering obtaining a limited copyright licence from Client B for the benefit of Client A. Such a licence would enable Client A to attempt to get the material in question removed on the basis that it breached Client B's copyright.
- 16.5 Following the publication of Publication 2, a pre-arranged call between Solicitor G and Mr Hutchings took place on the evening of 18 October 2018. Mr Ozin KC submitted that the following was important contextual information leading up to the call on 18 October 2018:
- Mr Hutchings did not believe that there was a strong case for contempt.
  - The strategy provided to Counsel M (the architect of the Consent Order) was a two-staged approach – firstly the threat of contempt proceedings and shortly thereafter using the threat of proceedings as leverage to obtain a copyright licence.
  - Counsel M advised that the argument for contempt arising from Publication 2 amounted to "*a reasonably arguable case*".
  - Client A had no intention to litigate; the threat of litigation was to be made so as to apply pressure on Client B.
- 16.6 Mr Ozin KC submitted that the strategy of threatening but not litigating contempt proceedings caused difficulty as the making of the threat necessitated consideration of both the merits, and of whether Client A was, in fact, prepared to litigate. Counsel M, it was submitted, had emphasised the danger of using the threat of contempt proceedings to obtain a copyright licence, in circumstances where a copyright licence was not a remedy for contempt proceedings. Counsel M expressed concern that this would be an improper threat of litigation to obtain an improper collateral gain and could look like blackmail.
- 16.7 Mr Hutchings, it was submitted, did not obtain a final view from Counsel M (the view expressed being Counsel M's preliminary view). Instead, he planned the call with Solicitor G, implementing the plan, namely, to use the threat of contempt proceedings

to obtain the copyright licence. It was further submitted that Mr Hutchings did not obtain any definitive indication from Client A about the intention to litigate.

- 16.8 In his witness statement to the SRA, Solicitor G explained that at the outset of the call, Mr Hutchings stated that he wished to speak on a “*without prejudice*” basis to avoid long letters that would “*raise the temperature*”.
- 16.9 Mr Hutchings explained to Solicitor G that there were two issues – (i) Client B’s publication of Publication 2 was in breach of the Consent Order; and (ii) Mr Hutchings informed Solicitor G that he had spoken to counsel and he had been told that Client A had a strong case for bringing contempt proceedings against Client B, and that Client A was entitled to get the book pulped.
- 16.10 Regarding the bringing of contempt proceedings, Client A was having difficulty in removing copies of parts of Publication 1 that had been published by third parties. In order to avoid contempt proceedings Client B could agree to help Client A to get the content removed by providing a narrowly worded copyright licence over certain passages. Mr Hutchings acknowledged that this was a “*radical solution*” that would be more amenable to the US courts. Solicitor G described that Mr Hutchings referred to this as a “*way out*” for Client B to avoid contempt proceedings.
- 16.11 Solicitor G stated the following in the call (amongst other things):
- He did not believe that Client A had been mentioned in Publication 2.
  - Client B was able to discuss Company F. This had been the subject of negotiation and was permissible under the Consent Order.
  - He considered the call to be unusual.
  - He was surprised at the proposal but would need to take instructions.
- 16.12 The following day, Solicitor G produced a Telephone Attendance Note (“TAN”) of his recollection of the call. This TAN recorded the following exchange:
- “*[Mr Hutchings] knew that they had recently pointed out some breaches of the order, which has been quickly remedied by [Solicitor G]. However [Client A] had heard only yesterday about references to him in the book, which [Mr Hutchings] was absolutely confident were in breach of the order;*”
  - “*[Mr Hutchings] had gone to counsel on the issue, who had advised that [Client A] was entitled to bring committal proceedings against [Client B] over the breach. Counsel had advised that there was a strong contempt case;*” and
  - “*[Mr Hutchings] said that it had been accepted in the WP negotiations to settle the claim that there was synonymity between his client and references to [Company F]. [Mr Hutchings’] Counsel had now advised that [Client A] had a strong basis for bringing contempt proceedings against [Client B].*”

16.13 It was submitted that the TAN reflected the basic structure mapped out by Mr Hutchings in his script to be used for the call. Solicitor G was clear that the matters alleged in allegation 1.1 were said by Mr Hutchings during the course of their conversation.

16.14 Subsequent events supported Solicitor G's account:

- Mr Hutchings did not dispute the clear assertion that he (Mr Hutchings) had advised Solicitor G that there was "*a strong basis*" for bringing contempt proceedings.
- When accused of an improper threat of litigation Mr Hutchings denied the accusation. When accused of blackmail, he no longer sought the copyright licence. Mr Ozin KC submitted that this evidenced Mr Hutchings' awareness of the impropriety of the threat and was in flagrant disregard of the warning from Counsel M; and
- Subsequent events established, without doubt, that to Mr Hutchings' knowledge, Client A never intended to bring contempt proceedings.

16.15 It was noted that:

- the language used by Solicitor G reflected the language used by Counsel M in circumstances where Solicitor G did not know what Counsel M had said.
- When agreeing in correspondence with Client A to dispute that the strategy adopted was improper, neither Mr Hutchings nor Client A shied away from the suggestion that Mr Hutchings had said that there was a "*strong basis*" for bringing committal proceedings.
- In his correspondence to Solicitor G of 26 October 2018, whilst Mr Hutchings rebutted the assertion of impropriety, he did not take issue with the suggestion that he had stated there was a "*strong basis*" for bringing committal proceeding despite specifically addressing the advice received: "*I contacted you having already received advice as to the strength of my client's position in this regard.*"
- In his response to Mr Hutchings' email, Solicitor G contended that "*the threat of a contempt application (including the threat of serious criminal sanction), an addition threat to have [Publication 2] pulped, both used as leverage for your 'request' for a copyright licence*" came across "... as blackmail".
- An email of 31 October 2018 by Mr Galbraith contained what Mr Ozin KC described as a revealing passage. The email confirmed that Mr Hutchings and his colleagues were conscious that they had departed from Counsel M's advice: "*As you know, Counsel M's advice was not to seek a licence alongside threatening a committal application, we will need to involve [Counsel M] if the matter proceeds but [Counsel M] will certainly reiterate [the]earlier advice.*"
- In November 2018, Mr Hutchings wrote to Solicitor G withdrawing the request for a copyright licence expressing that this was "*not because we consider that your legal arguments have merit, we do not.*"

- An email in December 2018 from Mr Galbraith confirmed the belief that Client A did not intend to litigate: *“There is no case law which I can locate which addresses when you need to issue proceedings after the Order is served but that’s irrelevant given that you do not intend to go down this route.”*

### Allegation 1.1.1

- 16.16 Mr Ozin KC submitted that during the course of the call, Mr Hutchings asserted that counsel had advised of a strong case for bringing contempt proceedings, when he knew that such an assertion was false and/or misleading in that it did not reflect the advice he had received from Counsel M. In doing so, Mr Hutchings sought to take unfair advantage over both Solicitor G and Client B. Mr Hutchings had sought to create the impression that the potential case for contempt was considered to be stronger than had in fact been communicated. Such a representation served to benefit both Mr Hutchings and his client’s position, in that it would present the alternative, the provision by Client B of the copyright licence, as a more attractive option. Such conduct failed to achieve Outcome 11.1 of the Code.
- 16.17 The public trusts solicitors to engage with the representatives of other parties in an open, frank, and accurate manner, particularly when such conversations are purportedly conducted on a “without prejudice” basis to try and resolve a potential dispute. The public’s trust in solicitors and in the provision of legal services would be damaged by solicitors making false and/or misleading assertions, as to the strength of the legal advice that had been received, when conducting such conversations, in breach of Principle 6.
- 16.18 Such conduct clearly lacked integrity in breach of Principle 2. A solicitor acting with integrity would not have sought to mislead Solicitor G as to the advice that had been received from counsel.

### **Dishonesty**

- 16.19 Mr Hutchings knew that in stating that there was a strong basis for bringing contempt proceedings, he had not accurately reflected the advice that had been received from Counsel M. Despite knowing that what he was stating was incorrect, he communicated this to Solicitor G, with the obvious intended benefit for Client A (the increase in pressure upon Client B to consider the proposal that was being put forward).
- 16.20 A deliberate misrepresentation as to the contents of advice received from counsel, particularly in order to achieve an unfair advantage in the course of discussions with an opposing party’s representative, was conduct that would be viewed as dishonest by ordinary decent people.
- 16.21 Mr Hutchings relied on the script for the call to support his case that he did not state that there was a strong basis for contempt proceedings as alleged. Mr Ozin KC submitted that in fact, the script recorded a determination to make assertions as to the advice received which Mr Hutchings knew was inaccurate, emphasising the finality of advice that Mr Hutchings knew to be a preliminary view. It also attributed a firm intention on Client A’s part, to bring contempt proceedings when that had never been the case.

- 16.22 The script, it was submitted, evidenced Mr Hutchings' plan of threatening contempt proceedings to leverage a copyright licence notwithstanding Counsel M's deprecation of that approach.
- 16.23 The script was consistent with Mr Hutchings' attitude of falsely exaggerating the advice received in order to increase the strength of the threat. This contention was supported by the subsequent correspondence.

#### Allegation 1.1.2

- 16.24 In the course of the 18 October 2018 telephone call, Mr Hutchings asserted that Client A had only been aware since "*yesterday*" of the references to him in Publication 2, or words to that effect. Such an assertion would seem to be demonstrably false and/or misleading given that correspondence in relation to these references had commenced with Mr Hutchings, the Firm and Client A at least as early as 1 October 2018.
- 16.25 This false and/or misleading assertion would seem to have been made to excuse or explain the absence of this point from the 11 October 2018 letter. Whilst the correspondence between the Respondent, Client A and the Firm demonstrated that as of 11 October 2018 discussions were still underway as to what should be said or done about the contents of the book, the false and/or misleading assertion made on 18 October 2018 appeared to have been delivered to engender the false impression that Client A had only recently learnt of the issue in relation to the book. This false impression was presumably calculated to imply that the proposal being put forward in that call was a position that had been reached very quickly, rather than as the correspondence would suggest, a position that had been reached after seventeen days of communication on the topic.
- 16.26 Such a false impression, in the context of the proposal being put forward, would represent an attempt to obtain an unfair advantage. Whilst this issue would have been a new matter or point for Solicitor G to consider, Mr Hutchings had been aware of it for some time and had ample opportunity to liaise with both his client and counsel as to how best to handle this. In suggesting that this was a new issue for him too, it demonstrated an attempt to obtain an unfair advantage in the course of the discussion and thus failed to achieve Outcome 11.1.
- 16.27 As detailed above, the public's trust in solicitors and the provision of legal services would be damaged by solicitors making false and/or misleading assertions in the course of discussions with opposing party's representatives in breach of Principle 6.
- 16.28 A solicitor acting with integrity would not have made a false and/or misleading assertion as to the date at which their client became aware of an issue under discussion. This was further underscored by the fact that it would appear to represent an attempt (a) to explain why the issue was not raised in the 11 October 2018 letter; and (b) imply to Solicitor G that Client A had less time to settle upon his strategy for dealing with this matter than was in fact the case.

## **Dishonesty**

- 16.29 The false and/or misleading assertion as to when Client A became aware of the issue was deliberate; Mr Hutchings was under no illusion as to the point at which Client A did in fact become aware given that he was a party to all the correspondence on the issue, dating back to 1 October 2018. Deliberately making a false and/or misleading assertion in these circumstances is conduct that would be viewed as dishonest by the standards of ordinary decent people.
- 16.30 Additionally, it was submitted that the lack of any complaint by Client B or Solicitor G, did not undermine the allegation in circumstances where neither could have known that the statement was false. This became apparent during the course of the Applicant's investigation. Further, there was nothing in the false assertion to alert Solicitor G to its falsity. The speed of action was not, of itself, enough to alert Solicitor G in all the circumstances.

## The Respondent's Case

- 16.31 Mr Hutchings denied the allegation. The detailed analysis of the case and reasons for Mr Hutchings' denials are contained in the Answer and the Respondent's skeleton argument that can be accessed using the link in the documents section of this Judgment above.

## Allegation 1.1.1

- 16.32 In summary, it was submitted that the TAN, upon which the Applicant relied, was not a contemporaneous note of the call. The TAN was created the following day by Solicitor G after he had already engaged in extensive discussions with Client B. Those discussions included consideration of (i) how to leverage what had been said to Client B's advantage in any ongoing dispute; (ii) challenging the call as being subject to without prejudice; and (iii) whether Client B should report Mr Hutchings to the SRA.
- 16.33 Further, it was written subsequently to Solicitor G undertaking research on caselaw that considered the propriety of the use of the without prejudice label. The TAN, it was submitted, was not a neutral, contemporaneous record of the call. Mr Hutchings did not need to prove or allege that the TAN was deliberately misleading. In the circumstances. Mr Hubble KC submitted that, Solicitor G wrote the TAN presenting matters in a way that assisted Client B's interests, based on his recollection or impression of what had been said on the call.
- 16.34 In contrast, the script had been prepared in advance of the call and was read out by Mr Hutchings. Mr Galbraith's manuscript note of the call was prepared contemporaneously. Accordingly, both documents were more reliable than the TAN; neither document supported the Applicant's case.
- 16.35 With regard to Counsel M's advice on any contempt, the script accurately reflected the advice received:

*“We have gone to Counsel as to bringing committal proceedings and our client has been advised in clear terms that the serious breach amounts to basis to bring contempt proceedings. Your client should treat this seriously.”*

- 16.36 Mr Galbraith’s manuscript note recorded (i) statements made by Solicitor G; (ii) statements made by Mr Hutchings in response to Solicitor G and/or after he had finished reading from the script; and (iii) any statements made by Mr Hutchings which deviated from the script. It did not refer to there being a strong case.
- 16.37 The Applicant sought to rely on subsequent correspondence to support what was recorded in the TAN. As to that:
- The messages from Solicitor G to Client B shortly after the call did not refer to there being a strong case, instead Solicitor G stated: *“...And saying that they have counsel’s advice that you are in contempt.”*
  - The email of 22 October 2018 in which Solicitor G stated: *“You said that (I) your client has a strong basis for bringing committal proceedings...”*, made no reference to counsel’s advice. Insofar as this was allegedly an expression by Mr Hutchings of his own opinion (which was not accepted) it was no part of allegation 1.1.1 that Mr Hutchings misrepresented his own view.
  - The suggestion that no attempt was made to correct Solicitor G’s statement was therefore not to the point and was wrong in any event given that the response commenced: *“It is regrettable that your letter misrepresents the substance of my call...”*
  - the statement: *“...my client has already engaged Counsel in respect of the proposed committal application, and I contacted you having already received advice as to the strength of my client’s position in this regard,”* was not synonymous with saying that counsel had advised that there was a strong case.

#### Allegation 1.1.2

- 16.38 Mr Hubble KC submitted that there was no sound evidential basis for finding that Mr Hutchings had stated that counsel had advised of a strong case for bringing contempt proceedings. As to the allegation that Mr Hutchings stated that Client A had only heard *“yesterday”* about references to him in Publication 2, no such allegation should have been made. The only evidence upon which this allegation was predicated was the TAN. Mr Hubble KC repeated the submissions on the reliability of the TAN. Further, had Mr Hutchings made the statement as alleged, (i) it would have obviously been untrue; (ii) it would have been known by Solicitor G to have been untrue; and (iii) it would have undermined the points made by Mr Hutchings during the call.
- 16.39 There had been extensive correspondence between the parties before and after the Consent Order. Indeed, the Firm had written to Solicitor G, noting that it had come to Client A’s attention that Publication 2 was to be published, reminding Client B of the obligations imposed by virtue of the Consent Order. This occurred sometime prior to the call. Accordingly, an assertion by Mr Hutchings that Client A had only become aware of such matters *“yesterday”* would have lacked any credibility.

- 16.40 In order to support its case, the SRA asserted that Mr Hutchings sought to create this false impression in order to imply that the proposal put forward was a position that had been reached quickly, in an attempt to obtain an unfair advantage by suggesting that this was a new issue for Client A and that Client A had less time to settle upon a strategy for dealing with the matter than was in fact the case.
- 16.41 Mr Hubble KC submitted that the explanations proffered were mutually inconsistent and could not explain why Mr Hutchings would tell such an obvious lie. The alleged motives were nonsensical. Rather than creating an unfair advantage, the suggestion that they had only heard yesterday would have had the opposite effect, suggesting that any view reached was rushed and potentially ill-considered.
- 16.42 The suggestion that this was an attempt to justify the fact that the issue of Publication 2 was not raised by Mr Hutchings in a letter to Solicitor G of 11 October 2018 was also nonsensical in circumstances where that letter concerned an issue with Publication 1. Further, Counsel's advice regarding Publication 2 had only been received the previous day. That advice required consideration before making a decision on how to progress.
- 16.43 The script referred to "*a new issue [that] has been drawn to out client's attention*". That was accurate – the issues with Publication 2 were new as compared to previous breaches of the Consent Order. In his manuscript note, Mr Galbraith recorded "*contempt case: only aware recently.*" This, it was submitted, was also accurate.
- 16.44 Mr Hubble KC submitted that the most obvious and logical explanation was that Solicitor G had misremembered or mis recorded what had been said in the preparation of the TAN. This was far more likely than the SRA's assertion that Mr Hutchings made a last-minute and inexplicable decision to tell a lie which served no useful purpose.
- 16.45 Mr Hubble KC submitted that the evidence relied upon to establish allegation 1.1 was unreliable for the reasons detailed. Accordingly, allegation 1.1 should be dismissed in its entirety.

#### The Tribunal's Findings – Allegation 1.1

- 16.46 Allegation 1.1 turned on what was said in a telephone conversation between Solicitor G and Mr Hutchings on 18 October 2018.
- 16.47 Client B was not a party to the call. Accordingly, Client B's evidence was not direct evidence as to what was said during the call, but of what was reported to them by Solicitor G.
- 16.48 The Tribunal found that Solicitor G did his best to assist the Tribunal in his oral and written evidence. He made appropriate and realistic concessions during the course of his oral evidence as to his independent recollection of a call that had taken place 7 years previously.
- 16.49 Solicitor G had not made a contemporaneous note of the call. Nor had he taken any notes during the course of the call. The first reference to the call in writing was contained in the WhatsApp messages sent by Solicitor G to Client B at 18.24 and 18.25 following the call, in which Solicitor G stated: "*First of all he raised concerns with*

*[Publication 2], saying that it is in breach of the order .... And saying that they have counsel's advice that you are in contempt.*" The Tribunal noted that there was no mention in the messages of counsel advising of a strong case for contempt.

- 16.50 The preparation of the TAN commenced the following day at 14.52 and was concluded at 17.35. Prior to the preparation of the TAN, Solicitor G had communicated with Client B about the call and had conducted research in relation to the strategy to adopt. Solicitor G also accepted that he had other pressures at the time, both personal and professional, that had occupied his time between the call and the writing of the TAN. It was accepted by Solicitor G, in oral evidence, that it would have been much better had the TAN been prepared contemporaneously or first thing the following day.
- 16.51 The Tribunal found that given the length of time between the call and the preparation of the TAN, it was not, and could not have been, a verbatim (or near verbatim) note of what was said on the call. Rather, it was a summary of what Solicitor G considered had been said, using his best recollection.
- 16.52 The Tribunal noted that Solicitor G, during the course of his evidence, described a "*strong case*" in a number of different ways, including "*a great case, strong merits, a really good case*", amongst others. The Tribunal did not find that these formulations, of themselves, were detrimental to allegation 1.1.1, given that the allegation was that Mr Hutchings had been told that "*his client had strong case for bringing contempt proceedings, or words to that effect*" (The Tribunal's emphasis). The differing formulations, the Tribunal determined, were synonymous with a *strong case* such that they were *words to that effect*.
- 16.53 Mr Hutchings gave evidence as to his approach to such calls. He explained that he had written a script from which he did not deviate. He practised reading the script before the call. There were 3 separate iterations of the script, with the final version being approved by Client A. The Tribunal determined that the script had been carefully considered both by Mr Hutchings and Client A. The Tribunal accepted Mr Hutchings' evidence that he read from the script during the call. The Tribunal found that in many respects, the TAN was reflective of the script.
- 16.54 The Tribunal found the evidence of Mr Galbraith to be measured and honest. He confirmed what had been said by Mr Hutchings regarding the preparation of scripts for calls and reading those scripts out prior to a call. He also confirmed that in his experience, Mr Hutchings did not deviate from the prepared script.
- 16.55 Mr Galbraith explained that his manuscript note was taken during the course of the call, and that he had noted what had been said by Solicitor G, as well as any response from Mr Hutchings together with matters stated by Mr Hutchings that were not in the script. The Tribunal noted that the manuscript note did not mention a strong case, or any other formulation that could be considered to be 'words to that effect.'
- 16.56 Following the call, there was a sequence of communications between Client B and Solicitor G, and Solicitor G with Mr Hutchings. Solicitor G provided a copy of his TAN to Client B via email. Following this email from Solicitor G, which also included a draft response to Mr Hutchings, Client B referred to Mr Hutchings being "*willing to do whatever it takes to bully on behalf of his client...*" and "*... [Client A] knows that if he*

*goes to court it will undo everything he has sought on the issue of keeping this private and their case is pretty terrible, now they have attempted to blatantly blackmail me...”*

16.57 Between 19 October and early November 2018, multiple emails were exchanged among the parties and are detailed in the Rule 12 Statement. These communications showed that:

- Client B and Solicitor G believed that Mr Hutchings and his client used the threat of committal proceedings as leverage for a copyright licence.
- Mr Hutchings maintained that his client’s actions were lawful and justified because of alleged breaches of the consent order.
- Client A consistently denied any improper motive; and
- disagreements persisted about whether Mr Hutchings’ statements during the call constituted an improper collateral threat.

16.58 The Applicant sought to rely on those communications as evidence in support of what was contained in the TAN. The Tribunal did not find that the correspondence supported the Applicant’s case as contended. The Tribunal agreed with the submissions of Mr Hubble KC with regard to the 22 October 2018 email. In that email, Solicitor G referred to Mr Hutchings stating that his client had a strong basis for bringing committal proceedings. The allegation against Mr Hutchings was that he had been told by counsel that Client A had a strong case. The email from Solicitor G did not, in the sentence relied upon, refer to counsel’s advice. Accordingly, the Tribunal found, the email could not support the SRA’s case with regard to falsely relaying counsel’s advice.

16.59 Given that it did not refer to counsel’s advice, there was nothing for Mr Hutchings to correct. The Tribunal accepted that, in any event, whilst not expressly stating that the sentence was not agreed, Mr Hutchings had done so implicitly with the reference to the email misrepresenting the substance of the call.

16.60 The Tribunal also agreed that a statement confirming that advice had been received as to the strength of any application was not tantamount to saying that the advice was of a strong case. It was clear from Solicitor G’s evidence that this was his construction when he understood that counsel’s advice had been provided. Solicitor G considered that there would be no point in mentioning advice on the strength of merits unless the advice was of strong merits.

16.61 The Tribunal found that the script and Mr Galbraith’s manuscript notes, being the most contemporaneous, were more reliable than the TAN. There was nothing in either of those documents that supported a case of Mr Hutchings informing Solicitor G that counsel advised of a strong case or words to that effect. Accordingly, the Tribunal found allegation 1.1.1 not proved.

16.62 As to the alleged statement that Client A had only heard *yesterday* of references to him in Publication 2, the only documentary evidence was in the TAN. In his oral evidence, Solicitor G accepted that Mr Hutchings might have said “*recently*” as opposed to “*yesterday*.”

- 16.63 The script referred to “*a new issue...*” that had come to Client A’s attention. Mr Galbraith, in the manuscript note, wrote “*contempt case: only aware recently.*” For the reasons detailed in relation to allegation 1.1.1, the Tribunal found that the evidence contained in the script and the manuscript note was more reliable than the evidence of the TAN. The Tribunal did not accept that “*yesterday*” and “*recently*” were synonymous for the purposes of allegation 1.1.2, such that “*recently*” could equate to “*words to that effect.*” The Tribunal was not satisfied that Mr Hutchings had said that his client found out “*yesterday*” or words to that effect. The criticisms levelled by Mr Hubble KC at this element of the Applicant’s case, were accepted. The Tribunal thus did not find that Mr Hutchings had told Solicitor G that his client had only heard yesterday (or words to that effect) about references to him in Publication 2.
- 16.64 Accordingly, the Tribunal found allegation 1.1 not proved and thus dismissed the allegation.
17. **Allegation 1.2 - On or around 18 October 2018, in the same telephone call with Solicitor G improperly made a threat of litigation, and in doing so breached any or all of Principles 1, 2 and 6 of the Principles and failed to achieve Outcome 11.1 of the Code.**

#### The Applicant’s Case

- 17.1 The Applicant’s case is detailed in its Rule 12 Statement, Reply and skeleton argument that can be accessed using the links in the documents section of this Judgment above. The submissions made in relation to allegation 1.1 above were repeated.
- 17.2 In summary it was the SRA’s case that the threat of contempt litigation with respect to passages in Publication 2, was a tactic to try to persuade Client B to provide a copyright licence with respect to content in Publication 1. The threat of proceedings was improper where (i) the bringing of proceedings was not, in fact, genuinely contemplated by Client A; and (ii) the primary purpose of threatening proceedings was to pressurise Client B in providing a copyright licence.
- 17.3 Mr Ozin KC acknowledged that whilst not every threat to commence proceedings would or should be considered “improper”, in the circumstances of this case it appeared that this threat was made solely for the purposes of trying to persuade Client B to provide a copyright licence to Client A. That this was the purpose, it was submitted, was evidenced in correspondence between Client A and Mr Hutchings.
- 17.4 The Tribunal was referred to correspondence which, it was submitted, supported the Applicant’s contention that there was no genuine intention to litigate:
- In an email to Client A dated 8 October 2018, Mr Hutchings stated that a proposed draft letter to Company H setting out “*a credible threat ... to forcefully apply pressure on [Client B] ... [in circumstances where Client A had] no intention to pursue a full legal complaint for the potential contempt*”.
  - In an email to Counsel M of 9 October 2018, Mr Hutchings informed Counsel M that Client A “*wants to proceed with the threat on the basis he does not intend to litigate this but to apply pressure on [Client B]*”.

- In a note of a call with counsel dated 10 October 2018, Mr Hutchings recorded “[Client A does not want to litigate for contempt ...”.
- In an email to Mr Hutchings on the same date, Client A stated: “*The intention of the letter ... is to exert maximum pressure on [Client B] so as to have [Client B] feel that a contempt of court finding is a genuine risk and to look for alternative resolution, that resolution being copyright licence...*”

17.5 There were also reference in the correspondence to using the breaches as leverage to compel the granting of a licence.

17.6 The Firm and Mr Hutchings also recognised, and were on notice, of the difficulty with the proposed strategy. In an email dated 26 September 2018, Mr Galbraith advised against “*demanding something when the legal basis is weak and likely to be rejected in any event*”.

17.7 Counsel M, it was submitted, deprecated the use of a litigation threat as a tactic. The note of advice provided by Counsel M of 10 October 2018 recorded:

*“The letter cannot be seen to be offering a ticket out – there can be no possibility at all of it appearing as blackmail, or contempt proceedings will be thrown out. Further, there is no collateral gain, only [Client B] being imprisoned...”*

Further:

*“Any inference at all that we are doing this as a way to get some sort of collateral gain would not be taken kindly by the Court. This relates especially to our ability to try and get a copyright license out of these proceedings, which [Counsel M] strongly suspects is not going to happen. [Counsel M] states that if [Client A]’s objective is to get the copyright, this is not a recommended option.”*

17.8 Following this advice, Mr Hutchings advised Client A that in terms of strategy and objective Counsel M was “*insistent that we could not proceed with any intention of using pressure to bring a corollary objective, e.g. a licence of copyright...*”

17.9 The applicable obligations were set out in the SRA’s paper, “*Walking the line: The balancing of duties in litigation*”, published in March 2015, which expressly referred to a solicitor’s duties to “*...act in the best interests of each client, not to allow independence to be compromised and to uphold the rule of law and the proper administration of justice*”. The paper referred to instances of a solicitor unduly prioritising their client’s interest over their other duties, including (what it referred to as):

- “*predatory litigation against third parties, where the solicitor, in the interest of the client, uses the threat of litigation to obtain settlement...*
- *abuse of the litigation process, where a solicitor uses the courts or general litigation process for purposes that are not directly connected to resolving a specific dispute...*”

- 17.10 Mr Ozin KC submitted that even in 2018, therefore, it was clear that solicitors making threats to achieve an ulterior motive on behalf of their clients would be viewed as a breach of a solicitor's "*key ethical requirements*". A solicitor acting with integrity would have viewed the threat made in the 18 October telephone call (given the position of Client A and the advice from Counsel M) as a departure from the ethical standards of the profession, in breach of Principle 2.
- 17.11 In participating in what Solicitor G (perhaps accurately) referred to as "blackmail", Mr Hutchings had sought to take unfair advantage over Client B and thus failed to achieve Outcome 11.1. The improper threat of litigation demonstrated a failure to uphold the proper administration of justice in breach of Principle 1.
- 17.12 The public's trust in solicitors and the provision of legal services would be damaged by solicitors making improper threats of litigation, designed to achieve an unfair benefit for the party for whom they are acting. Such conduct breached Principle 6.
- 17.13 In his Answer, Mr Hutchings contended that there was direct authority as to what constituted a "*collateral advantage*", amounting to an abuse of process, in the context of a libel action, in the form of the dictum of Bridge LJ in *Goldsmith v Sperrings Ltd [1977] 1 WLR 478*. In that case, Bridge LJ formulated the test that "*when a litigant sues to redress a grievance no object which he may seek to obtain can be condemned as a collateral advantage if it is reasonably related to the provision of some form of redress for that grievance*". Bridge LJ made it clear that matters that satisfy the test (and hence were not collateral advantages) included settlement terms that provided redress for the grievance but were matters that no court could order.
- 17.14 Conversely, he formulated the test, that "*if it can be shown that a litigant is pursuing an ulterior purpose unrelated to the subject matter of the litigation and that, but for his ulterior purpose, he would not have commenced proceedings at all, that is an abuse of process*". (In fact, the decision evidenced that this was an application of a more general rule in litigation, derived from the dictum of Lord Evershed M.R. in *re Major* [1955] Ch. 600, 623, branded by Bridge LJ as "*Lord Evershed's general rule*".) Further, he doubted, obiter, whether the pursuit of an ulterior motive as a desired byproduct of the pursuit by a litigant of a genuine cause of action, "*which he would wish to pursue in any event*" would debar the litigant from proceeding.
- 17.15 Mr Ozin KC submitted that Mr Hutchings' contention was, in effect, that the purpose of obtaining the copyright licence was not collateral as it was '*reasonably related to the provision of some form of redress for that grievance*', in that Client A's underlying purpose was to use the copyright licence as a '*take down*' remedy to address the grievance of, and remove, the defamatory content in Publication 1.
- 17.16 It was Mr Hutchings case that the evidence did not demonstrate that Client A had ruled out bringing proceedings in all circumstances, as evidenced by the issuing and service of proceedings. Further, Counsel M's advice was primarily addressed to the adverse perception of the court that would occur in pursuing litigation for the purpose of seeking a copyright licence, which did not preclude or render improper the seeking of a copyright licence in the course of without prejudice settlement discussions.

- 17.17 Alternatively, even if counsel did voice views deprecating the pursuit of a copyright licence in such settlement discussions, that did not amount to advising that such a course was professionally improper. Further, if counsel did advise that such a course was professionally improper, counsel was wrong.
- 17.18 Mr Ozin KC submitted that *'Lord Evershed's general rule'*, as developed in *Goldsmith v Sperrings*, was capable of applying in all civil litigation, where its conditions were met, so as to render the pursuit of a collateral advantage an abuse of process.
- 17.19 Whilst not identical, it reflected the obligation to balance duties in litigation set out in the SRA's report, *'Walking the line: The balancing of duties in litigation'* and the prohibitions set out therein of unduly prioritising the solicitor's client's interest over their other duties, by (i) predatory litigation against third parties and (ii) abuse of the litigation process.
- 17.20 Mr Ozin KC submitted that the fallacy in Mr Hutchings' Answer is that the grievance pursued by the threatened litigation was the breach of the consent order occasioned by the publication of the book (Publication 2), for which the potential remedy was the pulping of the book or the committal of Client B for contempt, whereas the copyright licence sought related to the different grievance of the contended defamatory comments in Client B's previously published articles (Publication 1). There was, therefore, no alignment between the grievance behind the threatened litigation relating to the book and the grievance behind the gain sought in procuring a copyright licence in the previously published articles, capable of rendering the pursuit of the latter a form of redress reasonably related to the former.
- 17.21 The assertion to the effect that threatened litigation in relation to Publication 2 was inextricably linked to seeking a copyright licence in regard to Publication 1 was not accepted. The following supported the Applicant's contention that grievances in relation to Publication 2 were disconnected from the grievances in relation to Publication 1, with Publication 1 being the true objective in threatening contempt proceedings for Publication 2:
- The background to the telephone call was Counsel M's advice that the copyright licence would constitute a "*collateral gain*," in the eyes of the court, for the purposes of the contemplated litigation.
  - The final version of the script referred to Publication 2 as "*a new issue [that] has been drawn to our client's attention*", which indicated that Publication 2 was being regarded as, or was being presented as, a distinct breach.
  - The TAN recorded a proposal that cooperation by Client B (effectively, through Client B granting a copyright licence in the articles in return for Client A not bringing contempt proceedings in relation to the book) would mean that Client A would be content to leave Publication 2 published and unamended. That extraordinary position caused Solicitor G to note in the TAN that he made the observation to Mr Hutchings at the time that "this was a somewhat unusual proposal to say the least."

- The correspondence following the call indicated that Solicitor G asserted the disconnection between the threat relating to Publication 2 and the gain sought, relating to the copyright licence in Publication 1, and that the factual contentions underlying that assertion, were not subsequently substantially disputed by Mr Hutchings.
- When Solicitor G responded with the assertion that the proposal amounted to “*blackmail*,” Mr Hutchings replied in terms that withdrew the proposal but persisted with the threat of litigation.

17.22 Mr Ozin KC submitted that, in reality, the threat of litigation was a contrivance, advanced solely for the purpose of extracting, through the leverage of threatened criminal sanctions relating to the book, the copyright licence for Publication 1, without any intention of following through with litigation in connection with Publication 2.

17.23 Further, the rules in *Goldsmith v Sperrings* did not directly apply to the context in question, namely the conduct of settlement discussions in relation to threatened, but not commenced, civil proceedings. The rules gave rise to a ‘plea in bar’ in answer to litigation, which had no purchase on pre-litigation discussions, which were necessarily out of the control of the court. Whilst the rules were indicative of the standards of conduct that are abusive and professionally improper in settlement discussions, the proper prism for viewing such conduct was the SRA principles and related guidance.

17.24 Mr Ozin KC submitted that the case law relied upon by Mr Hutchings was not directly applicable to settlement discussions but was illuminating as to what constituted abusive litigation practices in that context. The material relied upon in relation to the loss of Without Prejudice privilege, was similarly illuminating as to how the impropriety could be abusive when applying the leverage of threat to adduce a benefit.

17.25 In this instance, it was submitted, the pursuit of the copyright licence was abusive viewed through either prism, because of the disconnection between the contended grievance and the benefit being sought. The disconnection was obvious and manifest (as it was to Counsel M when he advised, and Solicitor G when he responded, and to Mr Hutchings himself), - threatening contempt proceedings for the contended breaches by Client B in Publication 2 to leverage a copyright licence to deal with third-party publications in relation to Publication 1, with no real intention of litigating the contempt proceedings, and in the face of warnings and contrary advice given by his own counsel.

17.26 Mr Ozin KC submitted that the only connection between the copyright licence being sought and threat of contempt being made was Client B themselves. Client B had within their gift something that Client A wanted - the ability to grant a copyright licence. Client A had a means to threaten Client B with unrelated contempt proceedings to try to get it. That, it was submitted, was why Solicitor G and Client B considered that Mr Hutchings’ conduct was improper and “*came across ... as blackmail.*” They were right to so regard it.

### The Respondent's Case

17.27 Mr Hutchings denied allegation 1.2. The detailed analysis of the case and reasons for Mr Hutchings’ denials are contained in the Answer and the Respondent's skeleton

argument that can be accessed using the link in the documents section of this Judgment above.

- 17.28 In summary, it was submitted, allegation 1.2 relied on three matters in support of the contention that during the call, Mr Hutchings made an improper threat of litigation, namely (i) the primary purpose of the call was seek a copyright licence from Client B – this was allegedly an improper collateral purpose; (ii) Client A never genuinely intended to bring proceedings; and (iii) Counsel M’s advice deprecated the making of such a threat.

#### The improper collateral purpose in seeking a copyright licence

- 17.29 The Tribunal had been referred to the SRA's report, *Walking the line: The balancing of duties in litigation*. However, the submissions made focused on the executive summary and did not consider the relevant parts of the guidance which made clear that what was contemplated was the use of litigation for “*reasons that are not connected to resolving disputes or advancing legal rights*”, and using “*the threat of cost or delay to achieve an end unconnected to the litigation*”. It also highlighted the importance of the “*merits of [the] claim*” in any assessment. Mr Hubble KC submitted that there was not (and could not be) any suggestion that the proposed contempt proceedings were without merit.

- 17.30 The contention that seeking a copyright licence was improper as it was not a remedy that the Court could grant in contempt proceedings was, it was submitted, without merit. The following “*general rule*,” in relation to proceedings which are pursued by a party for some impermissible collateral advantage, was set out by Lord Evershed MR in *In re Majory [1955] Ch 600* at 623 – 624:

*“... court proceedings may not be used or threatened for the purpose of obtaining for the person so using or threatening them some collateral advantage to himself, and not for the purpose for which such proceedings are properly designed and exist; and a party so using or threatening proceedings will be liable to be held guilty for abusing the process of the court and therefore disqualified from invoking the powers of the court by proceedings he has abused.”*

- 17.31 The meaning of “*collateral advantage*” in the context of that general rule was given further consideration in *Goldsmith v Sperrings*. Bridge LJ noted: (is added):

*“For the purpose of Lord Evershed’s general rule, what is meant by a “collateral advantage”? The phrase manifestly cannot embrace every advantage sought or obtained by a litigant which it is beyond the court’s power to grant him. Actions are settled quite properly every day on terms which a court could not itself impose upon an unwilling defendant. ... In my judgment, one can certainly go so far as to say that when a litigant sues to redress a grievance no object which he may seek to obtain can be condemned as some form of collateral advantage if it is reasonably related to the provision of some form of redress for that grievance. On the other hand, if it can be shown that a litigant is pursuing an ulterior purpose unrelated to the subject matter of the litigation and that, but for his ulterior purpose, he would not have commenced proceedings at all, that*

*is an abuse of process. These two cases are plain; but there is, I think, a difficult area in between. What if a litigant with a genuine cause of action, which he would wish to pursue in any event, can be shown also to have an ulterior purpose in view as a desired byproduct of the litigation? Can he on that ground be debarred from proceeding? I very much doubt it...*” (*emphasis added*)

- 17.32 As the redress sought was reasonably related, it was not improper for Mr Hutchings to have threatened contempt proceedings on Client A’s behalf. The copyright licence, and the threatened contempt proceedings, both sought redress for the same underlying grievance, namely the harm caused (and continuing) to Client A’s reputation as a result of the original defamatory statements in Publication 1. The redress sought was the mitigation of that harm which had been put into the public domain by Client B via Publication 2 and third-party republication of Publication 1. Seeking a copyright license in order to redress the harm was not an improper collateral advantage. Accordingly, allegation 1.2 failed.
- 17.33 Further, the copyright licence was reasonably related to the very breach of the Consent Order upon which the threatened contempt proceedings were based:
- (i) the Third-Party Republications continued to refer to Client A by name.
  - (ii) they did so in the context of the same incident which was referred to in the offending passages of Publication 2; and
  - (iii) the continued presence of the Third-Party Republications would therefore have easily allowed a reader of Publication 2 to identify Client A, even though it did not name Client A expressly.
- 17.34 The granting of a copyright licence to assist with the removal of such Third-Party Republications would therefore mitigate the very harm which Publication 2 had caused. In that respect, the copyright licence and the breach of the Consent Order were inextricably linked. This was the opinion of Counsel L, who gave clear evidence as to why the copyright license sought was not an improper collateral advantage. On the contrary, it was Counsel L’s evidence that seeking such a license was “*inextricably linked*” to the breach of the Consent Order.
- 17.35 The SRA’s characterisation of the request for a copyright licence as an attempt to obtain property from Client B was legally and factually misconceived. The licence carried no financial value for Client A and could not have yielded any material benefit. Its purpose was solely to mitigate ongoing reputational harm arising from defamatory allegations originally published by Client B and subsequently republished verbatim by third-party websites.
- 17.36 The material over which the licence was sought had already been the subject of a Consent Order, under which Client B agreed not to publish or permit publication. Client B therefore retained no legitimate interest in that material. The narrow and limited scope of the proposed licence was accepted by Client B in evidence. It would not have affected Client B’s remaining articles or wider reporting.
- 17.37 Mr Hubble KC submitted that Client B further accepted three key points: (i) seeking removal of Third-Party Republications was a legitimate objective for Client A; (ii) it was proper to request assistance from the original publisher in facilitating such

removals; and (iii) original publishers may have an interest in asserting copyright to protect their work.

- 17.38 The Third-Party Republications were atypical in that they reproduced the original articles word-for-word. As Solicitor G confirmed, the removal of the original content could in fact elevate unamended republications in search results, increasing the likelihood that readers would encounter allegations naming Client A. This heightened the necessity of addressing the republications as an integral part of any resolution.
- 17.39 In this context, seeking a copyright licence was not an improper collateral purpose. It was directly connected to addressing the ongoing consequences of Client B's publications. The same applied to the proposal to incorporate the licence into the resolution of the threatened contempt proceedings, which were themselves grounded in Client B's continued publication of the same allegations through Publication 2.
- 17.40 A comparison between a section of Publication 1 and a section of Publication 2 demonstrated that while Publication 2 omitted explicit reference to Client A, the Third-Party Republications still identified him by name. Any reader of Publication 2 could therefore easily identify Client A by reference to those republications.
- 17.41 The proposal that Client A might forgo seeking the pulping of physical copies of Publication 2 in exchange for a copyright licence was a pragmatic, proportionate, and court-compatible solution. Removal of the Third-Party Republications would materially reduce any ongoing harm. Indeed, it had been Counsel L's evidence that Counsel L would have recommended making such a proposal on an open basis and that the court would likely have approved the parties reaching such an agreement.
- 17.42 Accordingly, the contention that the request for the copyright licence amounted to an improper collateral purpose was unsustainable on both the facts and the applicable legal principles.

#### Contempt proceedings were not genuinely contemplated

- 17.43 Mr Hutchings had been clear in his evidence that at the time of the call, he understood Client A had not ruled out bringing proceedings. That intention was evidenced in the Script used for the call. Further, and in any event, irrespective of Client A's intentions, it was Mr Hutchings genuinely held belief that Client A was prepared to bring contempt proceedings if necessary. The Applicant had failed to evidence that Mr Hutchings' belief was not genuinely held.
- 17.44 The fundamental flaw with the Applicant's case was that it had equated reluctance to bring proceedings with an intention not to do so. Client A had also been reluctant to bring the initial proceedings that resulted in the Consent Order but had ultimately done so. There was no reason to suggest that Mr Hutchings believed that Client A would act differently in relation to the threatened contempt proceedings.

#### Counsel M's advice

- 17.45 Mr Hubble KC submitted that should the Tribunal find that: (i) the copyright licence sought was not an improper collateral purpose; and (ii) Mr Hutchings genuinely

believed that Client A had not ruled out bringing contempt proceedings by 18 October 2018, then any allegation in respect of Counsel M's advice would simply fall away, in circumstances where absent any other basis, the threat of litigation became improper simply by reason of the fact that it was apparently "*deprecated*" by Counsel M.

- 17.46 Counsel M's advice was in respect of the open position, and how a Court may perceive matters. Counsel M was right to identify that a copyright licence could not be sought in the contempt proceedings themselves, as that was not a remedy which the Court had power to grant. However, that did not mean that making such a request as part of WP negotiations would therefore be improper or abusive.
- 17.47 Accordingly, each of the three matters in support of the contention that during the call, Mr Hutchings made an improper threat of litigation, were not substantiated. Allegation 1.2 should, therefore, be dismissed.

#### The Tribunal's Findings – Allegation 1.2

- 17.48 The Tribunal considered the evidence, documents and authorities relied upon with care. The Tribunal agreed that the Applicant's case was predicated on three matters, namely (i) an improper collateral purpose, (ii) no genuine intention to litigate and (iii) Counsel M's deprecation of a threat of litigation alongside seeking a copyright license.

#### The Improper Collateral Purpose

- 17.49 The Tribunal considered whether seeking the copyright license amounted to an improper collateral purpose in the context of threatened contempt proceedings.
- 17.50 Lord Evershed MR in *in re Majory*, articulated the core test for abuse of process: proceedings must not be used to secure an advantage wholly unrelated to the purpose of the litigation. The Tribunal found that in the instant case the redress sought by Client A, namely the mitigation of ongoing reputational harm caused by the defamatory allegations in Publication 1 (and repeated in Publication 2) was clearly and directly connected to the threatened contempt proceedings. The Tribunal was satisfied that the request for a copyright licence was reasonably related to addressing the continuing consequences of Client B's publications. The Tribunal found that the purpose, in seeking the copyright license, fell within the category of permissible objectives detailed in *Goldsmith v Sperrings*; Client A was properly seeking an outcome which was reasonably related to redressing their grievances, notwithstanding that the Court could not grant the copyright license as a remedy in contempt proceedings. Further, the Tribunal was satisfied that any contempt proceedings could have been resolved by way of a consent order, which could have included the granting of a copyright license.
- 17.51 The Tribunal found that the request for the copyright licence was not only connected to the underlying harm, but was also directly related to the breach of the Consent Order which formed the basis of the threatened contempt proceedings. The Third-Party Republications of Publication 1 continued to identify Client A by name and did so in connection with the same incident addressed in Publication 2. The Tribunal was satisfied that a reader could easily link the two publications, meaning that the continued presence of those republications perpetuated the precise harm that the Consent Order

sought to prevent. For that reason, the Tribunal accepted Counsel L's evidence that the request for the copyright license was not merely related to the breach, it was inextricably linked to it. The Tribunal found Counsel L's evidence to have been measured, considered and helpful.

- 17.52 The Tribunal did not accept the assertion that in requesting a copyright license, Client A was attempting to obtain property from Client B. The copyright license had no financial value and was to be narrowly construed so that it granted license over the defamatory material only – material which Client A, by virtue of the Consent Order, had already agreed to remove from the public domain. As the republications reproduced Publication 1 verbatim, their continued availability risked increasing Client A's exposure by elevating such content in search results once the original publications had been removed. Addressing the republications was therefore not ancillary or opportunistic—it was a necessary component of any effective mitigation strategy.
- 17.53 The Tribunal agreed with Counsel L's assessment that the proposal to incorporate the copyright licence into a resolution of the contempt proceedings was pragmatic and reasonable. The Tribunal accepted Counsel L's evidence that it would have been appropriate to make such a proposal openly, and a court would likely have endorsed it as a proportionate means of reducing ongoing harm.
- 17.54 Given those findings, the Tribunal was satisfied that the request for the copyright licence did not amount to an improper collateral purpose and was thus not sustained on either the facts or the governing legal principles.

#### Contempt proceedings were not genuinely contemplated

- 17.55 It was the Applicant's case that Client A did not intend to bring contempt proceedings and that Mr Hutchings was well aware that this was the case. The Applicant relied on correspondence between Client A and the Firm and submitted that the events subsequent to the call established "*that, to the knowledge of [Mr Hutchings] and his colleagues at [the Firm] Client A never intended to follow through with the threat of bringing contempt proceedings to a conclusion.*"
- 17.56 The Tribunal, when considering the correspondence and references to Client A not wanting or intending to bring proceedings, kept in mind his conduct in the underlying proceedings. Any reluctance on Client A's part to bring proceedings, the Tribunal found, was not evidence that he did not intend to do so if necessary.
- 17.57 Client A had provided Mr Hutchings with explicit instructions, reflected in the amended script approved for the call, to state both a willingness and an intention to commence contempt proceedings if required. The Tribunal determined that these additions, which were absent from earlier drafts, evidenced Client A's clear intention.
- 17.58 The Tribunal considered the correspondence subsequent to the call and was satisfied that contrary to the Applicant's submission, the prospect of committal proceedings remained under consideration. Discussions between Client A and the Firm in early November regarding the sensibility of public committal proceedings, together with detailed research undertaken in late November and early December concerning the

personal service of such proceedings, would not have occurred, the Tribunal determined, had it been Client A's settled intention not to litigate.

- 17.59 Further, the Applicant relied on the fact that on 26 October 2018, Mr Hutchings withdrew the proposal in respect of the copyright licence but persisted with the threat of litigation. The Tribunal agreed with Mr Hubble KC's submission that the fact that Client A continued to make the threat of litigation, even after the request for a copyright licence was no longer pursued, demonstrated that the litigation was not a "*contrivance*" and that there was no settled intention not to pursue it at the time of the Call.
- 17.60 Additionally, the Tribunal was not satisfied that the Applicant had established that even if Client A had not intention to litigate, Mr Hutchings knew that when he made the Call. The Tribunal accepted Mr Hutchings oral evidence, that whilst Client A did not want to litigate, he would have done so if required. He had amended the script expressly including that intention. Further, if Client A had no intention to litigate, Mr Hutchings was not aware of that.
- 17.61 The Tribunal was satisfied that Mr Hutchings genuinely believed that Client A intended to litigate, if necessary, that belief based on Client A's conduct in the underlying proceedings and his intention explicitly expressed in the Script which Client A amended and approved. Accordingly, the Tribunal did not find that there was no genuine intention to litigate.
- 17.62 For the avoidance of doubt, the Tribunal's finding in this regard was based on the contemporaneous documentary evidence and the oral evidence of the witnesses. Client A had provided a witness statement in the proceedings; however, Client A did not attend to give evidence and was thus not subject to cross-examination. Accordingly, the Tribunal assigned limited weight to that witness statement.

#### Counsel M's Advice

- 17.63 Having made the findings detailed above, the Tribunal determined that Counsel M's advice, in and of itself, was not sufficient to support a case of an improper threat. Further, and in any event, it was clear that Counsel M's advice related solely to Publication 2 without a full consideration of the implications of that in relation to Publication 1. Further, that advice did not consider without prejudice discussions.
- 17.64 Given the circumstances, the Tribunal did not consider that the advice was inconsistent with offer made, or that it evidenced that Mr Hutchings had made an improper threat of litigation.
- 17.65 Accordingly, given its findings, the Tribunal found allegation 1.2 not proved and thus dismissed the allegation.

#### **Costs**

##### The Respondent's Costs Submissions

18. Mr Hubble KC applied for costs in the sum of £655,274.16 in whole (or in part) following the successful defence of the allegations.

- 18.1 The Tribunal was referred to paragraph 50 of its Guidance Note on Sanction (11<sup>th</sup> edition) which stated: [\[here\]](#)

*“There may be circumstances in which it is considered appropriate to an award of costs to be made against the Applicant. In considering whether to make such order for costs the Tribunal will decide where there are factors meriting such an order. The Tribunal will be guided by the principles set out in the relevant case law:*

*CMA v Flynn Pharma Ltd [2022] UKSC 14  
Baxendale-Walker v The Law Society [2007] EWCA Civ 233  
Bradford MDC v Booth [2000] 164 JP 485 DC  
SRA Limited v Hon-Ying Amie Tsang [2024] EWHC 1150 (KB)  
Perinpanathan v Westminster Magistrates Court [2010] EWCA Civ 40  
Greene v Davies [2002] EWCA Civ 414”*

At paragraph 97 of *Flynn Pharma* Lady Rose concluded:

*“The principle supported by the Booth line of cases is, rather, that where a public body is unsuccessful in proceedings, an important factor that a court or tribunal exercising an apparently unfettered discretion should take into account is the risk that there will be a chilling effect on the conduct of the public body, even where the body has acted reasonably in bringing or defending the application.” (emphasis added)*

- 18.2 The authorities established that there was no presumption that costs followed the event for a successful Respondent, and that the Tribunal should have regard to the potential chilling effect of any adverse costs order. However, it was submitted, this only applied where (i) the proceedings had been reasonably brought; (ii) the proceedings had been properly brought; and (iii) the decision to prosecute was honest, reasonable, and apparently sound. Mr Hubble KC submitted that none of those factors applied in this case and in addition, the proceedings were a *“a shambles from start to finish.”* In the circumstances, there was no balance to be struck between any financial prejudice to the successful Respondent and the need for the regulator to stand by honest, reasonable, and apparently sound decisions to prosecute. This position was supported by the decision in *SRA v Tsang* [2024] EWHC 1150 (KB) (Admin) where Eyre J observed:

*“A mistake going to the root of the basis for proceedings such that they were fundamentally flawed is capable in an appropriate case of being a good reason for an award of costs”* (at [74]); and

*“the fact that there have been failings in the conduct of proceedings, including inordinate delay”* is *“capable in an appropriate case”* of being a good reason for the making of a costs order against the SRA (at [75]).

#### Allegation 1.1

- 18.3 Mr Hubble KC submitted that allegation 1.1 arose from the Applicant’s own interpretation of the evidence. The Respondent had identified a fundamental flaw in this allegation in its pleadings. The flaw should have been apparent to the Applicant from

the outset. It had proceeded on the erroneous assumption that the Telephone Attendance Note (TAN) was an exact record of Mr Hutchings' statements during the call. It then extracted certain words or phrases perceived as inconsistent with the true position to construct a case of dishonesty. This approach was inherently flawed, and it was unsurprising that the case effectively collapsed during the substantive hearing.

- 18.4 The allegation concerned a single telephone call that had occurred almost six years prior to the referral. The Applicant did not adequately address the inherent difficulty of establishing the precise words used in such circumstances, let alone proving dishonesty. The TAN's author, Solicitor G, confirmed that the note was not intended to be verbatim but rather a summary of the discussion. He acknowledged that he paraphrased Mr Hutchings' statements when preparing the TAN, which was drafted nearly 24 hours after the call and without any contemporaneous notes. These circumstances rendered the TAN incapable of serving as an accurate record—a fact the Applicant failed to investigate fully prior to issuing the Rule 12 Statement and which only became clear upon Solicitor G's second witness statement months later.
- 18.5 In pursuing Allegation 1.1, the SRA disregarded several significant factors inconsistent with its case, including:
- The improbability that a senior professional of unblemished character, supported by unchallenged references, would act dishonestly.
  - Mr Hutchings' established practice of preparing and adhering to scripts for important calls, including the script approved by Client A, which contained none of the alleged false statements.
  - Corroborative evidence from Mr Galbraith, a senior solicitor with no allegations against him, who produced a genuinely contemporaneous manuscript note of the call.
- 18.6 Despite these weaknesses, the Applicant persisted with allegation 1.1 and engaged in conduct warranting criticism, including:
- Introducing new and unpleaded allegations in its Skeleton Argument. These were struck out by the Tribunal following a successful application by Mr Hutchings.
  - Abandoning its claim that the script exaggerated Counsel's advice and was '*obviously false and/or misleading*,' instead contending that the script was '*self-evidently lame*' and '*laughable*.'
  - Advancing a case that shifted throughout the hearing, culminating in a lack of clarity as to what was actually alleged. Allegation 1.1.1 evolved to suggest that Mr Hutchings may have used the phrase '*great case*,' a formulation first introduced during Solicitor G's oral evidence and absent from the TAN. Similarly, Allegation 1.1.2 appeared to rest on inconsistent assertions that Mr Hutchings used both '*yesterday*' and '*recently*' regarding Client A's awareness of Publication 2, despite the latter term not appearing in the TAN.

- 18.7 Mr Hubble KC submitted that to the extent these developments were said to reflect responses to Solicitor G's oral evidence, they merely underscored the inherent fragility of the evidential foundation upon which allegation 1.1 was based. The points raised applied with particular force to allegation 1.1.2, which had not been put to Mr Hutchings prior to its inclusion in the Rule 12 Statement. The only evidence relied upon was the use of the word "*yesterday*" in the TAN; there was no other supporting evidence. It appeared that allegation 1.1.2 had not been explored with Solicitor G prior to the drafting of the Rule 12 Statement, given that it was not addressed anywhere in Solicitor G's first statement.
- 18.8 Allegation 1.1.2, it was submitted bore the hallmarks of a lawyer's construct, alighted upon during the drafting of the Rule 12 Statement, in an apparent attempt to bolster the Applicant's case on allegation 1.1.1.
- 18.9 Mr Hubble KC submitted that given the obvious shortcomings of the TAN, it did not survive scrutiny. Further, it did not survive Solicitor G's oral evidence when it was accepted that Mr Hutchings may not have used the word "*yesterday*."
- 18.10 Accordingly, allegation 1.1 should not have been made. Even if it was properly made at the outset, it should have been abandoned following receipt of Mr Hutchings' Answer, when the flaws in the case were expressly detailed.
- 18.11 Allegation 1.2, it was submitted, also proceeded on a fundamentally false premise, with the Applicant maintaining its case that there was no relevant connection between the copyright licence sought and Client B's breach of the consent order, notwithstanding the connection being detailed in Mr Hutchings Answer and in Counsel L's witness statement.
- 18.12 It had been the Applicant's case that the request for a copyright licence was improper as it was not a remedy which the Court could grant. Had the Applicant engaged with relevant caselaw, it would have been apparent that its approach was misconceived. The Applicant also relied on an alleged lack of intention by Client A to litigate despite the documentary evidence to the contrary.
- 18.13 Mr Hubble KC submitted that the allegations had had a deleterious effect on Mr Hutchings both professionally and personally. The dismissal of the allegations did not undo that serious impact. The large amount of publicity, including reports characterising Mr Hutchings conduct as blackmail, had caused or was likely to cause serious harm to Mr Hutchings' professional reputation. This was ultimately attributable to the allegations made against him, those allegations having not been properly or reasonably made. This, it was submitted, was a further factor meriting a costs award in Mr Hutchings' favour.
- 18.14 Mr Hubble KC submitted that the primary position was that Mr Hutchings should be awarded his costs in full. The first alternative was that he should be awarded his cost for the defence of allegation 1.1 (that allegation having been the more serious and having been made without proper evidential foundation). The second alternative was that Mr Hutchings should be awarded costs for his defence of allegation 1.1.2 (that allegation having not appeared in the referral and having an even weaker evidential foundation than that of allegation 1.1.1).

18.15 In terms of proportion the following breakdown of costs was estimated:

- Allegation 1.1.1 – 30%
- Allegation 1.1.2 – 10%
- Allegation 1.2 – 60%

#### The Applicant's Costs Submissions

18.16 The Applicant opposed the application for costs. The Tribunal's extempore reasons evidenced that the issues to be determined were assessed with regard to the witness evidence, and the weight placed on the same. It was thus plain that witness evidence was required. In the circumstances Mr Hubble KC's submissions did not pass the threshold required for an adverse costs order to be made.

18.17 Mr Ozin KC submitted that the following principles arose from caselaw:

- The starting point was no order for costs
- There would need to be a good reason for departing from the starting point
- 'Good reason' was of comparable gravity to the conduct of the case being "*a shambles from start to finish*" or the proceedings having been improperly brought.

18.18 When considering whether there is good reason to depart from the starting point, the Tribunal should approach cases of strong public interest with particular care, including properly brought difficult cases, which a regulator might otherwise be dissuaded from bringing by the risk of costs sanctions.

18.19 Mr Ozin KC submitted that whilst not determinative, the Tribunal should note that Mr Hutchings could have made an application to dismiss the allegations, or a submission of no case to answer in light of the criticisms made in the application for costs. The fact that no application was made, was demonstrative of there being a case to be determined by the Tribunal. Mr Ozin KC submitted that in criminal proceedings, a case that survived half time, was one that was properly brought. A similar analysis was applicable in regulatory proceedings.

18.20 There was good reason to pursue this matter. Client B made a complaint to the Applicant, focussing on what was considered to be an improper threat of litigation. In the course of the Applicant's investigation, Solicitor G's TAN was obtained. The TAN, (on the face of it) evidenced what appeared to be false statements. The witness statement of Solicitor G provided support for the allegations brought. Whilst the Tribunal found the allegations not proved, Mr Ozin KC submitted that the Applicant maintains that it was duty-bound, in the circumstances, as a professional regulator to bring proceedings before the Tribunal in order for the Tribunal to determine whether or not Mr Hutchings had breached his professional obligations.

18.21 It was submitted that the decision to bring these matters before the Tribunal was supported by the certainty of Solicitor G's evidence as to his recollection of the call together with there being no challenge by Mr Hutchings of the description given of the call in correspondence after the call.

- 18.22 Allegation 1.1 ultimately came down to Solicitor G's word against Mr Hutchings' (albeit with his account supported by Mr Galbraith) and some contemporaneous documents capable, depending upon the assessment of the Tribunal, of lending support to Solicitor G's account. In circumstances where such a factual dispute existed, and the determination of any wrongdoing was dependant on an assessment of those differing accounts, the Tribunal was the right and proper forum for that assessment to be made. The fact that the Tribunal ultimately determined it was not able to accept Solicitor G's recollection of what was said to him did not render it improper for these proceedings to have been brought.
- 18.23 Allegation 1.2 was also properly brought in circumstances where there was evidence of almost immediate concern of an improper threat to leverage a collateral advantage, with that threat having been made notwithstanding Counsel M's advice.
- 18.24 The Tribunal, in its extemporaneous, placed express reliance on the oral evidence of Counsel L on the mixed question of law and fact as to whether seeking a copyright license was an improper collateral purpose in the circumstances. The Tribunal preferred Counsel L's evidence that it was not, contrary to Solicitor G's evidence that it was. The Tribunal's approach evidenced that the issue could not have been resolved as an issue of pure law and required the reception and assessment of the competing oral evidence of two leading practitioners.
- 18.25 In the circumstances, Mr Ozin KC submitted that there was no degree of impropriety or failing of judgment in the decision to proceed with the allegations that would amount to the gravity of the conduct of this case being comparable to a "*shambles from start to finish*", or the proceedings having been improperly brought, that would warrant the departure from the starting point of there being no order for costs.

#### The Tribunal's Decision

- 18.26 Mr Hutchings applied for his costs in whole or in part. The Applicant opposed the application and invited the Tribunal to (i) make no order as to costs or (ii) to adjourn the consideration of costs until after the Tribunal's written Judgment on its findings was published.
- 18.27 The Tribunal paid regard to the authorities cited and Rule 43 of the Solicitors (Disciplinary Proceedings) Rules 2019. In order to depart from the starting position of no order as to costs, Mr Hutchings was required to establish that there was good reason to do so. Such reason could be established if the Tribunal found that the proceedings were improperly brought or were a shambles from start to finish. *Tsang* demonstrated that where there were fundamental errors going to the root of the prosecution, or serious procedural failings, a costs order against the regulator may be justified. Whether such circumstances existed was always fact sensitive.
- 18.28 Mr Hubble KC submitted that the proceedings were not reasonably or properly brought, relying on: (i) the inherent weakness of the TAN, (which was a paraphrased and delayed note); (ii) the shifting and unpleaded formulations of allegation 1.1; (iii) inadequate legal analysis in respect of allegation 1.2; and (iv) the significant professional and personal impact on Mr Hutchings.

- 18.29 Mr Ozin KC submitted that there was a genuine factual dispute concerning allegation 1.1 and questions of law and fact concerning allegation 1.2. These matters required adjudication by the Tribunal. The failure of Mr Hutchings to pursue any of the avenues available to him to dispose of the allegations (whilst not determinative) demonstrated that there were matters that properly required determination by the Tribunal.
- 18.30 The Tribunal did not accept that the matters relied upon by Mr Hutchings amounted to the kind of fundamental fault or impropriety required to displace the starting point of no order as to costs. As regards allegation 1.1, the Tribunal noted that the Applicant relied on Solicitors G's TAN and supporting witness statement. Although the TAN was ultimately found by the Tribunal to be less reliable than the Script and Mr Galbraith's manuscript note, this did not render the commencement of proceedings unreasonable or improper. *Flynn Pharma* recognised that regulatory failure at trial could not, without more, establish unreasonableness justifying a costs order.
- 18.31 As regards allegation 1.2, the Tribunal note observes that the issues to be determined were a mixed question of law and fact. The nature of the issues required the Tribunal to make findings which could not be resolved in the absence of oral evidence and a determination by the Tribunal. Accordingly, the Tribunal was satisfied that the decision to bring the proceedings was reasonable.
- 18.32 The Tribunal further found that there was no foundational and fundamental error which undermined the proceedings, rendering the case a shambles from start to finish.
- 18.33 The Tribunal recognised the personal and reputational consequences suffered by Mr Hutchings as a result of the proceedings. Whilst those were relevant matters to be considered, they did not, in and of themselves, justify an adverse costs order when balanced against the countervailing public interest in regulators being able to bring properly founded cases without fear of routine adverse costs orders.
- 18.34 The Tribunal was not satisfied that the Applicant's conduct of these proceedings reached the necessary degree of impropriety required, or that the Mr Hutchings had established that there was good reason to justify a departure from that starting point. Accordingly, the Tribunal made no order as to costs.
- 18.35 The Tribunal did not consider that it was necessary to adjourn consideration of costs until the publication of its reasons.

### **Statement of Full Order**

19. The Tribunal ORDERED that the allegations against the Respondent CHRISTOPHER MARK HUTCHINGS be DISMISSED and it further ordered that there be No Order as to costs.

Dated this 30<sup>th</sup> day of January 2026

On behalf of the Tribunal

*L. Boyce*

L. Boyce  
Chair

**SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12629-2024

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

CHRISTOPHER MARK HUTCHINGS Respondent

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Before:

Mrs L Boyce (in the chair)  
Mrs A Sprawson  
Mr B Walsh

Date of Hearing: 13 - 17 October, 20 November, and 8 December 2025

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**Appearances**

Paul Ozin KC of 23 Essex Street, 1 Gray's Inn Square, Holborn, London WC1R 5AA, instructed by Capsticks LLP, for the Applicant.

Ben Hubble KC, of 4 New Square Chambers, 4 New Square, Lincoln's Inn, London, WC2A 3RJ, instructed by DAC Beachcroft LLP for the Respondent.

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**APPENDIX 1**

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## 1. **Application for members of the accredited press to attend private parts of the hearing**

### The Applicant's Submissions

- 1.1 On 19 June 2025, the Tribunal reserved consideration of an application by Mr Maloney for members of the accredited press to attend the private parts of the hearing, the Tribunal having determined that specific witnesses and specific matters were to be heard in private. This request was repeated by Megan Davis of Spotlight on corruption in an application for non-party disclosure dated 30 September 2025.
- 1.2 Mr Ozin KC submitted that transparency and accessibility were cornerstone principles of justice. The Applicant supported the position of proceedings before the Tribunal being conducted in as open and transparent manner as the circumstances of a case will allow. The SRA also recognised that such an imperative may have particular resonance in a case that was concerned with what the Applicant contended was an improper threat to bring contempt proceedings with respect to a publication by a journalist concerning allegations of corruption.
- 1.3 However, the reason for sections of the hearing being heard in private was in order to prevent (i) identification of Client B and Counsel L; and (ii) identification of the details of the underlying litigation, both of which could in turn reveal, by a process of jigsaw identification, the identity of Client A. These measures were put in place to prevent the release of Client A's privileged material into the public domain. The anonymisation protocol adopted extended to endeavouring to refer to anonymised persons in a gender-neutral way. Allowing non-parties to be present during these parts of the hearing ran the risk of undermining the protection that had been deemed necessary in order to protect that material.
- 1.4 The Tribunal will be aware that, if non-parties were to be admitted to the private session, the terms of the Rule 35(9) Order of 4 September 2025 would apply, which would serve to prohibit the publication or disclosure of any information that would serve to identify any of the anonymised individuals, parties, or dates that featured in the Anonymisation Schedule, and would (unless varied) continue to bind any person present at the private session. Ultimately, the decision as to whether members of the press sitting in on the private session would serve to undermine the level of protection that had been afforded to the privileged material in this case is a matter of professional judgment for the Tribunal.

### The Respondent's Submissions

- 1.5 Mr Hubble KC submitted that the Tribunal had ordered that three aspects of the hearing be in private: (i) all of Client B's evidence; (ii) all of Counsel L's evidence; and (iii) any oral evidence from any witness relating to the underlying litigation, defined as events up to the signing of the Consent Order. The anonymity and privacy had been directed by the Tribunal in order to protect Legal Professional Privilege ("LPP") and was considered the minimum necessary to protect LPP whilst complying with open justice principles.

- 1.6 Whilst the Respondent did not represent Client A, who was not present during the proceedings, Mr Hubble KC was obliged to remind the Tribunal that the rationale for parts of the hearing to be held in private was in order to protect the LPP of Clients A and B, and the risk of jigsaw identification in circumstances where the protection of LPP was a fundamental right that could not be overridden by any competing public interest.
- 1.7 The rationale would be undermined by the attendance of members of the public. On 1 September 2025, the Tribunal ordered as follows:
- “The Tribunal orders that the disclosure or publication of any matter likely to lead to the identification of any person, entity or other matter anonymised in the proceedings is PROHIBITED.”*
- 1.8 Mr Hubble KC submitted that if members of the press were allowed to attend the private parts of the hearing, it would be relatively easy for them to identify anonymised persons and would risk future inadvertent disclosure. Further, in circumstances where the Rule 35(9) order was in place, if it was to be observed, it was unclear what purpose attendance would serve in circumstances where those parts of the hearing could not be reported upon.
- 1.9 Whilst open justice was importance, the right of Clients A and B to have their LPP protected was a fundamental right and the regime was designed to protect it. Allowing non-parties to attend the private parts of the hearing, necessarily increased the risk of disclosure. Accordingly, the Tribunal ought to refuse the application for members of the press to attend the private parts of the hearing.

### The Tribunal’s Decision

- 1.10 The Tribunal agreed with the submissions of Mr Hubble KC. It had approved the use of an extensive anonymisation regime in order for the hearing to be heard in public. The regime imposed was what the Tribunal considered necessary in order to protect the underlying clients inalienable right to LPP. Allowing the application would substantially increase the risk of inadvertent disclosure that might lead to jigsaw identification and a breach of LPP. In circumstances where the press would be prohibited from reporting on any of the matters heard in private session, the Tribunal did not consider that the risk posed by press attendance outweighed any public interest in allowing that attendance.
- 1.11 Accordingly, the application for members of the accredited press to be allowed to attend the private parts of the hearing was refused.

## **2. Application for non-party disclosure**

- 2.1 Ms Davis made an application for non-party disclosure, requesting copies of the following:
- (1) The SRA's application and Rule 12 Statement.
  - (2) The SRA's skeleton argument for the substantive hearing on 13 - 17 October 2025.

- (3) The Respondent's Answer to the Rule 12 Statement and its skeleton argument(s) for the substantive hearing on 13-17 October 2025.
  - (4) Any Witness Statements.
  - (5) Any expert reports in relation to the proceedings.
- 2.2 The parties agreed the disclosure of the items requested in (1), (2) and (3) above, subject to appropriate redactions (and in relation to the Applicant's skeleton argument, subject to the Tribunal's decision on the objections raised by the Respondent to certain matters contained within the Applicant's skeleton argument). As there were no expert reports, none could be disclosed.
- 2.3 As to witness statements, there was no objection to the release of witness statements, subject to appropriate redaction (save for those witnesses who were giving evidence in private).

### The Tribunal's Decision

- 2.4 The Tribunal granted the application for disclosure as follows:
- 2.5 Items (1), (2) and (3) should be disclosed and redacted versions would be available on the Tribunal's website (subject to the determination in relation to the Applicant's skeleton argument.)
- 2.6 Item (4) (witness statements) – The witness statements of those witnesses giving evidence in public will be disclosed (subject to appropriate redaction) after the witness has given evidence.
- 2.7 Item 5 did not exist and thus could not be disclosed.
3. **Application to redact parts of the Applicant's skeleton argument**

### The Respondent's Submissions

- 3.1 The Applicant's skeleton argument was served on 6 October 2025. Para 33 contained a number of allegations set out which were not either in the Rule 12 statement or the Reply. These matters, the Applicant submitted, were:

*“relevant to the attitude of the Respondent and the extent to which he was willing to say things that were inaccurate, each of which redounded to the benefit of his client. The SRA submits that, in doing so, they provide cogent evidence in support of the SRA's case that the particular false and/or misleading assertions alleged in allegation 1.1, which were also of benefit to Client A, were advanced by the Respondent knowingly and dishonestly.”*

- 3.2 The subparagraphs of paragraph 33 contained new and unpleaded allegations. Mr Hubble KC submitted that it might have been expected that these new matters would have been detailed in the Reply, but they were not. Paragraph 41 also contained a new and previously unpleaded allegation, which was summarised in Paragraph 43.

- 3.3 Mr Hutchings legal team wrote to the Applicant on 8 October 2025 highlighting that raising these new matters at this stage of the proceedings was improper, unfair, and contrary to the express guidance in *Thacker v SRA [2011] EWHC 660 (Admin)*:

*“This court also gave guidance in Constantinides as to the drafting of a Rule 4 statement. At paragraph 35 of the judgment Lord Justice Moses, delivering the judgment of the court, said:*

*“We should stress that we do not consider that the allegations of dishonesty were clearly and properly made in the Rule 4 statement. The Rule 4 statement, after alleging conduct unbecoming a solicitor, should have identified that conduct and stated with precision in relation to each aspect of the allegedly guilty conduct the respects in which it was said to be dishonest. It should have alleged that when the appellant acted, despite the conflict of interest, that that conduct was dishonest by the ordinary standards of honest behaviour and that he knew that he was transgressing the ordinary standards of honest behaviour.”*

- 3.4 Mr Hubble KC submitted that these new matters should have been pleaded in the Rule 12 Statement or Reply. These were not peripheral matters going to credit. If the SRA wished to rely on such matters, they should have been made clear long ago. The new allegations were serious in that they were, in effect, further allegations of false and misleading statements said to have been made dishonestly. It was unfair that Mr Hutchings should be facing new allegations on the eve of the hearing for conduct that allegedly took place during a telephone call 7 years ago.
- 3.5 The Applicant had accepted that these matters were not contained in the Rule 12 statement. It was conceded that the formal charges to be determined were those contained within the Rule 12 Statement. The Applicant, it was submitted, seemed to deny that the new allegations were allegations of dishonesty. It was the Applicant’s position that an assertion that a matter was false or misleading was not equivalent to an assertion of dishonesty; false statements may connote no more than that the assertion in question is incorrect and wrong and thus liable to mislead. However, it was clear, on reading paragraph 33, that it is the Applicant’s case that Mr Hutchings had a propensity to knowingly make untrue statements.
- 3.6 In its letter dated 10 October 2025, the Applicant stated:

*“Here, the evidence is relevant because it is part of the factual matrix leading to the alleged dishonest assertions, and as Burnett LCJ stated in Barton (David) v R (2020) EWCA Crim 575, at para 108, in considering the subjective limb of the Ivey dishonesty test “All matters that lead an accused to act as he or she did will form part of the subjective mental state, thereby forming a part of the fact-finding exercise before applying the objective standard”.”*

- 3.7 It was the Applicant’s assertion that Mr Hutchings was not charged with these allegations so that did not need to be pleaded. That was not accepted. The mere fact that the Applicant had not charged these matters did not make it proper for them to be raised at this stage of the proceedings, even more so when they were being relied upon to support the existing allegation of dishonesty.

3.8 To include these matters now was grossly unfair and should not be allowed.

### The Applicant's Submissions

- 3.9 Mr Ozin KC submitted that the submissions made by Mr Hubble KC were based on a misconceived analysis of the law and the regulatory framework in relation to the pleading and presentation of dishonesty allegations. The Tribunal's Rules detailed what was required in support of an application. The Rule 12 Statement was required to set out the allegations, the facts and matters supporting the application. There was no obligation for the Applicant to detail every point that it proposed to advance in the course of a hearing.
- 3.10 The Tribunal was referred to more prescriptive provisions contained in other statutes, with regard to pleadings. There are more prescriptive provisions in other legislative frameworks; Mr Ozin KC exemplified requirements in the Criminal Justice Act 1987 re Serious Fraud Office cases.
- 3.11 Mr Ozin KC submitted that the caselaw on dishonesty required, re pleading and advancing, dishonesty cases was as follows:
- (A) (i) the regulator was obliged to specify with precision the conduct alleged to be dishonest and to put that case in cross-examination; and (ii) defects in the Rule 12 Statement were not fatal if the Respondent knew the case he had to meet.
  - (B) the panel, in order to make findings of dishonesty is confined to the assessment of the conduct alleged to be dishonest.
- 3.12 All of the caselaw related to failures to specify what is said to constitute the dishonesty alleged in the charge, or a panel making findings of dishonesty where none had been alleged.
- 3.13 It was not the Applicant's case that the conduct set out in paragraph 33 required a determination by the Tribunal; the matters detailed therein were solely to be regarded as evidential building blocks. Further, the Applicant, it was submitted, was not obliged to charge every matter that may reflect badly on a Respondent but could rely on such matters if they were relevant to the allegations charged.
- 3.14 *Thacker* relied upon *Constantinides*. Both were concerned with allegations based on reliance on previous court Judgments as establishing dishonesty. In that context, caselaw required particularisation of the parts of the Judgment relied upon by the SRA, and thereafter for the SRA to limit the way it presented its case accordingly. In *Thacker*, the Tribunal ordered the particularisation of dishonesty in relation to the parts of the previous Judgment relied upon. Having agreed to limit its case to 12 specific matters, the SRA, in the presentation of the case went beyond that agreed limitation. This was a specific scenario and was not applicable in this case.
- 3.15 In *Mariaddan v SRA [2023] EWHC 207 (Admin)*, the High Court upheld findings of misleading and dishonest conduct. At paragraph 35, the Court stated:

*“The Tribunal must exercise care in showing which, if any, of the alternatives have been found proved. However, even if the allegations are not clearly and properly made out in the statement, a finding (including of dishonesty or lack of integrity) may still be made where the respondent is not misled by the statement, and is well aware that he has been accused of dishonesty and makes submissions to meet such an allegation (see the cases of Constantinides, Connolly, and Thaker above).”*

- 3.16 As to the point made in relation to the Reply, there is no obligation to provide a Reply. The Reply was limited to addressing new matters of law and related facts. It did not seek to address and traverse every proposition of fact and argument set out in the Answer. Accordingly, the Reply was not the place for a detailed discussion of the evidence.
- 3.17 As to the specific complaints the matters detailed were directly relevant to a consideration of Mr Hutchings conduct.

#### The Tribunal’s Decision

- 3.18 The Tribunal considered that the complained of matters were matters that not only should have been in the Rule 12 Statement but should have been specifically pleaded and particularised. Whilst reference had been made to those matters, the Tribunal was not satisfied that Mr Hutchings, having read the Applicant’s case, could have been aware that allegations of dishonesty were to be made in relation to the matters detailed in Paragraph 33.
- 3.19 The Tribunal agreed that not every assertion that a statement was false or misleading amounted to an assertion of dishonesty. However, in the circumstances of this case and the way the matters were detailed. the Tribunal was satisfied that the additional matters were tantamount to further allegations of dishonest, and a propensity to mislead. The Tribunal was not satisfied that the matters had been fairly and squarely pleaded or fairly and squarely put and was prejudicial to Mr Hutchings. Accordingly, the Respondent’s application for redaction of the Applicant’s skeleton argument was granted.
4. **Consideration of privacy following publication of the name of Client B in a Times Newspaper article – 14 October 2025**

#### The Applicant’s Submissions

- 4.1 Mr Ozin KC submitted that it became apparent that a Times newspaper article had identified Client B. The Applicant was informed that the journalist had attempted to contact Client B, but Client B had not replied.
- 4.2 Mr Bullimore had provided written representations to the effect that the circulation of that information necessitated a reconsideration of the anonymisation regime. Mr Bullimore also raised legal questions in relation to the anonymity order, asserting that it was not enforceable as a contempt of court. Following communication with the Clerk to the Tribunal, the Times had confirmed that the article had been removed on a without prejudice basis.

- 4.3 Mr Ozin KC submitted that whilst breach of as Rule 35(9) order did not amount to a contempt of court, the responsible press usually complied. The point that now fell for consideration was the change in circumstances, calling for a reconsideration of the anonymity regime, and whether it should be suspended altogether. In *SRA v Dentons (Case no. 12476-2023)*, the Tribunal considered this issue. In summary, the analysis adopted by the Tribunal was that anonymisation was a way of deploying LPP without infringing LPP, enabling the Tribunal to consider such material in a public hearing. If LPP was undermined, it inhibited clients from making complaints about misconduct.
- 4.4 The Tribunal had a continuing duty to do all that it can to protect LPP. That duty was unaffected even if the identity of the client became known or was widely circulated. The continuation of the anonymisation regime was calculated to diminish the circulation of the identity of the client and the undermining of their privilege. Mr Ozin KC submitted that there was material which supported that analysis, consisting of the constructive engagement by the Times and the steps it had taken so far. A news report by Law 360 respected the Order and complied with its terms.
- 4.5 Mr Ozin KC submitted that the approach adopted in Dentons was appropriate in this case. It was apparent that the decision in Dentons, and that should be adopted here, was from the SRA supporting open justice principles whilst respecting LPP.

#### The Respondent's Submissions

- 4.6 Mr Hubble KC submitted that the publication of Client B's name was a troubling development which ran contrary to the Tribunal's Rule 35(9) Order and the anonymity regime. This was not a situation where as 'the cat was out of the bag,' it should be 'taken on the chin.' The underlying clients were still entitled to have their privilege protected, notwithstanding that Mr Bullimore had stated that he could identify Client A.
- 4.7 The events meant that there were concerns that the Rule 35(9) regime may not be sufficiently robust as it could not be enforced as a contempt of court. The Tribunal was thus reliant upon the press observing the Order. The starting point was that Client A was entitled to have his privilege protected. This was a fundamental right that was not subject to any balancing exercise - The Tribunal was obliged to protect the privilege of the underlying clients. In the circumstances, Mr Hubble KC invited the Tribunal to hear the entirety of the proceedings in private in order to do so; hearing any part of the matter in public would increase the risk that Client A's privilege would be lost. Whilst the principle of open justice was important, it was trumped by the requirement to protect LPP.
- 4.8 Mr Hubble KC submitted that the only course that could be taken now, in order to prevent of exacerbation of the current risk, (following publication in breach of the Order), was for the matter to be heard wholly in private.

#### The Applicant's Reply

- 4.9 Mr Ozin KC submitted that the Applicant disagreed and commended the approach taken in Dentons which respected LPP.

### The Tribunal's Decision

- 4.10 The Tribunal had already made a complicated order for anonymisation in order to protect LPP. It had also made an Order pursuant to Rule 35(9) of its Rules. The Order had been referred to by both the Applicant and the Respondent at the commencement of the proceedings. Notwithstanding those matters, a newspaper article had named Client B in contravention of the Tribunal's Order.
- 4.11 The Tribunal agreed that LPP was not a right that needed to be balanced with the principle of open justice. The Tribunal had imposed a regime that it determined was the minimum necessary derogation from open justice principles that would protect LPP. It had not worked.
- 4.12 The Tribunal agreed with the submissions of Mr Hubble KC, in that the only way that it could now comply with its duty to protect LPP was for the entirety of the proceedings to be held in private.
5. **Non-party submissions following the Tribunal's decision to hear the matter in private – 14 October 2025**

### Mr Bullimore's Submissions

- 5.1 Following the Tribunal's decision to hear the matter in private, Mr Bullimore provided written submissions in relation to that decision.
- 5.2 In Court Mr Bullimore submitted that derogations from open justice should be kept to the minimum that was strictly necessary. Sitting in private was the most extreme derogation and should only be utilised when there was no other way of structuring the matter.
- 5.3 It was unclear to Mr Bullimore why Client B needed to give evidence in private. Client B's name had been published in the Times and Client B was entitled to give evidence in public about advice received; the privilege was Client B's to waive.
- 5.4 It was also unclear why Client B would need to talk about advice given to Client A. That advice would only be known by Client B if it had been revealed to them, in which case it would no longer be confidential or privileged.
- 5.5 It was presumed that Client B's evidence would presumably relate to the alleged threat of contempt proceedings arising from the alleged breach of a Consent Order.
- 5.6 It was further unclear why Client B would need to give detailed evidence on the events which led to the Consent Order. In any event, Mr Bullimore submitted, those events were neither confidential nor privileged, having been recited at great length in the Respondent's 135-page skeleton argument, which was put into the public domain by the Tribunal.
- 5.7 Client B was an experienced investigative journalist and was no doubt a highly intelligent person, more than capable of following instructions given by the Panel. Now that the Times had named Client B, the Tribunal was asked to consider the following:

- (i) Client B gives evidence in public - unless they were actively opposed to that.
  - (ii) Client B was reminded not to say Client A's name and to do their best to observe other aspects of any anonymity order.
  - (iii) Client B was reminded to try not to talk about events which were not already in the public domain as a result of the pleadings and skeleton arguments disclosed by the Tribunal.
  - (iv) If the Tribunal was satisfied that it would now serve any useful purpose, Client B could be asked not to disclose their name. Mr Bullimore considered that this would be wholly unrealistic in light of the Times report. In any event, disclosure of Client B's name did not have the effect of disclosing other names.
  - (v) As an alternative to (iv) above, the public and press could be reminded that, even though Client B gave their name in the witness box, the Tribunal requested that that not be repeated or reported.
- 5.8 Mr Bullimore submitted that the alternative to such an arrangement - hearing Client B's evidence in private - was deeply unsatisfactory. It would be in the nature of a judicial SLAPP, because it would stop the public and press from hearing or reporting crucial evidence. It would mean that legitimate public and press interest in this important case was likely to evaporate. In effect, it would punish the whole of the public and press for what appears to be an error made by one journalist.
- 5.9 Mr Bullimore submitted that he intended for his submissions to be helpful, noting the importance of the Tribunal hearing from non-parties. His aim was to suggest a constructive solution to an unfortunate problem.

#### Ms Castro's Submissions

- 5.10 Ms Castro was invited to make oral submissions; that offer was declined. In her written submissions Ms Castro stated that the primary concern was the inability to report upon the case adequately, in circumstances where a widely publicised hearing was to be held in private. It was the equivalent of a hearing being held in secret.
- 5.11 Whilst LPP was obviously to be respected and protected, this had been mitigated through the use of anonymisation and redaction. Ms Castro appreciated that The Times had breached the Tribunal's order and should not have done so (the Gazette and others had been covering the case for a while and had never breached any orders imposed by the Tribunal). That breach should not result in the hearing essentially being held in secret as the Tribunal did not have the necessary authority to punish the paper appropriately. Previous similar cases had not gone so far with privacy.
- 5.12 The open justice principle - that justice must be seen to be done as well as done - was a fundamental principle of our legal system. In *Lu v Solicitors Regulation Authority* (2022] EWHC 1729 (Admin), Mr Justice Kerr said the justice system "*thrives on fearless naming of people, whether bit part players or a protagonist*". CPR 39.2 reflected the principle of open justice which stated that hearings must be held in public. CPR 39.2(4) provided that *'the court must order that the identity of any party or witness*

*shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administration of justice and in order to protect the interests of that party or witness'. In XXX v Camden [2020] EWCA Civ 1468, the Court of Appeal upheld the fundamental rule that proceedings must be heard in public subject to specified exceptions. Any derogations from open justice must be fully and properly explained and should only be ordered if they are strictly necessary. Anonymity should not be imposed to protect the reputation of any individual and should only go so far as to protect privilege rather than overstep on the principles of open justice.*

- 5.13 Ms Castro submitted that the “*broad brush approach*” was a response to The Times' breach and was “*overstepping*”. LLP could still be protected with the measures imposed by the Tribunal prior to the breach occurring. In *SRA v Spector [2016] EWHC 37 (Admin)*, it was made clear that the principle of open justice applies to the Tribunal with the same force as it applies to the civil courts. In the civil courts, statements of case were available to non-parties as of right, under CPR 1998 Rule 5.4C. The Tribunal, it was submitted, must adopt an equivalent approach to disclosing Rule 12 statements and Answers.

#### The Applicant's Submissions

- 5.14 Mr Ozin KC submitted that the Applicant maintained and reiterated its previous submissions, namely that the proper approach was the maintenance of the anonymity scheme, thereby maintaining a substantially public hearing.
- 5.15 He amplified those submissions. The suggestions made that a wholly private hearing was without precedent was agreed. Should the Tribunal maintain its position, the Applicant would apply for an adjournment to consider whether to make an urgent application for Judicial Review of that decision. This reflected the importance of the issue. There was no reason, the Tribunal should not proceed to hear Client B's evidence in private, that being in accordance with the Applicant's commended approach.
- 5.16 Mr Ozin KC submitted that the starting point was that in consideration of matters of this nature, the Applicant had statutory powers to obtain privileged material. That material could be deployed in disciplinary proceedings, subject to anonymisation. In addition, caselaw considered how that should be reconciled with the open justice principle. It recognised that whilst LPP was inviolable, the open justice principle was important and required respect, demanding that the incursion into the open justice principle was the minimum required to protect privilege.
- 5.17 Ms Castro made an important point, namely there was substantial material in the public domain following the Tribunal's order for non-party disclosure. That material was detailed and the hearing had already been highly publicised. The switch to a wholly private hearing had the appearance of the hearing becoming wholly secret.
- 5.18 Mr Ozin KC submitted that although there had been some publicity of facts which could lead to the identity of those whose privileged materials would be deployed in the proceedings, the mainstream responsible press had responsibly and productively engaged with the Tribunal's Rule 35(9) Order. The previous anonymity regime, it was submitted, continued to meet the needs of the case. The Tribunal's decision to hear the remainder of the hearing in private overstepped what was required.

### The Respondent's Submissions

- 5.19 Mr Hubble KC submitted that not only was the Tribunal right to reach the decision it did. Events since that decision reinforced and reiterated that not only was the Tribunal's decision to hear the remainder of the hearing in private correct, it was the only one available.
- 5.20 Mr Ozin KC suggested that the Tribunal could rely on the mainstream media to report responsibly and in compliance with the Tribunal's Rule 35(9) Order and the situation had arisen as a result of fringe publicity. Mr Hubble KC reminded the Tribunal that the situation had arisen following the publication of an article in the Times. Since then, Mr Bullimore had sent an email, copied to Ms Castro, Megan Davis, and Helen Taylor from Spotlight on Corruption, and Mr Maloney (a freelance journalist) in which he expressly named both Clients A and B. There was concern that this could be a further breach of Rule 35(9). This illustrated and reinforced the need for the remainder of the hearing to be held in private.
- 5.21 As to Mr Bullimore's submission, it was aimed at a different point, namely whether Client B's evidence should be heard in private. That decision was made in June 2025 following submissions from the parties, and on an application made by the Applicant.
- 5.22 Mr Hubble KC repeated the submissions made earlier, reminding the Tribunal of the fundamental right of the protection of LPP. The only way to prevent the existing risk of breaching privilege growing further, was to hold the hearing in private.

### The Tribunal's Decision

- 5.23 As regards Mr Bullimore's application for Client B to give evidence in public, this was a matter considered by the Tribunal, on 19 June 2025, following detailed submissions from the parties, who jointly applied for Client B's evidence to be heard wholly in private in order to protect LPP. The Tribunal adopted and endorsed the reasoning provided by the Tribunal who determined that application, namely:

*“Given the nature of Client B's evidence it was necessary for that evidence to be heard entirely in private. Further, it was highly likely that any evidence given in public by Client B would lead to the identification of the underlying proceedings, Client A and Client B. This would breach their LPP. The Tribunal considered whether there were any lesser measures that could protect those rights. It determined that the measures proposed were the minimum necessary. Accordingly, the Tribunal granted the application.”*

- 5.24 It was noted that the parties remained of that view and agreed that Client B's evidence should be given wholly in private.
- 5.25 The publication of Client B's name had necessitated the Tribunal revisiting the extent to which anonymity and privacy were necessary to protect LPP. The extensive anonymisation regime imposed, supported by the Tribunal's Rule 35(9) Order had not worked. Following the breach of the Tribunal's Rule 35(9) Order, the Tribunal had determined that in all the circumstances, the minimum necessary to protect LPP was for the remainder of the hearing to be heard in private. The Tribunal had listened to (and

read) with care, the submissions of Mr Bullimore, Ms Castro, and the Applicant. The Tribunal was not satisfied that there was any lesser step which it could take in order to protect LPP.

- 5.26 The Tribunal had ordered the release of substantial documents in the case in furtherance of the principles of open justice. Any suggestion that the Tribunal was now seeking to hold the hearing in secret in order to thwart those principles was not accepted. The Tribunal was taking the minimum steps that it considered necessary in order to protect the inviolable rights of Clients A and B. For those reasons, the Tribunal also rejected any suggestion that its decision was a sanction for a breach of its Order or was for the purposes of punishing members of the press.
- 5.27 It was wholly regrettable that the Tribunal was in this position, having already endorsed and adopted the extensive anonymity regime in order for the hearing to be heard in public. The Tribunal did not consider that that regime remained fit for purpose.
- 5.28 Accordingly, the Tribunal's decision of earlier, namely that the remainder of the proceedings were to be heard in private, remained.

## 6. **The Applicant's decision on Judicial Review.**

- 6.1 Mr Ozin KC confirmed that the Applicant had decided not to Judicially Review the Tribunal's decision. The following correspondence was placed on the Tribunal's website:

*"The Applicant was asked to confirm by 5pm on 14 October 2025 whether it would or would not be filing a claim for judicial review against the Tribunal's decision to conduct this hearing wholly in private.*

*The Applicant does not resile from its previously stated position that the maintenance of the anonymisation/privacy regime approved by the SDT on the 19.6.25 was adequate and the minimum disruption to the principle of open justice that is necessary in this particular case in order to protect the privileged material. The Applicant supports these fundamental principles of open justice and transparency and respectfully contends that its previously stated position gives proper effect to those considerations.*

*However, the Applicant is mindful of the viability of this hearing and does not wish to de-stabilise the proceedings. Having regard to the interests of justice, the interests of the witnesses and the Respondent in securing an expeditious disposal of this matter, the Applicant will not be challenging the Tribunal's decision as an interlocutory matter. However, the Applicant reserves its position as to the legal consequences that may follow from the Tribunal's decision.*

*The Applicant considers that given the question of whether the SRA was proposing to challenge the SDT's decision by way of judicial review was ventilated in public session, it is appropriate that the Applicant's decision, given in this correspondence, should be communicated in a public hearing."*

**7. Further non-party representations seeking to challenge the decision to sit in private – 20 November 2025**

- 7.1 On 17 November 2025, Good Law Project wrote to Tribunal and the parties on behalf of (i) Spotlight on Corruption, (ii) The Foreign Policy Centre and (iii) The Bureau of Investigative Journalism, inviting the Tribunal to reconsider its decision to sit in private for the remainder of the hearing.
- 7.2 On 20 November 2025 (the resumed hearing date), Mr Hudson KC submitted that an application was being made for the Tribunal to hear a full application to reconsider its decision. Mr Hudson KC submitted that his clients had had no real or proper opportunity to address the Tribunal.
- 7.3 Mr Hubble KC submitted that the application should not be entertained. The Tribunal had announced its decision following submissions from the parties. That decision was challenged by Mr Bullimore and Ms Castro. Mr Bullimore provided a note and made oral submissions. Ms Castro provided written submissions and declined an offer from the Tribunal to make oral submissions. Representatives from Spotlight on Corruption were present during the public part of the proceedings and were also copied into correspondence from Mr Bullimore to the Tribunal and parties. The Tribunal, having considered those matters, maintained its decision to sit in private for the remainder of the hearing.
- 7.4 The Applicant's decision not to Judicially Review the Tribunal's decision (it having ventilated the possibility in open court) was published on the Tribunal's website on 15 October 2025. There had been no material change between then and now. Mr Hudson KC's clients, it was submitted, should have challenged the Tribunal's decision by way of a Judicial Review. They had not done so. Further, no explanation had been provided as to why the application was delayed in circumstances where the Tribunal's decision had been made over a month previously. The application, it was submitted, was far too late and should not be entertained.
- 7.5 Mr Ozin KC did not oppose the application. The case was one of important public interest, and the application, if well founded, was better considered at this stage. Any disruption to the hearing could be managed by the deployment of short submissions.
- 7.6 The Tribunal refused to entertain the application. No justifiable reason had been provided for the lateness of the application. At no point during the hearing, (whether in public or private) had Mr Hudson KC's clients indicated that they wished to instruct counsel to make submissions. Nor did they attempt to list the matter for consideration prior to the resumed hearing on 20 November 2025. The application, the Tribunal determined, was far too late and would disrupt the proceedings. The Tribunal determined that to allow the application at to be made at this stage would be contrary to its overriding objective. Accordingly, the application was refused.

**8. Mr Bullimore's application for disclosure of documents for the CMH of 19 June 2025**

- 8.1 Mr Bullimore made an application for disclosure of documents relied upon by the parties for the CMH that took place on 19 June 2025. At the time of writing, that

application has not been determined. The determination of the application will be appended to the Judgment as Appendix 2.

**SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12629-2024

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

CHRISTOPHER MARK HUTCHINGS

Respondent

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Before:

Mrs L Boyce (in the chair)

Mrs A Sprawson

Mr B Walsh

Date of Hearing: 12 February 2026

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**Appearances**

There were no appearances. The matter was considered on the papers.

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**APPENDIX 2  
MEMORANDUM OF DECISION ON  
AN APPLICATION FOR  
NON-PARTY DISCLOSURE**

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## **Background**

1. The substantive hearing in this matter concluded on 8 December 2025. On 5 December 2025, Mr Bullimore made an application for disclosure of the following:
  - (i) Any skeleton arguments/written submissions which the parties filed in respect of the CMH on 19 June 2025.
  - (ii) Any evidence which the parties filed in respect of the CMH on 19 June 2025.
  - (iii) The “*protocol agreed between the parties*” referred to in the rubric at the beginning of the Respondent's skeleton argument for the trial.
  - (iv) Decision sheet 1/9/25, referred to in paragraph 5.1 of the SRA's skeleton argument for the trial.
  - (v) Any correspondence which has passed between the SDT and the Times in relation to the naming of Client B by the Times.
  - (vi) The witness statements relied upon by the parties at the trial.
2. On 9 December 2025, Mr Bullimore applied for disclosure of the parties’ submissions on costs and costs schedules.

### The Parties’ representations

#### **Skeleton arguments for the 19 June 2025 CMH**

3. The parties did not oppose disclosure of these documents, subject to redactions in line with the Anonymisation Schedule (hereinafter appropriate redaction). The Respondent submitted that those matters contained within the skeleton argument that did not relate to the non-party disclosure request should also be redacted.
4. The Tribunal granted the application for disclosure of the documents subject to appropriate redactions.

#### **Evidence filed for the 19 June 2025 CMH**

5. The Applicant submitted that it considered this request to relate to the following documents:
  - The Applicant’s Application Notice and written submissions on anonymisation and privacy.
  - The Applicant’s Application Notice and written submissions on admissibility of evidence.
  - The Respondent’s 12 May 2025 letter.
  - The Respondent’s 6 June 2025 letter.

- The parties' skeleton arguments.
6. The Applicant did not oppose the disclosure of these documents subject to appropriate redaction (including redaction of the gender of Clients A and B).
  7. The Respondent submitted that there was no evidence filed, but referred to the Applicant's 12 May 2025 application, the disclosure of which was not opposed.
  8. The Tribunal granted the application for disclosure of the documents subject to appropriate redactions. The Applicant had queried whether the geographic location of Client A should also be redacted. The Tribunal did not consider that such a redaction was necessary.

### **The 'Protocol'**

9. The parties agreed that the protocol was a reference to the Anonymisation Schedule. The parties also agreed that provision of the Anonymisation Schedule would serve no purpose as the redacted version would consist of redactions and the anonymity key. Accordingly, the parties opposed disclosure of the Anonymisation Schedule.
10. The Tribunal agreed that redaction of this document would consist of a number of pages of redactions together with the cipher used. The Tribunal accepted that it would be useful for Mr Bullimore to see the schedule in redacted form, in order to assess the extent of redactions applied. Accordingly, the Tribunal directed the disclosure of the Anonymisation Schedule subject to appropriate redactions.

### **Decision sheet of 1 September 2025**

11. The parties did not oppose the disclosure of this document. The Tribunal granted the application subject to appropriate redaction.

### **Correspondence between the Tribunal and the Times**

12. The parties were neutral with regards to category of documents. The Tribunal was content to disclose the correspondence subject to appropriate redactions.

### **Witness Statements**

13. The parties did not oppose the disclosure of witness statements subject to appropriate redactions together with redaction of any privileged material. The parties queried
14. The Tribunal noted that Mr Bullimore had expressly stated that he was not seeking any privileged material and was content for such to be redacted. The Tribunal considered whether the disclosure of the witness statements would be consistent with (i) its decision to hear certain witness evidence wholly in private and (ii) its decision for the hearing to be heard in private following the breach of its order.
15. In its memo of the June 2025 CMH, the Tribunal stated:

*“Given the nature of Client B’s evidence it was necessary for that evidence to be heard entirely in private. Further, it was highly likely that any evidence given in public by Client B would lead to the identification of the underlying proceedings, Client A and Client B. This would breach their LPP. The Tribunal considered whether there were any lesser measures that could protect those rights. It determined that the measures proposed were the minimum necessary. Accordingly, the Tribunal granted the application.”*

16. The Tribunal considered that the risks posed by Client B giving live evidence with regards to breach of privilege were significantly reduced in the release of Client B’s witness statement with appropriate redaction in addition to redaction of any privileged material. Accordingly, the Tribunal granted the application in relation to Client B.
17. Similarly, the evidence of Counsel L was to be heard wholly in private as that evidence was expected to focus mainly on the underlying litigation, and any evidence given in public was likely to lead to identification of the underlying proceedings in breach of LPP. Again, the Tribunal was satisfied that with appropriate redaction in addition to redaction of any privileged material, the witness statement of Client L could be disclosed.
18. As regards with witness statements of those witnesses who were due to give evidence in public, the Tribunal was satisfied that they could be disclosed subject to appropriate redaction including the redaction of any privileged material.

#### **Submissions on costs and costs schedules**

19. The parties agreed to disclosure of these documents subject to appropriate redaction. The Tribunal was content to disclose these documents subject to appropriate redaction.
20. In his correspondence, Mr Bullimore had raised a number of other matters. Those matters did not relate to the Tribunal’s consideration of the appropriateness or otherwise regarding disclosure of the documents requested. Accordingly, those matters were not considered.
21. The Tribunal considered the proportionality directing the disclosure of the requested documents. It determined that the principle of open justice outweighed the inconvenience to the parties, particularly given that the following the press disclosure, the hearing that would have been predominantly heard in public, had to be heard in private.

#### **Directions**

22. The Tribunal directed as follows:
  - 22.1 The parties shall, within 14 days, serve on each other the redacted documents, with each party to redact its own documents.
  - 22.2 Seven days thereafter, the parties shall file with the Tribunal the agreed redacted documents.

22.3 Once those documents have been received, the Tribunal will consider those redactions and if approved, will provide those documents to Mr Bullimore.

Dated this 17<sup>th</sup> day of February 2026  
On behalf of the Tribunal

*L. Boyce*

L. Boyce  
Chair