The Applicant appealed the Tribunal's decision dated 17 October 2023. The appeal was heard by Mrs Justice Thornton on 23 April and 17 June 2024 and Judgment was handed down on 25 June 2025. The appeal was upheld on one ground only with respect to the anonymisation of the Respondent's clients : Solicitors Regulation Authority Limited v George Fahim Sa'id - Find case law - The National Archives

On 2 July 2024 Mrs Justice Thornton made the following order:

UPON hearing leading counsel for the Appellant and Respondent in appeal AC-2023-LON-003342 ("the substantive appeal") at a hearing on 23 April 2024;
AND UPON hearing leading counsel for the Appellant and Mr Moloney of the Law Society Gazette at hearings on 23 April 2024 and 17 June 2024 in relation to appeal AC-2023-LON-002983 ("the LPP appeal")
IT IS ORDERED THAT

1. The substantive appeal is dismissed.
2. The Appellant is to pay the Respondent's costs of the substantive appeal summarily assessed in the sum of £36,000.
3. The LPP appeal is allowed.
4. There shall not be disclosed, in any published decision of the Solicitors Disciplinary Tribunal ("SDT") or in any report of the proceedings before the SDT or before this court, the name of the Respondent's clients who were referred to in those proceedings, or any details that might lead to the identification of those clients. The persons, in respect of whom the Appellant sought anonymity orders, if referred to, shall only be referred to as the Minister, the Minister's brother, the Minister's son, Person D, Company A, Company B, Company C and Company D (or in similarly anonymous terms). The two relevant properties may be referred to as the London hotel and the London house (or in similar terms).
5. Pursuant to CPR rule 5.4C a person who is not a party to the proceedings may obtain a copy of a statement of case, judgment or order from the court records only if the statement of case, judgment or order has been anonymised in line with the order above.

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12461-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD Applicant

and

GEORGE FAHIM SA'ID Respondent

Before:

Mr A Ghosh (in the Chair)
Mrs A Sprawson
Mr A Lyon

Date of Hearing: 22, 23 and 25 August 2023

Appearances

Mr Cameron Scott, counsel, in the employ of Capsticks LLP of 1 St George Road, London, SW19 4DR, for the Applicant.

Ms Susanna Heley, solicitor advocate, of Weightmans LLP, 85 Fleet Street, London, EC4Y 1AE.

JUDGMENT

Allegations

The allegations against, George Fahim Sa'id, were that, while in practice as a solicitor, and as a sole practitioner through George Anthony Andrews ("the Firm"):

1. Between around 1 November 2017 and 30 November 2018 and in relation to the purchase of 'The London Hotel', he failed to carry out adequate enhanced Customer Due Diligence ("EDD") in respect of the transaction, contrary to regulation 33(1) of the Money Laundering, Terrorist financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("MLRs 2017").

   In doing so he:

1.1 breached any or all of Principles 6, 7 and 8 of the Solicitors Regulation Authority (SRA) Principles 2010 ("the Principles"); and

1.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

2. Between around 1 November 2017 and 30 November 2018 and in relation to the purchase of, 'The London Hotel', he failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to regulation 35 of the MLRs 2017.

   In doing so he:

2.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

2.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

3. Between around 12 October 2017 and 1 November 2019 and in regard to the purchase of 'The London House', he failed to carry out adequate Enhanced Customer Due Diligence ("EDD") in respect of the transaction, contrary to regulation 33(1) of the MLRs 2017.

   In doing so he:

3.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

3.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

4. Between around 12 October 2017 and 1 November 2019 and in relation to the purchase of 'The London House', he failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to regulation 35 of the MLRs 2017.

In doing so he:

4.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

4.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

Executive Summary

5. Mr Sa'id, a sole practitioner had, during the course of conducting anti-money laundering checks required by the rules operative at the material time, failed to identify a person related to his client as a Politically Exposed Person ("PEP"). Had he made this discovery he would have been obliged to go on to carry out Enhanced Due Diligence ("EDD").

6. Mr Sa'id accepted his failure but denied that this brought him within the ambit of professional misconduct as alleged by the Applicant.

7. The Tribunal did not find the relevant Principles or failure to achieve Outcome 7.5, as set out in the allegations, proved to the required standard i.e., the balance of probabilities and it therefore dismissed the allegations.

The Facts can be found here
The Applicant's Case can be found here
Mr Sa'id's case can be found here
The Tribunal's Findings can be found here
The Tribunal's Decision on costs can be found here

Documents

8. The Tribunal considered all the documents in the case, which were contained within an agreed electronic hearing bundle.

Preliminary Matters

9. The Rule 12 Statement

Respondent's Application

9.1 Ms Heley drew the Tribunal's attention to the fact that the statement supporting the Applicant's application did not comply with the requirements of Rule 12 (2) of The Solicitors (Disciplinary Proceedings) Rules 2019 ("SDPR 2019"). Rule 12 required applications to be supported by a Statement.

9.2 "Statement" is defined in Rule 3 (*Interpretation*) as "*a written statement (including a witness statement) signed by the individual making the statement and containing a declaration of truth in the following form*— "*I believe that the facts and matters stated in this statement are true*". The application did not contain a declaration of truth in the form prescribed and therefore was not compliant with Rule 3. Instead, the application

contained the following statement *"I confirm that the contents of this statement are true to the best of my knowledge and belief".*

9.3 Ms Heley pointed out that this was a case where the Applicant was not proposing to call witnesses of primary fact and the application and statement had been signed by a person, Ian Brook, a Capsticks' partner, who had no direct knowledge of the case and little input, other than to review the matter and sign the statement such circumstances whilst this error did not render the statement inadmissible it affected the weight which the Tribunal could place upon it, as it was a qualified statement of truth.

9.4 Mr Scott argued that the wording differed only slightly and he suspected that this had been an oversight and a technical error. He submitted that this was a relatively minor matter, which did not impact upon the validity of the statement or impair its admissibility. The case had been correctly brought by the Applicant in the public interest and certified by the Tribunal as showing an arguable case. The Respondent had not, by reason of the oversight, been placed in a position where he would not have understood the case against him.

9.5 Mr Scott submitted that if the Tribunal considered this to be a more substantial matter, then the error could be rectified without prejudice to the Respondent by the Tribunal exercising its powers under Rule 6 *(regulating its own procedure)* and Rule 24 *(amendment or withdrawal of allegations)*.

Applicant's Application

9.6 In a separate application, also concerning the Rule 12 Statement, Mr Scott applied under Rules 6 and 24 to amend certain portions of its paragraphs as follows:

Paragraph 8 (1)
From:

> "The enhanced due diligence requirements of the MLRs 2017 applied to him and-to-any family members of known close associates from 19 July 2016 and 24 October 2019."

To:

> "The enhanced due diligence requirements of the MLRs 2017 applied to him from 19 July 2016 and 24 October 2019."

9.7 Mr Scott explained that under the Anti Money Laundering Regulations 2017 the duty to carry EDD with respect to the Politically Exposed Person's (PEP) family for 12 months after the date on which that person ceased to be entrusted with that public function. Due to the date when the PEP ceased to be entrusted with a public function the EDD requirement did not apply to the family members.

9.8 Ms Heley did not object to that application.

The Tribunal's Decision

9.9 The Tribunal was most concerned that a declaration of truth, made on behalf of the Regulator of the profession by its solicitors, should not have been in the required form. The form of the declaration in the Tribunal's Rules was identical to that under Practice Direction 22, paragraph 2.1 of the Civil Procedure Rules (save that that form contained an additional sentence containing a warning as to contempt of court in respect of a false statement) and should have been well known to the Applicant's solicitors.

9.10 However, notwithstanding the apparent carelessness of the Applicants' solicitors, rather than consider whether to give less weight to the statement because it was unsupported by a declaration of truth, the Tribunal exercised its powers under Rules 6 (*regulation of procedure*), 22 *(procedural applications)* and 24 (*amendment*) to permit the Applicant to amend the declaration of truth so that it was in accordance with the wording in Rule 3 and also to permit the requested amendment of paragraph 8 (1) in the Rule 12 Statement made by the Applicant.

9.10 Following the close of the Applicant's case Mr Scott applied to amend the Rule 12 Statement further as follows:

- to change the date in paragraphs 33.12 and 34.9 from 18 November 2018 to 18 November 2019.

- to delete the following words at the end of paragraph 34.9 *"and the Respondent's instructions as set out in the email of 18 November 2018"*.

9.11 Ms Heley did not object.

The Tribunal's Decision

9.12 The Tribunal granted Mr Scott's application.

10. Anonymity

10.1 The Tribunal invited the parties representatives to make submissions in respect of the Applicant's suggestion that the names of certain individuals, entities and a nation state should be anonymised.

10.2 Notwithstanding that the continued anonymity for these entities had been agreed by a different division of the Tribunal at an earlier case management hearing ("CMH") the Tribunal was troubled by the extent of anonymisation in a case where the protagonists were central to the press and public's understanding of the facts and in circumstances where Person B was due to give evidence in open court.

10.3 The Tribunal referred the parties' advocates to the dicta of Kerr J in Lu v Solicitors Regulation Authority [2022] EWHC 1729 (Admin), where he had observed *"The justice system thrives on fearless naming of people, whether bit part players or a protagonist. Open reporting is discouraged by what George Orwell once called a "plague of initials." Clarity and a sense of purpose are lost. Reading or writing reports about nameless people is tedious* [at paragraph 6]". It also pointed out its duty under

section 6 of the Human Rights Act 1998 and to balance this with the rights of all parties involved in the proceedings, the press and the public under Articles 6, 8 and 10 respectively of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("ECHR") namely the right to a fair hearing, respect for private and family life and freedom of expression as well as the common law principle of open justice.

10.4 The Tribunal also invited submissions from Mr Scott and Ms Heley as to the dicta of May J.in the recent judgment in AB/X v Ministry of Justice [2023] EWHC 1920 (KB). In that case the High Court had lifted an anonymity order that had been granted ten years previously, in the light of the public interest in learning of the improper conduct of the claimant (L), a prominent professional, which represented very serious breaches of the high standard of professional behaviour which the public was entitled to expect. Whilst May J. did not refer to Legal Professional Privilege, she had held that only the most exceptional circumstances justified a departure from the principle of open justice.

10.5 Mr Scott referred the Tribunal to the submissions which were put to the Panel at the CMH and the basis, the Tribunal on that occasion had been requested to make the anonymity order sought.

10.6 Persons referred to as A, B and C were members of the AB Family, and clients for whom Mr Sa'id had acted in relation to various property transactions. The SRA understood that the family was a prominent family in Country X.

10.7 Person D was Mr Sa'id's named client in respect of one transaction relating to property A, the circumstances of which were relevant to allegations 1 and 2. However, the property was purchased on trust for Person C and was connected to the AB Family's property affairs.

10.8 Person C was the named client in respect of one transaction in relation to property B, the circumstances of which are relevant to allegations 3 and 4. The purchase of the property was also connected to the AB Family's property affairs.

10.9 The facts giving rise to each of the allegations included confidential information provided by the AB Family, and by Person D, relating to, amongst other things, their financial affairs. It was submitted that this information was provided in circumstances where Persons A, B, C and D had an expectation of and entitlement to confidentiality and/or in circumstances which give rise to Legal Professional Privilege (LPP) and that confidentiality would be breached if Persons A, B, C and D were identified.

10.10 The application of anonymity, Mr Scott argued, should extend to Properties A and B, Companies A, B, C and D and to Nation State X to avoid what he called the risk of "jigsaw identification" by any party through inspection of public registers or internet searches which could, relatively quickly, lead to identification of persons A, B, C and D.

10.11 The SRA was aware that the SDT's use of anonymisation, to conceal the names of third parties, was criticised by Kerr J in Lu v SRA wherein he said:

> "*the sweeping anonymity orders in respect of the third parties ought not to have been made. Courts and tribunals should not be squeamish about naming innocent people caught up in alleged wrongdoing of others. It is part of the price of open justice and there is no presumption that their privacy is more important than open justice."*

10.12 Kerr J had, however, preserved the anonymity of some persons who had been anonymised by the SDT because : "*they are likely, as against their employer, to have a contractual right to anonymity in respect of allegations made by or against them internally within the context of their employment; albeit that contractual right is far from conclusive, does not bind the court and might well have to yield to open justice*."

10.13 Mr Scott submitted that individuals should be able to communicate in confidence with their lawyers and that this was well-established and firmly rooted in the common law (see the authorities cited in Loreley Financing v Credit Suisse et al [2022] EWCA Civ 1484 at [36]).

10.14 The High Court had approved the use of anonymisation in its own judgments to protect the confidentiality of lawyer-client communications. In Simms v the Law Society [2005] EWHC 408 (Admin), a Divisional Court of three judges including Latham LJ adopted the same approach as the Tribunal and used acronyms, in their judgment, for people and companies because "*the documentation prima facie attracts privilege, and that should be respected so far as is possible."*

10.15 Waller LJ refused permission to appeal in a written judgment ([2005] EWCA Civ 749). Waller LJ approved the approach of the Divisional Court and pointed out that the balance it had struck had preserved privilege.

10.16 It was submitted therefore:

- anonymisation can and should be used to preserve the confidentiality of information where the individual has a contractual or other right to confidentiality.
- anonymity can and should be used to preserve the confidentiality of information that is subject to LPP.
- the name of a solicitor's client is not, in itself, usually confidential or subject to LPP.
- the name of a solicitor's client or ex-client should be anonymised if there will be public discussion (e.g., at the open hearing or in the decision) of confidential LPP communications from that client or someone on his behalf.

10.17 With respect to the case of AB/X Mr Scott said that the facts were different to the present matter and related to a solicitor and not clients. That said, the judgment restated the position that the issue was a matter for the Tribunal to weigh the competing interests in the balance. The Tribunal had carried out this exercise at an earlier CMH and been satisfied that anonymity was required. There had been no change of circumstances which required this decision to be revisited.

10.18 Ms Heley supported this contention and said that the Tribunal was required to put into the balance the clients' Article 8 rights under the ECHR (as defined above). There was a public policy issue in clients remaining anonymous to ensure they co-operated in providing frank information to their solicitor e.g., for anti-money laundering purposes.

10.19 It was important that whilst balancing Article 8 rights with Article 10 (as defined) the Tribunal did nothing which would interfere with the rights of third-party rights whose views upon the removal of their anonymity had not been sought and had not been waived by them.

10.20 In this case due to the public prominence of the AB Family in Country X, any naming of them would lead to the potential of jigsaw identification.

10.21 Ms Heley said the Tribunal had to consider what legitimate aims it sought to advance by removing anonymity of the clients and she referred the Tribunal to the judgment in Liebscher v Austria European Court of Human Rights 5434/17 in which it was held that the applicant's obligation to present the entire divorce settlement (as opposed to an excerpt of it) in order to have his share of a real estate property transferred to his former wife amounted to a violation of his right respect of his personal data (Article 8 of the Convention). Essentially, the judgment demonstrated that a court was required to balance *'the public interest'* with the *'interest of the public.'*

10.22 It was important that the Tribunal protected client privilege in this case and if anonymity was to be lifted then the entire hearing should be held in private.

10.23 Mr Scott added that if anonymity was to be lifted, in principle, then it should be retained for the purposes of the hearing to protect the position whilst a decision on appeal was considered.

The Tribunal's Decision

10.24 An interlocutory decision made at a Case Management Hearing by a division of the Tribunal did not bind a different division of the Tribunal. There was nothing which prevented a later constitution of the Tribunal revisiting an earlier interlocutory decision, particularly where matters of law had not been considered by the division which had made the earlier decision.

10.25 The Tribunal considered the submissions it had heard, and it was satisfied that the anonymity order should be revoked immediately and, in its entirety, and that the persons and entities set out in the anonymisation schedule below should be named in open court.

10.26 The Tribunal considered there had been a change of circumstances since the decision of the previous division to retain anonymity since the previous division had not had the benefit of the judgment of May J in AB/X and her reasoning, as set out at paragraphs 19 and 20 of her judgment:

> *"19. There are other examples in the cases where anonymity has been refused, notwithstanding the potential adverse effect on individuals whose private rights were engaged: In the BBC case the House of Lords discharged an anonymity order granted to a defendant acquitted of rape so as to permit the BBC to name*

him in a programme suggesting that he ought to be re-tried on new evidence. The House of Lords held that his Article 8 right to the protection of his reputation was outweighed by the right to publish a matter of legitimate public interest. In re Guardian News and Media Ltd [2010] 2 AC 697 the Supreme Court lifted existing orders for anonymity granted in proceedings under which the Treasury had obtained freezing orders against the respondents under Terrorism legislation. One of the anonymised individuals, all of whom were appellants before the Supreme Court, resisted the lifting of the order on the basis that it would seriously impact his and his families' Article 8 rights for him to be identified in connection with facilitating terrorism. The Supreme Court held that his Article 8 rights were engaged, but that they were outweighed by the public interest in open justice. In the course of giving the court's judgment, Lord Rodger referred to In re S (A Child)(Identification: Restrictions on publication) [2005] 1 AC 593 in which the House of Lords held that the press could name a woman who had been charged with murdering one of her children, even though this would affect the private life of her other son. 20. These cases demonstrate the very significant weight given to the demands of open justice and the public reporting of matters of public interest, even where refusing anonymity was likely quite significantly to impact an individual's private rights. The cases also confirm that, as the Practice Guidance referred to above emphasises, "clear and cogent evidence" is required before the court will consider any derogation from the open justice principle."

10.27 In the present matter, no cogent evidence had been presented to the Tribunal other than a vague assertion of public policy. Indeed, there could be no cogent argument in circumstances where the Applicant had, in effect, removed anonymity itself by retaining references within its Rule 12 Statement at paragraph 24.1 to a land deal in an area in Country X.

10.28 The naming of these two cities rendered the anonymisation of Country X a nonsense as it was a matter of general knowledge that both were in Country X. Thereafter, the issue of jigsaw identification became a quick and simple matter of consulting the internet to confirm the identity of the Country X Minister during the material time covered by the allegations and then the identity of the AB Family. The question, therefore, was what purpose or legitimate aim could be achieved by retaining the façade of anonymity in such circumstances?

10.29 As to public policy, the Tribunal accepted that the naming of clients in many cases was not necessary as this information was oftentimes not material. However, to name or not to name, absent LPP, remained an exercise in balancing Article 8 and Article 10 rights, both of which were clearly engaged in this case, and formulating a just, reasonable, and proportionate decision taking all factors into consideration.

10.30 Here, it was reasonable and proportionate to name the individuals and entities set out in the anonymisation schedule. First, because the Applicant had already identified the parties, indirectly through geographical and temporal location and second, this was a matter of intrinsic public interest which required it to be freely reported. The case involved cross jurisdictional property purchases involving a family of wealth and influence from within a high risk third country and it was therefore a matter of public interest that details were referenced in open court to ensure that matters of importance

were not obfuscated, and that the public could understand more readily the case rather than being confronted with *'a plague of initials.'* The public would require the complete factual picture to understand why Mr Sa'id's alleged failure to carry out EDD in this particular case was so serious that it required referral by the SRA to the Tribunal.

10.31 The Tribunal noted that LPP, where asserted, attaches to advice and communications passing between solicitor and client. Naming a client without referring to the advice or communications was not a breach of LPP. This case did not involve an examination of the underlying advice covered by LPP but was concerned with an alleged failure on Mr Sa'id's behalf to carry out Enhanced Due Diligence ("EDD") on his client and much of the information regarding the transactions were available from open-source documents e.g., H.M. Land Registry.

10.32 Subsequent to the hearing but prior to this written judgment the SRA applied to the Tribunal for the anonymity order to be reinstated, citing the judgment of Knowles J. in SRA v Williams [2023] EWHC 2151 (Admin). That application was supported by the Respondent.

The Tribunal dismissed the application, giving the following reasons:-

> *"1. The SRA relies upon the judgment of Knowles J. in SRA v Williams which was handed down on 31/08/2023, after the Tribunal's decision, made on 25/08/2023, to refuse anonymisation. It asserts that Legal Professional Privilege is an absolute right.*
>
> *2. Knowles J. based his judgment on dicta in three cases which predate the Human Rights Act 1998 - Anderson v Bank of British Columbia (1876) 2 Ch D 644, R v Derby Magistrates' Court ex parte B [1996] AC 487 and Balabel and another v Air India [1988] Ch 317.*
>
> *3. The dicta, set out below, of Lord Hobhouse in the seminal case of Medcalf v Mardell [2022] 3 WLR 172 does not appear to have been referred to him [all underscoring is ours].*
>
> *4. In Medcalf v Mardell Lord Hobhouse observed, at paragraph 60, "It may be that, as in the context of Articles 6 and 8 of the European Convention on Human Rights, the privilege may not always be absolute and a balancing exercise may sometimes be necessary. (Campbell v UK (13590/88) 15 EHRR 137 and Foxley v UK (33274/96) 31 EHRR 25).*
>
> *5. At paragraph 23-04 of Phipson on Evidence it is stated "Articles 6 and 8 thus both protect confidential communications between lawyers and clients 29 but privilege is not to be regarded under the HRA as an absolute right. Thus, in Niemietz v Germany 30 [1992 16 EHRR 97] the ECtHR held that a search of a lawyer's office was a breach of art.8 rights but took into account all the circumstances and in particular the broad terms of the warrant and lack of procedural safeguards, holding that the search impinged on professional confidence to an extent that was in the circumstances disproportionate. The court has recognised that in appropriate cases interference with privileged communications may be justified. In General Mediterranean Holdings v Patel*

[1999] EWHC 832 Toulson J held that the then current version of CPR r.48.7(3) was ultra vires because there was no express statutory authority to override the fundamental right of legal professional privilege. The case related to the CPR power to override privilege in wasted costs matters. His conclusion as a matter of English domestic law (the decision in fact predated the coming onto force of the HRA) was unexceptionable and those drafting the CPR withdrew the rule shortly thereafter."

6. It is unclear whether Knowles J. had his attention drawn to the duty of the Tribunal under the Human Rights Act 1998. It is notable that his judgment is devoid of any mention of the Human Rights Act 1998 or the European Convention for the Protection of Human Rights and Fundamental Freedoms.

7. The Tribunal has a duty under section 6 of the Human Rights Act 1998 to act in a way which is compatible with a Convention right. Convention rights include Articles 6, 8 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

8. The Tribunal weighed in the balance the rights of all those who might be affected by an anonymisation order, including the press and the public, in the context of Articles 6, 8 and 10 of the Convention.

9. In the circumstances of this case, it considered that the rights of the press and public in relation to Article 10 prevailed.

10.The facts of this case differ from those in Williams. This case concerns issues of considerable national and international interest.

11. It would be difficult for members of the public and the press to follow the judgment, if anonymisation were to be ordered to the extent requested by the SRA.

12. Moreover, it is unclear whether the "jigsaw puzzle" argument advanced by the SRA in this case (but not in Williams) justifies the extension of the principle of legal professional privilege to the naming of the nation state in question.

13. It is also notable that Knowles J. only had the benefit of hearing arguments from one side - the SRA. The other parties did not appear at the hearing and made no submissions.

14. Whilst it is correct that AB/X v Ministry of Justice: [2023] EWHC 1920 (KB) does not refer expressly to Legal Professional Privilege, it is authority for the view that only in the most exceptional circumstances should there be a departure from the principle of open justice. That judgment is contemporaneous with Williams and, no doubt, for that reason, was not before Knowles J.

15. There is no evidence that the clients in question in this case have asserted legal professional privilege and it is unclear whether this has been asserted only by the SRA. The SRA has stated only that they have consulted the Respondent. There is no mention of any consultation with the clients.

16. Finally, the SRA is incorrect in stating "there were no members of the public or press at the hearing and, therefore, anonymity and LPP was effectively preserved." At least one member of the public was present by video link at the hearing and all the matters in respect of which anonymisation is sought by the SRA were disclosed in open court."

Factual Background

11. Mr Sa'id was admitted as a solicitor on 1 August 1997. He holds a current Practising Certificate free from conditions. At all relevant times, he practised as solicitor and sole owner of George Anthony Andrews ("the Firm") where he was at all material times, the COLP, COFA, MLRO and MLCO of the Firm.

Witnesses

12. The written and oral evidence of 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 of all witnesses. 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. The following witnesses gave oral evidence:

13. <u>The Minister's Brother</u>

13.1 The Minister's brother gave evidence on the Respondent's behalf. He said that his brother is the Minister and one of his nephews is the Minister's son. He was not personally connected with Person D.

13.2 He first met Mr Sa'id in about 1999 when he assisted the Minister's brother with the purchase of his first hotel in about 2000. At that time, the Minister's brother was already a British Citizen, having taken citizenship in 1999.

13.3 His brother had worked in the Country X industry since the 1970s and their family owned a lot of land in Country X and had run a successful business exporting dates throughout the 1970s and 1980s. The family owned a lot of land and his family had invested in properties in England which added to its wealth. All of the family assets had been honestly earned from strategic use of family wealth, loan financing and increases in property values. Mr Sa'id has a long history of working with the Minister's brother on his property transactions and had a lot of knowledge about the family and the source and use of its wealth which has been built up over a long and successful working relationship.

13.4 Since 2000, Mr Sa'id has been the solicitor he had used for his conveyancing work, and he found him to be diligent and thorough. They did not have a social relationship, and their connection was purely business. Mr Sa'id had carried out numerous transactions for him and others within the family.

13.5 The Minister's brother said that he did not mention to Mr Sa'id that his brother had become a minister because it was not important to the Minister's brother, and he did

not know much about it as he did not follow politics in Country X. His family had never been involved or particularly interested in politics however, his brother was asked to become minister because of his experience in the industry and he was asked to step into the role.

13.6 His appointment was a surprise, and it was only ever intended to be a short-term position until another person could be found to take on the role.

13.7 The Minister's brother had been aware of some of the details of the London Hotel transaction. His family had made a deal in Country X to sell some land. Instead of paying for the land in Country X this was essentially going to be a land swap, wherein Person D would buy a hotel in London and exchange it for land in Country X. In the end, the deal did not go through and the family had nothing more to do with the transaction.

13.8 The Minister's brother did not believe that there would have been any documents to send to Mr Sa'id about the deal in Country X as it did not complete as intended and papers would not have been prepared for the transfer in Country X until the final stage of the deal. In cross-examination he denied that Mr Sa'id had not asked him for the documents relating to the Country X land sale.

13.9 The Minister's brother was aware that his nephew, the Minister's son, provided funds for the 'The London House' transaction and that Mr Sa'id investigated his business and undertook due diligence on the transaction.

Findings of Fact and Law

14. 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 Sa'id's right to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

15. **The allegations against Mr Sa'id, George Fahim Sa'id, were that, while in practice as a solicitor, as sole practitioner through George Anthony Andrews ("the Firm"):**

Allegation 1 - Between around 1 November 2017 and 30 November 2018 and in relation to the purchase of 'The London Hotel', he failed to carry out adequate enhanced Customer Due Diligence ("EDD") in respect of the transaction, contrary to regulation 33(1) of the Money Laundering, Terrorist financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("MLRs 2017").

In doing so he:

1.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

1.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

Allegation 2 - Between around 1 November 2017 and 30 November 2018 and in relation to the purchase of, 'The London Hotel', he failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to regulation 35 of the MLRs 2017.
In doing so he:

2.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

2.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

Allegation 3 - Between around 12 October 2017 and 1 November 2019 and in regard to the purchase of 'The London House', he failed to carry out adequate Enhanced Customer Due Diligence ("EDD") in respect of the transaction, contrary to regulation 33(1) of the MLRs 2017.

In doing so he:

3.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

3.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

Allegation 4 - Between around 12 October 2017 and 1 November 2019 and in relation to the purchase of 'The London House', he failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to regulation 35 of the MLRs 2017.

In doing so he:

4.1 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2010 ("the Principles"); and

4.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2010 ("the Code").

16. <u>The Applicant's Case</u>

16.1 The Applicant relied on the Forensic Investigation Report dated 16 June 2021 report dealing with Mr Sa'id's involvement with the Ab Family. According to information provided by Mr Sa'id at interview, he had acted for members of the AB Family for over 20 years including the below.

'The Minister'

16.2 The Minister held a Country X passport. A document on Mr Sa'id's file certifies that, as at 27 February 2018, The Minister was resident in the United Arab Emirates ("UAE"). Between 19 July 2016 and 24 October 2018 he was the Minister for Country X. As such he was a Politically Exposed Person ("PEP") as defined in the MLRs 2017 during that period. The enhanced due diligence requirements of the MLRs 2017 applied to him and to any family members or known close associates from 19 July 2016 and 24 October 2019.

'The Minister's Brother'

16.3 He was the Minister's brother. He held a UK passport and was resident in the UK. By reason of membership of and his business relationship with the AB Family, and therefore with the Minister, and his joint involvement with the Minister in some of the transactions set out in the list of transactions referred to below, the Miniter's brother was a known close associate of the Minister as defined in the MLRs 2017.

The Minister's Son

16.4 He was the Minister's son. As such, he was a family member of a PEP as defined in the MLRs 2017. He held an Country X passport. According to documents on Mr Sa'id's file, he was resident in the UAE.

16.5 At all relevant times, Country X was on the high risk third countries list as defined in the MLRs 2017.

16.6 On 9 February 2021, Mr Sa'id provided the SRA with a list of transactions the Firm had conducted for the AB family between 18 March 2010 and 31 May 2019. During the time when The Minister was a PEP, the Firm was instructed in respect of seven property matters totalling £70,765,689.33. That was 73% of the total of £95,928,536.78 received and paid out by the Firm for the AB family. Included within the list of transactions were the following two transactions:

16.7 The purchase of 'The London Hotel' for a consideration of £27,000,000 on or around 7 September 2018;

16.8 The purchase of 'The London House' for a consideration of £8,499,999 on or around 1 November 2019.

'The London Hotel'

16.9 The list of transactions provided by Mr Sa'id identified the client for this transaction as Person D. It stated that the Firm was first instructed on 1 November 2017 and then the matter was opened for Person D. The list of transactions also stated:

> *"Transaction initially started in a new company's name with the proceeds of sale of large business lands in Country X sold to Person D's company, Company A, based in UAE. Later [Person D] suggested a purchase in his name and would hold on trust for the [AB family] family's nominee company or trustee. Reason*

given that Person D wanted to withdraw the funds from his retained earnings and advances from Company A."

16.10 Person D held a British passport and was resident in the UAE. 'The London Hotel' was ultimately owned by a company, Company C.

16.11 The Land Registry entry for 'The London Hotel' showed the Registered Proprietor to be Company D. Company D had acquired the property in 1999. However, the acquisition was not registered until 27 April 2018. This showed a consideration of £6,500,000. Company C owned Company D.

16.12 The purchase to Person D was made by way of a transfer of shares in Company C to Person D dated 7 September 2018 for a consideration of £27 million. The Minister's brother was appointed as the sole director of both Company C and Company D on 7 September 2018. He resigned on 10 June 2022 and was replaced by Person D.

16.13 The Land Registry Official Copy for 'The London Hotel' contained a restriction and a charge in favour of Person D dated 1 August 2018. Mr Sa'id's file for the transaction contained an email dated 1 November 2017 from Mr Sa'id to the vendors of the hotel which stated:

"I am acting for the Minister's brother and his family who I have worked for the past 20 years ... My client would like to make an offer, subject to contract, to acquire the entire share capital of your company which asset mainly includes the freehold premises at 'The London Hotel' ... My clients' offer is £27,000,000 ... My clients have the financial ability to proceed with this transaction ..."

16.14 The Firm's Terms and Conditions of Business were signed by the Minister's brother on 5 February 2018. The Standard Enquiries Form for the transaction dated 21 March 2018 stated the buyer to be the Minister's brother. Mr Sa'id also provided the SRA with a Declaration of Trust dated 26 April 2018 between Person D and the Minister's son in terms of which stated that the Minister's son (identified as "the Beneficiary") had transferred or caused to be transferred into the name of Person D (identified as "the Nominee") the entire share capital of Company C. This Declaration of Trust was dated before Person D acquired the shares. However, and contrary to Mr Sa'id's stated understanding that Person D would hold the property on trust for the AB family, the Firm's file also contained an email exchange between Mr Sa'id, Person D and SG on 2 and 10 November 2018.

16.15 The SRA understood that SG was Person D's assistant. Mr Sa'id stated:

"I understand that the transfer of the shares you are holding on trust are to be transferred now to the beneficiary, [the Minister's son], and in preparation I enclose a stock transfer form for you to sign and return ..."

16.16 In response, SG replied:

"We acknowledge receipt of your email below however would like to remind you that we are yet to receive the original documents of the hotel purchase. These documents are key to satisfy banks requirements and to avoid compliance

and AML ... regulations being imposed on us ... After satisfying banks requirements and seeking due permission from them, [Person D] would personally visit UK and do the stock transfer as per your request ... (sic.)".

16.17 Further, in an email from Mr Sa'id to Person D dated 18 November 2019, he confirmed that Person D and Company A no longer wished Mr Sa'id to act on their behalf. Further, Mr Sa'id had been instructed by the Minister's son that Person D wished to transfer the share in Company C into the Minister's son's name and bring the trust to an end. The SRA has seen no record on Mr Sa'id's file of any transfer to the Minister's son having been made.

CDD conducted by the Firm

16.18 The Firm's Customer Due Diligence ("CDD") form, signed by Mr Sa'id, stated that the person instructing the Firm was Person D. The money laundering risk was stated to be "Medium". Mr Sa'id had written: *client British citizen-majority holder of Company A see A/C by Deloitte*.

16.19 Part 2 of the CDD form stated that the ultimate client was the Minister's son. It stated that Mr Sa'id had identified the client and that the client's identity was already known to and had been verified by the Firm. It also confirmed that there was no beneficial owner other than the client and the person instructing.

16.20 The Source of Funds Questionnaire part of the form, signed by Mr Sa'id but not by the client stated: *Funds paid by Company A for shares in Target company (seller). TO BE HELD ON TRUST TO the Minister's son (sic.)*. The Firm's client ledger card and bank transaction reports showed that the funds for the transaction were provided by Company A (£24,948,607.58) and the Minister's brother (£2,340,000).

16.21 The CDD form confirmed that Mr Sa'id had made enquiries and was satisfied that neither the client nor beneficial owner was a PEP, family member of a PEP or close associate of a PEP. The Form stated that the PEP questionnaire was conducted by a company called "Veriphy". A Veriphy printout showed Person D as a "Pass". The file contained uncertified copies of passports and other identity documents for the Minister's son, the Minister's brother and the Minister. However, there was no Veriphy search or other PEP search document or enquiry in relation to them.

16.22 Mr Sa'id was interviewed by the SRA on 26 April 2021. In that interview he confirmed, amongst other things, the following:

16.22.1 The background information he was given was that the AB family was that they were a very wealthy family in Country X and owned hundreds of acres of land between Country X.

16.22.2 He did not know at the time that the Minister was the Minister for Country X.

16.22.3 He had acted for the family in the purchase of a hotel in Paddington in 2013. At that time, he was told by the Minister's brother that the family wanted to

sell properties in Country X and invest the money abroad, most likely in the UK.

16.22.4 The client for the purchase of 'The London Hotel' was Person D and the ultimate beneficiary was the Minister's Son. Person D personally purchased land from the AB family in Country X worth £27 million. Person D would purchase the shares in the seller Company A and hold it on trust for the Minister's son rather than paying the family for the purchase of land in Country X.

16.22.5 The funds for the transaction came from Company A, Person D's company. He explained that £22.3 million paid by the Minister's brother was to give and indemnity to Person D for the management of the hotel and in respect of renovations. This sum came from Company A, was paid to the Minister's brother's company in the UAE and then to the Firm.

16.22.6 As at the date of the interview, Person D was still the shareholder of Company C and had not signed the trust deeds or transferred the shares. Mr Sa'id had not seen any documents in relation to the sale of the land in Country X to Person D.

16.22.7 He accepted that, with hindsight, he should have sought documents.

16.22.8 He accepted that the transaction should have been classed as high risk and that EDD should have been carried out.

<u>Money Laundering regulations, guidance and policies</u>

16.23 Regulation 33 of the MLRs 2017 provides:

"Obligation to apply enhanced customer due diligence

33. (1) A relevant person must apply enhanced customer due diligence and enhanced ongoing monitoring ... (b) in any business relationship or transaction with a person established in a high- risk third country; ... (f) in any case where - (i) a transaction is complex and unusually large, ... (ii) the transaction or transactions have no apparent economic or legal purpose; and (g) in any other case which by its nature can present a higher risk of money laundering or terrorist financing."

16.24 Regulation 35 of the MLRs 2017 provides:

"(1) a relevant person must have in place appropriate risk-management systems and procedures to determine whether a customer or the beneficial owner of a customer is (a) [a PEP] or (b) a family member or a known close associate of a PEP:

(5) A relevant person who proposes to have, or to continue, a business relationship with a PEP, or a family member or a known close associate of a PEP, must ... (b) take adequate measures to establish the source of wealth and

source of funds which are involved in the proposed business relationship or transactions with that person ... (c) ... conduct enhanced ongoing monitoring of the business relationship with that person ..."

16.25 The SRA published a report in November 2014 entitled "Cleaning Up" highlighting the risks of money laundering. The examples of good practice it listed included the following:

- Conducting adequate due diligence around the true source of funds, and in some circumstances, whether the individuals or businesses approaching the firm are PEPS;

- Investigating further when the source of client money is not clear or comes from a high-risk jurisdiction;

- Taking advice if something does not seem right about a client or transaction.

16.26 The report also identified property purchases as one of the main ways criminals laundered money through law firms. Further it confirmed that due diligence included not only checking the identity of an individual but also checking relevant background issues including whether the individual could be classed as a PEP.

16.27 The Law Society published an Anti-money Laundering Practice Note in October 2013. This set out good practice for solicitors. It confirmed that the SRA would take into account whether a solicitor had complied with the practice note when undertaking its role as regulator of professional conduct. Amongst other things, at section 2.3.2 the Practice Note highlighted the following as providing opportunities to facilitate money laundering or terrorist financing:

- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property;

- Payments that are made to or received from third parties;

- Transactions with a cross-border element.

16.28 The Firm's own Firm-Wide Risk Assessment dated 13 July 2017 assessed conveyancing, corporate and commercial The London Hotel's high risk areas particularly when acting for the buyer/investor and international clients. The assessment highlighted the following specific risks.

- Geography: any transaction involving such places thought to be high risk for money laundering;

- Politically Exposed Persons: the firm may be instructed by a PEP (or family member or close associates) who are engaged in transactions with corruptly obtained funds;

- Opaque Ownership Vehicles: the firm may be instructed by companies and trusts with opaque ownership structures designed to facilitate tax evasion and money laundering.

16.29 The Firm's Money Laundering Compliance stated that EDD was required in any case where there is a high risk of money laundering. This included the following:

- Dealing with a person established in a high risk country.
- The client is a PEP or a family member of a PEP.
- A transaction is complex or unusually large, and has no apparent economic or legal purpose.

16.30 In addition, in the section entitled "Detecting Money Laundering", the Compliance Policy listed grounds for suspicion including:

- High-risk country: The client or beneficial owner is resident or has a substantial connection to a high-risk country, or relevant assets are in a high- risk country.
- Properties owned by nominee companies, offshore companies or multiple owners where there is no logical explanation.
- A third party providing the funding for a purchase, but the property being registered in somebody else's name.

16.31 It was the SRA's case that Mr Sa'id failed to carry out EDD in relation to the acquisition of 'The London Hotel' as required by regulation 33(1) of the MLRs 2017.

16.32 The following factors were sufficient either individually or taken together to require Mr Sa'id to carry out Enhanced Due Diligence:

- The documents provided by Mr Sa'id did not make clear who was the ultimate client and the ultimate beneficiary of the transaction.
- The identity of the client changed during the course of the transaction.
- The identity of the seller also changed. The Minister's son, who was identified as the ultimate client on the CDD form and was the beneficiary of the Deed of Trust, was the son of the Minister and thus a family member of a PEP as defined for the purposes of Regulations 33 and 35 of the MLRs 2017.
- The transaction was connected to the purchase of property in a high-risk third country, namely Country X, as defined for the purposes of Regulation 33 of the MLRs 2017.
- The transaction involved a business relationship between Person D and the AB family, a family established in a high risk third country, namely Country X.

- The transaction had a complex and unclear funding and ownership structure.

- There was no evidence to demonstrate the economic or legal purpose for the ownership structure.

- Funds were provided by third parties, namely Company A and the Minister's brother, but the property was purchased in the name of Person D.

- The Minister's brother was a known close associate of a PEP.

- The email exchange of 10 November 2019 suggested concern over and an intention to avoid compliance and AML regulations being imposed and it referred to Mr Sa'id's email of 18 November 2018 suggesting that the ownership structure was to change for no apparent reason.

- Amongst other steps, Mr Sa'id should have carried out the following Enhanced Due Diligence:

- Made further enquiries to establish the identity of the ultimate client and beneficial owner.

- Obtained an explanation and, if appropriate, supporting documentation for the change in the identity of the client (initial instructions came from the Minister's brother according to the documents on Mr Sa'id's file).

- Made further enquiries as to the connection between Person D and the ultimate beneficial owner.

- Made further enquiries to establish the source of wealth of the ultimate client and beneficial owner and source of funds for the transaction.

- Obtained adequate explanations and supporting documentation as to the reasons for the structure of the transaction and the change in structure post-completion.

- Obtained adequate explanations and supporting documentation as to the reasons for the change in the structure of the transaction (the shares were not put in trust for the Minister's Son nor transferred to him).

- Asked for documentary evidence to support the explanations as to the source of funds including documents relating to the purchase of land by Person D in Country X from the AB Family.

- Other than the Veriphy result for Person D dated 15 March 2018, conducted enquiries to confirm the PEP status of the Minister and the Minister's son.

- Made further enquiries and obtained adequate explanations in light of the email from SG of 10 November 2019 and Mr Sa'id's instructions as set out in the email of 18 November 2019.

16.33 It was also the SRA's case that the Minister was a PEP, the Minister's brother was a known close associate of a PEP and the Minister's son was a family member of a PEP as defined in Regulation 35 of the MLRs 2017.

16.34 Mr Sa'id failed to identify this and thus failed to have appropriate risk-management systems in place as required by Regulation 35(1). Mr Sa'id further failed to take adequate measures to establish the source of wealth and source of funds for the transaction or to conduct enhanced ongoing monitoring of the business as required by regulation 35(5) of the MLRs 2017.

16.35 Had Mr Sa'id had appropriate risk-management systems in place, and in particular had he conducted further enquiries as to the Minister Mr Sa'id would have been aware of the Minister's status as a PEP, the Minister's brother's status as a known close associate of a PEP and the Minister's son's status as a family member of a PEP.

16.36 Amongst other steps, Mr Sa'id should then have carried out the steps outlined in paragraph 34 above to comply with the requirements of Regulation 35(5) of the MLRs 2017.

'The London House'

16.37 Mr Sa'id acted in the purchase of 'The London House'. The property transactions list stated that the Minister's son was the client. It also stated:

> *"Checked official translated sale of land contracts for sale of land in [Country X]. We are aware that since 1999 that [AB family]'s family is Land Real estate wealthy for generations and own vast areas in Country X as well as agricultural land between Country X and [The Minister's Brother] produced many years ago back title deeds for some of the lands and stated that the family were in the process of selling some to invest money in the UK as the situation in [Country X] meant they were not getting anything for their investment. I received an independent valuation of the [AB family]'s wealth from a reliable third party shortly after I first acted for the family in 1999. [The Minister's Brother] also produced invoices and bank receipts from UAE for his company Company R which he does in operation with his nephew ..."*

16.38 The Firm's Terms and Conditions were signed by the Minister's brother on 12 October 2017. 'The London House' was purchased by Company B on 1 November 2019 for a consideration of £8,499,999.

16.39 Company B was incorporated on 17 May 2019. Its sole shareholder was the Minister's son. Its sole director was the Minister's brother who was listed on the Companies House documents in the Firm's file as a person having significant control.

16.40 The client ledger card for the transaction and the bank transaction reports showed that funds totalling £8,860,000 were paid into the Firm by the Minister's brother. Notes on the transaction reports stated as follows:

Date	Amount	Originator	Handwritten Note
6/10/18	£800,000	The Minister's brother	*First deposit for SPA exchange*
3/4/18	£5,400,000	The Minister's brother	*Part balance completion money from client. The Minister's brother explained this money he received from his company in Dubai sale proceeds of properties in Country X* (in relation to a transfer of £2.5 million on 9 April 2018)
9/4/18	£2,500,000	The Minister's brother	*Part completion money from client. These funds also received from Company R in Dubai to his account. This money is Ali's money for sale of property in Country X by the AB family Trust. He will send documents*
10/4/18	£160,000	The Minister's brother	*Part balance completion from client's director. The Minister's brother said he is paying this money from his A/C to assist in completing purchase price*

16.41 When asked about the source of funds, Mr Sa'id told the SRA that the funds were provided by the Minister's son via his company in Dubai (Company R) in partnership with the Minister's brother and his cousin. Mr Sa'id did not obtain any documentation regarding Company R or the sale of properties in Country X.

CDD carried out by the Firm

16.42 The Firm's CDD form signed by Mr Sa'id on 5 October 2017 stated that the Firm was instructed by the Minister's son. The CDD form confirmed that Mr Sa'id had made enquiries and was satisfied that neither the client nor beneficial owner was a PEP, family member of a PEP or close associate of a PEP. The Form stated that the PEP questionnaire was conducted by a company called "Veriphy".

16.43 A Veriphy printout dated 13 October 2017 showed the Minister's son as a "Pass".

16.44 The CDD form also stated that the person instructing the firm acted entirely on their own account and that the money laundering risk was assessed as medium. The Source of Funds questionnaire stated that the funds for the transaction were provided by the Minister's son and noted:

> *"Property sale in Country X- money in Company R the Minister's brother to provide the document for property sale (sic)."*

16.45 The file contained an uncertified copy of the Minister's son's UAE passport which stated "STUDENT/NOT ALLOWED TO WORK". It also contained an uncertified copy of the Minister's brother's passport, driving licence and bank statement.

16.46 It was the SRA's case that Mr Sa'id should have but failed to carry out Enhanced Due Diligence in relation to the acquisition of 'The London House' as required by regulation 33(1) of the MLRs 2017.

16.47 The following factors were sufficient either individually or taken together to require Mr Sa'id to carry out Enhanced Due Diligence:

- The Minister's son was the son of the Minister and thus a family member of a PEP as defined for the purposes of Regulations 33 and 35 of the MLRs 2017.
- The transaction had a substantial connection to a high risk third country, namely Country X.
- The comments on the transaction list suggested that the source of wealth and/or source of funds for the transaction originated in a high-risk third country, namely Country X.
- Funds were provided by a third party, namely the Minister's brother, but the property was purchased in the name of Company B, the sole shareholder of which was the Minister's son.
- The Minister's brother was a known close associate of a PEP. There was a lack of clarity as to the ultimate client and beneficial owner of the property.
- There was a lack of clarity as to the source of wealth of the Minister's Son and the source of funds.

16.48 Amongst other steps, Mr Sa'id should have carried out the following Enhanced Due Diligence:

- Taken steps to identify the ultimate client and beneficial owner.
- Made further enquiries to establish the source of wealth of the ultimate client and beneficial owner and source of funds for the transaction.
- Asked for documentary evidence to support the explanations he had as to the source of funds including documents relating to the sale of property in Country X.
- Obtained adequate explanations and supporting documentation as to the reasons for the structure of the transaction including the involvement of The Minister's brother and Company B.
- Made further enquiries and obtained an explanation of and supporting documentation in relation to the involvement of Company R.
- Other than the Veriphy result for the Minister's Son dated 13 October 2017, conducted further enquiries to confirm the PEP status of the Minister and the Minister's brother.

- It was also the SRA's case that the Minister was a PEP, the Minister's brother was a known close associate of a PEP and the Minister's son was a family member of a PEP, as defined in Regulation 35 of the MLRs 2017.

16.49 Mr Sa'id failed to identify this and thus failed to have appropriate risk-management systems in place as required by Regulation 35(1). Mr Sa'id failed to take adequate measures to establish the source of wealth and source of funds for the transaction or to conduct enhanced ongoing monitoring of the business as required by regulation 35(5) of the MLRs 2017.

16.50 Had Mr Sa'id had appropriate risk-management systems in place, and in particular had he conducted further enquiries as to the Minister Mr Sa'id would have been aware of the Minister's status as a PEP, the Minister's brother's status as a known close associate of a PEP and the Minister's son's status as a family member of a PEP.

16.51 Amongst other steps, Mr Sa'id should then have carried out the steps to comply with the requirements of Regulation 35(5) of the MLRs 2017.

Professional Misconduct: Breaches of Outcome and Principles

16.52 Outcome 7.5 of the SRA Code of Conduct 2010 requires solicitors to comply with legislation applicable to their business, including anti-money laundering legislation.

16.53 Principle 6 of the SRA Principles 2010 states that solicitors must behave in a way that maintains the trust the public places in them and in the provision of legal services.

16.54 Principle 7 of the SRA Principles 2010 states that solicitors must comply with their legal and regulatory obligations.

16.55 Principle 8 of the SRA Principles 2010 provides that solicitors must run their business or carry out their role in the business effectively and in accordance with sound financial and risk management principles.

16.56 In relation to allegations 1 and 3, Mr Sa'id's failure to carry out adequate enhanced due diligence in respect of (a) 'The London Hotel' and (b) 'The London House' was, in each case, a breach of Regulation 33 of the MLRs 2017. In failing to comply with Regulation 33, Mr Sa'id in each case failed to achieve Outcome 7.5.

16.57 In relation to allegations 2 and 4, Mr Sa'id's failure to have appropriate risk-management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds involved in respect of (a) 'The London Hotel' and (b) 'The London House' and to conduct enhanced ongoing monitoring was, in each case, a breach of Regulation 35 of the MLRs 2017.

16.58 In failing to comply with Regulation 35, Mr Sa'id in each case failed to achieve Outcome 7.5.

16.59 In respect of each of allegations 1 to 4, the Public expects solicitors to comply with their regulatory and anti-money laundering regulations. The SRA's Warning Notice published in November 2014 set out why the SRA considered money laundering to be

a key risk including the potential for damage to public confidence in legal services. By failing to comply with the MLRs 2017 in respect of each of the two transactions, Mr Sa'id breached Principle 6.

16.60 Further, and in respect of each of allegations 1 to 4, in failing to comply with his legal and regulatory obligations under the MLRs 2017 and with the firm's own AML policies, Mr Sa'id breached Principle 7.

16.61 In addition, and in respect of each of allegations 1 to 4, in failing to comply with the MLRs 2017 and with the firm's own AML policies, Mr Sa'id failed to run his business in accordance with sound risk management principles, in particular regulations and procedures designed to address the risk of money laundering. He therefore breached Principle 8.

The SRA's Investigation

16.62 On 19 July 2022, the SRA sent a Notice to Mr Sa'id recommending that he matter be referred to the Tribunal.

16.63 On 2 September 2022, Mr Sa'id made the below representations.

16.64 He accepted that the transactions identified by the SRA should properly have been classed as high risk and acknowledged that his electronic searches had failed to identify connections to the Minister.

16.65 He accepted that the Minister would have been categorised as a PEP and that the Minister's son was a family member of a PEP. However, he was unaware at the time that the Minister had become a minister in the government of Country X.

16.66 He did not accept the SRA's allegations. He did have systems in place and understood that these systems would identify foreign PEPs in addition to UK PEPs and took appropriate steps when he learned this was not the case.

16.67 He also considered that, although the transactions were classified as medium risk, in practice they were treated as high risk, and he had routinely engaged measures equivalent to Enhanced Due Diligence.

16.68 He had had a relationship with the Minister and the Minister's brother since the late 1990s He was introduced to The Minister's brother in 1998 by his accountant. Around the same time, he was introduced to The Minister who purchased a hotel in Victoria with help from the Minister's brother and a mortgage from RBS.

16.69 Mr Sa'id was aware from other clients that the AB family was well known in Country X and had wealth and social standing. They owned thousands of hectares of land between Country X as verified by various client sources.

16.70 The Minister's brother used RBS as his primary lender and Mr Sa'id came to know the RBS relationship director well. He understood that RBS had a good relationship with the Minister's brother and that the family was extremely wealthy.

16.71 Mr Sa'id acted for the Minister in 2010-13 in the purchase of a hotel in London and the sale by his company of a hotel in Victoria. The transaction was partly funded by an RBS mortgage. Thereafter Mr Sa'id met the Minister's son, who was at university. He had met the Minister on many occasions.

16.72 The Minister left the principal management of the family's businesses in the UK to the Minister's brother. Mr Sa'id was engaged in a process of ongoing monitoring of the business relationship including through discussions with third parties including the RBS relationship director. In relation to the transactions, Mr Sa'id did obtain up-to-date ID and conduct electronic searches. It was unfortunate that the Veriphy search did not identify that the Minister was a PEP. Mr Sa'id would not have thought to ask the Minister's brother or the Minister's son at the time. This was a case of natural oversight and not indicative of wider failings.

16.73 He had known the Minister's brother and the Minister for more than twenty years and was familiar with their property portfolio, bankers, business interests in the UK and the source of their family wealth in Country X.

16.74 In relation to 'The London Hotel', Mr Sa'id made the following representations. He carried out searches in relation to Company A. Company A agreed to acquire plots in Country X. This fitted with Mr Sa'id's understanding of the resources and business interests of the AB family.

16.75 He made requests to Person D regarding the source of funds including six months bank statements and an explanation of the source. He received audited accounts for Company A and Person D's bank statements showing an account opened in 2017 funded by salaries from Company A. He carried out internet searches to verify information received from Company A.

16.76 The anticipated transfer of land to Company A did not take place and Person D sought to rescind the trust in favour of the AB family. Person D is currently the legal and beneficial owner of the property.

16.77 In relation to 'The London House', Mr Sa'id made the following representations:

16.78 This purchase was arranged by The Minister's brother using funds from the UK and also from his company in UAE, Company R. Both were derived from family wealth and established business interests. Mr Sa'id was also aware that funds arising from large contracts transacted in Country X with foreign companies were paid to Company R because payment in Country X currency would not make commercial sense.

16.79 In relation to AML issues Mr Sa'id stated that he had had processes in place which he believed to have been sufficient. The gap in the process [the failure to identify the Minister as a PEP] was inadvertent. On learning of this he took steps to strengthen the processes.

16.80 He did not label the transactions as high risk. He accepted this was an error. In practice there had been no material impact or increased risk of money laundering as a result. The measures he applied met the requirements of regulation 35(5); 63.3.4. His only failing was trusting Veriphy to identify any PEP issues.

16.81 He had treated the SRA's investigation as a learning opportunity. He denied the allegations made.

16.82 On 30 November 2022, the SRA decided to refer this matter to the Tribunal.

17. The Respondent's Case

17.1 Mr Sa'id gave evidence. He accepted that he made errors in connection with due diligence in relation to the transactions as follows:

17.2 The Minister's son was inadvertently not identified as the family member of a PEP. He understood that the Veriphy search undertaken would have revealed PEP status. He had also known the family for many years and was unaware of any political involvement, ambition, or interest. He has been informed subsequently that the Minister was personally asked by the Prime Minister of Country X to join the government because of his expertise in the petroleum field. He did so reluctantly as a favour to a friend.

17.3 Accordingly, Mr Sa'id had not had any reason to anticipate that such an appointment was possible or likely. He had no reason to suspect that this issue called for further enquiry following the clear result on the Veriphy search and his long knowledge of the family and its non-affiliation with politics.

17.4 The matter was recorded in the firm's internal documents as medium risk. This should have been automatically high risk. At the time, Mr Sa'id had factored into his risk assessment that there was a longstanding business relationship, that the transaction was consistent with his knowledge of the family, its long term aims and standing and the cultural and commercial reality of business dealings in the Middle East.

17.5 The source of wealth of the Minister's son and the AB family, was known to Mr Sa'id and when he learned of the sale of the land to Person D, it fitted with his knowledge of the client's wealth and substantial land ownership in Country X.

17.6 He relied upon his prior knowledge of the family, its source of wealth, previous transactions, and long-term investment strategy but he did not formally record the basis of his knowledge and risk assessment in a detailed internal memo or attendance note. He did not think it was necessary to do so.

17.7 Those errors were inadvertent and unintentional at a time of significant upheaval in relation to AML requirements. Mr Sa'id said that he paid appropriate attention to relevant risk factors of which he was aware and sought to comply with AML regulations and guidance in force.

17.8 Mr Sa'id said that, due to the nature of his practice and connections within the Country X community, a large proportion of his work would be automatically classed as high risk for AML purposes due to jurisdiction alone. For his purposes, the classification of a transaction as "medium" as opposed to "high" risk was in effect a distinction without a difference since he was well aware of the generic risks associated with transactions linked to Country X as a high-risk jurisdiction. Mr Sa'id nevertheless accepted that it

would have been appropriate to formally record the London Hotel transaction as High Risk.

17.9 It was not unusual for the Minister's brother to act as an agent for family members on occasion. Person D was well known to the AB family according to the Minister's brother .

17.10 According to the Minister's brother he introduced Person D to the acquisition of the land in Country X for his business. All the administration work was undertaken by the Minister's brother, hence his appointment as the director of the several companies that owns properties in the UK. All fundings with RBS were backed by a personal guarantee from the Minister's brother .

17.10 The identity of the ultimate client and beneficial owner was clear from the start of the transaction. The Minister's son was the beneficial owner. Initial instructions as to how the transaction was proceeding were that Person D would provide funds for the purchase of the hotel in London to the Minister's Son (or his new company) as consideration for the purchase of the land by Person D in Country X. At that stage the Minister's son was to set up a new company to acquire the hotel (or the shares in the hotel company owned by the Seller). Person D would pay for the land purchased by paying for the shares to be acquired by the Minister's son. Therefore, the client for the transaction as originally described was the Minister's son and the source of funds was from Person D.

17.11 Because Person D then indicated an intention to draw the funds from his company, Company A, the structure of the transaction changed. That change meant that there would be a two-part transaction with Person D buying the shares and, in his name, holding them on trust for the Minister's son pending a formal exchange of the land in Country X for the shares. The change in the transaction meant that Person D became the client and the Minister's son remained the intended ultimate beneficial owner. Person D, a British person who does not live in the UK, instructed that the Minister's brother be appointed as a director of the company once the shares had been acquired (Company C) and the Minister's brother would undertake to renovate and run the hotel and provide an indemnity to Person D to fulfil his responsibilities as a director of Company C.

17.12 Mr Sa'id made enquiries of Person D and his financial director as well as the Minister's brother and the Minister's son on this arrangement and whilst The Minister's brother informed Mr Sa'id that the AB family would have preferred the original plan i.e. to get the sale money and use it to buy the hotel and for Person D not to be involved, he said that the AB family would go along with the proposal put forward by Person D provided the Minister's son was protected in the deed of trust as, once the ownership of the land in Country X took effect, then there was no going back.

17.13 Mr Sa'id said that he questioned every piece of information that was given to him and weighed it against the clients' background and in his professional judgement there were no signs of wrongdoing or money laundering. The transaction as proposed made commercial and logical sense when set against the backdrop of the economic conditions in Country X and was in accordance with his understanding of the Family's investment strategy to purchase property in the UK.

17.14 He obtained adequate explanations and supporting documentation as to the reasons for the structure of the transaction and the change in structure post-completion. The instructions from the Minister's brother had all the marks of a decent honest business dealing and at no point he implied that he, the Minister's son or members of the AB family intended to enforce the business deal other than by agreement strictly in accordance with the verbal agreement they had with Person D. This attitude fitted with the profile known to him about the client over so many years namely, integrity, honesty, and fair dealing.

17.15 He adopted a proportionate risk-based approach and other than the Veriphy result for Person D dated 15 March 2018, Mr Sa'd said he conducted enquiries to confirm the PEP status of the Minister and the Minister's son. There was no direct or indirect involvement of the Minister in the transaction and therefore there was no reason he saw as to why he should carry out a Veriphy search against him.

17.16 Mr Sa'id said that he had never known or been led to believe through his dealings with the Minister's brother over many years that the AB family was in any way involved in politics or had any political affiliation. Never since meeting the Minister's brother in 1999 had they ever discussed politics.

17.17 Mr Sa'id said that he had obtained adequate explanations and supporting documentation as to the reasons for the structure of the transaction including the involvement of the Minister's brother and Company B., which purchased from the Seller the shares in a company incorporated and registered in Jersey. The client's instructions to Mr Sa'id and the tax advisors after completion were to transfer the company into the English jurisdiction (i.e., make it an 'onshore' company) after the necessary clearances were obtained from HMRC.

17.18 The Minister's brother continued to be the director of Company B, and the Minister's son continued to be the shareholder. The Minister's brother was the obvious choice to be a director due to his family connection, experience, and residence in the UK.

17.19 Company R was examined by Mr Sa'id before the transaction as well as during the transaction. It was solely owned by the Minister's brother . Company R, had worked with the nephew in Country X and received payment for the services tendered in Country X on behalf of the nephew. Mr Sa'id had also seen the transfer of the renovation works from Company A to Company R which were later used to make up the purchase price of the purchase of the shares in Company C, the owner of Company D which company owned the London Hotel.

17.20 Other than the Veriphy result for the Minister's son dated 13 October 2017, he conducted no further enquiries to confirm the PEP status of the Minister and the Minister's brother . The fact that the Minister's son result did not reveal any association with a PEP, Mr Sa'id assumed that a search on the other immediate members of his family would also return a clear result. He accepted that this was a mistake on his part. The long history of his knowledge about the client and the fact that he had not known any of them ever being in politics may have affected his otherwise thorough investigation.

17.21 It was put to Mr Sa'id in cross-examination that he should have been on his guard as the transactions were unusually complex and involving sums of money which were larger than the earlier transactions he had been asked to deal with. Mr Sa'id said that he had not considered the transactions to be particularly complex within the context of his dealings with the family. The sums of money were not significantly more than those he had dealt with in the past and there was nothing about the transactions which caused him to suspect that, potentially, there would be any higher risk of money laundering.

17.22 Mr Sa'id denied that he had carried out only minimal checks in circumstances where it would have been obvious that EDD had been required.

17.23 He had believed that his systems were robust, and he was disappointed to learn that they had failed to identify a PEP. He had used Verify for over five years and it always proved accurate as some other matters returned positive and accurate results. He accepted that ultimately it was his responsibility, and he regretted the failure that occurred. However, this was a failure of the system that he had used, and it had not been a deliberate or careless disregard of his professional obligations. Mr Sa'id said that he had shown the FOI 7 other files in which he had used the same system to carry AML and due diligence checks, and these had raised no concerns from the FOI.

17.24 Since this matter had come to light, he had taken measures to improve and revamp his procedures. He had attended numerous courses on risk assessment and anti-money laundering as well as trained and arranged for the necessary training of past and present staff. All the firm's clients are subject to checks for AML purposes and a thorough procedure is applied when investigating source of funds. His firm completes AML checks before accepting instructions and sending its client care letter. We never accept funds into our client account before we complete our AML checks. He regularly visits the National Crime Agency's website ("NCA") to look out for new guidance and news releases.

18. <u>Closing Submissions</u>

18.1 Ms Heley made the following points:

18.1.1 Mr Sa'id took personal responsibility for the decision to act and had direct control and oversight over the client relationship and the transaction. All of his work was supervised at senior partner level (his own) and it was not possible therefore to escalate to a more senior person in the firm as he was a sole practitioner.

18.1.2 There is no statutory or otherwise definitive definition of *"adequacy"* for the purposes of undertaking due diligence measures, including in relation to enhanced due diligence. This was a question of professional judgment and, as such, the fact that a different solicitor or indeed the SRA may have sought additional information or taken a different view did not mean that the Mr Sa'id's approach was incorrect, let alone so incorrect as to amount to serious misconduct.

18.1.3 Ms Heley observed that the draft Law Society Affinity Group Guidance (LSAG) was first published in September 2017, just five weeks before the

commencement of the transaction set out in the allegations. The draft was some 50 pages shorter than the current LSAG Guidance.

18.1.4 The SRA did not comment at all on the contents of the LSAG Guidance in its Rule 12 application. The guidance made clear that there is significant scope for professional judgment in relation to risk factors and in assessing what measures are appropriate to address the risk of money laundering. The draft LSAG Guidance issued in September 2017 contained the following commentary on enhanced due diligence:

> *"4.12 Enhanced due diligence Regulation 33 provides that you will need to apply enhanced due diligence in addition to the CDD measures required in Regulation 28, on a risk-sensitive basis where:*
>
> - *the case has been identified as one where there is a high risk of money laundering or terrorist financing in your risk assessment or in the information made available to you by your supervisor under Regulations 17(9) and 47 the client is a politically exposed person (PEP), or a family member or known close associate of a PEP;*
>
> - *the client or transaction is in a high-risk third country;*
>
> - *the client has provided false or stolen identification documentation or information on establishing the relationship and you have decided to continue dealing with the client;*
> - *wherever the transaction:*
>
> - *is complex and unusually large or there is an unusual pattern of transactions, and*
> - *the transaction or transactions have no apparent economic or legal purpose.*
>
> - *there is any other situation which can present a higher risk of money laundering or terrorist financing.*
>
> *The Regulations specify that you must take measures to examine the background and purpose of the transaction and to increase the monitoring of the business relationship where enhanced due diligence is required.*
>
> *In applying the risk-based approach to the situation you should consider whether it is appropriate to:*
>
> *seek further verification of the client or beneficial owner's identity from independent reliable sources obtain more detail on the ownership and control structure and financial situation of the client request further information on the purpose of the retainer or the source of the funds, and/or conduct enhanced ongoing monitoring".*

18.1.5 Ms Heley said that:

- Mr Sa'id's long association with the family of his clients, dating back more than 20 years;
- his understanding of their business affairs and long-term intentions in relation to the UK and family assets within the jurisdiction and
- the specific due diligence he undertook in relation to the transaction were relevant factors to take into account in assessing the overall risk associated with the transaction as part of assessing the measures necessary to comply with AML requirements.

18.1.6 The guidance made clear that enhanced due diligence and ongoing monitoring measures were also risk based and there was no 'one size fits all approach.'

18.1.7 The AML requirements introduced in 2017 were brought in at short notice and began a process of rapid development in AML regulation. Neither national nor sector risk assessments were in place at the time the 2017 regulations came into force. The Office for Professional Body Anti-Money Laundering Supervision ("OPBAS") was only introduced in February 2018. Its initial findings showed widespread failings amongst regulators to properly appreciate the risk-based approach required by AML legislation.

18.1.8 Both the 2017 Regulations and OPBAS require regulators to take a proportionate, risk-based approach to AML requirements. Ms Heley submitted that the Applicant's case failed to take account of the need to act proportionately and to support the adoption of a risk-based approach and that the Applicant appeared to be advocating a prescriptive approach expressly disclaimed by the 2017 Regulations and the LSAG Guidance.

18.2 As to Allegation 1.1: Whilst Mr Sa'id accepted that he made some errors, he denied that his due diligence measures were sufficiently inadequate to find a breach of Principles 6, 7 and 8 of the SRA Principles as alleged.

18.3 As to Allegation 1.2: Mr Sa'id denied that his conduct amounted to a failure to comply with Outcome 7.5 of the SRA Code of Conduct 2010 given the steps taken to understand and apply AML requirements.

18.4 As to Allegation 2: 2.1 Mr Sa'id said that "appropriate" risk management systems were in place and that he undertook electronic searches using a third-party provider which were sold on the basis that foreign PEPs would be revealed by such searches. The use of Veriphy was part of an appropriate risk management system and, whilst it unfortunately failed in this instance to identify the Minister's son's connection to a foreign PEP, that failure did not, of itself, indicate that his systems were not "appropriate" for the size and nature of his firm.

18.5 The Respondent's personal involvement in the file, as the most senior and experienced solicitor in the firm, the ongoing direct discussions with clients and third parties and the Respondent's longstanding knowledge of the family, their UK businesses and

intentions and the cultural context of the family arrangements were all factors for Mr Sa'id to consider in his approach to risk management.

18.6 Mr Sa'id noted that: The SRA acknowledges that he had a firm wide risk assessment in place which predated the LSAG Guidance, and the SRA had, in fact, conducted an AML assessment of the firm in July 2017 which found no issues with the firm's systems.

18.7 The SRA implicitly acknowledged that this was not a new business relationship since the FIR highlights that Mr Sa'id had acted for family members on numerous transactions since 2010.

18.8 Mr Sa'id had in fact a longstanding business relationship with the family dating back to the 1990s. It was not suggested that these transactions were, in fact, improper. Accordingly, whilst Mr Sa'id acknowledged that his systems failed to identify that The Minister was a PEP, Mr Sa'id had relied upon the Veriphy promotional material in believing that the Veriphy search would identify connections to foreign PEPs. That belief was reasonable and led Mr Sa'id to consider that further enquiries on that point were unnecessary. It is submitted that that mistaken belief, whilst creating a gap in the systems, does not rise to the level of actionable misconduct and does not mean that the firm's systems were inadequate.

18.9 As to Allegation 2.1: Mr Sa'id denied that his conduct amounted to a breach of Principles 6, 7 and 8 of the SRA Principles as alleged.

18.10 As to Allegation 2.2: Mr Sa'id denied that his conduct amounted to a failure to comply with Outcome 7.5 of the SRA Code of Conduct 2010.

18.11 As to Allegation 3: the same factors as stated above applied repeated (albeit that the Minister's brother is outside of the definition of family member of a PEP). Mr Sa'id acknowledged that the failure to appreciate the Minister's status as a PEP with the attendant consequences for his family and connections resulted in errors in relation to the due diligence undertaken in relation to this transaction. It is submitted that those errors were inadvertent and unintentional and arose as a result of reliance on the Veriphy system. It is submitted that such reliance was reasonable in light of the advertised reach of such searches.

18.12 In the circumstances, and notwithstanding the Minister's status as a PEP, it was submitted that the Respondent's approach to AML requirements was adequate and appropriately risk based. The fact that there was an unknown gap in the system did not mean that Mr Sa'id failed to have proper regard to his obligations.

19. <u>The Tribunal's Findings</u>

19.1 The Tribunal reviewed all the material before it and considered the submissions made by Mr Scott and Ms Heley with great care.

19.2 The Tribunal had due regard to Mr Sa'id's rights to a fair trial and to respect for his private and family life under, respectively, Articles 6 and 8 of the ECHR.

19.3 The Tribunal applied the civil standard of proof, as it was required to do. The burden of proof lay with the Applicant.

19.4 The Applicant had relied entirely on hearsay documentary evidence and the submissions of its counsel. It had not called any witnesses.

19.5 The report of the Applicant's Forensic Investigation Officer (FOI) had not been supported by a statement of truth by the FOI and it had been annexed as an exhibit to the Rule 12 Statement, which in turn had been signed off (with an incorrect version of the declaration which had been corrected subsequently) by a solicitor with no direct knowledge of the case. The FOI had not given sworn evidence and by failing to give oral evidence had deprived the Respondent of the opportunity to cross examine him. It was significant in this regard given that Mr Sa'id had said that the FOI had viewed 7 other files and raised no concern with Mr Sa'id's AML checking system.

19.6 Whilst the Tribunal found the factual matrix proved to the required standard, it did not find the Respondent's failure on the two transaction was of a degree which brought the failure within the ambit of professional misconduct as a breach of the relevant Principles and Codes of Conduct and therefore the Applicant had not proved its case in that regard to the required standard.

19.7 It was clear that Mr Sa' id recognised his system let him down on the two transactions as it did not identify the presence of a PEP. He accepted that had the PEP been identified the risk would have been marked at a higher level.

19.8 This was entirely regrettable, however, Mr Sa'id was not in a position of having no system at all or indeed that his system should be considered inadequate based on a single failure.

19.9 The Tribunal found that the AML regime is based on assessment of risk and that there is scope for professional judgment. Mr Sa'id had carried out CDD and proceeded in an otherwise cautious manner relying on his knowledge of his clients and the source of their substantial wealth, accrued over 20 years of business in which. He therefore did not 'fly blind' into a situation where he was oblivious the risk.

19.10 The Tribunal considered that issues relating to money laundering must be treated with utmost seriousness for reasons of preventing crime and the encouragement of terrorism, however, this case revealed an element of the *'counsel of perfection'* on the Applicant's part. The Tribunal recognised that Mr Sa'id had taken steps to strengthen and improve his AML systems.

19.10 The Tribunal dismissed all the allegations.

Costs

20. Given the Tribunal's decision with respect to Mr Sa'id, Mr Scott made no application for the Applicant's costs.

21. Ms Heley applied for a costs order to be made against the Applicant. She argued that Mr Sa'id's account had remained consistent from the commencement of the investigation to the date the Applicant's case was dismissed.

22. There had been no reason to bring the case before the Tribunal and in fact the SRA had raised its own fining powers two days after it made the decision to refer Mr Sa'id's case to the Tribunal.

23. Even if the alleged breaches of the Principles been found proved by the Tribunal, this was a case where the most likely sanction would not have been greater than a fine that the Applicant would have been entitled to impose. The matter therefore could have been dealt with as an internal matter by the SRA and it need not have come to the Tribunal.

24. Mr Scott, said that notwithstanding that the Applicant had not been successful costs in the Tribunal did not follow the event, unless there were factors present which required a deviation from this normal course e.g., the case had been improperly brought or that it had been a 'shambles from start to finish'.

25. Neither could be said in this case. The case had been properly brought by the Applicant. Money laundering is a serious issue for the profession, and it was necessary in the public interest to bring matters of such importance to the Tribunal for determination.

The Tribunal's Decision on Costs

26. The Tribunal noted that under Rule 43 (1) of The Solicitors (Disciplinary Proceedings) Rules 2019 it has the power to make such order as to costs as it thinks fit, including the payment by any party of costs or a contribution towards costs of such amount (if any) as the Tribunal may consider reasonable.

27. The Tribunal refused Ms Heley's application and it declined to make a costs order in Mr Sa'id's favour.

28. The Tribunal did not consider there were any persuasive factors present to allow it to divert from the normal course involving costs.

Statement of Full Order

29. The Tribunal ORDERS that the allegations against Mr Sa'id, GEORGE FAHIM SA'ID of solicitor, be DISMISSED.

The Tribunal makes NO ORDER as to costs.

Dated this 17th day of October 2023
On behalf of the Tribunal

A Ghosh
A Ghosh
Chair