

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12644-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

RASHID AHMAD KHAN

Respondent

Before:

Mr R Nicholas (Chair)

Ms A Kellett

Ms J Rowe

Date of Hearing: 18-19 February 2025

Appearances

Mr James Counsell KC, counsel of Outer Temple Chambers, 222 Strand, London, WC2R 1BA, instructed by Capsticks, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

Mr Greg Treverton Jones KC, counsel of 39 Essex Chambers, 81 Chancery Lane, London WC2A 1DD for the Respondent.

JUDGMENT

Allegations

1. The Allegation against the Respondent, Rashid Ahmad Khan, made by the Applicant is that, whilst working as a solicitor at Rashid and Rashid Law Firm (“the Firm”), he:
 - 1.1. Between approximately 4 May and 19 May 2023, gave advice which encouraged a false narrative to be put forward in support of an asylum claim within the United Kingdom, and in doing so breached any or all of Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019 (“the Code”) and Principles 1, 2, 4 and 5 of the SRA Principles 2019 (“the Principles”).

NOT PROVED

Executive Summary

2. It was alleged by the Applicant that the Respondent advised and encouraged reporters from the Daily Mail, one posing as a man seeking entry in the UK and the other his uncle, on fabricating a false narrative upon which to claim asylum. The Applicant’s case relied on transcripts of covert recordings of the Respondent’s meetings with the reporters.
3. The Respondent denied the alleged misconduct, claiming that his interactions with these individuals consisted of two ‘meet and greet’ sessions outside of any retainer and during which he provided no advice to them. The Respondent disputed the accuracy of the Applicant’s translation of the conversations. These had taken place in a mixture of Punjabi and English, neither of which were the Respondent’s mother tongue, Urdu.
4. The Tribunal did not find the allegation proved by the Applicant to the required standard (the balance of probabilities) and it dismissed the allegation. The Tribunal made no order for costs.

Documents

5. The Tribunal considered all the documents in the case which were contained in the electronic bundle.

Factual Background

6. The Respondent was admitted to the Roll on 16 March 2009. At the time of the Allegation, the Respondent was working at the Firm. The Firm reported that 98% of its work for 2022-2023 was in immigration, with the Firm having an annual turnover of £819,597. At the time of this Allegation, the Respondent was registered with the SRA as the sole manager of the Firm, as well as being its Compliance Officer for Legal Practice (“COLP”), and Compliance Officer for Finance and Administration (“COFA”). The Respondent does not hold a current Practising Certificate, it having been suspended following the allegation above.

Findings of Fact and Law

7. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under Section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's 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.

The Tribunal had due regard to the following and applied the various tests in its fact-finding exercise:

Dishonesty

The test set out at paragraph 74 of [Ivey v Genting Casinos \(UK\) Ltd t/a Crockfords \[2017\] UKSC 67](#).

Integrity

The matters set at paragraphs 97 to 107 of [Wingate v SRA \[2018\] EWCA Civ 366](#).

NOTE: While all the evidence was carefully considered the Tribunal does not refer to each and every piece of the evidence or submissions in its judgment and findings.

Rule 12 Statement

8. **Allegation 1.1 - Between approximately 4 May and 19 May 2023, gave advice which encouraged a false narrative to be put forward in support of an asylum claim within the United Kingdom, and in doing so breached any or all of Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019 ("the Code") and Principles 1, 2, 4 and 5 of the SRA Principles 2019 ("the Principles").**

The Applicant's case

- 8.1 Mr Counsell explained that the single allegation faced by the Respondent originated from an undercover investigation into solicitors providing immigration advice and services, carried out by The Daily Mail newspaper on 4 and 19 May 2023.
- 8.2 The journalists used covert recording equipment in meetings with the Respondent. The plan was to use an undercover reporter, posing as a recently arrived illegal migrant, who had no legitimate reason to claim asylum, to visit the law firms and see if they would offer help to making a claim and, if so, how they do this. At the outset of the meetings the undercover reporters made it clear there was no legal basis for claiming asylum. At each meeting he would be tasked to simply ask the lawyers if there is anything they could do to normalise his stay in the UK and, if asked, be clear that there was nothing that would give him a legal basis for claiming asylum.
- 8.3 There were two recorded meetings occurred at the Respondent's office. In the first meeting, the journalist, posing as an uncle of an illegal immigrant, met with the Respondent. In the second, the journalist returned with another journalist, posing as the immigrant nephew.

- 8.4 It was said that the Respondent, during undercover meetings filmed by the Daily Mail, advised a potential client to fabricate an asylum claim, breaching SRA Principles and the Code of Conduct by volunteering and encouraging the fabrication of a false narrative for asylum.
- 8.5 The meetings were recorded, transcribed, and translated. The Applicant initially used transcripts from Language Line Solutions, which the Respondent challenged. Atlas Translations prepared a second set of transcripts. Mr Khan obtained his own translation from Welcome Translation Experts (WTE). A comparator document was produced, juxtaposing the Atlas and WTE translations.

First Meeting (4 May 2023) (Applicant's interpretation)

- 8.6 The Respondent asked why the "nephew" entered the UK illegally and the journalist explained there was a lack of work in India. The Respondent suggested the "nephew" should note any problems he faced at home "*... safety reasons, any problem about from the government, any problem from the gangsters, ... any problems from politicians ...*"
- 8.7 The Applicant submitted that the Respondent introduced the subject of asylum, even though the 'client' had not suggested it and that this showed he was fishing for a reason to fabricate an asylum claim.

Second Meeting (19 May 2023) (Applicant's interpretation)

- 8.8 It was said that the Respondent again introduced the subject of asylum, asking if they had a "*story*" and if the situation was "*political*".
- 8.9 When told it was not political, but instead that the 'nephew' had no work, the Respondent said "*No, no, if you say that they will send you...*". He then gestured as if the 'nephew' would be deported. He advised, "*if he [the 'nephew'] says that his life is in danger back home due to my political or land dispute or anything then he needs to write something. If he says no, it's nothing.*" He told the client that he "*will make four pages out of that page myself*", which the Applicant alleged demonstrated an intent to exaggerate.
- 8.10 When asked what they should go for, the journalist suggested "*political*" and the Respondent agreed.
- 8.11 The Applicant alleged that the Respondent encouraged the client to provide false information to support an asylum claim and in doing so his actions were dishonest and lacked integrity, damaging public trust and a failure to uphold the rule of law.
- 8.12 In cross-examination it was put to the Respondent that he had volunteered the issue of asylum and that he had made a dismissive gesture with his hand when the "nephew" said there was no political problem. The Respondent denied the allegation. He said that he had not given advice but set out the law regarding asylum applications and asked exploratory questions of the bogus uncle and later the bogus nephew to satisfy himself that there were no grounds for such an application.

- 8.13 The gesture he made during the consultation was a simple Punjabi gesture intended to convey that if the 'nephew' gave a particular answer to immigration authorities he would be rejected i.e. that an application made in the absence of at least one of the five factors required for an asylum application would be unlikely to succeed.
- 8.14 The Respondent justified the comment made by him that he would turn one page of instructions into four pages of submissions by explaining that this was standard legal practice and it would have included detailed information about the client's circumstances as well as legal arguments.
- 8.15 He had been suspicious of the 'uncle', who he had never met before and did not know. He had suspected the 'uncle' was a human trafficker, or in some way was influencing the 'nephew' from whom the Respondent tried to elicit information.

The Respondent's Case

- 8.16 Mr Treverton-Jones said the Respondent denied the allegation in its entirety. He submitted on the Respondent's behalf that the meetings were no more than initial, and free, 'meet and greet' consultations wherein the Respondent had explored potential legal avenues, including an application under Article 8 ECHR (right to family life) as he had been duty bound to do. The Respondent's actions were consistent with proper legal practice. This was different to a post retainer meeting.
- 8.17 The Respondent had had a long history of assisting immigrants legally and rejects the idea that he would suddenly encourage fraud for strangers.
- 8.18 Nothing turned on the use of the word 'story' as translated. The Respondent was speaking to people who presented as simple men. The word 'story' in such circumstances was analogous to 'account' and the Respondent meant it as an account of their circumstances, not as instruction to create a false narrative.
- 8.19 No transcript was perfect. The Applicant's transcript had been translated from Punjabi to Urdu and then into English. The Respondent's comments were misinterpreted due to language barriers. The translation prepared on the Respondent's behalf was from Punjabi into English, and it was submitted, the more accurate translation. Mr Treverton Jones further contended that the Applicant's investigation was flawed and unjustly impacted upon the Respondent's practice, well-being and health.
- 8.20 The Respondent had no disciplinary or regulatory findings against him and Mr Treverton-Jones directed the Tribunal to character references from professional colleagues, former employees and clients attesting to his professional and personal qualities. Such evidence went to the Respondent's propensity and credibility, and it was pointed out that the Respondent had a long history of assisting immigrants legally and it was inherently unlikely that he would suddenly encourage strangers to commit fraud.
- 8.21 It was said by at least one of the character witnesses that the Respondent frequently rejected prospective clients presenting with unmeritorious cases, and that he had terminated retainers of clients whose claims lacked merit.

The Tribunal's Findings

- 8.22 The Tribunal reviewed all the evidence before it and considered the submissions made by counsel for the Respondent and the Applicant. The Tribunal applied the civil standard of proof, as it was required to do. The burden of proof lay entirely with the Applicant.
- 8.23 The Tribunal noted that the case rested heavily on the interpretation of the Respondent's words, actions, and his intentions during the initial consultations with the 'uncle' and then the 'uncle' and the 'nephew', the potential client. To this end the Tribunal's deliberations were mainly, but not exclusively centred around the two covert video recordings played to it and the transcripts. The Tribunal made particular use of the comparative transcript which showed the differences between the transcript prepared on the Applicant's translation and the one made on the Respondent's translation. The Tribunal looked at the exchanges between the Respondent and the 'uncle' and 'nephew' both individually, on a microscopic level, and then, macroscopically, viewing the totality of what took place, contextually and as a whole.
- 8.24 Having carried out this forensic exercise the Tribunal was not persuaded that the Applicant had proved its case to the requisite standard, namely on the balance of probabilities.
- 8.25 The Tribunal's reasons are exemplified by the following:
- 8.26 The assertion implied by the Applicant that the 'uncle' referred only to '*no work in India*' as the reason behind the motivation for the 'nephew' being in the UK was found to be incorrect. On Page N9 of the comparator translation Person 1 (the 'uncle') referred to his 'nephew' as having "*many difficulties there* [India] (emphasis added)", which the Tribunal found could have been a reference to many or any kind of issues in the 'nephew's' home country and something which it was legitimate for the Respondent to pursue.
- 8.27 On Page N15 the Respondent gave those attending him, the choice of office. Had those who attended chosen to attend an alternative office then it was difficult to see how the Respondent could have pursued such a course of action as is suggested by the Applicant. The fact that the Respondent did not insist on any personal involvement with the case following the initial meetings was inconsistent with the suggestion or inference that he was pursuing either a systematic or singular course of conduct to encourage wrongdoing.
- 8.28 At page N20, and repeatedly elsewhere across the two transcripts (one for each meeting) the Respondent made it clear that he would have to ask lots of the questions of the 'nephew' directly and then to see what reasons had been noted down by the 'nephew' before he could advise. It was to be noted that this was pre- retainer and the 'nephew' and not the 'uncle' was the prospective client, yet it was the 'uncle' who appeared to be providing the answers. At this stage neither 'nephew' nor 'uncle' were clients: the two attendees on the first occasion and the three interviewees on the second had not entered into any agreement, signed any forms, there was no retainer and even the third individual on the second occasion (the potential client) and purported 'nephew' of the 'uncle' was not in any kind of solicitor/client relationship with the Respondent at that

stage. Indeed, it was difficult to see any active involvement on the ‘nephew’s’ part by way of conversation or dialogue in the second meeting.

- 8.29 The Tribunal accepted the Respondent’s explanation for the two meetings as “meet & greet” rather than specific sessions for the taking of instructions and giving advice. They were merely introductory.
- 8.30 At page N35 on the second interview the Respondent remained consistent in his approach not to get involved or to give advice until the potential client had collected and furnished him with documents he required.
- 8.31 Much was made of the “gesture” made by the Respondent, however, this appeared to the Tribunal as no more than a confirmation of what would happen if the ‘nephew’ (and potential client) had tried to bring an asylum claim solely based on not having work in home country. The Respondent explained in his evidence that this meant that the application would be rejected. The Tribunal accepted this, which was no more than a statement of fact.
- 8.32 Similarly, the reiteration of this point on pages N37/38 was no more than a statement of fact.
- 8.33 On pages N43/44 the Respondent pointed out the fact that in the event that there were no reasons supporting an asylum application the ‘nephew’ would need to make a family life application under Article 8 ECHR. Viewed objectively, this was no evidence that the Respondent was encouraging the ‘nephew’ to put forth a false narrative; on the contrary it recognises this form of application as the potential backstop position.
- 8.34 On page N46 the ‘uncle’ raised the question of making a *‘political story’*. The Respondent replied “*No, no first you will bring it to me then I will tell you what to do with it*”. This could not be construed as being consistent with the Respondent giving advice nor proactively encouraging a false narrative.
- 8.35 The section of the video which troubled Tribunal the most was the point where the ‘uncle’ asked whether they should “*go for political*” and the Respondent replied with a nod and repeating the word *‘political.’* Whilst this could be taken as an example of the Respondent encouraging a political narrative it had to be viewed holistically within the context of this being an overall *‘meet and greet’*. The Tribunal found that this part of the exchange did not have the necessary quality of something which could fairly be described as ‘advice’ and the Tribunal was not convinced that, absent any other associated remarks, it could be said to been encouraging a false narrative to be put forward.
- 8.36 The Tribunal found the Respondent to be a credible witness, clearly stressed by the proceedings but nonetheless believable and it accepted his concerns regarding the validity/ genuineness of those attending at his office on the two occasions set out in the allegation.
- 8.37 The Tribunal also had close regard to those character witnesses who had worked with the Respondent at his office and who had known him and had been well placed to observe the way he practised. The worst that could said of him was that he failed to

delegate, and his organisational abilities were not the best. However, there was no question or concerns over the Respondent's honesty and integrity.

8.38 When taken individually or viewed in its totality there was nothing within the material seen and read by the Tribunal which would permit it to make an adverse finding against the Respondent. Whilst there were issues which may have raised understandable concerns with the regulator, the matters did not, on the balance of probabilities, convince the Tribunal that the Respondent deliberately gave advice that encouraged a false narrative.

8.39 Accordingly, the Tribunal did not find the allegation made out on the facts and it did not find any breach of the SRA Principles.

8.40 The Tribunal dismissed the allegation.

Costs

9. Mr Counsell made no application for the Applicant's costs.

10. Mr Treverton-Jones applied for the Respondent's costs to be paid by the Applicant. He submitted that while the default position was typically no order for costs against the regulator, the Tribunal was empowered to depart from that for 'good reason' as established in the case of [Solicitors Regulation Authority Limited v Hon-Ying Amie Tsang](#)

11. In the present case there was 'good reason' in that the Applicant should have, but failed, in 2023 to conduct a proper and careful investigation into the alleged events before intervening in the Respondent's firm. Such investigation, if it had been carried out at that time, would have revealed the true circumstances, as found by the Tribunal some two years later, and would have prevented the resultant damage to the Respondent's career, financial position, and health. The Respondent's career was destroyed, his financial position severely impacted, and he suffered severe health problems because the Applicant intervened peremptorily and had refused him a practicing certificate since the summer of 2023.

12. A proper investigation by the Applicant at an early stage would have prevented the damage sustained by the Respondent.

13. In response, Mr Counsell argued that the Tribunal should not depart from the usual position, where costs are not normally made against a regulator. The case had been properly brought, and the regulator should not be criticised for doing so; in fact, the regulator might have been criticised if it had not brought the case to the Tribunal.

14. Referring to *Tsang*, the threshold for awarding costs against the Applicant was a high one. To award costs against the Applicant, there must be a good reason justifying the departure from the starting point of no order as to costs. Proceedings brought in the exercise of the Applicant's regulatory function should be seen as a crucial factor, with regard to the risk that adverse costs orders would have a chilling effect on the exercise of its regulatory jurisdiction.

15. Good reasons were not confined to cases where proceedings had been improperly brought or so badly conducted as to have amounted to a shambles. However, here, the case was reasonably and properly brought, and there was a public interest in having these matters heard. There had been no criticism of the way the case was conducted, and there had been no substantial delay.

Tribunal's Decision on Costs

16. 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. Such costs are those arising from or ancillary to proceedings before the Tribunal.
17. By Rule 43(4), the Tribunal must first decide *whether* to make an order for costs and when deciding whether to make an order, against which party, and for what amount, the Tribunal must consider all relevant matters. In the case where the regulator is not successful an order for costs should not ordinarily be made against it as this would otherwise lead to a chilling effect on the exercise of its regulatory obligations, to the public disadvantage though such an order could be made if there was 'good reason' to do so, examples of which are set out in the relevant case law.
18. In the present matter, the Tribunal could find no justification for it to depart from the normal position as to costs. Tribunal found the case had been properly brought by the Applicant and that both parties had complied with the directions and deadlines set. Each had presented the case with professionalism and rigour. The Applicant had properly discharged its duty to the public and the Tribunal.
19. There would be no order for costs. Each party would therefore bear its own costs.

Statement of Full Order

20. The Tribunal ORDERED that the allegations against RASHID AHMAD KHAN, solicitor be DISMISSED. The Tribunal further ORDERED that there be no Order as to costs.

Dated this 13th day of March 2025

On behalf of the Tribunal

R. Nicholas

R. Nicholas
Chair