

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No.12655-2024

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

LEO BENEDICT MICHAEL FOSTER

Respondent

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Before:

Mrs L Boyce (in the chair)

Mrs F Kyriacou

Dr S Bown

Date of Hearing: 4 March 2025

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## **Appearances**

Louise Culleton, counsel in the employ of Capsticks LLP, Wimbledon House, 68 Wimbledon Hill Road, London SW19 7PA for the Applicant.

Jonathan Page, counsel of Libertas Chambers, instructed by Nicholas Brett, solicitor of Brett Wilson LLP, 35-37 St John's Lane, London EC1M 4BJ for the Respondent.

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## **JUDGMENT**

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## Allegations

1. The allegation made against Mr Foster by the Solicitors Regulation Authority Limited (“SRA”) were that while in practice as a solicitor at BNP Paribas, London Branch (“the Bank”), he:

- 1.1 Between 21 December 2020 and 30 September 2021, created and/or used inappropriate, unprofessional, and/or offensive nicknames for colleagues, namely:

- 1.1.1 “*Hu She*”
- “
- 1.1.2 “*Mad Paul*”
- 1.1.3 “*Pol Pot*”
- 1.1.4 “*The idiot*”
- 1.1.5 “*Jabba the Hutt*”
- 1.1.6 “*The Twittering Fool*”

And in doing so breached any or all of Principles 2, 5 and 6 of the SRA Principles 2019 (“the Principles”).

- 1.2 Between December 2020 and November 2021 used offensive and/or inappropriate language in the workplace, namely:

- 1.2.1 [Withdrawn];
- 1.2.2. Within an email dated 27 May 2021 referred to senior colleagues as “*cunts*”;
- 1.2.3. Within an email dated 4 June 2021 concluded with “*Fuck knows*”;
- 1.2.4. Within an email dated 14 October 2021, the entirety of which reads “*What the fuck is this?*”;
- 1.2.5. Within an email an email dated 14 October 2021, the entirety of which reads “*Looks like a bunch of cock*”;
- 1.2.6. Within an email an email dated 7 October 2021 asking if another individual is “*autistic*”; and
- 1.2.7. [Withdrawn].

and in doing so breached Principles 2 and 5 of the Principles.

## **Preliminary Matters**

### Application to withdraw allegations 1.2.1 and 1.2.7

2. The parties applied to withdraw allegations 1.2.1 and 1.2.7, pursuant to Rule 24 of the Solicitors (Disciplinary Proceedings) Rules 2019. The application was made on the grounds of proportionality. As regards 1.2.7, it was submitted that Mr Foster's position was that the tone of the email could be read and seen as a joke between friends. There was no evidence to gainsay that position. Whilst it was not accepted that the language complained of was appropriate, it was not proportionate to pursue this matter at a contested hearing in all the circumstances.
3. With regard to allegation 1.2.1, the comment complained of was not evidenced in writing. Whilst the Applicant's witness was available to give evidence, it was considered to be disproportionate to call oral evidence to substantiate this allegation given the admissions made. Further, a finding in relation to allegations 1.2.1 and 1.2.7 would make no material difference to any sanction that the Tribunal might impose.
4. The Tribunal considered that it was proportionate, and in the interests of justice in all the circumstances to acceded to the application. Accordingly, the application was granted.

### Applicant's application to make submissions on sanction

5. Ms Culleton submitted that whilst there was no statutory right for the Applicant to make submissions on sanction, it would be of assistance to the Tribunal to hear the regulator's view as to the proportionate sanction. It was entirely consistent with other regulatory jurisdictions for both parties to make submissions on sanction. Further, it was appropriate for the Applicant to make submissions as regards seriousness and any aggravating factors. In this case Mr Foster had admitted that his conduct lacked integrity. That was a significant factor, and the Tribunal should be directed to the relevant caselaw.
6. Mr Page submitted that it was plain that the Tribunal was an experienced panel. The Tribunal knew how sanctions worked and the process by which it should arrive at its sanction. The Tribunal had clear and structured Guidance Notes which also mentioned the appropriate authorities.
7. Further, a note was provided in relation to mitigation. There had been no communication from the SRA as to what it considered the appropriate sanction to be. Accordingly, the application was opposed.
8. The Tribunal considered that it would not be assisted by representations from the Applicant in relation to sanction. It was an experienced panel, and, as had been submitted by Mr Page, it was fully capable of considering the aggravating and mitigating factors together with the relevant caselaw. The process by which the Tribunal arrived at its sanction was detailed in its Guidance Note on Sanction, which the Tribunal followed in each case. There was nothing about the facts of this case that was novel or complex such that the Tribunal would be assisted by representations from

the Applicant. As the parties agreed, sanction was a matter entirely for the Tribunal. Accordingly, the application was refused.

### **Executive Summary**

9. Mr Foster admitted the allegations. The Tribunal found the allegations proved on the facts and evidence. The Tribunal considered that Mr Foster's admissions were properly made. The Tribunal determined that the appropriate sanction was a fine in the sum of £15,000.

The Tribunal's reasoning on sanction can be accessed [\[here\]](#)

### **Documents**

10. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):
  - Rule 12 Statement and Exhibit JTC1 dated 1 August 2024
  - The Respondent's Answer dated 1 November 2024
  - Statement of Agreed Facts dated 4 March 2025
  - Applicant's Schedule of Costs dated 25 February 2025
  - Testimonials on behalf of the Respondent

### **Factual Background**

11. Mr Foster was a solicitor having been admitted to the Roll in October 1988. At the time of the allegations, he was working at the Bank as a solicitor, and was the head of the London Debt and Equity Markets team. Mr Foster commenced his employment with the Bank in November 1993 and ceased his employment there in March 2022. Mr Foster did not hold a current Practising Certificate.

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

12. 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 Foster's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

### **Integrity**

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

“Integrity is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members ... [Professionals] are required to live up to their own professional standards ... Integrity connotes adherence to the ethical standards of one's own profession”.

13. **Allegation 1.1 - Between 21 December 2020 and 30 September 2021, created and/or used inappropriate, unprofessional, and/or offensive nicknames for colleagues, namely: (1.1.1) “Hu She”; (1.1.2) “Mad Paul”; (1.1.3) “Pol Pot”; (1.1.4) “The idiot”; (1.1.5) “Jabba the Hutt”; (1.1.6) “The Twittering Fool”; And in doing so breached any or all of Principles 2, 5 and 6 of the Principles.**

**Allegation 1.2 - Between December 2020 and November 2021 used offensive and/or inappropriate language in the workplace, namely: (1.2.2) Within an email dated 27 May 2021 referred to senior colleagues as “cunts”; (1.2.3) Within an email dated 4 June 2021 concluded with “Fuck knows”; (1.2.4) Within an email dated 14 October 2021, the entirety of which reads “What the fuck is this?”; (1.2.5) Within an email an email dated 14 October 2021, the entirety of which reads “Looks like a bunch of cock”; and (1.2.6) Within an email an email dated 7 October 2021 asking if another individual is “autistic”; and in doing so breached Principles 2 and 5 of the Principles.**

The submissions of the parties as contained in their Statement of Agreed Facts

- 13.1 The Allegations arose from a complaint made by a former colleague, Person A in respect of Mr Foster’s behaviour towards him, and the use of inappropriate nicknames, and language.
- 13.2. Between December 2020 and November 2021, Person A was managed by Mr Foster within the Debt & Equity Capital legal team at the Bank. Person A was French. During an exit interview on 2 September 2021 with the Bank, Person A raised complaints about the conduct of Mr Foster. A disciplinary meeting was held on 8 December 2021 by the Bank.
- 13.3. The matter came to the attention of the SRA, when, on 30 January 2022, an article was published in CITY A.M. entitled “BNP Paribas London executive keeps job despite naming Asian colleague “Hu She””
- 13.4. On 14 February 2022 and 16 March 2022 respectively, Person A and the Bank reported this matter to the SRA. A report was also made to the SRA on 14 March 2022, by a member of the public who had seen the online article.
- 13.5. Following the press coverage of the matter, the Bank invited Mr Foster to a further disciplinary hearing. However, ultimately the Bank negotiated an exit with Mr Foster, who had indicated his desire to retire from practice. He left the Bank on 31 March 2022, without the re-convened disciplinary hearing taking place.
- 13.6. On 22 March 2022, Person A provided a witness statement to the SRA, to which he exhibited a number of documents. This set out the following background detail:
- a. When Person A stated at the Bank, he worked in the Equity Capital Markets legal team. At that time, Mr Foster was Co-Head of the Debt Capital Market legal team. At that time, Person A would see Mr Foster, but have little contact with him. After a merger of the two teams in the summer of 2020, in December of that year, Mr Foster became Person A's manager.

- b. Mr Foster frequently used derogatory monikers for co-workers, Person B. On three separate occasions, he was heard to refer to Person B (an East Asian Solicitor) as “*Hu She*”. He used this name during video calls with senior lawyers between May and September 2021, as well as in emails (one of which is exhibited by Person B), and appeared to find it very amusing.
- c. Person A was also aware that Mr Foster had referred to senior solicitors within the Bank as “*cunts*” within an internal email.
- d. Person A was told that Mr Foster referred to another colleague as “autistic” (when she was not affected by autism).
- e. Person A also exhibited emails where Mr Foster referred to him in a derogatory way, calling him “*Mad Paul*”.
- f. Person A had reported Mr Foster's conduct to the Bank on 2 September 2021.

Allegation 1.1 - Created and/or used inappropriate, unprofessional and/or offensive nicknames for colleagues

- 13.7. On 21 April 2023, the SRA sought further documentation from the Bank, which was provided on 16 May 2023. This included various emails sent by Mr Foster, which were exhibited to the witness statement of Mr Samuel Jebson, Investigation Officer at the SRA. The emails show that Mr Foster has on numerous occasions, over the course of many months, used inappropriate, unprofessional and rude nicknames for his colleagues.
- 13.8 Mr Foster used the nickname “*Hu She*” in email correspondence on 12 occasions between 20 December 2020 and 29 September 2021. Within that correspondence, Mr Foster referred to “*Hu She*” being one of the “*odious acolytes*” of “*Pol Pot and Audinary*”. The name was also used to refer to “*Hu She [being] oleaginous in her flattery in order to get me to give her stuff ...*”, that she was the “*Global Head of Bag-carrying*” and in the following terms – “*Suggest you provide that to Hu She and Audinary -and Pol himself, as there's no point dealing with the monkey when you can deal with the organ-grinder direct*”. She was also one of the names as being listed in an email where Mr Foster indicated “*If they get access to yours and mine when we go, they'll be able to read that we thing [sic] they are a bunch of cunts*” which he ended stating: “*But it's not in any way discriminatory, it's all of them*”.
- 13.9 An email dated 10 September 2021, also provided the nicknames apparently used for other colleagues, namely: “*Biryani, Pol Pot, The Candidate, Audinary, The Black Swan, The Entry Point, "Ben [Redacted]"*”.
- 13.10 The email was followed by a further email on 14 September 2021 which listed the following additional nicknames: “*Dr No, Boomerang Jack, Phil Bennet/The Idiot, Marlon, Jabba The Hutt, The Sleeping Giant/Rip van Operfermann, The Twittering Fool, The International Hair, Les Miserables, Bryan Ferry, Scaramanga, Moomintroll, Knick-Knack, Corporal Jones, Mr Incredible, Nil-Ash*”.

- 13.11 Mr Foster admitted that he had on numerous occasions over the course of many months, used inappropriate, unprofessional and rude nicknames for his colleagues. He accepted that the individuals did not consent to the use of these nicknames.
- 13.12 Mr Foster accepted that he created, and used the nickname "*Hu She*". There was documentary evidence of Mr Foster using this nickname on at least 12 different occasions to other colleagues within the Bank. Mr Foster stated that Person B was a recent joiner to the Bank, the pronunciation of her name was "*Who-ee Who-ah*". Mr Foster had never met her but she assumed a position of managerial responsibility. The nickname was based on the "*Who He?*" joke in Private Eye magazine.
- 13.13 It was accepted by Mr Foster that the use of such a nickname could be interpreted as mocking or ridiculing a traditional Chinese name.
- 13.14 It was admitted that the nickname itself, on Mr Foster's own indication of its origin/meaning, was undermining to Person B, suggesting that she was absent, irrelevant or unknown. Further, it was accepted that the mocking of her name showed a clear lack of respect for a colleague.
- 13.15 The parties accepted that there was no suggestion that Mr Foster used this name to Person B directly or that Person B was aware of this name, or in any way sanctioned the use of it.
- 13.16 Mr Foster accepted that even if the use of such a nickname was an attempt at humour and not intended to be offensive and/or derogatory, it was nonetheless derogatory and unprofessional.
- 13.17 Mr Foster also accepted that he used the name "*Mad Paul*" in respect of Person A. Again, there was documentary evidence of Mr Foster using this moniker on at least six occasions in the emails exhibited by Person A.
- 13.18 It was accepted by Mr Foster that the use of this name was inappropriate, unprofessional, and offensive. Person A did not consent to the use of this name. The repeated use of the name "*Mad Paul*" (irrespective of the intention behind it) was disrespectful to Person A, and undermined his credentials as a solicitor. In any event, Mr Foster's explanation for why the name was used, due to Person A's "*slightly cavalier approach to timekeeping, attendance at the office and his interpersonal skill*" suggested that Mr Foster was using the name to mock or ridicule Person A.
- 13.19 It was equally accepted by Mr Foster, that the other names which Mr Foster has used included, "*Pol Pot*", "*The Idiot*", "*Jabba the Hutt*" and "*The Twittering Fool*" and were all, by their very nature, inappropriate, unprofessional, and offensive.
- 13.20 It was acknowledged between the parties that there was no suggestion that any of the individuals, apart from Person A, referred to in this way were aware of such names being used. Person A was aware of Mr Foster's use of *Hu She* towards Person B and became aware of names Mr Foster used for him, as well as witnessing/hearing him use some of the inappropriate language alleged as indicated in his evidence.

### SRA Warning Notice

- 13.21 Mr Foster accepted that he should have conducted himself in line with the expectations set out in the SRA's Warning Notice entitled '*Offensive Communications*' first published 24 August 2017 and updated 25 November 2019. This Warning Notice stated:

*“We expect you to behave in a way that demonstrates integrity and maintains the trust the public places in you and in the provision of legal services. In the context of letters, emails, texts or social media, this means ensuring that the communications you send to others or post online do not contain statements which are derogatory, harassing, hurtful, puerile, plainly inappropriate or perceived to be threatening, causing the recipient alarm and distress.”*

- 13.22 The Warning Notice also included a section entitled “*Inter-office emails*” which stated:

*“We expect you to act at all times with integrity and the fact that you intended such communications to be private will not excuse your conduct. Once sent, you have no control over what happens to your email and by using your firm's email system, you run the risk that others may be able to access those emails.*

*Likewise, you cannot justify your conduct on the grounds that you did not intend to cause offence, or that the recipient(s) of your email was not offended. One of our key concerns as a regulator is to uphold the public's confidence in the integrity and high standards of the profession. You may therefore be at risk of disciplinary action if you send an email which has the potential of causing offence to third parties and/or undermining public trust in the profession.*

*Entering into an exchange with others which you perceive or intend to be humorous can pose a particular risk, especially when your humour is at the expense of others; what may seem to be light-hearted banter to you may be offensive to a third party. You should ensure that you do not inadvertently cross the line and become offensive in any of the ways referred to above.”*

- 13.23 Mr Foster acknowledged that even if the recipients of his emails shared his '*humour*', the above made it clear that this did not excuse such behaviour. The nicknames that were used were clearly at the expense of those to whom they referred.

- 13.24 Mr Foster admits breaches of the following principles in the following terms:-

- 13.25 Principle 2 - The public trusts solicitors to engage with each other professionally and without rudeness, or being offensive. The public's trust in solicitors and in the provision of legal services would be damaged by a senior solicitor using an offensive, mocking, or inappropriate nickname for colleagues without their knowledge or consent, or indeed in respect of Person A that he was aware of some of the nicknames used towards Person B or himself. Mr Foster has thereby breached Principle 2.

- 13.26 Principle 5 required solicitors to act with integrity. A solicitor acting with integrity would not use inappropriate, unprofessional, and/or offensive nicknames towards a colleague or make reference to such nicknames using a workplace email to other colleagues. Mr Foster has thereby breached Principle 5.



- 13.27 A solicitor acting in a way that encouraged equality, diversity and inclusion would not use rude, undermining or offensive nicknames towards colleagues. The use of such nicknames was likely to cause those individuals to feel excluded. Mr Foster has thereby breached Principle 6.

Allegation 1.2 - used offensive and inappropriate language

- 13.28. Mr Foster admitted that he also used profanities or offensive language in the work place and in the following emails:

- i. Within an email dated 27 May 2021 referred to senior colleagues as "*cunts*";
- ii. Within an email dated 4 June 2021 concluded with "*Fuck knows*";
- iii. Within an email dated 14 October 2021, the entirety of which read: "*What the fuck is this?*";
- iv. Within an email an email dated 14 October 2021, the entirety of which read "*Looks like a bunch of cock*"; and
- v. Within an email an email dated 7 October 2021 asking if another individual was "*autistic*";

- 13.29. Mr Foster was 64 years old with a previously unblemished record. He had provided a number of testimonials from people who held him in high regard. Apologies had also been issued. The emails showed that on multiple occasions Mr Foster used offensive and inappropriate language in emails to colleagues in the workplace setting. This included the use of the word "*cunts*", apparently to describe senior colleagues, on two occasions using the word "*fuck*" and asking whether another colleague was "*autistic*".

- 13.30 Mr Foster accepted using the word "*cunts*" in the email as alleged, which was a private communication, was nonetheless wrong.

- 13.31 Mr Foster accepted that the use of such language was offensive, derogatory and inappropriate for a workplace. He acknowledges that the word "*cunts*" was one of the most repugnant swear words that could be used, and was directed towards senior colleagues (albeit not directly to them).

- 13.32 Mr Foster admits breaches of the following principles in the following terms:-

- 13.33 The public trusted solicitors to engage with each other professionally and without rudeness, or being offensive. The public's trust in solicitors and in the provision of legal services would be damaged by a senior, experienced solicitor using gratuitously offensive language in professional emails, particularly where directed towards other colleagues, or indeed by referring to his employer in the terms alleged and admitted in the presence of a person of that nationality. Mr Foster has thereby breached Principle 2.

- 13.34 A solicitor acting with integrity would not have used such grossly offensive language. Mr Foster has thereby breached Principle 5.

### The Tribunal's Findings

- 13.35. The Tribunal found allegations 1.1 and 1.2 proved on the facts and evidence. The Tribunal found that Mr Foster's admissions were properly made.

### **Previous Disciplinary Matters**

14. None

### **Mitigation**

15. Mr Page submitted that Mr Foster was extremely apologetic about his admitted misconduct. He wished to apologise unreservedly for any offence he had caused. He had not intended to cause anyone any offence or hurt. Indeed, those apologies had been made by him during the Bank's investigation and were repeated in the proceedings back in 2021 during the Bank's investigation.
16. Mr Page submitted that it was important to note that there was never any racist intention in the names used, although it was recognised that the nickname for Person B could be interpreted as mocking or ridiculing a traditional Chinese name.
17. The emails complained of it was submitted, represented a small amount of the correspondence sent by Mr Foster. It was important that the Tribunal noted the context in which the emails had been sent. The misconduct took place during the Covid period which was an extremely stressful time. Further, the Bank had introduced new systems which were also the cause of stress.
18. An examination of the emails themselves showed that there was dispute between the transactional lawyers (of which Mr Foster was one) and the management lawyers. The management lawyers were seeking to recruit staff on the back of cutting jobs for the transactional lawyers. Mr Foster's email of 27 May 2021 was in response to an email from a colleague complaining about the changes. The email was not directed towards women, but was the result of the frustration in relation to what was considered by Mr Foster and others to be unfair.
19. The email of 24 June 2021 was in a similar vein. Mr Foster, in that email, was complaining about the management lawyers obtaining further staff whilst the transactional lawyers, who were doing all the work and making the money, were having staff cuts. In his email of 12 July 2021 Mr Foster stated:
- "How are we supposed to motivate a tired and understandably resentful team without money, when we're told we have to cut headcount, and do more with less etc? Add in the new threats from Pol Pot and Audinary, the promotion of their odious acolytes (Hu She/"Ben [redacted]" etc) and it's enough to make you just give up ..."*
20. Mr Page submitted that whilst some of the words used were admittedly offensive, reading the email in full evidenced the context in which the offensive remarks were made. It was plain that the words used by Mr Foster were a result of his frustration and irritation at the decisions being made by the management team. The nicknames (and in

particular the Hu She nickname) used by Mr Foster were borne out of the frustration and resentment felt by Mr Foster and others in his team.

21. Mr Foster had described the significant effect that the proceedings had had on him. His professional working life was ending in ignominy. He had been the subject of a disciplinary investigation at work and found himself appearing before the Tribunal. Mr Foster recognised his transgressions and had made full admissions. He had co-operated fully with the process both during the internal investigation and before the Tribunal. He had resigned in March 2022, which came with substantial adverse financial consequences.
22. Mr Foster had been criticised for not self-reporting; however, the Bank had determined, at the end of its initial investigation, that it would not report the matter to the SRA. In those circumstances, any criticism of Mr Foster for not self-reporting was unjustified.
23. The publication of the matters in the mainstream media had been extremely shocking and distressing for Mr Foster. He felt ashamed and had received public opprobrium at every level. It had affected his health, his family, his colleagues and his hitherto unblemished reputation. The misconduct had occurred 4 – 5 years previously and the matter had been weighing on him from that time until now.
24. Mr Foster, it was submitted, had reflected on his conduct and had demonstrated insight and remorse. He had fully accepted his wrongdoing.
25. The Tribunal was referred to the testimonials provided on Mr Foster's behalf which spoke to his trustworthiness, integrity and his professional capabilities. They also evidenced that his department (in which Mr Foster was involved in recruitment) was the most diverse in the Bank.
26. As regards the appropriate sanction, Mr Page submitted that sanction was not a punishment but was about proportionality and public protection. Mr Foster was now retired and thus would not cause any harm to the public. This case, it was submitted, would serve as a deterrent to other solicitors and thus would assist in maintaining professional standards. Mr Foster had been careless and inconsiderate at a time when he was working under stress. There was little evidence of harm being caused by his conduct. His misconduct was aggravated by its repeated nature over a period of 8 months. In mitigation, he had demonstrated insight and remorse. Mr Foster had made full and frank admissions. He was of previous unblemished character.
27. Mr Page submitted that in all the circumstances, the appropriate sanction was a financial penalty.

## **Sanction**

28. The Tribunal had regard to the Guidance Note on Sanctions (11<sup>th</sup> Edition – February 2025). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

29. The Tribunal determined that Mr Foster was generally disgruntled with the managerial changes occurring at the Bank. Mr Foster would have given some thought to the nicknames he had ascribed to his colleagues, and he had used those names repeatedly. Accordingly, the Tribunal did not consider that his conduct was spontaneous. He would also have given thought to the language he used in the emails he sent. The Tribunal found that Mr Foster was wholly responsible for his misconduct, his having direct control of the language he used. He was an extremely experienced solicitor in a position of authority.
30. He had caused harm to those who became aware of the names he had used and had harmed the reputation of the profession as had been admitted. The Tribunal accepted that Mr Foster had found the changes to the working environment difficult, but he had failed to handle this with the standards expected of a solicitor of his experience and standing.,
31. His conduct was deliberate, calculated and repeated over a period of 8 months. He knew, or ought to have known, that his conduct was in material breach of his obligation to protect the reputation of the profession. In mitigation the Tribunal agreed that Mr Foster had demonstrated insight and remorse into his misconduct. He had cooperated fully both with the Bank's internal investigation and the proceedings before the Tribunal.
32. The Tribunal found the level of seriousness of the admitted misconduct together with Mr Foster's culpability was such that sanctions of No Order or a Reprimand were insufficient and disproportionate. The Tribunal agreed with Mr Page that a financial penalty was appropriate for the seriousness of the misconduct. The Tribunal assessed the misconduct as falling within its Indicative Fine Band Level 3 as it was adjudged to be more serious. The Tribunal did not find that the misconduct was so serious that there should be any interference with Mr Foster's ability to practice. The Tribunal determined that taking all matters into account, a fine in the sum of £15,000 was proportionate to the admitted misconduct.

### **Costs**

33. Ms Culleton applied for costs in the sum of £23,768.40. The costs schedule provided detailed the work undertaken in the preparation and presentation of the case. Ms Culleton submitted that there should be a reduction in the costs claimed given that the hearing had taken less time than anticipated.
34. The case, it was submitted, had been properly brought. All of the work in the preparation of the case had been properly and necessarily undertaken. The costs claimed were proportionate and the Applicant should be awarded its costs in full.
35. Mr Page submitted that a draft agreed outcome was proposed and a consideration of costs at that stage was £11,779.80 on 3 September. Since that point, costs had increased by approximately £12,000. Awarding costs was a discretion of the Tribunal. Mr Page submitted that the Tribunal should consider whether, in all the circumstances, there should be a reduction in the costs claimed by the Applicant.

36. The Tribunal determined that there should be a reduction in the costs to reflect the reduced hearing time. Further, given the issues to be considered, the Tribunal determined that the costs claimed were unreasonable. The Tribunal considered that costs in the sum of £16,000 were reasonable and proportionate taking into account the matters to be determined.

**Statement of Full Order**

37. The Tribunal ORDERED that the Respondent, LEO BENEDICT MICHAEL FOSTER, solicitor, do pay a fine of £15,000.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £16,000.00.

Dated this 11<sup>th</sup> day of March 2025

On behalf of The Tribunal

*L. Boyce*

L Boyce  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**12 MARCH 2025**