

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12735-2025

BETWEEN:

RAJEEVE SIVAPATHASUNDERAM

Appellant

and

SOLICITORS REGULATION AUTHORITY LTD

Respondent

Before:

Mr G Sydenham (in the chair)

Mr U Sheikh

Ms E Keen

Date of Hearing: 30 June 2025

Appearances

Nicholas O'Brien, Barrister, 10 King's Bench Walk, Temple, London EC4Y 7EB instructed by the Appellant.

Louis Weston, Barrister, The Outer Temple, 222 Strand, London, WC2R 1BA instructed by the Respondent.

**JUDGMENT ON APPEAL PURSUANT TO s.46 OF THE
SOLICITORS ACT 1976**

The Notice Recommending Disqualification

1. On 13 August 2024 pursuant to Rule 2.4 of the SRA Regulatory and Disciplinary Procedure Rules (RDPR), the Solicitors Regulation Investigation Officer after conducting an investigation into the conduct of the Appellant, issued a notice recommending that the Appellant be disqualified from holding specified roles within a body licensed by the Solicitors Regulation Authority (“the SRA”).

The Adjudicator’s Decision

2. On 19 January 2025, the Adjudicator, exercised the power conferred by section 99 of the Legal Services Act 2007 (LSA 2007) to make a disqualification order against the Appellant.
3. The Adjudicator found that the Appellant, while employed as a legal assistant at Estate & Corporate Solicitors Ltd (“the Firm”), acted outside his authority in injunctive and declaratory proceedings. He failed to notify the court that his firm was on record, did not properly advise the client on the existence and effect of an injunction, failed to confirm its ongoing status and gave incorrect advice that led to the breach of the order.
4. These failings, which occurred without appropriate supervision and outside the scope of the Appellant’s authority, were found to constitute breaches of Principles 2 and 7 of the SRA Principles 2019. The Adjudicator concluded that the Appellant’s conduct posed a serious risk to the client and to public confidence in the profession. It was deemed undesirable for him to hold any role within an SRA-regulated body.
5. A disqualification order was imposed with immediate effect.
6. The order prohibits the Applicant from acting as Head of Legal Practice (‘HOLP’), Head of Finance and Administration (‘HOFA’), Manager, or Employee of a body licensed under the Act.

The Appeal to the Tribunal

7. By Notice dated 19 February 2025, the Appellant filed an appeal to the Solicitors Disciplinary Tribunal (‘the Tribunal’) pursuant to paragraph 14C of Schedule 2 to the Administration of Justice Act 1985 (‘AJA 1985’) for a review of the decision of the SRA.
8. On 14 March 2025, the Respondent filed its response, opposing the appeal as without merit.
9. The Appellant’s reply was lodged on 4 April 2025.

Chronology of Events

10. The chronology of events set out below was agreed between the parties: 1 April 2019 The Appellant joined the Firm as a Legal Assistant.

30 July 2021	AT acquired the freehold of 234 Utting Avenue, (“the Property”), Mr Osman had a shop tenancy agreement in place at the date of acquisition. The Firm acted for AT in this matter with Appellant, as case handler, who upon completion archived the file.
Mid-2022	AT discovered that Mr Osman’s employee, Mr Rahman Rosmati (“RR”), remained in occupation after the tenancy expired on 12 October 2021.
18 July 2022	On AT’s instructions, the Appellant served a “vacate” notice on RR, requiring possession by 30 September 2022.
22 -24 August 2022	RR’s solicitors challenged the notice and proposed negotiating a new agreement; the Appellant (for AT) rejected their arguments.
23 September 2022	Solicitors for RR write to the Firm and threatened court proceedings for a declaration of RR’s rights and an injunction. AT’s advice remained that RR had no legal title or payment obligation.
30 September 2022	The County Court granted an interim injunction restraining AT (and his agents) from recovering the Property, returnable 13 October 2022.
5 October 2022	AT was served with the injunction order; Bingham’s immediately sent a three-pronged settlement proposal (undertaking, new lease or payment to vacate).
Post-13 October 2022	Counsel instructed for AT advised (i) to give the mandatory undertaking, (ii) confirm service, (iii) check issue of proceedings, and (iv) secure an interpreter.
27 October 2023	AT served a forfeiture notice for unpaid rent [on Osman]. By consent the 13 October return hearing was adjourned beyond 20 October with the injunction maintained.
16 November 2022	AT did not attend the return hearing. The Court Ordered RR to issue claim by 23 November or the injunction would lapse, but expressly kept in force.
23 November 2022	RR’s solicitors file a claim preserving the injunction. AT disputed receipt and sought dismissal.
14 December 2022	The Appellant told AT the injunction had lapsed; AT then attended the Property on 14–15 December, breaching the order.

14 December 2022	RR Solicitors' partner emailed the Appellant expressing astonishment at his "sheer incompetence," reminded him the injunction survived, and offered to withdraw a contempt application if AT complied.
30 December 2022	RR's solicitors filed a contempt application supported by a witness statement.
3 January 2023	At a telephone hearing (where AT was absent) the court confirmed that the claim had been issued and directed AT to file evidence by 13 January; no evidence was filed.
12 January 2023	AT instructed counsel to resist both the injunction and the contempt application, asserting unawareness of the November hearing and the injunction's effect.
19 January 2023	RR's Solicitors reported the Appellant to the SRA alleging that he had instructed a third-party agent to breach the injunction and calling his competence into question.
25 January 2023	At Liverpool County Court, AT claimed ignorance of the injunction, was found in contempt, ordered to pay £5,400 costs within 14 days and faced adjournment for possible custody. The injunction was continued.

Legal Framework

11. Section 46 of the Solicitors Act 1974 (as amended) confers a right of appeal to the Solicitors Disciplinary Tribunal ("the Tribunal") from "licensing decisions" of the Solicitors Regulation Authority ("SRA"). That right is incorporated, with minor modifications, by Article 4(3) of the Appeals from Licensing Authority Decisions (No. 2) Order 2011, made under the Legal Services Act 2007.
12. A "licensing decision" includes any decision of the SRA under:
 - (a) Part 5 of the Legal Services Act 2007 (financial penalties; owner approvals and withdrawals; share/voting-limit breaches), or
 - (b) The SRA's licensing rules (for example, the Regulatory and Disciplinary Procedure Rules 2011).
13. Section 99 of the Legal Services Act 2007 empowers the SRA to make disqualification orders under the Disciplinary Procedure Rules 2011. These orders prohibit individuals from acting as Head of Legal Practice, Head of Finance and Administration, Manager or Employee of an SRA-regulated body, and are therefore "licensing decisions" appealable under section 46 of the 1974 Act.
14. Article 6 of the 2011 Order re-enacts the Tribunal's appellate powers:

- (a) Article 6(1) provides that, on hearing an appeal under Article 4, the Tribunal “may make such order as it thinks fit.”
 - (b) Article 6(2) authorises the Tribunal, without prejudice to paragraph (1), to confirm, vary or set aside the decision under appeal
15. The Tribunal’s *Guidance Note on Appeals*, 6th Edition (February 2025), Section C confirms that the Tribunal proceeds by way of a review of the appeal and not by re-hearing the case.
 16. In *Solicitors Regulation Authority v Solicitors Disciplinary Tribunal (Arslan (Interested Party) and The Law Society (Intervening Party))* [2016] EWHC 2862 (Admin) at [40], the High Court held that a review entails asking whether the decision under appeal falls within the range of reasonable responses open to the original decision-maker.
 17. In *Assicurazioni Generali SpA v Arab Insurance Group* [2003] 1 WLR 577 (paras 14–17) – a passage subsequently approved by the House of Lords in *Datec Electronics Holdings Ltd v UPS Ltd* [2007] 1 WLR 1325 at [46], Clark LJ explained:
 - (a) The more the original decision-maker enjoyed the advantage of proximity to witness or documents the greater the deference owed;
 - (b) Where conclusions are factual and reasonably open to debate, the reviewing body should only interfere if satisfied that the original decision lies outside the bounds of reasonable agreement.
 18. Together, these authorities define the standard and scope of the Tribunal’s review in this appeal.

The Appellant’s Submissions

19. Mr O’ Brien submitted, on behalf of the Appellant, the following in summary:
 - (a) the adjudicator erred in law and in evaluative judgment. As an unqualified case handler, the Appellant could not fully grasp the scope of his regulatory duties and that the firm’s supervisory failures materially contributed to his subsequent breaches.
 - (b) The Adjudicator failed to account for systemic firm failures and imposed an unrealistic burden on the Appellant to seek supervision. The reasoning on overlapping allegations and the undertaking issue was flawed.
 - (c) The Respondent honestly believed he was acting in the client’s best interests. With no prior regulatory history, he has since shown genuine insight and remorse—most notably in his detailed August 2024 letter to the SRA.
 - (d) The decision to disqualify the Appellant was disproportionate and had the adjudicator applied the correct approach, a different outcome might have been reached.

The Respondent's Submissions

20. Mr Weston for the Respondent submitted that :

- (a) The appeal failed to meet the high threshold required to overturn a regulatory decision. Relying on *Arslan*, it was submitted that the appeal must establish that the decision of the SRA was either factually unjustified or legally unsustainable.
- (b) The Appellant's conduct was egregious: acting without authorisation, litigating without authority, ignoring court orders, and exposing a client to the risk of wrongful imprisonment. These actions were persistent and grossly incompetent failings.
- (c) The Appellant's admissions to multiple breaches, failing to open a case file, notify supervisors, and follow firm procedures. These admissions, it was submitted, undermined any challenge to the Adjudicator's findings.
- (d) Disqualification was necessary to protect the public and maintain trust in the profession.

The Decision of the Tribunal

- 21. The Tribunal carefully reviewed the Adjudicator's decision and the parties' submissions. The absence of any reference to a particular submission or document should not be taken as an indication that the Tribunal did not read, hear or consider it.
- 22. The Tribunal determined that the appeal would be dismissed in its entirety.
- 23. The Tribunal found that the Adjudicator had applied the correct legal framework and that the findings of fact and evaluative conclusions were within the bounds of reasonable disagreement.
- 24. The Tribunal accepted the conclusion reached by the Adjudicator that the Appellant had acted without supervision and had breached core professional principles. While acknowledging the Appellant's lack of qualification and possible firm's supervisory failings, the Tribunal held that these did not negate the seriousness of the conduct or the risk posed to the public and the profession as identified by the Adjudicator.
- 25. The Tribunal was satisfied that the disqualification imposed was a proportionate regulatory response, necessary to protect the public and maintain confidence in the profession. The appeal was therefore dismissed on all grounds.
- 26. Following pronouncement of its decision and the end of the case, the Tribunal became aware that the Appellant filed the appeal citing the incorrect statutory provision (as set out in paragraph 7 of this judgment). This error was not identified by either party to the proceedings, prior to or during the hearing, and only became apparent to the Tribunal subsequently. The error did not impact upon the substantive arguments, appropriate legal tests which the Tribunal applied nor the approach adopted by the Tribunal to the appeal. The judgment reflects the correct statutory position.

Costs

27. Given the appeal was dismissed, the Tribunal was required to consider the award of costs pursuant to Article 6(2) of the Solicitors (Disciplinary Proceedings) (Appeals and Determinations) Order 2011.
28. The Respondent sought an order for costs in the sum of £15,247.00, comprising, £7,500 for Counsel's brief fee, £5,000 for written advice and £2,747 for internal SRA costs.
29. Mr Weston submitted that these sums were reasonable and proportionate, reflecting the breadth of the grounds of appeal, the volume of documentation, the preparation required for, and the length of, the hearing.
30. Mr O'Brien accepted that costs should follow the event, but challenged the £12,500 counsel fees as excessive in what he described as a straightforward case. He therefore proposed a one-third reduction. He also pointed to the Appellant's lack of assets, unemployment, and the heavily mortgaged family home.
31. Having considered the submissions of the parties with care and considered the means information submitted by the Appellant, the Tribunal determined that the costs sought were reasonable and proportionate. The Appellant has not demonstrated any basis to depart from the general principle that costs follow the event nor provided any reason to justify a reduction in the quantum.
32. Accordingly, the Tribunal ordered that the Appellant pay the Respondent's costs of and incidental to the Application fixed in the sum of £15,247.00.

Statement of Full Order

33. The Tribunal ORDERED that the appeal under Paragraph 14c of RAJEEVE SIVAPATHASUNDERAM be DISMISSED and it further Ordered that the Appellant do pay the costs of and incidental to the response to this application fixed in the sum of £15, 247.00.

Dated this 23rd day of July 2025
On behalf of the Tribunal

G. Sydenham

G. Sydenham
Chair