



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case Reference: 2021/5805/D5

Zaheer AHMAD

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of: Lincoln's Inn [2001]

Disciplinary Tribunal

ZAHEER AHMAD

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 12 December 2023, I sat as Chairman of a Disciplinary Tribunal on 31 January 2024 and 4 April 2024 to hear and determine 2 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Zaheer Ahmad, barrister of the Honourable Society of Lincoln's Inn [2001].

Panel Members

2. The other members of the Tribunal were:

Ian Arundale (Lay Member)

Andrew Ward (Lay Member)

Hayley Firman (Barrister Member)

James Potts (Barrister Member)

Charges

3. The following charges were found proven.

Charge 1

Statement of Offence

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Professional misconduct, contrary to paragraph Core Duty 5 of the Conduct Rules (Part 2 of the Bar Standards Board’s Handbook – Version 2.1).

Particulars of Offence

Zaheer Ahmad, a barrister and BSB regulated individual, behaved in a way which is likely to diminish the trust and confidence which the public places in him or in the profession in that, he has failed to comply with a court order, made by District Judge Swan at Wandsworth County Court on 22 October 2015 which ordered that he pay the sum of £54,595.39 plus £9,416.50 in costs to the Claimant, Mr H, by 5 November 2015.

Charge 2

Statement of Offence

Professional misconduct, contrary to paragraph rC8 of the Conduct Rules (Part 2 of the Bar Standards Board’s Handbook – Version 2.1).

Particulars of Offence

Zaheer Ahmad, a barrister and BSB regulated individual, behaved in a way which could reasonably be seen by the public to undermine his integrity in that, he has failed to comply with a court order, made by District Judge Swan at Wandsworth County Court on 22 October 2015 which ordered that he pay the sum of £54,595.39 plus £9,416.50 in costs to the Claimant, Mr H, by 5 November 2015.

Parties Present and Representation

4. The Respondent was not present and was not represented on 31 January 2024, but was present and represented himself on 4 April 2024. The Bar Standards Board (“BSB”) was represented by Nicholas Bard. The hearing on 31 January proceeded under rE183.

Preliminary Matters

5. The Respondent, Mr Zaheer Ahmad, who was called to the Bar in October 2011, faces two charges of professional misconduct arising out of failure to comply with a County Court order made on 22 October 2015.

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Preliminary Issue – Hearing on 31 January 2024

6. The Respondent is not present or represented. The first issue is whether the hearing should proceed in his absence. In detailed written submissions, Mr Bard for the BSB contends that it would be appropriate to do so.
7. We have read all the documents relevant to notice of this hearing and we have considered the Respondent's written submissions in which he states that he wishes the hearing to proceed today in his absence. The Respondent chose to accept a brief to appear in court today despite being aware that the disciplinary hearing was listed for today. The Respondent was contacted yesterday by the Tribunal administration, and he confirmed that he was content for the hearing to proceed remotely and that it remained his intention not to attend. We are satisfied that the Respondent has had good notice of this hearing and that he is content for the hearing to proceed in his absence.
8. We are satisfied that there is no prejudice to the Respondent in proceeding in his absence and that it is fair and appropriate for the proceed with the hearing.

Response to the Charges

9. There has been no formal response to the charges. However, it is clear from the correspondence and from the written submissions that the Respondent does not admit the charges. Accordingly formal pleas denying both charges are now entered on behalf of the Respondent and this hearing proceeds on that basis.

Evidence

10. There has been no oral evidence. The paperwork is voluminous, much of it duplicated. We have admitted as evidence the Respondent's statement, written submissions, and emails and letters from the Respondent to the BSB and the Tribunal.

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The Background

11. Between 2007 and October 2019 the Respondent owned and ran a solicitors practice known as Regents & Co Solicitors (Solicitor-Advocate) Ltd (“Regents”). From the beginning of June 2011 to the end of May 2013, Mr H, a solicitor, began to work at that firm as a salaried partner. In 2014 Mr H began proceedings in the Wandsworth County Court against the Respondent and Regents claiming that he had not been paid sums owing to him under a partnership agreement with the Respondent. Liability and quantum were in issue.
12. The Respondent and Regents failed to comply in time with a direction for the service of witness statements. It appears that 22 October 2015 had been set as the first day of a multi-track trial. The case came before DJ Swan who refused the application for relief from sanctions for the late filing of evidence, refused the Defendants’ application to adjourn the trial, struck out the defence, and entered judgment in favour of the Claimant. The Respondent has always maintained that the judgment was unfair and unjust because neither he nor Regents were allowed to present their defence. The Respondent and Regents were ordered to pay the sum of £54,595.39 together with £9,416.50 on account of costs by 5 November 2015. The order further provided that costs be subject to a detailed assessment on the indemnity basis, if not agreed.
13. DJ Swan refused permission to appeal on the basis that there was no real prospect of success. The written reasons for refusal include the following observation: “gross breach of court order (again)”.
14. The Respondent says he filed a notice of appeal shortly after the hearing on 22 October 2015, but this document was never found on the Court files.
15. On 16 January 2018 there was a hearing before HHJ Gerald. Mr H was represented by Counsel, but neither Defendant was present nor represented. The Respondent has always maintained that he had no notice of that hearing. After the recital: “Upon there being no extant notice for Appeal on the Court file and no other matter challenging the 22.10.2015

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order of DJ Swan”, HHJ Gerald ordered that the Order of 22.10.2015 should stand and that if the Defendants wished to apply to set aside the order they must do so by 9.2.2018, failing which they would be debarred from so doing. The Defendants were ordered to pay costs within 14 days.

16. No application to set aside was made within the specified time.
17. On 16 August 2019 a hearing took place before HHJ Lethem. The Respondent was represented. HHJ Lethem did not accept the Respondent’s assertion that he had not had notice of the hearing before HHJ Gerald on 16 January 2018. The recital records that the application to set aside which ought to have been made by 9.2.2018 was not in fact made until 12.12.2018. The application to set aside was dismissed with costs payable within 14 days.
18. There followed an application to the High Court for permission to appeal. On 21 January 2020 the application was considered by Johnson J on the basis of the papers and was refused. The Respondent was given 7 days from the date of receipt of the Order to renew his application for permission to appeal at an oral hearing.
19. The date on which the Respondent received the Order of 21 January 2020 is not clear. However, exactly 14 months later, on 21 March 2022, the Respondent wrote seeking to renew the application to set aside and asking for a “suspension” (pending the oral hearing) of the two Circuit Judges’ Orders (although not that of DJ Swan). His statement in support explained that he had been out of the country, sitting as a Judge in Pakistan, between 5 December 2019 and 15 March 2022. There is no document showing the outcome of the request made on 21 March 2022, but the Respondent says that the “last decision”, which was the dismissal of his application for permission to appeal on the grounds that it was time barred, was made in June 2022.
20. The Respondent was out of the country at various times between 2015 and 2022. He sat in a judicial capacity in Pakistan between around April 2020 and March 2022.

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21. Meanwhile, in December 2020 Mr H reported the Respondent to the BSB for failure to comply with the court order. The Respondent informed the BSB that he was still seeking to overturn the judgment. In August 2022 the solicitors for Mr H threatened bankruptcy proceedings.
22. Neither the Respondent nor Regents made any payments at all towards the judgment, until the Respondent R started doing so in May 2023. To date the Respondent has paid around £42,500.
23. The Respondent accepts that he never obtained a stay of enforcement or execution of the judgment.

The Charges

24. Charge 1 alleges professional misconduct contrary to CD5 of the Conduct Rule (Part 2 of the BSB Handbook – version 2.1) namely behaviour likely to diminish the trust and confidence which the public places in the Respondent or in the profession.
25. Charge 2 alleges professional misconduct contrary to rC8 of the Conduct Rule (Part 2 of the BSB Handbook – version 2.1) namely behaviour in a way which could reasonably be seen by the public to undermine the Respondent's integrity.
26. In October 2015 when the judgment was obtained the second edition of the BSB Handbook was in force. Since October 2015 there have been other versions of the BSB handbook, the most recent being Version 4.7 which came into force on 20.09.2023.
27. The wording of the relevant Core Duty and the Conduct Rule relied upon by the BSB remain the same.
28. Core Duty 5 of the BSB Handbook states:

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“You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or your profession.”

29. Conduct Rule rC8 states:

“You must not do anything which could reasonably be seen by the public to undermine your honesty, integrity (CD3) and independence (CD4).”

30. The Respondent was called to the Bar in October 2011. Core Duties 5 and rC8 apply at all times to barristers whether or not they are practising or providing legal services as barristers. Thus, it is irrelevant that the Respondent did not practise as a barrister until October 2019.

31. Until 1 April 2019 the standard of proof to be applied by the Tribunal was the criminal standard. From 1 April 2019 onwards the applicable standard of proof has been the civil standard of proof.

Decision on Charges

32. Both charges arise out of the same circumstances, namely non-compliance with the judgment in October 2015. There has always been an issue between Mr H and the Respondent as to the extent of any indebtedness. These matters do not concern us. Both the Respondent and Mr H have made serious allegations against each other of malpractice and dishonesty. We have disregarded all of those allegations. What concerns us is what happened to the judgment and the reasons for non-compliance.

33. The judgment of 22 October 2015 was in the sum of £54,595.39, plus costs on account of £9,416.50. There followed a number of appeals by the Respondent – all of them unsuccessful. So, the bottom line is that the initial amount, together with interest at the judgment rate for the first six years remained owing, together with costs of the first hearing and the subsequent appeals.

34. It was not until May 2023 that the Respondent began to pay monies due under the

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judgment debt. It is common ground that a total of £42,500 has been paid by instalments.

35. Throughout the entire period, the Respondent's stance has been that of an aggrieved judgment debtor. He feels that the order should never have been made against him, that he did not have a fair hearing, and that all of his appeals were dismissed without fair and proper consideration. Again, that is not something that concerns us.
36. The question for us is whether, as contended by the BSB the failure to comply with the court order going back well over seven years amounts to a breach of the professional code of conduct.
37. As to Charge 1, we are unanimous in our conclusion that the charge is made out to the civil standard of proof. We are satisfied that any member of the public would inevitably lose trust and confidence in a barrister who failed to comply with an order of the court. The Order was for a significant sum of money. The debt arose as a consequence of failure to pay an employee. The failure to pay continued over several years. We are satisfied that these factors would undermine public trust and confidence in the legal profession.
38. In relation to Charge 2, as a barrister, the Respondent was expected to behave in a way consistent with the ethical standards of his profession. Although the failure to comply with the court order did not arise out of the Respondent's professional duty as a barrister, it nevertheless arose in a professional capacity in that he was the employer of the claimant. We have considered whether the Respondent might simply have been obstinate and might have just hoped that the case would go away, but we are satisfied on the balance of probabilities that the Respondent deliberately prolonged the court proceedings in the hope that the claim might ultimately be unenforceable. It is clear from his letter of 5.12.2022 to the BSB that he was of the opinion that once the judgment was more than six years old it could not be enforced. We are unanimous in our conclusion that the Respondent's prolonged failure to comply with the order amounted to behaviour falling below the ethical standards of the Bar. We are satisfied that Charge 2 is made out.

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Sanctions

39. At the hearing on 31 January 2024, the Panel reached the provisional conclusions set out at paragraphs 40 to 58 below. As a result of those provisional conclusions, the Panel determined that the Respondent should be given an opportunity, at a further hearing, to make oral representations on all matters related to sanction. Paragraphs 40 to 58 below should be read on this basis and subject to the Panel's further reasoning set out at paragraphs 61 to 82 below.
40. The Panel was informed that there was one matter recorded against the Respondent. At a hearing on 5 February 2014 at which the Respondent was not present or represented one charge of professional misconduct was found proved. In summary, while practising as a solicitor and being an unregistered barrister, the Respondent used his qualification as a barrister as a marketing tool. The sanction was a reprimand. It has no bearing on the matters we are considering today save that it prevents the Respondent from presenting himself as someone with an impeccable record.
41. Sanctions Guidance Version 6 is applicable to all sanction decisions taken by panels on or after 1 January 2022 regardless of when the proved misconduct occurred or when the finding of misconduct occurred. The relevant section is section H, which deals with failure to comply with court order.
42. We have applied the criteria set out at pages 55 and 56 under section H and the general factors relevant to culpability and harm, and the aggravating and mitigating factors set out at annex 2 on pages 74 to 76. The following points apply to both charges.
43. In relation to seriousness, our conclusions are that each of the charges falls between the upper and middle range of seriousness. Firstly looking at culpability under seriousness, page 55, we identify that the following factors are relevant. The non-compliance continued from the autumn of 2015 to date. Although the Respondent started to make payments in May 2023, and although he has paid around £42,500, a substantial amount remains unpaid.

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44. We find that there were limited attempts to comply with the order. They began in correspondence in 2022, but did not materialise in terms of any payments until May 2023. It is questionable what it was that ultimately triggered the attempts to pay. We are satisfied that there was no good reason why the Respondent failed to comply with the order.
45. In terms aggravating features relevant to culpability as set out in the annex, the following factors apply. The misconduct was intentional, and it was sustained over a number of years. The Respondent had sole responsibility for the circumstances giving rise to the misconduct. Although the Respondent has admitted the fact of non-compliance with the court order, he has not admitted and still does not admit that it amounts to professional misconduct. There is also a lack of insight. We are satisfied that the Respondent's behaviour over many years including his inability or reluctance to engage in a timely way with the litigation demonstrates a lack of insight into the impact on the judgment creditor of his failure to comply.
46. As to mitigating features, it has been suggested that recently the Respondent has demonstrated genuine remorse. We have scrutinised the Respondent's written submissions and can find nowhere any expression of remorse, genuine or otherwise. Far from it. The Respondent still maintains that the successful claimant is disreputable and ultimately dishonest. That has not affected our judgment. It merely deals with the suggestion that the Respondent has expressed remorse.
47. We have taken into account that the Respondent has co-operated with the investigation by the BSB, but to that we add the following caveat. He has not been entirely open. In his written submissions, the Respondent has attempted to give the impression that he has never transgressed in terms of professional conduct, whether as a solicitor or a barrister. In fact, that is not correct. There is the previous disciplinary finding against him in 2014 for which he was sanctioned by way of a reprimand. Although that earlier finding does not amount to an aggravating factor, we do take it into account when considering the weight that might otherwise be given in mitigation to the fact that he has co-operated with the inquiry.

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48. We have considered whether the Respondent took voluntary steps to remedy or rectify the breaches. Well yes, he took some steps, but very late in the day. It is questionable whether those steps were prompted by the threat of bankruptcy proceedings. However, we do take into account in the Respondent's favour that he paid £42,500 towards the debt.
49. We have looked at the Respondent's personal circumstances. In his very detailed written submissions, he has spoken about a period when his business as a solicitor ran into some difficulty because he was unable to work, having undergone surgery to donate a kidney to his mother. It seems that was in around 2018. We have been told that he travelled to Japan in 2023 to sort out some family matters following the death of his brother-in-law. Neither of these factors, in our judgment, amount to mitigation in terms of the non-compliance with the judgment.
50. There are no references put forward on the Respondent's behalf.
51. The view of the Panel is divided on whether this amounted to significant culpability or moderate culpability. The majority view is that this amounts to significant culpability. The minority view is this amounts to moderate culpability.
52. Turning then to harm and pages 55 and 56 of the Guidance. The following factors are relevant. The non-compliance impacted on only one individual as far as we know and we cannot speculate on the impact on perhaps family members of Mr H. As to the cost and inconvenience caused to Mr H of attempting to enforce compliance, there is no victim personal statement from Mr H which might deal with those points. However, we do take note of the fact that any individual involved in litigation is bound to be subject to some stress and in this case the litigation and non-compliance continued for several years. We find it is more likely than not that Mr H would have been subjected to significant stress and some inconvenience in pursuing his entitlement to the judgment debt. We are also of the view that financial loss was an important feature given that Mr H was employed at very modest rate initially of £800 a month plus disputed referral fees. There is also, of course,

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the fact that he has been kept out of his money and costs for a number of years.

53. Turning to the annex and the aggravating and mitigating factors relevant to harm, we take into account the impact on the public confidence in the legal profession. It was submitted on behalf of the BSB that since it is unlikely that this particular case attracted any attention, the impact on public confidence is unlikely to be significant. We do not accept that submission. The fact that this might be known only to Mr H and possibly to close family and associates does not detract from its importance. What impresses us is the fact that public confidence in the legal profession would be undermined as a consequence of a member of the legal profession being able to spin out proceedings over a number of years to the detriment of a judgment creditor. We also take into account that the harm continued over many years.
54. In terms of mitigation, there is the fact that the Respondent has paid some money towards the debt and that he appears to be continuing to make attempts to pay.
55. So, our overall conclusion was by a majority that this amounted to moderate harm and by a minority that this amounted to significant harm. It is for those reasons that our conclusion is that the professional misconduct straddles the upper and middle ranges of seriousness.
56. The indicative sanctions for upper range seriousness is suspension of over twelve months, and for middle range seriousness a high level fine to suspension of twelve months or less. Given that there is no consensus or even a minority view that overall the misconduct comes within the upper range, the misconduct must be considered to be within the middle range of seriousness for which the indicative sanction is high level fine to suspension of twelve months or less.
57. Since suspension is an option available to the Tribunal, it is important that the Respondent should have the opportunity to address the Tribunal. I would add that the information we have about the Respondent's means is not presented in the most intelligible fashion. We have been provided with pages and pages of details of people who owe him money and we

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have been shown a form dealing generally his overall means, but it is far from detailed, and it does not deal with any capital assets that he may have, et cetera.

58. We would be interested to know whether he has made any additional payments towards the debt. So, the matter will have to be adjourned to enable the respondent to address us on sanction.

59. The Respondent was requested to provide the following information before the adjourned hearing:

1. His present financial means, including any capital assets and liabilities
2. His financial means since June 2022 and any reasons why he has not satisfied the judgment debt in full since that date.
3. Whether he has made any further payments towards the judgment debt since December 2023.
4. His proposals for paying any amount outstanding.

60. The hearing adjourned part heard on 31 January 2024. Although the Panel's draft Judgment invited the Respondent to provide the information in paragraph 59 above not later than 3 working days before the adjourned hearing, in the event the draft Judgment was not circulated to the Respondent until 30 January 2024. However, the Respondent confirmed at the resumed hearing on 4 April 2024 (see below) that he had received and read the draft Judgment. In any event, he had provided further information on his financial means by the time of the resumed hearing.

Resumed Hearing – 4 April 2024

61. On 4 April 2024 the Panel reconvened. Mr Ahmad was present and represented himself and the Bar Standards Board was represented by Mr Nicholas Bard.

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62. The Panel heard submissions from Mr Ahmad regarding sanction following receipt of the transcript of the previous hearing date and the draft Judgment.
63. Mr Bard did not address the Panel having previously done so in January 2024.
64. Mr Ahmad was given the opportunity today to address the Panel on a number of matters, including his financial circumstances. It was made clear to Mr Ahmad at the beginning of this hearing that we would listen to any submissions he wished to make on matters relating to sanction, including our provisional conclusions set out in the draft Judgment from the hearing on 31 January 2024, including the categorisation of the breaches under the Sanctions Guidance.
65. Mr Ahmad did not address us on categorisation. However, shortly in advance of today's hearing he provided a statement setting out his financial position and explaining his reasons for not satisfying the debt earlier. He also provided a copy of his income tax return for the fiscal year 2022 to 2023 and also a list of outstanding fees.
66. We considered in detail all of the documents provided by Mr Ahmad. We reached the conclusions set out below. In essence, nothing at the hearing on 4 April 2024 caused us to change the substance of our provisional conclusions at paragraphs 40 to 58 above, which however should be read subject to the points below.
67. In terms of the aggravating and mitigating features of the breaches, the following comments apply to both breaches since the charges arise out of the same circumstances.
68. There are a number of aggravating features. They include the amount of the Judgment debt i.e. over £50,000 the length of time over which there was noncompliance, and the likely impact on the Claimant of being kept out of his money for such a long time
69. There are some further aggravating features which have appeared very clearly today. Having looked at Mr Ahmed's income tax return and having given him the opportunity to answer a number of questions, we are concerned about the reliability of his evidence on

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income and outgoings and are concerned that Mr Ahmed has prioritised other expenditure over payment of the judgment debt.

70. He told us that he was the sole earner in his household. He is a married man with four children. He told us that his wife had no income. However, on his tax return there is a figure of over £20,000 inserted for a salary paid to Mr Ahmad's wife. When asked about this, Mr Ahmad explained that that is what he pays to his wife for her assistance in running his sole practice, such as filing, and that the salary payments to her are set out in the tax return as expenses deductible from his gross income before calculating income tax.

71. Mr Ahmad was invited to explain the figure given for capital investment i.e. £10,345.82 in the year 2022 to 2023. Initially Mr Ahmad said he believed that this was his personal income tax allowance. On reflection, he said that it must be comprised of a payment of £6,000 by way of deposit on a leased car and the purchase of equipment such as cupboards and a photocopier and one or two other items for his practice.

72. If those figures are correct, it would seem that Mr Ahmad chose to prioritise the expenditure on these items over the payment of the debt.

73. We were also concerned today by a demonstrable lack of insight and lack of remorse.

74. Mr Ahmad stressed in his written submissions that he is ashamed and remorseful. When asked to explain why he felt that way, Mr Ahmad said in terms that he was professionally embarrassed because he should have been able to settle the case and to arrive at a negotiated settlement, but that he was prevented from so doing by what he perceived to be, and still perceives to be, the unreasonable stance of the Claimant. At no stage did Mr Ahmad acknowledge responsibility for the breaches of the professional Code of Conduct or recognise the impact that his behaviour must have had on the Claimant. The thrust of his written and oral submissions was that it was the fault of the dishonest Claimant.

75. We also consider that the breaches are aggravated by the fact that Mr Ahmad was a professional man of many years experience. He had qualified as a barrister and he had many

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years' experience as a sole practitioner solicitor running a firm. He was able to sit as an assistant District Judge in Pakistan.

76. In terms of mitigation, we have at the forefront of our mind the fact that the Respondent had paid £42,500 by the time of the hearing in January this year, and that since that date he has paid a further £5,000 towards settling the debt. He has told us that he has every intention to pay the debt in full, albeit by instalments, as soon as possible.

77. We bear in mind everything the Respondent has told us about his personal circumstances. He is a married man with four children, two of whom are about to enter higher education and two of whom are in their early teens.

78. The Panel were informed previously and have been reminded today that the Respondent suffered a period of ill health back in 2019 and there was a period when he had to leave the country to assist a family member overseas. We have taken all these matters into consideration, but we attach little weight to them in terms of mitigation of what was in effect his decision not to settle the debt, or even start making payments until May 2023.

79. We are all aware that whatever sanction the Tribunal imposes today will impact not only on the Respondent but also on his family. We are aware that the Respondent has achieved a significant position by way of a judicial appointment in Pakistan.

80. Taking all of the factors into account, we are unanimously of the view that the breaches are so serious that only a period of suspension is justified.

81. The indicative sanction for middle range is a high level fine to a 12 month suspension or less.

82. We judge that the appropriate, just and proportionate sanction to recognise the seriousness of the breaches is a suspension of six months concurrent on each of the charges.

Appeal

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83. Mr Ahmad has the right to appeal this decision and has until 25 April 2024 to give Notice of any such appeal.

Costs

84. We order that Mr Ahmad pays £2,496 to the BSB within 28 days of the decision.

Dated: 3 May 2024

**HH Janet Waddicor
Chairman of the Tribunal**

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