



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Findings and Sanction

Case References: 2023/0543/D5 and 2023/0838/D5

Mr Gabriele Giambrone

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.

Disciplinary Tribunal

Mr Gabriele Giambrone

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 20 November 2024, I, HH James Meston, sat as Chairman of a Disciplinary Tribunal on 9 December 2024 to hear and determine 6 Charges of professional misconduct contrary to the Qualification Rules at Part 4 of the Bar Standards Board's Handbook against Mr Gabriele Giambrone, barrister of the Honourable Society of Lincoln's Inn.

Panel Members

2. The other members of the Tribunal were:

Janine Green (Lay Member)

Clara Cheetham (Lay Member)

Alexander Horne (Barrister Member)

Monica Stevenson (Barrister Member)

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Charges

3. The following charges were found proven on the Respondents' admissions.

Charge sheet 2023/0543/D5

Charge 1

Statement of Offence

Professional misconduct, contrary to paragraph rQ6A of the Qualification Rules at Part 4 of the Bar Standards Board's Handbook (9th Edition).

Particulars of Offence

Mr Gabriele Giambrone, a registered barrister, on or around 22 June 2021 made a Call Declaration for the purpose of being Called to the Bar which was false in a material respect in that he answered "no" to the question "*Are you, or have you ever been, subject to any investigations or proceedings by a professional or regulatory body? This includes current or pending complaints, proceedings or other actions and/or previous investigations or proceedings where the complaint has been upheld. There is no requirement to declare matters where there has been an investigation, and the complaint was not upheld*". The said answer was false in a material respect in that it failed to disclose that Mr Giambrone had been suspended by The Council for the Bar Association of Palermo from legal practice between 10 February 2016 to 10 August 2016.

Charge sheet 2023/0838/D5 (as amended)

Charge 1

Statement of Offence

Professional misconduct, contrary to paragraph rQ6A of the Qualification Rules at Part 4 of the Bar Standards Board's Handbook (9th Edition).

Particulars of Offence

Mr Gabriele Giambrone, a registered barrister, on or around 22 June 2021 made a Call Declaration that was false in a material respect in that it answered "no" to the question "*Are there any other*

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matters which might reasonably be thought to call into question your fitness to become a practising barrister? This includes but is not limited to civil injunctions or criminal orders". The said answer was false in a material respect that the following facts and matters existed and might reasonably be thought to call into question his fitness to become a practising barrister:

- (a) The High Court of England and Wales had handed down judgments that contained [...] findings and comments about Mr Giambrone [set out in an Annex to the charge sheet];
- (b) That on or about 28 February 2013 and/or 8 March 2013 the High Court of Justice in Northern Ireland had made or continued a freezing injunction against the personal assets of Mr Giambrone;
- (c) On or about 22 March 2013 the High Court of Justice in Northern Ireland refused to vary or discharge a freezing injunction then in place against the personal assets of Mr Giambrone, such that the said injunction remained in place against Mr Giambrone until a date unknown; and/or
- (d) The judgment of the High Court of Justice in Northern Ireland following the decision of 22 March 2013 contained the findings and comments about Mr Giambrone and his actions [set out in an Annex to the charge sheet], and/or the substance of such findings/comments.

Charge 1A

Statement of Offence

Professional misconduct, contrary to paragraph rQ6A of the Qualification Rules at Part 4 of the Bar Standards Board's Handbook (9th Edition).

Particulars of Offence

Mr Gabriele Giambrone, a registered barrister, on or around 22 June 2021 made a Call Declaration that was false in a material respect in that it answered "no" to the question "*Are there any other matters which might reasonably be thought to call into question your fitness to become a practising barrister? This includes but is not limited to civil injunctions or criminal orders*". The said answer was false in a material respect that

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- (a) Mr Giambrone had breached an order of the High Court of England and Wales dated 4 February 2015 requiring him to pay sums in respect of costs by 18 February 2015 by not paying the amount ordered or any part of it until a date unknown but after 17 November 2015 [as further particularised in an Annex to the charge sheet]; and/or
- (b) Foskett J had made comments set out in paragraph (h) of Part A of the attached Annex in the case of *Various Claimants v Giambrone & Law (a firm) & Ors* [2015] EWHC 3315 (QB) in respect of the same.

Charge 2

Statement of Offence

Professional misconduct, contrary to paragraph rQ6A of the Qualification Rules at Part 4 of the Bar Standards Board's Handbook (9th Edition).

Particulars of Offence

Mr Gabriele Giambrone, a registered barrister, engaged before call in conduct which was discreditable to a barrister and which was not, before call fairly disclosed in writing to Lincoln's Inn, namely in or about February/March 2013 posting a comment on Facebook in the following terms, referring to the Plaintiffs in a claim against him brought in the High Court of Justice in Northern Ireland: *"They thought they knocked me down, now they will see the full scale of my reaction. F*** them, just f***them. They will be left with nothing."* The said post reasonably caused the said Plaintiffs to apprehend, and/or the High Court of Justice in Northern Ireland to conclude on or about 22 March 2013, that Mr Giambrone was at risk of dissipating his assets and/or seeking to frustrate any judgment that may be made on the said claim;

Charge 3

This charge was removed by re-amendment of the charge sheet.

Charge 4

Statement of Offence

Professional misconduct, contrary to paragraph rQ6A of the Qualification Rules at Part 4 of the Bar Standards Board's Handbook (9th Edition).

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Particulars of Offence

Mr Gabriele Giambrone, a registered barrister, engaged before call in conduct which was discreditable to a barrister and which was not, before call fairly disclosed in writing to Lincoln's Inn, namely breaching, deliberately or otherwise, an order of the High Court of England and Wales dated 4 February 2015 requiring him to pay sums in respect of costs by 18 February 2015, by not paying the amount ordered or any part of it until a date unknown but after 17 November 2015 [as particularised in the Annex to the charge sheet].

Parties Present and Representation

4. The Respondent appeared in person and was represented by Mr Rossano Scamardello KC. The Bar Standards Board ("BSB") was represented by Mr Gareth Tilley.

Preliminary Matter

5. On the application of the parties, it was directed by agreement that the charge sheet numbered 2023/0838/D5 should be re-amended as the BSB offered no evidence in relation to charge 3 and the charge was withdrawn.

Pleas

6. Mr Giambrone admitted all remaining charges.

Evidence

7. The Panel received bundles of documentary material provided by the BSB, a witness statement by Mr Giambrone dated 24 July 2024, his responses to the charges and references on his behalf.
8. The Bar Standard Board called no witnesses. The Respondent, Mr Giambrone, did not give oral evidence.
9. The Panel received written skeleton arguments on behalf of the BSB and of the Respondent and heard oral submissions.

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Findings

10. The background history to the charges was as follows:

- (i) Mr Giambrone qualified as a lawyer in Italy, and subsequently in April 2005 was registered to practise in England as a regulated European lawyer.
- (ii) In 2009 restrictions were placed on his practising certificate.
- (iii) In March 2011 the Council for the Bar Association of Palermo suspended Mr Giambrone from practice for 6 months, and his appeal against that decision was dismissed in 2016.
- (iv) In April 2013 the Solicitors Regulation Authority removed Mr Giambrone's registration to practise in England, making serious findings against him. His explanations given at the time to that Authority were found to be unsatisfactory and lacking in frankness. That decision was the subject of an unsuccessful appeal in 2014.
- (v) In November 2020 Mr Giambrone applied for admission to Lincoln's Inn. His application was considered by a screening committee and then by the Inn's Conduct Committee, and it was determined, without a full hearing, that he was a fit and proper person to practise as a barrister. He was informed of this decision in a letter from the Registrar of Lincoln's Inn dated 1 April 2021.
- (vi) Mr Giambrone signed the required Call Declaration on 22 June 2021 and was called to the Bar on 14 October 2021.

The charges before the Panel concerned omissions from the Call Declaration made by Mr Giambrone.

Counsel for the BSB confirmed, in response to enquiries from the Panel, that dishonesty was not alleged against Mr Giambrone, but rather that he had made some deliberate omissions in his Call Declaration which were misleading and therefore discreditable.

Mr Giambrone's explanation for the omissions in the Call Declaration of 22 June 2021 was that he had already disclosed matters in his application to join the Inn and that he understood the letter from the Registrar dated 1 April 2021 to mean that he did not need to repeat what he had disclosed in his subsequent Call Declaration. He gave

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further, more detailed explanations for the individual matters referred to in the charges and apologised for the omissions alleged.

Sanction and Reasons

11. In considering sanctions, the Panel had to have regard to the BTAS Sanctions Guidance, dated January 2022, even though the alleged misconduct may well have occurred before that. The principle to stress was that sanctions are not to punish, although they may have a punitive effect.
12. The purpose of applying sanctions to professional misconduct are as follows:
 - (i) protection of the public and consumers of legal services; (ii) maintenance of public confidence and trust in the profession and the enforcement system; (iii) maintenance and promotion of high standards of behaviour and performance at the Bar: and (iv) to act as a deterrent to the individual barrister as well as the wider profession from engaging in the misconduct which is subject to sanction.
13. The fundamental principle behind the imposition of the sanction is that any sanctions should be proportionate, weighing the interests of the public with those of the practitioner, and must be no more than necessary to achieve the purposes previously stated.
14. The Guidance proposes a staged 6 step approach to sanction set out in that guidance. The Panel had regard to those steps and sought to follow them. In particular, starting by determining the appropriate applicable misconduct group for the proved misconduct and then going on to consider the seriousness of the misconduct by reference to culpability and harm factors, then proceeding to determine the indicative sanction level for proved misconduct and to apply relevant aggravating and mitigating factors. In particular in this case, given that there were 5 overlapping charges, the Panel had also to bear in mind the totality principle.
15. On behalf of the BSB it was submitted that although the charges did not fit squarely into one of the misconduct groups in the guidance the Panel could consider the misconduct by

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reference to the factors mentioned in Group A (Dishonesty) even though dishonesty was not alleged and could also refer by analogy to Group L (Obligations to the regulator). On behalf of Mr Giambrone it was submitted that it would be unfair and inappropriate to refer to the guidance for cases of dishonesty when it was not alleged in the charges. The Panel considered that Group F was more appropriate: that is described as covering all forms of misleading statements which fall short of dishonesty or have not been charged as dishonesty. As already stated, the Panel had not been asked to make any finding of dishonesty. Paragraph 5.5 of the Guidance, states that *“A Panel must only sanction the respondent in relation to the charges currently before it, and if dishonesty has not been specifically alleged by the BSB, the Panel should not base their sanctioning decision on an assessment that the misconduct is dishonest...”*

16. The Panel was not asked to determine, and felt unable to determine, whether or not the Respondent would have been called to the Bar if he had fully disclosed all the matters omitted or if those matters had in fact already been known about. The Panel considered with particular care whether, in the circumstances of this case, the admitted misconduct was compatible with allowing the Respondent to practise, or to do so without restriction.
17. The Panel unanimously concluded that the misconduct admitted was serious enough to justify a substantial fine, and that having regard to the totality principle, and having heard submissions as to the Respondent’s financial and other circumstances, a fine of £50,000 would be imposed; and in addition, Mr Giambrone would be reprimanded.
18. The Panel made an order for costs against Mr Giambrone in the sum of £4,488 sought by the BSB.

Dated: 15 January 2025

HH James Meston KC
Chairman of the Tribunal

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