



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2018/0046/D5

Natarajan Balachandran

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Honourable Society of Lincoln's Inn

Disciplinary Tribunal

Natarajan Balachandran

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 24 May 2019, I sat as Chair of a Disciplinary Tribunal on 5 December 2019 to hear and determine 3 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Natarajan Balachandran, an unregistered barrister of the Honourable Society of Lincoln's Inn.

Panel Members

2. The other members of the Tribunal were:

Mr David Crompton (Lay Member)

Ms Siobhan Heron (Barrister Member)

Ms Deborah Spring (Lay Member)

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Preliminary Matters

3. The BSB applied to have the hearing proceed in the Respondent's absence and explained all unsuccessful attempts to make contact. The Panel allowed the hearing to proceed.

Charges

4. The following charges were read out in the absence of Natarajan Balachandran Esq and recorded as denied.

Charge 1

Statement of Offence

Professional Misconduct, contrary to paragraphs 301(a)(i) and 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Natarajan Balachandran, an unregistered barrister, engaged in conduct whether in pursuit of his profession or otherwise which was dishonest or otherwise discreditable to a barrister, in that between around July 2011 and 5 January 2014 while in practice as an Advocate and Solicitor in Malaysia, he dishonestly failed to return a deposit in the sum of USD150,000 paid to him by his client for the purpose of obtaining for the client a loan of USD3,000,000 that he failed to obtain for the client. By order dated 11 March 2016 he was struck off the Roll of Advocates and Solicitors of the High Court of Malaya following a finding of the Disciplinary Committee that he was guilty of dishonesty and displaying conduct unbecoming of an Advocate and Solicitor.

Charge 2

Statement of Offence

Professional Misconduct, contrary to paragraphs 301(a)(iii) and 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

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Particulars of Offence

Natarajan Balachandran, an unregistered barrister, engaged in conduct whether in pursuit of his profession or otherwise which was likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute in that between around July 2011 and 5 January 2014 while in practice as an Advocate and Solicitor in Malaysia, he dishonestly failed to return a deposit in the sum of USD150,000 paid to him by his client for the purpose of obtaining for the client a loan of USD3,000,000 that he failed to obtain for the client. By order dated 11 March 2016 he was struck off the Roll of Advocates and Solicitors of the High Court of Malaya following a finding of the Disciplinary Committee that he was guilty of dishonesty and displaying conduct unbecoming of an Advocate and Solicitor.

Charge 3

Statement of Offence

Professional Misconduct, contrary to Core Duty 9 and/or rC65.3 of the Code of Conduct of the Bar of England and Wales (9th Edition).

Particulars of Offence

Natarajan Balachandran, an unregistered barrister, failed to co-operate with the Bar Standards Board and/or failed to report to it promptly or at all that to his knowledge he was the subject of disciplinary or other regulatory or enforcement action by another regulator, in that, following a complaint made on or around 3 September 2012 by his client while he was in practice as an Advocate and Solicitor in Malaysia, on 4 June 2015 the Disciplinary Committee found that he was guilty of dishonesty and displaying conduct unbecoming of an Advocate and Solicitor and on 11 March 2016 he was ordered to be struck off the Roll of Advocates and Solicitors of the High Court of Malaysia. Natarajan Balachandran failed to report any of these matters to the Bar Standards Board which only became aware of them after the Bar Council of Malaysia notified the Honourable Society of Lincoln's Inn by letter dated 19 October 2017 that he had been struck off.

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Parties Present and Representation

5. The Respondent was not present and was not represented The Bar Standards Board (“BSB”) was represented by Sara Jagger.

Facts

6. The background to the charges is set out in the BSB’s skeleton argument dated 4 December 2019.

In short, it was alleged that while working as an Advocate and Solicitor in Malaysia 2011 – 2014, a complaint was made against him to the Malaysian Disciplinary Board on 9 January 2013. The complaint related to the respondent having misled the complainant (a client) into believing that he could obtain a loan for him of up to US\$3 million. It was alleged that the respondent had obtained a deposit from the complainant of US\$150,000. The respondent did not obtain the loan and he did not return the deposit.

The Disciplinary Committee on the 4 June 2015 held a hearing, found the respondent guilty of dishonesty and of displaying conduct unbefitting of an advocate and solicitor and recommended that he be suspended from practice for 2 years. On 11 March 2016 the Disciplinary Board considered the matter and struck the respondent from the Roll.

On the 19 October 2017 the Malaysian Bar Council wrote to Lincoln’s Inn informing it of what had taken place. On 23 November 2017 Lincoln’s Inn alerted the Bar Standards Board and this was the first time that the Bar Standards Board had been made aware.

The Bar Standards Board have attempted to contact the respondent and have instructed 2 tracing agents to assist and whilst correspondence has been sent to his last known address, all attempts to make contact have been unsuccessful.

Evidence

7. No evidence was heard.

Submissions

8. The Chair asked questions of the BSB (Ms Jagger) in relation to the element of dishonesty and the standard of proof. Ms Jagger said that the BSB rely upon the findings of the Disciplinary Committee in Malaysia as the facts upon which they made their decision were accurate.

Findings

9. We find that the Respondent was dishonest in failing to return the money. He is guilty of charges 1, 2 and 3.

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Sanction

10. We are satisfied that every possible avenue has been exhausted by the BSB to contact the respondent in accordance with the rules. This decision is therefore made in his absence in accordance with rE1834.

11. This case concerns a significant amount of money that was lost to the complainant. Mr Balachandran agreed to make repayments in full plus interest in October 2017 but has failed to do so. This was a judgement debt. Mr Balachandran was struck off the Advocates and Solicitor Roll in the High Court of Malaya. We take a serious view of these charges and infer that there was dishonesty and no repayment in 8 years and no explanation from the respondent. Our unanimous decision is that there can only be one sanction and that is for him to be disbarred. Mr Balachandran will be unable to practice in this country in accordance with Rule E227 and I make an order in that regard such that the BSB is not to issue a practising certificate.

Approved: 14 January 2020

Her Honour Penny Cushing
Chairman of the Tribunal

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