The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

# Report of Finding and Sanction

## Case reference: PC 2015/0044/D5

Azfar Bajwa Esq

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Gray's Inn

## Disciplinary Tribunal

### Azfar Bajwa Esq

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 30 August 2019, I sat as Chairman of a Disciplinary Tribunal on 19 September 2019 to hear and determine seven charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Azfar Bajwa, barrister of the Honourable Society of Gray's Inn.

### Panel Members

2. The other members of the Tribunal were:

   Dr Angel Pober (Lay Member)
   John Walsh (Lay Member)
   Siobhan Heron (Barrister Member)
   James McClelland Esq (Barrister Member)

### Charges

The following charges were found proved:

**Charge 1**

Statement of Offence

Professional Misconduct contrary to paragraph 905[b] of the Code of Conduct of the Bar of England and Wales [8th Edition].

Particulars of Offence

Between 23 March 2009 and 5 January 2014, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005, failed to inform the Bar Standards Board promptly or at all, that he was the subject of disciplinary proceedings by the Solicitors Regulatory Authority, an Approved Regulator and that following a hearing on 10 February 2010, he was made the subject of a Finding of professional misconduct by the Solicitors Disciplinary Tribunal [as set out in the written findings of the Solicitors Disciplinary Tribunal dated 10 June 2010]. This was conduct likely to diminish trust and confidence in the legal profession, and which demonstrated a lack of openness and co-operation with the Bar Standards Board, his Regulator.

**Charge 2**

Statement of Offence

Professional Misconduct contrary to Core Duty 9 and rC65.3 and r65.7 of the Bar Standards Board's Handbook.

Particulars of Offence

Between 6 January 2014 and 21 February 2018, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005, failed to inform the Bar Standards Board promptly or at all, that he was the subject of disciplinary proceedings by the Solicitors Regulatory Authority, an Approved Regulator and that following a hearing on 10 February 2010, he was made the subject of a Finding of professional misconduct by the Solicitors Disciplinary Tribunal [as set out in the written findings of the Solicitors Disciplinary Tribunal dated 10 June 2010]. This was conduct likely to diminish trust and confidence in the legal profession, and which demonstrated a lack of openness and co-operation with the Bar Standards Board, his Regulator.

**Charge 3**

Statement of Offence

Professional Misconduct contrary to Core Duty 1 of the Bar Standards Board's Handbook.

Particulars of Offence

Between 5 August 2014 and 20 July 2015, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005, failed to observe his duty to the court in the administration of justice as set out in the Findings of the Solicitors Disciplinary Tribunal [SDT] dated 13 December 2017, in relation to Allegations against Azfar Naseem Bajwa. As recorded in the written findings of the SDT, the SDT found the Allegations to be proved and that Azfar Naseem Bajwa was guilty of professional misconduct. The SDT ordered that he be struck off the Roll of Solicitors.

**Charge 4**

Statement of Offence

Professional Misconduct contrary to Core Duty 3 of the Bar Standards Board's Handbook.

Particulars of Offence

Between 5 August 2014 and 20 July 2015, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005, failed to act with honesty and with integrity as set out in the Findings of the Solicitors Disciplinary Tribunal [SDT] dated 13 December 2017, in relation to Allegations against Azfar Naseem Bajwa. As recorded in the written findings of the SDT, the SDT found the Allegations to be proved and that Azfar Naseem Bajwa was guilty of professional misconduct. The SDT ordered that he be struck off the Roll of Solicitors.

**Charge 5**

Statement of Offence

Professional Misconduct contrary to Core Duty 5 of the Bar Standards Board's Handbook.

Particulars of Offence

Between 5 August 2014 and 20 July 2015, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005, behaved in a way which was likely to diminish the trust and confidence which the public places in a barrister or in the profession as set out in the Findings of the Solicitors Disciplinary Tribunal [SDT] dated 13 December 2017, in relation to Allegations against Azfar Naseem Bajwa. As recorded in the written findings of the SDT, the SDT found the Allegations to be proved and that Azfar Naseem Bajwa was guilty of professional misconduct. The SDT ordered that he be struck off the Roll of Solicitors.

**Charge 6**

Statement of Offence

Professional Misconduct contrary to Conduct Rule rC8 of the Bar Standards Board's Handbook.

Particulars of Offence

Between 5 August 2014 and 20 July 2015, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005, behaved in a way which could reasonably be seen by the public to undermine his honesty and integrity as set out in the Findings of the Solicitors Disciplinary Tribunal [SDT] dated 13 December 2017, in relation to Allegations against Azfar Naseem Bajwa. As recorded in the written findings of the SDT, the SDT found the Allegations to be proved and that Azfar Naseem Bajwa was guilty of professional misconduct. The SDT ordered that he be struck off the Roll of Solicitors.

**Charge 7**

Statement of Offence

Professional Misconduct contrary to Core Duty 9 and rC65.3 and rC65.7 of the Bar Standards Board's Handbook.

Particulars of Offence

Between 5 May 2017 and February 2018, Azfar Naseem Bajwa, an unregistered barrister, who was also admitted to the Roll of Solicitors on 1 March 2005 but struck off the Roll of Solicitors as recorded in the written findings of the Solicitors Disciplinary Tribunal [SDT] dated 13 December 2017,failed to report promptly or at all to the Bar Standards Board that he was the subject of disciplinary proceedings by the Solicitors Regulatory Authority, an Approved Regulator, and that following a hearing on 24-25 October 2017, he was struck off the Roll of Solicitors on the basis of findings of professional misconduct by the Solicitors Discipliary Tribunal. This is conduct likely to diminish trust and confidence in the legal profession and which demonstrated a lack of openness and co-operation with the BSB, his Regulator.

## Parties Present and Representation

3. The Respondent was present and was unrepresented. The Bar Standards Board ("BSB") was represented by James Stuart Esq.

## Preliminary Matters

4. At the outset of the hearing the Tribunal noted that the date of the decision of the Solicitor's Disciplinary Tribunal referred to in charges 1 and 2 were incorrect. With the consent of the parties, charges 1 and 2 were amended to refer to a decision on 10th June 2010 (in place of the incorrect date of 19th June 2010).

## Pleas

5. Mr Bajwa admitted charges 1, 2, 3 and 7. Mr Bajwa did not admit charges 4, 5 and 6.

## Submissions

6. Mr Stuart opened the case for the BSB, setting out the background to the alleged offences. Mr Bajwa then made submissions in his defence and in mitigation, having chosen not to give evidence. Mr Stuart chose not to reply on behalf of the BSB.

## Finding

7. The Tribunal retired and then gave the following judgment:
   The respondent to this case brought by the BSB is Azfar Naseem Bajwa, born on 30th August 1972, and is now 47 years old. He faces seven charges of which 1, 2, 3 and 7 were admitted; 4, 5 and 6 were not admitted. He was called to the Bar of England and

Wales on 25th July 1996 by Gray's Inn. He has never practised as a barrister. He is unregistered as a barrister, nor has he ever held a practising certificate. The Bar Standards Board was his Regulator by virtue of him being a barrister.

On 1st March 2005 he was admitted as a solicitor and at some date he set up the firm, A. Bajwa & Co. at 39 Gowers Walk, London E1 of which he was the principal and the only qualified barrister at all times material to Charges 3 to 7 before us. His father and his brother worked for the firm. He was responsible for supervising their work.

From March 2009 onwards he was the subject of SRA/SDT Disciplinary proceedings which resulted in a hearing on 10th February 2010. Before the Tribunal then were the respondent and his father and another solicitor. The nature of the charges – which were proved – have no relevance to the charges before us save that on 10th June, in respect of those charges, there was a finding of professional misconduct and the respondent was fined £2,000 and ordered to pay £7,500 in costs. He admits that he did not inform the Bar Standards Board at all of these disciplinary proceedings. Accordingly, he is, without any doubt, guilty of professional misconduct contrary to paragraph 905(b) of the 8th Edition of the Code of Conduct of the Bar of England and Wales – Charge 1 – and guilty of professional misconduct contrary to Core Duty 9 and rC65.3 and rC65.7 of the 9th Edition of the Code of Conduct of the Bar of England and Wales – Charge 2 – as indeed he admitted.

The Bar Standards Board discovered about these proceedings in February 2018. Charges 1 and 2 related to the same failure which continued from the time when the 8th Edition applied to the period when, and after, the 9th Edition took effect, namely, 6th January 2014. There is no doubt that his failure was conduct likely to diminish the trust and confidence in the legal profession and which demonstrated a lack of openness and co-operation with the Bard Standards Board.

Charge 7 is in like terms to Charge 2 but relates to further disciplinary proceedings brought by the Solicitors Disciplinary Tribunal, the hearing of which took place on 24th and 25th October 2017 and which resulted in the respondent being struck off the Roll of Solicitors on 13th December 2017. Again, the BSB found out about these proceedings and their result in February 2018.

The respondent has admitted this charge as well and we have no doubt that his failure to report to the BSB anything about these proceedings is and was conduct likely to diminish trust and confidence in the legal profession and demonstrated a lack of openness and co-operation with the BSB, his Regulator.

The respondent asserts in mitigation, in relation to the first two and the last charge, that he was not aware of his obligation to make such reports and that his failure to do so was therefore unintentional. The obvious response to that is that he should have been aware, and it ought to have been obvious to him that he needed to do so, and, in any event, it was up to him to ascertain whether he was regulated as a barrister.

The subject matter of the disciplinary proceedings in 2017 has given rise to Charges 3, 4, 5 and 6. They each relate to the same findings of fact made by the Solicitors Disciplinary Tribunal which were proved to the satisfaction of that Tribunal to the criminal standard as being beyond reasonable doubt. We apply the same standard as the conduct alleged predates 1st April 2019.

The respondent appeared at that hearing and eventually gave evidence, apparently on the second day, as a result of a change of mind. He made submissions as well. Eight clients were the subject of the disciplinary proceedings and the Findings are summarised in the Schedule attached to the Charges from which I now read.

Charge "1.1 – I will not read the full name, I will just say "the respondent" – "[The respondent] facilitated the abuse of litigation by bringing the judicial review claims on

behalf of clients which he knew were not properly arguable in circumstances where he knew or should have known that the true purpose of the claim was to thwart or delay lawful removal or procure release from lawful detention.

"1.2 [The respondent] misled Clients 1, 6 and 7 that their claims for judicial review had some prospects of success when he knew that the claims were not properly arguable. …

"1.3 [The respondent] breached his professional obligation to the Upper Tribunal not to make submissions that he did not consider were properly arguable. …

"1.5 [The respondent] failed adequately to supervise unadmitted fee earners in his firm. …"

The respondent did not appeal the decision. Rule E169.3 of the Disciplinary Tribunal's Regulations provides that, "the finding and sanction of any tribunal in or outside England and Wales exercising a professional disciplinary jurisdiction may be proved by producing an official copy of the finding" – which has been done – "and sanction and the findings of fact upon which that finding or sanction was based shall be proof of those facts, unless proved to be inaccurate".

Clearly the onus rests upon the respondent, therefore, at this hearing to prove those findings, of any of them, to be inaccurate which, of course, necessarily entails calling evidence. I shall return to the lack of evidence and to the submissions of the respondent in a moment. But, pausing there, it is necessary to refer to what the Solicitors Disciplinary Tribunal in its judgment said about the respondent's culpability and involvement. I read now from what is recited at page 4 of the skeleton.

"5.1 The respondent was motivated by desire to grow his business. The filing of unarguable and abusive claims was part of a pattern designed to, in particular in relation to detention cases, secure a result for a client that could not otherwise have been legitimately achieved. This was clearly planned. The misleading of clients was part of that pattern and again was planned rather than spontaneous. The respondent

has direct control and responsibility for the circumstances giving rise to the misconduct based on his status as principal of the practice. He was an experienced practitioner." – That is a reference to the SDT judgment at paragraph 64.

"5.2 The misconduct was aggravated by the fact that it was deliberate and repeated and had taken place over a period of approximately two years. The respondent knew that he was in material breach of his obligations." – That is a reference to the SDT judgment at paragraph 66.

"5.3 This was misconduct at the highest level which had manifested itself on multiple occasions over an extensive period. He had displayed no insight into this, and a suspension was therefore insufficient in all the circumstances. The only appropriate sanction was a Strike Off. The protection of the public and of the reputation of the profession demanded nothing less and indeed required reassurance that such serious breaches of professional ethics would be dealt with proportionate and appropriate severity." – That is the SDT judgment at paragraph 69. It is noteworthy that all of paragraph 5.1 has the status of a fact found by the SDT.

We have seen the respondent's written statement signed and dated 31st May 2019. It contains no statement of truth. There were two letters before the SDT from clients which apparently the SDT saw. There was also an opinion of a barrister which is at page 791 of our bundle. In a sense, the two letters and the barrister's opinion are evidence but not in any satisfactory form and not such as to persuade us to depart in any way from the findings of fact of the SDT.

In effect at this hearing the respondent deliberately chose not to give evidence but to make submissions which, in reality, consisted of evidence. The respondent was warned that choosing not to give evidence meant that there would be no evidence from him before us and, of course, that he would not be subject to cross-examination. He persisted in that approach and himself conceded, as in fact is the case, that we are

bound by the facts found by the Solicitors Disciplinary Tribunal which therefore remain uncorrected. His reason for not giving evidence was, among other things, to quote what he said exactly, "I don't wish to give evidence because it would be a futile exercise".

The background to these matters is that in August 2015 the Home Office wrote to the SRA raising concerns about the number of applications for permission for judicial review in immigration and asylum cases that were being judged by the courts to be totally without merit. The respondent's firm was identified as having high rates of totally without merit outcomes. The evidence before the SDT was that 14 or 18 cases were submitted between 5th August 2014 and 20th July 2015 that were deemed "totally without merit". I say "14 or 18" because in the evidence before the SDT (as appears from page 789 of the bundle) it is asserted that there were 18 such cases.

However, in the course of the investigation conducted by the Solicitors Regulatory Authority the respondent was invited to provide a schedule of judicial reviews submitted between 1st April 2015 and 1st April 2016. It suffices to read from the judgment of the Solicitors Disciplinary Tribunal as to what transpired. I read at page 39 from paragraph 13:

"One of the potential reasons for detaining someone under immigration powers was that their removal was 'imminent'. However, the applicant's case was that if a person who had been detained pending imminent removal brought a claim for JR, that would often mean that their removal was no longer 'imminent'. As a result, bringing a claim for JR could often result in a claimant's release from immigration detention, even when their claim was without merit. In many cases it would not matter if the JR claim was rejected because, by the time it had been decided, the removal would have been cancelled and the claimant released. The respondent did not accept this analysis.

"14. The information provided by the Home Office highlighted that between 5 August 2014 and 20 July 2015, the Firm had submitted at least 14 cases which were certified

as TWM [Totally Without Merit]. An inspection into the Firm commenced on 6 April 2016. The Firm provided a schedule ('the Firm's Schedule') showing that between 1 April 2015 and 1 April 2016 it had filed 71 claims for JR. Ultimately all 71 were refused permission. The Firm's Schedule showed that in 53 of the 71 claims permission, had been refused and of those 53 refusals, 20 were certified as TWM.

"15. The Firm had characterised 14 of the outcomes as a 'success' in the Schedule, although only six of those involved the Home Office withdrawing the decision under challenge."

From paragraph 54.3 (page 51 of the bundle): "On the respondent's own analysis, in the period between 1 April 2015 and 1 April 2016, the Firm filed 19 claims for JR on behalf of clients who were faced with lawful, imminent removal and/or were in detention pending removal, none of which were found to be arguable. In 14 of the 19 cases, the filing of the claim thwarted lawful removal and/or procured the client's release from detention. This was reflected in his definition of a 'success' not being the success of the claim but if it prevented removal and/or led to release."

By August 2015 three cases of importance to immigration specialists had been decided and reported. The first was that of ***Hamid*** [2012] EWHC 3070 (Admin) in which Sir John Thomas, President of the Queen's Bench Division (as he was then) said at paragraph 3:

"… the Administrative Court faces an ever increasing large volume of applications in respect of pending removals said to require immediate consideration. Many are filed towards the end of the working day, often on the day of the flight or the evening before a morning flight. In many of these applications the person concerned has known for some time, at least a matter of days, of his removal. Many of these cases are totally without merit. The court infers that in many cases applications are left to the last moment in the hope that it will result in a deferral of the removal."

Then at paragraph 10: "These late, meritless applications by people who face removal or deportation are an intolerable waste of public money, a great strain on the resources of this court and an abuse of a service this court offers. The court therefore intends to take the most vigorous action against any legal representatives who fail to comply with its rules. If people persist in failing to follow the procedural requirements, they must realise that this court will not hesitate to refer those concerned to the Solicitors Regulation Authority.

"11. This is a warning for the future."

In the case of ***Grace*** [2014] EWCA Civ 1091 the Master of the Rolls (as he was then) Lord Dyson, explained the meaning of "totally without merit" and its origin in CPR 54.12(7): "… a claimant whose application has been considered on the papers by a judge who has found it to be TWM is debarred from renewing his application at an oral hearing in the Administrative Court or the Upper Tribunal. … The purpose of this recent innovation is to ensure that hopeless cases do not take up more of the time of respondents and of the court and the tribunal than is reasonable and proportionate."

At paragraph 13 he returned to the purpose of CPR 54.12.7. "It is to confront the fact, for such it is, that the exponential growth in judicial review applications in recent years has given rise to a significant number of hopeless applications which cause trouble to public authorities, who have to acknowledge service and file written grounds of resistance prior to the first judicial consideration of the application, and place an unjustified burden on the resources of the Administrative Court and the Upper Tribunal. … I have no doubt that in this context TWM means no more and no less than 'bound to fail'."

Paragraph 15: "The adoption of this approach does contain within it two important safeguards. First, no judge will certify an application as TWM unless he is confident after careful consideration that the case truly is bound to fail. He or she will no doubt

have in mind the seriousness of the issue and the consequences of his decision in the particular case."

Finally, we turn to the ***Akram*** case [2015] EWHC 1359 (Admin) the judgment of Sir Brian Leveson, the President of the Queen's Bench Division (as he was then). In paragraph 1 he says: "… pursuing litigation without arguable grounds is potentially unprofessional."

He then develops it at paragraph 2: "There is a pressing need for legal representatives acting for claimants in judicial review proceedings to do so in a professional manner both towards their clients but also towards the Court, bearing in mind that the paramount duty of all legal representatives acting in proceedings before courts is to the Court itself. The need for this warning to be taken seriously increases as the resources available to the Courts to act efficiently and fairly decreases. If the time of the Court and its resources are absorbed dealing with utterly hopeless and/or unprofessionally prepared cases, then other cases, that are properly advanced and properly prepared, risk not having devoted to them the resources that they deserve."

Persons who were in detention in order to effect the removal of them, were often released upon a claim for judicial review being made. So, by making a claim, however lacking in merit, the person facing removal could, in effect, buy time for as long as it took before the claim was heard and decided one way or the other.

Charges 4 and 6 before us raise the issue of honesty. Charge 4 alleges a failure to act with honesty; Charge 6, behaviour which could reasonably be seen by the public to undermine the respondent's honesty. The Solicitors Disciplinary Tribunal did not make any findings of dishonesty and the Bar Standards Board today, by Mr. Stuart, expressly disavowed any allegations of dishonesty. So, in relation to Charges 4 and 6 the issue is one of integrity.

The Solicitors Disciplinary Tribunal at paragraph 54.21 (at page 54) said: "The Tribunal applied the definition of integrity set out in ***Hoodless and Blackwell v FSA*** [2003] UKFSM FSM007 in which it had been held at [18] that 'In our view "integrity" connotes moral soundness, rectitude and steady adherence to an ethical code'. A solicitor of integrity would not lodge claims for JR that were ostensibly intended to challenge an unlawful decision when in reality the purpose was to secure a result for a client that could not be achieved by legitimate means. The conduct that the Tribunal was dealing with here was clearly not consistent with steady adherence to an ethical code. The Tribunal was satisfied beyond reasonable doubt that the respondent had acted without integrity …"

Recently the ***Hoodless*** decision has been followed by the ***Wingate*** decision [2018] 1 WLR 3969 where at paragraph 99 Rupert Jackson LJ said: "The broad contours of what integrity means, at least in the context of professional conduct, are now becoming clearer. The observations of the Financial Services and Markets Tribunal in ***Hoodless*** have met with general approbation.

"100. Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty. To take one example, a solicitor conducting negotiations or a barrister making submissions to a judge or arbitrator will take particular care not to mislead. Such a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse."

The allegations found proved by the Solicitors Disciplinary Tribunal in the 2017 proceedings were (and I read from the skeleton for convenience at paragraph 4): "[The respondent] facilitated the abuse of litigation by bringing the judicial review claims on behalf of clients which he knew were not properly arguable in circumstances where he knew or should have known that the true purpose of the claim was to thwart or delay

lawful removal or procure release from lawful detention." See paragraph 54 of the SDT decision.

"4.2 [The respondent] misled Client 1, 6 and 7 that their claims for judicial review had some prospects of success when [he] knew that the claims were not properly arguable." See paragraph 55 of the SDT Decision.

"4.3 [The respondent] breached his professional obligation to the Upper Tribunal not to make submissions that he did not consider were properly arguable." See paragraph 56 and the following paragraphs in that section of the SDT decision.

"4.4 [The respondent] failed adequately to supervise unadmitted fee earners in his firm." See paragraph 58 of the SDT decision. I do not propose to read those sections of the SDT judgment as the judgment is a public document and available on the SDT website. The respondent has not proved those findings to be inaccurate and so we are bound by them. We are sure to the criminal standard that all of the facts amounted to a breach of Core Duty 1 of the Bar's Code of Conduct by failing to observe the duty to the court in the administration of justice, Charge 3. At the start of the hearing the respondent admitted this charge.

Similarly, they amount to a breach of Core Duty 3 by failing to act with integrity, Charge 4. We make no finding as to dishonesty which, in any event, was not alleged.

The facts proved amounted to behaviour which was likely to diminish the trust and confidence which the public placed in the respondent or in the profession as a barrister and was therefore, we are sure, a breach of Core Duty 5, which is Charge 5.

The same facts proved, we are sure, to the criminal standard, amounted to behaviour by the respondent which could reasonably be seen by the public to undermine the respondent's integrity as a barrister, Charge 6.

These four charges rely on the same facts and are simply four different ways of looking at the behaviour of the respondent. We note that there is no evidence of any client

complaining about the respondent in relation to the matters before us; that all clients paid privately for the services of the respondent's firm; there is no evidence of any applicant or claimant having evaded his or her ultimate removal; and that only in one instance did the Upper Tribunal or any court make an order for wasted costs against the respondent's firm which was in relation to Client 8. That was a situation where an employee of the firm was sent to address the Tribunal and had no rights of audience; therefore, in a different category to the other clients which the Solicitors Disciplinary Tribunal was considering.

So, we find Charges 4, 5 and 6 proved.

***(Discussion followed on sanctions)***

***(The Tribunal adjourned)***

## Mitigation

8. Mr Bajwa chose not to make any further submissions in mitigation.

## Sanction and Reasons

9. The Tribunal retired and gave the following decision on sanction:

THE CHAIRMAN:

We have carefully considered the sanctions available. For the avoidance of any doubt, even if suspension were available as a sanction for Charges 3, 4, 5 and 6, we would definitely not have imposed that sanction.

The allegations in Charges 3, 4, 5 and 6 found proved or admitted are self-evidently very serious. The filing of unarguable and abusive claims was part of a pattern to secure a result which could not otherwise have been legitimately achieved. It was a deliberate abuse of process. The impact on the judicial system and on the public purse is self-evident. The behaviour took place after the Administrative Court and the Court of Appeal had issued clear warnings about the consequences of such conduct if it were proved to have taken place.

Additionally, clients were misled as to their prospects of success and embarked upon judicial review applications at their expense which they might otherwise not have undertaken. Additionally, the following aggravating factors apply: pre-meditation; motive of financial gain; persistent conduct over a lengthy period of time; and undermining of the profession in the eyes of the public.

In our judgment the only possible sanction for Charges 3, 4, 5 and 6 is disbarment on each of them. Had Charges 1 and 2 been the only charge the respondent faced, we would have imposed a fine of £3,000 on each. Had Charge 7 been the only charge, given the gravity of the unreported misconduct, we would have imposed a fine of £30,000. Given the sanctions imposed on Charges 3, 4, 5 and 6, we make no separate order in relation to Charges 1, 2 and 7 as we consider the disbarment on Charges 3, 4, 5 and 6 a sufficient penalty.

We have carefully considered the mitigating factors advanced; the fact that there were admissions on Charges 1, 2, 3 and 7; the witness statement of the respondent which he made recently; and his submissions.

MR. STUART:

Sir, I am back to rE227.3. I know it is a far-fetched possibility, but I am told technically it is still possible for a person who is not currently eligible for a practising certificate to apply during an appeal process if that appeal process were to take a year or more.

THE CHAIRMAN: Just pause there: he would have to do a pupillage?

MR. STUART: He would have to do a pupillage, exactly, and he would then ----

THE CHAIRMAN: But anyway, what were you going to submit?

MR. STUART:

Because the Rules are "shall" or "must" rather than "may", under 225 it applies to "any respondent who: .1 is a barrister, who has been sanctioned to be disbarred …" You have disbarred a barrister, therefore, it applies.

"rE227 Having heard any representations under rE225 [you] must (unless in the circumstances of the case it appears to the Disciplinary Tribunal to be inappropriate to do so), either" .1, .2 or .3 and .3 for these purposes is the relevant one because it is a barrister "where the respondent has been sanctioned to be disbarred … and where that respondent does not currently hold a practising certificate" – technically both of those things apply, you must, unless you consider it inappropriate – "require the Bar Standards Board not to issue [him with a] practising certificate".

So, the BSB simply points that out to you and says that you should make such an order.

THE CHAIRMAN: Is that to be expressed as for ever and a day or until the time for appealing has expired?

MR. STUART: It is "pending the hearing of any appeal".

THE CHAIRMAN: So, we require the Bar Standards Board not to issue the respondent with a practising certificate ----

MR. STUART: If he applies pending any appeal.

THE CHAIRMAN: ---- if he applies pending any appeal.

MR. STUART: That is it, sir, yes.

THE CHAIRMAN: Okay.

MR. STUART: Thank you.

10. Accordingly, the Respondent was disbarred by the Tribunal on counts 3, 4, 5 and 6. No further sanction was imposed on counts 1, 2 and 7.

11. The Tribunal made an order under rE227 preventing the BSB from issuing a practising certificate to Mr Bajwa pending any appeal.

12. The Treasurer of the Honourable Society of Gray's Inn is requested to take action on this report in accordance with rE189 of the Disciplinary Tribunal Regulations.

**Approved: 01 October 2019**

**HH Witold Pawlak**
**Chairman of the Tribunal**