



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2019/1102/D5

Ahtiq Raja

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

Ahtiq Raja

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 24th October 2022, I sat as Chairman of a Disciplinary Tribunal on 17th November 2022 to hear and determine one charge of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Ahtiq Raja, barrister of the Honourable Society of Lincoln's Inn.

Panel Members

The other members of the Tribunal were:

Paul Robb (Lay Member)
Sadia Zouq (Barrister Member)
Tracy Stephenson (Lay Member)
Josephine Davies (Barrister Member)

Charges

The following charge was admitted:

Statement of Offence

Professional misconduct contrary to Core Duty 5 an/or rC8 of the Bar Standards Board Handbook [versions 3 and 4].

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Particulars of Offence

Mr Ahtiq Raja, a barrister and BSB regulated person, behaved in a way which is likely to diminish the trust and confidence which the public places in a barrister or in the profession, in that he dishonestly retained an overpayment of gift aid to his charity in the sum of £238,787.50 made on 18 July 2016. For this he was convicted before the Crown Court sitting at Northampton on the 31 October 2019 and was sentenced on 14 January 2020 to a 24-month Community Order, with 15 days rehabilitation activity requirement and 200 hours unpaid work and to pay a victim surcharge of 200 hours.

Parties Present and Representation

1. The Respondent was present and was represented by Mr Marc Beaumont of counsel. The Bar Standards Board (“BSB”) was represented by Ms Rachel Gourley of counsel.

Preliminary Matters

2. There have been two Convening Orders sent out in this case – both dated 24th October 2022. One has Mr John Vaughan as one of the Lay Members, whereas the second has Tracy Stephenson in his place. His appearance on the first was an error.
3. The Panel had received guidance from the clerk pointing them to rE147 which allowed a Panel member to be replaced by another of the same standing by the President. This was highlighted to the parties.
4. Mr Beaumont took brief instructions from his client and then confirmed that there was no issue with this replacement. The BSB had no issue with this change.
5. The BSB made an application to amend the date in the charge from 11th May 2017 to 18th July 2016. This application was unopposed and was granted by the Panel.

Pleas

6. Mr Raja accepted the single charge against him when it was put.

Evidence

7. Ms Gourley opened the facts of the case.

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8. The money which had been paid in error by HMRC was eventually repaid by Mr Raja after he had been called for interview under caution, but prior to the criminal charges being brought against him.
9. Mr Raja pleaded not guilty to theft and was tried in the Crown Court. There was a disagreement as to the nature of communications between Mr Raja and HMRC, specifically as to whether or not repayment of the sum paid in error was required immediately. HMRC said that they had told Mr Raja that it was. The matter was passed to another team within HMRC but due to administrative error, that team never contacted Mr Raja.
10. The jury convicted Mr Raja of theft. The verdict of the jury means they were sure that there was an intention to permanently deprive HMRC of the money. At the sentence hearing, HHJ Crane assessed the culpability as medium on the basis of the period over which the funds were kept and the fact that they were moved and used. The amount of money stolen placed it in Category 1 for Harm within the Sentencing Guidelines.
11. Ms Gourley set out the relevant Sanctions Guidance.
12. Mr Beaumont mitigated on behalf of Mr Raja. He encouraged the Panel not to disbar Mr Raja, but to impose a lengthy period of suspension. This submission was advanced on the basis that Mr Raja had a significant number of dependants including a severely disabled son.
13. The Panel asked a number of questions about pertinent points of Mr Beaumont's mitigation, including how the money had been ringfenced by the purchase of the property, what the rental plans were, whether the property had been sold in order to repay the money to HMRC, whether Mr Raja's family were in receipt of any statutory benefits.
14. There was a 30-minute break for Mr Beaumont to take further instructions.
15. When the hearing reconvened, Mr Beaumont provided further financial details. The property had not been sold to repay the money, it was no longer owned by the Charity, but had been bought by Mr Raja. Mr Beaumont said that Mr Raja was unaware whether

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his former partner, the mother of his children, received any statutory benefits. Mr Beaumont outlined Mr Raja's annual expenditure in supporting his family – this amounted to £49,500 and was in addition to the £36,588 mortgage payments and the £18,000 annual repayments for two bounce back loans as set out in the statement dated 3/11/2022. These annual outgoings totalling over £104,000 were met from a gross income of £100,000 and personal loans from friends. Mr Beaumont indicated that if the Panel were not content with the level of detail then the proper course would be to adjourn to allow more information and evidence to be provided.

Findings

16. Mr Raja had accepted the facts and that these amounted to misconduct.

Sanction and Reasons

17. 'The Respondent is facing one charge of professional misconduct contrary to Core Duty 5 and/or rC8. The particulars of the offence were amended with permission of the Tribunal today to correct a date. There was no opposition to that amendment. The particulars of the offence are as follows [read into the record]. Mr Raja admitted the charge. His position in relation to the charge was initially reserved, but his acceptance of it seems to have been known – or at least assumed - by the BSB as of May 2022. Today the BSB has been represented by Ms Gourley of counsel and Mr Raja by Mr Beaumont of counsel. We are grateful to both for their careful written submissions amplified orally before us today.

18. The facts of the offence of theft may be summarised shortly. Mr Raja was the sole director and trustee of a Charity devoted to good works in this country and overseas. In July 2016 HMRC mistakenly made overpayments of Gift Aid in the sum of £238,787.50. They paid it into the bank account of the Charity. Mr Raja appropriated those funds by placing them into a savings account in his sole name. His case was always that he was ringfencing the money, and that once HMRC demanded, as they were entitled to, repayment, he believed that there was an option to defer repayment by offsetting the amount paid in error against future payments of Gift Aid. That was a contentious issue at the trial, HMRC having said emphatically that they had not offered an offset. The issue was decided firmly against Mr Raja. The money was repaid in January 2018 almost a year and a half after the wrongful payment. In the intervening time Mr Raja had purchased a residential property in the name of the Charity. He arranged for a deed of trust to be

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drawn up prior to purchase saying that it was held for HMRC. There were requests by HMRC throughout the summer of 2016 for repayment. Eventually the case was handed to the debt management section of HMRC who failed to take any steps to recover the money. In November 2017 Mr Raja was called in for interview under caution and in 2018 he was charged with theft. After the interview, but before the criminal charge, Mr Raja repaid the money.

19. The Tribunal has been provided with a bundle of documents prepared by the BSB, comprising, inter alia: the Prosecution and Defence closing speeches in the criminal trial; HHJ Crane's summing up, legal directions and sentencing remarks; and correspondence between Mr Beaumont and Mr Raja and the BSB itself. We have also been provided with a bundle of documents helpfully prepared on behalf of Mr Raja which includes his statement and 7 testimonials from people who know him very well, all of whom speak very highly of him. Attached to the statement are documents showing a deed of trust drawn up prior to the purchase of the property making it clear that Mr Raja always accepted that property had been bought with monies owed to HMRC for whom the property was held on trust. In his statement Mr Raja accepted that his conduct amounted to professional misconduct for which he expressed profound remorse. That was repeated in the written and oral submissions by Mr Beaumont.
20. The Panel must go through a number of stages to arrive at the appropriate sanction in this case. We remind ourselves that it is not the function of the Tribunal to punish the Respondent, although it is accepted that whatever sanction is imposed on the Respondent it will have a punitive effect not just on him but also on his family. The approach that the Tribunal must take, and it is an approach which we have considered very carefully, is as follows. The first step is to determine the appropriate Misconduct Group. Given that this case involves a conviction for an offence of dishonesty, it falls into Group A.
21. The next step is to consider the seriousness of the misconduct, and this is a 2-pronged approach covering both culpability and harm. Turning to those factors, looking at pg 39 of the Sanctions Guidance and firstly culpability, the following factors apply. The misconduct persisted over a period of time – namely from receipt and transfers of the money into the sole account in July 2016 and January 2018 when they were repaid. We

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are satisfied that the dishonesty was calculated and that it involved a degree of sophistication and planning. In that regard we rely on the fact that the Respondent went to the trouble of preparing a deed of trust which appeared to us to be a smokescreen to cover what he was doing. We are very conscious that Mr Raja himself did not benefit from the dishonesty and we are also satisfied that there is no evidence of any intention on his part to so benefit. The question of culpability is further set out and identified at pg 74 and 75 in the guidance. I refer here to annex 2. One of the factors is whether the conduct was intentional or reckless – it was manifestly intentional. A further factor is whether there was any attempt to conceal or lay the blame elsewhere. We find that there was an attempt to lay the blame on Mr Johnson, the HMRC employee who was said by Mr Raja to have offered him the possibility of offset, which Mr Johnson denied in his evidence. It is clear from verdict of the jury that Mr Raja’s account was rejected since the jury were sure that Mr Raja acted dishonestly and had the intention to permanently deprive HMRC of the money. Although this was a one-off incident it was nonetheless sustained over the period mentioned. It was an act of dishonesty committed in breach of trust. Mr Raja was trustee of the Charity and had control over the circumstances giving rise to the misconduct. The other factors set out at pgs 74 and 75 in relation to culpability do not apply in this case. There is no suggestion that Mr Raja involved anyone else, nor that he targeted any vulnerable individual or organisation.

22. As far as harm is concerned, pg 39 of the guidance sets out 2 specific bullet points which we consider. There is not a case where a client was affected adversely by the dishonesty. Although Mr Raja did not behave dishonestly in the course of his professional dealings, we are satisfied that the public trust in the profession is nevertheless undermined to a significant degree by his dishonest conduct. In terms of financial loss, it seems ultimately there was none. The total sum was repaid, and HMRC did not seek the payment of interest. Financial loss is not significant here, but the damage caused to the public confidence is in our view significant and therefore the harm itself is significant.

23. It follows then that our judgement on culpability and harm is that both are significant. For the sake of completeness, I should go to other harm factors amplified at pg 75 in the guidance. I stress that we have taken into account that there was no harm to vulnerable individuals, that there was no adverse impact on the administration of justice, and no remedial work was required as a result of the misconduct.

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24. The next step is to determine the indicative sanction for the misconduct. Since the misconduct involved dishonesty, the indicative sanction is disbarment. That would apply whichever category of culpability and harm applied. We found both to be significant. We have considered all the aggravating and mitigating factors to be taken into account in determining whether the indicative sentence of disbarment should not be followed in this case – whether it would be totally disproportionate to disbar the Respondent and whether the sanction of suspension as advocated by Mr Beaumont would do justice to the case.
25. We have considered very carefully all of the relevant matters. As far as the approach is concerned, Mr Beaumont has invited us to find that there are exceptional circumstances in this case both relating to the dishonesty itself and also relating to the Respondent’s personal circumstances which tip the balance in favour of suspension rather than disbarment. Mr Beaumont identifies five features of the misconduct which he submits amount to exceptional circumstances. Firstly, the dishonesty related to an act involving the Charity and not the Respondent himself. The Respondent did not benefit personally. We accept that there is merit in this first point. Secondly, the dishonesty did not occur in the course of practice at the Bar. We are not persuaded that there is any merit in this point. It cannot be said that barristers can do whatever they like outside of their profession. Nor can it be overlooked that the misconduct took place in relation to the Charity for which Mr Raja was responsible. Thirdly, the purchase of the property itself was transparent. Mr Raja told the solicitors acting for him in the conveyance that the property was held on trust for HMRC. We judge that to some extent that supports the Respondent, but, on other hand, going to the lengths of preparing a deed of trust might be said to be attempting to cover the tracks. In fairness to the Respondent, we acknowledge that there was no attempt to set a false trail to disguise the ownership. Fourthly, far from being dissipated or spent on a lifestyle of luxury, the money was secured by the purchase of the property. Fifthly, ultimately there was no loss to HMRC. The only point which we judge to be exceptional is that the dishonesty did not benefit Mr Raja personally.
26. Mr Beaumont also argued that the Tribunal is entitled to and should look at the personal circumstances of the Respondent. There seemed initially to be some dispute between Ms Gourley and Mr Beaumont on this, but they seem to have agreed that the personal circumstances of Mr Raja might be taken into account when deciding whether

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exceptional circumstances exist such as to avoid disbarment, although the primary focus of the consideration of the Tribunal must be upholding the standards of the Bar, the integrity of the Bar and public confidence in the Bar.

27. The Respondent's personal circumstances are very sad. He and his former wife have 6 children together. Their 17-year-old son is severely physically and mentally disabled. He requires round the clock care and spends long and frequent periods in hospital. His mother suffered a serious head injury in an RTA and suffers from depressive illness and a number of other issues. Although Mr Raja does not live with the children and their mother, he has taken on the responsibility of care for his family, including his disabled son. He devotes many hours to their welfare, works full time at the Bar and has worked for charities, but his primary focus is always the welfare of his family. The circumstances of his family are indeed very difficult, and we accept everything that has been said about his son and his former partner. These difficulties were considered by the sentencing judge who had been provided with a large amount of material. We also bear in mind the important role the Respondent plays within the community. He has motivated a number of people from disadvantaged backgrounds and from ethnic minority backgrounds to follow a legal career. He is an inspirational figure locally and he is motivated to help others. He is said to be generous and hardworking. All the referees speak of how people look up to him and how enormously helpful he has been within the community. We have taken all of those points very much into account.
28. Having considered all of the factors both relevant to the dishonesty itself and to the Respondent's personal and tragic family circumstances, we are not persuaded that individually or cumulatively, they outweigh the gravity of this offence or that they outweigh the interest in promoting and maintaining the integrity, reputation and public confidence in the Bar. It is the unanimous judgement of the Tribunal that, notwithstanding the likely very serious impact on the Respondent and his family, the only just sanction is the sanction of disbarment.'
29. Mr Beaumont made an application for the disbarment to be suspended as Mr Raja has two cases that are close to settlement, and he needs a fortnight to conclude them. The Clerk advised the Panel that there is no such power – rE221 applies only to suspensions of 3 months or less. The disbarment will not come into force immediately as it does not

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begin until the period for an appeal has lapsed. This is consistent with the heading above rE225 which makes clear that if the Panel wish to cause the Respondent to cease practice immediately then they must order a suspension to take place immediately to cover the appeal period.

30. Mr Beaumont contended that the Panel has the discretion to make any order not expressly prohibited by the Rules.
31. Ms Gourley then suggested that rE225-227 allow this effect. The Clerk repeated her advice that those rules cover whether the Respondent should be suspended immediately to cover the appeal period before the disbarment comes into effect in 21 days' time.
32. The Panel retired to consider this application and advice. The Panel ordered that Mr Raja's practising certificate be suspended from 3rd December 2022, thus allowing him 16 days to complete his current cases. Pursuant to rE229 the Panel imposed a condition with immediate effect which is that Mr Raja be prohibited from accepting any new instructions.
33. The BSB made an application for costs in the sum of £1560. This was resisted by Mr Beaumont. Having retired to consider the application, the Panel ordered the Respondent to pay costs in the sum of £1560 inclusive of VAT within 28 days
34. The Treasurer of the Honourable Society of Lincoln's Inn is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

Dated: 22/11/22

**Her Honour Janet Waddicor
Chairman of the Tribunal**

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