



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC2019/1045/D5

Mr Victor Adiamah

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 Victor Adiamah

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 29 March 2021, I sat as Chairman of a Disciplinary Tribunal on 19th and 20th April, and then again on 9th July 2021 to hear and determine three charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Victor Adiamah, barrister of the Honourable Society of Lincoln's Inn. Submissions on sanction were heard on 27th October 2021. All hearings were conducted via Zoom.

Panel Members

2. The other members of the Tribunal were:

John Walsh (Lay Member)

Sadia Zouq (Barrister Member)

Lakshmi Ramakrishnan (Lay Member)

Thomas Williams (Barrister Member)

Charges

3. Mr Adiamah denied all three charges. Charges 2 and 3 were found proven. Charge 1 was not found proven and was dismissed. The following charges were proved:

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Charge 2

Statement of Offence

Professional misconduct contrary to Rule rC8 of the Bar Standards Board Handbook.

Particulars of Offence

Victor Adiamah behaved in a way which could reasonably be seen by the public to undermine his honesty, in that, on the 6 March 2019 at the Bradford Combined Court Centre, he discontinued a claim for personal injury compensation without having explained discrepancies within his own case and with the Defendant's unchallenged evidence, which led the judge in that case to find that he had been fundamentally dishonest.

Charge 3

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Bar Standards Board Handbook.

Particulars of Offence

Victor Adiamah behaved in a way which was likely to diminish the trust and confidence which the public places in a barrister or in the profession, by holding himself out as a practising barrister when not authorised to do so, contrary to the Scope of Practice Rules, in a witness statement dated 21 July 2018 in his claim for personal injury compensation following a road traffic collision on 30 December 2016.

Parties Present and Representation

4. The Respondent was present and was represented by counsel Ms Janice Brennan. The Bar Standards Board ("BSB") was represented by counsel Mr Leo Davidson.

Preliminary Matters

5. After Mr Davidson's opening, and following lengthy discussion between the Panel and the parties about how the charges were drafted, and the way in which the same were capable of being proved when the BSB relied only on the County Court Judge's judgment, Mr Davidson took some instructions.

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6. When the hearing resumed Mr Davidson struck out 1b and 2a. He confirmed that he was not calling any live evidence; the BSB's case was based on the papers, challenging evidence that Mr Adiamah will put forward and putting their case to him.
7. The BSB was reminded that if they changed their mind having heard the evidence of Mr Adiamah and then sought to call evidence that they could have called in the first place, they may not be permitted to do so. Mr Davidson submitted that from a practical perspective it was unlikely any further evidence would be forthcoming as no one was 'waiting in the wings'.

Evidence

8. The BSB relied solely on the documentary evidence that was contained within the bundle that they had provided to the Panel. These included the County Court judgment, other documents from the County Court proceedings, various pieces of correspondence, medical reports and a report on damage to the car involved in the accident.
9. The BSB closed its case just after lunch on 19th March, having given a detailed opening, and Mr Adiamah was called to give evidence.
10. Mr Adiamah gave evidence that he had been badly represented by Slater and Gordon, with him not knowing that Mr Calderbank – his contact at the firm- was not a solicitor. He accepted that he had signed a variety of legal documents pertaining to the County Court case without reading them, despite the Statement of Truth above his signature.
11. He maintained that he had suffered the injuries he had alleged in the County Court, and that parts of the report from his employing company's private GP were incorrect, especially where Mr Adiamah was said to have relayed to the doctor the circumstances of the injury and the nature of the crash. Mr Adiamah said he was not asked how the accident had happened by that doctor. He had suffered neck and lower back pain as a result of the crash and had been prescribed Naproxen and Diazepam.
12. A consultation was advised, but that would have required Mr Adiamah to pay, and he could not afford that. He said that the accident led to sudden braking causing a jolt . He was told how the crash took place by the person who was driving. After the collision Mr

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Adiamah began to feel pain in his neck and lower back. He said he had hit his head on the back of the driver's seat on impact.

13. Mr Adiamah said that as a result of his injuries, he could not take the bin out, do the cleaning, carrying the Hoover upstairs. He was struggling with tasks such as ironing and, cooking amongst other things.
14. Mr Adiamah said that he trusted the solicitor to faithfully write in his witness statement what he said over the phone. He didn't check it – he accepted that he should have done and that it was sloppy. With hindsight it was not appropriate. When he later saw it, he asked Daniel Calderbank to correct it.

He told the person drafting his statement that he was an unemployed, non-practising barrister but at time of the accident he was a compliance officer with a company. He said that he was not trying to deceive the County Court into thinking he was a practising barrister.
15. His evidence was that his representatives discontinued the case primarily on the advice of counsel that they were not going to win the case and so there was no point going ahead with the case.
16. Mr Adiamah denied that he had had the issue of fundamental dishonesty explained to him prior to the decision to discontinue, and also said that he was not aware of any issue surrounding costs. They did not appeal the finding as he did not have the money to do so. Had he known of the consequences he would not have discontinued.
17. Ms Agyeman also gave evidence. She is the wife of Mr Adiamah and was in the car at the time of the collision. She also suffered injuries. She denied that she had been dishonest.
18. Ms Agyeman's evidence was paused to allow her to feed her baby, and her evidence was interpolated by the evidence of the third witness; Mr Kyei-Baafour, who was the driver at the time of the accident that formed the basis of the civil claim underlying these disciplinary proceedings.

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19. Mr Kyei-Baafour stated that Ms Agyeman and Mr Adiamah were in the back of the car, he was driving. He explained that the wing of his car – the driver’s side wing, was hit by the other car. As he was at the traffic lights he stopped. The driver of the other car hit his car when the lights changed to green – she was trying to cut across to the other side. He stopped ‘in a hard way’. Immediately after that collision he complained about pain – his pain was on his chest, and when his car was hit his head flipped to the side.
20. Ms Agyeman complained, and Mr Adiamah complained of pain, and so did the other passenger. The collision was very strong. He had known Ms Agyeman and Mr Adiamah for a long time, as church members and would describe them as very honest people.
21. Mr Kyei-Baafour considered going to the County Court to get money for the pain as he was having chest pain, but he had not claimed before, and it is a lot of paperwork and hassle and he thought better of it and thought there was no need to do it.
22. Ms Agyeman returned and completed her evidence. She denied any dishonesty on her part or knowing of any dishonesty by Mr Adiamah. She re-iterated that all decisions had been made on legal advice.
23. The matter was then adjourned for closing submissions to be made on 9th July 2021 when the Panel would reconvene.
24. On 9th July, the same Panel of 5, chaired by Judge Greenwood, reconvened and heard closing submissions from both parties. Preliminary submissions had been provided in writing in advance by both parties.
25. The Panel retired at 16:15 to consider their decision.

Findings

26. On their return, the Panel made the following findings, which were unanimous:

Charge 1 – not proved to the requisite standard, and so dismissed.

Charge 2 – proved to the criminal standard.

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Charge 3 – proved to the criminal standard.

27. They reserved their reasons to a later date due to time pressures. The hearing was adjourned to 17th September 2021 at 10:30. This date was later vacated by agreement of the parties and reset for 26th October 2021.

Sanction and Reasons

28. On 27th October 2021, the Panel and all parties reconvened for the reasons for their decision on the charges (as communicated to the parties at the end of the previous hearing) to be provided, and for submissions and decision on sanction.

29. Their reasons were as follows:

‘The decision was to dismiss charge 1, but find proved charges 2 and 3. Charge 1 – was amended by striking out the last part which forms part of Charge 2. Behaviour likely to diminish trust and confidence the public places in the Respondent or the profession in that he dishonestly brought and pursued a claim for personal injury by creating or exaggerating the injuries he sustained. This arises from a road traffic accident on 30th December 2016 in Southampton Row. The essence of charge 1 is of course that the Respondent and his wife did not suffer the injuries that they complained of at all, but created them, or exaggerated them in part. The evidence that we heard which was in part evidence which was not heard in the County Court included a description of the accident and the essence of that description was that when the collision happened, and for these purposes it doesn’t matter whether the car was struck from the side or rear, but when struck the driver braked hard and that caused the passengers to experience a jolt in the car. The Respondent in particular, nosedived forward, hit his head and he struck his forehead against the head rest. The injuries arose in that way. Now in order to find charge 1 proved, and of course there was other evidence of the braking as well, the BSB would have to prove that that version of events was untrue to a criminal standard. And we are unable to say that that burden has been discharged. The version of events that we have been given may well be true and the injuries in respect of which a claim was made may well have happened and accordingly it is not made out that they were created or exaggerated by the Respondent.

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Charge 2 is very different in nature, because what it charges is behaviour in a way that could reasonably be seen by the public to undermine his honesty at Bradford Combined Centre by discontinuing the claim without having explained discrepancies within his own cases and the defendant's unchallenged evidence which led the Judge in that case to find fundamental dishonesty. A good starting point to analyse evidence about that is what the judge said about it on page 100 of the judgement. He said this, at para 46. 'I preferred evidence of the defendant that this was a sidelong coming together of the vehicles, evidence not challenged by the second claimant. That evidence puts the second claimant in some difficulties. Had the second claimant given evidence at trial I might have had some apparently credible explanation that he might have been able to give for the discrepancies in this case. But the defendant's evidence is unchallenged and so there is no credible alternative. The second claimant attended his GP, but the account given to the doctor is that someone hit the car from the back and that is inconsistent with evidence from the defendant and first claimant and there is no evidence from the second claimant. I have heard no explanation and in my view one is required.'

Of course, our position is different. We have heard evidence from the Respondent and have listened carefully to what he has to say about what arose. What he said right at the very outset of his evidence was that it was incorrect to say that the car was struck from the back. And he is not saying and wasn't saying in his evidence that that was why the injuries occurred. His account is based on the hard braking. But then when dealing with why the various documents came to have discrepancies within them, he said, most clearly at one point in cross-examination but also in evidence in chief, that he simply did not read the documents concerned. At page 67 are the particulars of the claim, and his signature is under his declaration of truth. He said that is his signature and he should have read the document but he didn't. He then went on to deal with page 34 which is the witness statement and in respect of his witness statement he said this; 'it was done over the phone, over a weekend, it must have lasted one and a half hours, it was with an agent of S&G and it was sent to me to sign' and he said once again, 'I did not read it'. So page 38 states that the contents of the statement are true, and he has signed that, certifying the truth of the document, but he says he did not read it before signing. Then when it was put to him in terms later on in cross-examination, that he is saying that he did not read the particulars of claim or the witness statement or the medical report of

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the special damage document before signing or certifying the truth of these documents, he said he did not read them. He described that as sloppy. Page 85 is worthy of a mention. It is a reply to a response for further information, and he signs that response as true. In it he refers a number of times to the witness statement. Well, he is saying that he didn't read the comment which ends on page 85, neither did he read the witness statement at the time. When he was asked whether that was honest behaviour he said it was sloppy and not professional. He was pressed on whether it is honest, and he repeated more than once his description of it as sloppy. The point the judge was making is that arising from these various documents there were discrepancies which he had found, and the judge was given no explanation. It is hardly surprising in those circumstances that the judge came to the conclusion that he had been fundamentally dishonest in presenting documents which contained the discrepancies. It seems to us that in respect of charge 2, there are 2 possibilities. One is that he did read those documents before certifying them as true in which case he is responsible for the discrepancies that arose and he has not told this Tribunal the truth about the matter as he said he did not read it. It seems to us, in respect of the witness statement, that he must have read it as he certified the truth of it, he worked on it for an hour and a half and the contents must have come from him. Is that behaviour in a way that could reasonably be seen by the public to undermine his honesty? Certainly, it is, as a barrister who certifies the truth of documents and signs them as true must read them before he certifies them as true. To do otherwise is dishonest and if later discrepancies appear as a result of such conduct, he has only himself to blame if the public in general and in this case the judge in particular concludes that he has acted in a way that undermines his honesty. The alternative is that he did not read them at all, which we do not accept.

Accordingly, we found that Charge 2 is proved and proved to a criminal standard. Charge 3 is to some extent proved by the same evidence, because charge 3 alleges that he behaved in a way which is likely to diminish the trust and confidence which the public places in him or the profession by holding himself out as a barrister when not authorised to do so. At page 34 is the witness statement and in it he states at paragraph 4 'I'm employed as a practising barrister'. At page 38 he certifies the truth of the statement and signs that and then the document goes before the court. I have already referred to the evidence which he gave about this. He worked on that witness

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statement with an agent from the solicitors over a period of an hour and a half. He dealt with that statement and he dealt with it again later when responding to a request for particulars. He says that in fact at the time he was not a practising barrister he was a non-practising barrister and unemployed. Well, who else but he would have described himself in that way in the witness statement? It can't have been this man who was working with him on the statement who didn't know what he was, and one presumes did not play any part in contributing to the contents of that statement. If the Respondent had said that he was an unemployed non practising barrister then that is what would have gone down in the statement. That is what would have been there when he went through it and signed it as true. We are satisfied to the criminal standard that this description came from him and he did hold himself out by describing himself in that way in his own witness statement which he signed as true and presented to the court. That diminishes trust and confidence in him or the profession. That charge was proved to the criminal standard.

30. The Panel then heard submissions on sanction. Mr Davidson for the BSB directed the Panel's attention to the relevant Sanction Guidelines, and made an application for costs. Ms Brennan mitigated by reference to some documents that the Panel took time to read before she began her mitigation.
31. Miss Brennan's mitigation focussed on the fact that Charge 2 was a perception offence – that it did not allege that Mr Adiamah had in fact been dishonest – it alleged that he appeared dishonest. She submitted that as a result disbarment was not available to the Tribunal. She acknowledged that her mitigation could not go behind the finding of the Panel that Mr Adiamah had read the witness statement before he signed it. She submitted that Charge 2 was an unusual set of circumstances that did not sit comfortably within the Sanctions' Guidance. She advanced personal mitigation based upon character references provided to the Panel.
32. Miss Brennan submitted that charge 3 was easy to deal with as page 66 of the Sanctions Guidance sets out the appropriate sanction for holding out. The charge relates solely to the wording of his witness statement in which he is described as a practising barrister. She submitted it had no effect on the conduct of the case in the county court, and he corrected it on the day of the hearing by telling his barrister. That

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was confirmed in the written note of the barrister who conducted the hearing. Either Mr Adiamah had deliberately mis-stated his status, or it had not been deliberate. A panel member highlighted that the first of those had been found to be the case by the Panel. Miss Brennan submitted a reprimand would be appropriate.

33. Returning to charge 2, Miss Brennan submitted that this was a very difficult charge to place, as it concerned an appearance of dishonesty, without any actual finding of dishonesty. After a period of mitigation, the Panel indicated that they did not intend to disbar Mr Adiamah. Miss Brennan urged the Panel not to suspend him, which would risk the loss of his employment at a bank; nor to impose a fine, on the basis that his family's financial circumstances were dire. She sought to persuade the Panel to impose a requirement of further CPD, and proposed specifically that undertaking the BPTC-standard Ethics' course would address concerns arising from this case.

34. The Panel retired to consider sanction and returned to give the following decision:

'We have considered sanction, and we are grateful to the advocates for the submissions they have made which have been consistently very helpful and have given us food for thought in relation to what isn't an easy matter. It is important to emphasise the difference between Charge 1 and Charge 2. Charge 1 was dismissed. Miss Brennan was right to say that if Charge 1 had been proven it would have meant disbarment. Charge 2 needs to be distinguished from Charge 2. Charge 2 is a perception offence. However, it needs to be said that it is a perception offence in respect of honesty. In other words, it charges behaviour which could reasonably be seen by the public to undermine honesty. The Bar is very jealous of its reputation and especially when it comes to honesty. And one doesn't need to look much beyond the guidance that we have on matters of honesty to realise that this is central, at the very core, of the reputation of the Bar. It is something of which the Bar is proud and jealous to guard its reputation. What happened here is that it was seen by a Judge to undermine his honesty because he found him to be fundamentally dishonest in respect of the claim. In the course of the earlier reasons, I read that short passage in which the judge does that and it's clear that the reason why he did it was because the documents raised discrepancies and there was no explanation for them. Charge 2 deals with precisely that. Discrepancies had arisen within Mr Adiamah's own case in documentation which he had signed and in respect of which he had certified the truth and those discrepancies went unexplained and in those

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circumstances a judge in a court found that he was driven to make a finding of fundamental dishonesty against him and that is a serious matter. It is serious to the extent that we have no doubt, and we are unanimous about this as a Panel, that there must be period of suspension. It need not be very long, but there must be a period of suspension nevertheless. In setting the length of it we take into account that on the one hand Mr Adiamah has exceptional character references, they do him great credit and it's very clear that he does some extremely good work and that includes charitable work, church work and the like of which he can and should be proud. As against that in the context of these proceedings he has not shown remorse, he has made no admission, he has made no apology and he has made no concession in reality in the course of his evidence that this is a matter of real seriousness. We also take into account that this did not happen in the course of professional conduct – it was private conduct following a car accident. However, it was in the context of court proceedings and the finding was by a judge in a public forum. Weighing all those matters in the balance, on Charge 2 there will be a suspension of 9 months and 3 months concurrently on Charge 3. In the context, this will take effect by preventing Mr Adiamah from applying for a practising certificate as he does not have one at the moment. It is concurrent as Charge 3 is part and parcel of the conduct alleged because within the documents, within the witness statement in respect of which complaint is made, there is also the claim charged in charge 3 that he was a practising barrister which he was not. So, although a matter of seriousness as it was an attempt to mislead the court on a matter which may go to credibility, it is part and parcel of the same course of conduct as in Charge 2, which led to the finding of fundamental dishonesty and therefore we felt that there was no need to impose a consecutive period.'

35. On the BSB's costs' application, the panel ordered costs in the sum of £2000 and allowed 6 months to pay.

Dated: 3 November 2021

HH Alan Greenwood

Chairman of the Tribunal

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