



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC2019/0004/D5

Mr Syed Idnaan Ali

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Middle Temple

Disciplinary Tribunal

Syed Idnaan Ali

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 10.11.21, I sat as Chairman of a Disciplinary Tribunal on 30th November 2021 to hear and determine 6 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Syed Idnaan Ali, barrister of the Honourable Society of Middle Temple.

Panel Members

2. The other members of the Tribunal were:

Stephen Harpum (Lay Member)

Sadia Zouq (Barrister Member)

Lyndsey de Mestre QC (Barrister Member)

John Vaughan (Lay Member)

Parties Present and Representation

3. The Respondent was present and was not represented. The Bar Standards Board ("BSB") was represented by Mr Leo Davidson.

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Preliminary Matters

4. The BSB had indicated by letter prior to the hearing that they were not proceeding with the first set of charges, under reference PC2018/0498/D5, due to the witnesses being unavailable to attend, even by remote link.
5. At the beginning of the hearing, the BSB offered no evidence in relation to the seven charges under that reference, and the Panel dismissed them accordingly.
6. It was agreed that, despite the charges referring to 'Person Z', this anonymisation was unnecessary, as the identity of the individual was, and had always been, known to Mr Ali. Therefore, all references to Person Z in the charges were amended to read 'Mr Januha'. There was no objection to this course.

Pleas

7. Mr Ali denied all six charges that remained under the 2019 reference number.

Evidence

8. Mr Davidson opened the case on behalf of the BSB, explaining the charges for the benefit of Mr Ali, who was unrepresented.
9. Mr Davidson noted that the Panel would have to find the charges proven to the criminal standard if they were to find against Mr Ali.
10. Mr Davidson referred the Panel to the Complaint Form – found at B1-9 in the BSB's bundle, and the text messages at B17-B20.
11. Attention was also drawn to the statements of Mr Januha (at B25-28), who was giving oral evidence, and Miss Verma (at B29), who was not available, and an SRA investigation letter into the firm Ahmad and Williams.
12. Mr Januha was called to give evidence over the link. Mr Davidson took Mr Januha through the crucial points, and Mr Januha confirmed that the contents of his witness statement were true.

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13. Mr Ali cross-examined Mr Januha. Mr Januha thought they first met in June at Mrs Ahmad's office. Mr Januha came to the firm to ask about his case, his asylum case, Mr Ali told him to apply for judicial review.
14. Mr Ali had said that he could help Mr Januha with a judicial review claim relating to his suspended asylum application. He had been asked for evidence of his family life in support of his asylum application and Mr Ali suggested to him that he had not provided this evidence and that was why his asylum claim had been refused. Mr Januha said that he and his partner had visited the office with that information. After clarification it was established that Mr Januha's partner attended the office and spoke to Mr Ali.
15. Sometime later, Mr Januha went to the office when the asylum claim was refused. He met Mr Ali on that occasion in a meeting room at the office. Mr Januha was told to give money to another member of the firm, and he got a receipt for the money with the name of Ahmad & Williams on it. Mr Januha never received a receipt for a later payment asked for by Mr Ali. There was also a later request for £500 but Mr Januha didn't pay it. Overall Mr Ali paid £150 to Hafeez (and received a receipt) in the meeting room of the solicitors and this was said to be for court costs. He paid £150 to Mr Ali on another occasion in the meeting room when Mr Ali said a letter would be written that would cost that amount.
16. Mr Januha said he was pushed by Mr Ali at the office at Stoney Lane. He only went there once.
17. The case resumed in the afternoon and Mr Ali was sworn. Mr Ali denied preparing any JR claim form or anything associated with a JR claim. He denied receiving any money from Mr Januha (or any other client). He denied pushing Mr Januha at his father's office. He could not recall writing the document at B10 (his father's office address), but said that it was possible that he had. He said that whilst he was at Ahmad Williams, he had referred a number of clients through his family network, and also his father was a mortgage broker so he sometimes wrote down his father's address if the clients wanted a referral.
18. Mr Ali agreed that he met clients on the instruction of Mrs Ahmad. He said that he networked a lot, but he never used his father's office. He had not used it since he had been studying as a student.

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19. In cross-examination Mr Ali accepted that the text messages exhibited were between him and Mr Januha. He denied that the claim form came from him. He said the address written on paper at B10 might have been from him. He denied that his father was in any way linked to his activities at Ahmad Williams. He said that during his time at Ahmad Williams he worked very hard, going above and beyond what was required of him.
20. Mr Ali said that he had referred Mr Januha to his father as Mr Januha had been wanting some financial advice.
21. He said he worked very hard and was regularly in touch with clients, including outside of office hours, and on weekends. He said that when Mr Januha texted him to ask about the JR claim, Mr Ali immediately phoned Mr Januha back and explained that he had no idea what JR claim Mr Januha was referring to.
22. There were a couple of questions from the Panel. In response, Mr Ali said he had contacted Ahmad Williams and had been told that everything would be disclosed, but then as time went on, they refused to disclose anything, even the client care letter.
23. In response to further questions Mr Ali became uncertain as to whether he had been telling Mr Januha whether to meet him at the Ahmad Williams office, or whether he had been referring to his father's address. He then concluded that it would be a meeting at Ahmed Williams, and if he was referring him to his father's address it would have been for Mr Januha's financial matters.
24. Part way through the closing submissions, Mr Ali said that had he known that his dad not giving evidence would be a point of comment, he would have called him. As he was unrepresented, the Chair indicated that if he made an application, even at this late stage, to re-open his case to call his father, the Panel would consider that application.
25. Mr Ali made that application, and Mr Davidson opposed it. The Panel retired to consider it, and granted it, providing that his father could be available the following day.
26. On the 1st December the Panel reconvened at 10:30. Mr Ali's father (Mr Shah) was present and ready to give evidence. He took the affirmation and then proceeded with his evidence.

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27. He is a financial advisor, since 1998, and has no business with Mr Ali. He had no record of Kesar Januha and did not recall him visiting his office.
28. In cross-examination he said that he had no dealing with immigrations, as he is a mortgage advisor. He said that he did not take referrals from his son, as the first question he would ask clients would be whether they had a British passport or indefinite leave to remain. He said that the majority of his work was mortgage advising.
29. He said he had an email address, but most of his clients would make an appointment with him. H said that the 128a Stoney Lane address had been his office since 2012. His normal working hours were 11:00-19:00. Mr Shah was the only person with keys to the office.
30. Mr Shah denied that he had pushed anyone, and insisted again that he had not met Mr Januha. Mr Shah said that Mr Ali could not give Mr Shah's address as he is an independent person.
31. In response to questions from the Panel, Mr Shah insisted that he had never had a referral from his son, as they were completely independent from each other. But he said that he was well-known in the Asian community and so if someone needed help, they would often come to directly to him.
32. Mr Shah clarified that even for a letting of a house, he would insist that someone had British citizenship or indefinite leave to remain
33. Mr Davidson was then allowed to add closing submissions on the basis of Mr Shah's evidence. Mr Ali then recommenced his closing submissions.
34. The Panel retired to consider their decision at 11:20. They returned at 12:30 as planned, but had not yet reached a decision. They had a question: whether in respect of Charges 5 and 6, it is possible to put a line through any specific part of the allegation. If the view of any member of the Panel that Charge 5 is proved, but not the pushing part of it (which is an 'and') can a line be put through the pushing and make a finding in respect of the rest?

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35. Mr Davidson responded that he thought this was permissible, on the basis that it would not prejudice Mr Ali, as it related to a suggestion that the Panel found only part of, as opposed to the whole of, a charge proven.
36. Mr Davidson pointed the Panel to rE161, and to the decision of the High Court in *White v BSB* from 2015. Mr Davidson did not oppose such an amendment being made to the relevant charge.
37. The Panel then invited Mr Ali to make submissions. It was explained to him that the amendment was adding an 'or', so it read 'and/or pushed', as opposed to just 'and pushed'. Mr Ali said that if the charge was not proved in full then he should be acquitted, and so he would rather have all or nothing, unless the Panel advised him otherwise. Whilst the Panel did not provide advice, the Chair highlighted that the amendment would enable the theoretical possibility of a 'halfway house' being found. Mr Ali asked whether this amendment amounted to a change to Mr Januha's version of events. The Chair considered this, but explained that it simply meant that the Tribunal might find part of Mr Januha's account to be right, but not other parts (i.e. that the push was exaggerated). Mr Ali reiterated that he left the decision to the Tribunal, then indicated that he agreed to the amendment.
38. The Panel allowed the word 'or' to be added before 'pushed' in charges 5 and 6. They then retired until 15:15.

Findings

39. When they returned, they found as follows:
- 'Charge 1. The reference in charge 1 is to the document at B11. There is a JR claim form in the bundle – an address appears for Mr Januha, which is Mary Street in Birmingham. Mr Januha said that was not his address. He said he was given that doc by Mr Ali. The Panel have given the matter very considerable and careful consideration, and, in the end, they prefer Mr Januha's evidence and find the charge proved, and the reasons in the main are as follows. The evidence that Mr Januha gave seems to be consistent with, and supported by, the text messages which appear, and are accepted to be genuine text messages between the parties. At B15, the document there reads – second entry – 'brother did you submit my JR?' so there he is enquiring about the JR and why would he

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be enquiring about it if his evidence on that aspect was not true? It does not elicit a response such as 'what are you talking about, there is no JR.' Although Mr Ali's evidence was that it may have been covered in conversations over the phone and did not feature in the text, it strikes us as considerable support for Mr Januha's evidence that he did raise it, and we prefer his evidence. In addition, there is reference to the address at 128A Stoney Lane, which is Mr Ali's father's address, and that is consistent with Mr Januha's evidence as he was told that this matter would be dealt with separately from Ahmad Williams and this was the address that he was given to go to. The alternative explanation, given by Mr Ali, that if he gave it, it was to do with father's business, that doesn't appear to be true, and is not accepted by the Panel as the real explanation. Firstly, not an explanation originally given by Mr Ali. Also, not an explanation supported by the father's own evidence. He said he was independent, and that he would deal in the context of mortgage and letting applications with people who had a British passport or indefinite leave to remain in the UK. In the exchanges, of course, those by text, there is no reference to father at all. It is noteworthy also at B55 that at the statement of Mr Ali himself, he emphatically denied that he was the author of the handwritten document with the address 128A Stoney Lane, and he stated there that he did not write the address for him on the piece of paper. He said he was completely independent of his father and he was unsure why Mr Januha had mentioned his father's address. You would have expected that if he was referring Mr Januha as a potential client, you would have expected that to feature in the statement of Mr Ali at B55. Accordingly, the unanimous decision of the Panel is that Charge 1 is proved.

Charge 2 has the same particulars. It is framed as a separate breach of Core Duty 5 and deals with diminishing trust and confidence. Again, unanimously, the Panel find Charge 2 proved for the same reasons – that Mr Januha's evidence that he was given that document by Mr Ali has been accepted by the Panel unanimously for the reasons already given.

No separate finding on Charge 3 – not surprising that Charge 3 appears, as in some circumstances it would be an alternative to Charge 1. But bearing in mind that we found Charge 1 proved, in our view there is no need for an additional finding in respect of Charge 3, and there is a risk of double jeopardy in these circumstances.

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Charge 4 – is found proved – again a unanimous decision of the Panel. For much the same reasons – it is accepted that Mr Ali told Mr Januha that he would prepare a JR claim for him, that is the evidence given by Mr Januha and supported by the texts which are accepted to be communications between the two men.

Charge 5 – this charge was amended following a brief discussion earlier this morning, to include the word ‘or’ so that the pushing is a separate particular. In the circumstances, Charge 5 is proved, and that is the unanimous view of the Panel. However, the pushing as one of the particulars is not found to be proved. The finding is that becoming rude and aggressive is proved, and accordingly that is the finding in relation to Charge 5. We make it clear, that to some considerable extent the reasoning behind excluding the allegation of pushing is that it is vague. Pushing can range from, at one end, ushering someone out of an office with minimal force, and to the other extreme where it might constitute a physical assault with some real force. It seemed to us that the safest course was to exclude that particular from our finding. It was also the father’s evidence that certainly he would never take part in that sort of conduct. Of course, we remind ourselves throughout that we have to make our findings to a criminal burden of proof – so that we are sure.

Charge 6 is very much the same – found proved by a majority of the Panel, except the pushing, which is not found proved. At its core the conduct did contain dishonesty as the claim for JR, which has a received stamp on it, was, according to the evidence, not issued, and Mr Januha expressed frustration and disappointment about that. In addition, he went to the address of the father’s office as he was told that there was some response to that claim for JR, and when he got there, he was told that there was no such response – no letter – as had been represented to him. He was therefore dishonestly misled by the representations that were made to him about pursuing a claim for JR. Therefore, the majority of the Panel found Charge 6 proved, in addition to Charge 5.

Sanction and Reasons

40. The Panel then proceeded to hear submissions on sanction from Mr Davidson. Mr Ali confirmed that he had in front of him the Sanctions’ Guidance to which Mr Davidson referred, and that he had received it in advance from the BSB in preparation for the hearing.

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41. Mr Davidson made his submissions on sanction.
42. The Panel were concerned that Mr Ali did not have any character references or similar assembled for the sanction hearing, and he also said that he wished to consider having representation. For those reasons, as well as the late afternoon time, the matter was adjourned for sanction and costs to be considered on 7th January 2022 at 10:00.
43. On 7th January 2022 the hearing resumed. Mr Ali was still unrepresented and had not served any further documents. He confirmed that he did not wish to do so, and did not wish for any further time to do so.
44. It was highlighted that the Sanctions' Guidance had changed since December 1st when the findings of fact were made, as Version 6 had now been released, with effect from 1st January 2022. Mrs Hilson confirmed that Mr Ali had been sent the new Guidance by email on 21st December when it was circulated to the Panel. The Panel members confirmed that they had the Sanctions' Guidance Version 6.
45. It was explained to Mr Ali that there was little difference between the old and new Guidance.
46. Mr Davidson made submissions on the new Guidance. He highlighted the general approach of 6 Steps at 3.3, and the general approach to dishonesty, before taking the Panel through each of the other relevant parts of the Guidance, and dealing with aggravating and mitigating factors.
47. It was confirmed with Mr Ali that he had followed and understood the submissions by the BSB. A brief break was then taken for Mr Davidson to take some instructions.
48. On the return, Mr Davidson raised an issue as to what would be the equivalent of suspension for someone who did not have a practising certificate. This was discussed, and it was advised that the usual equivalent would be an order that no practising certificate was to be issued to the Respondent barrister for a set period of time, that period of time being for the same length that a barrister with a practising certificate would have been suspended.

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49. Mr Ali made submissions. He said that he did now accept the allegations against him, and that he had made a mistake, and had learned from it. He advanced a number of matters of personal mitigation, and indicated that he had a conditional pupillage offer. At 12:20 the Panel retired to consider their decision on sanction.

50. At 14:00 the Panel returned and delivered the following decision:

The main charge, which is most serious and determines the outcome in reality is charge 1. That is because charge 1 deals with an allegation of dishonesty, in that Mr Ali behaved dishonestly in respect of the particular client, Mr Januha, by saying that he would deal with a judicial review claim, when in reality he did not at that time pursue it. And, in addition, by using a false address on the form that he presented. That being a matter of dishonesty the principles that govern it, and particularly now under the new sanctions, provide that any dishonesty on the part of a barrister has to be dealt with in a way which reflects the approach of the Bar to dishonesty, and the appreciation on the part of the Bar and the BSB that dishonesty cannot really be tolerated from a barrister.

The purpose of the sanctions is set out in the new version, Version 6 at p4. It is worth reading this part out fully, and I do so; p38 deals with dishonesty in particular. The various categories are separated in terms of groups, and dishonesty, not surprisingly, is Group A. It is divided up in the usual way – into culpability and harm. Under culpability in this instance, the first matter is the nature, scope and extent of the misconduct. In this instance, Mr Ali had led the client to believe that he would pursue a judicial review claim for him, and used the false address in doing so. Of course, that means that he misled the client and extensive evidence was heard from Mr Januha in relation to that. Mr Januha was charged a sum of money in respect of it and also asked for a further sum of money. He emphasised the distress caused to him, and also the delay and impact on the claim that he was making. Under harm in the categorisation of dishonesty, the issues to be considered are whether the dishonesty had an adverse effect on anyone, and on a client in particular and that applies here. The seriousness with which dishonesty is to be approached is clearly indicated in the following section headed ‘Indicative Sanctions Range.’ The indicative sanction is the same for each range – disbarment, and that is what has guided us. In the absence of exceptional circumstances, it seems to us that the only course that we can take regarding charge 1 is disbarment. Mr Ali addressed us on the

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difficulties that he went through at the time and the extent to which he now acknowledges and admits his conduct was wrong. However, those exceptional circumstances that he has pointed out – the pressure on him, a toxic environment in his place of work, being a father of a new child, having suffered a bereavement and being a relatively junior advocate – none of those matters can really amount to exceptional circumstances in relation to the dishonesty alleged and proved in Charge 1. Accordingly, on charge 1, the sanction we impose is one of disbarment.

Charge 2 deals with the same allegation, although in relation to a different core duty, alleging that he behaved in a way that was likely to diminish the trust and confidence the public places in him or the profession. The sanction is the same sanction, to run concurrently, – disbarment on that charge too.

Charge 3 – no separate finding.

On Charge 4 there is different guidance and for that we go to p 64. This is Group K – formal obligations to clients and in particular a breach of the public access rules, which was proved in this instance. Mr Ali was unregistered at the relevant time and without a licence for public access. The culpability in particular, the motivation was financial gain, clearly, because of the money sought. There was also a level of exploitation involved, as set out under culpability. It clearly caused the client distress and worry, as set out under harm. We have concluded that this comes in the middle range, and so the indicative sanction would be medium level fine or suspension. However, we have taken into account the totality and also Mr Ali's financial position, as he described it to us. He is currently very short of money and working pro bono. He has a family – a wife who doesn't work and children as well, so in our view he is not able to pay a fine, and taking into account totality, we propose to reprimand him in respect of Charge 4, and not go beyond that, bearing in mind the sanctions we are imposing on other charges.

For charges 5 and 6, being rude and aggressive towards the client when he was effectively complaining about his treatment, that is dealt with in Group I – at p 57. This was directed at a person in a vulnerable situation who was vulnerable also because of the place that he was in – namely the father's office. The conclusion we have come to is that in seriousness this falls in the middle range, and the sanction we impose, bearing in mind the background to this – the dishonesty involved as alleged and proved in Charge 1, and

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the position in which the client found himself at the time, is one of 12 months' effectively suspension – in Mr Ali's case he has no practising certificate so this is an order that he should not be granted a practising certificate for a period of 12 months. That takes into account the background and the actual conduct as described – the pushing was not proved against Mr Ali, and so this was rudeness, in a context in which the client was entitled to much more consideration because he was the client and the victim of the dishonesty alleged in Charge 1. On Charges 5 and 6 that is imposed concurrently.

We acknowledge that the orders we make by way of sanction will have a very real and detrimental effect on any career that Mr Ali may wish to embark upon, and we take into account what he has told us about his personal circumstances and ambitions. However, we have to refer back to the guidance and its purpose which we set out earlier, which is that the public must be protected and standards must be maintained. These are very important purposes of the guidance so recently issued, and which we not only are obliged to follow, but feel that we should follow, as the guidance is so important for the standards of barristers and also for the trust and confidence which the public should have in barristers when they work with them.

51. The BSB sought an interim suspension to cover the appeal period, and that was granted.
52. The BSB then sought costs in line with the schedule circulated on the morning of 7th January 2022 - £2460.
53. The Panel noted that means had to be considered, and that in his submissions on sanction Mr Ali had said that he had very little income, but would be able to borrow from his father to satisfy any financial orders made against him. The Panel awarded costs limited to £1560, on the basis that the BSB could make an agreement with Mr Ali giving him time to pay.
54. The Treasurer of the Honourable Society of Middle Temple is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

Dated: 12 January 2022

HH Alan Greenwood
Chairman of the Tribunal

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