



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2020/1136/D5 and PC 2021/6527/D5

Matthew John Boyden

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of the Middle Temple

Disciplinary Tribunal

Matthew John Boyden

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 7 December 2022, I sat as Chairman of a Disciplinary Tribunal on 12 January 2023 to hear and determine ten charges of professional misconduct contrary to the Bar Standards Board Handbook against Matthew John Boyden, barrister of the Honourable Society of the Middle Temple.

Panel Members

2. The other members of the Tribunal were:
 - Lakshmi Ramakrishnan [Lay Member]
 - Paul Robb [Lay Member]
 - Ashley Serr [Barrister Member]
 - Thomas Williamson [Barrister Member]

Charges

3. The following charges were found proven:

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PC 2020/1136/D5

Charge 1a

Statement of Offence

Professional misconduct contrary to Core Duty 1 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden, who at all material times was an unregistered barrister, and who was not entitled to hold a practising certificate throughout the period 22 March 2019 to 22 March 2022, failed to observe his duty to the court in the administration of justice on 10 July 2019 when he:

- .1 In a Preparation for Effective Trial form (case number 1900075685), gave his personal details for service of documents by the parties and by the court, and in doing so dishonestly gave the misleading impression, to the court and to others, that he was authorised to undertake a reserved legal activity (the conduct of litigation), and/or to practise as a barrister; and/or
- .2 Appeared before the Magistrates' Court on behalf of the Defendant (case number 1900075685), which was a public hearing, and in doing so he dishonestly gave the misleading impression, to the court and to others, that he was authorised to exercise a right of audience, which is a reserved legal activity, and/or to practise as a barrister.

[Charge 1b was stated to be in the alternative to Charge 1a It was in the same terms as Charge 1a save that dishonesty was not alleged. Having found Charge 1a to have been established the Tribunal were not required to make a finding on Charge 1b].

Charge 2

Statement of Offence

Professional misconduct contrary to rules 6 and 8 of the Scope of Practice, Authorisation and Licensing Rules, and Core Duty 10 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 4).

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Particulars of Offence

Matthew Boyden, who at all material times was an unregistered barrister, and who was not entitled to hold a practising certificate throughout the period 22 March 2019 to 22 March 2022, practised as a barrister and/or undertook reserved legal activities on or around 10 July 2019 in that he:

.1 In a Preparation for Effective Trial form (case number 1900075685), gave his personal details for service of documents by the parties and by the court, which amounted to the conduct of litigation, and in doing so undertook a reserved legal activity, and/or he practised as a barrister; and/or

.2 Appeared before the Magistrates' Court on behalf of the Defendant (case number 1900075685), which was a public hearing, and in doing so he exercised a right of audience, which is a reserved legal activity, and/or he practised as a barrister.

Charge 3

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden, who at all material times was an unregistered barrister, and who was not entitled to hold a practising certificate throughout the period 22 March 2019 to 22 March 2022, behaved in a way which is likely to diminish the trust and confidence which the public placed in him and in the profession on 10 July 2019 in that he:

.1 In a Preparation for Effective Trial form (case number 1900075685), gave his personal details for service of documents by the parties and by the court, which amounted to the conduct of litigation, and in doing so undertook a reserved legal activity, and/or he practised as a barrister; and/or

.2 Appeared before the Magistrates' Court on behalf of the Defendant (case number 1900075685), which was a public hearing, and in doing so he exercised a right of audience, which is a reserved legal activity, and/or he practised as a barrister.

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Charge 4

Statement of Offence

Professional misconduct contrary to Core Duty 9 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden failed to be open and co-operative with his regulator, the Bar Standards Board, in that between 27 November 2020 to 16 June 2022, he failed to respond promptly or at all, to requests for information sent in respect of a regulatory investigation under BSB case reference PC2020/1136.

PC 2021/6527/D5

Charge 1

Statement of Offence

Professional misconduct contrary to Core Duty 3 of the Code of Conduct of the Bar of England and Wales (9th Edition) Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden acted dishonestly when he caused or allowed the website of his employers to display a profile which contained a description of him as a 'commercial barrister' who provides legal services to his employer and clients, from at least 08 February 2022 to 16 May 2022, when he knew that:

- (a) on 21 January 2021 the Disciplinary Tribunal made an order which prohibited him from applying for a practising certificate for a period of three years, from 21 January 2021 to 21 January 2024, and
- (b) on 22 March 2019 the Disciplinary Tribunal made an order which prohibited him from applying for a practising certificate from 22 March 2019 to 22 March 2022.

Both of these orders were sent to him and were published on the websites of the Bar Standards Board and the Bar Tribunal and Adjudication Service. At all material times, from 1 April 2016, Matthew Boyden was an unregistered barrister.

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Charge 2

Statement of Offence

Professional misconduct contrary to rule 8 of the Scope of Practice, Authorisation and Licensing Rules, and Core Duty 10 of the Code of Conduct of the Bar of England and Wales (9th Edition) (Bar Standards Board Handbook Version 4).

Particulars of Offence

Matthew Boyden caused or allowed the website of his employers to display a profile which contained a description of him as a 'commercial barrister', who supplied or offered to supply legal services to his employer and clients, from at least 08 February 2022 to 16 May 2022, during which time he was prohibited from applying for a practising certificate by virtue of orders of the Disciplinary Tribunal dated 21 January 2021 (applying a prohibition from 21 January 2021 to 21 January 2024), and 22 March 2019 (applying a prohibition from 22 March 2019 to 22 March 2022), and was or ought to have been aware of the same. At all material times, from 1 April 2016, Matthew Boyden was an unregistered barrister.

Charge 3

Statement of Offence

Professional misconduct contrary to Conduct Rule 64.2 and Core Duty 9 of the Code of Conduct of the Bar of England and Wales (9th Edition) Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden failed to comply in due time or at all with a decision imposed by the Disciplinary Tribunal [BSB case reference: PC/2019/0391/D5] dated 21 January 2021 which ordered him to pay costs in the sum of £1770 to the Bar Standards Board, which he was ordered to pay by 26 February 2021.

Charge 4

Statement of Offence

Professional misconduct contrary to Conduct Rule 8 Bar Standards Board Handbook (Version 4).

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Particulars of Offence

Matthew Boyden behaved in a way which could reasonably be seen by the public to undermine his honesty and/or integrity in that he:

- .1 acted without integrity when he failed to comply with an order of the Disciplinary Tribunal [BSB case reference: PC/2019/0391/D5] dated 21 January 2021 in respect of payment of the Bar Standards Board's costs in the sum of £1770.00 in due time or at all; and/or
- .2 acted with dishonesty and/or without integrity when he caused or allowed the website of his employers to display a profile which contained a description of him as a 'commercial barrister', who supplied or offered to supply legal services to his employer and clients, from at least 08 February 2022 to 16 May 2022, when he knew, or ought to have known, that on 21 January 2021 the Disciplinary Tribunal made an order which prohibited him from applying for a practising certificate from 21 January 2021 to 21 January 2024, and that on 22 March 2019 the Disciplinary Tribunal made an order which prohibited him from applying for a practising certificate from 22 March 2019 to 22 March 2022, both of which orders were sent to him, and were published on the websites of the Bar Standards Board and the Bar Tribunal and Adjudication Service.

Charge 5

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition) Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden behaved in a way which is likely to diminish the trust and confidence which the public places in him and/or or in the profession, in that he:

- .1 failed to comply with an order of the Disciplinary Tribunal [BSB case reference: PC/2019/0391/D5] dated 21 January 2021 in respect of payment of the Bar Standards Board's costs in the sum of £1770.00 in due time or at all; and/or
- .2 caused or allowed the website of his employers to display a profile which contained a description of him as a 'commercial barrister', who supplied or offered to supply legal services to his employer and clients, from at least 08 February 2022 to

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16 May 2022, when he knew, or ought to have known, that on 21 January 2021 the Disciplinary Tribunal made an order which prohibited him from applying for a practising certificate from 21 January 2021 to 21 January 2024, and that on 22 March 2019 the Disciplinary Tribunal made an order which prohibited him from applying for a practising certificate from 22 March 2019 to 22 March 2022, both of which orders were sent to him, and were published on the websites of the Bar Standards Board and the Bar Tribunal and Adjudication Service.

Charge 6

Statement of Offence

Professional misconduct contrary to Conduct Rule 64.1 and Core Duty 9 of the Code of Conduct of the Bar of England and Wales (9th Edition) Bar Standards Board Handbook (Version 4).

Particulars of Offence

Matthew Boyden failed to be open and co-operative with his regulator, the Bar Standards Board, in that between 8 February to 16 May 2022, he failed to respond promptly or at all, to requests for information sent in respect of a regulatory investigation under BSB case reference PC021/6527.

Parties Present and Representation

4. The Respondent was not present and was not represented. The Bar Standards Board (“BSB”) was represented by Rachel Gourley of Counsel.

Preliminary Matters

Application to Proceed in Absence of the Respondent

5. Ms Gourley, on behalf of the BSB, made submissions in relation to the application that was outlined in a document provided by her on the 20 December 2022, which the Tribunal panel members had received and considered. Ms Gourley explained in detail the efforts that had been taken by the BSB to ensure that the Respondent had been served with the necessary documents in accordance with rE183.

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The BSB were asked by the Tribunal when the Respondent last communicated with them. As the original Investigations Officer for the case was no longer with the BSB, a short adjournment was sought in order to find out this information. They also asked whether the company whom the Respondent appeared to be working for was asked for any contact details for the Respondent.

Following the adjournment; the BSB advised the Tribunal that no communication had been received from the Respondent since 2014, which had been in connection with different proceedings. They also advised that the company for whom the respondent had worked had later complained about the BSB's correspondence to them continually seeking information about the Respondent.

The Tribunal were satisfied that the BSB had complied with the procedure in relation to rE183 and those of the Directions Judge and that all reasonable efforts had been made, including using a Private Investigation Company to trace and contact the Respondent. The Respondent had not attended or contacted the Tribunal with any explanation as to why he could not attend the hearing. The Tribunal had not been made aware of anything which might have prevented his attendance or prevented communication with the BSB or Tribunal. It appeared that the Respondent had voluntarily absented himself from the proceedings. The Tribunal considered it just and in the interest of the public to proceed in the absence of the Respondent.

Application to Amend Charge Sheet PC 2020/1136/D5 – Charge 4

6. The BSB applied to amend the charge sheet which stated the wrong case reference number. The Tribunal considered that the Respondent would not be disadvantaged by this typographical amendment and accordingly approved the amendment in accordance with rE161.

Pleas

7. As the Respondent did not attend the hearing, the Charges were deemed to be denied.

Evidence

8. Ms Gourley presented the case on behalf of the BSB. In the absence of the Respondent, she detailed the BSB's case which was outlined in her Skeleton Argument of the 9

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January 2023 and the written bundles of documents and witness statements. There was a page missing from a witness statement, which, following a short adjournment, was provided to the Tribunal. Having read the full witness statement, the Tribunal did not think it was necessary for the witness to attend to give oral evidence and was stood down.

Findings

9. Following retirement to consider the matter, the Tribunal unanimously found all the charges proved to the requisite standard, which in this case was the civil standard of proof.

The BSB outlined the procedure in relation to the Sanctions Guidance which should be followed and provided the Tribunal with decisions of previous disciplinary findings against the Respondent.

Sanction and Reasons

10. The Finding and Sanction were made in accordance with rE234 .1 and .3. The Tribunal considered the Sanctions Guidance and in particular the sections on Dishonesty (Category A) and on Obligations to the Regulator (Category L), as well as the previous professional misconduct history of the Respondent. It was the Tribunal's unanimous decision that the Respondent be disbarred. The Guidance provides that a finding of dishonesty should result in disbarment unless there are exceptional circumstances. There was no evidence of any exceptional circumstances.

Because of the Respondent's persistent failure to communicate with BSB or the Tribunal there was no explanation from the Respondent of his conduct, no indication of mitigating factors or of any apology and no evidence about his present circumstances.

The Tribunal considered that there were no mitigating factors in this case, only aggravating factors. As was noted by the Tribunal in 2019 then dealing with charges against the Respondent, he has an appalling history of not responding to requests or conforming with orders from his Regulator regarding professional misconduct matters. That has continued. The charges in the first charge sheet presently before the Tribunal relate to matters arising shortly after the Respondent was sanctioned by a Tribunal in

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2019. The charges in the second charge sheet relate to matters arising shortly after the Respondent was sanctioned by a Tribunal in 2021. It is the Tribunal's duty to protect the public and consumers of legal services and to maintain public confidence and trust in the profession and enforcement system. The repetition of his actions and disregard for sanctions and restrictions on his practice previously imposed shows a risk of further deliberate repetition and a risk of potential harm to the public. In the circumstances the charges individually and cumulatively are serious enough to justify disbarment.

Costs

11. The BSB applied for costs in the sum of £4,041.96. The Respondent had not provided any information regarding his means to the BSB or the Tribunal. Following retirement to consider the matter, the Tribunal agreed to the application in accordance with rE244.

Action Required by the Inn

12. The Treasurer of the Honourable Society of the Middle Temple is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

Approved: 19 January 2023

His Honour James Meston KC
Chairman of the Tribunal

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