

IN THE MATTER OF NADEEM MALIK, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. R. B. Bamford (in the chair)  
Mr. J. R. C. Clitheroe  
Ms A. Arya

Date of Hearing: 13th December 2007

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Peter Harland Cadman a solicitor and partner in the firm of Russell-Cooke of 8 Bedford Row, London WC1R 4BX on the 14<sup>th</sup> September 2005 that Nadeem Malik solicitor of c/o The Malik Partnership, 3 Eldon Place, Bradford BD1 3AZ might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think fit.

At the opening of the hearing the Applicant invited the Tribunal's agreement to an amendment to allegation (a). The Respondent agreed. The Tribunal consented thereto. The amended allegation (a) is set out below (but during the course of the hearing was replaced by the substituted allegation also set out below).

The allegations against the Respondent were that he had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:

- (a) That the Respondent improperly advised that an application for accommodation would/should be made on the basis of a false and inaccurate date of entry of the Applicant to the United Kingdom.

[At the conclusion of the hearing the Tribunal of its own motion substituted the following allegation for allegation (a) above.]

Substituted Allegation (a):-

"The Respondent improperly allowed an applicant for accommodation within asylum proceedings to infer, by reason of his advice, that such an application could be made on the basis of inaccurate information as to the date of the Applicant's entry to the United Kingdom."

- (b) That an application for asylum would and/or could be supported by false and inaccurate assertions of fact as to the reasons justifying asylum.
- (c) That an application for asylum would and/or should be supported by false and inaccurate documents as to the reasons justifying asylum.
- (d) That an application for asylum would and/or should be made using a false name of an Applicant.

The application was heard at The Court Room, Gate House, 1 Farringdon Street, London EC4M 7NS when Peter Harland Cadman appeared as the Applicant and the Respondent was represented by Ian Ryan, solicitor of Bankside Law Solicitors, Thames House, 38 Southwark Bridge Road, London SE1 0AS.

The evidence before the Tribunal included the admission of the Respondent to the substituted allegation (a). The Tribunal had before it a translation of the Respondent's conversation with the News of the World reporter which had been agreed between the parties.

Mr. Shoukat Mohammad gave oral evidence. The Applicant further relied on affidavit evidence which had been subject to Civil Evidence Act notices to which there had been no counter notices.

**At the conclusion of the hearing the Tribunal made the following order:**

The Tribunal ORDER that the Respondent, NADEEM MALIK of c/o The Malik Partnership, 3 Eldon Place, Bradford, BD1 3AZ, solicitor, do pay a fine of £3,500, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay a contribution of £12,000 towards the costs of the Applicant and a contribution of £500 towards the costs of the Investigation Accountant of the Law Society.

**The facts are set out in paragraphs 1 to 13 hereunder:-**

(The facts were not in dispute, but the interpretation of what was said at the interview between the Respondent and the News of the World reporter on the 25<sup>th</sup> June 2004 was in dispute).

1. The Respondent, born in 1970, was admitted as a solicitor in 1997. His name remained on the Roll of Solicitors. At the material times the Respondent practised on his own account as The Malik Partnership and at the time of the inspection his practice address was 6 Hallfield Road, Bradford, West Yorkshire.

2. On the 25<sup>th</sup> June 2004 a female undercover reporter of the News of the World attended the Respondent's offices. She arrived towards the end of a Friday afternoon. She purported to be an illegal Pakistani immigrant seeking advice from the Respondent as to immigration law, including the possibility of an application for asylum. That meeting with the Respondent was secretly recorded by the reporter and a transcript of that recording had been made.
3. The language adopted at the meeting was for the most part Urdu. Some English had been used.
4. At the opening of the meeting the Respondent said "I will tell you what the basic asylum procedure is. They give asylum to those people, those people who can show and who can prove that in their own country their... that, basically, like, life is in danger."
5. The reporter (hereinafter called "A") informed the Respondent that she had arrived in the United Kingdom three weeks previously. The Respondent advised A that an application for accommodation could be granted only to a person who made an asylum application at the airport or within three days of arrival in the UK.
6. The Respondent's words revealed in the transcript were:

"Then if they believe, if they believe that you really did submit your application within three days, they will then provide you with accommodation and expenses."

7. The Respondent went on to explain that if A went to the Home Office and claimed to have arrived no more than three days earlier she would have to be able to demonstrate that that was indeed the case, for example by identifying the flight on which she arrived, the airline and the airport of entry. He indicated that she would have to do some research.
8. The agreed transcript contained the following exchange ("solicitor" is the Respondent and "Reporter" is A):-

"Solicitor: Often, like, the cases that I have done for Pakistani women, they are mainly like, basically, that either their families have wrongly accused them..."

Reporter: Yes.

Solicitor: ... or their elders have made false charges against them or falsely accused them. For example..., the (inaudible)... case, like these...

Reporter: That too, yes, these reports will be provided too. For this I have reported to the... I have told the police that someone tried to rape... something like this, and I have reported this to the police and this too... the police did not help either, that report will also be obtainable.

Solicitor: Fine, but a report like this, it is of no use to us. This report will... it doesn't say that, that the police is after you. For example...

Reporter: Okay.

Solicitor: ... if you make such a case, for example...

Reporter: Yes.

Solicitor: ... that either your family or someone else, for example, some individual or some man, that he is after you. Okay?

Reporter: Some minister or his son or someone like this?

Solicitor: Yes, alright, whatever. But then your case will be reviewed for this reason, that there you should have basically got police protection.

In his oral evidence Mr. Mohammad confirmed that he had listened to the recording of the interview and the word described as "inaudible" in the agreed transcript was in fact able to be identified as the Urdu word for "adultery".

9. A further part of the transcript of the interview on which the Applicant relied is set out below. That part of the conversation between the Respondent and A had taken place after the Respondent informed A that the Home Office would take her photograph and fingerprints but would not detain her and she had told him "I'm just scared". The conversation was recorded as follows:

Solicitor: No, you will be scared, inevitably, but you should have some identification with you. Do you have any identification? You have nothing? No birth certificate or anything like this, for example, ID card etcetera?

Reporter: I can get this sent from Pakistan?

Solicitor: But this will inevitably take time then, you have nothing else? And you have nothing else? Because you have to at least establish your identification to them.

Reporter: Okay, so I will say to Dad, he will send it as quick as possible, two, three days...

Solicitor: No, he can send a fax.

Reporter: Okay fine.

Solicitor: Okay yes? He can send a fax, is there a photo on that?

Reporter: An identity card will be on that, and name etcetera...

Solicitor: And name, that's fine, that then basically...

Reporter: Okay.

Solicitor: If your own, if you, if you basically use your real name... if you want to use your name...

Reporter: What do you mean?

Solicitor: Cause you can use some other name, I mean obviously they don't ever have your...

Reporter: Identity...

Solicitor: ...identity, so, you know?

Reporter: So what is the advantage of this?

Solicitor: Often, basically this happens that people come as a visitor, okay? They basically have a Pakistani passport, but then they submit an asylum application, but they don't tell them that they came here as a visitor.

Reporter: Okay.

Solicitor: Then they cannot see their real passport.

Reporter: Why?

Solicitor: It, basically, like, becomes safe.

Reporter: What is the advantage of this?

Solicitor: The advantage is this that if they submit an application with another identity, if that asylum is refused, their visa is safe isn't it?

Reporter: So then why do they claim asylum? If they have a visa?  
Solicitor: The visa is only a visitor's visa.  
Reporter: Okay, fine.  
Solicitor: Okay yes? This is basically their advantage.  
Reporter: Okay.  
Solicitor: If they basically get asylum, they have a permanent visa, they have a permanent visa.  
Reporter: Yes okay, yes.  
Solicitor: If it is refused they say okay no matter, at least we have our visitor's visa.  
Reporter: Okay, fine.  
Solicitor: So then at least they have a way of coming and going, that remains open.  
Reporter: Okay.  
Solicitor: Okay?  
Reporter: So what do you suggest, that I give my own name, or some other name?  
Solicitor: But the thing is that for you it will not make much of a difference because you have entered illegally anyway...  
Reporter: Yes.  
Solicitor: Alright, yes? You have not come as a visitor have you?  
Reporter: No.  
Solicitor: Yes, then?  
Reporter: Give any one. I will give mine.  
Solicitor: This means...  
Reporter: Give my own?  
Solicitor: Give your own, so then obviously, because when you, you know, you have to think as well when you have to obtain FIRs or arrest warrants from there...  
Reporter: Yes.  
Solicitor: ... they must obviously contain your name.  
Reporter: Okay.  
Solicitor: Okay yes? You have to think about this.  
Reporter: Okay. So do we not have to fill in any form?  
Solicitor: Now... yes, when you present yourself there, at the Home Office...  
Reporter: Yes.  
Solicitor: ... they will then give you a form, that is called an SEF application form. That you have to, within 14 days, we have to send back to them.  
Reporter: Okay.  
Solicitor: ... In that form, your name, your address, full application about why you want to basically make an asylum application...  
Reporter: Okay.  
Solicitor: ... what problems you have in Pakistan. That then we will complete it alright?  
Reporter: Alright.  
Solicitor: That then we have to send back to them within 14 days.  
Reporter: So am I not going to tell them your name, that this is my solicitor?  
Solicitor: At the moment, basically, give it to them, but it will not make a difference. That, they will, they will only give you the form (and say), go to your solicitor or complete the form yourself...  
Reporter: Okay.

Solicitor: ... but that we should receive this form back within 14 days...

Reporter: Okay.

Solicitor: That then I will complete for you, alright?

Reporter: Alright.

Solicitor: From that moment then, basically your file will be opened here, when we will fill in the form for you.

Reporter: Okay, so do you do it on legal aid?

Solicitor: Yes, it is on legal aid.

Reporter: So I will get that? So I will not have to pay?

Solicitor: No.

Reporter: So, will I get stay?

Solicitor: You see with stay, it is basically fifty-fifty here...

Reporter: Okay, so until then I can live in this country?

Solicitor: Yes, in asylum cases it will basically take at least eight or nine months...

Reporter: Okay.

Solicitor: ... at least. Even if it is refused, there is then an appeal...

Reporter: Okay.

Solicitor: ...appeals basically take three to four months.

Reporter: Okay.

Solicitor: But I think that basically we will win this case.

Reporter: Thank you, okay.

Solicitor: Yeah?

Reporter: So tomorrow then, tomorrow, tomorrow then is what, Saturday?

Solicitor: Yes, Saturday, they are not open on the weekend, you will have to go there on Monday.

Reporter: My cousin will take me to Liverpool, because from here... (inaudible).

Solicitor: Yes, absolutely, Liverpool there you will, do you have the address for where you have to go? For the Home Office?

Reporter: No.

Solicitor: Shall I give you that or not?

Reporter: Yes, give it to me.

Solicitor: (on phone), Hannah, will you write down the address of Lions House, where they make asylum applications? Thank you. Er... that is it, look evidence is very very important okay? There should basically be FIRs from there.

Reporter: They will be received.

Solicitor: Arrest warrants etcetera too.

Reporter: Give them money, they do anything.

Solicitor: Absolutely.

Reporter: So that is no problem...

Solicitor: Absolutely.

Reporter: ... any kind of thing will be obtainable...

Solicitor: Okay.

Reporter: ...you just need to tell me exactly what you need.

Solicitor: Okay fine. So where are you from in Pakistan?

Reporter: From Lahore.

Solicitor: Okay, you are from Lahore?

Reporter: Yes.

Solicitor: I have an office there too.

Reporter: Yeah?

Solicitor: In Lahore, on... (inaudible)... Road...  
 Reporter: Okay, okay.  
 Solicitor: ... in Kent.  
 Reporter: Okay.  
 Solicitor: ...where the Shell petrol pump is...  
 Reporter: Yeah, yeah.  
 Solicitor: ...behind there, there is a plaza...  
 Reporter: Yes.  
 Solicitor: ...inside there.  
 Reporter: Okay fine. So can I now go there? Anything from anyone, or is there no advantage to this? Or is there an advantage?

10. A Forensic Investigation Officer of the Law Society (Forensic Investigation Officer) conducted an inspection of the Respondent's books of account commencing on 8<sup>th</sup> November 2004. The Forensic Investigation Officer's report dated 6<sup>th</sup> January 2005, pages 18 – 23 was before the Tribunal. The report recorded what was said by the Respondent at interview namely:
- (i) With regard to allegation (a), the Respondent said that he had either not heard A say "three days" or that he had forgotten what she had said. With regard to the research to be undertaken, the Respondent stated that this was a female who may have been raped and the research was for her to get her facts right as she would need to be aware of how she had entered the country.
  - (ii) With regard to allegations (b) and (c), the Respondent stated that he was not advising the individual to claim that this had happened to her, but was merely giving examples of successful asylum applications.
  - (iii) With regard to allegation (d), the Respondent said that he was not advising the use of a false name, but merely explaining that A's application would not be jeopardised were she to use a different name on her application to that upon which she had entered United Kingdom.
11. The FIO discussed certain compliance issues with regard to his books of account with the Respondent; but recommended no further action be taken in respect of those matters.
12. In his oral evidence Mr. Mohammad, a qualified court interpreter in the languages of Urdu and English, told the Tribunal that on a scale of ten, from listening to the tape, A's command of Urdu was at the level of 7 to 8 – a good command of Urdu. The Respondent's level of command in Urdu was 3-4 on the same scale. He made grammatical mistakes and did not have a strong vocabulary evidenced by his using English words where he did not know the Urdu word.
13. When asked if the conversation flowed, Mr. Mohammad's response was that a message was being conveyed from one person to another. When A had referred to "rape" she had used the English word. It was Mr. Mohammad's opinion that the Respondent had done most of the talking, but A had encouraged him to do so.

### The Submissions of the Applicant

14. The Respondent gave advice to A to assist her in lodging an application at the Home Office in order that she might be given accommodation that the Respondent knew was untrue, namely that A had arrived within three days of making the application. When A said "I would just tell them I came within three days" the Respondent advised her that she would be subject to a full interview and that she would have to do "some research" and would have to do "full research on this, actually which flight comes, where it comes from... Islamabad to Heathrow or whatever, alright?"
15. The Respondent provided such advice to A in circumstances where the Respondent had been informed that A had arrived in the United Kingdom three weeks earlier. The Respondent was providing advice to assist A to make an application that was not true.
16. Further the Respondent encouraged A to make an application on the basis of false and inaccurate information supported by false and inaccurate documents.
17. During the course of the interview the Respondent himself raised with A whether she wanted to lodge an application in a false name or a real name. It was recorded that he had said "if you basically use your real name... if you want to use your name... because you could use some other name." The Respondent improperly suggested to A the possibility of lodging an application using a false name.
18. A, a News of the World reporter, had published in that newspaper an article headed "News of the World exposes lawyers making fortune in Legal Aid scam for bogus migrants." It quoted the Respondent when he said "if you say police are after you its better. Do your research or they'll know you lied." The following paragraphs appeared in that report...
 

"Let me outline basic procedure," said company owner Malik. "People who get asylum have to prove their life is in danger in their home country. We have to think about why your life is in danger. If you say the police themselves are after you, its better."

"The lawyer explained that she would have to lie to stay in the country and get the right to scrounge. She said she would go along with whatever story the brief thought best. "The thing is you have to give the interview, I can't accompany you to that" he said "you have to memorise everything. We have to make something based on this."

Malik handed our girl the address of the Home Office and asked her to return after registering. "We will do it on Legal Aid" he said "you won't have to pay."
19. The article referred to "bent briefs 1, 2, 3 and 4" the Respondent being number 1 and set out details of concerns about the other three.
20. Such newspaper reporting served seriously to damage the good reputation not only of the Respondent himself but also of the solicitors' profession.

### **The Submissions of the Respondent**

21. The Respondent was 37 years old. He was married with one child.
22. The Respondent was born and educated in the United Kingdom. English was his first language. As a child he spoke both English and Punjabi. The Respondent had not studied or been taught Urdu. Urdu was his third language acquired from watching Indian films. He could not read it.
23. The Malik Partnership held Legal Services Commission franchises in Immigration and Family Law. It was the standard practice to instruct an interpreter when taking instructions from an asylum seeker.
24. A had come in "off the street" on a Friday afternoon without an appointment, which was why no interpreter was present at the interview. The Respondent accepted that his command of Urdu was not good.
25. The Respondent considered A to be a vulnerable person and he decided to continue with the interview. He had not considered that he was giving her advice in any formal sense but merely answering the questions of a vulnerable individual who had entered the country illegally, having been raped, and being desperate to escape from her home country for that reason.
26. The Respondent was mindful of the Guidelines issued by the United Nations Commission for Human Rights (UNHCR) with regard to female victims of sexual assault. He had been particularly concerned to ensure that A felt supported, that her account of her ordeals was believed, and that the Respondent was not just "another bureaucratic unsympathetic and unhelpful male." He felt sorry for A and wanted to help her.
27. The Respondent did not admit allegation (a) in the form drafted by the Applicant. He did accept that the transcript of the interview with A might well have led to a particular interpretation being put on what he said. It certainly had not been the Respondent's intention "to coach" A in her account but he felt that it would be proper for him to admit an allegation in the following terms.
28. It had been the Respondent's intention to convey the fact that the situation would be different if an applicant for this form of support could apply within three days of entering the country, and to explain the law. He accepted that he had failed to make himself clear; and that failure, in giving the impression it did, would serve to bring the solicitors' profession into disrepute. The Respondent accepted that he had been careless and that did amount to conduct unbecoming a solicitor.
29. The Respondent had not accepted instructions from A as a solicitor. He was having a conversation with and giving information to a casual caller in response to specific questions. He had not approached the conversation with the degree of intellectual rigour that in hindsight he should have employed. The Respondent had no expectation that he would ever see A again, or that he would ever be formally retained. There was no motive for gain. He made no charge for the meeting.

30. The Respondent denied allegation (b). There was nothing in the agreed transcript which supported the allegation that he improperly advised A to make an application for asylum supported by false assertions of fact. The Respondent discussed with A an hypothetical case and explained to her the usual type of applications for asylum that proved successful.
31. The Respondent denied allegation (c). The false and inaccurate documents that it was alleged A should use in support of an application for asylum had not been identified. The Respondent had made no suggestion that A should utilise false documents.
32. The Respondent denied allegation (d). The Respondent was not recorded in the agreed transcript as having advised A to make an application for asylum in a false name. The Respondent's experience was that many asylum seekers enter the country under a false name and he felt that this was a matter that should be discussed. There were many reasons why an individual might want to change his or her name, such as escaping from family or others responsible for ill-treatment. Indeed the Respondent was recorded as having said:
- "But the thing is for you it will not make much of a difference because you have entered illegally anyway" and he had also said that A should "give your own... [name]."
33. A's article which appeared in the News of the World was inaccurate in almost every particular.
34. In considering whether the Applicant had made out his case, the Tribunal was invited to have in mind the fact that the Respondent was giving an off the cuff interview on a Friday afternoon to a woman whom he understood to have been raped. She was fluent in Urdu, which he was not; it was his third language, and it was clear from the video recording that his command of Urdu was not particularly good. Mr. Mohammad had confirmed that. That fact was not readily apparent from reading the transcript.
35. The Respondent had been the victim of an entrapment. A had her own agenda and she pursued that during the course of her discussion with the Respondent.
36. The case before the Tribunal involved misunderstandings, not deliberate actions, although the Respondent had come to accept that he allowed an unacceptable impression to be given. He had been responsible for a bad misunderstanding, which he bitterly regretted and for which he apologised unreservedly.

### **The Findings of the Tribunal**

37. The Tribunal found allegations (b), (c) and (d) not to have been substantiated. The Tribunal took into account the Respondent's less than adequate command of the Urdu language, the fact that he considered A to be a vulnerable person and that he was following UNHCR guidelines for interviewing women refugees without putting her under pressure. The Tribunal accepted that the Respondent was involved in a conversation with a casual caller rather than formally taking instructions from a client and giving her specific advice on her own case.

38. Those parts of the transcript on which the Applicant relied did not in any event indicate that the Respondent advised A to make an application for asylum supported by false assertions of fact. The Tribunal accepted that the Respondent had sought to explain to A the nature of applications for asylum that might prove successful.
39. The Tribunal found that the Respondent did not suggest that A should use false documents. The transcript indicated that A had indicated her ability to obtain documents and that she might well have to pay for them. There appeared to be nothing to suggest that those documents were anything other than authentic.
40. The Tribunal found nothing in the transcript that indicated that the Respondent had suggested to A that she should make her application for asylum in a false name. It was the Tribunal's opinion that the Respondent had, albeit somewhat clumsily, explained the circumstances in which other people might have made such an application but he had pointed out ultimately that those circumstances did not appear to apply to A and had confirmed that she should make the application in her own name.
41. With regard to allegation (a) the Tribunal concluded that the Respondent's acceptance that the advice that he gave to A with regard to her application for accommodation needing to be made within three days of her arriving in the UK might have led her to infer that she should not tell the Home Office that she had already been in the United Kingdom for three weeks but should seek to give the impression that she had arrived only within the past three days. Again because the Tribunal had taken into account the situation in which the Respondent found himself and his lack of command of the Urdu language it considered that the Respondent's acceptance of an amended allegation fully met the case before the Tribunal.
42. Of its own motion therefore the Tribunal substituted the following allegation for the allegation (a) contained in the Applicant's Rule 4 statement (as amended) "The Respondent improperly allowed an applicant for accommodation within asylum proceedings to infer by reason of his advice that such an application could be made on the basis of inaccurate information as to the date of the Applicant's entry to the United Kingdom." The Tribunal found that allegation in those terms to have been substantiated, indeed the Respondent did not contest the same.

### **The Respondent's mitigation**

43. The Respondent was 37 years of age. He was married and had one child. The Respondent's wife, a barrister was expecting their second child in the spring of 2008. The Respondent had left the firm at which he had been head of the immigration department to set up The Malik Partnership in November 2000. The firm held Legal Services Commission franchises in immigration and family law. It employed 20 people. The Respondent had been compelled to give up the immigration franchise in August 2004 as the result of the matters currently before the Tribunal.
44. Whilst practising at The Malik Partnership the Respondent had been involved in a number of high profile judicial review cases and had been profiled as "lawyer in the news" in the Law Society Gazette of 10<sup>th</sup> April 2003.

45. The Respondent apologised for his shortcomings and recognised that the way he conducted the interview with A did not represent his most glorious moment. The Tribunal was invited to bear in mind, however, that this was a case of entrapment.
46. The Respondent had been the only solicitor mentioned in the News of the World article to be referred to the Tribunal (save for one other who had been referred on unconnected allegations).
47. The Tribunal was invited to give the Respondent credit for the fact that when the FIO inspected his books of account nothing serious was found to be wrong.
48. The Tribunal was invited also to conclude that the Respondent's failure had been entirely out of character. The Tribunal was invited to give due weight to a bundle of written references handed up in support of the Respondent all of which attested to his competence and integrity.
49. The Law Society had imposed conditions upon the Respondent's practising certificate and as from December of 2005 he had not been able to practise immigration law. That led directly to the closure of the Respondent's practice.
50. The Respondent had suffered stress and humiliation as well as loss of earnings. The matter had been hanging over his head for a period of some three years.
51. The Respondent had had to rely on his wife to support his family and her ability to provide income would be reduced when their second child was born.
52. The Respondent had practised in an area of law which should be regarded as a community resource. The Respondent was a Legal Aid lawyer and they were becoming increasingly scarce. When the Legal Services Commission had audited the Respondent's firm he had been marked with the highest category, namely category 1, for his immigration work.
53. The Respondent was a man of good character. His failure was not sufficiently grave to demand that there be any interference with his right to practise as a solicitor. When the full facts had become known the protection of the reputation of the solicitors' profession did not require at the most serious sanction.
54. The Respondent was a competent solicitor and was one of great ability in the area of immigration law. He hoped following the outcome of the disciplinary proceedings that the condition placed on his practising certificate would be removed and that he could return to practise in that area.
55. In all of the circumstances of this matter the Tribunal was invited to take a lenient stand.

### **Costs**

56. The Applicant sought the costs of and incidental to the application and enquiry. Such costs should include the FIO's costs in the sum of £5,550.11. The Applicant's own costs amounted to some £17,500. Those costs had reached such a substantial level because of the approach of those representing the Respondent in the past. Amazing

arguments had been fielded about the accuracy of the transcript of the Respondent's discussion with A. The Respondent had been ready to proceed with the substantive hearing in June 2006 when evidence was served on behalf of the Respondent at a very late stage. After that the Tribunal had given a series of directions. Ultimately when the Respondent's current representative had been appointed a transcript had speedily been agreed by way of exchange of letters.

57. Extra work had been undertaken by the applicant which would have been undertaken even where three of the allegations made had not been substantiated.
58. Further the Respondent had made his admission in relation to allegation (a) only two days before the substantive hearing.
59. On behalf of the Respondent it was argued that he should not be required to pay the FIO's costs. Nothing arose from the FIO's inspection. The Solicitors Regulation Authority could have written to the Respondent for his explanation, there had been no need for an FIO to attend his premises. If the Tribunal did not agree with that submission then it was invited to consider whether a great proportion of the FIO's costs should be disallowed.
60. With regard to the Applicant's own costs the Tribunal had dismissed three of four allegations. The Respondent raised no issue as to the figure sought by the Applicant but invited the Tribunal to fix the costs at 25% of the total claimed as that would properly reflect the position. If the Tribunal was not willing to fix a proportion of the specified costs then it was invited to order that costs be assessed but that the Respondent should be responsible for no more than 25% of them.

#### **The Tribunal's decision and its reasons**

61. The Tribunal concluded that the Respondent had been extremely foolish to attempt to conduct a formal discussion and give advice in his capacity as a solicitor in a language with which he was not fully conversant. The Tribunal rejected the Respondent's assertion that he was not acting as a solicitor. It was foolish to see a prospective asylum seeker without an appointment being made and a formal interpreter being present. Whilst the Tribunal accepted that the Respondent believed A to be a vulnerable female who sought to be recognised as a refugee, he should have been aware that he could not act in her best interests unless the solicitor/client relationship was put on a formal footing, where there could be no doubt as to what was said during the course of the discussion.
62. The Tribunal gave the Respondent credit for his admission of allegation (a) in its amended form. It gave the Respondent credit for his previous good character and competence evidenced by the testimonials written on his behalf. The Respondent and his family had suffered as a result of these matters. The Tribunal was concerned that the Respondent had been required to appear before his professional disciplinary tribunal as the result of an attempt to entrap him by an investigative journalist.
63. The Tribunal recognised that the matter had been hanging over the Respondent's head for a long time, but was mindful of the fact that it had been the Respondent himself and for those representing him who had led to the delay in the conclusion of the disciplinary proceedings.

64. The allegation admitted by the Respondent represented a serious state of affairs. Those seeking advice from solicitors are entitled to expect to be treated with the utmost care. In all of the circumstances the Tribunal concluded that it was both proportionate and appropriate to mark the seriousness of the Respondent's conduct by imposing a fine of £3,500.00.
65. With regard to the question of costs The Tribunal concluded that it would be proportionate in view of the fact that it was the Respondent's own behaviour that led to the inspection by the FIO to pay a contribution towards the FIO's costs of £500.00 on the basis that the FIO had established that the Respondent's books of account were largely in order. It was right that the Law Society should bring the allegations before the Tribunal. The Tribunal had not found three of the allegations to have been substantiated and in recognition of that concluded that it would be appropriate and proportionate to order the Respondent to pay a contribution towards the Applicant's costs but not the whole of those costs. The Tribunal therefore ordered the Respondent to pay a contribution of £12,000.00 towards the Applicant's costs.

Dated this 13<sup>th</sup> day of February 2008  
On behalf of the Tribunal

R. B. Bamford  
Chairman