

THE DISCIPLINARY TRIBUNAL
OF THE TAXATION DISCIPLINARY BOARD

TDB/2022/14

TAXATION DISCIPLINARY BOARD
(TDB)

v.

MR NUR MIAH
(CIOT student number 257166)

DECISION
(29.09.2022)

INTRODUCTION:

1. The Disciplinary Tribunal sat on Thursday 29 September 2022, via Teams in an online hearing. The Tribunal was chaired by Mr Mark Ruffell (barrister) who was sitting with Ms Penny Griffith (lay member) and Ms Teresa Payne (professional member).
2. The case presenter for the TDB was Ms Divya Puri. Mr Miah attended and was represented by Mr Kevin Saunders (barrister).
3. The Tribunal had read and considered the case papers pages 1-56 and the supplemental bundle pages 1-19, a Pre-Sentence Report, the sentencing remarks of the sentencing Judge and an update report from Mr Miah's Probation Officer.

PRELIMINARY MATTERS:

4. An application was made by Mr Saunders, on behalf of Mr Miah, for the hearing to be in private [REDACTED] and any findings [REDACTED] not to be

published, pursuant to the Tribunal’s discretion in Rule 29.1. The application was supported by a typed letter dated 16 September 2022 from DC Shergill of West Midlands Police who explained that Mr Miah had

[REDACTED]

[REDACTED] Ms Puri submitted on behalf of the TDB that the hearing should be in public and that the full decision should be published.

5. The Tribunal recognised that ordinarily hearings should be public in order that proceedings are transparent and the public and members of the profession can have confidence in the Tribunal’s decision making. However, in this case, and because of the letter received from a Police Officer, the Tribunal considered that there was [REDACTED]. The Tribunal accepted that this was a good reason for the hearing not to be held wholly in public. The Tribunal determined that the hearing would be in private only in relation to the charges and evidence relating to [REDACTED]. At the end of the hearing, the Tribunal would make a further decision on the publication of any decision which would similarly reflect not making reference to the charges or evidence [REDACTED].
6. In addition, it was noted that Charge 1.1 stated ‘*On or around 17 March 2021*’ when it should have stated ‘*On or around 17 March 2022*’. Accordingly, with the agreement of the parties, the charge was amended to ‘2022’.

CHARGES:

7. Charge 1 (the “Illegal and Unbefitting Conduct Charge”)

1.1 On or around 17 March 2022, the Defendant pleaded guilty at Dudley Magistrates Court to the following charges:

a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED];

b) [REDACTED]
[REDACTED]
[REDACTED];

c) [REDACTED]
[REDACTED]
[REDACTED].

1.2. On or around 17 March 2022, the Defendant was issued with a fine of £533 in respect of charge (c) (as listed above).

1.3 On or around 27 May 2022, the Defendant was sentenced at Wolverhampton Crown Court in respect of charges (a) and (b) (as listed above) to the following:

- a) 20 months' imprisonment, suspended for two years;
- b) an unpaid work requirement of 120 hours; and
- c) participation in a Rehabilitation Activity Requirement(s) for a maximum of 30 days.

In the above regard, reference will be made to:

- (a) the Suspended Sentence Order issued on 27 May 2022
- (b) Form MG4 Charges

1.4 In the premises:

- (a) The Defendant failed to avoid any action which discredits the profession, contrary to rule 2.1 of the PRPG; and/or
- (b) the Defendant has engaged in or been party to illegal activity, contrary to rule 2.2.2 of the PRPG; and/or
- (c) the Defendant has failed to uphold the professional standards of the CIOT contrary to rule 2.6.2 of the PRPG; and/or
- (d) the Defendant has conducted himself in an unbecoming, unlawful or illegal manner which tends to bring discredit upon himself and/or may harm the standing of the profession and/or the CIOT, contrary to rule 2.6.3 of the PRPG.

8. In the response form dated 15 September 2022, Mr Miah accepted Charge 1.1 (a), (b) and (c); he accepted Charge 1.2; he accepted Charge 1.3 (a), (b) and (c); and he accepted Charge 1.4 (b), (c) and (d). He did not accept Charge 1.4 (a). In the light of the acceptance of charges, the TDB withdrew Charge 1.4(a).

BACKGROUND:

9. Mr Miah is a student member of the CIOT/ATT and is on the ATT/CTA pathway.

10. On 19 February 2021, Police Officers attended Mr Miah's home as they had become aware that [REDACTED]

[REDACTED]

[REDACTED] Mr Miah was subsequently charged and pleaded guilty at the first available opportunity in the Magistrates' Court on 17 March 2022. The case was then committed to the Crown Court for sentence. [REDACTED]

[REDACTED]

11. Mr. Miah referred himself to the TDB on 31 March 2022, after he had pleaded guilty to all matters but before he was sentenced in the Crown Court for the more serious matters on 22 April 2022.

12. On 27 May 2022, Mr Miah who was then, as now, aged 47 was sentenced. The sentencing Judge noted that in the Pre-Sentence Report, Mr Miah had denied [REDACTED]

[REDACTED]

[REDACTED] He was sentenced to a suspended sentence order consisting of 20 months' imprisonment that was suspended for 2 years (from 27 May 2022). He was made subject to a Community Punishment Order of 120 hours and a Rehabilitation Activity Requirement for 30 days. [REDACTED]

[REDACTED]

SUBMISSIONS ON SANCTION:

13. Ms Puri drew the Tribunal's attention to the TDB's Indicative Sanctions Guidance and the categories of complaint. She submitted that the offences were serious, [REDACTED] and were committed over a lengthy period of time.

14. Mr Saunders had provided written submissions that Mr Miah should be given credit for admitting his guilt and that he had a previous good character. Mr Miah had notified the TDB early and had co-operated fully

with the TDB's investigation. Mr Miah had provided a written statement of reflection where he explained how he had been open and transparent with his employer about his convictions and had attempted to avoid any adverse effect upon their reputation. He provided references from his wife, his brother and his employer.

15. Mr Saunders submitted to the Tribunal that any sanction could have an adverse effect upon Mr Miah's family as they had 3 very young children and he was the sole earner. There had been no further offending and Mr Miah had been assessed as having a low risk of [REDACTED] and a medium risk of repeat offending in relation to [REDACTED]. Mr Miah had presented at the time of sentencing as having a realistic prospect of rehabilitation and that had been persuasive upon the sentencing Judge leading to the sentence being suspended. His Probation Officer had stated that Mr Miah had '*gone above what is expected in order to try and address his risks*' and he was now '*assessed as a low risk of further reconviction.*' The offending was wholly unrelated to Mr Miah's professional work or membership of the CIOT. He had not harmed the reputation of the profession. The public was protected through the suspended sentence order. Mr Saunders submitted that it would be appropriate for Mr Miah to receive a sanction of suspension for two years, which would pass the completion of the suspended sentence of imprisonment. He urged the Tribunal to consider the rehabilitation efforts made by Mr Miah. He distinguished the facts in the present case from those in The Council for the Regulation of Health Care Professionals and the GDC and Mr Alexander Fleischmann [2005] EWHC 87 (Admin), as in that case, the GDC could only suspend for 12 months, but the sentence lasted 3 years. In this case, any suspension could be for longer than the remainder of the suspended sentence order.

DECISION ON SANCTION:

16. The Committee had regard to the Indicative Sanctions Guidance. The Tribunal had regard to the public interest which included the protection of members of the public, maintaining public confidence in the profession and upholding proper standards of conduct.

17. The Tribunal considered that the following mitigated any sanction: Mr Miah had made early admissions, was of previous good character and had engaged with the Probation Service and had made efforts at rehabilitation.

18. The Tribunal considered the following aggravated the sanction: [REDACTED]
[REDACTED] and that the offending had taken place over 10 years.

19. Despite the detailed submissions made on Mr Miah's behalf, the Tribunal did not consider that Mr Miah had openly expressed how he had become involved [REDACTED]
[REDACTED]
[REDACTED]. In the Tribunal's view, it would be difficult for someone who must have been [REDACTED]
[REDACTED]
[REDACTED]. The Tribunal accepted that Mr Miah may have made efforts at rehabilitation over the 4 months since his sentence in May of this year, but such progress needed to be explained and it would take far longer to demonstrate and prove that he had been rehabilitated.

20. The Tribunal was of the view that the nature and gravity of such recent and sustained offending was such that it was fundamentally incompatible with continued membership of the CIOT. The Tribunal considered that the public would not approve of someone retaining their membership when still subject to a suspended sentence for offences of this gravity and accordingly, the Tribunal considered that Mr Miah's continued membership could seriously harm the reputation of the profession.

21. The Tribunal considered that taking No Further Action, making an Order to Rest on the File, issuing a Warning, Ordering an Apology or Censure were insufficient sanctions for the seriousness of the charges. The Tribunal noted that the guidance had a guideline starting point for offences where a term of imprisonment was imposed and suspended was one of expulsion. The Tribunal considered whether suspension was an appropriate sanction. The Tribunal considered that the currency of the suspended sentence, the lack of specific insight into his offending and the relatively recent nature of rehabilitative work with Mr Miah meant that in the Tribunal's view, a period of suspension was an insufficient sanction. In the Tribunal's view, only an order for expulsion would address the need to protect the public and maintain public confidence in the profession.

22. The Tribunal determined that the appropriate sanction was one of expulsion. The Tribunal considered that an application for readmission would be unlikely to be successful until a period of at least 2 years had elapsed from the date of this decision, thereby allowing the suspended sentence order to have been completed.

23. The Tribunal considered that the conviction for [REDACTED] was minor, resulting in a fine by the Magistrates' and was an isolated incident that appeared to have no link to the other charges. In relation to the charge relating to [REDACTED], the Tribunal imposed a Warning.

COSTS:

24. Ms Puri applied for costs in the sum of £2,948.00. Mr Saunders commented as to whether the costs for a student hearing were the same as for a full member and requested that Mr Miah had 3 months to pay.

25. The Tribunal had regard to the TDB's Guidance on Awarding Costs. The Tribunal noted that its power to award costs was set out in Regulation 27 and was discretionary. The Tribunal considered that it was right and proper in the light of its findings that Mr Miah should pay the TDB's costs. The Tribunal examined the schedule of costs and considered that the amount applied for was reasonable. The Tribunal determined that it was fair and proportionate to award costs against Mr Miah in the sum of £2,948.00 with 3 months to pay.

PUBLICITY:

26. The Tribunal had regard to the TDB's Guidance on the Publication of Disciplinary and Appeal Findings. However, given its earlier ruling, the Tribunal determined that there should be no publicity of the wording of the Crown Court charges or the facts surrounding those convictions, within any decision that is published.

EFFECTIVE DATE:

27. This decision will take effect in accordance with Regulations 20.9 and 21.1 of the Taxation Disciplinary Scheme Regulations 2014.

MARK B. RUFFELL
(Chairman)
29 September 2022