

CITATION: *Legal Services Commissioner v Singh* [2013] QCAT 154

PARTIES: Legal Services Commissioner
(Applicant)
v
Abhay Kumar Singh
(Respondent)

APPLICATION NUMBER: OCR204-10

MATTER TYPE: Occupational regulation matters

HEARING DATE: 12 December 2012; written submissions subsequently received from the respondent on 29 January 2013, 26 February 2013 and 4 March 2013

HEARD AT: Brisbane

DECISION OF: **Justice Alan Wilson, President**

Assisted by:

Matthew Woods
Practitioner Panel Member; and,

Dr Julian Lamont
Lay Panel Member

DELIVERED ON: 9 April 2013

DELIVERED AT: Brisbane

ORDERS MADE:

1. **The Respondent's name is to be removed from the local roll.**
2. **The Applicant must file in the Tribunal and give to the Respondent, submissions in writing on costs within 21 days of the date of this order.**
3. **Thereafter, the Respondent must file in the Tribunal and give to the Applicant, submissions in writing on costs within 21 days.**

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – DISCIPLINARY PROCEEDINGS –

UNSATISFACTORY CONDUCT OR PROFESSIONAL MISCONDUCT – where the respondent was convicted in Fiji of attempting to pervert the course of justice – where the respondent did not give notice of his conviction to the Queensland Law Society – where the respondent did not disclose his conviction in his application for the renewal of his restricted employee practising certificate – where the offence is categorised as a misdemeanour in Fiji – where the respondent completed the sentence imposed by the offence in Fiji and was disciplined for the offence in that country – where a long period has elapsed since original offence – where there have been no other disciplinary proceedings brought against him – where the respondent brought meritless applications to permanently stay the proceedings before the Tribunal – whether the respondent's conduct constitutes professional misconduct or unsatisfactory professional conduct

Criminal Code (Qld), s 140

Legal Profession Act 2004 (Qld), ss 612, 613, 614

Legal Professional Act 2007 (Qld), ss 9, 68, 420(1)(c)(i), 462, 716, 717, 718

Queensland Law Society Act 1952 (Qld), s 3B(1)

Adamson v Queensland Law Society Inc (1990) 1 Qd R 498, applied

A Solicitor v Council of the New South Wales Law Society (2004) 216 CLR 253, applied

Attorney-General v Bax [1999] 2 Qd R 9, cited

Council of the Queensland Law Society Inc v Wakeling [2004] QCA 42, cited

Legal Services Board v McGrath (No 2) [2010] VSC 332, followed

Legal Services Commissioner v Puryer [2012] QCAT 48, considered

Legal Services Commissioner v Singh [2011] QCAT 448, cited

Legal Services Commissioner v Singh (No 2) [2011] QCAT 580, cited

Legal Services Commissioner v Singh (No 3) [2012] QCAT 181, cited

Legal Services Commissioner v Wood [2012] QCAT 185, considered

Singh v State [2008] FJSC 52, cited

APPEARANCES and REPRESENTATION (if any):

APPLICANT: Ms Lane for the Legal Services Commissioner

RESPONDENT: Mr Singh in person

REASONS FOR DECISION

- [1] Mr Singh is 56 and has practised as a lawyer in New Zealand, Fiji and Australia. He was admitted in Queensland in 2002 but actually commenced practice here in, it appears, some time in 2006 and continued to do so until the Queensland Law Society ('Society') refused to renew his practising certificate from 1 July 2008.
- [2] That refusal was occasioned when the Society discovered that Mr Singh had been convicted in Fiji, on 25 October 2006, of the offence of attempting to pervert the course of justice. The Society then declined to authorise the renewal of his practising certificate as from 1 July 2008 and referred the matter to the Legal Services Commissioner.
- [3] Mr Singh has not, since, been able to practise in Queensland. He has had the right to practise in Fiji at various times since 2008 but not, for reasons which will become apparent, currently.
- [4] The Legal Services Commissioner takes the view that his conviction in Fiji (and two associated technical offences – failing to give notice of it to the Queensland Law Society within seven days, and not disclosing it to the Society when he applied for renewal of his 2007-8 practising certificate) means that he is not a fit and proper person to remain on the local roll, and his name should be removed.
- [5] Mr Singh points to a previous (albeit temporary) renewal of his right to practise in Fiji; the absence of any reoffending or other disciplinary proceedings there, or here, against him; the long period which has elapsed since the original offence; and, his continuing legal studies, as factors which tell against that severe penalty. He has also, since the hearing of this matter on 12 December 2012, sent the Tribunal documents indicating that his conviction is not recorded in Fiji and New Zealand for the purposes of international travel, and no longer impinges that travel. He contends that, in light of these matters, he should be allowed to practise law here.
- [6] These submissions can best be understood by setting out what is known about Mr Singh's history of practice as a lawyer and, in particular, the quite complex proceedings surrounding his conviction in Fiji, and its effects on his right to practise law there.

- [7] Mr Singh attained a Diploma in Law at the University of South Pacific in about 1990 which, it appears, entitled him to practise in Fiji. Nevertheless he later studied in New Zealand and obtained his Bachelor of Law degree there in 1994. In December 2004 he obtained his Master of Laws in Commercial Law from the University of Queensland. After 1996 he practised in Fiji.
- [8] Although this Tribunal has been provided with a large amount of material about Mr Singh's attempts, since 2006, to maintain (despite his conviction) a right to practise in Fiji, there is less information from him about the events which led to his original conviction. He also continues to dispute the propriety of that conviction: he has said, in submissions to this Tribunal, that he admits the fact of his conviction but, also, that he was '*entrapped*' by the Office of the Director of Public Prosecution, Fiji because it was jealous of his success in the courts.¹
- [9] Some aspects of the offence are particularised under Charge One in these proceedings. The Legal Services Commissioner alleges that, at the time of the offending, Mr Singh was acting for a client named Mr Khan concerning a charge, against the client, of corruptly seeking a payment from another person named Mr Narayan, who was a witness in the proceedings against Khan. It is then alleged that Mr Singh made contact with Mr Narayan and, during a conversation on or about 23 July 2003, advised him to change his original evidence in the matter, and advised him of what evidence to provide. In his response to the Discipline Application here Mr Singh specifically denied that he made contact with Narayan, and advised him to change his original evidence.
- [10] Mr Singh appealed his conviction to both the Fiji Court of Appeal, and that country's Supreme Court. The Supreme Court which heard the appeal was comprised of justices Mason, Handley and Weinberg, then judges of that court.
- [11] The judgment, delivered on 18 December 2008, sets out the background.² It records that Mr Singh was originally charged on an indictment containing three counts of attempting to pervert the course of justice. At the trial, the presiding judge ruled admissible an electronic recording of a secretly taped conversation. Mr Singh then pleaded guilty to the third count. He did so on the apparently agreed basis that he could then appeal his conviction, on the ground that the recording was inadmissible. His appeal to the Fiji Court of Appeal on that ground was dismissed. He then appealed to the Supreme Court, which also dismissed his appeal.
- [12] In the course of its judgment the Supreme Court set out the original sentencing remarks:

On the 24 July 2003 the trial was due to start in the Magistrates Court at Suva of 1 Sahadat Attai Khan. He was charged with corruptly seeking, at a

¹ Respondent's Statement of Evidence, filed 22 November 2012, at [10].

² *Singh v State* [2008] FJSC 52.

Land Transport Authority Office, \$200 for the registration for a second hand vehicle. The owner of the car and the person from whom it was alleged he had sought the money was Rajendra Narayan. The Accused (Mr Singh) was Mr Khan's defence counsel. Subsequently in February 2005 Mr Khan was acquitted of that charge.

Prior to the Khan hearing, on 22 July 2003, Mr Narayan informed the investigating officer that he had been approached by the Accused. The Police took advice from the Director of Public Prosecutions Office. It was then agreed to give Mr Narayan a digital recording device to record any further conversations with the Accused. Mr Narayan agreed to this course.

On the next day, 23 July 2003, a conversation took place between the Accused and Mr Narayan. It started when they were in a vehicle travelling to the scene of an accident in which the Accused's son had been one of the drivers. In the course of the conversation the Accused mentioned the Court case the next day. He advised Mr Narayan to change his evidence to some extent, and the Accused told him what to say in its place.

The original evidence from Mr Narayan was that Mr Khan had taken the \$200 from him and placed it under a book. Mr Khan then pulled out a file pretending to read it in order to hide his actions from a woman who had come to the door of his office.

The Accused told Mr Narayan to keep to his original story which he would not lie about. But that when he came to describing handing over the money to Mr Khan he should say that he hid it under a book or register because a woman came into the room. He was to say that he never actually handed the money over to Mr Khan. He should add that Mr Khan did not see him do any of this. The rest he could leave to the Accused.

The Accused promised that once his client was acquitted he would sue the Police. He would make Mr Narayan a party to those proceedings. Instead he would pay Mr Narayan an unspecified sum of money out of the lump sum obtained thereby in damages.

The Accused was interviewed by Police under caution on 24 July 2003. He availed himself of his constitutional right to consult a lawyer, and did so before the main questioning commenced. He said that he had been practicing as a Barrister and solicitor since 1994, and was admitted as such in New Zealand, Fiji, Tasmania and Queensland. He was a Commissioner for Oaths and a Notary Public.

When it was suggested that he had met the complainant and asked him to change one part of his story in the corruption case against Attai Khan, the Accused said that the allegation was false. More details of the conversation were put to him but he said they were false.

He asserted that he wanted to save Attai Khan in his court case because he believed he was innocent. He denied discussing anything to do with the case of Mr Narayan. At least a part of the digital recording was played to the Accused and he denied that it included his voice. He denied that one of the other voices was Mr Narayan. He was positive that the voice was not his own. He said that Mr Narayan was lying in saying that it was his voice.

He also alleged Mr Narayan had offered him \$45,000 if he could have Attai Khan convicted for corruption.

In these proceedings the Accused has accepted that the translation of the recordings in Hindi is essentially correct save for a few inconsequential inaccuracies. He now accepts that it was indeed his voice on the recording, as well as that of Mr Narayan. He admits the offence, and admits that he made the approach to Mr Narayan to change his evidence, what Mr Raza called "one stupid act" and "one act of madness".

*Besides being a lawyer in private practice, the accused has no previous convictions.*³

- [13] The Supreme Court decided, in short, that the use of a recording device in relation to serious criminal activity was not unconstitutional and was admissible in evidence, and confirmed Mr Singh's conviction.⁴
- [14] Mr Singh was, on conviction in October 2006, sentenced to twelve months imprisonment. Later, the Fiji Court of Appeal reduced that term to six months which he served 'extramurally'.
- [15] There is one aspect of this matter which might conveniently be dealt with at this point. In his submissions Mr Singh has referred to the fact that, under Fijian law, the offence of perverting the course of justice is a misdemeanour carrying a maximum penalty of two years. In Queensland, however, it is a crime punishable by imprisonment for up to seven years.⁵ The position under Fijian law is said, by Mr Singh, to be relevant to the question of whether or not he is a fit and proper person to practise here.
- [16] In the view of this Tribunal, the nature and degree of seriousness of Mr Singh's misconduct should not be considered or categorised in a way which places reliance upon the statutory differences. It is notable that the Fiji Supreme Court, in weighing a citizen's right to privacy against the admissibility of secretly recorded evidence, followed a line of New Zealand cases which held that there was no unconstitutional breach of the privacy of the accused when the recording occurred in circumstance relating to '*serious criminal activity*' and, importantly, that the nature of Mr Singh's offending engaged that principle.⁶ That phrase reflects, with respect, a fair description of the nature of the offence, however it may be categorised under local laws.
- [17] Mr Singh's submissions also emphasised events which have occurred in the Fijian Courts around his right to practise, which have been lengthy and complicated. According to his own submissions⁷ the Fiji Law Society cancelled his practising certificate in November 2006, after he was convicted. He appealed that cancellation to the High Court of Fiji and, on

³ Ibid [4].

⁴ Ibid [50], [52].

⁵ *Criminal Code* (Qld) s 140.

⁶ *Singh v State* [2008] FJSC 52 at [50].

⁷ Abhay Kumar Singh, 'Submission of the Respondent', Submission in *Legal Services Commissioner v Abhay Kumar Singh*, OCR204-10, 3 August 2011.

21 November 2006, the then Chief Justice granted him an interim stay pending the determination of his appeal.

- [18] He then applied, in Fiji in February 2007, for renewal of his practising certificate but did not press that until, it seems, after he had completed his extramural sentence. He again asked the Fiji Law Society to renew his certificate in June 2007 and when that was refused applied to the High Court and, in July 2007, Byrne J of that Court ordered the Fiji Law Society to immediately issue him with a certificate.
- [19] He then practised for a time until other proceedings were instituted against him by the Fiji Independent Legal Service Commission in 2009, leading to a hearing in November 2009 when the Commissioner ordered that his name be struck from the Fijian roll.
- [20] Mr Singh sought a stay of that decision from the Fiji Court of Appeal and on 7 May 2010 that Court granted a temporary stay, with the effect that his name was restored to the roll. In September 2010, Mr Singh's appeal was heard by the Court of Appeal which, effectively, reduced his period of disbarment from life to ten years from 1 February 2010.
- [21] His appeal from that decision was heard by the Fiji Supreme Court in its appellate jurisdiction on 9 August 2011. On 20 October 2011, the Court dismissed the appeal, but reduced the period in which Mr Singh's name was struck from the Fiji roll from ten years to six years, effective from 1 February 2010.⁸
- [22] The written judgment in that case, provided by Mr Singh, shows that the Independent Legal Services Commission had in fact brought four complaints against Mr Singh, the first of which arose from his conviction; that the relevant Fiji legislation incorporates notions of *professional misconduct* and *unsatisfactory professional conduct* which are not dissimilar to those found in the *Legal Profession Act 2007* (Qld) ('LPA'); that Mr Singh had been found guilty of professional misconduct in respect of the charge relating to his conviction;⁹ that the original penalty had involved him being struck off the roll altogether; that the Court of Appeal reduced the striking off period from, effectively, life to ten years; that the Supreme Court reduced the period of ten years to six years; and that, in doing so, it took into account Mr Singh's long and otherwise unblemished period of practice and, also, placed considerable emphasis on the fact that he had been unemployed for a period of eight months after the original cancellation of his practising certificate in November 2006.
- [23] The decisions of the Fiji Courts and documents provided by Mr Singh show that he has, intending no disrespect, left no stone unturned in his efforts to recover and maintain his right to practise there. His grounds of

⁸ *Singh v Chief Registrar of High Court of Fiji* [2011] The Supreme Court of Fiji Islands in its appellate jurisdiction, Civil Appeal No. CBV0007 of 2010, 20 October 2011 (Marsoof, Hettige and Calanchini, JJA).

⁹ *Ibid* [12].

appeal in each case were lengthy and exhaustive and a number of the judgements are very long.

- [24] His efforts did not abate before this Tribunal. He argued, first, that the Queensland Civil and Administrative Tribunal ('QCAT') lacked jurisdiction. That argument was addressed and rejected in *Legal Services Commissioner v Singh* [2011] QCAT 448. He then sought an order that the proceedings in QCAT be permanently stayed on the grounds that the offence for which he had been convicted in Fiji was a misdemeanour and he had completed his sentence and been disciplined in that country. That argument was also rejected; with reasons: *Legal Services Commissioner v Singh (No 2)* [2011] QCAT 580.
- [25] He also argued that the disciplinary proceedings here should be permanently stayed on the basis that they were an abuse of process or offended the principle of double jeopardy – a submission which was also rejected in a decision, again with reasons, in February 2012: *Legal Services Commissioner v Singh (No 3)* [2012] QCAT 181.
- [26] Ultimately, there are no material disputes of fact to be determined by this Tribunal. The facts and circumstances surrounding Mr Singh's conviction were extensively canvassed and considered by a number of courts in Fiji. Mr Singh pleaded guilty to, and was convicted of, a count of attempting to pervert the course of justice and, ultimately, sentenced to a term of imprisonment of six months.
- [27] The recitation of facts set out in the lengthy sentencing remarks show that Mr Singh, on sentencing, admitted the offence and all the elements of it. That admission was not an issue when the Fiji Supreme Court came to consider his appeal against conviction. Mr Singh's submissions about the events which, he alleges, lay behind his arrest cannot possibly be tested now, in another country. In light of these circumstances the Tribunal must proceed on the basis that the offence is established.
- [28] In the course of representing a client on a criminal charge Mr Singh offered a Crown witness money to change his evidence, in a way which would advantage his client. The question for this Tribunal is whether or not that conduct constitutes professional misconduct or unsatisfactory professional conduct and, if so, the appropriate sanction for it.
- [29] The legal profession in Queensland is regulated by the LPA, which came into effect on 1 July 2007. Although the conduct which is the subject of the charge was committed prior to the commencement of the LPA, its provisions are still relevant.¹⁰
- [30] The offending conduct, leading to conviction, occurred in June and July 2003. It is, therefore, to be assessed by reference to the notions of *professional misconduct* and *unprofessional conduct or practice* within the meaning of the legislation prevailing at the time: the repealed *Queensland*

¹⁰ LPA ss 716-18; See also, *Legal Profession Act 2004* (Qld) ss 612-14.

Law Society Act 1952 (Qld). That Act did not define *professional misconduct*; but, defined *unprofessional conduct or practice* as: serious neglect or undue delay; charging excessive fees or costs; failing to maintain reasonable standards of competence or diligence; or, conduct described under another Act, as unprofessional conduct or practice.¹¹

- [31] In *Adamson v Queensland Law Society Inc*¹² Thomas J (as his Honour then was) expressed the approach to an allegation of *professional misconduct* as follows:

The test to be applied is whether the conduct violates or falls short of **to a substantial degree**, the standard of professional conduct observed or approved by members of the profession of good repute and competency.¹³ (emphasis added)

- [32] Under s 420(1)(c)(i) of the current LPA, conduct involving a conviction for a serious offence is conduct capable of constituting unsatisfactory professional conduct, or professional misconduct.
- [33] On any view, the offending which led to Mr Singh's conviction involved misconduct which can only be described as serious. He attempted, as an officer of the Court in Fiji constrained to uphold the principles of justice and the rules of court at all times, to bribe a witness in circumstances where, if successful, the proper administration of criminal justice would have been seriously undermined – and, also, led to a spurious civil action against police authorities.
- [34] The word '*pervert*' in the charge brought in Fiji reflects the way the offence itself goes to the heart of the justice system; for a legal practitioner, embedded within and undertaking a role critical to the just, fair and successful operation of that system to attempt to undermine it in this way can only be described as serious professional misconduct.
- [35] The second charge arises from Mr Singh's failure to promptly give notice to the Queensland Law Society of a '*show cause*' event – his conviction – as required by s 68 of the LPA. He also failed to provide the Society with a written statement within 28 days explaining why, despite that event, he continued to be a fit and proper person to hold a local practising certificate.
- [36] Mr Singh has conceded, in his submissions, that he was not aware of the requirements of s 68 of the LPA.¹⁴ Given the seriousness of the offence, and the associated circumstance that Mr Singh only disclosed his conviction subsequently in the course of requesting the renewal of his practising certificate, this contravention should also be categorised as professional misconduct.

¹¹ *Queensland Law Society Act 1952* (Qld) s 3B(1).

¹² [1990] 1 Qd R 498.

¹³ *Ibid* 507.

¹⁴ Abhay Kumar Singh, 'Submission of the Respondent', Submission in *Legal Services Commissioner v Abhay Kumar Singh*, OCR204-10, 3 August 2011, at [71].

- [37] The third charge, involving a failure to make disclosure in applying for a practising certificate, relates to that circumstance: when applying, on 25 May 2007, for a Restricted Employee Practising Certificate from the Society for the year 2007-8, he failed to disclose the conviction. In effect, he ignored a prompt in the application document itself.
- [38] Mr Singh submits that the breach is '*technical*' and, in a sense, it is; but, even without knowledge of s 68 of the LPA, it defies belief that an educated and qualified legal practitioner would not, when filling out the form, appreciate the significance and relevance of the conviction.
- [39] The Legal Services Commissioner takes the position that, alone, this misconduct would amount only to unsatisfactory professional conduct but that, in light of the seriousness of the first two charges it should, rather, be seen as an ongoing course of misconduct which should be categorised as the more serious *professional misconduct*. In this Tribunal's view, both submissions should be accepted.
- [40] As to the appropriate penalty, Mr Singh's history and antecedents have already been traversed. He has also tendered a large number of references, testifying to his competence.
- [41] The primary purpose of any penalty is to protect the public and, in that light, to also consider principles of general and personal deterrence.¹⁵ The ultimate issue, as Mr Singh says in his own submissions,¹⁶ is whether he has been shown not to be a fit and proper person to be a legal practitioner of the Supreme Court of Queensland. As he also argues, a finding of professional misconduct does not necessarily require a conclusion of unfitness to practise,¹⁷ and that question must be determined at the time of hearing.
- [42] Section 9 of the LPA touches upon this question of fitness and propriety when it defines '*suitability matters*'. Under s 9(1)(c), '*suitability matters*' include whether a person has been convicted of an offence in a foreign country and, if so, the nature of the offence; how long ago it was committed; and, the person's age at the time. Those suitability matters are to be considered under the umbrella of the general test to be applied when the fitness and propriety of a person to continue as a legal practitioner is in issue: whether that person should any longer be held out as fit to practise, or whether he is '*... a fit and proper person to be entrusted with the important duties and grave responsibilities of a solicitor*'.¹⁸
- [43] Mr Singh's conviction involved an offence with elements of deliberate dishonesty and an attempt to deceive the criminal justice system in Fiji,

¹⁵ *Attorney-General v Bax* [1999] 2 Qd R 9 at 21 per Pinkus J.

¹⁶ Abhay Kumar Singh, 'Submission of the Respondent', Submission in *Legal Services Commissioner v Abhay Kumar Singh*, OCR204-10, 28 January 2013.

¹⁷ *A Solicitor v Council of the New South Wales Law Society* (2004) 216 CLR 253 at [21] per Gleeson CJ, McHugh, Gummow, Kirby and Callinan JJ.

¹⁸ Abhay Kumar Singh, 'Submission of the Respondent', Submission in *Legal Services Commissioner v Abhay Kumar Singh*, OCR204-10, 28 January 2013, at [12].

compounded by a subsequent failure to disclose that conduct to the Queensland Law Society.

- [44] This Tribunal has ordered that a practitioner's name be removed from the roll in decisions which involve less serious misconduct: *Legal Services Commissioner v Puryer*¹⁹, where the practitioner had deliberately misled the Supreme Court; and, *Legal Services Commissioner v Wood*²⁰ where the practitioner was convicted out two counts of fraud and one of forgery involving the dishonest application of funds from his firm's trust account.
- [45] In *Council of the Queensland Law Society Inc v Wakeling*²¹ the Queensland Court of Appeal set aside a decision of the Solicitors Complaints Tribunal and removed a practitioner's name from the roll in circumstances where he had deliberately misled the Supreme Court. In doing so the court said that, to ensure the protection of the public, it could not "... confidently present the respondent as someone on whom the client and the court may rely for undoubted honesty, (and) independent judgement".²²
- [46] The actual offending here occurred, of course, ten years ago. Mr Singh points to that lengthy period of time, and the fact that he has practised law in Fiji from time to time since then, and completed various development courses without any further complaint or disciplinary proceeding, as factors which tell in his favour.
- [47] This Tribunal must consider the question of fitness to practise now, and in the future.²³ There are some aspects of Mr Singh's conduct in the decade since 2003 which are material to those deliberations.
- [48] In Mr Singh's many submissions to this Tribunal he has not, until his final submission after the hearing on 12 December 2012, said anything suggesting remorse for or genuine insight into the conduct which led to his conviction. He does say, in his most recent submission filed 29 January 2013, that he is remorseful for the offending act and acknowledges his mistake,²⁴ but does so in the context that there are 'special factors' in this case which mean he has 'proved his worthiness' and has 'learnt his lesson', and 'proved that he has a clean record for ten years'.
- [49] As the recitation of the various proceedings in Fiji shows, however, he has taken every conceivable avenue of appeal in relation to his criminal conviction, and the disciplinary proceedings there. He also raised every conceivable argument to contest the proceedings before this Tribunal, all of which were without merit. He has, in earlier submissions to this Tribunal, maintained that he was entrapped by the Office of the Director of

¹⁹ [2012] QCAT 48.

²⁰ [2012] QCAT 185.

²¹ [2004] QCA 42.

²² Ibid [27].

²³ *Legal Services Board v McGrath (No 2)* [2010] VSC 332 at [26].

²⁴ Abhay Kumar Singh, 'Submission of the Respondent', Submission in *Legal Services Commissioner v Abhay Kumar Singh*, OCR204-10, 28 January 2013, at [84] and [85].

Public Prosecution, Fiji because of its jealousy at his success in courts there.

- [50] Those submissions compel the conclusion that he does not, even now, fully perceive and have real insight into the seriousness of his offending, or the fact that its elements involved an attempt to gravely subvert the proper administration of justice. Remorse is an emotion which can readily be propounded, but its actual presence is not always easy to discern. Its presence, in Mr Singh's case, would be more readily found if his conduct in the face of a serious charge in the past decade – beginning, as the passage from the sentencing remarks set out above shows, with an absolute denial, and continuing for some years through a welter of proceedings in which legal stratagems were relentlessly used to avoid sanction – did not belie it.
- [51] The Tribunal is, for these reasons, left unpersuaded that Mr Singh has (despite the long period of time which has elapsed) appreciated the seriousness of his misconduct or that, by dint of time and a better appreciation of the nature of his offending, the continuing cloud it leaves over the question of his fitness to practise has been diminished, or expunged.
- [52] The offending was, on any view, of a very serious kind: it involved dishonesty which goes to the heart of the justice system. Despite the fact that it occurred almost a decade ago, nothing that has happened since can be seen to reduce or allay its seriousness and it continues to raise a grave doubt about Mr Singh's fitness to practise. While the passage of time is material, its effects must be weighed against the events discussed earlier and, in particular, Mr Singh's own conduct.
- [53] In light of the seriousness of the original offending, and in the circumstances attaching to this matter, the Tribunal is driven to conclude that Mr Singh's name must be removed from the local roll.
- [54] The Legal Services Commissioner also seeks costs, as it may do under s 462 of the LPA. Subject to objection, that matter may be determined on the papers. Submissions on costs (including any objection to determination on the papers) should be made in writing, with the Legal Services Commissioner to file and give his within 21 days, and Mr Singh within 21 days thereafter.