

Litigation and Employment
Group

Treasury Solicitors Department
One Kemble Street, London WC2B 4TS

Olawang

24 May 2011

Dear Sir/Madam,

RE: Your client

Michael SAVAGE

1. I write further to my letter of 28 April 2011. As promised in that letter, I have now taken instructions from my client and can provide a substantive response to your request.
2. You have asked that my client revokes the 18 December 2008 decision to exclude your client from the UK. Your client has been invited by the Birkenhead Society to participate in a debate at the National Liberal Club in London on a date yet to be confirmed, which he wishes to accept. Your client has offered to make a number of undertakings as to his conduct while he is in the UK, including an undertaking that he will abide by the law and refrain from making comments that could be offensive to members of minority communities. He has stated that it is not his intention to foster or promote inter-community hatred or violence.
3. You have repeated a number of allegations first made in the course of pre-action correspondence, in particular:
 - (a) That the allegations made against him were false.
 - (b) That his statements had been taken out of context and do not properly reflect the totality of his statements.
 - (c) That the statements viewed were no more than robust expressions of opinion.
 - (d) That he has many homosexual friends and respects Islam as a great religion.
 - (e) That it was inappropriate to exclude him on the basis that this would provide "balance".
4. You have also re-stated that it is your client's intention to publish a repudiatory statement on his website.
5. You have further stated that your client considers the SSHD has changed the requirements for repudiation by first asking for "clear, convincing, and public evidence" of your client's repudiation of his earlier unacceptable behaviour, and then asking for that evidence to be demonstrated "over a period of time". However, we do not see any inconsistency between those two statements: they do not contradict each other and are both consistent with the SSHD's need to see firm, clear and convincing evidence that the previous

Simon Harker – Head of Division
Peter Bennett – Team Leader



statements have genuinely been repudiated and that the modified behaviour is ongoing and being maintained over time.

6. All of these issues were considered and responded to in the SSHD's letters of 9 July 2010 and 23 September 2010. The SSHD relies on these letters and does not seek to repeat those comments. We also note that your client does not appear to have published the repudiatory statement on his website that you refer to, despite assuring the SSHD of his intention to do so in July 2010.

7. We note that your letter of 23 July 2010 stated "if the ban is not lifted, our client will be obliged to appeal your decision." However, upon being told in our letter of 23 September 2010 that the ban would not be lifted, your client did not seek to make any legal challenge to the decision to exclude him. You will be aware that no right of appeal exists against that decision, and that you are now time-barred from bringing any judicial review proceedings against that decision.

8. You have not provided any evidence at all that the position has changed on the facts. Your client has not provided any evidence to show that he did not commit the unacceptable behaviour relied upon by the SSHD when making the decision to exclude him, nor has your client provided any acceptable evidence to show his repudiation of those unacceptable behaviours. Your client's proposed undertakings must be viewed in light of the fact that your client had previously stated that he would post a repudiatory statement on his website in July 2010, and his failure to do so since that date. The simple fact that your client has been invited to participate in a future event is irrelevant to the consideration of whether your client should be excluded from the UK.

9. You have stated that to prevent your client's entry into the UK to participate in the proposed Birkenhead Society debate will infringe his rights under Article 10 of the Convention. We respectfully refer you to the case of *Naik* [2010] EWHC 2825; This case stated that Article 10 rights are not engaged in the case of a Claimant who is outside of the jurisdiction, and also that any interference with the Article 10 rights of persons in the UK who wish to attend is proportionate. We note that permission to appeal has recently been granted in this case, but aver that the position in law is correctly set out in *Naik* and that the simple grant of permission to appeal is not any guarantee that any appeal will be successful. We further note that your client is perfectly able to speak at and participate in the planned event via video link if he so chooses.

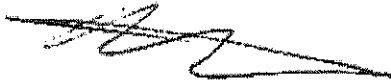
10. It follows that, as nothing has changed on the facts, the SSHD does not see any reason to once again revisit her predecessor's lawful and reasonable decision to exclude your client from the UK, a decision to which she has already confirmed her agreement. We therefore respectfully decline your client's request to revoke his exclusion.

11. As previously stated, the SSHD is not willing to enter into a dialogue as to what would constitute effective repudiation. As you are aware, the decision to exclude your client will be reviewed in December 2011. Any representations that your client wishes to make will be considered at that time alongside all other relevant material.

12. For the avoidance of doubt, this letter does not constitute any fresh decision to exclude your client. That decision was made by the SSHD on 18 December 2008 and it remains in place. Your client has had an opportunity to challenge the decision. Despite being legally advised by yourselves, therefore he can be said to be well aware of the time limits

relating to judicial review, he declined to do so. We therefore consider that any effort to try and set aside the clear time limitations set out in CPR 54 on the basis that this letter is somehow a fresh decision to exclude will be nothing more than a device, and if such proceedings are brought, we reserve our position as to costs and in particular as to wasted costs.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Michael Atkins', with a long horizontal flourish extending to the right.

Michael Atkins
for the Treasury Solicitor