



# Courts and Tribunals Judiciary

**IN THE WARWICK CROWN COURT SITTING AT COVENTRY**

**Before :**

**THE HONOURABLE MRS JUSTICE EADY DBE**

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**Between :**

**Rex**

**-and-**

**Sharad Bhimjiyani**

**Ms Kiran Pourawal for the Prosecution**

**Mr Lawrence Selby, Counsel, for Sharad Bhimjiyani**

Hearing date: 12 January 2024

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**SENTENCING REMARKS**

## Introduction

1. Sharad Bhimjiyani; you have pleaded guilty to six offences of failing to ensure details were provided in respect of a donation to a registered party, contrary to subsections 54(6) and (7) of the **Political Parties, Elections and Referendums Act 2000**.
2. You appeared at Northampton Magistrates' Court on 20 August 2021, when you were sent to the Crown Court for trial. Having initially pleaded not guilty, you subsequently changed your plea at the pre-trial review hearing on 20 September 2023. A pre-sentence report has been prepared in your case and I have carefully considered the content of that document, along with the other materials presented to me in mitigation, and have taken into account all that has been said on your behalf today by your counsel.

## The Factual Background

3. Your plea relates to six donations of £1,500 made in 2014, to the benefit of David Mackintosh, the then Conservative party parliamentary candidate for Northampton South. Mr Mackintosh was leader of Northampton Borough Council but had been selected as the Conservative candidate for the parliamentary constituency of Northampton South. In the 2015 general election, Mr Mackintosh was elected as an MP, which office he held for two years, not standing again in 2017.
4. On 4 June 2014, through your company RSB Accountancy Services Limited, you transferred £1,500 to the Northampton South Conservative Association to support Mr Mackintosh's campaign. On the same day, through your wife's company NSB Accountancy Services Limited, you caused a further £1,500 to be similarly donated. You subsequently procured other donations to be made, in the same sum, by various contacts of yours: Mr Gosai (one of your clients) on 12 June 2014; Mr Chotai (your brother in law, through his company Javee Trading Limited) on 26 June 2014; Mr Sheth on 30 July 2014; and Mr Parekh (again, someone you knew as a client) on 24 September 2014. You also sought to procure a similar donation from another client, Mr Galoria, albeit that was unsuccessful as Mr Galoria thought it would be wrong to make a payment to someone he did not know, who was providing him with no service or invoice.
5. In the case of each of the donations thus made, as you were aware, the payments in question were in fact derived from funds provided by Howard Grossman, acting through his company, 1<sup>st</sup> Land Limited. 1<sup>st</sup> Land Limited had made a payment of £16,500 to your accountancy company on 22 May 2014, for which an invoice had been raised for "*continuing services relating to the Northampton Project – fees as agreed*". A further payment of £2,000 was subsequently transferred to you by Mr Grossman on 2 July 2014. In fact, payments were made to you by Mr Grossman for the purpose of enabling you to arrange donations by others for Mr Mackintosh's parliamentary campaign. The amount of the payments was significant as donations to registered political parties above £1,500 are published on the website of the Electoral Commission, allowing greater public scrutiny.

6. Mr Mackintosh had been Leader of Northampton Borough Council from 2011 to 2015, during which period a substantial loan had been made by the Council to Northampton Town Football Club, which was intended for the redevelopment of Sixfields stadium and the derelict land nearby. 1<sup>st</sup> Land Limited was a single purpose company established for this redevelopment work, which was owned and controlled by Mr Grossman, a property developer based in Hertfordshire. You worked for Mr Grossman as his Bookkeeper and as Financial Controller of County Group – the umbrella company for Mr Grossman’s business interests.
7. Mr Grossman had wanted to make donations to Mr Mackintosh’s parliamentary election campaign but there was a concern that, given his business links with Northampton Town Football Club, the donations should not be seen to come from him directly; he therefore provided the funds and arranged that others would then make these donations. Initially three donations of £10,000 were made by other individuals at Mr Grossman’s request (and with 1<sup>st</sup> Land providing the necessary funds); subsequently, however, you were involved in securing the six payments of £1,500 I have detailed above. In total nine donations were made in this way, totalling £39,000.
8. After a lengthy investigation, charges were brought against yourself, your wife, and three others, in relation to these payments. Guilty pleas were ultimately entered by each of those who had made payments of £10,000: Mr Al Mayfield pleaded guilty at the Magistrates’ Court stage and was subject to a fine of £6,000; Mr Leonard Western entered his plea on 3 December 2021 and was subsequently sentenced to a six-week term of imprisonment suspended for eight months; Mr Gary Platt pleaded guilty on what would otherwise have been the first day of his trial, on 23 October 2023, and was later sentenced to a custodial term of seven weeks, suspended for eight months. The prosecution has not sought to proceed with the charge against your wife, and the count against her has been directed to lie on the file on the usual terms.
9. As for Mr Grossman and Mr Mackintosh, they were also subsequently charged in relation to these payments and recently stood trial, charged with an offence under section 61 of the Act of withholding information from the treasurer of the Northampton South Conservative Association with intent to deceive. They were found not guilty by the jury.
10. Where, however, donations are made to a registered political party through an agent, section 54(6) of the Act imposes an obligation on the agent themselves to ensure that the party is given information about the true donor; it is an offence if, without reasonable excuse, the agent fails to do so.
11. As with the other agents making the donations in question, when you transferred monies to the Northampton South Conservative Association – either through your own company or acting through others - you did not provide the required information as to the identity of the true donor. Following the acquittal of Mr Grossman, the prosecution does not seek to assert that you thereby acted with an intention to deceive: it is accepted that Mr Grossman may have notified the treasurer of the Northampton South Conservative Association of a desire to donate to Mr Mackintosh’s campaign and may then have been advised to do so via third parties; it is further accepted that Mr Grossman may thus have

conveyed to others – including yourself – that he was entitled to make donations in that way. For your part, you have said that you accepted Mr Grossman’s assurances that payments of £1,500 and under did not need to be declared so there was nothing to worry about; you assisted Mr Grossman in this way as a favour, not thinking there was anything wrong and without any personal gain. You accept, however, that you should yourself have looked into the requirements of making political donations and you have taken full responsibility for deciding to fulfil the favour that had been asked by Mr Grossman.

12. You were interviewed under caution by the police on 11 May 2017 and 12 October 2018, when you answered “no comment” to all questions.

### Approach to Sentence

13. This is an either way offence, for which the maximum penalty on conviction on indictment is 12 months’ imprisonment. There are no sentencing guidelines for this offence and no sentencing judgments of the Court of Appeal (Criminal Division). It appears that the prosecutions in respect of the Grossman donations in 2014 are the first that have been brought; I have already set out the penalties that have previously been imposed on others who have pleaded guilty to offences in this regard.
14. As in the cases of Sheth, Western and Platt, in approaching the question of sentence in this case, I have first had regard to the overarching guideline, and to the assessment of harm and culpability.
15. In determining **harm** in relation to this offending, I bear in mind that one of the objectives of the Act is to establish and ensure transparency as to the finances of political parties. Although primarily concerned to prevent foreign donors funding UK political parties, the legislation also puts in place a scheme which is intended to ensure that it is easy to police the donations made to registered political parties, with the identity of the true donor being readily verifiable. There are obvious reasons why it is important that the electorate knows who is funding those who seek political office; such transparency is vital in a functioning democracy. More particularly, the correct information needs to be provided so that the party in question, and the Electoral Commission, can check that the donation is from a permissible donor. These checks are undermined if those acting as agents for others do not provide information about the identity of the true donor. And although Mr Grossman may have understood that this information would in fact have been known by the treasurer of the Northampton South Conservative Association, that did not absolve those acting as agents from complying with the separate obligation that the Act imposes on them.
16. The charge has a threshold of £500. That was surpassed by each of the sums of £1,500 that you caused to be paid to Mr Mackintosh’s campaign (which came to a total sum of £9,000), and, of course, by the total sum of £39,000 paid on Mr Grossman’s behalf at this time. Although I do not proceed on the basis that you were aware of the other donations being made by other agents for Mr Grossman, even a “disguised” payment of £9,000 (broken down into smaller individual sums) can plainly serve to undermine the checks and balances necessary for the functioning of a healthy democracy. In the context of offences

of electoral fraud, it has been said that “A single falsified vote distorts our democratic process”, **R v Khan and ors** [2009] EWCA Crim 2483 at paragraph 38; and that “matters of interference with the election process in this country are ... very grave and serious”, **R v Philips** (1864) 6 Cr App R (S) 293. In the present case, the harm, which is inherent in the offence, arises from the loss of transparency when a financial donation is made to the benefit of someone seeking political power and where the true identity of the donor is not disclosed; that means there cannot be a proper audit or investigation of the financial support given to those who might obtain public office; it goes to the very integrity of our democracy.

17. Turning to the question of **culpability**. You are a man of good character, who has never previously been in trouble with the law. I further accept that you did not consider you were doing anything criminal and considered that you were doing a favour for your employer, having been told there was “nothing to declare”. You did not, however, have any personal links with Northampton, with the Northampton South Conservative Association, or with Mr Mackintosh, and given this context and overall amount of the payment that was made, you should have been aware that this was wrong. That alarm bells should have been ringing in your mind might particularly be expected given your work as a bookkeeper, who has operated in business providing accountancy services.
18. Moreover, your role was not – in contrast to that of others I have sentenced in this case – merely that of a foot soldier, performing a limited function, and making a one-off payment under direction. Although I cannot be satisfied that you obtained any financial gain, it is apparent that you took a more proactive role, involving some planning and organisation over time, and that you encouraged others to participate in this offending. Mr Selby has urged that I should not place significance on the fact that you were involved in making a number of payments, given the fact that you were – like others – acting at Mr Grossman’s request and the way the donation was made (that is, by smaller sums, through a number of others) was simply a product of that. To some extent that is true, but you were a mature adult, with knowledge and experience of financial matters, and although you operated to a degree pursuant to the direction given by your employer, you agreed to participate in this enterprise and to take a more proactive role in making donations in this way, when it is apparent that others refused to do so. Given the role you played, I consider that you are to be assessed as having a medium level of culpability in respect of this offending.

## Sentence

19. Taking into account your medium culpability but also having regard to what I see as the harm done by these offences, I consider the appropriate starting point would be a fifteen-week term of imprisonment.
20. There are no aggravating features but there is mitigation. First, you are, at the age of 68, a man of otherwise positively good character, who – as is clear from the content of your letter to me and from what you have said to the author of the pre-sentence report - has displayed genuine remorse for what you have

done. You have worked hard all your life, taking on extra jobs at the weekend when needed to earn additional funds to support your family and avoiding applying for government benefits. You are very much a family man who (with your wife) provided care for your mother for many years until her death, and you now provide support for your wife, who was diagnosed with Type-1 Diabetes after a severe bout of Covid-19. You have also undertaken an active and supportive role in the community, serving as a trustee of your Temple and Community Centre, and participating in the services provided to those in need, both in this country and abroad; I accept that standing down from your role as trustee because of these proceedings, and taking a lesser role in these good works, has been a severe blow to you. I have read with care the many testimonials provided by those who have known you over the years, either through your work at the Temple, or through your charitable endeavours more generally, or as professionals who have worked with you, and/or who have been your clients. I accept that this offending is out of character and that your lack of judgement is something that you very genuinely regret. Allowing for your remorse and personal mitigation, I consider the provisional sentence would then reduce down to twelve weeks.

21. Your guilty plea was entered late in the proceedings – at the pre-trial review stage – but I accept that you had wanted to consider your position after the late charging of Messrs Grossman and Mackintosh. The appropriate reduction would seem to me to be in the region of 12-15% and I have decided that your sentence should be reduced to one of ten weeks by way of credit for your plea.
22. I turn then to the question whether a custodial sentence is appropriate.
23. In this regard, I have taken into account what has been said in the pre-sentence report and have listened carefully to everything that has been said on your behalf.
24. I am, of course, aware that others who were charged with related offences have now been acquitted after trial by jury. The offences for which those other defendants stood trial were, however, not the same as that to which you have pleaded guilty and the fact that a jury has accepted that others may not themselves have withheld information with an intention to deceive does not say anything about the entirely separate obligation upon agents who made donations to provide information about the true identity of the donor.
25. Having regard to all these matters, I have considered whether a fine or community order would provide a sufficient penalty, but have concluded that either course would fail to address the nature of the offence and the need for the sentence to act as a clear deterrent. As for the length of such a sentence, I consider that a ten-week term is the shortest that would be commensurate with the seriousness of this offence. I have, however, also concluded that this term should be suspended for a period of eight months. The suspension of the custodial term reflects the length of time you have had this matter hanging over you and the impact that this has obviously had on you, including on your health; it also reflects your strong personal mitigation, the fact that there is a real prospect of complete rehabilitation, and the impact on your family, in particular given your caring responsibilities for your wife, that would result from a term of

immediate imprisonment. In some cases, it might be appropriate for that suspended sentence to be combined with a financial penalty or to be subject to a community requirement but, given the impact that these lengthy proceedings have already had on you, I do not consider either course would be appropriate in this case.

### **The Sentence of the Court**

*(the defendant is to stand up when addressed, and to remain standing until dismissed)*

26. **Mr Bhimjiyani**, I am sentencing you to a term of ten weeks' imprisonment (concurrent on each count) suspended for eight months. If in the next eight months you commit any offence, whether or not it is of the same type for which I am sentencing you, you will be brought back to court and it is likely that this sentence will then be brought into operation, either in full or in part. You will also pay the prosecution costs of £1,800 (you will have four weeks to pay this sum) and the victim surcharge if applicable in this case.