



Neutral citation number: [2024] UKFTT 147 (GRC)

Case Reference: IMS.2023.0005

**First-tier Tribunal  
General Regulatory Chamber  
Immigration Services**

**Considered on the papers on 07 February 2024**

**Decision given on: 16 February 2024**

**Before**

**DISTRICT JUDGE REBECCA WORTH  
(authorised to sit as a Tribunal Judge in the GRC)**

**Between**

**BURAK SAHIN**

Appellant

**and**

**THE OFFICE OF THE IMMIGRATION SERVICES COMMISSIONER**

Respondent

**Decision:** The appeal is Struck out.

## **REASONS**

1. Burak Sahin seeks to be regulated by the Office of the Immigration Services Commissioner (“OISC”) to give Immigration Advice. By letter dated 27 August 2023, he was refused registration by OISC as, they say, he has failed to demonstrate sufficient competence in giving immigration advice so as to persuade OISC that he is fit and competent to give such advice at level 1.
2. OISC’s decision is founded in Mr Sahin’s scores in an HJT Training Limited exam and as, they say, he accessed unauthorised material/websites during the exam that he took. He appeals that decision to this Tribunal.

3. Mr Sahin's Grounds of Appeal include:
  - 3.1. He was told that the exam would be assessed as a whole, and it was the overall mark which counted, not each section.
  - 3.2. He is a Foreign Qualified Lawyer and able to give advice under supervision as the SRA (presumably, he means the Solicitors' Regulation Authority) says he can.
  - 3.3. He did not access unauthorised material but may have had other internet windows open during the exam.
  - 3.4. HJT Training Limited must have failed him to get more money by him needing to re-take the exam.
  - 3.5. The test was marked incorrectly; he is a lawyer and knows that his answers were correct, others have told him that his answers were correct.
4. OISC have applied to the Tribunal for the appeal to be struck out. Mr Sahin was given an opportunity to make representations about that application, the Tribunal does not appear to have received any such representations from him.

#### Facts

5. It is undisputed that Mr Sahin scored 13/20 (65%) for part 1 (multiple-choice questions) and 13/30 (42%) for part 2 (scenario based questions).
6. It is undisputed that Mr Sahin was informed by OISC, in a letter dated 27 August 2023, that his application for Registration was refused.
7. It is also undisputed that Mr Sahin, at around 1 p.m. on the day of the exam (and after the exam window had closed), was told by a member of OISC's staff that the decision about competency was based on achieving 60% in respect of the whole assessment.
8. It is also undisputed that Mr Sahin was sent documentary evidence about the exam and that documentary evidence told him that he had to pass both parts, the pass mark on each being 60%.
9. It is disputed as to whether Mr Sahin did, or did not, go to unauthorised websites during the exam.

#### Applying those facts to the appeal

10. It is not realistic to believe that the Tribunal would find that a single employee of OISC can change the exam pass mark for an individual person. To find otherwise would be irrational. Therefore, there is no realistic possibility of Mr Sahin succeeding on his ground of appeal that he was told (after he took the exam) that the pass mark was 60%.

11. Even if I was wrong on the above, the information he was told about the exam pass mark cannot have influenced his performance in the exam as he was told after the exam window had closed.
12. Further, even if the decision was on the mark of the whole exam rather than needing to pass each part, Mr Sahin does not explain how that would mean that he achieved the pass-mark 60%. The maths does not appear to me to add up to a pass – the mean average of 65% and 42% is 52.5% (still less than 60%) and if you add up the scores for the individual components (one was 13 out of a possible 20 and the other was 13 out of a possible 30), the grand total is 26 out of 50 which is 52%, still lower than the 60% pass rate.
13. I turn to Mr Sahin’s ground of appeal that his answers were correct. Firstly, it is not for this Tribunal to re-mark an assessment. Secondly, it appears that this assertion was only made once he had received notification that he was being refused registration and not when he received his marks. If he really sought to challenge the outcome, he would have taken this up with HJT Training Limited immediately he received his results.
14. I turn to Mr Sahin’s ground of appeal that HJT Training Limited deliberately failed him for financial reasons. Mr Sahin does not indicate what evidence he may provide to support this allegation which is akin to an allegation of deliberate fraud. I am doubtful that he has any such evidence but relies on the belief that, as he should have passed it must be a conspiracy by HJT Training Limited which caused his failure. If he were to seek to advance a case which such a serious assertion, he would need to find compelling evidence to support his theory.
15. Finally, I turn to the question of whether Mr Sahin used unauthorised material. I find that, in the context of this application to strike out the appeal, this is irrelevant. I make no finding as, even if he did not access unauthorised material, his appeal must fail.
16. For the above reasons, Mr Sahin’s appeal is struck out pursuant to rule 8(3)(c) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, as amended.

Signed: *District Judge Worth*

Date: 07 February 2024