



**Upper Tribunal  
(Immigration and Asylum Chamber)  
Numbers: IA/48844/2014**

**Appeal**

**IA/48845/2014**

**THE IMMIGRATION ACTS**

**Heard at: Manchester  
On: 14<sup>th</sup> October 2015**

**Decision & Reasons  
Promulgated  
On: 14<sup>th</sup> October 2015**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MUHAMMAD NAEEM  
ASMA RAMZAN  
(ANONYMITY ORDER NOT MADE)**

Respondents

**Representation:**

For the Appellant: Mr Harrison, Senior Presenting Officer  
For the Respondent: Mr Timson, Counsel instructed by Juris Solicitors

**DECISION AND REASONS**

1. The Respondents are both nationals of Pakistan. They are respectively a husband and wife, date of birth 10<sup>th</sup> September 1982 and 5<sup>th</sup> June 1982. On the 25<sup>th</sup> March 2015 the First-tier Tribunal (Judge AJ Parker) allowed their linked appeals against a decision to refuse them further leave to remain as Tier 1 Entrepreneurs. The Secretary of State now has permission to appeal against that decision<sup>1</sup>.

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<sup>1</sup> Permission granted by First-tier Tribunal Judge Page on the 27<sup>th</sup> May 2015

## **Background and Matters in Issue**

2. The matter in issue on appeal to the First-tier Tribunal was whether the applications for further leave had been supported by all of the mandatory evidence, in particular that required by paragraph 41-SD(e)(iii) of Appendix A (as it then read):

*(iii) one or more of the following specified documents covering (either together or individually) a continuous period commencing before 11 July 2014), up to no earlier than three months before the date of his application:*

*(1) advertising or marketing material, including printouts of online advertising, that has been published locally or nationally, showing the applicant's name (and the name of the business if applicable) together with the business activity; or, where his business is trading online, confirmation of his ownership of the domain name of the business's website,*

*(2) article(s) or online links to article(s) in a newspaper or other publication showing the applicant's name (and the name of the business if applicable) together with the business activity,*

*(3) information from a trade fair, at which the applicant has had a stand or given a presentation to market his business, showing the applicant's name (and the name of the business if applicable) together with the business activity, or*

*(4) personal registration with a UK trade body linked to the applicant's occupation;*

3. Of these four alternatives the Respondents relied on (1).
4. When the matter came before the Tribunal the parties had narrowed the issue even further: the determination notes at paragraph 8 that the question was whether there was any evidence of advertising before the 11<sup>th</sup> July 2014.
5. At paragraphs 12-13 of the determination the First-tier Tribunal finds that a bundle of evidence, "including posters, pens calendars etc" was all submitted with the application, and that these materials were in existence before the 11<sup>th</sup> July 2014. It appears to be accepted that the Appellants took delivery of these materials on the 10<sup>th</sup> July 2014 and that some of them were given to a client with whom a contract was signed on the same day: the evidence set out at paragraph 10 being accepted under the heading 'my findings of fact'. Having regard to the precise wording of the Rule, the Tribunal could find no

support for the Secretary of State's contention that the advertising material had to be *dated* prior to 11<sup>th</sup> July 2014: it was enough that it *existed* prior to that time and that it had been submitted with the application. The appeals were accordingly allowed.

### **The Grounds of Appeal and Response**

6. The Secretary of State now appeals on the following grounds:
  - i) The advertising material was “not acceptable”;
  - ii) It did not cover the continuous period prescribed by the Rule;
  - iii) There was “no evidence” that the pens, key-rings and calendars had been distributed prior to the 11<sup>th</sup> July 2014.
7. Mr Timson opposed the appeal on all grounds, directing my attention to an invoice in the bundle, dated 10<sup>th</sup> July 2014, which referred to the delivery of said advertising material to the Appellants.

### **My Findings**

8. References herein to the grounds are as they are numbered above.
9. Ground (i) is not an arguable error of law. It is a disagreement with the clear findings of fact made by the Tribunal.
10. Ground (ii) is not particularised. The advertising, of whatever description, must cover the relevant period. The Judge accepted that the keyrings, calendars etc were in the Appellants' possession, and had indeed been distributed, on the 10<sup>th</sup> July 2014, when he gave them to a client. It does not appear to be in issue that it was still in existence when the application was made in October of that year. The First-tier Tribunal inferred from those two facts that the material in question had continued to exist between those points in time. That was an entirely reasonable inference to draw. There is no arguable error of law in respect of whether the material existed for the continuous period prescribed by the Rule. Although Mr Harrison did not seek to persuade me otherwise, I would note for the sake of completeness that the Rule cannot sensibly be requiring advertising material to all be dated so as to show continual existence: unless an advertisement appears in a newspaper on a given day, or for instance makes a time-limited offer, it would be most unusual if it did. A keyring is not likely to bear the date upon which it is handed to a prospective client.
11. As to whether there was “no evidence” that the key rings, calendars and other marketing material were distributed prior to 11<sup>th</sup>

July 2014 it is perfectly clear from paragraph 10 that there was: that was the evidence of Mr Naeem, accepted in its entirety by the First-tier Tribunal.

### **Decisions**

12. The decision contains no error of law and it is upheld.
13. I was not asked for a direction as to anonymity, and on the facts I see no reason to make one.

Upper Tribunal Judge Bruce  
14<sup>th</sup> October 2015