



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/17081/2013  
IA/17085/2013

**THE IMMIGRATION ACTS**

**Heard at Stoke  
on 30<sup>th</sup> July 2014**

**Determination  
Promulgated  
on 13<sup>th</sup> August 2014**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**RAYMOND OZIEGBE AGBI  
NNENNA NKECHINYERE AGBI  
(Anonymity direction not made)**

Appellants

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Lister – Senior Home Office Presenting Officer.  
For the Respondent: Ms Carver instructed by Westkin Associates

**DETERMINATION AND REASONS**

1. On the 16<sup>th</sup> January 2014 at Stoke it was conceded by Mr Lister that the First-tier Tribunal Judge had materially erred in law. As Mr Khan, who appeared on behalf of the Appellants on that occasion, was without sufficient instructions and documentation to be able to proceed the hearing was adjourned with directions given to facilitate an exchange of evidence and the possibility of agreement being reached between the parties. Unfortunately this has not occurred and so the matter was listed for the purposes of a disposal hearing.
2. The parties have exchanged correspondence regarding the location of the original documents submitted with the application, which Mr and

Mrs Agbi state were not returned to them. This lead to a 'subject access' request being made and Mr Lister being contacted by the relevant team within the Home Office on 3<sup>rd</sup> July 2014. Mr Lister was then able to review the file he had been sent and approved the release of the documents although this had not occurred to date as a result of this hearing. The relevant papers have now been made available to the Tribunal and Miss Carver. They have been retained by Mr Lister and are to be released in accordance with the established procedures.

3. What the documents allowed the Advocates to do was to narrow the issues in dispute. In fact, it was agreed that there was only one relevant issue at large which is whether the material provided satisfied the requirement of paragraph 41-SC (c) (3) (i) of the Rules. It was submitted by Mr Lister that the business card and leaflet proved do not show whether they have been published only locally or nationally as there is no evidence showing how far the documents have been distributed and so the prescriptive element of the Rules, had not been met. In relation to the online material proved with the application; this does not mention the Appellants name(s) and business activities which are mandatory requirements, on the home page of the website.
4. Miss Caver accepted that the required information was not contained in these documents. As a consequence I find the Appellants have not proved that the information provided with the application met the mandatory requirements of the relevant rule and the appeal must therefore fail.

### **Decision**

5. **The First-tier Tribunal Judge materially erred in law. I set aside the decision of the original Judge. I remake the decision as follows. This appeal is dismissed.**

Anonymity.

6. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 12<sup>th</sup> August 2014

