

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF AILISH AIMEE AMATARI ABRAHAMS, solicitor
(The Respondent)(previously known as Ebifite Bosede Dime)

Upon the application of Lorraine Patricia Trench
on behalf of the Solicitors Regulation Authority

Mr A N Spooner (in the chair)
Mr R Hegarty
Mrs C Pickering

Date of Hearing: 19th October 2010

FINDINGS & DECISION

Appearances

Ms Lorraine Patricia Trench of 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE for the Applicant.

Miss Susanna Heley of RadcliffesLeBrasseur, 5 Great College Street, London SW1P 3SJ for the Respondent.

The application was dated 8th January 2010.

Allegation

The Respondent breached Rule 1.06 of the Solicitors Code of Conduct 2007, as she behaved in a way that was likely to diminish the trust the public placed in her or the profession by virtue of her convictions and sentence at Acton Magistrates Court on 18th September 2008.

The allegation was admitted by the Respondent.

Factual Background

1. The Respondent, born in 1965, was admitted as a solicitor on 15th September 2005

and her name remained on the Roll of Solicitors. The Respondent was not currently practising as a solicitor.

2. At all material times, the Respondent carried on practice under the style of Maher & Company at Bank House, 350 Pinner Road, Harrow, HA1 4LB. She practised in partnership from 1 March 2008 until 31st December 2008, when the firm ceased.
3. The Respondent appeared before Acton Magistrates Court on 18th September 2008 and was convicted of three offences of producing or furnishing a document, namely claim forms for Housing and Council Tax Benefit, which were false in a material particular, to the Department for Work and Pensions with a view to obtaining a benefit for herself contrary to the Social Security Administration Act 1992. The offences were committed on or about 21st November 2005, 12th June 2006 and 21st June 2006.
4. The prosecuting authority confirmed that all three matters were subsequently amended to the lesser offence stipulated in section 112 of the Social Security Administration Act 1992. The Respondent pleaded guilty to the charges and was fined £100 for the first offence. There were no separate penalties for the second and third offences. The Respondent was also ordered to pay costs of £314.00.
5. The Respondent's representatives provided a letter dated 15th April 2009 on her behalf to the Solicitors Regulation Authority. The Respondent accepted that by not particularising properties on claim forms for benefits, the information provided was false. The Respondent also stated that although she appreciated the information was false she did not believe that she was acting dishonestly and that she did not appreciate that this information would ultimately lead to the claim being determined an overpayment.
6. On 17th August 2009, the Respondent's representatives sent a request to re-open the case to Ealing Magistrates Court, as they believed that the matter was time barred at the time the Respondent was prosecuted by Ealing Council. The Respondent's representatives confirmed on 9th October 2009 that the Magistrates had dismissed the Respondent's application to reopen the case and on 21st October 2009, the Respondent's representatives confirmed that the Respondent's challenge to her original conviction was ongoing.
7. The Tribunal reviewed all the documents submitted by the Applicant which included:-
 - (i) Rule 5 Statement together with all enclosures.
 - (ii) Memorandum of conviction.
 - (iii) Schedule of Costs dated 14th October 2010.
8. The Tribunal reviewed all the documents submitted by the Respondent which included:-
 - Witness statement of Ailish Aimee Amatari Abrahams together with all enclosures.

Witnesses

9. No witnesses gave oral evidence.

Findings as to Fact and Law

10. The Tribunal found the allegation was proved, indeed it was admitted by the Respondent.

Mitigation

11. Ms Heley, on behalf of the Respondent, referred the Tribunal to the Respondent's witness statement dated 19th October 2010 which contained details of her current medical condition. The Respondent had become very ill in 2006 and was suffering from a serious disease which rendered her unable to work. It was some time after she became ill that she was diagnosed, and as a result of this she did not apply her mind in full to the forms when they were completed. She had initially become ill in February 2006 but was not diagnosed until September 2006. The Respondent was not now well enough to practise and did not know whether she would ever be well enough to practise in the future.
12. The problem had arisen when the Respondent had completed a form for Housing and Council Tax Benefits and did not realise that she should have included three properties she owned at the time on the form. She had thought she was supposed to disclose assets which were generating a profit and the limited rental income from those properties was not enough to cover the mortgage and therefore she was not receiving any profit. She had also encountered challenges due to the payment of huge service charges and periods when the properties were not tenanted, so there was no rental income, and there were repair and maintenance matters to deal with. The Respondent had sought legal advice concerning the convictions and was informed by Counsel that if she had provided the information regarding the three properties, she would still have been entitled to the benefit that she had received, but her application would have taken longer to process. As a result of this, the prosecuting authority did reduce the offence from a dishonesty offence to an offence of providing false information. It was submitted the Respondent had misunderstood the forms she had completed as this was the first time she had ever applied for any kind of benefits. She did not seek any advice before completing the forms and did so the best she could.
13. The Respondent was not working at the moment and indeed, the Tribunal was referred to the various medical records and letters attached to her witness statement. In particular, a letter dated 23 April 2009 from Dr Shora of the Royal Brompton Hospital confirmed the Respondent's lung function was only about 25% of normal. As a result she had very limited exercise capacity and was only able to walk up three or four stairs before becoming breathless. Any minor exertion was very strenuous and the Respondent's condition had not improved over three years. The long term prognosis was uncertain and it was submitted that as the Respondent had been on steroids for some time, this could have affected her when she completed the forms. The Respondent was now 45 years of age and had only been qualified three months at the time of the first event. She had worked sporadically due to her illness since then, and requested the Tribunal not to shut the door on her practising in the future.

Costs Application

14. The Applicant provided the Tribunal with a Schedule of Costs dated 14th October 2010 and requested an order for her costs in the total sum of £4,513.47.
15. The Respondent submitted she was unable to pay those costs as she was receiving benefits, was not working and did not know when she would be able to return to work. After paying for all her bills and the cost of care, the Respondent was left with only £85. One property she owned was due to be vacated by tenants on 3rd November 2010 and the Respondent did not know whether she would be able to re-let that property. The Respondent was currently unable to live independently and so contributed to the food and bills of a family friend who was caring for her.

Previous Disciplinary Sanctions before the Tribunal

16. None.

Sanction and Reasons

17. The Tribunal had listened carefully to the submissions of both parties and had considered all the documents provided in detail. The convictions related to three separate offences that were committed over a period of seven months. The Tribunal noted that no dishonesty was alleged and had taken into account the Respondent's ill health, particularly so far as the completion of the second and third forms were concerned. The Tribunal also noted that at present the Respondent was not practising as her health did not allow her to do so.
18. By failing to particularise the properties, and thereby giving false information, the Respondent had behaved in a way which was likely to diminish the trust the public placed in her and had in the profession. Solicitors were expected to be open and transparent in all their dealings and indeed, the Tribunal was mindful of the case of *Bolton v The Law Society* [1994] CA in which Sir Thomas Bingham MR stated:-

“Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends on trust. A striking off order will not necessarily follow in such a case, but it may well.”

19. The Respondent was a solicitor who should have known that filling in forms was important and must be done properly. The Tribunal had considered whether this was a case where the Respondent should be struck off the Roll of Solicitors, but having heard the mitigation presented on her behalf and the fact that there had been no finding of dishonesty, and taking into account her ill health, the Tribunal Ordered the Respondent should be indefinitely suspended from practice as a solicitor.

Decision as to Costs

20. In relation to the question of costs, the Tribunal had considered the Schedule of Costs provided by the Applicant and ordered the Respondent pay the Applicant's costs in the sum of £4,500. It was clear from the mitigation that the Respondent owned properties, even though she was receiving benefits and the Tribunal had not been provided with any information concerning the value of the properties or the equity available, if any. The Respondent had not provided the Tribunal with a Schedule of Income, Expenditure, Capital, Assets and Liabilities and therefore the Tribunal ordered the costs should be paid in full.

Order

21. The Tribunal Ordered that the Respondent, Ailish Aimee Amatari Abrahams (also known as Ebifite Bosede Dime) of 5A Colney Hall Parade, Kingsway, Kent, BR4 9JB, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 19th day of October 2010 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,500.00.

Dated this 6th day of January 2011
On behalf of the Tribunal

A N Spooner
Chairman