

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF ANGELA JANE BUTLER, solicitor (The Respondent)

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

Mr K W Duncan (in the chair)
Mrs J Martineau
Mrs C Pickering

Date of Hearing: 20th December 2010

FINDINGS & DECISION

Appearances

Lorraine Patricia Trench, a solicitor employed by the Solicitors Regulation Authority, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE, appeared on behalf of the Solicitors Regulation Authority (“SRA”).

The Respondent did not appear and was not represented.

Allegations

The allegation against the Respondent was that she had breached Rule 1.06 of the Solicitors Code of Conduct 2007, as she had behaved in a way that was likely to diminish the trust the public placed in her or the legal profession by virtue of her conviction upon indictment of Theft at Derby Crown Court on 30 March 2010.

Factual Background

1. The SRA’s records showed the Respondent’s date of birth as 15 January 1968. The Respondent had also previously used a date of birth of 15 March 1968.
2. The Respondent was admitted as a Solicitor in April 2003 and her name remained on

the Roll of Solicitors. The Respondent last held a Practising Certificate for the practice year 2008/2009. Her Practising Certificate was terminated on 9 December 2009.

3. The Respondent was formerly employed as a Solicitor at Geldards LLP (“the Firm”). The Respondent had commenced employment as a Legal Executive in January 2001. She entered into a training contract with the Firm in January 2002 and was employed as a solicitor from the date of admission. The Respondent became an Associate in October 2003 and a Senior Associate in October 2004.
4. The Respondent was currently in prison.
5. The Respondent was employed in the Firm’s residential conveyancing team. On 5 February 2009, the firm received a telephone call from Mr Michael Calvert, Head of Forensic Investigations at the SRA. Mr Calvert informed the firm that the SRA had received a report indicating that the Respondent was using client cheques to settle her personal credit card bills. The Firm suspended the Respondent on the same day and took appropriate steps to ensure that the Respondent could not enter their offices.
6. An inspection of the Firm’s books of account and other documents was carried out by the Forensic Investigation Department of the SRA on 6 February 2009. The Investigation was limited to a review of the firm’s accounting records and a detailed review of the matters relating to the Respondent. The Forensic Investigation (FI) Report produced as a result of this inspection was dated 30 October 2009. The Firm also carried out a detailed investigation of the Respondent’s matters and prepared a Report in relation to her activities. Save for the matters identified as a result of the Respondent’s conduct, no additional breaches of the Solicitors’ Accounts Rules were identified.
7. The Firm’s investigation determined that the Respondent, who was not a cheque signatory to the client bank account, had authorised 63 improper payments that resulted in the drawing of 63 client account cheques totalling £44,633.84. Three of the cheques totalling £2,511.70 were not debited to client bank account but 60 cheques totalling £42,122.14 cleared the client bank account. The Firm reviewed all payments made in respect of residential conveyancing clients for the Derby office and the earliest relevant transaction identified was on 13 September 2007.
8. The Firm identified that the improper payments were in relation to matters on which the Respondent was the designated fee earner or had access in a supervisory capacity. No evidence was seen to show that any of the 63 requested payments were properly made. The SRA’s Investigation Officer concurred with the Firm’s findings.
9. None of the payments had passed through the Firm’s supervisory process. The Firm noted that the Respondent had been identifying conveyancing matters where there was a small residual balance remaining and requesting a cheque, allegedly to repay monies due to the client. The cheques were instead used to pay five financial institutions. These payments were in respect of credit card/charge card accounts held by the Respondent and/or her daughter. The payments ranged in size from £87.97 to £7,600.
10. The Firm rectified the shortages created by the Respondent by a transfer of funds

from office to client bank account on various dates. The firm also reported the matter to the police.

11. On 26 November 2009, the SRA wrote to the Firm seeking their comments on the FI Report. The Firm's response was dated 14 December 2009.
12. On 22 December 2009, the SRA wrote to the Respondent seeking her comments on the FI Report. No reply was received from the Respondent and a further letter was sent to her on 13 January 2010.
13. The Firm were notified in a letter dated 15 January 2010 that the SRA would not be taking any action against them.
14. Replies were received from the Respondent by way of letters dated 6, 15 and 24 January 2010. The Respondent made various allegations against the Firm and its members and was advised to report them to the Legal Complaints Service. The Respondent further stated that she was being held on remand, fully expected to receive a custodial sentence if convicted, and had no intention of practising again.
15. On 1 March 2010, an Authorised Officer at the SRA decided to refer the Respondent's conduct to the Tribunal.
16. On 30 March 2010, the Respondent was, upon her own confession, convicted upon indictment of Theft at Derby Crown Court. The Respondent was sentenced on 3 August 2010 to 3 years' imprisonment. The Court made a nominal Confiscation Order under the Proceeds of Crime Act 2002 for the sum of £1.00. The Judge also declared that the Respondent had benefited from the sum of £43,655.53.
17. In his sentencing remarks, the Judge noted that the Respondent had been stealing from her employer "really quite systematically over the course of about two years...." He accepted that she had pleaded guilty at the first available opportunity once the facts had been discovered, and she had returned to the country from abroad. The Judge referred to "premeditated, long-term theft from an employer" and that there was "an aggravating feature that it's in breach of trust of your employer."
18. Details of the Respondent's conviction and sentence also appeared in an online national newspaper after she was sentenced by the Crown Court.

Preliminary Matter

19. The Tribunal wished to be satisfied that the Respondent had been properly served as she had not replied to correspondence nor engaged in the proceedings. The Applicant informed the Tribunal that in August 2010 the Prisoner Location Service had confirmed that the Respondent was serving her sentence at HM Prison Foston Hall, Derbyshire. That address had been used in the proceedings including for notice of the pre-listing day and service of the Civil Evidence Act notice in October 2010.

Decision of the Tribunal

20. The Tribunal was satisfied that the Respondent had been properly served under Rule 10 of the Solicitors (Disciplinary Proceedings) Rules 2007. The Tribunal decided to

proceed with the hearing under Rule 16(2), notwithstanding that the Respondent had failed to attend and was not represented.

Documents

21. The Tribunal reviewed documents submitted by the Applicant, including the following:-
 - (i) Rule 5 Statement dated 31 August 2010 with exhibits, including the FI Report dated 30 October 2009;
 - (ii) Certificate of Conviction dated 12 August 2010 and Judge's sentencing notes dated 3 August 2010.

Witnesses

22. There were no witnesses.

Findings as to Fact and Law

23. The allegation related to a breach of Rule 1.06 of the Solicitors Code of Conduct 2007 arising out of the Respondent's conviction of theft from her employer in the amount of £43,655.53. Her daughter was also involved, obtaining an amount of £3,000 from an account to help both of them to flee to Spain. The Applicant had not specifically alleged dishonesty because it was submitted that it was an essential element of the offence of theft. The Respondent had pleaded guilty and the Tribunal found the facts underlying the allegation to have been proved. The Respondent had betrayed the trust of her employer over a period and her case had attracted some publicity. The Tribunal therefore found proved the allegation that she had behaved in a way that was likely to diminish the trust that the public placed in her or the legal profession by virtue of her conviction.

Mitigation

24. The Respondent had not engaged in the Tribunal process and no submissions had been made in mitigation. The Tribunal noted that the Respondent was suffering from MS but no medical report had been provided.

Costs

25. The Respondent applied for costs in the amount of £6,063.46 to include VAT and the costs of the investigation.

Previous Disciplinary Sanctions before the Tribunal

26. None

Sanction

27. The Tribunal ordered the Respondent to be struck off the Roll of Solicitors.

Costs Order

28. On the question of costs the Tribunal felt it appropriate to make an order in the sum of £6,000.

Order

29. The Tribunal Ordered that the Respondent, Angela Jane Butler, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,000.00

Dated this 3rd day of February 2011

On behalf of the Tribunal

K W Duncan
Chairman