

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10660-2010

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

LUCY ISON

Respondent

Before:

Mr D Green (in the chair)
Mr A Ghosh
Mrs L McMahon-Hathway

Date of Hearing: 18th July 2011

Appearances

Mr Daniel Purcell, solicitor of Capsticks Solicitors LLP, 1 St George's Road, London, SW19 4DR for the Applicant.

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent were that she had been guilty of conduct of such a nature that in the opinion of the Law Society it would be undesirable for her to be employed by a solicitor in connection with his or her practice as a solicitor in that:-
 - 1.1 The Respondent misappropriated payments made by clients to her employer on account of costs or disbursements, in matters on which her employers had been instructed by those clients, in that she failed to pay monies received into the firm's client account or cause to be made any entry in the firm's ledgers of the payments;
 - 1.2 The Respondent misappropriated payments made by clients intended to be paid into her employer's office account in settlement of client bills, in that she failed to pay monies received into the firm's office account or cause to be made any entry in the firm's ledgers of the payments;
 - 1.3 The Respondent, having misappropriated a payment by a client to her employer for work in respect of which the firm had been instructed, forged a document which purported to have been created by HM Land Registry in order to cause the client wrongly to believe that work had been undertaken;
 - 1.4 The Respondent has been convicted of theft, using a false instrument with intent, fraud and burglary in respect of matters arising from her employment by solicitors.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent, which included:

Applicant:

- Application dated 18 November 2010, Rule 8 Statement and exhibit "DWRP1";
- Supplemental Rule 7 Statement dated 27 May 2011 and exhibit "DWRP2";
- Bundle of correspondence between the Applicant and the Respondent including Notice under Rule 13 (4) of the Solicitors (Disciplinary Proceedings) Regulations 2007 ("the SDPR"), the Respondent's admission of the allegations and an undated note from her confirming she would not be attending the proceedings before the Tribunal;
- Statement of costs for the hearing on 18 July 2011

Respondent:

- Email from the Respondent dated 15 July 2011 at 9.39am;
- Copy of Bankruptcy Order of Lucy Jayne Ison dated 17 March 2011;

Preliminary Matter

3. Mr Purcell asked the Tribunal to proceed in the Respondent's absence under rule

16(2) of the SDPR. In his submission the Tribunal could and should proceed today for the protection of the public. The documents had been sent to the Respondent by special delivery and she had acknowledged receipt and admitted the allegations. A letter had been sent to her by special delivery and post on 26 May 2011 indicating that the date of the hearing would be 18 July 2011. All of the documents had been sent to her address at 3 Parc Road, Treorchy and it was clear from the Respondent's email to the Tribunal on 15 July that she was aware of the date of the hearing.

The Tribunal's determination on the preliminary matter

4. In the circumstances outlined by the Applicant, the Tribunal was satisfied that the Respondent was aware of the hearing today and had provided in writing her reasons for not wishing to attend.

Factual Background

5. The Respondent was unadmitted and was employed by RL Edwards Solicitors, a Partnership, until March 2005, at which time the business of RL Edwards Solicitors was taken over and the Respondent's employment duly transferred, to RL Edwards Ltd ("RLE"). The Respondent was employed at the firm's Treorchy office, which undertook primarily conveyancing and wills and probate work.
6. On 26 September 2008, the Solicitors Regulation Authority ("SRA") received notification from RLE of the apparent misappropriation of funds by the Respondent. The investigation was commenced by a Forensic Investigation Officer ("FIO") of the SRA and as a result he prepared a Report (the "FIU Report") dated 7 May 2009.
7. Between 21 March 2002 and 23 September 2008 on 207 occasions, the Respondent misappropriated payments which had been made to the firm by clients, either on account of costs or disbursements or in settlement of the firm's bills.
8. The minimum value of the payments misappropriated by the Respondent is believed to be £8,904.48. Individual payments varied in value between the smallest payment of £3 and the largest payment of £1,790.76.
9. The shortfall in clients' funds has been rectified by RLE.
10. The initial examination of files and client contact undertaken by "RE", a trainee solicitor at the firm, identified several instances of payments having been made by clients which were not recorded on the firm's ledgers. RE produced a contemporaneous "diary" of all such instances in the weeks immediately following the detection of the Respondent's conduct.
11. One such instance was of a Mr M, who instructed the firm around 15 September 2008 to act in respect of the sale of his house in Treorchy. The firm's instructions included an instruction from the estate agent acting for Mr M to prepare a Home Information Pack. The estate agent chased the firm as to preparation of the Home Information Pack, as a consequence of which the firm realised that payment on account had not been made by Mr M, according to the firm's ledger. However, upon enquiry to Mr M, Mr M confirmed that he had paid £411.25 in cash to the Respondent on 2 July

2008. Mr M produced a receipt to confirm this payment and evidence of a cash withdrawal from his building society.

12. The firm subsequently undertook a wider investigation and contacted all clients where payments appeared to be outstanding. In a number of instances, clients were able to produce receipts issued by the Respondent to prove that payments had been made. The total value of payments for which receipts were produced by clients, but which were not entered into the firm's ledgers, was £8,904.48.
13. In addition, in a number of instances the firm was told by clients, in response to queries about apparently outstanding payments, that payments had been made but that no receipts were available.
14. The total value of the payments for which no record could be found was £30,681.57 as per the four counts of theft shown on the Indictment, which included the figure of £8,904.48 in respect of which receipts were produced.
15. In addition, a client was given a forged document. In that case the client, a Mrs M, instructed RLE Ltd to undertake a transfer of property. The client subsequently made a payment on account of costs but this payment was not reported to the firm. As a consequence, the firm did not undertake the work for which instructions had been given. However, based on information received from the client, it appeared that the Respondent created a document purporting to be a Land Registry document recording the transaction in respect of which the instructions had originally been given.
16. On 8 October 2010 at Merthyr Tydfil Crown Court, the Respondent was convicted, after pleading guilty, of:
 - Four counts of theft with a total value of £30,681.57 contrary to Section 1(1) of the Theft Act 1968;
 - Three counts of using a false instrument with intent, contrary to Section 3 of the Forgery and Counterfeiting Act 1981;
 - Two counts of fraud, contrary to Section 1 of the Fraud Act 2006; and
 - Burglary of the premises of RLE, contrary to section 9(1)(b) of the Theft Act 1968.
17. The Respondent was sentenced on 3 December 2010 by His Honour Judge John Curran at Merthyr Tydfil Crown Court to concurrent terms of nine months imprisonment on each of the counts on the Indictment.

Witnesses

18. None.

Findings of Fact and Law

19. **Allegation 1.1. The Respondent misappropriated payments made by clients to her employer on account of costs or disbursements, in matters on which her employers had been instructed by those clients, in that she failed to pay monies**

received into the firm's client account or cause to be made any entry in the firm's ledgers of the payments.

Allegation 1.2. The Respondent misappropriated payments made by clients intended to be paid into her employer's office account in settlement of client bills, in that she failed to pay monies received into the firm's office account or cause to be made any entry in the firm's ledgers of the payments.

- 19.1 These allegations related to payments having been made by clients which were not recorded on the firm's ledgers, both in respect of payments on account of costs or disbursements and in settlement of client bills.
- 19.2 The Tribunal considered all of the documentation placed before it, including the Certificate of Conviction dated 8 October 2010, the Respondent's admissions and transcript of the sentencing hearing in the Crown Court at Merthyr Tydfil on 3 December 2010. The Tribunal found the allegations substantiated on the facts and documents before it, and indeed they were admitted by the Respondent.
20. **Allegation 1.3. The Respondent, having misappropriated a payment by a client to her employer for work in respect of which the firm had been instructed, forged a document which purported to have been created by HM Land Registry in order to cause the client wrongly to believe that work had been undertaken.**
- 20.1 This allegation related to forgery of a Land Registry Certificate relating to a transfer of property by Mrs M. Since the monies given by the client on account of costs had not been paid into the accounts by the Respondent, the firm did not undertake the work for which the instructions had been given. The Respondent subsequently forged a Land Registry document to give the impression that the work had indeed been carried out, when it had not been so carried out.
- 20.2 The Tribunal had considered all of the documentation before it including the Respondent's conviction on 8 October 2010 and found the allegation substantiated on the facts and the documents before it. Indeed the allegation was admitted by the Respondent.
21. **Allegation 1.4. The Respondent has been convicted of theft, using a false instrument with intent, fraud and burglary in respect of matters arising from her employment by solicitors.**
- 21.1 This allegation related to the Respondent's conviction for various offences of theft at Merthyr Tydfil Crown Court on 8 October 2010 for which she was sentenced on 3 December 2010 to nine months imprisonment to run concurrently. The Tribunal having seen the certificate of conviction from Merthyr Tydfil Crown Court was satisfied that this allegation was substantiated and it had been admitted by the Respondent.
22. In the applicant's submission there had been a substantial loss to RLE and to its clients. This was a very serious case of dishonesty, where the course of conduct had been protracted and sustained and where there had been an element of planning.

There was a clear risk to the public which justified and necessitated that an Order was made in the form sought.

Previous Disciplinary Matters

23. None.

Mitigation

24. The Respondent had not submitted any mitigation to the Tribunal but in her email of 15 July 2011 asked that it took into account the remarks made in mitigation by her Counsel at the sentencing hearing at Merthyr Tydfil Crown Court on 10 December 2010.
25. In mitigation on that date Counsel had told the court that the defendant was of previous good character and had entered her guilty plea at the first opportunity. She had become dependent on alcohol as a result of an abusive relationship. Her remorse was genuine. The monies that she had stolen were to purchase alcohol upon which she was then dependant rather than to furnish a lavish lifestyle.
26. The Tribunal also had before it the Respondent's email of 15 July 2011 in which she had said that she was extremely remorseful and had had time to dwell on her actions while she had been in custody. She could not repay what she had taken and she had had to go bankrupt in March 2011.

Sanction

27. The Tribunal had found all of the allegations proved and admitted and the Order under Section 43(2) of the Solicitors Act 1974 (as amended) would be made as requested by the Applicant.
28. This was a serious case of dishonesty where actions had been carried out over a sustained period of time to the detriment of clients. The Respondent had been convicted of several offences relating to her conduct whilst working for RLE. There was a clear risk to the public which justified and necessitated an Order to be made in the form sought.

Costs

29. The Applicant's solicitor initially submitted a claim for costs in the sum of £29,136.28. However it was acknowledged by the Applicant's solicitor that the hearing had been shorter than anticipated. In view of this the costs claimed were reduced to £28,248.28.
30. The SRA recognised that the bill of costs was substantial given that this was, on the face of it, a case where a conviction had been obtained and the matter was reasonably straightforward. However, the SRA had felt it necessary to carry out a full investigation as it had not been known whether the criminal charges against the Respondent were samples or whether this was the full extent of the offending behaviour. In addition, at the time of the SRA investigation, the outcome of the criminal proceedings and the Respondent's pleas to the allegations made under them

had been unknown. In Mr Purcell's submission the costs requested were both proportionate and appropriate. The difficulties encountered by the SRA with the case had caused a significant amount of work and the Respondent had not indicated until late in the day that there would be admissions to the allegations before the Tribunal.

31. The Respondent was subject to a bankruptcy order and the SRA requested that the costs sought be granted in full but that such order should not be enforceable without the leave of the Tribunal.
32. The Tribunal considered carefully the various issues raised by the Applicant about the costs. In the circumstances the Tribunal was minded to grant the costs application in the full amount of £28,248.28.

Statement of Full Order

33. The Tribunal Ordered that as from 18th day of July 2011 except in accordance with Law Society permission:-
 - (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Lucy Ison of 3 Parc Road, Cwmparc, Treorchy, Rhondda, CF42 6LF;
 - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Lucy Ison;
 - (iii) no recognised body shall employ or remunerate the said Lucy Ison;
 - (iv) no manager or employee of a recognised body shall employ or remunerate the said Lucy Ison in connection with the business of that body;
 - (v) no recognised body or manager or employee of such a body shall permit the said Lucy Ison to be a manager of the body;
 - (vi) no recognised body or manager or employee of such a body shall permit the said Lucy Ison to have an interest in the body;

And the Tribunal further Ordered that the said Lucy Ison do pay the costs of and incidental to this application and enquiry fixed in the sum of £28,248.28.

Dated this 30th day of August 2011
On behalf of the Tribunal

D Green
Chairman