

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10720-2011

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

VICTORIA KATE LINNELL JOHNS

Respondent

Before:

Mr A N Spooner (in the chair)

Mr K W Duncan

Mr S Howe

Date of Hearing: 3rd August 2011

Appearances

Paul Milton, solicitor, of The Solicitors Regulation Authority ("SRA") Ipsley Court, Berrington Close, Redditch, Worcestershire B98 0TD for the Applicant.

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegation against the Respondent was that:
 - 1.1 Contrary to Rule 1.06 of the Solicitors Code of Conduct 2007 she has behaved in a way that is likely to diminish the trust of the public in her and in the reputation of the solicitor's profession following conduct which led to her conviction on 20 October 2009 at Southwark Crown Court for obtaining a money transfer by deception and acquiring criminal property.

Documents

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

Applicant:

- Rule 5 Application dated 17 February 2011;
- Memorandum from John Lymbury, Adjudicator to the Applicant's Legal Department dated 3 August 2010;
- Letter dated 19 July 2010 to the Adjudicator from a caseworker employed by the Applicant;
- Schedule of Costs dated 27 July 2011.

Respondent:

- None.

Preliminary Matter

3. Mr Milton drew the attention of the Tribunal to a Memorandum from the Adjudicator to the Applicant's Legal Department dated 3 August 2010 which contained the following:-

“I direct that this matter be referred to the Legal Department of the Solicitors Regulation Authority to enable that department to seek an Order from the Solicitors Disciplinary Tribunal for the restoration to the Roll of Victoria Kate Linnell Johns pursuant to Section 47(2)(g) of the Solicitors Act 1974.”

The Adjudicator's direction was made on 26 July 2010. As was his practice, Mr Milton had not included these particular documents in the Rule 5 bundle for the Tribunal. Upon reviewing his papers he had noted that there was a typographical error in the Adjudicator's direction in that it referred to seeking an Order from the Tribunal for Restoration to the Roll of the Respondent rather than an Order prohibiting her Restoration to the Roll without leave of the Tribunal. He submitted that it was clear from the memorandum from the caseworker to the Adjudicator dated 19 July 2010 exactly what order should be sought. The Respondent had not been advised of the error in the wording and Mr Milton submitted that it did not prejudice her. Accordingly he sought the approval of the Tribunal to continue with the matter in any event.

4. Mr Milton also sought the agreement of the Tribunal to proceed in the absence of the Respondent. She had been served with the papers. They had been sent to her by special delivery where she was serving a term of imprisonment at HM Prison, Holloway and signed for on 15 March 2011 by a member of the prison staff. Notice of today's hearing had also been sent by special delivery to the prison where it had been signed for on 12 May 2011. A letter had been received from the prison dated 1 July 2011 confirming that the Respondent was still serving her term of imprisonment there. Relevant notices had been sent to the prison by special delivery dated 3 June 2011. There had been no response to those notices or to other correspondence sent to that address. The Respondent had not engaged in the proceedings in any way.
5. Having carefully considered submissions on behalf of the Applicant and there being no papers before the Tribunal from the Respondent, the Tribunal determined that notwithstanding the error in the Adjudicator's reference it was prepared to proceed with the matter. It also considered the absence of the Respondent and the fact that she was not represented and decided under Rule 16 of the Solicitors (Disciplinary Proceedings) Rules 2007 that the Respondent having been properly served with notice of the hearing the Tribunal would exercise its power to hear and determine the application notwithstanding that the Respondent failed to attend in person or was not represented at the hearing.

Factual Background

6. The Respondent was born in 1970 and was admitted as a solicitor in 1996. On 15 December 2008 her practising certificate for the year 2007/08 was terminated and her name was removed from the Roll of Solicitors on 3 June 2009.
7. At all material times the Respondent was an in-house solicitor at the Bank of T-M Ltd, a position which she held until 10 April 2007.
8. On 20 October 2009 the Respondent appeared before Southwark Crown Court where after a five week trial she was tried and convicted upon indictment of five offences concerning obtaining a money transfer by deception and seven offences concerning proceeds of crime – acquiring criminal property. She was sentenced in total to five years imprisonment half of which was suspended.
9. Despite Ms Johns having a code on her records stating that there were matters under investigation and to obtain details before her removal from the Roll, she was removed from the Roll on 30 June 2009 by the Applicant. Accordingly, the Applicant was unable to take disciplinary action or to refer her to the SDT for disciplinary action, including a suspension or striking off the Roll.
10. On 26 July 2010 a decision was made by the SRA to apply to the Tribunal for an Order under Section 47(2)(g) of the Solicitors Act 1974, prohibiting the restoration of the Respondent's name to the Roll of Solicitors except by order of the Tribunal.
11. The following facts were apparent from the sentencing remarks of His Honour Judge Price made on 5 February 2010. At the time of the offences the Respondent was deputy head of Legal and Compliance at the bank in question, involved in co-

ordinating litigation. She was not authorised to enter into any banking transactions or to arrange or authorise any loans. She was not part of one of the bank's signatories.

12. The offences took place in 2006 over a period of months, but the planning for it began, probably, in 2005. The essence of the fraud was that the Respondent used her position to authorise the loan of \$10,900,000 to a Mr S who wanted to use the money to start up an airline based in Indonesia. Had proper checks been made by the bank it would never have been considered. In return Mr S paid the Respondent something like £1.5 million, part of which she used to pay off a mortgage.
13. She persuaded a number of people that the then Chief Executive in Europe, had personally authorised the loan but he had not. She covered up by telling people that the transaction was confidential. The transaction had to be authorised by many employees in the authorisation chain and they did so because of the pressure the Respondent put on them and the lies she told them. Others appeared to authorise the loan by the use of their personalised stamp. Many said they did not know how their stamp had been used and denied using it themselves. It was concluded that the Respondent obtained those stamps somehow and used them, thereby raising suspicion of others who owned those particular stamps.
14. The Respondent had sounded out the Head of Special Finance of one of the bank's divisions in about February 2005 about a possible loan to Mr S but he had in the Judge's words "scotched the idea." Subsequent to the loan being obtained Mr S died apparently by his own hand. The matter was delayed in coming to trial by periods of the Respondent's mental health difficulties and depression, at times requiring hospitalisation and according to the Judge's remarks, by the Respondent's failure to co-operate and put her side of the story until far too late in the day. Counts 10 to 12 of the indictment were committed after the fraud had been discovered by the bank and the Respondent had been spoken to about it. The Judge said:-

"You continued to profit from the fraud, dishonestly receiving the money from Mr S and keeping it after the bank had discovered that there was a real problem."

15. In terms of the Respondent's intentions the Judge said:-

"I do not think that when this scheme was hatched by you and Mr S that, first of all, you did not intend to have the money for yourself. You took a wholly unjustified risk in trying to help him, but you honestly believed that he was a very capable man and might well succeed in building up an airline which he was starting with only three aircraft at the time, or I think under that, and you were raising money because you believed in him. So it was not done to give you such a sum and it is very, very important when this matter is reported, as it will be, that this finding is clear. I am sure you did not obtain this loan for your own selfish devices. You obtained the loan because you honestly believed that the airline might succeed. Thereafter, after the first letters of credit were forwarded the money really disappeared and you continued recklessly in getting more and more and more money out of the bank".

Witnesses

16. None.

Findings of Fact and Law

17. **Contrary to Rule 1.06 of the Solicitors Code of Conduct 2007 she has behaved in a way that is likely to diminish the trust of the public in her and in the reputation of the solicitor's profession following conduct which led to her conviction on 20 October 2009 at Southwark Crown Court for obtaining a money transfer by deception and acquiring criminal property.**
- 17.1 It was submitted on behalf of the Applicant that having regard to the certificate of conviction and sentencing remarks this was a very serious matter of dishonesty involving a considerable amount of money and personal benefit to the Respondent. No formal admissions had been made. The Tribunal found the allegation to have been proved.

Previous Disciplinary Matters

18. None recorded against the Respondent.

Mitigation

19. The Respondent had not submitted any mitigation. In his sentencing remarks the Judge had referred by way of mitigation to her good character and the exacerbation to existing mental health problems.

Sanction

20. The Respondent had committed serious offences of dishonesty and the Tribunal agreed that it would not be appropriate for her to be restored to the Roll of the Solicitors without an Order of the Tribunal.

Costs

21. The Applicant submitted an application for costs in the amount of £862.00. Mr Milton drew to the attention of the Tribunal the Judge's remarks from which it was clear that the Respondent's financial position was dire. She had in fact been made bankrupt. In the circumstances the Applicant sought costs but accepted that they should not be enforced without leave of the Tribunal. Having regard to the fact that the hearing had been somewhat shorter than anticipated the Tribunal assessed costs in the fixed amount of £750.00 and agreed that they should not be enforced without its leave.

Statement of Full Order

22. The Tribunal Ordered under Section 47 (2) (g) of the Solicitors Act 1974 (as amended) that the name of the Respondent, VICTORIA KATE LINNELL JOHNS, of HMP Holloway (A1660AQ), Parkhurst Road, London, N7 0NU, solicitor, should not be restored to the Roll of Solicitors except by order of the Tribunal, and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £750.00, such costs not to be enforced without leave of the Tribunal.

Dated this 1st day of September 2011
On behalf of the Tribunal

A N Spooner
Chairman