

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10765-2011

## BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

ANDREW MICHAEL WORMSTONE

Respondent

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Before:

Mr K. W. Duncan (in the chair)

Mrs J. Martineau

Mr M. R. Hallam

Date of Hearing: 24 October 2013

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## Appearances

Geoffrey Hudson, solicitor of Penningtons Manches LLP, Abacus House, 33 Gutter Lane, London, EC2V 8AR, for the Applicant.

The Respondent, Mr Andrew Michael Wormstone, was not present or represented.

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## JUDGMENT

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## **Allegations**

1. The allegation against the Respondent, Mr Andrew Michael Wormstone, contained in a third supplementary statement pursuant to Rule 7 of the Solicitors (Disciplinary Proceedings) Rules 2007 and dated 30 April 2013 was that he:
  - 1.1 entered into or became concerned in a money laundering arrangement;
  - 1.2 was convicted upon indictment of the same; and
  - 1.3 was sentenced to 30 months in prison

contrary to Rules 1.01, 1.02 and 1.06 of the Solicitors Code of Conduct 2007 (in respect of the money laundering arrangement) and Principles 1, 2 and 6 of the SRA Principles 2011 (in respect of his conviction and sentence).

## **Documents**

2. The Tribunal reviewed all of the documents submitted by the parties, which included:

### **Applicant:-**

- Application dated 10 June 2011
- Rule 5 Statement, with exhibit “JBW1”, dated 10 June 2011
- First Rule 7 Statement, with exhibit “JBW2”, dated 11 November 2011
- Second Rule 7 Statement, with exhibit “JBW3”, dated 6 March 2012
- Third Rule 7 Statement, with exhibit “GRFH1”, dated 30 April 2013
- Hearing bundle (52 pages)
- Applicant’s schedule of costs dated 16 October 2013
- Copy Land Registry extract

### **Respondent:-**

- Correspondence to the Applicant and to the Tribunal (included within Applicant’s hearing bundle)

## **Preliminary Matter (1) – Proceeding in the absence of the Respondent**

3. The Respondent was not present or represented.
4. Mr Hudson told the Tribunal that although there had been contact with the Respondent concerning the proceedings an issue had arisen in about July 2013 when the Applicant learned that an address for service the Respondent had given was not effective. Although the Applicant understood that the Respondent had been served with all the papers in the case, and notice of hearing, the Applicant applied for directions as to service. A Memorandum of Directions, made on 4 September 2013

without a hearing, recorded that out of an abundance of caution the Applicant should re-serve all pleadings and supporting documents in the case on the Respondent at his prison address and that any further documents in the case would be deemed properly served if properly addressed and marked for the Respondent at his current prison address.

5. Mr Hudson told the Tribunal that the Applicant had re-served the papers in accordance with that direction on 10 September 2013. The Respondent had acknowledged receipt of the papers in a letter dated 27 September 2013.
6. The Tribunal noted that in a letter to the Tribunal dated 29 August 2013 the Respondent referred to the hearing listed to take place on 24 October 2013. The Respondent stated that he would not be able to attend the hearing; he could probably get a licence to attend but could not afford to travel to London. The Respondent further stated that he did not wish to delay matters and was happy for the hearing to proceed. He then made a number of submissions about the case, detailed further below.
7. The Tribunal noted a further letter from the Respondent which was received by the Tribunal on 3 October 2013. The Respondent made a number of submissions, noted further below. He indicated that he wished to be removed from the Roll of Solicitors and that he hoped the matter could be dealt with “speedily and by consent”.
8. Mr Hudson invited the Tribunal to proceed with the case in the absence of the Respondent.
9. The Tribunal was satisfied that the Respondent had been properly served and had notice of the proceedings and the hearing date. He had indicated that he was aware of the hearing but would not attend. The Tribunal was satisfied in all of the circumstances, in particular the Respondent’s correspondence about the case, that it was fair and proper to proceed with the hearing in the Respondent’s absence.

### **Preliminary Matter (2) – History of the proceedings**

10. The Application in this case had been made in June 2011. Four allegations had been made in the Rule 5 Statement dated 10 June 2011. A first supplementary statement dated 11 November 2011 had been lodged, in which a further nine allegations were made. The Tribunal listed a substantive hearing to take place on 26 June 2012. On 6 March 2012 a second supplementary statement was made, in which a further four allegations were made. The substantive hearing was adjourned on the basis of the Respondent’s health and because criminal proceedings had begun. On 7 February 2013 the Respondent was convicted of an offence and a third supplementary statement dated 30 April 2013 was lodged with the Tribunal. At a Case Management Hearing on 29 May 2013 the Tribunal granted consent to the third supplementary statement being issued and directed that the allegations in the Rule 5 and first two Rule 7 Statements should lie on the file, such that the substantive hearing would be concerned solely with the matters in the third Rule 7 Statement (i.e. that dated 30 April 2013).

11. Accordingly, the Tribunal did not need to consider or make any determination of any issues save those arising from the Rule 7 Statement of 30 April 2013.

### **Factual Background**

12. The Respondent was born in 1969 and was admitted to the Roll of Solicitors in 1993. His name remained on the Roll at the date of hearing.
13. On 7 February 2013 the Respondent was convicted upon indictment at Leicester Crown Court of entering into or becoming concerned in a money laundering arrangement contrary to Section 328(1) of the Proceeds of Crime Act 2002 (“the Act”). A copy of the Certificate of Conviction, dated 21 February 2013, was produced to the Tribunal and an original was available for inspection.
14. On 14 February 2013 the Respondent was sentenced to 30 months imprisonment for the offence. The Tribunal was referred to the sentencing remarks of the trial judge (His Honour Judge Head) which set out the circumstances of the offence and matters underlying the conviction of the Respondent and his four co-Defendants.

### **Witnesses**

15. None.

### **Findings of Fact and Law**

16. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent’s rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

17. **Allegation 1 - The Respondent:**

- 1.1 entered into or became concerned in a money laundering arrangement;**  
**1.2 was convicted upon indictment of the same; and**  
**1.3 was sentenced to 30 months in prison**

**contrary to Rules 1.01, 1.02 and 1.06 of the Solicitors Code of Conduct 2007 (in respect of the money laundering arrangement) and Principles 1, 2 and 6 of the SRA Principles 2011 (in respect of his conviction and sentence).**

- 17.1 The Respondent had confirmed in his correspondence that he had been convicted of the offence, but he denied any wrongdoing.

- 17.2 The Tribunal noted that s328(1) of the Act states:

“A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person”.

17.3 The Tribunal considered the Certificate of Conviction, which was sufficient to prove the fact of conviction. The Tribunal also considered the sentencing remarks of the trial judge, which were sufficient to demonstrate the following facts:

- The criminal property in question was the sum of £2,036,000 diverted from an account of the University of Sussex into the bank account of a company belonging to Mr GS, with NatWest;
- That account was blocked or frozen on 28 October 2010;
- The Respondent forwarded to NatWest a letter concerning the funds – it was understood that this letter was in connection with an attempt to unfreeze the NatWest bank account;
- The Respondent was sentenced on the basis that he suspected the funds were criminal property.

17.4 The Tribunal noted the following sentencing remarks of HHJ Head:

“I must sentence you on (the) basis... that you suspected it was criminal property... However, being a solicitor... you were under a duty to investigate such suspicions. Moreover, you were undoubtedly recruited and acted because of your professional standing which was intended to influence NatWest”

“You became a necessary part of things once things went wrong, when the money was frozen. In my judgment you gave the jury part of the truth when you said that GS told you there was an issue with the funds in the bank. It is inconceivable that you did not ask him for some explanation of that issue. At the very least... the jury’s verdict means that you suspected that you were being involved with criminal property and being used to cast a cloak of respectability over attempts to free up those funds. At the very least the verdict means that you chose deliberately to turn a blind eye to what you suspected. You should have conscientiously carried out the duties placed on you as a solicitor to which you directed the jury”.

“... you were a solicitor with obligations under the law and as a result of your status... someone who was being used... because of that status”

“As a solicitor higher standards are required of you. Your status gives you potential special value to money launderers, something of which I am quite sure you were well aware...”

“I have read the psychiatric report, it entitles you to a degree of sympathy but as you told the jury it didn’t stop you functioning in your job even if you lost focus sometimes. I recognise that you have lost everything and will be struck off”.

17.5 The Tribunal noted the Respondent’s submissions set out in his correspondence. In a letter to the Applicant dated 23 July 2013, the Respondent referred to his issues with

stress and anxiety. He stated that he had asked to be removed from the Roll and that he did not want to be associated with the profession, which he stated had been responsible in part for his problems. The Respondent denied that he had done anything wrong, despite the verdict, but he accepted that he had been convicted.

- 17.6 In a letter to the Applicant dated 29 August 2013 the Respondent admitted the allegation, in that he had been convicted and that the conviction meant he was in breach of the relevant Rules and Principles. The Respondent also accepted that he would be struck off. He maintained that he did not commit the offence and enclosed a copy of the letter which he written to NatWest, which he stated was written as he had a concern about the source of the money as part of the money laundering checks.
- 17.7 In a letter to the Tribunal dated 29 August 2013 the Respondent accepted that the Tribunal could not go behind the conviction, but he maintained his innocence and stated that he was lodging an appeal. He did not want the appeal to delay the Tribunal proceedings.
- 17.8 In a letter to the Respondent dated 27 September 2013 the Respondent confirmed that he accepted the complaint of being found guilty and being imprisoned and further stated that he wanted to be removed from the Roll. In a letter to the Tribunal received on 3 October 2013 the Respondent protested his innocence of the offence. He concluded that he had been proud to be a solicitor and he hoped that his case could be used as an example and warning to others.
- 17.9 The Tribunal noted the Respondent's submissions. It was clearly the case that the Tribunal could not go behind the fact of the conviction, which had been proved by production of the Certificate of Conviction. The offence in question was a very serious one. The Respondent had failed to uphold the rule of law, to act with integrity and to behave in a way which would maintain confidence in the Respondent and/or the profession. There could be no doubt that the allegation had been proved in its entirety.

### **Previous Disciplinary Matters**

18. There were no previous matters in which findings had been made against the Respondent.

### **Mitigation**

19. The Tribunal noted the contents of the Respondent's correspondence with the Applicant and with the Tribunal, including the points set out at paragraphs 17.5 to 17.8 above.

### **Sanction**

20. The Tribunal had determined that the allegation had been proved; indeed, it could not do otherwise in the light of the Respondent's conviction for a serious offence involving money laundering. The Tribunal noted that it appeared the conviction was based on a finding that the Respondent had suspected that certain funds were criminal property rather than knowledge that this was the case. The Tribunal noted that the Respondent continued to protest his innocence of any wrongdoing and that he

intended to appeal against the conviction. Unless and until the conviction were overturned on appeal, it stood as a valid conviction and the Tribunal must deal with the Respondent on that basis.

21. The Tribunal noted the trial judge's sentencing remarks concerning the Respondent's duties and responsibilities as a solicitor and his knowledge of those duties. The Respondent had held a particular status which had been of use to others who were involved in the money laundering operation. It did not appear that the Respondent had had any financial gain from his actions. The Tribunal also noted that the trial judge had considered a psychiatric report on the Respondent prior to sentencing. Whilst that report had elicited a degree of sympathy for the Respondent it did not reduce the seriousness of the Respondent's offence.
22. The fundamental purpose of sanction in the Tribunal was the maintenance of the reputation of the solicitors' profession as one in which all members could be trusted to the ends of the earth (Bolton v The Law Society [1994] 1 WLR 51). The Respondent had been convicted of a serious offence, which had occurred in the course of his practise as a solicitor, and had been sentenced to a term of imprisonment as a result. In these circumstances, the only proportionate sanction was that the Respondent should be struck off the Roll of Solicitors.

### **Costs**

23. The Applicant applied for an order that the Respondent should pay the Applicant's costs of the proceedings, albeit limited to the costs involved in pursuing the allegation in the third supplementary statement. The Applicant set out the costs in a schedule dated 16 October 2013 which totalled £7,620.60. It was submitted that the costs claimed were reasonable in amount particularly given the issues which had arisen during 2013 concerning service of the proceedings and the need to obtain directions about service and permission to issue the third supplementary statement. The Respondent had engaged with the proceedings and the Applicant had had to consider the points raised in correspondence.
24. In his letter to the Applicant dated 29 August 2013 the Respondent submitted that there should not be a costs order against him as he would be unable to pay such an order. The Respondent stated that he earned £12 per week, had no savings and had debts of around £60,000. He had referred to being made bankrupt.
25. The Tribunal was shown letters to the Respondent dated 11 and 17 October 2013 in which he was informed of the requirement to provide information on income and assets if a Respondent wanted means to be taken into account when costs were considered. The Tribunal noted that the Respondent had stated an income and liabilities but had not set out information concerning any assets.
26. Mr Hudson told the Tribunal that the Applicant had investigated the position concerning the Respondent's bankruptcy. It was correct that he had been made bankrupt on 8 September 2011 but that bankruptcy had been annulled on 14 November 2011. The Applicant had also obtained a Land Registry search concerning the Respondent's former home address. From the Land Registry documents it was clear that the property had been owned by both the Respondent and

his wife from 2001. The property had been transferred into the sole name of the Respondent's wife in March 2013. The Respondent had not provided any information in his correspondence about the circumstances in which that transfer had occurred. Mr Hudson submitted that whilst the transfer could have been made for entirely proper reasons e.g. following a court order, the Applicant would require a costs order i.e. an enforceable debt in order to investigate the circumstances and determine whether or not it was appropriate to apply to set aside the transfer.

27. The Tribunal considered carefully the question of costs. The proceedings had been properly brought and the allegations dealt with at this hearing had been proved. The Respondent should therefore, in principle, be liable for the Applicant's costs.
28. The Tribunal considered the Applicant's costs schedule and determined that the reasonable and proportionate amount of costs in this case was £7,000; the Tribunal summarily assessed costs at that figure. The Tribunal noted that only the costs associated with the third supplementary statement had been claimed at this hearing and found that the costs claimed were reasonable in amount.
29. The Tribunal considered the Respondent's submissions about his ability to pay. It noted a number of references in correspondence to his family circumstances and the information given about his income and debts. The Tribunal noted the short period for which the Respondent had been bankrupt in 2011. It was clear to the Tribunal that the Respondent would not be able to pay costs from his current income. However, the Respondent had not provided information concerning his assets and in particular the property he had, until March 2013, owned jointly with his wife and which was now in her sole ownership. It could be that the transfer was entirely legitimate and proper e.g. it may have arisen in the course of matrimonial proceedings. However, in the absence of any information from the Respondent it was appropriate that the Applicant should be able to make further enquiries about the transfer, for which purpose it was proper that a costs order in the usual terms should be made. The Tribunal would, however, expect the Applicant to act reasonably in the steps it took; if it found the transfer of the property to be legitimate, for example, the Applicant may have to accept that the costs order could not be enforced. However, it appeared to the Tribunal that there was some possibility that the transfer might be capable of being set aside and that the Respondent could have some equity in the property. The Respondent would therefore be ordered to pay the Applicant's costs assessed at £7,000.

### **Statement of Full Order**

30. The Tribunal ORDERED that the Respondent, Andrew Michael Wormstone, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,000.00.



Dated this 6<sup>th</sup> day of November 2013  
On behalf of the Tribunal

K. W. Duncan  
Chairman