

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10928-2012

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

PHILLIP JOSEPH LABRUM

Respondent

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Before:

Mr D. Potts (in the chair)

Mr J. P. Davies

Mr M. C. Baughan

Date of Hearing: 20th November 2012

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**Appearances**

Devi Nadarajah, solicitor of Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Applicant.

The Respondent did not appear and was not represented.

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**JUDGMENT**

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## **Allegations**

1. The Allegation against the Respondent was that:
  - 1.1 The Respondent breached Rules 1.02 and 1.06 of the Solicitors' Code of Conduct 2007, as he failed to act with integrity and behaved in a way that was likely to diminish the trust the public placed in him or the profession by virtue of his conviction upon indictment of eight counts at St Albans Crown Court on 9 July 2010 which were as follows:
    - (a) False Accounting
    - (b) False Accounting
    - (c) Obtaining a money transfer by deception
    - (d) Obtaining a money transfer by deception
    - (e) Dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk
    - (f) Doing an act tending and intended to pervert the course of public justice
    - (g) Making a false instrument
    - (h) Obtaining a money transfer by deception

## **Documents**

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

### **Applicant:**

- Application dated 3 February 2012 together with attached Rule 5 Statement and all exhibits;
- Case Summary dated 16 November 2012;
- Chronology dated 16 November 2012;
- Applicant's Position Statement dated 16 November 2012;
- Schedule of Costs dated 16 November 2012;
- Email dated 30 October 2012 from The Criminal Appeal Office to the Respondent.

### **Respondent:**

- Letter dated 25 October 2012 from the Respondent to the Tribunal;
- Medical report dated 9 January 2007 from Dr Parkinson;

- Various emails dated 15, 19 and 20 November 2012 from the Respondent to the Tribunal;
- Respondent's Bundle containing Respondent's Answer dated 18 April 2012 and various other documents;
- Respondent's Points of Objection to Applicant's Claim for Costs, Position Statement and Case Summary dated 18 November 2012;
- Letter dated 13 November 2012 from North Hertfordshire Community Mental Health Team to the Respondent;
- Application by Respondent to Adjourn Proceedings dated 9 November 2012 together with all attached documents;
- Respondent's letter to the Tribunal dated 11 November 2012 together with documents in support of his application to adjourn;
- Advice on Appeal Against Conviction dated 2 August 2010;
- Letter from Dr Taha to North Herts Community Mental Health Team dated 2 November 2012;
- Letters from Dr Parkinson dated 2 November 2012 to the Respondent and 5 November 2012;
- Various medical records provided by the Respondent;
- Extract of Police Interview Statement of M Ratcliffe;
- Letter from B W Solicitors dated 25 March 2004 to Dr Davis;
- Claim Form (illegible date) from Hitchin County Court;
- Receipt from Criminal Appeal Office marked "Received 13 November 2012" referring to Medical Evidence;
- Letters from P & B Solicitors dated 23 December 2002 and January 2003.

### **Respondent's Application for an Adjournment**

3. The Respondent had sent to the Tribunal a number of emails dated 19 and 20 November 2012, the thrust of which appeared to renew his application for an adjournment. It appeared from those emails that the Respondent may have suffered a relapse overnight which could have precluded him from obtaining medical evidence, although the Tribunal noted it appeared that the Respondent had an appointment at 10:45am on 20 November 2012, the date of the substantive hearing, to see a Community Mental Health Nurse. A letter containing details of that appointment, dated 13 November 2012, was before the Tribunal.

4. Ms Nadarajah, on behalf of the Applicant, referred the Tribunal to her Chronology and also to the Applicant's Position Statement in relation to the Respondent's application for an adjournment which had been dealt with the previous day on 19 November 2012. That application had been refused by the Tribunal. Ms Nadarajah reminded the Tribunal that the Respondent did not have any outstanding appeal at the moment although he had stated that he intended to refer his case to the Criminal Cases Review Commission, and also to apply for judicial review. Ms Nadarajah submitted that there was no possibility these proceedings would muddy the waters of any such proceedings which may be pursued by the Respondent.
5. Although the Respondent had indicated he had suffered a breakdown, and may have medical problems, he had not provided the Tribunal with any medical evidence of this and therefore had not complied with the Tribunal's Practice Direction on Adjournments. There were letters from various doctors which the Respondent had supplied, indicating he was being referred to the Mental Health Unit, but these letters simply confirmed what the Respondent had told the doctors. The Respondent had informed Ms Nadarajah that after yesterday's hearing, when his application for an adjournment was refused, he had immediately gone to see the North Hertfordshire Community Mental Health Team, but again there was no medical evidence from him in relation to this. Although the Respondent was not currently practising, the SRA wanted to proceed with this matter as soon as possible.

#### The Tribunal's Decision on the Respondent's Application to Adjourn

6. The Tribunal had considered carefully the documents submitted by the Respondent and Ms Nadarajah's submissions. On 19 November 2012, after the Respondent's application for an adjournment had been refused, the Tribunal office had received a telephone call from the Respondent's Community Mental Health Nurse asking if the substantive hearing could be rescheduled. She had been informed that the Respondent's application for an adjournment had been refused and that the substantive hearing would proceed as listed.
7. The Respondent had subsequently made a written application to adjourn the substantive hearing during the course of several emails received by the Tribunal during the night of 19 November 2012 and in the morning of 20 November 2012. The basis of the adjournment appeared to be twofold and was as follows:
  - (a) The Respondent was pursuing his challenge against his criminal convictions;
  - (b) The Respondent was suffering from some form of mental disability that was relevant to the matters before the Tribunal.
8. The Tribunal had carefully considered the Respondent's application and noted the following relevant matters:
  - Firstly, the Respondent had appeared before the Tribunal yesterday, on 19 November 2012, when he was able to represent himself on his application for an adjournment, he had argued about the same issues he had raised today and his application was refused.

- Secondly, the fact that the Respondent had a medical appointment today with a Community Mental Health Nurse was specifically considered by the Tribunal yesterday, on 19 November 2012, and no adjournment was allowed. The Respondent had not furnished any reason as to why that medical appointment could not have been rearranged, especially in view of the fact that the Respondent had known about the date of today's substantive hearing since May 2012.
  - Thirdly, while there was some suggestion of the Respondent's medical history in the documents provided, there was no considered and reasoned medical report, as required by the Tribunal's Practice Note on Adjournments, supporting the Respondent's application for an adjournment nor had such a medical report been provided in previous applications for an adjournment, although the Respondent had had ample opportunity during the course of these proceedings to obtain one.
  - Fourthly, the Tribunal had weighed in the balance the need to pursue this case as quickly as possible in the public interest, noting the convictions dated from 2010, against the need to afford the Respondent a fair hearing.
9. There was no medical evidence to suggest that the Respondent had suffered a significant relapse overnight that might justify his non-attendance today and indeed, the Tribunal noted the Respondent had been in a position to send a number of detailed emails to the Tribunal, and to the Applicant, overnight and early this morning, addressing such matters as his financial position and the Applicant's costs.
10. The Tribunal had considered, in the context of the allegations made which relied upon a Certificate of Conviction, whether or not the Respondent was prejudiced and concluded that the Respondent was not prejudiced. He was well aware of the substantive hearing today and the Tribunal considered that, by not attending, the Respondent had waived his right to make any further representations at the hearing. So far as the criminal appeal was concerned, the Respondent had exhausted the appeal process and all that remained to him was to apply to the Criminal Cases Review Commission. In any event, so far as the Tribunal was aware, no such application had yet been made by the Respondent and there was no suggestion of any new evidence that might support such an application in any case. In all the circumstances, the Tribunal refused the Respondent's application for an adjournment.

### **Factual Background**

11. The Respondent, born on 24 March 1962, was admitted as a solicitor on 15 February 1988. He was not currently practising as a solicitor, his practising certificate having been terminated on 14 July 2010.
12. On 9 July 2010 the Respondent was convicted at St Albans Crown Court on eight counts, two of false accounting, three of obtaining a money transfer by deception, one count of making a false representation to make gain for self/another or cause loss to other/expose other to risk, one count of doing an act tending and intended to pervert

the course of justice and one count of making a false instrument. The Respondent had denied all the charges and was convicted by a jury after a ten day trial.

13. On 2 September 2010 the Respondent was sentenced to 30 months imprisonment on each count, sentences to run concurrently. He was also ordered to pay compensation totalling £27,511.06. A Certificate of Conviction from St Albans Crown Court dated 9 September 2010 was before the Tribunal.

#### **Witnesses**

14. No witnesses gave evidence.

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

15. The Tribunal had carefully considered all the documents provided, and the submissions of Ms Nadarajah. The Tribunal confirmed that the allegation had to be proved beyond reasonable doubt and that the Tribunal would be using the criminal standard of proof when considering the allegation.
16. **Allegation 1.1: The Respondent breached Rules 1.02 and 1.06 of the Solicitors' Code of Conduct 2007, as he failed to act with integrity and behaved in a way that was likely to diminish the trust the public placed in him or the profession by virtue of his conviction upon indictment of eight counts at St Albans Crown Court on 9 July 2010 which were as follows:**
- (a) **False Accounting;**
  - (b) **False Accounting;**
  - (c) **Obtaining a money transfer by deception;**
  - (d) **Obtaining a money transfer by deception;**
  - (e) **Dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk;**
  - (f) **Doing an act tending and intended to pervert the course of public justice**
  - (g) **Making a false instrument;**
  - (h) **Obtaining a money transfer by deception.**
- 16.1 The Tribunal noted that a Certificate of Conviction had been provided which confirmed the conviction and the sentence which had been imposed upon the Respondent by the Crown Court at St Albans. The Tribunal was satisfied that having been found guilty of a number of convictions involving dishonesty, the Respondent had indeed acted without integrity and had behaved in a way which was likely to diminish the trust the public placed in him or the profession. Accordingly, the Tribunal found the allegation proved.

#### **Previous Disciplinary Matters**

17. None.

## Sanction

18. The Tribunal had considered carefully the Respondent's documents. The Tribunal referred to its Guidance Note on Sanctions when considering sanction. The Tribunal also 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.
19. The convictions in this case related to the Respondent's dishonest conduct and the Tribunal had regard to the sentencing remarks of his Honour Judge Gullick who had stated:

“At the time of these offences you'd been a solicitor specialising in personal injury litigation for in excess of 20 years. You were convicted by a jury after a ten day trial of eight counts of dishonesty in connection with litigation initiated by you and conducted by you and which involved you as the claimant in each case. .... these are in my judgment extremely serious offences and are made even more serious because of who you were at the time when the offences were committed.”

20. The Respondent had taken advantage of his position as a solicitor and the trust the public placed in him as a member of the profession. He had wrongly and falsely claimed for money which he could have legitimately obtained and such conduct was not acceptable from a member of the solicitor's profession. The Tribunal took into account the case of *Bolton v The Law Society* [1994] CA and the comments of Sir Thomas Bingham MR who had stated:

“It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness... 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.”

21. The Tribunal was satisfied that the Respondent was not fit to be a solicitor and his conduct had caused a great deal of damage to the reputation of the profession. The appropriate sanction was to strike the Respondent off the Roll of Solicitors.

## Costs

22. Ms Nadarajah requested an Order for the Applicant's costs in the total sum of £2,880.00. She provided the Tribunal with a Statement of Costs which contained a breakdown of those costs. She reminded the Tribunal that the Respondent had sent some emails dated 20 November 2012 indicating that he was receiving benefits and providing details of his personal circumstances. He had indicated that any claim for costs against him was unfair. The Respondent had also lodged a document with the

Tribunal headed “Respondent’s Points of Objection to Applicant’s Claim for Costs ...” but that did not actually deal with the issue of costs. She also understood from a conversation with the Respondent that he owned a property but she was unable to provide the Tribunal with any details of this. Ms Nadarajah accepted the Respondent was indeed on benefits as he had provided her with evidence of these at the hearing on 19 November 2012, and that it would be appropriate for any order for costs not to be enforced without leave of the Tribunal.

23. Ms Nadarajah had checked whether any bankruptcy order was registered against the Respondent but at the moment there did not appear to be one. Ms Nadarajah submitted the Applicant’s costs had been reasonably incurred and the proceedings had been properly bought.
24. The Tribunal had considered carefully Ms Nadarajah’s submissions and the documents submitted including the emails from the Respondent on the matter of costs. The Tribunal was satisfied that the Applicant’s costs were reasonable and Ordered the Respondent should pay these in the sum of £2,880.00. Ms Nadarajah, on behalf of the Applicant, had accepted the Respondent was on Jobseekers Allowance and therefore had limited means. She was unable to provide the Tribunal with any evidence that the Respondent owned a property. The Tribunal was mindful of the cases of William Arthur Merrick v The Law Society [2007] EWHC 2997 (Admin) and Frank Emilian D’Souza v The Law Society [2009] EWHC 2193 (Admin) in relation to the Respondent’s ability to pay costs. As the Respondent was clearly in receipt of state benefits, and had now been struck off the roll of solicitors, the Tribunal Ordered that the Order for costs was not to be enforced without leave of the Tribunal.

### **Statement of Full Order**

25. The Tribunal Ordered that the Respondent, Phillip Joseph Labrum, 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 £2,880.00, such costs not to be enforced without leave of the Tribunal.

Dated this 2<sup>nd</sup> day of January 2013  
On behalf of the Tribunal

D. Potts  
Chairman