

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10935-2012

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

REUBEN AJUBOR EWUJOWOH

Respondent

Before:

Mr J. P. Davies (in the chair)

Mr E. Nally

Mr P. Wyatt

Date of Hearing: 5th July 2012

Appearances

Lorraine Trench, Solicitor, of the Solicitors Regulation Authority ("SRA"), Ipsley Court, Berrington Close, Redditch, Worcestershire B98 0TD, for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegation

1. The allegation against the Respondent was that he breached Rules 1.02 and 1.06 of the Solicitors' Code of Conduct 2007 ("SCC"), 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 as he was tried and convicted upon indictment of two counts of conspiracy to commit fraud by false representation at Croydon Crown Court on 29 July 2011. For the avoidance of doubt, the offence for which the Respondent was convicted was an offence involving dishonesty.

Documents

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

Applicant:

- Application and Rule 5 Statement dated 22 February 2012 and Exhibit "LPT1";
- Sentencing Remarks of His Honour Judge J. B. C. Tanzer dated 29 July 2011;
- Letter from Ms Trench to the Tribunal dated 14 May 2012;
- Applicant's Schedule of Costs dated 28 June 2012.

Respondent:

- Letter from the Respondent to the Tribunal dated 14 June 2012 with attachments.

Preliminary Matter

3. Under the Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") Rule 16(2) the Tribunal had power to hear and determine an application notwithstanding that the Respondent failed to attend in person and was not represented. On 27 April 2012, in accordance with SDPR Rule 12(1) the Respondent was served with notice of the date appointed for the hearing by special delivery post to HMP Highpoint (North), Newmarket, Suffolk, where he was serving a prison sentence. In his letter dated 14 June 2012 addressed to the Clerk of the Tribunal, the Respondent confirmed by implication that he was aware of the hearing date as it was stated in the heading of his letter. On 5 March 2012 the Respondent applied for the proceedings before the Tribunal to be stayed pending the outcome of his appeal against conviction and sentence to the Court of Appeal. That application was opposed by the Applicant and refused by the Tribunal on 12 April 2012. By letter dated 14 May 2012, copied to the Respondent, Ms Trench informed the Tribunal that she had contacted the Court of Appeal (Criminal Division) on 2 May 2012 and was informed that the Respondent's application for permission to appeal had been refused by the Court. This information was confirmed by the Respondent as accurate in his letter dated 14 June 2012. The Respondent had not applied for an adjournment of the hearing. The Tribunal was satisfied from the correspondence it had seen that the notice of the hearing had been

properly served and that it was in the interests of the public and the profession for the Tribunal to proceed to hear and determine the application in the Respondent's absence.

Factual Background

4. The SRA's records suggested that the Respondent was born on 30 April 1971. His date of birth appeared as 30 April 1966 on the Certificate of Conviction. He was admitted as a solicitor on 1 August 2000 and his name remained on the Roll. He last held a practising certificate for the practice year 2009/2010.
5. The Respondent had practised on his own account at Rae & Co of 2c Trinity Street, London SE1 1DB ("the Firm"). On 8 August 2011 the SRA intervened into the Firm; the Respondent's practising certificate was suspended as a result of that intervention.
6. The Respondent was charged on indictment with two counts of conspiracy to commit fraud by false representation contrary to section 1(1) of the Criminal Law Act 1977. The particulars of the offences were:
 - 6.1 Count 1: The Respondent and two others between 2 August 2007 and 26 August 2008 conspired together to dishonestly make a false representation by preparing and submitting a bill of costs in the case of R v T and others which was false or misleading, intending thereby to make a gain.
 - 6.2 Count 2: The Respondent and two others between 30 July 2007 and 26 August 2008 conspired together to dishonestly make a false representation by preparing and submitting a bill of costs in the case of R v R and others which was false or misleading, intending thereby to make a gain.
7. The Respondent was also charged with one count of fraud by false representation contrary to section 1 of the Fraud Act 2006, this being an alternative to Count 2 in the event of the jury being unsure of the conspiracy.
8. On 29 July 2011 the Respondent was convicted by a jury on indictment at Croydon Crown Court of two counts of conspiracy to commit fraud by false representation, namely the offences set out at paragraph 6 above. The Respondent was sentenced to a total of five years imprisonment for both offences to run concurrently. His application for permission to appeal to the Court of Appeal was refused on or about 1 May 2012. Evidence of the convictions and term of imprisonment was provided by the Certificate of Conviction from the Croydon Crown Court dated 4 August 2011.
9. Details of the Respondent's conviction and sentence appeared in the Law Society Gazette and other publications.
10. On 4 August 2011 an SRA Panel of Adjudicators Sub-Committee resolved to intervene in the Firm and referred the Respondent's conduct to the Tribunal. The Rule 5 Statement was received by the Tribunal on 24 February 2012.

Witnesses

11. None

Findings of Fact and Law

12. **Allegation - The Respondent breached Rules 1.02 and 1.06 SCC, 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 as he was tried and convicted upon indictment of two counts of conspiracy to commit fraud by false representation at Croydon Crown Court on 29 July 2011. For the avoidance of doubt, the offence for which the Respondent was convicted was an offence involving dishonesty.**

12.1 The Respondent did not admit the allegation. In his letter dated 14 June 2012 he maintained that he was innocent of the offences for which he had been convicted. The Applicant was required to prove the allegation beyond reasonable doubt. SDPR Rule 15(2) provided that a conviction for a criminal offence may be proved by the production of a certified copy of the Certificate of Conviction relating to the offence and proof of a conviction shall constitute evidence that the person in question was guilty of the offence. The findings of fact upon which that conviction was based shall be admissible as conclusive proof of those facts, save in exceptional circumstances.

12.2 Ms Trench submitted that the Respondent had been convicted of serious offences of dishonesty which resulted in him being given an immediate custodial sentence. She referred the Tribunal to the Sentencing Remarks of His Honour Judge Tanzer on 29 July 2011, summarised as follows:

- What the Respondent did in relation to the two cases forming the subject matter of the offences for which he was convicted amounted to "breath-taking dishonesty and greed";
- The public would have every right to be astonished by the amount that a tiny, not competent firm sought to extract from them [the public] on the back of criminal cases;
- The Respondent's only interest in those bits of paper [statement bundles, exhibits and additional evidence in the two cases] was to count the pages, multiply them by minutes and convert them into hard cash which otherwise belonged to the taxpayer. The Respondent's interest in his clients was effectively zero;
- The Respondent being a solicitor of the Supreme Court and acting in the way that he did meant there was no mitigation whatsoever. He set upon a course, pursued it, and came unstuck. The only option that would have provided the

Respondent with some guaranteed mitigation was to plead guilty. He elected to fight the case. The Judge described the Respondent as "remorseless" and "ruthless" as evidenced by a document which the Respondent had produced in relation to what he said were his working notes but which did not conform with what had been on the computer in the case of R. The Judge described that document as showing that the Respondent was "incompetent" as well because the Respondent could not get his hours right and was seeking to claim for more than 24 in a day in one instance.

- 12.3 Ms Trench drew the Tribunal's attention to the adverse publicity attracted by the criminal proceedings as evidenced by the copy Press articles at Exhibit "LPT1". She submitted that any conviction was serious in terms of the impact on the reputation of the profession and as officers of the court the public expected solicitors to uphold the highest standards. In her submission a conviction of this nature not only damaged the reputation of the solicitor but also the reputation of the profession, particularly because this fraud was against the Legal Aid fund which was a public fund. Legal Aid solicitors carried out a very important function in society because they assisted those who would not otherwise have access to justice. Those solicitors worked extremely hard for their clients and the financial rewards were not particularly high. That could not be said of this Respondent who sought to milk the system and had little regard for his clients. Ms Trench referred to the Judge's Sentencing Remarks in support of that submission. She said that the Respondent maintained his innocence and sought to blame others for his plight. He continued to show no remorse for the offences or for the damage that his conviction had caused to the reputation of the profession. The public needed to be confident that any solicitor instructed by them would be a person of unquestionable integrity, probity and trustworthiness. As a member of the profession the Respondent's conduct should have been beyond reproach, but, as was clear from the conviction, it was not. He had failed to act with integrity because of the conviction for dishonesty offences. His conduct had fallen well below the standard expected of a solicitor and he had behaved in a way that was likely to diminish the trust the public placed in him and the profession.
- 12.4 It was alleged by the Applicant that the Respondent had breached Rules 1.02 and 1.06 of the SCC 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 as he was tried and convicted upon indictment of two counts of conspiracy to commit fraud by false representation (offences involving dishonesty) at Croydon Crown Court on 29 July 2011. The Respondent was sentenced to a total of five years imprisonment for both offences to run concurrently. His application for permission to appeal to the Court of Appeal was refused. Evidence of the conviction and term of imprisonment was provided by a Certificate of Conviction from the Croydon Crown Court dated 4 August 2011. The Respondent did not dispute the authenticity of the Certificate of Conviction. He maintained in his letter to the Tribunal dated 14 June 2012 that he was innocent of the offences and blamed others for what had occurred. It was not for this Tribunal to go behind the Certificate of Conviction or indeed behind the Court's decision to refuse permission to the Respondent to appeal. Based upon the Certificate of Conviction and applying Rule 15(2) SDPR, the Tribunal found the allegation to have been substantiated by the Applicant beyond reasonable doubt.

Previous Disciplinary Matters

13. None.

Mitigation

14. None.

Sanction

15. The Tribunal had found the allegation, which was not admitted by the Respondent, to have been substantiated beyond reasonable doubt.
16. A number of matters had been drawn to the Tribunal's attention by Ms Trench, and in particular certain comments made by His Honour Judge Tanzer in his Sentencing Remarks. For example, the Judge remarked that what the Respondent did in relation to the two cases in question amounted to "breath-taking dishonesty and greed". Despite his conviction the Respondent continued to contest the proceedings and made an application to the Court of Appeal for permission to appeal. On the basis of the information that the Tribunal had been shown and the Respondent's own letter dated 14 June 2012 that application was turned down. The Respondent was currently serving the period of imprisonment to which he had been sentenced, namely five years concurrently on each offence. When imposing sanction, the Tribunal had to have in mind its duty to protect the public and public confidence in the reputation of the profession whilst also giving due consideration to the need to be proportionate. The Respondent had been convicted of serious offences of dishonesty against the public purse in the form of the Legal Aid fund, leaving his integrity in tatters. He had shown no remorse. The Respondent had demonstrated by his actions that he was not a person of unquestionable integrity, probity and trustworthiness. The only sanction which would adequately protect the public and the reputation of the profession was to strike the Respondent off the Roll of Solicitors.

Costs

17. The Applicant made an application for costs in the sum of £2,643.86 including Regulatory Investigation Costs of £900. The Statement of Costs was served on the Respondent on 28 June 2012. Ms Trench recognised that the Respondent might only recently have received the document, which was served on him rather late in the day. There was no evidence before the Tribunal in relation to the Respondent's means. Ms Trench indicated that the Applicant would take a view in relation to the recovery of any costs ordered against the Respondent in view of information available to the Applicant which suggested that the Respondent did not have any assets and the fact that he was currently serving a custodial sentence. The Respondent had not referred to his financial circumstances in his letter dated 14 June 2012.
18. The Tribunal had found the allegation against the Respondent to have been substantiated. The proceedings had been properly brought before the Tribunal and an order for costs would be made against the Respondent. The Tribunal had carefully considered the Applicant's Schedule of Costs and noted that the total claim was modest and individual items had been reasonably and properly incurred. The

Tribunal had concluded that it was appropriate and proportionate to make a costs order against the Respondent in the amount claimed, namely £2,643.86.

Statement of Full Order

19. The Tribunal Ordered that that the Respondent, Reuben Ajubor Ewujowoh, 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 summarily assessed at the sum of £2,643.86.

Dated this 3rd day of August 2012
On behalf of the Tribunal

J. P. Davies
Chairman