

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11019-2012

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

JULIAN MICHAEL EDWARD MULLINS

Respondent

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Before:

Mr. A. N. Spooner (in the chair)

Mrs E Stanley

Mr. M. C. Baughan

Date of Hearing: 4th September 2013

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**Appearances**

Ms Suzanne Jackson, solicitor of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Applicant

The Respondent did not attend and was not represented

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**JUDGMENT**

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## **Allegations**

1. The allegation against the Respondent was:
  - 1.1 That contrary to all, alternatively any of Principles 1, 2 and/or 6 of the SRA Principles 2011 he was on 3 January 2013, upon his own admission, convicted of Fraud by abuse of position, contrary to Section 1 of the Fraud Act 2006 and sentenced on 13 March 2013 to 3 years imprisonment.

## **Documents**

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

### **Applicant**

- Application dated 21 June 2012;
- Rule 5 Statement and exhibit “SEJ1” dated 21 June 2012;
- Supplementary Rule 7 Statement and exhibit “SEJ2” dated 24 April 2013;
- Admission of the Respondent;
- Skeleton Argument of the Applicant dated 17 December 2012;
- Letter from the Applicant to the Respondent dated 29 January 2013;
- Schedule of Costs dated 14 September 2013

### **Respondent**

- Letter from the Respondent to the Applicant dated February 2013;
- Letters from the Respondent to the Tribunal – various dates;
- Letter from the Respondent to the Applicant dated 19 August 2013 [not 2014].

## **Preliminary Matters**

3. Ms Jackson referred the Tribunal to a letter dated 3 May 2013 from the Respondent to her with regard to the proceedings. She said that it was evident from the letter that he was aware of the case against him and that he admitted the allegations. The letter stated:

“... ”

...I have admitted my culpability both in court and at every possible juncture since then, when required to do so by your office...I further confirm that I dispute none of the facts set out in your Rule 7 Statement...”

4. Ms Jackson said that this was acknowledgement of receipt by the Respondent of the Rule 7 Statement which detailed the Respondent’s conviction and she asked the Tribunal to consent to the case proceeding in the Respondent’s absence.
5. The Tribunal was satisfied that the Respondent was aware of the proceedings and of the substantive hearing date to which he had also referred in his letter dated 19 August

2013 and had stated that he was not able to attend the substantive hearing [due to his imprisonment].

6. The Tribunal consented to the case proceeding in the Respondent's absence.

### **Factual Background**

7. The Respondent was admitted to the Roll of Solicitors on 5 June 2002. He last held a practising certificate for the practice year 2010/2011.
8. At all material times the Respondent had practised as an associate solicitor at Turbervilles ("the firm") in Uxbridge, Middlesex. The Respondent was dismissed from the firm on 31 August 2011.
9. A self-report was made to the Applicant by the firm on 2 September 2011 which detailed the conduct undertaken by the Respondent on a number of his files. The Respondent had worked in the Private Client Department of the firm. The Respondent had admitted and agreed during a meeting with his former employers on 31 August 2011 that he had withdrawn/transferred client monies for his own use and benefit in the total sum of £139,500. In some cases the Respondent had admitted to having manipulated Estate Accounts to cover the payment of false legacies.
10. On 3 January 2013 the Respondent appeared before the Crown Court at Isleworth and was convicted of fraud.

### **Witnesses**

11. None

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

12. 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.
13. **Allegation 1.1 That contrary to all, alternatively any of Principles 1, 2 and/or 6 of the SRA Principles 2011 he was on 3 January 2013, upon his own admission, convicted of Fraud by abuse of position, contrary to Section 1 of the Fraud Act 2006 and sentenced on 13 March 2013 to 3 years imprisonment.**

### Submissions on behalf of the Applicant

- 13.1 Ms Jackson referred the Tribunal to the Rule 5 Statement dated 21 June 2012. She also referred to the supplementary Rule 7 Statement and she asked that the case proceed on the basis of the Rule 7 Statement and that the Rule 5 Statement lie on the file.
- 13.2 The Rule 7 Statement detailed the Respondent's conviction. Ms Jackson said that he had been convicted at Isleworth Crown Court, upon his own admission, of Fraud by

abuse of position, contrary to Section 1 of the Fraud Act 2006 and he had been sentenced to three years imprisonment. Dishonesty was the mens rea for the offence of fraud and she said that the Respondent had clearly acted dishonestly and that his conduct met the combined test of dishonesty as set out in Twinsectra Ltd v Yardley and Others [2002] UKHL 12.

- 13.3 Ms Jackson referred the Tribunal to the sentencing Judge's remarks, which included, inter alia:

“ ...

There are a number of aggravating features of this case. This was a very serious breach of trust. It was a high degree of trust that was placed in you, and you were acting as a professional. It has a multiple number of victims. First of all, the firm of solicitors for whom you worked, and who trusted you to deal with the clients' account. Secondly, as I have already set out, the deceased's' families of the six estates that you defrauded. Thirdly, you involved three close friends in your fraud, and your involvement of them caused all three to be brought before the Crown Court for money laundering and two of them to be convicted”.

- 13.4 Ms Jackson also referred the Tribunal to and asked it to take into account the Judgments in the cases of Bolton v The Law Society [1994] 1 WLR 512 and Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin) with regard to dishonesty.

#### Submissions of the Respondent

- 13.5. There were no submissions on behalf of the Respondent but the Tribunal had regard to his correspondence with the Applicant and with the Tribunal.

#### The Tribunal's Findings

- 13.6 The Tribunal had listened to the submissions on behalf of the Applicant and it had read carefully all of the documents to which it had been referred.
- 13.7 The Tribunal also noted that the Respondent had not only admitted the allegations against him before the Tribunal but had been found guilty of Fraud in the Crown Court and had been sentenced to three years imprisonment.
- 13.8 The Tribunal had regard to the authorities to which it had been referred. It was satisfied that in accordance with the test in Twinsectra, the Respondent's conduct was dishonest by the reasonable standards of ordinary and honest people and that he knew that by those standards his conduct had been dishonest.
- 13.9 The Tribunal found on the facts and on the documents that the allegation was proved.

#### **Previous Disciplinary Matters**

14. None

### **Mitigation**

15. There was no mitigation other than that detailed in the Respondent's correspondence.

### **Sanction**

16. The Tribunal had regard to its Guidance Note on Sanctions.
17. The Tribunal was satisfied that this was a most serious case and one in which client monies had been withdrawn by the Respondent for his own use. The Respondent had also created false documents on files in order to seek to cover his tracks, and in so doing had acted dishonestly. The Judge's sentencing remarks had reflected the gravity of the matter. The Respondent had been convicted of serious fraud and sentenced to prison. In such circumstances there was no question of any other sanction being imposed other than the highest possible sanction.
18. The Tribunal had regard to the Judgment of Sir Thomas Bingham in Bolton, which stated:

“...A profession's most valuable asset is its collective reputation and the confidence which that inspires”.

19. The Tribunal ordered that the Respondent be struck off the Roll of Solicitors.

### **Costs**

20. In the Respondent's letter dated 19 August Ms Jackson confirmed that he had objected to paying the costs of the proceedings. She referred the Tribunal to the letter which she said suggested that he had no income or assets but that he had mentioned in an earlier letter dated 13 April 2013 to the Tribunal that he owned an apartment in Bulgaria but did not know the current position with regard to that property.
21. Ms Jackson submitted that the Respondent would still have the opportunity to earn upon his release from prison and that he had stated that he would seek to repay the monies he had taken. She asked the Tribunal to make a fixed costs order having regard to the Schedule of Costs or alternatively to order that the costs not be enforced without leave. Ms Jackson said that the Costs Recovery Unit of the Applicant would engage with the Respondent in future.
22. In response to a question from the Tribunal Ms Jackson said that the Respondent would only be pursued for payment of costs if he had means to pay.
23. With regard to the costs in the sum of £6,586.98 Ms Jackson said that the Respondent had not engaged with the Applicant initially which had increased costs. She said that substituted service had had to be effected. With reference to Counsel's fees incurred she said that she could not assist regarding the length of the hearing on 18 December 2012 but that Counsel had had to be instructed for that hearing due to the unavailability of the Applicant's representative. The hearing should have been the

substantive hearing but on the morning of the hearing the Respondent had handed himself into the Police.

24. Ms Jackson said that as a result of that the hearing had been adjourned and had been put off for the criminal proceedings to take place and subsequently for the Rule 7 Statement to be lodged.
25. In response to a question from the Tribunal with regard to the Regulatory Investigation ("RI") costs Ms Jackson said that these were charged according to a scale and that the sum claimed of £600 was the lowest level of investigation costs. She said that RI initially raised the allegations with the Respondent and investigated the case until it was passed to the Legal Department of the Applicant. She said that the 8 hours claimed for came from the cost and time element on the electronic file.
26. Ms Jackson confirmed that the Respondent had been sent the Schedule of Costs but not the RI costs details.
27. The Tribunal was concerned with regard to the level of costs. It had highlighted its concerns with Ms Jackson with regard to the claim for Counsel's fees of £2,160, the RI costs of £600 and it had queried a claim for £125 for one night's hotel stay by another representative of the Applicant in relation to a previous hearing. There was no breakdown or explanation of these fees and Ms Jackson had not been able to assist further with regard to Counsel's fees or the hotel claim.
28. The Tribunal summarily assessed the costs in the sum of £5,000, not to be enforced without leave of the Tribunal.

### **Statement of Full Order**

29. The Tribunal Ordered that the Respondent, JULIAN MICHAEL EDWARD MULLINS, 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 £5,000.00, not to be enforced without leave of the Tribunal.

DATED this 15<sup>th</sup> day of October 2013

On behalf of the Tribunal

Mr A. Spooner  
Chairman