

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11044-2012

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SALINA SEEPARSAND

Respondent

Before:

Mr A. N. Spooner (in the chair)

Ms A. Banks

Lady Bonham Carter

Date of Hearing: 11th December 2012

Appearances

Ian Newton Jones, Solicitor of Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Applicant.

The Respondent appeared in person.

JUDGMENT

Allegations

1. The allegation against the Respondent was that:
 - 1.1 The Respondent failed to act with integrity in breach of Rule 1.02 of The Solicitors' Code of Conduct 2007 ("SCC") and behaved in a way that was likely to diminish the trust the public placed in her or the legal profession in breach of Rule 1.06 of the SCC, and further breached Principles 2 and 6 of the SRA Principles 2011 by virtue of her convictions in the Crown Court at Guildford.

The Respondent admitted the allegation.

Documents

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

Applicant:

- Application dated 16 August 2012 together with attached Rule 5 Statement and all exhibits
- Schedule of Costs dated 6 December 2012

Respondent:

- Psychiatric Report from Dr Luk dated 11 October 2011
- Character References

Factual Background

3. The Respondent, born on 28 October 1974, was admitted as a solicitor on 1 April 2005. At the material time she was an employee of East Hertfordshire District Council.
4. At the Crown Court at Guildford the Respondent, on 20 June 2011 and 19 October 2011, was convicted of two offences upon indictment of conspiracy to commit fraud by false representation. On 30 November 2011 the Respondent was sentenced to 12 months and 9 months imprisonment concurrently, suspended for 24 months and ordered to complete 40 hours unpaid work and pay £18,000 by way of compensation. A Certificate of Conviction from the Crown Court at Guildford dated 9 August 2012 was before the Tribunal.

Witnesses

5. No witnesses gave evidence.

Findings of Fact and Law

6. The Tribunal had carefully considered all the documents provided and the submissions of both parties. 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 her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
7. **Allegation 1.1: The Respondent failed to act with integrity in breach of Rule 1.02 of The Solicitors' Code of Conduct 2007 ("SCC") and behaved in a way that was likely to diminish the trust the public placed in her or the legal profession in breach of Rule 1.06 of the SCC, and further breached Principles 2 and 6 of the SRA Principles 2011 by virtue of her convictions in the Crown Court at Guildford.**
- 7.1 The Applicant relied upon a Certificate of Conviction from Guildford Crown Court dated 9 August 2012 as conclusive proof of the convictions. The Respondent admitted the allegation and accordingly, the Tribunal found the allegation proved.

Previous Disciplinary Matters

8. None.

Mitigation

9. The Respondent confirmed that the incident relating to the first offence had taken place in 2004 when she was on her training contract with the East Hertfordshire District Council. She had fallen on some wet concrete stairs in a shopping centre and matters had come to a head in 2008 when the centre refused to accept liability. The Respondent stated she was particularly concerned to make sure that the stairs would be safe for other members of the public. She had spoken to her friend, Ms S, about the matter and when the Respondent explained she had been unable to locate a witness, Ms S had offered to be a witness. Ms S had immediately telephoned the solicitors acting for the shopping centre and the Respondent's claim had been settled within a week. Everything had happened on the spur of the moment and the Respondent had immediately regretted it. Indeed, she gave some of the settlement monies to a charity. At the time the Respondent had been suffering from post natal depression and she believed her judgment had been impaired as a result of this. The Respondent stated she had always tried to be an honest person and this type of conduct was out of character for her.
10. The incident relating to the second offence had resulted from a road traffic accident which took place in 2008 shortly after the claim with the shopping centre was resolved. The Respondent stated the accident had been her fault as she had hit another car. Ms S's husband worked in the motor trade and came to help the Respondent. He took her car, arranged a courtesy car for her and unknown to the Respondent, he put in a fraudulent claim on behalf of Ms S. When the Respondent found out what was going on, Ms S's husband made it clear to her that he would make life very difficult for her if she did not keep quiet. The Respondent knew he was a

violent man as Ms S had informed the Respondent of his violence against Ms S. The Respondent was very scared and was informed by Ms S that Ms S had been bullied into pursuing the claim. Eventually, Ms S withdrew the case.

11. In December 2010 the Respondent had been arrested at her home and taken away by the police in front of her husband and children. She stated this was the worst incident of her life and that she had immediately admitted her part in the events and in fact was relieved that it had all come out.
12. The Respondent submitted she had not been dishonest, although accepted she knew Ms S had made a dishonest statement and the Respondent had done nothing about it. She also accepted that she should have reported the fraudulent claim as soon as she became aware of it and wished she had been stronger. The Respondent had worked very hard to qualify as a solicitor and if she could turn back the clock, she would never have done what she did. There was no conspiracy and she had found herself on a rollercoaster after Ms S made the first phone call. The Respondent had not even known about the fraudulent claim by Ms S's husband and as soon as she found out she had no option. The offences had not been in the course of the Respondent's employment and she had been suffering postnatal depression at the time which affected her judgment. She had been relatively inexperienced, having only worked six months due to being on maternity leave, and she reminded the Tribunal that she had cooperated fully with the police and the SRA.
13. There had been a lot of local publicity about these incidents which had affected the Respondent and her family. She provided the Tribunal with details of her personal circumstances and confirmed she had not allowed herself to work since December 2010 as she wanted to wait until the Tribunal confirmed she could continue working. The Respondent requested the Tribunal imposed a period of suspension rather than the ultimate sanction, and referred the Tribunal to the medical report provided. The Respondent asked the Tribunal to take into account the sentencing remarks of Mr Recorder May and her powerful mitigation.

Sanction

14. The Tribunal had considered carefully the Respondent's submissions and the documents provided. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.
15. These were serious allegations where the Respondent had been convicted of two counts of conspiracy to commit fraud by false representation. These were dishonesty offences which were particularly serious for a solicitor who was an officer of the court. The Tribunal took note of the sentencing remarks made by Mr Recorder May in which he stated:

“... these offences do not just happen on the spur of the moment, as the pre-sentence reports recognise, they have to have a degree of planning and normally for repeated fraud the sentences would be consecutive and you would both be looking at somewhere in the region of at least two years imprisonment.”

16. As Mr Jones, on behalf of the Applicant, had pointed out, there were also a number of aggravating factors to these offences. The incidents involved a conspiracy with a member of the public, the offences were planned, they were repeated and they were for personal gain. The Tribunal had taken into account the Respondent's mitigation, the fact that she had self reported the matters to the SRA, the circumstances surrounding the offences and had also read the character references that the Respondent had submitted. The Tribunal noted the medical report provided was dated 11 October 2011 and appeared to have been prepared for the purpose of sentencing in the criminal proceedings.
17. However, the Tribunal was also mindful of the case of the SRA v Sharma [2010] EWHC 2022 (Admin) in which Coulson J stated:

“Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the roll”

Mr Justice Foskett, in the subsequent case of SRA v Spence [2012] EWHC 2977 (Admin) had reiterated in a case concerning dishonesty:

“... it would send entirely the wrong message if striking off was not the normal order, save in the most exceptional circumstances, in this kind of situation.”

The Tribunal was satisfied that there were no exceptional circumstances in this case, indeed there were aggravating features, and that in such circumstances the appropriate sanction was to strike the Respondent off the Roll of Solicitors.

Costs

18. Mr Jones, on behalf of the Applicant, requested an Order for his costs in the total sum of £1,325.21, which the Respondent confirmed was agreed. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant's costs in the sum of £1,325.21 as agreed between the parties. In relation to enforcement of those costs, the Tribunal had particular regard for the case of SRA v Davis and McGlinchey [2011] EWHC 232 (Admin) in which Mr Justice Mitting had stated:
- “If a solicitor wishes to contend that he is impecunious and cannot meet an order for costs, or that its size should be confined, it will be up to him to put before the Tribunal sufficient information to persuade the Tribunal that he lacks the means to meet an order for costs in the sum at which they would otherwise arrive.”
19. 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 those costs. However, in this case the Respondent had not provided any evidence of her income, expenditure, capital or assets and therefore it was difficult for the Tribunal to take a view of her financial circumstances. Furthermore the Respondent had not made any submissions regarding her ability to pay the costs. In the circumstances, there was nothing before the Tribunal to cause it to defer the order for costs.

Statement of Full Order

20. The Tribunal Ordered that the Respondent, Salina Seeparsand, solicitor, be struck off the Roll of Solicitors and it further Ordered that she do pay the agreed costs of and incidental to this application and enquiry fixed in the sum of £1,325.21.

Dated this 21st day of January 2013
On behalf of the Tribunal


A. N. Spooner
Chairman

Findings filed with
The Law Society on

24 JAN 2013