

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11114-2012

**It has been drawn to the Tribunal's attention by the Applicant that there is a factual error at paragraphs 14.4 and 14.5 of this Judgment. Mr Wooten was not employed by Bell, Lamb and Joynson Solicitors.**

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

DANIEL RICHARD DENNIS

Respondent

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Before:

Mr S. Tinkler (in the chair)

Miss N. Lucking

Mr D. Gilbertson

Date of Hearing: 2nd May 2013

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## **Appearances**

Mark Barnett, 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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## **Allegation**

1. The allegation against the Respondent was that:
  - 1.1 Contrary to all alternatively any, of Principles 1, 2 and 6 of the SRA Principles 2011 he was, on 26 January 2012, convicted of two counts of dishonestly making a false representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss, contrary to Section 2 Fraud Act 2006.

## **Documents**

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

Applicant:

- Application dated 19 December 2012;
- Rule 5 Statement and exhibit "MB/1" dated 19 December 2012;
- Certificate of Conviction dated 8 March 2012;
- Schedule of Costs dated 29 April 2013.

Respondent:

- Respondent's undated letter to the Tribunal;
- Respondent's email dated 30 April 2013 to the Applicant.

## **Preliminary Matter**

3. Mr Barnett told the Tribunal that in order to proceed it had to be satisfied that the Respondent had had proper notice of the substantive hearing. He referred the Tribunal to the undated letter from the Respondent which made reference to the hearing dated 2 May 2013. In addition, he said that the Respondent had been served with the application on 11 February 2013 following which the Respondent had returned the pre-listing questionnaire which Mr Barnett submitted evidenced that he had received notice of the proceedings themselves.
4. Mr Barnett submitted that the Respondent had been properly served and had had due notice of the substantive hearing date.

## **The Tribunal's Decision**

5. The Tribunal was satisfied that the Respondent had had proper notice of the substantive hearing date and that he was aware that the hearing was taking place albeit he was not attending and he had confirmed in writing his non-attendance.
6. The Tribunal was satisfied that the hearing could proceed in the absence of the Respondent.

## **Factual Background**

7. The Respondent was admitted as a solicitor on 16 March 1998 and his name remained on the Roll of Solicitors.
8. At times relevant to the facts, the Respondent practised as a salaried partner at Bell Lamb & Joynson Solicitors (“the firm”) from offices in Liverpool and Cheshire.
9. On 33 occasions cheques had dishonestly been paid by the Respondent into his bank account over a two and a half year period in the sum of £46,700. These funds had been diverted by the Respondent to his own bank account yet should have gone to his partners in the firm.
10. On 26 January 2012 in the Crown Court at Manchester, the Respondent pleaded guilty to and was convicted of two counts of dishonestly making a false representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss, contrary to Section 2 of the Fraud Act 2006.
11. On 2 March 2012 the Respondent was sentenced to 12 months imprisonment on each count to run concurrently.

## **Witnesses**

12. None.

## **Findings of Fact and Law**

13. 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 their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
14. **Allegation 1.1: Contrary to all, alternatively any, of Principles 1, 2 and 6 of the SRA Principles 2011 he was, on 26 January 2012, convicted of two counts of dishonestly making a false representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss, contrary to Section 2 Fraud Act 2006.**

## Submissions on behalf of the Applicant

- 14.1 Mr Barnett referred the Tribunal to the Rule 5 Statement dated 19 December 2012 and the allegation against the Respondent.
- 14.2 Mr Barnett further referred the Tribunal to the factual background and that on 26 January 2012 at the Manchester Crown Court the Respondent had pleaded guilty to and been convicted of two counts of dishonestly making a false representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss. Mr Barnett said that on 2 March 2012 the Respondent had been sentenced to 12 months imprisonment on each count to run concurrently.

- 14.3 Mr Barnett said that in the pre-listing questionnaire the Respondent had admitted the allegation against him in these proceedings. He said that in correspondence with the Applicant's case worker he had not taken issue with the allegations raised by the case worker.
- 14.4 Mr Barnett referred the Tribunal to the sentencing remarks of His Honour Judge Geake upon which he relied. He said that the Judge had remarked:
- "... You saw an opportunity to divert funds which should have gone to your partners and you diverted them to your own account.
- ...
- There were 33 occasions in total when cheques dishonestly found their way into your accounts. The total sum involved is £46,700, over a two-and-a-half-year period. Mr Wooten [a fellow employee at the firm] was one of a number of people who, clearly, apart from yourself, finished up a victim in the case...".
- 14.5 Mr Barnett said that the aggravating and mitigating factors had been addressed by the Judge in his sentencing remarks. This included that a fellow former employee of the Respondent's [Mr Wooten] had been suspended from his work whilst the investigation was taking place and had suffered serious depression as a result, thinking that he might go to prison for something he had not done. The Judge had also acknowledged that the Respondent had pleaded guilty and had fully co-operated with the inquiry from the outset.

### **The Tribunal's Findings**

15. The Tribunal found the allegations proved on the facts and on the documents, including the Respondent's Certificate of Conviction. The Tribunal noted that the Respondent had also admitted the allegation.

### **Previous Disciplinary Matters**

16. None.

### **Mitigation**

17. None.

### **Sanction**

18. The Tribunal had regard to its Guidance Note on Sanctions. It also had regard to the sentencing remarks of the trial Judge.
19. The Respondent had been found guilty in the Manchester Crown Court of offences involving dishonesty. The Tribunal found that the dishonesty had been for the Respondent's own benefit over a period of time and had impacted upon not only the partners of the firm but also upon an innocent third party upon whom the impact had been significant. The Tribunal noted that the Respondent's misconduct had not involved client money but irrespective of that, the Respondent had been able to

commit the offences which had brought him before the Tribunal as he had been trusted by his partners in the firm.

20. The Tribunal had regard to the case of Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin) and it was satisfied that no exceptional circumstances existed in the Respondent's case.
21. The Tribunal also had regard to the case of Bolton v The Law Society [1994] 1 WLR 512 and the Judgment of Sir Thomas Bingham M.R. which stated:

“... It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness...”.
22. The Tribunal considered that in view of the seriousness of the Respondent's misconduct, there could be no other sanction in the circumstances and it ordered that the Respondent be struck off the Roll of Solicitors.

### **Costs**

23. Mr Barnett said that he sought costs on behalf of the Applicant in the sum of £1,616.95 and he submitted that these were reasonable costs.
24. Mr Barnett told the Tribunal that the Respondent had made representations on costs in his email correspondence dated 30 April 2013 and his undated letter to the Tribunal. Mr Barnett asked the Tribunal to consider:
  - (i) that the Respondent was in employment and whilst he was paid the minimum wage, he had found employment and was receiving an income; and
  - (ii) the Respondent was joint owner of his home which was subject to a suspended possession order.
25. Mr Barnett said that given the Applicant's modest costs he sought a costs order for the full amount and that the Applicant would explore enforcing any costs order including the potential of a charging order against the Respondent's property. Mr Barnett invited the Tribunal not to inhibit the Applicant by making a qualified costs order which would require the Applicant to return to the Tribunal for enforcement purposes.
26. In response to a question from the Tribunal, Mr Barnett said that he could not assist the Tribunal as to whether the Respondent's bankruptcy had been discharged albeit the Respondent had stated in his correspondence that his bankruptcy remained undischarged. He said that any costs order would not fall within the bankruptcy.
27. The Tribunal had regard to the correspondence and documentation from the Respondent which dealt with the issue of costs and had listened carefully to the representations on behalf of the Applicant as to costs.
28. The Tribunal noted that the Respondent was joint owner of a property and while this was subject to a suspended possession order, no indication had been given by the

Respondent that there was no equity in the property. The Respondent had provided some financial information but it was incomplete. The Tribunal acknowledged that the Respondent was in receipt of low income but he did have an asset in the form of the said property.

29. The Tribunal summarily assessed the Applicant's costs and ordered that the Respondent pay costs in the sum of £1,500.

**Statement of Full Order**

30. The Tribunal Ordered that the Respondent, Daniel Richard Dennis, 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 £1,500.00.

Dated this 16<sup>th</sup> day of May 2013  
On behalf of the Tribunal

S. Tinkler  
Chairman