

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11180-2013

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

IAN PATRICK BENBOW

Respondent

Before:

Mr A. G. Gibson (in the chair)

Miss T. Cullen

Mr M. G. Taylor CBE DL

Date of Hearing: 21 November 2013

Appearances

Myra Humphreys, solicitor of The Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant

The Respondent did not appear and was not represented

JUDGMENT

Allegations

1. The Allegation against the Respondent was:
 - 1.1 The Respondent, contrary to all, alternatively any of Principles 1, 2 and/or 6 of the SRA Principles 2011, was on 21 February 2013 convicted upon his own admission of fraud by abuse of position and theft (by employee), and was sentenced to two counts of 2 years imprisonment to run concurrently.

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 15 August 2013 together with attached Rule 5 Statement and exhibits
- Applicant's Schedule of Costs dated 20 November 2013

Respondent:

- Letter dated 2 September 2013 from the Respondent to the Tribunal
- Letter dated 9 October 2013 from the Respondent to the Tribunal

Decision to Proceed in the Respondent's Absence

3. The Tribunal was mindful that it should only decide to proceed in the Respondent's absence having exercised the utmost care and caution. Ms Humphreys for the Applicant submitted the Respondent was aware of today's hearing. The Respondent had written to the SRA on 21 August 2013 to acknowledge service of proceedings. He had been notified of today's hearing by a letter dated 23 February 2013. The Tribunal noted the Respondent had written to the Tribunal on 9 October 2013 confirming he did not wish to appear at today's hearing and that he was content for the hearing to proceed in his absence. Accordingly, the Tribunal was satisfied that it was appropriate and in the public interest for the hearing to proceed in the Respondent's absence.

Factual Background

4. The Respondent, born on 27 July 1982, was admitted as a solicitor on 1 February 2007. At the material time the Respondent practised as an assistant solicitor at Molesworth Bright Clegg Solicitors, Octagon House, 25-27 Yorkshire Street, Rochdale, OL16 1RH.
5. On 21 February 2013, at the Manchester Crown Court, the Respondent was convicted upon his own admission of one count of fraud by abuse of position and one count of

theft (employee). The Respondent was sentenced to 2 years for the first count and two years for the second to run concurrently.

Witnesses

6. No witnesses gave evidence.

Findings of Fact and Law

7. The Tribunal carefully considered all the documents provided and the submissions of the Applicant. 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.
8. **Allegation 1.1: The Respondent, contrary to all, alternatively any of Principles 1, 2 and/or 6 of the SRA Principles 2011, was on 21 February 2013 convicted upon his own admission of fraud by abuse of position and theft (by employee), and was sentenced to two counts of 2 years imprisonment to run concurrently.**
 - 8.1 The Respondent had admitted the allegation in his letter of 2 September 2013. The Tribunal had been provided with a Certificate of Conviction from the Crown Court at Manchester dated 15 April 2013 showing that. The Respondent had been convicted on 21 February 2013 of one count of fraud by abuse of position and one count of theft and had been sentenced to 2 years imprisonment on each count to run concurrently. The Tribunal noted the Respondent's admission. The Tribunal was satisfied that by being convicted for these offences and receiving a prison sentence, the Respondent had failed to uphold the rule of law and the proper administration of justice, he had acted with a lack of integrity, and he had failed to behave in a way that maintained the trust the public placed in him. The Tribunal was satisfied the Respondent had breached Principles 1, 2 and 6 of the SRA Principles 2011 and found the allegation proved.

Previous Disciplinary Matters

9. None.

Mitigation

10. In his letter dated 2 September 2013 the Respondent stated he had formally requested, on more than one occasion, that his name be permanently struck off the Roll of Solicitors. He repeated this again in his letter of 9 October 2013 and also referred to his health and personal difficulties.

Sanction

11. The Tribunal had considered carefully the Respondent's letters dated 2 September 2013 and 9 October 2013. 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.

12. The Respondent had been convicted of one count of fraud and one count of theft (employee) which were very serious matters indeed. The Tribunal noted the sentencing remarks of His Honour Judge Lever who had stated:

“.....you were a solicitor of the Supreme Court and the main thing is that people have got to be able to trust solicitors to tell the truth and not steal their money you have let your profession down very, very badly; people are entitled to expect that when they go to a solicitor they’ll be told the truth and they will not have their money stolen from clients’ account; partners in firms of solicitors are expect [sic], entitled to expect that assistant solicitors will not steal clients’ money and tell lies and invent artificial correspondence from a QC on a totally bogus web address in order to cover up in a very sophisticated and long-standing way, going on a number of years while they’re doing teaming and lading of other people’s property.”

13. The Tribunal noted from the Respondent’s letter dated 9 October 2013 that he had borrowed £11,460.40 to pay a Confiscation Order made against him in relation to the theft. The Tribunal had been referred to the case of *SRA v Sharma* [2010] EWHL 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”

The Tribunal was satisfied that there were no exceptional circumstances in this case.

14. It was clear to the Tribunal that the Respondent had abused his position of trust in that he had stolen client monies from his employers and members of the public over a lengthy period of time. This was disgraceful misconduct at the highest level incompatible with the obligations of a solicitor and the Respondent was clearly a risk to the public. He had caused a great deal of damage to the reputation of the profession. The Tribunal ordered the Respondent be struck off the Roll of Solicitors.

Costs

15. The Applicant requested an Order for his costs in the total sum of £2,112. She provided the Tribunal with a breakdown of those costs. The Respondent in his letter of 9 October 2013 had provided the Tribunal with information concerning his financial means. He had provided a copy of a Confiscation Order dated 16 July 2013. The Respondent was in prison and his conditional release date was due to be 9 April 2014. He did not have any income and anticipated that on his release he would be unemployed.
16. The Tribunal had considered carefully the matter of costs and was satisfied that the amount of costs claimed was reasonable. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant’s costs in the sum of £2,112. In relation to enforcement of those costs, 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 the Applicant's costs. The Tribunal was satisfied that due to the Respondent's financial circumstances it was appropriate that the order for costs should not be enforced without leave of the Tribunal.

Statement of Full Order

17. The Tribunal ORDERED that the Respondent, Ian Patrick Benbow, 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 £2,112.00 not to be enforced without leave of the Tribunal.

DATED this 21st day of January 2014
On behalf of the Tribunal

A. G. Gibson
Chairman