

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11212-2014

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

MICHAEL ANTHONY WEBSTER

Respondent

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Before:

Mr A. Ghosh (in the chair)

Mr I. R. Woolfe

Mrs L. Barnett

Date of Hearing: 15 December 2014

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**Appearances**

Mr Mark Gibson, Legal Adviser of the SRA, The Cube, 199 Wharfside Street, Birmingham B1 1RN for Applicant.

The Respondent did not appear and was not represented.

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**JUDGMENT**

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## **Allegations**

1. The allegations against the Respondent, Michael Anthony Webster, contained in a Rule 7 Statement dated 25 September 2014, were that by virtue of his conviction for dishonestly making false representation to make gain for self/another or cause loss to other/expose other to risk:
  - 1.1 He has failed to uphold the rule of law and the proper administration of justice contrary to Principle 1 of the SRA Principles 2011;
  - 1.2 He has failed to act with integrity contrary to Principle 2 of the SRA Principles 2011 and
  - 1.3 He has failed to behave in a way that maintains the trust the public places in him and in the provision of legal services contrary to Principle 6 of the SRA Principles 2011.

## **Documents**

2. The Tribunal reviewed all the documents submitted by the parties, which included:

### **Applicant:**

- Application and Rule 7 Statement dated 25 September 2014, together with Exhibit MNG1;
- Schedule of Costs of the Applicant dated 14 August 2014.

### **Respondent:**

- Copy letter dated 9 December 2014 from the Respondent to the Tribunal;
- Copy emails dated 9 and 11 December 2014 between the Respondent and the SRA.

### **Tribunal:**

- Memorandum of case management hearing on 20 November 2014.

The Tribunal also had before it numerous papers relating to a Rule 5 Statement:

- Rule 5 Statement dated 23 December 2013 and Exhibit RH1;
- Medical report upon the Respondent dated 16 April 2014;
- Respondent's reply to the Rule 5 Statement and numerous documents relating to the diamond transaction mentioned by the Respondent;
- Witness Statements made on behalf of the Respondent;
- Testimonials on behalf of the Respondent;
- Medical report upon the Respondent dated 14 March 2014;
- Copy prosecution case papers in relation to the criminal proceedings against the Respondent;

### **Preliminary Matter**

3. Mr Gibson told the Tribunal that the Rule 5 proceedings had been adjourned as the SRA had needed to obtain expert evidence and the substantive hearing had been fixed for today. However, on 20 November 2014, at a case management hearing, another division of the Tribunal had granted the Applicant leave to proceed on the basis of the Rule 7 Statement dated 25 September 2014 alone and the allegations contained in the Rule 5 Statement dated 23 December 2013 were to lie on the file. This decision had followed an e-mail from the Respondent dated 18 November 2014 in which he confirmed he accepted the allegations referred to in the Rule 7 Statement as a result of the concession made by the SRA indicating that the allegations contained in the Rule 5 Statement would then lie on the file.
4. The Tribunal now had before it a letter from the Respondent dated 9 December 2014 confirming that he accepted the allegations made against him in the Rule 7 Statement and that he would not be attending the substantive hearing. He apologised to the Tribunal in advance for his absence. In Mr Gibson's submission, the Tribunal could be satisfied that notice of the hearing had been properly served upon the Respondent and the Tribunal could proceed to hear the matter under rule 16 (2) of the Solicitors (Disciplinary Proceedings) Rules 2007 ("the SDPR").

### The Tribunal's Decision on Preliminary Matter

5. The Tribunal noted the Respondent's clear intention not to attend the hearing and his admissions of the allegations in the Rule 7 Statement. The Tribunal had determined under Rule 16 of the SDPR that, in all the circumstances, it was in the interests of justice that it exercise its power to hear and determine the application notwithstanding that the Respondent had failed to attend in person or was not represented at the hearing.

### **Factual Background**

6. The Respondent was born on the 14 September 1964. He was admitted as a solicitor on the 16 October 1989 and his name remains upon the Roll of Solicitors.
7. The Respondent carried on practice as a partner at Webster Dixon LLP of Fourth Floor, Thavies Inn House, 3-4 Holborn Circus, London EC1N 2HA. On 1 February 2013, the Respondent's business partner alerted the SRA to accounting irregularities she had found. On 2 February 2013 the firm suspended the Respondent.
8. The firm went into liquidation on 12 April 2013. The Respondent does not hold a current practising certificate.
9. In the Crown Court at the Central Criminal Court on 23 May 2014 the Respondent, upon his own confession, was convicted upon indictment of dishonestly making false representation to make gain for self/another or cause loss to other/expose other to risk.
10. The offence related to the Respondent's attempts to negotiate a loan for a client of the firm in order to buy diamonds from Ghana to be sold in Dubai. When the loan failed to materialise, the Respondent made five fraudulent transactions, over a period of

eleven days from client account totalling £75,605.27. The Respondent paid back £27,000; however the shortfall was made good by his professional indemnity insurers.

11. In passing sentence the Judge referred to a number of glowing references but concluded “this was fraudulent from the outset and involves multiple frauds, five frauds over an eleven day period. There is undoubtedly higher culpability because you abused a position of trust, not just as a solicitor but as a compliance officer for finance and administration in the firm of which you were a partner.”
12. On 14 July 2014, at the Central Criminal Court, the Respondent was sentenced to 8 months imprisonment, ordered to pay compensation of £48,605.57 to Balva Insurance Company, ordered to pay a victim surcharge of £100 and was disqualified under section 2 of the Company Directors Disqualification Act 1986 for a period of two years.
13. The Respondent’s criminal trial and conviction attracted media coverage.

#### **Witnesses**

14. None.

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

15. The Tribunal had due regard to the Respondent’s right 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. The Applicant was required to prove the allegations beyond reasonable doubt.
15. **The allegations against the Respondent, Michael Anthony Webster, were that:**
  - 1.1 **He has failed to uphold the rule of law and the proper administration of justice contrary to Principle 1 of the SRA Principles 2011;**
  - 1.2 **He has failed to act with integrity contrary to Principle 2 of the SRA Principles 2011 and;**
  - 1.3 **He has failed to behave in a way that maintains the trust the public places in him and in the provision of legal services contrary to Principle 6 of the SRA Principles 2011.**
- 15.1 The Respondent admitted each of the allegations.
- 15.2 Mr Gibson took the Tribunal through the relevant facts and to the Certificate of Conviction and the press interest generated by the case.
- 15.3 The Tribunal noted that under Rule 15(2) of the SDPR:
 

“... 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.”

15.4 The Tribunal referred to SRA Principles 1, 2 and 6. A solicitor must:

- “1. uphold the rule of law and the proper administration of justice;
2. act with integrity;
6. behave in a way that maintains the trust the public places in you and in the provision of legal services.”

In this case the facts spoke for themselves; the Respondent had been convicted of fraud upon his own admission. The Respondent had also admitted each of the allegations in the Rule 7 Statement before the Tribunal. The Tribunal accordingly found each of those allegations against the Respondent to have been proved beyond reasonable doubt.

### **Previous Disciplinary Matters**

16. None.

### **Mitigation**

17. In his letter dated 9 December 2014 the Respondent said that:

“I would like to take this opportunity to express my extreme regret and remorse for my actions that have led to the allegations filed against me. I have failed to live up to the high standard of discipline required by the profession and the personal standards of behaviour I have set myself over the past 25 years as a lawyer. I apologise without reservation to the clients, business partners, work colleagues, friends and loved ones that I have let down and caused unnecessary stress and disappointment.

The last two years have been tremendously challenging but finally I hope to put this sad episode behind me and begin a new chapter in my life.”

18. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.

19. The Respondent’s conduct and conviction had caused significant damage both to public confidence in the profession and its reputation. The Tribunal had considered the principle elucidated by Laws LJ in SRA v Sharma [2010] EWHC 2022 (Admin), that “save in exceptional circumstances, a finding of dishonesty will lead to a solicitor being struck off the roll...that is the normal and necessary penalty in cases of dishonesty”. The Tribunal found that there were no exceptional circumstances in this case. It therefore ordered that the Respondent be struck off the roll.

### **Costs**

20. The Tribunal had before it the Applicant's schedule of costs in the sum of £2,259.00. Mr Gibson referred to the chain of emails commencing on 9 December 2014 between himself and the Respondent. Whilst the Respondent had initially asked that no order for costs be made as there was little prospect of his being able to pay them, he had subsequently received a copy of the case of SRA v Davis and McGlinchey [2011] EWHC 232 (Admin) from Mr Gibson and had conceded by email on 11 December 2014 that he was content for the Tribunal to make its order for costs without reference to the information contained in his original email.
21. The Tribunal was concerned that costs in this case were higher than necessary as two SRA in-house advocates had attended the Tribunal for the hearings. The Tribunal wondered whether a reduction could have been made in costs by the use of an agent. Mr Gibson said that since it was his own Rule 7 application he had thought it appropriate to deal with the matter himself; if an agent had been instructed then this would have led to additional costs which would have been at a higher rate than that charged by him.
22. The Tribunal summarily assessed costs in the sum of £2,000.00, which included a reduction for the shorter than anticipated hearing. The Tribunal ordered the Respondent to pay costs in the sum of £2,000.00.

#### **Statement of Full Order**

23. The Tribunal Ordered that the Respondent, Michael Anthony Webster, 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 £2,000.00.

Dated this 14<sup>th</sup> day of January 2015

On behalf of the Tribunal

A. Ghosh  
Chairman