

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11247-2014

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

EVE CLARE CARLILE

Respondent

Before:

Mr P.S.L. Housego (in the Chair)

Mr E. Nally

Mr S. Marquez

Date of Hearing: 3 February 2015

Appearances

Inderjit Johal, Counsel, employed by the Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham B1 1RN

The Respondent appeared and was assisted as a McKenzie friend by Lady Alison Carlile QC

**MEMORANDUM OF APPLICATION TO WITHDRAW ON
BEHALF OF THE APPLICANT**

Submissions for the Applicant

1. For the Applicant, Mr Johal informed the Tribunal that he wished to make an application under Rule 11(6) of the Solicitors (Disciplinary Proceedings) Rules 2007 to withdraw an application on the basis that the parties wish to enter into a Regulatory Settlement Agreement (“RSA”). Rule 11(6) provided that no application in respect of which a case to answer had been certified might be withdrawn without the consent of the Tribunal. The Rule 5 Statement in this matter was lodged on 21 May 2014. The matter was set down for substantive hearing on 24 and 25 February 2015. There were three allegations which were as follows:
 - “1.1 She [the Respondent] wrote a misleading letter to the Santander Bank, in which she informed them that an application for registration had been submitted to the Land Registry when in fact no such application had been submitted, in breach of all or alternatively any of Principles 2, 4 and 5 of the SRA Principles 2011.
 - 1.2 She provided a misleading explanation regarding the letter referred to in allegation 1.1 above to her employer, Mason Baggott & Garton solicitors during the course of disciplinary proceedings that they had instituted against her, in breach of Principle 2 of the SRA Principles 2011.
 - 1.3 She misled a client about the progress of a case in breach of all or alternatively any of Principles 2, 4 and 5 of the SRA Principles 2011 and Outcome 1.5 of the SRA Code of Conduct 2011.
2. All three allegations had been advanced on the basis of dishonesty. Mr Johal submitted that broadly the Respondent accepted the facts as pleaded in the Rule 5 Statement and admitted the allegations save that she denied dishonesty or lack of integrity (Principle 2). The Respondent had submitted medical evidence and Mr Johal referred the Tribunal to the reports of Dr Frank Farnham, consultant forensic psychiatrist dated 31 July 2014 with Addendum dated 5 October 2014 and of Dr J Cutting, consultant psychiatrist dated 3 November 2014. Mr Johal particularly referred the Tribunal to the conclusions to those reports. Having regard to those strong conclusions, especially of Dr Cutting (the expert instructed by the Applicant) it was felt that it was unlikely that the allegation of dishonesty could be established to the required standard employed by the Tribunal, that of proof beyond reasonable doubt. If the matter were to continue, the Applicant would no longer advance the allegation of dishonesty.
3. Mr Johal submitted that there were three main reasons for entering into the RSA: the strength of the medical evidence; the offer of full admissions to the allegations (save for dishonesty and lack of integrity) from the Respondent; and the offer of an undertaking by the Respondent to remove her name from the Roll of Solicitors and not to apply to be readmitted without medical evidence of suitability to practise again. Mr Johal referred the Tribunal to the contents of the RSA for the detail: the summary of the factual background; the admissions of the Respondent which were identical to the allegations; the Respondent’s mitigation including the conclusions from the medical reports. (Dr Cutting concluded that during the course of the misconduct the

Respondent was suffering from a psychiatric disorder which affected her concentration and that she was not acting dishonestly but was simply overwhelmed by the situation.) Mr Johal also referred the Tribunal to the undertakings which the Respondent gave: to make an application to the Applicant to remove her name from the Roll of Solicitors within two weeks of the date of the RSA; not to seek restoration as a solicitor except with medical evidence disclosing her fitness to practise as a solicitor; not to seek or accept employment or remuneration in connection with the provision of legal services by a solicitor, partner, member of a Limited Liability Partnership, recognised body, Legal Disciplinary Practice, Alternative Business Structure or any other entity regulated by the Applicant or any other approved regulator under the Legal Services Act 2007, without first disclosing a copy of the RSA. Mr Johal pointed out the regulatory outcome: that the Respondent would be rebuked by the Applicant and agreed to pay a contribution towards the Applicant's costs in the sum of £1,000 and that the RSA would be published. He pointed out a minor typographical error in the cross referencing within the RSA and submitted that subject to the Tribunal agreeing that the Applicant might withdraw the application from the Tribunal, the document which had already been signed by the Respondent would be signed by the Applicant. Mr Johal recommended the approval of the RSA on the basis that the undertakings it contained constituted a proportionate outcome to the proceedings in the light of the Respondent's admissions of her conduct, the mitigation and the medical evidence.

Submissions for the Respondent

4. As McKenzie friend for the Respondent, Lady Carlile asked the Tribunal to agree to the withdrawal of the application. She emphasised the Respondent's great sorrow and embarrassment to be in this position at the end of an unblemished 12 year career as a solicitor. The Respondent was sorry especially for the client whose matter was the subject of the third allegation but Lady Carlile submitted that no client has suffered as a result of what the Respondent had done. There was an administrative mess but no financial impropriety in any form; no money was missing and there had been no financial benefit to the Respondent from what she had done. Lady Carlile described the motivation, if that was the right word, for what had happened; the Respondent was trying to keep her job while experiencing difficulties in her personal life which Lady Carlile described to the Tribunal where the Respondent was the sole breadwinner. This occurred in the context of the Respondent suffering from a depressive illness, the background to which was described in the medical reports. The Tribunal was given details of the Respondent's current medical treatment and that she had recently obtained part-time employment outside legal services. The Tribunal was informed of the Respondent's other medical problems. In retrospect the Respondent felt that she should not have become a solicitor; she had done so because it was a much admired and respected profession. The Respondent was in a position to produce a large number of character testimonials from former clients about the care she had devoted to them.

Decision of the Tribunal

5. The Tribunal had regard to its duty to maintain the reputation of the profession and to protect the public. It had particularly noted the very strong medical evidence about the Respondent's mental health at the material time and that while the allegations were

serious, the allegation of dishonesty was not to be pursued by the Applicant in any event. There had been no financial misappropriation. The Tribunal agreed that having regard to the particular circumstances of this case and the safeguards for the public which the RSA included that the RSA was a proportionate outcome in this matter. The Tribunal commended the Applicant for its humane approach to this application and felt that the reputation of the profession was enhanced by this method of concluding it. The Tribunal therefore consented to the withdrawal of the application against the Respondent.

Dated this 25th day of February 2015

On behalf of the Tribunal



P.S.L. Housego
Chairman

Judgment filed
with the Law Society
on 25 FEB 2015