

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11250-2014

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

RANBIR DHALIWAL

Respondent

Before:

Miss N. Lucking (in the chair)

Mrs E. Stanley

Mr S. Marquez

Date of Hearing: 30 July 2014

Appearances

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

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent, Ranbir Dhaliwal, were that by virtue of the Respondent's commission of, and conviction for, the offences detailed below, the Respondent breached the Solicitors Regulation Authority Principles 2011 as follows:-
 - 1.1 He failed to uphold the rule of law and the proper administration of justice, in breach of Principle 1;
 - 1.2 He failed to act with integrity in breach of Principle 2;
 - 1.3 He did not behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6.
2. It was also alleged that the Respondent acted dishonestly. However, dishonesty was not an essential ingredient to sustain the allegations.

Documents

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

Applicant:

- Application dated 29 May 2014;
- Rule 5 Statement dated 29 May 2014 together with Exhibit RH1;
- Schedule of Costs of the Applicant dated 25 July 2014, including copy Land Registry entry relating to a property in Bedford.

Preliminary Matter

4. Mr Leigh asked the Tribunal to proceed in the absence of the Respondent. There had been no contact with the Respondent throughout the proceedings and a Case Management Hearing on 22 July 2014 had dealt with the Respondent's failure to respond to the Application. Whilst that Tribunal had determined that it was proper to proceed in the Respondent's absence, it was for the Tribunal today to reach its own conclusion. Mr Leigh produced a Royal Mail proof of delivery on 1 July 2014 which showed a signature and the printed name "Dhaliwal" and Land Registry entries relating to the delivery address which showed that the Respondent was the joint owner of that property.
5. Mr Leigh also said that under Rule 19 of the Solicitors (Disciplinary Proceedings) Rules 2007 the Respondent was protected as he could ask for a re-hearing of the application in these circumstances.
6. In Mr Leigh's submission, in all the circumstances, it was proper for the Tribunal to decide to proceed in the Respondent's absence.

The Tribunal's Decision on the Preliminary Matter

7. The Tribunal was satisfied that there had been good service of the proceedings and that the Respondent was aware of the hearing and had voluntarily absented himself from it. The Tribunal had applied the principles in R v Hayward, Jones and Purvis [2001] EWCA Crim 168 and determined under Rule 16 of the Solicitors (Disciplinary Proceedings) Rules 2007 that in all the circumstances, it would 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

8. On 22 November 2013 at St Albans Crown Court, the Respondent was convicted of one count of fraud by abuse of position and two counts of dishonestly making false representation to make gain for self/another or cause loss to another/expose another to risk. The Court sentenced the Respondent to 9 months imprisonment and to pay compensation of £1,000.
9. The facts underlying the conviction were that two fraudsters, Carr and Carmichael (both of whom have been imprisoned), claimed that their victims, Mr and Mrs B, owed them £250,000 and demanded payment. Mr and Mrs B decided to raise the money by borrowing against their house. Living with them were two adult children both of whom were severely disabled. It was a requirement of the lender that the two non-owning occupiers of the house (i.e. the two adult children) should sign to confirm that they were aware of/ gave consent to the mortgage and the lender also required them to have independent advice before doing so. The Respondent represented the two children in this respect.
10. In his sentencing remarks HHJ Plumstead stated that the children “are visibly appallingly damaged by a genetic brain condition and they were people who, if ever independent advice had a real meaning, needed it.” However the children “were unable to understand what [the Respondent] required them to do because they didn’t just have independent advice, they were betrayed and [the Respondent] had to do that face to face which was an act of extreme callousness”.
11. Nevertheless, the Respondent ensured that the children put their initials on the appropriate documents, in one example by having dots on the document in the shape of the initial as a guide.
12. HHJ Plumstead went on to say that the Respondent’s conduct “heaped further financial devastation on [Mr and Mrs B] whose lives have been destroyed. Their children lack support of the future because whatever they have saved to try and provide for their children, no doubt after they have gone, has been swept away, so the consequential loss is almost incalculable” and “there is no mitigation I can find”

Witnesses

13. None.

Findings of Fact and Law

14. 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. **By virtue of the Respondent's commission of, and conviction for, the offences detailed below, the Respondent breached the Solicitors Regulation Authority Principles 2011 as follows:-**
- Allegation 1.1 - He failed to uphold the rule of law and the proper administration of justice, in breach of Principle 1;**
- Allegation 1.2 - He failed to act with integrity in breach of Principle 2;**
- Allegation 1.3 - He did not behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6.**
- 15.1 The Tribunal treated the allegations as having been denied by the Respondent.
- 15.2 Mr Leigh took the Tribunal through the relevant facts and to the Certificate of Conviction at page 1 of RH1. He told the Tribunal that the Applicant relied upon the conviction to prove the allegations. This was a serious matter where a solicitor had committed a significant breach of trust in relation to vulnerable clients and serious harm had resulted, as was reflected in the papers before the Tribunal. In addition, the Respondent had entered a plea of Not Guilty at the Crown Court meaning that evidence had had to be adduced. Mr Leigh observed that it was notable that the Judge had said that he could find no mitigation.
- 15.3 The Tribunal found each of the allegations against the Respondent to have been substantiated beyond a reasonable doubt on the facts and documents before it, in particular the Certificate of Conviction and the Judge's Sentencing Remarks.
16. **Allegation 2 - It was also alleged that the Respondent acted dishonestly. However, dishonesty was not an essential ingredient to sustain the allegations.**
- 16.1 The Tribunal treated the allegation as having been denied by the Respondent.
- 16.2 Mr Leigh asked the Tribunal to apply the dual test set out in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12 and said that he relied upon the findings of the jury at the Crown Court in that respect.
- 16.3 The Tribunal found the allegation to have been substantiated beyond a reasonable doubt on the facts and documents before it. The Respondent's behaviour was clearly objectively dishonest and the Tribunal found that in all the circumstances the Respondent could have had no belief that what he was doing was honest. He must have realised that his conduct was dishonest.

Previous Disciplinary Matters

17. Matter number 9397-2005. The allegations against this Respondent and another were that they had been guilty of conduct unbecoming a solicitor by virtue of Accounts Rule breaches. The allegations were admitted on the basis that these were strict liability offences which did not amount to conduct unbecoming a solicitor. The Accounts Rule breaches were found proved but the Tribunal was satisfied that the Respondents were not guilty of conduct unbecoming a solicitor. The penalty imposed upon the Respondent was a Reprimand and costs.

Mitigation

18. None.

Sanction

19. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.
20. The Tribunal had found each of the allegations against the Respondent to have been proved, including one of dishonesty, indeed the Respondent had been sentenced to a period of imprisonment for his actions. It was clear to the Tribunal that the Respondent's judgement must have been eroded over a period of time. The underlying facts of the case were very sad and the Respondent's conduct had done significant damage to the reputation of the profession. The only proportionate and fair sanction in these circumstances, to protect the public and the reputation of the profession, was that of Strike Off.

Costs

21. The Tribunal had before it the Applicant's schedule of costs in the sum of £1,951.42. However, Mr Leigh told the Tribunal that some of the amounts shown on the schedule could be apportioned between this case and the other case before it today. In that event the total amount claimed in respect of costs would be in the region of £1,600.
22. The Tribunal apportioned costs across both of the cases and summarily assessed costs in the sum of £1,651.58
23. There was no statement of the Respondent's means before the Tribunal and the Tribunal was therefore unable to take the Respondent's means into account in accordance with the principles set down in SRA v Davis and McGlinchey [2011] EWHC 232 (Admin). The Tribunal therefore ordered the Respondent to pay costs in the sum of £1,651.58.

Statement of Full Order

24. The Tribunal Ordered that the Respondent, Ranbir Dhaliwal, 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 £1,651.58

Dated this 9th day of September 2014
On behalf of the Tribunal

N. Lucking
Chairman