

**Clerk's Note :**

Paragraph 17 of the Judgment below records that the Respondent Kamran Malik has no previous disciplinary matters before the Tribunal recorded against his name. This is incorrect. On 6 March 2008, the Respondent appeared before the Tribunal in relation to other disciplinary matters. The Tribunal was not made aware of the previous appearance when considering sanction on 2 September 2014 and in consequence did not take it into account when deciding to strike the Respondent off the Roll of Solicitors.

**SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11255-2014

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

KAMRAN MALIK

Respondent

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Before:

Mr. A. Ghosh (in the chair)

Mr. J. A. Astle

Mr. S. Marquez

Date of Hearing: 2 September 2014

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**Appearances**

Mr Alistair Willcox, 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, Kamran Malik, were that he has breached principles 1, 2 and 6 of the SRA Principles 2011 in that he has been convicted of the following criminal offences:-
  - 1.1 conspiracy to dishonestly make false representation to make gain for self/another or cause loss/expose another to risk;
  - 1.2 conspiracy to conceal/disguise/convert/transfer/remove criminal property;
  - 1.3 conspiracy to dishonestly making false representation to make gain for self/another loss/expose another to risk;
  - 1.4 conspiracy to conceal/disguise/convert/transfer/remove criminal property;
  - 1.5 conspiracy to dishonestly making false representation to make gain for self/another or cause loss/expose other to risk;
  - 1.6 conspiracy to conceal/disguise/convert/transfer/remove criminal property;
  - 1.7 conspiracy to dishonestly make false representation to make gain for self/another or cause loss/expose another to risk;
  - 1.8 conspiracy to conceal/disguise/convert/transfer/remove criminal property;
  - 1.9 conspiracy to pervert the course of public justice.

## **Documents**

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

### **Applicant:**

- Application dated 27 June 2014;
- Rule 5 Statement dated 27 June 2014 together with Exhibit AHJW1;
- Schedule of Costs of the Applicant dated 14 August 2014.

### **Respondent:**

- Note of telephone conversation between the listing officer of the Tribunal and the Respondent dated 20 August 2014.
- Letter to the Tribunal dated 21 August 2014.

## **Preliminary Matter (1)**

3. The Chair of the Tribunal had previously considered communications from the Respondent requesting an adjournment of the substantive hearing. The Respondent had indicated that he had a dozen witnesses to call and would be seeking extensive disclosure. He said that he was in the process of appealing his conviction and it would

be highly prejudicial to him to have the Tribunal hearing while many issues remained to be resolved.

### **The Tribunal's Decision on Preliminary Matter (1)**

4. The Chairman of the Tribunal refused the Respondent's application for the following reasons:

“the allegations in the Rule 5 Statement are of an extremely serious nature, citing as they do a certificate of conviction of the Respondent for crimes involving large scale fraud and the perversion of the course of justice. It would not be in the interests of justice or of the profession for this matter to be delayed.

If the Respondent were to succeed in any appeal against conviction for these crimes it would be open to him to apply under rule 21(5) of the Solicitors (Disciplinary Proceedings) Rules 2007 for any finding of the Tribunal to be revoked.”

### **Preliminary Matter (2)**

5. Mr Willcox asked the Tribunal to proceed in the absence of the Respondent. Under Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 (“the SDPR”):

“If the Tribunal is satisfied that notice of the hearing was served on the respondent in accordance with these Rules, the Tribunal shall have power to hear and determine an application notwithstanding that the Respondent fails to attend in person or is not represented at the hearing.”

The proceedings had been served by recorded delivery on 2 July 2014 and it was clear from the correspondence that the Respondent was in receipt of the papers. The Respondent could apply for a rehearing under Rule 19(1) SDPR should he wish to do so.

6. In Mr Willcox'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 Preliminary Matter (2)**

7. The Tribunal was satisfied that there had been good service of the proceedings and that the Respondent was aware of the hearing. The Tribunal 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**

8. The Respondent was born on the 17 January 1979. He was admitted as a solicitor on the 1 October 2013 and his name remains upon the Roll of Solicitors.

9. At all material times, the Respondent carried on practice as a solicitor at AKZ Solicitors of 712, Alum Rock Road, Saltley, Birmingham, B8 3PP.
10. On 20 December 2013, at the Birmingham Crown Court, the Respondent was convicted upon indictment of conspiracy to pervert the course of public justice. With another individual, the Respondent had sought to pervert the course of justice by seeking to provide defence evidence which was false following the first adjournment of the trial. He did this by arranging to meet the former bookkeeper of his firm at a restaurant and persuading him to sign a pre-typed statement which was false. HHJ Chambers said in his Sentencing Remarks that whilst “not actually threatened with violence the whole setup was designed to frighten and intimidate” the bookkeeper.
11. On 2 January 2014, at the Birmingham Crown Court, the Respondent was convicted upon indictment of each of the other offences referred to in the allegations. In respect of all of these other offences, the matter was described by HHJ Chambers in his Sentencing Remarks, as a “well-planned and systematic multi-million pound fraud against a number of financial institutions” which the Respondent carried out with another person. HHJ Chambers said that the Respondent had conspired with the other person to defraud the banks and make a substantial gain from his criminality. “There were agreements between the two of you in relation to each transaction to submit false leases and give a false impression as to the value of the property and obtain substantial loans which otherwise the banks would not have advanced”. The Respondent had “played an integral and essential role in effectively falsifying correspondence, land registry documents and the conveyancing documents which were essential and also disguising the fact that it was Mr Shah who was purchasing this property at a much lesser sum than selling it on to the purported purchaser”. In describing the breach of trust the Judge went on to say “You clearly abused your position as a solicitor in order to perpetrate these frauds and whilst not ostensibly acting you in reality were the solicitor behind these transactions in relation to ... land registry documents and all the correspondence material dealing with all the parties and on behalf of Mr Shah and so to that extent abused your position.”
12. The total sum generated by the fraud was £1,736,000.
13. On 6 February 2014 the Respondent was sentenced to a period of 5 years imprisonment in respect of all of these offences.

#### **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.

16. **The allegations against the Respondent, Kamran Malik, were that he has breached principles 1, 2 and 6 of the SRA Principles 2011 in that he has been convicted of the following criminal offences:-**

**Allegation 1.1 - conspiracy to dishonestly make false representation to make gain for self/another or cause loss/expose another to risk;**

**Allegation 1.2 - conspiracy to conceal/disguise/convert/transfer/remove criminal property;**

**Allegation 1.3 - conspiracy to dishonestly making false representation to make gain for self/another loss/expose another to risk;**

**Allegation 1.4 - conspiracy to conceal/disguise/convert/transfer/remove criminal property;**

**Allegation 1.5 - conspiracy to dishonestly making false representation to make gain for self/another or cause loss/expose other to risk;**

**Allegation 1.6 - conspiracy to conceal/disguise/convert/transfer/remove criminal property;**

**Allegation 1.7 - conspiracy to dishonestly make false representation to make gain for self/another or cause loss/expose another to risk;**

**Allegation 1.8 - conspiracy to conceal/disguise/convert/transfer/remove criminal property;**

**Allegation 1.9 - conspiracy to pervert the course of public justice.**

- 16.1 The Tribunal treated the allegations as having been denied by the Respondent.
- 16.2 Mr Willcox took the Tribunal through the relevant facts and to the Certificates of Conviction and the Judge's Sentencing Remarks.
- 16.3 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.”

It therefore found that the Respondent was guilty of the offences cited.

- 16.4 The Tribunal referred to SRA Principles 1,2 and 6, which are that 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.”

Conviction of such serious offence was bound to breach each of these Principles; the facts spoke for themselves. The Tribunal accordingly found each of the allegations against the Respondent to have been proved beyond reasonable doubt.

### **Previous Disciplinary Matters**

17. None.

### **Mitigation**

18. The Respondent’s mitigation and basis for any appeal of the convictions was summarised in his letter received by the SRA on 10 March 2014 and contained within the exhibit bundle AHJW1 at pages 27 and 28.

### **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 beyond reasonable doubt and the Respondent had been sentenced to a considerable period of imprisonment for very serious offences of dishonesty. The Respondent’s conduct had done significant damage both to public confidence in the profession and its reputation, as had the very fact of the convictions. The Tribunal had considered the principle elucidated in SRA v Sharma [2010] EWHC 2022 (Admin), that where a solicitor had been found to have been dishonest, unless exceptional circumstances could be shown, then the normal consequence should be for that solicitor to be struck off. The Tribunal found that there were no exceptional circumstances in this case. It had no hesitation in Ordering that the Respondent be struck off.

### **Costs**

21. The Tribunal had before it the Applicant’s schedule of costs in the sum of £3,012.00. Mr Willcock confirmed that the Respondent had received the warning envisaged in the case of SRA v Davis and McGlinchey [2011] EWHC 232 (Admin); that is that if he wished to have his means taken into account in relation to costs, he should file and serve full details of his assets and outgoings. However, the Respondent had indicated that he did not intend to provide any evidence of his finances.
22. The Tribunal summarily assessed costs in the sum of £2,752.00, which included a deduction of two hours of Mr Willcox’s time in respect of the shorter than anticipated hearing.

23. Since there was no statement of the Respondent's means before the Tribunal, the Tribunal was unable to take the Respondent's means into account. The Tribunal therefore ordered the Respondent to pay costs in the sum of £2,752.00

**Statement of Full Order**

24. The Tribunal Ordered that the Respondent, Kamran Malik, 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 £2,752.00

Dated this 29<sup>th</sup> day of September 2014

On behalf of the Tribunal

A. Ghosh  
Chairman