

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11372-2015

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

STEPHEN ALLAN LAWSON

Respondent

Before:

Miss J. Devonish (in the Chair)

Mr L. N. Gilford

Mr S. Hill

Date of Hearing: 13 January 2016

Appearances

David Barton, solicitor of David Barton Solicitor Advocate, Flagstones, High Halden Road, Biddenden, Kent, TN27 8JG for the Applicant.

The Respondent appeared and was represented by Alison Foster QC, of 39 Essex Chambers, 81 Chancery Lane, London, WC2A 1DD.

JUDGMENT

Allegations

1. The Allegations against the Respondent were:
 - 1.1 In breach of Rule 22 of the Solicitors Accounts Rules 1998 the Respondent made withdrawals of money from client account in circumstances other than permitted by the said Rule, and utilised such money for his own benefit and/or for the benefit of another client not entitled thereto.
 - 1.2 In breach of Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 or either of them the Respondent failed to act with integrity and/or acted in a way that diminished the trust placed in him or the solicitors profession in all or any of the following respects:
 - he wrote out three cheque stubs that were false and misleading;
 - he prepared and/or submitted estate accounts that were false and misleading;
 - he prepared and/or submitted letters to accompany the said estate accounts that were false and misleading.
 - 1.3 In breach of Principle 1 of the SRA Principles 2011 the Respondent failed to uphold the rule of law and the proper administration of justice.

It was alleged the Respondent had acted dishonestly in relation to all three allegations. The Respondent made a number of admissions as set out in the Statement of Agreed Facts dated 13 January 2016, which is set out below. The Respondent did not admit he had acted dishonestly.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent which included:

Applicant:

- Application dated 23 March 2015 together with attached Rule 5 Statement and all exhibits
- A transcript of an interview on 31 March 2014 between the Respondent and the SRA Forensic Investigation Officers
- Statement of SG dated 16 November 2015
- Statement of LP dated 30 November 2015
- Letter dated 13 February 2015 from the SRA to the Respondent's wife
- Schedule of the Applicant's Costs dated 24 March 2015

Respondent:

- Witness Statement of the Respondent, Stephen Allan Lawson
- Witness Statement of Katherine Lawson dated 27 September 2015
- Respondent's Answer
- Respondent's Answer (Amended)
- Bundle of Character References
- Medical Report dated 27 April 2015
- The Respondent's Personal Financial Statement together with supporting documents
- Observations on behalf of the Respondent dated 13 January 2016

Both Parties:

- Statement of Agreed Facts

Statement of Agreed Facts

3. The following facts and matters were agreed between the SRA and the Respondent.
4. The Respondent was born on 17 June 1968 and was admitted as a solicitor on 12 March 1998.
5. From 2001 until April 2013 he was one of two partners in Hunton and Garget Solicitors of Burgate House, 1 Millgate, Richmond, North Yorkshire, DL10 4JL ("the firm"). He primarily dealt with conveyancing but also dealt with some probate. He had not practised as a solicitor since leaving the firm and whilst his name remained on the Roll of Solicitors he did not hold a current practising certificate.
6. He had not practised as a solicitor since he left Hunton and Garget.
7. By letter dated 31 October 2013 SG of the firm reported to the SRA that the Respondent had not complied with certain requirements of the Solicitors Accounts Rules 1998. On 4 March 2014 the SRA commenced an investigation. Forensic Investigation Officers from the SRA, inspected Hunton and Garget's books of account and a number of matter files and thereafter made arrangements to interview the Respondent. That took place at his home on 31 March 2014 following which one of the Forensic Investigation Officers completed a report dated 27 June 2014 setting out her findings.
8. Her primary finding was that there was a shortage on client account of £6,940.60 which had been caused by three improper withdrawals from client account as follows:

- £564.35 on 17 July 2007;
 - £3,850.00 on 6 November 2007;
 - £2,526.25 on 3 July 2008.
9. The Respondent made each withdrawal.
 10. The shortage was replaced on 20 and 22 November 2013 when funds were transferred from Hunton and Garget's office account to its client account.
 11. The circumstances leading to the first withdrawal of £564.35 were that in 2007 the Respondent took over the conduct of the probate of the estate of P (deceased) from a fee earner who had left the firm. The client ledger showed that by May 2005 the estate had been fully distributed. This created a problem because the deceased had in his Will made a gift of £500 to each of his two Grandsons on reaching 18 years of age. The problem came to light when in June 2007 a telephone call was received from the mother of one Grandson, Mr JR, stating that her son was now 18. It was apparent from the ledger that there was no money left to make the payment from the estate.
 12. On 16 July 2007 the Respondent wrote to Mr JR with a cheque for £564.35 being the £500 legacy with interest. The other legacy was not paid at that time.
 13. The Respondent wrote out the cheque himself and signed it. He also completed the cheque stub. The cheque itself was made payable to Mr JR, but the cheque stub stated the cheque had been made payable to "NYCC Rent Owing". NYCC stood for North Yorkshire County Council. The stub was incorrect and misleading.
 14. The cheque stub also showed the payment had been debited to client ledger OL/4, and not the ledger in the name of P (deceased). Ledger OL/4 related to an unconnected probate in the names of Mr and Miss O (deceased) who were brother and sister. The Respondent was one of the executors of the O estate and was administering the estate.
 15. The payment to Mr JR had the effect of creating a shortfall of £564.35 on the O ledger and therefore on client account. On 24 October 2013 the Respondent said to SG that he realised the payment should not have been made from the O estate but that he panicked when he realised not enough money had been retained. SG made a note setting out his conversation with the Respondent.
 16. In interview on 31 March 2014 the Respondent was asked if he authorised the payment and he confirmed that he did. He was asked why he stated on the cheque stub that the payment was to North Yorkshire County Council in respect of rent, and he stated he panicked under pressure. There had been a mistake resulting in there being insufficient money on the P (deceased) ledger and the Respondent accepted that the steps he took had the effect of covering up the mistake.
 17. The second and third withdrawals were also made by the Respondent by cheque from the said estate which he was administering. Mr and Miss O had been tenants of a farm owned by North Yorkshire County Council and it was surrendered to the Council on 31 July 2007 following their deaths.

18. The first of these payments was made on 6 November 2007 and was for £3,850. The debit entry on the ledger was accompanied by the narrative “early surrender of lease”.
19. The narrative came from the wording used by Respondent on the cheque stub, which described the payment as having been made to NYCC. During the course of the investigation the cheque itself was retrieved from the bank. It had been made payable to the Respondent.
20. The Respondent wrote out both the cheque and the cheque stub.
21. The second payment was dated 3 July 2008. It was accompanied by the narrative “JR Smith & Sons repairs”. The payment was made payable to the Respondent who wrote out both the cheque and the cheque stub.
22. Both cheque stubs were incorrect and misleading.
23. The O estate was to be divided between four charities and each was sent a copy of the estate accounts.
24. The payment of £3,850 was described in the accounts as an early surrender payment, which it was not. In this respect the estate accounts were incorrect and misleading.
25. Three of the named charities questioned the retention of £4,000 which was described as “Retention of expenses due to JR Smith and Son”. The Respondent wrote to the Dogs Trust on 28 March 2008 and to IFAW Charitable Fund on 12 May 2008 stating that the retention was to cover an unexpected bill for works carried out to the farm. He wrote to Marie Cure Cancer Care on 25 March 2008 and stated that the retention was for farmers who had carried out ongoing farming work and maintenance at the farm before its surrender to the landlords. It was said to cover a potential liability rather than to equate to a sum owed.
26. There were no payments to JR Smith and Sons or to any farmers and the estate accounts and the letters were misleading.
27. The Respondent said in interview on 31 March 2014 that the two payments were made to him to reimburse moneys he had personally paid out in cash for various pieces of work on the O farm house. The file did not contain any documentary evidence of this. When questioned by the Forensic Investigation Officer the Respondent said that he did not speak with the Council before having any work done, that he had not checked a lease for repairing obligations, that there were no invoices, that he had no bank statements to show the payments because he had paid in cash taken from his home, and that the file did not contain any notes identifying the work, the builders identity or the amounts expended.
28. On or about 28 October 2013 the Respondent visited Miss C and produced to SG a handwritten statement. It was prepared after his meeting with SG on 24 October 2013.
29. The Forensic Investigation Officers asked the Respondent about it and he confirmed he went to see Miss C and that he wrote the statement from what she said.

30. Miss C's typed statement dated 4 November 2013 was materially different, and stated that Miss C was not aware of any work done to the farm land or buildings apart from the cutting and bailing of grass by the neighbouring farmer, DL, for which he was paid.
31. On 5 September 2014 the SRA wrote to the Respondent with the Report to ask him questions and following the receipt of his reply a decision was made to refer his conduct to the Solicitors Disciplinary Tribunal. He was notified of that decision on 24 November 2014.
32. The Respondent made the following admissions namely that:
- 32.1 In breach of Rule 22 of the Solicitors Accounts Rules 1998 he made withdrawals of money from client account in circumstances other than permitted by the said Rule, and utilised such money for his own benefit and for the benefit of another client not entitled thereto;
- 32.2 In breach of Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 he failed to act with integrity and he acted in a way that diminished the trust placed in him or the solicitors profession in the following respects:
- he wrote out three cheque stubs that were false and misleading;
 - he prepared and submitted estate accounts that were false and misleading;
 - he prepared and submitted letters to accompany the said estate accounts that were false and misleading;
- 32.3 In breach of Principle 1 of the SRA Principles 2011 he failed to uphold the rule of law and the proper administration of justice.

Allegation 1.1

33. The Respondent admitted that each said withdrawal from client account was a breach of Rule 22 of the Solicitors Accounts Rules 1998. The first was an improper use of money belonging to one client for the benefit of another and the second two were improper uses of client money for the Respondent's own benefit.

Allegation 1.2

34. The Respondent admitted that he completed three cheque stubs that were false and misleading. None corresponded with the cheques.
35. He further admitted that the estate accounts were misleading. They showed that the first payment of £3,850 was made to North Yorkshire County Council as an early surrender payment whereas it was a payment to him personally. They also showed a retention of £4,000 for expenses to JR Smith and Son whereas no such payment was due.

36. He further admitted that the consequential letters to the beneficiary charities specified above were misleading.

Allegation 1.3

37. The Respondent admitted that he prepared and obtained a signature to a witness statement that supported his assertions that he was making payments to himself by way of reimbursement. This could be seen as amounting to an interference with a witness. The Respondent provided the statement to SG. It was materially incorrect.

The Respondent's Points of Mitigation

38. The Respondent stated that he sincerely regretted his conduct, for which he apologised.
39. He acknowledged that his conduct included a number of discrete actions that were not compatible with his position as a solicitor and that his conduct prejudiced the estate of Mr and Miss O, and Hunton and Garget. However, he said he denied dishonesty in respect of all the allegations by reason of his state of mind at the material times.
40. The Respondent said he has a long standing mental condition which first affected his ability to properly conduct himself professionally in around 2006 and said he was, wrongly, unable to declare this to SG his partner.
41. The continuation of this prosecution could have had a deleterious effect upon his stability and the depressive illness in particular.
42. The Respondent has no previous disciplinary history.

Outcome

43. The Respondent accepted that his admitted misconduct was serious and that even absent the allegation of dishonesty his conduct would fall within the categories that would normally require a solicitor to be struck off the Roll.
44. The Respondent had produced medical evidence which showed that he suffered from a medical condition which would deteriorate if interviewed. Leading Counsel for the Respondent had informed the Applicant that the Respondent continued to be ill and remained on medication. The Applicant and Respondent agreed that the dishonesty allegations should lie on the file, as it would not be in the public interest or proportionate to pursue the allegations in light of the Respondent's admissions and ill health.
45. The Respondent acknowledged that he would, with the agreement and consent of the SRA, submit to the Tribunal ordering that:
- (i) Having considered the Solicitors Disciplinary Tribunal's Guidance Note on Sanctions the SRA contends, and the Respondents accepted, that the proper penalty in this case is an Order that he be struck off the Roll of Solicitors.

- (ii) The Respondent do pay £23,000 towards the SRA's costs of the investigation and of these proceedings.

Witnesses

46. No witnesses gave evidence.

Findings of Fact and Law

47. The Tribunal had carefully considered all the documents provided and the submissions of both parties. The Tribunal confirmed that all allegations had to be proved beyond reasonable doubt and that the Tribunal would be using the criminal standard of proof when considering each allegation.
48. **Allegation 1.1: In breach of Rule 22 of the Solicitors Accounts Rules 1998 the Respondent made withdrawals of money from client account in circumstances other than permitted by the said Rule, and utilised such money for his own benefit and/or for the benefit of another client not entitled thereto.**

Allegation 1.2: In breach of Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 or either of them the Respondent failed to act with integrity and/or acted in a way that diminished the trust placed in him or the solicitors profession in all or any of the following respects:

- **he wrote out three cheque stubs that were false and misleading;**
- **he prepared and/or submitted estate accounts that were false and misleading;**
- **he prepared and/or submitted letters to accompany the said estate accounts that were false and misleading.**

Allegation 1.3: In breach of Principle 1 of the SRA Principles 2011 the Respondent failed to uphold the rule of law and the proper administration of justice.

It was alleged the Respondent had acted dishonestly in relation to all three allegations.

- 48.1 In light of the admissions made by the Respondent in the Statement of Agreed Facts, the Tribunal found Allegations 1.1, 1.2 and 1.3 proved save the allegations of dishonesty which were not admitted.
- 48.2 The Tribunal had given some considerable thought as to whether it was appropriate for the allegations of dishonesty to be pursued. However, in light of the agreed admissions to a number of serious allegations, the fact that the allegations of dishonesty would lie on the Respondent's file and the medical evidence provided, the Tribunal accepted that it would not be proportionate or in the public interest to require the Applicant to pursue the allegations of dishonesty any further.

Previous Disciplinary Matters

49. None.

Mitigation

50. Ms Foster QC, on behalf of the Respondent, referred the Tribunal to a “Observations on behalf of the Respondent” document. She provided the Tribunal with details of the Respondent’s personal background and health. She stated the Respondent found it hard, if not impossible, to be motivated by profit and was frightened by the thought that he might be expected to buy into the partnership. The Respondent accepted that his fellow partner must have had no idea of how the Respondent had felt as the Respondent had concealed, or sought to conceal his distress from him and avoid any chance of confrontation. This was at a time when the Respondent required serious medical treatment.
51. Ms Foster provided the Tribunal with details of how the Respondent had been behaving at work during this difficult period. She referred the Tribunal to the numerous references provided which spoke very highly of the Respondent.
52. Ms Foster submitted the Respondent now recognised that he probably ought never to have been a solicitor in private practice at all and stated he had no wish to remain on the Roll. He apologised profoundly to the Tribunal and expressed his embarrassment and humiliation at appearing before it. The Respondent was desperate for an end to this matter and wanted to formally end his career as a solicitor. He had managed to obtain work as a junior school teacher which, with medication, he was managing well.

Sanction

53. The Tribunal had considered carefully the Respondent’s submissions and Observations. 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.
54. The parties had agreed between them that a fair and proportionate outcome was that the Respondent be struck off the Roll of Solicitors.
55. The Tribunal noted the Respondent’s admissions included acting with a lack of integrity, withdrawing money from client account contrary to Rule 22, utilising such monies for his own benefit and for the benefit of another client who was not entitled to the funds. He had admitted acting in a false and misleading manner on three occasions and failing to uphold the rule of law and the proper administration of justice. These were all extremely serious matters. The Tribunal took into account the references provided and the information it had been given about the Respondent’s personal circumstances and his medical condition.
56. The Tribunal considered the case of Bolton v The Law Society [1994] I WLR 512 and the comments of Sir Thomas Bingham MR who had stated:

“It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness... Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal... If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends on trust. A striking off order will not necessarily follow in such a case but it may well.”

57. In light of the serious nature of the Respondent’s misconduct, it would not be appropriate to make no order, or to order a Reprimand, or to impose a fine or a Restriction Order. The Respondent had no desire to remain in the profession, and with this in mind, the Tribunal did not consider a Suspension would be appropriate in this case. The Tribunal concluded in light of all the circumstances of this case and the seriousness of the misconduct which was at a high level, the appropriate and proportionate sanction was that agreed and recommended by the parties, which was that the Respondent be Struck off the Roll of Solicitors. This was the minimum necessary to protect the public and the reputation of the legal profession and maintain public confidence.

Costs

58. Mr Barton confirmed that the Respondent had agreed to pay the Applicant’s costs as set out in the Statement of Agreed Facts in the sum of £23,000 and he requested an order in this amount.
59. Ms Foster referred the Tribunal to the Respondent’s Personal Financial Statement and the evidence in support. She indicated it was likely the costs would be paid in instalments and that the Respondent did not seek any restriction on enforcement.
60. The Tribunal noted costs had been agreed between the parties. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant’s costs in the agreed sum of £23,000.
61. The Respondent was currently in employment and had indicated payment would be made by way of instalments. The Tribunal did not therefore consider it was necessary to restrict the Order for costs.

Statement of Full Order

62. The Tribunal Ordered that the Respondent, STEPHEN ALLAN LAWSON, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £23,000.00.

Dated this 24th day of February 2016
On behalf of the Tribunal

J. Devonish
Chairman