

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11458-2015

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

ANDREW NEIL STEPHENSON

Respondent

Before:

Mr K. W. Duncan (in the chair)

Mr B. Forde

Mr S. Hill

Date of Hearing: 1 June 2016

Appearances

Shaun Moran, solicitor of Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant

The Respondent appeared in person and was not represented.

JUDGMENT

Allegations

1. The Allegations against the Respondent, Andrew Neil Stephenson, unadmitted, on behalf of the SRA were that he had been convicted of a criminal offence of such a nature that in the opinion of the SRA it would be undesirable for him to be employed by a solicitor in connection with his or her practice as a solicitor, the full particulars of which are set out below. By reason of that conviction the Respondent breached any or all of the following the SRA principles 2011 (“the Principles”):
 - 1.1 Principle 1 “You must... uphold the rule of law and the proper administration of justice”
 - 1.2 Principle 2 “You... must act with integrity”
 - 1.3 Principle 6 “you must behave in a way that maintains the trust the public places in him and in the provision of legal services”

Documents

2. The Tribunal considered all the documents in the case including;

Applicant

- Application and Rule 8 Statement including exhibit ZC/1 dated 17 December 2015
- Certificate of Conviction dated 22 May 2015
- Statement of costs dated 17 December 2015 and 12 May 2016

Respondent

- Response to Rule 8 Statement served in the form of an email dated 11 March 2016
- Personal Financial Statement dated 12 May 2016

Factual Background

3. The Respondent was born on 27 May 1968. He was an unadmitted individual and during all material times was employed as an accounts manager at Thorp Parker LLP (“the Firm”). The Respondent joined the Firm in 1999 and was employed there for over 15 years.
4. On 16 January 2015, at Teesside Crown Court, the Respondent pleaded guilty to one Count of Fraud by Abuse of Position contrary to Section 4 and Section 1 of the Fraud Act 2006. The Certificate of Conviction recorded “that he, between the 1st day of June 2011 and the 1st day of June 2014, dishonestly and intending thereby to make a gain for himself, abused his position as an employee of Thorpe Park Solicitors [sic] in which he was expected to safeguard the financial interests of Thorpe Park Solicitors [sic] by transferring £32,568.84 into accounts for which he was not permitted to do”. On 24 February 2015 he was sentenced to 16 months imprisonment.
5. In passing sentence his honour Judge Bourne-Arton QC stated:

“...fraud was a serious breach of trust on your employer, for whom you would worked for 14 or 15 years. You are the accounts manager in the firm of solicitors... You, over a period of some three years transferred money from the client account and that firm totalling some £32,500 into an account which was set up by you in order that money be received personally by you or your partner, who I understand had no knowledge of which [sic] you have done. The position remains however that this was a serious breach of trust... You had abused your position of trust and responsibility, this was a sophisticated offence in the sense that you concealed the matter from your employer for some three years through setting up this separate account into which monies were paid and, as I say, this was a lengthy period over which the offence was committed.”

6. On 23 October 2015 an authorised officer of the SRA made a decision to refer the Respondent’s conduct to the Tribunal.

Witnesses

7. None.

Findings of Fact and Law

8. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent’s rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
9. In his answer to the allegations the Respondent admitted that he had been convicted of a criminal offence. He stated that he pleaded guilty to the offence of fraud by abuse of position immediately at the first available opportunity. Notwithstanding these admissions the Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal noted the Certificate of Conviction issued by Teesside Crown Court and the sentencing remarks of the Judge. Rule 15.2 of the Solicitors (Disciplinary Proceedings) Rules 2007 (“the SDPR”) provide that:

“A conviction for a criminal offence may be proved by the production of a certified copy of the certificate of conviction relating to the offence and 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”.

10. **Allegation 1.1 – that the Respondent breached Principle 1 “You must... uphold the rule of law and the proper administration of justice”.**
- 10.1 The Applicant submitted that the professional obligation of an unadmitted individual working in a regulated entity is to uphold the rule of law and the proper administration of justice. This required the Respondent to abstain from criminal behaviour at all times. This Allegation was admitted and the Tribunal found it proved beyond reasonable doubt.

11. **Allegation 1.2 - that the Respondent breached Principle 2 “You... must act with integrity”.**

11.1 The Applicant submitted that the Respondent had pleaded guilty to an offence of dishonesty and that in committing this offence he had lacked integrity. This Allegation was admitted and the Tribunal found it proved beyond reasonable doubt.

12. **Allegation 1.3 - that the Respondent breached Principle 6 “you must behave in a way that maintains the trust the public places in him and in the provision of legal services”.**

12.1 The Applicant submitted that by committing the offence of Fraud, the Respondent had failed to behave in a way that maintained the trust the public placed in him and in the provision of legal services. This Allegation was admitted and the Tribunal found it proved beyond reasonable doubt.

Previous Disciplinary Matters

13. None.

Sanction

14. The Tribunal reminded itself that the purpose of a Section 43 Order was regulatory, not penal. The Applicant submitted that it would be undesirable for the Respondent to be employed by a solicitor without the permission of the Applicant. The Respondent agreed with this submission. The Tribunal found that it would be undesirable for the Respondent to be employed by a solicitor without the permission of the SRA given the nature of the conviction. It was therefore appropriate to make such an order.

15. The Tribunal thanked the Respondent for the entirely appropriate way in which he had approached this application.

Costs

16. The Applicant sought costs in the sum of £3,600. That sum was agreed by the Respondent although he informed the Tribunal that he was not in a position to pay that sum at present. He had hoped that family members would assist but this had not happened. The Respondent was not unwilling to pay the costs but was unable to do so.

17. The Tribunal considered the Respondent’s statement of means. The Respondent was unemployed and reliant on state benefits. He owned no property and had no savings. In addition he had significant debts and had provided evidence of these. The Tribunal determined that the Respondent was not in a position to pay the costs at present but may be able to do so in the future. In the circumstances it was appropriate to make an order for costs in the agreed sum, not to be enforced without leave of the Tribunal.

Statement of Full Order

18. The Tribunal Ordered that as from 1st day of June 2016 except in accordance with Law Society permission:-

- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor ANDREW NEIL STEPHENSON;
- (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Andrew Neil Stephenson
- (iii) no recognised body shall employ or remunerate the said Andrew Neil Stephenson;
- (iv) no manager or employee of a recognised body shall employ or remunerate the said Andrew Neil Stephenson in connection with the business of that body;
- (v) no recognised body or manager or employee of such a body shall permit the said Andrew Neil Stephenson to be a manager of the body;
- (vi) no recognised body or manager or employee of such a body shall permit the said Andrew Neil Stephenson to have an interest in the body;

And the Tribunal further Ordered that the said Andrew Neil Stephenson do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,600.00, such costs not to be enforced without leave of the Tribunal.

Dated this 9th day of June 2016

On behalf of the Tribunal

K. W. Duncan
Chairman