

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11645-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

MOHAMMED AYUB

Respondent

Before:

Mr A. N. Spooner (in the chair)

Mr P. Lewis

Mr R. Slack

Date of Hearing: 6 November 2017

Appearances

There were no appearances as the matter was dealt with on the papers.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent, made by the Applicant were set out in a Rule 5 Statement dated 25 April 2017 and a Rule 7 Statement dated 1 September 2017.

Rule 5 Statement

The allegations in the Rule 5 Statement were that the Respondent:

- 1.1 failed to supervise the conduct of divorce proceedings by members of staff of Chambers Solicitors and / or a person at the firm doing work experience known to them only as "Anna" so as to prevent the clients Ms RB, Mr AD and Ms NM, being provided with false Decree Absolutes dated 2 March 2010, 5 January 2011 and 10 August 2012 respectively and in doing so:
 - 1.1.1 breached Principles 4, 5, 6 and 8 of the SRA Principles 2011 ("the Principles"); and
 - 1.1.2 failed to achieve Outcomes 7.6 and 7.8 of the SRA Code of Conduct 2011 ("SCC");
- 1.2 failed to deal with the complaint made by the client Ms RB in October 2012 and March 2013 and the complaint made by Mr AD promptly, fairly, openly or effectively and in doing so:
 - 1.2.1 breached Principles 4, 5 and 7 of the Principles; and
 - 1.2.2 failed to achieve Outcome 1.11 of the SCC.

Rule 7 Statement

The allegations in the Rule 7 Statement were that the Respondent:

By virtue of his conviction he failed to:

- 1.1 uphold the rule of law and the proper administration of justice contrary to Principle 1 of the Principles; and/or
- 1.2 act with integrity contrary to Principle 2 of the Principles 2011; and/or
- 1.3 behave in a way that maintains the trust that the public places in him and in the provision of legal services contrary to Principle 6 of the Principles 2011.

Documents

2. The Tribunal had before it the following documents:-
 - The Application and Rule 5 Statement dated 25 April 2017
 - The Rule 7 Statement dated 1 September 2017

- Statement of Agreed Facts, Admissions and Outcome

Factual Background

3. The Respondent was born in September 1961 and was admitted to the Roll of Solicitors on 15 August 2001. At all relevant times the Respondent was the sole equity partner at Chambers Solicitors (“the Firm”) in Bradford.
4. On 23 November 2016 the Respondent was convicted of conspiracy to defraud the Legal Aid Agency. On 9 June 2017 he was sentenced to three years and six months imprisonment.

Application for the matter to be resolved by way of Agreed Outcome

5. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts, Admissions and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.
6. The Statement of Agreed Facts, Admissions and Outcomes contained additional allegations in respect of allegation 1.1. These allegations had not been made in a Rule 5 or Rule 7 Statement and had not been certified by the Tribunal. It was not appropriate to introduce new allegations in a Statement of Agreed Facts, Admissions and Outcome.
7. In a different matter the inclusion of such allegations could have resulted in the Agreed Outcome document being rejected. However, given the gravity of the allegations in the Rule 7 Statement these additional allegations (which largely mirrored the allegations 1.1.1 and 1.1.2) did not in any way alter the appropriate sanction in this matter. When considering the proposed Agreed Outcome the Tribunal disregarded the allegations set out at paragraphs 2.1.3 and 2.1.4 of the Agreed Facts, Admissions and Outcomes document.

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 his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
9. The Respondent admitted the allegations against him in their entirety. The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Respondent’s admissions were properly made.
10. The Tribunal considered the Guidance Note on Sanction (December 2016). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
11. The Tribunal was satisfied that the appropriate sanction in all the circumstances was a strike-off. The Respondent accepted the seriousness of his misconduct and had not

presented any exceptional circumstances that would enable a lesser sanction to be imposed.

Costs

12. The parties had agreed that the Respondent would pay the Applicant's costs fixed in the sum of £4,139.34. The Tribunal did not have an up to date costs schedule before it, however the Tribunal did not consider that it needed to go behind the parties agreement in respect of costs and ordered that the Respondent do pay costs, as agreed, fixe din the sum of £4,139.94.

Statement of Full Order

13. The Tribunal Ordered that the Respondent, MOHAMMED AYUB, 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 £4,139.34.

Dated this 6th day of November 2017
On behalf of the Tribunal


A. N. Spooner
Chairman

Judgment filed
with the Law Society
on 06 NOV 2017

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

MOHAMMED AYUB

Respondent

STATEMENT OF AGREED FACTS, ADMISSIONS AND OUTCOME

1. By its application dated 25 April 2017, and the statement made pursuant to Rule 5(2) of the Solicitors (Disciplinary proceedings) Rules 2007 which accompanied that application, and its application dated 1 September 2017, and the statement made pursuant to Rule 7 of the Solicitors (Disciplinary proceedings) Rules 2007 which accompanied that application, the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal concerning the conduct of Mr Mohammed Ayub.

Allegations

2. The allegations in these proceedings are that Mr Ayub:

Under the Rule 5:

- 2.1. Failed to supervise the conduct of divorce proceedings by members of staff of Chambers Solicitors and / or a person at the firm doing work experience known to him only as "Anna" so as to prevent the clients Ms RB, Mr AD and Ms NM, being provided with false Decree Absolutes dated 2 March 2010, 5 January 2011 and 10 August 2012 respectively and in doing so:
 - 2.1.1 breached Principles 4 5, 6 and 8 of the SRA Principles 2011(2011 Principles);
and
 - 2.1.2 failed to achieve Outcomes 7.6 and 7.8 of the SRA Code of Conduct 2011 (2011 Code of Conduct);

Further Mr Ayub agrees herein the additional breaches in relation to allegation 2.1:

- 2.1.3 (as regard conduct prior to 6 October 20011) failed to act in the best interests of each client or provide a good standard of service to his clients, and behaved in a way that was likely to diminish the trust the public places in him or the legal

profession, and in doing so breached Rule 1.04, 1.05 and 1.06 of the Solicitors Code of Conduct 2007 (2007 Code of Conduct); and

- 2.1.4 failed to provide adequate management and supervision of client matters in breach of Rule 5.01 (1) (a) and (l) and Rule 5.03 of the 2007 Code of Conduct.
- 2.2 failed to deal with the complaint made by the client Ms RB in October 2012 and March 2013 and the complaint made by Mr AD promptly, fairly, openly or effectively and in doing so:
 - 2.2.1 breached Principles 4, 5 and 7 of the 2011 Principles; and
 - 2.2.2 failed to achieve Outcome 1.11 of the 2011 Code of Conduct.

Under the Rule 7

- 2.3 By virtue of his conviction at Sheffield Crown Court on the 23 November 2016 for conspiracy to defraud the Legal Aid Agency failed to:
 - 2.3.1 uphold the rule of law and the proper administration of justice contrary to Principle 1 of the SRA Principles 2011; and/or
 - 2.3.2 act with integrity contrary to Principle 2 of the SRA Principles 2011; and/or
 - 2.3.3 behave in a way that maintains the trust that the public places in him and in the provision of legal services contrary to Principle 6 of the SRA Principles 2011.

Admissions

- 3. Mr Ayub admits the allegations against him in their entirety.

Agreed facts

The following facts and matters are agreed between the SRA and Mr Ayub:

- 4. Mr Ayub was born September 1961 and admitted to the Roll of Solicitors on 15 August 1961. His last known address is HMP Kirklevington Grange, Yarm, Cleveland TS15 9PA.
- 5. At the material time Mr Ayub was the sole equity partner at Chambers Solicitors (Chambers) of 37, Grattan Road, Bradford West Yorkshire BD1 2LU.
- 6. Chambers was formed on 3 March 2003. The firm was intervened into on 7 December 2016 and Mr Ayub's Practising Certificate was suspended contemporaneously upon the Intervention Resolution being made.
- 7. The Yorkshire police conducted an investigation into five separate cases of alleged fraudulent Decree Absolutes, involving Chambers, dated between 2008 and 2012. From enquiries made by the police of Bradford County Court regarding three of the matters:

- Ms RB v Mr. MAR - NO: BD08D00506 Dated: 2 March 2010
- Mr AD v Ms YKH - NO: BD10D00806 Dated: 5 January 2011
- Ms NM v Mr TM - NO:BD11D01375 Dated:10 August 2012

they established that the Decree Absolutes for Ms RB v Mr. MAR and Mr AD v Ms YKH did not relate to these parties. The Decree Absolute for Ms NM v Mr TM did not exist.

- Ms RB, Mr AD, and Ms NM were all clients of Chambers and in all three matters an Assistant Solicitor, who later became a Salaried Partner at Chambers, Ms Yousaf, acted for them in their divorce. She was assisted by junior members of staff and in particular a junior member of staff called Anna. Ms Yousaf suspected that Anna was involved with the fraudulent Decree Absolutes.
- Anna came to Chambers in 2009 to gain experience and was an unpaid member of staff. Anna was helping in the firm over a period of 3 / 4 years and as stated by Ms Yousaf in a statement she made to the police, *"she would come in on and off, sometimes regularly like clockwork once a week and other times she wouldn't be in for weeks / months at a time. She told me she was studying law at one of the Leeds universities and so couldn't come in during the day but could only come in to assist on evenings or weekends. I don't know for a fact that she was actually studying anywhere and it may have been a cover for her in attempting to gain access to a solicitor's office."*
- Anna was allowed to take on divorce files and had access to a computer and printing. She also had access to the firm's case management system. She did not have her own user name but had access to the system by using one of the secretary's logins. Anna was allowed to be in the office outside of normal working hours. Ms Yousaf details, *"She would only come in for 2 / 3 hours an evening, sometimes one evening a week, sometimes two, sometimes on a weekend which she would arrange with me."* Concerns with her work were mentioned to Mr Ayub. No records relating to Anna have been kept which made it impossible to locate the person for enquiries to be made of her, especially as no one can remember her surname.
- Client files relating to Ms RB, Mr AD and Ms NM were either not kept or contained very little correspondence / documents in them.
- Mr Ayub as sole equity partner had overarching responsibility for the management and proper governance of the firm. All management decisions were made by him. There were no strict controls over who had access to the case management system and who was permitted to assist with the legal work carried out in the firm and when that could take place. Further, there were no systems in place for supervising clients' matters, to include the regular checking of the quality of work by suitable competent and experienced people. Full records should have been retained of all personal who worked in the office for future reference / contact. No proper systems were in place for the maintenance of good records for the whereabouts of client's files and for any files held to be complete.
- When dealing with the complaints from Ms RB and Mr AD Mr Ayub failed to do so promptly, fairly, openly or effectively.

Under the Rule 7:

14. On 23 November 2016 at Sheffield Crown Court, Mr Ayub was convicted of conspiracy to defraud the Legal Aid Agency.
15. On 9 June 2017 Mr Ayub was sentenced at Newcastle Crown Court to three years and six months imprisonment.
16. Dishonesty is the mens rea for the offence of fraud. The SRA exhibited a copy of the Certification of Conviction to the Rule 7 Statement and relies on Rule 15 (2) of The Solicitors (Disciplinary Proceedings) Rules 2007 in that this represents conclusive proof of Mr Ayub's conviction concerning this dishonesty offence.
17. The conduct giving rise to the offence relates to Mr Ayub conspiring with his co-defendants to defraud the legal aid agency by Chambers pretending to use the company, Legal Support Services, for interpreters' services when they were being arranged directly by Chambers. This was done so Chambers could have the additional money that a company sourcing interpreters would be entitled to claim.
18. His Honour Judge Spragg states in his sentencing remarks:

"Although all defendants tried to argue that Legal Support Services were involved in the booking of interpreters - for example, by providing a list of interrupters to the case workers - that argument was rejected by the jury who saw through what was, in reality, a dishonest scam to make extra money to which you were not entitled.

Mr Ayub, as the principal partner, you, of course, knew exactly what was going on and it is very clear you played a leading role.

You all lied when confronted with the evidence, you lied again in your police interviews and, as the jury found, you lied to them.

... this is an abuse of a position of responsibility, particularly in relation to you, Mr Ayub.

Fraudulent activity conducted over a sustained period of time: all defendants.

Sophisticated nature of the offence and significant planning: Mr Ayub"

Outcome

19. Mr Ayub accepts that the seriousness of his admitted misconduct is such that neither a reprimand, a fine or being suspended from practice would be a sufficient sanction.
20. Mr Ayub accepts that the protection of the public and the protection of the reputation of the profession justifies him being struck off the Roll of Solicitors.
21. The SRA and Mr Ayub submit to the Tribunal that the following are appropriate outcomes:

21.1 An Order that Mr Ayub be struck from the Roll of Solicitors; and

21.2 Further ordering that Mr Ayub do pay the SRA costs of £4,139.34

22. Having regard to all of the facts giving rise to the allegations, the admissions made by Mr Ayub and his willingness to submit to such an Order, the SRA invites the Tribunal to make such an Order.

Dated this 1 day of November 2017

P MILLER

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On behalf of the Applicant, the Solicitors Regulation Authority

M AYUB

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Mohammed Ayub