

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11767-2017

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

TYRONE ANTHONY JOSEPH WALKER

Respondent

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Before:

Mr R. Nicholas (in the chair)  
Mr H. Sharkett  
Mr M. R. Hallam

Date of Hearing: 5 September 2018

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**Appearances**

Kiran Sidhu, solicitor of The Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Applicant.

The Respondent appeared by telephone and represented himself.

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**JUDGMENT**

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## **Allegations**

1. The Allegations against the Respondent were that:
  - 1.1. By virtue of his conviction on 22 February 2017 for 7 counts of fraud contrary to section 1 of the Fraud Act 2006, the Respondent:
    - 1.1.1. failed to uphold the rule of law and the proper administration of justice and therefore breached Principle 1 of the SRA Principles 2011; and/or
    - 1.1.2. failed to act with integrity and therefore breached Principle 2 of the SRA Principles 2011; and/or
    - 1.1.3. failed to behave in a way which maintained the trust the public placed in him and in the provision of legal services and therefore breached Principle 6 of the SRA Principles 2011.

## **Documents**

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

### **Applicant:**

- Application dated 21 December 2017 together with attached Rule 5 Statement and all exhibits
- Applicant's Statement of Costs dated 30 August 2018
- Emails from the Applicant to the Tribunal dated 30 July 2018, 9 August 2018 and 30 August 2018

### **Respondent:**

- Answer from the Respondent dated 1 June 2018
- Respondent's application for an adjournment dated 15 July 2018
- Respondent's application for Special Measures dated 15 July 2018
- Letters from the Respondent to the Tribunal dated 18 July 2018, 6 August 2018 and 27 August 2018

## **Preliminary Issues**

### Respondent's Application for an Adjournment

3. On 15 July 2018 the Respondent had made an application for an adjournment of the substantive hearing on the basis that he was currently in prison and there was no great urgency to conclude the proceedings. In his application he had stated he expected to

gain Category D (open prison) status in the near future which would allow him to be able to attend a Tribunal hearing. The Respondent had requested the hearing be postponed to February/March 2019. He had also made an application for a Special Measures Direction to allow him to attend by video-link.

4. The Applicant in emails dated 30 July 2018 and 9 August 2018 had opposed the application for an adjournment on the grounds that the case was based on the Respondent's conviction, he had provided his Answer and had had sufficient opportunity to respond to the allegations. The Applicant confirmed there was no objection to the Respondent attending by video-link.
5. The application for an adjournment was refused by the Chairman of the Tribunal on 13 August 2018 on the grounds that the Respondent had supplied his Answer, the Tribunal would treat the conviction as proof of the offence and therefore there was no reason to delay the hearing. However, a Special Measures direction was granted by the Chairman of the Tribunal allowing the Respondent to attend the hearing by video/audio link in so far as the Tribunal was able to accommodate this but if the Tribunal's best efforts were not successful in achieving the Respondent's attendance by video/audio link, the hearing would proceed without such facility.
6. On 27 August 2018, the Respondent had written to the Tribunal again repeating his request for an adjournment of the substantive hearing. He stated he had not received copies of the emails from the Applicant to the Tribunal dated 30 July 2018 and 9 August 2018 which had objected to his earlier application for an adjournment. He also objected to the onus being placed on him to make the arrangements for attendance by video/audio link on the basis that, he submitted, no consideration had been given to the nature of the disadvantage he was under as he was in prison and had no power to require the prison authorities to make these arrangements on the required date and time. He stated he would use his best endeavours to persuade the prison authorities to help him with these arrangements and made it clear he wished to be present at the hearing. The Respondent requested the Applicant consider an adjournment of the case as he stated he intended to apply for a judicial review and was awaiting disclosure of some documents from the Applicant.
7. On 30 August 2018, the Applicant sent an email to the Tribunal stating that in light of the imminence of the substantive hearing, the Respondent's second application could be dealt with as a preliminary issue at the start of the hearing.
8. Attempts were made by the Tribunal to secure the Respondent's attendance by video link but these were unsuccessful. As a result the Respondent attended by telephone.
9. At the start of the hearing, the Respondent stated that for a number of months he had been asking the Solicitors Regulation Authority ("SRA") to produce some documents relating to the client files of Client C and Client D, which they had agreed to do but had still not produced. The Respondent stated these files were not produced at the criminal trial. He accepted he had been convicted but submitted this was based on wrong evidence as Client C had not told the truth and the jury had accepted her evidence.

10. The Respondent stated he had appealed his conviction while awaiting sentence and that appeal had been considered by a single Judge. The Respondent stated he was asked to complete a form, which he did and gave to Wandsworth prison staff but it was not posted by them. The Respondent stated that a hearing then took place to consider whether the Respondent should be granted an extension of time for filing his appeal. However, the Respondent stated that instead of dealing with granting him an extension of time for filing his appeal, the Court of Appeal simply dealt with the appeal itself when all of the documents in support had not been filed. As a result of this, his appeal was refused.
11. The Respondent stated that subsequently Client C issued County Court proceedings against the Respondent but did not pay the requisite fee. The Respondent submitted that Client C had seen the Respondent's statement and must have made a decision that she did not want to appear in court against him as this would expose the lies she had told in his criminal case.
12. The Respondent stated that he had contacted the police to re-open the case again as he believed the SRA had documents on the client file which would show that Client C had given authority to the Respondent and knew that he had held the funds. He also reminded the Tribunal that he could submit an application to the Criminal Cases Review Commission ("CCRC") in addition to any appeal.
13. The Respondent referred the Tribunal to Rule 15(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") and submitted this stated a conviction for a criminal offence *may* be proved by the production of a certificate of conviction not that it *shall* be proved or must be proved by such. The Respondent submitted that if the Tribunal had evidence to rebut this principle then that evidence could be considered. He submitted his professional status was at risk, he was in prison and therefore there was no risk to the public. He further submitted there was a strong potential that his conviction would be overturned. He submitted there was no urgency to conclude this case and that an adjournment should be granted.
14. On questioning from the Tribunal, the Respondent stated that he did not consider he had been well represented at his criminal trial by his Counsel. He referred to Rule 15(2) of the SDPR which stated the findings of fact upon which a conviction was based shall be admissible as conclusive proof of those facts, save in exceptional circumstances. He submitted that his circumstances were exceptional as the SRA had refused to disclose documents to him prior to his trial. He stated he had been suspended in 2011 due to taking a loan from Client C in 2009 and yet in the criminal proceedings Client C claimed she knew nothing about the loan. The Respondent stated that a police officer had reopened the case against him and was making further enquiries concerning Client C. The Respondent stated he was unable to pay for legal representation as his assets were all frozen. The Respondent stated he was awaiting the outcome of the police enquiries and would then submit an application to the CCRC. The Respondent submitted that he was at a disadvantage as he was unable to contact people who could progress these matters on his behalf.
15. The Respondent stated that whilst he was aware that he could bring the matter back to the Tribunal if his conviction was overturned, he did not want to go through this process as it was very difficult to overturn disciplinary proceedings. He submitted he had been

prevented from obtaining the information he needed, which was with the SRA, and he had, therefore, not been able to produce it to the jury in his criminal trial.

16. Ms Sidhu, on behalf of the Applicant, opposed the application for an adjournment. She submitted the Respondent was attending by telephone and was able to make representations. The Applicant's case was based only on the documents provided which related to a conviction in February 2017. She submitted that the appeal against the conviction had been considered and refused. Ms Sidhu submitted that if a future appeal was successful, the Respondent would be able to bring the matter back to the Tribunal. It was not known at this stage how long any police enquiries might take or how much work was required for the investigation to be completed.
17. Ms Sidhu confirmed that the SRA was dealing with the Respondent's request for disclosure. He had written to the SRA on 27 August 2018 with a Subject Access Request which was being dealt with by the Information Compliance Team. However, Ms Sidhu submitted the conviction was currently upheld and fell firmly within Rule 15(2) of the SDPR. There were no exceptional circumstances and there was no reason to delay matters today.

#### The Tribunal's Decision

18. The Tribunal considered carefully the documents provided, the submissions of both parties and the Tribunal's Policy/Practice Note on Adjournments. Rule 15(2) of the SDPR stated:

“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.”

19. Dealing firstly with the issue of the wording of Rule 15(2). Whilst the Rule stated that a conviction for a criminal offence *may* be proved by the certificate of conviction, it was clear from the latter part of Rule 15(2), that proof of the conviction *shall* constitute evidence that the person is guilty of the offence and the findings of fact upon which that conviction was based *shall* be admissible as proof of those facts. This meant that the Tribunal could not and would not go behind the fact of the conviction.
20. Whilst the Respondent had made reference to submitting a further appeal and/or an application to the CCRC, the current position was that no such appeal or application had yet been submitted and there was a conviction in place supported by a Certificate of Conviction. Whilst there may be grounds for a further appeal, there was no evidence before the Tribunal today to support this and in any event, it was not known how long any further police investigations may take. It could well be a long period of time before any appeal or CCRC application was concluded and it would not be in the public interest to delay these proceedings indefinitely. The Tribunal did not accept that the Respondent's position amounted to “exceptional circumstances” in the absence of any evidence of a miscarriage of justice having taken place, or any real credible evidence to undermine the conviction.

21. The Respondent was clearly aware that if the conviction was overturned, he would be at liberty to apply to overturn any decision made by the Tribunal. The Respondent had been convicted of a serious offence and it was therefore in the public interest for matters to be concluded as quickly as possible. In all the circumstances, the Tribunal refused the Respondent's application for an adjournment.

### **Factual Background**

22. The Respondent, born in 1958, was admitted to the Roll of Solicitors on 1 August 1985. He did not hold a current practising certificate.
23. On 22 February 2017, the Respondent was tried and convicted in the Kingston Crown Court upon indictment of 7 counts of Fraud, contrary to section 1 of the Fraud Act 2006. The conviction related to the Respondent using his position as a solicitor to defraud clients of his firm.
24. On 12 May 2017, the Respondent was sentenced to 5 years of imprisonment as follows:
- Count 1 – 3 years imprisonment
  - Count 2 – 18 months imprisonment concurrent with Count 1
  - Count 3 – 18 months imprisonment concurrently with the other Counts
  - Count 4 – 9 months imprisonment concurrently with the other Counts
  - Count 5 – 2 years imprisonment consecutively to Count one and the remaining Counts
  - Count 6 – 9 months imprisonment concurrently with the other Counts
  - Count 7 – 9 months imprisonment concurrently with the other Counts.

### **Witnesses**

25. No witnesses gave evidence.

### **Findings of Fact and Law**

26. The Tribunal had carefully considered all the documents provided, and the submissions of both parties. The Tribunal confirmed the allegations had to be proved beyond reasonable doubt and that the Tribunal would be using the criminal standard of proof when considering the allegations.
27. **Allegation 1.1: By virtue of his conviction on 22 February 2017 for 7 counts of fraud contrary to section 1 of the Fraud Act 2006, the Respondent:**
1. **failed to uphold the rule of law and the proper administration of justice and therefore breached Principle 1 of the SRA Principles 2011; and/or**

2. **failed to act with integrity and therefore breached Principle 2 of the SRA Principles 2011; and/or**
3. **failed to behave in a way which maintained the trust the public placed in him and in the provision of legal services and therefore breached Principle 6 of the SRA Principles 2011.**

27.1 The background to this case was set out in the sentencing remarks of Recorder Bryant-Heron which stated that the facts found proved by a jury were as follows:

- Under Count 1, the Respondent had acted for Client D who was an executor of his uncle's estate. The Respondent had told his colleague and partner, Mr N, that Client D still had a liability to repay loans to a bank and the Respondent had thereby obtained cheques in the sum of £52,200. The Respondent had then written and placed a letter on the file purportedly addressed to the bank to the effect that these were loan repayments, but had actually paid the sums direct into his own account.
- Under Count 2 the Respondent had written out a cheque for £29,300 informing Mr N that it was urgent and concerned the payment of inheritance tax liability on the D Estate. There was no such liability and the money was diverted to pay stamp duty on another property connected to another client of the firm.
- Under Count 3, there were three cheques in the sum of £22,963 which were monies held in the Coventry Building Society which formed part of the D Estate. The Building Society paid those funds to the firm and they should have been held pending distribution to the beneficiaries of the D Estate. However, the Respondent paid a cheque rounded up to the sum of £23,000 to himself, and then used the money to repay part of his liability to another client, Client C. He informed Mr N that he was repaying a loan to a client and pretended that the money from the Building Society was his own money.
- Under Count 4, a further cheque in the sum of £9,944 was paid from the Coventry Building Society, which, again should have been held for the benefit of the D Estate. That money was paid into the client account of another client, Mr K, and related to a dispute that the Respondent had been instructed on by Mr K.
- Under Count 5, the Respondent acted for Client C in the probate of her mother's estate. The Respondent removed money on a number of occasions effectively emptying that client account. Amongst the transactions he diverted £20,000 from that account towards the purchase of a property for himself in Bulgaria. The Respondent withdrew money to pay his own tax bill and removed sums informing Mr N that it was a loan. The total loss was £28,700.
- Under Count 6, the Respondent diverted a ground rate payment from a client's account to pay the ground rate on his partner's property in the sum of £1,298.
- Under Count 7, the Respondent forged correspondence purporting to authorise the loan by Client C to him of money held in her client account. These were false

documents and when the Respondent's firm ceased trading, he removed these documents and kept them at his home as a result of which Mr N, his former partner, was prevented from expeditiously investigating the fraud.

- 27.2 Ms Sidhu, on behalf of the Applicant, submitted that the conduct was so serious it had led to a lengthy prison sentence. She submitted the Respondent was a professional and had breached Principles 1, 2 and 6 as a result of his conduct. She reminded the Tribunal that dishonesty was included within an offence of fraud and submitted the Respondent had fallen short of the high standards expected of professionals.
- 27.3 The Respondent referred the Tribunal to his Answer in which he had given a detailed response to the allegations, which he denied. He disputed the conviction and submitted the SRA had refused to disclose a file which had contained information that would have materially assisted him in responding to the allegations. The Respondent had stated in his Answer that there was no evidence that he had breached Principles 1, 2 and 6 as alleged. The Respondent had set out in detail the background to each of the Counts including matters involving Client C who, he submitted, had not told the truth at his criminal trial. He provided detailed information which related to the facts behind the conviction and made reference to Mr N's involvement, who he believed had also not told the truth during his criminal trial.
- 27.4 The Respondent submitted the Applicant had not filed any Reply to his Answer and that he had set out exactly what had happened. He submitted it was up to the Tribunal to decide if it accepted his version of events. The Respondent repeated he was in the process of appealing the conviction which he believed was wrong and unjust, and that in due course he hoped to show that both Mr N and Client C had lied in his criminal trial.
- 27.5 The Tribunal had considered carefully the submissions of both parties and all the documents before it. The Tribunal had been provided with a Certificate of Conviction from the Crown Court at Kingston dated 26 June 2017 which confirmed that on 22 February 2017, the Respondent had been tried and convicted of 7 counts of Fraud. The Certificate also confirmed the Respondent had been sentenced to a total of 5 years imprisonment on 12 May 2017.
- 27.6 Whilst the Tribunal had taken account of what the Respondent had said, it could not go behind the conviction. Rule 15(2) of the SDPR clearly stated that proof of a conviction shall constitute evidence that the person in question was guilty of the offence and that the findings of fact upon which the conviction was based shall be admissible as conclusive proof of those facts. The Tribunal was satisfied that the Respondent had been convicted on 22 February 2017 of 7 counts of fraud as alleged.
- 27.7 The Tribunal was further satisfied that in light of the Respondent's conviction, he had failed to uphold the rule of law and the proper administration of justice. Engaging in criminal conduct indicated he lacked soundness, rectitude and a steady adherence to an ethical code. He had breached his position of trust and had thereby failed to act with integrity. Various clients had been taken advantage of and the Tribunal was satisfied the Respondent's conduct in failing to safeguard client funds and deal with their money in a proper manner had not maintained the trust the public placed in him or in the provision of legal services. The Tribunal found the allegations proved.



### **Previous Disciplinary Matters**

28. The Respondent had previously appeared before the Tribunal on 13 January 1999 and 22 June 2004.

### **Mitigation**

29. The Respondent submitted that although he had appeared before the Tribunal on two previous occasions, those matters had related to Accounts Rules breaches and there had been no allegations of dishonesty. He submitted that on those occasions he had bookkeepers dealing with the accounts and therefore had not been directly involved himself. At the time of the first appearance, the Respondent stated he had been running the firm by himself. By the second appearance he had someone else running the firm but had taken responsibility for the breaches as he had intended to work abroad and therefore the sanction did not matter to him.
30. The Respondent stated that he was due to be released from prison in November 2019 and was likely to be released on licence for the remainder of his custodial term. He stated that he hoped to repay what was owed by the end of November and that he had sold a property abroad to enable him to do this. He hoped to repay all the monies so that he could then be moved to a Category D prison.

### **Sanction**

31. The Tribunal had considered carefully the Respondent's submissions and the documents provided. 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.
32. The Tribunal had no doubt that the Respondent's level of culpability was extremely high. In most instances, his motivation had been personal gain and all of his actions had been planned. He had acted in breach of a position of trust where he was responsible for safeguarding client funds but had failed to do so. He had had direct control of his behaviour. He was an experienced solicitor and his conduct had caused significant harm to both clients and the reputation of the profession.
33. The Tribunal considered the aggravating and mitigating factors in this case. The Respondent's conduct was deliberate, calculated and repeated, having taken place over a considerable period of time from April 2008 to July 2012. It involved more than one client. He had personally benefited from defrauding clients of the total sum of £144,206 which resulted in a criminal conviction involving dishonesty. The Sentencing Judge had also referred to the impact on the Respondent's clients and his former partner, Mr N, who was subsequently unable to secure professional indemnity insurance and could not continue in partnership. The money the Respondent had taken had been used for his benefit. These were all aggravating factors.
34. The Respondent had also twice appeared before the Tribunal. This was a further aggravating factor. On the first occasion he had been found to have breached the Accounts Rules and was fined £12,500. On the second occasion, the Respondent was

fined £20,000 in relation to twelve admitted allegations covering various breaches which were not restricted to the Accounts Rules. They included practising in breach of a practising condition, failing to comply with the terms of a judgment of the Master of the Rolls, seeking to preclude a client from reporting his conduct to the OSS, and failing to comply with an undertaking.

35. The Respondent intended to make good the loss and appeared to have sold a property abroad to enable him to do this. This was a mitigating factor.
36. As the Respondent had been convicted of offences involving dishonesty, the Tribunal concluded that to make no order, or order a Reprimand, a Fine or a Restriction Order would not be sufficient to mark the seriousness of the conduct in this case. The Tribunal also took into account that this was the Respondent's third appearance before the Tribunal and he had received substantial fines on both of the previous occasions. These sanctions would not be sufficient to mark the gravity of a third appearance before the Tribunal.
37. The Respondent had received a lengthy custodial sentence and had been convicted of fraud involving client funds. The Tribunal was therefore satisfied that he was a risk to the public. In light of this a Suspension was insufficient to protect the public from future harm from the Respondent, as he could not be trusted with client funds.
38. The Respondent's conduct was of the utmost gravity as he had taken advantage of client funds when he should have been protecting them. To allow him to remain a member of the profession would undermine public confidence in it. The Tribunal was satisfied that the appropriate and proportionate sanction in this case, to protect the public and maintain public confidence in the reputation of the profession, was to remove the Respondent from the Roll of Solicitors.
39. Accordingly, the Tribunal Ordered that the Respondent be struck off the Roll of Solicitors.

### **Costs**

40. Ms Sidhu, on behalf of the Applicant requested an Order for her costs in the total sum of £1,947.05 and provided the Tribunal with a breakdown of those costs.
41. Ms Sidhu confirmed that the original costs claimed had been £2,727.05 but she had made some reductions for the hearing time and for the time spent in travel and waiting which had been estimated at a higher amount than had actually been incurred. Ms Sidhu stated that she had spent a considerable time liaising with the prison in order to secure the Respondent's attendance by video/audio link today. She had also familiarised herself with the details of the Respondent's early appearances before the Tribunal. Ms Sidhu requested a fixed costs order and submitted the SRA's Costs Recovery Department would liaise with the Respondent in relation to payment.
42. The Respondent submitted that the preparation time claimed was too high, particularly as the documents in this case were very limited and brief. He also submitted that there had been no need for Ms Sidhu to speak to the prison authorities as it was his responsibility to arrange the video/audio link which he had tried to do. He submitted

he should not be required to pay for these costs. The Respondent reminded the Tribunal that his assets had been frozen and he did not have any money. He was serving a custodial sentence so it would not be possible for the SRA to liaise with him about payment. The Respondent stated that he had already paid £180,000 in confiscation proceedings and had sold a property abroad in order to be able to repay what was owed.

43. The Tribunal had considered carefully the matter of costs and the submissions of both parties. The Applicant had already substantially reduced the costs figure from the amount originally claimed. The costs claimed for preparation were a little high given that this was a straightforward case based on a conviction. The costs claimed for liaising with the prison in relation to the Respondent's attendance at the hearing were also excessive. The Tribunal having made reductions to take account of this assessed the total costs in the sum of £1,800.00. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant's costs in the sum of £1,800.00.
44. In relation to enforcement of those costs, the Tribunal noted the Respondent appeared to have some assets as, on his own submissions, they had been frozen. When those assets were released, the Applicant should not be restricted from seeking payment of the costs from those funds. The Tribunal accepted the Respondent was serving a custodial sentence and expected the regulator to act proportionately with that in mind. The Tribunal did not, therefore, restrict enforcement of the costs order.

#### Statement of Full Order

45. The Tribunal Ordered that the Respondent, TYRONE ANTHONY JOSEPH WALKER, 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 £1,800.00.

Dated this 15<sup>th</sup> day of October 2018  
On behalf of the Tribunal

  
R. Nicholas  
Chairman

Judgment filed  
with the Law Society  
on 16 OCT 2018