

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11774-2018

**BETWEEN:**

SYDNEY TOPPIN

Applicant

and

SOLICITORS REGULATION AUTHORITY

Respondent

---

Before:

Ms T. Cullen (in the chair)

Mr B. Forde

Mrs L. Barnett

Date of Hearing: 24 April 2019

---

**Appearances**

The Applicant appeared in person and represented himself.

Lorraine Trench, solicitor of the Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Respondent.

---

**JUDGMENT ON AN APPLICATION FOR RESTORATION TO  
THE ROLL**

---

## **Background**

1. The Applicant was admitted to the Roll of Solicitors on 16 January 1984. On 2 May 1995 the Applicant was struck off the Roll having been found guilty of conduct unbefitting a solicitor in the following respects, namely that:
  - a) He failed to maintain properly written up books of account contrary to Rule 11 of the Solicitors Accounts Rules 1986;
  - b) He placed his own funds in client account contrary to Rule 6 of the Solicitors Accounts Rules 1986;
  - c) He used client funds for his own purposes;
  - d) He drew or caused or permitted to be drawn, monies from client account otherwise than in accordance with Rule 7 of the Solicitors Accounts Rules 1986, contrary to Rule 8 of the said Rules.
2. On 10 January 2018 the Applicant lodged an application for restoration to the Roll. He had previously made an application for restoration in 2005 but had withdrawn that application.

## **Documents**

3. The Tribunal had the following documents before it:
  - Statement in support of the Application;
  - Supplementary Witness Statement of the Applicant
  - Submissions on behalf of the Applicant
  - Character references x2
  - Hearing bundle prepared by the Respondent including Submissions on behalf of the Respondent

## **Preliminary Matters**

### Permission to adduce supplementary witness statement and closing submissions

4. The Applicant had initially served his Supplementary Witness Statement shortly before the hearing unsigned and undated. The Applicant subsequently signed and dated it and applied for it to be adduced as part of his evidence. Ms Trench did not oppose this application and the Tribunal granted leave for the Applicant to rely on it.
5. The Applicant also produced written closing submissions which he proposed to read out to the Tribunal at the conclusion of Ms Trench's submissions as well as handing up a copy. Again, Ms Trench did not oppose this application. Although it was not the usual procedure, the Tribunal granted the application in order that the Applicant could have every opportunity to put his case to the Tribunal.

### **Applicant's Evidence**

6. The Applicant confirmed that his supporting statement and his supplementary witness statement were both true to the best of his knowledge and belief. The Respondent, in its response to his application, had referred to separate proceedings involving separate individuals in 2004. In the course of that hearing allegations had been made against this Applicant that he had acted dishonestly. The Applicant told the Tribunal that the evidence given by the Respondents in those proceedings had been false and he had been unfairly blamed for their misconduct.
7. In cross-examination by Ms Trench, the Applicant accepted that he had worked at K & Co without authorisation as required by section 41 of the Solicitors Act 1974. The Applicant told the Tribunal that he accepted that he had knowingly breached Sections 41 and 42 but explained that the partner at K & Co was also willing to breach those provisions. The Applicant told the Tribunal that he could not justify it but explained that it was not meant to be a long-term arrangement and it had lasted longer than anticipated.
8. The Applicant told the Tribunal that after working at E & Co for five years he had been admitted as a member of the Council of Licensed Conveyancers, having successfully completed the professional exams. Ms Trench asked the Applicant why he had not provided any documentary evidence of having passed those exams. The Applicant told the Tribunal that he did not think that this was necessary. He stated that if the Respondent had doubted it then this should have been drawn to his attention. Ms Trench put to him that the lack of satisfactory evidence was raised by the Respondent in the submissions replying to his application dated 6 February 2018.
9. The Applicant had, in 2007, worked for M solicitors. Ms Trench asked the Applicant whether he had told them that he was a struck off solicitor. The Applicant told the Tribunal that he told them he was seeking employment as a trainee conveyancer and not as a solicitor. The Applicant was unable to recall if he had told them that he was a former solicitor. He now accepted that he had breached section 41 for a second time by acting in this way. He denied doing so knowingly or willingly. Ms Trench took the Applicant to the Certificate of Conviction from Hendon Magistrates Court dated 13 May 2008 which recorded that the Applicant had pleaded guilty to an offence of failing to disclose to M that he had been struck off. The Applicant told the Tribunal that his counsel at that hearing had advised him that it was an offence of strict liability and on that basis he had pleaded guilty. The Applicant maintained that he had probably told M of his history notwithstanding the conviction for failing to disclose.
10. Ms Trench put to the Applicant that he had not provided any evidence of passing the bar exams in New York in 2002 or of the courses that he had undertaken in immigration law. The Applicant told the Tribunal that he had not believed that it was necessary to provide evidence as he would not have made such a submission if it was not true. He had not anticipated that he would be challenged as to his attendance on courses in immigration law and he explained that his last immigration course was in May 2018 which consisted of a week of webinars.

11. In respect of the future prospects, the Applicant told the Tribunal that if he was restored to the Roll he hoped to be employed by a community legal centre in South East London where he was currently undertaking voluntary work. The legal centre would have to apply for Law Centre status and then for funding in order to employ him. Ms Trench asked the Applicant whether he had told the legal centre about his conviction in the Magistrates Court. The Applicant told the Tribunal that he was sure that he must have discussed it but that he did not believe it was relevant to his employment. The Applicant then clarified his evidence to state that the Director knew all about his history.
12. The Applicant was currently teaching business and corporate law at the University of West London and had been doing so since 2014 on a part-time basis although he had done some work for them as far back as 2012. This did not generate a sufficient income and the Applicant told the Tribunal that he had found it "almost impossible" to get employment because of his current position.

### **Respondent's Submissions**

13. Ms Trench referred the Tribunal to the Respondent's written submissions. The Respondent opposed the Applicant's application to be restored to the Roll. Ms Trench told the Tribunal that the Applicant had chosen to circumvent the rules on approved employment while he was a struck off solicitor. She submitted that the Applicant did not have an appreciation of his ongoing regulatory obligations. His level of rehabilitation was nowhere near that in the Tribunal cases of Black Case Nos 8764-2003 and 9603-2006 and the case of Thobani v SRA [2011] EWHC 3783 (Admin). The future prospects for employment, based on the Applicant's evidence, was speculative. There was a risk that if he was restored to the Roll he would be "left to his own devices" as there was no evidence that he would be properly supervised. Ms Trench described this as a sad case as it was clear that the Applicant wished to be restored to the Roll and this was his second application. However she told the Tribunal that the fortunes of individuals were less important than the reputation of the profession as had been set out in Bolton v The Law Society [1994] 1 WLR 512 All ER 486. Ms Trench told the Tribunal that if it was minded to restore the Applicant to the Roll it should consider conditions.

### **Applicant's Submissions**

14. The Applicant submitted that he was a suitable person to be restored to the Roll. He accepted that he had been "naive and stupid" when he had first been practising but he had never been dishonest. The Tribunal that struck him off had found that he had been duped by one of his colleagues. The Applicant took full responsibility for what had happened however as he had been the principal solicitor at the time. The Applicant set out his route to qualification.
15. In relation to his employment by M solicitors, he reminded the Tribunal of his evidence on this point. He submitted that this had not been an attempt to get around the rules but was the result of a misunderstanding as to the position on his part. He had been attempting to pursue an alternative career as a licensed conveyancer and had been disappointed at having failed in this endeavour. He told the Tribunal that he had "serious respect for the rules in this regard". In respect of the breach of section 41 by

virtue of his employment at K & Co, the Applicant accepted that he was at fault and apologised to the Tribunal. The Applicant submitted that he did not believe that public confidence in the profession would be damaged if he were readmitted to the Roll. He had not stolen money from clients or been convicted of an offence of dishonesty or otherwise brought the profession into disrepute. Before becoming a solicitor, whilst practising as a barrister, there had been no complaints about his character or behaviour and he had not received any complaints about the quality of his work either at E or indeed whilst working at M, conducting conveyancing matters. The Applicant told the Tribunal that his problems were now behind him and he wanted to look forward to the future. He reminded the Tribunal that it was nearly 25 years since he had been struck off and in the intervening time he had "learnt a lot" and had tried to conduct himself with propriety at all times. The Applicant submitted that the test laid down in the case of Black was met in his case despite the breaches of section 41. He had always tried to improve himself and to be a credit to his community and to his family. This was reflected in the work he was doing at the community legal centre.

16. The Applicant told the Tribunal that he would be happy to accept any reasonable conditions that the Tribunal may wish to impose as a condition of restoring into the Roll.

#### **The Tribunal's Decision**

17. The Tribunal had due regard to the Applicant's rights to a fair hearing 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.
18. The Tribunal took account of the oral and written submissions made by both parties, the evidence of the Applicant and the character references placed before it.
19. The Tribunal had regard to section B of the Guidance Note on Other Powers of the Tribunal (December 2018) which dealt with applications for restoration to the Roll. This listed a number of factors which the Tribunal had regard to. The Tribunal's role was not to review the original decision to strike off the Applicant but to determine whether he had established that he was now a fit and proper person to be restored to the Roll.
20. The Tribunal disregarded the references to evidence given in other proceedings in 2004 concerning the Applicant. The Applicant had not been a witness in those proceedings and he had not therefore been able to answer the allegations made against him by those Respondents. The Tribunal considered that it would be unfair to the Applicant to place any weight on those matters.
21. The Tribunal noted the guidance provided in Bolton. The Tribunal recognised that the Respondent had not been struck off for dishonesty. The question was whether the public's confidence in the profession as a whole would be shaken. The Tribunal considered that it was of paramount importance that the profession was not tainted in any way and the matters leading to the Applicant's strike off had been serious. The SRA Compensation Fund had paid £73,000 arising from the breaches at the time of that hearing.

22. The period since the Applicant had been struck off was considerable. However during that time the Applicant had worked without approval of the SRA on two occasions and had failed to disclose to M & Co Solicitors that he was a struck off solicitor. This had resulted in a criminal conviction in 2008. This was of significant concern to the Tribunal. The Tribunal found that the Applicant had not demonstrated rehabilitation, indeed he had shown a reckless disregard for the rules on more than one occasion. In his evidence before the Tribunal he appeared not to have a full appreciation of what he had done wrong as he appeared to resile from his plea of guilty in the Magistrates Court.
23. The Applicant's charitable work was commendable and he had clearly provided services to the community. However this was not enough to take the case into the territory described by the Courts in Bolton, Black and SRA v Kaberry [2012] EWHC 3883 (Admin). In all the circumstances the Tribunal was not satisfied that it was appropriate to restore the Applicant to the Roll. Were he to be restored, the reputation of the profession would be significantly harmed by the fact that a struck-off solicitor was restored despite breaching the restrictions imposed on him by reason of that strike off.
24. The Applicant's application for restoration to the Roll was therefore refused.

#### Costs

25. Ms Trench sought the Respondent's costs of successfully defending the application. The Cost Schedule came to a total of £4,096.60. Ms Trench told the Tribunal that the hearing had taken less time than estimated, as had the preparation. There should therefore be some reduction to take account of that.
26. The Applicant did not dispute the level of cost claimed and recognised that costs followed the event. He told the Tribunal that he and his wife worked 10-15 hours per week respectively and their income was supplemented by state benefits. They had their 21 and 13 year old children living with them and he described the family finances as "precarious".

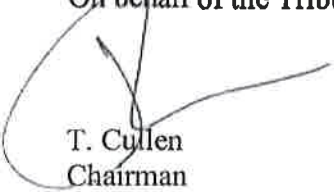
#### The Tribunal's Decision

27. The Tribunal considered that the costs claimed, as reduced, by Ms Trench were reasonable and proportionate. The starting point, taking those reductions into account was £3,544.10.
28. The Tribunal took into account the Respondent's limited means. The Tribunal was aware that the SRA took a pragmatic view when it came to enforcement but it was right that the Applicant made a contribution to the costs incurred as a result of his application. The Tribunal considered that the appropriate reduction to take account of his means was 50%. The Tribunal therefore ordered that he pay £1,772.05.

**Statement of Full Order**

29. The Tribunal Ordered that the application of Sydney Toppin, for restoration to the Roll of Solicitors be **REFUSED** and it further Ordered that he do pay the costs of the response of the Law Society to this application fixed in the sum of £1,772.05.

Dated this 16<sup>th</sup> day of May 2019  
On behalf of the Tribunal



T. Cullen  
Chairman

Judgment filed  
with the Law Society  
on 17 MAY 2019