

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11814-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

DAVID HAIGH

Respondent

Before:

Mr M N Millin (in the chair)

Miss H Appleby

Dr A Richards

Date of Hearing: 08 February 2023

Appearances

Suzanne Jackson, solicitor of Solicitors Regulation Authority Ltd, The Cube, 199 Wharfside Street, Birmingham, B1 1RN

The Respondent did not appear and was not represented.

**MEMORANDUM OF
DECISION TO STAY PROCEEDINGS**

1. The Allegations contained in the Rule 5 statement dated 16 April 2018 were as follows:

“1. Between July 2013 and November 2013, the Respondent, whilst acting on behalf of GFH a company client of Gibson Dunn & Crutcher LLP Solicitors (The Firm). misappropriated approximately £617,448.85; By:-

1.1 Instructing the firm to make 10 illegitimate payments totalling £617,448.85 from funds held for GFH in the client account of the firm.

1.2 Surreptitiously obtaining receipt of GFH funds by providing false details to the firm including, emails requesting payment supported by invoices which contained his personal bank account (and those of a friend).

And in doing so breached principles 2 and 6 of the SRA Principles 2011.

Dishonesty was alleged with respect to the Allegations, but was not an essential ingredient to prove the allegations.”

2. Mr Haigh had not been able to serve an Answer to the Allegations owing to health issues. Since the proceedings were issued in April 2018. The detailed history of these proceedings is set out in previous memoranda, following CMHs, dated 22 May 2020, 20 July 2021, 17 September 2021, 3 December 2021 and 5 July 2022 as well as Tribunal Decision sheets, following written applications for various Orders, dated 20 December 2018, 13 March 2020 and 21 May 2021.
3. Throughout the proceedings, medical reports had been served detailing Mr Haigh’s state of health and addressing the question of his fitness to participate in the proceedings. This included reports from Dr Garvey, who had been instructed by the SRA, dated 8 February 2019, 21 February 2019, 4 May 2020, 21 November 2021, 28 June 2022 and 24 January 2023.
4. There had also been letters and updates from other health practitioners dated 20 May 2020, 22 May 2020, 4 October 2021 and 20 October 2021.
5. The above reports all pointed to the same conclusion, namely that Mr Haigh was not fit to participate in the proceedings. The most recent report of 24 January 2023 stated as follows:

“4.4. I do not think that Mr Haigh is fit to engage in SDT proceedings and no reasonable adjustments could be made to allow him to do so. I think his concentration and attention are impaired by the conditions I have diagnosed above such that he would be unable to participate effectively in proceedings. [REDACTED].

4.5. Unfortunately, I cannot be specific as to when Mr Haigh may be fit to participate in the proceedings. I am aware that my first report on him is dated 8 February 2019, very nearly four years ago. I can find no indication that Mr Haigh has improved during that time. He is however clearly a man who was very high functioning. He does appear to be accessing high quality treatment albeit occasionally sporadically, but such treatment is within the private sector and therefore dependent upon insurance and his financial circumstances which, as far as I can ascertain, appear to change over time.

4.6. I do think he will improve such that he can take part in the proceedings but I cannot say when this is likely to be.

4.7. Unfortunately then, I cannot provide a timeframe for recovery. Mr Haigh is of the view that if matters lay dormant for a time such that he could focus on his recovery, this would speed it up and I think that he has some justification for this view. I would suggest then, if such is possible, that matters are adjourned for a further 12 months at which time they can be reviewed again.”

Application to sit in private

6. Ms Jackson applied for the Tribunal to sit in private when discussing the details of Mr Haigh’s health, as it had done at previous hearings. The Tribunal agreed to sit in private for part of the hearing. The starting point was open justice and the fact of Mr Haigh’s ill-health was not something that needed to be heard in private. However, the details of his health conditions were not in the public interest and making them public would infringe on his Article 8 rights, causing exceptional hardship and prejudice to him. The Tribunal was satisfied that it was therefore appropriate to hear that part of the matter in private. The Tribunal’s decision and the reading out of the Order took place in open court.

Application for Stay of Proceedings

7. Ms Jackson told the Tribunal that she was applying for a stay of proceedings, rather than another adjournment.
8. Ms Jackson submitted that this was an old case. The current medical report relayed the same message as each of the previous reports. Dr Garvey was unable to give a timeframe as to when Mr Haigh might be able to participate in proceedings and had suggested a review in 12 months. Ms Jackson reminded the Tribunal that previous adjournments had been for 6-12 months and no progress had been made.
9. Mr Haigh had said that he wanted to concentrate on his recovery without having additional medical appointments and hearings weighing on his mind. Ms Jackson invited the Tribunal to stay the proceedings so that Mr Haigh could focus on recovery. He did not currently hold a Practising Certificate. If he did apply for one in the future, the SRA would require a medical report and could apply at that stage for the stay to be lifted.

10. Ms Jackson submitted that this was a case based primarily on documentary evidence and so there was no risk of memories fading over time. Ms Jackson further submitted that adjourning for another 12 months would not achieve anything, as the position would most likely be the same a year from now. Ms Jackson acknowledged that the public interest required the matter to be heard but noted that it could not be heard unless and until Mr Haigh was fit to participate.

The Tribunal's Decision

11. The Tribunal took careful note of the background to this case and the detailed medical reports that had been produced. It was entirely clear that Mr Haigh was not fit to participate in the proceedings and there was no indication as to when he might be fit. It would not be for at least a year and quite possibly much longer than that.
12. There was no prospect of listing the matter for a substantive hearing, so the only question for the Tribunal was whether to adjourn the matter again or to grant the application for a stay.
13. The Tribunal was aware that the matter had been repeatedly adjourned over the previous five years. In that time, nothing had changed and there was no reason to believe that anything would change between now and February 2024.
14. The Tribunal recognised that Mr Haigh faced serious Allegations. They were, however, matters that related directly to his work as a solicitor and were financial in nature. This was relevant because Mr Haigh did not have a Practising Certificate and so the risk to the public was limited as there would only be a potential risk to those coming into contact with him as clients. This was not a case involving, for example, a criminal conviction or sexual misconduct, where it might be said that there was a continuing risk even if he was not practising.
15. The Tribunal accepted that the case was based primarily on the documents. In any event, the matters to which they related were approaching 10 years ago. If there was to be a fading of memories, matters were already well into that territory.
16. In all the circumstances, the Tribunal was satisfied that the appropriate step was now to stay the proceedings, with liberty to apply and no order for costs.

Statement of Full Order

17. The Tribunal Ordered that the allegations contained in the Rule 5 statement dated 16 April 2018 against the Respondent, DAVID HAIGH be stayed indefinitely and either party shall have liberty to apply. The Tribunal makes NO ORDER as to costs.

Dated this 17th day of February 2023

On behalf of the Tribunal



M N Millin
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
17 FEB 2023