

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11943-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SHASHI GORSIA

Respondent

Before:

Mr G. Sydenham (in the chair)

Mr P. S. L. Housego

Mrs N. Chavda

Date of Hearing: 18 July 2019

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations made by the Applicant against the Respondent were set out in a Rule 5 Statement dated 8 April 2019 and were that in a Judgment dated 23 January 2017 he was found guilty by the Dubai Court of First Instance (Criminal) of attempted theft of two mobile phones taken on 4 October 2016 in the Emirate of Dubai in the United Arab Emirates (UAE). He was sentenced to one-month imprisonment and thereafter immediate deportation. This was confirmed on appeal by the Court of Appeal (Criminal) in a Judgment on 13 March 2017. An Enforcement Order was then issued against him on 14 March 2017.

It was alleged that he thereby failed to:

- 1.1 act with integrity in breach of Principle 2 of the 2011 Principles; and/or
- 1.2 behave in a way that maintained the trust the public placed in him and the provision of legal services in breach of Principle 6 of the 2011 Principles.

Documents

2. The Tribunal had before it the following documents:
 - Rule 5 Statement dated 8 April 2019
 - Statement of Agreed Facts and Indicated Outcome dated 18 July 2019

Factual Background

3. The Respondent was admitted as a solicitor on 1 July 2004. His name remained on the Roll of Solicitors at the date of the hearing. He does not hold a current practising certificate. At all relevant times, the Respondent was a Director of Pindoria Solicitors Ltd of Blackwell House, Guildhall Yard, London.
4. On 24 April 2017, the Respondent made a report to the Applicant in relation to his conviction of attempted theft of two mobile phones when in Dubai airport.

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 and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

Findings of Fact and Law

6. 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.

7. The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Respondent's admissions were properly made.
8. The Tribunal considered the Guidance Note on Sanction (December 2018). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal noted that the Respondent admitted the factual basis of the allegation (the conviction for attempted theft by the Dubai Court of First Instance). The Tribunal considered that the appropriate sanction for the admitted and proved conduct was strike off for the reasons summarised by the parties in paragraphs [16] to [18] of the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties proposed that the Respondent be struck from the Roll of Solicitors. The Tribunal, having determined that the proposed sanction was appropriate and proportionate, granted the application for matters to be resolved by way of the Agreed Outcome.

Costs

9. The parties agreed that the Respondent should pay the costs of the Applicant in the sum of £8,500.00. The Tribunal considered the costs application to be appropriate and proportionate, and ordered that the Respondent pay the Applicant's costs in the agreed amount.

Statement of Full Order

10. The Tribunal ORDERED that the Respondent, SHASHI GORSIA, 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 £8,500.00.

Dated this 23rd day of July 2019
On behalf of the Tribunal



G. Sydenham
Chairman

JUDGMENT FILED WITH THE
LAW SOCIETY

23 JULY 2019

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

SHASHI GORSIA

Respondent

STATEMENT OF AGREED FACTS, ADMISSIONS AND OUTCOME

1. By its application dated 8 April 2019, and the statement made pursuant to Rule 5(2) 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 Shashi Gorsia. (“the Respondent”).

The Allegation

2. The allegation against the Respondent, made by the SRA is that:-

In a Judgment dated 23 January 2017 he was found guilty by the Dubai Court of First Instance (Criminal) of attempted theft of two mobile phones taken on 4 October 2016 in the Emirate of Dubai in the United Arab Emirates (UAE). He was sentenced to one-month imprisonment and thereafter immediate deportation. This was confirmed on appeal by the Court of Appeal (Criminal) in a Judgment on 13 March 2017. An Enforcement Order was then issued against him on 14 March 2017.

He thereby failed to:

- 2.1 act with integrity in breach of Principle 2 of the 2011 Principles; and/or
- 2.2 behave in a way that maintains the trust the public places in him and the provision of legal services in breach of Principle 6 of the 2011 Principles.

Admissions

3. The Respondent admits the allegation against him as set out in paragraph 2, above, in its entirety. He further accepts the factual basis of the admitted allegation as set out in this document.

Agreed facts

The following facts and matters are agreed between the SRA and the Respondent:

4. The Respondent was born on 1975 and was admitted as a solicitor on 1 July 2004. His name remains on the Roll of Solicitors. He does not hold a current practising certificate.
5. At all relevant times, the Respondent was a Director of Pindoria Solicitors Ltd of Blackwell House, Guildhall Yard, London. The SRA's Records show that his post ended on 31 August 2017.
6. On 24 April 2017, the Respondent made a report to the SRA in relation to his conviction of attempted theft of two mobile phones when in Dubai airport. Attached to this was (i) a defence statement prepared by his Dubai lawyers translated into English and relied on by the Court, (ii) the Dubai Police file in Arabic and (iii) a letter to the Dubai Court from his employer. This followed initial information regarding the conviction being received from his legal representatives on 20 April 2017. A report had also been received earlier from Pindoria Solicitors Ltd on 7 April 2017. The SRA obtained a translation of the police file.

The events which led to the Conviction of the Respondent by the Courts in Dubai.

7. The Respondent's conviction arose out of events which happened at Dubai Airport on 4 October 2016. On that date the Respondent was at Dubai Airport with his friend ("SKD") to return back to the UK. They were due to leave on flight No.EK005 to London Heathrow. Whilst at check-in counter No.158 in Terminal 3 they picked up 2 black boxes containing iPhone 7 mobile phones left by a previous passenger("AMJ").
8. The Permanent Notification by the Airport Police Department dated 05/10/2016, and the Minute of Detention records the events of that day as follows:

- (1) On 4 October 2016 at approximately 02.00 the airport police were notified of a report made by AMJ relating to him being a victim of theft.
- (2) AMJ said that at approximately 01.00 on 4 October 2016 he had come to Terminal 3 at Dubai International Airport to fly back home to Beirut. He went to check-in counter No.158 to complete the departure procedures. He had overweight luggage so removed some items from his bag which included 4 boxes of mobile telephones of the iPhone 7 type. He took his luggage away for wrapping up. At the wrapping area he remembered that he had forgotten 2 of the mobile phones. He went back for them but could not find them. He asked the duty stewardess at the check-in counter about them. She told him that after he had left, two individuals of British nationality had turned up to complete the departure formalities at the same counter. She had seen they had two similar iPhone packages in their possession, and she had seen one of them putting the two mobile boxes in a handbag.
- (3) After the Border Investigations Department had carried out an investigation, evidence showed that the two individuals were due to leave for London on flight No. EK005 to London Heathrow and they had completed the departure procedures and were now heading to the gate to board the aircraft with the 2 phones.
- (4) At approximately 03.10 on 4 October both of the individuals were detained – Shashi Gorsia and SKD. They were detained at Gate B15 in Concourse Building B in Terminal 3 by the Border Investigations Department.
- (5) SKD acknowledged that he had come across the phones at the check-in centre and that the Respondent had put them in his bag. The Respondent said that he had placed the phones in SKD's bag with a view to looking for the owner of the phones and return them to him. They had gone through passport control and the security section point and after a while headed toward the departure gate.

9. The Respondent was charged with his friend, ("SKD") on 19 October 2016:

"That on 04/10/2016 in the area of jurisdiction of the Airports Security General Directorate

they attempted to steal from the airport two mobiles of type iPhone 7 belonging to the victim / AMJ. They appropriated them at the check-in counter while the victim was unloading his cases of excess weight by taking advantage of his distraction.

However, in the aftermath of the crime they were detained for a reason out of control and their belongings were searched. They were arrested by the police before they could flee with the stolen items, in the manner set out in the documentary evidence.

Accordingly

The two accused are charged with attempted theft at an airport, which is punishable under

10. The hearing took place on 21 December 2016 in the Dubai Court of First Instance (criminal) and a judgment was issued on 23 January 2017. The Respondent was sentenced to one-month imprisonment and thereafter immediate deportation. An appeal was lodged and heard on 13 February 2017 by the Court of Appeal (Criminal). The Court of Appeal judgment No. 307/2017 issued on 13 March 2017 confirmed the Court of First Instance judgment.

11. An Enforcement Order was then issued against the Respondent on 14 March 2017. This was the enforcement of the Court of Appeal judgment detailed above.

Mitigation

12. In mitigation the following is put forward by the Respondent:

(1) The Respondent voluntarily notified the regulator of the facts and circumstances giving rise to misconduct.

(2) The Respondent previously had a clear regulatory history; and

The following mitigation is not endorsed by the SRA:

(3) Whilst the Respondent recognises that he was found guilty in the foreign jurisdiction, he has been advised by English lawyers that such judgement could be challenged if he had been charged with the same charges in the English Courts for a number of reasons; to include the inability to cross examine the witnesses, the nature of the charges, that the charge cannot be one of strict liability.

Agreed Outcome

13. The Respondent 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.

14. The Respondent 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.

15. The SRA and the Respondent submit to the Tribunal that the following are appropriate outcomes and are consistent with the seriousness of the matters admitted and with the Tribunal's Guidance Note on Sanctions:

15.1 An Order that the Respondent be struck from the Roll of Solicitors; and

15.2 A further Order that the Respondent do pay the SRA's costs of £8,500.00

Explanation as to why such an order would be in accordance with the Tribunal's sanction guidance¹.

16. The Respondent had been a solicitor for almost 13 years when the offence was committed. He was a Director of Pindoria Solicitors Ltd. He held a position of trust. He knew that, in all his activities, even those falling outside of practice, he should be honest and truthful at all times. He failed to be so and was convicted of attempted theft of two mobile phones. His actions were done knowingly and intentionally. By acting in this way, the Respondent agrees that he acted in breach of a position of trust. The Respondent has caused harm to the trust the public places in him and the provision of legal services. The harm caused was foreseeable. His level of culpability was correspondingly high.

17. The Respondent's conduct was a significant departure from the "complete integrity, probity and trustworthiness" to be expected of a solicitor.² The harm

¹ Guidance note on sanctions 6th edition – December 2018
<https://www.solicitortribunal.org.uk/news/publication-guidance-notes-sanctions-other-powers-and-appeals>

² Sir Thomas Bingham in *Bolton v Law Society* [1994] 1 WLR 512.

caused by his actions was significant. His conduct, and the scale of the dishonesty, was viewed as sufficiently serious to justify a custodial sentence.

18. The following factors aggravate the seriousness of the Respondent's misconduct:

18.1 the misconduct involves the commission of a criminal offence;

18.2 the misconduct in relation to the breaches was deliberate.

18.3 the misconduct was such that the Respondent knew it was in material breach of obligations to protect the public and the reputation of the legal profession.

19. The public expects solicitors to act with integrity and behave in a way that maintains the trust the public places in them. The misconduct led to criminal proceedings and criminal penalties.

20. Having regard to all the facts giving rise to the allegations, the admissions made by the Respondent and his willingness to submit to such an Order, the SRA invites the Tribunal to make an Order that the Respondent be struck off the Roll of Solicitors.

Dated this 18 day of July 2019

Signed

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Suzanne Jackson
on behalf of the Solicitors Regulation Authority

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Shashi Gorsia