

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11984-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

GEOFFREY HART

Respondent

Before:

Mr B. Forde (in the chair)
Mrs J. Martineau
Mr P. Hurley

Date of Hearing: 14 October 2019

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 were that, while in practice as a Director at Ward & Rider Ltd (“the firm”):
 - 1.1. Between about 12 July 2017 and 26 July 2017, while acting for Client A in bringing a personal injury claim, made statements in a letter or letters to Client A which were untrue and/or misleading, and which the Respondent knew to be untrue and/or misleading, as to the value of the settlement of Client A’s claim, and in doing so breached all or any of Principles 2 and 6 of the SRA Principles 2011;
 - 1.2. On or about 5 June 2017, disclosed confidential information about Client B, a client of the firm to a third party, for the purposes of the third party’s own legal practice, and without Client B’s consent, and in doing so breached Principle 6 of the SRA Principles 2011 and Outcome O(4.1) of the SRA Code of Conduct 2011;
2. It is further alleged that in respect of the matters set out at 1.1 above, the Respondent acted dishonestly, but dishonesty is not a necessary ingredient to the allegation being found proved.

Documents

3. The Tribunal had before it the following documents:
 - Rule 5 Statement dated 10 July 2019 with exhibit DWRP1
 - Application for an Order dated 11 October 2019
 - Statement of Agreed Facts and Proposed Outcome dated 4 October 2019
 - Applicant’s Schedule of costs at date of issue
 - Respondent’s Statement of Means dated 12 October 2019 with attachments

Factual Background

4. The Respondent was admitted to the Roll on 15 January 1998 and remained on the Roll.
5. At the material time the Respondent was a Director of the firm. The Respondent had since left the firm, having resigned during the course of a disciplinary process relating to the matters set out in Allegation 1. He held a current Practising Certificate.
6. The Respondent’s conduct was reported to the Applicant by the firm on 10 August 2017.
7. The Respondent admitted the allegations in full.
8. The Respondent further admitted that his conduct in acting as alleged in allegation 2 above was dishonest

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

9. The parties invited the Tribunal to deal with the allegations against the Respondent in accordance with the Statement of Agreed Facts and Proposed 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

10. 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.
11. **Allegation 1 - The allegations against the Respondent were that, while in practice as a Director at Ward & Rider Ltd ("the firm"):**
- 1.1. **Between about 12 July 2017 and 26 July 2017, while acting for Client A in bringing a personal injury claim, made statements in a letter or letters to Client A which were untrue and/or misleading, and which the Respondent knew to be untrue and/or misleading, as to the value of the settlement of Client A's claim, and in doing so breached all or any of Principles 2 and 6 of the SRA Principles 2011;**
- 1.2. **On or about 5 June 2017, disclosed confidential information about Client B, a client of the firm to a third party, for the purposes of the third party's own legal practice, and without Client B's consent, and in doing so breached Principle 6 of the SRA Principles 2011 and Outcome O(4.1) of the SRA Code of Conduct 2011;**
2. **It is further alleged that in respect of the matters set out at 1.1 above, the Respondent acted dishonestly, but dishonesty is not a necessary ingredient to the allegation being found proved.**
- 11.1 The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Respondent's admissions were properly made.
- 11.2 The Tribunal noted that the Respondent had not previously appeared before it. The Tribunal considered the Guidance Note on Sanctions (December 2018). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Guidance Note stated:

“The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).”

In the Statement of Agreed Facts and Proposed Outcome it was stated under Non-agreed Mitigation: "The Respondent is of the view that there were exceptional personal circumstances which lead (sic) him to act as he did." Those circumstances were then set out. The Respondent did not however advance those circumstances as constituting exceptional circumstances for the purposes of sanction and accepted that strike off was the appropriate sanction in respect of the allegations. The Tribunal agreed that strike off was the appropriate sanction in this case.

Costs

12. Costs were agreed between the parties and the Tribunal considered the amount agreed to be reasonable and proportionate in the circumstances.

Statement of Full Order

13. The Tribunal Ordered that the Respondent, GEOFFREY HART, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the agreed sum of £9,000.00.

Dated this 11th day of November 2019

On behalf of the Tribunal



B. Forde
Chairman

Judgment filed
with the Law Society
on 11 NOV 2019

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL
IN THE MATTER OF THE SOLICITORS ACT 1974 (AS AMENDED)**

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

GEOFFREY HART

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 10 July 2019, and the statement made pursuant to Rule 5(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 which accompanied that application ("the Rule 5 Statement"), the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making four allegations of misconduct against Mr Geoffrey Hart ("the Respondent").

The allegations

2. The allegations against the Respondent, made by the SRA within the Rule 5 Statement were that while in practice as a Director at Ward & Rider Ltd ("the Firm"):
 - 2.1. Between about 12 July 2017 and 26 July 2017, while acting for Client A in bringing a personal injury claim, made statements in a letter or letters to Client A which were untrue and/or misleading, and which the Respondent knew to be untrue and/or misleading, as to the value of the settlement of Client A's claim, and in doing so breached all or any of Principles 2 and 6 of the SRA Principles 2011;
 - 2.2. On or about 5 June 2017, disclosed confidential information about Client B, a client of the Firm to a third party, for the purposes of the third party's own legal practice,

and without Client B's consent, and in doing so breached Principle 6 of the SRA Principles 2011 and Outcome O(4.1) of the SRA Code of Conduct 2011;

3. In addition, dishonesty was alleged with respect of allegation 2.1 above.
4. The Respondent admits the allegations in full.
5. The Respondent further admits that his conduct in acting as alleged in 2.1 above was dishonest.

Agreed Facts

6. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and the Respondent:

6.1. The Respondent was admitted to the Roll on 15 January 1998.

Misleading correspondence

6.2. From his admission to the Roll in 1998 until leaving the firm in October 2017 the Respondent specialised in claimant personal injury work.

6.3. Between about February 2016 and July 2017, the Respondent acted for Client A, identified in the anonymization schedule attached to the Rule 5 Statement, on a claim for damages to be brought by Client A arising from a road traffic accident. Client A was a family friend of the Respondent's wife.

6.4. A settlement offer was made by the proposed Defendant of £55,000, and accepted by the Respondent on behalf of Client A. This resulted, after deduction of costs, in receipt by Client A of £48,000.

6.5. On 7th July 2017, the Respondent was advised by Client A during a telephone discussion, that she would be telling her husband her claim settled for £30,000. At a meeting on 12th July 2017 Client A asked the Respondent if he would prepare a letter setting out a lower amount that she could show her husband if needed. The Respondent agreed. Client A asked for two separate payments and the Respondent

agreed. In doing so the Respondent accepts that the purpose of doing so was to conceal the total value of the settlement from her husband.

6.6. On 12 July 2017, the Respondent wrote to Client A, saying:

"As you are aware your claim settled for the sum of £40,000.00 which can be broken down as follows: -

- 1. Pain and suffering £21,000*
- 2. Loss of earnings £13,000.00*
- 3. Care & Assistances £4,900.00*
- 4. Physiotherapy £1,000.00*
- 5. Travel expenses £100.00"*

...

Under the terms of our agreement with you we are entitled to deduct 25% of your damages which equates to £10,000.00 and as such this will leave you with the net balance of £30,000.

I can confirm that we should be receiving settlement funds within the next 2 to 3 weeks and as requested these will be transferred to your bank, namely Barclays Bank as instructed."

6.7. The letter referred to above contained statements which were known by the Respondent, at the time of writing the letter, to be false, on matters which were within his own knowledge as to the value and composition of the settlement sum and the amount to be received by Client A.

6.8. On 26 July 2017 the Respondent wrote a further two letters to Client A. The first letter (sent by post) said:

"I write with reference to this matter just to let you know we have arranged a transfer of £30,000.00 to your nominated bank account as per your instructions.

This now draws a line under this matter and I thank you for your instructions."

The second letter (picked up in person at Client A's request) said:

"I now have pleasure in enclosing a cheque representing the compensation recovered on your behalf after deduction of our success fee."

- 6.9. The two letters of 26 July were each also misleading in that both carried the meaning that the sums referred to in them represented the totality of the sums recovered on behalf of Client A.

Disclosure of confidential information

- 6.10. On 5 June 2017, the Respondent sent an email to his wife, a solicitor, attaching a letter addressed to a client, Client B. The letter contained personal information about Client B including her name and address, the fact that Client B had suffered a personal injury, that she intended to bring a claim against a company as a result of such injury, the identity of the company against which she planned to bring a claim, and contained substantive advice on the merits of Client B's claim.
- 6.11. The Respondent's wife was not employed at the Firm or in any other respect involved in the provision of services to Client B, and Client B had not consented to the disclosure of information about her, or her claim, to the Respondent's wife.
- 6.12. The Respondent's purpose in disclosing the letter was to provide his wife with a precedent document for the purposes of her own legal practice.

Non-Agreed Mitigation

7. The information provided below is advanced exclusively by the Respondent by way of mitigation. The inclusion of the information does not amount to an endorsement by the SRA, however, the SRA accepts that account can be properly taken of the following points in assessing whether the proposed Agreed Outcome represents a proportionate resolution of the matter.
8. The Respondent is of the view that there were exceptional personal circumstances which lead him to act as he did. Client A was aware that some two years earlier, the Respondent's wife, miscarried at six months gestation and their son was delivered still born. There followed two trials of IVF which were unsuccessful. The Respondent and his wife were advised during a consultation on 29th June 2017, that the chances of becoming pregnant were less than 0.5% which had a significant impact upon the Respondent.
9. During the meeting on 12th July 2017 between Client A and the Respondent and prior to the discussion occurring with regards to the letter setting out a lower settlement amount, Client A asked how the Respondent and his wife were coping. She told the Respondent

that she too suffered a still birth of her first child and understood the Respondent's situation. Client A went on to inform the Respondent that she wanted to keep some of her own damages to herself because her husband was controlling and would decide on how the money was spent. The Respondent became very emotional after talking about the miscarriage and also wanted to help the Respondent keep some of her money as he felt sorry for her. In agreeing to draft the letter setting out the lower settlement amount the Respondent acted out of character which was due to his emotional state of mind at the time as set out in the report of Clare Marshall, consultant Clinical Psychologist which refers: -

"Mr Hart has experienced a number of traumatic life events, including the death of his brother and the stillbirth of his baby son, Thomas at 6 months gestation. These tragic events have taken place in the context of family problems and ongoing fertility issues. Weighing up his presenting issues, it seems that on the balance of probabilities, as a result of these life events, he has become anxious and low in mood, with symptoms of sufficient severity to indicate a formal diagnosis of Anxiety and Depression. His difficulties also suggest a diagnosis of Adjustment Disorder. Mr Hart made a mistake at work whilst experiencing these psychological difficulties and some associated impairment in cognitive processing (judgement and reasoning). He believes the situation was specifically triggered by the client's reference to their shared experience of stillbirth, which occurred at a time when he was coming to the realisation that he and his wife would not have a child of their own.

I believe that this was critical in his loss of focus about how appropriately to manage the client's legal affairs, specifically in relation to the letter around which the disciplinary procedure centres."

10. The Respondent made no attempt to conceal the relevant letters. Furthermore, upon realising the seriousness of the matter, the Respondent pressed his employer to contact Client A to recall the letter of 12th July 2017, which they successfully did. Client A confirmed to the Respondent's employer that the letter had not been shown to her husband or anyone else.

Proposed Sanction

11. It is proposed that the Respondent be struck off the Roll of Solicitors.

12. It is further agreed that The Respondent should pay the SRA's costs of this matter agreed in the sum of £9,000 (representing costs to the SRA of £7,500.00 plus VAT).

Explanation as to why such an order would be in accordance with the Tribunal's sanctions guidance

13. The principal factors that **aggravate** the seriousness of The Respondent's misconduct are:

13.1. The Respondent's actions in respect of Client A's settlement involved deliberate dishonesty and an intention for misleading correspondence to be used by Client A to mislead third parties as to the value of the settlement.

13.2. The misleading correspondence was created in the knowledge that reliance would be placed upon it as a letter from a solicitor as to a matter on which the solicitor was acting, and would therefore be taken to be a truthful statement.

13.3. The Respondent knowingly disclosed confidential information about a client, without the knowledge or consent of the client and in the interests of a close relative.

13.4. the Respondent failed to meet the high standards which society expects from professional persons and which the professions expect from their own members.

14. In all the circumstances of the case, it is therefore proportionate and in the public interest that the Respondent should be struck off the Roll of Solicitors.

Name: DANIEL WILLIAM ROBERT PURCELL
Position: PARTNER, CAISSONS SOLICITORS LLP
on behalf of the SRA, /

Geoffrey Hart

Date: 4.10.19