

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12001-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

CATHERINE JANE LIMBERT (aka WILLIAMSON)

Respondent

Before:

Mr G Sydenham (in the chair)

Ms A E Banks

Mrs S Gordon

Date of Hearing: 19 and 20 November 2020

Appearances

Andrew Bullock, barrister in the employ of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Applicant.

The Respondent represented herself.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent made by the Solicitors Regulation Authority (“SRA”) were that while in practice as a Solicitor at Cognitive Law Limited (“the Firm”):
 - 1.1. Between 1 April 2016 and 2 February 2017, she failed to abide by the Firm’s policy for Client Due Diligence implemented in compliance with the Money Laundering Regulations 2007. She thereby breached or failed to achieve any or all of:
 - 1.1.1. Principle 8 of the SRA Principles 2011(“the Principles”); and
 - 1.1.2. Outcome O(7.5) of the SRA Code of Conduct 2011(“the Code”).
 - 1.2. On 3 March 2016 she made a statement to her employer, namely that she had never been the subject of any investigation by any regulatory department of the SRA, which was untrue and which she knew, or ought to have known, to be untrue at the time at which it was made. She thereby breached any or all of:
 - 1.2.1. Principle 2 of the Principles; and
 - 1.2.2. Principle 6 of the Principles.
 - 1.3. From 7 January 2016 onwards, she held client money belonging to clients of the Firm to a total value of £3,410 in the bank account of a third party. She thereby breached any or all of:
 - 1.3.1. Principle 2 SRA Principles;
 - 1.3.2. Principle 6 SRA Principles;
 - 1.3.3. Principle 10 SRA Principles;
 - 1.3.4. Rule 14.1 SRA Accounts Rules 2011
2. In addition, dishonesty was alleged as an aggravating factor with respect to allegation 1.2. The parties applied to stay the aggravating factor of dishonesty alleged in respect of allegation 1.3.

Documents

3. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit AJB 1 dated 9 September 2019 (and amended 17 December 2019)
 - Respondent's Answer and accompanying documents dated 14 November 2019
 - Applicant’s Schedule of Costs dated 16 November 2020
 - Agreed Outcome Document dated 20 November 2020

Background

4. The Respondent was a solicitor having been admitted to the Roll in October 1995. Between 3 March 2016 and 24 May 2017, she was employed by the Firm under a Consultancy Agreement specialising in the areas of family law and probate

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

5. The matter was listed for a substantive hearing to commence on 19 November 2020. On that date the parties informed the Tribunal that there was now an agreed position. The parties applied for the matter to be dealt with by way of an Agreed Outcome. The Tribunal granted the application for an Agreed Outcome application to be made out of time. The parties submitted the Agreed Outcome document for consideration on 20 November 2020, submitting that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.
6. The parties applied for the allegation of dishonesty as an aggravating feature in respect of allegation 1.3 be stayed. The application to stay was based on proportionality. The Tribunal considered that even in the event that dishonesty as regards allegation 1.3 was found proved, it would not affect the proposed sanction. The Respondent had admitted an allegation of dishonesty and agreed that the proportionate sanction in all the circumstances was for her to be struck off the Roll of Solicitors. The Tribunal determined that the admissions and agreed sanction properly reflected the seriousness of the Respondent's admitted misconduct. The Tribunal determined that in light of the admissions and proposed sanction, it was neither proportionate nor in the interests of justice to proceed on the denied aggravating factor of dishonesty. Accordingly, the Tribunal granted the joint application for the aggravating factor of dishonesty regarding allegation 1.3 to be stayed.

Findings of Fact and Law

7. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
8. The Tribunal reviewed all the material before it and was satisfied that the Respondent's admissions were properly made.
9. The Tribunal considered the Guidance Note on Sanction (November 2019). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Respondent had, on more than one occasion, failed to obtain proof of identity documents in breach of the Firm's policy. She had also been untruthful as regards the investigation by the Applicant into her professional conduct by stating that she had not been the subject of an investigation when she knew that was not the case. The Respondent had admitted that her conduct in that regard had been dishonest. Further she had failed to protect client monies by placing them into the account of an unregulated entity of which she was the director and majority shareholder. The Tribunal considered that the Respondent's misconduct was so serious that lesser sanctions such as a Reprimand, financial penalty or definite suspension, did not

adequately reflect the seriousness of her misconduct. The Tribunal found that the protection of the public and the protection of the reputation of the profession demanded that the Respondent be struck off the Roll of Solicitors. In the circumstances, the agreed sanction of striking the Respondent off the Roll was appropriate and proportionate to the seriousness of her admitted misconduct. Accordingly, the Tribunal approved the proposed sanction agreed by the parties.

Costs

10. The parties agreed costs in the sum of £7,177.50. The Tribunal found the agreed costs to be reasonable and appropriate. Accordingly, it ordered that the Respondent pay costs in the agreed sum.

Statement of Full Order

11. The Tribunal Ordered that the Respondent, CATHERINE JANE LIMBERT, (aka WILLIAMSON) solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,177.50.

Dated this 23RD day of November 2020
On behalf of the Tribunal



G Sydenham
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
24 NOV 2020

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

CATHERINE JANE LIMBERT

Respondent

AGREED OUTCOME

1. By its application dated 9 September 2019, and the statement made pursuant to Rule 12(2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making three allegations of misconduct against Ms. Limbert.

The allegations

2. The allegations against Ms. Limbert, made by the SRA within that statement were that while in practice as a Solicitor at Cognitive Law Limited ("the Firm"):
 - 1.1. Between 1 April 2016 and 2 February 2017, she failed to abide by the Firm's policy for Client Due Diligence implemented in compliance with the Money Laundering Regulations 2007. She thereby breached or failed to achieve any or all of:
 - 1.1.1. Principle 8 of the SRA Principles 2011; and

1.1.2. Outcome O(7.5) of the SRA Code of Conduct 2011

1.2. On 3 March 2016 she made a statement to her employer, namely that she had never been the subject of any investigation by any regulatory department of the SRA, which was untrue and which she knew, or ought to have known, to be untrue at the time at which it was made. She thereby breached any or all of:

1.2.1. Principle 2 of the SRA Principles 2011; and

1.2.2. Principle 6 of the SRA Principles 2011

1.3. From 7 January 2016 onwards, she held client money belonging to clients of the Firm to a total value of £3,410 in the bank account of a third party. She thereby breached any or all of:

1.3.1. Principle 2 SRA Principles 2011;

1.3.2. Principle 6 SRA Principles 2011;

1.3.3. Principle 10 SRA Principles 2011;

1.3.4. Rule 14.1 SRA Accounts Rules 2011

3. In addition, dishonesty was alleged as an aggravating factor with respect to allegations 1.2 and 1.3.

4. Ms. Limbert admits the allegations (including, for the avoidance of doubt, the allegation of dishonesty in relation to allegation 1.2) with the exception only of the allegation of dishonesty in relation to allegation 1.3 of the Rule 12 Statement which she denies.

5. The SRA applies to stay the allegation of dishonesty in relation to paragraph 1.3. Because of the admissions made by Ms. Limbert (including her acceptance of the appropriate sanction for her misconduct) it is not proportionate for there to be a contested hearing on matters which will not add to penalty. In reaching this view, the

SRA has had regard in particular to the confidential medical information which has been supplied by Ms. Limbert.

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 Ms. Limbert:

General

- 6.1. Ms. Limbert, who was born 1967, is a solicitor having been admitted to the Roll on 2 October 1995. Between 3 March 2016 and 24 May 2017, she was employed by the Firm under a Consultancy Agreement specialising in the areas of family law and probate.

In relation to allegation 1.1

- 6.2. By virtue of Regulation 3(1) (d) and 7 (1) (a) of the Money Laundering Regulations 2007, the Firm was required to have in place measures for identifying and verifying the identity of its clients. Those procedures, which were set out in its Policy for Client Due Dilligence, required Ms. Limbert to take the following steps to verify identity when acting for a UK Individual:

6.2.1. Obtain a copy of a current signed passport; or a current photocard driving licence; or a birth certificate; and

6.2.2. A current photocard driving licence; or a council tax or utility bill; or a bank building society, mortgage or HMRC tax statement; or house or motor insurance certificate; or record of home visit.

- 6.3. File reviews undertaken by the Firm in the period between 25 April 2016 and 23 May 2017 revealed that Ms. Limbert had either failed to request or requested, but

failed to obtain, proof of identity in accordance with the policy from the following Clients:

- 6.3.1. Client A: The file on this client matter was opened on 24 March 2016 and no client identity documents were found to held on the file on file reviews undertaken on 25 April 2016, 3 June 2016, 22 March 2017 and 23 May 2017.
- 6.3.2. Client B: The file on this client matter was opened on 8 March 2017 and no client identity documents were found to be held on the file in the course of reviews undertaken in or about 22 March 2017 and 23 May 2017.
- 6.3.3. Client C: Client C had been a client of Ms. Limbert at the firm in which she had been a partner immediately prior to joining the Firm. Ms. Limbert confirmed in correspondence that she had failed to obtain full proof of identity in accordance with the policy in the period between 8 March 2016 (when she joined the Firm) and 16 June 2016.
- 6.3.4. Client D: The file on this client matter was opened on 31 January 2017 and no client identity documents were found to be held on the file in the course of reviews undertaken in or about 22 March 2017 and 23 May 2017.
- 6.3.5. Client F: The file on this client matter was opened on 21 February 2017 and no client identity documents were found to be held on the file in the course of reviews undertaken in or about 22 March 2017 and 23 May 2017.

In relation to allegation 1.2

- 6.4. On joining the Firm on 3 March 2016 Ms. Limbert completed a New Employee Questionnaire, issued to new employees of the firm, for consideration by the firm's professional indemnity insurers. That questionnaire posed a series of six questions concerning her past conduct which she was required to answer by ticking boxes marked "yes" and "no".
- 6.5. The first question upon that questionnaire was *"Have you ever been the subject of an investigation that has been upheld, or any investigation or intervention by any regulatory department of the Solicitors Regulation Authority, The Legal Ombudsman or any other recognised body?"*
- 6.6. Ms. Limbert answered that question by ticking the box marked "no". However, that answer was untrue. She entered into a Regulatory Settlement Agreement with the Solicitors Regulation Authority on 21 June 2016 by way of the outcome of an investigation into her professional conduct which had been ongoing since at least 12 August 2015. Ms. Limbert was therefore under investigation by a regulatory

department of the Solicitors Regulation Authority at the time that she completed the New Employee Questionnaire.

- 6.7. Not only was that Answer untrue, but Ms. Limbert knew that it was untrue at the time that it was given. She had been in receipt of correspondence concerning that investigation from 12 August 2015 onwards; indeed she had sent a partial copy of a file to the SRA in response to a statutory notice which it had served in connection with that investigation as recently as 1 March 2016 (two days earlier).

In relation to allegation 1.3

- 6.8. Between 7 January 2016 and February 2017 Ms. Limbert caused five clients of the Firm to make payments on account of the costs and / or disbursements to be incurred by those clients to Arbour Legal Ltd, an unregulated entity of which Ms. Limbert is the director and majority shareholder. Thereafter, she did not apply the moneys which had been so received, which ranged in value between £456 and £1,140 and amounted to a total of £3,410, to pay those costs and / or disbursements. Those payments were retained outside of the client account of the Firm until at least 1 September 2017 and a minimum of sum of £456 remains unaccounted for.

Non-Agreed Mitigation

7. The following mitigation, which is not agreed by the SRA, is put forward by Ms. Limbert:
- 7.1. At the time that she committed the misconduct, she was suffering from serious ill-health adversely impacting day to day function including ordinary decision making, and was overworked.
- 7.2. She encountered difficulties with the handover of files from the firm in which she had been a partner prior to joining the Firm.
- 7.3. By making the admissions of fact recorded in this document and agreeing to the imposition of a significant penalty she has demonstrated both insight and remorse.
8. However, Ms. Limbert does not contend that the mitigation set out above amounts to exceptional circumstances which would justify the Tribunal in making any order other than that she be struck off the Roll.

Penalty proposed

9. It is therefore proposed that Ms. Limbert should be struck off the Roll of Solicitors.
10. With respect to costs, it is further agreed that Ms. Limbert should pay the SRA's costs of this matter agreed in the sum of £7,177.50.

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

11. Ms. Limbert has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, states that: "*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)).*"

12. In **Sharma [2010] EWHC 2022 (Admin)** at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

"(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was

momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others...”

13. Ms. Limbert made a statement to her employer, to whom she owed a duty of trust confidence, which she knew to be untrue. That statement, which was made in the context of enquiries made for insurance purposes concerned her regulatory history. There was an obvious disparity of knowledge between Ms. Limbert and her employer with respect to this issue and the situation therefore called for a degree of frankness and candour on her part which was not forthcoming. This was therefore a serious act of dishonesty and the case plainly does not fall within the small residual category where striking off would be a disproportionate sentence.

14. In addition, Ms. Limbert has admitted other very serious breaches of her professional duties, including holding client money outside of client account and lacking integrity in so doing. Breaches of the SRA Accounts Rules are inherently serious matters – please see **Weston v The Law Society (Unreported) 29 June 1998** - and a finding of lack of integrity on the part of a solicitor can justify them being struck from the Roll – please see **Bolton v The Law Society [1994] 2 All ER 486 (CA)**.

15. Accordingly, the fair and proportionate penalty in this case is for Ms. Limbert to be struck off the Roll of Solicitors.

Andrew John Bullock Senior Legal Adviser upon behalf of the SRA

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Catherine Jane Limbert