

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12008-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

ALEXANDER OWUSU

Respondent

Before:

Mr A. Ghosh (in the chair)

Mrs A. Kellett

Mrs L. Barnett

Date of Hearing: 4-5 February 2020

Appearances

Rory Mulchrone, barrister, of Capsticks Solicitors LLP of 1 St George's Road, London SW19 4DR for the Applicant.

The Respondent appeared and was represented by Ashitey Ollennu, Counsel of Redemption Chambers, 121 The Vale, Golders Green, London, NW11 8TL.

JUDGMENT

Allegations

1. The allegations against the Respondent were that while in practice as a Solicitor at Firm 1 and subsequently a Director of Fairview Solicitors:
 - 1.1. From around 15 April 2015 to around July 2016, the Respondent employed and/or re-munerated Person A, a struck off solicitor (alternatively caused or allowed Firm 1 to do the same) and in doing so breached any or all of Principles 6 and 8 of the SRA Principles 2011.
 - 1.2. From around July 2016 until a date unknown, once the Respondent knew that Person A was a struck off solicitor, he employed and/or remunerated Person A (alternatively or in addition in the period from around July 2016 until September 2016 caused or allowed Firm 1 to do the same) and in doing so:
 - 1.2.1 acted contrary to Section 41 of the Solicitors Act 1974;
 - 1.2.2 breached any or all of Principles 2, 6 and 7 of the SRA Principles 2011.
 - 1.3. From around July 2016 onwards, he failed to report the fact that he had employed and/or remunerated a struck off solicitor to the SRA and in doing so he breached Principle 7 of the SRA Principles 2011 and/or Outcome 10.4 of the SRA Code of Conduct 2011.
2. The Respondent admitted all the allegations.

Documents

3. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent which included:

Applicant:

- Application and Rule 5 Statement together with all exhibits dated 3 October 2019
- Witness statement of H Sangha, SRA Forensic Investigation Officer, dated 16 December 2019
- Witness statement of HG, solicitor, dated 19 December 2019
- The Applicant's Schedules of Costs dated 3 October 2019 and 28 January 2020

Respondent:

- The Respondent's Answer dated 7 November 2019
- The Respondent's Statement of Means dated 2 February 2020
- Character references

Factual Background

4. The Respondent was admitted to the Roll on 1 February 2007.
5. At the material time the Respondent was a solicitor at Firm 1 which was a sole practice managed by Person B. From June 2015 to July 2016 Firm 1 had two offices at any given time, a head office in West Norwood, and a branch office at 116A Deptford High Street, London, SE8 4NS (“the Deptford office”). The Deptford office opened when the Respondent joined Firm 1 in April 2015 and closed on 31 July 2015. Firm 1 subsequently opened another office at 5 Westminster Bridge Road, London, SE1 7XW (“the Westminster Bridge Road office”). Firm 1 retained the Westminster Bridge Road office until 29 September 2016 after which the office was taken over by the Respondent as Fairview Solicitors.
6. The lease for the Deptford office was held by the Respondent and he was responsible for running and managing that office, which included being responsible for the office expenditure. The Respondent had an arrangement with Person B (Firm 1’s Principal) that the Respondent could retain the income generated from the clients of the Deptford office, and subsequently the Westminster Bridge Road office, save for 25% which was transferred to Person B. The income was used to run the office and pay staff. The Deptford office had its own bank account, which could be operated by either the Respondent or Person B, and was used by the Respondent to pay staff. Firm 1 did not operate a client bank account. Person B left the Respondent to run the Deptford office and it is understood that she rarely attended the Deptford office, and never attended the Westminster Bridge Road office. The arrangements for running the Deptford office were transferred to the Westminster Bridge Road office when the Deptford office closed.
7. On 30 September 2016 the Respondent left Firm 1 and set up practice as a director and owner of Fairview Solicitors, taking up the Westminster Bridge Road office of Firm 1.
8. This matter came to the SRA’s attention when the SRA received a complaint on 3 November 2017 from a client regarding the standard of service he had received from Person A who had acted for the client in an immigration appeal. The client had subsequently identified that Person A was a struck off solicitor.
9. As a result, on 20 March 2018 a Forensic Investigation officer (“FIO”) of the Solicitors Regulation Authority (“SRA”) undertook an investigation which resulted in a Report dated 25 July 2018. During the course of that investigation, the FIO conducted interviews with the Respondent, Person A and Person B.

Allegation 1.1

10. Section 41 of the Solicitors Act 1974 prohibits a solicitor from employing or remunerating a solicitor, who he knows has been struck off the Roll, in connection with his practice as a solicitor without the requisite written permission to do so. To remunerate is defined as “to pay an equivalent for” or “to pay an equivalent to for a service, loss, or expense”.

11. On 25 November 2010, Person A was convicted in Croydon Crown Court of one count of conspiracy to facilitate the commission of a breach of immigration law. On 13 December 2010 Person A was sentenced to 8.5 years imprisonment. Person A was struck off the Roll of Solicitors as a result of the conviction by the Solicitors Disciplinary Tribunal at a hearing on 26 September 2012.
12. The Respondent used the services of Person A as a caseworker handling at least 13 client matters at Firm 1. A verbal agreement between Person A and the Respondent was in place, under which Person A would be paid 50% of any costs billed on the matters he dealt with. The type of work being done by Person A included taking instructions from clients, drafting judicial review applications, attending immigration hearings, making immigration appeal applications and instructing counsel. The FIO identified various documents on client files which were signed by Person A as a representative at Firm 1 despite him being struck off. These included:
 - An application to appeal to the First Tier Tribunal (Immigration and Asylum Chamber) signed by Person A as the representative for Firm 1 on 23 October 2015;
 - A bail application form signed by Person A as the representative for Firm 1 on 24 November 2015, in which Person A also named himself as a surety for the individual;
 - Several bail application forms signed by Person A as the representative for Firm 1 on 4 September 2015, 10 September 2015, 16 November 2015 and 31 December 2015;
 - A letter to the Home Office dated 10 September 2015 bearing a reference AA/AO/***/009, which inferred the letters AA were those of Person A as the fee earner's initials or reference;
 - Records of proceedings before the First-Tier Tribunal (Immigration and Asylum Chamber) on 20 November 2015 and on 1 December 2015 in which, on both occasions, Person A was recorded as appearing on behalf of each Appellant.
13. The Respondent provided a list of matters to the FIO as having been dealt with by Person A as a caseworker at Firm 1, for which invoices had been received and paid. Person A submitted invoices for the work he completed on each client matter. The Respondent informed the FIO that most of the invoices were paid with cheques from the office bank account of Firm 1. On 26 June 2018 the Respondent provided copies of seven invoices submitted by Person A for work he had done on behalf of Firm 1's clients, totalling £8,868.50. The Respondent also provided copies of Firm 1's office bank statements and highlighted four payments relating to settlement of the seven invoices submitted. However these totalled £6,367.50 and the FIO was not able to reconcile the balance.
14. One of the seven invoices produced by the Respondent was for £3,068.60 which was reconciled to a payment dated 3 August 2016. This was after July 2016, the time that the Respondent accepted he became aware that Person A had been struck off the Roll.

15. Fairview Solicitors took over conduct of the files being worked on by Firm 1 at the Westminster Bridge Road office, including the files which Person A had previously worked on. As part of the transfer, Fairview Solicitors accepted responsibilities for any liabilities incurred by Firm 1 on these matters prior to transfer, including liabilities for invoices.
16. On 21 June 2018 the Respondent provided copies of invoices totalling £4,639.33 submitted by Person A for work carried out by him at Firm 1 prior to his departure. The Respondent stated he paid these liabilities from his personal account and was reimbursed by Fairview Solicitors through bank transfers from the office account to his personal bank account. The Respondent provided bank statements from both accounts which showed payments to Person A totalling £5,239.33 after 31 July 2016 (the time when the Respondent accepted he was aware that Person A had been struck off the Roll). The Respondent was a signatory on the account and was able to make payments. Person A, who was a caseworker at Firm 1 had been paid for invoices he submitted and was therefore remunerated for work he had carried out in connection with the Respondent's practice at Firm 1.
17. The Respondent in a letter of response to the SRA dated 12 September 2018 accepted that Person A had been struck off, but stated:
- “I accept that [Person A] was struck off the Roll of Solicitors, however, he never told me at any time during this period that he was struck off. I would also say that while I did remunerate him for work done, I did not employ him as I had no authority to employ anyone at [Firm 1]. However, my main point is, I did not know he was struck off.....
- if I had known he was struck off, and I was helping him to contravene the Rules, I would not have allowed him to put his name on these public documents when I would know they would be recorded. Accordingly, I emphatically say that I did not know he was struck off....
- I have also reflected on my conduct which has given rise to this investigation. I would accept that given my role and the responsibilities entrusted to me by the Principal of [Firm 1], I should have carried out due diligence enquiry on [Person A] but [sic] did not do so as I had known him from Law School, and when we met he told me of his stroke, and the death of his father. He in fact did not look well, and so this further confirmed to me what he was saying....
- I did not know [Person A] was struck off. Had I known, I certainly would not have asked him to work with me. As soon as I found out I took steps to stop the breach.”
18. The Respondent admitted during his interview with the FIO that he failed to carry out any checks on employing Person A, and stated he was “probably keen... to recruit”.
19. The correct procedure which the Respondent should have followed, to obtain the SRA's permission to employ and/or remunerate a struck off solicitor, would have been to submit a form using the SRA's website to the SRA detailing the proposed role, job

responsibilities and supervisory procedures. The struck off solicitor would have been asked to provide references detailing the work he/she had done since being struck off. The SRA would then have considered the application in line with its policy statement on applications for permission to employ or remunerate under s41 and s43 of the Solicitors Act 1974. Permission may be granted provided the SRA is satisfied that the proposed employment will not put the public's confidence or the interests of clients at risk. However, s3 states that the SRA would not normally grant permission to employ any person who has been convicted of an offence involving dishonesty or which has resulted in a custodial (or equivalent) sentence, or against whom a finding of dishonesty has been made in civil, regulatory or disciplinary proceedings.

20. In exceptional circumstances, under section 4 of the Solicitors Act 1974 the SRA may permit the employment of a person whose conduct has previously been found dishonest, but is only likely do so on the basis that clear evidence is produced of successful rehabilitation over a period of several years supported by character references.

Allegation 1.2

21. During the interview with the FIO, the Respondent was asked when he first became aware that Person A had been struck off the Roll. The Respondent stated this was when he received a telephone call from Person B, in June or July 2016, informing him she had heard that someone was working in the office who had been struck off. The Respondent stated he then spoke to Person A and said:

“...Listen, you know, this is, this is the position. This is what I've been told. You've got to leave. You didn't tell me”.

22. Person B explained in her interview with the FIO that it had come to her attention that somebody by the name of Person A was being called on a tannoy in court under the name of Firm 1, and a colleague had notified her that they were aware an individual called Person A had been struck off the Roll. Person B stated she then telephoned the Respondent and said:

“...I've just heard that there is an [Person A] being tannoyed for and [Firm 1], and I have heard that he's been struck off. So please ask him if he's the same [Person A]. In any event, I didn't know that you had employed anybody like that ...”

Person B confirmed in interview that this happened before she “parted company” with the Respondent in September 2016.

23. During the interview with the FIO, the Respondent stated:

“..... Probably I was keen to, to recruit. You know I don't know. I mean I just, I didn't carry out any, any checks.....

.... All he said to me was that he'd been away. He is not, he is not in practice at the moment. Um he's in poor health. His father died, that sort of thing and he'd been away for a while, considerable, a long, a long time. He is now trying to get back in, in to practice....

.... So, basically, he made it quite clear to me that he didn't, he didn't hold a practising certificate at the time.....”

24. Person A was interviewed by the FIO on 26 June 2018. During the interview, Person A stated that the Respondent knew that Person A had been to prison prior to the Respondent employing Person A. He stated he had told the Respondent that he had been to prison. He stated:

“.... can't remember the exact date, as I was coming in [the Respondent] came to me and said: - Oh, [Person B] just rang him and said: - Am I working with him? And he said that um: - He doesn't really understand what was going on. That [Person B] was asking if it's mean [sic] that I've been struck off, that was working with him? And I said: - Well, let [Person B] know. Because you have already said to me that you're going to take me to [Person B]. Well he now say to me that - Oh that [Person B] was saying that um I have been struck off, things like that. I said: - Well, I told you from day one that I just came out of prison so obviously you knew I'd been struck off. He said: - No, I didn't know that [Person B] has been complaining that if that is the case, I should stop working for [Firm 1].....he said to me that: - As far as he is concerned, he doesn't realise that they've struck me off.....”

25. The FIO asked Person A to confirm that he had explained this to the Respondent from the beginning. Person A stated:

“.... I told him. I said I've just come out from prison. I've just been away for four and a half years. There is nobody who can be, it's, well, he is a solicitor like me. So, he knows....

.....he knew about my predicament.....”

26. The FIO asked Person A whether he had specifically told the Respondent that he had been struck off. Person A replied:

“I can't recall whether we had conversation [sic] to that effect. But I told him I have been away, and I can no longer work as a solicitor. I remember that very well....”

27. The Respondent provided evidence of eight payments made to Person A totalling £5,239.33 after 31 July 2016, which was at a time when the Respondent accepts he was aware that Person A had been struck off the Roll. The Respondent was a signatory on the account and was able to make these payments which were remuneration for work carried out by Person A (and set out in invoices from Person A) in connection with the Respondent's practice at Firm 1. These payments were improper in the context of the Respondent's knowledge that Person A had been struck off, and therefore the Respondent was committing an offence under s41 of the Solicitors Act 1974 by remunerating Person A. The Respondent was responsible for managing the branch office to include expenditure and paying staff.

28. During the interview with the FIO, Person B was asked whether she had followed up with the Respondent that Person A had left Firm 1. She stated that she “didn’t follow up as to whether he had”. The Respondent stated in interview to the FIO that Person A “had access to the office”, and despite being asked to hand over the keys, he did not hand back the key to the main office entrance. The Respondent accepted in interview with the FIO that there was a possibility that Person A could have been attending and working from the office when the Respondent was not present.
29. The Respondent further admitted that Person A had access to the computer system, as fee earners did not have individual log-in details. He stated in interview: “you just click and you are in” and confirmed if Person A had access to the office, he had access to the computer system. Furthermore, the Respondent stated that Firm 1 had a general email address that anybody used who did not have their own personal email address and that Person A knew the password. The Respondent admitted that it took him “sometime before I changed the email password”.
30. The Respondent was asked whether he had concerns that Person A had carried out work from Firm 1’s office without the Respondent’s knowledge. The Respondent first stated that it was “a possibility”, but when probed he confirmed:
- “I can say that you know, um because basically he was in the office. He knows the system and everything else”.
31. The Respondent was shown emails sent from Fairview Solicitors in November 2016 relating to a client matter, and when he was asked to confirm who had sent them, he replied Person A. Furthermore, the Respondent confirmed in interview with the FIO that Person A had turned up at the office twice a week after he had been told he could not work for Firm 1. The Respondent confirmed that Person A had helped him when he was “under the cosh” and Person A had been asked to assist by the Respondent on casework tasks. For example, the Respondent said in interview:
- “I’d say could you quickly do this letter for me and along those basis, basically [sic].....
- ... no assistance and basically I needed hands and um that’s how you know it, it went..... he wasn’t paid for that.....”
32. The last date of Person A’s attendance at Fairview Solicitors was not known.

Allegation 1.3

33. On becoming aware that he (or alternatively Firm 1) had been employing a struck off solicitor, which was from July 2016 at the very latest, the Respondent failed to report the circumstances to the SRA.

Witnesses

34. No witnesses gave evidence.

Findings of Fact and Law

35. The Tribunal had carefully considered all the documents provided and the submissions of both parties. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal gave due weight to the Tribunal's statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which is compatible with the Respondent's rights to a fair trial and to respect for his private and family life under, respectively, Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
36. Although the Tribunal initially considered the standard of proof under the new Solicitors (Disciplinary Proceedings) Rules 2019, having realised that the 2019 Rules did not in fact apply to this matter, it applied the criminal standard of proof.
37. **Allegation 1.1: From around 15 April 2015 to around July 2016, the Respondent employed and/or remunerated Person A, a struck off solicitor (alternatively caused or allowed Firm 1 to do the same) and in doing so breached any or all of Principles 6 and 8 of the SRA Principles 2011.**
- 37.1 The Respondent admitted Allegation 1.1 but only on the basis that Person A had been remunerated rather than employed. Mr Ollennu, on behalf of the Respondent, submitted that Person A had not been employed by Firm 1 or Fairview Solicitors. He had submitted invoices, which were subsequently paid, but he had not had any income tax or national insurance deducted at source or employers' national insurance contributions paid for him by the practices. This indicated he had not been employed but that he was self-employed. Mr Ollennu accepted the Respondent had remunerated Person A and had caused payments to be made by Firm 1.
- 37.2 The Tribunal, having heard submissions from both parties, found Allegation 1.1 proved both on the Respondent's admissions and on the documents provided. The Tribunal was satisfied that it did not make any difference whether Person A was employed or remunerated. There was no evidence of a contract of employment or of payment of Person A's national insurance or income tax by Firm 1 or Fairview Solicitors. Although the distinction between employment and remuneration was immaterial, the Tribunal concluded that the breaches had taken place on the basis that the Respondent had remunerated Person A.
- 37.3 The Tribunal was satisfied that the Respondent had failed to conduct proper checks on Person A's background prior to making payments to him. By remunerating a struck off solicitor, or causing/allowing Firm 1 to do so, the Respondent had failed to carry out his role in the business effectively and in accordance with proper governance and sound risk management principles, contrary to Principle 8 of the SRA Principles 2011 ("the Principles").
- 37.4 In the opinion of the Tribunal, members of the public would not expect solicitors to allow any person who had served a long prison sentence and been struck off as a result, to work on immigration files, even more so when the criminal offence was in relation to an immigration matter. In allowing Person A to do so, the Respondent had failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6 of the Principles.

- 37.5 The Tribunal found Allegation 1.1 proved on the Respondent's admission and on the documents provided.
38. **Allegation 1.2: From around July 2016 until a date unknown, once the Respondent knew that Person A was a struck off solicitor, he employed and/or remunerated Person A (alternatively or in addition in the period from around July 2016 until September 2016 caused or allowed Firm 1 to do the same) and in doing so:**
- 1.2.1 acted contrary to Section 41 of the Solicitors Act 1974;**
- 1.2.2 breached any or all of Principles 2, 6 and 7 of the SRA Principles 2011.**
- 38.1 The Respondent admitted Allegation 1.2, but again this was on the basis that Person A had been remunerated, not employed.
- 38.2 Mr Mulchrone submitted Allegation 1.2 was pleaded on the basis that from July 2016, the Respondent was aware that Person A was a struck off solicitor, but nevertheless, continued to employ/remunerate him on two occasions from his own personal bank account. Mr Ollennu submitted the Tribunal could find that this amounted to remuneration but not employment. He accepted that for all practical purposes, as far as the allegation was concerned, remunerating a struck off solicitor was just as serious as employing one.
- 38.3 The Tribunal found Allegation 1.2 proved both on the Respondent's admission and on the documents provided. The Tribunal was again satisfied that it was immaterial whether Person A had been employed or remunerated as far this matter was concerned and this did not make any difference to the breaches that had taken place. There was clear evidence that invoices had been made out to Firm 1 and that two of those invoices had been paid from the Respondent's personal funds. As a result, the Respondent, who admitted he became aware by July 2016 that Person A was a struck off solicitor, had acted contrary to Section 41 of the Solicitors Act 1974 by remunerating Person A after this date for work carried out.
- 38.4 When the Respondent became aware in July 2016 that Person A was a struck off solicitor, the Respondent should have taken steps to verify the position and should not have made any further payments to him. Section 41 of the Solicitors Act 1974 clearly prohibits a solicitor from employing or remunerating a solicitor who he knows has been struck off the Roll in connection with his practice as a solicitor without written permission from the SRA. The Respondent failed to obtain such permission and had therefore failed to adhere to the ethical standards expected of solicitors. He had failed to act with integrity and had breached Principle 2 of the Principles.
- 38.5 By failing to obtain permission from the SRA as required the Respondent had failed to comply with his legal and regulatory obligations in continuing to remunerate Person A, despite knowing that he had been struck off the Roll of Solicitors. He had thereby breached Principle 7 of the Principles. Members of the public would expect solicitors to comply with rules and regulations that were in place for their protection and a failure to do so did not maintain the trust the public placed in the Respondent or in the provision of legal services. The Respondent had therefore breached Principle 6 of the Principles.

38.6 The Tribunal found Allegation 1.2 proved on the Respondent's admission and on the documents provided.

39. **Allegation 1.3: From around July 2016 onwards, he failed to report the fact that he had employed and/or remunerated a struck off solicitor to the SRA and in doing so he breached Principle 7 of the SRA Principles 2011 and/or Outcome 10.4 of the SRA Code of Conduct 2011.**

39.1 The Respondent admitted Allegation 1.3. In his Answer the Respondent had stated that he had not made a report because he had terminated their work arrangement and therefore thought there was no need to report the fact to the SRA.

39.2 Outcome 10.4 of the SRA Code of Conduct 2011 ("the Code") states:

"You report to the SRA promptly, serious misconduct by any person or firm authorised by the SRA, or any employee, manager or owner of any such firm (taking into account, where necessary, your duty of confidentiality to your client)".

Accordingly there was a duty on the Respondent to report to the SRA that Person A, a struck off solicitor, had been remunerated by him/Firm 1. In failing to do so the Respondent had breached Outcome 10.4 of the Code. He had also breached Principle 7 of the Principles as he had not complied with legal and regulatory obligations which required him to make a report in these circumstances.

39.3 The Tribunal found Allegation 1.3 proved on the Respondent's admission and on the documents provided.

Previous Disciplinary Matters

40. None.

Mitigation

41. Mr Ollennu reminded the Tribunal that the Respondent, who had been a solicitor since 2007, had a previously unblemished record. He stated the Respondent was extremely sad to be appearing before the Tribunal and considered being a member of the profession as a privilege. The Respondent had let himself, his family, his colleagues and his profession down.

42. Mr Ollennu provided the Tribunal with details of the Respondent's personal circumstances. He reminded the Tribunal that the Respondent should be given great credit for the admissions he had made and submitted that permanently removing his ability to practise was not appropriate in this case.

43. Mr Ollennu stated that the Respondent wished to explain what had happened. He had been working in a branch office at Firm 1 and although he was not a partner in the practice, Person B, who was the Principal Solicitor, had only visited that office on one occasion. Mr Ollennu submitted that, whilst the Respondent did not seek to blame

anyone else, to some extent there had been a lack of supervision although it was accepted that there had been no formal agreement as to each person's role, and any solicitor had his/her own professional duties to comply with.

44. Mr Ollennu stated that the Respondent had met Person A in Deptford High Street, many years after they had been at Law School together and he had noticed that Person A did not look well. Person A had informed the Respondent that he had suffered from a stroke and that his father had passed away. Person A had also informed the Respondent that he was not practising as he had been trying to recover from his illness. Two weeks later, Person A popped into the Respondent's office but they did not discuss Person A's work history or the possibility of him working with the Respondent. Mr Ollennu stated that Person A came into the Respondent's office from time to time to chat to the Respondent and their work relationship developed from there. He stated it was not something that had been planned. A time came when the Respondent and Person A came to some understanding that Person A would do some work for Firm 1 and be remunerated for it on a freelance basis.
45. Mr Ollennu stated that it was not until July 2016 that the Respondent became aware Person A was a struck off solicitor, as a result of Person B informing him of this. Mr Ollennu submitted it was now clear that Person A was a deceitful and dishonest person as he had been convicted of a serious fraud offence and sentenced to 8.5 years in prison. The Respondent accepted he had made a mistake because he ought to have made proper enquiries. Mr Ollennu stated that as soon as the Respondent realised Person A was a struck off solicitor, he immediately stopped Person A from carrying out any kind of work. Mr Ollennu submitted that although the Respondent had remunerated Person A after July 2016, this was for work that had already been carried out. Mr Ollennu stressed that no work had been done by Person A after July 2016.
46. Mr Ollennu stated it was accepted that the Respondent should have sought advice on what he should do and whether he was contractually obliged to pay Person A under the terms of the arrangements they had reached. However, the Respondent had not taken such advice and had thought he was contractually obliged to pay Person A for work that had already been completed under their agreement. Whilst this was a serious matter, Mr Ollennu submitted the Respondent had not deliberately or blatantly flouted the rules without any care for the regulations of his profession. He submitted the Respondent had been negligent and had made a stupid mistake by failing to extricate himself from the situation.
47. Mr Ollennu stated the Respondent now accepted he should have reported the matter to the SRA but he reminded the Tribunal that Person B had also had a responsibility to report as the Principal of the practice but she did not do so. Instead, the Respondent had been left dealing with the consequences and Mr Ollennu submitted this was a matter to take into account in mitigation.
48. Mr Ollennu submitted that the Respondent accepted this was a serious matter but he reminded the Tribunal that there had been no allegation of dishonesty and although the Respondent had acted with a lack of integrity, the ultimate sanction did not need to be imposed. He submitted this had been an error in an otherwise exemplary record. The Respondent had not gained anything financially from his lapse of judgment. The Respondent was a person who worked hard and Mr Ollennu submitted he should not

ultimately be lost to the profession. He stated that the Respondent had been a director of Fairview Solicitors since October 2016 and there had been no issues. He had managed the firm well with no problems.

49. Mr Ollennu submitted the Respondent had learnt from his mistakes. The Tribunal was referred to a number of character references which had been provided, all of which testified to the Respondent being a person who worked exceedingly hard with integrity and honesty, and pride in his profession. Mr Ollennu submitted the Tribunal should consider whether the Respondent was redeemable, and would be able to continue to perform his duties, help his community and be a real beacon of the profession. He submitted that whilst there were three allegations, they all arose from one incident and he requested the Tribunal to give the Respondent another chance to prove he was capable of being a good solicitor who gave confidence to the public. Mr Ollennu asked the Tribunal to allow the Respondent the opportunity of continuing to work in the profession.

Sanction

50. The Tribunal considered carefully the Respondent's submissions and documents. The Tribunal referred to its Guidance Note on Sanctions when considering sanction. The Tribunal also considered the aggravating and mitigating factors in this case.
51. The Tribunal firstly considered the Respondent's culpability. The Tribunal accepted the submissions made by Mr Ollennu about the background to the allegations. The Respondent had been motivated by pity for Person A, having heard of Person A's personal difficulties and had been trying to help Person A to get back into work. The Tribunal concluded the Respondent had not acted deliberately but had been naïve. This had been an error of omission, in failing to make the proper checks necessary, rather than commission. Furthermore, as soon as the Respondent became aware in July 2016 that Person A was a struck off solicitor, he immediately terminated their arrangement and did not allow Person A to work on any client matters thereafter. The Tribunal accepted that, after July 2016, the Respondent had felt an obligation to pay Person A money for work which Person A had already done, which was to the Respondent's own detriment, as he could have kept that money for himself.
52. The Tribunal concluded the Respondent's conduct had not been planned, although took into account that he had been an experienced solicitor who had direct control over the circumstances and should have known that he needed to undertake the appropriate checks before entering into any work arrangement with Person A. The Tribunal assessed the Respondent's level of culpability as medium.
53. The Tribunal then considered the harm caused by the Respondent's conduct. He had caused harm to the reputation of the legal profession and harm had been caused to the client who had made a complaint that his immigration appeal had been dealt with by a struck off solicitor. Members of the public expected that when they attended a solicitor's office, they would be dealing with a qualified, competent and honest solicitor. The Respondent had effectively, albeit inadvertently, exposed clients and the public to a risk of harm by allowing a struck off solicitor, who had been convicted of a dishonesty offence for which he had received a lengthy prison sentence, to work within the legal profession.

54. The Tribunal then considered the aggravating factors in this case. The Respondent ought reasonably to have known that his conduct was in material breach of his obligations to protect the public and the reputation of the legal profession.
55. The Tribunal then considered the mitigating factors and identified those as follows:
- There appeared to have been an element of the Respondent being deceived by Person A to some extent in that it seemed Person A had not been entirely straight forward about his situation with the Respondent. As soon as the Respondent realised Person A had been struck off, he took immediate action to terminate their working arrangement.
 - This had been a single episode in an otherwise long unblemished career
 - The Respondent had made admissions at the start of the hearing, many of which were reflected in his written Answer
 - The Respondent had expressed remorse and regret through his representative
 - There were a number of good character references
 - The Respondent had cooperated with both his regulator and these proceedings.
56. The Tribunal determined that the Respondent's misconduct was very serious. Whilst he had been motivated by pity for Person A, he had nevertheless remunerated a struck off solicitor for work in two solicitors' practices on client files. This had undermined public trust in the profession. The Respondent had acted with a lack of integrity in failing to carry out the proper checks needed before allowing Person A to have access to client matters. The Tribunal concluded that No Order or a Reprimand would not address the level of seriousness. The Tribunal considered whether a Fine would be the appropriate sanction but concluded this was also insufficient. The Respondent had made a very serious error of judgment and a Fine would not be enough to mark the seriousness of the misconduct or the harm that had been caused to the reputation of the legal profession.
57. The Tribunal was satisfied that the Respondent was unlikely to repeat his conduct and indeed noted the Respondent had informed Person A, after July 2016, once he became aware that Person A was a struck off solicitor, that he would only be able to offer him work if the SRA granted him permission to do so.
58. The Tribunal was satisfied that remunerating a struck off solicitor for work on client files without obtaining the appropriate permission from the regulator was a very serious matter. The purpose of Section 41 of the Solicitors Act 1974 was to ensure struck off solicitors were not able to work in solicitors' offices save in exceptional circumstances with the permission of the regulator. That provision was in place to protect clients and the public as well as the reputation of the profession. Had the Respondent carried out basic checks to ascertain whether Person A was able to work in a legal firm, he would have become aware that Person A was a struck off solicitor. The Tribunal concluded that a period of Suspension of two years would be the appropriate sanction to reflect

the seriousness of the conduct, the damage to the reputation of the profession and to clients.

59. However, the Tribunal also took into account the Respondent had been deceived by Person A and that the Respondent had not deliberately flouted the rules. He had been negligent in not making the proper checks that he should have done and he had taken immediate steps to stop Person A working with him as soon as he became aware of the true position. In light of this, the Tribunal decided to suspend the Suspension for a period of two years and to impose a Restriction Order to cover the suspended period of Suspension. This would be sufficient to protect the reputation of the profession whilst being a proportionate and appropriate sanction taking into account the Respondent's mitigation. The Tribunal reminded the Respondent that although the Suspension was suspended for two years, it would be activated if there were to be any further misconduct by the Respondent.
60. The Tribunal Ordered the Respondent be suspended from practice as a solicitor for a period of two years, such Suspension to be suspended for a period of two years, with the following condition imposed to cover the suspended period of Suspension:
- The Respondent may not engage, remunerate or employ any person to provide legal services without the prior approval of the Solicitors Regulation Authority.

Costs

61. Mr Mulchrone had provided the Tribunal with Statements of Costs. Both parties confirmed the Respondent had agreed to pay the Applicant's costs in the sum of £24,000.
62. The Tribunal, having considered the Statement of Costs, noted the parties had reached agreement between them. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant's costs in the sum of £24,000.
63. **Statement of Full Order**
1. The Tribunal ORDERED that the Respondent, ALEXANDER OWUSU, solicitor, be suspended from practice as a solicitor for the period of 2 years to commence on 5 February 2020, such suspension to be suspended for a period of 2 years to commence on the same date, and the Respondent also be subject to the Restriction Order set out at paragraph 2 below.
 2. The Respondent shall be subject to the following condition imposed by the Tribunal for a period of 2 years:
 - 2.1 The Respondent may not engage, remunerate or employ any person to provide legal services without the prior approval of the Solicitors Regulation Authority.
 3. There be liberty to either party to apply to the Tribunal to vary the condition set out at paragraph 2 above.

4. The Tribunal further Ordered that the Respondent do pay the costs of and incidental to this application and enquiry agreed in the sum of £24,000.00.

DATED this 14TH day of April 2020
On behalf of the Tribunal



A. Ghosh
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

15 APR 2020