

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12021-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

EILISH ADAMS

Respondent

Before:

Mr J. P. Davies (in the chair)

Mr E. Nally

Mr S. Howe

Date of Hearing: 28 May 2020

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, made by the Applicant within a Rule 5 Statement dated 1 November 2019 were that:
 - 1.1 She authorised and/or caused misallocations of client funds, totalling around £1,271,012.94, between 3 January 2014 and 28 June 2018, which gave rise to a shortage on client account of around £421,496.14 as at 31 July 2018 in breach of, all or any, of the following:
 - 1.1.1 Principles 2, 4, 6 and 10 of the SRA Principles 2011 (“the Principles”);
 - 1.1.2 Rules 6 and 20.1 of the SRA Accounts Rules 2011 (“the SAR”).
 - 1.2 She failed to remedy shortages promptly on discovery in breach of, all or any, of the following:
 - 1.2.1 Principle 2 and 6 of the Principles;
 - 1.2.2 Rules 1.2(e), 1(2)(f), 6 and 7.1 of the SAR.
 - 1.3 She authorised bills for costs, totalling up to £75,694.39, in circumstances where:
 - 1.3.1 she had failed to submit an appropriate bill of costs; or
 - 1.3.2 the bill was in excess of the agreed fees; and/or
 - 1.3.3 the fees charged were excessive and not supported by further work she had undertaken;

and she therefore acted in breach of, all or any, of the following:

 - 1.3.4 Principles 2 and 6 of the Principles.
 - 1.4 She misappropriated the sum of around £4,365.00 from the firm's client bank account in breach of all, or any, of the following:
 - 1.4.1 Principles 2, 6 and 10 of the Principles;
 - 1.4.2 Rule 20.1 of the SAR.
 - 1.5 She created and/or obtained and deployed fabricated grants of probate in breach of, all or any, of the following:
 - 1.5.1 Principles 2 and 6 of the Principles.
2. In addition, dishonesty was alleged as an aggravating factor with respect to allegations 1.1, 1.3, 1.4 and 1.5.

Documents

3. The Tribunal had before it an electronic bundle containing the following documents:
 - Application and Rule 5 Statement dated 1 November 2019 (amended 28 January 2020) with exhibits

- Respondent's Statement of Means dated 5 May 2020 with supporting documents
- Applicant's statements of costs dated 1 November 2019 and 22 January 2020
- A "relevant correspondence" section comprising 33 pages
- Statement of Agreed Facts and Proposed Outcome (undated)
- Statement of mitigation (unsigned and undated)

Factual Background

4. The Respondent was admitted to the Roll on 1 November 2004. At the date of the Rule 5 Statement she held a current practising certificate. At the material time she was a director of The Law House Limited ("the Firm"). Following a number of complaints received by the Applicant regarding the Respondent's conduct in dealing with probate matters a forensic investigation commenced at the Firm on 30 August 2018. The investigation resulted in a report dated 28 February 2019 which gave rise to the allegations set out above.

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 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

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 her 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 to the requisite standard that the Respondent's admissions were properly made.
8. 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 admitted misconduct involving misallocations causing a shortfall of client funds, authorising unwarranted bills of costs, misappropriation of funds, the deployment of fabricated grants of probate together with the aggravating factor of dishonesty. Her culpability was high and the harm caused very significant.
9. The Respondent submitted a statement of mitigation, not agreed with the Applicant. This included extensive detailed personal medical and biographical information, and a description of work pressures at the relevant time. The Respondent stated she was profoundly sorry and ashamed of her actions and the harm caused to others. She stated that the statement was not to provide an excuse but to provide context. Within the Statement of Agreed Facts and Proposed Outcome it was stated that the Respondent did not contend that her mitigation amounted to exceptional circumstances which would justify the Tribunal making any order other than that she

be struck off the Roll. The Tribunal noted that the Respondent had been legally represented in the Tribunal proceedings.

10. The reference to “exceptional circumstances” within the Statement of Agreed Facts and Proposed Outcome was to SRA v Sharma [2010] EWHC 2022 (Admin) in which it was said that a finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances. The parties had stated that no such exceptional circumstances were present, and in light of the nature, scope and extent of the dishonest misconduct, including the personal benefit to the Respondent, the fact it was not momentary and included multiple steps to conceal her actions using false accounting, the Tribunal accepted that no exceptional circumstances within the meaning of Sharma or SRA v James et al [2018] EWHC 3058 (Admin) existed. The Tribunal considered that in the light of the admitted conduct the proposed sanction of strike off was appropriate, proportionate and in accordance with the Sanctions Guidance. Having determined that the proposed sanction was appropriate and proportionate, the Tribunal granted the application for matters to be resolved by way of the Agreed Outcome.
11. Given the extent of the highly personal information included throughout the Respondent’s statement of mitigation, and the fact the statement was not contended to raise exceptional circumstances, the Tribunal directed that the statement should not be published. Redaction would render the document essentially meaningless and the Tribunal did not consider that knowledge of the personal context and history provided by the Respondent would further public understanding of the decision reached given that it was submitted on the basis that it should not (and did not) affect the sanction imposed.

Costs

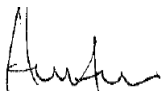
12. The parties agreed that the Respondent should pay the Applicant’s costs of these proceedings fixed in the sum of £25,000. The Tribunal considered the costs application to be appropriate and proportionate, and ordered that the Respondent pay the costs in the agreed amount.

Statement of Full Order

13. The Tribunal ORDERED that the Respondent, EILISH ADAMS, 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 £25,000.

Dated this 19th day of June 2020.

On behalf of the Tribunal



J. P. Davies
Chair

Number: 12021-2019

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

EILISH ADAMS

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 1 November 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 making Five allegations of misconduct against Eilish Adams. ("the Respondent")

The allegations

2. The allegations against the Respondent , made by the SRA within that statement were that:

"1.1 She authorised and/or caused misallocations of client funds, totalling around £1,271,012.94, between 3 January 2014 and 28 June 2018, which gave rise to a shortage on client account of around £421,496.14 as at 31 July 2018 in breach of, all or any, of the following:

- 1.1.1 Principles 2, 4, 6 and 10 of the SRA Principles 2011 ("Principles").
- 1.1.2 Rules 6 and 20.1 of the SRA Accounts Rules 2011 ("SAR").

1.2 She failed to remedy shortages promptly on discovery in breach of, all or any, of the following:

1.2.1 Principle 2 and 6 of the Principles;

1.2.2 Rules 1.2(e), 1(2)(f), 6 and 7.1 of the SAR;

1.3 She authorised bills for costs, totalling up to £75,694.39, in circumstances where:

1.3.1 she had failed to submit an appropriate bill of costs; or

1.3.2 the bill was in excess of the agreed fees; and/or

1.3.3 the fees charged were excessive and not supported by further work she had undertaken;

and she therefore acted in breach of, all or any, of the following:

1.3.4 Principles 2 and 6 of the Principles;

1.4 She misappropriated the sum of around £4,365.00 from the firm's client bank account in breach of all, or any, of the following:

1.4.1 Principles 2,6 and 10 of the Principles;

1.4.2 Rule 20.1 of the SAR.

1.5 She created and/or obtained and deployed fabricated grants of probate in breach of, all or any, of the following:

1.5.1 Principles 2 and 6 of the Principles;

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

1.1, 1.3, 1.4 and 1.5.

4. The test to be applied by the Tribunal, in considering the allegation of dishonesty, is the test as set out in *Ivey (Appellant) v Genting Casinos (UK) Ltd t/a Crockfords*

(Respondent) [2017] UKSC 6. Lord Hughes set out the test for dishonesty at paragraph 74 of the Judgment as follows:

5. "When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."
6. Essentially, there are two issues for the Tribunal to consider. Firstly, the actual state of mind of Mrs Adams including her knowledge or belief as to the facts and secondly, whether her conduct was dishonest applying the objective standard of ordinary standards of ordinary decent people.

Admissions

7. The Respondent admits the allegations and also admits that her conduct in acting as alleged was dishonest with respect to allegations 1.1, 1.3, 1.4 and 1.5
8. The SRA has considered the admissions made by the Respondent and has considered, in light of those admissions, whether the outcome proposed in this document is in the public interest having regard to the seriousness of the matters alleged. The SRA is satisfied that the admissions and outcome proposed are in the public interest and that it is a proportionate and appropriate way of resolving this matter. It is agreed that the

necessary and proportionate sanction to protect the public interest and reputation of the profession is for the Respondent to be Struck Off the Roll of Solicitors.

Agreed Facts

9. 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:

9.1 The Respondent resides at [REDACTED]. She was born on [REDACTED] and was admitted to the Roll on 1 November 2004. She does not hold a current practising certificate.

9.2 At the material time she was a director of The Law House Limited (“ the firm”), Unit 1, Kew Bridge Piazza, 8 Kew Bridge Road, London, Brentford, Middlesex, TW8 0FJ.

9.3 Following a number of complaints received by the SRA regarding the Respondent’s conduct in dealing with probate matters a Forensic Investigation commenced at the firm on 30 August 2018. The investigation resulted in a Forensic Investigation Report (“FIR”) dated 28 February 2019.

Allegations 1.1 and 1.2 - Authorising or causing to be authorised misallocation of client funds and failure to remedy shortages promptly on discovery

9.4 During the period 3 January 2014 to 28 June 2018 a number of irregular payments of client funds, totalling £1,271,012.94, occurred where funds, held on behalf of various deceased estates, were paid out to the beneficiaries of unrelated estates and/or utilised for the payment of expenses incurred in the administration of unrelated estates.

9.5 The inappropriate use and misallocation of client funds created an ongoing client liability in the firm’s books of account.

9.6 The misallocation of client funds was accommodated, in part, by way of further misallocations of funds from unrelated client matters resulting in a process known as “Teeming and Lading”.

9.7 As the teeming and lading of client funds equated with each other there was no obvious shortage on the firm's client account. In many instances the misallocation was disguised by a misleading narrative on the client ledgers.

9.8 All misallocations were authorised by the Respondent.

9.9 The client liability at 31 July 2018 caused by the teeming and lading gave rise to a shortage of £421,496.14 which has not been replaced by the Respondent. A further shortage of £694.39 remains outstanding from the overbilling detailed in Allegation 1.3 below.

Allegation 1.3 – Overbilling

9.10 During the period 1 July 2016 and 26 April 2018 bills totalling £75,694.39 were raised by the Respondent either:-

- i. Without submission of an appropriate bill of costs;
- ii. In excess of agreed fees; or
- iii. Where under the circumstances the fees charged were excessive and unjustified.

9.11 On 8 and 9 October 2018 the Respondent deposited £75,000.00 into the firm's office Bank Account.

9.12 On 9 October 2018 funds totalling £75,694.39 were transferred from the firm's office bank account into the client's client bank account to correct the position by the Respondent's business partner.

9.13 The transfer was allocated to the ledger cards where the overbilling occurred.

Allegation 1.4 – Misappropriation of £4,635.00

9.14 On 10 May 2017 the Respondent signed a payment voucher authorising the withdrawal of client funds held on behalf of the Estate of J O'B in the sum of £4,635.00 bearing the narrative "*Payment/Refund of expenses*".

9.15 On 10 May 2017 the aforementioned funds were withdrawn from the firm's client bank account and debited to the ledger card of another client, in accordance with the Respondent's instructions.

9.16 The monies were used to pay for the manufacture and purchase of jewellery by the Respondent from [REDACTED]

9.17 On 30 October 2018 [REDACTED] transferred the aforementioned sum from the office bank account to the client bank account.

9.18 On 2 November 2018 the Respondent reimbursed the office bank account.

Allegation 1.5 – Fabricated Grants of Probate or procured fabricated grants of probate

9.19 the Respondent was instructed to attend to, or assist in, the administration of various deceased estates.

9.20 In the process of doing so the Respondent forged or alternatively procured forged copies of eight Grants of Probate.

9.21 The Grants of Probate were utilised by the firm in the administration of the various estates, or alternatively provided to executors on the basis that the grants were genuine and could be used in the administration of the estates.

9.22 The Operations Manager of Cardiff and Bristol District Probate Registry and the Probate Manager, Ipswich District Probate Registry, confirmed that the grants were not issued by the relevant Registry.

10. The Respondent admits that her conduct was dishonest in accordance with the test for dishonesty laid down in Ivey and she admits that she acted dishonestly according to the standards of ordinary decent people.

11. The Respondent knew that:

11.1 the misallocations of client funds made by her were improper transactions and ones she attempted to conceal.

11.2 she had overbilled clients on matters dealt with by her because no bill of costs had been submitted, or they were in excess of the fee she had agreed with the client or they were excessive or unjustified.

11.3 she paid for jewellery for herself from client money and attempted to conceal this.

11.4 she had fabricated or procured forged copies of grants of probate as she had created them.

Non-Agreed Mitigation

12. Mitigation, which is not agreed by the SRA, is put forward by the Respondent in the form of a statement accompanying this statement of agreed facts and proposed outcome.

13. However, the Respondent 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

14. It is therefore proposed that the Respondent should be struck off the Roll of Solicitors.

15. With respect to costs, it is further agreed that the Respondent should pay the SRA's costs of this matter agreed in the sum of £25,000.00.

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

16. The Respondent 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)**).*"

17. 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...”

18. The Respondent misused clients' money over the period of around nine months and created and/or obtained and deployed fabricated grants of probate over a period of two years and six months. The Respondent has caused harm to her clients in these actions and harm to the trust the public places in solicitors. Client monies were being used to make distributions of funds and payments on other unrelated client matters and to pay for her jewellery. Clients were also being overcharged resulting in their monies being in the firm's office account. The Respondent attempted to conceal the misuse of clients' monies by false accounting. The Respondent has failed to protect clients' monies and has failed to remedy the client account shortage. The harm caused was reasonably foreseeable. Her level of culpability was correspondingly high. These were serious acts of dishonesty committed over an extended period which benefitted the Respondent to the detriment of her clients and the case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors.

19. In light of the misconduct identified and having considered the Solicitors Disciplinary Tribunal's Guidance Note on Sanctions, the SRA contends, and the Respondent accepts, that the proper penalty in this case is an Order that the Respondent be struck off the Roll of Solicitors.

Suzanne Jackson, Senior Legal Adviser
On behalf of the SRA

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Evan Wright, Solicitor JMW Solicitors LLP
On behalf of the Respondent