

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12039-2019

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

KATHERINE GILROY

Respondent

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Before:

Mrs A. Kellett (in the chair)

Mr M. N. Millin

Mr P. Hurley

Date of Hearing: 8 July 2020

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## **Appearances**

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

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## **JUDGMENT ON AN AGREED OUTCOME**

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## **Allegations**

1. The allegations made by the Applicant against the Respondent were set out in a Rule 12 Statement dated 19 December 2019 and were that:
  - 1.1 Between 19 July 2017 and 14 January 2018, she deliberately failed to disclose to her client, Mr AT, her supervisor and principal of the firm Ms SK and instructed counsel Mr LS, that the firm had received from Carpenters solicitors (“Carpenters”) acting for the Respondents:
    - (i) letters dated 19 July, 11 and 23 August, 8 September, 6 October, and 22 November 2017 about costs owed by Mr AT and enforcement of those costs; and
    - (ii) court orders dated 3 October and 21 November 2017 awarding costs against Mr AT;

in breach of all or alternatively any of Principles 2, 4 and 6 of the SRA Principles 2011 (“the Principles”).
  - 1.2 On 9 and 10 January 2018 she sent e-mails to Ms SK and Mr AT attaching draft letters to be sent to Carpenters solicitors for their approval, knowing that the e-mails and draft letters were misleading in breach of all or alternatively any of Principles 2 and 6 of the Principles.
  - 1.3 At 16:25 on the 10 January 2018 she purported to send by way of an e-mail the letter referred to in allegation 1.2 to Carpenters and to Ms SK knowing that the e-mail would not reach Carpenters as she had deliberately used an incorrect e-mail address for them. The e-mail was sent by the Respondent to mislead Ms SK into believing that she had sent the letter to Carpenters when she had not. The Respondent therefore breached all or alternatively any of Principles 2 and 6 of the Principles.
  - 1.4 At 16:30 on the 10 January 2018 she forwarded the e-mail referred to in allegation 1.3 to Mr AT in order to mislead him into believing that she had sent the e-mail attaching the letter to Carpenters when she knew that they had not received it as she had deliberately used an incorrect e-mail address for them and had received an e-mail notification at 16:26 informing her that the e-mail to Carpenters could not be delivered. The Respondent therefore breached all or alternatively, any of Principles 2 and 6 of the Principles.
2. Dishonesty was alleged against the Respondent in respect of all the allegations however, proof of dishonesty was submitted not to be an essential ingredient for proof of the any of the allegations.

## **Documents**

3. The Tribunal had before it an electronic bundle containing the following documents:
  - Statement of Agreed Facts and Proposed Outcome dated 23 June 2020 submitted by the parties

- A memorandum from a previous consideration (by a different Panel of the Tribunal) of the proposed Agreed Outcome dated 26 June 2020
- Letter from Saunders Law dated 7 July 2020

### **Factual Background**

4. The Respondent was admitted to the Roll of Solicitors in January 2017. At all material times she was employed as an assistant solicitor. She resigned from her employment in February 2018 following an investigation by her employer into the matters giving rise to the above allegations after which she self-reported to the Applicant. Following subsequent employment elsewhere as an assistant solicitor, the Respondent secured employment outside the legal profession and reportedly decided to leave the profession.

### **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. The proposed sanction was that the Respondent be struck off the Roll.
6. Through the Agreed Outcome the Applicant sought to withdraw the allegation of dishonesty on the basis of an undertaking from the Respondent that she would not apply for restoration to the Roll and a submission that it was not proportionate to proceed with a contested hearing on the dishonesty allegations in light of the admitted allegations and proposed sanction.

### **Findings of Fact and Law**

7. The Applicant was required to prove the allegations to the standard applicable in civil proceedings (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 differently constituted Panel that considered the Agreed Outcome proposal on 26 June 2020 had stated:
 

“The Statement of Agreed Facts and Proposed Sanction made reference to medical evidence contended to have affected the Respondent's actions at the relevant time. The Tribunal noted that it did not appear that the Respondent had received independent advice, and the Tribunal was keen to guard against the possibility of the Respondent feeling pressured into accepting the proposed sanction.”
9. Saunders Law had subsequently confirmed that the Respondent had received advice throughout the proceedings, fully understood the implications of the proposed Agreed Outcome and wished to proceed with the joint application. In the light of this

confirmation, the Tribunal reviewed all the material before it and was satisfied to the requisite standard that the Respondent's admissions were properly made.

10. The Tribunal considered the Guidance Note on Sanction (November 2019). The Respondent had admitted misconduct involving misleading her supervisor, failing to disclose correspondence on client matters and misleading her client. Notwithstanding the references to medical evidence, to which the Tribunal did not have access, such conduct was inevitably very serious and had the potential to cause very significant reputational harm to the profession.
11. In the specific circumstances of the Respondent's case, including the undertaking she provided to the Applicant that she would not apply to be restored to the Roll and the clear indication following the receipt of legal advice that she wished to proceed with the proposed Agreed Outcome, the Tribunal granted permission for the allegation of dishonesty to be withdrawn.
12. 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.

#### **Costs**

13. The parties agreed that the Respondent should pay the Applicant's costs of these proceedings fixed in the sum of £3,301. 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**

14. The Tribunal ORDERED that the Respondent, KATHERINE GILROY, 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 £3,301.

Dated this 22<sup>nd</sup> day of July 2020

On behalf of the Tribunal



A. Kellett  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**22 JULY 2020**

**IN THE MATTER OF THE SOLICITORS ACT 1974**  
**And**  
**IN THE MATTER OF KATHERINE GILROY**  
**BETWEEN:**

**SOLICITORS REGULATION AUTHORITY**

**And**

**Applicant**

**KATHERINE GILROY**

**Respondent**

<p><b>STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME</b></p>
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1. By its application dated 19 December 2019 which included a statement pursuant to Rule 12 Solicitors (Disciplinary Proceedings) Rules 2019, the Solicitors Regulation Authority (“SRA”) brought proceedings before the SDT against the Respondent.

**ALLEGATIONS**

2. The allegations in the proceedings against the Respondent are that:
  - 2.1 between the 19 July 2017 and 14 January 2018, deliberately failed to disclose to her client, Mr. AT, her supervisor and principal of the firm and instructed counsel [REDACTED], that the firm had received from Carpenters solicitors (“Carpenters”) acting for the Respondents:
    - (i) letters dated 19 July, 11 and 23 August, 8 September, 6 October, and 22 November 2017 about costs owed by Mr. AT and enforcement of those costs and
    - (ii) court orders dated 3 October and 21 November 2017 awarding costs against Mr. AT;

in breach of all or alternatively any of Principles 2, 4 and 6 of the SRA Principles 2011.

**2.2** On the 9 and 10 January 2018 she sent e-mails to [REDACTED] and Mr. AT attaching draft letters to be sent to Carpenters solicitors for their approval, knowing that the e-mails and draft letters were misleading in breach of all or alternatively any of Principles 2 and 6 of the SRA Principles 2011.

**2.3** At 16:25 on the 10 January 2018 she purported to send by way of an e-mail the letter referred to in allegation 2.2 to Carpenters and to [REDACTED] knowing that the e-mail would not reach Carpenters as she had deliberately used an incorrect e-mail address for them. The e-mail was sent by the Respondent to mislead [REDACTED] into believing that she had sent the letter to Carpenters when she had not. The Respondent therefore breached all or alternatively any of Principles 2 and 6 of the SRA Principles 2011.

**2.4** At 16:30 on the 10 January 2018 she forwarded the e-mail referred to in allegation 2.3 to Mr. AT in order to mislead him into believing that she had sent the e-mail attaching the letter to Carpenters when she knew that they had not received it as she had deliberately used an incorrect e-mail address for them and had received an e-mail notification at 16:26 informing her that the e-mail to Carpenters could not be delivered. The Respondent therefore breached all or alternatively, any of Principles 2 and 6 of the SRA Principles 2011.

3. Dishonesty is alleged against the Respondent in respect of all the allegations however, proof of dishonesty is not an essential ingredient for proof of the any of the allegations.

### **ADMISSIONS**

4. The Respondent admits all the allegations save for dishonesty.
5. In light of the admissions, the proposed sanction of strike off and an undertaking to the SRA from the Respondent that she will not apply for restoration to the roll, the SRA applies to withdraw the allegations of dishonesty.
6. The SRA considers that it is not proportionate to proceed with a contested hearing on the dishonesty allegations in light of the matters detailed in the preceding paragraph.

### **BACKGROUND**

7. The Respondent, Ms. Gilroy, [REDACTED] was admitted to the Roll of Solicitors on the 16 January 2017.
8. The Respondent joined the firm as a paralegal in July 2014 and undertook her training contract at the firm, specialising in commercial work. At all times material to this application the Respondent was employed as an assistant solicitor at the firm.
9. She was suspended by the firm on the 24 January 2018 after she admitted to her supervisor, [REDACTED] that she had concealed receipt of letters on a client matter.
10. The Respondent resigned from the firm on the 7 February 2018 after had completed a detailed investigation and provided to her a copy of her report to the SRA which included concerns that the Respondent had:
  - Failed to disclose the existence of correspondence from the client's opponent's solicitors;
  - Failed to disclose the existence of court orders;
  - Been untruthful to her and retained counsel about the correspondence and the court orders; and
  - Knowingly used a false e-mail address when sending a letter agreed by and copied to the client and her, such that the letter was not sent to Carpenters when it was said to have been sent.
11. -[REDACTED] sent her report to the SRA on 7 February 2018.
12. On the 8 February 2018 the Respondent made a self-report to the SRA admitting that she had failed to disclose letters and court orders, admitting to preparing a draft letter to Carpenters stating that the applications had been made without notice and not served on the firm and admitting to using an incorrect email address for Carpenters so that the letter would not reach them.
13. The Respondent was subsequently employed as an assistant solicitor in the corporate commercial team at Sherrards Solicitors LLP. She has now resigned that post and has secured employment outside the profession.
14. Her current practicing certificate expires on 31 October 2020. She is however not currently practicing as a solicitor and has decided to leave the profession.

#### **AGREED FACTS**

15. The firm acted for the client in pre-action disclosure against AR Limited & Mr. SS arising out of a claim by Mr. AT against his business partner. Mr. AT had been client

of the firm since January 2012 and Counsel, [REDACTED] had been retained from December 2014 to advise generally and in 2017 to draft the application for pre-action disclosure. The Respondent had dealt with Mr. AT from around September 2014.

16. [REDACTED] was the Respondent's supervisor and oversaw her handling of the case. [REDACTED] worked together with the Respondent on this matter and expected to be copied into all correspondence. In early 2017 the firm made an application for pre-action disclosure to the court. The application was successful and on 26 April 2017 the court ordered AR Limited & Mr. SS to disclose documents to the client and subject to compliance with disclosure the client was ordered to pay costs of £1500 plus VAT ("the original court order").
17. Disclosure of the documents was made by Carpenters towards the end of May 2017.

#### **Letters and Court Orders received by the Respondent and not disclosed**

18. Carpenters sent the following letters and served the following Court Orders on the firm and they came to the attention of the Respondent as the fee earner with conduct of the case:
  - a letter dated 19 July 2017 seeking payment of the costs pursuant to the original court order and enclosing a costs statement;
  - a letter dated 11 August 2017 referring to their previous letter dated 19 July 2017, again requesting payment of their costs;
  - a letter dated 23 August 2017 which placed the firm on notice that if payment of their costs was not received within 7 days, then Carpenter's would apply for an Order compelling payment and seek associated costs of and occasioned by the application.
  - a letter dated 8 September 2017 confirming that the 7-day deadline had lapsed, and that Carpenters were now proceeding to make an application to recover the costs payable to their client;
  - a letter dated 6 October 2017 enclosing a Court Order ("3 October Court Order") dated 3 October 2017 requiring the client to pay £2700 within 14 days;
  - a letter dated 22 November 2017 enclosing a Court Order dated 21 November 2017 ("21 November Court Order") transferring the costs proceedings to the Country Court Money Claims Centre for the purposes of enforcement. The Order required the client to pay the costs of the application in the sum of £400 within 14 days.



19. The Respondent failed to disclose the letters and the 3 October and 21 November Court Orders to her client, [REDACTED] or Counsel despite being in contact with them throughout the period in which she received them. Further she wrote independently to Carpenters on the 30 August 2017 in response to their letter of the 23 August 2017 in which she requested that they take no action in the next 7 days. However, she failed to take any action or bring the matter to the attention of the client.

#### **Discovery of Court Orders and subsequent events**

20. On the 19 December 2017 Carpenters wrote directly to the client providing him with a copy of an interim charging order dated 4 December 2017 in favour of Mr. SS, that they had obtained over his property and a copy of their application for the order dated 25 November 2017.
21. Carpenter's application included the 3 October and 21 November Court Orders, which totaled £3100. The interim charging order charged the client's property with payment of £3100 because the client had failed to pay the original Court Order and the Court Orders dated 3 October and 21 November.
22. On the 21 December 2017, the client emailed the Respondent, copying in [REDACTED]. In his email he attached the Interim charging order and documents received, pointing out that he had not received the original court documents and was remarkably surprised to see them in light of the firm's letter to Carpenters in which they referred to him making payment of the costs once all the documents had been disclosed.
23. On the 21 December 2017, the Respondent replied to the client thanking him for the email and documents which she would review and revert to him. She failed to make any reference to the 3 October and 21 November Court Orders that were served on the firm. She also failed to make any reference of her knowledge of them to [REDACTED] who had asked her to review the documents and explain the situation to the client.
24. On 5 January 2018, there was a phone call between the Respondent and [REDACTED] in which it was agreed that the Respondent would review the orders received and to send papers to counsel to advise.
25. The Respondent emailed counsel on the 5 January 2018 attaching the documents received from the client. In the email the Respondent said "*This appears to relate to the £1500 + VAT that he is required to pay to SS/ARL once they have complied with the order. As you know we have stated in correspondence that payment will be made subject to their compliance with the order. As they have not fully complied*

*with the order, the funds have not yet been paid.*”The final letter sent to Carpenters on the 18 October 2017 did not in fact contain the statement she referred to.

26. On 8 January 2018, [REDACTED] reviewed the court orders and documents received by the client and set out a series of questions and issues for the Respondent to review and research prior to a discussion with counsel. The questions and issues related to the court orders and applications made for them. The Respondent again failed to disclose her awareness of the court orders to
27. On the 9 January 2018, the Respondent had a teleconference with counsel about the court orders received by the client. She failed to inform him of the letters and court orders that the firm had previously received.
28. Counsel’s advice was that they should apply to set aside the court orders as they were made without notice and to write to Carpenters referring them to the firm’s 18 October 2017 letter in which they stated that costs would be paid once they were satisfied with the defendant’s compliance with disclosure and that reference should also be made to Carpenter’s letter of the 10 November 2017 in which Carpenters made no mention of applications.
29. Counsel further advised that explanations should be sought from Carpenters as to why applications were made without notice. A summary of the Respondent’s discussion with counsel was emailed by the Respondent to [REDACTED] on the same day.

#### **Letter to Carpenters and misleading e-mails**

30. The Respondent on the same day as receiving counsel’s advice, prepared a draft letter to be sent to Carpenters. The letter was sent to the client, [REDACTED] and to counsel for their approval.
31. The draft letter to Carpenters included a number of assertions known to the Respondent to be incorrect or disingenuous. They included saying:
  - *without notice nor providing us with a copy of the application dated 25 September 2017, you have obtained an order against our client dated 3 October 2017 for the payment of the sum of £1500 + VAT plus costs...*”
  - *“We refer you back to our letters dated 11 May 2017 and 18 October 2017 in which we made explicitly clear that a) Our Client would pay the appropriate sum upon receipt of confirmation of Your Clients incurring such sums and us being satisfied that the order dated 26 April 2017 had been complied with....”*

- “ you responded to our letter dated 18 October 2017 (and follow up letter dated 2 November 2017) on 10 November 2017. You stated that you would take instructions and respond to the issues raised in our letter. Extraordinarily, you made no reference to any applications for enforcement of the 26 April 2017 order, notwithstanding that your second application to the court appears to have been submitted the previous day.....”
- “please confirm why you sought to make the applications dated 25 September 2017 and November 2017 without notice and failed to provide us with a copy of these applications.”

32. In the draft letter to Carpenters, the firm requested copies of the various applications and orders and expressed their intention to set them aside and to object to the charging order. The letter also contained a without prejudice offer to pay £1800.
33. The draft letter was sent to the client on the 9 January 2018 with a covering email in which the Respondent said the following “*the position in essence is that these applications have been made without notice to us and we will need to seek evidence of these applications to understand why and how they have been able to do this....*”. The Respondent had, prior to sending the email to the client sent it to [REDACTED] for her approval.
34. The client replied on the same day giving his approval to the letter.
35. A copy of the draft letter was also sent to Counsel on the same day.
36. The Respondent sent an amended draft letter to the client on the following day, copying in [REDACTED]. On the advice of counsel, the without prejudice offer to pay £1800 had been removed from the letter. Carpenters were invited to withdraw the charging order application and their confirmation was sought by no later than 10am on Friday 12 January. The client gave his approval to the amended letter on the same day.
37. The Respondent purported to send the final letter to Carpenters on the 10 January 2018. At 16:25 on the 10 January 2018, the Respondent sent the final letter to two email addresses. One email address was for [REDACTED] and the other had the appearance of an email address at Carpenters. The email address she used for Carpenters was: [REDACTED]. The email address that the Respondent had previously used to correspond with Carpenters was [REDACTED] ”<sup>29</sup> (emphasis added).

38. At 16.26 on the same day, the Respondent received a delivery failure notice email informing her that the email sent to Carpenters at the address [REDACTED] " could not be delivered as recipients domain name did not exist. Despite receiving the delivery failure notice the Respondent forwarded the email that she sent to Carpenters at 16:26 to the client four minutes later at 16.30.
39. On the 14 January 2018, the Respondent informed [REDACTED] that she had not sent the letter to Carpenters as it was not true and that she had been aware of the court orders.
40. On the 24 January [REDACTED] queried with the Respondent as to the sending of the letter to Carpenters on the 10 January 2018. The Respondent informed [REDACTED] that she had sent the e-mail, but it would never have reached the firm because she sent it to the wrong address.

#### **Remedial action by firm**

41. The firm paid £3100 in satisfaction of the money owed by the client under the 3 October and 21 November Court Orders and paid further costs incurred by Carpenters of £386. A restriction was placed on the client's property, despite the firm's actions and objections to the same. The restriction was ultimately removed from the client's property by an application made by Carpenters.

#### **Respondent Self-report**

42. In her self-report the Respondent says that she struggled to deal with the pressures of working in a small law firm and detailed her issues with work-related anxiety and depression during her time at [REDACTED] and the medication that she taken and time taken off work as a result during her training contract. Specifically, in respect of her handling of the client AT matter, she says:
- by the time she received Carpenter's 19 July 2017 letter, she had not carried out a detailed financial review of the disclosed documents and she did not have time to deal with the letter due to her other workload;
  - she panicked when she received the 11 August 2017 letter. She had not disclosed the first letter and because the second letter referred to the earlier letter, she did not feel that she could say that the second letter had arrived;
  - she was afraid of what the consequences would be from her employer if she explained that she had not dealt with the initial correspondence; and

- at the time she believed that if she wrote to Carpenters setting out their client's failure to deal with the disclosure order then this would deal with the issue of payment of costs;
- The letter received from Carpenters dated 23 August 2017 was received on the 30 August 2017 and she sent a holding letter to Carpenters. She believed that costs could be resolved if the draft letter was sent to Carpenters;
- By the time she received the 8 September 2017 letter about enforcement of the costs, she was panic-stricken and did not disclose the letter;
- She was at a loss of what to do when she received the court orders and so did not disclose them;
- By early January she felt like she was in a hole and did not know what else to do. She could not see a way out. She admits preparing a draft letter stating that the Respondent's solicitors had made the applications without notice and not served the court orders on the firm;
- She admits to informing the client and the principal that the letter had been sent to the Respondent's solicitors by copying her principal into an email and forwarding the email to the client;
- At a loss what to do she used an incorrect email address for the Respondent's solicitors and therefore did not actually send the letter to the Respondent's solicitors;
- She realised that she made an error of judgment and she had to explain to the client and the firm what happened. She had failed to deal with correspondence at the relevant time and the matter had escalated to such a point that she knew she had done the wrong thing and needed to put things right;
- She knew that she found herself in a complete mess and due to workload pressures and being too afraid to own up to what happened until much later than she should have done;
- She knew it would have been wrong to write to Carpenters and send the draft letter that had been prepared and so whilst she took steps so that the client and principal thought it had been done, she could not actually send the letter as it was not the right thing to do.

43. During the SRA investigation the Respondent provided several pieces of medical evidence showing that she had a history of work-related stress during her time at [REDACTED] for which she had received medication over an extended period.

### **Allegation 1.1**

44. The Respondent should have disclosed all the letters she received from Carpenters to the client when she received them. They were relevant to his liability for costs and to enforcement of the disclosure order. She should also have disclosed the letters to [REDACTED] as she was her supervisor in the case and to counsel as it was relevant to advice he was asked to provide.
45. Instead of disclosing the letters received she deliberately withheld them because she had failed to carry out necessary work in order to respond to them and having failed to bring the first letter to the attention of [REDACTED], decided to withhold the subsequent letters and the 3 October and 21 November Court Orders as she was afraid of being criticised by .
46. It would have been apparent to her, by the time she received the 3 October Court Order that resolution of the costs was unlikely. It is of note that the final letter dated 18 October 2017 to Carpenters did not include reference to the client paying costs on compliance with the disclosure order although the draft letters did. By the time that the 18 October 2017 letter was sent to Carpenters, the Respondent was aware that they were seeking to enforce the costs order against the client.
47. The Respondent had ample opportunity to bring the letters and Court Orders to the attention of the client, [REDACTED] and counsel as she was in regular contact with them.
48. The Respondent could have sought the client's instructions on costs when she obtained a seven-day extension to respond to Carpenters letter of the 23 August 2017, but she did not mention this when she chased the client for instructions on her draft letter. She failed to bring the letters and 6 October Court Order to the attention of counsel when he was instructed to carry out a costs-benefit analysis of seeking to enforce the disclosure order in November 2017.
49. Again, the Respondent had an opportunity to disclose the letters and 6 October

Court Order at the conference attended by her client, counsel, and [REDACTED] on 17 November 2017. She did not take that opportunity and despite receiving the 21 November 2017 Court Order transferring the proceedings for enforcement, she remained silent.

50. The Respondent continued her silence despite the client writing directly to her in December 2017 on receipt of the Court Orders and the interim charging order and expressing his surprise considering the firm's letter to Carpenters dated 18 October 2017. She subsequently made no mention to [REDACTED] of her knowledge of the letter and Court Orders and sought advice from counsel as to what action to take in respect of them.
51. Once the existence of the Court Orders came to light, the Respondent's failure to disclose that they had been served on the firm had the effect of misleading her client, [REDACTED] and counsel into believing that the Court Orders were made without notice to the firm.
52. The Respondent acted without integrity in breach of Principle 2 of the SRA Principles 2011 in failing to disclose the letters and Court Orders which had the effect of misleading her client, [REDACTED] and counsel.
53. She failed to act in the best interests of her client in breach of Principle 4. It is in the best interests of clients for solicitors to bring all relevant correspondence and orders within litigation to their attention so they are aware of the issues raised in them and can take appropriate action in respect of them.
54. The Respondents failure to disclose the letters to her client resulted in the client being unaware of Carpenters request for payment of their costs or the threat of enforcement action for non-payment. Further it precluded the client an opportunity to resolve the issue of Carpenters costs before they took enforcement action.
55. The Respondent's failure to disclose the Court Orders resulted in her client being unaware of their existence until they were served on him by Carpenters some months later. By that time, the time limit for compliance with the Court Orders had expired and so had the time limit in which to vary or set them aside. The Respondent's failure to disclose the Court Orders prevented her client an opportunity to comply with or challenge them.
56. It was clearly not in the best interests of the client for him to be misled into believing

that the Court Orders had been obtained without notice to the firm after they had been served on him by Carpenters.

57. The Respondent's actions resulted in an interim charging order being placed on her client's property and ultimately a restriction.
58. The Respondent also acted in breach of Principle 6 as she behaved in a way that undermines public trust in her. The public trust solicitors to bring all relevant matters to the attention of their clients, in particular matters concerning their liabilities for costs. The public would not expect solicitors to deliberately conceal relevant correspondence and Court Orders from their clients.
59. The public also trust solicitors to provide counsel with all relevant information when seeking advice from them on behalf of their clients. They do not expect solicitors to mislead counsel by failing to disclose to them relevant matters which have a direct impact upon the advice sought.

### **Allegation 2.2**

60. The draft letters sent by the Respondent to her client and [REDACTED] on the 9 January 2018 contained false and disingenuous assertions as she knew:
  - that the firm had received notice from carpenters that they were going to make an application to the Court to compel the payment of costs, before the 3 October Court Order was made;
  - that the firm's letter to Carpenters dated 18 October 2017 did not contain a statement that the client would pay costs upon receipt of confirmation from their client of costs incurred and upon the firm being satisfied that the order of the 26 April 2017 had been satisfied;
  - although Carpenters did not make any reference applications to enforce costs in their letter of the 10 November 2017, she had previously received letters from them dated 23 August and 8 September 2017 about enforcement of the costs and had received the 3 October and 21 November Court Orders, ordering the client to pay costs and transferring the costs proceedings to the Country Court Money Claims Centre for the purposes of enforcement.
61. The Respondent's covering e-mail to the client dated 9 January 2018, a copy of which had also been sent to [REDACTED] for her approval contained a similarly false assertion that Carpenter's applications had been made without notice to the firm.
62. On the 10 January 2018, the Respondent sent an amended draft letter to her client



which contained the same false and disingenuous assertions.

63. The Respondent admitted to [REDACTED] on the 14 January 2018 that the letter to Carpenters was not true as she was aware of the court orders.
64. The Respondent acted without integrity in breach of Principle 2 in sending letters and emails to her client and supervisor which she knew contained false and disingenuous assertions. She also acted in breach of Principle 6 as public trust in her would be diminished as a result of her sending the letters and emails to her client and to her supervisor.

### **Allegation 2.3**

65. The Respondent knew that the letter she had drafted contained untruths and therefore she decided not to send it to Carpenters, however she wanted to give the impression to [REDACTED] that she had sent it. Therefore, on the 10 January 2018 she deliberately used an incorrect email address for carpenters when sending them the final letter. She copied [REDACTED] into the email to Carpenters so that she had sent them an email attaching the final letter.
66. The Respondent was aware that she had used an incorrect email address for Carpenters as she had previously used a correct email address when corresponding with the individual at Carpenters. Further, the correct email address appears on every letter that Carpenters served on the firm.
67. The Respondent admitted to [REDACTED] that she had deliberately used an incorrect email address.
68. In deliberately using an incorrect email address for Carpenters and misleading [REDACTED] into believing that she had sent an email attaching a final letter to Carpenters, the Respondent acted without integrity. Further her conduct diminishes the trust placed in her by the public.

### **Allegation 2.4**

69. The Respondent knew that the email to Carpenters sent at 16:25 on the 10 January 2018 had not been delivered as she had received a delivery failure notice a minute after sending it because she had used an incorrect email address. However, four-minutes after receiving the delivery failure notice, she forwarded the email that she had sent to Carpenters to the client. This was to mislead the client into believing that she had sent the final letter to Carpenters when she had not.
70. In deliberately forwarding the email to Carpenters to her client, knowing that the email had not been delivered to Carpenters and misleading her client into believing

that she had sent an email attaching a final letter to Carpenters, the Respondent acted without integrity. Further her conduct diminishes the trust placed in her by the public.

### **MITIGATION**

71. The following mitigation is advanced by the Respondent. It is not endorsed by the SRA:

- That she was under significant pressure working for [REDACTED] , was struggling to cope with her workload and feels she did not have the support she needed at the time. For the majority of the Respondent's time at [REDACTED] the workforce consisted of the Respondent and [REDACTED] meaning that the Respondent's workload consisted of administration, marketing, accounting, credit control, office management, being the first point of contact for all clients and for any office enquiry, as well as her training and legal work;
- She was a newly qualified solicitor at the relevant time and yet was required to carry significant responsibility within the firm. She described in evidence to the SRA feeling like she was "carrying the weight of an entire law firm on [her] [REDACTED] shoulders";
- She had a history of work-related anxiety and depression whilst working at [REDACTED] , resulting in her physically collapsing, taking medication and taking time off work. The Respondent has had no such issues in any workplace since leaving [REDACTED]
- [REDACTED] was fully aware of the Respondent's workload, and the Respondent believes she did not put adequate systems or resources in place to support the Respondent or the firm;
- She was overwhelmed with work and panicked when she received the letters from Carpenters. She was afraid of the consequences from her employer of having failed to reply to them or disclose them. Her intention had been to resolve the situation until it escalated outside of her control;
- [REDACTED]

. The impacts of this manifested on this one file, and she recognizes that she was not making clear and proper decisions during 2017 and early 2018;

- The symptoms of depression which she suffered, particularly anxiety, poor concentration and exhaustion, impeded her ability to do her job;
- She was not dishonest and at no time had any malicious intent or desire to benefit from the situation;
- She did not financially benefit from her wrongdoing;
- She has an otherwise unblemished regulatory record during her short legal career;
- She self-reported to the SRA and her report was only made after [REDACTED] as a result of an agreement that both she and the firm would report together;
- She co-operated fully with the SRA throughout the investigation;
- She apologizes for her actions, sincerely regrets them and has insight into her wrongdoing;
- She has suffered personally, financially and through her mental health as a result of the disciplinary proceedings, and has voluntarily left the legal profession.

### **PROPOSED SANCTION**

70. The proposed sanction is that the Respondent be struck off the roll and that she pays the SRA costs in the fixed sum of £3,301.
71. Further the Respondent undertakes to the SRA not to apply to be restored to the roll.

**Explanation as to why the sanction is in accordance with the SDT's guidance note on sanction**

72. The Respondent's culpability for her conduct is high although it is mitigated by her suffering from depression and her level of experience.
73. She was the fee earner in respect of the client matter and only she was aware that the firm had received the letters and Court Orders. She deliberately concealed them from her principal, her client and counsel over a 7-month period and this led to defendant's solicitors obtaining an interim charging order and a restriction over her client's property.
74. The Respondent failed to disclose her knowledge of the letters and Court Orders despite them coming to light by reason of the defendant's solicitors serving the same on her client. She only admitted her knowledge of the letters and Court Orders when discovery of the same was inevitable, having purportedly sent a letter to the defendant's solicitors in relation to setting aside the orders on the basis of lack of notice, when she knew that they had given notice.
75. The letter was never received by Carpenters as the Respondent deliberately used an incorrect e-mail address to send it. Nevertheless, she forwarded the email to the client and her principal to give them the impression that it had been sent.
76. The Respondent's conduct caused harm to the client, financial harm to the firm as well as harm to the confidence and reputation of the profession.
77. The aggravating features of the Respondent's conduct include the following;
- The conduct was deliberate, calculated and repeated;
  - The conduct was over a 7- month period;
  - The conduct involved misleading her principal, client and counsel;
  - She concealed her wrongdoing by preparing a misleading letter and purported to send it;
  - The Respondent should have known or ought reasonable have known that her conduct was in material breach of her obligations to protect the public and the reputation of the profession.
  - There was potential harm caused to the client as although the firm paid to remove the restriction on his property, the interim charging order and restriction on his property could have affected his creditworthiness.
78. The Respondent's conduct involves a very serious lack of integrity over a lengthy period. In the circumstances, neither a reprimand, fine nor suspension is warranted. A strike off is the appropriate sanction to protect the public and to uphold public confidence in the profession. The sanction is proportionate to the admitted acts of misconduct.

Dated 23 June 2020

Signed.....

Katherine Gilroy (Respondent)

Signed ...

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