

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12057-2020

BETWEEN:

PAUL IFEANYI OKAFOR IWEZULU

Applicant

and

SOLICITORS REGULATION AUTHORITY

Respondent

Before:

Mrs A. Kellett (in the chair)

Mr W. Ellerton

Dr P. Iyer

Date of Hearing: 20 May 2020

Appearances

The Applicant appeared in person.

Emma Priest, solicitor, of The Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Respondent.

**JUDGMENT ON REMOTE APPLICATION
TO TERMINATE A RESTRICTION**

Application

1. This matter came before the Tribunal on 20 May 2020 on the Applicant's application dated 17 February 2020 to terminate a condition imposed on him following a hearing before the Solicitors Disciplinary Tribunal on 2 February 2016. On that occasion, the Tribunal made the following Order:
 - The Applicant be Reprimanded.
 - The Applicant may not practise as a sole practitioner, partner of a Recognised Body or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS).
 - The Applicant pay the SRA's costs of £1,000.00.
2. The allegation admitted by the Applicant and found proved on 2 February 2016 was that:
 - He failed to carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 and/or failed to protect client money and assets in breach of Principle 10 of the Principles in that:
 - he failed to ensure compliance with the SAR 2011;
 - he failed adequately, or at all, to supervise staff employed by the Firm; and
 - he had no understanding of, or effective control over the finances of the firm despite being a signatory on at least one of its bank accounts.

Documents

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

Applicant:

- Application dated 17 February 2020 and draft Order
- Decision of an Authorised Officer of the Solicitors Regulation Authority dated 31 January 2020
- Applicant's Undated Supplementary Statement and attached Exhibit Bundle

Respondent:

- Submissions on behalf of the Solicitors Regulation Authority dated 31 March 2020 together with attached bundle
- The Respondent's Statement of Costs dated 14 May 2020

Witnesses

4. No witnesses gave evidence.

Submissions of the Applicant

5. The Applicant requested the Tribunal to remove the restriction on his practising certificate, which had been imposed in 2016 after a Tribunal hearing, which had related to events from 2013. The Applicant referred the Tribunal to his witness statement and attached documents.
6. The Applicant informed the Tribunal that the Solicitors Regulation Authority (“SRA”) had also imposed a restriction on his practising certificate in 2013 but that had recently been removed. The condition was that: *“Mr Iwezulu is not a manager or owner of any authorised body or a non-SRA authorised firm.”* This was removed in January 2020. As such the Applicant now requested the Tribunal to lift its condition. He submitted that it would be disproportionate for that restriction to remain in place.
7. The Applicant submitted he had done everything he could to co-operate and support the SRA. He stated that at the original Tribunal hearing, the only criticism made of him was that he had not exercised much due diligence and that had resulted in issues. The Tribunal at that time had been satisfied that there was no likelihood of repetition.
8. The Applicant confirmed that he was currently practising at JP Law Ltd Solicitors and there had been no concerns reported. He stated that he was a Consultant at this firm, and although he was not an employee, he was supervised. The Applicant confirmed JP Law Ltd were supervised themselves by the Legal Aid Agency.
9. The Applicant also confirmed that he had enrolled on an online training course which was ongoing. It was a course dealing with regulation matters. The Applicant stated that, in addition, he was doing some online training in immigration law. He was also a member of an online immigration law group and received e-books from them. He stated he was also doing online courses around legal procedure.
10. The Applicant stated that he had no intention to set up his own practice. He had previously been working in the law for 40 years without any problems. He was still a member of the Nigerian Bar. The Applicant stated that he was now 80 years of age and his primary aim was to leave the law with a clean record, as he had entered it. He stated this was the only profession he knew. He had been subject to the conditions imposed by the SRA since 2013. That had been for 7 years and he now pleaded with the Tribunal to remove the restriction the Tribunal had imposed. The Applicant accepted that the integrity of the profession and public protection were paramount but submitted he no longer posed any risk to the public.
11. In his witness statement, the Applicant stated that he had been practising as a barrister and a solicitor in Nigeria since 1985 and had been admitted as a solicitor in the UK in 2008. He provided details of his work history within the UK. In relation to the matters which came before the Tribunal in 2016, the Applicant submitted he had demonstrated full insight and co-operation. He submitted he had been a victim of fraud perpetrated by the clients of the firm where he had been working at the time. That fraud had been

perfected even before he joined the firm, and he submitted that his turpitude, by omission, had been low. The Applicant stated he had demonstrated honesty and integrity and there was no risk of repetition of his previous omissions.

12. References were also provided.

Submissions of the Respondent

13. Ms Priest, on behalf of the Respondent authority, confirmed that the SRA was neutral in relation to the application. She referred the Tribunal to her written submissions dated 31 March 2020.
14. Ms Priest stated that it was accepted the Applicant had only been working at the offending firm for a short period of time, and indeed had been absent from that firm for a considerable part of that period. It was also accepted that the Applicant had not been involved in the conduct and that he had been used by the firm, in effect also making him a victim. However, Ms Priest submitted that the Applicant's culpability was more than minimal as he had been a partner at the time and should therefore have exercised some control over the firm and its finances.
15. Ms Priest confirmed that the SRA had granted the Applicant a practising certificate free from conditions earlier this year. She reminded the Tribunal that if the Applicant wanted to be an owner or manager of a firm, he would have to make a specific application to the SRA first.

The Tribunal's Decision

16. The Tribunal had carefully considered all the documents provided and the submissions of both parties. The Tribunal had due regard to the Applicant's rights to a fair hearing and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Tribunal referred to its Guidance Note on Sanction (2019) as well as its Guidance Note on Other Powers of the Tribunal (2019) when considering whether to lift the Restriction.
17. The Tribunal took into account the comments made by the previous Division of the Tribunal which had dealt with this matter in 2016. At that time that Division had commented as follows:

“140.....The Tribunal found that the [Applicant] was as much a victim as the parties who were subject to the fraudulent transactions. He had been given the post under false circumstances with the aim of providing the Firm with the ability to perpetrate the frauds; without a solicitor, the Firm would not have been able to undertake the conveyancing matters.....The Tribunal found that the [Applicant]'s misconduct was by way of omissions, in that he failed to perform the due diligence of the Firm, and failed to ensure that the staff of the Firm were supervised.

141. The Tribunal found that there was no departure, by the [Applicant] of the required standard of integrity, probity and trustworthiness. Further, he had little

opportunity to prevent the frauds from taking place. Although the harm caused was great, this was not caused by the [Applicant]; he did not orchestrate the frauds or have any active role..... The [Applicant] derived no financial benefit from those transactions, and in fact had not been paid his agreed salary for the time that he was employed with the Firm.

142..... The Tribunal determined that the [Applicant] had been drawn unwittingly into the fraud, which had been carefully planned, and he had only a very brief opportunity to expose it. He had co-operated in full with the [SRA], and, with the benefit of legal advice had shown insight into his misconduct and had accepted and admitted the allegations against him.....

.....

144..... Although significant harm had been caused, this had not been caused by his actions; he had no involvement with the fraudulent transactions. He had himself been used so as to provide a front for the Firm, and had been manoeuvred into the situation.....

145. The Tribunal considered that there was no likelihood of the [Applicant] repeating the misconduct, given the very particular circumstances in which the admitted and proven misconduct had occurred, and given the restriction it was placing on his ability to practice. The Tribunal determined that the protection of the public and the reputation of the profession did not require more than a Reprimand in addition to the restriction.”

18. It was clear that the Tribunal in 2016 had been satisfied that the Applicant’s involvement in the misconduct had not been intentional and he had been a victim. This was reflected by the Reprimand imposed along with the restriction. The Tribunal noted that the SRA had lifted its own restriction on the Applicant’s practising certificate on 31 January 2020 and had stated that it was not necessary in the interests of the public to impose any practising certificate condition.
19. The Tribunal found the Applicant to be genuine and sincere. He had shown remorse and insight and had clearly learnt a hard lesson. He had co-operated fully with the regulator. The Tribunal was satisfied that he did not now present any risk to the public. The Applicant had made it clear that he intended to work only as an employee in the future. Even if he changed his mind, the Tribunal was mindful that he would need to obtain prior authorisation from the SRA.
20. The Tribunal also took into account the references provided, which spoke highly of the Applicant and his work. One of those references was from his current employer. The Applicant had provided information about his continuing professional development. He had been subject to the Tribunal’s restriction since February 2016 and had complied fully with it. No issues had arisen over that 4 year period. The Tribunal also noted the Applicant had paid all of the SRA’s costs imposed at that hearing.
21. The Tribunal concluded that it was no longer necessary or appropriate to protect the public or the reputation of the legal profession by the continued imposition of a restriction on the Applicant.

22. Accordingly, the Tribunal granted the Applicant's application to remove the restriction.

Costs

23. Ms Priest, on behalf of the Respondent authority, requested an Order for its costs in the total sum of £1,235.

24. In relation to the question of costs, the Applicant stated that he was on a low income and had only just finished paying the SRA's costs from the hearing in 2016. He considered he was not in a position to dispute the SRA's claim for costs but asked the Tribunal to assess the amount, as he submitted he could not pay the amount claimed. He also requested he be allowed to pay by way of instalments, as he had done previously.

25. The Tribunal considered the SRA's costs claimed were reasonable. It noted that although the Applicant had made reference to being on a low income, he had not provided a Statement of Means, or any evidence of his means. It was clear that he was currently working at the moment. Taking into account the Applicant's submissions, the Tribunal expected the regulator to act reasonably and proportionately by allowing the Applicant to pay the costs by instalments.

26. In the circumstances the Tribunal Ordered the Applicant to pay the costs of the Respondent in the sum of £1,235.00.

Statement of Full Order

27. The Tribunal Ordered that the application of PAUL IFEANYI OKAFOR IWEZULU, for removal of conditions imposed by the Tribunal on 2 February 2016 be **GRANTED** and it further ordered that he do pay the costs of the response of the Solicitors Regulation Authority to this application fixed in the agreed sum of £1,235.00.

Dated this 8th day of July 2020

On behalf of the Tribunal



A. Kellett
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

08 JUL 2020