

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12096-2020

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

STEPHEN MICHAEL OAKLEY

Respondent

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Before:

Mrs C Evans (in the chair)  
Ms C Jones  
Mrs S Gordon

Date of Hearing: 5 August 2020

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## **Appearances**

There were no appearances as the application was considered 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 that:
  - 1.1 By virtue of his conviction on 16 November 2018 for failing to comply with Money Laundering Regulation 7(1)(b) contrary to Regulation 45 of the Money Laundering Regulations 2007 when acting for client Mr PP in his purchase of a property, Property A, with Mr KP, which completed on 26 January 2010 (the criminal offence) he breached all or any of Principles 2 and 6 of the SRA Principles 2011 (the 2011 Principles).
  - 1.2 By virtue of his conviction on 17 December 2018 for failing, during the course of the proceedings in which he was convicted for the criminal offence, to surrender to bail on 16 October 2018, contrary to Section 6(1) of the Bail Act 1976 he breached all or any of Principles 1, 2 and 6 of the 2011 Principles.
2. In addition, recklessness was alleged as an aggravating factor with respect to allegation 1.1

## **Documents**

3. The Tribunal had before it the following documents:
  - Rule 12 Statement dated 26 May 2020 with exhibit PL1
  - Respondent's Answer dated 7 July 2020
  - Application for extension of time for submission of an Agreed Outcome dated 15 July 2020
  - Statement of Agreed Facts and Proposed Outcome signed by the Respondent on 14 July 2020 and by the Applicant on 15 July 2020
  - Amended Statement of Agreed Facts and Proposed Outcome signed by both parties on 28 July 2020
  - Applicant's Schedule of Costs as at 8 April 2020 dated 26 May 2020

## **Factual Background**

4. The Respondent, was born in 1960. He was admitted to the Roll of Solicitors on 1 March 1985. As at the date of the Rule 12 Statement the Respondent's name remained on the Roll but he did not hold a practising certificate.
5. The Respondent has practised property conveyancing throughout his career as a solicitor. The Respondent started trading as a partner in Oakley and Davies Solicitors on 1 June 2001. That firm became a limited company, Oakley and Davies Limited on 1 May 2008 and ceased trading in May 2011. Oakley and Davies Limited practised from offices in Canton, Cardiff.
6. At all material times the Respondent was a solicitor, director and money laundering officer of Oakley and Davies Limited. The Respondent told the Applicant that he had not practised as a solicitor since 2 November 2011.

7. On 6 March 2019, the Respondent reported the criminal offence, his conviction and sentence to the Applicant.

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

8. 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. On 22 July 2020, a division of the Tribunal had considered an application and accompanying Statement of Agreed Facts and Proposed Outcome in this matter. There appeared to be a sub-paragraph left out at paragraph 30. The Tribunal refused the Agreed Outcome. In order to assist the parties the Tribunal indicated that based on the papers provided, it was inclined to approve the Agreed Outcome but could not arrive at a determination because the section of the Statement of Agreed Facts and Proposed Outcome dealing with the Respondent's mitigation appeared to be incomplete. A slightly amended version of the Statement of Agreed Facts and Proposed Outcome was submitted for the Tribunal's consideration. This Panel of the Tribunal was prepared to consider the application although it was within 28 days of the date listed for the substantive hearing 13 August 2020.

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

9. 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 their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
10. The Tribunal reviewed all the material before it. Rule 32(1) of the SDPR 2019 provides:

“A conviction for a criminal offence in the United Kingdom may be proved by the production of a certified copy of the certificate of conviction relating to the offence and proof of a conviction will constitute evidence that the person in question was guilty of the offence. The findings of fact upon which that conviction was based will be admissible as conclusive proof of those facts save in exceptional circumstances.”

The Tribunal was satisfied on the balance of probabilities that the Respondent's admissions were properly made.

11. The Tribunal considered the Guidance Note on Sanctions (November 2019). In doing so the Tribunal assessed the culpability and harm identified, together with the aggravating and mitigating factors that existed. It concluded that the Respondent was entirely culpable for his actions in his failure to comply with the Money Laundering Regulations. His criminal conviction harmed the reputation of the profession. The Tribunal agreed that while no dishonesty had been alleged against the Respondent and he had self-reported as soon as it was permissible for him to do so, he had been reckless and his misconduct resulted in a criminal conviction which was a considerable aggravating factor. The Tribunal noted that the Respondent had appeared before it on four previous occasions albeit all a considerable time ago, the last of these being on

2 November 2011 when he was suspended from practice for three years from 2 November 2011 (i.e. until 1 November 2014). The events which led to the convictions which were the subject of this case, occurred before that suspension was imposed and he had not practised since. The Tribunal agreed that in all the circumstances striking off was a reasonable and proportionate sanction.

### **Costs**

12. The parties had agreed costs in the amount of £2,000, an amount considerably less than that claimed by the Applicant in the costs schedule before the Tribunal.

### **Redaction of part of the Statement of Agreed Facts and Proposed Outcome**

13. The Tribunal noted that part of point (1) of paragraph 23(1) of the Statement of Agreed Facts and Proposed Outcome contained sensitive personal information about the Respondent which the Tribunal did not consider appropriate to put into the public domain.
14. Accordingly the Tribunal ordered that after the following sentence: "*The respondent would like to state that (1) The length of time since the events and the investigation by the police and now the SRA has had a significant effect on my self esteem*", (to the end of that sentence), the remainder be redacted when this judgment is published with the Statement of Agreed Facts and Proposed Outcome attached to it. Sub point (2) is unaffected by the redaction.

### **Statement of Full Order**

14. The Tribunal Ordered that the Respondent, STEPHEN MICHAEL OAKLEY, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the agreed sum of £2,000.00.

Dated this 24<sup>th</sup> day of August 2020  
On behalf of the Tribunal

C Evans  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**24 AUGUST 2020**

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

Case Number: 12096/2020

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY

Applicant

and

STEPHEN MICHAEL OAKLEY

Respondent

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STATEMENT OF AGREED FACTS AND PROPOSED  
OUTCOME

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By its application dated 26 May 2020, and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making 2 allegations of misconduct against Stephen Michael Oakley.

The allegations:

1. The allegations against Stephen Michael Oakley, made by the SRA within that statement were that: -
  1. 1. By virtue of his conviction on 16 November 2018 for failing to comply with Money Laundering Regulation 7(1)(b) contrary to Regulation 45 of the

Money Laundering Regulations 2007 when acting for client Mr PP in his purchase of a property, Property A, with Mr KP which completed on 26 January 2010 (the criminal offence) he breached all or any of Principles 2 and 6 of the SRA Principles 2011 (the 2011 Principles).

- 1 .2. By virtue of his conviction on 17 December 2018 for failing, during the course of the proceedings in which he was convicted for the criminal offence, to surrender to bail on 16 October 2018, contrary to Section 6(1) of the Bail Act 1976 he breached all or any of Principles 1, 2 and 6 of the 2011 Principles.
2. In addition, recklessness was alleged as an aggravating factor with respect to allegation 1.1.
3. Stephen Michael Oakley admits each of these allegations. He also admits that his conduct in acting as alleged in respect of allegation 1.1 was reckless.

#### Agreed Facts

4. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 1 and 2 of this statement, are agreed between the SRA and Stephen Michael Oakley:
5. The Respondent practised property conveyancing throughout his career as a solicitor. The Respondent started trading as a partner in Oakley and Davies Solicitors on 1 June 2001. That firm became a limited company, Oakley and Davies Limited on 1 May 2008 and ceased trading in May 2011. Oakley and Davies Limited practised from 397 Cowbridge Road East, Canton, Cardiff CF5 1JG.
6. At all material times the Respondent was a solicitor, director and money laundering officer of Oakley and Davies Limited. The Respondent has not practiced as a solicitor since 2 November 2011.
7. On 16 November 2018, the Respondent was convicted of three offences under the Money Laundering Regulations 2007 and one offence under the Bail Act 1976. He reported the convictions to the applicant on 6 March 2019, having delayed for five months because of reporting restrictions imposed by the Court pending the trial of the Respondent's client and others for mortgage fraud.

## Allegation 1.1

8. On 16 November 2018 at Cardiff Crown Court, the Respondent pleaded guilty to and was convicted on indictment of three counts of failing to comply with Money Laundering Regulation 7(1)(b), contrary to Regulation 45 of the Money Laundering Regulations 2007 (MLR 2007).
9. On 17 December 2018 at Cardiff Crown Court, the Respondent pleaded guilty to and was convicted on indictment of breaching Section 6(1) of the Bail Act 1976 by failing to surrender to bail on 16 October 2018.
10. On 17 December 2018, the Respondent was sentenced to pay a fine of £2,000 for each count of failing to comply with MLR 2007 (£6,000) and £250 for breach of Section 6(1) of the Bail Act 1976. The Respondent was also ordered to pay the sum of £7,201.28 by way of contribution towards the prosecution's costs.
11. The circumstances leading to the convictions for breach of the Money Laundering Regulations related to the purchase of Property A, a commercial property in Cardiff, by Mr PP and Mr KP. In September 2009, the Respondent was instructed by Mr PP in the purchase of Property A. The purchase completed on 26 January 2010. Mr PP was subsequently convicted of mortgage fraud in relation to Property A.
12. Mr PP along with Mr KP, raised the funds for the purchase of Property A from a commercial bank loan and from sums provided by a number of different third party sources. The Respondent breached the MLR 2007 by failing to undertake appropriate customer due diligence (CDD) in relation to the source and origin of the third party monies used for the purchase of Property A by Mr PP and Mr KP.
13. Money Laundering Regulation 7(1)(b) imposes a requirement to undertake CDD when carrying out a conveyancing transaction of the type the Respondent carried out for Mr PP. Regulation 45 makes it a criminal offence to fail to comply with, among other things, the requirement to undertake CDD in accordance with Regulation 7(1)(b).
14. The Respondent's failure to carry out proper and effective CDD facilitated a mortgage fraud and the dishonest acquisition of Property A by his client Mr PP and Mr KP.
15. On 15 December 2007 the Law Society published an anti-money laundering practice note on the same date the MLR 2007 came into force. The Law Society's practice note explained what money laundering is and its various forms. It explained the

effect of the MLR 2007 and the obligation to check the identity of clients and the source of funds in order to comply with CDD requirements.

16. When the Respondent came to be sentenced on 17 December 2018 by Her Honour Judge (HHJ) Rees, her sentencing remarks included the following:

16.1. “You were the money laundering officer for your solicitors' firm, which you of course owned with another, and so you had taken on the prime responsibility for making sure that the firm assisted, if you like, the government in preventing anybody laundering criminal money by the way of transactions, in particular the acquiring of property”;

16.2. “You have accepted that you knew what your responsibilities were. You had had training. Looking back with hindsight I think one has to say that you appear to have been cavalier in relation to these particular transactions in that you did not keep proper records or make proper enquiries in your gatekeeping role. As we know from other sources, there is every reason to believe that these were directly criminal property and it was in fact money laundering that was going on”;

16.3 “There is no suggestion that you yourself were going to benefit from that, or even were alive to it. As I say, it seems to me a cavalier attitude in not taking seriously your responsibilities at the time”.

17. When dealing with Mr PP's conveyancing transaction for the purchase of Property A, the Respondent fell below the professional standard expected of solicitors. The Respondent failed to comply with the statutory duties placed upon him as a solicitor by the money laundering regulations. The regulations are designed to make solicitors the gatekeepers who prevent the pollution of legitimate business with fraudulent practices.

18. HHJ Rees found the Respondent to have a cavalier attitude to compliance with the money laundering regulations despite being the money laundering officer at his firm. The Respondent's failure to comply with his duties and obligations facilitated his client in obtaining funds from the mortgagee by deception which funds themselves became criminal property.

19. Principle 2 of the 2011 Principles requires Solicitors to act with integrity. It is accepted by the Applicant that the Respondent did not act dishonestly, and that he did not knowingly assist his client to obtain a mortgage by deception. The Respondent accepts that he was reckless in failing to comply with the Money



Laundering Regulations, and that in failing to comply with them he breached Principle 2.

20. Principle 6 of the 2011 Principles provides that solicitors must behave in a way that maintains the trust the public places in them and in the provision of legal services. The Respondent accepts that in failing to comply with the Money Laundering Regulations he breached Principle 6.

#### Allegation 1.2

21. On 17 December 2018 the Respondent was also convicted for failing to surrender to bail on 16 October 2018 contrary to Section 6(1) of the Bail Act 1976. The Respondent accepts that he had no reasonable cause under the Bail Act for his failure to surrender.
22. Solicitors must uphold the rule of law and the proper administration of justice under Principle 1 of the 2011 Principles. The Respondent accepts that by failing to surrender to bail he breached Principle 1. He also accepts that in failing to surrender to bail he breached Principles 2 and 6.

#### Non-Agreed Mitigation

23. The following mitigation, which is not agreed by the SRA, is put forward by Stephen Michael Oakley:

- 23.1 The respondent would like to state that (1) The length of time since the events and the investigation by the police and now the SRA has had a significant effect on my self esteem . . . . . ,
- (2) The loss of my professional status, albeit agreed, is also a profound one that I shall have to face for the remainder of my life.

#### Penalty proposed

24. It is therefore proposed that Stephen Michael Oakley should be struck off the Roll of Solicitors.
25. With respect to costs, it is further agreed that Stephen Michael Oakley should pay the SRA's costs of this matter agreed in the sum of £2,000.

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

26. In relation to the failures to comply with the Money Laundering Regulations, the Respondent was a director of the practice, and its Money Laundering Reporting Officer at the time of the failures. He was the person with conduct of Mr PP's file and had sole responsibility within the practice for ensuring compliance with the Regulations. Whilst he did not act dishonestly or in the knowledge that he was facilitating mortgage fraud he was reckless in his complete failure to investigate the source of funds, whilst in a position of trust, acting as a solicitor in a conveyancing transaction. The duty he owed the public and the mortgage company was clearly breached by these failures. His culpability falls to be assessed on the basis that he was reckless.
27. In relation to the failure to surrender to bail, this was a personal failure by the Respondent. It did not directly relate to his practice as a solicitor, but it was a clear and direct failure to comply with a Direction of the Court in criminal proceedings, and a breach of the criminal law. It is accepted that his failure to surrender was limited in time (one day), but equally he did not surrender himself voluntarily. The failure was not directly linked to his legal practice; it was a personal failure to comply with the criminal law and his duty to the Court. His failure to surrender was deliberate and his culpability in relation to this allegation was high.
28. There was no adverse consequence to the Respondent's clients as a result of his failure to comply with the Money Laundering Regulations or his failure to surrender to bail. However, there was a significant impact on society as a whole, the protection of which is at the core of the Money Laundering Regulations. The Respondent's failures facilitated mortgage fraud by his client, Mr PP, adversely affecting the mortgage provider. In respect of the Bail Act offence there was no direct adverse effect upon a specific third party, but in failing to surrender the Respondent caused delay in the administration of justice and the waste of Court time. In respect of both allegations, the effect on the reputation of the profession is significant. The trust that the public places in solicitors, and in the provision of legal services, upholds the reputation of the solicitor's profession as one in which every member can be trusted 'to the ends of the earth'. A solicitor convicted of a criminal offence for failing to comply with money laundering regulations which arose directly from his practice as a solicitor undermines that reputation for both the solicitor involved and the profession in general. In a similar way, a solicitor convicted of a criminal offence for failing to comply with an order of the court in breach of the Bail Act 1974 undermines his own profession and the reputation of the solicitors' profession.

29. The principal factors that aggravate the seriousness of Stephen Michael Oakley's misconduct are;

- 29.1 Both the allegations involve the commission of a criminal offence;
- 29.2 In respect of allegation 1.1 there were three failures, which continued over a period of time;
- 29.3 The Respondent knew or ought reasonably to have known that his failure to comply with the Money Laundering Regulations was in material breach of his obligations to protect the public and the reputation of the legal profession; and
- 29.4 The Respondent has the following previous disciplinary matters: -

2 November 2011 Case no: 10754-2011

29.4.1. Mr Oakley was suspended from practice for three years from 2 November 2011 (i.e. until 1 November 2014). (Findings: failed to cooperate with the SRA by failing to respond to correspondence and a production notice; failed to provide his client with details of his Professional Indemnity Insurance (PII), failed to account for interest on client monies, failed to act with integrity and undermined the reputation of the profession by failing to disclose material information in a proposal form for PII).

3 November 2009 Case No. 10221/2009

29.4.2. Mr Oakley was fined £2,500 and £5,000 costs (Findings: failure/delay in complying with an undertaking he gave to his mortgagee client. This was due to an error on Mr Oakley's part rather than being deliberate. Mr Oakley eventually complied with the undertaking; Failure to co-operate with the SRA/LCS.)

29.4.3. Para 50 of the SDT decision:

“This had nevertheless been a serious breach of an undertaking with aggravating features. Undertakings given by solicitors were relied upon by other parties enabling the efficient conduct of transactions. Any doubt about them undermined the system and affected the profession as a whole. The Respondent had, by his

actions, displayed an almost complete disregard for his regulatory body”.

12 April 1994 Case No. 6225/1992

29.4.4. Mr Oakley was suspended for a period of three months (Findings: failed to respond to SCB; failed to comply with undertakings; delayed in dealing with client affairs; delayed in responding to correspondence from solicitors and clients; failed with reasonable expedition to pay counsel's fees; practised as a solicitor in breach of a condition on his PC; and practised uncertified).

22 February 1990 Case No. 5730/1989

29.4.5. Mr Oakley was fined £2,500. (Findings (with two other solicitors): failed to deliver Accountants Reports for the Respondent's former firm; failed to keep properly written up books of accounts at his then firm; and withdrawn client money contrary to the Accounts Rules and used it for their own purposes. Findings against Mr Oakley alone: delayed in dealing with client's affairs; failed to reply or delayed in replying to correspondence from clients, solicitors and the SCB; delayed handing client papers over to clients; delayed in paying fees due to other solicitors; and failed to exercise proper supervision over an executive at his firm.

30. The principal factors that mitigate the seriousness of Stephen Michael Oakley's misconduct are;

30.1 The Respondent voluntarily notified the Applicant of the facts and circumstances giving rise to the misconduct: and

30.2. The Respondent made open and frank admissions at an early stage of the proceedings and cooperated with the Applicant's investigation.

31. In all the circumstances of the case, it is therefore proportionate and in the public interest that Stephen Michael Oakley should be struck off the Roll of Solicitors.

**Annabel Joester**

**Head of Legal and Enforcement upon behalf of the SRA**

**Date: 28 July 2020**

**Stephen Michael Oakley**

**Date: 28/7/20**

