

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12132-2020

BETWEEN:

BUSHRA ANWAR

Applicant

and

SOLICITORS REGULATION AUTHORITY

Respondent

Before:

Mr A Ghosh (in the chair)

Miss H Dobson

Ms J Rowe

Date of Hearing: 14 January 2021

Appearances

Wayne Goldstein, barrister of 18 John Street Chambers, Manchester M3 4EA for the Applicant.

Rory Mulchrone, barrister of Capsticks Solicitors LLP of 1 St Georges Road, London, SW19 4DR, for the Respondent.

**JUDGMENT ON AN APPLICATION FOR RESTORATION TO
THE ROLL**

1. On 18 May 1999 the Applicant had been struck off the Roll of solicitors. The Applicant had applied, unsuccessfully, to be restored to the Roll in 2007. The Applicant, by this application, made a further such application.

The 1999 Proceedings

2. The Allegations were that the then-Respondent had been guilty of conduct unbefitting a solicitor in each of the following respects, namely that she had:-
 - (a) failed to maintain properly written books of account contrary to Rule 11 of the Solicitors Accounts Rules 1991;
 - (b) drawn monies out of a client account otherwise than as permitted by Rule 7 of the Solicitors Accounts Rules 1991 and contrary to Rule 8 of the said Rules;
 - (c) given false and misleading information to a bank;
 - (d) breached undertakings given to the High Court;
 - (e) been found to be in contempt of Court and fined and ordered to pay damages for such contempt;
 - (f) again drawn monies out of a client account otherwise than as permitted by Rule 7 of the Solicitors Accounts Rules 1991 contrary to Rule 8 of the said Rules;
 - (g) improperly employed or remunerated in connection with her practice as a solicitor one Trevor Porter without the prior written permission of the Law Society contrary to Section 41 of the Solicitors Act 1974.
3. The Tribunal had found all the Allegations proved and had made the following Order:

“The Tribunal ordered that the respondent be struck off the Roll of Solicitors and further ordered that she should pay the costs of and incidental to the application and enquiry to include the costs of the Investigation Accountant of the Law Society such if not agreed between the parties.”

The 2007 Application for Restoration

4. On 10 July 2007 the Tribunal had heard and refused an application by the Applicant for restoration to the Roll. At paragraph 94 of that Judgment the Tribunal had stated the following:

“The Applicant’s original misconduct had been serious. The Tribunal had taken careful note of the original Findings and also of the comments of Lord Justice Kennedy in the appeal judgment. The misconduct, which was wide-ranging, had occurred in the course of the Applicant’s practice as a solicitor. Since the striking off the Applicant had done much commendable work which went to the rehabilitation of her personal reputation as did the references in her support. Given the gravity of the original offences and the context in which they were committed, however, the Tribunal did not consider that the Applicant had

addressed her rehabilitation in terms of professional ability. She had claimed that her original faults had been due in part to inexperience. Whilst she had been involved in teaching in a legal context and some advice giving, she had not worked in a solicitor's office with the permission of the Law Society. While this would not always be a requirement, the Tribunal accepted Mr Williams QC's submissions that in this case the Tribunal should expect that kind of rehabilitation. In order to return to the profession in a way which would maintain public confidence in the profession the Applicant needed proper experience in the environment provided by a solicitor's practice. The application was refused."

5. The full Judgment following that application for restoration is appended to this Judgment so that the full reasoning and analysis of that decision can be read as it was relevant to the Tribunal's determination of this application.

Applicant's Submissions

6. Mr Goldstein referred the Tribunal to the Applicant's witness statement in support of the application.
7. At paragraph 2 of her witness statement the Applicant had stated as follows:

"The grounds for this application can be summarised as follows: although the matters that led to my name being struck from the Roll were wide-ranging and very serious, the events were a very long time ago. There was no allegation, and certainly no finding, of dishonesty, and no client lost money. At the time of the events I was a young and relatively inexperienced solicitor. In the many years since these events I have worked in various employments, including as a law lecturer and been active in other areas in the public eye, such that I think that I can say that I am regarded as upstanding, honest and with a good reputation. I have maintained my legal knowledge, completed CPD courses and kept abreast of changes in the duties and obligation of solicitors, including the recent SRA Standards and Regulations from late 2019. The Tribunal that considered my earlier application for restoration, in 2007 [See paragraph 94 of the Findings] refused that application on the basis that I did not have experience of working in a solicitor's practice. It was said that, given the context and nature of my original failings, the Tribunal should expect to see that kind of rehabilitation. With a view to remedy that perceived deficiency I applied in 2013 and was granted permission to work for a solicitor's firm, and I have now done so for more than 6 years. I would hope that I can now be regarded as a fit and proper person for my name to be restored to the Roll."

8. At paragraph 5, having recited the Allegations that had been proved in 1999, the Applicant stated:

"I accept that these matters were very serious, and that they covered several different areas within my practice. Some of these matters can perhaps be put down to my inexperience and being overwhelmed, but I accept that the more serious matters cannot be regarded in that light. In saying that I do not suggest

that inexperience could or should be acceptable as an excuse for improper conduct.”

9. The Applicant set out in her statement the courses that she had undertaken, and her employment history, since she had been struck-off. In addition she had set out extensive details of community and charitable work that she had undertaken.
10. The Applicant’s witness statement exhibited a large number of documents providing supporting evidence for those matters she had referred to in her statement and a number of character references submitted on her behalf. The Applicant also gave live evidence, the content of which is summarised below.
11. Mr Goldstein submitted that an unusual feature of this case was that there had been no allegation of dishonesty, though there had been issues of integrity and probity in the conduct that led to the strike-off. He submitted that this had been dealt with by rehabilitation and the Applicant had now earned the trust of people in the profession.
12. The Applicant had waited a significant time after 2007 to re-apply for restoration and Mr Goldstein submitted that this demonstrated her ability to address the issues raised by the Tribunal in 2007.
13. Mr Goldstein submitted that it was clear that the Applicant had kept abreast with the law and was an upstanding member of the community. At the time of the misconduct she had been young and had been in the ill-advised position of running a firm at that stage.
14. Mr Goldstein referred the Tribunal to the Swindell v SRA [Case Ref: 11953-2019] in which the Tribunal had granted an application for restoration that had been opposed. Mr Goldstein submitted that it was difficult to see how the Applicant could have brought a stronger case.

Respondent’s Submissions

15. Mr Mulchrone told the Tribunal that the Respondent took a neutral stance. Although the original allegations were of a serious nature, the Tribunal’s decision in 2007 appeared to have been made on the basis not that the Applicant was incapable of restoration, but that she had not acquired enough work experience. Mr Mulchrone submitted that it would be unfair to “move the goal posts”. The Respondent recognised that the Applicant had sought to address the concerns of the Tribunal. The Respondent did not wish to go behind the Tribunal’s view in 2007 that it was rehabilitation that was the basis of refusal to restore, rather than the seriousness of the misconduct. Mr Mulchrone accepted that it was an unusual case.

Witnesses

16. The Applicant gave evidence and confirmed that her witness statement was true and correct. The Applicant had most recently been employed by Wolfsons. That employment had ended in September 2019. The Applicant had applied for a number of jobs but had not been successful as firms did not want to employ her as a paralegal, querying why she had not applied for restoration. The application for restoration had

been delayed for various reasons, including complications brought about by the Covid-19 pandemic.

17. The Applicant told the Tribunal that if it allowed her restoration she planned to do family law and possibly some locum work.
18. In cross-examination, Mr Mulchrone asked the Applicant what she could say to satisfy the Tribunal that her integrity would not be called into question again. The Applicant told the Tribunal that since 1999 she had always tried to be very careful and in particular she no longer represented herself on her own matters, as had occurred at the time of the misconduct. The Applicant told the Tribunal that she accepted and understood that client money was sacrosanct.
19. Mr Mulchrone asked the Applicant what would be different in the future if there was an issue with employees again in relation to supervision. The Applicant told the Tribunal that she did not intend to have any employees in the immediate term, but that new software made it much easier to monitor the accounts and to do regular reconciliations.
20. The Applicant told the Tribunal that the provision of misleading information to the bank had been a “really silly thing to do”. At the time she had been very junior and relying too much on other people. As to undertakings, she would never go beyond her expertise again.
21. The Applicant confirmed that she now accepted the findings of contempt of court in their entirety and she told the Tribunal that she understood the seriousness of such conduct.
22. In relation to the employment of Mr Porter, the Applicant told the Tribunal that she was now aware of s41 of the Solicitors Act 1974.
23. In reply to a question from the Tribunal as to how she would deal with issues of objectivity in the future, the Applicant explained that she had always been very professional with her clients. The problem had arisen on her own matters and that was why she was now always represented in those matters.

The Tribunal’s Decision

24. The Tribunal referred to its Guidance Note on Other Powers (4th Edition) when considering the application.
25. The Tribunal was satisfied that the procedural steps had been properly taken in relation to this application. There had been no objections filed with the Tribunal following the placing of the advertisements.
26. The Tribunal reviewed the Judgments from 1999 and 2007. This was not a case involving dishonesty, but it was nevertheless a serious case as evidenced by the decision to strike the Applicant off the Roll.

27. The Tribunal noted that a significant period of time had elapsed since the strike-off. While the Tribunal was not bound by the 2007 reasoning, it recognised the point made by Mr Mulchrone about fairness to the Applicant in having regard to it.
28. The Applicant had been given a fair opportunity to deal with the issues that were relevant to this application. She had told the Tribunal that she had been, with the permission of the SRA, working consistently for firms of solicitors undertaking civil work and undertaking some courses.
29. The Tribunal noted that the Applicant now fully accepted the findings of contempt of court. The allegation relating to the provision of false information was also very serious, but the Tribunal accepted that it took place a long time ago. The Tribunal accepted the Applicant's explanations that she had since been very careful in terms of what she said to people and what she signed. The Applicant had given examples when questioned about her track record of giving information and preparing documents for the Court and for other parties in the legal profession. The Tribunal was satisfied that she had demonstrated evidence of being involved in the profession and understanding the importance of documents and of her role. This was the information that had been lacking when she had made her application in 2007. The Tribunal recognised that a significant period of time had since elapsed.
30. The Tribunal further noted that the Applicant's maturity and experience of life had increased, as reflected in her legal and voluntary work. The Tribunal took into account the character references provided on her behalf, including from her most recent employer. There was also evidence of highly satisfied clients.
31. The Tribunal was satisfied that restoration of this Applicant to the Roll would not undermine the profession in the eyes of public. What she had done when young and inexperienced should not blight her for the rest of her life. The Tribunal was minded to grant the application for restoration.
32. The Tribunal considered whether to impose conditions on the Applicant as part of its order. It therefore heard submissions on this point from both parties.
33. Mr Goldstein noted that it was the Respondent who would usually seek conditions and it had not done so in this case. He submitted that any conditions should be kept to a minimum and where it was necessary to address an actual risk. His primary submission however was that nothing that the Respondent had said would merit conditions being imposed.
34. Mr Mulchrone submitted that he was not instructed to seek any particular conditions. He reminded the Tribunal that any conditions imposed must relate to the misconduct.
35. The Tribunal considered whether conditions were necessary for the protection of the public. The Tribunal was not satisfied that they were, and insofar as any might be deemed necessary, the SRA would be in a position to make that determination. The Tribunal saw no need to step in and impose its own conditions in this case.

Costs

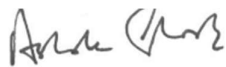
36. The Respondent sought costs in the sum of £3,000. This comprised a fixed fee of £2,500 plus VAT. Mr Mulchrone submitted that VAT was applicable as the SRA could not recover it for external legal costs. He submitted that the notional rate, having regard to the number of hours spent on the case, was £45 per hour. There was no claim for internal SRA costs.
37. The Applicant invited the Tribunal to make no order for costs. Mr Goldstein noted that a large number of hours had been spent and he also queried whether VAT should be applied to the costs. Mr Goldstein submitted that the Applicant's present financial circumstances were that she was unemployed at present and only receiving Carers Allowance. Her finances were therefore difficult.
38. The Tribunal reviewed the costs schedule and took into account the submissions of both parties. Although the Applicant had been successful in her application, it was right that the SRA responded to such applications. The Tribunal noted that the number of hours spent was high but it also noted the low fixed fee and consequential low hourly rate. The Tribunal was satisfied that the costs were properly incurred and that the Applicant should pay them in full.

Statement of Full Order

39. The Tribunal Ordered that the application of BUSHRA ANWAR, for restoration to the Roll of Solicitors be **GRANTED** and it further Ordered that she do pay the costs of the response of the Law Society to this application fixed in the sum of £3,000.00

Dated this 5th day of February 2021

On behalf of the Tribunal



A Ghosh
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

08 FEB 2021