

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12136-2020

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

EBRU ATAS

Respondent

Before:

Mrs C Evans (in the chair)

Mr R Nicholas

Mrs N Chavda

Date of Hearing: 2 February 2021

Appearances

Louise Culleton, barrister, of Capsticks LLP, 1 St George's Road, Wimbledon, London, SW19 4DR, for the Applicant.

Gareth Edwards, solicitor, of Kim Collings Solicitors, First Floor, 32 Galliwastad Road, Pontypridd, Rhondda, Cynon Taff, CF37 2BW, for the Respondent.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent, made by the Applicant within that statement were that: -

Client A

- 1.1 Between July 2018 and January 2019, she improperly caused or allowed Client A to make payments to her for the Firm's fees totalling approximately £1,635.00, and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011;

Client B

- 1.2 Between August and September 2019, she improperly caused or allowed Client B to make payments to her for the Firm's fees totalling approximately £1,630.00, and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011;
- 1.3 Between August and September 2019, she improperly created or caused to be created a Decree Absolute in respect of Client B's matter which was false, and in doing so she breached any or all of Principles 2, 4 and 6 of the SRA Principles 2011;
- 1.4 Between August and September 2019, she improperly certified a copy of a Decree Absolute in respect of Client B's matter in circumstances when she knew the decree absolute was false, and in doing so she breached any or all of Principles 2 and 6 of the SRA Principles 2011.
2. In addition, dishonesty was alleged as an aggravating factor with respect to each of the allegations.

Documents

3. The Tribunal had before it the following documents:-
 - Applicant's Rule 12 Statement dated 14 October 2020 and exhibit HVL1.
 - Applicant's Statement of Costs at issue dated 14 October 2020.
 - Respondent's Answer to the Rule 12 Statement dated 16 November 2020.
 - Respondent's Statement of Means dated 8 January 2020 (*sic*) and supporting documents.
 - Email from accountant TW filed on behalf of the Respondent dated 24 January 2021.
 - Applicant's Statement of Costs at hearing dated 25 January 2021.
 - Statement of Truth filed on behalf of the Respondent dated 27 January 2021.
 - Statement of Agreed Facts and Proposed Outcome dated 29 January 2021.
 - Applicant's guidance entitled "How we recover our costs".

Background

4. The Respondent was admitted to the Roll of Solicitors in May 2017. As at the time of the hearing the Respondent did not hold a practising certificate.

5. At all material times, the Respondent practised as a solicitor at Kilic & Kilic Solicitors Limited, London (“the Firm”) initially in the capacity of a paralegal and subsequently as a solicitor upon qualification in 2017.
6. The Firm was established in 2010 and specialised in conveyancing, family, immigration and personal injury matters. The Firm consisted of seven solicitors and two Applicant approved managers.
7. Ms Filiz Kilic (the Firm’s Managing Director/Principal, Compliance Officer for Legal Practice and Compliance Officer for Financial Administration) reported the Respondent to the Applicant on 10 September 2019. The report stated that the Respondent had received payments into her personal bank account from clients on two matters (totalling £1,635.00), and further that she had falsified a decree absolute in matrimonial proceedings. The Respondent was dismissed from the Firm for gross misconduct.

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 Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.

Findings of Fact and Law

9. The Applicant was required to prove the allegations on 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.
10. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent’s admissions were properly made.
11. The Tribunal therefore found, on the evidence before it and the Respondent’s admissions, Allegations 1.1, 1.2, 1.3, 1.4 and the aggravating feature of dishonesty proved on a balance of probabilities.

Sanction

12. The Tribunal considered the Guidance Note on Sanction (Eighth Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
13. The proven misconduct breached two fundamental tenets of the solicitors’ profession namely (a) proper dealings with client money and (b) the honesty and integrity required of solicitors in all of their affairs. The Respondent flagrantly breached both tenets deliberately and repeatedly from July 2018 until September 2019. She was solely responsible for her misconduct which represented a grave departure from the standards expected of solicitors. The only mitigating feature was the fact that the Respondent

made full admissions to the allegations levelled against her and co-operated with both the Applicant and the Tribunal throughout the proceedings.

14. The Tribunal paid significant regard to the agreement between the parties that an Order striking the Respondent of the Roll of solicitors was required to (a) protect the public from harm and (b) maintain and uphold the reputation of the legal profession. The inescapable outcome, given the broad range of dishonest behaviour including the falsification of a court document, was a Striking Off Order absent any exceptional circumstances.
15. The Tribunal therefore concurred with the agreed position of the parties and determined that the Respondent's misconduct was incompatible with her remaining on the Roll of Solicitors.

Costs

16. The principle of costs being awarded to the Applicant and the quantum thereof, £5,000.00, was agreed between the parties.

The Respondent's Application

17. Mr Edwards submitted that the Respondent accepted that she was liable to pay a contribution to the Applicant's costs as agreed in the sum of £5,000.00. He averred that her "dire circumstances" were such that she could not meet that sum at present as (a) she accepted that she would be struck off the Roll of Solicitors, (b) was unlikely to ever work as a solicitor again, (c) had recently become a mother which would impact on her earning capacity, (d) her husband was unemployed as a result of the global pandemic, (e) the only source of income was from the second property that she owned jointly with her husband, the rent from which paid approximately half of the mortgage on the matrimonial home, (f) the matrimonial home was in mortgage arrears and (g) neither she nor her husband was entitled to receive benefits as they owned a second home.
18. Mr Edwards submitted that in light of the Respondent's impecuniosity and the health issues she faced both personally and in respect of close family members, she was not in a position to meet the costs incurred by the Applicant in bringing proceedings before the Tribunal.
19. Mr Edwards therefore invited the Tribunal to exercise its broad and unfettered discretion to make an Order that any award of costs payable by the Respondent to the Applicant should not be enforced without leave of the Tribunal. Mr Edwards relied upon the general principles promulgated in SRA v Paul Davis (a Solicitor) and Elaine McGlinchey (a Solicitor) [2011] EWHC 232 (Admin) in support of his application.
20. Mr Edwards acknowledged the public facing guidance issued by the Applicant regarding their enforcement of costs orders awarded by the Tribunal. He made plain that he did not allege any bad faith on the part of the Applicant in their approach to recovering costs. Notwithstanding that fact Mr Edwards submitted that the Tribunal should exercise its broad discretion to afford a further safeguard to the Respondent by way of the direction sought.

The Applicant's Position

21. Ms Culleton resisted the application made and averred that the costs agreed were fair, reasonable, proportionate and minimal given the overall costs incurred by the Applicant (namely £24,450.00). The Applicant had taken into account the Respondent's dire financial position and that had been reflected in the fact that it had reduced its overall claim by 75%.
22. Ms Culleton submitted that the Applicant has a well-established process for recovering costs as set out in its public facing guidance. That guidance provided sufficient safeguard to the Respondent and was predicated on the fact that the Applicant would not seek to recover costs from an impecunious Respondent. Ms Culleton stated that to accede to the Respondent's application would essentially increase costs by adding a further layer to the process which was not in her interests.

The Tribunal's Decision

23. The Tribunal carefully considered the submissions of the parties and the governing legislation and caselaw in its determination of the application.
24. The Solicitors (Disciplinary Proceedings) Rules 2019 r.43 provides the Tribunal with the power to award costs. In particular r.43(4) stipulates:

“... ”

The Tribunal will first decide whether to make an order for costs and will identify the paying party. When deciding whether to make an order for costs, against which party, and for what amount, the Tribunal will consider all relevant matters including the following—

- (a) the conduct of the parties and whether any or all of the allegations were pursued or defended reasonably;
 - (b) whether the Tribunal's directions and time limits imposed were complied with;
 - (c) whether the amount of time spent on the matter was proportionate and reasonable;
 - (d) whether any hourly rate and the amount of disbursements claimed is proportionate and reasonable;
 - (e) the paying party's means...”
25. Applying those factors on the present facts, the Tribunal determined that the conduct of both parties in the proceedings was impeccable, the Respondent complied with all directions and time limits imposed, the reduction of costs was reasonable and proportionate such that no further analysis of the Statement of Costs was required, and the Respondent's means had been adequately reflected in the significantly reduced sum agreed between the parties.

26. The Tribunal proceeded to consider the Applicant's public facing guidance, in particular:-

"...We will look at the person's financial circumstances to assess what amount they are able to pay. A number of factors might be relevant here. For example, we look at the person's current income and their earning potential. We also consider any savings and assets they have, as well as their regular liabilities and any other debts. We will consider all of the person's financial circumstances in making our decision, always bearing in mind if our action to recover money due will be proportionate in the circumstances. These factors will also help us to decide what action to take if we are going to pursue the debt..."

27. The Tribunal noted that the Respondent accepted there was no bad faith on the part of the Applicant in relation to its position with regards the application.

28. The Tribunal further considered the general principles promulgated in Davis and McGlinchey in particular [20]:-

"...The question which I have to determine is whether or not by my decision I should approve a practice of taking into account the means of solicitors when orders for costs against them are sought by the SRA. In practical terms the issue is a narrow one. The SRA state, and I accept, that it is not their practice to pursue impecunious solicitors, or former solicitors, against whom orders for costs have been made which they cannot pay. If therefore, at the stage at which costs come to be considered by the tribunal, the financial circumstances of the solicitor are the same as when an order for costs comes to be enforced, then the SRA and so the profession will be no better off if means are taken into account by the tribunal, than if they are left to be investigated later. Only in one set of circumstances, when the solicitor comes upon significant means after the tribunal hearing, would there be any practical difference. Given that those are the only circumstances in which there is likely to be a practical difference, the issue ultimately becomes not one of high principle, but one of sensible practice..."

29. The Tribunal adopted and endorsed that approach and determined that it was not appropriate to direct that the Order for costs not be enforced without leave of the Tribunal. The Applicant was well equipped and well used to applying its own guidance in relation to enforcement proceedings in relation to costs as and when required.

30. The Tribunal therefore refused the Respondent's application.

Statement of Full Order

31. The Tribunal Ordered that the Respondent, EBRU ATAS, 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 £5,000.00.

Dated this 8th day of February 2021
On behalf of the Tribunal

A handwritten signature in black ink, appearing to be 'C Evans', with a long horizontal stroke extending to the right.

C Evans
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
08 FEB 2021

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL
IN THE MATTER OF THE SOLICITORS ACT 1974 (AS AMENDED)**

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

EBRU ATAS

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 14 October 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 Applicant") brought proceedings before the Solicitors Disciplinary Tribunal making allegations of misconduct against Ebru Atas ("the Respondent").

The allegations

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

Client A

- 2.1. between July 2018 and January 2019, she improperly caused or allowed Client A to make payments to her for the Firm's fees totalling approximately £1,635.00, and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011;

Client B

- 2.2. between August and September 2019, she improperly caused or allowed Client B to make payments to her for the Firm's fees totalling approximately £1,630.00, and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011;
 - 2.3. between August and September 2019, she improperly created or caused to be created a *Decree Absolute* in respect of Client B's matter which was false, and in doing so she breached any or all of Principles 2, 4 and 6 of the SRA Principles 2011;
 - 2.4. between August and September 2019, she improperly certified a copy of a *Decree Absolute* in respect of Client B's matter in circumstances when she knew the decree absolute was false, and in doing so she breached any or all of Principles 2 and 6 of the SRA Principles 2011.
3. In addition, dishonesty was alleged as an aggravating factor with respect to each of these allegations.
 4. The Respondent admits each of these allegations, and admits that her conduct in acting as alleged was dishonest.

Agreed Facts

5. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraph 2 of this statement, are agreed between the SRA and the Respondent:
 - 5.1. The Respondent is a solicitor who was admitted to the Roll on 15 May 2017. The Respondent does not hold a current practising certificate.
 - 5.2. The Respondent practised as a solicitor at Kilic & Kilic Solicitors Limited, 307 West Green Road, London, N15 3PA ("the Firm"). The Respondent was employed at the Firm from 11 November 2014 to 21 August 2019. The Respondent was initially employed as a paralegal, and then trained at the Firm before qualifying in 2017.
 - 5.3. The Firm is a recognised body law practice (SRA ID: 550961) which was established in 2010 and specialises in conveyancing, family, immigration and personal injury

cases. The Firm currently has seven solicitors and two SRA approved managers, one of which is Ms Filiz Kilic (the Firm's Managing Director / Principal, COLP and COFA).

5.4. The conduct in this matter came to the attention of the SRA when Ms Kilic made a report on 10 September 2019. The report stated that the Respondent had received payment into her personal bank account from clients on two matters, and that the Respondent had falsified a decree absolute in matrimonial proceedings. The Respondent was dismissed from the Firm for gross misconduct in relation to two client matters detailed further below.

Client A

5.5. Client A is a Turkish national, who was the respondent in applications brought by his wife for a non-molestation order and custody of their children, and divorce proceedings. Client A did not have the means to privately instruct a solicitor and therefore approached the Firm on the basis they undertook legal aid work. The Respondent had conduct of Client A's matters.

5.6. A client care letter (concerning the child arrangement order, prohibited steps order, and non-molestation and occupation order) was sent to Client A on 11 July 2018. The Firm's reference on the letter contains the Respondent's initials ("EA") and names the Respondent as the fee-earner with responsibility for conduct of the case. The letter confirms that Client A was in receipt of legal aid up to the sum of £1,350.00, and provided estimates for fees and disbursements.

5.7. A further client care letter (concerning the divorce proceedings) was also sent to Client A on 5 October 2018. Again, the Firm's reference on the letter contains the Respondent's initials and names the Respondent as the fee-earner with responsibility for conduct of the case. The letter confirms that Client A was in receipt of legal aid.

5.8. Client A recalls that he had a meeting at the Firm with the Respondent in which he was told his divorce proceedings were not in the remit of the Firm's legal aid services,

and he would have to pay privately for these fees. Client A paid the Firm £500.00 in cash.

5.9. Client A recalls that following this payment, he received several further requests for payments, including to lodge counter proceedings, prepare proceedings, and to progress the case file. Client A states that the Respondent provided him with bank details. Client A's understanding was that these were the Firm's bank details and was not aware that these were those of the Respondent.

5.10. The Respondent made a legal aid application on Client A's behalf on 18 December 2018. The application used devolved powers held by the Firm to grant or delegate public funding as of 11 December 2018. The Firm is granted this power where conditions as to a client's means and the merits of the matter are met, and is entitled to grant public funding to clients who have urgent hearings. Client A had a hearing on 18 December 2018. Client A was therefore deemed to have public funding from the day the devolved powers were used. On 23 January 2019 the Firm received a letter from the Legal Aid Agency enclosing an emergency certificate for the sum of £1350.00 by the Legal Aid Agency to cover work from 11 December 2018 to 18 December 2018.

5.11. On 5 January 2019 Client A contacted the Respondent using Facebook Messenger to inform her that he had reconciled with his wife and did not wish to instruct the Firm any longer.

5.12. Client A was told by the Respondent a further payment of £465.00 would be required for the three matters (divorce, non-molestation and custody orders) - £155.00 each. Client A made these payments using online banking, as recorded on his bank statement. Client A states that he felt pressured into making such payments as the Respondent requested the payments to be made urgently.

5.13. Client A messaged the Respondent on 5 January 2019 at 15:49 asking "*should I transfer the total amount to Kilic solicitors account*". The Respondent replied "*yes please*".

- 5.14. On 12 March 2019 Client A emailed the Respondent. Client A stated “*can I please get my fees back if you did not launch any lawsuit*”, and asked “*is legal aid covering 600 sterling that I paid you for divorce case? If this is also covered by Legal aid LAA then can I please get back the fee that I paid you for divorce case*”. No response was received from the Respondent.
- 5.15. On 21 August 2019 Ms Kilic received an email from Client A. The original email is in Turkish, and the Firm obtained a certified translation. In his email Client A explained that he and his wife had reconciled and had applied to withdraw two cases before Barnet Family Court, but he had not received confirmation from the court that the Court had closed his matter. Client A stated he had been in receipt of legal aid, and had paid for “all court expenses separately”. Client A attached bank statements showing the transfers and payments made totalling £1,135.00 and confirmed he had also made a cash payment of £500.00 for the divorce proceedings. He requested breakdowns of the fees paid including legal and court fees.
- 5.16. Client A attached to his email two invoices he had received from the Respondent:
- 5.16.1. an invoice dated 1 July 2019 for costs of £86.00 plus VAT, totalling £103.20 – the narrative of which states “*in connection with our professional fees under the Legal Help Scheme in attending and advising you on your matrimonial matter, correspondence, telephone calls, etc*”; and
- 5.16.2. an invoice dated 19 August 2019 for costs of £1,281.16 and disbursements of £82.61, plus VAT of £256.23, totalling £1,620.00 – the narrative of which states “*in connection with our professional fees under your certificated matter, representing you in your matrimonial matter, attendance at court, attendance, correspondence, telephone calls etc*”.
- 5.17. Ms Kilic states in a witness statement to the SRA dated 21 February 2020 that she was “*extremely shocked to see this email from [Client A] as I knew he was a legally aided client whom we had recently billed and received payments from the Legal Aid Agency on his matters*”. Ms Kilic was concerned that Client A had made a cash

payment to the Firm when he was in receipt of legal aid and should have therefore not have been invoiced and should not have made any payments to the Firm or otherwise. The Legal Aid Agency had settled the fees on his matters on 1 July 2019 and 19 August 2019. Ms Kilic was also concerned because the bank statements showed payments into an account number and sort code which were not the Firm's account. Ms Kilic identified the account details as one of two accounts the details of which were held by the Firm for payment of the Respondent's salary.

5.18. After receiving the email from Client A, Ms Kilic met with the Respondent to discuss this matter and asked the Respondent to confirm what the payments were for. The Respondent asked for time to review the case file. Ms Kilic states the Respondent spent 40-60 minutes reviewing the file. After this review, Ms Kilic recalls the Respondent as stating "*I must have made a mistake and charged him privately for my own fees*". Ms Kilic advised the Respondent that she was employed by the Firm and therefore should not have received any private fees for any reason, and that Client A was legally aided and should not have been billed any amount. Ms Kilic noted that if the Respondent had made a mistake and privately billed the client, the Firm would have received the fees in its client account, however the fees had been paid into the Respondent's account. Ms Kilic requested that the monies be returned immediately. Ms Kilic states that at this meeting she told the Respondent that the matter "*was a serious situation to the extent that her employment at the Firm would be terminated immediately*".

5.19. Ms Kilic telephoned Client A, and met him in person on 23 August 2019. Client A explained that he had paid the Respondent money for court fees, and that the Respondent had said she was making counter-applications on his behalf. Client A understood he was paying the Firm for disbursements and was not aware he was paying the Respondent personally. Client A showed Ms Kilic the bank account details he had paid the funds into ("Bank Account 1"). Ms Kilic confirmed that these were not those of the Firm, and that the Firm had not received payment into its client account.

Client A notified Ms Kilic that the Respondent had told him she had made a mistake and charged him privately, and had offered to send him a cheque with the refund. Ms Kilic's evidence is that Client A had reconciled with his wife and required assistance retrieving his marriage certificate from the court, which the Firm assisted with on a pro bono basis.

5.20. Client A recalls receiving a telephone call from the Respondent who stated that there had been a misunderstanding regarding the billing of the file and that he would be refunded using postal orders.

5.21. On 21 August 2019 Ms Kilic dismissed the Respondent for gross misconduct. A formal letter terminating her employment was sent on 17 September 2019. An investigation meeting took place on 26 September 2019. The Respondent did not appeal her dismissal.

5.22. On 22 August 2019 the Respondent refunded the monies to Client A by way of a series of postal orders.

5.23. On 10 February 2020, Client A sent Ms Kilic screenshots of messages sent between Client A and the Respondent on Facebook Messenger. The messages are in Turkish. It is understood that Ms Kilic obtained certified translated copies of these messages. In summary, the messages show:

5.23.1. the Respondent requesting "*payment by card*" by telephone; that "*each application is £155*" and "*there are in total 3 separate applications*";

5.23.2. Client A responding requesting confirmation that the total fee to pay was £465;

5.23.3. the Respondent confirming this was accurate;

5.23.4. Client A asking "*should I transfer the total amount to Kilic solicitors account*";

5.23.5. the Respondent confirming "*yes please*", and requesting payment to be made by 11am because she was expecting a telephone call from the court; and

5.23.6. Client A confirming he had paid £465 on 7 January 2019.

5.24. On 12 February 2020 Client A emailed Ms Kilic, confirming that he had made transfers into Bank Account 1. He provided a screenshot of the payment details. Client A also

provided bank statements showing transfers totalling £1,135.00 which he had made to the Respondent:

5.24.1. Statement dated 8 August 2018 showing a bill payment to “Kilic” for the sum of £325.00 on 12 July 2018;

5.24.2. Statement dated 8 October 2018 showing a bill payment to “Kilic” for the sum of £345.00 on 26 September 2018;

5.24.3. Statement dated 8 January 2019 showing a bill payment to “Kilic” for the sum of £465.00 on 7 January 2019.

5.25. It is understood that Client A also made a cash payment of £500.00. Client A therefore paid a total of £1,635.00 to the Respondent.

5.26. In correspondence with the SRA dated 19 February 2020, Ms Kilic confirmed that the Firm held two bank account details for the Respondent: Bank Account 1 and Bank Account 2. Ms Kilic provided the SRA with a screenshot of the Firm’s office bank account details which showed the account details held for payment of the Respondent’s salary, as being those for Bank Account 1. These details are the same as those provided by Client A.

5.27. In correspondence with the SRA dated 20 March 2020, Ms Kilic confirmed that where the Firm uses devolved powers, they do not and cannot charge clients. This is because they have used their devolved power to effectively grant public funding to the client as agents of the Legal Aid Agency. Where the devolved powers are used, clients are usually granted emergency certificates with an initial limit of £1350.00 subject to a full assessment of their cases. The Firm would not bill a client or offer private rates until the outcome of a client’s legal aid application was known. Private rates would only be offered if the application was refused. Client A should never have been billed in advance of the Legal Aid Agency confirming the position.

5.28. In correspondence with the SRA dated 14 November 2019, the Respondent stated that Client A had instructed the Firm in summer 2018 and that his legal aid application was accepted in January 2019, and that she had billed Client A for the work

undertaken until the legal aid application was accepted. This appears to be inaccurate as one payment was dated 7 January 2019, which was after the legal aid application had been granted. In any event, the Respondent has not explained why the payments were received into her own account and not that of the Firm.

5.29. On 3 March 2020 the Respondent provided to the SRA bank statements dated 3 February 2020 showing receipt of the following payments (totalling £1,135.00):

5.29.1. 12 July 2018 – receipt of £325.00 from Client A

5.29.2. 26 September 2018 – receipt of £345.00 from Client A

5.29.3. 7 January 2019 – receipt of £465.00 from Client A.

5.30. The Respondent also confirmed to the SRA that she returned the money to Client A via a series of postal orders, and provided photographs of the postal orders dated 27 August 2019 in the following sums: £135.00; £250.00; £250.00; £250.00; £250.00; £250.00; and £250.00.

Client B

5.31. After the Respondent was dismissed from the Firm, Ms Kilic reviewed all of her cases, one of which involved Client B, a Turkish national. Client B has provided a witness statement to the SRA, dated 1 October 2020.

5.32. Client B had approached the Firm in August 2017 regarding divorce proceedings. The Respondent had conduct of Client B's matter. Client B states the Respondent quoted a fee of £1630.00 for the Firm to act. In an initial meeting with the Respondent, Client B agreed to pay £700.00 to the Respondent to commence working on the matter. Client B paid this in cash directly to the Respondent at the Respondent's insistence.

5.33. Client B states he made two further payments to the Firm, totalling £1,630.00, which were made in cash directly to the Respondent. A payment of £400.00 was made on 20 December 2017 and a payment of £470.00 was made on 19 October 2018.

5.34. Client B states in October 2018 he was contacted by the Respondent and notified the divorce proceedings were completed. Client B attended the Firm's office and was provided with a decree absolute. A decree absolute is the legal document which ends a marriage. Client B states he was told by the Respondent his decree absolute was the main document evidencing his divorce had been finalised. Client B then applied for the divorce proceedings to be recognised.

5.35. Ms Kilic states that during the review of the Respondent's files, a member of staff at the Firm identified a decree absolute in the name of Client B on the Respondent's computer. The document was an editable Word document, and bore a court seal or stamp from the Family Court at Bury St Edmunds. It is the SRA's understanding that such a document would only be sent by the court by post in paper format with a court seal or stamp, and not in an editable format. The Firm also identified on the client file a certified copy of the decree absolute attesting that this was "a true and accurate copy of the original", signed by the Respondent on 20 February 2019.

5.36. Client B contacted the Firm on 30 August 2019 to seek a court document for further proceedings in Turkey in relation to his divorce. He was therefore relying on the decree absolute to end his marriage.

5.37. Ms Kilic reviewed the ledger and bills raised. The following documents were identified on the client file:

5.37.1. An invoice dated 30 April 2019 for the sum of £166.67 plus VAT (totalling £200.00). The narrative for the invoice says "*our final bill in respect for our estimated Fees in connection with your Family Matter, namely in attending upon you, considering and receiving documents, orders, drafting documents, correspondance [sic], emails, letters, preparing, collating, paginating, and copying*".

5.37.2. An entry on the client ledger showing this invoice;

5.37.3. An entry on the client ledger showing receipt of £1630.00 into the Firm's client account – Ms Kilic's evidence is that this is the Respondent repaying the Firm

the sums received from Client B, which were then repaid to Client B on 22 October 2019;

5.37.4. Entries on the client ledger showing payment of court fees totalling £600.00.

5.38. The Firm wrote to HMCTS Bury St Edmunds Divorce Unit, who first responded on 19 September 2019 confirming that there was “no trace” of documents on their system in Client B’s name or his wife. HMCTS Bury St Edmunds Divorce Unit sent a further letter dated 24 September 2019 to the Firm confirming that it had conducted a search of the Central Index of Decrees Absolute and Final orders between 2016 and 2019, and there was no trace of any decree absolute for Client B or his wife. HMCTS Bury St Edmunds Divorce Unit have confirmed this in a letter to the SRA’s solicitors dated 2 August 2020.

5.39. On 25 September 2019 Ms Kilic met with Client B. Ms Kilic made an attendance note of this meeting. During the meeting, Client B was informed that his decree absolute was false. Client B was shocked, having held the belief that he was divorced. Client B stated that the Respondent had had the decree absolute translated and legalised.

5.40. Client B provided to Ms Kilic copies of receipts which he had been given by the Respondent. The payments totalled £1,630.00 in cash: 2 August 2017 - £60.00; 9 August 2017 - £700.00; 19 October 201¹ - £470.00; and 20 December 2017 - £400.00.

5.41. The receipts were provided by the Respondent to Client B and display the Firm’s details, suggesting to Client B that the money had been received by the Firm. However, Ms Kilic’s evidence is that there was no record of these fees on Client B’s ledger or within the Firm’s client account.

5.42. Following the meeting with the Firm, Client B received a telephone call from the Respondent stating what the Firm had told him was incorrect and that he should trust her as his legal representative. The Respondent stated that the decree absolute was

¹ The final digit of the year is illegible on the receipt. It appears to have originally read 2016, and have then been made into an “8”.

a genuine document and that he should not return to the Firm for assistance. Client B told the Respondent he had chosen to “trust the Firm”.

5.43. On 26 September 2019, the Firm conducted an investigation meeting with the Respondent. Ms Kilic made an attendance note of this meeting. The Respondent did not deny the allegations and provided no explanation for creating the decree absolute, and misleading her client about his marital status. The Respondent stated that the client had not used the document. Ms Kilic notified the Respondent that Client B had sought to use the document in Turkey to divorce his wife there. The Respondent did not deny receiving money from Client B. Ms Kilic requested that the Respondent refunded the money to the Firm, so it could pass it on to Client B.

5.44. The Respondent agreed to refund Client B the sum of £1630.00 and transferred this to the Firm’s client account on 30 September 2019, which was reimbursed to Client B by bank transfer on 22 October 2019.

5.45. To resolve the matter for Client B, the Firm agreed to conduct the divorce proceedings for Client B on a pro bono basis. This work is ongoing. The Respondent’s actions have therefore harmed Client B because he is not divorced as he thought and now has to wait a further 6-8 months for the divorce proceedings to be finalised.

Non-Agreed Mitigation

6. The following mitigation, which is not agreed by the SRA, is put forward by the Respondent:

6.1. The Respondent has stated in mitigation that she was under a lot of stress, and was suffering from a medical condition. The Respondent has stated she was under financial pressure and had debt in the form of loans and credit cards.

6.2. The Respondent has also stated that for two years she faced “*enormous pressure from enormous workload*” and had been training junior staff, whilst also commuting from Bristol to London. She stated she had been based in an office at Unit 1A Windus

Road, London for 2 years, which was used by the family team, and that she had been alone in the office for 6-8 months. The Respondent stated she was responsible for running the office, and was engaged in training staff despite being newly qualified herself. The Respondent stated she felt unable to maintain her workload and fell behind, and was scared she would lose her job. The Respondent stated she had little support from her manager. This is denied by Ms Kilic, who states that the Respondent was well-supported at the Firm.

6.3. The Respondent stated she had apologised to both Client A and Client B and had returned the money. However, it is noted that the clients were only refunded when Ms Kilic asked her to do so.

6.4. The Respondent repeats and underscores the information provided in paragraphs 6.1 to 6.3 above and observes that the comments of her former employer are only those to be expected.

6.5. The Respondent wishes to place on record her shame and regret at her actions for which she wishes to apologise and that she has throughout these proceedings done her utmost to put matters right by virtue of her cooperation with the Applicant its solicitors and the Tribunal in order to save time and cost for all concerned.

6.6. The consequences of the Respondent's actions for her and her family are life changing and she has obtained no benefit whatsoever from them.

6.7. It is the Respondent's wish notwithstanding the circumstances of the matter to depart her former profession with dignity.

7. However, the Respondent does not contend that the mitigation set out above amounts to exceptional circumstances which would justify the Tribunal in making any order other than that she be struck off the Roll.

Penalty proposed

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

With respect to costs, it is further agreed that the Respondent should pay the SRA's costs of this matter agreed in the sum of £5000.

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

9. The sanction outlined above is considered to be in accordance with the Tribunal's sanctioning guidance.

10. The Respondent has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (7th edition), at paragraph 52, states that: "*The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).*" In Sharma at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

"(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others..."

11. The level of culpability and level of harm is high, due to the following:

- 11.1. The Respondent improperly caused or allowed Client A to make payments to her for the Firm's fees totalling approximately £1,635.00. At the time of her actions, the Respondent was aware that Client A was not liable for the Firm's fees given he was in receipt of legal aid. The Respondent issued invoices to Client A. The Respondent provided her personal bank account details, and received payments into this account. The payments were not made into the Firm's account and she did not notify the Firm she was receiving such payments. Client A was led to believe he was paying legal fees to the Firm, when he was not.
- 11.2. The Respondent improperly caused or allowed Client B to make payments to her for the Firm's fees totalling approximately £1,630.00. The payments were received into the Respondent's personal bank account and not that of the Firm. Client B was led to believe he was paying legal fees to the Firm, when he was not.
- 11.3. The Respondent created a false decree absolute in Client B's name and she knew that she had created a false decree absolute and had provided this to Client B. Through the Respondent's actions, Client B was led to believe that he was divorced when he was not.
- 11.4. The Respondent certified a copy of a decree absolute which she had falsified. The Respondent knew that the decree absolute was not genuine (given that she had falsified it herself), and therefore should never have provided a certified copy to Client B. The Respondent knew, or ought to have known, that Client B would attempt to rely on the document in support of his marriage having been annulled.
12. Ordinary, decent people would consider the Respondent's behaviour to be dishonest. The Respondent was aware that both clients thought they were paying the Firm's legal costs. The case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the necessary and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors.

13. The parties consider that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter which is in the public interest.

Sign

Name: Gareth R. Edwards, on behalf of Ebru Atas (the Respondent)

Date:

Signed:

Name: Mark Rogers, on behalf of the Solicitors Regulation Authority (the Applicant)

Date: