

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12148-2020

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

MADASSER HUSSAIN

Respondent

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Before:

Mr E Nally (in the chair)

Mr P Jones

Ms E A Chapman

Date of Hearing: 11 March 2021

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**Appearances**

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

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**JUDGMENT ON AN AGREED OUTCOME**

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## **Allegations**

1. The allegations were set out in a Rule 12 Statement dated 30 November 2020 and were that:

1.1 Over the period 2007 and 2008, the Respondent made a false representation to make gain for self/another or cause loss to other/expose other to risk.

She thereby breached any or all of:

1.1.1 Principle 1 of the SRA Principles 2011 (“the Principles”);

1.1.2 Principle 2 of the Principles;

1.1.3 Principle 6 of the Principles.

The SRA relied on the Respondent’s conviction for the offence of dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk, dated 23 January 2019, as evidence that she was guilty of that offence, and relies upon the findings of fact upon which that conviction was based as proof of those facts.

1.2 Over the period 2014 to 2016, the Respondent committed an act/series of acts with intent to pervert the course of public justice.

She thereby breached any or all of:

1.1.1 Principle 1 of the Principles;

1.1.2 Principle 2 of the Principles;

1.1.3 Principle 6 of the Principles.

The SRA relied on the Respondent’s conviction for the offence of committing an act/series of acts with intent to pervert the course of public justice, dated 23 January 2019, as evidence that she was guilty of that offence, and relies upon the findings of fact upon which that conviction was based as proof of those facts.

1.3 In addition, allegations 1.1 and 1.2 are advanced on the basis that the Respondent’s conduct was dishonest.

## **Admissions**

2. The Respondent admitted all of the allegations. She also admitted the aggravating feature of dishonesty attached to each allegation.

## **Documents**

3. The Tribunal had before it the following documents:-

- Form of Application and Rule 12 Statement dated 30 November 2020 with exhibits
- Statement of Agreed Facts and Proposed Outcome dated 10 March 2021
- Respondent’s Answer

## **Factual Background**

4. The Respondent was admitted to the Roll of Solicitors on 15 November 2002. At all material times, she was employed as a solicitor at the Wakeel Partnership Law Firm.
5. The Respondent was convicted of fraud and perverting the course of public justice at Newcastle Crown Court on 23 January 2019.

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

6. 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 (December 2020). The proposed sanction was that the Respondent be struck off the Roll.

## **Findings of Fact and Law**

7. The Applicant was required to prove the allegation 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.
8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
9. The Tribunal considered the Guidance Note on Sanction. In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
10. The Tribunal observed that The Respondent had been convicted of very serious offences involving dishonesty which struck at the heart of what the public would expect of a solicitor, namely that they "*may be trusted to the ends of the earth*" as per Bolton v Law Society [1994] 1 WLR 512. In passing sentence the trial judge stated that the Respondent was convicted on overwhelming evidence of "*a sophisticated fraud involving significant planning*".
11. The Tribunal noted that serious harm had been caused to the relevant property owners by the Respondent's actions. The total loss incurred by the owners as a result of the Respondent's actions was approximately £145,000.
12. Notwithstanding the mitigation presented by the Respondent, the Tribunal did not consider that this was one of those narrow category of cases in which there were exceptional circumstances present such to enable a lesser sanction, dishonesty having been found. The Respondent had accepted in the Statement of Agreed Facts and Outcome that this was not the case.
13. The protection of the public and public confidence in the profession and the reputation of the profession required no lesser sanction than that the Respondent be removed from the Roll. The Tribunal found that the proposed sanction of striking the

Respondent from the Roll was appropriate, proportionate and in accordance with the Sanctions Guidance.

**Costs**

14. The parties agreed that the Respondent should pay costs in the sum of £1,150. The Tribunal determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

**Statement of Full Order**

15. The Tribunal ORDERED that the Respondent, MADASSAR HUSSAIN 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 £1,150.

Dated this 18<sup>th</sup> day of March 2021

On behalf of the Tribunal



**JUDGMENT FILED WITH THE LAW SOCIETY**  
**18 MAR 2021**

E Nally  
Chair

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

**AND IN THE MATTER OF:**

**SOLICITORS REGULATION AUTHORITY**

**Applicant**

**and**

**MADASSER HUSSAIN**

**Respondent**

**STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME**

1. By its application dated 30 November 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 three allegations of misconduct against Ms Hussain.
2. The allegations against Ms Hussain made by the SRA within that statement were that:

**Allegation 1.1**

Over the period 2007 and 2008, she made a false representation to make gain for self/another or cause loss to other/expose other to risk.

She thereby breached any or all of:

- 1.1.1 Principle 1 of the SRA Principles 2011;
- 1.1.2 Principle 2 of the SRA Principles 2011;
- 1.1.3 Principle 6 of the SRA Principles 2011.

The SRA relies on Ms Hussain's conviction for the offence of dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk, dated 23 January 2019, as evidence that she was guilty of that offence, and relies upon the findings of fact upon which that conviction was based as proof of those facts.

### **Allegation 1.2**

Over the period 2014 to 2016, she committed an act/series of acts with intent to pervert the course of public justice.

She thereby breached any or all of:

- 1.1.1 Principle 1 of the SRA Principles 2011;
- 1.1.2 Principle 2 of the SRA Principles 2011;
- 1.1.3 Principle 6 of the SRA Principles 2011.

The SRA relies on Ms Hussain's conviction for the offence of committing an act/series of acts with intent to pervert the course of public justice, dated 23 January 2019, as evidence that she was guilty of that offence, and relies upon the findings of fact upon which that conviction was based as proof of those facts.

### **Allegation 1.3**

- 3. In addition, allegations 1.1 and 1.2 are advanced on the basis that Ms Hussain's conduct was dishonest.

### **Admissions**

- 4. Ms Hussain admits all of the allegations. She also admits the aggravating feature of dishonesty attached to each allegation.

### **Agreed Facts**

- 5. Ms Hussain was born [REDACTED] 1972 and is a solicitor, having been admitted to the Roll of Solicitors on 15 November 2002. Her SRA ID number is: 287654.
- 6. At all material times, she was employed as a solicitor at the Wakeel Partnership Law Firm.

7. Her name remains on the Roll of Solicitors however she does not hold a current practising certificate.
8. On 12 February 2016, the SRA's Intelligence Bureau received a report from Northumbria Police to state that the force was investigating allegations of fraud relating to a property, namely 12 Heaton Park View, Heaton, Newcastle-Upon-Tyne ("the Property"). The Property was owned either by [REDACTED] or [REDACTED] ("the Owners"). The Property is an investment property used for residential purposes.
9. The Police investigation having concluded, Ms Hussain and her husband, [REDACTED] (who is no relation to [REDACTED], were both charged with fraud and perverting the course of public justice.
10. Ms Hussain and her husband were both convicted of the offences at Newcastle Crown Court on 23 January 2019.

#### Dispute between the parties

11. It was established during the Trial that, at some point in 2002, Ms Hussain and her husband became involved with the takeaway known as "Spice" ("the Business"). It is understood that Ms Hussain and her husband invested a sum of money into the business. The Business was owned by the Owners. [REDACTED] is also a relation of Ms Hussain and her husband.
12. At the same time, Ms Hussain and her husband became involved in a dispute with the Owners, alleging that they were owed the sum of £60,000.

#### Creation of false documentation

13. At some point in either 2007 or 2008, Ms Hussain and her husband created false documentation for the purposes of placing a legal charge on the Property. The charge was in the sum of £60,000 plus interest of 10 per cent per annum and was to the benefit of Ms Hussain and her husband. The purpose of the charge was to secure the sum allegedly owed to them by the Owners.
14. In order to secure the false charge against the Property, Ms Hussain and her husband committed the fraud by:
  - 1.1 creating a Form CH1.
  - 1.2 creating other relevant property documents.
  - 1.3 creating, without the Owners' instructions, a client matter file for the Owners at the Firm.
  - 1.4 Ms Hussain involving a former work colleague to register the charge.

15. This was done without either the knowledge or the agreement of the Owners who were not aware of the charge and who did not agree to or enter into the documentation created, and/or have this registered at HMLR, by Ms Hussain and her husband.
16. The fraud came to light in 2014, when the Owners identified that the Property was subject to a charge and asked Ms Hussain and her husband for the charge to be removed. They refused to remove the charge, instead stating that the charge was legitimate. The matter was reported by the Owners to the Land Registry and to the Police.

#### Harm caused to the Owners

17. At the time that the existence of the charge was discovered by the Owners in 2014, the initial sum secured of £60,000 had increased to £115,000 due to the interest element included by Ms Hussain.
18. During the course of the Trial, it was established that the Owners incurred approximately £30,000 in legal expenses and costs defending the claim brought to remove the false charge. The Land Registry removed the charge following ██████████'s guilty plea. The Land Registry has indemnification consequences when offences of this type are committed, and so it indemnified the Owners in the sum of £22,000.
19. Therefore, the total loss incurred by the Owners as a result of Ms Hussain's actions was approximately £145,000.00.

#### Criminal proceedings

20. Ms Hussain's trial took place from 7 to 23 January 2019. She pleaded not guilty. She was convicted on 23 January 2019 of, in relation to registering the false charge and creating/fabricating the documentation required to do so:
  - (i) dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to loss; and
  - (ii) committing an act/series of acts with intent to pervert the course of public justice.



21. Sitting at the Crown Court at Newcastle on 22 February 2019, His Honour Judge Batiste sentenced Ms Hussain to 3 years and 9 months imprisonment. In passing sentence, the Judge made the following remarks:
- i. “You, Madasser Hussain, were convicted by the unanimous verdicts of the jury on both counts. I am satisfied that you were convicted on, what was, overwhelming evidence against you.”
  - ii. “Your account altered as the case progressed, you tried to tailor your evidence around the case against you and, frankly, sought to place blame on everyone except yourself for what occurred. I am satisfied from your evidence that you are a clever, confident, cunning and, when required, manipulative individual. Of course, you are entitled to no credit for a guilty plea, you were disbelieved under oath.”
  - iii. “...you involved a former work colleague of yours, Hussain, to register the charge, knowing that she was someone who was more junior than you and who owed you a favour as you helped her to obtain employment. Of course, she is one of the people who, during the trial, you sought to impugn the character of and blame for your wrongdoing. Your involving her was clearly designed to distance yourself from the charge and give a veneer of legitimacy to what was taking place, given it involved therefore a different firm of solicitors who were nominally registering the charge.”
  - iv. “I am satisfied that this was a sophisticated fraud involving significant planning.”
  - v. “As far as you are concerned, Hussain, you, as I’ve said, are of positive good character...it is equally clear that you are of an able and well-regarded solicitor, and there are references with regard to the work you have done for charity which read extremely well for you.
  - vi. “Equally, of course, the effects of the conviction will almost certainly mean that you will cease to be a member of this professional (sic) that you worked so hard to get into. That appears to be a necessary consequence of your behaviour. Society is right to expect that qualified lawyers will act with the utmost integrity. Whereas here you have demonstrated a willingness to behave in such a consistently dishonest way, people will expect that you cannot remain a part of such a profession. Although little medical evidence has been produced, I accept the proposition that you are suffering with some level of depression. I make it clear that provides no excuse whatsoever for your behaviour and may well be linked to your realisation of the consequences of what you have done.”

22. Ms Hussain has informed the SRA that she was released from prison on 25 August 2020 on Home Detention Curfew.

### **The SRA's Investigation**

23. The SRA took the following steps to investigate the allegations which Ms Hussain admits.
24. On 3 September 2019, the Investigation Officer at the SRA with conduct of the matter, wrote to Ms Hussain, asking her to explain her conduct in relation to a number of Principle breaches which she had identified.
25. After three extensions, Ms Hussain sent a substantive response by e-mail dated 14 November 2019 and timed at 16:23. It can be summarised as follows:
- i. She provided some background on her family life, her childhood, her education and how she came to qualify as a solicitor.
  - ii. "I accept that what I did was wrong," she stated.
  - iii. She stated that, during the time that she had passed in prison, she had reflected on her actions.
  - iv. She stated that her husband had pressured her into obtaining a loan for him to purchase a business.
  - v. She then went on to say, "when his partner ended the partnership, we felt we had been cheated and as a result of family pressure I took such action which is unforgivable."
  - vi. She described the course of action which she had taken as being "completely wrong."
  - vii. "I did something which is dishonest," she said.
  - viii. She confirmed that she should never have given in to pressure and that her "judgement was clouded" due to "ill feeling" towards her husband's partner.
  - ix. She said that the poor judgement she had shown reflected upon her naivety.
  - x. She was embarrassed by her actions, she said.
  - xi. She went on to say, "as a result of this I have lost everything, I lost my freedom, respect, my children have suffered."

- xii. She stated that she understood the harm her behaviour had done to “the public, land registry and others.”
  - xiii. Her time in prison had given her the opportunity to reflect on what she had done, she said. As a result of that, she now realised that what she had done was “completely wrong” and that she “should have been strong enough to refuse to cave into family pressure.”
  - xiv. She recognised the harm she had caused to others and apologised profusely for her actions.
26. On 19 February 2020, an Authorised Officer in the SRA’s Legal & Enforcement Department decided to refer the Respondent’s conduct to the Solicitors Disciplinary Tribunal.
27. The Investigation Officer wrote to Ms Hussain on the same day informing her of the decision and enclosing a copy of the decision to refer her conduct to the Solicitors Disciplinary Tribunal.

### **Mitigation**

28. The following mitigation, which is not endorsed by the SRA, is put forward by Ms Hussain:
- (i) Para 24 above, especially sub-para’s xii and xiii are repeated.
  - (ii) The Tribunal is asked to accept that following unfair dismissal by The Business of Mrs Hussain’s husband, and breakdown in the commercial relationship which it involved and the family pressure upon her, her judgement became so clouded that she felt it appropriate to secure the capital injected into the Business. An explanation but not, it is accepted, an excuse.
  - (iii) Mrs Hussain never had the intention to enforce the Charge but rather to provoke a family discussion surrounding the capital debt owed. Hence the duration the Charge remained secured on the Property.
  - (iv) The Charge having never operated or enforced, the total loss actually incurred by the Owners as a result of Ms Hussain’s actions was a maximum of £8,000.00 (being the alleged £30,000.00 in legal fees minus £22,000.00 indemnification received) . If the legal fees included VAT borne and reclaimed by the Business then the minimum loss is approximately £2,000.00

- (v) Despite the above investment Ms Hussain's husband remained at law an employee of the Business; subsequent to his later unfair dismissal from the Business he was awarded in the Employment Tribunal sitting at Newcastle upon Tyne the sum of £4,800.00 ( four thousand eight hundred pounds) as compensation, which sum has never been paid.
- (vi) The offence is an historic offence. It is an isolated incident in an otherwise unblemished record.
- (vii) The sentencing judge's comments about charitable work done by Ms Hussain are repeated. Specifically, they compromise promotion of better relationship between the Muslim and Christian faiths.
- (viii) Mrs Hussain has served a custodial sentence, complied with all prison rules, and is now fully co-operating with probation and her licence conditions.
- (ix) The financial consequences arising from the episode are likely to endure for the rest of Ms Hussain's life. Despite that, she has found gainful employment as quickly as possible at a time when many are being made redundant, even though the cost of travel to work, a distance of 50 miles in total each day makes the commercial wisdom of the employment questionable. By working in a pharmacy as a dispenser during the pandemic Ms Hussain is finding different ways to serve the community which previously benefited from her legal skills.
- (x) Ms Hussain does not contend that the mitigation set out above amounts to exceptional circumstances which would justify the Tribunal making any order other than that she be struck off the Roll of Solicitors.

### **Sanction proposed**

- 29. Taking account of the seriousness of the admitted misconduct and having considered the Solicitors Disciplinary Tribunal's Guidance Note on Sanctions, the SRA contends, and Ms Hussain accepts, that the proper penalty in this case is for her to be struck off the Roll of Solicitors.
- 30. With respect to costs, it is further agreed by Ms Hussain that she should pay the SRA's costs of the enquiry and application fixed in the sum of £1,150.

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

31. Ms Hussain has admitted dishonesty in relation to each allegation. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, 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)**).*"
32. In **Sharma [2010] EWHC 2022 (Admin)** 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..."*
33. Ms Hussain's dishonest conduct was sustained over a period of time and very serious. It was intended to provide a benefit to Ms Hussain and her husband. Following a Trial in the Crown Court, she was found guilty of: having made a false representation to make gain for self/another or cause loss to other/expose other to risk and having perverted the course of public justice. She was sentenced to 3 years 3 months imprisonment.
34. Accordingly, there are no exceptional circumstances in this case which would mean that a strike off is not warranted. The seriousness of Ms Hussain's conduct was such that a lesser sanction would be inappropriate, and a strike off is required for the protection of the public and the reputation of the legal profession.



10 March 2021.

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**Alastair Henry John Willcox, Senior Legal Adviser, on behalf of the SRA**

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**Madasser Hussain**