

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12157-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

GREGORY STUART SAUNDERS

Respondent

Before:

Ms T Cullen (in the chair)

Mr A Ghosh

Mrs C Valentine

Date of Hearing: 20 January 2021

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent, Gregory Stuart Saunders, made by the SRA were that, while in practice as a solicitor and member at Clarke Willmott LLP (“the Firm”):
 - 1.1. Between June 2018 and 20 February 2019, while acting on behalf of Client F, he made statements to Client F about a matter which he was instructed to conduct on behalf of Client F which were untrue and misleading, and known by the Respondent to be untrue and misleading, and in doing so breached one or more of Principles 2, 4, 5 and 6 of the SRA Principles 2011;
 - 1.2. On or about 19 February 2018, he made a statement to Client C regarding the circumstances of a payment of £20,681.09 which was untrue and misleading and known by the Respondent to be untrue and misleading, and in doing so breached one or more of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011;
 - 1.3. On or about 19 and 20 February 2018, he misappropriated client money by causing the Firm to make a payment of £20,681.09 from the client ledger of Client C to Firm B, and in doing so breached one or more of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011.

Dishonesty

It was the SRA’s case that the Respondent acted dishonestly in respect of the allegations above. Dishonesty was not an essential ingredient to the allegations above and it was open to the Tribunal to find the allegations proved without a finding of dishonesty.

Documents

2. The Tribunal had before it documents including:-
 - Rule 12 Statement dated 12 January 2021 with exhibit HLV1
 - Application for an Agreed Outcome dated 18 January 2021
 - Statement of Agreed Facts and Proposed Outcome
 - Applicant’s Statement of Costs as at date of issue

Factual Background

3. The Respondent was admitted to the Roll on 17 July 2000. At the time of the misconduct, the Respondent was approximately 18 years qualified. The Respondent worked as a solicitor and was a member at Clarke Willmott LLP (“the Firm”). He joined the Firm on 24 June 2014. He was based at the Firm's Taunton office. The Respondent does not currently hold a practising certificate.
4. This matter came to the attention of the Applicant when it received a report from the Respondent and from the Firm on 6 March 2019. The Applicant also received a report from Client F on 11 July 2019. The Firm provided further information to the Applicant on 27 March 2019, 17 April 2019, 23 October 2019 and 14 February 2020.

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

5. 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.

Findings of Fact and Law

6. 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.
7. The Tribunal reviewed all the material before it and was satisfied to the required standard that the Respondent's admissions were properly made.
8. The Tribunal considered the Guidance Note on Sanctions (December 2020). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal agreed with the assessment of the seriousness of the misconduct set out in the Statement of Agreed Facts and Proposed Outcome and noted the mitigation including personal mitigation. Dishonesty had been admitted and such a finding would almost invariably lead to striking off save in exceptional circumstances. The Respondent did not seek to claim that there were exceptional circumstances and the Tribunal did not find that there were. In all the circumstances the Tribunal did not consider that a lesser sanction than strike off would be appropriate. The Tribunal would approve the Agreed Outcome proposed.

Sensitive Personal Information

9. The Tribunal noted that the Statement of Agreed Facts and Proposed Outcome contained sensitive personal information about the Respondent and others and ordered that the information be redacted from the version of the document attached to this judgment for publication.

Costs

10. The parties had agreed costs at £4,600.

Statement of Full Order

11. The Tribunal Ordered that the Respondent, GREGORY STUART SAUNDERS, 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 £4,600.00.

Dated this 10th day of February 2021
On behalf of the Tribunal

A handwritten signature in blue ink, appearing to be 'T Cullen', written on a light blue background.

T Cullen
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
10 FEB 2021

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

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

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

GREGORY STUART SAUNDERS

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application, 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 Gregory Stuart Saunders ("the Respondent").

The allegations

2. The allegations against the Respondent, made by the Applicant within that statement are that:
 - 2.1. Between June 2018 and 20 February 2019, while acting on behalf of Client F, he made statements to Client F about a matter which he was instructed to conduct on behalf of Client F which were untrue and misleading, and known by the Respondent to be untrue and misleading, and in doing so breached one or more of Principles 2, 4, 5 and 6 of the SRA Principles 2011;
 - 2.2. On or about 19 February 2018, he made a statement to Client C regarding the circumstances of a payment of £20,681.09 which was untrue and misleading and known by the Respondent to be untrue and misleading, and in doing so breached one or more of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011;
 - 2.3. On or about 19 and 20 February 2018, he misappropriated client money by causing the Firm to make a payment of £20,681.09 from the client ledger of Client C to Firm B, and in doing so breached one or more of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011.

3. In addition, dishonesty is alleged as an aggravating factor with respect to each of these allegations.
4. The Respondent admits each of these allegations, and admits that his conduct in acting as alleged was dishonest.

Agreed facts and matters

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. The following includes the anonymization key adopted in the Rule 12 Statement:
 - 5.1. The Respondent is a solicitor (SRA ID: 230132) who was admitted to the Roll on 17 July 2000. At the time of the misconduct, the Respondent was approximately 18 years qualified.
 - 5.2. The Respondent worked as a solicitor and was a member at Clarke Willmott LLP ("the Firm"). He joined the Firm on 24 June 2014. He was based at the Firm's Taunton office. The Respondent does not currently hold a practising certificate.
 - 5.3. This matter came to the attention of the SRA when it received a report from the Respondent and from the Firm on 6 March 2019. The SRA also received a report from Client F on 11 July 2019. The Firm provided further information to the SRA on 27 March 2019, 17 April 2019, 23 October 2019 and 14 February 2020.
 - 5.4. The Respondent handled a matter for Client F who had been sub-contracted by Company G to complete civil engineering works at a site in Birmingham. Client F had sub-contracted the civil works to Company B. During the course of the works, disputes arose between Company B and Client F, and Company G and Client F.
 - 5.5. Company B issued proceedings against Client F for payment of an invoice.
 - 5.6. Client F instructed the Respondent and the Firm to act on its behalf in that matter.
 - 5.7. On 19 January 2016, Client F instructed the Respondent to defend court proceedings initiated by Company A. Company B instructed Firm B to act on its behalf. The claim was settled in October 2016 with a view to Client F

proceeding to take some action in the future and attempting to recover monies from Company G. In late 2017/ early 2018, Client F instructed the Firm to recover monies from Company G.

- 5.8. In October 2016, Client F and Company A settled proceedings. In October 2016, the Respondent advised Client F that it could potentially pursue Company G to recover retention monies under its contract and to challenge a final payment account.
- 5.9. In late 2017 / early 2018, Client F instructed the Respondent to pursue Company G.
- 5.10. On 14 February 2018, Firm B sent an email to the Respondent stating it was concerned that, pursuant to settlement arrangements, Client F had not made payment for the legal expenses in the sum of £20,681.09. It appears that the Respondent previously told Firm B that he had received that money from Client F and he had already promised to make payment, with no money forthcoming.
- 5.11. Firm B sent the Respondent its bank account information to the Firm so it could make an electronic payment.
- 5.12. On 19 February 2018, the Respondent contacted Firm B confirming he would send £20,681.09 that day.
- 5.13. On the same date he emailed a secretary at the Firm with instructions to make the payment of £20,681.09. This sum was the same as demanded by Firm B.
- 5.14. Client C was another of the Respondent's clients at the Firm. The instructions from Client C to the Firm were to recover monies loaned to third parties. Client C's instructions and matters were completely unrelated to the matters concerning Client F. The Firm was holding funds on behalf of Client C in its client account.
- 5.15. The secretary emailed the Firm's finance department with an electronic funds transfer certificate signed by the Respondent for Client C's matter (a completely unrelated client matter). This related to the information in a HSBC payment confirmation which showed the beneficiary as Firm B; payment for the sum of £20,681.09; and the bank account and sort code for Firm B. The client reference on this was for Client C's matter.

- 5.16. The Firm's policy on "approving electronic funds transfers" indicates that a solicitor / qualified legal executive could only approve a transfer if they obtain evidence of the original payment instructions from the client. The Respondent therefore needed written authorisation from Client C to make the payment.
- 5.17. On 20 February 2018, the Respondent telephoned Client C and emailed him. In the email he asked Client C to confirm that the Respondent was to transfer £20,681.09 as per the instructions regarding payment. The emails made no reference to Firm B / Client F / Company B and contained no information identifying that the payments would be made for a separate matter which did not involve Client C. Client C was therefore not aware that the payment was for a matter which did not relate to his matter and that therefore he did not have to make the payment. It was Client C's understanding that the payment was for the Firm's fees.
- 5.18. The Respondent forwarded the email chain described above to an individual at the Firm on 20 February 2018 at 09:36 as evidence to facilitate the transfer.
- 5.19. The Respondent then emailed Client C confirming the beneficiary's bank account for the payment (this account belongs to Firm B), however the Respondent did not explain this in his email.
- 5.20. On 20 February 2018, the Firm paid £20,681.09 to Firm B, acting for Company A, in payment for their legal expenses. The payment was made without Client F's consent. Payment was made to Firm B from Client C's ledger, without Client C's consent.
- 5.21. On 16 October 2018 the Respondent sent a draft settlement agreement (which he had drafted) to Client F for their approval. The agreement stated that Company G would pay Client F £38,090.88 and contained a clause which stated payment was required from Company G by 16:00 on 9 November 2018.
- 5.22. On 25 October 2018 Client F accepted the proposed draft terms, which the Respondent acknowledged. However the Respondent had not made initial contact with Company G; had not negotiated a settlement; and had not progressed the matter.
- 5.23. On 16 November 2018, (7 days after payment was due) the Respondent told his client, Client F, that he was expecting Company G to make

payment imminently. He requested Client F's bank details to forward payment. In a series of emails, the Respondent caused Client F to believe that Company G were due to settle the matter imminently.

5.24. From 5 December 2018 to 19 February 2019 the Respondent misled Client F by stating repeatedly that settlement monies had been received from Company G and would be paid to Client F:

5.24.1. On 5 December 2018, the Respondent emailed stating: *"I'm expecting BACS payments shortly! Bear with me. It will be like a Christmas present!"*

5.24.2. On 14 December 2018, the Respondent emailed stating: *"...I should be sending you some Christmas cheer in the form of money once I'm back in early next week...Thought I would surprise you with news rather than be chased."*

5.24.3. On 18 December 2018, Client F emailed asking for receipt of the payment before Christmas, to which the Respondent responded: *"You do like to ruin Christmas surprises. It will be over at some point this week I am pretty confident of that!"*

5.24.4. On 30 December 2018, the Respondent emailed stating: *"I will sort payments etc out when I am back."*

5.24.5. On 10 January 2019, Client F emailed asking: *"Can you please advise if you are waiting for the payment...This is totally ridiculous to have to wait this long...You said on the 16th November the payment was imminent, this is nearly 2 months ago...Please advise what is going on."*

5.24.6. On 11 January 2019, the Respondent emailed stating: *"[I'm] pretty sure that we have the funds going through the system if not cleared so all being as I expect I will arrange the payment on Monday to you!"*

5.24.7. On 1 February 2019, the Respondent stated: *"...I will attend to payment etc when I'm back in"*.

5.24.8. On 12 February 2019, Client F emailed asking for confirmation the payment had been made as they had not received anything in their account. The Respondent replied stating: *"I will do. I'm just*

on the way to a hospital appointment but will get it all sorted out tomorrow."

- 5.24.9. On 13 February 2019, the Respondent stated: "*Got to the bottom of the issue on our end...will get it through the system tomorrow. My sincere apologies!*"
- 5.24.10. On 15 February 2019, Client F emailed the Respondent stating nothing had been received and asking whether payment had been made yesterday. The Respondent replied "*I will ensure it is sent out today. My apologies...*". Client F responded: "*...I cannot believe that I have been chasing this for the last [three] Months... with promises from you to say it will be done.....This is getting beyond a joke now Greg. And very embarrassing for you and [Client F]!*" The Respondent responded stating he would "*sort it*".
- 5.24.11. On 18 February 2019, Client F requested that the Respondent provided a breakdown of the funds received. The Respondent agreed to provide the same.
- 5.24.12. On 19 February 2019, Client F chased the breakdown. The Respondent stated: "*It will come through. If for some reason it hasn't cleared by this evening I will arrange for a TT from our own office account so one way or another it will be there!*" Client F then requested a screenshot of the payment.
- 5.25. On 20 February 2019 Client F sent the Respondent and the Firm a notice demanding payment of the settlement monies within seven days. The Respondent replied to Client F stating that they would receive the money in good time. Client F complained to the Firm.
- 5.26. On 28 February 2019 the Respondent wrote a letter of apology to Client F.
- 5.27. On 6 March 2019 both the Respondent and the Firm reported the matter to the SRA.
- 5.28. On 8 March 2019 the Respondent resigned from the Firm.
- 5.29. On 5 April 2019 the Firm sent Client C a summary of his matters, confirming that payment of £20,681.09 was made to Firm B from Client C's ledger.

5.30. On 8 April 2019 Client C told the Firm that he was unaware of the reason or the payment to Firm B.

5.31. On 11 July 2019 Client F reported the matter to the SRA.

Non-Agreed Mitigation

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

- 6.1. Mr Saunders made a self-report to the SRA dated 6 March 2019 in which he told the Regulator that he had conducted himself in what the public would regard as a reprehensible fashion and he accepted that not only had he made mistakes but that those mistakes inevitably constituted a breach of a number of the SRA's Principles set out in the Code of Conduct in force at the time.
- 6.2. At that stage, Mr Saunders did not deal with the position in relation to Client C and the withdrawal of £20,681.09 from Client C's client account so that he could make a payment to Firm B in respect of a matter that did not, in fact, involve Client C but rather was a matter involving Client F.
- 6.3. Mr Saunders wishes to make it clear to the SDT that by making these representations, he does not in any way intend to try to excuse his behaviour which he accepts fell well below the standard that the SRA does and indeed should expect of a qualified solicitor, particularly a solicitor of his seniority.
- 6.4. In his letter dated 6 March 2019, however, Mr Saunders attempted to place his actions in context and this letter is a further attempt to do so in more detail.
- 6.5. At the time of the events in question, he was under extreme pressure at work and as a senior individual in his team felt unable to share the difficulties that he had with his colleagues. He accepts that by misrepresenting the position to Client F in relation to the case that he was dealing with for them, he achieved nothing save to exacerbate the position and to make the situation worse not only for his client, Client F, but also for Client C and ultimately for himself and his family.
- 6.6. Mr Saunders deeply regrets the way in which he conducted himself throughout this period but he wishes to draw the SDT's attention again to the various personal difficulties that he had at the time which culminated in his visit to his GP in October 2018 [REDACTED]
[REDACTED]
[REDACTED]

6.7. Mr Saunders now looks back at the situation in which he found himself with Client F and can only conclude [REDACTED]

6.8. [REDACTED]

6.9. Mr Saunders was, until the time in question, a very active member of the legal profession. Amongst the roles that he undertook in addition to his legal work at the Firm were to act as Chairman of Somerset Chamber of Commerce, Chairman Taunton Strategic Advisory Board and Trustee and Director of Arts Taunton.

6.10. Mr Saunders finds it difficult even now to discuss the conduct in question. In his letter dated 6 March 2019, he told the SRA that he had difficulty even recalling the events that took place which involved Client F and by implication Client C. Whilst, therefore, the way in which he behaved at the time in respect of these two matters may look to the SRA to have been a determined course of conduct in the course of which Mr Saunders was focused only on misrepresenting the position to his clients, in reality Mr Saunders would say that [REDACTED] and that at the time in question he was simply unable to cope with his professional obligations.

6.11. Even now Mr Saunders finds it difficult to address these issues and finds it almost impossible even to enter a law firm even for the purposes of obtaining legal advice.

6.12. Mr Saunders' distress when reflecting upon his conduct cannot be overestimated.

6.13. He has lost everything as a result of the way in which he behaved. He resigned his partnership with the Firm shortly after the matters which were the subject of the Firm's self-report came to light. [REDACTED]

[REDACTED] He makes these representations not because he seeks to avoid responsibility for the events described in this Agreed Outcome but rather to explain to the SDT that those events and his conduct were completely out of character and came about as a result of

the various issues in his professional and personal life which he has sought to describe above.

- 6.14. Mr Saunders' current position is that he no longer works for a law firm and he is effectively unemployed. [REDACTED]

- 6.15. Mr Saunders knows that it is not enough for him to emphasise his previously unblemished career but, nevertheless, he wants to repeat to the SDT the fact that he has never, until the events in question, either misled a client nor indeed knowingly breached any of the Principles and Outcomes in the Code of Conduct in force from time to time.

- 6.16. In summary, Mr Saunders was struggling to try to meet his professional commitments, he felt unable to discuss his difficulties with his colleagues and then those difficulties were exacerbated by the problems described in his private life, [REDACTED]

[REDACTED] Whilst, therefore, he accepts the breaches set out in the Notice of Referral, he does not accept that he was dishonest on the basis that he never intended to mislead Client F and certainly never intended to deprive Client C of the funds held on client account for him. By the time of the events involving Client C, Mr Saunders was so desperate and unable to cope that he behaved in a way that was completely out of character and, as we have already said, in a way that he now finds difficult to recall but nevertheless deeply regrets.

7. 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 he be struck off the Roll.

Penalty proposed

8. It is agreed that the Respondent should be struck off the Roll of Solicitors.
9. 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 £4,600.00 inclusive of VAT.

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

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

11. 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..."

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

12.1. The admitted allegations in the Rule 12 statement relate to the conduct of a transaction involving a significant sum of money. The Respondent was the only solicitor acting on this transaction, and was in a position of trust and responsibility.

12.2. The Respondent was a solicitor of 18 years' qualification and it was incumbent upon him to understand his regulatory obligations. Given his length of qualification and experience, the Respondent ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession.

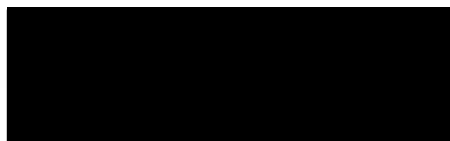
12.3. The matters outlined above undermined and harmed the reputation and public confidence in the provision of legal services.

12.4. The failings by the Respondent amounted to a significant departure from the "complete integrity, probity and trustworthiness" expected of a solicitor.

13. Ordinary, decent people would consider the Respondent's behaviour to be dishonest. Given that it involves a sustained course of dishonest conduct towards a client both as to the progress of a matter and as to the use of clients' monies, including the misappropriation of client monies, 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.

14. 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.

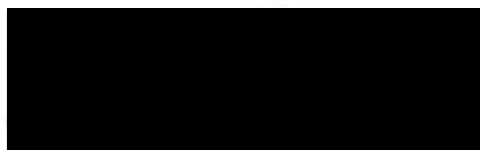
Signed:



Name: Gregory Stuart Saunders

Date: 14 / 1 / 2021

Signed:



Name: For and on behalf of the SRA

Date: 18 January 2021