

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12215-2021

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

JULIE MARGARET HOLDAWAY

Respondent

---

Before:

Miss H. Dobson (in the Chair)

Mr A.N. Spooner

Ms J. Rowe

Date of Hearing: 25 October 2021

---

## **Appearances**

Joshua Bold, solicitor of the Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant.

The Respondent did not appear and was not represented.

---

## **JUDGMENT**

---

## **Allegations**

1. The allegations against the Respondent were that, while non-practising as a Solicitor:
  - 1.1 On 16 May 2019, during an interview with Kew Law LLP (“the Firm”), she gave a false statement regarding her employment status and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011 (“the Principles”).
  - 1.2 On a date unknown on or before 17 May 2019, she provided false information to Clayton Legal, a recruitment Agency (“the Agency”), regarding her employment status and the reasons why her employment with Fairhurst Menuhin & Co (“the Previous Firm”) had ended and in doing so breached any or all of Principles 2 and 6 of the SRA Principles 2011.
2. In addition, each of the allegations set out above is advanced on the basis that the Respondent’s conduct was dishonest.

## **Documents**

### **Applicant**

- Application dated 16 June 2021
- Rule 12 Statement and Exhibits JSB1 dated 16 June 2021
- Witness Statements of JF dated 5 May 2020 and 16 June 2021
- Witness Statement of JK dated 6 May 2020 and 29 June 2021
- Chronology
- Applicant’s e-mail to the Respondent dated 22 October 2021
- Costs at Issue dated 17 June 2021
- Schedule of Costs dated 18 October 2021
- Authorities

### **Respondent**

None

## **Preliminary Matters**

3. The Respondent did not attend the hearing and was not represented. Mr Bold informed the Tribunal that the Respondent had not applied to adjourn or vacate the hearing and there had been very limited engagement from the Respondent in the proceedings.
4. Service of Proceedings
  - 4.1 The Tribunal was concerned to ensure that the Respondent had been correctly served and was aware of the hearing date.
  - 4.2 Mr Bold submitted that the Respondent had been correctly served with the proceedings under Rule 13(5) the Solicitors Disciplinary Procedure Rules 2019 (“SDPR 2019”) and there was evidence that the Respondent was on notice of the listed hearing.

- 4.3 Mr Bold went through a brief chronology. The Rule 12 Statement in this matter was dated 16 June 2021. The Tribunal issued Standard Directions dated 22 June 2021, which required the Respondent to file her Answer to the Rule 12 Statement and any other documents on which she intended to rely at the substantive hearing by 20 July 2021.
- 4.4 The Respondent failed to comply with those directions and a non-compliance hearing was held on 29 July 2021. Prior to the non-compliance hearing, the Respondent had made contact with the Applicant and had explained that she was in isolation and would not be able to attend. The Respondent was informed that physical attendance was not necessary as the hearing was being conducted remotely. The Respondent did not attend the non-compliance hearing.
- 4.5 The Senior Deputy clerk considered that as the Respondent had been in communication with the Applicant, it was appropriate to vary the Standard Directions, allowing further time for the Respondent to file and serve her Answer and any documents and the directions were varied such that the Respondent had until 12 August 2021 to file and serve her Answer and any documents on which she intended to rely.
- 4.6 In the event that the Respondent did not comply with the amended directions, the matter was to be listed for a remote Case Management hearing on 14 September at 10.30am.
- 4.7 The Respondent failed to file and serve her Answer and documents as directed and she did not attend the hearing. On 2 September 2021, the Respondent emailed stating that she would not be attending the hearing and she was no longer in practice.
- 4.8 At the Case Management Hearing the Tribunal noted the Respondent's circumstances in relation to her accommodation and health issues; and also observed that the Respondent had sent an email dated 2 September 2021 to the Applicant in which the Respondent confirmed that she would not be attending the hearing. The Respondent explained her personal circumstances, including her financial position. The Respondent stated: "...I made a mistake I admitted to it..."
- 4.9 The Tribunal, on that occasion, determined that the Respondent's email stood as her Answer to the Allegations. The Tribunal considered that the case could be dealt with in one day instead of the estimated two days, given the lack of engagement of the Respondent.
- 4.10 In view of the matters above, Mr Bold submitted that the Respondent had been properly served and had been aware of the proceedings, including the date of the substantive hearing.

#### The Tribunal's Decision

- 4.11 The Tribunal retired to consider the submissions made by Mr Bold and the evidentiary material with respect to service, and later contact with the Respondent made by the Applicant, to which its attention had been drawn

4.12 The Tribunal was satisfied that the Respondent had been correctly served with the proceedings under Rule 13(5) SDPR 2009, and was also satisfied that there was sufficient evidence to demonstrate that the Respondent was aware of the substantive hearing which was due to take place between 24 and 28 August 2020.

4.13 Having established that the Respondent had been properly served, the Tribunal next considered whether the hearing should be adjourned, and if not adjourned, whether the hearing should continue in the absence of the Respondent.

## 5. Adjournment

5.1 Mr Bold had submitted that it was clear the Respondent had been aware of the date of the hearing, and there was evidence before the Tribunal that the Respondent had been served correctly with the proceedings and notified of the date of the hearing. There had been no engagement from the Respondent other than her e-mail of 2 September 2021, and no application from her to adjourn the substantive hearing.

### The Tribunal's Decision

5.2 The Tribunal was aware of the principles to be applied in consideration of such applications as set out in its current Policy/Practice Note on Adjournments.

5.3 The Tribunal noted that Rule 23 SDPR set out, amongst other things, that an application for an adjournment of the hearing must be supported by documentary evidence of the need for the adjournment, and that an application for an adjournment should be made in the prescribed form indicating the full reasons as to why an adjournment was being sought e.g. medical reports; and state whether the other party to the proceedings supported or opposed the application for an adjournment. The Tribunal would be reluctant to agree to an adjournment unless the request was supported by both parties or, if it was not, the reasons appeared to the Tribunal to be justifiable because not to grant an adjournment would result in injustice to the person seeking the adjournment.

5.4 In this case the Respondent, who, the Tribunal was satisfied was aware of the proceedings, had made no application to adjourn and there was nothing before the Tribunal to consider on this point. The Tribunal decided not to adjourn the hearing as there was no evidence for it to reasonably do so.

## 6. Application to proceed in absence

6.1 Mr Bold had also applied for the substantive hearing to proceed in the Respondent's absence and relied upon the decisions in General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 16231 which in turn approved the principles set out in R v Hayward, R v Jones, R v Purvis QB 862 [2001], EWCA Crim 168 [2001] namely that proceeding in the absence of the Respondent was a discretion which a Tribunal should exercise with the upmost care and caution bearing in mind the following factors:

- The nature and circumstances of the Respondent's behaviour in absenting herself from the hearing;

- Whether an adjournment would resolve the Respondent's absence;
- The likely length of any such adjournment;
- Whether the Respondent had voluntarily absented herself from the proceedings and the disadvantage to the Respondent in not being able to present her case.

6.2 It was held in Adeogba that in determining whether to continue with regulatory proceedings in the absence of the accused, the following factors should be borne in mind by a disciplinary tribunal:-

- the Tribunal's decision must be guided by the context provided by the main statutory objective of the regulatory body, namely the protection of the public;
- the fair, economical, expeditious and efficient disposal of allegations was of very real importance;
- it would run entirely counter to the protection of the public if a Respondent could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process; and
- there was a burden on all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made against them. That is part of the responsibility to which they sign up when being admitted to the profession.

6.3 In Mr Bold's submission the Tribunal had evidence that the Respondent had been correctly served, and that she was aware of the hearing date, but that she had voluntarily absented herself.

#### The Tribunal's Decision

6.4 The Tribunal was mindful that it should only decide to proceed in the Respondent's absence having exercised the utmost care and caution.

6.5 The Tribunal considered the factors set out in Jones and Adeogba in respect of what should be considered when deciding whether or not to exercise the discretion to proceed in the absence of the Respondent. The Tribunal noted that the Respondent had been served with notice of the hearing under Rule 13(5) SDPR 2019 and the Tribunal had the power under Rule 36 SDPR 2019, if satisfied service had been effected, to hear and determine the application in the Respondent's absence.

6.6 The Tribunal considered the Respondent had been correctly served, and was aware of the date of the proceedings, and that an adjournment would not resolve her absence. The Respondent had a duty to engage but had not done so, save for her e-mail to the Applicant of 2 September 2021, and there was nothing to suggest that she would attend a hearing on a future date. There was no evidence before the Tribunal that she had medical issues preventing her from attending and the Tribunal concluded that the Respondent had voluntarily absented herself.

- 6.7 The Tribunal also took into account the serious nature of the allegations which had been made against the Respondent. These involved allegations of dishonesty and related to events that had allegedly taken place in 2019. A significant period of time had elapsed since then and it was therefore in the public interest that this case should be concluded expeditiously and without further delay.
- 6.8 Taking all these matters into account, the Tribunal was satisfied that it was appropriate and in the public interest for the hearing to proceed in the Respondent's absence and the Tribunal decided that it should exercise its power under Rule 36 SDPR to hear and determine the application in the Respondent's absence.

### **Witnesses**

7. There was no live witness evidence.

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

8. The Applicant was required to prove the allegations on the civil standard, that of the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondents' rights to a fair trial and to respect for her private and family life under Articles 6 and 8 respectively of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
9. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

### **Background**

10. The Respondent was admitted to the Roll of Solicitors in 1993 and at the time of the substantive hearing she was unemployed and did not hold a practising certificate. When in practice she did so in the field of residential conveyancing.
11. The conduct complained of came to the attention of the Applicant upon receipt of a report from one of the Firm's partners, SK, concerning the Respondent during an interview which took place on 16 May 2019 at the Firm's office namely:
- On 18 June 2019, SK reported the Respondent had lied during an interview at the Firm on 16 May 2019. The Respondent was being interviewed for the position of residential conveyancing solicitor. SK's investigation revealed that information in her CV was false and that she had lied to the Agency.
  - SK confirmed the interview was conducted by two of his Partners, JK and JF. After the interview, his two partners offered the Respondent the position, subject to references.

- The Agency informed the Firm that the Respondent wished to negotiate a higher salary stating that she “is currently on £34,000 and she wants a little bit of an increase for a move”. SK then became involved. He informed the Agency he would like to meet the Respondent in person to assess her suitability for the role as she was asking for a higher salary.
- SK also asked the Agency to reconfirm what the Respondent had said in interview, namely that she was only on a one months’ notice period at the previous firm. The Agency obtained that confirmation from the Respondent and confirmed the same back to SK. SK thought the notice period was a bit short so made his own enquiries.
- SK telephoned the previous firm and spoke to one of their Partners who confirmed the Respondent was not employed at the firm and that her employment had terminated in September 2018. That fact was later confirmed by the Applicant when it contacted the previous firm who relayed: “Due to repeated illness on her part and her husband who was apparently in and out of hospital at the time she only attended the office 6 days in July and 10 days in August. She barely came in in September which then led to her dismissal”.
- On 17 May 2019 SK called the Agency to confirm that the Firm’s interest in the Respondent had ended and the result of his findings which were that she had been employed by the previous firm but her employment was terminated in September 2018. On the same day the Agency put this to the Respondent who admitted to lying and had done so because she was embarrassed to have been unemployed since September 2018.
- SK attached a copy of the CV sent to the Firm by the Agency in which she had stated that she was employed at the previous firm as a residential conveyancing solicitor when that was not the case.

## 12. Allegation 1.1: Provision of false information in interview

### The Applicant’s Case

- 12.1 On 16 May 2019 during the interview the Respondent confirmed that she was employed by the previous firm as detailed in her CV. When asked by JF about her notice period at the previous firm she confirmed it was one month.
- 12.2 JF exhibited her contemporaneous notes of the interview. The Respondent’s CV and the interview notes reflected the Respondent’s assertion that she was, at the material time, employed by the previous firm with one months’ notice required of her.
- 12.3 JK corroborated the fact that, in interview, the Respondent confirmed she was employed by the previous firm and, in response to his colleague’s question about her notice period, she confirmed it was one month.
- 12.4 The reasons given in interview by the Respondent for wanting to move firms, according to JK and JF, were (a) “the office was not busy with only a family law partner and paralegal based there and (b) that “on a bad day” she was the only one in the office” as opposed to the fact that her employment was terminated following dismissal.

- 12.5 On 17 May 2019 the Agency emailed SK to confirm SK was correct in his findings in that the Respondent was not employed at the previous firm at that time. The Agency confirmed that “she advised that she was to (sic) embarrassed to admit that she had been out of work for 6 months” and “they [the previous firm] had to terminate her contract”.
- 12.6 On 9 January 2020 the Respondent, in response to a letter dated 19 December 2019 from the Applicant, stated that: “The only inaccuracy is the length of my employment with [the previous firm] ...The information was inaccurate concerning the length of time I was employed. I was too ashamed to advise I had been out of work for some time...”.
- 12.7 It was said that the Respondent’s conduct amounted to the below.
- 12.8 *Breach of Principle 2 of the Principles*
- 12.8.1 By falsely stating in interview that she was employed by the previous firm with a one months’ notice period and in so doing the Respondent failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code.
- 12.8.2 In *Wingate v Solicitors Regulation Authority v Malins* [2018] EWCA Civ 366, it was said that integrity connotes adherence to the ethical standards of one’s own profession. A solicitor acting with integrity would not have misled the firm about her employment status. By doing so she promoted herself as a more attractive candidate to the firm by concealing the truth about her employment status at the previous firm and that she had been dismissed, which in turn could have deprived other candidates the opportunity to attain the role which she was interviewed for and initially selected. The Respondent therefore breached Principle 2 of the SRA Principles 2011.
- 12.9 *Breach of Principle 6 of the Principles*
- 12.9.1 It was alleged that the Respondent failed to behave in a way which maintains the trust placed by the public in them and in the provision of legal services. The public expects every solicitor to be truthful in the information they supply to others particularly to other professionals when providing their employment details.
- 12.9.2 Public confidence in the Respondent, in solicitors and in the provision of legal services is likely to be undermined by a solicitor falsely stating her employment status and history. The Respondent acted in bad faith and created a false narrative which would have increased her chances of employment. That was concerning because if the alleged misconduct had gone unnoticed, the Respondent would have successfully obtained employment based on deception and would have been providing legal services to the public. The Respondent therefore breached Principle 6 of the SRA Principles 2011.



### The Respondent's Case

12.10 The Respondent had engaged little in the proceedings and other than the matters set out in her e-mail dated 2 September 2021 the Respondent had not served a detailed Answer to the allegations. The Respondent's position with respect to this allegation was therefore not entirely known other than a possible admission.

### The Tribunal's Findings

12.11 The Tribunal reminded itself with respect to all the allegations that the Applicant must prove its case on the balance of probabilities; the Respondent was not bound to prove that she did not commit the alleged acts and that great care must be taken to avoid an assumption (without sufficient evidence) of any deliberate failure or act on the Respondent's part.

12.12 The Tribunal carefully considered the evidence it had heard and observed that its task in determining the allegations was made more difficult in circumstances where the Respondent had not engaged fully in the proceedings and had presented no evidence in her case.

12.13 The Tribunal approached this, and all the other allegations on the basis that they were denied by the Respondent and by applying the requisite standard of proof, namely the balance of probabilities. Further, in circumstances where the Respondent had not given evidence at the substantive hearing or submitted herself to cross-examination the Tribunal was entitled to take into account the position that the respondent has chosen to adopt and to draw such adverse inferences from the Respondent's failure as the Tribunal considered appropriate in accordance with Rule 33 of SDPR 2019.

12.14 The Tribunal found proved to the requisite standard that in her interview on 16 May 2019 the Respondent had confirmed that she was employed by the previous firm as set out in her CV and that when asked about her notice period at the previous firm she confirmed it was one month. The Respondent had given a particular reason for wanting to leave the previous firm namely that she had not been busy and that on a bad day she was the only one in the office. None of this information was an accurate statement of fact, namely that the Respondent's employment with the previous firm had been terminated six months previously due to declining attendance.

12.15 The witness JF had made a contemporaneous note of the Respondent's answers in interview and her account set out in her witness statement was corroborated by JK in his witness statement. Neither witness had any apparent reason to misrepresent their account of the answers given by the Respondent in interview and in the absence of any denial or evidence from the Respondent the Tribunal accepted the evidence.

12.16 The Tribunal proceeded to consider whether, on the basis of its factual findings, the Respondent had breached both Principle 2 and or Principle 6 of the Principles.

12.17 The Tribunal found that the Respondent had breached both Principle 2 and Principle 6 of the Principles.

- 12.18 By falsely stating in interview that she was employed by the previous firm with a one months' notice period the Respondent had failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code. The public would expect a solicitor to be truthful in the information they supply to others particularly to other professionals when providing their employment details and public confidence in the Respondent, in solicitors, and in the provision of legal services would likely be undermined by a solicitor falsely stating her employment status and history.
- 12.19 The Tribunal found Allegation 1.1 proved in full on the balance of probabilities.

### 13. **Allegation 1.2: Provision of false information to the Agency**

#### The Applicant's Case

- 13.1 On or before 17 May 2019 the Respondent provided the information contained within her CV in applying for the role of residential conveyancing solicitor within the Firm. Her CV stated unequivocally that she was employed as a solicitor at the previous firm. That was not true either (a) at the time the information was provided or (b) when she applied for the role within the Firm.
- 13.2 It was alleged that the Respondent had not been transparent about her position because she was not employed at the time and had been dismissed from the previous firm prior to her interview. The Respondent accepted during the course of the investigation that she was too embarrassed to admit that she had been out of work.
- 13.3 On 17 May 2019, the Respondent's reasoning supplied to the Agency as to why her employment with the previous firm had come to an end was that: "she was let go by [the previous firm] due to them not having enough conveyancing work for her to complete so they had to terminate her contract – she advised me she ended employment really positively and they have stated they would provide her with a full reference."
- 13.4 On 10 February 2020, the Applicant emailed the previous firm to clarify the Respondent's employment with them. The previous firm confirmed that: "Due to repeated illness on her part and her husband who was apparently in and out of hospital at the time she only attended the office 6 days in July and 10 days in August. She barely came in in September which then led to her dismissal."
- 13.5 It was therefore alleged that the Respondent lied again to cover her first lie regarding employment at the previous firm when it was discovered she was no longer working there.
- 13.6 A Production Notice dated 1 May 2020, was sent to the Respondent. Amongst other questions the Respondent was asked the following:
- Whether she told the Firm in her interview the reason for her dismissal at the previous firm to which she replied "No I did not".
  - Whether she told the Agency before it prepared the CV the reason for her dismissal at the previous firm to which she replied "This I cannot remember. I have not kept

copies of emails sent or received by Clayton Legal. As I remember most of the discussions were over the telephone.”

- 13.7 On 16 May 2019 the Agency informed the Firm that the Respondent wished to negotiate a higher salary. The Respondent therefore provided further false information to the Agency by stating that she was earning £34,000 when in fact she was unemployed.
- 13.8 It was clear that the Respondent provided false information to the Agency in relation to her employment status, salary and about the reasons why her employment ended with the previous firm. The Respondent provided information to the Agency that she was still employed, was earning a salary of £34,000 and throughout the recruitment period up to 17 May 2019 (post interview) the Respondent failed to provide the real reason for her employment ending.
- 13.9 It was said that the Respondent’s conduct amounted to the below.
- 13.10 *Breach of Principle 2 of the Principles*
- 13.10.1 The provision of false information during the process of trying to secure employment showed the Respondent’s failure to act with integrity (as defined above).
- 13.10.2 The Respondent provided false information to the Agency about her employment status, current salary and why her employment came to end with the previous firm. A solicitor acting with integrity would not have provided false information to the Agency. By her actions, the Respondent promoted herself as a more attractive candidate to the Firm by concealing the truth about her dismissal from her previous firm. The Respondent therefore breached Principle 2 of the SRA Principles 2011.
- 13.11 *Breach of Principle 6 of the Principles*
- 13.11.1 The conduct alleged also amounted to a breach by the Respondent of the requirement to behave in a way which maintained the trust placed by the public in them and in the provision of legal services.
- 13.11.2 The Respondent acted in bad faith, by providing false information to the Agency. Her actions placed the Agency in an embarrassing position when the Firm discovered that she no longer worked for the previous firm. Further, it had the potential to damage the Agency’s commercial reputation as a reliable recruitment business within the legal industry.
- 13.11.3 Public confidence in the Respondent, in solicitors and in the provision of legal services was likely to be undermined by providing false information to third parties. The Respondent therefore breached Principle 6 of the SRA Principles 2011.

#### The Respondent’s Case

- 13.12 The Respondent’s position was the same as set out in Allegation 1.1 above.

### The Tribunal's Findings

- 13.13 The Tribunal observed that with respect to this allegation the Applicant had not been able to obtain a witness statement from the Agency with respect to its interactions with the Respondent in which included the preparation of the CV and the aftermath of the interview.
- 13.14 The Applicant had instead relied on e-mails which had passed between the Agency and the Firm. This was perhaps a lacuna in the evidence, however, given the limited account given by the Respondent as to her actions, and the surrounding circumstances, the Tribunal considered that it was appropriate to draw inferences, as it was permitted to do under Rule 33 SDPR 2019.
- 13.15 The Tribunal found, on the balance of probabilities, that the reason for the Respondent leaving the previous firm was because she had been dismissed due to declining attendance, and that the Respondent had not given the Agency this as the reason why she had left the previous firm. Accordingly, the Respondent had provided false and inaccurate information to the Agency.
- 13.16 Further, when the Firm made enquiries of the Agency post the interview the Respondent had provided the Agency with another false account, which she then permitted the Agency to recount to the Firm in its e-mail of 17 May 2019. The Respondent also misled the Agency regarding her salary in circumstances where she had been dismissed and was not in receipt of a salary, in any amount.
- 13.17 Having made its findings with respect to the facts the Tribunal was satisfied that the Respondent's conduct was a breach of both Principle 2 and Principle 6 of the Principles.
- 13.18 The provision of false information during the process of trying to secure employment represented a failure to act with integrity on the Respondent's part in breach of Principle 2 of the Principles.
- 13.19 The Respondent had acted in bad faith, by providing false information to the Agency. Public confidence in the Respondent, in solicitors and in the provision of legal services was likely to be undermined by providing false information to third parties. The Respondent therefore breached Principle 6 of the Principles.
- 13.20 The Tribunal found Allegation 1.2 proved in full on the balance of probabilities.

### 14. **Allegation 2: Dishonesty**

#### The Applicant's Case

- 14.1 The Applicant relied upon the test for dishonesty stated by the Supreme Court in Ivey v Genting Casinos [2017] UKSC 67, namely that the person has acted dishonestly by the ordinary standards of reasonable and honest people:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often

in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

- 14.2 On 16 May 2019 the Respondent told the Firm during the interview that she was employed by the previous firm, on a salary of £34,000 and had a one months’ notice period. Then on or before 17 May 2019 she gave false information to the Agency for the compilation of the CV.
- 14.3 Subsequently, when telling the Agency, she was employed by the previous firm, on a salary of £34,000.00 and her reason for leaving was that the office was not busy the Respondent knew this to not be the case.
- 14.4 In the circumstances, it was said the Respondent was dishonest by the standards of ordinary decent people.

#### The Respondent’s Case

- 14.5 The Respondent’s position was the same as set out in Allegation 1.1 above.

#### The Tribunal’s Finding re Dishonesty

- 14.6 Having found the factual matrix in Allegations 1.1 and 1.2 proved to the requisite standard, namely on the balance of probabilities, the Tribunal considered whether the Respondent had acted dishonestly in each of those allegations.
- 14.7 When considering the allegation of dishonesty, the Tribunal applied the test in Ivey. The test for dishonesty was set out at paragraph [74] of the judgment in that case, and accordingly the Tribunal adopted the following approach:
- First, the Tribunal established the actual state of the Respondent’s knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held;
  - Second, once the actual state of the Respondent’s knowledge or belief as to the facts had been established the Tribunal next considered whether her conduct would be thought to have been dishonest by the standards of ordinary decent people.
- 14.8 The Tribunal considered the Respondent’s state of knowledge at the material times, although this exercise was made more difficult in the absence of any input from the Respondent which may have assisted the Tribunal in determining any rationale or context with respect to the Respondent’s state of knowledge.
- 14.9 With respect to the Respondent’s state of knowledge the Tribunal found on the balance of probabilities the following:

- That her employment at the previous firm had terminated six months before she attended the interview with the Firm.
- That she did not have to give one months' notice to the previous firm as she was no longer working there.
- That she was not earning a salary of £34,000.
- That she had been dismissed from the previous firm and had reported to the Agency "that she was let go by the Previous Firm due to them not having enough Conveyancing work for her to complete so they had to terminate her contract – she has advised me she ended employment really positively and they have stated they would provide her with a full reference."
- That the correct explanation for no longer being employed by the previous firm is the one provided by them namely: "Julie Holdaway was employed at our firm from the 02/07/2018 to the 11/09/2018 when she was dismissed. Due to repeated illness on her part and her husband who was apparently in and out of hospital at the time she only attended the office 6 days in July and 10 days in August. She barely came in in September which then led to her dismissal."
- That the information supplied to the Agency was false regarding her previous employment yet she allowed a CV to be compiled and submitted to support applications for employment.
- That she was trying to obtain employment by providing false information to an employment Agency and a potential employer about her employment status in order to obtain a better chance of being recruited.

14.10 The Tribunal considered that ordinary decent people would consider a solicitor to be dishonest if the solicitor made knowingly false statements to secure employment as a solicitor. The public expect a solicitor to be truthful.

14.11 The Tribunal noted that no character references or indeed any material had been put forward by the Respondent as evidence of her good character and her lack of propensity to be dishonest which could be weighed in the balance before reaching a decision on dishonesty.

14.12 Therefore, in the light of its factual findings and its conclusions in relation to the Respondent's knowledge the Tribunal was satisfied on the balance of probabilities that the Respondent had been dishonest.

14.13 Dishonesty in relation to Allegations 1.1 and 1.2 was proved on the balance of probabilities.

### **Previous Disciplinary Matters**

15. There were no previous matters.

## Mitigation

16. The Respondent put forward no mitigation. However, whilst it was not incumbent upon the Applicant to do so, Mr Bold drew to the Tribunal's attention that the Respondent was a solicitor of twenty years' standing and with an unblemished record. The Respondent had explained in correspondence with the Applicant that she had been too embarrassed to admit the real reason why she had left her previous firm and she had made a mistake in providing a false information.

## Sanction

17. The Tribunal first had regard to the observation of Sir Thomas Bingham MR (as he then was) in Bolton v Law Society [1994] 1 WLR 512 that the fundamental purpose of sanctions against solicitors was:

“to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth”.

18. The Tribunal referred to its Guidance Note on Sanctions (8<sup>th</sup> Edition) when considering sanction. The Tribunal acknowledged the three stages it should follow when approaching sanction, namely the seriousness of the misconduct, the purpose for which sanctions are imposed by the Tribunal, and the sanction which appropriately fulfils that purpose in light of the seriousness of the misconduct.
19. The Tribunal assessed the seriousness of the misconduct by considering the level of the Respondent's culpability and the harm caused, together with any aggravating or mitigating factors.
20. In assessing culpability, the Tribunal found that the motivation for the Respondent was one of personal and financial self-interest in order to obtain employment as a conveyancing solicitor with a salary in excess of £34,000 from the Firm.
21. The Respondent's actions were not spontaneous, on the contrary, the Respondent pursued a considered and calculated path in which she had had created a false narrative which would have increased her chances of employment.
22. The Tribunal considered that the Respondent had had direct control and responsibility for the circumstances giving rise to the misconduct in which she had knowingly allowed the employment Agency and the Firm to rely on false and misleading information.
23. The Respondent had been a solicitor since 1993 and she was experienced enough to understand the nature of her conduct and the consequences which flowed from them. A solicitor of any level of experience would know that providing false information to obtain employment was unacceptable.
24. The Tribunal considered that whilst the Respondent had not actively misled the Regulator she had failed to co-operate in a meaningful way with the Regulator or in a way which the public would expect of a regulated professional.
25. Overall, the Tribunal assessed the Respondent's culpability as high.

26. The Tribunal next considered the issue of harm.
27. Harm had clearly been caused to the reputation of the Agency and to the reputation of the profession in the eyes of the public, succinctly expressed by ME of the employment Agency who stated in an e-mail to JF: “As you can imagine when I work with Solicitors at this level - you don’t think to even question that what they are telling you in the absolute truth.”
28. There was also the potential for harm to the Firm who would have agreed to employ the Respondent on an erroneous basis and without a true understanding of the circumstances in which the Respondent had left the previous firm. This was concerning because if the alleged misconduct had gone unnoticed, the Respondent would have successfully obtained employment based on deception.
29. The consequential damage to the reputation of the profession by the Respondent’s misconduct was significant as the public would trust a solicitor not to mislead anyone when applying for a job. The Respondent had not merely ‘embellished her CV’ but had put forward material inaccuracies compounded by later lies told to the Agency and JF and JK in interview.
30. The Respondent’s conduct was a significant departure from the complete integrity, probity and trustworthiness expected of a solicitor.
31. The extent the harm was reasonably and entirely foreseeable by the Respondent who had had a clear knowledge of her actions.
32. The Tribunal assessed the harm caused as high.
33. The Tribunal then considered aggravating factors. The Tribunal, in its finding of fact, had found that the Respondent had acted dishonestly and her actions had been deliberate and calculated.
34. The misconduct had persisted over a number of weeks and whilst there was no evidence of concealment the Respondent had not been immediately open or forthcoming with an explanation of her actions. The fact of being unemployed is not a cause for shame or embarrassment, whereas misrepresenting facts and lying to a prospective employer was wrong and a material breach of the Respondent’s obligations to protect the public and the reputation of the legal profession.
35. The Respondent had not given any detailed account of actions and little if anything regarding mitigation. The Tribunal noted the comments made by Mr Bold with respect to the Respondent’s twenty-year career and hitherto unblemished disciplinary record. However, there was no evidence of any genuine insight; no open or frank admissions, save for the e-mail of 2 September 2021, and little if any co-operation with her regulator.
36. Given the Tribunal’s findings of dishonesty the Tribunal considered the seriousness of the misconduct to be high. In addition, the Respondent’s conduct had been found to have lacked integrity and she had failed to uphold public trust in the provision of legal services.



37. In the Judgment of the Divisional Court in SRA v Sharma [2010] EWHC 2022 (Admin) it had been held that “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... There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances... 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.”
38. In SRA v James, MacGregor and Naylor it was said that exceptional circumstances must relate in some way to the dishonesty and that as a matter of principle nothing was to be excluded as being relevant to the evaluation, which could include personal mitigation.
39. In evaluating whether there were exceptional circumstances justifying a lesser sanction in this case the focus of the Tribunal was on the nature and extent of the dishonesty and degree of culpability and then to engage in a balancing exercise as part of that evaluation between those critical questions on the one hand and matters such as the Respondent’s personal mitigation and health issues on the other.
40. In this case the Respondent had presented no personal mitigation to which the Tribunal could give any consideration and there was nothing before the Tribunal to allow it to conclude that the Respondent had not known the difference between honesty and dishonesty or that she may have acted ‘in blind panic’. The Tribunal noted that the Respondent had an otherwise unblemished record but that was perhaps all that could be said.
41. The Tribunal observed that this had not been a fleeting or momentary lapse of judgement but had been a course of conduct, involving dishonesty and with the intention of obtaining a position at the Firm using deception.
42. The Tribunal therefore could find no exceptional circumstances within the meaning of Sharma and James in the Respondent’s case.
43. The Tribunal considered that to make No Order, or to order a Reprimand, a Fine or Suspension (either fixed term or indefinite) would not be sufficient to mark the seriousness of the conduct in this case for the reasons set out above.
44. The Respondent’s misconduct could only be viewed as extremely serious and this fact, together with the need to protect the reputation of the legal profession, required that Strike Off from the Roll was the only appropriate sanction.

### **Costs**

45. Mr Bold stated that as the Applicant had proved its case to the required standard it was entitled to its proper costs. The quantum of costs claimed by the Applicant was in the sum of £3,858.00 which he submitted was not excessive but was reasonable and proportionate given that this was a case in which the central feature had been dishonesty.

46. That said, Mr Bold informed the Tribunal it was a matter for the Tribunal to assess the costs given that the case had originally been set down for a two day hearing, later reduced to one day and concluded in about half a day on a non-contested basis: this would afford some reduction in the claimed costs.
47. The Tribunal summarily assessed costs to consider whether they were reasonable and proportionate in all the circumstances of this case.
48. The Tribunal considered the matters set out by Mr Bold and noted, that although the Respondent had not submitted a statement of means as she had been required to do, there was evidence indicating her reduced means.
49. The Tribunal considered that it was appropriate for the Applicant to recover a proportion of its costs and assessed that, taking into account all the material circumstances, it was reasonable and proportionate for the Respondent to pay the costs of and incidental to this application and enquiry in the sum of £2,000.00.

### **Statement of Full Order**

50. The Tribunal Ordered that the Respondent, JULIE MARGARET HOLDAWAY, 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 £2,000.00.

Dated this 5<sup>th</sup> day of November 2021  
On behalf of the Tribunal



H Dobson  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**05 NOV 2021**