

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12217-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY Ltd

Applicant

and

SYED RIZVI

Respondent

Before:

Mr G. Sydenham (in the chair)

Mr P. Jones

Mrs S. Gordon

Date of Hearing: 4 October 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 were that while in practice as a solicitor and sole principal at Liberty Law UK Limited (the Firm):
 - “2.1. On 20 November 2019 he made an inappropriate payment of £42,000 out of the Firm’s client account. In doing so he: 2.1.1. breached any or all of Principles 2, 6 and 10 of the SRA Principles 2011 (the Principles); and/or
 - 2.1.2. caused or allowed the Firm’s client bank account to be used as a banking facility in breach of any or all of Principle 6 of the Principles and/or Rule 14.5 of the SRA Accounts Rules 2011 (the Accounts Rules).
 - 2.2. he breached a written undertaking given on 27 November 2019 in which he undertook to return the sum of £42,500, paid as a deposit on the purchase of a property, within two to three days of the undertaking. In doing so he breached any or all of Rule 1.3 of the Code of Conduct for Solicitors, RELs and RFLs 2019 (the Code) and Principle 2 of the SRA Principles 2019.
 3. In addition, manifest incompetence was alleged as an aggravating factor with respect to allegation 2.1.”
2. The Respondent admits each of these allegations. He also admits that his conduct in acting as alleged was manifestly incompetent.

Documents

3. The Tribunal had before it the following documents:-
 - Form of Application dated 25 June 2021
 - Rule 12 Statement dated 25 June 2021
 - Statement of Agreed Facts and Proposed Outcome submitted 30 September 2021

Background

4. At the time of the misconduct, the Respondent was 54 years old and a solicitor, having been admitted to the Roll on 17 June 2013 after undertaking the Qualified Lawyer Transfer Test.
5. The Respondent currently holds a practising certificate, free from conditions.
6. During the period in which the allegations occurred, the Respondent was the sole director of the Firm, a recognised body. The Firm, which had one office in Manchester, closed on 29 January 2021.
7. The Firm’s Annual Declaration to the SRA for the 2019 to 2020 practising year stated that its main areas of work were immigration (60%), personal injury (20%) and landlord and tenant (10%). It employed three legally qualified fee earners. The firm’s insurance renewal proposal form dated 29 July 2019 stated that the firm did not undertake

conveyancing work at that time and conveyancing work did not appear on the Firm's Anti-Money Laundering checklist.

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

8. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions (8th Edition).

Findings of Fact and Law

9. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
10. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
11. The Tribunal had respectful 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...”
12. The misconduct arose from the Respondent's lack of experience in conveyancing and his mistaken assumption that he was permitted and obligated to comply with SB's instruction to pay the deposit money of £42,000 to an unconnected third party, KS.
13. As a result of the Respondent's actions, money which should not have been paid out of the Firm's client account was paid to KS. Subsequently, the transaction did not proceed and when the return of the money was requested by the purchaser, APL (and an undertaking was given by the Respondent that it would be), APL was required to wait for a period of over a year for its return and to bring a claim against the Firm's insurers to achieve this.
14. The Tribunal accepted the premise that undertakings are the bedrock of the conveyancing system, and that the recipient of an undertaking is entitled to assume that it will be performed. The breach of an undertaking is known by the profession to be inherently serious and something which tarnishes the reputation of the profession as a whole.
15. However, the Tribunal was prepared to accept that this had been an isolated incident which was unlikely to be repeated. The Respondent had in fact been permitted to practice by the Applicant and there had been no repetition or any further misconduct.

16. The Respondent had been an inexperienced conveyancer and his case presented as a warning to the profession of the dangers of a solicitor stepping outside the area of his or her expertise without first obtaining the necessary experience to discharge their professional duty with competence. It also opened the solicitor to the risk of being used as an unwitting instrument to facilitate fraud or other associated criminal activity.
17. The Tribunal took into consideration that hitherto the Respondent had had an unblemished disciplinary record.
18. The Tribunal noted that the Respondent was not currently employed and that the Respondent had made undertakings to the Applicant that he update his "MySRA" Account with details of any new employer or place of practise within seven days of commencing such employment/practise.
19. In the circumstances, the Tribunal accepted that the seriousness of the Respondent's misconduct was such that a Reprimand would not be a sufficient sanction but neither the protection of the public nor the protection of the reputation of the legal profession justified a strike off or a suspension.
20. Taking account of these matters, together with the seriousness of the admitted misconduct, a fine within "Indicative Fine Band Level 3: Conduct assessed as more serious with a range £7,501.00 to £15,000.00" appeared to be a just and proportionate sanction.
21. The Tribunal was satisfied that a fine of £15,000.00 (at the top end of Level 3) coupled with a restriction preventing him from being a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration was an appropriate and proportionate sanction by which to maintain public confidence in the profession and to mark the level of the admitted misconduct.

Costs

22. The parties agreed that the Respondent should pay costs in the sum of £14,500.00. 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

23. The Tribunal Ordered that the Respondent, SYED RIZVI, solicitor, do pay a fine of £15,000.00, such penalty to be forfeit to Her Majesty the Queen.
24. The Tribunal further Ordered that the Respondent be subject to the condition imposed by the Tribunal as follows:
 - 24.1 The Respondent may not be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration.

24.2 There be liberty to either party to apply to the Tribunal to vary the condition set out at paragraph 24.1 above.

24.3 The Tribunal further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £14,500.00

Dated this 18th day of October 2021

On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'G. Sydenham', is written over a faint, light-colored rectangular stamp or watermark.

G. Sydenham
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
18 OCT 2021

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

SYED RIZVI

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 25 June 2021, and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Limited (the SRA) brought proceedings before the Solicitors Disciplinary Tribunal making two allegations of misconduct against Mr Syed Rizvi (the Respondent).

The allegations

2. The allegations against the Respondent, made by the SRA within that statement were that, while in practice as a solicitor and sole principal at Liberty Law UK Limited (the Firm): -

- 2.1. on 20 November 2019 he made an inappropriate payment of £42,000 out of the Firm's client account. In doing so he:

- 2.1.1. breached any or all of Principles 2, 6 and 10 of the SRA Principles 2011 (the Principles); and/or

2.1.2. caused or allowed the Firm's client bank account to be used as a banking facility in breach of any or all of Principle 6 of the Principles and/or Rule 14.5 of the SRA Accounts Rules 2011 (the Accounts Rules).

2.2. he breached a written undertaking given on 27 November 2019 in which he undertook to return the sum of £42,500, paid as a deposit on the purchase of a property, within two to three days of the undertaking. In doing so he breached any or all of Rule 1.3 of the Code of Conduct for Solicitors, RELs and RFLs 2019 (the Code) and Principle 2 of the SRA Principles 2019.

3. In addition, manifest incompetence was alleged as an aggravating factor with respect to allegation 2.1.

4. The Respondent admits each of these allegations. He also admits that his conduct in acting as alleged was manifestly incompetent.

Agreed Facts

5. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and the Respondent.

5.1. at the time of the misconduct, the Respondent was 54 years old and a solicitor having been admitted to the Roll on 17 June 2013 after undertaking the Qualified Lawyer Transfer Test.

5.2. During the period in which the allegations occurred, the Respondent was the sole director of the Firm, a recognised body. The Firm, which had one office in Manchester, closed on 29 January 2021. The Firm's Annual Declaration to the SRA for the 2019 to 2020 practising year stated that its main areas of work were immigration (60%), personal injury (20%) and landlord and tenant (10%). It

employed three legally qualified fee earners. The firm's insurance renewal proposal form dated 29 July 2019 stated that the firm did not undertake conveyancing work at that time. Conveyancing work did not appear on the Firm's Anti-Money Laundering checklist.

- 5.3. The Respondent currently holds a practising certificate, free from conditions.
- 5.4. On 4 November 2019, an individual purporting to be Mr SB instructed the Respondent in connection with the sale of his property in London (the Property). The agreed sale price was £425,000. The purchaser was APL, represented by Ms E. APL was an associated company of ML.
- 5.5. Mr SB attended at the Firm's office on 6 November 2019 and provided his passport and two forms of utility bills by way of identification. The file note stated that Mr SB wanted to downsize to a smaller property. The note did not record why Mr SB was instructing the Firm, a practice in Manchester which did not usually undertake conveyancing, on the sale of a property in London. Despite the Respondent having been provided with two utility bills which suggested that Mr SB had vacated the Property (in that they were "final" bills), no alternative address was recorded.
- 5.6. On 19 November 2019 there was a conditional exchange of contracts. APL (through an associated group company) transferred £42,500 into the Firm's client account as the deposit. The deposit was held as stakeholder.
- 5.7. On 20 November 2019, the Respondent transferred £42,000 of the deposit to an unconnected third party, KS, in Singapore. He did so on his client's instructions, which stated that the payment was to his agent and "*for the purchase of my property in London*". The client file did not identify who KS were or how they were related to the proposed purchase. KS was a media "file creation house" with no discernible links to the UK (or any) property market. The Firm were not instructed by Mr SB in relation to the purchase of a property, only the sale of the Property.

- 5.8. The payment was not made to KS on the same terms that it had been received by the Firm from APL. The Respondent did not obtain APL's consent to release the deposit, attach conditions to its payment or make it subject to the same terms as the payment received by the Firm/the Respondent (either in relation to Conditions 2.2.5 and 2.2.6 of the Standard Conditions of Sale (Fifth Editions) (the SCS), which were incorporated into the contract, or at all).
- 5.9. Shortly after exchange, APL rescinded the contract on the grounds of potential vendor fraud (namely its suspicion that the property had been hijacked) and requested the return of the deposit.
- 5.10. On 27 November 2019 the Respondent emailed Ms E and Mr K (a director of APL) stating: "*I'm providing you with undertaking of sum of £42,500 deposit money will be paid back to your nominated bank account [sic]. Kindly please allow sometime between two to three days.*"
- 5.11. The Firm had not paid the £42,500 to APL prior to its closure on 29 January 2021. The Firm's insurer has since settled the claim by APL.

Non-Agreed Mitigation

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

- 6.1. The Respondent had a serviced office in London. Mr SB was an older man who initially contacted the Firm believing he would be attended to at the London office. When the Respondent explained to him that the London office was only a serviced facility and that there were not yet sufficient clients in London to make it worth the Respondent's time to travel down for an initial meeting, Mr SB agreed that he would travel to Manchester when ID documents were taken and routine checks effected. The Respondent did not therefore consider himself to be breaching mortgage fraud

guidelines by not questioning why a client from London was instructing a Manchester practice.

6.2. The Respondent considered his client's assertion that his onward purchase would be "in London" to be sufficient to mean that Condition 2.2.5 of the SCS applied and that the deposit could be used.

6.3. The Respondent also considered that, if the deposit monies were being used for an onward purchase then they were not held by the seller's solicitors as stakeholder. It was therefore permissible to pay this money away and that this would continue until the end of the chain when they would be paid to the end seller on completion.

6.4. The Respondent believed that his client had appointed an agent which was a specialist in sourcing and procuring below-market value property. He believed that the agent (KSG) had sourced and secured such a property (the London property) and that the Client had entrusted his agent to pay the deposit monies to the seller. The Respondent had requested that Mr SB confirm the position, along with authority to release the funds, in writing.

6.5. The Respondent considered that he was both permitted and obligated to comply with Mr SB's instruction. The Respondent's lack of experience in conveyancing contributed to the circumstances that pursued.

6.6. As he was not instructed on the purchase, he did not take much more interest than perhaps was merited.

6.7. Further, in relation to the undertaking, the return of funds was affected by the Respondent's insurer who indemnified the Respondent in light of all the circumstances.

6.8. The Respondent considers this to be an isolated incident which is unlikely to be repeated.

6.9. The Respondent considers his actions to be those of an inexperienced conveyancer. He does not consider any effective loss to have been suffered or that there is very little risk to the public

Undertakings

7. The Respondent undertakes to the SRA as follows:

7.1. that he update his MySRA Account with details of any new employer or place of practise within seven days of commencing such employment/practise

Penalty proposed

8. It is therefore proposed that the Respondent should be fined the sum of £15,000.00.

9. It is also proposed that a restriction be imposed that the Respondent may not be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration.

10. 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 £14,500.00.

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

11. At the material time, the Respondent was a solicitor who had been admitted to the Roll of Solicitors for six years. The Respondent was both the sole director of the Firm and the individual for responsibility of the matter file. The Respondent did not specialise or practise in conveyancing and was aware that the Firm did not do this type of work. The Respondent received the instructions for, and was responsible for the transfer of funds to, KS. The Respondent also provided the undertaking on 27 November 2019 whilst knowing that the Firm did not have available funds to make the payment to APL. As a result of his level of experience and the level of direct control that he had over the transaction, the Respondent's culpability for his actions was accordingly high.

12. As a result of the Respondent's actions, money which should not have been paid out of the Firm's client account in the circumstances was paid to KS. As a consequence of this, when the return of the money was requested (and an undertaking was given that it would be), APL was required to wait for a period of over a year for its return and to bring a claim against the Firm's insurers to achieve this.
13. The principal factors that aggravate the seriousness of the Respondent's misconduct are:
- 13.1. the Respondent ought reasonably to have known that his conduct was in material breach of his obligations to protect the public and the reputation of the legal profession
- 13.2. that the Respondent made no enquiry as to why he was transferring money to an overseas bank account and to a party who had not identifiable reason to be involved in the transaction
- 13.3. the period of time that it took for the harm caused to be rectified
14. The principal factors that mitigate the seriousness of the Respondent's misconduct are:
- 14.1. that the misconduct was of very brief duration in a previously unblemished career
15. In the circumstances, the seriousness of the Respondent's misconduct is such that a Reprimand would not be a sufficient sanction but neither the protection of the public nor the protection of the reputation of the legal profession justifies a strike off or a suspension. It is therefore proportionate and in the public interest that the Respondent should be fined.

16. The other relevant factors to be considered in accordance with the decision in **Fuglers v SRA [2014] EWHC 179 (Admin) per Popplewell J at [35]** and the Tribunal's **Guidance Note on Sanction (6th edition)** are:

16.1. *Whether the seriousness of the misconduct, and giving effect to the purpose of the sanction, puts the case at or near the top, middle or bottom of the category*

A reprimand would not be an appropriate alternative sanction as the Respondent's culpability is high, the harm/risk of harm is more than negligible and the breaches were not minor. The seriousness of the breach (in particular taking into account the Respondent's position of seniority within the Firm) places the misconduct in the mid-tier bands of a fine. However, a suspension would also not be an appropriate sanction as there is no need to remove the Respondent's ability to practise to protect the public or the reputation of the legal profession. In addition, a lesser sanction than suspension from practise will still maintain public confidence in the legal profession

16.2. *The size and standing of the solicitor or firm in question*

The Respondent was an experienced solicitor who was a principal of the Firm.

16.3. *The means available to an individual or a firm*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17. Taking account of these matters, together with the seriousness of the misconduct committed by the Respondent, the case should be regarded as falling into “Indicative Fine Band Level 3: Conduct Assessed as more serious”. The appropriate fine for conduct assessed as falling within Indicative Fine Band Level 3 is £7,501.00 to £15,000.00

18. In addition, it is necessary to ensure the protection of the public and the reputation of the legal profession from future harm by the Respondent by imposing a restriction that the Respondent may not be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration.

19. In all the circumstances of the case, it is therefore proportionate and in the public interest that the Respondent should be fined the sum of £15,000.00 and be subject to the restriction detailed in paragraph 18.

[REDACTED]

.....
Simon Griffiths, Senior Legal Adviser upon behalf of the SRA

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Mr Syed Rizvi