

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12238-2021

BETWEEN:

JOSEPH GARY ELOKET

Applicant

and

SOLICITORS REGULATION AUTHORITY LTD

Respondent

Before:

Mr P. Jones (in the chair)

Miss H. Dobson

Mrs C. Valentine

Date of Hearing: 9 November 2021

Appearances

Stuart Benzie, counsel of 2 Temple Gardens, Temple London EC4Y 9AY for the Applicant.

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

JUDGMENT ON AN APPLICATION FOR TERMINATION OF AN INDEFINITE SUSPENSION

1. On 12 October 2011, the Applicant was indefinitely suspended from practice as a solicitor. The Allegations against the then-Respondent were that whilst practising on his own account he had:
 - 1.1 Abandoned his practice and therefore:
 - 1.1.1 Failed to act in the best interests of his clients, contrary to Rule 1.04 of the Solicitors Code of Conduct 2007 (“SCC”);
 - 1.1.2 Acted in a way that was likely to diminish the trust the public places in the legal profession, contrary to Rule 1.06 of the SCC;
 - 1.2 Failed to co-operate with the SRA in the course of an investigation, contrary to Rule 20.05 of the SCC;
 - 1.3 Failed to deliver to the SRA an Accountant’s Report for JGE Solicitors for the accounting period to 31 October 2009 within six months of the end of that accounting period, contrary to Rule 35 of the Solicitors Accounts Rules 1998 (“SAR”);
 - 1.4 Failed to comply with the Adjudicator’s direction to pay the Legal Complaints Service (“LCS”) costs of £496.67, contrary to Rule 1.06 of the SCC;
 - 1.5 Failed to pay the premium due for indemnity insurance for the indemnity year 2009/2010 to Capita (which manages the Assigned Risks Pool (“ARP”) on behalf of the SRA) within the prescribed period for payment and is in policy default in breach of Rule 16.2 of the Solicitors Indemnity Insurance Rules 2009 (“SIIR”);
 - 1.6 Failed to pay the premium due for the run-off indemnity insurance to Capita (which manages the ARP on behalf of the SRA) within the prescribed period for payment and is in policy default in breach of Rule 16.2 of the SIIR.
2. All allegations were admitted. The Tribunal found all the Allegations proved and had made the following Order:

“The Tribunal ordered that the Respondent be Suspended from practice as a solicitor for an indefinite period to commence on the 12th day of October 2011 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,500 such costs not to be enforced without leave of the Tribunal.”
3. By way of an application dated 30 April 2021, the Applicant applied to terminate that order.

The Applicant’s Submissions

4. Mr Benzie submitted that the test for terminating an indefinite suspension was whether the Tribunal was satisfied that the termination of the suspension would not adversely affect the reputation of the profession and would not be contrary to the interests of the public.

5. In his application, the Applicant explained that following his indefinite suspension, he applied for, and was granted, permission to work as a volunteer paralegal for a Firm. In January 2013, the Applicant was released from the Firm as it was considered that he had issues with alcohol. The Applicant explained that during a period of hospitalisation in March 2014, he was able to acknowledge that he was an alcoholic. The Applicant thereafter attended various programmes, including a residential rehabilitation centre, to assist him with his addiction.
6. The Applicant also attended 12 weeks of bereavement counselling, as well as other programmes, to help him to understand and deal with other issues.
7. The Applicant explained that he considered making an application for termination of the indefinite suspension in November 2016, but following conversations with the SRA, he considered that it was too early for such an application to be made.
8. In January 2017, the Applicant was again given permission to work at the Firm. During his second time at the Firm, the restrictions placed on his practice were removed. He remained working with the Firm until the Firm closed in May 2019.
9. In his witness statement, the Applicant explained:

“I recognise fully that the application I now make to the Tribunal presents the need for the most careful decision-making process about the future I may have in the profession. I also fully understand the paramount duty of the Tribunal to ensure the protection of clients and confidence in the profession.

In this regard I can only respond that I am genuinely and sincerely sorry for any harm I have caused to either my former clients and/or to the reputation of the profession. I have sincerely done all I can to rehabilitate and reform myself and am encouraged by what I have managed to achieve. After very careful thought I believe I am now ready to again live out the standards of behaviour that are demanded of me in the profession and from my clients.

I have worked in the legal profession for most of my adult life and it has always been my intention to return to work if I am given the chance. To this end and until the requirement was removed, I made sure that despite my lack of income that I paid the annual fee to ensure that my name remained on the Roll.”
10. The Applicant’s witness statement exhibited documents which provided supporting evidence for those matters he had referred to in his statement together with testimonials in support of the application.
11. Mr Benzie submitted that there was nothing to suggest that the Respondent was not suitable to practice. Mr Benzie highlighted that:
 - The Applicant had never sought to deny that his misconduct was serious and that he fully merited the suspension. However, his conduct was not dishonest and despite his failings prior to the Tribunal hearing, he engaged with the Tribunal and presented his mitigation in a manner that was both open and honest. As the SRA acknowledged, the Applicant’s conduct at the original SDT hearing was reflected

in his approach to this application (and to his professional life in the interim) and that it demonstrated a man that exhibited the standards of professionalism and integrity expected of a solicitor.

- The evidence produced by the Applicant demonstrated the full extent of his progress in dealing with his addiction issues and the robustness of his ongoing recovery. The evidence again showed the Applicant to be a man of commitment and integrity who had committed himself to his rehabilitation and to helping others. Mr Benzie referred the Tribunal to testimonials on the Applicant's behalf, which described him as "an honest, trustworthy and dependable man" and also explained "my distinct impression is that with the honesty, humility and integrity he displays today and the courage he has displayed in overcoming his alcohol problems, [the Applicant] will be an asset to his clients and to his profession should he be allowed to practice again".
 - The Applicant had worked in both voluntary and paid capacities for the Firm. His reintegration into legal work was gradual with appropriate applications being made to extend his responsibilities over time. The conditions with which he commenced working with the Firm had gradually progressed such that at the end of his employment, the conditions were far less strict. The solicitor with responsibility for supervising the Applicant at the Firm endorsed the Applicant's character and approach to legal practice and commended his technical ability.
 - The testimonials clearly demonstrated that the Applicant had turned his life around, faced up to his problems and had overcome his difficulties such that he was able to return to professional life.
 - The Applicant had been subject to the suspension for 10 years and had used that time gainfully, demonstrating a gradual process of reformation.
 - The application was supported by the SRA- save as to conditions to be imposed on practice..
12. Mr Benzie confirmed that whilst the Applicant had progressed as regards the reformation of his character, he had undertaken no specific training as regards client money or the management of a legal practice. The Applicant was agreeable to conditions that restricted his ability to manage a practice and deal with client monies.

The Respondent's Submissions

13. Mr Bold confirmed that the application for termination of the indefinite suspension was supported by the SRA. Given the Applicant's rehabilitation, it was considered that the Applicant would provide a proper standard of service to clients and would conduct himself in the way expected of a solicitor. Mr Bold submitted that were the Tribunal to grant the application, it should consider imposing the conditions that the Applicant conceded were appropriate so as to militate against any risk to the public or the reputation of the profession.

The Tribunal's Decision

14. The Tribunal referred to its Guidance Note on Other Powers (4th Edition) when considering the application. The Tribunal was satisfied that the procedural steps had been properly taken in relation to this application. There had been no objections filed with the Tribunal following the placing of the advertisements.
15. The Tribunal reviewed the 2011 Judgment. Whilst there was no dishonesty in that case, it was still serious as evidenced by the Tribunal's decision to indefinitely suspend the Applicant.
16. The Tribunal was impressed by the significant progress the Applicant had made since the suspension had been imposed. It was satisfied that the Applicant had reintegrated into legal professional life in an appropriate manner. He had demonstrated good judgement in the timing of his applications both to the SRA and to the Tribunal. He had provided strong evidence of his reformation of character and the good work he had undertaken during his suspension. The Tribunal took into account the testimonials supplied on the Applicant's behalf and noted that there had been no public objection to the termination of the suspension and that such a termination was supported by the SRA.
17. The Tribunal was satisfied that termination of the indefinite suspension would not undermine the profession in the eyes of public. The Tribunal considered whether conditions were necessary for the protection of the public. As the Applicant accepted, during his rehabilitation, he had not addressed matters relating to the management of a practice or handling client monies. The Applicant provided no evidence that showed he had remediated the shortcomings identified in the management of his former firm. His abilities in that regard had not been addressed, and his failings in relation to the management of his former firm had been serious. The Tribunal considered that restrictions on the Applicant's practice were necessary to protect the public. Accordingly, the Tribunal considered that restrictions relating to the management of a firm and client monies were appropriate and necessary to protect the public from the risk the Applicant posed.
18. The Tribunal considered whether any restrictions should be for a definite period. The Tribunal considered that any period of time chosen would be arbitrary. The Tribunal determined that the restrictions should be indefinite. The Applicant would be at liberty to return to the Tribunal to vary or remove the restrictions. In order to do so, he would need to demonstrate what actions he had taken to negate the risk he posed.

Costs

19. The parties agreed costs in the sum of £1,000. The Tribunal considered that the costs agreed were reasonable and proportionate taking into account the nature of the application.

20. **Statement of Full Order**

1. The Tribunal Ordered that the application of JOSEPH GARY ELOKET for the determination of the indefinite suspension be **GRANTED** and it further Ordered that the Applicant do pay the costs of and incidental to the response to this application fixed in the agreed sum of £1,000.00.
2. The Tribunal further Ordered that the Applicant be subject to the following conditions:-
 - 2.1 The Applicant must not:
 - 2.1.1 practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body.
 - 2.1.2 be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body.
 - 2.1.3 be a Compliance Officer for Legal Practice or a Compliance Officer for Finance and Administration.
 - 2.1.4 hold client money.
 - 2.1.5 be a signatory on any client account
3. There be Liberty to apply to paragraph 2 above

Dated this 18th day of November 2021
On behalf of the Tribunal



P Jones
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
18 NOV 2021