

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12277-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

MOHAMMED FALIQ MOHAMED ISMAIL

Respondent

Before:

Mr W Ellerton (in the chair)

Mr J Evans

Mr P Hurley

Date of Hearing: 7 December 2021

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegation against the Respondent was that by virtue of his convictions for the offences set out below he breached either or both of:
 - 1.1 Principle 2 of the SRA Principles 2011; and
 - 1.2 Principle 6 of the SRA Principles 2011.

Documents

2. The Tribunal had before it the following documents:-
 - Applicant's Rule 12 Statement dated 30 November 2021 and Exhibit SLS1.
 - Statement of Agreed Facts and Proposed Outcome signed by the parties and dated 30 November 2021.
 - Applicant's Statement of Costs dated 30 November 2021.

Background

3. The Respondent was admitted to the Roll of Solicitors in September 2013. At the material time the Respondent was a solicitor at National Westminster Bank PLC based in Bishopsgate, London. The Respondent's last practising certificate was issued for 2019 – 2020 and was free from conditions.
4. On 18 August 2020, at Westminster Magistrates' Court, the Respondent was convicted of:
 - “1. On or before 2 November 2017 making indecent photographs, namely 1076 Category A moving and 2,173 still images of a child contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.
 2. On or before 2 November 2017 making indecent photographs, namely 221 Category B moving and 2476 Category B still images of a child contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.
 3. On or before 2 November 2017 making indecent photographs, namely 39 Category C moving and 9,610 Category C still images of a child contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.
 4. Between July 2016 and 31 July 2016 distributed indecent photographs or pseudo photographs, namely 20 Category A moving and 9 Category A still images of children contrary to sections 1(1)(b) and 6 of the Protection of Children Act 1978.
 5. Between July 2016 and 31 July 2016 distributed indecent photographs or pseudo photographs, namely 6 Category B still images of children contrary to sections 1(1)(b) and 6 of the Protection of Children Act 1978.

6. Between July 2016 and 31 July 2016 distributed indecent photographs or pseudo photographs, namely 1 Category C moving and 1 Category C still images of children contrary to sections 1(1)(b) and 6 of the Protection of Children Act 1978.”
5. On 29 October 2020 the Respondent was sentenced by the Crown Court sitting at Southwark to a custodial sentence, the totality of which was 16 months wholly suspended for 18 months. He was further made subject to a Sexual Harm Prevention Order for 5 years and was placed on the Sex Offenders Register for 10 years.

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

6. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed, namely an Order striking the Respondent from the Roll of Solicitors and an Order for costs in the sum of £2,082.00, was consistent with the Tribunal’s Guidance Note on Sanctions.

Findings of Fact and Law

7. The Applicant was required to prove the allegations on 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 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.
8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent’s admissions were properly made.
9. The Tribunal considered the Guidance Note on Sanction (Eighth Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
10. With regards to culpability, the Tribunal found that the Respondent’s misconduct was motivated by sexual gratification at the expense of vulnerable children. His actions were planned and repeated over a protracted period of time, some 17 months, in respect of which he had direct control and bore full responsibility. The Tribunal therefore determined that the Respondent was highly and exclusively culpable for his misconduct.
11. With regards to harm, the Tribunal found that the Respondent’s misconduct directly and gravely impacted upon the children in respect of whom degrading and offensive photographs and videos were made and distributed. The detrimental effect of his misconduct on the reputation of the legal profession was profound and irreversible. The extent of harm caused in both respects was overlooked by the Respondent and was eminently foreseeable.
12. With regards to aggravating features, the Tribunal found that the Respondent’s misconduct culminated in six criminal convictions for extremely serious offences and was deliberate, calculated and repeated over a significant period of time. The

Respondent must have known that the convictions and sentence imposed upon him represented a fundamental breach of the duty incumbent on him to protect the public and the reputation of the legal profession. The Tribunal therefore determined that the harm caused by the Respondent's misconduct was at the top end of the spectrum with regards to seriousness.

13. With regards to mitigating features, the Tribunal noted that the Respondent had no previous disciplinary proceedings recorded against him and that he accepted his guilt from the outset in both the criminal and the Tribunal proceedings.
14. The Tribunal determined that the admitted misconduct represented the most serious departure from the standards expected of a solicitor such that the Respondent should be struck from the Roll.
15. The application was therefore GRANTED in the terms set out in the Agreed Outcome.

Costs

16. Costs were agreed between the parties in the sum of £2,082.00 which the Tribunal considered to be reasonable and proportionate.

Statement of Full Order

17. The Tribunal Ordered that the Respondent, MOHAMED FALIQ MOHAMED ISMAIL, 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 sum of £2,082.00.

Dated this 14th day of December 2021

On behalf of the Tribunal



JUDGMENT FILED WITH THE LAW SOCIETY
14 DEC 2021

W Ellerton
Chair

Case Number:

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

MOHAMED FALIQ MOHAMED ISMAIL

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 30 November 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 (the SRA) brought proceedings before the Solicitors Disciplinary Tribunal making one allegation of misconduct against Mohamed Faliq Mohamed Ismail.

The allegations

2. The allegation against the Respondent made by the SRA in the proceedings is that by virtue of his convictions for the offences described in paragraph 7 below of this statement, he breached either or both of:
 1. Principle 2 of the SRA Principles 2011; and
 2. Principle 6 of the SRA Principles 2011.

Admissions

3. The Respondent admits the allegation in paragraph 2 of this statement.

Agreed Facts

4. The following facts and matters, which are relied upon by the SRA in support of the allegation set out within paragraph 2 of this statement, are agreed between the SRA and the Respondent.

Professional Details

5. The Respondent who was born [REDACTED] 1985 is a solicitor having been admitted to the Roll of Solicitors (the Roll) on 2 September 2013. The Respondent remains on the Roll with his most recent practicing certificate being for the year 2019- 2020, which was free from conditions.
6. At the material time he was a solicitor at National Westminster Bank PLC, 135 Bishopsgate, London, EC2M 3UR.

Criminal Proceedings

7. On 18 August 2020 at Westminster Magistrates Court the Respondent was convicted of:
 - 7.1. On or before 2 November 2017 making indecent photographs namely, 1076 Category A moving and 2,173 Category A still images of a child contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.
 - 7.2. On or before 2 November 2017 making indecent photographs namely, 221 Category B moving and 2476 Category B still images of a child contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.
 - 7.3. On or before 2 November 2017 making indecent photographs namely, 39 Category C moving and 9,610 Category C still images of a child contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.

- 7.4. Between July 2016 and 31 July 2016 distributed indecent photographs or pseudo photographs, namely 20 Category A moving and 9 Category A still images of children contrary to sections 1(1)(b) and 6 of the Protection of Children Act 1978.
- 7.5. Between July 2016 and 31 July 2016 distributed indecent photographs or pseudo photographs, namely 6 Category B still images of children contrary to sections 1(1)(b) and 6 of the Protection of Children Act 1978.
- 7.6. Between July 2016 and 31 July 2016 distributed indecent photographs or pseudo photographs, namely 1 Category C moving and 1 Category C still images of children contrary to sections 1(1)(b) and 6 of the Protection of Children Act 1978.
8. On 29 October 2020 he was sentenced in Southwark Crown Court to 16 months custody suspended for 18 months. The individual sentences for each offence were as follows:
- charge 1-making images and moving images of Category A material, 6 months imprisonment to run concurrently;
 - charge 2- making images and moving images of Category B material two months imprisonment to run concurrently;
 - charge 3- making images and moving images of Category C material no separate penalty to run concurrently;
 - charge 4-distributing images and moving images of Category A material 16 months imprisonment to run concurrently;
 - charge 5-distributing images and moving images of Category B material 6 months imprisonment to run concurrently and;
 - charge 6-distributing images and moving images of Category C no separate penalty to run concurrently.
9. He was made subject to a Sexual Harm Prevention Order (SHPO) for five years and placed on the Sex Offenders register for 10 years.

Facts of the Offence

10. On 2 November 2017 a warrant was executed at the Respondent's home address by the police following an operation to trace the use of internet access of indecent images of children. The Respondent confessed to having indecent content on his devices. He was interviewed under caution on two occasions and made full and frank admissions.

11. On 18 August 2020 the Respondent pleaded guilty at Westminster Magistrates to all six charges. He was sentenced in Southwark Crown Court on 29 October 2020 to:
 - 16 months imprisonment suspended for 18 months;
 - £100 prosecution costs;
 - must participate in iHorizon for 27 sessions concurrent;
 - to undertake all Rehabilitation Activity Requirement for 30 days concurrent;
 - be subject to a SHPO for a period of five years under s103 the Sexual Offences Act 2003 and;
 - ordered to sign the Sex Offenders Register for 10 years.

Mitigation

1. The following mitigation is put forward by the Respondent but is not endorsed by the SRA;

2. I take full responsibility of my actions, and I admitted the offence as soon as I was arrested. I was fully frank and forthcoming with the authorities. Upon release under investigation, I immediately sought help and treatment from StopSO UK (Specialist Treatment Organisation for Perpetrators and Survivors of Sexual Offending). After my arrest on 2 November 2017, I contacted StopSO on 5 November 2017, and commenced rehabilitative psychosexual therapy with a qualified and accredited Psychosexual therapist, on 9 November 2017. Over the course of the following four years, we have

completed approximately over 60 therapy sessions together, which enabled me to understand the reasoning behind the actions I have taken and encouraging changes in my thought process with the aim of preventing it from happening again. I have not wavered from my therapy ever since commencing it, and my commitment and progress was also noted by the sentencing judge.

3. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

4. [REDACTED]
- [REDACTED]

[REDACTED] I deeply regret what I did, and I have been taking steps for the past four years to rehabilitate myself and take steps to ensure that this behaviour is never repeated ever again.

5. The sentencing judge took account of my rehabilitative efforts, noting that: *“By way of statutory mitigating features. It is right that you have no previous convictions, so you are a man of not only no previous convictions but of positively good character, and I accept that you have shown remorse for your offending from, really, the moment it was discovered right through until the present day.”*

6. In sentencing me, he stated that: *“that I have in mind, in particular, that you already have, and are likely to respond to, rehabilitatory [sic] measures. I also have very much in mind the length of the delay there has been in bringing these proceedings before the courts. There may well be an explanation for it but, really, in a society like ours, three years is far too long to bring someone before a court to face punishment for offences which he has freely confessed to three years ago. I also have very much in mind the voluntary efforts you have taken to address your offending, from really the moment that your offending came to light, and efforts to ensure that there will be no recurrence and that you will come to understand it and not to indulge in it again. I also have in mind the fact that you are a man of good character.”*
7. I respectfully submit that the outcome of striking my name from the roll, and having me pay the SRA’s costs, is a sufficient and proportionate sanction. I have been cooperative, forthright and honest with the SRA from the beginning of the process and I hope this can be reflected in the costs order.

Penalty proposed

8. The proposed sanction is that the Respondent should be struck off the Roll of Solicitors and that the Respondent pay the SRA’s costs in the fixed sum of £2,082.

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

9. Offences of possession and distribution of indecent images of children are serious sexual offences against children. The Respondent’s culpability was high given it was sexually motivated, it occurred over a period of time and there were over 15,000 indecent images

and videos on his devices. The culpability is compounded in the sharing of the material over a three-week period with other like-minded individuals.

10. The Respondent's actions have caused significant harm to the victims of the sexual abuse. Making and sharing indecent images causes lifelong physical and psychological trauma to the children who are subjected to the abuse and who appear in the images and videos. Engaging in such behaviour creates a demand for the creation of further material and leaves children vulnerable and exposed to sexual abuse.
11. The misconduct has also caused damage to the reputation of the legal profession. The case was widely reported in the media at the time. The public would not expect a solicitor to be given a 16 months suspended prison sentence, be subject to a SHPO and be on the Sex Offenders Register. The Respondent's actions have called into question the trust that the public places in the profession.
12. The principle factors that aggravate the seriousness of the Respondent's misconduct are that he was convicted of three counts of making indecent still images and moving images of children and three counts of distributing still images and moving images of children. He possessed over 15,000 indecent images and videos and for a three-week period had been distributing them. The Respondent would have known his conduct was a material breach of the obligations to protect the public and the reputation of the legal profession.
13. Solicitors who commit serious criminal offences should not be permitted to remain on the Roll. As was said by Sir Brian Leveson, then the President of the Queen's Bench Division, in **Solicitors Regulation Authority v Farrimond [2018] EWHC 321 (Admin) at [34]** *"...it is beyond argument that that a solicitor sentenced to any substantial term of imprisonment should not be permitted to remain on the Roll even if suspended indefinitely..."* The Respondent received a substantial term of imprisonment, albeit that it

was suspended, and the offences of which he was convicted were unquestionably serious.

14. In all the circumstances of the case, it is therefore proportionate and in the public interest that Mohamed Faliq Mohamed Ismail should be struck off the Roll of Solicitors.

Sarah Stockley, Legal Adviser upon behalf of the SRA

30 November 2021

Mohamed Faliq Mohamed Ismail

30 November 2021