

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12297-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

MUHAMMAD HALON MIAH HARUN

Respondent

Before:

Ms A Kellett (in the chair)

Mr M N Millin

Mr R Slack

Date of Hearing: 13 January 2022

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 made by the Solicitors Regulation Authority Limited (“SRA”) was that:
 - 1.1 Between 19 July 2007 and 2 January 2018, he failed to disclose to the London Borough of Tower Hamlets (“LBTH”) that he was the owner of Property A and/or Property B, which he was under a legal duty to disclose, in order to make a gain, namely social housing for himself and his family. In doing so, he breached any or all of Principles 2 and 6 of the SRA Principles 2011 (“the Principles”).
2. In addition, allegation 1.1 above was advanced on the basis that the Respondent’s conduct was dishonest. Dishonesty was alleged as an aggravating feature of the Respondent’s misconduct but was not an essential ingredient in proving the allegation.

Documents

3. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit ECW1 dated 7 January 2022
 - Statement of Agreed Facts and Proposed Outcome dated 6 January 2022

Background

4. The Respondent was a solicitor having been admitted to the Roll in September 2011. Between 1 September 2011 and 22 October 2019, the Respondent was employed as an assistant solicitor at Duncan Lewis Solicitors Ltd. The Respondent was not currently employed as a solicitor and did not hold a current Practising Certificate. He last held a Practising Certificate for the year 2018/2019.

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

5. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Proposed Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.

Findings of Fact and Law

6. The Applicant was required to prove the allegations 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.
7. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent’s admissions were properly made.

8. The Tribunal considered the Guidance Note on Sanction (9th Edition – December 2021). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Respondent admitted that he had dishonestly failed to disclose information about his ownership of properties in order to retain social housing to which he knew he was not entitled. This had caused a loss of £124,679.94 to LBTH. The Respondent was convicted of two counts of fraud. The Tribunal considered that, given the serious nature of the Respondent's misconduct, including his convictions and admitted dishonesty, the only appropriate and proportionate sanction was to strike the Respondent off the Roll. The Tribunal did not find any exceptional circumstances that would justify a sanction other than striking the Respondent off the Roll. Accordingly, the Tribunal approved the sanction proposed by the parties.

Costs

9. The parties agreed that the Respondent should pay costs in the sum of £1,510.00. The Tribunal considered the proposed costs to be reasonable and proportionate. Accordingly, the Tribunal ordered that the Respondent pay costs in the proposed and agreed amount.

Statement of Full Order

10. The Tribunal Ordered that the Respondent, MUHAMMAD HALON MIAH HARUN, 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 £1,510.00.

Dated this 20th day of January 2022
On behalf of the Tribunal



A Kellett
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
20 JAN 2022

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

MUHAMMAD HALON MIAH HARUN

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated XX January 2022, 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 an allegation of misconduct against Muhammad Halon Miah Harun ("the Respondent").

The allegations

2. The allegation against the Respondent, made by the SRA within that statement is that:
 - 2.1. Between 19 July 2007 and 2 January 2018, he failed to disclose to the London Borough of Tower Hamlets that he was the owner of Property A and/or Property B, which he was under a legal duty to disclose, in order to make a gain, namely social housing for himself and his family. In doing so, he breached any or all of Principles 2 and 6 of the SRA Principles 2011.
 - 2.2. In addition, the allegation 1.1 above is advanced on the basis that the Respondent's conduct was dishonest. Dishonesty is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the allegations.

3. The Respondent admits the allegation. He also admits that his conduct in acting as alleged was dishonest.

Agreed Facts

4. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 5 to 20 of this statement, are agreed between the parties.

Professional Details

5. The Respondent is a solicitor having been admitted to the Roll on 1 September 2011. Between 1 September 2011 and 22 October 2019, the Respondent was employed as an assistant solicitor at Duncan Lewis Solicitors Ltd.
6. The Respondent is not currently employed as a solicitor and does not hold a current Practising Certificate. He last held a Practising Certificate for the year 2018/2019.

Background to the allegations

7. The conduct in this matter came to the attention of the SRA when a member of the public alerted the Applicant to an investigation by the London Borough of Tower Hamlets (“the LBTH”) into the Respondent.
8. Subsequently, on 16 July 2019, the Respondent self-reported that he had been charged with the following offences:

“1. On or about 19 July 2007 you did commit fraud in that you dishonestly failed to disclose to London Borough of Tower Hamlets (the Local Housing Authority) that you were the owner of [Property A] which you were under a legal duty to disclose, intending by that failure to make a gain, namely, social housing for yourself or another, contrary to section 3, section 1(1), section 1(2)(b) and section 1(3) of the Fraud Act 2006.

2. Between 12 July 2010 and 2 January 2018 you did commit fraud in that you dishonestly failed to disclose to London Borough of Tower Hamlets (the Local Housing Authority) that you were the owner of premises at [Property B] which you were under a legal duty to disclose, intending by that failure to make a gain, namely, social housing for yourself or another, contrary to section 3, section 1(1), section 1(2)(b) and section 1(3) of the Fraud Act 2006.”

9. In summary the circumstances of the offences were as follows. On 18 January 2006, the Respondent and his partner made an application to the LBTH for assistance under the Homelessness Act 2002 on the basis of them being evicted from Property B. He and his partner were placed into temporary accommodation.
10. It was made clear to the Respondent that he would need to inform the LBTH of any changes in his circumstances, including if he purchased a property. The Respondent was therefore under a legal duty to inform the LBTH if he purchased a property.
11. On 19 July 2007 the Respondent purchased Property A.
12. Between 19 July 2007 and 12 July 2010 (when he successfully bid for a tenancy at Property C) the Respondent made 451 bids under the LBTH's bidding scheme for social housing properties. The Respondent did not inform the LBTH that he had purchased Property A. He was not entitled to make the bids for social housing properties because he owned Property A.
13. The Respondent was offered, and accepted, social housing from the LBTH in the form of a tenancy at Property C entered into on 12 July 2010. Property C was owned by Poplar Harca, a registered social landlord.
14. On 7 August 2013, the Respondent purchased Property B.
15. The Respondent gave up the tenancy at Property C on 2 January 2018. The Respondent did not notify the LBTH that he had acquired Property A or Property B at any point while bidding for social housing or during his tenancy of Property C. The Respondent has accepted that he should have informed the LBTH when he purchased Property A and Property B.
16. It was calculated that the total losses suffered by the LBTH as a result of the Respondent's actions was £124,769.94.

Conviction

17. On 26 September 2019, the Respondent signed a Basis of Plea in which he confirmed that:

17.1. he pleaded guilty to the following offences (quoted verbatim):

17.1.1. *"On or about the 19th July 2007 I committed fraud in that I dishonestly failed to disclose the London Borough of Tower Hamlets (LBTH) that I was the owner of [Property A], which I was under a duty to disclose, intending by*

that failure that I make a gain, namely social housing for my family and I, contrary to s.3 1(1), s. 1(1) and s.1(2)(b) and s 1(3) Fraud Act 2006.”

17.1.2. *“Between 12th July 2010 and 2nd January 2018 I committed fraud in that I dishonestly failed to disclose the London Borough of Tower Hamlets (LBTH) that I was the owner of [Property B], which I was under a duty to disclose, intending by that failure that I make a gain, namely social housing for my family and I, contrary to s.3 1(1), s. 1(1) and s.1(2)(b) and s 1(3) Fraud Act 2006.”*

17.2. he accepted that, as a result of his actions, the LBTH suffered losses of £124,679.94.

17.3. he accepted that when he purchased Property A, he should have informed the LBTH and removed himself from the council housing register but failed to do so.

17.4. he accepted that he should have informed the LBTH that he had purchased another property, Property B, but failed to do so and continued to live in social housing provided to him.

18. On 14 November 2019, at Snaresbrook Crown Court, the Respondent was convicted of two counts of dishonestly failing to disclose information to make a gain for self or another or cause or expose other to a loss contrary to sections 1 and 3 of the Fraud Act 2006. As per the Basis of Plea outlined above, the Respondent pleaded guilty to the offences.

19. The Respondent was sentenced to 16 months imprisonment for each offence, to run concurrently. He was ordered to pay £17,500 towards the costs of the prosecution and a victim surcharge of £140. In his Sentencing Remarks, Judge Sanders made the following comments:

19.1. *“I have read the many references that have been put forward on your behalf ... There are powerful mitigating factors. You are a committed family man. You have no previous convictions. As I have said, the testimonials speak very highly of you. You are 49 years of age. You began in modest circumstances and you qualified later in your life as a solicitor and you were elected as a counsellor. All of that self-improvement and your position has been cancelled out by these offences. You have repaid the sums in full and you are a carer for your mother who is not in good health.”*

19.2. *“There are two, in my view, significantly aggravating features of this. The first is the length of time, which is in excess of ten years, over which the offending was committed, and the second was the number of false declarations that were made*

after you had purchased the first property and which enabled you to get [Property C].”

- 19.3. “You pleaded guilty at the first reasonable opportunity and you are entitled to a full discount of one third.”

Non-Agreed Mitigation

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

- 20.1. *“I would like to say to the Honourable SDT that I am not proud of what has happened and the punishment I had received. I have failed my family, my former employer Duncan Lewis Solicitors, the LBTH, and I have failed to meet the expectations that were placed upon me by the SRA. I have diminished my family reputation and honour.*
- 20.2. *I know that I cannot undo what has happened, but I would like to say that I did everything I could to swiftly settle this matter, starting by resigning from my Councillor position as soon as the allegations circulated, by pleading guilty at the earliest opportunity, by paying the debt owed to LBTH, by paying the prosecution costs, and by successfully completing my licence period.*
- 20.3. *I would like to say that I am a very straightforward, sincere and committed person. I have always conducted my professional work with honesty and sincerity, whether this was as solicitor or as an elected Councillor. I stumbled in my personal life, but professionally I believe I had performed outstandingly. I have further proven my professionalism, integrity, honesty and sincerity by working as an apprentice bus driver, where I am serving hundreds of people from all ethnic backgrounds on a daily basis. As a bus driver I am required to be patient, provide composure and tolerance at all times. I am required to maintain the trusts the public places upon me by driving the bus safely, by keeping my passengers safe, by keeping other road users including cyclists and pedestrians safe, and maintaining the rules and regulations of the Highway Code.*
- 20.4. *This is a dark moment for me and I am very sad and hurt. I am losing the most prestigious achievement of my life. I can assure you that I am learning and I will continue to learn from this. I apologise to the SRA and to the SDT for not meeting the expectations that was placed upon my shoulders.”*

21. However, the Respondent does not contend that the mitigation set out above amounts to exceptional circumstances which would justify the Tribunal in making any order other than that he be struck off the Roll.

Penalty proposed

22. It is therefore proposed that the Respondent should be struck off the Roll of Solicitors

23. 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 £1,510.00.

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

24. The Respondent has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, states that: "*The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see **Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)**).*"

25. In **Sharma [2010] EWHC 2022 (Admin)** at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

"(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others..."

26. From 19 July 2007 to 2 January 2018, the Respondent committed a fraud by failing to disclose information to the LBTH about his ownership of Property A and Property B in order to gain access to social housing for himself and his family. The Respondent knew he was under a duty to disclose information about his ownership of Property A and Property B to the LBTH but failed to do so, in order to continue to bid for or live in social

housing to which he knew he was not entitled. Ordinary decent people would consider his conduct to be dishonest.

27. The conduct occurred over a significant period of time and caused considerable financial losses to the taxpayer of £124,679.94.
28. The Respondent engaged in a serious pattern of dishonesty committed over an extended period which benefitted the Respondent to the detriment of the taxpayer. The case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors.
29. The seriousness of the Respondent's conduct was such that a lesser sanction would be inappropriate, and a strike off is required for the protection of the public and the reputation of the legal profession.

Head of Legal & Enforcement, upon behalf of the SRA

Date: 6.1.22

Muhammad Halon Miah Harun

Date: 21.12.2021

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