

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12303-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

RUMBIDZAI BVUNZAWABAYA

Respondent

Before:

Mr E Nally (in the chair)

Ms A E Banks

Mr P Hurley

Date of Hearing: 4 May 2022

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

**NB THE TRIBUNAL MADE PRIVACY DIRECTIONS INCLUDING RELATING TO
PUBLICATION OF THE AGREED OUTCOME – SEE BELOW**

Tribunal's Directions

The Tribunal directed that:

- (i) The allegations should not be recited in full because of the inevitable potential for jigsaw identification of parties involved in the underlying facts.
- (ii) The approved Agreed Outcome should not be appended to the published Judgment for the same reasons as at (i) above, and
- (iii) The Agreed Outcome should not be published beyond the parties without leave of the Tribunal.

Allegations

1. The Allegation against the Respondent, Rumbidzai Bvunzawabaya made by the SRA Ltd ("the SRA"), is that having been admitted as a Solicitor of the Senior Courts:
 - 1.1. ...she breached all or any of -
 - 1.1.1. Paragraph 1.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 ("the Code");
 - 1.1.2. Principles 2, 5 and 7 of the SRA Principles 2019 ("the Principles").
2. Recklessness is alleged in relation to the allegation at paragraph 1 above but proof of recklessness is not required to establish that allegation or any of its particulars. Recklessness, if proved, would be an aggravating feature of the Respondent's misconduct.

Documents

3. The Tribunal had before it documents including:-
 - A bundle agreed between the parties in support of the application for an Agreed Outcome.

Factual Background

4. Ms Bvunzawabaya was admitted to the Roll of Solicitors on 15 December 2003 and holds a current Practising Certificate, free from conditions. According to Law Society records, she is a Director at Migrant Family Support CIC in Coventry (which is not an entity regulated by the SRA).

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

5. The parties invited the Tribunal to deal with the Allegations against Ms Bvunzawabaya in accordance with the Statement of Agreed Facts and Proposed Outcome filed by the parties. 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 the SRA Ltd (“the SRA”) was required to prove the allegations to the standard applicable in civil proceedings (the balance of probabilities). The Tribunal had due regard to Ms Bvunzawabaya’s rights to a fair trial and to respect for her 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 to the required standard that Ms Bvunzawabaya’s admissions to all the allegations were properly made.

Sanction

8. The Tribunal considered its Guidance Note on Sanctions (December 2021). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
9. The Tribunal noted that the SRA Ltd had received complaints from a third party about Ms Bvunzawabaya and the third and final complaint from the third party concerned led the SRA to bring these proceedings. The SRA considered that sensitive personal information about the third party was a reasonable inference from public exchanges between Ms Bvunzawabaya and a client. The third party had attempted to contact Ms Bvunzawabaya but been rebuffed. Ms Bvunzawabaya considered that she was not acting as a solicitor when involved in the conduct and her client appeared to have been a willing participant but the Tribunal agreed that Ms Bvunzawabaya had a professional relationship with the individual as a client or former client which placed her conduct within the regulator’s jurisdiction. In the Agreed Outcome Proposal it was stated that the exchanges included “professional matters going to the core of her and/or the Firm’s instructions”. The Tribunal agreed that there was no legitimate professional reason for Ms Bvunzawabaya to have engaged in the conduct complained of and that Ms Bvunzawabaya’s duty to act with integrity did not evaporate merely because she considered that she was not acting as a lawyer at the material time.
10. In assessing the seriousness of the conduct, as to culpability the Tribunal noted that Ms Bvunzawabaya benefitted from a commercial aspect to the conduct including an element of promoting her practice. Her actions were not spontaneous and she had control of and responsibility for the circumstances giving rise to the allegations. Ms Bvunzawabaya’s actions had caused considerable harm to the third party and their family members as evidenced in the third party’s statement. The Tribunal considered that there was also harm to the reputation of the legal profession. All the harm was reasonably foreseeable.
11. The Tribunal considered that what Ms Bvunzawabaya had done displayed some aggravating factors set out in the Tribunal’s own Guidance Notes on Sanction in that her conduct took unfair advantage of a vulnerable person and she ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession. The exposure of the sensitive personal data lasted for some time. Ms Bvunzawabaya admitted she abused her position as a solicitor. The full admissions had been made relatively late in the day.

She was an experienced solicitor having been admitted in 2003. Ms Bvunzawabaya admitted recklessness.

12. Ms Bvunzawabaya raised several points of mitigation set out in the proposed Agreed Outcome which were agreed by the SRA: this was a single episode in a previously unblemished career, the sensitive personal information was not spelled out; Ms Bvunzawabaya fully cooperated with the SRA; by making the full admissions she spared the third party from having to testify and be cross-examined. She also demonstrated insight into her misconduct and had shown remorse. The proposed Agreed Outcome also set out non-agreed mitigation including the Tribunal noted that while on the one hand Ms Bvunzawabaya stated that she had tried to reduce the exposure she did not take steps to be sure that had occurred which she acknowledged she should have done. She said she did not intend any inference to be drawn about the third party.
13. The Tribunal agreed that no order or a reprimand was not appropriate by way of sanction and that the misconduct including failure to uphold the public trust and confidence in the profession and the admissions of lack of integrity and recklessness brought the misconduct into Indicative Fine Band 3 in its Guidance Note on Sanctions, conduct assessed as more serious but did not take it to the level where Ms Bvunzawabaya's ability to practise should be removed by suspension or strike off. The proposed fine of £7,501 seemed proportionate and appropriate.

Costs

14. The parties had agreed that Ms Bvunzawabaya should pay £10,000 towards the SRA's costs.

Statement of Full Order

15. The Tribunal Ordered that the Respondent, RUMBIDZAI BVUNZAWABAYA solicitor, do pay a fine of £7,501.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that she do pay the agreed costs of and incidental to this application and enquiry fixed in the sum of £10,000.00.

Dated this 27th day of May 2022

On behalf of the Tribunal



E Nally
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

27 MAY 2022