

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12345-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

NATHAN HORSLEY

Respondent

Before:

Mr R Nicholas (in the chair)

Mr P Jones

Mrs L McMahon-Hathway

Date of Hearing: 7 September 2022

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations made against Mr Horsley by the SRA were set out in a Rule 12 Statement dated 20 June 2022 and were that:
 - 1.1 Between November 2016 and March 2017, he dishonestly made seven false representations to various companies and an individual in order to fraudulently procure goods in the total value of approximately £10,577 in breach of section 2 of the Fraud Act 2006.

He thereby breached any or both of Principles 2 and 6 of the SRA Principles 2011.
 - 1.2 The SRA relied on Mr Horsley's convictions for seven counts of the offence of dishonestly making false representations to make gain for self/ another or cause loss to other/ expose other to risk, dated 28 August 2019 as evidence that he was guilty of those offences. The case was not the subject of an appeal.
 - 1.3 Allegation 1.1 was advanced on the basis that Mr Horsley's conduct was dishonest.

Admissions

2. Mr Horsley admitted the above allegations.

Documents

3. The Tribunal considered all the documents contained within an electronic bundle prepared and agreed by the parties.

Background

4. Mr Horsley was admitted to the Roll of Solicitors in April 2010. At all material times he was no longer employed as a solicitor, having ceased to practise in October 2013. At the date of the Rule 12 Statement, Mr Horsley's name remained on the Roll of Solicitors but he did not have a current practising certificate.
5. On 28 August 2019, Mr Horsley was convicted of seven counts of fraud. On 24 January 2020 he was sentenced to 24 months imprisonment for each offence to run concurrently, suspended for 24 months. Further details of the offences are included in the Statement of Agreed Facts and Outcome annexed to this Judgment.

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

6. The parties invited the Tribunal to deal with the Allegations against Mr Horsley 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.
7. The proposed sanction was that Mr Horsley be struck off the Roll of Solicitors.

Findings of Fact and Law

8. The SRA 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 Mr Horsley'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.
9. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Mr Horsley's admissions were properly made.
10. The Tribunal considered the Guidance Note on Sanction (10th Edition/ June 2022) ("the Sanctions Guidance"). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
11. The Tribunal observed that Mr Horsley had been convicted of serious offences involving dishonesty which struck at the heart of what the public would expect of a solicitor, namely that they "*may be trusted to the ends of the earth*" as per Bolton v Law Society [1994] 1 WLR 512. He had also admitted that his conduct described in allegation 1.1 was dishonest.
12. The Sanction Guidance states at [51] that: "*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)).*" The Tribunal did not consider there were exceptional circumstances present such that a lesser sanction was warranted. It was not contended by either party that any such exceptional circumstances existed.
13. The protection of the public and public confidence in the profession and the reputation of the profession required no lesser sanction than that Mr Horsley be removed from the Roll. The Tribunal found that the proposed sanction of striking him from the Roll was appropriate, proportionate and in accordance with the Sanctions Guidance.

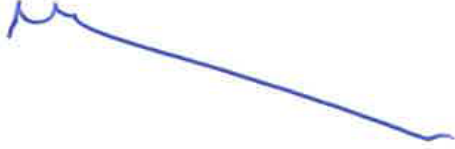
Costs

14. The parties agreed that Mr Horsley should pay costs in the sum of £1,300. The Tribunal determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that he pay costs in the agreed sum.

Statement of Full Order

15. The Tribunal ORDERED that the Respondent, Nathan Horsley, 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 £1,300.00.

Dated this 26th day of September 2022.
On behalf of the Tribunal

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long, sweeping horizontal line that tapers to the right.

JUDGMENT FILED WITH THE LAW SOCIETY
26 SEPT 2022

R Nicholas
Chair

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

NATHAN HORSLEY

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 20 June 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 Ltd ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making one allegation of misconduct against Mr Horsley. Dishonesty was also alleged as an aggravating feature.

2. The allegation against Mr Horsley, made by the SRA within that statement was that:

Allegation 1.1

Over the period 2016 and 2017, he made seven false representations to various companies and an individual in order to fraudulently procure goods in the total value of approximately £10,577 in breach of section 2 of the Fraud Act 2006.

He thereby breached any or both of Principles 2 and 6 of the SRA Principles 2011.

The SRA relies on Mr Horsley's convictions for seven counts of the offence of dishonestly making false representations to make gain for self/ another or cause loss to other/ expose other to risk, dated 28 August 2019 as evidence that Mr Horsley was guilty of those offences and relies upon the findings of fact upon which those convictions were based as proof of those facts.

3. Dishonesty was alleged as an aggravating factor with respect to this allegation.

Admissions

4. Mr Horsley admits the allegation. He also admits that his conduct in acting as alleged was dishonest.

Agreed Facts

5. Mr Horsley was admitted to the Roll of Solicitors on 15 April 2010. His SRA ID number is: 431502.
6. At all material times, Mr Horsley was no longer employed as a solicitor, having ceased to practise in October 2013.
7. His name remains on the Roll of Solicitors however he does not have a current practising certificate.
8. On 28 August 2019, he was convicted of seven counts of fraud. On 24 January 2020 he was sentenced to 24 months imprisonment for each offence to run concurrently, suspended for 24 months.

9. On January 2016, Mr Horsley set up a company called BCBG Pyrotechnics. On 8 November 2016, he ordered fireworks from a company called Cosmic Fireworks to the value of £3,494. He sent a screenshot from his Halifax Banking App to the company indicating that payment had been made. On that basis the company sent him the fireworks, but payment was never received. At the time that Mr Horsley ordered the goods he claimed to be in funds. However, there were insufficient funds in his bank account. Mr Horsley misrepresented to Cosmic Fireworks that payment of £3,494 had been made for a consignment of fireworks when, in fact, Mr Horsley had insufficient funds to do so.

10. On 10 November 2016, Mr Horsley ordered a further consignment of fireworks from Absolute Fireworks to the value of £1,819. He showed the company a screenshot of his Halifax Banking App to confirm payment. Again, at the time of the transaction, he had insufficient funds in his account to cover the cost. Mr Horsley misrepresented to Absolute Fireworks that payment of £1,819 had been made for a consignment of fireworks when, in fact, Mr Horsley had insufficient funds to do so.

11. Mr Horsley attempted to obtain goods by using his Halifax Banking App on four further occasions. He attempted to buy several boxes of chocolates from Thorntons to the value of £313, several hampers from Peach Hampers to the value of £3,451.13 and gift cards worth £1,500 from Marks and Spencer. He also attempted to obtain goods from a second luxury hamper company called Lewis and Cooper. In all four cases, the companies did not send out the goods. In all four cases he did not have sufficient funds to pay for the goods. On all of these occasions Mr Horsley misrepresented to the vendors that payment had been made for goods when, in fact, he had insufficient funds to do so.

12. In March 2017, Mr Horsley advertised several Grand National tickets for sale on Gumtree and was paid £270 in part payment for the tickets by Ms M. Mr Horsley received the funds,

but the buyer did not receive her tickets nor was she repaid any money. Mr Horsley misrepresented to Ms M that he was in possession of Grand National Tickets and was willing to sell them to her.

13. At trial, Mr Horsley argued that he had tried to arrange finance for his business through the Halifax Building Society and that he had assumed that the finance had been granted. On the basis of this assumption, he ordered fireworks, equipment, and marketing materials for the business. The payments, which had been made over a period of time, did not clear as the Building Society had declined the finance.

14. Mr Horsley admitted that he had failed to check his finances before ordering substantial goods and services. It was the prosecution's case that Mr Horsley was well aware that he did not have sufficient funds to make the payments, but he told those six suppliers that he had. Mr Horsley accepts that he ought to have checked the status of the funds. In the case of the final conviction, it was a case of trying to obtain payment for goods that he did not deliver to the purchaser.

Loss

15. Mr Horsley says that he applied for finance through Halifax and, assuming it had been granted, relied upon the Halifax online banking App being reliable when it said payment was confirmed in relation to a number of payments for fireworks and equipment. However, the judge directed the jury that Mr Horsley was an intelligent man and should have checked that the finance was approved before ordering the fireworks. Although the fireworks were returned and the hampers were not delivered, Mr Horsley made attempts to make a gain. In respect of the Grand National tickets, the SRA does not believe that Ms M has been refunded.

16. A jury found Mr Horsley guilty of seven fraud charges.

Non-Agreed Mitigation

17. The following mitigation, which is not agreed by the SRA, is put forward by Mr Horsley.

18. In October 2013 I whistleblow to the SRA regarding financial irregularities at Hedleys Solicitors in Sunderland where I was employed as Head of Litigation. Thereafter followed a counter allegation that I had been doing cash in hand work for divorces by the Managing Partner. A Police investigation followed where I was left on bail for over six years unable to earn an income in Law. I was ultimately acquitted unanimously of all charges before a Jury in Jan 2020. This investigation and prosecution caused profound stress, a stillborn, my divorce not to mention the income strain. In that time I set up an Events Business working at music festivals and organising corporate events and firework displays. In the course of these activities finance fell through causing a series of bank transfers not to clear. The CPS knowing the Hedleys case was weak and lacked evidence used their resources to investigate these business transactions in order to seek bad character evidence to bolster their prospects on the main Hedleys case which took them seven years to bring to Court. I was foolish and should have done proper due diligence in that Business. The legal test applied was that I knew or ought to have known the representation I made that suppliers would be paid was false or untrue. Accordingly I accept the conviction but it was at a time when I was trying to provide an income for my family when my earning capacity in law was nullified by what was a prosecution in the Hedleys case that was nothing other than a witch hunt. In this case for which my life was on hold of eight years before being unanimously acquitted it took the instruction by my Defence Team of Anne Whyte QC and Amos Waldman alongside the input of a Forensic Accountant and multiple disclosure applications to prove my innocence but sadly my wish to operate a successful business in years of being unemployed failed. There is such overlap into these proceedings as the previous SDT proceedings were discontinued once I was found not guilty but inevitably when an establishment as big as the Economic Crime Unit of four different Police Forces have thrown so much mud even the most upstanding

individuals will find some sticks it was a war of attrition from which I endured years of reactive stress which impacted profoundly on my personal and professional life.

Penalty proposed

19. Taking account of the seriousness of the admitted misconduct and having considered the Solicitors Disciplinary Tribunal's Guidance Notes on Sanctions (10th Edition), the SRA proposes, and Mr Horsley accepts, that the proper penalty in this case is for him to be struck off the Roll of Solicitors.
20. With respect to costs, it is further agreed that Mr Horsley should pay the SRA's costs of this matter agreed in the sum of £1,300.

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

21. Mr Horsley 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)**).*"
22. 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...”

23. Mr Horsley’s dishonest conduct was sustained over a period of time and very serious. It was intended to provide a benefit to Mr Horsley and his events business. Following a Trial in the Crown Court, he was found guilty of seven counts of having made false representations to make gain for self/another or cause loss to other/expose other to risk. He was sentenced to 24 months imprisonment for each offence to run concurrently, suspended for 24 months.

24. These were serious acts of dishonesty committed over a period of time pursuant to which Mr Horsley made or attempted to make gain to the detriment of the companies and individuals listed above and 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 Mr Horsley to be struck off the Roll of Solicitors.

...Rebecca Edmonds (Digitally signed 31 August 2022).....
Rebecca Alice Edmonds, Legal Adviser, on behalf of the SRA

Nathan Horsley (Digitally Signed 31/08/22)

.....
Nathan Horsley