

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12356-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

GEORGE EDWARD NOSWORTHY

Respondent

Before:

Mr R Nicholas (in the chair)

Mrs L Boyce

Mrs S Gordon

Date of Hearing: 4 November 2022

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent, George Edward Nosworthy, made by the Solicitors Regulation Authority Ltd were that, while in practice as a solicitor and principal at Cree Godfrey & Wood (“the Firm”):
 - 1.1 Between March 2010 and February 2020, in respect of the administration of the Estate of Person IY (deceased), he overcharged the Estate;
 - 1.2 Between July 2010 and April 2019, in respect of the administration of the Estate of Person MK (deceased), he overcharged the Estate;
 - 1.3 Between 1995 and February 2020, in respect of the administration of the Trust of Person SC (deceased), he overcharged the Trust; and
 - 1.4 Between July 2007 and March 2020, in respect of the administration of the Estate of Person MR (deceased), he overcharged the Estate.

In doing so, Mr Nosworthy breached any or all of the following:

For conduct before 5 November 2011: any or all of Rules 1.02, 1.06 and 2.03 of the SRA Code of Conduct 2007 and Rule 22 of the Solicitors Accounts Rules 1998;

For conduct between 5 November 2011 and 25 November 2019: any or all of Principles 2 and 6 of the SRA Principles 2011 and Rule 20.1 of the Solicitors Accounts Rules 2011;

For conduct on or after 25 November 2019: any or all of Principles 2, 4 and 5 of the SRA Principles 2019 and Rule 5.1 of the Solicitors Accounts Rules 2019.

2. Allegations 1.1 to 1.4 were advanced on the basis that Mr Nosworthy’s conduct was dishonest. Dishonesty was alleged as an aggravating feature of his misconduct prior to 25 November 2019, but was not an essential ingredient in proving the allegations. On or after 25 November 2019, dishonesty was pleaded by way of a breach of Principle 4 of the SRA Principles 2019.
3. Mr Nosworthy admitted all the allegations including that his conduct was dishonest.

Documents

4. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit HLV1 dated 26 July 2022
 - Respondent’s Answer dated 1 September 2022
 - Statement of Agreed Facts and Outcome dated 31 October 2022

Background

5. Mr Nosworthy was admitted to the Roll in July 1965. He was the Firm's Compliance Officer for Legal Practice ("COLP"), Compliance Officer for Finance and Administration ("COFA"), and the Money Laundering Reporting Officer ("MLRO"). The Firm's main areas of work were residential property and probate and estate administration.
6. Mr Nosworthy's Practising Certificate was suspended following a decision to intervene into his practice (and that of the Firm). Matters the subject of these proceedings came to the attention of the Applicant following receipt of the Firm's accountant's report for year ending 2019 which identified instances where high levels of fees had been charged but the Firm had failed to provide the information to show that those fees were properly required and that the bills had been delivered to clients.

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

7. The parties invited the Tribunal to deal with the Allegations against Mr Nosworthy 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.

Findings of Fact and Law

8. 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 Mr Nosworthy'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 Nosworthy's admissions were properly made.
10. The Tribunal considered the Guidance Note on Sanction (10th Edition/June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. Mr Nosworthy admitted that he had dishonestly overcharged clients over a significant period of time, resulting in a total overcharge in the sum of approximately £474,108.88. The Tribunal considered that, given the serious nature of Mr Nosworthy's misconduct, including his admitted dishonesty, the only appropriate and proportionate sanction was to strike him off the Roll. The Tribunal did not find any exceptional circumstances that would justify a sanction other than striking Mr Nosworthy off the Roll. Accordingly, the Tribunal approved the sanction proposed by the parties.

Costs

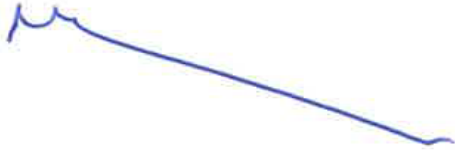
11. The parties agreed costs in the sum of £36,157.00. The Tribunal found the costs to be appropriate and proportionate in the circumstances. Accordingly, the Tribunal approved an order for costs in the agreed amount.

Statement of Full Order

12. The Tribunal Ordered that the Respondent, GEORGE EDWARD NOSWORTHY 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 £36,157.00.

Dated this 9th day of November 2022
On behalf of the Tribunal

JUDGMENT FILED WITH THE LAW SOCIETY
9 NOV 2022



R Nicholas
Chair

IN THE SOLICITORS DISCIPLINARY TRIBUNAL

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

AND THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

GEORGE EDWARD NOSWORTHY

Respondent

STATEMENT OF AGREED FACTS AND OUTCOME

Introduction

1. By statement made by Hannah Victoria Lane, on behalf of the Solicitors Regulation Authority Limited (the "SRA"), pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019, dated 26 July 2022, the SRA brought proceedings before the Tribunal making allegations of professional misconduct against the Respondent.
2. The Tribunal issued Standard Directions on 28 July 2022. The Substantive Hearing is currently listed in person between 21 and 25 November 2022. The deadline for submission of an agreed outcome is 24 October 2022. On 24 October 2022, the

- Respondent's representative notified the Tribunal that the parties were finalising terms of an agreed outcome and that this would be filed shortly.
3. The Respondent admits all the allegations in the Rule 12 statement, and further admits that his conduct in respect of the same was dishonest.
 4. This document is intended to assist the Tribunal in understanding the facts and the proposed outcome, as agreed between the parties.

Allegations

5. The allegations against the Respondent, George Edward Nosworthy, made by the SRA are that, while in practice as a solicitor and principal at Cree Godfrey & Wood ("the Firm"):
 - 1.1. Between March 2010 and February 2020, in respect of the administration of the Estate of Person IY (deceased), he overcharged the Estate;
 - 1.2. Between July 2010 and April 2019, in respect of the administration of the Estate of Person MK (deceased), he overcharged the Estate;
 - 1.3. Between 1995 and February 2020, in respect of the administration of the Trust of Person SC (deceased), he overcharged the Trust; and
 - 1.4. Between July 2007 and March 2020, in respect of the administration of the Estate of Person MR (deceased), he overcharged the Estate.

In doing so, the Respondent breached any or all of the following:

For conduct before 5 November 2011: any or all of Rules 1.02, 1.06 and 2.03 of the SRA Code of Conduct 2007 and Rule 22 of the Solicitors Accounts Rules 1998;

For conduct between 5 November 2011 and 25 November 2019: any or all of Principles 2 and 6 of the SRA Principles 2011 and Rule 20.1 of the Solicitors Accounts Rules 2011;

For conduct on or after 25 November 2019: any or all of Principles 2, 4 and 5 of the SRA Principles 2019 and Rule 5.1 of the Solicitors Accounts Rules 2019.

Allegations 1.1 to 1.4 are advanced on the basis that the Respondent's conduct was dishonest. Dishonesty is alleged as an aggravating feature of the Respondent's misconduct prior to 25 November 2019, but is not an essential ingredient in proving the allegations. On or after 25 November 2019, dishonesty is pleaded by way of a breach of Principle 4 of the SRA Principles 2019.

Agreed Facts

6. The Respondent was admitted to the Roll on 1 July 1965.
7. He started trading on his own account as Cree Godfrey & Wood ("the Firm") from July 1970 until January 1996, and again between March 1997 and April 2007. From 2007 until March 2021, the Respondent was in partnership at the Firm.
8. The Respondent was the Firm's Compliance Officer for Legal Practice ("COLP"), Compliance Officer for Finance and Administration ("COFA"), and the Money Laundering Reporting Officer ("MLRO").
9. The Firm's main areas of work were residential property and probate and estate administration.
10. The Respondent's Practising Certificate was suspended following the Adjudication Panel's decision on 24 March 2021 to intervene into his practice (and that of the Firm).
11. Matters the subject of these proceedings came to the attention of the Applicant following receipt of the Firm's accountant's report for year ending 2019. The report ("AR1") was qualified as follows: *"Limitations of scope in respect of high levels of fees charged. Several instances where information was requested to show fees were properly required and bill of costs were delivered to clients. Information was not received."*
12. The AR1 reported four client matters in which a high level of fees had been charged despite only minimal transactions having been recorded on the ledgers.

13. The Applicant commissioned a Forensic Investigation, which commenced on notice, on 12 June 2020. A report ("the FIR") was produced by the Forensic Investigation Officer ("FIO") on 15 February 2021.
14. As part of the Forensic Investigation, the FIO instructed an independent costs draftsman, Mr Marc Banyard, to review and cost the files of Persons IY, MK, SC and MR.
15. Mr Banyard prepared a report on each client matter. Those reports dated April and May 2021 concluded that there had been an overcharge on each of the four client matters. The total overcharge was in the region of £483,243.36. Those reports were disclosed to the Respondent and formed the basis of the Notice Recommending Referral to the Solicitors Disciplinary Tribunal and the Adjudication Decision.
16. However, as there was no composite record of the material that Mr Banyard had inspected for the purposes of his reports and as the Firm has been subject to intervention, the Applicant could not be certain whether any further documents relevant to the four client matters had been lifted during the intervention. The Respondent asserts that his own failures in keeping records has led Mr Banyard to have incomplete materials at the point of preparing his reports.
17. In consideration of the Applicant's disclosure duties and overall considerations of fairness, the Applicant re-instructed Mr Banyard on all four matters, providing him with all the material held by Intervention in relation to the four client matters.
18. For the second reports, Mr Banyard was instructed to,

"Please review the enclosed documents and prepare reports in relation to each of the four client matters in relation to your findings. We should be grateful if you would deal with the following matters in your reports, in addition to any other relevant general information or opinion:

- 1. Comment on the Respondent's approach to costs on each case, namely the information provided and his billing practices;*

2. Comment on whether the costs incurred on each case were excessive and/or not justified.

If you identify other concerns not described above, please comment on these in your reports. In the event you do identify concerns, please clearly identify in your reports whether the concerns relate to the Respondent's conduct or any other fee-earners at the firm. You should consider the Respondents' conduct against the standards expected of a reasonably competent solicitor (i.e. applying a reasonable standard of practice not the "gold standard" or "best practice")."

19. Mr Banyard prepared his second reports in May and June 2022. Mr Banyard was provided with further material, as a result of the intervention, that he had not previously seen. His conclusions in respect of all four matters remained that there was a significant overcharge, in the region of £474,108.88, across all four matters. The real cost across the four matters should have been in the region of £161,866.70.

20. In his review of the client files, Mr Banyard found a similar pattern of charging across all four client matters, including:

- a. the files contained little to no evidence of time recording;
- b. significant numbers of invoices contained insufficient detail as to what was being charged for;
- c. invoices were raised during periods of apparent inactivity on the files;
- d. invoices were raised for significant round sums during periods of apparent inactivity; and
- e. invoices were raised shortly after previous invoices, following periods of apparent inactivity on the file.

Allegation 1.1. – Person IY

21. The Firm was instructed to administer the estate of IY. The Respondent was the fee earner on the matter.

22. Between 1 May 2009 and 7 February 2020, 33 invoices were issued to the Executor, each bearing the Respondent's initials, totalling £32,793.75 inclusive of VAT. This was over 11% of the value of the estate.
23. From 2015, there was no evidence of any work having been undertaken on the matter to justify the invoices, which totalled £20,036.00 plus VAT, being raised.
24. Mr Banyard's costing of the file concluded that the highest possible reasonable figure for costs would be £9,988.25 plus VAT. That compared unfavourably with the sum of £27,986.00 plus VAT which had in fact been invoiced.
25. A sum in the region of £17,997.75 plus VAT, making a total figure of £21,630.78, was overcharged to the estate.

Allegation 1.2. – Person MK

26. The Firm was instructed to administer the Estate of MK, and the Respondent was appointed an Executor. He was also the fee earner on the matter.
27. Between 23 July 2010 and 7 May 2019, 54 invoices were raised to the Estate in the total sum of £129,183.75 inclusive of VAT. This is nearly 20% of the estate's value.
28. Invoices were raised shortly after previous invoices, following periods where no work had been conducted on the file. For example, fees of £10,000 plus VAT were raised on 4 January 2019, twenty five days since the last invoice (including the Christmas break), during a period of inactivity.
29. Very little work was conducted on the file after December 2014.
30. Mr Banyard's costing of the file resulted in an overall costing of the matter of £20,072.93 plus VAT (plus a disbursement of £45). That figure compared unfavourably with the sum of £107,975.00 plus VAT which had been invoiced to the Estate.
31. A sum in the region of £87,902.07 plus VAT (£105,232.74 inclusive of VAT) was overcharged to the Estate.

Allegation 1.3. – Person SC

32. Person SC made a will on 2 December 1980, which contained a clause for the residuary estate to be held on trust for her disabled daughter. Person SC died on 22 December 1992. The Respondent was appointed a trustee on 21 May 1995. He was also the fee earner on the matter at the Firm.
33. Between 24 April 1995 and 7 February 2020, 115 invoices were raised to the Trust. Of which, 13 were subsequently cancelled, giving a net sum total of £109,727.02 invoiced to the Trust.
34. From 2005 round figures were charged to the Trust on a regular basis without any evidence in the file to justify the same.
35. The frequency of the invoicing increased dramatically in 2013, 2015, 2018 and 2019 compared to other years, without any reason on the client file to justify the same.
36. In 2018, one invoice alone was raised to the value of £17,750.00 plus VAT, without there being any evidence on the file of any work having been undertaken during the relevant period of the invoice.
37. Invoices were raised shortly after previous invoices, without there being evidence on the file to justify such fees. For example, on 2 January 2019 an invoice was raised for £10,000 plus VAT for the period since 7 December, when there was no evidence on the file of work having been undertaken.
38. Mr Banyard's costing of the file for the period 1995 to 3 April 2003, stood at £2,889.04 inclusive of VAT, which compared unfavourably with the sum of £9,247.26 which was invoiced by the Firm.
39. For the period between June 1994 and June 2012, the chargeable costs as evidenced on the client file stood at £16,087.16. That compared with the figure of £22,637.42 which was charged by the Firm.

40. For the period between June 2012 and March 2015, the file appeared to be missing and therefore Mr Banyard was unable to make any comment about the charging practices during that period.
41. For the period March 2015 onwards, the chargeable costs as evidenced on the client file stood at £1,239.48. That compared with the figure of £70,704.00 which was charged by the Firm.
42. A total sum in the region of £76,047.78 inclusive of VAT of costs charged by the Firm was not justified or even justifiable.

Allegation 1.4. – Person MR

43. Person MR died intestate and his widow instructed the Firm to assist in the administration of the Estate. The Respondent was the fee earner on the matter.
44. Between 14 June 2007 and 2 March 2020, 97 invoices were raised to the Firm in the total sum of £389,164.81 inclusive of VAT.
45. On Mr Banyard's costing of the file, for the period up to December 2012, the figures reached were generally greater than those invoiced by the Firm. The undercharging for the period up to December 2012 totalled £14,431.67, inclusive of VAT.
46. Thereafter all invoices represented an overcharge to one extent or another.
47. There were instances of charging significant round sums when there was no or minimal work having been conducted on the file.
48. For the period subsequent to December 2012, the Firm overcharged £292,229.25, inclusive of VAT.
49. Offsetting the undercharge against the overcharge resulted in a net overcharge in the region of £277,797.5810, inclusive of VAT.

Admissions

50. The Respondent agrees with the analysis undertaken by Mr Banyard on the four client matters. The Respondent admits that he overcharged all four matters over a significant period of time, resulting in a total overcharge in the region of £474,108.88.
51. The Respondent admits that significant sums of money were transferred from the client account to the office account on the basis of costs, when the charges were not justified. In those circumstances, the Respondent admits that the transfers were improper and breached Rule 22 of the Solicitors Accounts Rules 1998 so far as the conduct pre dated 5 November 2011, Rule 20.1 of the Solicitors Accounts Rules 2011 so far as the conduct pre dated 25 November 2019, and Rule 5.1 of the Solicitors Accounts Rules 2019 on or after 25 November 2019.
52. The Respondent admits that so far as the conduct pre dated 5 November 2011, he further breached Rule 2.03 of the Solicitors Code of Conduct 2007, in that he failed to give the clients proper information about the costs of their cases.
53. The Respondent admits that his conduct in overcharging the four clients lacked integrity. Common patterns in respect of the method of charging was seen across all four client files including; insufficient detail on invoices, invoices charging for round sums, invoices charging for significant sums during periods of inactivity on the file, invoices being raised within close proximity to each other when no or little work had been conducted on the file. The Respondent therefore admits breaching Rule 1.02 of the Solicitors Code of Conduct 2007 so far as the conduct pre dated 5 November 2011, Principle 2 of the SRA Principles so far as the conduct pre dated 25 November 2019 and Principle 5 of the SRA Principles 2019 so far as the conduct occurred on or after 25 November 2019.
54. The Respondent admits that his conduct undermined public trust in him and the profession. The Respondent admits that his misuse of client monies as a source of cash-flow to run the Firm undermines the trust the public places in him and in the provision of legal services. The Respondent therefore admits breaching Rule 1.06 of

the Solicitors Code of Conduct 2007 so far as the conduct pre dated 5 November 2011, Principle 6 of the SRA Principles 2011 so far as the conduct pre dated 5 November 2011, and Principle 2 of the SRA Principles 2019 so far as the conduct occurred on or after 25 November 2019.

Dishonesty

55. The Respondent admits that his conduct in respect of allegations 1.1 to 1.4 was dishonest in accordance with the test set out in *Ivey (Appellant) v Genting Casinos (UK) Ltd t/a Crockfords (Respondent) [2017] UKSC 67*.
56. The Respondent admits that he was the fee earner on each of the four matters which all involved the same pattern of charging, including charging for significant round sums during periods of inactivity on the client files.
57. The Respondent admits that the overcharge on just four client matters was calculated to be over £470,000.00, which is a significant sum of money.
58. The overcharges were on matters in which the Respondent was acting in a trusted capacity as an executor or trustee.
59. The Respondent admits that his conduct has had a significant impact on beneficiaries who have not received their full entitlement from estates or trusts, for example, and that an honest solicitor would not have taken advantage of his position as a solicitor, trustee and custodian of client money in such a way.
60. The Respondent benefited from his misconduct and has not paid the money back.
61. The Respondent admits that ordinary people would consider the Respondent's actions to be dishonest.

Mitigation

62. The following points are advanced by way of mitigation on behalf of the Respondent but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:

Background

62.1. GN is 79 years of age. He has a wife aged 74. Since the intervention they have had to sell their family home of 35 years in order to release funding to contribute to an IVA (see below). Both have suffered significant stress through the intervention process and the changes to their day to day lifestyles owing to their change of circumstances. This is the background to the mitigation offered below

Mitigation

62.2. GN ran a practice in which he regularly worked seven days a week (in excess of 80 hours). The practice over the years through well documented changes to the legal profession meant that as a small business GN struggled to control both the management and the volumes of work and the servicing of that work. The increases in the costs of running a solicitors practice, particularly PII contributions make it difficult to achieve the profitability required to remain a viable practice in the context of cash flow requirements.

62.3. It is right to say that GN was "old school" and struggled to keep up with the changes to regulation and the complex requirements of maintaining a legal practice in the modern world. GN failed to cope with technology. He failed to maintain attendance notes where necessary and control through management and good practice procedures. In failing to maintain such practices the consequence was both that there were times when he simply could not see the wood from the trees and became overwhelmed.

62.4. GN in attempting to balance his regulatory and professional obligations simply lost control and became overwhelmed from time to time. His focus was to

firefight client matters which inevitably led to shortcuts in good and proper file management – essentially corners were cut. A consequence of all of the above is that GN felt stressed 24 hours a day, felt harassed by clients because he fell behind from time to time, failed to bill properly on matters if at all, failed to maintain proper records and had no effective time recording systems.

- 62.5. GN worked under very high pressure trying his best to keep his clients happy- that was his main focus. GN often gave pro bono advice.
- 62.6. In attempting to “catch up” all the time he failed to address the essential requirement to maintain cash flow. Cash flow is the lifeblood of any business and the peculiar nature of a solicitors practice often means that cash-flow is not available in the same as a retail business. GN accordingly billed some matters knowing that the sums were improper. He was often exhausted when dealing with transfers on a Sunday evening and sometimes took monies from the most convenient source when not knowing whether they were properly billable or not. He has accepted such practice as dishonest.
- 62.7. GN’s main focus was on making sure that his clients and his staff were looked after and this was to his own detriment. The monies were simply used to pay staff and allow the business to continue.
- 62.8. The intervention although stressful for GN was in fact a welcome relief. As a 80 year old man he was able to stop working 80 hours a week and for the first time in years and have a rest. GN chose not to resist the intervention and provided full co-operation to the SRA and their intervention agents and continues to do so.
- 62.9. GN, even before the SDT process had begun admitted the allegations in general and accepted that he had acted dishonestly and without integrity. He accepts that he should be struck off the roll.
- 62.10. Through the sale of his business premises and his home of 35 years he has placed circa £760,000 into an IVA to repay creditors. GN could have simply

gone bankrupt, but proposed the IVA to do his best for all the creditors. The SRA are the most significant creditors and this will mitigate the professions costs in having to deal with the requirement to intervene will provide repayment in part or whole to the clients who were overcharged.

62.11. GN is ashamed that his personal failings in controlling the management of his practice led him to act in the manner that he did. He has shown true remorse and attempted through the sale of his business and personal assets to recompense the losses as far as he is able. By doing so he has affected his family's financial future but takes full responsibility in that.

62.12. GN has suffered medical issues over the years mostly caused by the stress of running his practice. From about 2014 he had regular appointments with a psychiatrist who prescribed anti-depressants (which he still takes), and at one stage he wanted to hospitalise GN. GN was told to take a full month off work in about 2014, which he did.

62.13. Income tax and VAT were always fully discharged on the business income. GN made sure that his staff were full paid up to the date of intervention using his own funds.

62.14. GN accepts that the only proper order is to strike him off the roll.

Agreed Outcome

63. The Respondent agrees:

63.1. to be struck off the Roll of Solicitors; and

63.2. to pay costs to the SRA in the sum of £36,157.00 inclusive of VAT.

64. The Respondent has entered into an IVA on 19 October 2021 ^{which} to the SRA. is a party

65. The parties submit that the proposed outcome represents the appropriate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanctions (10th Edition – June 2022).

66. In the circumstances, it is submitted that the proposed outcome is the appropriate outcome in this case.

Signed: |

Mark Rogers

For and on behalf of the Applicant

Date: 31 October 2022

Signed:



George Nosworthy

Date:

31/10/22