

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12397-2022

BETWEEN:

ANTOINETTE OLIVIA TAYLOR

Applicant

and

SOLICITORS REGULATION AUTHORITY LTD

Respondent

Before:

Ms A E Banks (in the chair)

Mr U Sheikh

Dr A Richards

Date of Hearing: 15 February 2023

Appearances

Alistair Parker, solicitor of Saunders Law for the Applicant.

Rebecca Neale, solicitor of the Solicitors Regulation Authority Ltd, The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Respondent.

MEMORANDUM OF DECISION: APPLICATION FOR RESTORATION TO THE ROLL

Background

1. On 29 November 2012, Ms Taylor, who had been admitted to the Roll in March 1991, had appeared before the Tribunal and faced allegations that she:
 - “1. Withdrew monies out of client account contrary to Rule 22(5) of the Solicitors’ Accounts Rules 1998 (“SAR”);
 2. Failed to maintain properly written up books of account contrary to Rule 32 of the SAR;
 3. Failed to remedy breaches of the SAR promptly upon discovery contrary to Rule 7 of the SAR;
 4. Failed to adequately account to a client contrary to Rule 1.05 of The Solicitors’ Code of Conduct 2007 (“the Code”);
 5. Failed to notify the SRA that she had a cash shortage on her client bank account contrary to Rule 20.04 of the Code;
 6. Failed to notify her Professional Indemnity Insurers that she had a cash shortage on her client bank account contrary to Rule 20.07 of the Code;
 7. Failed to notify mortgagee clients of material information contrary to Rule 4.02 of the Code;
 8. Failed to provide a mortgagee client with a good standard of service contrary to Rule 1.05 of the Code;
 9. Improperly acted in a share sale transaction without paying proper heed to the professional guidance contrary to Rules 1.03, 1.05 and 1.06 of the Code;
 10. Made an untrue statement in an application for Professional Indemnity Insurance contrary to Rule 1.06 of the Code.”
2. Ms Taylor had admitted allegations 1, 2, 4 and 8. The Tribunal had found all allegations proved. The Tribunal had struck Ms Taylor off the Roll and ordered her to pay costs in the sum of £28,000 inclusive of VAT and disbursements.
3. Prior to this, Ms Taylor had appeared before the Tribunal on 1 August 2011 and faced allegations that:
 - “1. Contrary to Rule 10.05 of the Solicitors Code of Conduct 2007 (“SCC 2007”) she failed to fulfil an undertaking.
 2. Contrary to the provisions of Rule 1 of the SCC 2007 she:
 - (i) failed to act with integrity;
 - (ii) acted in a way that is likely to diminish the trust the public

places in her or the profession.

Contrary to Rule 3.01 of the SCC 2007 she continued to act for a client when his interest conflicted with her own.”

4. Ms Taylor had admitted these allegations. The Tribunal had ordered her to pay a fine of £5,000 and costs of £8,500.
5. On 28 October 2022, Ms Taylor lodged an application for restoration to the Roll.

Documents

6. The parties had uploaded documentation to an agreed electronic hearing bundle.

Applicant's Evidence

7. Ms Taylor gave evidence in support of her application. Her oral evidence is summarised below.
8. Ms Taylor confirmed that her witness statements dated 24 October 2022 and 19 December 2022 were true to the best of her knowledge and belief.
9. Ms Taylor told the Tribunal that she was currently working as a Company Secretary and Director for a company that did recreation and accommodation related work in Europe and Zimbabwe. Ms Taylor would give guidance on commercial contracts and employment related matters.
10. Ms Taylor told the Tribunal that if she was restored to the Roll she would intend to practise employment law and landlord and tenant law. Being restored to the Roll would mean that she could proudly state her occupation and to become a member of the profession that she had been part of for several years. Ms Taylor told the Tribunal that she would be an honourable and respectable member of profession.
11. Ms Taylor gave evidence in some detail about the suggestion by the SRA that she had misled AON – something she denied. This is not set out in detail here as the Tribunal, for reasons set out below, did not consider this a relevant factor in its decision.
12. Ms Taylor also denied that she had carried out reserved legal activity in her dealings with the Land Registry.
13. Ms Taylor told the Tribunal that one of the problems she had encountered when running her own firm was being too accommodating to clients asking her to act in a certain way or to overlook certain things. That problem would not have applied when she was an employee as she had a colleague who was senior to her and to whom she would defer. In relation to the matters that gave rise to the previous appearance before the Tribunal in 2012, Ms Taylor accepted that she had failed to spot red flags in terms of the source of funds. This was, again, something that would have not occurred had she been an employee as it would have been flagged in regular team meetings or during file reviews.

14. Ms Taylor told the Tribunal that she had reflected on what had gone wrong between 2009 and 2011. She felt great shame and embarrassment, so much so that going on external courses and meeting people in person had been very difficult.
15. Ms Taylor told the Tribunal that she could be trusted with any role save for the running practice or being a partner. Ms Taylor stated that she had no desire to get into conveyancing work again.
16. Ms Taylor accepted that there remained £2,700 owed from her fine in 2011. Ms Taylor explained that she had honestly believed the settlement she had made with SRA included that. It had come to her attention when she submitted this application in 2022 that this arrangement related to costs and not to the fine. The discovery of this situation had made Ms Taylor question whether to proceed with the application. She told the Tribunal that nobody had pursued the matter with her, but that she would find the money or make a proposal to pay.
17. In cross-examination Ms Taylor confirmed that she accepted the Tribunal's findings in full and had not appealed against its decisions. Ms Taylor told the Tribunal that she accepted she was responsible and did not seek to blame anyone else. She told the Tribunal that she had genuine insight into her conduct.
18. Ms Taylor confirmed that she had undertaken some training on anti-money laundering but did not describe it as a priority for her. She had also undertaken training in copyright matters as well as landlord and tenant. Ms Taylor accepted that her anti-money laundering training amounted to 4.75 hours. In relation to the Solicitors Accounts Rules, Ms Taylor did not dispute that she had undertaken 3.75 hours.
19. In relation the unpaid fine, Ms Taylor accepted that she had been working and that she now understood there was a difference between fines and costs. Ms Taylor denied that she had chosen not to pay it and stated that she had thought she would wait for this hearing to take place and then make efforts to settle it.
20. Ms Taylor accepted that Metro Law had not applied for approval to employ her under s41 of the Solicitors Act 1974. Ms Neale put to her that there was no evidence as to what work she would be doing if she was restored to the Roll. Ms Taylor told the Tribunal that it would be landlord and tenant matters and employment law.
21. Ms Neale put to Ms Taylor that there was no training or supervision plan before the Tribunal other than the office manual. Ms Taylor did not dispute this.
22. Ms Neale suggested to Ms Taylor that she had undertaken a lot of courses of brief duration and not necessarily on areas that might serve her in the future. Ms Taylor told the Tribunal that she had focused on compliance and the Solicitors Accounts Rules as that had been the focus of the breaches.

Applicant's Submissions

23. Mr Parker told the Tribunal that the 2012 matters that resulted in the strike-off did not include dishonesty but was on the basis of multiple failings. The SRA's reply suggested that Ms Taylor had acted dishonestly, something she denied. The Chair indicated to

Mr Parker, on several occasions during the hearing, that the Tribunal was only concerned with the Judgments issued by the Tribunal and that it would disregard any suggestions of misconduct that went beyond those Judgments. The SRA had not brought further proceedings against Ms Taylor and it would not be fair to Ms Taylor to have any regard to unproven insinuations. The Tribunal assured Mr Parker repeatedly that it would disregard any suggestions of misconduct by the SRA that went beyond the matters that had been proved as set out in the Tribunal's Judgments. Notwithstanding those reassurances, there was some evidence and submissions that dealt with this issue in detail. Those are not set out in this Memorandum as they were of no relevance to the Tribunal's decision on the application. The same applied to the suggestion that Ms Taylor had been carrying out reserved legal activity, something that Ms Taylor also denied.

24. Mr Parker submitted that after being off the Roll for a number of years it was difficult to get a firm to welcome Ms Taylor back. Metro Law were content to employ her if she was restored to the Roll and subject to their Professional Indemnity Insurance. Mr Parker referred the Tribunal to supportive evidence from Ms Taylor's current employer and noted that it was difficult to get work with law firms without being restored to the Roll.
25. Since October 2021, Ms Taylor had undertaken close to 40 hours of continuing professional development and submitted that she had concentrated on areas of perceived weakness.
26. Mr Parker submitted that the SRA's contention that they could not test conclusively the views of those who had provided references set an "impossible bar" that would require referees to reflect the public. This was a matter for the Tribunal and Mr Parker submitted that the bundle provided was the sort that would be expected for this type of application. The public perception depended on what they read and how they read it. Mr Parker submitted that a fully informed member of the public, in this scenario would not necessarily have their faith shaken by Ms Taylor being restored to the Roll.
27. Mr Parker told the Tribunal that the £2,700 outstanding from the 2011 fine had come as a "nasty surprise" to Ms Taylor. The costs of the 2011 and 2012 proceedings had been amalgamated and an agreed sum had been paid in 2017. Ms Taylor had not realised in 2017 that this only related to the costs. She had paid £2,300 towards the fine, leaving the balance of £2,700. Mr Parker told the Tribunal that Ms Taylor was "mortified" by this and submitted that she would pay it. She had not been able to do so yet but would do so and he told the Tribunal that Ms Taylor apologised profusely.
28. Mr Parker submitted that the application was intended to strike a realistic tone. There were a number of breaches in 2011 and 2012 and not all of them had been admitted when they should have been. Ms Taylor was older and wiser now. After 17 years as an employed solicitor, she had started her own firm when she was not ready. She did not have a more senior partner and she was the COLP and COFA. Ms Taylor now accepted that she had not been ready for that level of responsibly and she had no intention of running her own firm again.
29. Mr Parker referred the Tribunal to all the documentation presented and submitted that she was a very reasonable candidate for restoration to the Roll with conditions attached.

Respondent's Submissions

30. Ms Neale referred the Tribunal to the SRA's Answer and confirmed that it opposed the application for restoration. Its secondary position was that if restoration was granted, conditions should be imposed on Ms Taylor.
31. Ms Neale submitted that at the time of the strike-off, Ms Taylor was an experienced solicitor. There had been no application by a firm to employ Ms Taylor pursuant to s41 of the Solicitors Act 1974, including from Metro Law. Ms Taylor's online training started nine years after she was struck-off and consisted mainly of short webinars of 1-1.5hrs.
32. Ms Neale submitted that Ms Taylor had not demonstrated consistent commitment for past 10 years, but had focussed her efforts on supporting this application for restoration. Ms Neale submitted that Ms Taylor had insufficient knowledge of Solicitors Code of Conduct 2019 code.
33. Ms Neale noted that none of Ms Taylor's referees had given evidence, albeit she accepted that the SRA had not asked for them to be called to do so.
34. Ms Neale submitted that there was no detailed training plan for any future employment and the reference from Metro Law did not come from a solicitor.
35. With regard to the payment of the fine, Ms Neale submitted that it was unacceptable for Ms Taylor to say that nobody had chased payment.
36. Ms Neale referred the Tribunal to the 2012 Judgment. Ms Taylor's culpability was total and the Tribunal had been concerned by her serious disregard for her obligations. Ms Neale submitted that conveyancers were at the forefront of the battle against money laundering and there had been potential signs of fraud and money laundering.
37. Ms Neale submitted that it was not appropriate to restore Ms Taylor to the Roll even with conditions. The objective, fully informed member of the public would not consider her a suitable character to be a solicitor.

The Tribunal's Decision

38. The Tribunal had regard to the Guidance Note on Other Powers of the Tribunal (6th Edition) when deciding this application. The relevant factors, having regard to the fact that no dishonesty was present, were as follows:

“In relation to cases where strike off was imposed for disciplinary offences not involving dishonesty, the guidance provided by Lord Donaldson in Case No. 11 of 1990 (unreported) that the Tribunal should ask:

“If this was the sort of case where, even if the back history was known (that is whatever explanation and mitigation was available to explain why the solicitor committed the original offence), and without the explanation as to what has happened subsequently, the members of the public would say ‘that does not shake my faith in solicitors as a whole’.”

- The period which has elapsed since the order of strike off/removal was made. Save in the most exceptional circumstances an application for restoration within six years of the original strike off/removal is likely to be regarded by the Tribunal as premature.
 - Evidence of rehabilitation. This will usually require detailed evidence of substantial and satisfactory employment within the legal profession in the period since strike off. Please refer to the SRA Ltd's website (www.sra.org.uk) for information about the circumstances in which the SRA may, following an application by a particular firm to the SRA Ltd, make an order permitting that firm to employ or remunerate a struck-off solicitor and the procedure by which such applications are to be made.
 - The applicant's future employment intentions and whether another solicitor would be willing to employ the applicant within a practice in the event that the applicant's name is restored.
 - The extent to which the applicant has repaid any losses sustained by others as a result of the applicant's original misconduct, including any fines and cost orders made by the Tribunal. The applicant must be in a position to demonstrate that they have made a sustained effort to meet any such liability.
 - Responses received by the Tribunal from others under Rule 17 (7) of the Solicitors (Disciplinary Proceedings) Rules 2019 following the applicant's advertisement of their application as required by Rule 17 (6) of those Rules."
39. The Tribunal considered carefully the Tribunal's Judgments of 2011 and, in particular, 2012, and the documentation provided by Ms Taylor in support of her application. It had also listened carefully to her oral evidence to the Tribunal.
40. The Tribunal's 2012 Judgment had given the following reasons for its decision to strike-off Ms Taylor:
- "89. The Tribunal had regard to its Guidance Note on Sanctions.
90. It had found all of the allegations proved and that the Respondent's culpability had been total. Whilst the Respondent may have relied on others the Tribunal considered that that was no defence and nor was naivety. The Respondent had allowed herself to be manipulated by others as a result of which she had fallen into error.
91. The SAR breaches were breaches of strict liability and the Tribunal was satisfied that the Respondent had failed seriously in her professional obligations to comply with the Rules including remedying the relevant breaches; as a result, client money had been placed at risk which should never have happened as client money was sacrosanct. The Tribunal considered that an aggravating factor of the Respondent's misconduct was that she knew or ought reasonably to have known that the conduct complained of was in material breach of her obligations to protect the

public and the reputation of the profession.

92. Whilst there was no allegation of dishonesty, the Respondent had been involved in transactions which had shown signs of potential mortgage fraud and money laundering yet she had failed to raise the alarm. In relation to the PII proposal form, the Tribunal concluded that there had been concealment. The Tribunal had further been extremely concerned about the letters sent by the Respondent to client AL and the threatening tone of those letters in particular the letter dated 26 January 2010.
 93. The protection of the reputation of the profession and of the public interest was uppermost in the Tribunal's mind. It had to balance this in making its decision as to the reasonable and proportionate sanction to be imposed. The Tribunal had noted the Respondent's previous appearance before it but had not attached significant weight to that appearance as its factual background post-dated these proceedings and it was therefore a less aggravating factor than it would otherwise have been.
 94. The Tribunal had regard to the authorities, particularly those in relation to the need for Solicitors to be trustworthy, and the case of Bolton in which Sir Thomas Bingham M.R. stated: " ... A profession's most valuable asset is its collective reputation and the confidence which that inspires".
 95. The Tribunal had regard to the overall misconduct and the utmost seriousness of the particular case before it and it ordered that the Respondent be struck off the Roll of Solicitors."
41. The Tribunal addressed the factors set out in the Guidance Note on Other Powers of the Tribunal.
 42. The Tribunal noted that more than 10 years had elapsed since Ms Taylor was struck-off and so the application was not premature in relation to the timescales.
 43. The Tribunal was concerned about Ms Taylor's rehabilitation. Ms Taylor had been out of the profession for a decade and in that context, 40 hours of continuing professional development was not sufficient. Ms Taylor had undertaken a large number of short courses but had focussed on quantity rather than quality. The areas of anti-money laundering, the Solicitors Accounts Rules, the 2019 Code of Conduct all had to be addressed, having regard to the large number of breaches that had occurred, and it was unclear what she had learnt from the courses she had attended. The Tribunal saw no evidence that the attitudinal failings and lack of insight had been addressed by the courses she had attended.
 44. In relation to employment, the evidence provided fell a long way short of the need for "detailed evidence of substantial and satisfactory employment within the legal profession in the period since strike off." A firm that wished to employ Ms Taylor could have applied to the SRA under s41 for permission to do so. There had been no such application, including from the firm that had indicated an interest in employing her should she be restored to the Roll.

45. The inevitable result of this was that there was no evidence as to how Ms Taylor may conduct herself in the profession in the future, no evidence of a training plan or supervisory arrangements specific to her and no evidence that she had earned the confidence of a firm of solicitors. In those circumstances, her assurances that she had no intention of undertaking conveyancing work were not persuasive as that appeared no more than an aspiration as opposed to a guarantee. There was also no reassurance that if Ms Taylor found herself in a difficult situation in the future, that she would handle it better than she had in the past.
46. The Tribunal was concerned about the fact that £2,700 remained unpaid from a fine imposed in 2011. The Tribunal would have expected someone who had been a solicitor for 17 years to appreciate the difference between costs payable to the SRA and a fine payable to HM Treasury. Having become aware of the outstanding amount in November 2022, the Tribunal would have expected Ms Taylor to take immediate and urgent steps to settle the outstanding amount, even if that was an offer to pay by instalments. Instead, Ms Taylor had chosen to wait for the outcome of this application before addressing the issue. This called in to question Ms Taylor's judgment about her obligations and this troubled the Tribunal.
47. The Tribunal was also concerned, having heard Ms Taylor's evidence, that her reasons for wanting to come back into the profession were unclear. Ms Taylor's evidence appeared to suggest that the reasons related to how she would feel about it, rather than a genuine capability or desire to help members of the public.
48. The Tribunal took account of the character references and the fact that no objection had been taken following the publication of the advertisements. However, those factors did not outweigh the concerns in terms of rehabilitation, employment and Ms Taylor's unpaid fine for the reasons set out above.
49. The Tribunal considered whether the imposition of conditions could address the concerns sufficiently to allow Ms Taylor to be restored to the Roll. It concluded that this would not be the appropriate way forward. There were no conditions that could maintain the reputation of the profession or protect the public in circumstances where the issues that Ms Taylor had failed to overcome were wide-ranging.
50. The Tribunal therefore refused Ms Taylor's application.

Costs

51. Ms Neale applied for the SRA's costs in the sum of £3,346.30. This was not opposed by Mr Parker.
52. The Tribunal was satisfied that the costs claimed were reasonable and proportionate in the circumstances of this case. It therefore ordered that Ms Taylor pay the SRA's costs fixed in the sum claimed.

Statement of Full Order

53. The Tribunal Ordered that the application of Antoinette Olivia Taylor for restoration to the Roll of Solicitors be **REFUSED** and it further Ordered that the Applicant do pay the costs of and incidental to the response to this application fixed in the sum of £3346.30.

Dated this 22nd day of March 2023
On behalf of the Tribunal



A E Banks
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
22 MAR 2023