

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12402-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

JOHN CHARLES WRIGHT

Respondent

Before:

Mr A Ghosh (in the chair)

Mr G Sydenham

Mr A Lyon

Date of Hearing: 07 February 2023

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against Mr Wright made by the Solicitors Regulation Authority LTD (“SRA”) were that while in practice as a solicitor and manager at Ashely Wilson LLP (“the Firm”):
 - 1.1 Between February 2016 and June 2016, having agreed that the Firm should not act for both the purchaser and vendor to a conveyancing transaction, he failed to disclose to the Firm and the Firm’s clients, the vendors, of his continued direct involvement with the purchase of the property, namely:
 - (i) in the financial arrangements regarding the purchase of the property;
 - (ii) in providing instructions to the buyers’ instructed solicitors in relation to the transaction;
 - (iii) in the preparation of a pre action protocol letter to the Firm alleging a misrepresentation of the property and seeking damages in respect of the same; and
 - (iv) in the instruction of Counsel by the buyers’ solicitors in relation to the alleged misrepresentation of the property.

As such, he thereby breached any or all of Principles 2 and/or 6 of the SRA Principles 2011 (“the Principles”) and/or in circumstances where he was a Manager of the Firm and knew that the Firm acted for the vendors, he acted where there was an own client conflict and accordingly failed to achieve Outcome 3.4 of the SRA Code of Conduct 2011 (“the Code”).

- 1.2 Between February 2016 and June 2016, he instructed the buyers’ solicitors to make payments from the client account, which were not connected to an underlying transaction, in breach of Rule 14.5 of the SRA Accounts Rules 2011 (“the Accounts Rules”), and in doing so he thereby breached Principle 6 of the Principles.
2. Mr Wright admitted both allegations in their entirety.

Documents

3. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit IWB1 dated 10 November 2022
 - Answer dated 5 January 2023
 - Statement of Agreed Facts and Proposed Outcome dated 3 February 2023

Background

4. Mr Wright was admitted to the Roll in April 1991. At the time of the alleged and admitted misconduct, he was a Manager at the Firm. Mr Wright held an unconditional practising certificate. Mr Wright left the Firm in February 2020. His conduct was reported to the SRA by another Manager of the Firm who found the file in relation to

the sale of the property. The file showed that Mr Wright had been instructing the buyers' solicitors in direct conflict of the Firm's vendor client.

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

5. The parties invited the Tribunal to deal with the Allegations against Mr Wright 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 Mr Wright's right to a fair trial and to respect for their 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 Mr Wright's admissions were properly made.
8. 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. The Tribunal found that Mr Wright was motivated by his desire to reduce the purchase price of the property to his benefit and the detriment of the Firm's client. His conduct was in direct conflict with the duties he owed to his Firm's client. He was an experienced solicitor and was wholly responsible for his conduct. His conduct was planned.
9. In mitigation, the Tribunal noted that this was an isolated incident in a previously unblemished career. He had co-operated with the Applicant and had made early and full admissions.
10. The Tribunal considered that the nature of the misconduct, including that Mr Wright had acted without integrity, was such that sanctions such as No Order or a Reprimand did not adequately reflect the seriousness of the misconduct. The Tribunal did not find that Mr Wright's misconduct was such that the protection of the public and the reputation of the profession demanded that he have restrictions placed on his practice, or that he be prevented from practising by way of a suspension.
11. The Tribunal determined that the appropriate sanction was a financial penalty. The Tribunal assessed Mr Wright's conduct as very serious, such that it fell within Level 4 of the Tribunal's Indicative Fine Bands. The parties had agreed a fine in the sum of £32,000. The Tribunal considered that the agreed amount adequately reflected the seriousness of the misconduct. Accordingly, the Tribunal approved the agreed sanction.

Costs

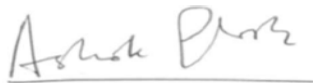
12. The parties agreed costs in the sum of £15,600 + VAT. The Tribunal found the agreed sum both reasonable and proportionate. Accordingly, the Tribunal ordered Mr Wright to pay costs in the agreed amount.

Statement of Full Order

13. The Tribunal Ordered that the Respondent, JOHN CHARLES WRIGHT solicitor, do pay a fine of £32,000.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £15,600.00 plus VAT.

Dated this 17th day of February 2023

On behalf of the Tribunal



A Ghosh
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
17 FEB 2023

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL
IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12402-2022

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

JOHN CHARLES WRIGHT

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 10 November 2022, and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, Solicitors Regulation Authority Limited ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making allegations of misconduct against John Charles Wright.

The allegations

2. The allegations against the Respondent, John Charles Wright, made by the SRA within that statement are that while in practice as a solicitor and manager at Ashley Wilson LLP ("the Firm"):

- 1.1 Between February 2016 and June 2016, having agreed that the Firm should not act for both the purchaser and vendor to a conveyancing transaction, he failed to disclose to the Firm and the Firm's clients, the vendors, of his continued direct involvement with the purchase of the property, namely:

- i. in the financial arrangements regarding the purchase of the property;
- ii. in providing instructions to the buyers' instructed solicitors in relation to the transaction;
- iii. in the preparation of a pre action protocol letter to the Firm alleging a misrepresentation of the property and seeking damages in respect of the same; and,
- iv. in the instruction of Counsel by the buyers' solicitors in relation to the alleged misrepresentation of the property.

As such, he thereby breached any or all of Principles 2 and/or 6 of the SRA Principles 2011 ("the Principles") and/or in circumstances where he was a Manager of the Firm and knew that the Firm acted for the vendors, he acted where there was an own interest conflict and accordingly failed to achieve Outcome 3.4 of the SRA Code of Conduct 2011 ("the 2011 Code").

1.2 Between February 2016 and June 2016, he instructed the buyers' solicitors to make payments from the client account, which were not connected to an underlying transaction, in breach of Rule 14.5 of the SRA Accounts Rules 2011 ("the Accounts Rules"), and in doing so he thereby breached Principle 6 of the SRA Principles.

3. The Respondent admits both of these allegations in their entirety.

Agreed Facts

4. The following facts and matters, which are relied upon by the SRA in support of the allegations are agreed between the SRA and the Respondent.
5. Where quotations directly from the evidence have been set out, the reference to the evidence in the bundle to the Rule 12, IWB1, has been provided.

Background facts

6. The Respondent, who was born 11/1955, is a solicitor, having been admitted to the Roll on 1 April 1991. At the time of the alleged conduct he was a Manager in the Firm, along with Anthony Wilson and Joanna Botley.
7. Jade Thomas nee Wilson, is the daughter of Anthony Wilson and a solicitor at the Firm. She was the fee earner at the Firm with conduct of the conveyancing matter giving rise to allegation 1.1.
8. At the time of the alleged conduct, the Respondent held a practising certificate free from conditions. Further, as at the date of this statement, the Respondent holds a practising certificate free of conditions.
9. The Respondent left the Firm in February 2020. He is not working in a law firm at present.
10. The conduct in this matter came to the attention of the SRA on 27 February 2020 when Anthony Wilson made a report to the SRA that after the Respondent left the Firm in February 2020, Mr Wilson found a file in the office which related to the sale of Property A ("the property"). That file revealed that the Respondent had been instructing the purchasers solicitors, NC Morris, which was in direct conflict with the Firm's client, the vendors. Mr Wilson, Jade Thomas and the Firm's vendor client were unaware of the Respondent's involvement in the purchase of the property.

Facts pertaining Allegation 1.1

11. On or around 11 February 2016, the vendor client instructed the Firm to act in the sale of the property. Jade Wilson was the fee earner with conduct of the matter.

12. On 13 April 2016, the Estate Agents, Camerons Stiff & Co. wrote to the Firm for the attention of Jade Wilson enclosing the Memorandum of Sale, which included therein the details of the vendor, purchaser and their respective solicitors. The vendors' solicitor was Jade Wilson of the Firm, whilst the purchaser's solicitor was the Respondent also of the Firm.
13. The Respondent and the purchaser client were friends. A fact that was known to Mr Wilson and Jade Wilson. Accordingly, there was a discussion at the Firm, whereby it was agreed that the Firm should not act for both the vendor and the purchaser due to a potential conflict of interest. Accordingly, the purchaser instructed Ms Shou Chen of NC Morris, which was reflected in an amended Memorandum of Sale. Accordingly, once that arrangement was in place, neither Mr Wilson nor Jade Wilson had any reason to believe that the Respondent was in any way connected to the transaction. The Respondent did not disclose to them or to the vendor client of the Firm of any continued involvement or interest in the transaction.
14. Contracts were exchanged on the 21 April 2016, with an agreed purchase price of £1,835,000.00. Completion was due to take place on 19 May 2016. However, on 17 May 2016, NC Morris sent the Firm a letter stating that the selling agent had mis-described the property and that as a result their client "*has been caused to offer more for the Property than he would otherwise have offered.*" The letter invited "*your Clients' and your Clients' Agents' proposal in respect of the said breach by your Clients' Agents, and the damage suffered by our Client.*" [IWB1 p.21-22].
15. The Firm replied to the letter on the same day and refuted the allegation of a mis-description of the property.
16. The purchasers failed to complete and the Firm served NC Morris with a Notice to Complete.

17. On 27 May 2016, NC Morris sent the Firm a letter under the Civil Procedure Rules pre-action protocol, which stated that their client was seeking damages of £589,004.00, being the alleged difference between the agreed purchase price and the actual value of the property.
18. The Firm reverted to NC Morris by letter dated 1 June 2016. The letter advised that Mr Wilson was now dealing with the matter. It further advised that their client denied any liability and asserted that the purchasers were in breach of their contract.
19. The sale completed on 3 June 2016. However, NC Morris advised the Firm by letter of the same date that their clients "*complete without prejudice to their contentions expressed through our correspondence with you that your clients' Agents have made...a substantial material mis-description or misrepresentation of the Property...our clients reserve the right to look to your clients after completion for damages.*" [IWB1 p34]
20. The Respondent was significantly involved in the purchase of the property throughout the transaction, including providing financial assistance to the purchasers, attempting to reduce the purchase price of the property and threatening legal action, to the detriment of the Firm's vendor client.
21. Specifically, the Respondent was involved in the following aspects of the conveyance, as set out in allegation 1.1:
 - i. in the financial arrangements regarding the purchase of the property;
 - ii. in providing instructions to the buyers' instructed solicitors in relation to the transaction;
 - iii. in the preparation of a pre action protocol letter to the Firm alleging a misrepresentation of the property and seeking damages in respect of the same;and,

- v. in the instruction of Counsel by the buyers' solicitors in relation to the alleged misrepresentation of the property.
22. In respect of the financial arrangements of the purchase, on 21 April 2016, the Respondent instructed Ms Chen of NC Morris solicitors to transfer monies held for him in NC Morris' client account to cover the deposit for the property and facilitate the purchase.
23. In respect of providing instructions to NC Morris in relation to the transaction, as above, the Respondent gave instructions directly to Ms Chen in relation to the movement of monies to facilitate the purchase. On 19 April 2016, the Respondent provided instructions to Ms Chen in respect of when the parties might exchange. On 4 May 2016, the Respondent instructed Ms Chen to threaten legal action against the Firm if the Firm did not permit access to the property.
24. In respect of the Respondent's involvement in the preparation of a pre action protocol letter to the Firm alleging a misrepresentation of the property and seeking damages, the Respondent was instrumental in instructing solicitor Adrian Hargreaves to provide advice. The Respondent communicated directly with Mr Hargreaves and on 16 May 2016, having reviewed the letter that Mr Hargreaves had drafted regarding the alleged mis-description, stated that the letter "*needs to be more aggressive*" [IWB1 p608-610]
25. On 24 May 2016, the Respondent emailed both Mr Hargreaves and Ms Chen and stated that his "*preferred course of action is to go hard with the claim for damages equating to pound per sq ft loss*" [IWB1 p453]
26. In respect of the Respondent's involvement in instructing Counsel, the Respondent emailed Ms Chen on 1 June 2016, instructing that they "*will have to go with*" alternative Counsel due to availability. [IWB1 p340]

27. Furthermore, the Respondent was present at meetings with Counsel where discussions were held regarding the pre action protocol letter.
28. Counsel, Christopher Maynard, drafted a negative Advice on 1 June 2016. On 3 June 2016, further questions were then provided to Mr Maynard for his consideration, in relation to which further fees were requested. Ms Chen forwarded the request for additional fees to the Respondent, who queried what the additional fees were for.
29. On 17 June 2016, Ms Chen proved the Respondent with the final invoice from Chambers for the Respondent's consideration.

Facts pertaining to Allegation 1.2

30. On 13 July 2016, the Respondent sent an email to Ms Chen instructing her to make a payment of £2749.80 to Wimbledon Automatics Ltd, for which he provide the bank details, from the Property A ledger. The Respondent described the payment as monies due to Mr Hargreaves for his legal advice. Ms Chen made the payment as instructed.
31. Mr Hargreaves had used Wimbledon Automatics Ltd in the past and the payment to them would have been in connection with those services. As such, the payment was not in connection with a transactions that Ms Chen or NC Morris were instructed on.
32. On 18 July 2016, the Respondent emailed Ms Chen and instructed her to transfer the sum of £50,000.00 to the Property A account and then to pay the same sum to a Metrobank account in the name of Avonhill Trading Ltd. Ms Chen proceeded to make the transfer and payment as instructed.
33. Avonhill Trading Ltd is not connected to a transaction that Ms Chen or NC Morris were instructed on.

Non-Agreed Mitigation

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

34.1 Mr Wright offers his sincere apologies for the matters that he now admits and accepts that his conduct fell below the high standards of a solicitor in practice.

34.2 He believes it is regrettable that the firm, who knew of his close relationship with the buyers in this matter and who were existing clients of the firm, decided to act for the sellers when it would have been more prudent to advise them to seek alternative representation.

34.3 In part the Respondent takes some responsibility for this but also believes that it is unfortunate that the firm did not advise the sellers that that the buyers were existing clients of the firm, particularly when it was clear to all parties a dispute had arisen and Mr Wilson and Jade Wilson both knew the Respondent had a very close personal relationship with the buyers.

34.4 It should also be noted that the buyers were buying the property for their sole residence and continue to live in the property and that, in the Respondents opinion, the allegations of misdescription were well founded. The dispute could have resulted in lengthy litigation had he not persuaded the buyers to drop their putative action, after being requested by Mr. Wilson to use his influence to prevent litigation to the advantage of the sellers.

Penalty proposed

35. It is therefore proposed that the Respondent should be fined the sum of £32,000.00.

36. 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 £15,600 plus VAT.

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

37. The following factors are relevant to the Respondent's culpability:

37.1 The Respondent's motivation, which was to facilitate the purchase of the property and attempt to reduce the price for his own and the purchasers' benefit, to the detriment of and in conflict with, the Firm's client.

37.2 The misconduct was planned and in direct contradiction to the agreement with the Firm not to act for the purchaser.

37.3 The Respondent had direct responsibility for the misconduct.

37.4 The Respondent was an experienced solicitor at the time of the misconduct, having been admitted to the Roll in 1991.

38. The following factors are relevant to an assessment of harm:

38.1 Whilst the misconduct did not reduce the purchase price of the property, it did cause distress to the vendor client and caused them to incur extra legal costs in dealing with the proposed legal action.

38.2 There was also a significant risk of the sale not completing and a further risk that the vendors may have taken legal action against the Firm if they had come to learn of the conflict of interest that had arisen.

38.3 There were also risks associated with the instructions to make payments out of the client account in circumstances where the payments did not relate to underlying transactions.

39. The principal factors that aggravate the seriousness of the Respondent's misconduct are:

39.1 This was planned misconduct which occurred over a period of months.

39.2 The state of mind of the Respondent is a particularly serious factor, given the admitted lack of integrity.

40. The principal factors that mitigate the seriousness of the Respondent's misconduct are:

40.1 This was an isolated incident which took place in 2016, with no previous or subsequent disciplinary findings.

40.2 The Respondent has made relatively early admissions.

41. In the circumstances, the seriousness of the misconduct is such that a Reprimand would not be a sufficient sanction but neither the protection of the public nor the protection of the reputation of the legal profession justifies a strike off or a suspension. It is therefore proportionate and in the public interest that the Respondent should be fined.

42. Taking account of the seriousness of the misconduct committed by the Respondent, the case should be regarded as falling into Level 4 "*Conduct assessed as very serious*", which has a range of £15,000.00-£50,000.00.

43. In all the circumstances of the case, it is therefore proportionate and in the public interest that the Respondent should be fined the sum of £32,000.00.

Signed:

For and on behalf of the Applicant

Dated:

Signed:

For and on behalf of the Respondent)

Dated:

ZPD March 2023