SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12412-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

SARAH LOUISE WILLIAMS Respondent

Before:

Ms A E Banks (in the chair)
Mrs F Kyriacou
Mr B Walsh

Date of Hearing: 15 March 2023

Appearances

Benjamin Tankel, counsel, of 39 Essex Chambers, 81 Chancery Lane, London, WC2A 1DD, for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent, Sarah Williams, made by the SRA were that:

1.1 Between 6 January 2020 and 16 December 2020, she practised as a solicitor whilst bankrupt, despite the automatic suspension of her practising certificate. In so doing, she breached Principles 2 and 5 of the SRA Principles 2019 ("the Principles").

PROVED.

1.2 From 2 January 2020 onwards, she failed to notify the SRA that she was subject to a bankruptcy order. In so doing, she breached Rule 7.6(b) of the Code of Conduct for Solicitors, RELs and RFLs, and Principles 2 and 5 of the SRA Principles 2019.

PROVED.

Executive Summary

3. Ms Williams was made subject of a Bankruptcy Order. By operation of law (Section 15(1) of the Solicitors Act 1974) her practising certificate was suspended. She continued to practise as a solicitor in two Firms and failed to notify the SRA (contrary to her regulatory requirements) of the fact of her bankruptcy.

4. Ms Williams did not engage in the proceedings and did not attend the substantive hearing. The Tribunal proceeded in her absence.

Sanction

6. Ms Williams was sanctioned to a period of indefinite suspension and Ordered to pay the Applicant's costs of £13,350.00.

Documents

7. The Tribunal considered all of the documents in the case contained in an electronic bundle which included:

(i) The Rule 12 Statement dated 30 November 2022 and Exhibit MLR1.
(ii) The Applicant's Schedule of Costs dated 8 March 2023.

Preliminary Matter

8. *Application to proceed in absence*

8.1 The Respondent did not attend the hearing, which began at approximately 10.20am. The Applicant made an application to proceed in absence.

Applicant's Submissions

8.2 Mr Tankel submitted that service of the proceedings had been effected in accordance with Rule 36 of the Solicitors (Disciplinary Proceedings) Rules 2019 ("SDPR"). Mr Tankel referred the Tribunal to two emails dated 2 March 2023 in which

Ms Williams confirmed that she had electronically received the proceedings papers and further that:

> "… [she] successfully downloaded the email attachments and [would] consider these later today...
>
> … [she would] not be attending in person on 15/16th March because [she had] prior engagements. [She would] advise of [her[] response to the allegations shortly…"

8.3 Mr Tankel submitted that those emails demonstrably evidenced Ms Williams' (a) awareness of the date of the substantive hearing and (b) a conscious and deliberate choice having been made not to attend.

8.4 Additionally, on 2 March 2023, the Tribunal emailed the parties to advise that the substantive hearing would proceed remotely as opposed to in person. No response was received.

8.5 On 10 March 2023, the Tribunal emailed Ms Williams, (cc'ing the Applicant), to advise of the risks warned of in the SDPR in not attending the substantive hearing namely:

> "…
>
> **Adverse inferences**
>
> Rule 33 Where a respondent fails to-
>
> (a) send or serve an Answer in accordance with a direction under rule 20(2)(b); or
>
> (b) give evidence at a substantive hearing or submit themselves to cross-examination; and regardless of the service by the respondent of a witness statement in the proceedings, the Tribunal is entitled to take into account the position that the respondent has chosen to adopt and to draw such adverse inferences from the respondent's failure as the Tribunal considers appropriate…"

8.6 No response was received and neither the Tribunal nor the Applicant received an Answer from Ms Williams to the Rule 12 Statement.

8.7 Mr Tankel therefore submitted that, in circumstances where service had been properly effected in accordance with the SDPR and Ms Williams had deliberately absented herself from the proceedings, the Tribunal should exercise its discretion to proceed in her absence.

<u>The Tribunal's Decision</u>

8.8 The Tribunal applied the two-stage test required of it when determining applications to proceed in a Respondent's absence. Firstly, the Tribunal considered whether notice of the substantive hearing had been given in accordance with SDPR Rule 44 namely:

> "44.— (1) Any document to be sent to the Tribunal or any other person or served on a party or any other person under these Rules, a practice direction or a direction given under these Rules must be;
>
> (a) sent by pre-paid first class post or by document exchange, or delivered by hand, to the Tribunal's or other person's office or as the case may be the address specified for the proceedings by the party (or if no such address has been specified to the last known place of business or place of residence of the person to be served); or
>
> (b) sent by email to the email address specified by the Tribunal or other person or specified for the proceedings by a party (or if no such address has been specified to the last known place of business or place of residence of the person to be served); or
>
> (c) sent or delivered by such other method as the Tribunal may direct.
>
> (2) Subject to paragraph (3), if a party specifies an email address for the electronic delivery of documents the Tribunal and other parties will be entitled to serve (and service will be deemed to be effective) documents by electronic means to that email address, unless the party states in writing that service should not be effected by those means.
>
> (3) If a party informs the Tribunal and every other party in writing that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to send documents to that party, that form of communication must not be used…"

8.9 The Tribunal proceeded to consider whether or not notice of the substantive hearing had been properly served. In so doing it accepted that, by virtue of her email dated 2 March 2023, Ms Williams had received electronic copies of the proceedings papers. Ms Williams was plainly aware of the date of the hearing and SDPR Rule 44(1) was therefore engaged.

8.10 Consequently, the Tribunal proceeded to consider whether or not to exercise its discretion to proceed in Ms Williams' absence. The power to proceed in absence was vested in the SDPR Rule 36 which provides:

> "… If a party fails to attend and is not represented at the hearing and the Tribunal is satisfied that notice of the hearing was served on the party in accordance with these Rules, the Tribunal may hear and determine any application and make findings, hand down sanctions, order the payment of costs and make orders as it considers appropriate notwithstanding that the party failed to attend and is not represented at the hearing…"

8.11 The principles applied by the Tribunal when exercising its discretion whether to proceed in Mr Wilson's absence were promulgated in R v Hayward, Jones and Purvis [2001] QB, CA in which Rose LJ at §22(5) held:

"… In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case namely:

1. A defendant has, in general, a right to be present at his trial and a right to be legally represented.

2. These rights can be waived, separately or together, wholly or in part, by the defendant himself. They may be wholly waived if, knowing, or having the means of knowledge as to when and where his trial is to take place, he deliberately and voluntarily absents himself and/or withdraws instructions from those representing him…

3. The trial judge has a discretion as to whether a trial should take place or continue in the absence of the defendant and/or his legal representatives.

4. The discretion must be exercised with great care and it is only in rare and exceptional cases that it should be exercised in favour of a trial taking place or continuing, particularly if the defendant is unrepresented.

5. In exercising that discretion, fairness to the defence if of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case , in particular;

   i. the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;

   ii. whether an adjournment might result in the defendant being caught or attending voluntarily and/or not disrupting the proceedings;

   iii. the likely length of such an adjournment;

   iv. whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;

   v. whether an absent defendant's representatives are able to receive instructions from him during the trial and the extent to which they are able to present his defence;

   vi. the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;

   vii. the risk of the jury reaching an improper conclusion about the absence of the defendant;

viii. the seriousness of the offence, which affects defendant, victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;

ix. the general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;

x. the effect of delay on the memories of witnesses;

xi. where there is more than one defendant and not all have absconded, the undesirability of separate trials, and the prospects of a fair trial for the defendants who are present…"

8.12 In GMC v Adeogba [2016] EWCA Civ 162, Leveson P noted that in respect of regulatory proceedings there was a need for fairness to the regulator as well as a Respondent. At [19] he stated:

> "… It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when the practitioner had deliberately failed to engage with the process. The consequential cost and delay to other cases is real. Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed."

8.13 Leveson P went on to state at [23] that discretion must be exercised "having regard to all the circumstances of which the Panel is aware with fairness to the practitioner being a prime consideration but fairness to the GMC and the interest of the public also taken into account."

8.14 The principles identified in Adeogba were affirmed by the Court of Appeal in GMC v Hayat [2018] EXCA Civ 2796.

8.15 In so doing, the Tribunal determined that Ms Williams, (i) sporadically engaged in the Applicant's investigation, (ii) failed to provide an Answer to the Rule 12 Statement, (iii) failed to comply with any of the Standard Directions issued by the Tribunal, (iv) failed to provide any reason as to why she elected not to attend the substantive hearing beyond broadly and unspecifically stating that she had other prior engagements, (v) had not made an application to adjourn the substantive hearing and (vi) was unlikely to attend a further substantive hearing in the event that it was adjourned.

8.16 The Tribunal was required to adjudicate upon allegations levelled against solicitors in order to serve the overarching public interest. The public interest comprised of (a) protection of the public from harm, (b) the declaration and upholding of proper standards within the profession and (c) maintenance of public confidence in in the regulatory system. The public interest required the expeditious adjudication of allegations, particularly serious allegations such as practising without authorisation. In considering the competing right of Ms Williams to be present at the substantive hearing and the countervailing need to act in the public interest, the Tribunal determined that

the public interest prevailed in circumstances where Ms Williams had voluntarily absented herself.

8.17 The Tribunal therefore GRANTED the application.

Factual Background

9. Ms Williams was admitted to the Roll in September 2012. Ms Williams has worked at a number of firms following qualification and has had her practising certificate ("PC") renewed each year since without conditions. Ms Williams's most recent PC was issued on 1 November 2019 and at the time, she was working as an assistant solicitor at Rohan Solicitors LLP. She remained in that role until 12 December 2019.

The Bankruptcy Order

10. On 2 January 2020, Ms Williams was made subject to a Bankruptcy Order at Exeter County Court, following a petition filed on 11 November 2019. The Order provided that:

> "… Bankruptcy discharge suspended indefinitely …"

11. Pronouncement of the bankruptcy order triggered the automatic statutory consequences set out below.

The Legal Framework

12. Section 15(1) of the Solicitors Act 1974 (the "1974 Act") provides:

> "...an adjudication in bankruptcy of a solicitor...shall operate immediately, to suspend any practising certificate of that solicitor for the time being in force…"

13. Section 15(2) provides:

> "… For the purposes of this Act, a practising certificate shall be deemed not to be in force at any time while it is suspended..."

14. Accordingly, and by operation of the law, Ms Williams's practising certificate was automatically suspended as from the date the bankruptcy order was made on 2 January 2020.

15. A person may not practise as a solicitor without a valid practising certificate. Section 1(c) of the 1974 Act provides:

> "… No person shall be qualified to act as a solicitor unless...he has in force a certificate issued by the Society in accordance with the provisions of this Part authorising him to practise as a solicitor…"

16. In circumstances where a solicitor has been made subject to a bankruptcy order, they are required to either (i) cease to work forthwith, or (ii) speak to their regulator with a view to their practising certificate being reinstated either with or without conditions.

17. Section 16(3) of the 1974 Act provides that where a solicitor's practising certificate has been suspended pursuant to section 15(1), the solicitor may apply to the Society to terminate the suspension. Section 16(4)(a) provides that, on such an application, the Society may in its discretion by order terminate the suspension either unconditionally or subject to such conditions as the Society may think fit.

18. There is an important public interest, recognised by Parliament, in the publication of the fact that a solicitor is an undischarged bankrupt. Section 17(1) of the 1974 Act, mandates that the Society:

> "… shall forthwith cause notice of that suspension to be published and a note of it to be entered against the name of the solicitor on the roll…"

Ms Williams employment history post-Bankruptcy Order

19. On 6 January 2020, Ms Williams applied for a locum solicitor position at Duncan Morris Solicitors through a recruitment agency. She secured that position and retained that role until 16 December 2020.

20. On 14 January 2020, Ms Williams and her partner were seeking to purchase a property ("the property"). Ms Williams instructed Hanne & Co to act for her in the conveyance. Ms Williams conducted the negotiations, and at the time of exchange part-payment of the deposit was identified as the sole purchaser of the property. At no time during the conveyancing transaction did Ms Williams mention her bankruptcy either to her representatives or to the seller.

21. In August 2020, and then again between September and December 2020, Ms Williams applied for and was contracted to a second firm, Hanne & Co, to work as a locum solicitor covering another fee earner's leave of absence. She commenced that role in September 2020 whilst still retained by Duncan Morris Solicitors as a locum solicitor.

22. Ms Williams did not inform either of the firms that she worked at of her undischarged bankruptcy

23. On 15 October 2020, Ms Williams and her partner exchanged contracts for the purchase of the Property.

24. On 9 November 2020, the Applicant received an anonymous report from a member of the public which stated that Ms Williams had been working at Duncan Morris Solicitors whilst bankrupt.

25. In December 2020, Ms Williams ceased employment with Duncan Morris Solicitors and Hanne and Co as a locum solicitor.

26. Ms Williams stated, by way of email dated 14 January 2021 to Hanne & Co, that it was intended for the purchase to be completed in her partner's name with her partner's funds, so that her own financial position was irrelevant. As an experienced conveyancer, Ms Williams must (or at least should) have been aware of the potential relevance of her bankruptcy. The Applicant therefore contended that Ms Williams concealed her bankruptcy.

Communications between the Applicant and Ms Williams

27. Between 24 February 2021 and 4 March 2021, the following email exchange took place between an Investigation Officer ("IO) employed by the Applicant and Ms Williams:

24 February 2021

IO to Ms Williams:

> "… Please see letter dated 24 February 2021 … I also attach my earlier letter to you sent on 11 February to an old address…"

Ms Williams to IO:

> "…Please advise from whom the anonymous report was sent and when. I am being targeted and harassed by a malicious neighbour …"

IO to Ms Williams:

> "… We are not in a position to give you details of who originally informed us. However, we have been advised by Duncan Morris that you were employed by the firm from January to December 2020 despite your practising certificate being suspended. As your regulator we need to investigate that promptly as you may have committed an offence and breached our standards and regulations…"

Ms Williams to IO:

> "…You are able to provide details – personal information known only to me has come into the hands of a malicious third party. As an addition, I was not aware that my practising certificate had been suspended …"

IO to Ms Williams:

> "… We are often asked to treat reports as confidential. If information is provided to us on a confidential basis we will take appropriate steps to protect the identity of the informant.
>
> The Individual Insolvency Register is open to the public and I was able to obtain details simply by looking you up. There has been no breach of GDPR. The onus was on you to declare your bankruptcy to us. It is irrelevant to us where this report has come from as the facts of your employment as a solicitor whilst bankrupt have been confirmed by Duncan Morris solicitors…"

Ms Williams to IO:

> "… you refer to Rohan solicitors. I work for Rohan in 2019 (pre my bankruptcy). I wish to know how your implements knew I worked for Rohan which is not a local firm and which no one but myself would have known about. I suspect my emails or bank statements may have been hacked because other

personal information which is definitely not in the public domain appears to have been accessed by a third party. Your cooperation is appreciated…"

IO to Ms Williams:

"… I have access to records that we hold about you. We have your employment history and from our records I can see that the last employment that we were aware of (prior to Duncan Morris solicitors which was not on our records) what's with Rohan solicitors. I have not received that information from a third party.

If I can be of some assistance in this, the information that we received was that you were bankrupt (information available on the public register) and that despite this you had been employed as a solicitor with Duncan Morris Solicitors (again information that any third party who came into contact with you professionally throughout 2020 would have known).

Your employment was confirmed by Duncan Morris and your insolvency was confirmed by my own inquiries. I have received no other information about you. Every solicitor has records of employment and PC renewals that are kept by us.

If you believe that you have been hacked then no doubt you will report this to the police. However, I have no evidence to support this.

I would be grateful for a full response to my enquiries please by the 3rd of March 2020 *(sic)*..."

4 March 2021

IO to Ms Williams:

"… I note that you did not respond to me yesterday to offer any explanation for continuing to practise last year despite your Practising Certificate being suspended.

Are you intending to offer an explanation? If so, please do so before the end of this week Friday 5th of March 2021…"

Ms Williams to IO:

"… When you answer my questions satisfactorily. I've been my bankrupt for a debt which should not even have been mine - council tax owed legally by my landlord not me answer me that he still owes that money…"

IO to Ms Williams:

"… I'm afraid that is irrelevant. A bankruptcy has the effect of automatically suspending your Practising Certificate, whether you think it is justified or not.

> I'm giving you the opportunity to provide an explanation by way of mitigation, as you were clearly practising as a solicitor last year when you were not authorised to do so.
>
> I look forward to hearing from you. If I don't hear from you, I will assume that you have nothing to add to your e-mail of 24 February when you said that you were not aware that your PC had been suspended…"

Ms Williams to IO:

> "… I was not aware that my PC had been suspended. How would I have been?.."

28. On 10 March 2021, the Applicant received a report from Hanne & Co which stated:

> "… [Ms Williams] was advised on 12 January 2021 that she was subject to *(sic)* Bankruptcy Order on 8 March 2021 it came to our attention that on one November 2019 she was suspended by *(sic)* SRA and that she was made subject to a bankruptcy order in Jan 2020, that has been extended so she remains an undischarged bankrupt.
>
> She did not inform us either of her suspension or her bankruptcy. The bankruptcy did not come to the attention of the equity partners or COLP at Hanne until 4 March and the suspension did not come to our attention until 8 March…"

29. On 4 June 2021, the Applicant received a report from the seller of the Property with regards to the impact of Ms William's conduct on his ability to resell the property.

30. On 18 May 2022, the Applicant sent a Notice recommending referral to Ms Williams and invited her representations. Ms Williams made no representations on the referral notice and did not engage with the Tribunal proceedings from issue of the same.

Witnesses

31. There were no witnesses in the case. The evidence referred to will be the documentary evidence which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral submissions made by the Applicant. The absence of any reference to particular evidence and/or submission should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

Findings of Fact and Law

32. 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 the Respondent'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.

33. **Allegation 1.1: Practising without authorisation**

Applicant's Submissions

33.1 *Principle 2* of the SRA Principles 2019 required Ms Williams to act in a way that upheld public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

33.2 Mr Tankel submitted that the automatic effect of the bankruptcy order was that Ms Williams was no longer able to practise as a solicitor. Ms Williams nevertheless practised for approximately a year, in at least two different posts, without a practising certificate.

33.3 The practising certificate is the principal means for ensuring that those practising as solicitors are (a) duly qualified and are (b) fit and proper. Mr Tankel averred that the public would plainly be alarmed by someone practising as a member of a regulated profession when they did not have the proper authorisation for doing so. The conduct took place over a prolonged period. It involved work at two different firms. As a conveyancer, Ms Williams was presumably responsible for large sums of client funds. All of these factors increased the risk of harm in a manner that would be of concern to the public.

33.4 To the extent that Ms Williams was aware of the effect of her bankruptcy upon her ability to practise, Mr Tankel contended that the public would be alarmed by a solicitor knowingly practising without a practising certificate. Alternatively, to the extent that Ms Williams was unaware, then the public would additionally be alarmed by Ms Williams's lack of knowledge of basic practising requirements, and by her failure to ascertain what these were following an event as significant as a bankruptcy.

33.5 Mr Tankel therefore submitted that Ms William breached Principle 2.

33.6 *Principle 5* of the SRA Principles 2019, required Ms Williams to act with integrity. Mr Tankel submitted that, to the extent that Ms Williams was aware, or suspected, that she was in breach of her regulatory obligations, she also acted without integrity. Notwithstanding her apparent denial to the contrary, Ms Williams would have known that her bankruptcy impaired her ability to practise given that:

(i) At some point she became aware of the existence of the bankruptcy order.

(ii) She was an experienced solicitor of some 8 years' PQE at the time of the events in question and must have been aware of her practising requirements.

(iii) She did not give an entirely straight answer to the investigation officer when asked about this.

(iv) She did not mention to the investigation officer that she had also worked for Hanne & Co.

(v) Similarly, Ms Williams did not take the opportunity to explain herself in representations upon the referral notice.

(vi) Ms Williams was a conveyancing specialist. In that context, she must have been aware of the relevance of her bankruptcy to the transaction in which she was involved. She nevertheless failed to mention her bankruptcy either to her representatives or to the other side.

33.7 To practise as a solicitor in the knowledge that one is not permitted to do so shows a lack of integrity. In Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366, it was said that integrity connotes adherence to the ethical standards of one's own profession. On the present facts, Mr Tankel submitted that the following factors demonstrate that Ms Williams's misconduct lacked integrity:

(i) Concealment: Ms Williams had plenty of opportunity to reflect upon her position. She went through three recruitment exercises and worked for two firms. The misconduct lasted approximately a year. She nevertheless concealed the fact that she was unable to practice, or the circumstances which meant that she was unable to practice.

(ii) Personal gain: Ms Williams continued to practice, for her own personal gain.

(iii) Knowingly causing a risk of harm to the public and to the public perception of the profession: see above in respect of Principle 2.

(iv) Ms Williams made a calculated decision to prefer her own interests over those of the public and of the profession.

Respondent's Submissions

33.8 None.

The Tribunal's Findings

33.9 The Tribunal considered the unchallenged evidence adduced by the Applicant and the submissions made by Mr Tankel. The Tribunal further considered the applicability or otherwise of Rule 33 (adverse inferences). The Tribunal determined that if Ms Williams was able to advance a reasonable explanation as to how she came to be practising without authorisation, she would have done so either by way of filing an Answer to the Rule 12 Statement and/or attending the substantive hearing. The Tribunal therefore found that it was entitled to draw an adverse inference in circumstances where she elected to do neither and had simply advanced vague explanations (as to when she became aware of the bankruptcy) and sporadic communications (24 February 2021/4 March 2021 to the Investigation Officer and 2 March 2023 to the Applicant/Tribunal).

33.10 In so doing, it determined the following material facts:

Date	**Occurrence**
11 November 2019	Bankruptcy petition filed at Exeter County Court.
2 January 2020	Bankruptcy Order issued by Exeter County Court. Section 15(1) of the 1974 Act invoked thereby suspending Ms Williams' practising certificate.

6 January 2020	Ms Williams commenced employment at Duncan Morris.
14 January 2020	Ms Williams instructed a fee earner at Hanne & Co to represent her and her partner in a conveyancing transaction (the purchase of a property).
September 2020	Ms Williams commenced secondary employment at Hanne & Co.
15 October 2020	Contracts exchanged in respect of the conveyancing transaction.
9 November 2020	Applicant received an anonymous report that Ms Williams had been working at Duncan Morris whilst bankrupt.
16 December 2020	Ms Williams ceased working for Duncan Morris.
December 2020	Ms Williams ceased working for Hanne & Co.
Late 2020/early 2021	The conveyancing transaction fell through.
2 March 2021	Hanne & Co became aware of Ms Williams' bankruptcy.
10 March 2021	Hanne & Co reported Ms Williams to the Applicant.
4 June 2021	Seller in the failed conveyancing transaction reported Ms Williams to the Applicant.

33.11 Given the findings set out above, the Tribunal determined that the factual matrix of Allegation 1.1 was proved on a balance of probabilities.

33.12 **Principle 2** required Ms Williams to act in a way that upheld public trust and confidence in the profession and in the provision of legal services. The Tribunal determined that practising without authorisation plainly undermined both and consequently that Ms Williams breached Principle 2 by virtue of her misconduct.

33.13 **Principle 5** required Ms Williams to act with integrity. Whilst the Tribunal gave Ms Williams the benefit of the doubt with regards to exactly when she became aware of her bankruptcy, it was plain that there came a point at which she was aware given that:

(i) On 12 December 2021, the seller's solicitor in the conveyancing transaction sent an email to the solicitor instructed by Ms Williams in the following terms:

> "… We attach a copy of a Notice of a Bankruptcy Order dated 2nd January 2020 ("the Order") placed in The Gazette. Please confirm that the Order relates to your client. We have spoken to the Trustee and understand that Ms Williams was not discharged but that her Bankruptcy was extended by Order of the Court on 20 December."

(ii) By way of an email dated 14 January 2021, Ms Williams stated to her solicitor:

> "… I'm really sorry you have got caught up in this- it's all got rather out of hand. I attached the letter from St Johns Legal with the paragraphs numbered' and my response to this is as follows ….
>
> … I was not aware I had been made bankrupt until late on in 2019…"

33.14 The Tribunal therefore found that Ms Williams was aware that she had been declared bankrupt and continued to practise as a solicitor having failed to consider how the bankruptcy may affect her position. Whilst the Tribunal did not expect every solicitor to be fully familiar with every section of the 1974 Act, it was incumbent on all

solicitors' to ascertain the same and ensure compliance in the event that circumstances require. Ms Williams failed to take any steps to consider how her bankruptcy may impinge on her practice in circumstances where an automatic suspension was triggered by the statutory framework which governs the profession. The Tribunal determined that amounted to a flagrant lack of integrity and breach of Principle 5.

33.15 The Tribunal therefore found Allegation 1.1 proved on a balance of probabilities in its entirety.

34. **Allegation 1.2 : Failure to inform the SRA**

Applicant's Submissions

34.1 Rule 7.6(b) of the Code of Conduct for Solicitors, RELs and RFLs provides that:

> "You notify the SRA promptly if...a 'relevant insolvency event' occurs in relation to you."

34.2 A "relevant insolvency event" is defined in the Glossary as including an individual being adjudged bankrupt.

34.3 Ms Williams nevertheless failed to inform the Applicant of her bankruptcy.

34.4 Mr Tankel submitted that in so failing, Ms Williams breached *Principle 2 (public confidence).* The existence of a bankruptcy in respect of a solicitor calls into question their ability to make sound financial decisions, to make sound judgments as to risk management and governance, and to deal safely with client funds. Solicitors, not least conveyancers, have access to client account and deal with large sums of client money. The regulator must be informed of the bankruptcy in order for it to be able to manage these risks appropriately. The public would be alarmed by a solicitor who withheld such highly relevant information from their regulator, not least because in so doing the regulator is unable to discharge its duties to public the protect and the reputation of the profession.

34.5 For similar reasons, the public also holds an interest in knowing whether a solicitor is bankrupt. Parliament recognised that by virtue of the requirement s.17 of the Solicitors Act 1974. The public would thus be alarmed by a solicitor who withheld this information form their regulator, which in turn prevents the information coming to the attention of the public.

34.6 To the extent that Ms Williams was aware of the effect of her reporting obligations, the public would be additionally alarmed by a solicitor knowingly failing to report a matter of importance to her regulator. Alternatively, to the extent that Ms Williams was unaware, then the public would additionally be alarmed by Ms Williams's lack of knowledge of basic regulatory requirements, and by her failure to ascertain what these were following an event as significant as a bankruptcy.

34.7 Mr Tankel further submitted that Ms Williams acted without integrity. Ms Williams knew or ought to have known of the requirement to report her bankruptcy to the regulator:

(i) Ms Williams was aware of the bankruptcy order.

(ii) The requirement to inform the regulator is a clear requirement of the SRA's rules. Ms Williams is an experienced solicitor who at the material time had 8 years PQE and who ought therefore to have known of this requirement.

(iii) Even if Ms Williams was not initially aware of the requirement to inform her regulator, a bankruptcy is a significant event which should have prompted Ms Williams to review the regulatory position.

(iv) It is Ms Williams's responsibility to inform herself as to her regulatory requirements.

(v) Knowingly withholding the fact of her bankruptcy from the regulator involved a breach of Ms Williams's integrity for the reasons set out in §33.13 above.

Respondent's Submissions

34.8 None.

The Tribunal's Decision

34.9 The Tribunal considered the unchallenged evidence adduced by the Applicant and the submissions made by Mr Tankel. The Tribunal found as a matter of fact that, were it not for the anonymous report to the Applicant on 9 November 2020, it may not have become aware of the Bankruptcy in circumstances where Rule 7.6(b) imposed a mandatory duty on all solicitors to notify the Applicant promptly if "a relevant insolvency event" occurred. Bankruptcy was plainly "a relevant insolvency event" which Ms Williams failed to notify the Applicant of. In so doing she undermined public trust and confidence in the profession and the provision of legal services and demonstrably lacked integrity for all of the reasons set out above at §33.14 above.

34.10 The Tribunal therefore found Allegation 1.2 proved on a balance of probabilities.

Previous Disciplinary Matters

35. None.

Mitigation

36. None.

Sanction

37. The Tribunal referred to its Guidance Note on Sanctions (Tenth Edition: June 2022) when considering sanction.

38. Ms Williams was solely and entirely culpable for the misconduct found. She was responsible for ensuring that she practised within the regulatory framework. She was responsible for ensuring compliance with the relevant Rules, Principles and legislative

regime. She was responsible for not complying with the same by virtue of her failure to proactively ascertain the impact of her bankruptcy on her ability to practice as a solicitor. Ms Williams was motivated by her self-serving desire to continue to practise. She was eight years qualified at the material time. Ms Williams made a conscious and deliberate decision not to advise her regulator of the Bankruptcy Order. She was exclusively and highly culpable.

39. The harm that Ms Williams caused to the reputation of the solicitors profession was significant. The public and the profession would rightfully be shocked at her flagrant disregard of her professional obligations by practising without the authorisation of her regulator. The harm caused was eminently foreseeable.

40. The Tribunal found that Ms Williams misconduct was aggravated by the fact that (i) it was deliberate and calculated or repeated, (ii) it continued over a period of time and (iii) she sought to conceal the fact of her Bankruptcy by not notifying the Applicant of the same. It was plain to the Tribunal that Ms Williams knew or ought reasonably to have known that practising without authorisation was in material breach of obligations to protect the public and the reputation of the legal profession.

41. No mitigating factors were found and the Tribunal therefore assessed the level of misconduct as so serious that neither a Restriction Order, Reprimand nor a Fine was sufficient or in all the circumstances appropriate. The Tribunal determined that there was a need to protect both the public and the reputation of the legal profession from future harm from Ms Williams by suspending her from practice.

42. The Tribunal carefully considered the length of suspension required to protect the overarching public interest. In circumstances where the allegations were predicated upon Ms Williams practising without authorisation by virtue of her bankruptcy, the Tribunal determined that she should not be eligible to practise until the bankruptcy had been discharged. There was a realistic prospect that Ms Williams would, in time, be able to do so. The onus remained upon her to apply to the Tribunal for the termination of the indefinite suspension if and when she was discharged from bankruptcy, supported by evidence of changed circumstances sufficient to justify the application for consideration of the Tribunal.

Costs

43. Mr Tankel sought costs in the sum of £13,350.00 which he averred was reasonable and proportionate to the straightforward nature of the case. Mr Tankel submitted that, whilst Ms Williams was plainly an undischarged bankrupt, there was no evidence before the Tribunal in relation to her financial means.

44. Ms Williams did not file or serve a Personal Financial Statement.

The Tribunal's Decision

45. The Tribunal considered the applications for costs. It noted that the proceedings were straightforward. Ms Williams non-engagement had resulted in additional work having been undertaken by the Applicant (by way of chase up letters, telephone calls, emails and the instruction of an Enquiry Agent to locate Ms Williams' residential address).

The Applicant's claim comprised of £1,350.00 with regards to the investigations and £10,000.00 plus VAT for all of the work undertaken by Capsticks and Mr Tankel to present the case before the Tribunal.

46. The costs claimed were, in all of the circumstances, reasonable and proportionate. The absence of information regarding Ms Williams' means did not vitiate her liability for the costs incurred by the Applicant. She had failed to advance any submissions regarding her financial position. The onus was upon her in the event that she sought to argue impecuniosity. She had not done so.

47. The Tribunal therefore granted the application for costs in full. Enforcement, or otherwise, of the same was a matter for the Applicant.

Statement of Full Order

48. The Tribunal Ordered that the Respondent, Sarah Louise Williams, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 15th day of March 2023 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £13,350.00.

Dated this 27th day of April 2023
On behalf of the Tribunal

A E Banks
Chair