

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12564-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

DANIELLE DE CARPENTIER

Respondent

Before:

Mr R Nicholas (in the Chair)

Mr A Horrocks

Ms E Keen

Date of Hearing: 1 May 2024

Appearances

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

JUDGMENT ON AGREED OUTCOME

Allegations

1. The allegations against the Respondent, Danielle De Carpentier, made by the SRA are that, while initially an employee (unadmitted) and later as a solicitor in practice at Clayton Mott, Grafton House, 67 Loughborough Road, West Bridgford, Nottingham, NG2 7LA (“the Firm”):
 - 1.1 Between 1 August 2015 and 28 June 2019, whilst acting under a Lasting Power of Attorney for Client A she abused her position, by misappropriating £7,850 from Client A’s bank account. In doing so, she breached any or all of Principles 1, 2, and 6 of the SRA Principles 2011.
 - 1.2 Dishonesty. In addition, allegation 1.1 is advanced on the basis that the Respondent’s conduct was dishonest. Dishonesty is alleged as an aggravating feature of the Respondent’s misconduct but is not an essential ingredient in proving the allegation.
2. The Applicant relied upon the Respondent’s conviction for the offence of Fraud by abuse of position contrary to section 4 of the Fraud Act 2006 on 3 December 2021, as evidence that the Respondent was guilty of that offence and relied upon the findings of fact upon which that conviction was based as proof of those facts.
3. The Respondent admitted the allegations set out above (“the Allegations”).

Documents

4. The Tribunal had, amongst other things, the following documents before it:-
 - The Form of Application dated 19 April 2024.
 - Rule 12 Statement dated 22 February 2024 and exhibits.

Preliminary Matters

Anonymity of Client

5. The Tribunal granted anonymity to the Respondent’s client, the victim in this matter, and it directed that this person be referred to as Client A.

Background

6. The Respondent, who was born in October 1986, was a solicitor having been admitted to the Roll on 15 December 2017.

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

7. The parties invited the Tribunal to deal with the Allegations against the Respondent 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 the Respondent's rights to a fair trial and to respect for her 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 the Respondent's admissions were properly made.
10. The Tribunal considered the Guidance Note on Sanction (10th Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
11. A criminal conviction, particularly one involving a gross breach of trust and a vulnerable victim is extremely serious. The damage to the reputation of the profession is profound and irreparable.
12. The Tribunal noted the matters set out within the non-agreed mitigation, however, notwithstanding those matters it decided this was not a case where the Tribunal could find or be directed to any exceptional circumstances such to permit it to reach any decision on sanction other than the one set out in the document with which it had been presented.
13. The Respondent's misconduct could only be viewed as extremely serious, and this fact, together with the need to protect the reputation of the legal profession, required that Strike Off from the Roll was the only appropriate sanction.

Costs

14. With respect to costs, it was further agreed between the parties that based upon the Statement of Means provided by the Respondent the SRA would not seek its costs. The Tribunal was satisfied that this was appropriate in all the circumstances.

Statement of Full Order

15. The Tribunal ORDERED that the Respondent, DANIELLE DE CARPENTIER, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that there be no Order for Costs.

Dated this 15th day of May 2024

On behalf of the Tribunal

R Nicholas

R Nicholas
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
15 MAY 2024

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

Case No. 12564-2024

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

DANIELLE DE CARPENTIER

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 22 February 2024, and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Ltd (the SRA) brought proceedings before the Solicitors Disciplinary Tribunal making one allegation of misconduct against the Respondent.

The allegations

2. The allegations against Ms De Carpentier, made by the SRA within that statement were that: -
 - 2.1 Between 1 August 2015 and 28 June 2019, whilst acting under a Lasting Power of Attorney for Client A she abused her position, by misappropriating £7,850 from Client A's bank account. She thereby breached any or all of:
 - 2.1.1 Principle 1 of the SRA Principles 2011;

2.1.2 Principle 2 of the SRA Principles 2011; and

2.1.3 Principle 6 of the SRA Principles 2011.

3. In addition, dishonesty was alleged as an aggravating factor with respect to this allegation.
4. Ms De Carpentier admits this allegation in full. She also admits that her conduct in acting as alleged was dishonest.
5. The SRA relies upon Ms De Carpentier's conviction on 3 December 2021 for fraud by abuse of position contrary to section 4 of the Fraud Act 2006 as evidence that Ms De Carpentier was guilty of that offence and the findings of fact upon which that conviction was based as proof of the underlying facts.

Agreed Facts

6. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and Ms De Carpentier.

Professional details:

7. Ms De Carpentier, who was born on October 1986, is a solicitor having been admitted to the Roll on 15 December 2017.
8. Ms De Carpentier had commenced her employment at the Firm in June 2014. She worked in the Firm's Private Client department and qualified as a solicitor in 2017 and had become a partner at the Firm on 1 April 2018. According to SRA records, which rely upon solicitors providing accurate information and keeping their employment records up to date, she was working at the Firm on the dates of the offence.

9. Ms De Carpentier ceased working at the Firm in September 2020 and according to the SRA records she is not currently employed in legal practice.
10. Ms De Carpentier does not hold a practising certificate for the current practising year. She remains on the Roll.

Background

11. The conduct in this matter came to the attention of the SRA when it received a report dated 25 November 2019 (the Report) from Nottinghamshire Police about its investigation into Ms De Carpentier for the offence of fraud by abuse of position. The Nottinghamshire Police reported that Ms De Carpentier had made over 30 cash withdrawals from Client A's bank account via various ATM machines over a period of four years.
12. The conduct occurred between 1 August 2015 and 28 June 2019. In summary,
 - 12.1 Following Nottinghamshire Police's investigation, it was identified that, between 1 August 2015 and 28 June 2019, Ms Carpentier made 39 withdrawals of cash from Client A's personal bank account from various ATM machines, totalling £7,850 using Client A's debit card.
 - 12.2 Ms De Carpentier was interviewed by Nottinghamshire Police on 23 August 2019 and 23 October 2019. During the interviews, she was asked whether she had withdrawn money from Client A's bank account and kept it for herself. She denied having done so when questioned.
 - 12.3 On 18 March 2020, the SRA contacted the Ms De Carpentier for her comments following the report received from the Nottinghamshire Police.

12.4 On 25 March 2020, Ms De Carpentier replied to our request for information. She denied the conduct and explained that no funds had been withdrawn that were not for the benefit of Client A. Ms De Carpentier stated that the cash withdrawals were all recorded on Client A's file alongside the receipts signed by the employees of the care home whom she handed the money to. Ms De Carpentier stated that, during the four-year period, there were no requests for duplicate funding, so it must follow that the money was used for its intended purpose as opposed to funds being withdrawn that were not for the benefit of Client A.

12.5 Upon the conclusion of the Police investigation, Ms De Carpentier was charged with fraud by abuse of position. She subsequently appeared before Nottingham Crown Court where she pleaded guilty to the offence of fraud by abuse of position at a late stage in the proceedings.

12.6 On 3 December 2021, Ms De Carpentier was convicted of committing fraud by abuse of position contrary to section 4 of the Fraud Act 2006 following her guilty plea before Nottingham Crown Court.

12.7 On 3 March 2022, before Nottingham Crown Court, Ms De Carpentier was sentenced to 18 months imprisonment.

Non-Agreed Mitigation

13. The following mitigation, which is not agreed by the SRA, is put forward by Ms De Carpentier:

13.1 I should like to record the fact that I am both ashamed and profoundly sorry. I have lost my dream career that I struggled so hard for, overcoming severe dyslexia and

personal mental health difficulties to achieve the honour of being appointed a solicitor. I offer no excuses. I have let myself down as well as those people who put their faith in me and for that I can only offer my sincere apologies. I have tried to make amends having attempted to resign from the Roll some years ago, I repaid the money in full and have served my sentence. I continue to suffer with severe psychiatric problems which are mitigated by a plethora of prescription drugs. I have been diagnosed as unfit for any form of work for the foreseeable future and I struggle to see any future for me. I sincerely hope that my shame and my apology is accepted.

Penalty proposed

14. It is therefore proposed that Ms De Carpentier should be struck off the Roll of Solicitors.

15. With respect to costs, it is further agreed that based upon the Statement of Means provided by Ms De Carpentier, the SRA will not seek their costs.

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

16. Ms De Carpentier has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, states that: "*The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see **Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)**).*"

17. In **Sharma [2010] EWHC 2022 (Admin)** at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

“(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others...”

18. It is agreed that:

18.1 Between 1 August 2015 and 28 June 2019, whilst acting under a Lasting Power of Attorney for Client A she abused her position, by misappropriating £7,850 from Client A’s bank account. These were serious acts of dishonesty committed over an extended period which benefitted Ms De Carpentier to the detriment of Client A, and the case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for Ms De Carpentier to be struck off the Roll of Solicitors.

18.2 In terms of aggravating features, the Tribunal’s Sanctions guidance notes that the commission of a criminal offence is a serious aggravating feature to the conduct as is misconduct continuing over a period of time. Ms De Carpentier’s dishonest conduct was sustained over a period of time and very serious.

18.3 Ms De Carpentier had been sentenced to a term of imprisonment. As Sir Brian Leveson, then President of the Queen’s Bench Division, noted in *SRA v Farrimond* [2018] EWHC 321 (Admin) at [34]: “... it is beyond argument that a

solicitor sentenced to any substantial term of imprisonment should not be permitted to remain on the Roll even if suspended indefinitely ...”

18.4 At the sentencing hearing on 3 March 2022, the Judge made the following remarks:

18.4.1 *‘It is difficult to conclude other than that you undertook this course of conduct in order to obtain extra money for yourself. It is, as is recognised, a gross breach of trust and abuse of position. As a solicitor acting under a Lasting Power of Attorney, the expectation is that you act with honesty and integrity. [Client A] was a vulnerable lady, being unable herself to monitor her own finances, and thus there was nobody to operate as a check or balance upon your actions. In addition, once questions began to be raised, you embarked upon an attempt out of panic... to try and divert attention away from yourself but, in doing so, you sought to divert attention on to others, either real or imagined. That raised suspicion amongst others, none of which is edifying. I am told that you have certain vulnerabilities, certain mental health issues yourself. It is plain to me that you are clearly anxious about the outcome of this today. The starting point for a matter such as this, in terms of value and culpability, is culpability A under the Sentencing Guidelines. It is an abuse of trust over a long period. The normal category of harm would be 4 for this sum of money, £7,850, with a start point of three years and a range of eighteen months to four years. It is said that I should go up a category of harm because of the vulnerable nature of the victim, and I think that must be right. The start point would be eighteen months, six months to three years, for a category at £7,850. It rises to three years with a bracket of eighteen months to four years if I increase the bracket, but it is not as simple as*

that because the sum of money involved is at the lower end of the range that these offences involve. So, I must not jump simply from eighteen months to three years. The appropriate start point dealing with this, in my judgment, would be a sentence of two years and three months. You have pleaded guilty, and that, therefore, enables me to reduce the sentence slightly to two years. The question then arises: do I suspend it or do I not? The conclusion that I have come to is that this matter has to be marked with a custodial sentence. The sentence will not be suspended but, in recognition of the fact that you will find a sentence of incarceration far more onerous than many in your position, I will reduce it to a sentence in total of eighteen months.'

18.5 In these circumstances, the seriousness of the misconduct committed by Ms De Carpentier is so high that it would be appropriate to strike her off the Roll of Solicitors.

19. The parties consider that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter, which is in the public interest.

.....
John Quentin, Head of Legal and Enforcement

On behalf of the SRA

.....
Danielle De Carpentier

Respondent