

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12549-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

MICHAEL BAKER

Respondent

Before:

Ms A Horne (in the Chair)
Mrs L Boyce
Ms L Fox

Date of Hearing: 30 May 2024

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Relevant Background

1. The parties submitted an Agreed Outcome for the Tribunal to consider on the papers. The matter was listed for consideration on 2 May 2024 pursuant to Rule 25 of the Solicitors (Disciplinary Proceedings) Rules 2019 (“SDPR”)
2. Having considered the application, the Tribunal was not satisfied that the proposed sanction of a suspension for 3 years, followed by restrictions on practise, adequately reflected the seriousness of the misconduct alleged and admitted.
3. The Tribunal determined that before it could make a final determination on the application, it wished to hear from the parties as to the appropriateness of the proposed sanction. Rule 25(4) of the SDPR stated:

“If the Tribunal wishes to hear from the parties before making its decision the Tribunal may direct that there be a case management hearing which the parties to the proposed Agreed Outcome Proposal must attend for the purpose of making submissions before a final decision is reached. The case management hearing must be heard in private.”

4. Accordingly, the Tribunal adjourned the consideration of the Agreed Outcome and directed that the parties attend, remotely, to make further submissions before the Tribunal.
5. The matter was re-listed on Thursday 9 May 2024.

The Hearing

6. Ms Horne, Chair, summarised the reasons why the Panel had been reluctant to grant the Agreed Outcome when this matter had come before the Panel on 2 May 2024. Ms Horne also confirmed that, through the Clerk, and prior to the commencement of the hearing, the parties indicated that, having reviewed the matter, they had had come to an amended position in which the Respondent would agree to a term of suspension for a period of 5 years.
7. Notwithstanding the revised term of suspension, Ms Horne said that the Panel required answers to a number of questions before it could consider the proposal of the parties relating to suspension.
8. Ms Horne set the questions out as follows:
 - The incident from which the misconduct arose took place in 2016, and the Panel was concerned as to why it had taken so long to bring the matter before the Tribunal.
 - The Tribunal noted that the original suspension resulted from an allegation which had included lack of integrity and serious financial harm, and that the present misconduct also alleged lack of integrity. On the face of it, this was repeat conduct committed within a short period of the imposition of the original order. The

Tribunal was concerned that the parties should address the level of seriousness, and the issue of protection of the public.

- The Respondent had been present when the first suspension had been imposed upon him by the Tribunal and it was to be expected that he would have been fully aware of the decision of the Tribunal. However, despite the sanction and order of the Tribunal, he had practised while suspended. Such action could be viewed a blatant disregard of the Tribunal's order. This required some explanation.
 - Given the repeat misconduct, and the disregard shown to the Tribunal's previous order, the Tribunal wished to know what assurances it could be given that the proposed sanction would not be similarly disregarded, this with a view to the protection of the public and the reputation of the profession.
 - As to the proposed sanction, why did the parties consider suspension to be the most appropriate and proportionate sanction, commensurate to the misconduct, given the circumstances identified above?
 - The Panel had expected the Agreed Outcome document to address the issues of culpability, harm, aggravating features, and mitigating features but it had not done so. This needed to be addressed along with the status of the 'non-agreed mitigation' and the use to which the Panel could make of such information.
 - The Panel required the parties to set out clearly the Respondent's level of co-operation with the SRA, as there was some ambiguity within the proposed Agreed Outcome as currently drafted regarding this important issue.
9. The Tribunal granted the parties' joint application for an adjournment to consider the issues raised by the Tribunal.

The reconsidered application 30 May 2024

10. By an e-mail dated 23 May 2024 and timed at 07:54 the parties sent their agreed position on the answers to the questions set by the Tribunal on the last occasion as follows:

"We propose to address the points raised by the SDT in their memo dated 10 May 2024, by providing the following answers along with the AO:

1. Any delay in bringing the case before the SDT, considering the misconduct was from 2016, was due to the complaint only being reported to the SRA in August 2021. Furthermore, the investigation took some time to complete as a number of enquiries had to be made with both the Respondent and Mrs Whiting, who unfortunately died.

2. Any concerns that the Tribunal may have surrounding Mr Baker's disregard to the SDT order and PC conditions, along with assurances that the conduct would not be repeated we believe can be resolved by the now proposed lengthier suspension of five years.

3. The Agreed Outcome has now been amended and does now include why the sanction is proportionate, Mr Baker's culpability, harm caused, aggravating and mitigating features are now outlined within the AO.

4. In terms of mitigation, the SRA agrees that Mr Baker has co-operated with the SRA investigation.”

11. The parties requested that the revised Agreed Outcome be considered on the papers.

The Tribunal's Decision

12. Having considered the answers which had been provided, the matters set out in the revised Agreed Outcome document and the suggested final disposal of the matter, the Tribunal was satisfied, on balance, that the issues which had caused concern to the earlier constitution had now been addressed by the parties.
13. The Tribunal did not require the parties' attendance and it went on to decide the Agreed Outcome proposal in the usual way, as set out below.

Allegations

15. The Allegations were as follows:

- “3.1 From a date known to be between 21 February 2016 and 7 March 2016 to 28 April 2016, he practised as a solicitor during a period of suspension from practice imposed by the Tribunal and without a practising certificate. In doing so, he breached any or all of Principles 2, 6 and 7 of the SRA Principles 2011 ("the Principles") and Rule 9.1 of the SRA Framework Rules 2011.*
- 3.2. From 28 April 2016 to 31 January 2017 the Respondent worked at Baker McDonald Solicitors ("The Firm") without obtaining prior approval of the employment by the SRA contrary to the conditions imposed on his practising certificate on 28 April 2016 and the Order of the SDT dated 8 January 2015. In doing so, he breached any or all of Principles 2, 6 and 7 of the SRA principles 2011.*
- 3.3. The Respondent completed the sale of the clients J&JB's properties, business, and additional land before securing agreed loans to the buyers against the land. In doing so, he failed to achieve any or all of the following: (i) Outcome 1.2 and Outcome 1.12 of the SRA Handbook 2011, and (ii) Principles 4 and 10 of the Principles.”*

16. The Respondent admitted the allegations in their entirety.

Documents

17. The Tribunal had the following documents before it:-
- The Form of Application dated 19 January 2024

- Rule 12 Statement dated 19 January 2024
- Statement of Agreed Facts and Proposed Outcome dated 23 May 2024

Background

18. The Respondent, was born in June 1953, is a solicitor having been admitted to the Roll on 1 December 1992. He had held the role of partner and Compliance Officer for Finance and Administration at Baker McDonald Solicitors.
19. On 8 January 2015, the Tribunal imposed a one-year period of suspension on the Respondent. The Respondent had been referred to the Tribunal for breaches of the Accounts Rules 1998 while a partner and Compliance Officer for Finance and Administration at Baker McDonald Solicitors. Following a hearing, the Tribunal found all allegations against the Respondent proved, including an allegation of acting without integrity.
20. The Tribunal's Judgment stated that the period of suspension would commence on 8 April 2015. Furthermore, the Judgment stated that, upon expiry of the fixed term of suspension, the Respondent may not *'practise as a sole practitioner, partner of a Recognised Body or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS), Hold client money: and for the avoidance of doubt the Respondent may only work as a solicitor in employment approved by the Solicitors Regulation Authority'*
21. The Respondent resigned as partner at Baker McDonald Solicitors on 8 January 2015.
22. The conduct in this matter came to the attention of the SRA when a report dated 11 August 2021 was received by the SRA from the Firm's clients J&JB.
23. The clients complained about the service they had received, as well as overcharging and substantial delays in relation to the sale of a farming business. They also raised concerns about the Respondent continuing to practise as a solicitor, and with his employment with the Firm, whilst suspended.
24. The Respondent does not currently have a practising certificate.

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

25. 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 Sanction.

Findings of Fact and Law

26. 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 his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

27. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
28. 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.
29. The fact that the Respondent had disregarded a previous order of the Tribunal was a matter of deep concern, and something which the Tribunal took very seriously, as it represented a blatant disregard of the Tribunal's authority. It was also an insult to the profession generally, in that it eroded the confidence the public placed in solicitors to abide by the rules, and to respect orders made by Courts and Tribunals.
30. The Tribunal noted the matters set out within the non-agreed mitigation; however, the Respondent's conduct demonstrated a serious lack of integrity and disregard for the orders of the Tribunal. There was a need to protect both the public and the reputation of the legal profession from future harm by removing the Respondent's ability to practise. However, the Tribunal was satisfied that, in the particular circumstances of this case, neither the protection of the public nor the protection of the reputation of the legal profession justified the imposition of the ultimate sanction, namely a strike off. That said, the Tribunal would not shrink from such a course in any future case where an order of the Tribunal was ignored.
31. The Tribunal was prepared therefore to accept, albeit with some reservations, that it was proportionate and in the public interest that the Respondent should be made subject to a 5-year suspension with appropriate conditions.

Costs

32. With respect to costs, the Respondent agrees to pay the SRA's costs of this matter agreed in the sum of £4,000.

Statement of Full Order

33. The Tribunal Ordered that the Respondent, MICHAEL BAKER, solicitor, be suspended from practice as a solicitor for the period of 5 years to commence on the 30th day of May 2024 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,000.
34. Upon the expiry of the fixed term of suspension referred to above the Respondent shall be subject to restrictions imposed by the Tribunal as follows:
35. the Respondent may not:
 - a) Practise as a manager or owner of any authorised body or authorised non-SRA firm;

- b) Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
- c) Hold or receive client money, or act as a signatory on any client or office account or have the power to authorise transfers from any client or office account;
- d) work as a solicitor other than in employment approved by the SRA.

Dated this 18th day of June 2024

On behalf of the Tribunal

A Horne

A Horne
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

18 JUNE 2024

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

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

MICHAEL BAKER

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 19 January 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 against the Respondent.
2. Definitions and abbreviations used herein are those set out in the Rule 12 Statement.

Allegations

3. The allegations against the Respondent, made by the Applicant are that:

3.1 From a date known to be between 21 February 2016 and 7 March 2016 to 28 April 2016, he practised as a solicitor during a period of suspension from practice imposed by the Tribunal and without a practising certificate. In doing so, he breached any or all of Principles 2, 6 and 7 of the SRA Principles 2011 ("the Principles") and Rule 9.1 of the SRA Framework Rules 2011.

3.2. From 28 April 2016 to 31 January 2017 the Respondent worked at Baker McDonald Solicitors ("The Firm") without obtaining prior approval of the employment by the SRA contrary to the conditions imposed on his practising certificate on 28 April 2016 and the Order of the SDT dated 8 January 2015. In doing so, he breached any or all of Principles 2, 6 and 7 of the SRA principles 2011.

3.3. The Respondent completed the sale of the clients J&JB's properties, business, and additional land before securing agreed loans to the buyers against the land. In doing so, he failed to achieve any or all of the following:

- (i) Outcome 1.2 and Outcome 1.12 of the SRA Handbook 2011, and
- (ii) Principles 4 and 10 of the Principles.

Admissions

- 4. The Respondent admits all of the allegations in their entirety.

Agreed Facts

Professional Details

- 5. The Respondent is a solicitor having been admitted to the Roll on 1 December 1992 and is 70 years old. He has held the role of partner and Compliance Officer for Finance and Administration ("COFA") at Baker McDonald Solicitors ("the Firm").
- 6. On 8 January 2015, the Tribunal imposed a one-year period of suspension on the Respondent. The Respondent had been referred to the Tribunal for breaches of the Accounts Rules 1998 while a partner and COFA at the Firm.. Following a hearing, the Tribunal found that all of the allegations against the Respondent had been proved, including an allegation of acting without integrity.

7. The Tribunal's Judgment stated that the period of suspension would commence on 8 April 2015. Furthermore, the Judgment stated that, upon expiry of the fixed term of suspension, the Respondent may not *'practise as a sole practitioner, partner of a Recognised Body or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS), Hold client money; and for the avoidance of doubt the Respondent may only work as a solicitor in employment approved by the Solicitors Regulation Authority'*
8. The Respondent resigned as partner at Baker McDonald Solicitors on 8 January 2015.
9. He does not currently have a practising certificate.

Background

10. The conduct in this matter came to the attention of the SRA when a report dated 11 August 2021 was received by the SRA from the Firm's clients J&JB.
11. The clients complained about the service they had received as well as overcharging and substantial delays in relation to the sale of OTF ('OTF'). They also raised concerns as to the Respondent continuing to practise as a solicitor and with his employment with the Firm whilst suspended.

The allegations

Allegation 1.1 – practised as a solicitor during a period of suspension from practice imposed by the Tribunal

12. On or around 21 February 2016, Mrs Whiting (a partner at the Firm) contacted the Respondent and invited him to return to the Firm to assist her. Between 23 February 2016 and 7 March 2016 the Respondent is known to have attended the Firm's premises. The Respondent met with Mrs Whiting and RB who was representing his brother and sister-in-law, J&JB in the sale of their home, business, and adjacent land OTF.

13. At the meeting, the Respondent and Mrs Whiting told RB that the Respondent would be Mrs Whiting's 'dedicated assistant for day-to-day contact' in respect of the matter.
14. Following the meeting, the Respondent acted on behalf of J&JB in their sale of OTF and post-completion security matters until around 23 June 2016. From the date of the meeting, the Respondent worked at the Firm. Regardless of role, title, or remuneration, he was employed by the Firm in connection with the provision of legal services to J&JB and therefore acted as a solicitor.
15. Section 1A of the Solicitors Act 1974 ("the Act") states that a person who has been admitted as a solicitor and whose name is on the roll shall, if he would not otherwise be taken to be acting as a solicitor, be taken for the purposes of the Act to be so acting if he is employed in connection with the provision of legal services (a) by any person who is qualified to act as a solicitor; (b) by any partnership at least one member of which is so qualified; (c) by a body recognised under Section 9 of the Administration of Justice Act 1985 (incorporated practices) or (d) by any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007).
16. Rule 9.1 of the SRA Practice Framework Rules 2011 (the Rules) required practising solicitors to hold a practising certificate unless they were exempt under Section 88 the Act. The Respondent was not exempt.
17. Contrary to the Act and the Rules, the Respondent acted as a solicitor without a practising certificate between the date of the meeting until 28 April 2016 at the Firm.

18. The Respondent also acted as a solicitor from the date the meeting until 28 April 2016, despite being suspended from practice until 8 April 2016 and subject to conditions on his practising certificate following that date.

19. During the SRA Investigation, the Respondent admitted to working at the Firm as a clerk to assist in matters being dealt with by the firm under the supervision of Mrs Whiting. He stated "*however sometime on or after the 21st of February 2016 I was asked by Mrs Whiting if I could provide assistance to her, in a clerical role, as she required help with a particular matter that required daily attention. I agreed to help on that basis on the understanding that I could not act in any way as a solicitor and that it would be on the basis that she would retain overall responsibility for the matter as solicitor and I would help as assistant to her.*"

Correspondence on the client files shows that the Respondent was doing more than just clerical work over the relevant period (February 2016 to January 2017) including arranging for a restriction to be placed on the register as part of a Legal Charge and drafting a loan agreement. •

20. RB in his complaint letter dated 16 May 2022 mentions that he dealt with the Respondent "*Mr Baker and nobody else from the solicitors communicated with me and neither with J&JB about the sale of the properties*"

21. RB further mentions that the work conducted by the Respondent was more than just clerical work and that a loan agreement was prepared by the Respondent.

22. RB'S witness statement sets out the work that the Respondent undertook for J&JB in relation to the sale of OTF. Full details of RB's complaint are set out in RB's witness statement dated 18 August 2022. This evidence shows that the Respondent had completed all the work on the loan agreement and advised his client that the value of

the security was sufficient and completed the conveyancing until the sale of the property on 23 June 2016.

Allegation 1.2 – worked at Baker McDonald Solicitors without obtaining prior approval of the employment by the SRA contrary to the conditions imposed on his practising certificate on 28 April 2016

23. On 3 April 2016, the Respondent applied for his practising certificate, which was granted on 28 April 2016. One of the conditions imposed on the granting of the practising certificate to the Respondent was that he may practise as a solicitor, only as an employee whose role had first been approved by the SRA.

24. The firm applied for permission to employ Mr Baker on 8 December 2016. Permission was granted on 31 January 2017 when his practising certificate for 2016 / 2017 was approved.

25. For the period 28 April 2016 until 31 January 2017, Mr Baker was employed as a solicitor by the Firm without the permission of the SRA, contrary to the conditions imposed on his practising certificate.

Allegation 1.3 – completed the sale of the clients' properties, business, and additional land before securing agreed loans to the buyers against the land.

26. To assist the buyers' purchase of OTF, a loan agreement was entered into in which J&JB deferred payment of part of the purchase price, in return for security by way of a charge over properties that the buyers owned in their personal names and in their companies' names.

27. There is no evidence in the file of papers provided by Mrs Whiting relating to the client's sale of OTF, that the Respondent advised J&JB or RB on the benefits or disadvantages of completing the sale of OTF without finalising or securing the loans on the title at HM Land Registry.
28. J&JB were not in a position to make an informed decision about how their sale would proceed and the options available to them in relation to the loans to the buyer. The Respondent completed the sale of OTF without putting into place the security over the properties.
29. The Respondent failed to secure the loans to the buyers of OTF prior to completion and failed to obtain the necessary consents for the second charge from the buyer's existing lenders to complete the security work in this matter.
30. J&JB instructed the Respondent to stop working on the matter in March 2017 and then again in May 2017.
31. J&JB, via RB, instructed another firm to arrange for the security to be registered at the Land Registry and Companies House and to correspond with the buyers' solicitors to complete the security work.
32. Completion took place on 23 June 2016. One year post completion, the loans were still unsecured as a result of the Respondent and J&JB, via RB, were put in the position where they felt the only way to secure the loans was to instruct alternative representation. It took the new solicitor 18 months to complete the work and get the loans secured against the title of OTF as consent to a second charge had to be obtained for some of the properties and the buyers had to be chased on numerous occasions.
33. During that time, the loans were at risk, as described above. It is submitted that the clients would not have chosen to put their loans at risk of non-payment for that length of time or at all.

Breaches of the Rules

34. 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. The Respondent was an experienced solicitor with 23 years' experience at the time of the suspension. Prior to the suspension order, he had been a partner at the Firm.

35. The public would expect a solicitor to understand the restrictions such a suspension imposed or, in the alternative, to make enquires of those restrictions before embarking on a role in a legal practice. By practising as a solicitor during a period of suspension and subsequently without prior approval of the SRA, the Respondent demonstrated a serious lack of integrity¹. The Respondent therefore breached Principle 2 of the SRA Principles.

36. The Respondent failed to act in a way which maintains the trust placed by the public in them and in the provision of legal services. A solicitor acting in accordance with the trust placed in them would:

36.1 Would have served the period of suspension.

36.2 Would not have engaged in providing legal services while suspended.

36.3 The conduct alleged amounted to a breach by the Respondent of the requirement to behave in a way which maintains the trust placed by the public in them and in the provision of legal services. Public confidence in the Respondent, in solicitors and in the provision of legal services is likely to be undermined by

¹ It is well established that the word integrity connotes moral soundness, rectitude and a steady adherence to an ethical code., See, for example, *Hoodless & Blackwell v FSA* [2003] FSMT 007. Lack of integrity is capable of being identified as present or not by an informed tribunal by reference to the facts of a particular case., see *Newell Austin v SRA* [2017] EWHC 411 (Admin). Lack of integrity and dishonesty are not synonymous. A person may lack integrity even though not established as being dishonest. In *Wingate & Evans v SRA v Malins* (2018) EWCA Civ 366, [2018] P.N.L.R. 22) the Court of Appeal held that "*integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty.*"

such behaviour. The Respondent therefore breached Principle 6 of the SRA Principles.

37. The Respondent failed to act in the client's best interests in that he delayed and failed to adequately progress the client's matter. The Respondent was instructed to assist the clients J&JB with the loans on title of OTF at the time of completion and it was crucial to those instructions that certain actions were undertaken by him to protect his client's interests. The Respondent's failure to secure the loans on the title of OTF at the time of completion put the security of the loans provided by the clients J&JB at risk of losing £2,000,000. Had the Respondent acted in his client's best interests he would not have put their money at risk, and he would not have completed the sale without securing the loans against the title of OTF. The Respondent therefore breached Principle 4 of the SRA Principles.

38. The conduct alleged also amounted to a breach by the Respondent of the requirement to comply with his legal and regulatory requirements. When the Tribunal imposed a one-year period of suspension the Respondent was required to comply with it. The Respondent's conduct of providing legal services before his period of suspension had come to an end was a failure to comply with the regulatory obligation imposed on him not to practise until 8 April 2016. The Respondent therefore breached Principle 7 of the SRA Principles.

39. OTF was an asset of significant value to the clients. By failing to secure the loans to the buyers of OFT prior to completion, the Respondent failed to protect his client's money or assets. Therefore, the Respondent failed to protect client money and assets and has breached Principle 10 of the SRA Principles.

Non-Agreed Mitigation

40. The Respondent states that when Mrs. Whiting asked him to help her with the sale of OTF he agreed to do so on the understanding that he would do so on the basis that he could not act as a solicitor or hold himself out as a solicitor, but only as her assistant as something akin to an unqualified paralegal, and she would retain full responsibility for the transaction and oversee the case throughout. Mrs Whiting told the Respondent that she was concerned with dealing with RB as she found him overbearing and particularly demanding to the point of almost threatening, and the only reason she wanted to deal with the matter was because of the relationship she had established with J & JB, who owned the property, albeit that they relied upon RB to deal with their paperwork.
41. The Respondent did not receive any remuneration or enter into any form of employment contract or agreement.
42. The Respondent wrongly assumed that acting in this manner he was not in breach of the terms of his suspension.
43. Throughout the matter he did not call himself a solicitor or hold himself out as solicitor, though he did become heavily involved in the matter due to its complexity. However, although the majority of the correspondence was written from the Respondent, it was at all times overseen and approved by Mrs Whiting. With the benefit of hindsight, all correspondence should have been signed off by the Respondent for and on behalf of Mrs Whiting.
44. Even after the Respondent's suspension ceased, he did not call himself a solicitor or represent himself as a solicitor until after the issue of his practising certificate and consent (as a solicitor) to be employed with Baker Macdonald though during the period following the end of his suspension he did continue assisting Mrs Whiting in the role of paralegal/solicitor's clerk.

45. As far as working for Baker Macdonald after his suspension is concerned, The Respondent again wrongly assumed that whilst awaiting the necessary practising certificate and consent to practise in the firm of Baker Macdonald, he, as well as Mrs Whiting, did not realise that this was a breach of the conditions, because he was not representing himself as a solicitor but continuing in a role of paralegal/clerk.
46. The Respondents name did not appear on the headed paper of Baker Macdonald for some months after January 2017, it was some months later that he was shown as a Consultant Solicitor. This was partly due to Mrs Whiting considering restructuring the firm and a possible merger which the Respondent believes had been ongoing for some time following his suspension.
47. The Respondent values his role as a solicitor and deeply apologises for the matters admitted which is a stain on his career as a solicitor and the profession generally.

Proposed Outcome

48. The Respondent agrees:

48.1. To be suspended from practice as a solicitor for a period of five years.

48.2. Upon the expiry of the fixed term of suspension referred to above the Respondent shall be subject to restrictions imposed by the Tribunal as follows:

48.3. the Respondent may not:

a) Practise as a manager or owner of any authorised body or authorised non-SRA firm;

b) Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;

c) Hold or receive client money, or act as a signatory on any client or office account or have the power to authorise transfers from any client or office account;

d) work as a solicitor other than in employment approved by the SRA.

48.4. With respect to costs, agrees to pay the SRA's costs of this matter agreed in the sum of £4,000.

Explanation as to why such an order would be in accordance with the Tribunal's Sanction Guidance (10th edition)

49. The parties consider and submit that, in light of the admissions set out above, and taking into account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanction (10th edition).

50. The Respondent is highly culpable for his actions. This is because:

- He is a very experienced solicitor, having been admitted in 1992 and was some 23 years post qualification experience at the time of the misconduct.
- He was a former partner and COLP at the Firm.
- He should have known that that it was a breach of his regulatory obligations to work at the Firm whilst suspended, and then subsequently without the SRA's approval as that is what the conditions on his PC required.
- He had direct control and responsibility for the circumstances giving rise to the misconduct. Although he was asked by Ms Whiting to assist him, he could have refused and should have queried the position with the SRA before starting work at the firm.
- The Respondent's conduct caused harm to the reputation of the profession as he worked in breach of an SDT order and conditions on his practising certificate. There was also potential harm to clients J&JB by the delay caused in registering loans against the buyers' properties

51. The Respondent's conduct is aggravated by the following:

- He practised as a solicitor when already suspended by the Tribunal
- He practised as a solicitor for some 9 months in breach of conditions on his practising certificate.
- He knew or ought reasonably to have known that his conduct was in material breach of obligations to protect the public and reputation of the profession.

- He has previous disciplinary history. He was suspended for a year by the SDT for a breach of the account's rules which included an allegation of acting without integrity.

52. The Respondent's conduct demonstrates a serious lack of integrity. There is a need to protect both the public and the reputation of the legal profession from future harm from the Respondent by removing his ability to practise, but neither the protection of the public nor the protection of the reputation of the legal profession justifies a strike off. It is therefore proportionate and in the public interest that the Respondent should be made subject to a five-year suspension and agree to pay costs in the sum of £4,000.

53. 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.

54. The parties therefore invite the SDT to impose the sanction proposed as it meets the seriousness of the admitted misconduct and is proportionate to the misconduct in all the circumstances.

Signed by the parties.

Jagjeet Gibson

Jagjeet Gibson, Legal Adviser, on behalf of the SRA


N A Trevette, Director, Murdochs Law Ltd, on behalf of Mike Baker

23rd May 2024