

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12584-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

MICHAEL JOHN POTTER

Respondent

Before:

Mr R Nicholas (in the Chair)
Mr J Johnston,
Mr B Walsh

Date of Hearing: 12 August 2024

Appearances

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

JUDGMENT ON AGREED OUTCOME

Allegations

1. On 29 July 2020, in his role of a director of a business called 350 PPM Ltd (the Company), he acted with a view to gain for himself or another, or with the intent to cause loss to another, made an unwarranted demand with menaces, contrary to s.21(1) of the Theft Act 1968.
2. He thereby breached any or both of Principles 2 and 5 of the 2019 SRA's Standards and Regulations.
3. The Respondent admitted the allegations set out above.

Documents

4. The Tribunal had, amongst other things, the following documents before it:-
 - The Form of Application dated 28 March 2024.
 - Rule 12 Statement dated 28 March 2024 and exhibits.
 - Agreed Outcome submitted 6 August 2024

Background

5. The Respondent was admitted to the Roll of Solicitors on 1 February 1991.
6. The Respondent had not been employed as a solicitor since 1994. He had undertaken an interim consultancy role at Eversheds Sutherland (International) LLP around June 2021.
7. On 18 October 2021, his consultancy services were terminated.

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

8. 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

9. 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 their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
10. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.

11. 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.
12. The Respondent appeared before the Crown Court at Bournemouth upon an indictment charging him with Blackmail. He was convicted by the jury and sentenced by the Judge to 1 years' imprisonment suspended for 2 years, and 240 hours unpaid work.

[Note: paragraph 13.2 of the Statement of Agreed Facts and Proposed Agreed Outcome states, imprecisely, the sentence to have been '2 years' suspended']

13. Notwithstanding matters of non-agreed mitigation and the insight shown by the Respondent, the nature of the criminal offence upon which he was convicted spoke for itself.
14. 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

15. The parties agreed that the Respondent should pay costs in the sum of £4,158.00. The Tribunal determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

Statement of Full Order

16. The Tribunal ORDERED that the Respondent, Michael John Potter, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,158.00.

Dated this 21st day of August 2024
On behalf of the Tribunal

R Nicholas

R. Nicholas
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

21 AUG 2024

Case Number: 12584-2024

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL
IN THE MATTER OF THE SOLICITORS ACT 1974 (As Amended)
AND IN THE MATTER OF:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

And

MICHAEL POTTER

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 28 March 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 Michael Potter (Mr Potter).

The allegations

2. The allegations against Mr Potter, made by the SRA within that statement was that: -

On 29 July 2020, in his role of a director of a business called 350 PPM Ltd (the Company), he acted with a view to gain for himself or another, or with the intent to cause loss to another, made an unwarranted demand with menaces, contrary to s.21(1) of the Theft Act 1968.

He thereby breached any or both of Principles 2 and 5 of the 2019 SRA's Standards and Regulations.

Admissions

3. Mr Potter admits the allegation in full.

Agreed Facts

4. The following facts and matters, which are relied upon by the SRA in support of the allegation set out at paragraph 2 of this statement, are agreed between the SRA and Mr Potter:

- 4.1. Mr Potter was admitted to the Roll of Solicitors on 1 February 1991. His SRA ID number is 149140.

- 4.2. Mr Potter has not been employed as a solicitor since 1994. Mr Potter had undertaken an interim consultancy role at Eversheds Sutherland (International) LLP around June 2021. On 18 October 2021, Mr Potter's consultancy services were terminated.

- 4.3. Mr Potter remains on the Roll of Solicitors, however, he does not have a current practising certificate.

- 4.4. Mr Potter was appointed as a director of the Company on 11 September 2019, joining the founding director Nicholas Dimmock (Mr Dimmock). John Price (Mr Price) joined the Company in January 2020 as a Director of Compliance and Risk.

- 4.5. By around Spring 2020, there had been a breakdown in the relationship between Mr Potter and Mr Price against Mr Dimmock. This led to negotiations for settlement in respect of Mr Potter and Mr Price's exit from the Company.

- 4.6. On 29 July 2021, a board meeting took place via Zoom (which was recorded). Mr Potter and Mr Price advanced their negotiation positions in respect of wanting a payout to leave the Company or an increase in salaries, bonuses and employment benefits to stay, with the threat that they would proceed to report to the Financial Conduct Authority (FCA) about alleged non-compliance by the Company and Mr Dimmock if that did not happen. Mr Potter stated during that meeting:

“The Board should know that in the event that we cannot agree a legal and proper way forward that is agreeable to all director, and provide us with an indemnity for all actions and liabilities, we are fully prepared and absolutely ready to make the protected disclosures already notified, without further discussion and without further notice”.

This statement by Mr Potter was the subject matter of the blackmail charge.

- 4.7. On 4 October 2021, following a police investigation, Mr Potter was issued with a Notice of Criminal Charge for blackmail.
- 4.8. Mr Potter entered a not guilty plea and the criminal charge proceeded to be heard at Bournemouth Crown Court. The first trial commenced in July 2022 and resulted in a hung jury. The second trial took place on 13 March 2023.
- 4.9. On 23 March 2023, Mr Potter was found guilty and convicted of blackmail under s.21(1) of the Theft Act 1968 at Bournemouth Crown Court. And on 23 May 2023, before Bournemouth Crown Court, Mr Potter was sentenced to 1 year imprisonment suspended for 2 years, and 240 hours unpaid work.

Non-Agreed Mitigation

5. The following mitigation, which is not agreed by the SRA, is put forward by Mr Potter:
 - 5.1. Mr Potter has a exemplary past record and no previous convictions, with no evidence of repetition of the misconduct, or a pattern of misconduct, and is of previous good character.
 - 5.2. Mr Potter has enjoyed a long and successful career and maintained an unblemished reputation for honesty and integrity amongst clients and colleagues.
 - 5.3. Mr Potter has apologised for his actions and lack of judgment and expressed genuine remorse and recognises that his actions and judgment have fallen well below the exacting standard expected of a professional and person qualified as a solicitor.

- 5.4. Mr Potter has demonstrated genuine insight into his action and acknowledges that he crossed the line beyond what is legal and acceptable conduct.
- 5.5. Mr Potter has at all times cooperated with the police, courts and the SRA during their investigations.
- 5.6. Mr Potter was facing personal challenges at the time leading up to and including the offence, all against the backdrop of COVID. Mr Potter's mother-in-law was dying and both of his parents were suffering from ill health.
- 5.7. The time taken to bring the case to the criminal court, with the first original trial in July 2022 resulting in a hung jury and the second re-trial in March 2023, and the conviction has taken a significant toll on Mr Potter, mentally and physically. Mr Potter spent 14 days in intensive care last summer (2023) suffering from pulmonary embolism.
- 5.8. Mr Potter sees no prospect of securing any meaningful future employment in either the legal or financial services where he has spent his entire career. Mr Potter's inability to work, and the very considerable legal costs incurred in defending himself over two trials, as well as costs of moving house, in part to fund his legal costs, have had a lasting and significant impact on his finances and he is currently living off his savings and facing an uncertain financial future, with fear that Mr Dimmock will pursue further actions against him.

Penalty proposed

6. It is therefore proposed, and Mr Potter accepts, that the proper penalty in this case is for him to be struck off the Roll of Solicitors.
7. With respect to costs, it is further agreed that Mr Potter should pay the SRA's costs of this matter agreed in the sum of £4,158.00.

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

8. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (10th edition), at paragraph 48, states that: "*Where the Tribunal has determined that: the seriousness of the misconduct is at the highest level, such that a lesser sanction is inappropriate; and*

the protection of the public and/ or the protection of the reputation of the legal profession requires it the Tribunal will strike a solicitor's name off the Roll". The guidance goes on to state at paragraph 56: *"Striking off can be appropriate in the absence of dishonest where, amongst other things:*

- *the seriousness of the misconduct is itself very high; and*
- *the departure by the respondent from the required standards of integrity, probity and trustworthiness is very serious".*

The guidance states at paragraph 57, *"In such cases, the Tribunal will have regard to the overall facts of the misconduct, and in particular the effect that allowing the respondent's name to remain on the Roll will have upon the public's confidence in the reputation of the legal profession – see in particular **Solicitors Regulation Authority v Emeana, Ijewere and Ajanaku [2013] EWHC 2130 (Admin)**".*

9. It is noted from the sentencing remarks that Mr Potter's comments that gave rise to the blackmail conviction was planned with Mr Price before the meeting, and the recording of the zoom meeting shows that he was reading out their demands. Mr Potter had direct control for making the comments that gave rise to the blackmail conviction and the comments were consciously made.
10. Mr Potter's comments were motivated with a view to gain for himself (and Mr Price) a financial outcome by using the threat to report Mr Dimmock and/ or the Company to the FCA. This was an unwarranted demand that qualified as blackmail and Mr Potter was convicted accordingly.
11. Given the level of culpability demonstrated by Mr Potter in paragraphs 9 and 10 above, it is assessed that his culpability for his actions was therefore high.
12. It is noted from the sentencing remarks that the conduct by the Respondent directly affected Mr Dimmock and caused him high levels of stress and concern.
13. The operation of legal services depends on the public being able to place its trust in people who work in the legal sector. Public confidence and trustworthiness of the profession is likely to be undermined as Mr Potter, a solicitor and officer of the court, has:

- 13.1. Blackmailed and sought to leverage support for his own (and Mr Price's) financial self-gain and/ or at the expense of Mr Dimmock; and/ or
 - 13.2. Been convicted of a criminal offence, which is serious enough to receive a custodial sentence (2 years suspended).
14. It was noted in the sentencing remarks by the Judge that the very nature of Mr Potter's conduct (blackmail) is considered "*always a serious offence*" and that it was assessed within the medium culpability and at level 2, which resulted in a sentence of 1 year imprisonment (suspended for 2 years) and 240 hours of unpaid work.
15. The nature of the conduct and the custodial prison sentence imposed demonstrate how serious the conduct is and demonstrates that Mr Potter has failed to act with integrity and behave to high ethical standards expected of a solicitor, which is a higher level of harm to the legal profession's reputation.
16. The principle factors that aggravate the seriousness of Mr Potter's misconduct are:
- 16.1. The misconduct involved the commission of a criminal offence;
 - 16.2. The misconduct was deliberate and planned in advance;
 - 16.3. The misconduct was motivated by his own (and Mr Prices') financial self-gain; and
 - 16.4. The misconduct (blackmail) is by its very nature serious. Given the duties and functions of solicitors and the trust placed in them by the public, the effect specifically of a conviction for blackmail undermines the public trust in solicitors (above other kinds of conviction because of its nature). Therefore, he knew or ought to have known that his conduct was in breach of obligation to protect the public and the reputation of solicitors in the legal profession.
17. The principle factors that mitigate the seriousness of Mr Potter's misconduct are:
- 17.1. The misconduct was a single episode, with no history of any other regulatory concern, and was against a backdrop of Mr Potter's previously unblemished career;

17.2. He has demonstrated genuine insight into his actions and acknowledges that he crossed the line of what is acceptable conduct; and

17.3. He has co-operated with the SRA's investigation and updated the SRA at the key stages during the criminal proceedings.

It is agreed that none of these factors mitigate the misconduct to a degree that striking off is unnecessary.

18. The relevant provisions of the SDT Guidance Note on Sanctions have been considered and it is assessed that striking Mr Potter off the Roll would be in accordance with that guidance as:

18.1. the seriousness of the misconduct is at the highest level and Mr Potter departed from the required standards of integrity, probity and trustworthiness (as set out at paragraphs 11, 13, 14, 15 and 16 above); and

18.2. it is required for the protection of the public and/ or the protection and/ or confidence of the reputation of the legal profession (as set out at paragraphs 13, 15 & 16.4 above).

In all the circumstances of the case, it is therefore proportionate and in the public interest that Mr Potter should be struck off the Roll of Solicitors.

[REDACTED]
[REDACTED] Head of Legal and Enforcement, on behalf of the SRA

[REDACTED]
Michael Potter