

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No.12618-2024

BETWEEN:

ANDREW REEVES

Applicant

and

SOLICITORS REGULATION AUTHORITY LTD

Respondent

Before:

Ms A Horne (in the Chair)

Ms C Rigby

Mr R Slack

Date of Hearing:

20 September 2024

Appearances

Lewis MacDonal, barrister of 2 Hare Court, Temple, London, EC4Y 7BH for the Applicant.

Inderjit Johal, barrister in the employ of the Solicitors Regulation Authority Ltd (“SRA”), for the Respondent.

JUDGMENT ON AN APPLICATION FOR TERMINATION OF AN INDEFINITE SUSPENSION

Documents

1. The Tribunal considered all the documents in the case which included an agreed electronic bundle on CaseLines.

Legal Framework

2. The Applicant's application for termination of his indefinite suspension is made under section 47(1)(d) of the Solicitors Act 1974 (as amended) (the 1974 Act). By virtue of section 47(2) of the 1974 Act, the Tribunal has on the hearing of the present application, power to make such order as it sees fit (including, but not limited to, the termination of an unspecified period of suspension (Section 47(1)(e))).
3. In accordance with the Tribunal's Guidance Note on Other Powers of the Tribunal (6th edition) ("the Guidance"), an indefinite suspension can be terminated only by the Tribunal upon the application of the Respondent (who becomes the Applicant for the purpose of their application).
4. The Tribunal will need to be satisfied that lifting of the indefinite suspension would not adversely affect the reputation of the legal profession, nor be contrary to the interests of the public.
5. An application for the termination of an indefinite suspension must be supported by evidence of changed circumstances sufficient to justify the application.
6. In considering an application to terminate an indefinite period of suspension, the Tribunal will have regard to the following factors, which are guidance only and which are not intended to be an exhaustive list:
 - a) Details of the original order of the Tribunal leading to suspension. The Tribunal should consider this information for guidance as to the seriousness and circumstances of the original breach or misconduct, and the steps the Tribunal regards as being relevant in supporting an application.
 - b) If the suspension was imposed due to concerns regarding the applicant's fitness to practise due to physical or mental ill-health or addiction, evidence of rehabilitation and future prognosis must be provided from a suitably qualified expert.
 - c) Evidence must be provided to establish any training undertaken by the applicant or that they have kept their legal knowledge up to date in their area of practice.
 - d) Evidence of any employment, together with safeguards and supervision which have been put in place by the applicant's employer, or alternatively a stringent oversight of the applicant's potential employment together with third party risk and personal management arrangements to be put in place by a prospective employer.

- e) Evidence of genuine reformation of character of the applicant, including evidence of insight into the nature and effects of the misconduct, and steps taken by the applicant to ensure that the wrongdoing does not reoccur.
- f) The length of time since the suspension was imposed.
- g) Whether the Tribunal which made the original order, having paid due regard to its inability to fetter the discretion of any future Tribunal considering an application for the termination of the suspension, indicated that it had in mind the possibility of an eventual termination of the indefinite suspension.
- h) Whether there is any continuing risk to the public.
- i) Whether the Tribunal considers that the public would not harbour concerns about the propriety of the applicant returning to practice.
- j) If the suspension was subject to conditions, evidence that they have been complied with.
- k) If financial penalties were imposed, evidence that they have been discharged or attempts made by the applicant to discharge them.
- l) Character references.
- m) The Regulator's response to the application.
- n) Responses received by the Tribunal from others under Rule 17 (7) of the Solicitors (Disciplinary Proceedings) Rules 2019 following the applicant's advertisement of their application as required by Rule 17 (6) of those Rules.

Background

7. The Applicant was admitted to the Roll of Solicitors on 1 October 1986. At the time of the misconduct giving rise to his suspension, he was a sole practitioner under the style of JW Reeves & Co ("the Firm").
8. On 9 May 2011, the Applicant appeared before the Tribunal. The allegations against him were that:

"5.1 He had failed to deliver accountant's reports:

5.1.1 for the period 20 September 2006 to 19 September 2007.

5.1.2 for the period 20 September 2007 to 31 March 2008.

5.1.3 for the period 1 April 2008 to 31 March 2009.

5.1.4 for the period 1 April 2009 to 20 September 2009.

5.2 He had failed to comply with a decision of the Adjudicator dated 6 May 2010 and therefore behaved in a way that was likely to diminish the trust the public placed in him or the legal profession contrary to Rule 1.06 of the Solicitors Code of Conduct 2007 (the "Code of Conduct").

5.3 He had failed to deal with the SRA in a prompt and cooperative way contrary to Rule 20.05 of the Code of Conduct.

5.4 He had failed to keep his books of accounts properly written up at all times contrary to Rule 32(1) of the Solicitors Accounts Rules 1998.

5.5 He had failed to reconcile his client account contrary to Rule 32(7) of the Solicitors Accounts Rules 1998"

9. On 21 September 2009, the Firm closed.
10. On 19 November 2009, the Respondent requested the accountant's reports detailed in paragraphs 5.1.1 and 5.1.2 above. By the time of the Adjudicator's decision dated 18 March 2010, the third and fourth accountant's reports had fallen due. The Applicant was directed by the Adjudicator to deliver all four reports by 31 March 2010 but failed to do so.
11. On 24 June 2010, the Respondent commenced an investigation into the Applicant's books of accounts, and it was determined that they had not been properly written up.
12. On 24 June 2010, the Applicant informed the SRA's Investigation Officers that no accounts were available, and no client account reconciliations had been carried out. He stated he last performed client account reconciliations in 2008 but was unable to evidence this. He did, however, produce a client account reconciliation from September 2006.
13. On 6 May 2010, the Adjudicator ordered the Applicant to pay compensation in the sum of £1,700 and a refund of fees in the sum of £1,762.50 to a client, within seven days of the date of the letter enclosing the decision. The letters were not responded to and those sums were not paid to the client.
14. The Applicant admitted all allegations, and the Tribunal found the admissions to have been properly made and the allegations proved. In mitigation, the Applicant stated the misconduct had come about predominantly because he was distracted by the serious medical condition that his young son had. This required him to attend many hospital visits and lengthy surgical procedures over the time of the misconduct. While he failed to deliver the accountant's reports, he had kept all the necessary documents to prepare accounts.
15. He had suffered from depression, but it was improving. Due to financial difficulties, he had been unable to comply with the Adjudicator's decision. Although he had not promptly communicated with the Respondent, he had been frank and open. He had taken steps to merge the Firm with another, in an attempt to avoid bankruptcy.

16. The Applicant was ordered to pay a fine in the sum of £750 and the Respondent's costs in the sum of £3,500. The Tribunal further ordered that unless the Applicant provided the Respondent with the missing accountant's reports by 3 January 2012, he would be suspended for an indefinite period commencing on 4 January 2012. He failed to provide the same by that date (or at all) and so was made subject to an indefinite suspension.
17. By way of an application dated 1 June 2024 the Applicant sought to have that indefinite suspension terminated.

The Application for Termination of the Indefinite Suspension

18. The Applicant gave oral evidence before the Tribunal. Having adopted matters set out in his witness statements, he was cross-examined by Mr Johal.
19. He said that since his suspension, he has worked for a bank, dealing with their recoveries, and that he had gained additional experience in the financial and business sectors. He continues in this employment.
20. Some of his former clients had retained his contact details. He had represented a few of them in court hearings, acting as a McKenzie Friend, but was also given a right of audience in order to present their cases by the presiding Judge.
21. During such hearings he had been open with the Judges by saying that he was a solicitor without a practising certificate, and so he required the Judges' permission to address the Court.
22. Mr Johal put it to the Applicant that he had misled the Judges by omitting to state, when he should have, that the absence of a practising certificate was not an active choice but one forced upon him due to his being suspended. The Applicant denied that he had in any way misled a Court and said that he had stated matters truthfully and correctly. He said he had not been selective with the information he presented to judges, as suggested by Mr Johal, who put it to him that being a suspended solicitor would have been a relevant fact to disclose to a Judge when asking for permission to address the court. The Applicant did not think that the fact that he had been suspended was a material factor which the Court should have been made aware of.
23. As to the Applicant's character references, Mr Johal noted that one significant character reference was from Mr Rivzi, the Applicant's former manager at the bank. However, Mr Rivzi had left the bank in 2016, so his knowledge of the Applicant could not be classed as current.
24. The Applicant said that he had worked very closely with Mr Rivzi from 1998 to 2016, and so Mr Rivzi knew him and his history well. The problem he had was that, although well regarded by the current CEO of the bank, he (the CEO) had been reluctant to provide a reference due to the risk of adverse publicity for the bank. In addition, the CEO had not wanted the name of the bank mentioned in the Tribunal's judgment.
25. In answer to a question as to why he had waited so long before applying to the Tribunal, the Applicant said that he had wanted to 'right the ship', i.e. get his life in order before doing so. This had taken some time, but he was now in a stable position. He had had

informal discussions with contacts in law firms regarding job offers, but he had not wanted to apply for positions when his suspension was still in existence. He had not been aware that law firms could have employed him subject to permission from the SRA. Even if he had, he did not think it would have been a realistic proposition for him to have applied due to his lack of a practising certificate and other personal circumstances.

26. In response to questions from the Panel concerning the extent to which he had kept himself up to date during his 12 years of not practising, the Applicant said that he had regularly taken courses of perhaps 45 minutes to an hour duration. These courses comprised case studies, narrative and questions at the conclusion of the case. All of this training had involved on-line rather than in-person courses. He had supplied the Tribunal with certificates demonstrating that he had passed the tests set at the conclusion of these courses, many of which had required an 80 percent pass mark. These were effectively 'open book' tests and could be repeated until the 'pass mark' was obtained. There was no process to ensure secure invigilation or identification of the student. The courses had been organized through the bank and related, for example, to financial compliance, anti-money laundering and conduct matters.
27. The Applicant said that although he wanted to get back to being a practising solicitor, he wanted to make a careful return, because he was aware that the legal world had changed very much since the imposition of his suspension, and that he would need to take the necessary courses to update his knowledge on current legal practice.
28. In answer to a question from the Chair as to his motivation for setting up his own practice in 2005, the Applicant said that he thought he could provide clients with the services they needed, and at a lower price point, in his own sole practice; he had wanted to help people. The work he did concentrated on banking law, commercial litigation and insolvency.
29. For the first year and a half his Firm produced accounts and an accountant's report, which were sent to the SRA. However, due to his personal circumstances the financial administration of his Firm began to spiral away from him, leading to the events which resulted in his indefinite suspension.
30. The Chair asked if the Applicant understood the importance of producing accounts and obtaining an accountant's report, and how it was that he could say in the absence of such accounts that no client had lost money due to the chaotic financial administration at his Firm. In response, the Applicant said that client money could only be used in certain ways and only with the client's consent. Despite the lack of practice accounts, and the records from which such accounts could be created, he was sure that no client had lost money as he knew all the files and had been aware of every transaction. He had been a sole practitioner, and he alone had carried out all transactions. He was sure that no client monies could have gone amiss, notwithstanding that his employed bookkeepers had apparently made multiple mis-postings.
31. The Chair asked if the Applicant had ever sought treatment for the depression, to which he had referred at several points in his evidence. He said he had not.

32. In re-examination, the Applicant said that with regard to acting as a Mackenzie Friend, if any Judge had asked him why he did not have a practising certificate, he would have told them that it was because of his suspension and given brief reasons for his suspension.

Applicant's Submissions

33. In support of the application Mr MacDonald submitted that:
- The Applicant does not present any risk to the public.
 - That the termination of the suspension would not adversely affect the reputation of the legal profession, nor be contrary to the interests of the public.
 - That any residual concern could be readily dealt with by conditions on the Applicant's return to practice.
34. Mr MacDonald said that the original allegations, found proved by way of admission, consisted of 1. failure to deliver accountant's reports covering accounting periods from September 2006 - September 2009; 2, failure to comply with a decision of the Adjudicator; 3, failure to deal with the SRA in a prompt and cooperative way; and 4, two breaches of the Solicitors Accounts Rules 1998.
35. The Tribunal, in its 2011 findings recorded its "*every sympathy with the Respondent [now the Applicant]*" and its consideration of the "*sad circumstances surrounding his son's health problems.*" It imposed a fine of £750, costs of £3,500, and effectively gave the Applicant 7 months to deliver the outstanding accountant's reports to the SRA by ordering that, unless he did so by 3 January 2012, he would be suspended for an indefinite period to commence on 4 January 2012.
36. At the time, the Applicant was dealing with multiple competing crises in his life:
- He was experiencing severe financial difficulties, exacerbated by the 2008/09 financial crisis, and eventually leading to his bankruptcy on 19 November 2013.
 - His son, born in 2004, had been extremely ill at the time, having been diagnosed with a serious illness in 2007 (*the full details of which were made known to the Tribunal*), and having had major operations in June 2008 and November 2009. He had required constant care.
 - He also had a daughter to care for, born in 2002.
 - His marriage broke down, and he was living at times in the family home and at times in bed and breakfast accommodation.
37. Despite these difficulties, the Applicant made a concerted effort to prepare and deliver the necessary accountant's reports. Ultimately, the problems he encountered in reconstructing the necessary financial information, combined with the other competing pressures on the Applicant, proved too much for him; he did not comply with the requirement to file the outstanding reports, the deadline for which passed on the same

day as the Applicant's son had a further serious operation. The Applicant had ceased practising in June 2010, having left his practice (having merged it with another firm) and moved to his in-house role at the bank, so his suspension, whilst personally devastating, made little practical difference to his working situation at that time. He made continued efforts to complete the accountant's reports, but he was not able to access papers from his previous firms, and his personal situation was still overwhelming him at that time.

38. The Applicant had gone through a tumultuous time, but he had now achieved balance in his life. In the 12 years since his suspension, the Applicant's circumstances had markedly changed for the better:
39. His bankruptcy was discharged on 19 November 2014, and the Trustee in bankruptcy vacated office in May 2017. The Applicant is now in a financially sound position, with no significant debts, and an excellent credit score.
40. He remains employed by a bank, which is supportive of him and which has afforded him regular training on matters which have considerable overlap with the work of a solicitor.
41. His son is now an adult and has the assistance of adult social care provision. Some 19 years after his son was born, the Applicant is now much better equipped to provide him with the care he required, and to cope with his son's condition.
42. It was accepted by the SRA that the Applicant had shown insight into his original failings which he admitted at the time. That said, and having learnt a salutary lesson by reason of his suspension, the Applicant had no plans to work as a sole practitioner ever again. It was submitted by Mr MacDonald that this was hardly surprising for a man who had lost everything as a result of his failings in 2008-2011, and from which it had taken him over 10 years to recover. However, if the Tribunal had any lingering doubts, then it could impose a condition to prevent the Applicant from doing so.
43. Mr MacDonald said there was no real risk of repetition, or risk to the public, because similar failings would be very unlikely to arise for an employed solicitor or consultant. Repetition was in any event unlikely for a solicitor with a previously unblemished record, and who had learned a hard lesson.
44. Whilst the Applicant had not practised as a solicitor for 14 years, he had continued to work in the same sector in which he had been practising, by providing support and instructions to the bank's external solicitors. This work was well within his original area of practice.
45. He had effectively continued to operate in the same area, albeit not conducting reserved legal activities himself. The Applicant had character references attesting to his professional and personal qualities, and he was described as an 'excellent commercial litigator' by one of his referees.
46. Mr MacDonald said that it was true that the Applicant had no pending offer of employment in a law firm, should the suspension be lifted. However, he had been in something of a 'Catch 22' situation as the Applicant could not get a legal role without

the suspension being lifted and he could not have the suspension lifted without having an offer of a legal role. That said, the Tribunal could be completely satisfied that when the Applicant did seek and obtain such a role, the firm he joined would be made aware of his regulatory history and requisite safeguards would be set in place.

47. As to acting as a Mackenzie Friend in court, on the handful of occasions when he had done so, he had not stated anything which had been untrue as to his history i.e. he was a solicitor without a practising certificate, and he required the court's permission to make representations on behalf of the party whom he represented.
48. If the Tribunal had any residual concerns about the Applicant being up to date in his knowledge and skill set, then it was submitted that this could be dealt with by a condition to complete a set number of CPD hours in areas such as litigation, civil procedure, and the current Standards and Regulations.
49. Assessing the application in the round, it had not been intended by the Tribunal that the Applicant should have remained suspended for over 12 years; indeed, it had been the hope and expectation that the missing accountant's reports would be produced in good time, and so the suspension would never have come into effect. The fact that the suspension had come to pass had been the unintended consequence of the Applicant's own failures, precipitated by unique personal circumstances with which, in Mr MacDonald's submission, any human being would have struggled to cope. It was submitted that it was proportionate and in the public interest that the Applicant be allowed to return to practice.
50. Whilst it was the Applicant's primary position that his own professional responsibility and salutary experience were sufficient to mitigate any possible risk posed by his return to the profession, Mr MacDonald said that any residual risk could be managed by proportionate conditions for the protection of the public and the maintainance of confidence in the reputation of the profession, such as:

(i) That he does not practise as a sole practitioner for [X] years;

(ii) That he notifies the SRA of any post taken up requiring a practicing certificate, and of the management and supervision provisions in place as part of any such post.

(iii) That he complete CPD of [X] hours, covering a litigation update, a Civil Procedure Rules update, and the Standards and Regulations, within 6 months, and provide a summary and record of that CPD to the SRA.

51. Mr MacDonald said that, in all the circumstances, it would be disproportionate to allow the suspension to continue and that it should be lifted, and he invited the Tribunal to grant the application, and to terminate the suspension.

Respondent's Submissions in Opposition

52. Mr Johal opposed the Applicant's application on the basis that the Applicant had not sufficiently met the criteria outlined in the Guidance. Specifically:

- He had not made it clear what his intentions were as regards practising as a solicitor again, beyond saying what he did not intend to do so. He had not produced any evidence of proposed employment, or the safeguards that would be put in place to mitigate any risk of repetition.
 - He had failed to provide evidence of any up-to-date knowledge or training. There had been many changes in the regulatory framework since 2011, and the Respondent was not satisfied that the Applicant could demonstrate current awareness of the Rules and Regulations with which he would be obliged to comply.
53. Mr Johal said that the essential issues for the Tribunal were the protection of the public and maintenance of public confidence in the good reputation of the solicitors' profession.
54. Mr Johal noted that the previous findings of the Tribunal concerned the Applicant failing to prepare four accountant's reports covering the period September 2006 to September 2009. He failed to comply with an Adjudicator's decision which directed him to pay compensation to a client in the sum of £1,700 and a refund of costs in the sum of £1,762.50, failed to cooperate fully with the Respondent, and he had failed to keep accounts written up properly and to reconcile his Firm's client account.
55. The Applicant asserted in his current application that "*It was accepted by the Tribunal that.... I caused no risk to the public and that the reputation of the profession was not an issue.*". Mr Johal said the Respondent did not accept this assertion as the original misconduct had clearly created a risk to the public, and harm to the reputation of the profession, given that a breach of Rule 1.06 of the Code of Conduct was admitted and found proved by the Tribunal in 2011; the Applicant had been sanctioned by way of an unless order and, following his repeated and further non-compliance, he was made subject to an indefinite suspension.
56. Whilst the Respondent commended the Applicant on the steps he had taken to rehabilitate himself, Mr Johal said that the Respondent still had concerns that there were areas of risk which had not been addressed, or adequately addressed, by the Applicant. For example, the Applicant could not demonstrate that he had kept up to date with developments in legal practice as he had not sought or taken up a position within a law firm; he did not have an offer of employment, and there was no information from him as to how he would be supervised should the suspension be lifted. Evidence of such matters was usual in an application of this nature, but notably absent in the Applicant's case.
57. Mr Johal invited the Tribunal to dismiss the application or, if it was not minded to do so, to impose stringent conditions upon the Applicant's practice.

The Parties' Submissions upon the criteria in the Tribunal's Guidance Note on Applications for Termination of a Period of Suspension: the Applicant and Respondent made the following submissions:

58. *"details of the original order of the Tribunal leading to suspension. The Tribunal should consider this information for guidance as to the seriousness and*

circumstances of the original breach or misconduct and the steps the Tribunal regards as being relevant in supporting an application.”

Applicant

58.1 The original order leading to suspension did not record conduct that was so serious it could only be dealt with by an indefinite suspension [under the modern Guidance, requiring the highest level of misconduct that can appropriately be dealt with, short of striking off the Roll], and the Tribunal had no doubt hoped and intended that no suspension would ever come into force.

Respondent

58.2 No submissions.

59. *“if the suspension was imposed due to concerns regarding the applicant’s fitness to practise due to physical or mental ill-health or addiction, evidence of rehabilitation and future prognosis must be provided from a suitably qualified expert.”*

Applicant

59.1 The suspension was not as a result of concerns about the Applicant’s physical or mental health, although for completeness Mr MacDonald said that the Applicant’s mental health had significantly improved since the time of the misconduct.

Respondent

59.2 No submissions.

60. *“evidence must be provided to establish any training undertaken by the applicant or that they have kept their legal knowledge up to date in their area of practice.”*

Applicant

60.1 The Applicant, it was submitted, had provided the Tribunal with evidence of training and knowledge in commercial and banking law, as well as in banking regulation, which shared many common features of legal regulation. Significantly it was said that the Applicant had continued to work in the same sector throughout his career, including while he has been suspended, albeit not performing any reserved activities in that latter period.

Respondent

60.2 The Applicant had not provided any evidence of any training undertaken to keep his legal knowledge up to date in his area of practice. In his Witness Statement, he stated that prior to his suspension he practised in banking, insolvency, property and commercial litigation. Since January 2011, he had worked at a bank (initially as a consultant), dealing with recovery matters and he has, since 1 April 2021, been providing these services as an employee of the bank.

- 60.3 He had also provided consultancy services to other individuals (who were former clients of his Firm), and had attended court hearings either as a McKenzie Friend, or exercising rights of audience as an exempt person on their behalf. He did not state whether he informed the judge that he is a solicitor subject to an indefinite suspension, or whether he had informed his current employer of this fact.
- 60.4 His CV only showed his work experience up until 2018. He did not specify where he had been working since then, aside from stating he is working at a bank. He had not explained or provided evidence as to how he has kept his legal knowledge up to date or any training courses that has attended in this regard.
61. ***“evidence of any employment together with safeguards and supervision which have been put in place by the applicant’s employer or alternatively a stringent oversight of the applicant’s potential employment together with third party risk and personal management arrangements to be put in place by a prospective employer...”***

Applicant

- 61.1 Mr MacDonald said that the Applicant does not currently work in a role that requires a practising certificate. However, he had provided a reference from Mr Rizvi who had worked with the Applicant from 2000 to 2016, including in his current role, and who had known him ever since. It was difficult if not impossible for an Applicant without a practising certificate to apply to new firms for a role that would require a practising certificate. Nonetheless, if any conditions regarding the Applicant’s supervision were thought necessary, the Tribunal had the power to impose them upon terminating the suspension.

Respondent

- 61.2 The Applicant had not explained his career aspirations, or his immediate intentions if his suspension is lifted, and simply states that he proposes to make enquiries to undertake consultancy work for established firms. He states he cannot be specific at this time given that he does not have a practising certificate, and so is not in a position to apply for a role which requires one. He would likely remain in his current role in the bank and undertake additional consultancy work in practice.
- 61.3 Mr Johal said that the Applicant had not provided any further details of his current employer, or any prospective employer, or any details of how he would be supervised/managed if he were to return to practice. The Applicant’s application was supported neither by evidence of the safeguards and supervision in place with a current employer, nor any information from, or relevant to, a potential employer, addressing third party risk and personal management arrangements.
- 61.4 On the information regarding potential employment, the Applicant had not provided any evidence of the stringent oversight that would be necessary
62. ***“evidence of genuine reformation of character of the applicant including evidence of insight into the nature and effects of the misconduct and steps taken by the applicant to ensure that the wrongdoing does not reoccur.”***

Applicant

62.1 Mr MacDonald stated that this factor had been addressed above.

Respondent

62.2 Mr Johal said that the Applicant's Witness Statement evidenced some insight into his past behaviour. The Applicant stated that he regrets his conduct and has learnt lessons from it. However, he has not provided evidence of steps he would take, or the safeguards he would put in place, to ensure the behaviour was not repeated.

63. ***“the length of time since the suspension was imposed.”***

Applicant

63.1 Mr MacDonald said that 12 years was an exceptionally long period for the suspension to have been in force.

Respondent

63.2 The indefinite suspension was imposed over 12 years ago; however, the Applicant had not provided any evidence of what he has done during this time to allay the Respondent's concerns about his ability to practise safely.

64. ***“whether the Tribunal which made the original order, having paid due regard to its inability to fetter the discretion of any future Tribunal considering an application for the termination of the suspension, indicated that it had in mind the possibility of an eventual termination of the indefinite suspension.”***

Applicant

64.1 As outlined above, Mr MacDonald said the original Tribunal did not intend or contemplate that the suspension would necessarily come into force at all, let alone subsist for over 12 years.

Respondent

64.2 Mr Johal observed that the Applicant had applied to adjourn the original substantive hearing in order to give him the opportunity to instruct a bookkeeper to collate the necessary information and retrospectively produce the outstanding accounts, and thereafter to obtain and deliver the required accountant's reports. He had said that two months would be sufficient to allow him to do this. He provided the Tribunal with assurances there would be no repetition of his previous unfulfilled assurances that the missing information would be provided. The adjournment application was refused, and the hearing proceeded, and the Applicant was given an opportunity, by virtue of the Tribunal's Order, to deliver the necessary accountant's reports to the Respondent. Despite having said that he could do so within 2 months, the Tribunal was sceptical that he would achieve this and gave him 7 months. Had the Applicant complied with that order, he would have avoided an indefinite suspension.

65. ***“whether there is any continuing risk to the public.”***

Applicant

65.1 For the reasons outlined above, it was submitted that there was no such risk.

Respondent

65.2 The Applicant had not adequately demonstrated what had changed since he had been suspended. He states that at the time of the misconduct, he was going through a period of financial difficulty and was adjudged bankrupt. The bankruptcy order was discharged on 19 November 2014. He states that he now needs to improve his financial position in order to prepare for retirement. The Applicant has not addressed whether he presents a continuing risk to the public.

66. ***“the Tribunal considers that the public would not harbour concerns about the propriety of the applicant returning to practice.”***

Applicant

66.1 It was submitted by Mr MacDonald that the public would not harbour any such concerns, and the profession would be richer for the Applicant’s experience, and his determination in having overcome substantial hardship as a result of his previous errors.

Respondent

66.2 The public may be concerned that the Applicant had not demonstrated that he has up to date knowledge of the Standards and Regulations, and the requirements expected of a solicitor, given that he has not practised for over 12 years. The public may also consider that the propriety of the Applicant returning to work in the profession required greater scrutiny particularly in the light of his previous history of repeated non-compliance, not only with decisions made by his regulator, but also with orders made by the Tribunal.

67. ***if the suspension was subject to conditions, evidence that they have been complied with...***

...if financial penalties were imposed, evidence that they have been discharged or attempts made by the applicant to discharge them.”

Applicant

67.1 The Applicant had paid a portion of the financial orders made against him. Mr MacDonald said that to treat any remaining orders as not discharged was to misunderstand the legal effect of a bankruptcy and subsequent discharge from it, which event discharges the remainder of a bankrupt’s debts.

67.2 Whilst the relevant accounts and accountant’s reports were never able to be submitted, Mr MacDonald said that to do so now would serve little purpose after this length of time. Any attempt to reconstruct the accounts would be no more than symbolic at this remove.

Respondent

67.3 A full and final settlement figure in the sum of £4,000 was agreed with the Applicant by the Respondent, in satisfaction of the Costs Order made in the Respondent's favour by the original Tribunal. This agreed sum was to be discharged by instalments. Payments in the sum of £2,600 were made by the Applicant. Following the Bankruptcy Order on 19 November 2013, the remaining amount was not recoverable.

68. ***“Character references”***

Applicant

68.1 The Applicant had provided positive character references, one from a member of the legal profession, and had 24 years of unblemished practice other than the matters that led to his suspension.

Respondent

68.2 The Applicant provided three-character references. It should be noted that only one was from an individual who works within the legal industry. The reference of Graham Arthur Dowse (in the form of a witness statement dated 14 May 2024) was more an explanation of the efforts made to compile the accounts, than it was a character reference in support of the Application.

68.3 An application for termination of an indefinite suspension is not an appeal against the original decision to impose the suspension. The reference from Syed Rizvi states: *“I called Andrew in January 2011.. Andrew explained to me at our meeting that he was not able to practise as a solicitor as he had not applied for a practising certificate for that year.”* It is not clear if the Applicant informed him that he was under investigation by the Respondent.

69. ***“the regulator’s response to the application.”***

Applicant

69.1 The SRA had provided a qualified response to the application, saying that *“the Respondent at this time opposes the Application”*. Mr MacDonald said that the concerns outlined in that response had been addressed by the foregoing submissions and any residual concerns could be readily dealt with by conditions.

Respondent

69.2 In all the circumstances, Mr Johal submitted that the Applicant's application for the termination of his indefinite suspension was not supported by evidence of changed circumstances sufficient to justify the lifting of the indefinite suspension. This was not an exceptional case.

70. ***“responses received by the Tribunal from others under Rule 17 (7) of the Solicitors (Disciplinary Proceedings) Rules 2019 following the applicant’s advertisement of their application as required by Rule 17 (6) of those Rules.”***

Applicant

- 70.1 The Applicant provided the Tribunal with evidence that he had placed adverts in the prescribed format in The Law Society Gazette and in Wokingham Today (a newspaper circulating in the area of the Applicant's former practice) published on 12 and 18 July 2024 respectively. As at the date of the hearing there had been no objections to his application for termination of the indefinite suspension, and this went in favour of granting the application.

Respondent

- 70.2 No submissions.

The Tribunal's Decision

71. The Tribunal had due regard to the Applicant's rights to a fair hearing 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
72. The Tribunal also had regard to the Guidance Note, which set out the factors that it would take into account when considering an application of this nature.
73. The Tribunal accepted that the Applicant's application was not premature, some 12 or 13 years had passed since the making of the order.
74. The Tribunal noted also that the Applicant had presented positive character references (albeit few in number) and that there had been no objection raised by any member of the public as a result of the advertisement of his application for termination of the suspension.
75. The Tribunal recognised that the matters which had resulted in the indefinite suspension being imposed had been serious, though it did accept that there had not been an allegation of dishonesty or lack of integrity levelled against the Applicant. Nevertheless, the failure to keep accounting records properly written up, to deliver accountant's reports, to comply with an adjudicator's decision, and failing to co-operate with the regulator, were fundamental breaches of a solicitor's obligations. It was essential that the public could place complete trust in every solicitor to handle client money responsibly, and in accordance with proper accounting rules and procedures.
76. The Tribunal had listened with care to the Applicant's answers regarding the importance of abiding by the Accounts Rules and the safeguards these provided to clients. The Applicant had said that notwithstanding the failure to maintain proper accounting records he had '*known*' that no client had lost money due to the failures on his part. This belief had been based on the fact that, as a sole practitioner, he had operated each and every transaction personally and that by reason of this he knew that no client money had gone astray.
77. The Tribunal had not been entirely impressed by this answer, as the security of client monies should not depend upon a solicitor's memory alone. Memory is fallible and that is why there are rules and procedures in relation to accounts which must be followed.

The rules protect both client and solicitor from error and loss. The Applicant's confidence that (despite the absence of reliable contemporaneous accounting records, and the discovery of multiple mis-postings when the Firm's books were initially interrogated) he could safely assert that no client money had gone astray, cast doubt over his insight into the risks he had created by failing to comply with the Accounts Rules.

78. However, the Tribunal recognised that it was now unrealistic to expect the missing accountant's reports to be delivered. This is due to the absence of the source information from which accounts could be produced, exacerbated by the passage of time since the firm closed, and it took at face value that there had been no obvious loss to any client. The Tribunal considered that, should it decide to remove the indefinite suspension, any continuing risk arising from the Applicant's failure to appreciate the necessity of compliance with the Accounts Rules would need to be managed by stringent conditions.
79. The Tribunal had much sympathy with the Applicant's situation in relation to his health and the pressures within his family life at the time, which inevitably contributed to the problems in his professional life. The Tribunal was satisfied that these personal issues were matters which he had overcome, and that, as he had said, *'the ship had been righted'*. His bankruptcy had been discharged; his son was now an adult and was receiving appropriate care, and both the Applicant's personal and professional life was stable.
80. As to evidence of training, the Applicant had provided a wealth of certificates as proof of training courses he had attended. However, these related to his work within the bank, although it was said on his behalf that there was much overlap with some aspects of the law and legal practice. The Applicant submitted that, if the suspension was lifted, he would seek out more specific training and refresher courses. The Tribunal considered this to be a very important issue given that the legal world had changed greatly since the imposition of the Applicant's suspension.
81. The difficulty with this application, as the Tribunal saw it, was that the Applicant had not worked in the legal profession for many years, but he could have done so, had he applied for and been granted permission to do so by the SRA. There was no evidence therefore of safeguards being in place, or the effectiveness of supervision, both of which are necessary considerations in determining whether the Applicant could return to practise. Further, the Applicant did not have an offer of employment in the profession and so there was no evidence before the Tribunal about what arrangements would be put in place by a prospective employer to ensure that any risk to the public was monitored and managed. The Applicant merely stated that he intended to seek roles as a Consultant to a law firm. However, this was a role which would ordinarily attract the lowest level of supervision and monitoring. It therefore carried the highest degree of risk.
82. The Tribunal was reassured by the Applicant's acknowledgment that his return to legal practice would need to be carefully managed, and that he was not proposing to practise on his own again, or in a completely new area of law, but in a field which was closely related to the commercial sphere of activity he had been involved with at the bank for the last 13 years. The Tribunal noted the training the Applicant had undertaken in anti-

money laundering regulations, financial compliance and anti-corruption. He had 24 years prior experience as a solicitor, and during his time at the bank he had worked closely with its external solicitors. He had prepared instructions to legal professionals, and so in that way had kept in touch with the legal world.

83. The Tribunal accepted that the Applicant had insight into, and remorse for, his misconduct.
84. When weighing up the various factors in this case the Tribunal felt that the decision of whether to terminate the suspension was finely balanced. Given the areas where there were legitimate questions raised by the Respondent, including as to whether the Applicant had produced evidence to show that, having worked in a supervised role in a legal practice, he no longer presented a risk to the public or the profession's reputation, and so his suspension could safely be lifted, there was a proper basis for the Tribunal dismissing the application to lift the suspension.
85. However, there were matters raised on the Applicant's behalf which went some way to assuaging the Tribunal's hesitancy, such as he now had a stable personal life; he has proper control of his financial situation; he does not seek to move into an area of law outside his skill set; he accepts that conditions could appropriately be placed on his practice that would manage the continuing risk.
86. In conclusion, the Tribunal was satisfied that any residual risk or concerns the public might have regarding the Applicant returning to practice, could be managed by stringent conditions, as set out in the full order below. It is essential that the Applicant attends 'in-person' courses on the core issues of legal practice so that he understands what is expected of a solicitor in 2024. It is also important that he should not be a manager of a law firm nor hold client money until he has demonstrated a proven track record of compliance with the regulatory regime.
87. The Tribunal therefore granted the application.

Costs

88. Mr MacDonald said that his client had succeeded in his application. In doing so he had incurred his own legal fees. Whilst there was no application for the Respondent to pay those fees it was not right for the Applicant to be ordered to pay the Respondent's costs, and that the Tribunal should in all the circumstances make no order for costs.
89. Mr Johal applied for the Respondent's costs in the sum of £2,262.07. He submitted that the costs should be paid in full by the Applicant, although it was open to the Tribunal to summarily assess those costs.
90. Mr Johal submitted that the SRA acted in the public interest, and it had been a necessary party to the application. It had raised questions on the public's behalf to enable the Tribunal to examine the application with the anxious concern that was required.
91. Therefore, the SRA should be allowed its reasonable and proportionate costs of responding to the application, which were not in any event excessive, notwithstanding that the Applicant had succeeded, albeit with the imposition of stringent conditions.

92. The Tribunal was satisfied that it was right for the Applicant to pay the Respondent's costs of his application. The need for the Application had arisen from the Applicant's own conduct in failing to comply with the Tribunal's 2011 order. The Tribunal adopted the reasoning set out by Mr Johal. The Respondent was a necessary party to the application pursued by the Applicant; its costs were reasonable and proportionate; and it was unfair that those costs should be borne by the profession. The Tribunal ordered that the Applicant pay the Respondent's costs in the sum claimed.

93. **Statement of Full Order**

1. The Tribunal Ordered that the application of ANDREW REEVES for the termination of his indefinite suspension be **GRANTED** and it further Ordered that the Applicant do pay the costs of and incidental to the response to this application fixed in the sum of £2,262.07.

2. The Tribunal further Orders that the Applicant be subject to the following conditions:-

2.1 The Applicant may not :

- practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body;
- be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;
- be a Compliance Officer for Legal Practice or a Compliance Officer for Finance and Administration;
- hold client money;
- be a signatory on any client and/or office account;
- work as a solicitor other than in employment approved by the SRA.

2.2 He must:

- Notify the SRA of any post taken up requiring a practising certificate, and of the management and supervision provisions in place as part of any such post;
- Within 6 months of the date of this order complete 16 hours of in-person CPD, covering a litigation update, a Civil Procedure Rules update, and the current Standards and Regulations (to include the Code of Conduct and the Accounts Rules), to be completed to the satisfaction of the SRA.

Dated this 4th day of October 2024

On behalf of the Tribunal

A Horne
A Horne, Chair

JUDGMENT FILED WITH THE LAW SOCIETY

04 OCT 2024