

**SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11510-2016

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

PHILIP JOSEPH SHINER

First Respondent

JOHN DICKINSON

Second Respondent

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Before:

Miss N. Lucking (in the chair)

Mr L. N. Gilford

Mr S. Howe

Date of Decision: 27 January 2017

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**Appearances**

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

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**JUDGMENT IN RESPECT OF THE SECOND RESPONDENT**

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## **Allegations**

1. The Allegation against the Second Respondent was that he failed, in the period March 2013 to March 2014, to keep the Al-Sweady clients properly informed as to the progress of the Al-Sweady Inquiry and in particular as to the declining prospects of their allegations that cold-blooded executions had occurred at Camp Abu Naji (“CAN”), and thereby breached Principles 4, 5 and 6 of the SRA Principles 2011 and failed to achieve Outcome 1.12 of the Solicitors Code of Conduct 2011

## **Documents**

2. The Tribunal considered all the documents in the case including;
  - Application and Rule 5 Statement dated 12 May 2016
  - Exhibit JCG/1
  - Second Respondent’s Answer to the Rule 5 Statement dated 23 December 2016
  - Applicant’s Reply to the Second Respondent’s Answer dated 13 January 2017
  - Proposed Agreed Outcome dated 26 January 2017
  - Second Respondent’s Mitigation Statement dated 26 January 2017
  - Character References

## **Factual Background**

3. The Second Respondent was admitted to the Roll on 15 December 1973. He had not held a Practising Certificate since October 2015, but remained on the Roll. At all material times from 3 September 2012 to about April 2015, he was a solicitor employed by Public Interest Lawyers Limited (“PIL”) and was primarily engaged working on the Al-Sweady Inquiry.

## **Application for Proceedings against the Second Respondent to be resolved by way of Agreed Outcome**

4. The Applicant and the Second Respondent invited the Tribunal to deal with the Allegation against the Second Respondent in accordance with the Agreed Outcome, annexed to this Judgment. If the Tribunal was agreeable to such a course of action and matters were resolved as proposed, there would no longer be a need for a full hearing, save in the case of the First Respondent.
5. The Applicant and the Second Responded submitted that the outcome proposed was proper given the Allegation and the facts contained therein and further submitted that the appropriate level of sanction was contained within the Agreed Outcome.

## **The Tribunal’s Decision**

6. The Tribunal had due regard to 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.
7. The Tribunal reviewed all of the material put before it and referred to the Guidance Note on Sanction (December 2016). The Tribunal considered the issue of whether there was any potential prejudice to the First Respondent by the endorsement of the

Agreed Outcome. The Tribunal noted that the First Respondent also faced the same Allegation and that he had admitted it. In those circumstances the Tribunal saw nothing on the material before it that suggested the First Respondent would be prejudiced by the Agreed Outcome and was therefore satisfied that it could proceed to consider the application.

8. The Tribunal was satisfied on the evidence that the admission made by the Second Respondent was properly made. It was clear from the submissions made by the Second Respondent that he understood the case against him.
9. The Tribunal was satisfied that the proposed sanction adequately reflected the seriousness of the misconduct, having regard to the level of culpability attaching to the Second Respondent, the harm caused and the aggravating and mitigating factors that existed.
10. The Tribunal was satisfied, taking into account all of the information placed before it, that the Agreed Outcome was a proportionate and proper basis for the resolution of the Allegation against the Second Respondent. The Agreed Outcome was therefore approved by the Tribunal and proceedings against the Second Respondent were concluded in accordance with the terms of that document.

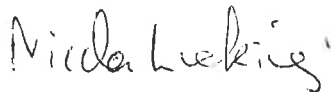
#### Costs

11. The Tribunal was satisfied that the figure for costs agreed between the parties was a reasonable and proportionate figure.

#### Statement of Full Order

12. The Tribunal Ordered that the Respondent JOHN DICKINSON, solicitor, be REPRIMANDED and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,000.00.

Dated this 13<sup>th</sup> day of February 2017  
On behalf of the Tribunal



N. Lucking  
Chairman

Judgment filed  
with the Law Society  
on 13 FEB 2017

**IN THE SOLICITORS DISCIPLINARY TRIBUNAL**

**IN THE MATTER OF THE SOLICITORS ACT 1974 (AS AMENDED)**

**BETWEEN:**

**THE LAW SOCIETY OF ENGLAND AND WALES  
(SOLICITORS REGULATION AUTHORITY)**

Applicant

**-and-**

**(1) PHILIP JOSEPH SHINER  
(2) JOHN DICKINSON**

Respondents

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**STATEMENT OF AGREED FACTS, ADMISSIONS AND OUTCOME**

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1. The Applicant and the Second Respondent, John Dickinson, jointly submit to the Tribunal for approval the Agreed Outcome set out below. All facts contained within this statement are agreed by the Second Respondent. That agreement is confirmed by his signature at the bottom of this document. The Applicant and Second Respondent have consented in advance to the same Tribunal determining the matter at the substantive hearing if the Agreed Outcome is rejected.
2. References to page numbers in this statement are references to pages in the Applicant's Rule 5 Statement dated 12 May 2016 ("the Rule 5 Statement"). The same definitions and terms have been adopted as in the Rule 5 Statement.

## **A) THE ALLEGATION**

3. The Second Respondent admits allegation 1.24, namely that he failed, in the period March 2013 to March 2014 to keep the Al-Sweady clients properly informed as to the progress of the Al-Sweady Inquiry ("ASI") and in particular as to the declining prospects of their allegations that cold-blooded executions had occurred at Camp Abu Naji ("CAN"), and thereby breached principles 4, 5 and 6 of the SRA Principles 2011 and failed to achieve Outcome 1.12 of the CoC 2011.

## **(B) STATEMENT OF THE FACTS AGREED BETWEEN THE PARTIES**

4. The facts set out in the Rule 5 Statement at paragraphs 253 to 283 are agreed by the Second Respondent unless stated otherwise below.
5. The Second Respondent accepts that he failed, within the period of approximately 1 year between the opening of the oral phase of the ASI and the concession made on 20 March 2014, to keep the clients properly advised of (a) the declining prospects of their case on executions at CAN, (b) the lack of a sufficient evidential basis to criticise the military witnesses (or the consequences in terms of future scope for the case) on executions at CAN, or (c) the likely need to concede the issue formally at the close of the oral evidence. The Second Respondent accepts that he owed a duty of care to the witnesses who were his clients and that this duty was breached by a failure to maintain the provision of this information to the clients. The Second Respondent accepts that no written summary of the military evidence was provided to the Iraqi witnesses.
6. The Second Respondent accepts that there was no sufficient reason for having failed to provide updates to the clients to take account of (a) Public Interest Lawyer's ("PIL") own assessment of the new disclosure provided by the MOD in the lead-up to the oral phase of the Inquiry, (b) the advice received by PIL from Mr Shepherd in relation to the photographic and video evidence being consistent with battlefield injuries, (c) the evidence of Mr Moore as to the timing of Captain Rands' photographs, and the implications thereof, (d) the relevance and significance of the late emerging OMS Detainee List (e) the absence of a basis for criticising the military witnesses on some allegations, or (f) the declining prospects of the case on "the executions at CAN". The Iraqi Core Participants were persons with "a significant interest in an important aspect of the matters to which the inquiry relates" (rule 5(2)(b) of the Inquiry Rules (SI2006/1838). They and the other clients represented by PIL in relation to the ASI had an interest in the ASI making particular findings on executions at CAN and were entitled to be kept informed as the prospects of that outcome being found.

7. **BB** of PIL promised updates to clients every 6 weeks on the 8 October 2013 call, but these were not provided. The Second Respondent accepts that he (the Second Respondent) failed to ensure that these reports were despatched by **BB**.
8. By 26 February 2014 (at the latest) clients should have been informed of the proposed concession on the "executions at CAN" issue. No steps to do so were taken until 7 March 2014. A letter to one client was sent on the same day as the terms of the proposed concession were circulated by Mr O'Connor QC to the Chairman and counsel for the other Core Participants. By the time PIL was able to discuss the matter with any client other than that one, the concession had already been publicly made. The Second Respondent accepts that the clients' views could and should have been taken during the course of the discussions leading up to the decision to make the concession and that he failed to ensure that they were so taken.
9. Accordingly, the Second Respondent accepts that he:
  - a. Failed to act in the best interests of each client, contrary to Principle 4 of the SRA Principles 2011.
  - b. Failed to provide a proper standard of service to the clients, contrary to Principle 5 of the SRA Principles 2011.
  - c. Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services, contrary to Principle 6 of the SRA Principles 2011.
  - d. Failed to ensure the clients were in a position to make informed decisions about the services they needed, how their matter will be handled and the options available to them, thereby failing to achieve Outcome 1.12 CoC 2011.

### **(C) MITIGATION STATEMENT**

10. The Second Respondent makes a number of observations in the appended Mitigation Statement. Some of those observations are not relevant to the allegations made against the Second Respondent and, accordingly, the Applicant does not endorse or address them in this statement. However, the Applicant accepts that ultimate responsibility and indeed control of the matter rested with the First Respondent and:
  - a. Accepts (without prejudice to its position in relation to the First Respondent) that the Second Respondent's failure to summarise the military evidence was not due to any deliberate attempt on his (the Second Respondent's) part to protect PIL from the difficulties of facing up to the growing problems

- In the case, or to manipulate the situation in order to benefit the law firm at the expense of the clients and those paying its costs; and
- b. accepts that the Second Respondent did not make any conscious decision to place the interests of PIL above the interests of the witness clients, or that he attempted to manipulate the situation in order to benefit the firm at the expense of his clients.

#### **(D) AGREED OUTCOME**

11. In view of what is set out in the statement above and the appended Mitigation Statement, subject to the Tribunal's permission and discretion, the Applicant and the Second Respondent agree to an Order of the Tribunal that:

*"the Second Respondent, JOHN DICKINSON  
be reprimanded.*

*The Second Respondent is ordered to pay a contribution towards the Applicant's costs in the sum of £2,000"*

#### **(E) SANCTIONS GUIDANCE**

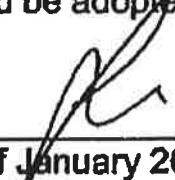
12. It is accepted by the Applicant that:

- a. The First Respondent, as sole director and shareholder of PIL, has accepted responsibility for failing to update clients and has admitted the allegation made against him;
- b. The likelihood of future misconduct by the Second Respondent of a similar nature or of any misconduct by the Second Respondent is very low. He is retired and does not intend to return to practice;
- c. There is evidence of genuine insight by the Second Respondent given his admissions as set out above and the appended Mitigation Statement;
- d. All material aspects of the single allegation against the Second Respondent have been admitted by him;
- e. The Second Respondent has no other disciplinary matters recorded against him; and
- f. There is no allegation of a lack of integrity or dishonesty against the Second Respondent.

13. For these reasons, the Applicant's considered view (with which the Tribunal is invited to agree) is that the public interest would be sufficiently served by a reprimand. A reprimand would be proportionate to the degree of culpability demonstrated by the Second Respondent's admitted misconduct and would accord with the Tribunal's sanctions guidance ('Solicitors Disciplinary Tribunal, Guidance note on sanctions', 5th Edition, December 2016) for the reasons set out above.
14. The Applicant has agreed with the Second Respondent to limit the costs ordered to a contribution of £2,000. It has done so because this allegation has been brought against the First Respondent, so the additional costs incurred because of the Second Respondent's conduct are limited. In that regard, the Applicant is also mindful that the First Respondent, who was the sole director and shareholder of Public Interest Lawyers, has also accepted responsibility for failing to update clients and has admitted the allegation made against him.


### STATEMENT OF TRUTH

I believe the facts stated in this statement are true and I agree that the outcome set out above should be adopted.

  
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Dated this <sup>26<sup>th</sup></sup> day of January 2017

John Dickinson, the Second Respondent

The Applicant, the Solicitors Regulation Authority, agrees that the outcome set out above should be adopted.

 DS MIDDLETON on behalf of the Solicitors Regulation  
Authority <sup>26<sup>th</sup></sup>  
Dated this <sup>26<sup>th</sup></sup> day of January 2017