

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11913-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

PAULA HARRIS

Respondent

Before:

Mrs J. Martineau (in the chair)

Mr J. Evans

Mrs L. Barnett

Date of Hearing: 12 February 2019

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent made by the Solicitors Regulation Authority (SRA) were that on 28 August 2018 she was convicted of three counts of Fraud by Abuse of Position and one count of Making/Supplying articles for use in fraud and thereby failed to:
 - 1.1 uphold the rule of law and the proper administration of justice in breach of Principle 1 of the SRA Principles 2011 (“the Principles”);
 - 1.2 act with integrity in breach of Principle 2 of the Principles;
 - 1.3 behave in a way that maintains the trust the public places in her and the provision of legal services, in breach of Principle 6 of the Principles.

Documents

2. The Tribunal had before it the following documents:-
 - Rule 5 Statement dated 9 January 2019
 - Statement of Agreed Facts and Indicated Outcome dated 7 February 2019

Factual Background

3. The Respondent was admitted to the Roll of Solicitors in November 2010. Her name remained on the Roll of Solicitors but she did not hold a current practising certificate. The Respondent had previously been a paralegal, trainee solicitor, assistant solicitor (from 01/11/10) and then non-member partner (from 01/05/16 to 02/04/17) at David Gray Solicitors (and from 1 May 2011 David Gray Solicitors LLP) (“the firm”).
4. On 28 August 2018 the Respondent was convicted after pleading guilty to three counts of Fraud by Abuse of Position and one count of Making/Supplying articles for use in fraud. On 26 October 2018 the Respondent was sentenced to:
 - (i). 8 months imprisonment suspended for 12 months;
 - (ii). 100 hours unpaid work;
 - (iii). Undertake rehabilitation activity for 30 days;
 - (iv). Pay a victim surcharge of £140.00

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

5. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Indicated 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

6. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
7. The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Respondent's admissions were properly made.
8. The Tribunal considered the Guidance Note on Sanction (December 2018). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal considered that the level of culpability and harm from her misconduct were high. The nature of the criminal convictions included dishonesty offences that had been committed within her practice as a solicitor. The Tribunal considered that given the nature and circumstances of her convictions, the only appropriate sanction was to strike the Respondent off the Roll. The Tribunal did not find, and indeed the parties did not submit, that there were any exceptional circumstances in this matter such that striking the Respondent from the Roll would be a disproportionate sanction.
9. Having determined that the proposed sanction was appropriate and proportionate, the Tribunal granted the application for matters to be resolved by way of the Agreed Outcome.

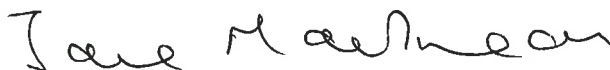
Costs

10. The parties agreed that the Respondent should make a contribution to costs in the sum of £1,825.70. The Tribunal considered the costs application to be appropriate and proportionate, and ordered that the Respondent pay a contribution to the costs in the agreed amount.

Statement of Full Order

11. The Tribunal Ordered that the Respondent, PAULA HARRIS, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,825.70.

Dated this 12th day of February 2019
On behalf of the Tribunal



J. Martineau
Chair

Judgment filed
with the Law Society
on 12 FEB 2019

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

PAULA HARRIS

Respondent

STATEMENT OF AGREED FACTS AND INDICATED OUTCOME

1. By its application dated 9 January 2019, and the statement made pursuant to Rule 5(2) Solicitors (Disciplinary Proceedings) Rules 2007 which accompanied that application ("the statement"), the Solicitors Regulation Authority ("SRA") brings proceedings before the Solicitors Disciplinary Tribunal concerning the conduct of Paula Harris.

The allegations

2. The allegations made against Ms Harris within the statement are that: on 28 August 2018 she was convicted of three counts of Fraud by Abuse of Position and one count of Making / Supplying articles for use in fraud and thereby failed to:
 - 2.1 uphold the rule of law and the proper administration of justice in breach of Principle 1 of the SRA Principles 2011 ("the 2011 Principles");
 - 2.2 act with integrity in breach of Principle 2 of the 2011 Principles.
 - 2.3 behave in a way that maintains the trust the public places in her and the provision of legal services, in breach of Principle 6 of the 2011 Principles.

Admissions

3. Ms Harris admits all the allegations made against her in the statement and as set out in paragraph 2 above.

Agreed Facts

4. The following facts and matters are agreed between the SRA and Ms Harris:
 - 4.1 Ms Harris was admitted to the Roll of Solicitors on 1 November 2010. At the date of this statement, Ms Harris remains upon the Roll of Solicitors but does not hold a current practising certificate. Ms Harris had previously been a paralegal, trainee solicitor, assistant solicitor (from 01/11/10) and then non-member partner (from 01/05/16 to 02/04/17) at David Gray Solicitors (and from 1 May 2011 David Gray Solicitors LLP), of Old County Court, 56 Westgate Road, Newcastle Upon Tyne, Tyne and Wear, NE1 5XU ("the firm").

4.2 On 28 August 2018 Ms Harris was convicted after pleading guilty to three counts of Fraud by Abuse of Position and one count of Making / Supplying articles for use in fraud.

4.3 On 26 October 2018 Ms Harris was sentenced to:

- i. 8 months imprisonment suspended for 12 months;
- ii. 100 hours unpaid work;
- iii. Undertake rehabilitation activity for 30 days;
- iv. Pay a victim surcharge of £140.00

4.4 The background to the convictions was stated by the prosecution, at the Respondent's sentencing hearing, as being (in summary) that:

- i. Matters arose from Ms Harris's role and work as a solicitor;
- ii. Ms Harris failed to progress matters appropriately – and sought to repair her own mistakes by fraudulently creating documents.
- iii. Matters came to light in 2017 when the firm undertook a review of files following a complaint from a client of delay. Twelve files were stated to have been discovered to contain a total of 29 fraudulent documents, with eight clients having received payments they were not entitled to.
- iv. Examples given at the sentencing hearing were of claims not being filed or properly pursued by Ms Harris, who admitted and was found to have fraudulently pretended the claims had been decided, created fraudulent judgments and paid out those fraudulent judgments from money held by or for the firm.
- v. The loss to the firm was stated at the sentencing hearing to have been £16,587, adjusted to £15,107 after some of the loss was recouped.

4.5 The offences of fraud by abuse of position are criminal offences involving dishonesty, in this matter involving Ms Harris creating multiple fraudulent documents in her role as a solicitor and causing a loss of over £15,000.

4.6 During his sentencing remarks, HHJ Stubbs stated that Ms Harris was *"a solicitor holding down a responsible job with a great deal of trust imposed in you. The people who relied on you were your employers, a small legal aid firm, and your clients...you were simply overwhelmed by your workload and...by everything else going on in your life. You thought that your only way out was instead of accepting that weakness and asking for help to try and cover up your weakness by creating a series of false documents, sophisticated documents, so that you could keep your head above water, keep clients quiet and maintain the fiction that you were coping in the responsible job that you were holding down..."*

4.7 HHJ Stubbs also stated that the offence *"plainly passes the custodial threshold"* and that *"a prison sentence is justified"* but after considering the facts, Ms Harris's personal circumstances and mitigation, and that any money was taken not for profit by Ms Harris but to keep her in position, he decided to take a *"very unusual course"* in the criminal proceedings (of a suspended custodial sentence and rehabilitation order for a solicitor convicted of fraud).

Mitigation

5. The following mitigation is advanced by Ms Harris and is not endorsed by the SRA:

5.1 This is the first occasion on which she has appeared before the Solicitors Disciplinary Tribunal and she has cooperated with the SRA investigation in respect of this matter, including notifying the SRA of the CPS involvement and criminal proceedings.

5.2 That she did not make direct, personal financial gain from the offences.

5.3 That she was under significant stress both at work and in relation to other personal matters, which significantly impacted on her. The prosecutor at the sentencing hearing stated that she "...was given significantly more responsibility without, it would seem, further support". HHJ Stubbs also indicated that "she was overwhelmed by what she was faced with". In respect of the impact that this had on her health, Ms Harris separately refers to a medical consultant's report prepared before her sentencing hearing, which comments on the stresses experienced by Ms Harris and the impact upon her.

6. Ms Harris acknowledges that she has been convicted of multiple offences of fraud (involving dishonesty), and does not oppose the Tribunal making an order that her name should be struck off the Roll of Solicitors.

Proposed penalty

7. Ms Harris and the SRA agree that the seriousness of Ms Harris's misconduct is such that the Tribunal should order that she be Struck off the Roll of Solicitors, with any lesser sanction being inappropriate.

8. With respect to costs, Ms Harris agrees to pay the SRA's costs of the application fixed in the sum of £1,825.70.

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

9. Having considered the Solicitors Disciplinary Tribunal's Guidance Note on Sanctions, Ms Harris accepts that the level of culpability and harm from her misconduct are high.

10. Ms Harris has been convicted of offences of fraud involving dishonesty. In relation to culpability, her conviction arose from matters over which she had direct control and which took place over a period of time, within her role and actions as a solicitor.

11. Harm was directly caused to the firm and/or to clients on whose matters fraudulent conduct took place, with wider harm to the reputation of the profession arising from Ms Harris's conviction for serious offences of fraud.

12. The following aggravating factors apply to Ms Harris's misconduct:

- i) it involves the commission of serious criminal offences, involving findings that she had dishonestly abused her position.
- ii) the breaches of the law involved fraudulent actions across multiple files, as set out in paragraph 4.4 above.
- iii) it is misconduct that she knew or ought reasonably to have known was in material breach of obligations to uphold the proper administration of justice and protect the reputation of the legal profession.

13. Ms Harris was convicted for serious offences, explicitly requiring a dishonesty finding under the same test and standard of proof as currently required before the Tribunal. Although the SRA's allegations are based on the fact of the conviction, and Ms Harris has referred to a medical report prepared for her criminal proceedings, Ms Harris agrees that given the nature of her convictions her circumstances do not fall into those that would exceptionally mean that striking off would be disproportionate (*as discussed in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin) and in Solicitors Regulation Authority v James and Others [2018] EWHC 3058 (Admin)*).
14. Accordingly, having regard to Ms Harris's convictions and admissions to the misconduct charges, the SRA and Ms Harris invite the Tribunal to make an Order that Paula Harris
be Struck off the Roll of
Solicitors and pay costs of the SRA's application fixed in the agreed sum of £1,825.70.

Dated this ^{7th}..... day of February 2019

Jonathan Leigh

On behalf of the SRA

Ms Paula Harris