

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12239-2021

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

JOHN PURSLEY

Respondent

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Before:

Mr W Ellerton (in the chair)

Mr J Evans

Dr S Bown

Date of Hearing: 2 November 2021

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## **Appearances**

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

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## **JUDGMENT ON AN AGREED OUTCOME**

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## Allegations

1. The allegations against the Respondent were that, while practising as a solicitor at TWM Solicitors LLP (“the Firm”):
  - 1.1. On or about 29 March 2016 he created (or caused the creation of) a compliments slip, from which the date had been deliberately removed (“the Compliments Slip”); and, in doing so, breached Principle 2 and/or Principle 6 of the SRA Principles 2011 (“the Principles”).
  - 1.2. On or about the same date, under cover of the Compliments Slip, he lodged an application purporting to be dated 18 March 2016 (“the Application”) with the First Tier Property Tribunal (“the Tribunal”); and, in doing so, breached Principle 2 and/or Principle 6.
  - 1.3. On or about 4 April 2016, he created (or caused the creation of) a letter, backdated to 18 March 2016 (“the Covering Letter”), which falsely and/or misleadingly purported to suggest that the Application had been submitted to the Tribunal on that earlier date (and therefore on time), when in fact it had not been. In doing so, he breached Principle 2 and/or Principle 6.
  - 1.4. On or about 26 April 2016 he made, and thereafter lodged (or caused to be lodged) with the Tribunal, a witness statement (“the Witness Statement”), which falsely and/or misleadingly purported to evidence all or any of the following:
    - 1.4.1. that the Application had been submitted to the Tribunal on 18 March 2016 (and therefore on time), when in fact it had not been;
    - 1.4.2. that the Covering Letter had been created and printed on 18 March 2016, when in fact it had not been;
    - 1.4.3. that a manuscript note recording the Application’s despatch to the Tribunal had been made and logged on 18 March 2016 when in fact the Application had not been despatched on that date.

In doing so, he breached all or any of Principles 1, 2 and 6 of the Principles.
  - 1.5. On dates between approximately 29 March 2016 and 10 June 2016 he provided false and/or misleading information to any or all of the following, in relation to the date on which the Application had been lodged with the Tribunal:
    - 1.5.1. his clients;
    - 1.5.2. his clients’ agent;
    - 1.5.3. the Firm and/or its employees;
    - 1.5.4. counsel instructed by him;
    - 1.5.5. the Tribunal and/or its staff;
    - 1.5.6. the Document Exchange (the “DX”);

In doing so, he breached any or all of Principles 1, 2, 4, 5 and 6.

2. Dishonesty was expressly alleged in relation Allegation 1.4 and/or Allegation 1.5 above but proof of dishonesty was not required in order to establish those Allegations or any of their particulars.

### **Documents**

3. The Tribunal had before it an agreed electronic bundle of documents on CaseLines.

### **Background**

4. The Respondent was admitted to the Roll of Solicitors on 15 December 1976. At all relevant times he was in practice at the Firm. His main practice areas were commercial property, residential conveyancing and landlord and tenant. At the time of the hearing the Respondent did not hold a current practising certificate.

### **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 Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions. The Respondent admitted all the Allegations including dishonesty and the parties agreed that the Respondent should be struck-off the Roll and ordered to pay costs in the sum of £10,428.00.

### **Findings of Fact and Law**

6. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
7. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
8. The Tribunal considered the Guidance Note on Sanction (8<sup>th</sup> Edition, December 2020). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
9. The Tribunal considered that this was a sad case but that the misconduct was nevertheless at the highest end of seriousness. The parties had not submitted that the circumstances were exceptional and the Tribunal, having regard to Solicitors Regulation Authority v James & Ors [2018] EWHC 3058 (Admin), did not identify any exceptional circumstances.
10. The Tribunal concluded that the only appropriate sanction was that the Respondent be struck-off the Roll and it therefore approved the proposed Agreed Outcome.

**Costs**

11. The Tribunal noted that the parties had reached an agreement on costs and the Tribunal was content to make an order in those terms.

**Statement of Full Order**

12. The Tribunal Ordered that the Respondent, JOHN PURSLEY, 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 £10,428.00.

Dated this 11<sup>th</sup> day of November 2021

On behalf of the Tribunal



W Ellerton  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**11 NOV 2021**

**IN THE SOLICITORS DISCIPLINARY TRIBUNAL**

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

**AND IN THE MATTER OF:**

**SOLICITORS REGULATION AUTHORITY LIMITED**

**Applicant**

**- and -**

**JOHN PURSLEY**

**Respondent**

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**STATEMENT OF AGREED FACTS AND OUTCOME**

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**Introduction**

1. By a statement made by Rory Thomas Mulchrone on behalf of the Solicitors Regulation Authority Limited (the "SRA") pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 11 August 2021, the SRA brought proceedings before the Tribunal making allegations of professional misconduct against the Respondent. Definitions and abbreviations used herein are those set out in the Rule 12 Statement. The Tribunal made standard directions on 16 August 2021. There is a substantive hearing listed for 29-30 November 2021.
2. The Respondent admits all the Allegations in the Rule 12 Statement, as set out in this document.

**Admissions**

3. The allegations against the Respondent, John Pursley, made by the SRA, are that, while practising as a solicitor at TWM Solicitors LLP ("the Firm"):
  - 1.1. On or about 29 March 2016 he created (or caused the creation of) a compliments slip, from which the date had been deliberately removed ("the Compliments Slip"); and, in doing so, breached Principle 2 and/or Principle 6 of the SRA Principles 2011 ("the Principles").
  - 1.2. On or about the same date, under cover of the Compliments Slip, he lodged an application purporting to be dated 18 March 2016 ("the Application") with the First

Tier Property Tribunal ("the Tribunal"); and, in doing so, breached Principle 2 and/or Principle 6.

- 1.3. On or about 4 April 2016, he created (or caused the creation of) a letter, backdated to 18 March 2016 ("the Covering Letter"), which falsely and/or misleadingly purported to suggest that the Application had been submitted to the Tribunal on that earlier date (and therefore on time), when in fact it had not been. In doing so, he breached Principle 2 and/or Principle 6.
- 1.4. On or about 26 April 2016 he made, and thereafter lodged (or caused to be lodged) with the Tribunal, a witness statement ("the Witness Statement"), which falsely and/or misleadingly purported to evidence all or any of the following:
  - 1.4.1. that the Application had been submitted to the Tribunal on 18 March 2016 (and therefore on time), when in fact it had not been;
  - 1.4.2. that the Covering Letter had been created and printed on 18 March 2016, when in fact it had not been;
  - 1.4.3. that a manuscript note recording the Application's despatch to the Tribunal had been made and logged on 18 March 2016, when in fact the Application had not been despatched on that date.

In doing so, he breached all of any of Principles 1, 2 and 6 of the Principles.

- 1.5. On dates between approximately 29 March 2016 and 10 June 2016 he provided false and/or misleading information to any or all of the following, in relation to the date on which the Application had been lodged with the Tribunal:
  - 1.5.1. his clients;
  - 1.5.2. his clients' agent;
  - 1.5.3. the Firm and/or its employees;
  - 1.5.4. counsel instructed by him;
  - 1.5.5. the Tribunal and/or its staff;
  - 1.5.6. the Document Exchange (the "DX");

In doing so, he breached any or all of Principles 1, 2, 4, 5 and 6.

2. Dishonesty is expressly alleged in relation to allegation 1.4 and/or allegation 1.5 above but proof of dishonesty is not required in order to establish those allegations or any of their particulars.

#### **Agreed Facts**

4. The Respondent was admitted to the Roll of Solicitors on 15 December 1976. At all relevant times he was in practice at the Firm. His main practice areas were: commercial property; residential conveyancing; and landlord and tenant. The Respondent does not

hold a current practising certificate but he remains on the Roll as a non-practising solicitor.

5. The conduct alleged in this matter initially came to light during an internal investigation carried out by the Firm after it had received a letter of claim from Pemberton Greenish Solicitors ("Pemberton Greenish"). The letter was written on behalf of previous clients of the Firm, for whom the Respondent had formerly acted in the attempted acquisition of the freehold interest in Property A.
6. The Respondent's clients had wishes to acquire the freehold of the Property pursuant to a statutory right set out in the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act"). The 1993 Act sets out a procedure which must be followed if a freehold is to be acquired pursuant to that right. It requires the proposed purchaser to serve a notice ("the Purchaser's Notice") making proposals for the acquisition (see s.13 "*Notice by qualifying tenants of claim to exercise right*"); and for the then-freeholder to serve a counter-notice ("the Counter-Notice") making any alternative proposals (see s.21 "*Reversioner's counter-notice*").
7. The Respondent had served a Purchaser's Notice on behalf of his clients on 16 July 2015. The freeholder served a counter-notice on or about 22 September 2015. Consequently, if the terms of the acquisition could not be agreed, the Respondent was required to make an application to the First Tier Property Tribunal ("the Tribunal") by 24 March 2016.
8. The Respondent did eventually make an Application to the Tribunal on behalf of his clients; however, though purporting to be dated 18 March 2016, the Application was received by the Tribunal on 29 March 2016 and, accordingly, appeared to be out of time. A chronology prepared by the Firm records that the Respondent emailed colleagues at 10:02 on 29 March 2016 indicating that he would be out of the office until about 1pm. That is broadly consistent with the Tribunal's post log recording that the Application was received on 29 March 2016.
9. In a witness statement served in the proceedings on or about 27 April 2016 and relied upon by counsel instructed by him ("the Witness Statement"), the Respondent falsely and misleadingly stated that he had despatched the Application to the Tribunal by DX on 18 March 2016 (i.e. within the relevant deadline) and that the Covering Letter was also prepared and printed on that date, but not actually sent with the Application. The Witness Statement purports to exhibit a copy of the Covering Letter (at paragraph 3) and, in addition, a handwritten note, purportedly confirming that the Application was despatched on 18 March 2016.
10. The Witness Statement was sent to the Tribunal and/or to Counsel acting in the matter and was relied upon by Counsel at a hearing in support of an assertion that the Application had been made in time. The case of *Salehabady v Trustees of The Eyre*

Estate [2017] L. & T.R. 22 has since established that such an application is 'made' when it is posted or delivered (rather than when it was received).

11. In support of the Respondent's false and misleading evidence, he relied on a number of documents which are considered in more detail below. In particular, the Respondent relied on a compliments slip said to have accompanied the Application on 18 March 2016 ("the Compliments Slip"), and a covering letter, said to have been printed (though not sent) the same day ("the Covering Letter") which states that "*on behalf of the Applicant, we enclose Application for Determination and accompanying documents*". Based partly on that Witness Statement and supporting evidence, the Tribunal subsequently purported to issue directions for the future case management of the matter, albeit that those directions were then challenged by the other party to the proceedings.
12. As set out above, following receipt of the letter of claim from Pemberton Greenish, the Firm carried out an internal investigation. The Firm discovered that there had been no activity on the file after instructing counsel in February 2016 until 29 March 2016. This was after the deadline for making the Application.
13. The Firm's investigation identified that the Compliments Slip had been created on the morning of 29 March 2016 and not 18 March 2016 as stated in the Respondent's Witness Statement. The date, which would have been generated automatically, had been manually removed. As for the Covering Letter, the Firm identified that this had been created on 4 April 2016 and subsequently backdated to 18 March 2016.
14. The Firm has provided the SRA with a chronology of relevant events and documents which indicates, by means of quotations from documents generated by the Respondent that the Respondent had questioned staff members at both the DX facility and the Tribunal, when it was discovered that the Application had not been submitted by the deadline. The Respondent was asserting that the documents had been lost or misplaced by one of those organisations following despatch on the 18 March 2016.
15. The Tribunal's records demonstrate that it only received the application on 29 March 2016.
16. In a letter to the Firm dated 23 January 2019, having been confronted with the findings of the internal investigation, the Respondent stated:  
*"I accept that I sought to conceal the reason for the late submission of MSL's application to the Tribunal. In my fragile state of mind (having only recently returned to work after [a health issue] in late 2015), the prospect of having blame and humiliation heaped upon me in the manner that I had observed these matters being handled in the past was too much to bear. In a misguided attempt to avoid that prospect, I tried to make out to both TWM, MSL and the Tribunal that the application must have been delayed in the DX. To do this, I prepared a statement to the Tribunal which I accept was untrue and produced back-dated documents to create apparent verification for the statement... [two named secretaries] bear no responsibility at all, it is entirely mine... I recognise that what I did*

*was wrong and can only apologise wholeheartedly to TWM for my misguided action which was taken against the context of my recent illness and the extreme pressure that I faced on my return to work."*

17. In a letter to the SRA dated 12 October 2019, the Respondent stated:

*"I regret to say that it is plain that I acted in breach of the Regulations by intimating to the Tribunal and other parties that the relevant application had been sent in the DX to the Tribunal before the relevant date when in fact it had not. I entirely accept that this was a dishonest act and in breach of trust".*

18. In a further letter to the SRA dated 7 August 2020, the Respondent confirmed that he was "dishonest with all parties". He stated that:

*"... the motive was to try to avoid personal criticism for the omission at a time of what felt like a sustained period of persecution at work and instability or unpredictability of levels of support on top of work pressure".*

### **Admissions**

19. In respect of the Compliments Slip, the Respondent admits that on 29 March 2016 he either amended the date on the Compliments Slip or instructed another member of administrative staff to amend the date (Allegation 1.1). He does not recall who physically amended the date on the letter due to the length of time since the conduct. However, he fully accepts that he either amended the date personally or caused a member of the administrative staff to do so.
20. The Respondent admits that in so doing he either created or caused the creation of a compliments slip from which the date had been deliberately removed; and thereby breached Principles 2 and 6 of the SRA Principles 2011.
21. The Respondent admits that, on 29 March 2016, under cover of that Compliments Slip he lodged the Application with the Tribunal which purported to be dated 18 March 2016 (Allegation 1.2). The Respondent admits that in so doing he breached Principles 2 and 6 of the SRA Principles 2011.
22. In respect of the Letter, the Respondent admits that on 4 April 2016, he either amended the date on the letter or instructed another member of administrative staff to amend the date to 18 March 2016 (Allegation 1.3). The Respondent admits that the letter falsely and misleadingly purported to suggest that the Application had been submitted to the Tribunal on that earlier date (and therefore on time) and that in so doing he breached Principles 2 and 6 of the SRA Principles 2011.
23. The Respondent admits that on 26 April 2016 he made, and thereafter caused to be lodged with the Tribunal, a witness statement which falsely and misleadingly purported to evidence that (Allegation 1.4):

- 23.1. the Application had been submitted to the Tribunal on 18 March 2016 (and therefore on time), when in fact it had not been;
- 23.2. the Covering Letter had been created and printed on 18 March 2016, when in fact it had not been;
- 23.3. a manuscript note recording the Application's despatch to the Tribunal had been made and logged on 18 March 2018, when in fact the Application had not been despatched on that date.

The Respondent admits that in so doing he breached Principles 1, 2 and 6 of the SRA Principles 2011. The Respondent further admits that his conduct was dishonest.

24. The Respondent admits that on dates between approximately 29 March 2016 and 10 June 2016 he provided false and misleading information to the following, in relation to the date on which the Application had been lodged with the Tribunal (Allegation 1.5):

- 24.1. his clients;
- 24.2. his clients' agent;
- 24.3. the Firm and/or its employees;
- 24.4. counsel instructed by him;
- 24.5. the Tribunal and/or its staff;
- 24.6. the Document Exchange (the "DX");

The Respondent admits that in so doing he breached Principles 1, 2, 4, 5 and 6 of the SRA Principles 2011. The Respondent further admits that his conduct was dishonest.

### **Mitigation**

25. The following points are advanced by way of mitigation on behalf of the Respondent but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:
26. The Respondent had only returned to work in early 2016 after a protracted absence due to mental ill health precipitated by stress at work. At the material time he was experiencing what felt like a sustained period of persecution at work and instability or unpredictability of levels of support exacerbated by his mental health at the time as evidenced by his medical records.
27. Prior to this incident, the Respondent, who is now retired, had an unblemished disciplinary record as a solicitor over 40 years. He has co-operated with the SRA throughout this investigation and made admissions from the outset.

**Agreed Outcome**

28. The Respondent agrees:
  - 28.1. to be struck off the Roll of Solicitors;
  - 28.2. to pay costs to the SRA in the sum of £10,428 inclusive of VAT.
29. The Parties consider and submit that in light of the admissions set out above, and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanctions 8<sup>th</sup> Edition ("the Guidance").
30. Recipients of the Respondent's false and misleading statements included his clients and their agent, counsel, the Tribunal, representatives from the DX service and the Firm and his colleagues.
31. The Respondent's misleading statements to the Tribunal were particularly serious. A solicitor is an officer of the Court and should never attempt to deceive or mislead the Court.
32. The Respondent was an experienced solicitor whose motive was to try to avoid personal criticism of his own conduct, The effect of doing so meant that his clients were deprived an opportunity to seek to remedy matters at an early stage.
33. Paragraph 51 of the Guidance provides that "a finding that an allegation of dishonesty has been proved will almost inevitably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).
34. The Respondent (taking into account all the facts, including the matters set out at paragraph 26 above) admits that his conduct was dishonest and does not assert that exceptional circumstances which might justify a departure from the inevitable consequence of striking off arise in this case.
35. In respect of mitigating features, the Respondent's mitigation is set out at paragraphs 25-27 above.

Signed: .....

(On behalf of the Solicitors Regulation Authority Limited)

Date: 1 November 2021

Signed: ...

(JOHN PURSLEY)

Date: 31.10.21