

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12478-2023

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

PAUL DOUGLAS HILLS

Respondent

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Before:

Mr P Lewis (in the Chair)  
Ms A Kellett  
Ms E Keen

Date of Hearing: 21 November 2023

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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 Mr Hills, made by the SRA were that, while in practice as an Associate Solicitor, and later as a Partner, at Hatten Wyatt ("the Firm"):
- 1.1 Between 2 November 2017 and 27 April 2018, on up to six occasions he retained monies paid to him by clients and failed to promptly pay those monies into the Firm's client account thereby failing to account to the Firm to whom the monies were due. In doing so he breached any or all of Principles 2, 4, 6 and 10 of the SRA Principles 2011 ("the Principles") and/ or he breached Rule 14.1 of the SRA Accounts Rules 2011 ("the SAR").
- 1.2 Between 13 February 2018 and 2 June 2018 he prepared up to 16 applications for Grants of Probate, administered the oaths himself and on up to eight occasions he retained the oath fees for himself. In doing so he breached Principles 1, 2, 4, 5 and 6 of the Principles and failed to achieve O(11.4) of the SRA Code of Conduct 2011 .
2. In addition, Allegation 1.1 was advanced on the basis that Mr Hills' conduct was dishonest. Dishonesty is alleged as an aggravating feature of his misconduct but was not an essential ingredient in proving the Allegation.

## **Background**

3. Mr Hills was a solicitor and was admitted to the Roll in 1990. He joined Pengelly and Rylands Solicitors, based in Tenterden, Kent, as an associate solicitor on 22 May 2017. Pengelly and Rylands Solicitors had been incorporated into Hatten Wyatt ("the Firm"). However, the Pengelly and Rylands' branch office continued to trade as Pengelly and Rylands. Mr Hills was made a salaried partner on 24 January 2018. He worked at the Tenterden office, where he specialised in Private client work.
4. He was dismissed from the Firm in July 2018.
5. Since July 2018, Mr Hills had not practised as a solicitor, though he had remained on the Roll.

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

6. The substantive hearing in this matter was listed for 28 November 2023. On 20 November 2023 the parties invited the Tribunal to deal with the Allegations against Mr Hills 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 timing of the application required the parties to seek leave of the Tribunal to consider the Agreed Outcome out of time.
7. The Tribunal noted the considerable delay in the proceedings having reached the Tribunal. It was unfortunate that this application had arrived at a late stage in those proceedings. However, the Tribunal was satisfied that it would serve no useful purpose to refuse to consider the Agreed Outcome at this stage and so it granted the application for leave.

### Findings of Fact and Law

8. 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 Mr Hills' 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.
9. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Mr Hills' admissions were properly made.
10. The Tribunal considered the Guidance Note on Sanction (10<sup>th</sup> Edition, June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
11. The Tribunal was satisfied that this was a serious case of dishonest conduct on multiple occasions. There were no exceptional circumstances advanced and the Tribunal was unable to identify any. The medical evidence provided was well short of what would have been required to amount to exceptional circumstances. The only appropriate sanction that would protect the public and the reputation of the profession from future harm was that Mr Hills be struck off the Roll.
12. The Tribunal noted that the costs had been agreed between the parties. The Tribunal was content to make an order in the sum of £15,000 as agreed.
13. The Tribunal therefore approved the Agreed Outcome in the terms proposed.

### Statement of Full Order

14. The Tribunal Ordered that the Respondent, PAUL DOUGLAS HILLS, 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 £15,000.00.

Dated this 19<sup>th</sup> day of December 2023  
On behalf of the Tribunal

*P Lewis*

P Lewis  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**19 DEC 2023**

Number: 12478-2023

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY LTD

and

**Applicant**

PAUL DOUGLAS HILLS

**Respondent**

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**STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME**

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1. By its application dated 10 July 2023 and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Ltd ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making two allegations of misconduct against Paul Douglas Hills ("the Respondent").

**The allegations**

2. The allegations against the Respondent, made by the SRA within that statement were that:
  - 2.1 Between 2 November 2017 and 27 April 2018, on up to six occasions he retained monies paid to him by clients and failed to promptly pay those monies into the Firm's client account thereby failing to account to the Firm to whom the monies were due. In doing so he breached any or all of Principles 2, 4, 6 and 10 of the SRA Principles 2011 ("the Principles") and/ or he breached Rule 14.1 of the SRA Accounts Rules 2011 ("the SAR").
  - 2.2 Between 13 February 2018 and 2 June 2018 he prepared up to 16 applications for Grants of Probate, administered the oaths himself and on up to eight occasions he retained the oath fees for himself. In doing so he breached Principles 1, 2, 4, 5 and 6 of the Principles and failed to achieve Outcome 11.4 of the SRA Code of Conduct 2011.
3. In addition, allegation 1.1 above was advanced on the basis that the Respondent's conduct was dishonest. Dishonesty was alleged as an aggravating feature of the Respondent's misconduct but was not an essential ingredient in proving the allegation.

4. The Respondent admits each of these allegations. He also admits that his conduct acting as alleged in allegation 1.1 was dishonest.

#### **Agreed Facts**

5. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and the Respondent.

#### **Professional Details**

6. The Respondent is a solicitor having been admitted to the Roll in 1990. He joined Pengelly and Rylands Solicitors, based in Tenterden, Kent, as an associate solicitor on 22 May 2017. Pengelly and Rylands Solicitors had been incorporated into Hatten Wyatt ("the Firm"). However, the Pengelly and Rylands' branch office continued to trade as Pengelly and Rylands. The Respondent was made a salaried partner on 24 January 2018. He was dismissed from the Firm in July 2018. He worked at the Tenterden branch office, where he specialised in Private client work.
7. The Firm's main office was in Gravesend, Kent. It had 3 other offices. At the time of the conduct alleged, the firm had 9 partners, 8 other qualified staff and 42 unqualified staff. The majority of the work carried out by the Firm (42%) was Private client work.
8. Since July 2018, the Respondent has not practised as a solicitor. He is on the roll of solicitors and does not hold a practising certificate. He states that he has not been in any employment since July 2018 because of poor physical and mental health.

#### **Background**

9. The conduct in this matter came to the attention of the SRA when the Senior Partner and COLP of the Firm made a report to the SRA on 23 July 2018. A client's daughter had telephoned the Firm to say that they were unhappy about typing errors on a Lasting Power of Attorney prepared by the Respondent. The daughter said that her parent had paid the Respondent in cash. The Firm was not able to locate a client file which prompted a review of the Respondent's matters.
10. The Firm reported to the SRA that the Respondent had received payments on account of costs and disbursements directly from three clients and had not accounted to the Firm for the monies. The Firm had no record of having acted for these individuals. No file had been opened and no invoice had been sent to the client. The Firm told the SRA that it was not able to establish how many times the Respondent had retained monies which were due to the Firm because the Respondent had not always opened a file on the Firm's system.
11. On 10 September 2018, Natalie Garrard, the SRA's Forensic Investigator ("The FIO") commenced an investigation at the Firm. The FIO produced a Forensic Investigation Report ("FIR") on 24 June 2019.

12. The FIR exemplified six occasions when the Respondent had provided legal services to clients of the Firm and had received monies directly from the clients but had failed to account to the Firm for the monies due to it.
13. The conduct occurred between 2 November 2017 and 27 April 2018. On three of the six exemplified occasions, The Respondent received cheques from clients which were made payable to him, personally, rather than to the Firm. These cheques were paid into the Respondent's personal bank account. The value of the cheques ranged from £164.00 to £660.00.
14. On the other three occasions, the clients paid cash to the Respondent and he failed to pay the cash into the Firm's client account. The cash payments varied from £50.00 to £1180.00. The total sum which the FIO identified as having been retained by the Respondent and not paid into the client account is £3,147.20.
15. The Firm commenced civil proceedings against the Respondent to recover the retained monies. At some point prior to the commencement of civil proceedings, the Respondent paid his litigation solicitors a sum which he estimated to be equivalent to the retained monies.
16. During the Forensic Investigation, the FIO also identified eight occasions, between 13 February 2018 and 2 June 2018, when the Respondent had acted for executors in the preparation of applications for Grants of Probate and had also administered the oaths himself, retaining the oath fees for himself. The client ledgers showed that the oath fee of either £7.00 or £14.00 had been taken from the Firm's petty cash by the Respondent. A further eight occasions were identified when the Respondent had administered oaths on applications himself prepared by him but had not paid himself an oath fee.
17. The Respondent failed to follow the correct procedure for swearing an oath. The statutory requirement is for an oath to be administered by a solicitor who is independent from the solicitor who prepares the document. This is usually achieved by sending the clients to an independent firm of solicitors to swear the oath. By both preparing the applications for Grants of Probate and also administering the oaths on the applications himself, the Respondent caused the documents to be invalid. The result of this was that the Firm had to arrange for the applications to be redrafted and resworn, resulting in inconvenience to the clients and expense to the Firm.

#### **Non-Agreed Mitigation**

18. The following mitigation, which is not agreed by the SRA, is put forward by the Respondent:
  - 18.1 He had been struggling with stress, anxiety and depression for some time prior to joining the Firm in May 2017. He had not felt able to disclose this to anyone at the Firm because he believed that the senior partner regarded mental illness as a sign of weakness.

- 18.2 It had always been his intention to pay the monies into the Firm's client account and he failed to do so because of a combination of error, oversight, disorganisation and issues with his health.
- 18.3 He had misplaced two of the cash payments and found them, months later, in his work bag.
- 18.4 Some clients struggled with spelling the Firm's name when writing cheques so he asked them to make the cheques payable to his name.
- 18.5 After he was contacted by the Firm, and prior to the Firm commencing civil proceedings to recover the monies which the Respondent had retained, the Respondent paid his litigation solicitors ("Brett Wilson LLP") a sum which he believed would be sufficient to reimburse the Firm. Brett Wilson LLP continues to hold the monies.
19. However, the Respondent does not contend that the mitigation set out above amounts to exceptional circumstances which would justify the Tribunal in making any order other than that he be struck off the Roll.

**Penalty proposed**

20. It is therefore proposed that the Respondent should be struck off the Roll of Solicitors.
21. With respect to costs, it is further agreed that the Respondent should pay a contribution towards the SRA's costs of this matter agreed in the sum of £15,000.00.

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

22. The Respondent has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, states that: "*The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see **Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)**).*"
23. In **Sharma [2010] EWHC 2022 (Admin)** at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:
- "(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...*
- (b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...*

*(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others..."*

24. These were serious acts of dishonesty committed over a period of five months, involving several clients, the majority of whom were elderly and vulnerable. The clients trusted the Respondent, in his role as their solicitor. They expected the money that they were paying on account of costs, whether by cash or cheque, would be paid to the Firm and not retained by the Respondent.
25. In the cases of some of the clients, the Respondent had not opened files for them on the Firm's system. This caused inconvenience and distress to those clients when they called the Firm and found that there was no record of them being clients.
26. The Respondent benefitted financially by retaining the monies and the Firm suffered financial loss as it did not receive monies to which it was entitled. Although the Respondent says that he always intended to repay the monies, he did not take any steps to do so until the first problem on one of his files came to light and he was questioned by the Firm.
27. In relation to the 16 incorrectly sworn oaths, the Firm had to contact all the affected clients, explain the situation to them and arrange for the oaths to be resworn. The consequence was delay in the progress of their matters and inconvenience to the clients who had to have their oaths re-sworn. The Firm did not charge the clients for the additional work which, consequently, resulted in financial loss to the Firm.
28. The case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors.
29. The seriousness of the Respondent's conduct was such that a lesser sanction would be inappropriate, and a strike off is required for the protection of the public and the reputation of the legal profession.

[REDACTED]  
John Quentin, Head of Legal, on behalf of the SRA

[REDACTED]  
Paul Douglas Hills, Respondent

Dated: 20 November 2023