



Case No: PC 2013/0480

**APPEAL TO THE VISITORS TO THE INNS OF COURT
ON APPEAL FROM THE DISCIPLINARY TRIBUNAL
OF THE COUNCIL OF THE INN OF COURT**

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28/02/2014

Before :

THE HONOURABLE MR JUSTICE GRIFFITH WILLIAMS
MARK WEST
LUCINDA BARNETT

Between :

THE BAR STANDARDS BOARD
- and -
DENNIS THOMAS O'RIORDAN

Appellant

Respondent

Tim Bowden (instructed by **The Bar Standards Board**) for the **Appellant**
The Respondent did not appear

Hearing dates: 20 January 2014

DECISION
(As amended on 28th February 2014)

Mr Justice Griffith Williams :

1. On 30 September 2013, Dennis Thomas O'Riordan ("the Respondent") appeared before the Disciplinary Tribunal of the Inns of Court ("the Tribunal") and admitted 3 charges of professional misconduct contrary to paragraph 301 (a)(i) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition). All 3 charges related to engaging in conduct which was dishonest or otherwise discreditable to a barrister. It was accepted that the conduct was dishonest behaviour and that the general starting point for such conduct should be disbarment unless there are clear mitigating factors that indicate such a sanction is not warranted.¹
2. The Tribunal by a majority of 3-2 concluded that the appropriate sentence should be 3 years suspension, the minority favouring disbarment. The sentence was pronounced on 7 November 2013 by the Respondent's Inn (the Inner Temple).
3. The Bar Standards Board ("the Appellant") applied for an extension of time for filing a Petition of Appeal and for permission to adduce new evidence which was unavailable at the hearing on 30 September. The Directions Judge (The Rt Hon Sir Anthony May) granted the necessary extension of time but deferred the decision as to permission to adduce additional evidence to the Visitors.
4. By the Petition of Appeal dated 10 April 2013, the Appellant submitted that the fresh evidence substantially undermines the mitigation advanced on behalf of the Respondent and that if the members of the Tribunal had been aware of the fresh evidence, it is highly likely they would have taken a different view of the mitigation advanced before them and as a consequence the Tribunal passed a sentence which was unduly lenient in all the circumstances.
5. We heard the appeal on 20 January when we announced that, for reason to be provided later in writing, the appeal was allowed; we quashed the original sentence and substituted a sentence of disbarment in respect of each charge. These are our reasons.

The facts

6. The Respondent who obtained a class 2:1 degree in law from the University of East Anglia in 1992, was called to the Bar by the Inner Temple in 1993. Having undertaken pupillage but not obtaining a tenancy, he undertook post graduate study at Oxford University. After preparing a draft dissertation, he did not complete that study for family reasons and left the University in 1996. He subsequently worked as in-house employed counsel for a variety of financial institutions and for firms of solicitors. He joined chambers at 4-5 Gray's Inn Square in or about 2004, specialising in financial derivatives and instruments. Over the following years he practised from those chambers, for Quadrant Chambers, for Cadwalader, Wickersham & Taft and for Paul Hastings. He ultimately returned to independent practice at 4-5 Gray's Inn Square. In late 2012, anticipating that those chambers might not survive he applied to chambers at 20 Essex Street. Following his interview, the chambers considered the *Curriculum Vitae* ("CV") that he had provided. They made investigations and formed

¹ Sentence Guidance: Breaches of the Code of Conduct of the Bar of England and Wales (April 2013) Part II Section B at page 25.

the view that several of the particulars on the CV were false. They informed the Appellant and an investigation commenced with the 3 charges ultimately being preferred.

7. All 3 charges related to the inclusion of false particulars in CVs:
 - i) Various from March 2007 to December 2012 on the website of his chambers 4-5 Gray's Inn Square (charge 1).
 - ii) From November 2008 on the website of his then employer Cadwallader (charge 2).
 - iii) Submitted in November 2012 to chambers at 20 Essex Street in furtherance of his application to join those chambers (charge 3).

8. The false claims advanced by him were as follows:-

that he attended Radley College (charge 3);

that he obtained a Bachelor of Laws (First Class) degree from the University of East Anglia (charge 3);

that he obtained a Bachelor of Arts (First Class) degree from Oxford University (Balliol College) (charges 1,2 & 3);

that he obtained a Bachelor of Civil Law (First Class) degree from Oxford University (Balliol College) (charges 1,2 & 3);

that he obtained a Doctorate of Philosophy from Oxford University (Balliol College) (charges 1,2 & 3);

that he had been awarded the Eldon Scholarship by Oxford University (charges 1 & 3);

that he obtained a Masters degree in Law from Harvard University (charge 3);

that he was a member of the New York Bar (charge 1,2 & 3);

that he was a member of the Irish Bar (charges 1,2 & 3).

None of the claims was true. He holds only the one degree from the University of East Anglia and while he had studied at Oxford University for a Doctorate of Philosophy, he had never completed his studies there.

9. His mitigation, which the Tribunal accepted, was that he started to make false claims about his qualifications in 2002, motivated not by considerations of career advancement but to make his mother, from whom he had been estranged for many years following the revelation of his homosexuality and who was by now in poor health, proud of him. He felt a sense of educational inadequacy, particularly in comparison with his cousins who had attended Radley College and Oxford University. When his mother died in May 2007, he felt unable to remove the false

claims which by then had been included in a number of websites. An important detail of his mitigation was that no further false claims were invented post 2007.

10. The Tribunal accepted that the quality of service which he provided was excellent, that he was instructed by those who knew of his work and on the basis of his expertise rather than the contents of any CV, that no financial advantage had been obtained and no member of the public had therefore been exposed to risk.

The Disciplinary Tribunal's reasons:

11. The Tribunal took account of a number of mitigating factors which included the personal mitigation, the guilty pleas, the Respondent's remorse, his previous good character and many favourable references.
12. The Tribunal took account of a number of aggravating factors; these included pre-meditation, the duration of the offences, the failure to rectify the false information in 2007 and of particular significance that "professional and lay clients would be comforted and encouraged having read the apparently excellent academic record". The Tribunal stated that although there was no evidence the Respondent gained financially from his dishonesty, even if he was instructed on the basis of experience alone, professional and lay clients received comfort and encouragement from reading about his apparently excellent academic record. The Tribunal concluded:

"As there was no evidence that Mr O'Riordan benefitted financially from the dishonesty and there was no evidence of adding any further dishonest entry post 2007, the majority of the tribunal (3) found that exceptionally (on this occasion) suspension from practise as opposed to disbarment was appropriate whilst the minority (2) favoured disbarment".

13. **The Fresh Evidence**

Mr Yash Bheeroo, a barrister in independent practice, when the decision of the Tribunal was made public, promptly and responsibly wrote a letter dated 16 October 2013 to the Appellant seeking guidance as to and in discharge of his professional duties. In that letter he drew attention to an expert report by the Respondent dated 10 September 2012. That report had been provided by the Respondent upon instructions in proceedings in the Family Division to address an issue relating to the character of a swap agreement entered into by a litigant in matrimonial proceedings. It contained the Expert's Declaration and a Statement of Truth and was filed with the Court. On 4 October 2012, Mr Justice Mostyn declined to allow the evidence to be produced on the grounds that even if it was relevant evidence, it had been served far too late.

14. That report contained the following:

"My qualifications include Bachelor of Arts (Law) honours degree First Class, a Bachelor of Laws honours degree First Class and was awarded a Doctor of Philosophy research degree from the University of Oxford (*the law in relation to financial derivative arrangements*)".

The Appeal

15. The appellant submitted the Fresh Evidence substantially undermines the mitigation advanced by and on behalf of the Respondent before the Tribunal. The expert report was a document created in 2012 by the Respondent himself and demonstrates that the Respondent's position *post* 2007 was not merely a passive failure to correct false internet particulars. In this particular instance, he had actively advanced the false qualifications and sought to rely upon them. The Appellant points out that the particulars are subtly different from those advanced by the Respondent previously when he had claimed his BA degree from Oxford University had been in Mathematics. The Appellant submitted that the claim that he had a Doctorate of Philosophy went to the heart of the subject matter of the expert report and was likely to materially mislead the opposing party in litigation and the Court. The evidence demonstrates also that the Respondent had gained a financial advantage. The Appellant submitted that if the Tribunal had been aware of the existence of this report, it is highly likely that the view of the majority members would have been different.
16. Although the Respondent's initial reaction to the Appellant's application to appeal out of time and to adduce further evidence was to oppose both applications, following the decision of the Directions Judge (see paragraph 3 above) he gave notice by letter dated 7 November 2013 that he no longer wished to contest the appeal. He stated further "I would like to submit to an Order disbarring me permanently without the submission of further evidence by the Bar Standards Board".
17. In the circumstances it is clear that he does not challenge the Fresh Evidence and we give leave to the Appellant to adduce that evidence.

Decision

18. We are satisfied that this evidence would not have been apparent upon an investigation of the work diaries of the Respondent and other material filed by him for the purposes of the hearing before the Tribunal. We are further satisfied that had the Tribunal known of this evidence, the majority view as to the appropriate sentence in this case would undoubtedly have been different. Whether the Tribunal was deliberately or inadvertently misled by the Respondent, the expert's report seriously aggravated his offending and amply justifies an order of disbarment.
19. For all the above reasons, we quash the decision of the Tribunal that the Respondent should be suspended for 3 years and substitute an order of Disbarment.