



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2020/1798/D5

Martha Knowlden

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of: [Respondent's Inn/s]]

Disciplinary Tribunal

MARTHA KNOWLDEN

1. In accordance with an appointment made by the President of the Council of the Inns of Court in a Convening Order dated 21 July 2023 I sat as Chairman of a Disciplinary Tribunal on 5 October 2023 and 6 October 2023 to hear and determine 8 charges of professional misconduct contrary to the Bar Standards Board Handbook against Martha Knowlden, barrister of the Honourable Society of the Inner Temple.

Panel Members

2. The other members of the Tribunal were:

Rita Eaton (Lay Member)

Andrew Ward (Lay Member)

Isabelle Watson (Barrister Member)

Yusuf Solley (Barrister Member)

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CHARGES

3. Charges 1 and 2 were found proved. Charges 3 and 4 were dismissed.

Charge 1

Statement of Offence

Professional misconduct, contrary to paragraph Core Duty (CD) 5 and rC73 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook version 4.3).

Particulars of Offence

Ms Knowlden, a barrister and BSB authorised individual, behaved in a way which was likely to diminish the trust and confidence which the public would place in her or in the profession and received, controlled or handled client money (apart from money paid by the client for the barrister's services) in that, on 3 December 2019, she requested a sum of money, namely £550, from her public access client's husband (AWI) to cover court fees in the filing of her client's divorce application. Ms Knowlden received the sum from AWI on 4 December 2019.

Charge 2

Statement of Offence

Professional misconduct, contrary to CD5 and CD10 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook versions 4.3-4.4).

Particulars of Offence

Ms Knowlden, a barrister and BSB authorised individual, behaved in a way which was likely to diminish the trust and confidence which the public would place in her or in the profession and failed to take reasonable steps to manage her practice, or carry out her role within her practice, competently and in such a way as to achieve compliance with her legal and regulatory obligations in that she failed to return the sum of £550 to AWI when the divorce application was not filed at Court in good time, despite requests from solicitor for AWI in his letter to Ms Knowlden dated 9 January 2020 and his email to her dated 13 March 2020.

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Charge 3

Statement of Offence

Professional misconduct, contrary to CD 5 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook versions 4.3-4.4).

Particulars of Offence

Ms Knowlden, a barrister and BSB authorised individual, behaved in a way which was likely to diminish the trust and confidence which the public would place in her or in the profession in that on 18 January 2019 Ms Knowlden was suspended from practice by order of a Disciplinary Tribunal, such suspension to be effective between 20 December 2019 and 19 April 2020 and Ms Knowlden continued to practise between 20 December 2019 and 19 April 2020, in breach of the suspension order.

Charge 4

Statement of Offence

Professional misconduct, contrary to CD3 and rC8 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook versions 4.3-4.4).

Particulars of Offence

Ms Knowlden, a barrister and BSB authorised individual, acted without honesty and integrity in that on 18 January 2019 Ms Knowlden was suspended from practice by order of a Disciplinary Tribunal, such suspension to be effective between 20 December 2019 and 19 April 2020 and Ms Knowlden continued to practise between 20 December 2019 and 19 April 2020, in breach of the suspension order.

Parties Present and Representation

4. The Respondent was represented by Mr Neil Sheldon KC. The Bar Standards Board was represented by Mr Robert Clay.

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Findings

Introduction

5. We have considered the charges made against the Respondent, Ms Martha Knowlden, with great care.
6. We heard evidence on 5 October 2023 in relation to the four charges on the charge sheet. As a tribunal we have formed a unanimous view about the outcome of the proceedings.

Charge 1

7. In relation to Charge 1, we have noted the Respondent's admission under rC73 of the conduct rules, that she handled client money following the receipt of the sum of £550 paid into her own bank account by AWI on 4 December 2019.
8. It's clear to us that the purpose of this payment by AWI (who was the estranged husband of JWI – the Respondent's client at the time) was to enable a divorce petition to be issued on behalf of JWI. The payment was made directly into the Respondent's bank account in relation to court fees, which were required before the divorce petition could be issued. The issue of the divorce petition was urgently requested by AWI at the time of the payment of the £550.
9. On the date of the receipt of the funds, 4 December 2019, the Respondent was facing suspension from practice with effect from 20 December 2019 to 19 April 2020. This suspension was in respect of previous financial irregularities in her practice, which were found proved by the Bar Tribunals and Disciplinary Service in a judgement given on 1 December 2018. Sanctions were imposed against the Respondent in relation to a total of five charges on 18 January 2019.
10. On that date, the Respondent was suspended from practice for a period of four months under Core Duty 5 and in relation to an issue of integrity under rC8 of the Conduct Rules.
11. We find unanimously that at the time of receiving £550 from AWI in December 2019, the Respondent knew, or ought to have known, that she was receiving client money,

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which she was not entitled to receive in her capacity as a sole practitioner and in advance of a suspension imposed upon her which had been postponed during an appeal process during the course of 2019.

12. She was therefore not entitled to receive that money as a barrister acting on a direct access basis on behalf of her client. The rule was clear. She should have known this, and she should have known that she could not receive control or handle client money apart from what the client paid for her own services.
13. She was required as a sole practitioner to be scrupulously transparent, and we heard no independent evidence to support her contention that JWI agreed within days of the receipt of the money that it should be used as part payment of the Respondent's legal fees and services.
14. As a Tribunal, we have taken a serious view of the Respondent's conduct and, in our view, not only was a breach of rC73 engaged, but also Core Duty 5, in that the conduct of the Respondent in retaining the funds advanced by JWI for a specific purpose was likely to diminish the trust and confidence which the public placed in the Respondent and her profession as a barrister.
15. In those circumstances, we find Charge 1 proved to the requisite legal standard, and that there was a breach of Core Duty 5 in conjunction with rC73 of the Conduct Rules.

Charge 2

16. In relation to Charge 2, we also find this proved on the basis that there was a breach by the Respondent of Core Duty 5 and Core Duty 10. We do not adopt the narrow view put forward on behalf of the Respondent that there may not have been any obligation by the Respondent to return the money to AWI following his request for repayment on 9 January 2020 and 13 March 2020.
17. The reality is that the Respondent's decision to ignore AWI's communications, made via his solicitor, about the return of the £550 if she was not going to be able to issue the divorce petition within a specific and foreseeable period and in any event within the period prior to her suspension, clearly represented a failure to manage her practice competently, and it represented a further failure to comply with her legal

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regulatory obligations by retaining the sum of £550 in her sole bank account, without accounting for it to either AWI or indeed to JWI. It is also relevant, in our opinion, that JWI ultimately paid the issue fee for her divorce in or around May 2020 from her own resources.

18. In our view, this is a further example of the Respondent retaining funds without making any effort to explain or justify her actions at the material time.
19. Accordingly, and for the reasons given above, we find Charge 2 proved to the requisite legal standard.

Charges 3 and 4

20. We have considered Charges 3 and 4 very carefully and we do not in the circumstances find that that these have been made out on the evidence before the tribunal.
21. While we found aspects of the Respondent's explanation for her conduct during the period of her suspension to be both inadequate and unsatisfactory, we were persuaded that the work she undertook on behalf of JWI during the relevant period of her suspension was not in breach of the reserved legal activities and that there was no attempt by her to conduct litigation by her oversight of JWI's Form E at the material time.
22. We are satisfied that the Respondent ensured that the Form E was ultimately in a form compliant with service upon the solicitors acting for AWI.
23. We also noted that the Respondent's suspension at the material time did not prohibit all legal work. We are not, in those circumstances, satisfied that by her conduct in assisting JWI with the completion of the Form E and ensuring that the appendices were in proper order, that her conduct represented a breach of CD, CD3 and rC8 of the Conduct Rules, alleged in charges 3 and 4 of the charge sheet.

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Sanctions

Introduction

24. Following delivery of a ruling this morning that two charges – Charges 1 and 2 in a charge sheet containing 4 charges in total – were proved to our satisfaction against Ms Martha Knowlden, the Respondent, we heard mitigation on her behalf by Mr Sheldon KC as to the appropriate sanction to be imposed in relation to the proven charges.

Summary of the Respondent's mitigation

25. We listened very carefully to the submissions, which summarised were as follows:
- (a) The Respondent did not misuse or misappropriate any money. The £550 which had been paid into her bank account in December 2019 had represented a part payment of her divorce costs.
 - (b) In light of her failing to receive any improper benefit and with the sum of £550 ultimately put towards her fees in respect of advising her client JWI, it would be appropriate for the sanctions to be placed in the lower range of seriousness, that is low culpability and limited and/or no harm.
 - (c) There were no aggravating features of the Respondent's conduct and no intentional misconduct in retaining £550, which, as she conceded, represented her client's money which she was not, as a direct access practitioner, entitled to receive.
 - (d) There was no improper motivation and no attempt at concealment.
26. Mr Sheldon KC described the conduct of the respondent as a one-off inadvertent breach of a of a rule which she should have been aware of and was not.

The appropriate sanction

27. As is clear from the unanimous ruling of the Tribunal, we took the view that the Respondent's behaviour at material time was significant, not because of the amount which was retained, but because it was behaviour on her part in a professional capacity which went to the heart of her professional responsibility and which

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required her to inspire the trust and confidence of the public in providing legal services as a practising barrister.

28. In the course of the ruling this morning, reference was made to earlier financial irregularities in which the Respondent had been engaged during 2014, 2015, and which had led to a judgement given at a disciplinary tribunal on 3 October 2018.
29. These related in the main to unpaid fees for the services of a barrister at Court, which went unpaid by the Respondent, and fees which she had recovered from the client by whom she had been instructed.
30. The Tribunal found, among other matters, that the respondent had failed to act with integrity during the passage of a case in which she had been instructed and that she had retained fees which had been intended by the client to be paid to the barrister instructed by the Respondent.
31. The Chairman of the Tribunal, Ms Sally Harrison QC, stated in her judgement on behalf of the panel that the Respondent had put her own financial needs ahead of the liability to pay Counsel's fees and in those circumstances, it was reasonable for the client to feel that the Respondent's conduct undermined her integrity, honesty and independence.
32. Against that background, but in the full knowledge of the circumstances of the current case, which are factually different, we are asked today to take a compassionate view of the events in December 2019, which formed the basis of Charges 1 and 2, and which we found proved, and to consider a sanction which falls within the lower range of seriousness, namely low culpability and limited or no harm.
33. In this regard, we have considered references put forward on behalf of the Respondent and we have considered with care the factual matrix of the case, set against the earlier tribunal disciplinary proceedings which were heard in 2018 and 2019.
34. While we have some sympathy for the Respondent's personal circumstances at the present time, and her apparently limited financial resources, we are clear that she still

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continues to practice now living in Spain and intends to continue to practice going forward.

35. We feel in the circumstances that in the light of all the matters before the Court, her case falls, on balance, within the middle range of seriousness.
36. While we recognise the significance of the personal mitigation and the various health issues which have self-evidently been a source of real concern for the Respondent in the recent past, we also have a duty to protect the public from the conduct of barristers which undermines the integrity of the profession.
37. With all those circumstances in mind, we have considered that in circumstances where the Respondent does have a previous disciplinary finding against her, a four-month suspension imposed in January 2019, although not activated until December 2019, and where, I repeat, we are anxious to protect the public from the actions of barristers which fall below the high standards of the bar, we have considered that the most appropriate and effective order in this case is firstly to order that the Respondent should be reprimanded.
38. Perhaps more significantly, in line with the sanctions guidance and on the particular facts of this case, we intend to impose a restriction on the Respondent's ability to access clients directly, pending the completion of a course authorised by the Bar Council to enable her to undertake public access work.
39. These courses are readily available online and can be accessed by the Respondent from her home in Spain.
40. This would be her only restriction on practice in the immediate future, but we are concerned that at the present time the Respondent does not have the requisite training or understanding in relation to direct access work and, in the light of the previous issues of financial irregularity, work needs to be done sooner rather than later to ensure that she is compliant at all levels with the codes of conduct in relation to direct access work.

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41. We are satisfied, in the particular circumstances of this case, that such a course would be both beneficial for the Respondent and a constructive means of preventing future breaches of the code of conduct.
42. In the particular circumstances of the case, where a fine would appear difficult to impose and enforce, and bearing in mind her current relative impecuniosity, we have considered with care that the order we propose is the most necessary and proportionate order to be made in the situation which we are dealing with today.

Commencement date of the sanction

43. The sanction imposed by the Tribunal (a restriction on the Respondent's ability to access clients directly, pending the completion of a course authorised by the Bar Council to enable her to undertake public access work) will be effective from 4pm on 13 October 2023.

Costs

44. We intend to impose a limited financial sanction in relation to costs in light of the BSB proving 2 counts on the charge sheet.
45. In our view, the right sum to be paid by the respondent in respect of the costs is £750, to be paid within 28 days.

HER HONOUR SARA STAITE

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