



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2019/0055/D5

Mr Terence Symmonds

The Director-General of the Bar Standards Board
The Chair of the Bar Standards Board
The Treasurer of the Honourable Society of Lincoln's Inn

Disciplinary Tribunal

Mr Terence Symmonds

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 14th February 2020, I sat as Chairman of a Disciplinary Tribunal on 19th March 2020 and 2nd October 2020 to hear and determine 3 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Terence Symmonds, barrister of the Honourable Society of Lincoln's Inn.

Panel Members

2. The other members of the Tribunal were:

John Vaughan (Lay Member)
Leon Pickering (Barrister Member)
Kathryn King (Lay Member)
Brian McCluggage (Barrister Member)

Charges

3. The following charges were admitted / found proven.

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Charge 1

Statement of Offence

Professional misconduct contrary to paragraph 301(a)(i) and/or (iii) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Terence Symmonds engaged in conduct which was discreditable and/or likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute in that, while he was in practice as a solicitor, he:

- a] Failed to pay the fees of counsel as they fell due; b] Failed to comply with directions of the Solicitors Regulatory Authority [SRA] with respect to the said fees; c] Failed to deal with the SRA in an open, prompt and co-operative way; d] Failed to maintain properly written up books of account; e] Failed to produce documents to the SRA when properly called upon to do so; f] Failed to pay funds received for the payment of professional disbursements into client bank account; and g] Failed to provide a mortgagee client with relevant information, and in respect of such conduct charges of professional misconduct were found proved against Terence Symmonds by the Solicitors Disciplinary Tribunal in findings dated 28 July 2009 and he was fined £5,000 and he had also: h] Failed to deal with the Legal Complaints Service and the SRA in an open, prompt and co-operative way; i] Behaved in a way likely to diminish the public's confidence by virtue of the manner in which he closed his practice; j] Breached terms of a professional undertaking; and k] Failed to comply with Court Orders, and in respect of such conduct charges of professional misconduct were found proved against Terence Symmonds by the Solicitors Disciplinary Tribunal in findings dated 6 January 2011 and he was suspended from practice as a solicitor for the period of one year, and he also: l] Acted in breach of the Solicitors Account Rules 1998; m] Acted in breach of Rules 1.02, 1.04, 1.05 and 1.06 of the Solicitors Code of Conduct 2007 and n] Acted in breach of Rule 20.08 of the Solicitors Code of Conduct 2007, and in respect of such conduct charges of professional misconduct were found proved against Terence Symmonds by the Solicitors Disciplinary Tribunal in findings dated 9 July 2014 and his name was struck off the Roll of Solicitors.

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Charge 2

Statement of Offence

Professional misconduct contrary to paragraph 905(b)(v) of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Terence Symmonds failed to co-operate with his regulator, in that he failed to report one or more of the findings of professional misconduct made by the Solicitors Disciplinary Tribunal on the 28 July 2009 and the 6 January 2011 against him promptly to the Bar Standards Board or at all.

Charge 3

Statement of Offence

Professional misconduct contrary to Core Duty 9 and/or rule rC65.3 of the Bar Standards Board Handbook.

Particulars of Offence

Terence Symmonds failed to co-operate with his regulator, in that he failed to report one or more of the findings of professional misconduct made by the Solicitors Disciplinary Tribunal on the 9 July 2014 against him and/or the consequent order to strike him off the Roll of Solicitors promptly to the Bar Standards Board or at all.

Parties Present and Representation

4. The Respondent was not present and was not represented. He had, however, provided two letters to the Panel, one prior to the March hearing, and a second shortly before the adjourned date. The Bar Standards Board (“BSB”) was represented by Mr Philip Stott.

Preliminary Matters

5. On Thursday 19th March when this matter was originally due to be heard in person, the country was moving towards a lockdown as a result of the coronavirus pandemic. This lockdown came into effect on Monday 23rd March. Before the Panel on that date was a letter written by the Respondent which covered a number of issues relating to the

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proceedings but included an observation that he thought it best not to travel considering the national circumstances.

6. In light of that observation, the Panel (minus Ms King, who could not be present on that occasion due to the pandemic) unanimously decided that the Respondent had not waived his right to be present. Therefore, the Panel declined the BSB's application to proceed in the Respondent's absence, and the matter was adjourned.
7. The adjourned hearing on 2nd October 2020 was held via Zoom due to the pandemic. Shortly prior to the hearing, the Respondent had written to the Panel. He explained that despite an approach to Advocate (formerly the Bar Pro Bono Unit) he had been unable to secure representation and did not feel able to represent himself. For that reason, he would not be attending the hearing remotely. He provided some details on some matters of personal mitigation.
8. The Panel decided unanimously that on the 2nd October 2020, the Respondent had voluntarily absented himself, and thus the hearing was to proceed in his absence.

Pleas

9. The Respondent did not indicate a plea either way in his correspondence. He did set out some factual matters which suggested that much of the factual background was not contested. Nonetheless, the hearing proceeded on the basis that not guilty pleas had been entered, in light of the Respondent's non-attendance and his not being represented.

Evidence

10. The evidence in the case was entirely paper-based, consisting of the findings of the SDT against the Respondent whilst he was a solicitor, on three occasions, and the absence of any communication from the Respondent to the BSB to indicate that these findings had been made against him by the SDT.
11. Although the Respondent was not present and was not represented, the Panel did take into account the factual matters raised in his correspondence to the Panel, which included an assertion that he had assumed that the SDT would communicate their findings to the Bar Council and BSB; and that as a result of that, the BSB would prevent him from obtaining a practising certificate if it was not permitted for him to have one.

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Findings

12. The Panel made the following comments when dealing with the sanction after their finding that the charges were proved.

‘Our focus has been on charge 1 – the professional misconduct. This was misconduct which was discreditable and likely to diminish public confidence in the legal profession whilst R was in practice as a solicitor. I am going to go quickly through the various allegations before dwelling on a few of them which seem to be the most important ones. His failures are listed in the first charge. R was dealt with by the SDT on 28th July 2009 for many matters and fined £5000. However, when he appeared again on the 6th Jan 2011, further matters were proved against him. Those are listed in the second part of Charge 1, and in respect of all of those matters he was suspended from practice as a solicitor for 1 year. Unfortunately, matters did not end there as on 9th July 2014, for acting in breach of Solicitors’ Account Rules and the Solicitors’ Code of Conduct, he was then struck off from the Roll of Solicitors.

R was Called to the Bar in 1989. He was admitted to the Roll of Solicitors in January 2002. His status as barrister varied from time to time – he was employed between 1989 and 1995; unregistered from 6th April 1996 to 2001. Then employed again between 6th April 2001 – 2002; from 6th April 2002 to July 2015, he was unregistered, and on 1st July 2015 he became a practising barrister up to the present time. He did, up to 2018, use the name Terence James Synott and some of the paperwork refers to him by that name, but it is accepted that it is one and the same man and Mr Symmonds has so stated in correspondence.

There are some matters on which it may help to focus just a little more, as they appear to be of particular significance in the context of the current charges.

Firstly, the breach of undertaking arose in respect of the sum of £27,000 which R had undertaken to hold to the order of the buyer’s solicitors and in fact when the money was demanded pursuant to that undertaking it wasn’t paid and the undertaking was therefore not honoured. In respect of that matter R agreed to a judgement and clearly therefore accepted responsibility. The solicitors acting were entitled to rely on undertakings given. It is not acceptable for such undertakings to be breached. The next matter is a sum of £85,000 which featured in another context, when R was acting as a solicitor. Somewhat more precisely it was a sum of £85,726 which was put into the client

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account but not retained there even though, on the face of it, it belonged to the client Mrs W. R withdrew those funds from that client account in the absence of a bill or written notification of costs being given to the client before any costs were taken. It was said that that sum accounted for fees and disbursements but the SDT, having considered everything that was provided, concluded that the evidence and R's demeanour were not credible, that his evidence was inconsistent and that his explanations were unclear and contradictory. R's explanation for the work he carried out was vague and he was found to have been in breach of the Rules in respect of that sum. The essence of the complaint was that there was no back up by way of documentation or invoices to the client when that money was taken out of the client account.

The other matter which is worth focussing on related to a Mr and Mrs C. On that occasion monies had been received from a particular partnership and were not retained in the client account. The allegation that was made and proved was that he had breached the Rules by not retaining that sum in the client account. As the client was not informed of funds being received the SDT found that R had put his own interests before those of the clients for his own benefit and that showed that he had acted with a lack of integrity. Lack of integrity was also referred to in another context – in the transaction of Mrs E. He was at that time acting for the lenders as well, as is frequently the case in this sort of transaction. He failed to register the client's interest. The SDT found that he had shown cavalier disregard to his obligations to his lender client and the SDT was satisfied that the collective failures, including that, amounted to R acting with a lack of integrity.

At page 75 of the bundle Sir Thomas Bingham is quoted in the case of Bolton, where he stated that it is required that lawyers should discharge their professional duties with integrity, probity and complete trustworthiness. R was struck off as a solicitor as a result of these actions. Precisely the same considerations apply to a barrister, as he is required to discharge his professional duties with integrity.

R did not appear today and he communicated to the Panel his intention not to appear today in a very recent email in which he said that he wasn't represented because it was impossible to find a barrister who would act for him on a pro bono basis today and he felt that he couldn't represent himself. He did place reliance on written material which he has provided from time to time. He provided his explanation to some extent in a statement which he sent through on 18th March and in which he put forward what he wishes us to take into account. There are other documents in which he has put forward his account of

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matters – page 99 has also been referred to in this context. In essence he accepts the findings that were made against him as a solicitor. In respect of charges 2 and 3, which are concerned with failure to report findings by the SDT to the BSB promptly or at all, he says that he thought that those findings would be sent to the BSB as matter of course; he believed that the Bar Council or BSB would raise a challenge if his application to practise as a barrister was not acceptable. He didn't think there was an onus on him to disclose the findings of the SDT. He didn't believe that there was any obligation or necessity for him to act independently to advise the BC or BSB especially as he had not been practising as a barrister for some 12 years at the time.

He also sets out his personal circumstances and of course one cannot but be sympathetic to him in relation to his personal circumstances as he has suffered periods of homelessness and indeed a fraud was perpetrated by someone else. In respect of the transaction concerning Mrs E he said he passed the file to a professional client who was a relative of Mrs E by whom he had been assured new solicitors had been instructed and the file would be passed to them without delay. Regarding Mr and Mrs C he says they owed tens of thousands of pounds to the firm for work undertaken on their behalf and they had been successful both in the trial and in the Court of Appeal. He therefore sought to justify his conduct. He also says that the bank account of his firm had been frozen and that made it impossible for the firm to continue.

Our primary focus is on charge 1. The essence of the issue there is whether bearing in mind that he was found in the various ways already referred to to be lacking sufficient integrity and was ultimately struck off from Roll of Solicitors that means that he cannot practise as a barrister either. It has been pointed out that in various parts of the sanctions guidance the emphasis is on the fact that members of the Bar have to be of the highest integrity. Reference is made to Bolton and the dicta referred to earlier from Sir Thomas Bingham.

Sanction and Reasons

13. The Panel is unanimously of the view that the misconduct in charge 1 has to attract a disbarment because all the various complaints which were found proved against him when acting as a solicitor demonstrated professional misconduct and in certain instances also a lack of integrity which justifies, indeed necessitates, disbarment. In respect of charges 2 and 3, he has made his position clear and we have already quoted from his

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statement that he thought that the findings against him and the striking from the Roll of Solicitors would be known to the BC and BSB. The outcome in respect of those charges is the same – also disbarment. The reason is really the totality of the picture when one takes into account the misconduct which we have already referred to and which is covered in charge 1.

14. On page 63 of version 5 of the sanctions' guidance are set out situations in which there has been a lack of self-reporting and in particular, as we understand it, self-reporting of serious misconduct. The starting point is disbarment

In our judgement, bearing in mind the totality of his conduct, and in particular the misconduct outlined in some detail and covered in charge 1, in this instance too there must be a disbarment, so the outcome is disbarment in respect of each of these charges.

15. An Order is made under Rule E225, which requires that under rule E227.3, where R is to be disbarred and holds no current practising certificate, the Panel must, unless inappropriate, require the BSB not to issue any practising certificate to him.
16. The Treasurer of the Honourable Society of Lincoln's Inn is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

Dated: 6 October 2020

**His Honour Alan Greenwood
Chairman of the Tribunal**

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