

## ADJUDICATION PANEL OF THE COUNCIL FOR LICENSED CONVEYANCERS

Application re: **Ravinder Dhunna (a Licensed Conveyancer)**

Date of Adjudication Panel Hearing: **5 June 2020**

Panel:

Victoria Goodfellow (Chair)

Catherine Fewings (Professional Member)

Helen Riley (Lay Member)

CLC was represented by Ms Dwomoh-Bonsu

Mr Dhunna was present and unrepresented

The hearing was held remotely via videoconference

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### ALLEGATIONS CONSIDERED

“ Whilst practising as the sole Manager and as the sole owner of Midland Property Lawyers (“The Practice”), you permitted the Practice to act or fail to act in such a way as to amount to a breach of the CLC’s Code of Conduct in that:-

1. The Practice failed to comply promptly and fully with a Legal Ombudsman Order in breach of Principle 5g of the CLC’s Code of Conduct.
2. Contrary to paragraph 12.4 of the CLC’s Accounts Code money withdrawn under paragraph 12.1 and/or paragraph 12.2 exceeded the total of the money held to the credit of both the Client and/or the Client Account in which the money is held in Matter 1 between 11 July 2018 and 27 July 2018 (16 days) the money withdrawn under paragraph 12.2 exceeded by £3,847.00 the total held to the credit of the Client.
3. Contrary to paragraph 16.2 of the CLC’s Accounts Code the Practice failed to provide the following Accountant’s Reports within 6 months of the end of the relevant accounting period:
  - a. Year ending 31 July 2016
  - b. Year ending 31 July 2017
  - c. Year ending 31 July 2018
4. Contrary to paragraph 5(a)(ii) of the CLC’s Recognised Body Recognition Framework the Practice failed to deliver to the CLC’s offices the fee payable under paragraph 5 of the CLC’s Fee Framework 2018.”

### REASONS AND DECISION OF THE ADJUDICATION PANEL

#### The Allegation

When considering the evidence presented to it on behalf of the CLC and Mr Dhunna, the panel bore in mind that the burden of proof is on the CLC, and the standard of proof to which the panel must be satisfied is the balance of probabilities.

At the beginning of the hearing, Mr Dhunna admitted the allegation in its entirety.

The panel bore in mind their overriding objective, to deal with cases fairly and justly.

Having read the bundles prepared in advance of the hearing, and hearing the submissions of both parties, the panel was satisfied that the allegation was properly admitted, and found it proved in its entirety.

### **Misconduct**

The panel went on to consider whether Mr Dhunna's conduct as found proved amounted to misconduct. Misconduct is conduct which falls far below the standard expected of licensed conveyancers, and that falling far below is serious.

So far as the first paragraph of the allegation is concerned, in its letter to the Respondent of 26 October 2016, the Legal Ombudsman found that there were failings in the service that the Respondent provide to a client, Ms A, in her purchase of a leasehold property in 2012. As a result of those failings, the Respondent was ordered to pay £5,935.77 to Ms A which amounted to reimbursing her costs incurred because of those failings, and £150.00 compensation to her for upset caused.

In an email dated 15 December 2016, the Respondent proposed to pay £500.00 per month to Ms A to settle the amount he was ordered to pay. By the panel's calculations, the full amount should therefore have been paid within 12 months. However, at the date of this hearing, £1,600.00 remained outstanding, and no payment had been made since December 2018.

Mr Dhunna told the panel his business partner had left the practice in 2015, at around the time of his failings of service as determined by the Legal Ombudsman, and he was struggling to manage his business. He was also experiencing personal difficulties, which impacted on his ability to concentrate on the business.

He employed a bookkeeper, and a firm of accountants to prepare the reports required for submission to the CLC. The panel found that Mr Dhunna did not give the financial procedures in Midland Property Lawyers the level of attention and diligence required and expected by clients who entrusted their money to him in the course of their transactions. The panel did not find that his failure to monitor his accounts, or to ensure that the reports required by the CLC were duly submitted (either on time or at all), was mitigation against his clear duties as the principal of Midland Property Lawyers and as a Licensed Conveyancer.

In finding all four paragraphs of the allegation proved, the panel had found multiple breaches of the Code of Conduct (Overriding Principles 1, 3 and 5) across several areas of Mr Dhunna's practice – client service, financial management, and compliance with regulatory duties. It noted however that there was no suggestion by the CLC that he had acted dishonestly.

The panel were concerned that Mr Dhunna, whilst telling it that he accepted full responsibility for his actions, was at the same time suggesting that others were also responsible, in that he had trusted

his bookkeeper and his accountants. The panel felt that Mr Dhunna did not demonstrate a clear understanding of how important those aspects of his practice were.

The panel found that Mr Dhunna's breaches of the Code of Conduct affected the public in that an individual client suffered upset and financial loss, and public trust in the profession could be damaged by his actions, particularly as they included allowing a shortfall in the client account.

There was clear evidence in Ms A's statement of loss of trust in Licensed Conveyancers because of Mr Dhunna's actions and failings, which could impact on others within the profession.

Because of the wide range of Mr Dhunna's failings, his multiple breaches of the Code of Conduct, and the clear impact on the reputation of the profession, the panel found that Mr Dhunna's actions amounted to misconduct, and that misconduct was serious.

### **Sanction**

The panel then went on to consider the appropriate sanction to impose and heard submissions from both parties.

In assessing the appropriate sanction, the panel were mindful of the Sanctions Guidance issued by the CLC in March 2018, which sets out the sanctions to be considered in the event the allegations were found to be proved.

It bore in mind that the purpose of sanctions is to

- (a) uphold the CLC's regulatory objective of protecting the public and consumers of legal services.
- (b) To maintain and uphold public confidence in the reputation of the profession.
- (c) To declare and uphold proper standards of conduct; and
- (d) To mark the seriousness (actual or potential) of the proven misconduct. It is well established that the purpose of imposing sanctions is not to punish the respondent but to protect the public. This is consistent with and does not prevent the imposition of a sanction which may have a punitive effect on the respondent when it is necessary to meet its objectives as set out in 3 (a) and 3(b) above.

Ms Dwomoh-Bonsu drew the panel's attention to s24(3) and s26(2) of the Administration of Justice Act 1985. The CLC has confirmed that Mr Dhunna does not currently hold a licence. We do, however, note that, at the time the alleged conduct took place, Mr Dhunna was a licence holder.

On that basis, the only sanctions available to the panel under s26 Administration of Justice Act 1985 were:

- No further action
- A reprimand (s26(2)(f))
- A fine (s26(2)(e))
- Or disqualification (whether for a fixed period or permanent) (s26(2)(b))

In deciding what sanction to impose the panel considered the following factors:

#### Proportionality

Harm (impact on client, clients in general, on the profession)

#### Insight

The public interest (impact on the reputation of the profession, confidence in the CLC's regulatory process and the deterrent effect)

Aggravating factors (which may cause sanction to be increased)

Mitigating factors (which may cause sanction to be reduced)

#### CLC submissions on sanction

The CLC invited the panel to disqualify Mr Dhunna for a fixed period. They submitted that Mr Dhunna was guilty of serious breaches of the Code of Conduct, which included financial mismanagement. They told the panel that Mr Dhunna had held a licence for a long time and therefore should be well aware of his regulatory requirements. They submitted that there were repeated failures, included breaches of his promise to pay Ms A. By Ms A having to involve the Legal Ombudsman in her complaint about Mr Dhunna's service, there was a financial impact on the profession in that there was a charge to the CLC for every case referred to the Legal Ombudsman.

#### Respondent's submissions on sanction

Mr Dhunna told the panel that he was sorry for the impact his actions had had on Ms A, and that he had apologised to her (whilst he was unable to provide documentary evidence of that apology, the CLC did not challenge Mr Dhunna's assertion). He admitted all the allegations, which meant that Ms A did not have to give evidence to the panel, and he had that day made arrangements to pay Ms A the full amount owing.

He said he had had several job offers but could not take them because they required him to have a licence to practice. He told the panel he had also had offers of work as a paralegal but did not want to take them as he believed his value to be greater than the salary those roles offered.

He told the panel he had not borrowed money before that day to pay Ms A because of feelings of pride, but he was now very anxious to be able to secure a suitable role and realised he could not do that without a licence. The panel were concerned that Mr Dhunna had potentially not used his best endeavours before the hearing to settle the amount he owed and was trying to offset his ability to pay against his need for a licence.

Mr Dhunna told the panel on several occasions during the hearing that he did not want to be a manager of a practice again, as he had learnt the serious consequences of failing to properly manage his business. However, the panel also noted that at an earlier stage during the hearing, he said that perhaps in a few years' time, he would like to have his own business again.

He was however able to tell the panel that if he found himself in a similar situation again to that which had brought him before the Adjudication Panel, he would exercise a lot more due diligence, and if he was uncomfortable with being instructed on a case he would not take it on. He would take more time over his work to ensure that it was conducted properly.

### Panel's reasoning

The panel assessed the harm caused by Mr Dhunna's misconduct and noted that there was direct harm to Ms A (in the financial loss she had made, the upset she had experienced, and the impact on her trust of professionals). It also noted the impact on the profession, both in the form of the levy imposed by the Legal Ombudsman for considering Ms A's complaint, and in the reputational harm caused, as clearly set out in Ms A's statement when she said she would not instruct a Licensed Conveyancer in future because of Mr Dhunna's failings.

The panel considered that Mr Dhunna had some insight into his failings and their impact, albeit that insight was limited and not fully formed, as demonstrated by his references to his bookkeeper and accountants having some responsibility for the failings in paragraphs 2 and 3 of the allegation.

He expressed remorse at the impact of his actions on Ms A, but the panel did not consider that he fully grasped the impact on his fellow professionals, and made very little reference to his failure to pay the money he owed to the CLC (paragraph 4 of the allegation).

The panel considered that his financial mismanagement was serious, including as it did the mismanagement of his client account as well as failings to submit Accountant's reports and to pay his dues to the CLC. In particular any mismanagement of client funds is serious.

Finally, the panel noted that Mr Dhunna expressed willingness to remedy his failure to pay Ms A, but in fact had made no effort to pay her since December 2018, and had made several previous promises to pay but had not kept them. The panel did note however that he paid the money he owed to the CLC in November 2019.

The panel found the following factors aggravating and mitigating factors (as set out in the Sanctions Guidance) to apply:

### Aggravating

**Failure to self-report to the CLC**

**Serious breaches of the CLC's regulatory arrangements**

**Serious financial mismanagement**

**Significant risk of harm to others**

**Increased likelihood of damage to the reputation of the profession**

### Mitigating

**Open and honest about wrongdoing**

**No previous findings of misconduct**

**Apology to the client**

Whilst there was some evidence of insight, the panel did not attach significant weight to this because it was limited.

The panel started their consideration of the appropriate sanction from the least serious.

This was not a case where no action could be taken. The seriousness of Mr Dhunna's failings must be marked, particularly where there were multiple breaches of the Code of Conduct which included serious financial mismanagement.

Similarly, a reprimand was not an appropriate sanction in this case. The reputational harm was significant, both in general and as particularly set out in Ms A's statement to the panel. Given Mr Dhunna's only limited insight, and the fact that he had not remediated the loss to Ms A prior to the hearing, a reprimand would not meet the seriousness of Mr Dhunna's misconduct.

The panel considered whether a fine would be appropriate but conclude that it would not. Mr Dhunna is already in financial difficulties, and in this case, it would only be punitive in nature, and the panel was concerned that Mr Dhunna used any available funds to pay Ms A. In addition, it would not adequately meet the public concern about a licensed conveyancer who failed to manage his practice, both financially and in relation to the level of service he provided.

Therefore, the least onerous sanction the panel could impose was disqualification for a specified period of time. It noted that the Sanctions Guidance indicated (at paragraph 11.2) that "*findings of serious breaches of the Accounts Code (such as shortage to client account) which fall short of dishonesty, as here, are also likely to received more severe sanctions because of the potential of direct harm to clients, damage to the reputation and confidence of the profession.*"

The panel considered this was a case of serious misconduct, with a lack of full insight, and without remediation, in circumstances where during a break in the hearing, Mr Dhunna had been able to secure a loan over the telephone from a family member.

In considering the appropriate length of disqualification, the panel took into consideration that Mr Dhunna had been without a license since 1 November 2019. It determined that the shortest period it could impose which was proportionate to the level of misconduct found, was a period of 3 months.

The panel did not consider that permanent disqualification was appropriate or necessary in this case.

The sanction imposed therefore was a period of **3 months' disqualification from holding a licence.**

### **Application for costs**

The panel were then invited to consider an application by the CLC for Mr Dhunna to pay the costs of the proceedings, in the sum of £2,440.00 A scheduled of costs was provided to both the panel and Mr Dhunna, and Mr Dhunna provided a statement of his financial circumstances.

The panel agreed that Mr Dhunna should pay a contribution towards the costs, and that the amount of costs sought (£2, 240.00) was reasonable but that having considered his means an appropriate sum to award was **£1,220.00**.

**Signed:**

**Victoria Goodfellow**  
**Chair**

**5 June 2020**