

IN THE MATTER OF:

COUNCIL FOR LICENSED CONVEYANCERS (Applicant)

AND

MS YASMINE MACHIN (Respondent)

DECISION OF THE ADJUDICATION PANEL

ALLEGATIONS

Whilst practising as a Licensed Conveyancer at Tayntons LLP ("the Firm"):

Allegation 1

1. On an unknown date, thought to be around 23 - 25 January 2023 you signed:
 - a. a Borrower Declaration Certificate and dated it 25 January 2022 relating to Property X as a witness purporting to be Colleague A.
 - b. a Borrower Declaration Certificate and dated it 23 January 2023 relating to Property X as a witness purporting to be Colleague A.
 - c. a Solicitors Verification Certificate and dated it 23 January 2023 relating to Property X purporting to be Colleague A.
 - d. two Solicitor's Certificates relating to Property X purporting to be Colleague A.
 - e. a Subordination Deed relating to Property X as a witness purporting to be Colleague A.

- f. a Buy to Let loan agreement relating to Property X as a witness purporting to be Colleague A, and accompanying Independent Legal Advice purporting to be Colleague A.
- g. a Legal Charge relating to Property X as a witness purporting to be Colleague A, and accompanying Independent Legal Advice purporting to be Colleague A.

Allegation 2

- 2. On 25 January 2023, in an email to the other party's solicitors you stated that:
 - a. in response to a query about the signatures on the deed of subordination and the solicitor certificate, that all three directors of Client Y were in attendance and all paperwork was signed in the presence of you and Colleague A when you knew that Colleague A was not present.
 - b. you had met two directors of Client Y in a car park and Colleague A had witnessed the signatures of two of the three directors which you knew to be false.
 - c. the documents listed at Allegations 1a and 1b were signed while "leaning on the bonnet" of a car by way of explanation that the signatures "may be wobbly but I certify they are correct" which you knew to be false.

Allegation 3

- 3. Your conduct at Allegations 1 – 2 was dishonest and/or lacked integrity.

FACTS AND MISCONDUCT

1. The first hearing of these allegations was on 5 July 2024. At that hearing, Ms Machin made admissions in relation to all three allegations. However, on hearing evidence from her in mitigation and in relation to sanction, it became clear to the Panel that Ms Machin's admission Allegation 3 (in relation to dishonesty) was equivocal. After taking advice from her legal representative Ms Machin made an application to set aside her admissions, and the matter was adjourned, and relisted for hearing on 25 November 2024 and 4 December 2024.
2. On 25 November 2024 and 4 December 2024 the Panel heard evidence again from Ms Machin and oral submissions from her solicitor. On 4 December 2024 the Panel also heard from one of the Applicant's witnesses, Claire Burrow, who was referred to as Colleague A in the allegations.
3. The Panel found Ms Burrow's evidence to be compelling, clear and consistent. She made concessions where appropriate, and was certain as to the events referred to in the allegations.
4. Having carefully considered the evidence it read and heard, the panel concluded as follows:

5. Allegation 1

- a) Ms Machin admitted the facts as set out by the Applicant, and accordingly admitted Allegation 1 in its entirety.
- b) The Panel was satisfied that, based on the evidence submitted by the Applicant and the admissions made, Allegation 1 was found proved.

6. Allegation 2

- a) In her oral evidence at both hearings, Ms Machin asserted that she found it difficult to remember her actions precisely because of the levels of stress and anxiety she was experiencing at the time. She did not however assert any positive alternative account or explanation for the actions described by the Applicant's witnesses.
- b) The panel noted that in her email to the Applicant's Monitoring Department on 5 December 2023, Ms Machin said "I do not deny my actions".

- c) The evidence from the Applicant's witnesses was clear and unequivocal. The panel found that evidence compelling. Ms Machin did not provide any explanation which the Panel found undermined the Applicant's evidence.
- d) The Panel therefore found Allegation 2 proved.

7. Allegation 3

- a) This allegation was denied by Ms Machin and formed the focus of much of her oral evidence.
- b) The Panel noted Ms Machin's email of 5 December 2023 also denied that her actions were dishonest. She was silent at that time as to whether her actions lacked integrity but subsequently at the oral hearing on 4 December 2024 she admitted that her admitted actions lacked integrity.
- c) It was Ms Machin's case in summary that:
 - a. In 2013 there was a significant traumatic event in the life of Ms Machin and her family. This fundamentally changed their lives. As a consequence Ms Machin and her husband have significant caring responsibilities in addition to their professional responsibilities.
 - b. Those events are continuing to impact on Ms Machin and her decision making and levels of anxiety.
 - c. In addition, Ms Machin was working at Tayntons LLP with a team member with whom she had had disputes and a fractious relationship at another practice. This fractious relationship continued at Tayntons and placed further stress and anxiety upon Ms Machin at the time of the events with which the Panel is concerned.
 - d. At the relevant time, Ms Machin described feeling "I felt under siege, and without support. The atmosphere at work added to my mental anguish caused by my home situation. I wasn't sleeping; I dreaded coming into work; I started having panic attacks;"
 - e. The impact of those events contributed to Ms Machin's decision making around her actions as set out in the first and second allegations to the extent that she was effectively not in control of her actions and in a state of automaton.
 - f. As set out in her email to the Applicant on 5 December 2023, even at the date of the hearing Ms Machin was unable to offer a credible explanation for her actions. She told the Panel in her oral evidence that she "genuinely does not remember signing or scanning the documents"

- g. She was however consistent in asserting that she gained nothing personally from her actions, was motivated to achieve the best for her client, did not see at the time that her actions were wrong, and had no intention to mislead or deceive anyone.
- d) The Applicant's case, in summary, in relation to Allegation 3 was that Ms Machin's actions were a series of specific acts, each one consciously and deliberately done. The Applicant drew the Panel's attention to the lack of medical evidence to support Ms Machin's assertion that her state of mind was altered at the time of the relevant events.
- e) **Legal advice** – the Panel received legal advice from the Adjudication Panel Chair as to the test for dishonesty, as set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. That advice was shared with the parties' advocates before being given to the Panel, and was given in an agreed form of words.
- f) **Panel discussion** – the Panel focused on applying the test for dishonesty
- a. The Panel carefully considered all of the evidence before them.
 - b. The Panel looked for evidence of Ms Machin's genuinely held knowledge or belief as to the facts at the relevant time.
 - c. The Panel assessed the oral evidence it had heard.
 - i. **Ms Burrow** – the Panel found her to be a compelling and truthful witness, who had a clear and consistent recollection of what had happened and her conversations with Ms Machin.
 - ii. **Ms Machin** – the Panel found her evidence to be less credible and selective because she effectively relied on being unable to remember any of her reasons or rationale for acting as admitted, but was able to clearly remember her thinking at the relevant time in relation to what was happening in the office and at home. The Panel found that Ms Machin repeatedly deflected from explaining her thought processes at that time, most likely from feelings of shame and regret, but nonetheless her evidence did not demonstrate insight or true self-reflection.
 - iii. The Panel took into consideration and attached weight to the difficulties that Ms Machin was experiencing professionally and personally at the time of the events.
 - d. It found that Ms Machin knew that what she was doing was wrong. The Panel found the following evidence particularly compelling in that respect:

- i. Ms Machin did not challenge the evidence from Ms Burrow that, when asked by Ms Machin to sign off the documents, she refused to do so, stating that she was not prepared to sign off something which she had not had sufficient time to consider and review. The Panel therefore concluded that Ms Machin clearly knew, at the time of signing the documents and emailing the other party's solicitors that Ms Burrow was neither providing the advice, nor prepared to sign the documents.
 - ii. Ms Machin fabricated an explanation for any suggestion that her signature as Ms Burrow was unlike Ms Burrow's usual signature or looked suspicious, (she referred to it as "wobbly") by saying that Ms Burrow had to sign the document on the bonnet of a car. The Panel found this to be evidence of clear intention to deceive, because Ms Machin had thought through the potential issues with her impersonation of MS Burrow's' signature and sought to cover those off with a plausible explanation. The Panel concluded this was a calculated dishonest action
- e. The Panel then went on to consider the second limb of the test, by taking that knowledge or belief, deciding whether that conduct was dishonest by the standards of ordinary decent people.
- f. It noted the following evidence as particularly compelling:
 - i. Ms Machin herself wrote to her employer on 8 February 2023 "I should have just told you but I got myself twisted up to the point of anger of what is happening at home" and "I know what it did was wrong".
 - ii. Whilst Ms Machin referred to the events as a "moment of madness" in fact Ms Machin pursued a course of action, and there were many points in that course of action where she could have stopped and changed that course.
 - iii. Ms Machin's fabrication of her explanation for the "wobbly" signature was evidence that, in the knowledge that she had misrepresented that Ms Burrow had signed the documents and advised the clients, she lied to cover the possibility of being discovered.

- g. The Panel therefore concluded that the second limb of the test was made out.
- h. The Panel was therefore satisfied that Allegation 3 was proved as to dishonesty, and that Ms Machin's actions as set out in Allegations 1 and 2, and admitted, were dishonest and amounted to serious misconduct.

SANCTION

- 8. Having found misconduct, the panel took submissions from both parties on the appropriate sanction to apply in this case.
- 9. The Panel reminded itself of the Sanctions Guidance (March 2018) and of the purpose of sanctions, set out for clarity below:

3.1 To uphold the CLC's regulatory objective of protecting the public and consumers of legal services;

3.2 To maintain and uphold public confidence in the reputation of the profession;

3.3. To declare and uphold proper standards of conduct; and

3.4. To promote public and professional confidence in the CLC's complaints and disciplinary processes.

3.5. 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 at 3.1 to 3.2 above.

Submissions

- 10. The Applicant reminded the Panel that the Sanctions Guidance was clear that save where in exceptional circumstances, a finding of dishonesty would lead to disqualification of the Licensed Conveyancer.
- 11. The Applicant was 'neutral' as to whether there were exceptional circumstances in Ms Machin's case.
- 12. The Respondent, through their legal representative, accepted that almost invariably a finding of dishonesty would lead to a serious sanction, but it was not inevitable

and reminded the Panel of its wide discretion in sanction. The Panel was addressed on case law in support of a finding that in Ms Machin's case there were exceptional circumstances in her home circumstances at the time. The Panel was also reminded that consideration of whether there were exceptional circumstances in this case was a fact specific exercise.

13. The Respondent submitted mitigation which included:
- a. The events had taken place over a two day period, and did not amount to a sustained pattern of behaviour
 - b. It was effectively a 'moment of madness'
 - c. It was a serious error of judgement in an otherwise unblemished and exemplary career in law over many years
 - d. A decision to disqualify Ms Machin would be wholly disproportionate.
 - e. Ms Machin demonstrated insight by accepting and admitting her conduct at an early stage
 - f. Ms Machin was deeply ashamed of her behaviour and wished to offer a sincere and genuine apology to the Panel.

Harm

14. The Panel found that Ms Machin's actions could have had a significant impact on Ms Burrow and her professional standing, and had caused considerable stress and anxiety to Ms Burrow by her being required to become involved in the regulatory investigation and appear before the Panel in these proceedings as a witness.
15. There was a financial cost to the practice where Ms Machin was working at the time.
16. Her actions posed a serious risk to the reputation of the profession, by lying about having given specific legal advice, impersonating a signature, misleading fellow professionals and attempting to cover up her actions.

Insight

17. Whilst Ms Machin had apologised, the Panel did not find that she fully understood the importance or seriousness of the individual actions she took at the time or now and at time some of her oral evidence was dismissive of the importance of those documents which in themselves were intended to indicate that legal advice had been given by an individual professional (Ms Burrow) who could be held accountable for that advice.

18. Ms Machin's failure to self-report even after she told her employers that she knew what she had done was wrong, indicates a lack of insight into the seriousness of her actions.

Aggravating Factors

19. Ms Machin was in a position of trust at the time, including being a head of department and training other colleagues.

20. Ms Machin abused that position of trust.

21. She failed to report her actions either to her employer or to the CLC.

22. She has failed to provide a proper explanation for her actions .

23. The panel found there was a course of conduct, in that there were several steps taken over the two day period, with a passage of (short) time between them, and therefore this was not one single action.

24. There is an increased likelihood of damage to the reputation of the profession from Ms Machin's conduct.

Mitigating Factors

25. Ms Machin achieved no personal gain from her actions.

26. Her personal circumstances were extremely difficult and would have had an impact on her daily life. However the Panel had no medical evidence before it on which it could rely.

27. She has made significant admissions to the facts.

28. She co-operated fully with the CLC investigation.

29. She has apologised to the practice (but not to Ms Burrow).

30. She is otherwise of good character, personally and professionally.

31. The panel had the following sanctions available against Ms Machin

- Taking no further action
- A reprimand
- A fine and/or
- Conditions on licence
- Suspension from practice
- Disqualification.

32. It bore in mind that it must consider the least serious sanction first, and only if that would not meet the sanctioning objective, should it go on to consider the next.

33. The Panel concluded that, given the finding of dishonesty and the seriousness of such a finding in the context of reputational damage to the profession in particular, it would not be appropriate or proportionate to take no further action, impose a reprimand, a fine or conditions on Ms Machin's licence. The Panel also concluded that there were no suitable or relevant conditions which could be imposed in these circumstances.

34. It carefully considered whether a period of suspension would be proportionate, but again found that its findings of calculated dishonesty in a (short) course of conduct, were so seriousness that the objective of sanctioning would not be met by imposing a period of suspension. It bore in mind that maintaining and upholding public confidence in both the profession and the regulation of the profession was an important part of the purpose of sanctioning, and the imposition of a suspension was unlikely to meet that purpose in the context of a dishonest conveyancer.

35. The Panel therefore concluded that the only proportionate sanction would be one of disqualification. The Panel concluded that whilst Ms Machin's personal circumstances were unusual and undoubtedly very difficult and distressing for her and her family, in the context of the evidence it had heard and the findings it had made, they did not amount to such exceptional circumstances that would render a period of disqualification disproportionate.

36. The Panel noted that this may have a punitive effect on Ms Machin if she were to lose her current employment, but that whilst that was not the intention of sanctioning her, if it were to be so it remained necessary for the upholding of public protection and public confidence.

37. Having considered all the circumstances the Panel concluded that the appropriate period of **disqualification was one of 12 months.**

COSTS

38. The Applicant sought an order for costs in the sum of £28,850.00 and provided a schedule of costs in support.
39. The Panel heard evidence from Ms Machin as to her personal and financial circumstances, which have been severely impacted by the tragic events within her family.
40. It bore in mind that the Panel has a wide discretion in the ordering of payment of costs, and that it could consider the proportionality of making such an order in all the circumstances.
41. The Panel found that Ms Machin's personal circumstances were relevant to the amount of costs to order, having concluded that it was proportionate to make an order for costs.
42. **It concluded that a proportionate and just order is that Ms Machin make a contribution to the Applicant's costs in the sum of £5,000.00.**

Victoria Goodfellow (Adjudication Panel Chair)

Paul Brooks (Lay member)

Catherine Fewings (Licensed Conveyancer member)