

Nicholas Martindale

Employee

803613

Agreement Date: 19 February 2021

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 19 February 2021

Published date: 26 February 2021

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Irwin Mitchell LLP

Address(es): Riverside East, 2 Millsands, Sheffield SOUTH YORKSHIRE
S3 8DT

Firm ID: 570654

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Nick Martindale, a former employee of Irwin Mitchell LLP (the Firm), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. to the SRA making an order under section 43 of the Solicitors Act 1974 (a section 43 order) in relation to him that, from the date of this agreement:
 - i. no solicitor shall employ or remunerate him in connection with his practice as a solicitor
 - ii. no employee of a solicitor shall employ or remunerate him in connection with the solicitor's practice
 - iii. no recognised body shall employ or remunerate him
 - iv. no manager or employee of a recognised body shall employ or remunerate him in connection with the business of that body



v. no recognised body or manager or employee of such a body shall permit him to be a manager of the body

vi. no recognised body or manager or employee of such body shall permit him to have an interest in the body

except in accordance with the SRA's prior permission

b. to the publication of this agreement

c. he will pay the costs of the investigation of £300.

2. Summary of facts

2.1 Between 27 March 2017 to 14 October 2019 Mr Martindale was employed by the Firm as a paralegal in its personal injury team. He was supervised by a solicitor.

2.2 Mr Martindale was dealing with a personal injury matter on behalf of a client. To prevent the client's claim from being struck out Mr Martindale needed to pay a court trial fee by 1 October 2019. A hearing was listed for 29 October 2019.

2.3 On 8 October 2019 Mr Martindale discussed the case with the defendant's solicitor, who mentioned the upcoming court hearing. Mr Martindale told the defendant's solicitor that he had not received the Notice of Trial.

2.4 After speaking to the defendant's solicitor, Mr Martindale checked the client file. He realised that the Notice of Trial had been received and that the fee should have been paid by 1 October 2019.

2.5 Mr Martindale destroyed the Notice of Trial and then emailed the defendant's solicitor confirming that he had not received it.

2.6 On 9 October 2019 Mr Martindale filed an application with the Court, along with a signed statement of truth, stating that he had not received the Notice of Trial. A copy of the application was also sent to the defendant's solicitor.

2.7 On 10 October 2019 Mr Martindale telephoned the Court and he was told that the client's case had been struck out because the court fee had not been paid.

2.8 On 14 October 2019 Mr Martindale told the Firm about his conduct and resigned.

3. Admissions

3.1 Mr Martindale admits and the SRA accepts that:



- a. he destroyed the Notice of Trial in order to conceal that he had not paid the trial fee
- b. he sent misleading correspondence to the defendant's solicitor
- c. he filed an application to the Court, together with a signed statement of truth, which falsely claimed that he had not received the Notice of Trial
- d. his conduct was dishonest.

4. Why a section 43 order is appropriate

4.1 The SRA's Enforcement Strategy and its guidance on how it regulates non-authorised persons, sets out its approach to using section 43 orders to control where a non-authorised person can work.

4.2 When considering whether a section 43 order is appropriate in this matter, the SRA has taken into account the admissions made by Mr Martindale and the following mitigation which he has put forward:

- a. it was an isolated incident
- b. he has expressed regret and remorse for his actions
- c. he has cooperated with the SRA in its investigation.

4.3 The SRA and Mr Martindale agree that a section 43 order is appropriate because:

- a. he is not a solicitor
- b. he was involved in a legal practice as he was undertaking work in the name of, or under the direction or supervision of, a solicitor
- c. by destroying the Notice of Trial and sending misleading documents to the Court and the defendant's solicitors, Mr Martindale has occasioned or been party to an act or default in relation to a legal practice.

4.4 Mr Martindale's conduct makes it undesirable for him to be involved in a legal practice because it was dishonest. The public, the profession and the court are entitled to rely upon the honesty and integrity of the people that they deal with at solicitors' firms. Mr Martindale's actions have undermined the trust in the provision of legal services and the solicitors' profession.

5. Publication

5.1 SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory process. Mr Martindale agrees to

the publication of this agreement.

6. Acting in a way which is inconsistent with this agreement

6.1 Mr Martindale agrees that he will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

7. Costs

7.1 Mr Martindale is to pay the costs of the SRA's investigation in the sum of £300. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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