

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
BETWEEN:

CLAIM NO: CO/3212/2014

THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

and



(1) NURSING AND MIDWIFERY COUNCIL

First Respondent

(2) MS ELAINE TERESA SMITH

Second Respondent

CONSENT ORDER

UPON the parties having agreed to the terms of this Order and to the terms set out in the attached Schedule;

AND UPON neither party being either a child or protected party and the appeal not being an appeal from a decision of the Court of Protection;

AND UPON the First Respondent conceding that the decision of its Conduct and Competence Committee ("CCC") dated 6 – 7 May 2014, which is the decision under appeal ("the Decision"), was unduly lenient within the meaning of Section 29 of the National Health Service Reform and Health Care Professions Act 2002;

IT IS ORDERED BY CONSENT THAT:

Royal Courts of Justice

Transaction: 1003466

Fee Code : JHM 2.5 4

Fee : £50.00

Operator : HARY A

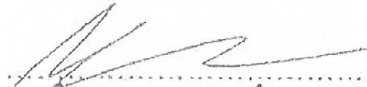
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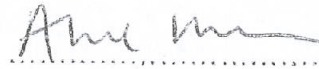
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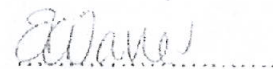
1. The appeal is allowed;
2. The Decision (including the panel's individual decisions as to facts, misconduct, impairment of fitness to practise and sanction) is quashed;
3. The First Respondent's case against the Second Respondent is to be remitted to a differently constituted Panel of the First Respondent's CCC for rehearing on the charges attached to this Order as annex 2, and for reconsideration of the issues of misconduct, impairment of fitness to practise and sanction;
4. The First Respondent is to pay the Appellant's reasonable costs of the appeal, to be assessed if not agreed.
5. The hearing of this appeal listed for 14 January 2015 is vacated.

WE CONSENT TO AN ORDER IN THE ABOVE TERMS.

Dated this day of 2014


 A. Jussit, PARTNER
 18.12.2014
 CAPSTICKS SOLICITORS
 LLP


 NURSING AND
 MIDWIFERY COUNCIL


 05.01.15
 ROYAL COLLEGE
 OF NURSING

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 Estate
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 EX2 7FW

ADMINISTRATIVE COURT OFFICE
 BY CONSENT ORDER AS ASKED


07 JAN 2015

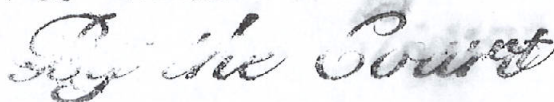
Ref: AZS/089776

Solicitors for the Appellant

For the First
 Respondent

For the Second
 Respondent


 PHILIP A. SHEEHAN
 ACO LAWYER


 Philip A. Sheehan

SCHEDULE

1. The Second Respondent is a registered nurse. On 6 - 7 May 2014, the CCC reached the Decision, which included the imposition of a three-year caution order on the Second Respondent.
2. The Appellant appealed against the Decision on the grounds that it was unduly lenient within the meaning of section 29 of the National Health Service Reform and Health Care Professions Act 2002, and/or that there was a serious procedural irregularity in the proceedings. A copy of the grounds of appeal is attached to this schedule as annex 1.
3. The First Respondent concedes the appeal on each of the grounds, save that it is not conceded that the evidence as to the Second Respondent's alleged dishonest responses to the Trust investigations should have been pleaded as a separate head of charge (Ground 1 paragraph 26(a)). However, it is agreed that the First Respondent will put before the new panel for its consideration, the transcripts of interviews between the Second Respondent and the Somerset Partnership NHS Foundation Trust dated 1 December 2010, 23 February 2011 and 11 August 2011.
4. Accordingly, the charges which are to be put before a new panel in accordance with the terms of this Order will be those contained in the document entitled "Schedule of Charge", attached to this schedule as annex 2.