

IN THE MATTER OF JEREMY LLOYD ORCHARD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr R J C Potter (in the chair)  
Mrs K Todner  
Mr S Howe

Date of Hearing: 23rd June 2009

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Solicitors Regulation Authority (“SRA”) by Saba Yousif a solicitor employed by the SRA at 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 17<sup>th</sup> September 2008 that Jeremy Lloyd Orchard might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

On 22<sup>nd</sup> December 2008 the Applicant made a further statement containing a further allegation.

On 14<sup>th</sup> May 2009 Sara Dickerson a barrister employed by the SRA at Leamington Spa made a second supplementary statement containing further allegations.

The allegations set out below are those contained in the original and two supplementary statements. The Tribunal noted that the allegation contained in the first supplementary statement was not numbered and that the numbering of the allegations in the second supplementary statement did not follow sequentially from the earlier allegations. The Tribunal has in these findings numbered the allegations in the original statement 1 and 2, the

allegation contained in the first supplementary statement 3 and the allegations contained in the second supplementary statement 4, 5, 6, 7, 8 and 9.

The allegations against the Respondent were that:-

1. He failed to deliver his firm's Accountant's Report for the period ending 31<sup>st</sup> March 2007 in breach of Section 34 of the Solicitors Act 1974.
2. He failed to respond to correspondence from the SRA in breach of Rule 20.03 (1) of the Solicitors' Code of Conduct 2007.
3. He breached Section 34 of the Solicitors Act 1974 in that he failed to deliver an Accountant's Report for the year ending 31<sup>st</sup> March 2008, due on 30<sup>th</sup> September 2008.
4. He failed to maintain adequate accounting records in breach of Rule 32 of the Solicitors Accounts Rules 1998.
5. He failed to prepare reconciliation statements every 5 weeks in breach of Rule 32(7) of the Solicitors Accounts Rules 1998.
6. He kept office money in client bank account in breach of Rule 13 and 15 of the Solicitors Accounts Rules 1998.
7. He kept interest earned on the general client account in the client account instead of the office account in breach of Rule 13 Note (xi)(b) and Rule 15 of the Solicitors Accounts Rules 1998.
8. He failed to respond promptly to correspondence from the SRA in breach of Rule 20.03 of the Code.
9. He failed to respond promptly to correspondence from the SRA in breach of Rule 20.03 of the Code.

The application was heard at the Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Sara Dickerson appeared on behalf of the Applicant and the Respondent did not appear and was not represented.

### **The Evidence before the Tribunal**

The evidence before the Tribunal included evidence as to due service of all relevant documents upon the Respondent, as to which the Tribunal expressed itself to be satisfied, and the oral evidence of a Forensic Investigation Officer of the SRA.

### **At the conclusion of the hearing the Tribunal made the following Order:-**

The Tribunal Orders that the Respondent Jeremy Lloyd Orchard, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 23rd day of June 2009 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,019.00 inclusive.

**The facts are set out in paragraphs 1 - 16 hereunder**

1. The Respondent, born in 1962, was admitted to the Solicitors' Roll in 1986. He remained on the Roll. The Respondent was a sole practitioner practising under the style of Orchard Legal at Merton House, Main Road, Middlezoy, Bridgwater, Somerset TA7 0PB, his home address.
2. On 26<sup>th</sup> March 2009 it was resolved to intervene into the Respondent's firm and the Intervention took place on 30<sup>th</sup> March 2009.
3. By email dated 22<sup>nd</sup> October 2007 the SRA informed the Respondent that an Accountant's Report from 22<sup>nd</sup> March 2006 to 31<sup>st</sup> March 2007 was required from him and was due by 30<sup>th</sup> September 2007. No response was received from the Respondent. Further letters dated 19<sup>th</sup> December 2007, 4<sup>th</sup> and 25<sup>th</sup> March and 17<sup>th</sup> April 2008 were addressed to the Respondent but did not evoke a response.
4. On 3<sup>rd</sup> June 2008, an Adjudicator considered the matter and "expected" the Respondent within 28 days of the date of the letter notifying him of his decision (dated 11<sup>th</sup> June) to deliver the outstanding Accountant's Report, failing which he would be referred without notice to the Tribunal. Should the Respondent comply, he would be reprimanded. The Respondent did not comply. He did not reply at all.
5. By email dated 12<sup>th</sup> July 2008 the Respondent informed the SRA that he was holding £53,011.68 in his firm's client account. He said that he was away from the office for most of July and that he would send his Accountant's Report to the SRA by the end of August 2008. He did not do so.
6. A further Accountant's Report for the Respondent's year ending on 31<sup>st</sup> March 2008 fell due on 30<sup>th</sup> September 2008. It was not delivered to the SRA which wrote letters to the Respondent about this on 17<sup>th</sup> November and 3<sup>rd</sup> December 2008 to which he did not reply.
7. A Forensic Investigation Officer of the SRA (the FIO) commenced an inspection at Orchard Legal on 24<sup>th</sup> November 2008. The FIO prepared a report dated 28<sup>th</sup> January 2009 which was before the Tribunal. The Respondent said he had been too busy to have Accountant's Reports prepared but was intending to meet with his Accountant on 27<sup>th</sup> November 2008 to instruct them to prepare the reports.
8. The Respondent had produced a manual accounting record in the form of a cash book dated from August 2008, some pages of which had been kept in pencil. The manual record did not constitute a client cash account or properly constituted client ledgers as it did not properly record the Respondent's dealing with client money. The Respondent was unable to provide any accounting records other than bank statements, prior to August 2008. He said he could not find them. The Respondent was unable to produce any bookkeeping records to show the origin of the brought forward balances as at 1<sup>st</sup> August 2008. He did not record any of the office account transactions relating to client matters.
9. The inspection of the manual records for August and September 2008 showed cash surplus as of £4,358.27 and £4,619.30 respectively.

10. As no office account records were produced, it was not possible to confirm whether liabilities to clients, shown as brought forward in the manual records, existed or to ascertain if any client funds were incorrectly held in the office account.
11. The last reconciliation carried out by the Respondent was dated 30<sup>th</sup> September 2008. At the time of the FIO's inspection, no reconciliation had been carried out for eight weeks.
12. Interest earned on the general client account was credited to the client account. At 30<sup>th</sup> September 2008 £4,390.55 interest was held in client bank account.
13. The SRA wrote to the Respondent by letter dated 13<sup>th</sup> February 2009 enclosing a copy of the FIO's report and asking for a response within 14 days. No response was received. Further communications were sent to the Respondent dated 4<sup>th</sup>, 19<sup>th</sup>, 24<sup>th</sup> and 25<sup>th</sup> March 2009. No response was received.
14. On 22<sup>nd</sup> December 2008 the SRA received a complaint from the Head of Legal Services of City of Westminster that the Respondent had been in breach of his undertakings. The Respondent had signed nine separate undertakings in his letter dated 17<sup>th</sup> July 2008 to the City of Westminster.
15. Subsequently the complainant asked the SRA "to hold fire" on 10<sup>th</sup> February 2009 and on 24<sup>th</sup> February 2009, Westminster sought to withdraw its complaint as the Respondent had then complied with his undertakings.
16. The SRA wrote to the Respondent about his breach of undertakings on 2<sup>nd</sup>, 24<sup>th</sup> and 30<sup>th</sup> April 2009. No response was received.

#### **The Submissions of the Applicant**

17. The facts spoke for themselves.
18. The Applicant sought the costs of and incidental to the application and enquiry. A schedule of costs had been sent to the Respondent early in June which did not include the fact that Sarah Howchin had given evidence. A schedule which included costs in respect of this witness was handed to the Tribunal.
19. The Applicant had not made any specific enquiry of the compensation fund but was not aware that any claims had been made upon that fund.

#### **The Findings of the Tribunal**

20. The Tribunal found all of the allegations to have been substantiated. The Respondent had been guilty of a persistent failure to meet regulatory requirements over a period of some three years. In effect the Respondent had put himself outside regulation so that neither his professional regulatory body nor the public could know if his small practice in Somerset was properly administered, or whether the Respondent was exercising a proper stewardship over client funds. It was clear that when the Respondent was asked about these matters he simply buried his head in the sand. The Tribunal regarded the Respondent's failure to reply to communications addressed to him by his own professional regulator to be a serious matter. The Tribunal concluded

that it was necessary in order to protect the public to order that the Respondent be suspended from practice for an indefinite period to commence on the date of the hearing. The Tribunal noted the costs claimed by the Applicant which in all the circumstances appeared to be entirely reasonable. The Tribunal therefore awarded costs to the Applicant fixed in the sum sought of £3,019.00.

Dated this    day of    2009  
On behalf of the Tribunal

R J C Potter  
Chairman