

IN THE MATTER OF MOHAMMED RIAZ, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr JC Chesterton (in the chair)  
Mrs E Stanley  
Mr S Howe

Date of Hearing: 10th June 2009

---

## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

---

An application was duly made on behalf of the Solicitors Regulation Authority by Stuart Roger Turner, solicitor and partner in the firm of Lonsdales Solicitors, 7 Fishergate Court, Fishergate, Preston PR1 8QF on 15<sup>th</sup> October 2008 that Mohammed Riaz, solicitor 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.

The allegations against the Respondent were that he was guilty of professional misconduct in that:

1. He failed, upon written request, to produce to a person appointed by the SRA, any records, papers, client and controlled trust matter files, financial accounts and other documents, and any other information, contrary to Rule 34 (1) of the Solicitors Accounts Rules 1998 ('SAR').
2. He failed to take out and maintain qualifying insurance, contrary to Rule 4 Solicitors Indemnity Insurance Rules 2007.
3. He failed to apply to enter the Assigned Risks Pool, contrary to Rule 5 Solicitors Indemnity Insurance Rules 2007.

4. He practised un-certificated from 15<sup>th</sup> April 2008 until 20<sup>th</sup> May 2008, contrary to Rule 20.01 of the Solicitors Code of Conduct 2007.
5. He failed, contrary to Rule 35 of the SAR and Section 34 of the Solicitors Act 1974, to deliver to the SRA by the due date of 11<sup>th</sup> November 2007, an Accountant's Report for the year ended 31<sup>st</sup> March 2007.
6. He failed, to act with integrity; to act in the best interests of his clients; to provide a good standard of service; and, he diminished the trust the public could place in him and the profession by allowing himself and his firm to be listed on the Bar Council's Withdrawal of Credit Scheme, contrary to Rules 1.02, 1.04, 1.05 and 1.06 of the Solicitors Code of Conduct 2007.
7. He failed to pay Counsel's fees as and when they fell due.
8. He submitted a cheque to another firm of solicitors knowing or having reason to believe that it would not be honoured by his bank, thereby failing to act with integrity, contrary to Rule 1.02 of the Solicitors Code of Conduct 2007.
9. He failed to comply with undertakings, in breach of Rule 10.05 (1) (a) of the Solicitors Code of Conduct 2007.
10. He used letterhead which did not include the words "Regulated by the Solicitors Regulation Authority", in breach of Rule 7.07 of the Solicitors Code of Conduct 2007.
11. He failed to deal with the SRA in an open prompt and co-operative way or at all, contrary to Rule 20.03 of the Solicitors Code of Conduct 2007.
12. He failed to comply with a decision of an adjudicator of the SRA dated 9<sup>th</sup> April 2008 in which his firm was directed to pay fixed costs of £840 to the Legal Complaints Service.

The application was heard at The Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 10<sup>th</sup> June 2009 when Stuart Turner appeared as the Applicant and the Respondent did not appear and was not represented.

The Tribunal had before it a letter dated 1<sup>st</sup> June 2009 from the Respondent requesting an adjournment on the basis that he had been unwell and had not had the opportunity to deal with the matter in any detail. The Respondent had been notified by a letter dated 2<sup>nd</sup> June 2009 from the Tribunal that his request for an adjournment was refused as he had had notice of the hearing for some time, there was no supporting medical report and it was not in the public interest to adjourn the matter given the serious allegations. The Tribunal were satisfied that the Respondent was aware of the hearing and Ordered the hearing should proceed in the Respondent's absence.

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

The Tribunal Orders that the Respondent Mohamed Riaz, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 10th 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 £11,000.

**The facts are set out in paragraphs 1 -25 hereunder:**

1. The Respondent, born in 1958, was admitted to the Roll of Solicitors on 17<sup>th</sup> February 1992. At all material times he practised as a Sole Principal as Riaz & Company Solicitors of 233 High Street, Ealing, London W3 9BY.
2. On the 21<sup>st</sup> April 2008, a Forensic Investigation Report was prepared by an Investigation Officer (“IO”) of the Solicitors Regulation Authority (“SRA”) into the books of account and other documents of the Respondent. This report was before the Tribunal. It recorded that, on 14<sup>th</sup> February 2008, the Respondent was sent, by recorded delivery at his firm’s address, a letter notifying him that the IO would be attending the firm on 21<sup>st</sup> February 2008 in order to commence the investigations. The letter was signed for and proof of delivery was obtained.

Allegations 1-5 and 11

3. The IO was unable to contact the Respondent when she attended the firm’s address on 21<sup>st</sup> February 2008. She made enquiries with a neighbouring business and with the Records Department of the SRA and was satisfied that the Respondent was still trading from that address. She therefore sent a further recorded delivery letter on 21<sup>st</sup> February 2008 to the Respondent confirming that she would attend the firm on 28<sup>th</sup> February 2008. The Respondent telephoned the SRA on 27<sup>th</sup> February 2008 and refused to cooperate.
4. The investigation was terminated as a result of the IO’s inability to gain access to the Respondent’s Practice and the Respondent’s failure to produce the necessary information to enable preparation of a report on compliance with the rules.
5. On 24<sup>th</sup> April 2008, a copy of the Forensic Investigation Report was sent to the Respondent seeking his explanation of the matters raised within it. The Respondent failed to reply.
6. The SRA’s records showed that the Respondent’s Policy of Professional Indemnity Insurance for the year 2006-2007 was terminated on 30<sup>th</sup> September 2007. The SRA received no details of the Respondent’s new qualifying insurers and no application had been made by the Respondent to join the assigned risk pool. The Respondent was invited, by letter of 16<sup>th</sup> April 2008, to explain himself. He failed to reply.
7. The SRA’s records showed that the Respondent’s practising certificate for the practice year 2006-2007 was terminated on 14<sup>th</sup> April 2008 however the firm remained open after that time and the Respondent continued practising as a solicitor. The Respondent’s letter, dated 12<sup>th</sup> May 2008, before the Tribunal was evidence of

this. The Respondent was asked, by letter dated 16<sup>th</sup> April 2008 to explain himself. He failed to reply.

8. The SRA's records showed that the Respondent's Accountant Report for the year ended 31<sup>st</sup> March 2007, which was due by an extended date of 11<sup>th</sup> November 2007, had not been received. The Respondent was asked by letter of 16<sup>th</sup> April 2008 to explain himself. The Respondent failed to reply.
9. On 14<sup>th</sup> May 2008 the SRA resolved to intervene into the Respondent's practice.

Allegations 6, 7 & 11

10. On 17<sup>th</sup> March 2008 the Bar Council made a complaint about the Respondent upon the issuing of a withdrawal of credit direction on 14<sup>th</sup> December 2007 against him. They had issued the withdrawal of credit direction on the grounds of non-payment of Counsel's fees. The earliest unpaid fee had been outstanding since 29<sup>th</sup> September 2004. There were ten instances of unpaid fees which involved eight different barristers amounting in total to £8,557.50.
11. The SRA wrote to the Respondent on 28<sup>th</sup> April 2008 and again on 15<sup>th</sup> May 2008. The letters remained unanswered. On 2<sup>nd</sup> June 2008 the Respondent was notified the matter was being referred to an adjudicator and was sent a copy of the prepared case note. Again there was no reply.

Allegations 8-11 inclusive

Complaint by AHC & Co

12. On 13<sup>th</sup> May 2008 AHC & Co raised a complaint against the Respondent. AHC & Co acted for purchasers and the Respondent acted for the seller in a conveyancing transaction.
13. The Respondent, in his client's reply to requisitions on title, undertook to discharge the bank charge to the Bank of Scotland. The replies were dated 7<sup>th</sup> November 2007. Completion took place on 16<sup>th</sup> November 2007. The Respondent failed to comply with the undertaking. On 11<sup>th</sup> April 2008 the Respondent wrote to AHC & Co apologising for the delay. He wrote again on 12<sup>th</sup> May expressing regret for the delay.
14. By the time the Respondent replied on 14<sup>th</sup> February, AHC & Co had written six chasing letters between 17<sup>th</sup> December and 14<sup>th</sup> February.
15. In the absence of an update after 14<sup>th</sup> February AHC & Co chased the Respondent again on a further eight occasions before he finally replied again on 12<sup>th</sup> May.
16. On 6<sup>th</sup> June 2008 AHC & Co notified the SRA that they had that day received completion of registration from the Land Registry.
17. The SRA took the matter up with the Respondent by letter on 24<sup>th</sup> June 2008. They required a reply by 8<sup>th</sup> July. A chasing letter was sent to an alternative address on 30<sup>th</sup> July in the absence of a reply. No response to either letter was received.

18. To date the Respondent had failed to reply.
19. The Tribunal were provided with further details of another undertaking given by the Respondent on 7<sup>th</sup> February 2008 to T & Co., “to be responsible for your further costs of £750 plus VAT even if the matter does not complete.”
20. On 3<sup>rd</sup> March 2008, in anticipation of completion, the Respondent sent a client account cheque for £750 plus VAT in accordance with his undertaking.
21. The cheque was returned by T & Co’s bank on 10<sup>th</sup> March 2008 with a note, “ac closed”, which the Respondent must have known about. On 11<sup>th</sup> March 2008 T & Co reported the matter to the SRA. T & Co forwarded to them a further letter they had received from the Respondent dated 31<sup>st</sup> March 2008, alleging the Respondent was awaiting a breakdown of costs and questioning costs charged by T & Co stating they had:

“...behaved in a disgraceful manner, no better than opportunistic scoundrel who want [sic] to extract his pound of flesh, as he thinks he will get away with it”.

A replacement cheque was not sent and the undertaking remained outstanding.

22. The issue of the Respondent’s failure to fulfil an undertaking and issuing a cheque which would not be honoured were raised with the Respondent by the SRA on 7<sup>th</sup> and 22<sup>nd</sup> April 2008. The Respondent did not reply.
23. The letterhead of the Respondent’s firm as evidenced by his letters of 7<sup>th</sup> February 2008, 3<sup>rd</sup> March 2008 and 31<sup>st</sup> March 2008 all state “Regulated by The Law Society”.
24. Rule 7.07 (1) of the Solicitors Code of Conduct 2007 states:

‘The letterhead of a firm must bear the words “Regulated by the Solicitors Regulation Authority”’.

This rule commenced with effect from 1<sup>st</sup> July 2007. On 31<sup>st</sup> May 2007 a three month transition period, to 30<sup>th</sup> September 2007, was announced in The Law Society’s Gazette to allow firms time to amend their letterhead.

#### Allegation 12

25. On 9<sup>th</sup> April 2008 an adjudicator made a finding of Inadequate Professional Service against the Respondent and directed him to pay to the Legal Complaints Service fixed costs of £840. The Respondent was notified of the decision by letter of 15<sup>th</sup> April 2008 and given 7 days to comply with the decision. To date the Respondent had failed to pay the costs.

### **The submissions of the Applicant**

26. The Respondent was not attending and the Tribunal were informed that his firm had been intervened. The Applicant provided a schedule of costs and requested an Order for his costs in the sum of £11,437.80.

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

27. The Tribunal considered carefully the documentation and submissions of the Applicant. In the absence of any evidence or submissions put forward by the Respondent, the Tribunal was satisfied from the documentation available to it that all the allegations were substantiated.
28. There was no mitigation before the Tribunal on behalf of the Respondent. It was clear to the Tribunal that the Respondent had fallen far below the accepted standards of the profession. He had failed to comply with a direction of his professional body. He had practised without a practising certificate and without insurance. He had not supplied an Accountants Report to The Law Society and had shown a complete disregard for his regulatory body, having failed to reply to any correspondence from them. Despite having no practising certificate or insurance, the Respondent had continued to deal with matters and handle client money. The failure to provide Accountant's Reports to The Law Society meant there was real concern that the SRA had not been able to assess his accounts as a result of this. The Respondent had damaged the reputation of the profession in the eyes of his clients and the public and indeed, he had damaged his own reputation in the eyes of other members of the profession and barristers in the way that he had behaved towards them.
29. The Tribunal noted the Respondent had not previously appeared before the Tribunal and that there was no allegation of dishonesty against him. In all the circumstances, the Tribunal considered the appropriate sanction was to suspend the Respondent indefinitely. The Tribunal stressed that if the Respondent were to apply for the suspension to be lifted, it was unlikely that this would be granted unless and until such time that the following conditions were met:
- (a) The Respondent take out and maintain qualifying insurance including run off insurance if appropriate.
  - (b) The Respondent deliver all outstanding Accountant's Reports.
  - (c) The Respondent pay all outstanding Counsel's fees.
  - (d) The Respondent provide evidence of compliance with the undertaking dated 7<sup>th</sup> February 2008 given to T & Co.
  - (e) The Respondent provide evidence of payment of the sum of £840 to the Legal Complaints Service.
30. The Tribunal also stated that if the Respondent were subsequently granted a practising certificate in the future, the Tribunal recommended the Respondent should only be allowed to practise in employment approved by The Law Society.

31. In relation to the question of costs, the Tribunal considered the costs to be a little high, particularly as the hearing had not lasted as long as estimated on the schedule provided by the Applicant and accordingly, the Tribunal assessed the costs at £11,000 and Ordered these be paid by the Respondent.
32. The Tribunal Ordered that the Respondent Mohamed Riaz, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 10th day of June 2009 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £11,000

Dated this 7<sup>th</sup> day of December 2009  
On behalf of the Tribunal

Mr JC Chesterton  
Chairman