

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF DESMOND JAMES CORLIS, solicitor (The Respondent)

Upon the application of Graham Miles  
on behalf of the Solicitors Regulation Authority

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Mr J. N. Barnecutt (in the chair)  
Mrs E Stanley  
Mr S. Marquez

Date of Hearing: 29th November 2010

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**FINDINGS & DECISION**

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**Appearances**

Mr Graham Miles, solicitor of Morgan Cole Solicitors, Bradley Court, Park Place, Cardiff, CF10 3DP, appeared on behalf of the Solicitors Regulation Authority (“SRA”).

The Respondent did not appear and was not represented.

The Tribunal had received correspondence from the Respondent dated 19 November and 25 November 2010. He made certain observations and representations in those letters and asked for them to be placed before the Tribunal. He also stated that he felt that he was in no fit state to attend the proceedings and would accept whatever punishment the Tribunal saw fit.

The Tribunal was satisfied that the Respondent was aware of the hearing date and that all necessary material and notices had been served upon him. The Tribunal considered that it was appropriate to proceed in the absence of the Respondent in accordance with Rule 16.2 of the Solicitors (Disciplinary Proceedings) Rules 2007.

**Allegations**

The application and supporting statement were dated 9 December 2009. Further allegations were brought against the Respondent by way of a supplementary statement dated 28

October 2010.

The allegations against the Respondent in the original application were that:

1. He failed to comply with the direction of an Adjudicator dated 4 March 2009, thereby acting in breach of Rule 1.06 of the Solicitors Code of Conduct 2007 (“SCC”).
2. He failed to respond to correspondence from the Legal Complaints Service (LCS) and the SRA relating to a decision of an Adjudicator dated 4 March 2009, thereby acting in breach of Rule 20.05 of the SCC.
3. He failed to comply with the Direction of an Adjudicator dated 10 March 2009, thereby acting in breach of Rule 1.06 of the SCC.
4. He failed to respond to correspondence from the LCS and the SRA relating to a decision of an Adjudicator dated 10 March 2009, thereby acting in breach of Rule 20.05 of the SCC.

The allegations against the Respondent in the supplementary statement were that:

5. He failed to comply with the direction of an Adjudicator dated 30 April 2009, thereby acting in breach of Rule 1.06 of the SCC.
6. He failed to respond to correspondence from the LCS and the SRA relating to a decision of an Adjudicator dated 30 April 2009, thereby acting in breach of Rule 20.05 of the SCC.

### **Factual Background**

1. The Respondent, who was born in 1965, was admitted to the Roll of Solicitors on 5 April 1994. At all relevant times until 2 November 2006, the Respondent practised as one of two partners under the style of CFB Partnership Solicitors from offices at 7 High Street, Wanstead, London E11 2AA. The firm ceased to practice on 2 November 2006.
2. The Respondent’s former partner Mr LF, has also been the subject of proceedings before the Tribunal. In his case, the proceedings were stayed on 2 March 2010 pending the outcome of criminal proceedings. There is no suggestion that Mr Corlis is involved in the matters which have given rise to the criminal proceedings against his former partner.
3. The circumstances giving rise to the allegations in the original application relate to complaints arising from work carried out by CFB Partnership on behalf of the Mortgage Works Plc and Mr & Mrs HSS.
4. Mr & Mrs HSS instructed CFB Partnership in June 2004 in the purchase of 26 H. Avenue, Bedford. Completion took place on 21 October 2004. In 2008, Mr & Mrs HSS decided to remortgage and they instructed solicitors in that transaction. The solicitors discovered that CFB Partnership had failed to register the transfer and the mortgage of 26 H. Avenue at the Land Registry. Mr & Mrs HSS had to pay their new

solicitors to complete the registration and also incurred a penalty fee as the Stamp Duty had not been paid on time.

5. On 4 March 2009, an Adjudicator determined that the service provided by CFB was inadequate in failing to register the mortgage and failing to respond to correspondence from the Mortgage Works. The Adjudicator directed that Mr LF and the Respondent, the former partners of the firm, pay compensation of £472.25 within seven days.
6. On 4 March 2009, the Adjudicator made a supplemental Decision in which he directed that Mr LF and the Respondent pay to the LCS costs of £313.80 in connection with its investigation and adjudication of the service complaints.
7. On 12 March 2009, a letter was sent to the Respondent by a caseworker from the LSC, enclosing a copy of the Adjudicator's Decision.
8. On 19 March 2009, a further letter was sent to the Respondent by a caseworker from the LCS stating that, in the absence of evidence within seven days that the Decision of the Adjudicator had been complied with, the matter would be referred to the SRA.
9. On 1 April 2009, a letter was sent to the Respondent by the SRA confirming that the matter had been referred to the Conduct Investigation Unit.
10. On 12 June 2009, a letter was sent to the Respondent by the caseworker in the Conduct Investigation Unit. The Respondent was asked to provide an explanation for his failure to comply with the Decision of the Adjudicator dated 4 March 2009, within 14 days. The Respondent was reminded of his obligations under Rule 20.05 of the SCC to deal with the SRA in an open and co-operative manner. The Respondent did not reply to this letter.
11. On 5 August 2009, a letter was sent to the Respondent at 56 Southwell Grove, Leytonstone, after it was indicated to the SRA by the Respondent's wife that correspondence should be sent to that address.
12. On 25 August 2009, a further letter was sent to the Respondent.
13. On 10 March 2009, an adjudicator determined that the service provided by CFB Partnership was inadequate in that there was a delay in paying Stamp Duty, so causing a penalty charge to arise and in failing to register the transfer and charge of 26 H. Avenue. The Adjudicator directed that Mr LF and the Respondent pay compensation of £1,032.50 within seven days.
14. On 10 March 2009, the Adjudicator made a supplemental Decision in which he directed that Mr LF and the Respondent pay to the LCS costs of £744.80 in connection with its investigation and adjudication of the service complaints.
15. On 12 March 2009, a letter was sent to the Respondent by a caseworker in the LCS enclosing a copy of the Adjudicator's Decisions.
16. On 24 March 2009, a letter was sent to the Respondent by a caseworker in the LCS stating that, in the absence of evidence within seven days that the Decision of the

Adjudicator had been complied with, the matter would be referred to the SRA.

17. On 2 April 2009, a letter was sent to the Respondent by a caseworker in the LCS confirming that the matter was being referred to the SRA.
18. On 8 April 2009, a letter was sent to the Respondent by the SRA confirming that the matter had been referred to the Conduct Investigation Unit.
19. On 11 June 2009, a letter was sent to the Respondent by the caseworker in the Conduct Investigation Unit. The Respondent was asked to provide an explanation for his failure to comply with the Decision of the Adjudicator dated 10 March 2009, within 14 days. The Respondent was reminded of his obligations under Rule 20.05 of the SCC. The Respondent did not reply to this letter.
20. On 5 August 2009, a letter was sent to the Respondent at 56 Southwell Grove.
21. On 25 August 2009, a further letter was sent to the Respondent by the SRA.
22. The circumstances giving rise to the allegations in the supplementary statement relate to complaints arising from work carried out by CFB Partnership on behalf of Ms YK and Mr T in connection with the purchase of 13 D. Court and 58 D. Road.
23. On 30 April 2009, an Adjudicator determined that the service provided by CFB was inadequate, in failing to attend to the stamping of the transfer and its registration at the Land Registry.
24. The Adjudicator directed that Mr LF and the Respondent pay to Ms YK the total sum of £4,785.13, representing repayment of £2,100.00 and compensation of £2,685.13, comprising specific compensation of £2,085.13 and general compensation of £600.00.
25. On 11 May 2009, a letter was sent to the Respondent by a caseworker from the LCS enclosing a copy of the Adjudicator's Decision and stating that the Decision should be complied with within seven days.
26. On 18 May 2009, a further letter was sent to the Respondent by a caseworker from the LCS stating that, in the absence of evidence within seven days, that the Decision of the Adjudicator had been complied with, the matter would be referred to the SRA.
27. On 15 July 2010, a letter was sent to the Respondent by the SRA confirming that the matter had been referred to the Conduct Investigation Unit. The Respondent was asked to provide an explanation for his failure to comply with the Direction of the Adjudicator within 14 days. The Respondent was reminded of his obligations under Rule 20.05. The Respondent did not reply to this letter.
28. On 4 August 2010, a further letter was sent to the Respondent which contained a further reminder of the Respondent's obligations under Rule 20.05 and which requested a response within eight days. The Respondent did not reply to this letter.

## Submissions

29. Mr Miles submitted that, in failing to comply with the Direction of an Adjudicator, the Respondent had breached Rule 1.06 of the SCC. Mr Miles addressed the Tribunal in relation to the Tribunal's decision in the case of Aaronsen, where it was held that a solicitor who had failed to comply with an Adjudicator's Decision had not breached the SCC. Mr Miles submitted that Aaronsen did not bind the present division of the Tribunal and, in any event, in the instant case the Respondent had not made any attempt to engage with the process and had simply ignored or failed to deal appropriately with the Adjudicators' Decisions and the consequences of those Decisions.
30. Mr Miles further submitted that, in failing to respond to correspondence from the LCS and the SRA, the Respondent had breached Rule 20.05 of the SCC.
31. In his letters of 19 November and 25 November 2010, the Respondent stated that the Decisions of the Adjudicators to penalise him were unfair and unjust. He had no knowledge of either of the cases which had resulted in the Adjudicators' Decisions. He suggested that all enquiries should be directed to his former partner, Mr LF.
32. The Tribunal took into consideration all of the written material which had been submitted. This included:
  - (i) the original application and supporting statement and documentation;
  - (ii) the Supplementary statement and supporting documentation;
  - (iii) the letters from the Respondent to the Tribunal dated 19 November 2010 and 25 November 2010;
  - (iv) a letter from the Respondent to the SRA dated 4 November 2009;
  - (v) a letter from the Respondent to the LCS dated 10 March 2009.

## Findings as to Fact and Law

33. The Tribunal gave careful consideration to the question of whether the Respondent's failure to comply with the Adjudicators' Decisions amounted to breaches of the SCC. The Tribunal reminded itself that the Inadequate Professional Service procedure is designed to compensate clients and not to punish solicitors. It is an important part of the profession's regulatory framework and it is incumbent on all members of the profession to comply with their obligations. Whilst there may be cases where a failure to comply would not amount to a breach of the SCC, in the case of the Respondent he had not engaged in any way with the process. He had not sought to explain why he considered the decisions of the Adjudicators to be incorrect; he had merely ignored the Decisions and the consequential obligations that fell upon him as a member of the profession.
34. The Tribunal reminded itself that the burden of proof is on the applicant and that a disciplinary allegation is substantiated only if the Tribunal is satisfied so that it is sure

that the allegation is proved. In this case, the Tribunal was satisfied that all of the allegations against the Respondent had been proved to the requisite standard.

### **Previous Disciplinary Sanctions**

35. Once the Tribunal had announced its findings as to fact and law, the Tribunal was notified that the Respondent had appeared before the Tribunal on two previous occasions and that disciplinary sanctions had been imposed. On both occasions, he appeared with his former partner, Mr LF.
36. On the first occasion, the Respondent appeared before the Tribunal on 17 November 2005. He and Mr LF faced allegations that they had failed to hold client monies in client account, contrary to the Solicitors Accounts Rules 1998; that they had drawn monies out of the client account otherwise than was permitted, giving rise to a cash shortage; and that they had failed to maintain and preserve properly written up account books, ledgers and records. The Respondent admitted the allegations and was fined the sum of £5,000 and ordered to pay costs.
37. The Respondent appeared again before the Tribunal on 22 January 2008. On this occasion, the Respondent and Mr LF faced four allegations of failing to file an accountant's report within the time permitted. They faced further allegations, namely that as members of CFB Legal LLP, they failed to apply for recognition as a recognised body; that they practised through CFB Legal LLP without applying to become a recognised body; that they carried on their practice without taking out and maintaining qualifying insurance; that they failed to pay the proper costs of an expert instructed by them on behalf of a client; that they acted in a way which was likely to compromise or impair their good repute and that of the solicitors' profession; and that they failed to respond substantively to correspondence from the Law Society and/or the SRA. Mr LF faced additional allegations alone.
38. Again, the Respondent admitted the allegations. The Respondent was suspended from practice as a solicitor for the period of nine months from the date of the hearing and was ordered to pay costs.

### **Application for Costs**

39. Mr Miles produced a schedule of costs in the sum of £7,696.06.

### **Sanction and Reasons**

40. The Tribunal noted that this was the Respondent's third appearance in relation to disciplinary matters and that he had previously failed to comply with professional obligations. This appeared to be a pattern of behaviour.
41. The Tribunal was also mindful of the role played by the Respondent's former partner, Mr LF. The Tribunal considered that it would be inappropriate to strike the Respondent from the Roll of Solicitors. However, it was necessary, in any sanction, to reflect the seriousness of the Respondent's breaches of the SCC and to protect the public. Therefore, the Tribunal concluded that the Respondent should be suspended indefinitely from practice as a solicitor. It will be open to the Respondent, should he

comply with the Decisions of the Adjudicators at some future time, to apply for the suspension to be removed. It is the view of the Tribunal, however, that the Respondent should not be allowed to practise on his own in the future, and that any practice as a solicitor should be in supervised employment.

### **Decision as to Costs**

42. The Tribunal considered that the proceedings were properly brought. It was appropriate for the Respondent to be ordered to pay the costs in the amount claimed. However, in the circumstances, and having considered the means of the Respondent, the Tribunal concluded that the award of costs should not be enforced without the permission of the Tribunal.

### **Order**

43. The Tribunal Ordered that the Respondent, Desmond James Corlis, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 29th day of November 2010 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,696.06, such costs not to be enforced without leave of the Tribunal.

Dated this 4<sup>th</sup> day of March 2011

On behalf of the Tribunal

J N Barnecutt  
Chairman