

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF JOHN ROBERT JACOBS, solicitor (The Respondent)

Upon the application of Peter Cadman  
on behalf of the Solicitors Regulation Authority

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Miss J Devonish (in the chair)  
Mr J P Davies  
Mr R Slack

Date of Hearing: 15th July 2010

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**FINDINGS & DECISION**

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**Appearances**

Mr Peter Harland Cadman of Russell Cooke LLP, 8 Bedford Row, London WC1R 4BX for the Applicant.

The Respondent did not appear and was not represented.

The Application was dated 4<sup>th</sup> February 2010.

**Allegations**

1. The Respondent abandoned his practice.
2. The Respondent failed to produce and file accountants' reports as required under Rule 35, Solicitors' Accounts Rules.
3. Books of accounts were not properly written up contrary to Rule 32, Solicitors' Accounts Rules.
4. The Respondent failed to produce his records to a person appointed by the Law Society upon request contrary to Rule 34, Solicitors' Accounts Rules.
5. The Respondent failed promptly or at all to co-operate with and/or provide documents to intervening agents appointed by the Solicitors Regulation Authority.

The Applicant provided the Tribunal with a copy of a letter dated 7<sup>th</sup> July 2010 to the Respondent, and also provided a statement from Nicolas Hillman dated 9<sup>th</sup> July 2010 confirming the Respondent had been personally served with all the documents. In the circumstances, the Tribunal were satisfied the Respondent had been properly served and that the matter should proceed in his absence.

### **Factual Background**

1. The Respondent, born in 1971, was admitted as a solicitor on 15<sup>th</sup> October 2002 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent practised under the style of Kings-Wray Conveyancing Limited at 2-4 New Street, Braintree, Essex CM7 1ES. His practice was intervened on 19<sup>th</sup> August 2009.
3. On due notice to the Respondent the Solicitors Regulation Authority attempted to conduct an inspection of the books of accounts and other documents of the Respondent commencing 3<sup>rd</sup> February 2009. Copies of the correspondence were sent to the Respondent on 29<sup>th</sup> January 2009.
4. By letter of 29<sup>th</sup> January 2009 the Respondent wrote:

“Unfortunately I am not in a position to comply with your pending visit and/or investigation and further advise that I must also leave my home address by this time and go into temporary accommodation.

My practice cannot meet its liabilities and since the end of November 2008 I have had no income and no savings on which to rely, a situation which worsens daily whilst I try to ensure that all outstanding matters are dealt with appropriately and in accordance with Practice Rules.

The practice is unable to meet its accountancy bill of approximately £5,000 and our accountants are understandably not releasing our accounts to us until such time as they are paid. Our accounting software is held on a database which we will need to find storage for along with several hundred archived files. We sought guidance at this point from both our insurers and the SRA but have not received a response that will assist. Once I am able to find somewhere to store this information and indeed the means to pay for it, I will advise the SRA and you are free to attend whichever premises they happen to be and carry out your investigation.”

5. The Respondent did not provide any further address at which he could be contacted. However, the Investigation Officer (“IO”) spoke to the Respondent on 2<sup>nd</sup> February 2009. In addition to the matters raised in the earlier letter the Respondent asserted the following:
  - a. “having invested his and his wife’s savings into the business in order to pay staff, he now had no money and had ceased practice in January 2009. He had advised his clients of this position.

- b. he had ceased to take on any new clients and had “cleared down” existing client matter files and transferred many other client matters, together with any balances of client monies held to their credit, to local firms of solicitors.
  - c. he and his wife had vacated their rented accommodation and they were now both living with her parents (address not provided) in Essex.
  - d. the books and records, practice computer, client matter files etc, were held in more than one location in the “south-east” and that he would not deny the SRA access to these once he had found a job and started to earn some money.
  - e. he was sure that the client bank account was “OK” but he did not know the date of the last client bank account reconciliation.
  - f. The IO could contact his Accountants, but he added that he owed them monies for outstanding fees.”
6. When the IO attended the premises they were closed and inaccessible. Attempts were made to contact the Respondent and messages left for him. The IO contacted the firm’s accountants who replied on 2<sup>nd</sup> March 2009 in the following terms:
1. I can confirm that our firm were the reporting accountants for the company.
  2. The last work undertaken on behalf of the company was the accountant’s report for the period ended 19<sup>th</sup> October 2007.
  3. We have been instructed to carry out no further work.
  4. We do not hold any accounting records on behalf of the company.
  5. We are not aware of the present location of the books of the company.
  6. We are unable to offer any information in this respect.
  7. I am unaware of the domestic residence for Mr Jacobs.
7. The IO was informed by a director of Kings-Wray Conveyancing Limited that outstanding matters were taken over by another firm. The IO contacted that firm and they confirmed they had taken over only 5 conveyancing matters relating to 4 specific clients. They also received client monies from the Respondent and utilised these monies in order to complete the necessary property transactions.
8. The intervening agents had limited contact from the Respondent and had not been provided with details of the whereabouts of any live or closed files of the Respondents. There was currently £3,680.29 held in client account, and the intervening agents were unable to ascertain who was entitled to that money.
9. The Tribunal reviewed all the documents submitted by the Applicant which included:
- (i) Rule 5 Statement together with all enclosures.

- (ii) Schedule of Costs.
- (iii) Statement of Nicholas Hillman dated 9<sup>th</sup> July 2010.
- (iv) Letter dated 29<sup>th</sup> December 2009 from the Respondent to the SRA.
- (v) Letter dated 7<sup>th</sup> April 2010 from the Applicant to the Respondent.
- (vi) Two letters, both dated 2<sup>nd</sup> May 2010 from the Respondent to the SRA.
- (vii) Email message from Guy Osborne (the Intervening Agent) to the Applicant dated 7<sup>th</sup> June 2010.

### **Witnesses**

10. None

### **Findings as to Fact and Law**

11. The Tribunal had carefully considered the submissions of the Applicant and all the documents provided. It was clear to the Tribunal that the Respondent had failed to provide his files or details of the whereabouts of those files to the Authority and indeed, it was not clear where those files were currently located. The Intervening Agents were not in possession of any files, papers or accounting records, and were unable to ascertain who was entitled to the sum of £3,680.29 which was currently held in client account.
12. The Respondent had not participated in the process at all, and in the absence of any submissions from him, the Tribunal were satisfied on the documents provided that all the allegations were proved.

### **Costs Application**

13. The Applicant provided the Tribunal with a Schedule of his costs and requested an order for those costs in the sum of £4,230.74.

### **Previous Disciplinary Sanctions Before the Tribunal**

14. None

### **Sanction and Reasons**

15. The Tribunal had considered carefully all the documents provided, including the letters that had been sent by the Respondent to the Authority, particularly those dated 2<sup>nd</sup> May 2010. It was clear that the Respondent had got into serious financial difficulties, and as a result of this had buried his head in the sand, and had not dealt with matters in the manner that a solicitor should do. He had effectively abandoned his clients, and had not dealt with his regulatory obligations, or with his regulatory Authority.

16. The Tribunal were mindful that there had not been any complaints from clients, and that the Respondent had written to the Authority on 5<sup>th</sup> January 2009 advising them that he intended to wind down his practice, and that he was advising all existing clients that he was no longer practising as a solicitor. There had been no claim on the Compensation Fund, and it appeared the Respondent did not wish to practice in the law again in the future.
17. Nevertheless, there had been serious breaches of the regulations, and the Authority had been prevented from carrying out its proper regulatory function. Furthermore, there was still the sum of £3,680.29 held in client account, and it was unlikely those monies would be returned to the appropriate clients as the Intervening Agents were unable to ascertain who that money belonged to. Accordingly, clients had suffered as a result of the Respondent's conduct, and he had brought the profession into disrepute.
18. The Tribunal considered the appropriate sanction was to suspend the Respondent indefinitely. If the Respondent wished to return to practice in the future, the Tribunal recommended that he should not be allowed to do so until he had filed satisfactory accountants reports and provided the Authority with evidence that he had kept up to date with all continuing professional development training requirements.

#### **Decision as to Costs**

19. The Tribunal ordered the Respondent pay the Applicant's costs in the sum of £4,230.74. The Respondent had not provided the Tribunal with any details of his income, expenditure, capital, assets and liabilities. The Tribunal considered the cases of William Arthur Merrick -v- The Law Society [2007] EWHC 1997 (Admin) and Frank Emilian D'Souza -v- The Law Society [2009] EWHC 2193 (Admin), and were satisfied in the circumstances that the costs were payable in full.

#### **Order**

20. The Tribunal Ordered that the Respondent, John Robert Jacobs of 96 Arbour Lane, Chelmsford, Essex, CM1 7RL, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 15<sup>th</sup> day of July 2010 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,230.74.

Dated this 12<sup>th</sup> day of October 2010  
On behalf of the Tribunal

Miss J Devonish  
Chairman