

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10764-2011

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

CLAUDIUS ROOSEVELT CHALLENGER

Respondent

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Before:

Miss N Lucking (in the chair)

Mrs K Thompson

Mr M C Baughan

Date of Hearing: 28th September 2011

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## **Appearances**

Jayne Willetts, Solicitor Advocate, of Jayne Willetts & Co Solicitors, Cornwall House, 31 Lionel Street, Birmingham, B3 1AP for the Applicant.

The Respondent did not appear and was not represented.

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## **JUDGMENT**

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## **Allegations**

1. The allegations against the Respondent were that he:

### Contained in a Rule 5 Statement Dated 10 June 2011

- 1.1 Failed to deliver the Accountant's Report for the year ending 25 September 2008 for Roosevelt Challenger & Co Solicitors by the specified date in breach of Section 34 of the Solicitors Act 1974 (as amended);
- 1.2 Failed to deliver the Accountant's Report for the year ending 25 September 2009 for Roosevelt Challenger & Co Solicitors in breach of Section 35 of the Solicitors Accounts Rules 1998;
- 1.3 Failed to deal with the Solicitors Regulation Authority in an open, prompt and co-operative way in breach of Rule 20.05 of the Solicitors Code of Conduct 2007.

### Contained in a Rule 7 Statement Dated 24 August 2011

- 1.4 Failed to pay the Professional Indemnity Insurance premium to the Assigned Risks Pool in breach of Rule 16.2 of the Solicitors Indemnity Insurance Rules 2010.

## **Documents**

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent, which included:

### Applicant:

- Application dated 10 June 2011;
- Rule 5 Statement dated 10 June 2011 and exhibit "JBW1";
- Rule 7 Statement dated 24 August 2011 and exhibit "JBW2";
- Bundle of documents including proof of delivery documentation together with documents relating to the Respondent's application for judicial review against the Solicitors Regulation Authority ("SRA");
- Copy correspondence sent by Ms Willetts to the Respondent;
- Schedule of Costs for the hearing on 28 September 2011.

### Respondent:

- The Respondent submitted no documents.

## **Preliminary Matters**

3. Ms Willetts referred the Tribunal to the proof of delivery documentation showing that the Rule 5 Statement, Notice of Hearing Date and Supplemental Statement had been sent to the Respondent's home address and signed for. In addition, she referred to an email from the Tribunal dated 8 July 2011 which confirmed that the Respondent had

received legal advice under the Solicitors' Advice Scheme. Ms Willetts submitted that this email showed that the Respondent was aware of the existence of these proceedings.

4. The Tribunal was referred to the Respondent's Statement dated 9 September 2011 in support of his application for judicial review. In that Statement, the Respondent had made reference to the current Tribunal proceedings and the hearing date. The Statement indicated that the Respondent would not be attending the hearing due to forthcoming medical appointments.
5. Ms Willetts told the Tribunal that she was not clear if the Respondent had intended to apply for an adjournment of these proceedings and so she had written to him on 23 September 2011 explaining that any application for an adjournment needed to be made to the Tribunal itself. The Respondent had not replied to that letter and the Tribunal noted that no application for an adjournment had been received from the Respondent. Ms Willetts reminded the Tribunal that they must satisfy themselves that the Respondent had received notice of these proceedings.

#### The Tribunal's Determination on the preliminary matter

6. The Tribunal determined that the proceedings against the Respondent should proceed, notwithstanding that he had failed to attend in person and was not represented. The Tribunal was satisfied on the evidence that notice of the hearing had been served on the Respondent in accordance with the Solicitors (Disciplinary Proceedings) Rules 2007 (SDPR). Under those SDPR the Tribunal had the power to hear and determine the application notwithstanding the Respondent's absence.

#### **Factual Background**

7. The Respondent was born on 10 November 1944 and admitted as a solicitor on 1 May 2001. His name remained on the Roll of Solicitors. He did not hold a current Practising Certificate but formerly practised on his own account at Roosevelt Challenger & Co Solicitors, 458 Kingsland Road, London (the firm).
8. The Accountant's Report for the firm for the year ending 25 September 2008 was due to be delivered by 25 March 2009. An extension of time until 30 June 2009 for delivery of the report was agreed with the Respondent. The Report was delivered over seven months late on 10 February 2010.
9. The subsequent Accountant's Report for the firm for the year ending 25 September 2009 was due to be delivered by 25 March 2010. The Respondent failed to deliver that Report.
10. The SRA wrote to the Respondent on 21 April 2010 seeking his explanation for the late delivery of the 2008 Report. There was no response. A further letter was sent to the Respondent on 12 May 2010. The Respondent did not reply.
11. The SRA wrote to the Respondent on 21 October 2010 regarding his failure to reply to the two earlier letters and in relation to his failure to deliver the 2009 Accountant's Report. There was no reply. A further letter was sent on 23 November 2010 and again the Respondent failed to reply.

12. A report for adjudication was prepared and sent to the Respondent for comment on 14 December 2010. There was no response. On 28 January 2011, an Adjudicator referred the Respondent to the Tribunal and ordered that he should pay the SRA's fixed costs of £600 in connection with its investigation and adjudication of professional conduct issues. The decision was forwarded to the Respondent in a letter dated 2 February 2011. An invoice for £600 was sent to the Respondent on 8 April 2011 and he was sent standard reminder letters at 7, 14 and 21 days thereafter. The SRA wrote to the Respondent on 7 July 2011 seeking his explanation and comments by 21 July 2011 but there was no reply.
13. On 9 May 2011, Capita reported to the SRA that the Respondent had failed to pay the annual premium for cover in the Assigned Risks Pool for the indemnity year 2009/2010. The SRA wrote to the Respondent about this matter on 19 May 2011 and sent a further reminder letter on 10 June 2011 by Special Delivery. The Respondent did not reply to either of these letters. The Assigned Risks Pool premium remained outstanding.

### Witnesses

14. None.

### Findings of Fact and Law

15. **Allegation 1.1: Failed to deliver the Accountant's Report for the year ending 25 September 2008 for Roosevelt Challenger & Co Solicitors by the specified date in breach of Section 34 of the Solicitors Act 1974 (as amended).**
  - 15.1 Ms Willetts referred the Tribunal to the fact that the Accountant's Report for the year ending 25 September 2008 had been delivered over seven months late on 10 February 2010. An extension of time for delivery of the Report had been agreed with the Respondent to 30 June 2009. The Respondent had failed to provide an explanation as to the reason why the Report was filed late.
  - 15.2 The Tribunal found the allegation substantiated on the facts and documents before it.
16. **Allegation 1.2: Failed to deliver the Accountant's Report for the year ending 25 September 2009 for Roosevelt Challenger & Co Solicitors in breach of Section 35 of the Solicitors Accounts Rules 1998.**
  - 16.1 The Accountant's Report for the year ending 25 September 2009 was due to be filed by 25 March 2010. Ms Willetts confirmed to the Tribunal that the Respondent had failed to deliver the account and as at the date of the hearing the Report was still outstanding.
  - 16.2 The Tribunal found the allegation substantiated on the facts and documents before it.
17. **Allegation 1.3: Failed to deal with the Solicitors Regulation Authority in an open, prompt and co-operative way in breach of Rule 20.05 of the Solicitors Code of Conduct 2007.**
  - 17.1 Ms Willetts told the Tribunal that the SRA had been in communication with the

Respondent since 21 April 2010. All correspondence sent by the SRA had gone to the Respondent's home address. This was the address that the Respondent had included in his application for judicial review and so there was no reason to suspect that the letters had not been delivered.

- 17.2 Ms Willetts referred the Tribunal to the various reminder letters that had been sent to the Respondent. There had been no response from the Respondent to any of this correspondence. In addition, further correspondence had been sent to the Respondent regarding the non payment of the invoice relating to the Adjudicator's decision that the Respondent should pay fixed costs of £600. Ms Willetts conceded that the reminder letter of 7 July 2011 had been sent to the firm's address but submitted that it was clear on the evidence that the Respondent had failed to engage with the regulator.
- 17.3 The Tribunal noted that all of the correspondence addressed to the Respondent and referred to in the Rule 5 Statement had been sent to him at his home address. In addition, the letter dated 19 May 2011 in relation to the unpaid insurance premium had also been sent to the Respondent at his home address. This was the same address that had been included in his claim form in the judicial review proceedings.
- 17.4 The Tribunal found the allegation substantiated on the facts and documents before it.

**18. Allegation 1.4: Failed to pay the Professional Indemnity Insurance premium to the Assigned Risks Pool in breach of Rule 16.2 of the Solicitors Indemnity Insurance Rules 2010.**

- 18.1 Ms Willetts told the Tribunal that the Respondent had fallen into the Assigned Risks Pool due to his failure to obtain Professional Indemnity Insurance on the open market. The premium of £1,890 for the indemnity year 2009/2010 had not been paid and Capita had reported the matter to the SRA on 9 May 2011. The SRA had contacted the Respondent about this issue on 19 May 2011 and had sent a further reminder letter to him on 10 June 2011 but the Respondent had failed to reply. The premium remained outstanding as at the date of the hearing.
- 18.2 The Tribunal found that the allegation was substantiated on the facts and documents before it.

**Previous Disciplinary Matters**

19. None.

**Mitigation**

20. None.

**Sanction**

21. The Tribunal considered the range of sanctions that could be imposed against the Respondent. The Tribunal was concerned to note that the Respondent had still not filed his accounts for the year ending 25 September 2009 and his insurance premium remained outstanding. In the circumstances, the Tribunal considered that the appropriate sanction was that the Respondent should be suspended indefinitely and

recommended that whilst not wishing to fetter the discretion of any future Tribunal, any application by the Respondent for the termination of the period of suspension should not be granted until he had filed the outstanding Accountant's Report for the year ending 25 September 2009 and produced evidence of the payment of the outstanding indemnity insurance premium to the Assigned Risks Pool.

### **Costs**

22. The Applicant submitted a claim for costs in the sum of £4,255.22. Ms Willetts confirmed that she had served a copy of the Schedule of Costs on the Respondent, together with a copy of the case of the Solicitors Regulation Authority v Davis & McGlinchey (2011) EWHC 232 (Admin). There had been no reply from the Respondent.
23. The Tribunal considered that the claim for costs was fair and reasonable and ordered that the costs of £4,255.22 should be paid in full by the Respondent.

### **Statement of Full Order**

24. The Tribunal Orders that the Respondent, Claudius Roosevelt Challenger of Flat 18, Kingsmead House, Homerton Road, Homerton, London, E9 5QH, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 28th day of September 2011 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,255.22.

Dated this 3<sup>rd</sup> day of November 2011  
On behalf of the Tribunal

Miss N Lucking  
Chairman