

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10831-2011

## BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

JACQUELINA OLIVIA JOHNS

Respondent

(ALSO KNOWN AS JACQUELINA OLIVIA LAVERICK)

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Before:

Mr J. N. Barnecutt (in the chair)

Mr M. Sibley

Mr R. Slack

Date of Hearing: 15th December 2011

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## Appearances

Lorraine Trench, Solicitor, of The Solicitors Regulation Authority, Ipsley Court, Berrington Close, Redditch, Worcestershire B98 0TD, for the Applicant.

There was no appearance by or on behalf of the Respondent.

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## JUDGMENT

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### **Allegation**

1. The allegation against the Respondent was that she breached Rules 1.02 and 1.06 of the Solicitors' Code of Conduct 2007 ("SCC"), as she failed to act with integrity and behaved in a way that was likely to diminish the trust the public placed in her or the profession by virtue of her conviction upon indictment of ten counts of theft and two counts of converting criminal property at Lincoln Crown Court on the 22 October 2010.

### **Documents**

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

Applicant:

- Application and Rule 5 Statement dated 16 September 2011 and Exhibit "LPT1";
- Fax letter Applicant to the Tribunal dated 14 December 2011;
- Applicant's Schedule of Costs dated 5 December 2010 (sic).

Respondent:

- Letters from the Respondent to the Tribunal dated 17 October 2011 and 8 November 2011;
- Letter from Sills & Betteridge Solicitors to the Tribunal dated 12 December 2011.

### **Preliminary Matter**

3. By letter faxed to the Tribunal dated 14 December 2011, Ms Trench for the Applicant sought an adjournment of the substantive hearing in order to amend the allegation to seek a direction from the Tribunal under section 47(2)(g) of the Solicitors Act 1974 (as amended) ("the Act"), prohibiting the restoration of the Respondent's name to the Roll except by Order of the Tribunal. Ms Trench had recently been informed by the Solicitors Regulation Authority's ("SRA") Operations Department that the Respondent had been removed from the Roll on 2 June 2010. The SRA wrote to her former address on 29 March 2010 regarding the keeping of her name on the Roll. The Respondent did not reply with the requisite fee and her name was duly removed from the Roll as part of the SRA's administrative process. Ms Trench believed that the Respondent was unaware that her name had been removed. Assuming that the Tribunal agreed to adjourn the substantive hearing and permitted amendment of the allegation, it was Ms Trench's intention to serve the amended Rule 5 Statement on the Respondent.
4. The Chairman indicated that, having read all the papers, the Tribunal's preliminary view was that it would give leave to amend the Application, but was not satisfied that

the allegation required amendment or that an adjournment was necessary. The Respondent had conceded in her letters to the Tribunal that she might be struck off the Roll. The Tribunal could see no benefit to the parties in adjourning the substantive hearing. The Tribunal could proceed on the basis that it would (if considered appropriate at the conclusion of the hearing) make a direction prohibiting the restoration of the Respondent's name to the Roll, so avoiding an increase in costs by having to come back on another date. The Chairman considered that to pursue this option might save the Respondent further costs, when she was clearly concerned over the subject of costs, and also relieve her of further anxiety in waiting for another hearing. However, the Tribunal recognised the need to ensure that the Respondent's position was protected, in case she was unaware that her name had been removed from the Roll in June 2010. Protection could be provided by a direction that a Prohibition Order should not take effect for, say, 28 days to give the Respondent an opportunity to submit an application for a rehearing if she felt the need to do so.

5. Ms Trench informed the Tribunal that, if it was contemplating the making of an Order under section 47(2)(g) of the Act, the Respondent's misconduct as set out at paragraphs 5 to 12 inclusive of the Rule 5 Statement occurred at a time when her name was on the Roll. However her conviction and sentence for the offences occurred after her removal from the Roll.
6. On the Applicant's application for an adjournment of the substantive hearing and leave to amend the Application, the Tribunal Ordered as follows:
  - 6.1 Leave given to the Applicant to amend the Application so as to seek a direction prohibiting the restoration of the Respondent's name to the Roll except by Order of the Tribunal and to refer to the Respondent throughout as a former solicitor, her name having been removed from the Roll by the Applicant on 2 June 2010;
  - 6.2 Application by the Applicant for an adjournment of the substantive hearing refused.

### **Factual Background**

7. The Respondent was born on 28 December 1978 and was admitted as a solicitor on 3 November 2003. Her last practising certificate was terminated by the Applicant on 9 December 2009, and her name was removed from the Roll on 2 June 2010 as set out above. The Respondent was formerly employed as a salaried partner at the Grantham office of Chattertons solicitors ("the Firm"). She had commenced a training contract with a different firm on 17 October 2001. Her training contract was transferred to another firm which was in turn taken over by Chattertons on 25 February 2002, where the Respondent then became a trainee solicitor.
8. The Respondent practised under her maiden name of "Johns", her married name being "Mrs Jacqueline Laverick". Following her admission as a solicitor, the Firm employed the Respondent as an Assistant Solicitor in its Probate Department at Horncastle. On 19 December 2005 the Respondent became an Associate Solicitor. She moved to the Firm's Grantham office in 2007. The Respondent was made a salaried partner on 1 May 2008 and became Head of the Tax, Trust and Probate Department at the Grantham office. She had also been appointed as a Deputy by the Court of Protection to deal with the affairs of, usually elderly, individuals, who were

unable to manage their affairs themselves. She resigned from the Firm on 28 July 2009.

9. On 15 October 2009 the Firm contacted the SRA to report misconduct by the Respondent. The Firm alleged that the Respondent had misappropriated client monies when acting in her capacity as a solicitor in the Firm's Probate Department and as a Deputy. The Firm had initially been alerted to a potential problem on 27 July 2009 when it was contacted by a manager at a Building Society, who expressed concern about a number of payments from two accounts held for two clients of the Firm where the Respondent was acting as Deputy. The Firm's Senior Partner and the Head of the Private Client Department met with the Respondent on 28 July 2009, following which meeting the Respondent resigned. The Senior Partner, who was also a Licensed Insolvency Practitioner, carried out a detailed investigation. This included the partial reconstruction of missing files and files believed by the Firm to have been destroyed by the Respondent. He produced a report following his investigation which formed the basis of his police statement. The value of thefts initially identified was £211,605.58.
10. An inspection of the Firm's books of account and other documents by Ian East and Valerie Smith, Investment Business Officers ("IO") appointed by the SRA commenced on 16 February 2010. The Respondent was interviewed by the IO on 7 September 2010. The inspection resulted in the production of a Forensic Investigation Report ("FIR") dated 18 January 2011 signed by Mr East.
11. The Firm had to obtain formal permission from the Office of the Public Guardian before it was able to report the matter to the Police. There was a delay before permission was granted. On receipt, the report was made and investigated. The Respondent was arrested on 19 September 2010.
12. On 22 October 2010 the Respondent was tried at Lincoln Crown Court, and upon her own confession convicted upon indictment of ten counts of theft and two counts of converting criminal property. The Respondent was given credit for having pleaded guilty at the first available opportunity and for having cooperated with the Police during interview. On 13 January 2011 she was sentenced to 3 years imprisonment. A Confiscation Order for £60,000 under the Proceeds of Crime Act 2002 was made, with compensation of £60,000 payable out of that Order.
13. A victim impact statement for use in the criminal proceedings was prepared on behalf of the Firm by a Partner, Mr Cordingley, in which he explained the impact of the Respondent's activities on the Firm's clients and its reputation. Details of the charges that the Respondent faced appeared on the Internet and in the local press before her trial and conviction, as did details of the conviction and sentence in due course. Mr Cordingley said in his statement:

"Within the firm we have found it very upsetting to have the trust and confidence which we placed in Ms Johns utterly destroyed."

He confirmed the number of hours spent internally on investigation of files by a team consisting of five Partners and Senior Solicitors. He conservatively estimated the time engaged at significantly more than 500 hours. He referred to his own

involvement after July 2009 in briefing and liaising with various bodies, estimating the time engaged at significantly more than 300 hours.

14. When sentencing the Respondent, His Honour Judge Heath made the following remarks:

"The solicitor's profession is an honourable profession. Many qualities are required to be a solicitor. Above all else, the qualities of integrity and honesty are required. The vast majority of solicitors up and down the land practice diligently and honestly. Among those are Chattertons, which is a long-established and highly regarded Lincolnshire firm, which is rightly jealous of the reputation which it enjoys. As a result of what you did, a great deal of investigative work had to be carried out by Mr Cropley of Chattertons, 500 hours or so, not least because you destroyed a number of files. And then about 300 hours has had to be put in by Mr Cordingly (sic), a partner in that firm, dealing with the insurers, the Solicitors Regulation Authority, the Public Guardian and others (sic) appropriate bodies. And Chattertons has dealt with this matter in an exemplary fashion. It must have been a nightmare for them to discover that their trusted employee had behaved as you did. And as a result on the way in which they have approached this case, no-one should think any less of Chattertons, its partners and their employees, than they did before the activity of yourself came to light.

You stole from clients over a period of 3 years and 4 months, and you stole £214,870. An aggravating feature is plainly the length of time over which this activity went on, and also the fact that over £60,000 was taken from vulnerable clients. You were acting as a deputy under an order or orders of the Court of Protection for people who were mentally incapable of dealing with their own affairs. And you targeted files carefully. You picked the files that you thought he (sic) could get away with. Another aggravating feature is that you deceived your own grandmother, taking almost £150,000. The true beneficiary got, your grandmother I think, got (sic) about £342. Certainly the true beneficiary came nowhere near getting what she was entitled to, £55,000, and the Salvation Army were also greatly disadvantaged by what you did. You committed, over a period of time, a grave breach of trust. You behaved despicably, and it was done out of pure greed. You were under no financial pressure, you sought to enjoy a lifestyle which you ... could not afford. The money was used for yourself, including the purchase of a second property."

#### **Witnesses**

15. None

#### **Findings of Fact and Law**

16. **Allegation 1. Breached Rules 1.02 and 1.06 SCC, as she failed to act with integrity and behaved in a way that was likely to diminish the trust the public placed in her or the profession by virtue of her conviction upon indictment of ten counts of theft and two counts of converting criminal property at Lincoln Crown Court on the 22 October 2010.**

- 16.1 The Respondent admitted the allegation in her letters to the Tribunal dated 17 October 2011 and 8 November 2011.
- 16.2 In her submissions, Ms Trench confirmed that the Applicant adopted in their entirety the sentencing remarks made by the Judge, including the comments relating to the conduct of Chattertons. The SRA had taken no action against the Firm, and concurred with the Judge's view of the Firm's exemplary conduct. The Applicant adopted the Judge's statements concerning the qualities required to be a solicitor. Client funds were sacrosanct, and should always be applied by solicitors strictly in accordance with the requirements of the rules and regulations. To do otherwise destroyed public confidence in the profession. Solicitors had always to act with unquestionable integrity and trustworthiness. That could not be said of the Respondent, who had seriously breached the trust of the Firm's clients and employees. Her misconduct was aggravated by the fact that she took money from vulnerable clients over a long period of time. Any conviction for a criminal offence was to be treated most seriously. The Respondent's conduct had fallen well below the expected standards; she had behaved without integrity and in a way that was likely to diminish the trust the public placed in her or the profession.
- 16.3 The Tribunal found that the Respondent had been convicted upon her own confession on indictment of ten counts of theft and two counts of converting criminal property as alleged by the Applicant and admitted by her. She had been sentenced to 3 years imprisonment. The conduct giving rise to the conviction occurred while the Respondent was acting as a solicitor and when her name remained on the Roll. The Tribunal was satisfied beyond reasonable doubt that, by virtue of her conviction, the Respondent had breached Rules 1.02 and 1.06 of the SCC. She had admitted stealing £214,870.06 from client accounts over a period of 3 years and 4 months. She had plainly failed to act with integrity in breach of Rule 1.02. Lincoln Crown Court had been provided with evidence in the form of a statement on behalf of Chattertons outlining the impact that the Respondent's misconduct had had on its clients, partners and staff. Details of the Respondent's offences, her conviction and the sentence imposed had been published online. The Respondent's behaviour leading up to her eventual criminal conviction for serious offences of dishonesty was in the public domain, and was likely to diminish the trust the public placed in her or the legal profession.
- 16.4 The Tribunal therefore found the allegation, which was admitted, substantiated on the facts and the documents beyond reasonable doubt.

### **Previous Disciplinary Matters**

17. None

### **Mitigation**

18. In letters dated 17 October 2011 and 8 November 2011 the Respondent stated as follows:

"... I fully appreciate the Tribunal may decide to strike me from the roll preventing me from working in the employment of a Solicitors Practice in the future. I do not wish to make any representations in respect of this outcome. I do wish to make a plea asking the Tribunal to refrain from any financial orders such as fines and costs as I will not be able to meet these. As a result of my conduct and criminal proceedings my marriage is now at an end and when I am released from prison I will be ... initially on benefits which will be my only source of income. I also wish to point out that any available assets I would have had have already been accounted for in the Proceeds of Crime Order."

### **Sanction**

19. The Tribunal had found the allegation, which was admitted by the Respondent, substantiated beyond reasonable doubt.
  
20. When sentencing the Respondent His Honour Judge Heath referred to difficulties in her personal life which she had encountered between 2001 and 2007. He made it clear that those difficulties did not excuse or justify what the Respondent went about doing. The Tribunal whole-heartedly adopted that view, and noted that on this occasion the Respondent had not sought to make any excuses for her conduct in mitigation. One only had to read the Judgment of the Learned Judge to appreciate the seriousness of the Respondent's conviction and the admitted facts leading up to it. The Respondent committed very substantial acts of dishonesty and clear breaches of trust. She stole large sums of money from vulnerable clients of whom she took advantage. If the Respondent's name had still been on the Roll of Solicitors, the Tribunal would have had no hesitation in striking it off. However the Tribunal had been made aware by the Applicant that her name had been removed from the Roll on 2 June 2010 as part of an SRA administrative process. The Tribunal therefore proposed to make a direction prohibiting the restoration of her name to the Roll except by Order of the Tribunal under section 47(2)(g) of the Solicitors Act 1974 (as amended). The Tribunal was alert to the fact that this direction was not the same in nature as the Application as originally pleaded. Leave to amend was granted at the substantive hearing from which the Respondent was absent. The Tribunal therefore intended to grant a stay of the Prohibition Order for a period of 28 days from 15 December 2011 to give the Respondent a reasonable period of time in which to make an application to the Tribunal for a rehearing if so advised. It was in the Respondent's interests to have certainty and to bring these proceedings to a conclusion in order to save any costs which would be incurred by a further hearing at a future date. Should the Respondent wish to make submissions at a future date - which the Tribunal considered unlikely due to the view expressed in her letters that she fully appreciated that the Tribunal might decide to strike her from the Roll, and the Prohibition Order made was technically different but in reality no different in effect from a Striking Off Order - she had been given 28 days in which to do so.

### **Costs**

21. The Applicant applied for costs totalling £43,488.57. The Respondent had been provided with the Applicant's Schedule of Costs and costs were not agreed. The Respondent referred to her lack of means in her letters to the Tribunal. Further, on 12 December 2011 solicitors instructed on her behalf wrote to the Tribunal, copied to Ms Trench, to record the Respondent's concern at the level of costs incurred in the

forensic investigation. It was said on her behalf that the Lincolnshire Police did a detailed and thorough investigation into the matter with the benefit of files provided by Chattertons. The Respondent suggested that costs could have been shared between the Police and the SRA to keep them to a minimum. The letter continued as follows:

"If the tribunal do not find favour with our client's argument in respect of the forensic costs then we respectively (sic) submit that the principle that our client should pay any costs at all in the circumstances may be more persuasive. As a result of our client's conduct her marriage has failed and all her assets have been ordered to be seized under the terms of a Confiscation Order under the Proceeds of Crime Act which is to be used as compensation to pay Chattertons' insurers. Upon her release from prison in March 2012 our client will be reliant upon state benefits to support not only herself but a young child with little or no prospect of finding employment given the nature of her offences. You may feel therefore in the circumstances there will be little or no future prospect of our client being able to pay anything towards costs of the Regulation Authority's investigation and in the circumstances we submit it will be inappropriate to award costs in this case."

22. Ms Trench confirmed to the Tribunal that all work done by the Forensic Investigators was as a result of the Respondent's activities. The two Investigators carried out a joint investigation involving extensive travel and overnight stays in Lincolnshire. Ms Trench referred the Tribunal to the breakdown of each element of the Forensic Investigation costs for which claim was made.
23. The Tribunal noted that the Respondent had stolen a large amount of money and that very little, if any, had been recovered. It also noted that Chattertons had made good the loss to its clients in full. It appeared from the Respondent's Counsel's mitigation at the Crown Court hearing that she had enjoyed a nice lifestyle on the proceeds of her crime. The Tribunal decided that the Respondent should be ordered to pay the SRA's costs. However the claim made by the Applicant was very substantial. Given the submissions that the Respondent and her solicitors had made on costs, she ought to be given the opportunity of challenging the same should she wish to do so. The Tribunal therefore ordered that the Respondent do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties, to include the costs of the Investigation Accountant of the Law Society.

### **Statement of Full Order**

24. The Tribunal Ordered as follows:
  1. Leave to amend the application so as to seek a direction prohibiting the restoration of the Respondent's name to the Roll except by Order of the Tribunal and to refer to the Respondent throughout as a former solicitor, her name having been removed from the Roll by the Applicant on 2 June 2010.
  2. The Respondent, Jacqueline Olivia Johns (also known as Jacqueline Olivia Laverick) of HMP Askham Grange, Askham Richard, York YO23 3FT, former solicitor, be prohibited from having her name restored to the Roll of Solicitors except by Order of the Tribunal.



3. The Prohibition Order stayed for a period of 28 days from 15 December 2011 to enable the Respondent to seek a rehearing if so advised.
4. The Respondent do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society.

Dated this 29<sup>th</sup> day of December 2011

On behalf of the Tribunal

Mr J. Barnecutt  
Chairman