

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11200-2013

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

JAMES-GUY JACOBS

Respondent

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Before:

Mr A. N. Spooner (in the chair)

Miss N. Lucking

Mr G. Fisher

Date of Hearing: 10 February 2014

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**Appearances**

Myra Humphreys, solicitor of The Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Applicant

The Respondent appeared and was represented by Gregory Treverton-Jones QC.

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**JUDGMENT**

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## **Allegations**

1. The allegation against the Respondent was that:
  - 1.1 Contrary to all, alternatively any, of Principles 1, 2 and/or 6 of the SRA Principles 2011 the Respondent was on 23 November 2012, convicted upon his own admission of the offences described in paragraph 4 of the Rule 5 Statement.

The Respondent admitted the allegation.

## **Documents**

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

Applicant:

- Application dated 12 November 2013 together with attached Rule 5 Statement and all exhibits
- Email dated 22 January 2014 from Myra Humphreys to the Tribunal, also copied to the Respondent's solicitors, Richard Nelson LLP
- Statement of Costs dated 6 February 2014

Respondent:

- Respondent's Bundle of Documents
- Email and attached letter both dated 19 December 2013 from Richard Nelson LLP to the Tribunal
- Personal Financial Statement dated 24 January 2014 with all exhibits
- Character Reference Letter dated 7 February 2014 from NB to the Tribunal
- Email dated 7 February 2014 from the Respondent's solicitors to the Tribunal providing details of the Respondent's expenditure

## **Preliminary Matters**

3. At the beginning of the hearing the Chairman reminded the parties that Myra Humphreys, who appeared for the Applicant, had in the past worked with his previous firm and he had offered her a position at that firm when she qualified in 2004. The Chairman had been a Partner and the Head of the Commercial Litigation Department at that firm. The Department had over 20 fee earners. Up to 2004 Ms Humphreys had been a Trainee Solicitor. On qualification she had worked in a different team under the supervision of another partner. The Chairman confirmed he had little direct contact with Ms Humphreys and, having left the firm in April 2005, he had not

worked with her since that date. He did not consider, having regard to the circumstances that he needed to recuse himself from hearing this case.

4. Prior to the substantive hearing, both parties had been informed of the position by an email dated 22 January 2014 from Ms Humphreys to both the Tribunal and the Respondent's solicitors. Both parties confirmed once again that they did not have any objection to the Chairman dealing with this case.

### **Factual Background**

5. The Respondent was born on 25 April 1967 and admitted to the Roll of Solicitors on 1 December 1993.
6. At the material time the Respondent was a partner at Healys LLP, Atrium Court, 15-17 Jockey's Fields, London, WC1R 4QR.
7. On 23 November 2012, at the Harrow Crown Court, the Respondent was convicted upon his own admission of 10 counts of making indecent photographs or pseudo-photographs of a child, 5 counts of taking indecent photographs or pseudo-photographs and one count of possessing an indecent photograph or pseudo-photograph of a child.
8. The Respondent was sentenced to 4 months imprisonment suspended for 24 months. He was also made subject to a Sexual Offences Prevention Order for 7 years under S104(5) and S106 Sexual Offences Act 2003, he was put on the Sexual Offenders Register for 7 years and ordered under S143 of the Powers of the Criminal Courts (Sentencing) Act to forfeit all images and his laptops were seized. He was also required to pay £2,000 towards the costs of prosecution.

### **Witnesses**

9. The following witnesses gave evidence:
  - The Respondent, James-Guy Jacobs

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

10. The Tribunal had carefully considered all the documents provided, and the submissions of the Applicant and the Respondent. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
11. **Allegation 1.1: Contrary to all, alternatively any, of Principles 1, 2 and/or 6 of the SRA Principles 2011 the Respondent was on 23 November 2012, convicted upon his own admission of the offences described in paragraph 4 of the Rule 5 Statement.**

- 11.1 The Tribunal had been provided with a Certificate of Conviction from the Harrow Crown Court dated 16 May 2013. This confirmed the Respondent had been convicted upon his own confession, on indictment, on 23 November 2012 of:

“10 x Making indecent photograph or pseudo-photograph of child; 5 x Taking indecent photograph or pseudo-photograph of child; 1 x Possessing indecent photograph or pseudo-photograph of child.”

The Certificate of Conviction also confirmed on 29 April 2013 the Respondent was sentenced to 4 months imprisonment suspended for 24 months. He was also made subject to a Sexual Offences Prevention Order for 7 years under sections 104(5) & 106 Sexual Offences Act 2003, he was put on the Sex Offenders Register for 7 years and subject to an Order under s143 Powers of Criminal Courts (Sentencing) Act for forfeiture of all images and laptops seized. The Respondent was also required to pay £2,000 towards the costs of the prosecution.

- 11.2 The Respondent's solicitors, Richard Nelson LLP, had confirmed in a letter to the Tribunal dated 19 December 2013 that the allegation was admitted. Mr Treverton-Jones QC also confirmed the allegation was admitted although it was not accepted that this case involved a lack of integrity.
- 11.3 Principle 1 of the SRA Principles 2011 stated solicitors must uphold the rule of law and the proper administration of justice. Principle 2 of SRA Principles 2011 stated solicitors must act with integrity and Principle 6 of the SRA Principles 2011 stated solicitors must behave in a way that maintained the trust the public placed in them and in the provision of legal services.
- 11.4 By virtue of the conviction, the Respondent had failed to uphold the rule of law and the proper administration of justice and he had behaved in a way that did not maintain the trust placed in him or in the provision of legal services.
- 11.5 The Tribunal considered the sentencing remarks of His Honour Judge Barklem and noted the Respondent had told the Probation Officer that he was aware of wrongdoing but oblivious to the fact as to the impact on his victims. The Respondent had been found guilty of possession of 305 indecent photographs of children, of which 276 were at level one, 8 were at level two, 12 were at level three, 8 were at level four and 1 at level five. Level five was the most extreme. His Honour Judge Barklem has stated the following:

“Offences relating [sic] indecent photographs of children are rightly regarded as being extremely serious. In the present case, you had no contact directly with any child, and the images were obtained by you on the Internet. Nonetheless, as you know, were it not for a demand from end users of such photographs, the serious abuse of the children who are pictured in these images would either not occur or would be significantly reduced.”

- 11.6 The Tribunal was satisfied that the nature of the convictions were evidence that the Respondent had acted with a lack of integrity in making, taking and possessing illegal photographs of vulnerable children, particularly taking into account the number of images, and the serious nature of which was indicated by the various levels of those

images. The Tribunal was satisfied the allegation was proved including a breach of Principle 2 in that the Respondent had acted with a lack of integrity.

### **Previous Disciplinary Matters**

12. None.

### **Mitigation**

13. The Tribunal heard lengthy mitigation from Mr Treverton-Jones QC on behalf of the Respondent. The Respondent accepted the offences were serious. He expressed deep and real remorse for his actions. The Tribunal was provided with details of the Respondent's background, education and medical history. The Respondent's parents were devout Jews and his family was highly academic. The Respondent was a property lawyer. He had started to suffer from panic attacks caused by extreme anxiety whilst at university and these attacks had been a feature of his life since then.
14. The Respondent had started to look at pornography when he was a boy. The Tribunal was provided with details concerning the Respondent's marriage and his wife's health. The Respondent started to view pornography online in around 1994 when his personal circumstances changed. In 2006 the Respondent's anxiety levels were particularly bad. During this time he was accessing pornography to a significant extent. After he was prescribed anti-depressants his use of pornography decreased. In 2009 his father passed away and this again triggered an increase in his use of pornography.
15. In April 2010 the Respondent started work with a new firm as a Consultant but they parted acrimoniously, which resulted in litigation arising from the termination of his employment in September 2011. The Respondent was also suffering from an injured ankle and in October 2011, whilst he was off work and ill, the Respondent downloaded two torrents of files which had then led to his conviction. When the Respondent had downloaded these files he had not known what would be contained within them. His computer had crashed as 2,000 images were downloaded without the Respondent realising. Several images were advertisements for various websites and there were some photographs of a sexual nature of pre-teen girls. The Respondent did not accept that he had searched for any hard core pornography. The majority of the images were level one. The Respondent, having realised some of the pictures were unlawful, deleted all the images, un-installed the offending software which had allowed the images to be viewed, he wiped his hard drive and then reinstalled all the factory settings on his computer. The Respondent was terrified as he had viewed about 20 images and did not know what else was contained in the files. He also realised the police could trace some of the websites. The Tribunal was told that later in 2011 the Respondent had attempted suicide.
16. In August 2012 the Respondent was subject to a dawn raid by the police which involved his house being searched and him being led away in handcuffs. The police subsequently arrested the Respondent again while he was away for the weekend with his wife. He was granted bail on condition that he lived with his mother. Whilst living with his mother the Respondent had attempted suicide again. The Respondent had pleaded guilty at the earliest opportunity, on 23 November 2012, to the offences

and had received credit for his early admission. He had also assisted police with their enquiries.

17. Mr Treverton-Jones QC submitted the Respondent was a good solicitor, and a religious man for whom his addiction to pornography had got out of control. The Respondent had addressed his problems by undergoing 80 hours of therapy and had also spent many hours with his family and his Rabbi. The Respondent was continuing with his therapy. The Respondent had stopped viewing pornography. He had now become an observant Jew and was trying to rebuild his life and his marriage. He did not pose any appreciable risk to children and it was submitted his risk of re-offending was very low. He practised in commercial property and did not come into contact with children during his work.
18. In August 2013 the Respondent had joined another firm of solicitors, Fletcher Day Solicitors. The Tribunal was informed the Senior Partner of the practice was aware of the conviction and willing to employ the Respondent. The Tribunal was referred to a number of character references provided which spoke highly of the Respondent.
19. The Tribunal heard evidence from the Respondent himself in which he confirmed the information given on his behalf was correct. The Respondent stated that he had been in a highly anxious state and not thinking properly at the times when he was accessing pornography. He had been trying to prevent his anxiety and this made him oblivious to everything else. The Respondent stated he had never done a search for “PTHC” (Pre-Teen Hard Core) and in fact was searching for “PRY” which was a song by Michael Jackson called “Pretty Young Thing”. The Respondent assured the Tribunal that he would never ever look at pornography again and the thought of it filled him with utter disgust and contempt. On questioning by the Tribunal the Respondent stated he had been using a particular server which was not reliable in that a search could be made for one particular piece of information but instead the server would allow torrents of unrelated material being provided. The Respondent accepted he had taken inappropriate photographs of himself viewing some images but stated he had no recollection of a Level 5 image. The Respondent stated his anxiety was now under control and that he would never allow his misconduct to happen again.
20. Mr Treverton-Jones QC stressed the offences had been committed outside the Respondent’s profession and submitted it was not necessary or proportionate for the protection of the reputation of the profession to remove the Respondent from the Roll of Solicitors. The Respondent’s condition was more like an illness which he had faced up to. The Respondent had described himself as a completely different person and it was submitted on his behalf that a fair-minded observer would not consider it necessary to cast the Respondent out of the profession. He needed his job in order to support his family as his was the main source of income. The root cause of the problem had been addressed and eradicated. The Respondent would be a credible member of the profession and it was submitted a financial penalty or a suspended suspension would be the appropriate sanction in this case.

## **Sanction**

21. The Tribunal had considered carefully the Respondent’s evidence, the submissions made on his behalf and all the documents provided, including the character

references. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.

22. In this case the Respondent was convicted on his own admission on 23 November 2012 of 10 counts of making indecent photographs/pseudo photographs of a child, 5 counts of taking indecent photographs/pseudo photographs of a child and one count of possessing an indecent photograph/pseudo photograph of a child. The Respondent was sentenced to 4 months imprisonment suspended for 24 months. In addition, the Respondent was made subject to a Sexual Offences Prevention Order for 7 years, and put on the Sexual Offenders Register for 7 years. He was also ordered to pay £2,000 towards the prosecution costs.
23. The Tribunal had carefully considered the aggravating and mitigating factors contained in its Guidance Note on Sanctions. The convictions related to photographic images which fell into each of the five graded categories from level 1 (being the most moderate) to level 5 (being the most extreme). These were illegal images involving vulnerable children. The Respondent's conduct in downloading these images had been deliberate. The Tribunal did not accept he had inadvertently downloaded the material particularly in light of the comments of His Honour Judge Barklem who stated the reports before him showed there had been a gradual transition from the Respondent's interest in pornography to a focus on images of children.
24. It was clear that the Respondent had shown remorse having been caught and convicted. However, the Tribunal noted that contrary to Principle 7 of the SRA Principles 2011 the Respondent had failed to report his conviction to the Solicitors Regulation Authority. The Respondent ought reasonably to have known that his conduct was in material breach of his obligation to protect the reputation of the profession.
25. The Tribunal had considered very carefully the Sentencing Remarks of His Honour Judge Barklem who had stated the following:

“Mr Jacobs, you pleaded guilty in November last year to a sixteen-count indictment, the first ten counts being of making indecent photographs of a child; the eleventh to fifteenth being of taking indecent photographs of a child; and the sixteenth being a single count of possession of 305 indecent photographs of children, of which 276 were at level one, eight were at level two, twelve were at level three, eight at level four and one at level five; the levels, of course, going from the worst being the high number.

Offences relating [sic] indecent photographs of children are rightly regarded as being extremely serious. In the present case, you had no contact directly with any child, and the images were obtained by you on the internet. Nonetheless, as you know, were it not for a demand from end-users of such photographs, the serious abuse of the children who are pictured in these images would either not occur or would be significantly reduced.

.....

.....The common thread which emerges from these reports is a gradual transition from an interest in pornography, which has been a constant in your life for many years, to a focus on images of children which occurred when you would become increasingly desensitised to the serious and wholly inappropriate nature of your behaviour.

.....

.....I have little doubt that had it not been for your arrest these activities would have continued. ....”

26. The Tribunal had also taken particular note of the submissions made by the Respondent's defence barrister at the hearing before His Honour Judge Barklem at Harrow Crown Court stating that the Respondent very candidly told Probation that he was aware of wrongdoing but oblivious to the fact as to the impact on his victims. His defence barrister had accepted the actions for which the Respondent was convicted were not a victimless crime.
27. The Tribunal considered the references provided and although these were glowing, many were not truly independent as they were from members of the Respondent's family and friends. The Tribunal particularly noted that there was no testimonial from the Respondent's present or previous employers or from his Probation Officer, and that although the Respondent had referred to his medical condition which led to him looking at pornography at times of high anxiety, there was no independent medical evidence relating to this. Nor was the Tribunal provided with a copy of the pre-sentencing report.
28. The Tribunal was mindful of the case of Bolton v The Law Society [1994] CA and the comments of Sir Thomas Bingham MR who had stated:
 

“If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends upon trust. A striking off order will not necessarily follow in such a case but it may well.....The reputation of the profession is more important than the fortunes of an individual member.”
29. The Respondent had been convicted of serious sexual offences involving the exploitation of vulnerable children. The convictions were so serious that it would be inappropriate to order either a reprimand or a fine. A Restriction Order would also be inappropriate given the circumstances and nature of the convictions. The Tribunal further concluded that a suspension would not be the appropriate penalty as this would not adequately protect the reputation of the profession. Many vulnerable children had been exploited. Making, taking or possessing illegal sexual images involving those children was very serious misconduct. The Respondent's conduct had caused severe damage to the reputation of the profession and had damaged the trust that would be placed in him by the public. The Tribunal was of the view that any solicitor who had been convicted of an offence as serious as child pornography could not continue to be a member of the profession. A fair minded observer with knowledge of all the facts would not expect any lesser sanction than removal from the



Roll. The Tribunal was satisfied that the appropriate sanction was to strike the Respondent off the Roll of Solicitors.

### **Costs**

30. The Applicant requested an Order for her costs in the total sum of £1,500 and provided the Tribunal with a breakdown of those costs. Mr Treverton-Jones QC confirmed, on behalf of the Respondent, that the costs were agreed. Accordingly, the Tribunal made an Order that the Respondent should pay the Applicant's costs in the sum of £1,500.
31. In relation to enforcement of those costs, the Tribunal noted the Respondent had provided details of his financial circumstances together with supporting evidence. No submissions had been made regarding his ability to pay the costs. However, the Tribunal was mindful of the cases of William Arthur Merrick v The Law Society [2007] EWHC 2997 (Admin) and Frank Emilian D'Souza v The Law Society [2009] EWHC 2193 (Admin) in relation to the Respondent's ability to pay the costs ordered. The Tribunal noted from the Respondent's Personal Financial Statement that he had savings, as well as an interest in a property owned jointly with his wife, which would enable him to meet the costs. In such circumstances, the Tribunal did not consider this was a case where there should be any deferment of the costs order.

### **Statement of Full Order**

32. The Tribunal Ordered that the Respondent, JAMES-GUY JACOBS, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the agreed costs of and incidental to this application and enquiry fixed in the sum of £1,500.00.

DATED this 21<sup>st</sup> day of March 2014  
On behalf of the Tribunal

A.N Spooner  
Chairman