

IN THE MATTER OF ALISTAIR JOHN WHIPPS, solicitor

AND

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. J N Barnecutt (in the chair)  
Mrs. H Baucher  
Mr. J Jackson

Date of Hearing: 4th November 2003

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Office for the Supervision of Solicitors (the OSS) by Ian Paul Ryan then a consultant in the firm of Buxton Ryan & Co. of 7-10 Market House, The High, Harlow, Essex CM20 1BL but subsequently of Bankside Law Solicitors of Thames House, 58 Southwark Bridge Road, London, SE1 0AS, on 2<sup>nd</sup> June 2003 that Alistair John Whipp of Southchurch Road, Southend on Sea, Essex, might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think fit.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:-

- (i) that he practised uncertificated;
- (ii) that he failed to reply to correspondence from the OSS promptly or at all;
- (iii) that he failed to deliver or delivered late Accountant's Reports notwithstanding Section 34 of the Solicitors Act 1974 and the Rules made thereunder.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Ian Ryan appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included evidence as to service upon the Respondent of the relevant documents.

The Tribunal noted that the Applicant had complied with the provisions of the Disciplinary Rules 1994 as to the time limits for service, but should there have been any delay in the receipt of those documents by the Respondent the Tribunal confirmed that it would consent to an abridgement of time.

**At the conclusion of the hearing the Tribunal made the following order:-**

The Tribunal ORDER that the Respondent, ALISTAIR JOHN WHIPPS of Southchurch Road, Southend-on-Sea, Essex, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 4<sup>th</sup> day of November 2003 and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment if not agreed between the parties.

**The facts are set out in paragraphs 1 to 11 hereunder:-**

1. The Respondent, born in 1962, was admitted as a solicitor in 1986. At the material times he practised on his own account under the style of Alistair J Whipps Solicitors of Southchurch Road, Southend-on-Sea, Essex.

The Respondent practised uncertificated

2. On 10<sup>th</sup> May 2002 the Law Society wrote to the Respondent stating that a Notice of Intention to Apply for a Practising Certificate (Form RSF/12) had been sent to him on 26<sup>th</sup> March 2002 and that the form had not been returned to the Law Society. The Law Society informed the Respondent that if the application had not been received by 14<sup>th</sup> May 2002 his Practising Certificate for the practice year 2000/1 would be terminated with effect from 15<sup>th</sup> May 2002.
3. The Law Society again wrote to the Respondent on 21<sup>st</sup> June 2002 and 23<sup>rd</sup> July 2002 informing him that they had not received his Notification of Intention to Apply for Practising Certificate and that he should send it immediately.
4. The Respondent did not apply for his Practising Certificate and therefore on 5<sup>th</sup> August 2002 the Law Society wrote to him once again confirming that his current Practising Certificate was terminated with effect from 5<sup>th</sup> August 2002.
5. The Respondent wrote to the Law Society on 23<sup>rd</sup> August 2002 stating that he was unaware that his Practising Certificate had been terminated and that he would reply more fully to the Law Society on his return from holiday on 3<sup>rd</sup> September 2002. He confirmed that he would not be practising in the meantime.
6. The OSS then wrote to the Respondent on 20<sup>th</sup> August 2002 to enquire whether he had been practising uncertificated. That letter also contained a warning that an intervention could take place if the Respondent continued to practise uncertificated.

7. On 7<sup>th</sup> September 2002 the OSS received a letter from Munday Solicitors dated 21<sup>st</sup> August 2002 indicating that the Respondent had been practising without a Practising Certificate and enclosing a letter from the Respondent to Munday which confirmed this fact.

That the Respondent failed to reply to correspondence from the OSS

8. The OSS wrote to the Respondent further on 15<sup>th</sup> October 2002, 21<sup>st</sup> November and 18<sup>th</sup> December 2002 but, except for his letter of 23<sup>rd</sup> August 2002 the Respondent did not reply to any of the correspondence from the OSS referred to in the previous section in any substantive way.

That the Respondent failed to deliver Accountant's Reports

9. The Respondent did not deliver Accountant's Reports for the two years ending 31<sup>st</sup> October 2000 and 31<sup>st</sup> October 2001. Reports were due to be delivered on or before 30<sup>th</sup> April 2001 and 30<sup>th</sup> April 2002 respectively. They remained outstanding.
10. The OSS wrote to the Respondent requesting an explanation for the outstanding Accountant's Reports on 9<sup>th</sup> August 2002 and 11<sup>th</sup> September 2002. The Respondent did not reply.
11. The Law Society intervened into the Respondent's firm on 2<sup>nd</sup> December 2002

**The Submissions of the Applicant**

12. The Respondent had not co-operated with the Applicant in any way.
13. The Law Society had intervened into the Respondent's practice and the Applicant was not able to give any indication as to what the Respondent was doing at the time of the disciplinary hearing.
14. The allegations dealt with relatively serious matters. It was a matter for concern that the Respondent had practised whilst not holding a current Practising Certificate and without having filed annual Accountant's Reports with the Law Society.
15. The Respondent had demonstrated a total lack of co-operation with the OSS, his own professional body. In the submission of the Applicant that served only to aggravate the Respondent's position.

**The Submissions of the Respondent**

16. The Respondent played no part in the proceedings.

**The Decision of the Tribunal**

17. The Tribunal found all of the allegations to have been substantiated.

18. It was the Tribunal's view that it was a serious breach of professional duty on the part of a solicitor to continue to practise without holding a current Practising Certificate. That was a statutory requirement and was an important part of the regulation of the solicitors' profession the prime purpose of which was to protect the public.
19. It is well known that the Tribunal takes a grave view of solicitors who fail to reply to correspondence addressed to them by their own professional body. Such a failure prevents the Law Society from carrying out its important regulatory duties and serves enormously to increase the cost of regulation borne by other members of the profession.
20. Similarly the failure to deliver Accountant's Reports timeously was a serious failure on the part of the Respondent. Such Reports served to satisfy the Law Society that the solicitor concerned had handled monies entrusted to him by clients in an honest and fair manner and in accordance with the Solicitors Accounts Rules. That in turn enabled the Law Society to give assurance to clients that monies entrusted to a particular solicitor were not being placed in jeopardy. Again the Respondent's failures in this connection had the effect of preventing the Law Society from fulfilling its duty to protect the public and maintain the good reputation of the solicitors' profession.
21. The Tribunal accepted that it was prevented from making its decision in the knowledge of all of the facts surrounding the case as the Respondent had played no part in the proceedings. The Tribunal had before it no allegation that the Respondent had been dishonest and there was no suggestion that any client had suffered loss. In those circumstances the Tribunal concluded that it was right to order that the Respondent be suspended from practice for an indefinite period of time and it further ordered him to pay the costs of and incidental to the application and enquiry such costs to be subject to a detailed assessment unless agreed between the parties.
22. After the hearing but before these Findings were signed, a letter dated 29th October 2003 was received by the Tribunal from the Respondent. In that letter the Respondent referred to a debilitating illness from which he had been suffering. Given his lack of support staff, that illness had prevented him from attending to the administration of his office as he would have wished.
23. Having considered the contents of the Respondent's letter, the Tribunal did not consider it appropriate to re-call or change this order in any way.

Dated this 12th day of December 2003  
On behalf of the Tribunal

J N Barnecutt  
Chairman.