

IN THE MATTER OF JOSEPH ROBERT KOBINA SIRIPI QUARTSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr S N Jones (in the chair)
Mr J N Barnecutt
Ms A Arya

Date of Hearing: 14th November 2006

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Robert Simon Roscoe, solicitor and partner in the firm of Victor Lissack Roscoe & Coleman solicitors of 70 Marylebone Lane, London, W1U 2PQ on 24th April 2006 that Mr Joseph Robert Kobina Siripi Quartson, solicitor might be required to answer the allegations in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

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

- (a) He improperly withdrew client money from his designated client account and in breach of Rule 22(1) of the Solicitors Accounts Rules 1998;
- (b) He improperly withdrew client money from his designated client account in excess of funds held and in breach of Rule 22(5) of the Solicitors Accounts Rules 1998;
- (c) He failed upon discovery to remedy a shortage of money in client account in breach of Rule 7(1) of the Solicitors Accounts Rules 1998;

- (d) He failed to maintain his designated client account in accordance with Rule 32 of the Solicitors Accounts Rules 1998;
- (e) He failed to deliver to the Law Society on time or within any agreed extended period his Accountant's Report for the accounting period ending 31st March 2005 contrary to Section 34 of the Solicitors Act 1974 and in breach of Rule 35 of the Solicitors Accounts Rules 1998;
- (f) He failed to act in the best interests of his client, Barclays Bank plc, by ensuring that he had adequate indemnity insurance cover in accordance with his instructions in breach of Rule 1 of the Solicitors Practice Rules 1990;
- (g) In breach of Rules 4 and 5 of the Solicitors Indemnity Insurance Rules 2004 the Respondent did fail to take out and maintain qualifying insurance under the Solicitors Indemnity Insurance Rules 2004 during any indemnity period on or after 1st October 2004;
- (h) In breach of Rule 8 of the Solicitors Indemnity Insurance Rules 2004 after having failed to take out and maintain qualifying insurance under the Solicitors Indemnity Insurance Rules 2004 the Respondent failed to apply to enter the Assigned Risks Pool prior to the start of the relevant indemnity period to provide cover for any indemnity period on or after 1st October 2004;
- (i) In breach of Rule 16 of the Solicitors Indemnity Insurance Rules 2004 after having applied for cover from the Assigned Risks Pool for the indemnity period 1st October 2004 to 30th September 2005 and having been notified of the premium due the Respondent failed to pay such premium within 30 days or as otherwise directed.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 14th November 2006 when Robert Simon Roscoe appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent. During the hearing the Respondent handed in a bundle of references in his support.

At the conclusion of the hearing the Tribunal made the following Order:-

The Tribunal Orders that the Respondent Joseph Robert Kobina Siripi Quartson, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 14th day of November 2006 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,100.

The facts are set out in paragraphs 1 to 14 hereunder:-

1. The Respondent, born in 1965, was admitted as a solicitor in 1993 and his name remained on the Roll of Solicitors. He ceased his practice on 31st October 2005 and was made bankrupt on 8th February 2006.

2. At the material time the Respondent practised on his own account as Quartson & Co at 4 Castle Mews, North Finchley, London, N12 9EH.
3. On 9th June 2005 a Senior Investigation Officer of the Law Society Mr N attended the Respondent's practice to inspect the books of account and other documents. The resulting Report dated 29th July 2004 noted the matters set out below.

Breach of Rule 22 Solicitors Accounts Rules 1998

Breach of Rule 7 Solicitors Accounts Rules 1998

4. Mr N ascertained that the Respondent held client monies and maintained a client account. Mr N ascertained that there was a cash shortage in client account of £26,322.26 as at 30th April 2005. This arose because the Respondent had transferred funds from client account to office account in excess of funds held and made an overpayment on behalf of a client in excess of funds held. The Respondent was able to show that the deficiency had been partially rectified by a payment of £17,595 on 31st May 2005 but accepted that there was an outstanding debit balance of £8,923.60 owed to client account. The outstanding debit balance was rectified on 22nd December 2005.

Breach of Rule 32 Solicitors Accounts Rules 1998

5. At the commencement of the inspection Mr N identified deficiencies in the firm's accounting records. The Respondent said that he had now recognised that the computer accounts package he had been using had weaknesses when used for solicitors' accounting records.
6. The Respondent said that the most recent client account reconciliation statement was at 30th November 2004 and the last office account reconciliation was in 2001. He believed that most transactions had been posted but had yet to be verified. The matter ledgers were not reliable and currently the firm was in the process of checking every file to its ledger. The Respondent said that there should not be any shortages on client account but he could be certain without reconciliations.
7. In the absence of reliable accounting records Mr N was not immediately able to assess the level of client liabilities at 30th April 2005. His Report also noted other concerns.
8. On 15th June 2005 Mr N suspended the inspection to enable the Respondent to produce meaningful accounting records and left questions on a variety of other matters for the Respondent.
9. Mr N returned to the firm on 5th July 2005 and the Respondent said that his accounting records and reconciliation statements had now been brought up to date. The cash shortage referred to above was ascertained and agreed by the Respondent.

Breach of Section 43 Solicitors Act 1974 and Rules 35(1) and (5) Solicitors Accounts Rules 1998

10. The Respondent's Accountant's Report for the year ending 31st March 2005 should have been received by the Law Society by 31st May 2005. Although the Respondent

obtained an extension to 30th June 2005 no Report nor a cease to hold Report had been received by the Law Society.

Breach of Rule 1 Solicitors Practice Rules 1990

11. The firm (Mr A, an employed solicitor) acted for a client in the purchase of a property funded with a loan provided by Barclays Bank plc. The bank instructed the firm and made a specific requirement in respect of indemnity insurance. That instruction was not followed and the Respondent told Mr N he accepted he was in breach of the bank's instructions but explained that he was unaware of it.

Breach of Rules 4, 5, 8 and 16 of the Solicitors Indemnity Insurance Rules 2004

12. As part of his application for a Practising Certificate, the Respondent notified the Law Society on 31st October 2004 that he had applied to the Assigned Risks Pool ("ARP") in respect of indemnity insurance for the year 2004-2005.
13. The Law Society ascertained that the Respondent had failed to submit an application to join the ARP in order to obtain qualifying indemnity insurance for the period 1st October 2004 to 30th September 2005 in advance of that period as required by Rule 8.
14. An application form was sent to the Respondent in November 2004 but not returned. Following further enquiries, on 19th January 2005 the Respondent wrote to the Law Society notifying that he had submitted his application to the ARP that day. The Respondent's application was not received and as a result of further correspondence the Respondent submitted an application to the ARP dated 4th April 2005. The ARP issued on 4th April 2005 a debit note to the Respondent in the sum of £79,407.09. The Respondent did not pay the notified premium within 30 days or at all.

The Submissions of the Applicant

15. The Respondent had admitted the allegations at an early stage. There was no allegation of dishonesty.
16. The Applicant accepted that the deficiency in client account had been partially rectified before inspection but the outstanding balance had continued to represent a breach until it had been paid in December 2005.
17. The Respondent had been made bankrupt and was unable to fund the necessary accountant's fees for preparation of the reports due to the Law Society the first of which formed the basis of allegation (e).
18. The Respondent had agreed the Law Society's costs in the sum of £7,100.

The Submissions of the Respondent

19. As sole principal the Respondent accepted that he had ultimate responsibility for the failings in his practice. He acknowledged that he had not reached the high standards expected of solicitors.

20. The Respondent was grateful that there had been no allegation of dishonesty in respect of the deficit on client account. He had made the repayment of the deficit a priority.
21. The Tribunal would consider whether the interests of the public or of the profession required the Respondent's name to be struck off the Roll of Solicitors. The Respondent had always been open regarding the problems within his practice. He had employed an appropriately qualified cashier and had not attempted to soldier on alone. He had sought at each step to ensure that no member of the public suffered loss. There were no complaints from or loss to clients. The Respondent took his obligations to the public seriously.
22. In relation to the breach of Practice Rule 1 a capable assistant solicitor had dealt with the matter but the Respondent accepted that it was his ultimate responsibility.
23. In relation to the ARP the Respondent had assumed at the time that if he was unable to obtain insurance he would automatically fall into the ARP without payment of a premium. This had been a naïve and mistaken understanding. He had not realised that he needed to make an application. He had considered that indicating the ARP on the Practising Certificate would trigger the paperwork.
24. The Respondent asked the Tribunal to consider that a period of suspension might be appropriate. His Practising Certificate was suspended because of the bankruptcy and he ventured to ask the Tribunal to impose a period of suspension which would end with the bankruptcy in February 2007.
25. His references showed that he was hard working and trustworthy in practice and charitable work.
26. The Respondent was seeking to allay the concerns of the Tribunal about his fitness to manage. On 13th February 2006 an Adjudicator of the Law Society had set out conditions on his Practising Certificate and the Law Society would be likely to continue these conditions after a period of suspension. The Law Society would take the matter seriously and ensure that the Respondent had close supervision. After nine years as a sole principal the Respondent's right to manage his own destiny had been removed and he would in future be subject to the supervision of the Law Society and colleagues.
27. Bankruptcy was a serious matter for anyone, especially a solicitor, and resulted in personal strain and a public loss of face. The Respondent accepted that as a solicitor he had to abide by the Code of Conduct and if he breached the Code he had to suffer the consequences. This was part of being a member of the profession. Suspension followed by conditions on his Practising Certificate would mean that the Law Society was regulating one of its own members and would mark the Tribunal's proper concern.
28. The Respondent was currently working as an employment consultant.

29. The Respondent would ensure that during a period of suspension he kept up to date by using Legal Network Television. He could also offer training. He had an active interest in the law and even as a consultant had to keep up to date.

The Findings of the Tribunal

30. The Tribunal found the allegations to have been substantiated, indeed they were not contested. These were very serious matters. The Respondent had failed to maintain the high standards required of solicitors. His books of account had been in disarray to such an extent that he had not known whether or not there was a shortage on client account. He had failed to maintain insurance and had breached a lender client's requirement that he be insured. He was in continuing breach in respect of the Accountant's Report due to the Law Society. Such reports were required in order to ensure proper handling of clients' money and to maintain public confidence in the regulation of the profession. The Respondent had shown himself to be seriously incompetent in managing a practice.
31. There was no allegation of dishonesty against the Respondent. The Tribunal had considered the references supporting the Respondent and would not strike his name off the Roll of Solicitors. The Tribunal did not however accept the Respondent's submission that an appropriate penalty would be to suspend him from practice until the end of his bankruptcy. A significant number of allegations had been substantiated against the Respondent and in order to protect the public the Tribunal considered that it was appropriate to prevent the Respondent from practising until such time as he had shown that he was competent to do so. The Tribunal would impose a suspension on the Respondent for an indefinite period. The Tribunal could not bind a future division of the Tribunal but should the Respondent seek to have the suspension determined it would be likely that the Tribunal would require evidence of a lengthy period of employment in the law and details of appropriate management and accounts training. The Respondent would also need to show that he had provided the outstanding Accountant's Report or obtained a waiver.
31. The Tribunal would also order that the Respondent pay the Applicant's agreed costs.
32. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent Joseph Robert Kobina Siripi Quartson, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 14th day of November 2006 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,100.

Dated this 12th day of January 2007

On behalf of the Tribunal

S N Jones
Chairman