

IN THE MATTER OF ANTHONY NIGEL JACKSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A Gaynor-Smith (in the chair)
Mr S N Jones
Mr J Jackson

Date of Hearing: 5th December 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 of 70 Marylebone Lane, London W1U 2PQ on 15th May 2006 that Anthony Nigel Jackson of Hartlepool, Cleveland, solicitor, 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 thought right.

On 5th July 2006 the Applicant made a supplementary statement containing further allegations.

The allegations set out below are those contained in the original and supplementary statements.

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

- (a) He failed to deliver to the Law Society an Accountant's Report in respect of his practice as a solicitor for the period ending 31st August 2004, contrary to Section 34 of the Solicitors Act 1974;

- (b) He failed to deliver to the Law Society an Accountant's cease to hold Report in respect of his practice as a solicitor for the period ending 18th January 2004 or thereafter, contrary to Section 34 of the Solicitors Act;
- (c) He failed to deliver to the Law Society an Accountant's Report in respect of his practice as a solicitor for the period ending 31st August 2005, contrary to Section 34 of the Solicitors Act 1974;
- (d) He failed to deliver to the Law Society an Accountant's Report in respect of his practice as a solicitor for the period ending 28th February 2006, contrary to Section 34 of the Solicitors Act 1974;
- (e) In failing to deliver such Accountant's Reports he failed to comply with the conditions imposed on his Practising Certificate for the year 2005-2006.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 5th December 2006 when Robert Simon Roscoe appeared as the Applicant and the Respondent was represented by Mr Mainwaring of Counsel.

The evidence before the Tribunal included the admissions of the Respondent who gave oral evidence and the oral evidence of Mr Andrews. An Accountant's Report and letter, a doctor's letter and a written reference from Mr Angel were handed up.

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

The Tribunal Orders that unless all outstanding Accountant's Reports are filed with the Law Society by 4 p.m. on 5th April 2007 the respondent, Anthony Nigel Jackson of Hartlepool, Cleveland, solicitor, will be suspended from practice indefinitely. If the Respondent does so file the Accountant's Reports he shall pay a fine of £500, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,279.59.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The Respondent, born in 1947, was admitted as a solicitor in 1973. His name remained on the Roll of Solicitors. The Respondent practised on his own account under the style of A N Jackson & Co initially at Victoria Road, Hartlepool, Cleveland but subsequently from his home address at Stanhope Avenue, Hartlepool, Cleveland.
2. The Respondent notified the Law Society that he closed his practice on 18th January 2004. In accordance with the Solicitors Accounts Rules 1998 he should have delivered an Accountant's "cease to hold" Report to the Law Society.
3. In the event that the Respondent continued to hold client monies his annual Accountant's Report for the year ending 31st August 2004 was due to be lodged with the Law Society on or before 28th February 2005.
4. The Respondent's accountants wrote to the Law Society seeking various extensions of the date by which the Respondent had to deliver his Accountant's Report. Extensions were granted to 30th June 2005 but the Report was not delivered by that date.

5. On 28th October 2005 the Law Society's Adjudicator granted the Respondent a Practising Certificate subject to conditions in relation to his delivery of Accountant's Reports.

The Submissions of the Applicant

6. The Applicant accepted that there was an element of duplication in the allegations contained in his original and supplementary statements.
7. If the Respondent was still holding client money he had a continuing obligation to file Accountant's Reports. If he had ceased to hold clients' money he had an obligation to file a "cease to hold" Accountant's Report. A number of extensions of time to file such Reports had been granted to the Respondent but he still had not filed the Reports at all. Ultimately an Adjudicator required the Respondent to file six-monthly Reports. That requirement was the condition on the Respondent's Practising Certificate with which he had failed to comply.

The Tribunal's Findings

8. The Tribunal found the allegations to have been substantiated, indeed they were not contested.

The Respondent's Mitigation

9. The Respondent had not deliberately been in breach of the requirements of practice. Circumstances had overwhelmed him. After experience as an assistant solicitor the Respondent joined a firm and became an equity partner with another solicitor. The partner had left and the Respondent acquired the firm at which he became a sole principal. His former trainee had become an assistant solicitor. He had the assistance of two Fellows of the Institute of Legal Executives.
10. The Respondent concentrated mainly on family work but undertook some work in the field of criminal law.
11. The Respondent had paid a substantial sum to his former partner to acquire the firm and had done this with the assistance of a loan from the bank secured on his house. He had also agreed to pay an annuity to the retired partner. A substantial sum still remained outstanding on the loan. The borrowing had been against an endowment policy which would not provide sufficient monies to pay off the loan. One of the qualified legal executives had left the Respondent. The Respondent then had two trainee solicitors one of whom was his former partner's daughter and the other was her fiancé. The former partner came back as a consultant. With tutoring from her father the trainee solicitor acquired a lot of conveyancing expertise. In due course the former partner and his daughter split away, taking conveyancing work with them. The Respondent sold them that part of the practice for rather less than it was worth.
12. It had never been the Respondent's intention to be a sole principal. He was not able to cope particularly well with the responsibilities that such a status brought with it. The Respondent was not a businessman and he had relied on his former partner to run the financial side of the practice.

13. In about the autumn of 2003 a large firm in Hartlepool invited the Respondent to discuss possible future arrangements with them. They expressed an interest in acquiring the Respondent's services but not his firm. He went to work for them in their practice. He was the senior family lawyer. Their intention had been that he would work in the criminal law department. He did undertake criminal work, dealt with trials and acted as duty solicitor on two duty solicitor schemes.
14. The Respondent had persuaded the Hartlepool firm to take the Respondent's legal executive. They joined that firm with great enthusiasm but the legal executive had not been treated particularly well. She left and was not replaced.
15. Things were not happy in the family department. There had been staff shortages and the firm dispensed with the Respondent's services.
16. The situation had an impact on the Respondent's health and he had suffered from depression.
17. The Respondent began to work at Andrews Angel Solicitors at Durham in May of 2006. Joining that firm had a beneficial effect on the Respondent's wellbeing and self esteem. That firm had been made fully aware of the problems surrounding the Respondent and the proceedings before the Tribunal.
18. Following that new employment there had been a steady improvement in the Respondent's health and that firm had helped him to face up to the disciplinary hearing. He was well supported in his day to day job. The improvements in the Respondent's health had meant he could get to grips with producing the information that his accountants required to bring matters to a conclusion.
19. The Respondent's accountants had written to the Law Society on 30th October 2006 with an Accountant's Report for the period 1st March 2006 to 31st August 2006. They had reviewed the client bank account and between those dates there had been no transactions during the period. They enclosed a schedule prepared from the Respondent's records showing the makeup of the balances since he ceased trading. They had not reviewed client files. The schedule indicated that there were a number of client balances which had not been accounted for. Despite efforts many of the clients concerned had not been traced, but some had and they had been paid the money due to them. The Respondent explained that a number of the balances related to conveyancing clients for whom he had not personally acted and, indeed, it was likely that some of the balances pre-dated his ownership of the firm.
20. The Respondent was aware of the possibility that balances belonging to untraced clients might be paid over to the Solicitors Benevolent Fund with the consent of the Law Society and he and his accountants would make such application to the Law Society when the Law Society could be satisfied that all possible attempts to trace the clients concerned had been made and had proved unsuccessful.
21. Mr Andrews in his oral evidence confirmed that he and his partner had been very happy with the Respondent's standard of work at their firm where he also proved popular with members of staff. Mr Angel would have attended the hearing, but had been abroad. He had written a letter confirming his good opinion of the Respondent's integrity and competence.

The Tribunal's Decision and its Reasons

22. The failure on the part of a solicitor to complete Accountant's Reports, and in particular, a cease to hold clients' money Report, and file the same with the Law Society, was a serious matter. That failure prevented the Law Society from carrying out its functions as a regulator effectively to protect the public. The absence of an Accountant's Report means that the Law Society is not in a position to assure members of the public that by placing large sums of money with that solicitor, those monies would not be in jeopardy.

23. The Tribunal has taken into account the Respondent's history and his mitigating circumstances. There is no suggestion that any client money has been lost. The Tribunal has also taken into account the excellent references given in support of the Respondent and in the somewhat unusual circumstances of this case exceptionally the Tribunal felt able to impose a sanction which is more lenient than would otherwise be the case. It was, of course, crucial that the Respondent puts his house in order and if he does not do so he would remain in continuing breach. The Tribunal ordered that unless the Respondent filed all outstanding Accountant's Reports with the Law Society by 4 pm on 5th April 2007 he would be suspended from practice indefinitely as from that date. If, however, the Respondent did file his outstanding Accountant's Reports by 4 pm on 5th April 2007 he would not be suspended from practice but would be required to pay a fine of £500. The parties had agreed that the Respondent be responsible for the Applicant's costs and the quantum of the same. The Tribunal therefore ordered the Respondent to pay the Applicant's costs fixed in the sum already agreed.

Dated this 22nd day of January 2007

On behalf of the Tribunal

A Gaynor-Smith
Chairman