

IN THE MATTER OF JEAN AVRIL ACUS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A H B Holmes (in the chair)  
Mr P Kempster  
Mrs V Murray-Chandra

Date of Hearing: 13th February 2007

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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 Law Society by Paul Robert Milton, solicitor employed by The Law Society at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 19<sup>th</sup> September 2006 that Jean Avril Acus of Banstead, Surrey, 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 should think fit.

The allegations against the Respondent were that she had been guilty of conduct unbecoming a solicitor in each of the following respects:

- (i) that she failed to deliver or alternatively delayed in delivering, to The Law Society, an Accountant's Report for the year ending 28<sup>th</sup> February 2005, contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder;
- (ii) that she failed to comply with a direction of an Adjudicator dated 21<sup>st</sup> April 2006.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 13th February 2007 when Paul Robert Milton appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent.

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

The Tribunal Orders that the Respondent, Jean Avril Acus of Banstead, Surrey, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 13th day of February 2007 and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £261.00.

**The facts are set out in paragraphs 14 hereunder:**

1. The Respondent, born in 1950, was admitted as a solicitor in 1996 and her name remained on the Roll of Solicitors.
2. At all material times the Respondent carried on practice on her own account under the style of Jean Acus Solicitor of 326 Cannon Hill Lane, London, SW20 9HL. The Respondent closed her practice on 31<sup>st</sup> December 2004. She did not hold a current practising certificate.

**Accountant's Report for the year ending 28<sup>th</sup> February 2005**

3. On 24<sup>th</sup> May 2005 The Law Society wrote to the Respondent noting that the Accountant's Report for 'Jean Acus Solicitor' for the period 1<sup>st</sup> March 2004 to 28<sup>th</sup> February 2005 was due for delivery to The Law Society no later than 31<sup>st</sup> August 2005. Confirmation was also requested from the Respondent of the exact date that all clients' monies and/or controlled trust monies had ceased to be held under the Respondent's firm's name.
4. The Law Society contacted the Respondent by telephone on 12<sup>th</sup> September 2005 and confirmed the telephone conversation by letter of the same date regarding the outstanding Accountant's Report. The Respondent was advised again that her Accountant's Report for the period ending 28<sup>th</sup> February 2005 was due to be delivered to The Law Society by 31<sup>st</sup> August 2005. The Respondent was asked to confirm in writing the exact date at which she ceased to hold clients' monies.
5. The Respondent was also advised in this letter that if she did not have the necessary funds available to pay for an accountant to prepare the Report then she could write to The Law Society requesting a waiver from the requirement to deliver the Report.
6. On 1<sup>st</sup> December 2005 the Regulation Unit of The Law Society wrote to the Respondent requesting an explanation for her failure to deliver her Accountant's Report for the year ending 28<sup>th</sup> February 2005.
7. The Respondent responded by way of letter dated 22<sup>nd</sup> December 2005 attaching a copy e-mail dated 7<sup>th</sup> November 2005 highlighting her personal and professional difficulties. In her letter dated 22<sup>nd</sup> December 2005 the Respondent confirmed that she still had not been able to find employment and that her income was Jobseekers Allowance of £56.20 per week. The Respondent stated that until she had a job she could not afford to pay an accountant to prepare the outstanding report. The Respondent further commented that her situation had further worsened in that her elderly mother had been unwell. The Respondent added that she would do her best to

complete her accounts for submission to an accountant but could not say when she would be in a position to pay an accountant to prepare the Report.

8. The Society contacted the Respondent by way of letter dated 23<sup>rd</sup> January 2006. In this letter the Respondent was advised of the procedure concerning requests for extensions of time in which to file accountants' reports as well as waiver applications for final reports. The Respondent was asked to confirm how much money she held in her client account, how much time she needed to complete her accounts and when she would be in a position to pay an accountant to prepare the outstanding report. The Respondent was allowed 21 days to respond. No response was received and the Society wrote a reminder letter to the Respondent dated 17<sup>th</sup> February 2006 with a time limit of seven days to respond. No response was received.
9. On 10<sup>th</sup> March 2006 the Society wrote to the Respondent confirming that the issue of her outstanding Accountant's Report would be considered by a Law Society Adjudicator.
10. The Respondent responded to this letter on 30<sup>th</sup> March 2006 confirming that she was also in receipt of but had not responded to, the letter dated 23<sup>rd</sup> January 2006 from the Society.
11. In response to the queries raised in the letter dated 23<sup>rd</sup> January 2006 from the Society, she confirmed that the balance in her client account as at 29<sup>th</sup> February 2005 was £1,181.11. She was unable to produce up to date documentary evidence of this. The Respondent also confirmed that her accounts were complete but that she was unable to afford to instruct an accountant to prepare the outstanding report.

#### **Failure to comply with a direction of the Adjudicator**

12. On 21st April 2006 the matter was considered by a Law Society Adjudicator. A copy of the decision of the Adjudicator was before the Tribunal
13. The Adjudicator expected the Respondent within three months of the date of the letter notifying her of the decision either:
  - (i) to deliver the outstanding Accountant's Report for her former firm of Jean Acus Solicitor for the year ending 28<sup>th</sup> February 2005; or
  - (ii) to identify and distribute funds appropriately, if necessary by way of an application to The Law Society to pay any remaining clients' monies to the Solicitors Benevolent Fund, and provide evidence that the account had been closed with a nil balance; and
  - (iii) to apply for a waiver in respect of delivery of the outstanding Accountant's Report failing which the conduct of the Respondent would be referred without further notice to the Solicitors Disciplinary Tribunal.
14. The Respondent was notified of the decision of the Adjudicator on 24<sup>th</sup> April 2006 but the Accountant's Report for the year ending 28<sup>th</sup> February 2005 remained outstanding.

**The Submissions of the Applicant**

15. The Applicant had served the relevant Notices on the Respondent. The Respondent had admitted the allegations.
16. The Respondent now said that she was not holding any money on client account.
17. The Respondent had agreed that the Applicant could inform the Tribunal that her Accountant's Report for the year ending 28<sup>th</sup> February 2006 due for delivery by 31<sup>st</sup> August 2006 also remained outstanding.
18. The Applicant sought his costs in the agreed sum of £261.

**The Submissions of the Respondent**

19. The Respondent admitted the allegations but wished to mitigate by explaining her personal circumstances.
20. She had merged her firm on 1<sup>st</sup> October 2004 with another practice. Promises had been made to her but seven months later she had been shocked to be made redundant. At the time she had been working part-time because of long-standing and continuing health problems. She had subsequently found it impossible to find work and was only in receipt of Jobseekers Allowance. The paperwork of her accounts had been done but she had been unable to afford accountant's fees.
21. She continued to have difficulty finding work and then her mother had become ill.
22. She finally found an administrative job in September 2006 but had been sacked from that job three weeks before the hearing as she was considered to be too thorough and too much like a lawyer.
23. The Respondent had phoned The Law Society and been told to apply for a waiver. She had sent an e-mail about that but received no reply. She had been unable to cope at the time and had then forgotten about the waiver.
24. Her client account now had a nil balance.
25. The Respondent apologised to the Applicant and to the Tribunal. She was just trying to keep her head above water.

**The Findings of the Tribunal**

26. The Tribunal found the allegations to have been substantiated. They were not contested.
27. The Tribunal was concerned about this matter. The Law Society had made every effort to make it easy for the Respondent to comply with the terms of the Adjudication and those terms had been quite gentle. The Respondent had nevertheless failed to comply. Her continuing non-compliance was serious. The

filing of accountant's reports helped to maintain public confidence that clients' money was being dealt with appropriately.

28. The Respondent had told the Tribunal of her ongoing health difficulties.
29. The Tribunal considered that the Respondent should not be allowed to practise as a solicitor at the present time. The appropriate penalty was an Order for indefinite suspension. It would be open to the Respondent, on compliance with the outstanding requirements, to return to the Tribunal to seek a lifting of that suspension. A future division of the Tribunal would want to be sure however that there would be no recurrence of these matters by the Respondent and also that the Respondent's health was by then sufficiently robust to enable her to practise as a solicitor. The Tribunal would also order the Respondent to pay the Applicant's agreed costs.
30. The Tribunal Ordered that the Respondent, Jean Avril Acus of Banstead, Surrey, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 13th day of February 2007 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £261.00.

DATED this 21st day of May 2007  
on behalf of the Tribunal

A H B Holmes  
Chairman