

IN THE MATTER OF KEITH JAMES CROFT, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Miss J Devonish (in the chair)
Mrs J Martineau
Mr G Fisher

Date of Hearing: 8th February 2007

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 19th October 2006 that Keith James Croft of Hill House, Mount Pleasant, Framlingham, Woodbridge, Suffolk, IP13 9HJ, 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 right.

The allegations against the Respondent were that he was guilty of conduct unbecoming a solicitor in any or all of the following particulars, namely that:-

- (a) He failed to act in the best interests of his client in breach of Rule 1(c) of the Solicitors Practice Rules 1990;
- (b) His conduct was likely to compromise or impair his good reputation as a solicitor or of the solicitors' profession in breach of Rule 1(d) of the Solicitors Practice Rules 1990;
- (c) He improperly withdrew money from client account and in breach of Rule 22 of the Solicitors Accounts Rules 1998 and that in so doing his conduct was dishonest;

- (d) As the principal in the practice he failed to ensure compliance with the Solicitors Accounts Rules 1998 in breach of Rule 6 of the Solicitors Accounts Rules 1998;
- (e) As the principal in the practice he failed to remedy promptly and upon discovery client account deficits in breach of Rule 7 of the Solicitors Accounts Rules 1998;
- (f) He failed to keep accounting records in breach of Rule 32 of the Solicitors Accounts Rules 1998;
- (g) He failed to deliver to the Law Society an Accountant's Report in respect of his practice as a solicitor for the accounting year 2003-2004 contrary to Section 34 of the Solicitors Act 1974 and in breach of Rule 35 of the Solicitors Accounts Rules 1998;
- (h) He failed to deliver to the Law Society an Accountant's Report in respect of his practice as a solicitor for the accounting year 2004-2005 contrary to Section 34 of the Solicitors Act 1974 and in breach of Rule 35 of the Solicitors Accounts Rules 1998.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 8th February 2007 when Robert Simon Roscoe appeared as the Applicant. The Respondent did not appear and was not represented.

The evidence before the Tribunal included the Report of the Law Society's Forensic Investigation Unit ("FIU") dated 20th March 2006 and the affidavits of Mr RK H and Ms S Busby dated 22nd September 2006 and 29th September 2006 respectively.

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

The Tribunal Orders that the Respondent, Keith James Croft of Hill House, Mount Pleasant, Framlingham, Woodbridge, Suffolk, IP13 9HJ, solicitor, be struck off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,675.60.

Preliminary issue

1. The Applicant raised with the Tribunal the issue of the Respondent's absence today. The Tribunal was satisfied, by reason that notice of today's hearing had been sent to the Respondent at his last given address by letter dated 15th January 2007 by special delivery and that letter had not been returned by the Post Office, that the Respondent had properly been notified of the date fixed for hearing and that it was proper to proceed in his absence pursuant to Rule 20 of the Solicitors (Disciplinary Proceedings) Rules 1994.

The facts are set out in paragraphs 2 to 11 hereunder:-

2. The Respondent, born in 1956, was admitted as a solicitor in 1983 and his name remained on the Roll of Solicitors. The Respondent practised on his own account under the style of Riddell Croft & Co Solicitors of 25-27 St Helen's Street, Ipswich, Suffolk until 31st May 2005 when the firm ceased to operate and was acquired by

CBA Law of 55 Beacon House, Landmark Business Park, White House Road, Ipswich, Suffolk, IP1 5PB. The Respondent worked at the successor firm as a consultant until September 2005. The Respondent was adjudged bankrupt on 27th September 2005.

3. The Respondent had notified the Law Society that he had closed his practice on 31st May 2005. He did not however deliver an accountant's "cease to hold" report to the Law Society in accordance with the Solicitors Accounts Rules.
4. On 20th October 2005, following contact from CBA Law, a Law Society Investigation Officer ("the IO") attended the Respondent's former practice to inspect the Respondent's and his successor's books of account and other documents. The IO inspected the firm as at 31st May 2005. The Report dated 20th March 2006, set out the following findings of the IO ("the Report"):

4.1 Principal's responsibility for compliance - Rule 6 SAR

Failure to maintain accounting records - Rule 32 SAR

The IO found that the Respondent's books of account did not comply with the Solicitors Accounts Rules and that the Respondent's accounting records had not been properly maintained:

- a) Accounting records prior to 31 August 2004 had been lost when the Respondent's computerised accounting system had crashed because regular back-ups had not been done properly.
- b) The Respondent's attempts to re-post accounting entries had been inaccurate or incomplete.
- c) Client to office transfers subsequent to 31 August 2004 had been made but the Respondent had admitted to the IO that there were no accurate books of account to 31 May 2005.
- d) The IO was unable to calculate total liabilities to clients as at 31 May 2005.

4.2 Failing to act in the best interests of a client

Acting in such a way that his conduct was likely to compromise or impair his good repute as a solicitor or of the solicitors' profession

Incorrect withdrawal from client account - Rule 22 SAR

The Respondent in 2001 had acted for a Mr RKH in the purchase of a property in France. The firm's client ledger in respect of the purchase, at 31st May 2005, should have held €49,287.06. The Respondent was unable to account for this sum.

In April 2002 the Respondent had transferred the equivalent of £27,392.26 to his office account from the client account monies held for Mr RKH. The Respondent

was unable to produce the client matter file or to say why the transfer had occurred. The Respondent said that the matter may have been dealt with by a fee-earner, Ms Susan Busby. The Respondent confirmed to the IO that he was the sole signatory on his various practice bank accounts.

Mr RKH told the IO that the Respondent's transfer of the money had been without his knowledge or consent and that he had never been provided with a completion statement despite his request for one.

Ms Busby told the IO that the Respondent had noticed that "there was a significant sum of money left on Mr RKH's account after his purchase transaction was finished" and that the Respondent had said in respect of it that "he had a good mind to keep the money". Ms Busby had told the Respondent that he should not do that.

4.3 Failure to replace money into client account - Rule 7 SAR

The Respondent was unable to replace the £27,392.26 referred to above.

4.4 Failure to deliver Accountant's Reports - Rule 35 SAR

The Respondent failed to submit Accountant's Reports for 2003-2004 and for 2004-2005.

The submissions of the Applicant

5. The Applicant asserted that the Respondent had been dishonest in what he had done. There had been a deficit in excess of £27,000 in respect of Mr RKH's matter which the Respondent had been wholly unable to explain and furthermore had never made good. The Respondent had sought to lay responsibility with a former fee earner of the firm but the IO's investigation showed that the fee earner bore no responsibility in the matter.

The Tribunal's findings

6. The Respondent had chosen not to attend the hearing or to give sworn testimony in answer to the allegations. The Tribunal accepted the findings of the IO as set out in his Report and supported by documents before it and also the evidence of Mr RKH and Ms Busby.
7. The Tribunal was satisfied that all the allegations were proved. It was further satisfied that the Respondent's conduct on the facts found amounted to dishonesty within the test set out in Twinsectra -v- Yardley and Others [2002] UKHL 12.

The Tribunal's decision and its reasons

8. The Tribunal considered that the appropriate penalty, given the finding of dishonesty, was that the Respondent be struck off the Roll of Solicitors and the Tribunal so ordered.
9. The Applicant told the Tribunal that he had sent to the Respondent on 22nd January 2007 a summary of his costs application together with a breakdown of those costs and the Tribunal further ordered that the Respondent should bear those costs fixed in the sum of £6,675.60.

Dated this 26th day of March 2007

On behalf of the Tribunal

J Devonish
In the chair