

IN THE MATTER OF JUSTIN MARK PAUL MICHAEL CONINGSBY CULVER,  
solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Miss T Cullen (in the chair)  
Mr D Potts  
Mr M G Taylor CBE DL

Date of Hearing: 9th September 2008

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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 Jayne Willetts, Solicitor Advocate and Partner with Townshends LLP, Cornwall House, 31 Lionel Street, Birmingham B3 1AP that Justin Mark Paul Michael Coningsby Culver solicitor of Twickenham, Middlesex 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 he had been guilty of professional misconduct in that:-

1. He acted contrary to Solicitors Practice Rules 1990 1 (c)(d) and (e) in relation to a client AM Church in that:-
  - 1.1 He failed to carry out his client's instructions diligently and promptly.
  - 1.2 He failed to deal promptly with correspondence from his client.

2. He acted contrary to Solicitors Practice Rules 1990 1(a), (c), (d) and (e) in relation to a client Ms K D in that:-
  - 2.1 He made misleading statements to his client's representative as to the progress of the matter.
  - 2.2 He failed to carry out his client's instructions diligently and promptly.
  - 2.3 He failed to advise his client and his client's representative that an application for a new tenancy had to be made by 9<sup>th</sup> November 2005.
  - 2.4 He made false statements to the solicitors acting on behalf of the landlords (by letter dated 11<sup>th</sup> November 2005 and in telephone conversations on 8<sup>th</sup> December 2005 and 10<sup>th</sup> January 2006) which for the avoidance of doubt is an allegation of dishonesty.
3. He acted contrary to Solicitors Practice Rules 1(a), (c), (d) and (e) in relation to a client Mr S in that:-
  - 3.1 He made misleading statements to his client and his client's surveyor regarding the status of the Tribunal application.
  - 3.2 He failed to advise his client and his client's surveyor that the Tribunal application had been withdrawn.
  - 3.3 He failed to carry out his client's instructions diligently and promptly.
4. He acted contrary to Solicitors Practice Rules 1990 1(a), (c), (d) and (e) in relation to a client HS in that:-
  - 4.1 He made false statements (by emails dated 5<sup>th</sup> and 27<sup>th</sup> January 2006) to his client as to the progress of the matter which for the avoidance of doubt is an allegation of dishonesty.
  - 4.2 He failed to carry out his client's instructions diligently and promptly.
5. He acted contrary to Solicitors Practice Rules 1990 1(a), (c), (d) and (e) in relation to a client PP Ltd in that:-
  - 5.1 He made false statements (by letter dated 11<sup>th</sup> November 2004 and by email dated 1<sup>st</sup> December 2005) to his client as to the progress of the matter which for the avoidance of doubt is an allegation of dishonesty.
  - 5.2 He failed to carry out his client's instructions diligently and promptly.
6. He acted contrary to Solicitors Practice Rules 1990 1(c), (d) and (e) in relation to clients Mr W & Mr M in that:-
  - 6.1 He delayed in registering title to his clients' property at HM Land Registry.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 9<sup>th</sup> September 2008 when Jayne Willetts, Solicitor Advocate, appeared as the Applicant and the Respondent did not attend and was not represented.

The evidence before the Tribunal consisted of the Rule 5 Statement dated 20<sup>th</sup> February 2008 and exhibits. The Respondent submitted a letter dated 1<sup>st</sup> May 2008 for the pre-trial listing that took place on 2<sup>nd</sup> May 2008 in which he did not intend to contest the allegations.

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

The Tribunal ORDERS that the Respondent, JUSTIN MARK PAUL MICHAEL CONINGSBY CULVER of Twickenham, Middlesex, 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 £11,661.33.

**The facts are set out in paragraphs 1 – 8 hereunder:-**

1. The Respondent, born on 15<sup>th</sup> February 1964, was admitted as a solicitor on 15<sup>th</sup> April 1996. The Respondent was practising as a sole practitioner from his residential address.
2. The Respondent had been employed by Bonnett Son & Turner, solicitors of Hounslow, as an assistant solicitor from 4<sup>th</sup> May 2004 until he was dismissed for gross misconduct on 30<sup>th</sup> January 2006. The Law Society received a letter dated 31<sup>st</sup> March 2006 from Mr Wareham of Bonnett Son & Turner raising his concerns regarding the Respondent's conduct. Mr Wareham produced a list of 19 files handled by the Respondent where problems had been identified and evidence was provided from those client files.

AM Church

3. This matter concerned the completion of a lease in October 2004 but the Respondent failed to obtain approval from AM Church's head office in Manchester to the document, which was required. They subsequently wrote to the firm requesting changes to the draft lease (as they thought it was) and the Respondent failed to deal with the matter at all. The tenants believed that the lease had been completed but the clients understood that the lease had never been completed. In January 2006 the Respondent, under pressure from the clients, got the clients to sign a lease which was in a form acceptable to AM Church's head office and told the clients that the document was the completed lease. The Respondent had a completed lease in existence from 2004 which the clients did not realise and a lease in a form agreed by the client's head office.

Ms K D

4. This matter related to the renewal of a business lease of a cafe under the Landlord and Tenant Act 1954. The Respondent failed to make application to the Court on time on behalf of the tenant client to the client's prejudice and misled the landlord's solicitors that renewal proceedings had been commenced when in fact they had not.

Mr S

5. The Respondent had applied to the Leasehold Valuations' Tribunal in relation to a dispute over a lease extension cost. The Respondent had applied for the hearing to be vacated whilst negotiations between the parties took place but the Court wrote back and said the application had been withdrawn and eighteen months had passed before the issue was identified. The client had not wished for the application to be withdrawn and his only remedy would be to renew the application but at a higher rate of costs.

HC

6. The Respondent failed to progress the matter over a period of a few months as a result of failing to complete and return the various company documents that the client wanted finalised within two weeks.

PP

7. This matter involved a shareholders agreement and when the matter was completed the correct forms had not been submitted to Companies House, namely form 882 allotting further shares in the name of the company.

Mr W & Mr M

8. This case concerned the severance of land. Although the client had been led to believe that the transaction had been registered and completed this was not the case. Mr W wanted to remortgage part of his land and the Respondent completed the remortgage notwithstanding the fact that the parcel of land had not been separately registered. The Respondent failed to complete the registration of the transfer of the land. Whilst the clients had not suffered any loss the matters involved serious allegations and whilst the Tribunal might be concerned about the level of supervision by the firm that was not a matter that was pursued by the Solicitors Regulation Authority.

**The Submissions of the Applicant**

9. The Applicant explained that Mr Culver had closed his practice voluntarily and was proposing to change his employment but not within the profession. The Applicant understood that Mr Culver was currently unemployed and was in the process of getting a divorce. At the time the matters arose that gave rise to the allegations the Respondent had been qualified for eight years and had now admitted all of the allegations including the dishonesty allegations.
10. All of the six client matters dealt with by the Respondent were instances of him failing to deal promptly with client matters and he had demonstrated an alarming degree of incompetence. The matters were made worse by his propensity to make false statements to cover up the difficulties he had encountered on the files.

### **Written Submissions of the Respondent**

11. Mr Culver did not attend the hearing but provided a letter to the Tribunal in which he admitted the allegations.
12. In mitigation he raised the fact that he had practised without difficulty since qualification. Before that he had worked as an unqualified assistant and practised for 10 years as a qualified legal executive. He expressed his regret to the Tribunal for what had occurred and apologised to Mr W and Mr P for the difficulties they had encountered. The Respondent explained that:-

"my only explanation is that my work got on top of me due to pressure at home due to substantial unrelated debts of many thousands of pounds. These have now been repaid. I was overwhelmed by it all and for some reason I could not talk to Mr W about my professional or personal problems. It is not an excuse for my behaviour but a reason. On the advice of Mr W, I took cognitive therapy throughout 2006 and this has helped me deal with the pressures of professional life. In view of these proceedings I am leaving the law for good in a few weeks and am closing my practice down at present. It will close fully on or before 30<sup>th</sup> June 2008. All client money currently held is being repaid to clients and a few ongoing matter I am still have [sic] will be completed before that date".

The Respondent further explained that he had run a successful sole practice from February 2006 and had not received any complaints; there were no regulatory issues and he had provided unqualified accountant's reports to the Law Society. He would not be seeking a practising certificate for 2008/2009 or beyond and had gained other employment. The Respondent then asked "the Tribunal for forgiveness for this one off aberration."

### **The Findings of the Tribunal**

13. All of the allegations placed before the Tribunal had been admitted by the Respondent by his letter dated 1<sup>st</sup> May 2008. The Tribunal regarded the Respondent as representing a very real risk to the public particularly as the allegations were of a serious nature and involved allegations of dishonesty.
14. The Respondent had explained in his letter dated 1<sup>st</sup> May 2008 that he was asking "the Tribunal for forgiveness for this one off aberration", however the Tribunal noted that this was not, as the Respondent described, a one off aberration but concerned an ongoing failure to take care of client matters compounded by his willingness to mislead clients and an attempt to cover up his actions by providing false statements to clients and to the firm.
15. The Tribunal took the view that in light of the fact that the allegations of dishonesty had been admitted the appropriate course of action was to Strike Off the Respondent.
16. In relation to costs the Tribunal considered it right and proper that the Respondent should pay the Applicant's costs. The Applicant submitted a schedule which provided a grand total of £15,548.44. The Tribunal was satisfied that the Respondent had had

sight of the schedule of costs but was of the view that a 25% reduction would be appropriate in view of the fact that the Respondent had not attended the Tribunal and had not addressed the Tribunal on costs.

17. The Tribunal ordered that the Respondent be Struck Off the Roll and ordered to pay costs in the sum of £11,661.33.

Dated this 2nd day of December 2008

On behalf of the Tribunal

T Cullen  
Chairman