

IN THE MATTER OF TIMOTHY IAN MILLAR, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mrs J Martineau (in the chair)  
Mrs K Todner  
Mr M G Taylor CBE DL

Date of Hearing: 14th October 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 Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Hertfordshire, SG14 1BY on 19<sup>th</sup> February 2008 that Timothy Ian Millar of Charlmont Road, London SW19 might be required to answer the allegations contained in the statement which accompanied the application and that such Order should 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:-

- (i) Contrary to Rule 32 (7) of the Solicitors Accounts Rules 1998 he did fail to carry out reconciliations.
- (ii) Contrary to Rule 32 (1) of the Solicitors Accounts Rules 1998 he did fail to keep records of account properly written up.

- (iii) Contrary to Rule 4 of the Solicitors Costs Information and Client Care Code 1999 he did fail to provide proper information to clients about client care and costs.
- (iv) That he charged clients in conveyancing matters £30.00 plus VAT in respect of telegraphic transfer fees, whereas his bank only charged £22.00 plus VAT for this service. He failed to inform his clients that he was making a profit of £8.00 plus VAT in respect of each such transaction.
- (v) Contrary to Section 34 of the Solicitors Act 1970 he did fail to file his Accountant's Report for the year ending 31<sup>st</sup> December 2006 by the due date (30<sup>th</sup> June 2007).
- (vi) That he failed to respond to correspondence from the SRA.
- (vii) That he abandoned his practice.

The application was heard at The Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 14<sup>th</sup> October 2008 when Stephen John Battersby appeared as the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant gave to the Tribunal details of due service upon the Respondent of the proceedings and date of hearing. The Tribunal was satisfied that service had been duly effected on the Respondent and that the substantive hearing should proceed in his absence.

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

The Tribunal Orders that the Respondent, Timothy Ian Millar of Charlmont Road, London, SW19, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 14th day of October 2008 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,748.75.

**The facts are set out in paragraphs 1 – 10 hereunder:-**

1. The Respondent, born in July 1950 was admitted as a solicitor in 1980.
2. At the material time he was practising on his own account under the style of Millar Kingsley at 77a Victoria Road, Surbiton, Surrey, KT6 4NS. This practice was intervened into on 27<sup>th</sup> November 2007.
3. On 13<sup>th</sup> February 2007 Mrs P, a Practice Standards Advisor of the Solicitors Regulation Authority, made a monitoring visit to the Respondent's firm. A copy of Mrs P's resulting Report was before the Tribunal. The Report included a summary of action required from the Respondent. The Report was sent to the Respondent on 21<sup>st</sup> February 2007.
4. Mrs P identified the following main matters of concern:-
  - (i) The Respondent had not been carrying out reconciliations as required by Rule 32 (7) of the Solicitors Accounts Rules 1998. He told Mrs P that the last reconciliation had been carried out in October 2006 and was required to

provide copies of the reconciliations for the subsequent months of November 2006, December 2006 and January 2007 with supporting documentation. The Respondent did not provide the documents requested and did not respond at all to the request.

- (ii) The Respondent had failed to write up his accounts properly in that client ledgers were not kept in such a way as to enable the current balance on each to be readily ascertainable from the records kept. The Respondent was required to provide ten randomly selected client ledgers relating to current matters to enable Mrs P to check that ledgers were being properly maintained and kept up to date. He failed to do this and failed to respond to the letter at all.
  - (iii) There was no evidence that the Respondent had provided client care and costs information to clients on the majority of files which he reviewed. He was required to take action to remedy this situation. He failed to do so or to respond to the letter at all.
5. Mrs P noted that clients in conveyancing matters were being quoted £30.00 plus VAT in respect of the bank telegraphic transfer fee. The Respondent's bank charged him a maximum of £22.00 plus VAT for this service. The Respondent was required to confirm how he intended to deal with the matter in the future and to ensure that client care letters were updated accordingly. He failed to carry out the necessary action or to respond to the letter at all.
  6. As the Respondent made no reply to the letter of 21<sup>st</sup> February, the SRA sent chasing letters on 22<sup>nd</sup> March 2007, 26<sup>th</sup> April 2007 and 24<sup>th</sup> May 2007. No response was received to any of these letters.
  7. The financial year of the Respondent's firm ended on 31<sup>st</sup> December 2006. In accordance with Section 34 of the Solicitors Act 1974, he was required to file an Accountant's Report with the SRA by 30<sup>th</sup> June 2007. He failed to do this and a reminder letter was sent to him on 16<sup>th</sup> July 2007. He failed to respond to this letter and no Accountant's Report had yet been received.
  8. The SRA wrote to the Respondent again on 14<sup>th</sup> August 2007 and followed this up with further letters on 22<sup>nd</sup> October 2007 and 15<sup>th</sup> November 2007. There was no response to any of these letters.
  9. In October 2007 further concerns arose about the Respondent's practice as a result of complaints from clients about difficulties which they were having in contacting him. As a result of this, an Investigation Officer of the SRA, Mr C, made a walk past inspection of the firm's premises on 18th October 2007 at 11.20am. He could not gain access to the office, which was above a baker's shop in the main street, there being no reply when he tried the two doorbells and knocked on the door. There was nothing outside to indicate that the offices were those of a solicitor's practice. It appeared to Mr C that the practice had been abandoned and his memorandum regarding the inspection dated 15<sup>th</sup> November 2007 was before the Tribunal.
  10. On 27<sup>th</sup> November 2007 an Adjudication Panel Chairman made a delegated decision to intervene into the Respondent's practice and to refer his conduct to the Tribunal.

### **The Submissions of the Applicant**

11. No dishonesty was alleged against the Respondent but the matters revealed, particularly relating to his abandonment of his practice, were serious. Had the Respondent engaged with the monitoring visit the matters might have been resolved administratively but he had not responded and had not replied to letters.
12. The Intervention Agent had had some contact with the Respondent during November and December 2007 but there had been no recent contact.

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

13. The Tribunal had considered carefully the documentary evidence before it which had not been challenged by the Respondent. The Tribunal was satisfied that the allegations were substantiated.

### **Previous appearance of the Respondent before the Tribunal**

14. At a hearing on 2<sup>nd</sup> February 1995 the following allegations were substantiated against the Respondent and another:-
  - (i) failed to comply with the Solicitors' Accounts Rules 1991 in that notwithstanding the provisions of Rule 8 of the said Rules they drew out of client account money other than permitted by Rule 7 of the said Rules.
  - (ii) been guilty of conduct unbefitting solicitors in that they utilised money held by them and received by them on behalf of a certain client or clients for their own purposes.
15. The Tribunal on that occasion said as follows:-
 

“They consider that any solicitor entering into partnership with another should make a full and complete investigation both as to the standing and good name of the solicitor and as to the precise position with regard to his financial affairs and the conduct of his books of account. The Tribunal, accept, however, that even if Mr Millar did not give to Mr Kingsley the computing expertise and help that he had anticipated he would receive, he could be said really only to be technically in breach of the Solicitors Accounts Rules, the main culpability for which rested with Mr Kingsley. It was for that reason that the Tribunal Ordered that Mr Millar be Reprimanded and that he make a contribution towards the costs of and incidental to the application and enquiry in the sum of £250.00 (inclusive).”
16. The Tribunal on 14<sup>th</sup> October 2008 was very concerned at the abandonment of his practice by the Respondent and at the inconvenience which had been caused to clients as a result of that abandonment. There was however no dishonesty alleged against the Respondent. The Tribunal did not know what had caused the Respondent to abandon his practice. In all the circumstances the Tribunal considered that it was appropriate to suspend the Respondent from practice for an indefinite period. This would give the

Respondent an opportunity on a future occasion to provide an explanation to the Tribunal and to show that he had rehabilitated himself.

17. It was right that the Respondent pay the Applicant's costs as set out in the schedule served and the Tribunal would so order.
18. The Tribunal Ordered that the Respondent, Timothy Ian Millar of Charlmont Road, London, SW19, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 14th day of October 2008 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,748.75.

Dated this 6<sup>th</sup> day of February 2009  
On behalf of the Tribunal

J Martineau  
Chairman