

IN THE MATTER OF JOHN ROBERT PETER MIDDLETON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. R. J. C. Potter (in the chair)
Mr. D. Glass
Mr. S. Howe

Date of Hearing: 31st July 2008

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 Simpson Roscoe on 27th February 2008 that John Robert Peter Middleton, a solicitor, of Station Road, Menston, Ilkley, might be required to answer the allegation contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right. Moreover, that a Direction be made by the Tribunal that the Direction of the Legal Complaints Services Adjudicator, dated 11th October 2007, relating to inadequate professional services, be treated for the purposes of enforcement, as if it were contained in an Order of the High Court.

The Applicant sought the Tribunal's leave to amend the allegations by deleting the reference to "conduct unbecoming a solicitor". Leave to amend was granted as it involved no material change to the allegations.

The Respondent was not present nor had he submitted any documentation to the Tribunal. The Applicant produced copies of letters informing the Respondent of the date of the substantive hearing. Those letters were sent to the last known address of the Respondent at Station Road, Menston, Ilkley. The letters were not returned. The Tribunal stated that it was satisfied as to delivery and that the Respondent was aware of the substantive hearing.

The allegations were that the Respondent:-

- (a) Had practised or held himself out to practise as a solicitor without holding a current practising certificate, contrary to Sections 1 and 1A of the Solicitors Act 1974.
- (b) Had failed to act in the best interests of his clients, Mr IS, Mr DC and Brick Design Limited, in breach of Rule 1 Solicitors Practice Rules 1990.
- (c) Whilst acting for Mr IS, Mr DC and Brick Design Limited had misled the claimant's solicitor in the proceedings by asserting, in an email, to the Claimant's solicitor that he had given his clients copies of a Court Order, knowing that he had not done so and that this was not true and in breach of Rule 1 Solicitors Practice Rules 1990.
- (d) Had failed to comply with the Direction of the Legal Complaints Service Adjudicator in respect of his clients, Mr IS, Mr DC and Brick Design Limited in breach of Rule 1 Solicitors Practice Rules 1990.
- (e) Had failed to deliver and/or delayed in delivering to The Law Society/Solicitors Regulation Authority an Accountant's Report in respect of his firm, Middleton, Solicitors, for the periods ending 30th April 2005, 30th April 2006, 31st October 2006, 30th April 2007 and 31st October 2007, contrary to Section 34 of the Solicitors Act 1974 (as amended) and the Rules made thereunder.
- (f) Had failed to maintain his Accounting records in accordance with Rule 32 of the Solicitors' Accounts Rules 1998.
- (g) Had failed to deal promptly and substantively with correspondence from the Solicitors Regulation Authority.

The evidence before the Tribunal included the Report, dated 22nd February 2007, drafted by Mr Hair (the Solicitors Regulation Authority's Investigation Officer) (SRA) and further documents exhibited to the Applicant's Rule 5 Statement relating to the allegations, including the decision of the Adjudicator dated 11th October 2007. The Respondent did not attend the hearing nor submit any evidence or any representations to the Tribunal.

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

The Tribunal Orders that the direction of the Legal Complaints Service's Adjudicator dated 11th October 2007 relating to inadequate professional services, made in respect of the Respondent, by which the Respondent was ordered to pay £1,000 to his clients, Mr. IS, Mr. DC and BD Limited, be treated for the purposes of enforcement as if it were contained in an Order of the High Court.

The Tribunal Orders that the respondent, John Robert Peter Middleton of Station Road, Menston, Ilkley, West Yorkshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 31st day of July 2008 and it further Orders that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society.

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

1. The Respondent, born in 1967, was admitted as a solicitor on 3rd November 1997 and his name remained on the Roll of Solicitors. At the material times he practised as Middleton, Solicitors of 39 The Grove, Ilkley, West Yorkshire, LS29 9SJ, from 1st May 2004 as a sole practitioner.
2. On 8th February 2007, the SRA's Investigation Officer, Mr G Hair, attended the Respondent's practice for the purpose of inspecting the books of account and other documents under the Solicitors Accounts Rules and the Solicitors Practice Rules. Subsequently, Mr Hair prepared a report dated 22nd February 2007 based on that visit.
3. At the outset of the inspection the Respondent accepted that his accounting records were not in compliance with Rule 32 of the Solicitors Accounts Rules 1998.
4. The Respondent failed to renew his practising certificate for 2006 to 2007 and his practising certificate was terminated on 5th January 2007. The Respondent did not respond to correspondence from the SRA until he emailed the authority on 11th March 2007 to inform them that he had ceased to practice. In fact this was incorrect as he was continuing to act for the defendants in a civil litigation case. On 3rd April 2007 he sent an untrue email to the Claimant's solicitors.
5. The Respondent was granted a practising certificate for the period 18th April 2007 to 31st October 2007. He was uncertificated between 5th January 2007 and 18th April 2007, although he continued in practice during that period. The Respondent informed the SRA that he closed his practice before 18th July 2007.
6. The Respondent agreed with Mr Hair that Accountants' Reports, due to be delivered for the period prior to 31st October 2006, had not been delivered to the SRA. Reports due subsequently, by 30th June 2007 and by 31st December 2007, were not received by the SRA. The Respondent failed to respond to letters sent by the SRA.
7. On 15th June 2007 Eversheds Solicitors complained to the Legal Complaints Service about various matters arising from the Respondent's representation of Mr IS, Mr DC and Brick Design Limited for who the Respondent had acted in civil proceedings since 2004.
8. During 2006 the Respondent failed to report developments in the case to his clients. He also failed to disclose to them Court Orders and other documents served upon him by the Court and by the Claimant's solicitors. On 3rd April 2007 the Respondent sent an email to the Claimant's solicitors in which he indicated that he had given copies of Court Orders to his clients. This was not true.
9. On 11th October 2007, the Legal Complaints Services Adjudicator found the service provided to Brick Design Limited was inadequate. He ordered that the Respondent pay £1,000.00 compensation to his client. The Respondent had failed to pay either the compensation or costs of £840.00.
10. The Respondent's conduct was referred to the Solicitors' Disciplinary Tribunal on 28th January 2008.

The Submissions of the Applicant

11. The Applicant referred to his statement submitted under Rule 5 of the Solicitors (Disciplinary Proceedings) Rules 2007 and to the bundle of documents exhibited to that statement. He noted the Respondent's acceptance of breaches of Rule 32 of the Solicitors Accounts Rules 1998 and of practising while uncertificated. The Applicant confirmed that to date Accountants Reports for the relevant periods had not been provided. He also referred to the Respondent's failure to reply to correspondence. The Applicant stressed that the email dated 3rd April 2007 and sent by the Respondent to the Claimant in litigation proceedings was untrue. The Respondent was acting for the defendants and he had not supplied them with a copy of the Order. The Applicant referred to a witness statement by the Respondent dated 16th May 2007 in which he admitted that the contents of his email were inaccurate.
12. Turning to the Report of the Adjudicator dated 11th October 2007, the Applicant confirmed that to date neither compensation nor costs had been paid by the Respondent. The Applicant explained that he was seeking an Order for enforcement of the Adjudicator's Orders not a finding of professional misconduct. Moreover, he stressed that while all the allegations involved serious Rule breaches, he was not alleging and had not pleaded, any dishonesty by the Respondent.

The Submissions of the Respondent

13. The Respondent did not attend the hearing nor send any correspondence to the Tribunal.

The Findings of the Tribunal

14. Having considered all the evidence the Tribunal was satisfied that all of the allegations in the Rule 5 Statement had been proved to the required standard of proof. In view of the serious nature of the allegations and the absence of any representations from the Respondent, the Tribunal considered that an Order of indefinite suspension was necessary, both to safeguard the public and to protect the reputation of the profession.

The Applicant's Submission as to Costs

15. The Applicant applied for costs and confirmed that he had sent the costs schedule to the Respondent but that he had not received any response.

The Tribunal's Decision as to Costs

16. In the circumstances the Tribunal ordered that costs should be paid by the Respondent to be assessed, if not agreed, between the parties.

Dated this 6th day of November 2008
On behalf of the Tribunal

R. J. C. Potter
Chairman