

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10656-2010

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

ANDREW JOHN PINDER

Respondent

Before:

Miss N. Lucking (in the chair)

Mr. P. Housego

Mrs N. Chavda

Date of Hearing: 16th May 2011

Appearances

Sara Dickerson, solicitor of Solicitors Regulation Authority, Ipsley Court, Berrington Close, Redditch, Worcestershire, B98 0TD for the Applicant.

The Respondent appeared in person.

JUDGMENT

Allegations

1. The Respondent failed to deliver promptly, or at all, an accountant's report for Pinders Solicitors for the period ending 30 April 2008 by the due date of 31 October 2008, in breach of Section 34(2) of the Solicitors Act 1974 (as amended).
2. The Respondent failed to deliver promptly, or at all, an accountant's report for Pinders Solicitors for the period ending 30 April 2009 by the due date of 31 October 2009, in breach of Section 34(2) of the Solicitors Act 1974 (as amended).

The Respondent admitted both allegations.

Documents

3. The Tribunal reviewed all the documents submitted by the Applicant and Respondent, which included:

Applicant:

- Application dated 9 November 2010;
- Rule 5 Statement together with all enclosures dated 9 November 2010;
- Schedule of Costs dated 31 March 2011

Respondent:

- Letter dated 12 May 2011 from the Respondent to the Solicitors Disciplinary Tribunal, together with all enclosures;
- Schedule of receipts, transactions and bills for Pinders Solicitors for the period 2006 to 2010;
- Schedule of income, expenditure, assets and liabilities for the Respondent dated 16 May 2011.

Factual Background

4. The Respondent's date of birth is 15 November 1955 and he was admitted to the Roll of Solicitors on 1 November 1993.
5. At the material times the Respondent was the sole practitioner of Pinders Solicitors, 72 Walker Grove, Hatfield, Hertfordshire, AL10 9PL. The firm ceased practising on 30 September 2010.
6. In a letter to the Respondent dated 24 June 2009, the SRA informed him that records showed that the accountant's report for the period ending 30 April 2008, which had been due to be delivered on or before 31 October 2008 had not been received. The Respondent replied by letter dated 7 July 2009 stating that he had arranged for an accountant to produce the report and since his practice was not large the report would not take too long to prepare.

7. The SRA contacted the Respondent by telephone on 10 July 2009 asking for an indication as to how long he thought it would take for the accountant to prepare the report. He indicated that he would check this and revert to the SRA shortly. No reply was received.
8. A letter dated 17 November 2009 regarding the two accountants' reports was sent to the Respondent. A further letter dated 10 December 2009 was sent to the Respondent regarding the accountant's report for the year ending 30 April 2009 which was due to have been delivered to the SRA on or before 31 October 2009. No reply was received. Another letter dated 18 February 2010 was sent to the Respondent regarding the referral for formal adjudication.
9. The matter was placed before an Adjudicator on 12 April 2010 who decided to allow the Respondent a further 28 days to deliver both sets of accountant's reports. The Adjudication decision was sent to the Respondent by letter dated 15 April 2010.
10. A reply dated 25 May 2010 was received from the Respondent requesting an extension to present the accountant's reports.
11. Both accountant's reports remained outstanding and the Respondent had not submitted a Cease to Hold accounts report since the closure of his firm.

Witnesses

12. No witnesses gave evidence.

Findings of Fact and Law

13. **Allegation 1. The Respondent failed to deliver promptly, or at all, an accountant's report for Pinders Solicitors for the period ending 30 April 2008 by the due date of 31 October 2008, in breach of Section 34(2) of the Solicitors Act 1974 (as amended).**
 - 13.1 The Respondent admitted this allegation and accordingly the Tribunal found it proved.
14. **Allegation 2. The Respondent failed to deliver promptly, or at all, an accountant's report for Pinders Solicitors for the period ending 30 April 2009 by the due date of 31 October 2009, in breach of Section 34(2) of the Solicitors Act 1974 (as amended).**
15. The Respondent admitted this allegation and accordingly the Tribunal found it proved.

Previous Disciplinary Matters

16. None.

Mitigation

17. The Respondent confirmed his firm had ceased practising on 30 September 2010. The Respondent had a condition on his practising certificate which prevented him

from practising as a sole practitioner or as a partner of a practice without permission from the SRA. He confirmed he had no intention to practise on his own account in any event.

18. The Respondent referred the Tribunal to the Schedule of receipts, transactions and bills for the period 2006 to 2010 which gave an indication of the total client monies he had received, the largest transaction he had dealt with and the amounts he had received in fees over that period. The Respondent confirmed that no claims had been made against him since he had been in practice on his own account. He had been forced to go into the Assigned Risks Pool where he had paid large premiums and had had to pay a further year of Indemnity Insurance to enable him to cease trading.
19. The Respondent referred the Tribunal to a medical report dated 11 May 2011 from Dr T Willson, who was Mr Pinder's GP. The medical report indicated Mr Pinder's health had not been good, and that he had a history of depression dating back to 1993. He also had other health problems and had been receiving medication for his depression for some years. Dr Willson stated in his medical report that when symptomatic, the Respondent's depression would affect his general motivation, concentration and ability to cope with life in general.
20. The Respondent referred to the Schedules he had produced to demonstrate that activity in his client account was low, and (for the most part) the sums involved very small. He undertook no conveyancing. His practice had been closed down in an orderly manner and the SRA had been provided with copies of his client account bank statements confirming there was a zero balance in client account. The Respondent's difficulty was that he could not afford to pay an accountant to prepare the relevant reports and, as the Applicant had helpfully indicated today, the Respondent now intended to apply for a waiver.
21. The Respondent confirmed he had VAT liabilities and was not earning anything at the moment. He had done some locum work for approximately five months but the company that he was working for went into liquidation and he had not yet received any income for that work.
22. The Respondent accepted that his depression had cut into his ability to do his job properly and he had felt many times that perhaps he should not continue. He was currently looking for other sources of work and whilst he was not desperate to continue practising as a solicitor, it was not something he would rule out. His practising certificate was suspended approximately a week earlier as the Respondent confirmed the SRA had written to him indicating he needed to apply for something (he could not recall exactly what), and as he had not done so, his practising certificate would be suspended. The Respondent had not brought a copy of the letter from the SRA with him and apologised to the Tribunal for this. The Respondent provided the Tribunal with details of his personal circumstances and advised that he owned his own property unencumbered and intended to get some lodgers in.

Sanction

23. The Tribunal had considered carefully all the documents provided, and the Respondent's submissions. Both allegations had been admitted and the Tribunal reminded the Respondent that the keeping and filing of solicitors' accounts was a regulatory requirement of the profession, which was necessary to ensure the proper

protection of the public. However, the Tribunal did have sympathy with the Respondent's position, particularly as it appeared the Respondent's failure to comply with these regulations appeared to have been caused by his medical condition. In the circumstances, the Tribunal was of the view that the proper course was to suspend the Respondent indefinitely.

24. The Tribunal reminded the Respondent that it would be open to him to apply for the suspension to be lifted, but on such an application the Tribunal would expect the Respondent to provide medical evidence confirming he was fit to practise again, and the Tribunal would expect the Respondent to have resolved the issue of all outstanding accountant's reports, by way of waiver or otherwise, before that suspension would be lifted.

Costs

25. The Applicant referred the Tribunal to her Schedule of Costs dated 31 March 2011 and requested an Order for those costs in the total sum of £1,289.
26. The Respondent had provided the Tribunal with a Schedule of his income, expenditure, assets and liabilities. He had no income at the moment, but was seeking employment, and hoped to receive some rental income from lodgers in the future. He confirmed he owned his own property and that there was no mortgage on that property. The Respondent also submitted that the costs claimed by the Applicant were higher than he would have expected from a lawyer who regularly dealt with this type of work.
27. The Tribunal had considered carefully the Schedules provided by both the Applicant and the Respondent. The Tribunal was satisfied that the Applicant's costs of £1,289 were reasonable and ordered the Respondent pay this amount. In relation to the Respondent's financial circumstances, the Tribunal had taken into account the Schedule provided by the Respondent, and had also considered the cases of William Arthur Merrick -v- The Law Society [2007] EWHC 2997 (Admin) and Frank Emilian D'Souza -v- The Law Society [2009] EWHC 2193 (Admin). However, the Tribunal noted the Respondent owned his own property and that he had some funds in a bank account which would enable him to meet the costs liability. The Tribunal therefore was satisfied the costs should be paid in full by the Respondent.

Statement of Full Order

28. The Tribunal Ordered that the Respondent, Andrew John Pinder, of 72 Walker Grove, Hatfield, Hertfordshire, AL10 9PL, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 16th day of May 2011 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,289.00.

Dated this 14th day of June 2011
On behalf of the Tribunal

Miss N. Lucking
Chairman