

IN THE MATTER OF JACQUELINE NKENG EKOKOBE  
and CLEO ANNE-MARIE PARILLON, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr R J C Potter (in the chair)  
Mr L N Gilford  
Mr D Gilbertson

Date of Hearing: 21st January 2010

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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 Solicitors Regulation Authority (SRA) by Jayne Willetts, Solicitor Advocate and Partner, Townshends LLP, Cornwall House, 31 Lionel Street, Birmingham B3 1AP on 22<sup>nd</sup> July 2009 that Jacqueline Nkeng Ekokobe of Jacob Forbes Solicitors Limited, Suite 341, Lee Valley Technopark, Ashley Road, London N17 9LN a solicitor and Cleo Anne-Marie Parillon of Jacob Forbes Solicitors Limited, Suite 341, Lee Valley Technopark, Ashley Road, London N17 9LN 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 Jacqueline Nkeng Ekokobe (the First Respondent) and Cleo Anne-Marie Parillon (the Second Respondent) were that:

1. Their books of account had not been in compliance with the Solicitors Accounts Rules 1998 in that they had:-
  - (i) Withdrawn monies from client account other than in accordance with Rule 22 (1);

- (ii) Made withdrawals from client account in excess of monies held on behalf of clients in breach of Rule 22 (5);
  - (iii) Failed to rectify the cash shortage on client account promptly on discovery in breach of Rule 7.
2. In failing to disclose material facts to mortgage lender clients in respect of transactions completed pre 1<sup>st</sup> July 2007 they had compromised or impaired:-
- (i) The solicitor's duty to act in the best interests of the client;
  - (ii) The good repute of a solicitor or of the solicitors profession;
  - (iii) The solicitor's proper standard of work;
- in breach of Practice Rule 1 (c) and 1 (d) and 1 (e) of the Solicitors Practice Rules 1990.
3. In failing to disclose material facts to mortgage lender clients in respect of transactions completed post 1<sup>st</sup> July 2007 they had:-
- (i) Failed to act in the best interests of their clients;
  - (ii) Failed to provide a good standard of service to their clients;
  - (iii) Behaved in a way that was likely to diminish the trust the public placed in them or in the profession in breach of Rule 1.04, 1.05 and 1.06 of the Solicitors' Code of Conduct 2007.

The application was heard at The Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 21<sup>st</sup> January 2010 when Ms Willetts appeared as the Applicant. Mr Afzal appeared on behalf of both Respondents who were also present.

The evidence before the Tribunal included admissions and witness statements from both Respondents together with various testimonials.

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

The Tribunal Orders that the Respondent, Jacqueline Nkeng Ekokobe of Jacob Forbes Solicitors Limited, Suite 341, Lee Valley Technopark, Ashley Road, London, N17 9LN, solicitor, do pay a fine of £5,000, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £11,000 on a joint and several basis.

The Tribunal Orders that the Respondent, Cleo Anne-Marie Parillon of Jacob Forbes Solicitors Limited, Suite 341, Lee Valley Technopark, Ashley Road, London, N17 9LN, solicitor, do pay a fine of £5,000, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £11,000 on a joint and several basis.

**The facts are set out in paragraphs 1 – 20 hereunder:**

1. The First Respondent, born in 1973, was admitted as a solicitor in 2001.
2. The Second Respondent, born in 1974, was admitted as a solicitor in 2000.
3. The Respondents had practised together since April 2002. Their practice was initially known as Jacob Forbes Solicitors but was later incorporated as Jacob Forbes Solicitors Limited.

**Background facts**

4. On 13<sup>th</sup> March 2007, an SRA investigation had commenced at the Respondents' offices in Tottenham. It had been postponed by agreement to 30<sup>th</sup> April 2007 ("First Inspection Visit") and on that date the accounting records to 31<sup>st</sup> March 2007 had been produced.
5. The Senior Investigation Officer ("SIO") had returned to update the accounting position in April 2008 ("Second Inspection Visit"). On that date the accounting records to 29<sup>th</sup> February 2008 had been produced.
6. As a result, a Forensic Investigation Report ("the FI Report") dated 30<sup>th</sup> June 2008 had been prepared.

**Solicitors Accounts Rules – Allegation 1 (i); (ii) and (iii)**

7. On the First Inspection Visit on 30<sup>th</sup> April 2007 the SIO had identified a cash shortage on client account as at 31<sup>st</sup> March 2007 of £16,037.10.
8. The bulk of the shortage (£13,892.54) had been caused by overpayments from client account to office account in respect of 23 individual client matters. There had been further overpayments from client to office account of £790.39 and unallocated payments of £1,354.17.
9. The shortage had not been replaced immediately upon discovery as required by Rule 7 of the Solicitors Accounts Rules but had been replaced by five payments made between 13<sup>th</sup> April 2007 and 31<sup>st</sup> May 2007.
10. On the Second Inspection Visit in April 2008 the SIO had identified a cash shortage on client account as at 29<sup>th</sup> February 2008 of £1,962.46. The shortage had been caused by an unallocated transfer from client to office account (£1,615.44); overpayments from client to office account (£343.03) and a further unattributed overpayment of £3.99. The shortage had been replaced on 21<sup>st</sup> April 2008.
11. The Respondents were the principals of the practice and as such were under a duty to ensure compliance with the Solicitors Accounts Rules 1998 by themselves and everyone else working in the practice pursuant to Rule 6 of the said Rules.

**Conveyancing transactions – Allegations 2 & 3**

12. The Respondents had conducted a general practice, dealing mainly with conveyancing matters, assisted by two unadmitted employees. The Respondents had supervised the practice. All staff had reported to the Respondents on all files. The Respondents had opened all incoming post and had monitored all outgoing post. They had also reviewed files every 4-6 weeks.
13. The SIO had identified irregularities in conveyancing transactions handled by the Respondents. Nineteen transactions had all been purchases of properties where the firm had also been instructed to act on behalf of the mortgage lender. The transactions had been completed between 14<sup>th</sup> July 2005 and 3<sup>rd</sup> October 2007. The transactions had involved either a sub sale with increased selling price or a discounted purchase price.
14. The SIO had noted that on 13 files the lender had not been notified of the sub-sale with increase in the selling price or of a discounted purchase price. On 5 files, although the lender had been notified of the reduced purchase price, the price at which the transfer had been registered had not been the amount paid.
15. The Respondents had been under a professional duty to act in the best interests of their lender clients and to disclose to those clients all material facts that might affect the decision to lend to the borrower.
16. The Respondents had been contractually required to adhere to the instructions contained in the Council of Mortgage Lenders Handbook. The Handbook in force at the time was dated 6<sup>th</sup> May 2005 and the following provisions were relevant;

## **“2. COMMUNICATIONS**

- 2.3 If you need to report a matter to us, you must do so as soon as you become aware of it so as to avoid any delay. If you do not believe that a matter is adequately provided for in the Handbook, you should identify the relevant Handbook provision and the extent to which the issue is not covered by it. You should provide a concise summary of the legal risks and your recommendation on how we should protect our interest. After reporting a matter you should not complete the mortgage until you have received our further written instructions. We recommend that you report such matters before exchange of contracts because we may have to withdraw or change the mortgage offer.

## **3. SAFEGUARDS**

- 3.1 You must follow the guidance in The Law Society’s Green Card (mortgage fraud).....

### **6.3 Purchase Price**

- 6.3.1 The purchase price for the property must be the same as set out in our instructions. If it is not you must tell us (unless we say

differently in part 2). You must tell us (unless we say differently in part 2) if the contract provides for:

- 6.3.1.1 A cash back to buyer; or
- 6.3.1.2 Part of the price is being satisfied by a non-cash incentive to the buyer. This may lead to the mortgage offer being withdrawn or amended.
- 6.3.1.3 You must report to us (see part 2) if you will not have control over the payment of all of the purchase money (for example if it is proposed that the borrower pays money to the seller direct) other than a deposit held by an estate agent or a reservation fee of not more than £500 paid to a builder or developer.”

- 17. The Law Society Green Card on property fraud in force at the time was dated 18<sup>th</sup> January 2005. The Card warned practitioners to watch out for the signs of property fraud such as misrepresentation of the purchase price.

### **SRA Investigation**

- 18. By letters dated 18<sup>th</sup> November 2008 copies of the FI Report had been sent to both Respondents seeking their explanation for the matters raised in the Report.
- 19. The Respondents had responded to the SRA by letter dated 19<sup>th</sup> December 2008.
- 20. The Respondents’ conduct had been referred to the Tribunal on 12<sup>th</sup> January 2009.

### **The submissions of the Applicant**

- 21. The Applicant took the Tribunal through the allegations and the relevant facts in support including details of specific cases from the Forensic Investigation Report, namely those of clients A, O and G. While no dishonesty was alleged, the Applicant submitted that allegations 2 and 3 were serious because of the important duties of solicitors which impacted upon the system of recording property values. While acting for lender clients, the Respondents had failed, by acts of admission, in their duties to those clients. However, the Applicant explained that both Respondents had cooperated fully with their Regulator and had made early admissions. The Applicant sought costs and handed a costs schedule to the Tribunal indicating a total claim for costs of some £27,856.52.

### **The submissions on behalf of the Respondents**

- 22. Mr Afzal explained that because of their lack of funds he had only recently been instructed by the Respondents and hence the witness statements had only been available on the day of the hearing. The Tribunal assured Mr Afzal that it had been able to read both the witness statements and the testimonials before the commencement of the hearing.

23. Mr Afzal said that the Respondents had made early admissions and had taken full responsibility. They were wholly contrite and apologised to the Tribunal. Although they did not seek to underestimate the importance of dealing with client account, as an explanation and not as an excuse, they acknowledged instances of poor record keeping. Mr Afzal submitted that breaches of the Solicitors Accounts Rules were unlikely to be repeated as the Respondents had changed their accounts package and were submitting six monthly accounts reports as well as having attended relevant courses.
24. In relation to the conveyancing matters, again the Respondents had fully accepted their obligations and again, as an explanation and not as an excuse, the Respondents maintained that they had been misled by other solicitors. Mr Afzal submitted that the errors had been isolated incidents caused by a lack of supervision of the trainee solicitor during periods of maternity leave.
25. Mr Afzal referred to the decision in D'Souza - v - The Law Society [2009] EWHC 2193 (Admin) and submitted that the Respondents' case was also an exceptional case where, even if the Tribunal allowed them to continue in practice, their income was a relevant consideration both as to any costs sanction and in respect of any financial penalty that might be imposed. He further submitted that the Respondents' actions were at the lower end of the scale of wrongdoing, that the issues had taken place some three years ago and that the whole experience had been extremely stressful for both Respondents. Mr Afzal detailed the financial position of both Respondents and explained that with the downturn in conveyancing, the Respondents were now undertaking other areas of law including immigration, housing and civil litigation. He also referred to the 8 testimonials.
26. In relation to costs, Mr Afzal accepted that costs were payable. However, having considered the costs schedule, he submitted that the costs of the SRA at some £20,730 were excessive and totally disproportionate to the findings of the investigation.

### **The decision of the Tribunal**

27. Having considered all the evidence and the helpful submissions of the Applicant and on behalf of the Respondents, the Tribunal noted that it had been asked to consider three allegations, all admitted. The Tribunal had found those allegations both admitted and proved. Although there was no element of dishonesty, the Tribunal found that allegations 2 and 3 had involved clear acts of omission leading to serious breaches of solicitors' duties to lender clients. Such actions affected the reputation of the Profession and in the circumstances the Tribunal considered that a financial penalty was both appropriate and necessary to reflect the Tribunal's acknowledgement of the seriousness of the omissions. The Tribunal had taken into account all the submissions in mitigation, the testimonials and the cooperation and early pleas of the Respondents. The Tribunal had fully taken into account the Respondents' financial circumstances. The Tribunal believed the Respondents' financial and personal circumstances not to be 'exceptional' so as not to justify the imposition of a financial penalty. Accordingly, the Tribunal Ordered both Respondents to pay a financial penalty of £5,000.

28. Turning to costs, the Tribunal reduced the Applicant's costs relating to the substantive hearing only but considered the SRA's costs to be excessive given the issues involved. The Tribunal made an Order for costs fixed in the sum of £11,000.

Dated this 8<sup>th</sup> day of April 2010  
On behalf of the Tribunal

R J C Potter  
Chairman