

IN THE MATTER OF MATTHEW COOPER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr K W Duncan (in the chair)  
Mr R B Bamford  
Mr G Fisher

Date of Hearing: 21st May 2009

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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 Jonathan Richard Goodwin of Jonathan Goodwin Solicitor Advocate, 17E Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 8<sup>th</sup> September 2008 that Matthew Cooper of 8 Booton Court, Kidderminster, DY10 2YZ, solicitor, might be required to answer the allegations set out in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

The allegations against the Respondent were that:

- (i) contrary to Rule 6 of the Solicitors Accounts Rules 1998 (hereinafter referred to as "The 1998 Rules") he failed to ensure compliance with the Rules;
- (ii) contrary to Rule 7 of the 1998 Rules he failed to remedy breaches promptly upon discovery;
- (iii) he withdrew and/or transferred monies from client account other than as permitted by Rule 22(1) of the 1998 Rules;
- (iv) he utilised client funds for his own benefit;

- (v) he failed to keep accounting records properly written up as required by Rule 32 of the 1998 Rules;
- (vi) he made cash withdrawals from client account contrary to Rule 23(3) of the 1998 Rules.

By a supplementary statement dated 14<sup>th</sup> April 2009 the additional allegations against the Respondent were that:

- (vii) he failed and/or delayed in the filing of an Accountant's Report in respect of Abbotts Solicitors for the period ending 31<sup>st</sup> March 2007;
- (viii) he failed and/or delayed in the filing of an Accountant's Report in respect of Abbotts Solicitors for the period ending 31<sup>st</sup> March 2008.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 21<sup>st</sup> May 2009 when Jonathan Goodwin appeared as the Applicant and the Respondent appeared and was represented by Gary Oldroyd.

The evidence before the Tribunal included the admissions of the Respondent and a number of references regarding the Respondent's character.

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

The Tribunal Orders that the Respondent Matthew Cooper of 5 Hungerford Road, Stourbridge, DY8 3AB, solicitor, do pay a fine of £8,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £12,000.00.

**The facts are set out in paragraphs 1 – 14 hereunder:**

1. The Respondent, born in 1970, was admitted as a solicitor on 2<sup>nd</sup> April 1996. His name remained on the Roll of Solicitors.
2. At all relevant times the Respondent carried on practice in partnership under the style of Abbotts Solicitors from offices at 11-13 St John's, Worcester, WR2 5AE.
3. The Forensic Investigation Unit of the Solicitors Regulation Authority ("SRA") carried out an inspection of the firm's books of account commencing 13<sup>th</sup> May 2008 and produced a Report ("FI Report") dated 6<sup>th</sup> June 2008 which was before the Tribunal.
4. The books of account were not in compliance with the 1998 Rules. The books had not been written up or reconciled later than October 2006 and there were no up-to-date lists of client balances or client ledgers.
5. Due to the inadequacy of the books, it was not considered practicable for the Investigation Officer to calculate the firm's liabilities to clients. However, an examination of bank statements for April 2008 and the relevant client files, identified that on a number of matters, clients' damages had been received by the firm and were

transferred to office account, resulting in a minimum client shortage as at 30<sup>th</sup> April 2008 in the sum of £42,000 in relation to four matters particularised in the FI Report.

6. The Respondent indicated that due to financial difficulties, he was not in a position to rectify the minimum shortage.
7. The Investigation Officer ascertained that in respect of at least seven matters, clients' damages were paid out of office bank account, details of which were given in the FI Report.
8. It was also ascertained that between 3<sup>rd</sup> April 2008 and 25<sup>th</sup> April 2008 three cash withdrawals totalling £4,450 were made out of the firm's client account.
9. The last Accountant's Report submitted by the Respondent in relation to Abbotts Solicitors was for the period 1<sup>st</sup> April 2005 to 31<sup>st</sup> March 2006.
10. By letter dated 18<sup>th</sup> February 2009 the SRA wrote to the Respondent in respect of the outstanding Accountant's Reports for the years ending 31<sup>st</sup> March 2007 and 31<sup>st</sup> March 2008, which were due to be delivered on or before 29<sup>th</sup> February 2008 and 30<sup>th</sup> September 2008 respectively.
11. By letter dated 2<sup>nd</sup> March 2009 the Respondent replied and enclosed a copy of a letter he had sent to the SRA dated 12<sup>th</sup> January 2009, the first paragraph of which related to the outstanding Accountant's Reports.
12. The Respondent's letter to the SRA dated 12<sup>th</sup> January 2009 confirmed that he was allowed access to the accounting material in order to produce some final accounts and the indication was that the Respondent was going to arrange such access later in January 2009 or early February 2009.
13. In his letter dated 2<sup>nd</sup> March 2009 the Respondent confirmed that the situation had not changed and he had not been in a position to visit the administrator's office.
14. Despite an indication that an appointment was to be arranged later that month (that is to say March 2009) no further contact was made by the Respondent and the Reports remained outstanding.

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

15. The Applicant confirmed the Respondent admitted the allegations and briefly took the Tribunal through the FI Report. It was submitted that on any view, the allegations were serious. The Applicant also confirmed the outstanding Accountant's Reports had still not been filed.

#### **The Submissions of the Respondent**

16. The Respondent confirmed the allegations were admitted and asked the Tribunal to take into account his two witness statements which were before the Tribunal. The Respondent was currently bankrupt and was not practising but he did wish to be able

to practise in the future. He had no intention of practising on his own account and asked the Tribunal not to strike him off the Roll of Solicitors.

17. All the allegations were allegations relating to breaches of the Solicitors Accounts Rules which had arisen as a result of the Respondent being a partner in the practice at the time. They had not been committed directly by him, he had just failed to take a keen interest in the accounts.
18. The Respondent had qualified as a solicitor in 1996 and had formed Abbotts Solicitors in 2000 with a Mr T. Mr T had been responsible for the accounts side of the practice.
19. In September 2006, Mr T and the Respondent had agreed they would expand the practice and the Respondent would develop an estate agency business. As a result of the Respondent developing the estate agency business, he was spending no more than 25% of his time with the practice by October 2006. Mr T assumed responsibility for the accounts after this time.
20. Around the same time the Respondent had other personal issues which related to medical matters concerning his wife. As a result, the Respondent did not take any interest in the firm's accounts, and had placed complete faith in Mr T assuming he had matters in hand.
21. The estate agency business was opened up in about November 2007 which was the worst possible time given the crash in the housing market. Regrettably the business had to be closed down and it was not until January 2008 that the Respondent became aware of account's breaches which he raised with Mr T. He was informed by Mr T that matters were being dealt with and everything was in hand.
22. The Forensic Investigation commenced on 13<sup>th</sup> May 2008 and, unfortunately, on 14<sup>th</sup> May 2008 Mr T committed suicide. Following Mr T's death, the Respondent began to investigate the firm's accounts in detail and then became aware that Mr T had been in debt and there had been a misuse of client funds.
23. Dealing with each of the allegations in turn, the Respondent asked the Tribunal to take the following matters into account:

Allegation (i)

24. All these breaches had taken place after October 2006 when Mr T became responsible for the accounts. All the funds transferred were monies transferred from Mr T's files and whilst the Respondent accepted he should not have delegated responsibility entirely to Mr T, it was also clear that he had been a victim of abuse of trust by Mr T.

Allegation (ii)

25. The Respondent had approached Mr T, genuinely believing these breaches were minor and Mr T had confirmed that he would remedy them. The Respondent deeply regretted he had not gone into the detail of the accounts, which would have allowed him to appreciate how serious the breaches had been.

Allegation (iii)

26. Again, all transfers were made by Mr T on matters relating to his files. The Respondent did not know about the transfers and if he had been made aware of them, he would have objected.

Allegation (iv)

27. The Respondent had not had any benefit from the client money and indeed would not have tried to gain any benefit. Mr T had made the transfer.

Allegation (vii) and (viii)

28. Again it had been Mr T's responsibility to file the Accountant's Reports although the Respondent accepted he had failed as a partner to do so. He intended to apply for a waiver as he had been unable to finalise the Accountant's Reports due to the demise of the firm.
29. The Respondent accepted the allegations and was genuinely remorseful. He took the failings exceptionally seriously and had cooperated fully with the Authority. It was clear that Mr T had abused his trust. The Respondent accepted saying to Mr T on the morning of 13<sup>th</sup> May 2008 when the SRA investigation started, "If it all gets too much, blame me". However, the Respondent submitted this had been a flippant and foolish comment. He had certainly not realised the gravity of the situation at the time. He should have known but he did not.
30. The Tribunal was referred to the witness statement of Mr Stewart Muirhead dated 14<sup>th</sup> January 2009. He was the Associate Director of the firm's professional indemnity insurers. Mr Muirhead had confirmed in his statement that the Respondent had been helpful and cooperative throughout the matter. The Respondent advised the Tribunal that he had done whatever he could to try and ensure clients' damages were returned. He had tried to make amends, he was of previous good character, he had not appeared before the Tribunal before and he wished to stay in the profession. His essential failing had been that he had not taken a keen interest in the firm and had relied upon Mr T.
31. The Respondent also confirmed that the Applicant's costs had been agreed in the sum of £12,000.

**The Findings of the Tribunal**

32. The Tribunal found the allegations to have been substantiated, indeed they were admitted.
33. The Tribunal had considered very carefully all the submissions and documents, and noted the Respondent had known Mr T since 1996 which was a lengthy period of time.

34. Whilst the Tribunal understood the Respondent's position and the fact that he had relied on Mr T, any breach of the Solicitors Accounts Rules was serious and a solicitor could not abrogate responsibility for compliance to another partner. It was essential for any solicitor to satisfy him or herself that the Solicitors Accounts Rules were being complied with and to ensure any breaches were remedied promptly upon discovery. This was a case where clients' funds had been improperly utilised and they had suffered a loss as a result.
35. Solicitors were in a position of trust and client funds were sacrosanct. It was the responsibility of all partners in the practice to ensure the proper stewardship of client funds and by failing to do so the Respondent had brought the profession into disrepute.
36. The Tribunal had taken into account the references that had been provided but, nevertheless, were concerned that the reputation of the profession had been damaged and the Respondent must accept some responsibility for this.
37. The Tribunal made a recommendation that the Respondent should not be permitted to practise on his own account or in partnership for a period of five years. The Tribunal considered the appropriate sanction in this case was to fine the Respondent £8,000 and to Order that he pay the costs as agreed in the sum of £12,000.
38. The Tribunal Ordered that the Respondent Matthew Cooper of 5 Hungerford Road, Stourbridge, DY8 3AB, solicitor, do pay a fine of £8,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £12,000.00.

Dated this 27<sup>th</sup> day of November 2009

On behalf of the Tribunal

K W Duncan  
Chairman