

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF MICHAEL JACKSON (Respondent) Solicitor's Clerk

Upon the application of Jayne Willetts Solicitor Advocate & Partner
on behalf of the Solicitors Regulation Authority

Mr. R. Nicholas (in the chair)
Mrs E Stanley
Mrs L. Barnett

Date of Hearing: 30th March 2010

FINDINGS AND DECISION

Appearances

Ms Jayne Willetts, Solicitor Advocate & Partner in the firm of Townshends LLP, Cornwall House, 31 Lionel Street, Birmingham, B3 1AP, the Applicant, on behalf of the Solicitors' Regulation Authority (SRA).

The Respondent did not appear and was not represented.

The application to the Tribunal on behalf of the SRA was made on 22nd September 2009.

Allegations

The allegation against the Respondent was that he had, in the opinion of the Law Society, occasioned or been a party to an act or default in relation to a legal practice that had involved conduct on his part of such a nature that in the opinion of the Law Society it would be undesirable for him to be involved in a legal practice in one or more of the ways mentioned in section 43 (1) (A) of the Solicitors Act 1974 as amended by the Legal Services Act 2007 in that he had held himself out as a solicitor.

Preliminary Matter

The Applicant invited the Tribunal to deal with the matter in the absence of the Respondent. The Applicant indicated that although the Respondent had not engaged in the proceedings he

was aware of them in that documents sent to him, by way of special delivery to his home address, had not been returned.

The Tribunal having regard to Rule 16(2) of its Rules and to the guidance provided by Mr Justice Munby in Jawid Ahmed Yusuf v The Royal Pharmaceutical Society of Great Britain [2009] EWHC 867 (Admin) agreed that the matter should proceed in the Respondent's absence.

Factual Background

1. The Respondent had formerly been employed as an un-admitted litigation executive by Swinburne & Jackson LLP Solicitors (Swinburnes) at their branch office at 1 Ashfield Terrace, Ryton, Tyne & Wear, NE40 3LB from 12 December 2006 to 9th May 2008.
2. The Respondent had been employed to undertake a mixed caseload of litigation matters including employment disputes. In business cards provided by Swinburnes he had been described as a "Litigation Executive" and on their printed stationery as an "Executive".
3. Whilst employed at Swinburnes the Respondent had drafted client care letters in which he described himself as a "solicitor".
4. The Respondent had provided independent legal advice to clients of Swinburnes involved in employment disputes. In three employment disputes that had been concluded by way of Compromise Agreements, the Respondent had confirmed that as a solicitor he had been able to provide independent advice.
5. The Respondent's employers became aware that he had been describing himself as a solicitor whilst he had been off work due to alleged sickness. Mr Swinburne had sought the advice of the SRA on 2nd June 2008.
6. The Respondent had responded substantively to the allegations in an undated letter received by the SRA on 29th October 2008. In a further letter of 31st March 2009 he said that the letters in which he had been described as a solicitor had been standard letters that he had been instructed to send out and that one of those letters (in June 2007) had not been signed by him and had been sent out in his absence.

Documentary Evidence before the Tribunal

7. The Tribunal reviewed the Rule 8(5) Statement together with the accompanying bundle which included the Respondent's letters to the SRA of 15th September 2008, undated but received on 29th October 2008 and 31st March 2009.

Findings as to fact and law

8. Having considered all the evidence, the Tribunal found the allegation proved in that it was satisfied so that it was sure that in some eleven client care letters produced to the Tribunal the Respondent had described himself as a solicitor. Moreover, they found that in three employment disputes, concluded by way of Compromise Agreement in the cases of Ms I, Ms C and Ms E, the Respondent had held him-self out to be a qualified

lawyer capable of providing independent advice under section 203 of the Employment Rights Act 1996.

Costs Application

9. The Applicant requested fixed costs in the sum of £9,418.44. She explained that she had no information as to the Respondent's means other than that he had apparently set up in business on his own account as "Eighton Business Services". In response to a question from the Tribunal, the Applicant explained that the SRA had been unable to deal with the matter without reference to the Tribunal because the evidence raised issues that fell to be determined by the Tribunal.

Sanction and Reasons

10. The Tribunal found the allegation proved on the basis of the cogent evidence presented to it. It regarded the allegation as serious in that the Respondent, by his actions, had committed breaches of statutory obligations. Moreover, the Tribunal considered that he might well have not acted in his firm's clients best interests and that he had certainly caused damage to the reputation of the Profession. Accordingly it made the Order sought.

Decision as to Costs

11. The Tribunal was satisfied that the SRA's costs should be awarded in full. Accordingly an Order would be made in the sum of £9,418.44.

The Order of the Tribunal

12. The Tribunal Ordered that as from 30th day of March 2010 (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor; (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice; (iii) no recognised body shall employ or remunerate; (iv) no manager or employee of a recognised body shall employ or remunerate in connection with the business of that body MICHAEL JACKSON of 8 Seaham Gardens, Eighton Banks, Gateshead, Tyne & Wear, NE9 7EL except in accordance with Law Society permission; (v) no recognised body or manager or employee of such a body shall, except in accordance with Law Society permission, permit Michael Jackson to be a manager of the body; (vi) no recognised body or manager or employee of such a body shall, except in accordance with Law Society permission, permit Michael Jackson to have an interest in the body and the Tribunal further Ordered that he do pay a contribution towards the costs of and incidental to this application and enquiry fixed in the sum of £9,418.44.

Dated this 28th day of June 2010

On behalf of the Tribunal

R Nicholas
Chairman