

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF RIZWAN AHMAD, solicitor (Respondent)

Upon the application of Suzanne Elisabeth Jackson
on behalf of the Solicitors Regulation Authority

Mr I R Woolfe (in the chair)
Mr E Nally
Lady Bonham Carter

Date of Hearing: 20th April 2010

FINDINGS & DECISION

Appearances

Suzanne Elisabeth Jackson solicitor employed by the Law Society at the Solicitors Regulation Authority at 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE for the Applicant.

The Respondent appeared in person.

The application made on behalf of the Solicitors Regulation Authority was accompanied by a Rule 5 Statement dated 26th October 2009.

Allegations against the Respondent contained in the Rule 5 Statement:

1. He failed and/or delayed in delivery of an Accountant's Report for the period ending 31st March 2008 due to be delivered to the Solicitors Regulation Authority on or before an extended date of 28th October 2008 contrary to Section 34 of the Solicitors Act 1974 (as amended) and the rules made thereunder.
2. [Withdrawn with the consent of the Tribunal]

Allegations against the Respondent contained in a Supplementary Statement dated 1st March 2010

3. He failed and/or delayed in delivery of Accountant's Reports for the period ending 31st March 2009 due to be delivered on or before 30th September 2009 and for the six month period ending 30th September 2009 due to be delivered on 30th November 2009 contrary to Section 34 of the Solicitors Act 1974 (as amended) and the Rules made thereunder.
4. He failed to comply with a condition attached to his 2008/2009 practising certificate as regards the filing of half yearly accountant's reports contrary to Rule 20.10 of the Solicitors Code of conduct 2007 (SCC)
5. He failed to deal in an open, prompt and co-operative way with the SRA contrary to Rule 20.05 of the SCC.

Factual Background

1. The Respondent was admitted as a solicitor in 1997 and at all material times carried on practice as a sole practitioner under the style of Herald Solicitors of 13 Amersham Road, High Wycombe, Buckinghamshire HP13 6QS.
2. By e-mail dated 12th December 2007 the Respondent informed the SRA that Herald Solicitors had commenced practice in May 2006 and that client monies had first been held on 27th March 2007. He requested that the accounting period run from 27th March 2007 to 31st March 2008 and this was agreed by the SRA and confirmed by email and letter.
3. By letter dated 12th September 2008 the Respondent requested an extension of time of 4 weeks to file the Accountant's Report. An extension of time was granted to 28th October 2008. On 31st October 2008 the Respondent by fax requested a further 4 week extension of time.
4. By letter dated 15th November 2008 the SRA confirmed to the Respondent that an extension of time had been granted to 28th October 2008 in order to submit the Report. The further request for an extension made on 31st October 2008 could not however be processed as requests for extensions had to be received no later than the due date for the Report, namely the extended deadline of 28th October 2008. Further it was confirmed that the Respondent's practising certificate was now subject to Section 12(1)(ee) of the Solicitors Act 1974 because his Accountant's Report had not been received by the due date.
5. By letter dated 22nd January 2009 the SRA wrote to the Respondent and asked for an explanation within 14 days for the undelivered Accountant's Report.
6. The Respondent replied by e-mail dated 29th January 2009 indicating that he was in contact with his accountant with respect to a timescale as to when he would be able to comply with providing an Accountant's Report and that a more substantive response would follow.
7. The Respondent had prior to this also written to the SRA in a letter dated 14th January

2009, dealing with the Respondent's RF 12 application, outlining the difficulties he had faced in respect of his computer system which had prevented delivery of his first Accountant's Report by the due date. He confirmed that there were no longer any problems with the legal software and that he should be in a position to forward a completed Accountant's Report from his accountants.

8. The Respondent submitted a further e-mail on 2nd February 2009 accompanied by an attachment responding to the questions posed in the SRA's letter dated 22nd January 2009.
9. The matter was considered by an Adjudicator on 27th April 2009 who found that the Respondent had breached Section 34 of the Solicitors Act 1974 (as amended).
10. The Adjudicator resolved, inter alia, as follows:-

“I expect Mr Ahmad, within 28 days of the date of the letter notifying him of this decision, to deliver the Accountants' Report for Herald Solicitors for the period 27th March 2007 to 31st March 2008, failing which I direct that the conduct of Mr Ahmad be referred, without further notice, to the Solicitors Disciplinary Tribunal”
11. The Accountant's Report for the period ending 31st March 2008 remained outstanding.
12. On 2nd February 2009 a condition in the following terms was imposed on the Respondent's practising certificate for the practice year 2008/2009:

“That he delivers half yearly accountant's reports, such reports and any cease to hold report required, to be delivered within 2 months of the end of the period to which they relate”
13. The Respondent's Accountant's Report for the period ending 31st March 2009 due for delivery on 30th September 2009 remained outstanding.
14. By letter dated 12th October 2009 the SRA wrote to the Respondent enclosing the Accountant's Report and check list for the accounting period 1st April 2009 to 30th September 2009 for completion and return by 30th November 2009. On 16th December 2009 the SRA wrote to the Respondent reminding him that the Accountant's Reports for the periods ending 31st March 2009 and 30th September 2009 were overdue.
15. By letter dated 7th January 2010 the SRA wrote to the Respondent in relation to the outstanding Accountant's Report seeking his explanation in respect of the same. No response was received.
16. By letter dated 26th January 2010 the SRA wrote to the Respondent, again seeking his explanation, to which no reply was received.
17. The Accountant's Reports had not been filed within the required time period and remained outstanding.

18. After the Statement under Rule 5 was filed relating to the non delivery of the Accountant's Report for the period ending 31st March 2008, the Respondent informed the Applicant in a telephone conversation on 18th November 2009 that he was going to be filing the outstanding Report by the end of that month. No Report had been filed.

Documents reviewed

19. The Tribunal reviewed the following documents submitted by the Applicant:

Rule 5 Statement dated 26th October 2009 and exhibits
Supplementary Statement dated 1st March 2010 and exhibits

The Tribunal reviewed the following documents submitted by the Respondent:

Letter from Messrs Eastmonds Chartered Accountants dated 19th April 2010

Findings as to Fact and Law

20. The Tribunal had raised with the Applicant her original allegation 2, namely that the Respondent had failed to comply with the expectation of the Adjudicator dated 27th April 2009. The Tribunal had not considered that such an expectation was capable of being construed as a breach of Rule 1 or of Rule 20.03 of the Solicitors' Code of Conduct as the Applicant had alleged. The Applicant had withdrawn the allegation.
21. Allegations 1, 3 and 4 all related to the failure by the Respondent to deliver Accountant's Reports to the SRA. The Applicant submitted that all the Reports remained outstanding; the Respondent had an obligation and responsibility to ensure that his Accountant's Reports were filed on time, and in this regard he had failed. The Applicant said that the Adjudicator who had considered the matter in April 2009 had been minded to impose an internal sanction had the Respondent complied with the Adjudicator's expectation.
22. The Applicant further submitted in relation to allegation 5 that the Respondent had failed to deal in an open prompt and cooperative way with the SRA.
23. The Respondent admitted allegations 1, 3, 4 and 5 and the Tribunal found them to have been substantiated on the facts.

Mitigation

24. The Respondent said that he was ashamed and surprised at his behaviour and felt self-loathing and self-disgust. All the Accountant's Reports would be filed. The Respondent had had extensive dialogue with his accountants and with his older brother who was also an accountant.
25. The Respondent had had a predicament regarding cash flow and in particular, as a personal injury solicitor, had had a number of successful cases where he had had difficulty getting costs from defendants.
26. The Respondent had a great deal of goodwill from his supporters. He would never be

in this position again and he realised he needed to be more open and that problems shared could be halved.

27. He had had many problems with his software providers. He had spent time focusing on that issue when he should have focused on his obligations. He could have avoided what had happened and did not envisage ever being in this position again.
28. The Respondent apologised to the Tribunal and the SRA and said he had taken a foolish approach. He knew what he had to do but had been distracted by the problems with the software providers and the cash flow problem.
29. He was now working towards full compliance. His confidence was somewhat shattered but he was now close to a “golden period”. He was managing his firm well and wanted to move forward.
30. The Respondent referred the Tribunal to the letter from his Accountants dated 19th April 2010 which said that they would be in a position to prepare his first year’s Annual Accounts and Accountant’s Reports by 28th May 2010. The Respondent said that the correct position was that the accountant would be dealing with all the outstanding Accounts and Reports by 28th May. The Respondent now had a book-keeper one hour per week and had no major accounting issues.
31. He had had his head in the sand and it was all his fault. He should have been more open and considerate.
32. His cash flow had now improved, he had support from his bank, his Accountant and his family.

Costs

33. The Applicant requested fixed costs in the full amount claimed of £1,366.78. The Respondent said that he understood he had to pay the costs, the only issue he would have had with them was in relation to travel costs. He did not seek detailed assessment of the costs and did not want further delays.

Previous Disciplinary Proceedings Before the Tribunal

34. None.

Sanction and Reasons

35. This was a serious case. The Respondent had started practising nearly four years previously and had failed to produce any Accountant’s Reports for any period to the SRA. Further he had failed to co-operate with the SRA and had ignored correspondence. The Respondent had told the Tribunal that he had changed and was horrified to look back at his old self. The Tribunal hoped that the Respondent had learnt his lesson and that in future he would be more open and co-operative, and would comply with the regulations which applied to all Solicitors. The filing of Accountant’s Reports was essential to protect the public and the Tribunal’s Order was intended to ensure that the outstanding Reports would be filed. The Tribunal would

also impose a financial penalty on the Respondent and would order him to pay the Applicant's costs in a fixed sum.

36. The Tribunal made the following Order:

The Tribunal Ordered that the Respondent, Rizwan Ahmad of Hawthorne Cottage, 13 Amersham Road, High Wycombe, Buckinghamshire, HP13 6QS, solicitor, do pay a fine of £4,000.00, such penalty to be forfeit to Her Majesty the Queen, and they further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,366.78.

The Tribunal further Ordered that unless the Respondent delivers to the Solicitors Regulation Authority by 30th June 2010 the outstanding Accountant's Reports in respect of Herald Solicitors for the periods ending 31st March 2008, 31st March 2009 and 30th September 2009 then he shall be suspended from practice as a solicitor for an indefinite period commencing on 1st July 2010.

Dated this 2nd day of June 2010
on behalf of the Tribunal

I R Woolfe
Chairman