

IN THE MATTER OF ANDREW JONATHAN CROSSLEY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr A H Isaacs (in the chair)
Mr J N Barnecutt
Lady Bonham Carter

Date of Hearing: 31st October 2002

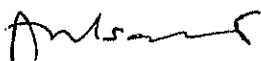
ORDER

of the Solicitors' Disciplinary Tribunal
Constituted under the Solicitors' Act 1974

The Tribunal ORDER that the Respondent, ANDREW JONATHAN CROSSLEY of Wanborough Lane, Cranleigh, Surrey, GU6 7DT solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 31st day of January 2003 unless he do file with the Law Society his outstanding Annual Accountant's Reports, if he does so file those Reports by 31st January 2003 then he will be reprimanded and not suspended. The Tribunal further orders the Respondent to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,250 plus VAT.

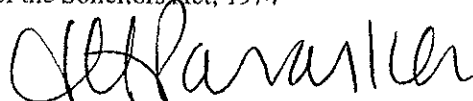
DATED AND FILED WITH THE LAW SOCIETY
this 31st day of October, 2002

on behalf of the Tribunal



Chairman

This order was filed with the
Chief Executive of The Law Society this
1 day of November 2002,
pursuant to Section 48 (5)
of the Solicitors Act, 1974



Chief Executive

These findings were filed with the
Chief Executive of The Law Society this
19 day of *December* 2002
pursuant to Section 48 (2)
of the Solicitors Act, 1974

No. 8654/2002

[Signature]
IN THE MATTER OF ANDREW JONATHAN CROSSLEY, a solicitor
Chief Executive

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.H. Isaacs (in the chair)
Mr. J N Barnecutt
Lady Bonham Carter

Date of Hearing: 31st October 2002

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Office for the Supervision of Solicitors ("the OSS") by David Elwyn Barton, solicitor and partner in the firm of Whitehead Monckton of Monckton House, 72 King Street, Maidstone, Kent, ME14 1BL on the 24th July 2002 that Andrew Jonathan Crossley of Crossleys solicitors, Wanborough Lane, Cranleigh, Surrey, GU6 7DT, a 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 allegation was that the Respondent had been guilty of conduct unbecoming a solicitor because he failed to file with The Law Society his Accountant's Reports for the periods ending 31st December 1999 and 31st December 2000.

The application was heard at the Court Room, Third Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on the 31st October 2002 when David Elwyn Barton, solicitor and partner in the firm of Whitehead Monckton of Monckton House, 72 King Street, Maidstone, Kent, ME14 1BL appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent although he did not admit that he had been guilty of conduct unbecoming a solicitor.

At the conclusion of the hearing the Tribunal ordered that the Respondent ANDREW JONATHAN CROSSLEY of Wanborough Lane, Cranleigh, Surrey, GU6 7DT, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 31st day of January 2003 unless he do file with the Law Society his outstanding annual Accountant's Reports; if he does so file those Reports by 31st January 2003 then he will be reprimanded and not suspended. The Tribunal further ordered the Respondent to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,250 plus VAT.

The facts are set out in paragraphs 1 to 6 hereunder:-

1. The Respondent, born in 1963, was admitted as a solicitor in 1991. At the material times the Respondent was carrying on practice under the style of Crossleys solicitors, Crossways, Wanborough Lane, Cranleigh, Surrey, GU6 7DT as a sole practitioner.
2. On the 2nd July 2001 the Respondent wrote to The Law Society to declare his intention to close his business with effect from the 6th July 2001, and seeking an extension of time for the filing of outstanding Accountant's Reports to the 30th September 2001.
3. By the 30th June 2001 an Accountant's Report for the period ended 30th December 2000 was due. The Report for the period ended 30th December 1999 was substantially overdue.
4. On the 16th November 2001 an Adjudicator at the OSS considered the Respondent's request for a time extension and resolved to direct the Respondent to file his Accountant's Reports within 28 days of notification of the decision. In default he was to be referred to the Tribunal. The Respondent was notified of the decision of the Adjudicator by letter dated the 20th November 2001.
5. On the 18th December 2001 the Respondent applied to the Review Panel for the Adjudicator's decision to be reconsidered and on the 14th February 2002 the Review Panel resolved to give the Respondent 28 days from the date of the decision to file his Reports. He was notified by letter dated the 19th February.
6. The Respondent had not filed the outstanding Reports.

The Submissions of the Applicant

7. The facts spoke for themselves. The Respondent had failed to comply with the statutory requirement to file Accountant's Reports and in the submission of the Applicant that did amount to conduct unbecoming a solicitor.

The Submissions of the Respondent

8. The Respondent did not concede that he had been guilty of unbecoming conduct. He confirmed the facts.
9. The Respondent regretted his failure greatly. It had never been his intention to fail to comply with his obligations and he offered his unreserved apologies to both the Tribunal and to the Applicant for the circumstances that have led to this application.

The Respondent said he was now confident that the outstanding Accountant's Reports would be submitted to the Law Society within three months from the date of the hearing. He believed they would be unqualified. It was only rarely that the Respondent held clients' money.

10. The Respondent had encountered three principal difficulties: his health, his financial situation and the conduct of the accountants instructed by him. His health and financial situation were inextricably linked and to a certain extent the difficulties he had encountered with his retained accountants partially related to the first two issues.
11. Following personal distress the Respondent was diagnosed as suffering from clinical depression. He was then a partner in a solicitors' firm, a London commercial practice. He had some time off work and received tremendous support from his two partners. He quickly recovered and was soon back at work.
12. By 1999 the Respondent had been running his own practice which operated from offices in Surrey and the City for nearly two years. In 1999 the Respondent encountered further personal problems again. He was not working to a full capacity which compounded his financial problems and a cycle of downward pressures made his depression and in turn his financial situation all the worse. At one time he was admitted to hospital for his depression, but resisted this to continue working.
13. In January 2000 the pressure had mounted to such an extent that the Respondent suffered a stroke at the age of 36. The effect of the stroke was that initially he lost his vision completely. When his vision returned he was left with a 25% peripheral vision loss which was permanent and his depressive state worsened. He was admitted to hospital and remains on permanent medication to prevent the occurrence of a further stroke.
14. Following the stroke the Respondent's ability to work was significantly affected. It took a year to recuperate before he regained his normal working level. This had an effect on his ability to earn sufficient income. The Respondent said that his health was now no longer an issue, and his ability to work was no longer affected.
15. The Respondent had been under financial pressure. He began running his own practice in September 1997. He had come to recognise that he had been under-capitalised. Despite a good start, by the middle of 1999, he was struggling financially and had personal problems. He was mindful of his obligations to submit Accountant's Reports to The Law Society and was careful to ensure that he was granted an extension of time until 13th March 2002, at which time he most regrettably had not resolved all outstanding issues and therefore failed to file the Reports by that date.
16. In July 2001 the Respondent thought he had found a long-term solution to his problems when he became a partner in a Central London law firm. Unfortunately this did not work out and he resigned in October 2001. He set up in practice again on his own but his financial difficulties resumed their significance. In May 2002 the Respondent entered into an individual voluntary arrangement. He had been able to put together a proposal acceptable to his creditors. He had maintained the agreed payments.

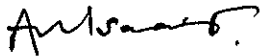
17. The Respondent's financial position remained difficult but was slowly improving. With his current workload the Respondent anticipated being able to meet the cost of the accountant's fees, enabling him to produce the outstanding Accountant's Reports.
18. The Respondent had been in dispute with his accountants over their fees. The accountants did not release his papers until July 2001 when he instructed new accountants.
19. A few days prior to the deadline for the filing of Accountant's Reports the Respondent received a letter from his accountant stating that he would not commence the preparation of the Report for The Law Society until he received £5,000 on account. This was an unreasonable request and amounted to "blackmail". The Law Society extended the time for filing again to mid-March 2002.
20. The Respondent located another accountant but could not continue to instruct him because of the high cost.
21. That accountant had done no more than receive the file, write one letter and speak twice to the Respondent. He submitted a bill in excess of £500. He also indicated that he had sent the papers to the new accountants. He had not and still has not. The Respondent anticipated being able to settle the bill in full by the ensuing month so the papers can be released to his new accountant who would prepare the outstanding Reports. The Respondent's accounts were in good order.
22. The Respondent's position had improved. He had a steady flow of work and his income was increasing. He had regained his health and had an accountant he could trust and rely on to deliver the Reports that are due.
23. The Respondent practised as a solicitor to the best of his ability and he wished to continue to do so. It was the only career he knew and loved.

The Findings of the Tribunal

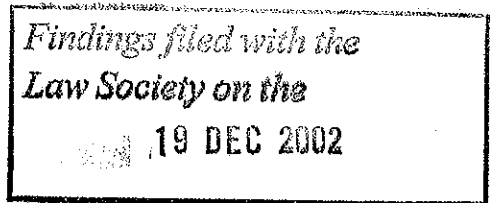
24. The Tribunal find the allegation to have been substantiated. The Respondent admitted that he had not filed Accountant's Reports as required by the Solicitors Act 1974 and the Rules made thereunder. The filing of such Accountant's Reports is of the utmost importance, enabling The Law Society to fulfil its regulatory functions. The Tribunal considered that the long delay in filing Accountant's Reports prevented the Respondent's professional body from performing its proper duties and therefore does amount to conduct unbecoming a solicitor.
25. The Tribunal has heard the mitigating circumstances put forward by the Respondent and accepts that the problems suffered by the Respondent with his health, his financial difficulties, and the disputes with accountants instructed by him go some way to explaining the delays. However, the Respondent himself has made it plain that the number of transactions taking place through his client account has been extremely small and the production of an Accountant's Report could not have been a matter of any complexity nor one consuming any great amount of time.

26. Because of the great importance attached to the punctual filing of Annual Accountant's Reports, the Tribunal could not allow the current failures on the part of the Respondent to continue indefinitely. For this reason, the Tribunal ordered that the Respondent be suspended from practice for an indefinite period to commence on the 31st January 2003 but confirmed that should he regularise his position and file his outstanding annual Accountant's Reports with The Law Society by that date then the sanction imposed upon him by the Tribunal would be that of a reprimand and not a suspension. It was right that the Respondent should pay the Applicant's costs and the Tribunal ordered that these be paid in the fixed sum of £1,250 plus VAT, a figure with which the Respondent agreed.

DATED this 13th day of December 2002
on behalf of the Tribunal



A H Isaacs
Chairman



THE POSITION OF A SOLICITOR WHO HAS BEEN SUSPENDED FROM PRACTICE

As a Suspended solicitor you are no longer a qualified person for the purposes of the Solicitors Act 1974. (Section 1) Your name remains on the Roll of Solicitors but you do not hold a Practising Certificate.

You should be aware of the provisions of Section 20 to 25 of the Solicitors Act 1974 which creates certain criminal offences. An unqualified person must not perform certain activities which only, inter alia, qualified solicitors can perform. For full details you are referred to the Solicitors Act 1974 (as amended). These activities include:

- (i) Acting or practising as a solicitor - s.20
- (ii) Commencing or conducting litigation as a solicitor - s.20 (See also Courts and Legal Services Act 1990, s.70)
- (iii) Appearing as a qualified advocate or solicitor before a court - s.20. (See also s.70 of the Courts and Legal Services Act 1990)
- (iv) Wilfully pretending to be, or using any name, title, etc., implying that an unqualified person is qualified to act as a solicitor - s.21.
- (v) Drawing or preparing certain legal documents, including, inter alia, contracts for the sale of land, legal proceedings, for, or in expectation of, any fee - s.22.
- (vi) Making an application or lodging documents for registration at HM Land Registry for, or in expectation of, any fee - s.22.
- (vii) Drawing or preparing papers upon which to found or oppose a grant of probate for, or in expectation of, any fee - s.23.
- (viii) The penal provisions are applicable to a body corporate - s.24.

NB: A Suspended solicitor may not be employed by a solicitor without the prior consent of the Law Society.

Should you require any advice on these or related matters, please direct your enquiry to the Legal Services Department on the Office for the Supervision of Solicitors: telephone number 01926 820082.