

## ADJUDICATION PANEL OF THE COUNCIL FOR LICENSED CONVEYANCERS

Application re: **Joanne Hewitt (JH) (Licensed Conveyancer)**  
Complainant: **Council for Licensed Conveyancers (CLC)**  
Date of Adjudication Panel Preliminary Hearing: **11 January 2019**  
Date of Adjudication Panel Final Hearing: **12 August 2019**

Subject matter: **Allegations of breaches of the CLC's Code of Conduct**

### Panel:

Ian Melville (Chair) (Licensed Conveyancer)  
Ed Percival (Licensed Conveyancer)  
Harsha Hildebrand (Member)

---

### ALLEGATIONS CONSIDERED

“The CLC's Code of Conduct provides that all individuals and bodies regulated by the CLC must comply with the Code and its associated arrangements. Further, you must not permit anyone to act in such a way as to amount to a breach of the Code.”

Whilst practising as a sole practitioner trading as Joanne Hewitt Conveyancing Services:

1. You failed to ensure money withdrawn under 12.1 and 12.2 did not exceed the total of the money held to the credit of both the Client and the Client Account in which the money was held contrary to paragraph 12.4 of the CLC's Accounts Code and Guidance, in that, as at 28 February 2018 there were debit balances on the Client Account amounting to £31,398.01 on the following matters:
  - (i) £9,136.66 Matter 1
  - (ii) £5,593.66 Matter 2
  - (iii) £5,999.66 Matter 3
  - (iv) £2,595.80 Matter 4
  - (v) £666.80 Matter 5
  - (vi) £582.17 Matter 6
  - (vii) £620.00 Matter 7
  - (viii) £665.66 Matter 8
  - (ix) £535.00 Matter 9
  - (x) £600.00 Matter 10
  - (xi) £602.00 Matter 11
  - (xii) £603.00 Matter 12
  - (xiii) £615.00 Matter 13
  - (xiv) £510.00 Matter 14
  - (xv) £911.00 Matter 15
  - (xvi) £974.60 Matter 16
  - (xvii) £187.00 Matter 17

2. You failed to establish and maintain proper accounting systems, procedures, processes and internal controls, to ensure compliance with the CLC's Accounts Code contrary to paragraph 9.1.4 in that, Stamp Duty Land Tax was overpaid in the following matters:
  - (i) £9,500.00 on 11 August 2017 in Matter 1
  - (ii) £5,000.00 on 8 March 2018 in Matter 2
  - (iii) £6,000.00 in 8 March 2018 in Matter 3
  
3. You failed to establish and maintain proper accounting systems, procedures, processes and internal controls, to ensure compliance with the CLC's Accounts Code contrary to paragraph 9.1.4 in that, practice errors led to client overpayments being made in the following matters:
  - (i) £2,595.80 Matter 4
  - (ii) £360.00 Matter 18
  
4. You failed to establish and maintain proper accounting systems, procedures, procedures, processes and internal controls, to ensure compliance with the CLC's Accounts Code contrary to paragraph 9.1.4 in that, errors were made on the following completion statements:
  - (i) £500.00 on 4 May 2017 Matter 19
  - (ii) £500.00 on 11 July 2017 Matter 14
  
5. You failed to establish and maintain proper accounting systems, procedures, processes and internal controls, to ensure compliance with the CLC's Accounts Code contrary to paragraph 9.1.4 in that, duplicate payments from the Client Account to the Office Account as follows:
  - (i) £535.00 on 9 October 2017 Matter 9
  - (ii) £555.00 on 31 October 2017 Matter 20
  - (iii) £612.00 on 31 October 2017 Matter 11
  - (iv) £627.00 on 2 November 2017 Matter 12
  - (v) £620.00 on 7 November 2017 Matter 7
  
6. As at 30 April 2018 there was a shortfall of £48,899.25 on the Client Account which you failed to replace without delay, contrary to paragraph 12.5 of the CLC's Accounts Code and Guidance.
  
7. The following client account reconciliations were not completed within seven days of the date to which they were prepared contrary to paragraph 13.10.2 of the CLC Accounts Code and Guidance:

Period	Due Date	Date Prepared	Days Late
31 March 2017	7 April 2017	24 June 2017	80
30 June 2017	7 July 2017	27 September 2017	82
31 October 2017	7 November 2017	18 December 2017	94
30 November 2017	7 December 2017	9 February 2018	64

8. You failed to pay the professional indemnity insurance for the practice which became due on 1 July 2017 contrary to paragraph 10.1 of the CLC's Professional Indemnity Code and Guidance.

#### **REASONS AND DECISION OF THE ADJUDICATION PANEL**

1. We are satisfied that, JH was given good and sufficient notice of this hearing having had sight of the copy letters provided in evidence, as well as submissions made by the CLC at the hearing. Those letters were duly sent (as evidenced by further submissions by the CLC) to the address shown, being the address provided to the CLC for correspondence with JH. However, whilst the CLC was represented at the hearing today, JH was not in attendance, neither had she responded to any of the above allegations, nor provided any explanation for the matters alleged.
2. In reaching a decision in this case, the Panel were mindful of the Sanctions Guidance issued by the CLC in March 2018 (inter alia) of the purpose of the hearing, as well as the sanctions to be considered in the event the allegations were found to be proved.
3. **Purpose of sanctions:**
  - (a) uphold the CLC's regulatory objective of protecting the public and consumers of legal services;
  - (b) To maintain and uphold public confidence in the reputation of the profession;
  - (c) To declare and uphold proper standards of conduct; and
  - (d) To mark the seriousness (actual or potential) of the proven misconduct. It is well established that the purpose of imposing sanctions is not to punish the respondent but to protect the public. This is consistent with and does not prevent the imposition of a sanction which may have a punitive effect on the respondent when it is necessary to meet its objectives as set out in 3 (a) and 3(b) above.
4. **Sanctions available to the Panel:**
  - (a) The sanctions for a CLC Lawyer are as follows:

No further action  
Reprimand  
Fine  
Conditions on Licence  
Suspension  
Disqualification (whether for a fixed period or permanent)  
Revocation of Licence

(b) In deciding what sanction to impose the Panel should consider the following factors:

Proportionality  
Harm (impact on client, clients in general, on the profession)  
Insight  
The public interest (impact on the reputation of the profession, confidence in the CLC's regulatory process and the deterrent effect)  
Aggravating factors (which may cause sanction to be increased)  
Mitigating factors (which may cause sanction to be reduced)

5. As for the burden of proof in this case, we note that we must find the allegations proven on the balance of probabilities.
6. We find the allegations set out in paragraphs 1-5 above proven, subject to the amendments detailed below. In the course of the hearing and in accordance with section 4(3)(c) of the Adjudication Panel Procedure Rules 2013 we permit the amendments to items 3(i) and 5(ii) above so as to adjust the figures thus: £2595.80 to £3000.00 and £535.00 amended to £552.00 respectively. Such amendments, once made, correctly reflect the actual financial position as set out in the relevant documentation provided to JH and the Panel and such amendments are not, in our view, prejudicial to JH. The discrepancies identified in each case are both minimal in nature.
7. As regards the identified shortfall on the Client ledger at 30 April 2018 this allegation is also found to be proven.
8. As regards the Client Account reconciliations identified in paragraph 7 above, although we find some differences in the actual numbers quoted as to days late between the allegations made by the CLC and the documentation provided in support, we find, either way, this allegation to be proven. Clearly, when reconciliations were made, they were substantially delayed in each case well beyond the required seven day period.
9. As regards the issue concerning lack of professional indemnity insurance, on the basis of evidence supplied, we find this allegation proven.

10. Having found each of the allegations proven, we now proceed to determine the appropriate sanction, or sanctions in this case. The CLC has confirmed that JH does not currently hold a Licence, nor has she made an application for renewal of the same. We do, however, note that, at the time the alleged conduct took place, JH was a Licence holder. We rely on the provisions of s24(3) of the Administration of Justice Act 1985 for the purposes of this hearing.
11. The allegations as set out above constitute an unacceptable number of serious breaches of the Code of Conduct over a significant period of time.
12. As for the burden of proof in this case, we find the allegations proven on the balance of probabilities.
13. We have been unable to consider any mitigating factors in this case as none has been provided by JH. However, we did note brief apologies given by JH to clients in emails contained in corresponded provided to JH and to the Panel and adduced at the hearing today.
14. We have had regard to the illustrative aggravating factors set out in the Sanctions Guidance and to which our attention was drawn, by the CLC, at the hearing. On the part of JH, we noted in particular:
  - failure to cooperate with the investigation by the CLC
  - lack of insight or learning
  - lack of remorse
  - lack of explanation for her actions
  - serious breaches of the CLC's regulatory framework
  - serious financial mismanagement
  - repeated failure and/or pattern of behaviour
  - failure to self-report to the CLC
  - significant risk of harm to others (especially in relation to the absence of professional indemnity)
  - increased risk of likelihood of damage to the reputation of the profession as a whole.
15. Having regard to all the circumstances of this case, given the serious nature of the allegations made and now found to be proven, the number of breaches, the length of the period of the breaches and aggravating factors identified that, no sanction short of disqualification is appropriate, That is to say, none of the lesser sanctions of No further action, Reprimand, Fine, Conditions on Licence nor Suspension is appropriate and, in the case of Conditions on Licence not even possible. Accordingly, we determine that, the appropriate sanction in this case is to disqualify JH from holding a Licence for a period of three years from today's date and we so order.
16. The CLC have sought an order for costs in the sum of £3,264.00 (based upon evidence provided to JH and the Panel) and we make an order for costs against Joanne Hewitt in the



sum of Three thousand pounds (£3,000.00) in order to reflect the time spent both in preparation, necessary correspondence and actual time spent at the hearing today.

Signed:

Ian Melville  
Chair

12 August 2019