

IN THE MATTER OF MICHAEL WILLIAM REDMOND, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D Green (in the chair)
Mr I R Woolfe
Lady Maxwell-Hyslop

Date of Hearing: 28th January 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Regulation Authority by Stuart Turner, solicitor of Lonsdales Solicitors, of 7 Fisher Gate Court, Fishergate, Preston, PR1 8QF on 16th July 2008 that Michael William Redmond, solicitor of West Park, St Helens, 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 allegations were that the Respondent had been guilty of professional misconduct in that:-

- (i) He created false letters dated 9th December 2006; 23rd February 2007 and 8th March 2007 purporting to be from Wiggin Council to Stephensons Solicitors;
- (ii) He deliberately misled a client by advising that he had made and received a Criminal Records Bureau, ("CRB") check when he had not.

Both allegations alleged dishonesty.

The Application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Stuart Turner appeared as the Applicant. There was no appearance by the Respondent and he was not represented.

The evidence before the Tribunal included the Rule 5 statement and submissions by the Applicant.

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

The Tribunal Orders that the Respondent, Michael William Redmond of West Park, St Helens, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,412.42.

The evidence before the Tribunal

1. The Respondent, born in 1979, was admitted to the Roll of Solicitors on 15th September 2006.
2. At all material times the Respondent was an assistant solicitor at Stephenson Solicitors LLP ("Stephensons"), 24 Lord Street, Leigh, Lancashire WN7 1AB.
3. His last address known to the Applicant was West Park, St Helens.
4. The Solicitors Regulation Authority ("SRA") received a report in respect of the Respondent's conduct from Stephenson's indicating that he might have acted unprofessionally following his dismissal for gross misconduct.
5. The SRA wrote to Stephenson's requesting further information and a copy of the firm's internal disciplinary proceedings relating to the Respondent was subsequently received.
6. On 12th June 2007 the Licensing Manager at Wigan Council ("the Council") had written to the Senior Partner at Stephenson's. He raised concerns in relation to two applications which had been submitted to the Council by the Respondent. The Respondent had alleged to the Council that two licensing applications had originally been submitted to the Council some fourteen months previously. The inference was that the Applications had not been processed by the Council.
7. The Council were unable to trace either application despite having a system for logging all applications as soon as they were received.
8. The Respondent had provided the Council with correspondence he had purported to have received from them as evidence that the applications had been received by the Council. The Council had concerns as to whether those letters were genuine. The reasons they gave were that:
 - (i) The three letters were all signed by "Simon Jones" ("SJ") a Licensing Officer, a person the Licensing Section had never employed. In fact no-one was employed by the Council at all with that name;
 - (ii) The telephone number used on the letters was not a Council telephone number and the internal number usually shown on letters from the Licensing Section was not included;

- (iii) The letter of 8th March should not have read that it was from the Council's Community Protection Department or shown BS as the Director as all the correspondence at that time was in the name of the Environmental Services Department and should have shown MK as the Director;
 - (iv) None of the letters referred to a payment in respect of the applications whereas all standard letters generated by the Council specifically referred to the payment particularly if a cheque had been sent with the application;
 - (v) All payments received from Stephenson's by the Licensing Section reconciled but none related to either of the two purported applications;
 - (vi) Personal Licence letters issued were standard computer generated letters; neither the acknowledgement nor the grant letter produced to the Council by the Respondent were of the standard type;
 - (vii) The letter to vary the designated premises supervisor was not their standard letter;
 - (viii) Personal licences were turned around within five working days and so an acknowledgement letter was not usually sent prior to the grant licence.
9. Stephenson's raised the matter with the Respondent and in response he admitted creating the three false letters himself to mask the delays that he had caused.
10. A disciplinary meeting took place on 16th July 2007 at which the Respondent was present.
11. During the meeting he admitted that he had failed to carry out a CRB check for the client. When the client had telephoned for an update the client was told by the Respondent that the CRB check had been received when in fact it had not been submitted.
12. The Respondent was summarily dismissed from his employment on the basis of gross misconduct.
13. On 1st November 2007 the SRA wrote to the Respondent seeking his explanation. A further letter was sent on 20th November 2007.
14. On 28th November the Respondent sent an email to the SRA with his explanations
15. On 13th February 2008 an Adjudicator of the SRA decided to refer the conduct of the Respondent to the Solicitors Disciplinary Tribunal.

The Submissions of the Applicant

16. The Applicant explained that the Respondent was a young man and had only been admitted as a solicitor for a short time. It was alleged that the Respondent had been guilty of dishonesty and Stephenson had reported him for his gross misconduct and indeed that was the basis upon which he had been dismissed from the firm. Enquiries were then made with the Council and it was clear to Stephenson that letters had not emanated from the Council. A disciplinary meeting took place at Stephenson after which he was dismissed.
17. The Respondent had admitted falsely creating three letters and had also admitted that the application for the CRB check had not been made and he had misled the client.
18. The Respondent had made admissions in his emails to the firm and also to the SRA. His conduct was designed to cover up his own inadequacies and it was submitted that he had been dishonest. It was further submitted to the Tribunal that this was one of the plainest cases of dishonesty and the Tribunal was invited to find the allegations proved.

The Submissions of the Respondent

19. The Tribunal noted that nothing had been received in response to the Rule 5 allegations from the Respondent.

The Findings of the Tribunal

20. The Tribunal regarded the email from the Respondent in which he had admitted his failings as wholly unacceptable, as he had explained that he had thought that he had done nothing wrong. The Tribunal regarded this as a most serious matter particularly as the Respondent had demonstrated that he was so lacking in judgment that it was not appropriate for him to remain a member of the profession. This was so even though the Tribunal took into account that the Respondent had been under pressure at the relevant time.
21. The Tribunal found both the allegations proved on the Respondent's own admission. The Tribunal also considered whether they found him to be dishonest and considered the case of Twinsectra Ltd v Yardley and Others [2002] UKHL, in which the test for dishonesty was expressed by Lord Hutton:

“...before there can be a finding of dishonesty it must be established that the defendant’s conduct was dishonest by the standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest”.

The Tribunal found both the objective and the subjective test set out in Twinsectra satisfied. This was a case where the Respondent had himself admitted his responsibility and culpability for falsely creating letters which were designed to mislead clients and also anyone else that looked at them. He admitted his responsibility for creating those documents and also in misleading the client about the

CRB check that he had agreed he would carry out. Consequently the Tribunal found that the test for dishonesty had been satisfied.

22. The Tribunal was concerned to note that the Respondent did not feel that he could turn to anyone for help, and it was significant that he did not even attempt to present any mitigation on his behalf. The Tribunal regarded it as unfortunate that the Respondent had not had the courtesy to come before the Tribunal and apologise personally. The Tribunal did not regard it as appropriate that the Respondent should remain a member of the profession first because he had created letters which were on the face of it genuine but designed to mislead and secondly because the Respondent had claimed not to appreciate that by creating those false letters he had committed forgery. This was a Respondent who deliberately set out to mislead a client and the fact that the Respondent had not come before the Tribunal to explain himself was of some considerable concern, given the seriousness of the matter.
23. The Tribunal Ordered that the Respondent, Michael William Redmond of West Park, St Helens, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,412.42.

Dated this 18th day of May 2009
On behalf of the Tribunal

D. Green
Chairman