

IN THE MATTER OF TREVOR SYMONDS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H B Holmes (in the chair)
Mr N Pearson
Mr M G Taylor CBE DL

Date of Hearing: 18th June 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 ("the SRA") by Margaret Eleanor Bromley solicitor of Bevan Brittan LLP, Kings Orchard, 1 Queen Street, Bristol BS2 0HQ on 9th September 2008 that Trevor Symonds, solicitor might be required to answer the allegations contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think right.

The allegations made against the Respondent were that:

1. He practised as a solicitor from 13th December 2007 whilst he did not hold a valid practising certificate in breach of section 1 of the Solicitors Act 1974.
2. On or about 21st/22nd January 2008 in proceedings in Lincoln County Court he held himself out as being qualified or recognised by the law as qualified to act as a solicitor when he was not so qualified, in breach of Section 21 Solicitors Act 1974.
3. He failed to produce to a person appointed by The Law Society records, papers, financial accounts for inspection in breach of Rule 34 of the Solicitors Accounts Rules 1998 and Rule 20.06 of the Solicitors Code of Conduct 2007.

4. He failed to comply with an undertaking and/or delayed in complying with an undertaking given by his firm in November 2007 to Hargreaves Gilman in breach of Rule 10.05 (1) of the Solicitors Code of Conduct 2007.
5. He failed to comply with a request from a claimant asserting a claim against his firm to disclose his firm's qualifying insurer's details in breach of Rule 18 of the Solicitors Indemnity Insurance Rules 2006.
6. He was guilty of professional misconduct in that he failed to comply with and/or delayed in complying with undertakings given to the Royal Bank of Scotland in respect of a property at Normanton on 2nd and 9th May 2006.
7. He had been guilty of professional misconduct in that he failed to keep the Royal Bank of Scotland informed of the reasons for the delay in complying with the undertakings given.
8. He failed to file an Accountant's Report for the year ending 31st October 2007 by 30th April 2008 in breach of Section 34 of the Solicitors Act 1974.
9. He failed to deal with the SRA in an open, prompt and co-operative way in breach of Rule 20.03 of the Solicitors Code of Conduct 2007.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Margaret Eleanor Bromley appeared as the Applicant and the Respondent did not appear and was not represented.

Upon hearing the submissions of the Applicant the Tribunal expressed itself to be satisfied that the Respondent had been served with all relevant documents and that it would be proper to hear the case in his absence having found that he had chosen not to take part in the proceedings.

The evidence before the Tribunal

The evidence before the Tribunal was that adduced by Miss Bromley which had been subject of notices under the Tribunal's Rules of Procedure and the Civil Evidence Acts and in respect of which no counternotice had been received.

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

The Tribunal Orders that the respondent, Trevor Symonds, 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 £24,900.42.

The facts are set out in paragraphs 1 - 58 hereunder:

1. The Respondent, born in 1954, was admitted as a solicitor in 1983. His name remained on the Roll of Solicitors.
2. At all material times the Respondent practised on his own account under the style of Symonds Solicitors at Kirby in Ashfield, Nottingham. Correspondence had been

addressed to his home in Blackwell, Derbyshire. The Law Society intervened into the Respondent's firm on 25th June 2008.

3. On 15th October 2007 an Adjudicator of the SRA imposed immediate conditions on the Respondent's practising certificate for the practice year 2006/2007. The Respondent appealed against that decision on 19th November 2007.
4. On 28th November 2007 a standard reminder letter was sent to the Respondent reminding him of the need to submit his application for his practising certificate. His response of 30th November was that he was awaiting the result of his appeal. On 7th December 2007 the SRA acknowledged this and pointed out that in the meantime, he would need to make an application for a practising certificate for 2007/2008. Failure to apply and to pay the fee by 12th December 2007 would lead to his current certificate being terminated.
5. By letter of 12th the Respondent was informed that his practising certificate had been terminated. He was again informed of the position by letter of 14th December 2007.
6. On 15th December 2007 the Respondent wrote to the SRA acknowledging receipt of the letter dated 12th December 2007 and requesting confirmation that he could continue to practise pending the resolution of his appeal.
7. A number of attempts by the SRA to contact the Respondent by telephone proved fruitless.
8. On 31st December 2007 the Respondent wrote to the SRA in response to the letter of 14th December 2007 in which he confirmed he would not continue to provide legal services with the exception of dealing with registration formalities and sending out documents to clients. That letter was written on his firm's letterhead in which he held himself out as continuing to practise as a solicitor.
9. On 4th January 2008 the SRA wrote to the Respondent reiterating that his practising certificate had been terminated and he was unable to practise as a solicitor.
10. On 3rd January 2008 Sharpe & Partners Solicitors wrote to the SRA enclosing an anonymised copy of the letter from Symonds Solicitors dated 14th December 2007, in which the Respondent dealt with a conveyancing matter.
11. The SRA wrote to the Respondent on 18th January 2008 and in the absence of a response wrote again on 30th January 2008.
12. The Respondent wrote to the SRA on 5th February 2008, in which he stated that he had not provided any legal services since 21st December 2007.
13. On 5th February 2008 the Respondent wrote to the Legal Complaints Service about a complaint by Mr S. That letter was written on the Respondent's firm's letterhead on which he held himself out as practising as a solicitor.
14. On 19th February 2008 the SRA wrote again to the Respondent requesting further information, in particular confirmation as to whether he had held himself out as a solicitor or carried out reserved activities between 12th December 2007 and 21st

December 2007, the date on which the Respondent said that his practice had closed. There was no reply.

15. On 18th April 2008 the Respondent wrote to a client, Mr S, about two personal injury claims, the letter was written on the Respondent's firm's letterhead and demonstrated that the Respondent was continuing to deal with Mr S's two claims. On the same date the Respondent also wrote to Stewart House Medico Legal Group in connection with Mr S's claim instructing the group to appoint an orthopaedic surgeon to prepare a medical report.
16. On 18th April 2008 the Respondent wrote to Hargreaves Gilman about a conveyancing transaction in which the Respondent had been acting for the seller. The letter was written on his firm's letterhead whereby he held himself out as practising as a solicitor.

Holding himself out as qualified or recognised by law as qualified to act as a solicitor

17. On 26th September 2007 the Respondent made a witness statement in proceedings between CA and AH, the Respondent's clients. In his statement the Respondent described himself as a solicitor and stated that he was practising in Kirby in Ashfield in sole practice. At the time he made the witness statement that was correct. The proceedings came on for trial in Lincoln County Court on 21st and 22nd January 2008. The Respondent was called as a witness for the claimant. When he arrived at Court the Respondent was given time to acquaint himself with his witness statement and he then went into the witness box and gave evidence under oath. He stated that he was a practising solicitor. Because his practising certificate had been terminated on 12th December 2007 he was no longer qualified to practise as a solicitor.

Failing to produce records, papers and financial accounts for inspection

18. On 4th January 2007 The Law Society wrote to the Respondent giving him notice of an investigation which was to commence on 4th January 2007. Appendix A to that letter listed the documents which were to be made available to the Investigating Officer (the IO).
19. The IO attended at the Respondent's office premises on 4th January 2007 to commence the inspection.
20. Subsequently another IO took over conduct of the investigation and on 24th January 2008 the second IO telephoned the Respondent to organise a time and date to continue with the investigation. There was no answer. On 1st February 2008 the second IO attempted to contact the Respondent again and again left a message for the Respondent to contact him. The Respondent failed to do so.
21. When the IO visited the Respondent's offices on 6th February 2008 the offices were closed and there was a sign in the window which read "Please note this office will be permanently closing on 31st October 2007". A mobile telephone number was left as a contact point, which the IO rang. He spoke to the Respondent. The Respondent explained that he wished to cooperate but was busy and could not meet with the IO for a few days. The Respondent agreed to telephone the IO to arrange a meeting.

22. On 20th February, as no communication had been received, the IO left a telephone message for the Respondent. He did not respond to that or to the IO's letter of 25th February.
23. On 3rd March the IO visited the Respondent's home address but was unable to meet with the Respondent. Also on that date, the IO telephoned and left a message for the Respondent to contact him, there was no response. The IO on 3rd March asked the Respondent to telephone him.
24. On 17th March the IO prepared a report on the basis of the Respondent's failure to co-operate.
25. On 10th April 2008 an SRA letter notified the Respondent of an investigation into his former practice. This was sent by recorded delivery to his home address. The letter notified the Respondent that the investigation would start on 17th April 2008. On that date the IO attended the office and the Respondent's home address and met with him.
26. The Respondent told the IO that he was about to leave the premises to visit his mother, who was in a nursing home. When asked to produce certain papers, he did provide the IO with bank statements.
27. On 2nd May 2008 the IO visited the Respondent's practice address at 10am, 11am and 12pm, having previously notified the Respondent. The offices were closed and the Respondent was not there. The IO's attempts to reach the Respondent by telephone were unsuccessful.
28. On 19th May the IO prepared his report on the basis that the Respondent had failed to cooperate. Having been given the opportunity to do so the Respondent made no comments on the report.

Failure to comply with undertaking given to Hargreaves Gillman

29. The Respondent acted for Mr J in the sale of business premises. Hargreaves Gillman acted for the buyer.
30. In November 2007 the Respondent replied to requisitions on title. In response to the question "Do you hold all the Title Deeds? If no, where are they?" He answered, "Yes". In answer to, "Please list the Deeds and documents to be handed over on completion?" he answered, "Land Registry confirmation and signed Deed of Assignment". The transaction was completed on 16th November 2007. On 28th November 2007 Hargreaves Gillman wrote to the Respondent pointing out that they had still not received the original Lease and License to assign.
31. Hargreaves Gillman wrote further letters on 10th and 19th December 2007, 18th January 2008 and 13th and 19th February 2008.
32. On 8th April 2008 the SRA wrote to the Respondent about the complaint from Hargreaves Gillman.

33. On 18th April 2008 the Respondent wrote to Hargreaves Gillman on his firm's letterhead stating that he was waiting for replacement documents as the originals had been lost.
34. On 7th and 22nd May 2008 the SRA sent reminders to the Respondent. There was no response.
35. On 30th June Hargreaves Gillman wrote to the SRA stating that they had heard nothing from the Respondent since his letter of 18th April 2008.

Failure to supply qualifying insurer's details

36. On 25th July 2007 Addleshaw Goddard wrote to the Respondent indicating that they were instructed by Cheltenham & Gloucester Plc and that the Respondent had not registered their client's mortgages in relation to two properties. They requested details of the Respondent's insurers so that they could notify them of the potential negligence claim. On 1st August 2007 Addleshaw Goddard wrote to the SRA as the Respondent had not provided the information sought.
37. On 2nd October 2007 the SRA wrote to the Respondent who did not respond. On 29th October the SRA provided details of the Respondent's insurers to Addleshaw Goddard.
38. The Respondent did not reply to a number of subsequent communications addressed to him by the SRA.

Failure to comply with undertakings given to Royal Bank of Scotland and failure to keep them informed of the reasons for the delay in complying

39. The Respondent acted for Mr & Mrs E, the borrowers, and the Royal Bank of Scotland, the lender, in connection with a second legal charge on Mr & Mrs E's property.
40. On 20th April 2006 the Royal Bank of Scotland sent the Respondent written instructions. On 2nd May 2006 the Respondent signed the acknowledgement of instruction in which he undertook "to promptly complete all registration formalities and as soon as possible thereafter to forward all relevant title deeds and documents to the bank."
41. On 9th May 2006 the Respondent signed the report of title in accordance with Rule (3) (d) of the Solicitors Practice Rules 1990. This included an undertaking to "within the period of protection afforded by the searches referred to in paragraph (b) above:
 - (a) Complete the mortgage;
 - (b) Deliver to the Land Registry the documents necessary to register the mortgage in your favour and any relevant prior dealings;
 - (c) effect any registrations necessary to protect your interests as mortgagee."
42. The loan was completed on about 11th May 2006.

43. Following the Respondent's failure to reply to letters from the Royal Bank of Scotland, Cobbetts Solicitors were instructed by the Bank. On 26th November 2007 Cobbetts requested the Respondent's full file of papers. The Respondent did not respond. Cobbetts wrote again on 19th December and 4th February. On 15th February 2008 Cobbetts complained to the Legal Complaints Service of The Law Society.
44. On 18th April the Respondent wrote to the Legal Complaints Service saying that he had responded to Cobbetts explaining what the problems had been and in April 2008 he wrote to Cobbetts. On 21st April Cobbetts wrote to the Respondent requesting his file of papers so that they could deal with registration of the charge.
45. On 25th April 2008 the SRA wrote to the Respondent requesting his response to the allegation that he had failed to honour his undertaking. The Respondent did not reply. The SRA wrote again on 12th May.
46. On 5th June Cobbetts confirmed to the SRA that they had still not received the file of papers from the Respondent.
47. On 13th June the SRA sent the Respondent a copy of the case note prepared for the adjudicator. The Respondent did not reply.

Failure to file an Accountants Report

48. The Respondent's accounting period ended on 31st October in each year. His Accountant's Report for the year ending 31st October 2007 was required to be delivered by 30th April 2008.
49. On 19th March and 2nd April 2008 the SRA wrote to the Respondent in connection with the closure of his practice. In those letters they reminded him that they would be expecting a further Accountant's Report or Reports.
50. On 13th May 2008 the SRA wrote to the Respondent pointing out that they had not received the Accountant's Report for the period ending 31st October 2007.
51. On 13th June 2008 the SRA wrote to the Respondent enclosing the Report prepared for the Adjudicator. They asked him to provide an explanation for failing to deliver an Accountant's Report for the year ending 31st October 2007. There was no response.

Failure to Respond to the SRA

52. On 5th March 2008 the SRA wrote to the Respondent about a complaint that had been received from Berryman's Solicitors, about his indemnity insurance, his continued use of his firm's letterhead and his failure to respond. He was asked to respond by 10th March 2008. He did not reply.
53. On 3rd June 2008 the SRA wrote to the Respondent enclosing a copy of the IO's Report of 19th May 2008 and asking for his comments. There was no response.
54. On 13th June 2008 the SRA wrote to the Respondent enclosing a copy of the Report prepared for adjudication asking for his comments. The Respondent did not respond.

55. In connection with the complaint by Hargreaves Gilman the SRA wrote to the Respondent on 8th April, 7th May and 22nd May 2008. There was no reply.
56. In connection with the complaint by Addleshaw Goddard the SRA wrote to the Respondent on 3rd, 18th April and 4th July 2008. There was no response.
57. In connection with the complaint by Cobbetts Solicitors on behalf of the Royal Bank of Scotland the SRA wrote to the Respondent on 25th April, 12th May and 13th June 2008. There was no response.
58. On 19th March 2008 the SRA wrote to the Respondent about the closure of his practice and requested certain information within 14 days. The Respondent failed to respond and the SRA wrote again on 2nd and 11th April 2008. He did not reply.

The Submissions of the Applicant

59. The Respondent had played no part in the disciplinary proceedings. The Tribunal was invited to find all of the allegations to have been substantiated. Indeed the facts spoke for themselves. The Respondent had been guilty of a wide range of misconduct. He had perpetrated serious breaches of his duties to clients and his regulatory duties. It was particularly serious that he had given untrue evidence as a witness in the Court.
60. Many of the matters before the Tribunal had arisen from 2007 when the Respondent's practising certificate had been terminated, but some of them went back to the period when he remained in practice and was holding a practising certificate.
61. The picture that emerged was one of the Respondent abdicating his responsibilities. For a solicitor to continue to practise and hold himself out as such when he did not hold a current practising certificate was a serious matter. Similarly it was a serious matter for a solicitor not to cooperate with the Forensic Investigation Officer of his own regulatory body. The Respondent had demonstrated that he had no intention of acting properly as a solicitor.
62. The Applicant sought the costs of and incidental to the application and enquiry. She handed up a schedule of costs which showed that the costs sought were £24,900.42. The Applicant accepted that there had been a gap of about one year when there had been little activity in connection with the case by the SRA.

The Findings of the Tribunal

63. The Tribunal found all of the allegations to have been substantiated.

Previous Matters

64. Following a hearing on 4th June 1992 the Tribunal found substantiated against the Respondent an allegation that having been convicted and sentenced for a criminal offence involving dishonesty he had been guilty of conduct unbecoming a solicitor. In its written findings dated 4th August 1992 the Tribunal said it had been submitted that the Tribunal did have a discretion in such matters. If a conviction was not grave and weighty and there were good prospects that a Respondent would thereafter behave with propriety, then the Tribunal should exercise such discretion in a Respondent's

favour, in particular where the public would not think ill of such a solicitor remaining on the Roll. The Respondent's practice was not a large thriving business. He ran a Legal Aid practice in a small village. He was providing a very good service in an area where there was a serious dearth of legal advice. To prevent the Respondent from practising would not do such a community a favour but a positive disservice. The Respondent realised that he had let down the profession and deserved to be punished but asked for due leniency to be exercised in his case.

The Tribunal went on to say:

"The Tribunal found the allegation to have been substantiated, indeed it was not contested. A conviction for criminal conspiracy is a very serious matter indeed and the Tribunal were dismayed to learn that the Respondent had found himself being convicted on such a charge. Nevertheless, they take into account the fact that the Respondent was relatively newly qualified when the circumstances giving rise to this offence took place. They also took great cognizance of the fact that the sentence imposed upon the Respondent was not a custodial one. It was quite obvious therefore that the Court, after having heard all the evidence, considered that the Respondent's role in this matter must have been a minor one. The Tribunal is aware that the Respondent practises in an area where such legal services as he has to offer are at a premium and agrees that the public would not be best served by preventing this Respondent from practising. The Tribunal therefore adopts the lenient course urged upon it by Ordering a financial penalty. They have however taken into account the Respondent's means to pay any such penalty and therefore Order that the Respondent Trevor Symonds, solicitor of La Diamond Avenue, Kirkby in Ashfield, Nottinghamshire do pay a penalty of £1,500, such penalty to be forfeit to Her Majesty the Queen, and they further Order that he do pay the costs of and incidental to this application and enquiry amounting to £416.25 as agreed."

65. In addition to the above appearance before the Tribunal, following a hearing on 1st June 1999 the Tribunal Ordered that the Respondent pay a fine of £5,000 such penalty to be forfeit to Her Majesty the Queen and further Ordered the Respondent to pay the costs of the application and enquiry to be subject to a detailed assessment if not agreed.

66. In its written Findings dated 24th June 1999 the Tribunal said:

"In 1999 the Tribunal paid due regard to the detailed findings of the Tribunal in 1992. The matters giving rise to the conviction had taken place as long ago as 1985 in very unusual circumstances. The Tribunal took the view that the conviction and the Tribunal's earlier findings had in effect been spent.

In not disclosing the defect in the title to the property to Mr & Mrs S and Derbyshire Building Society immediately and advising them to seek the assistance of new solicitors the Respondent made a serious error of judgement. It was not difficult to accept that the way the Respondent dealt with the situation was driven largely by his belief that he would be able to put matters right or protect the clients' position by obtaining Defective Title Indemnity Insurance without undue difficulty or delay. However his professional duty

was absolutely clear and he breached it. In all of the circumstances the Tribunal consider that the imposition of a substantial financial penalty would mark the strength of the Tribunal's disapproval of the Respondent's behaviour but they did not consider it necessary to deprive the Respondent of his ability to continue to practice.

The Tribunal Ordered that the Respondent pay a fine of £5,000 and further Ordered him to pay the Applicant's costs to be subject to a detailed assessment if not agreed between the parties."

The Tribunal's sanction and its reasons

67. The Respondent had now appeared before the Tribunal and had had allegations substantiated against him on three separate occasions. On a reading of the Tribunal's Findings in 1992 it appeared that the Respondent had been dealt with extremely leniently. A substantial fine had been levied upon him in 1999.
68. In 2009 the Tribunal accepted the Applicant's submissions that the Respondent had simply abdicated his responsibilities as a solicitor and had not taken appropriate care in a number of his dealings when he was continuing to hold a practising certificate. The Respondent had ignored the SRA on many occasions and had chosen not to take any part in the disciplinary proceedings.
69. In view of the Respondent's disciplinary history and in view of the nature of the allegations currently substantiated against him, which included such serious matters as misleading the court and failing to discharge professional undertakings, it was both appropriate and proportionate in order to protect the public and the good reputation of the solicitors' profession that he be struck off the Roll of Solicitors.
70. The Tribunal further considered it to be appropriate and proportionate that the Respondent pay the Applicant's costs. The Tribunal was satisfied with the figures set out in the Applicant's schedule of costs, a large part of which had been amassed by the Respondent's own failures to cooperate with his professional regulatory body, and it summarily fixed the costs in the sum sought by the Applicant namely £24,900.42.

Dated this 28th day of July 2009

On behalf of the Tribunal

N Pearson on behalf of
A H B Holmes
Chairman