

IN THE MATTER OF ROSEANNE EBUN TUGBOBO, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr E Richards (in the chair)
Miss N Lucking
Mr M G Taylor CBE DL

Date of Hearing: 17th November 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 Jonathan Richard Goodwin of Jonathan Goodwin, Solicitor Advocate, 17E Telford Court, Dunkirk Lea, Chester Gates, Chester CH1 6LT on 30th April 2009 that Roseanne Eburn Tugbobo 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 against the Respondent Roseanne Eburn Tugbobo were that:-

1. Contrary to Rule 34 of the Solicitors Accounts Rules 1998 (“the 1998 Rules”), she failed to produce accounting records.
2. Contrary to Rule 7 of the 1998 Rules, she failed to remedy breaches promptly upon discovery.
3. She withdrew and/or transferred monies from client bank account other than as permitted by Rule 22 of the 1998 Rules.
4. She utilised client funds for her own benefit, and/or the benefit of other clients.

5. She misappropriated client funds.
6. She wrote a letter dated 22nd August 2008 to solicitors, which was misleading, inaccurate and untrue.

By a supplemental statement pursuant to Rule 7 dated 27th August 2009:-

7. She has failed and/or delayed in complying with an undertaking dated 20th March 2007.

By a second supplemental statement pursuant to Rule 7 dated 27th August 2009:-

8. She has failed and/or delayed in the filing of an Accountant's Report for the period 1st October 2007 – 1st September 2008, contrary to Section 34 of the Solicitors Act 1974 (as amended), and the Rules made thereunder.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 17th November 2009 when Jonathan Goodwin appeared as the Applicant and the Respondent did not appear and was not represented.

Preliminary matter

The Applicant indicated that the Respondent was not present but it was clear from correspondence with her that she was aware of the proceedings. She had been cooperative and made full and frank admissions particularised in her letters dated 2nd June 2009 and 21st October 2009. The allegations of dishonesty were admitted, although the Respondent had said that there were extenuating circumstances. The Tribunal was invited to proceed in the Respondent's absence.

The Tribunal agreed that the matter could proceed in the Respondent's absence.

The evidence before the Tribunal

The evidence before the Tribunal included the Rules 5 and 7 statements of the Applicant together with their accompanying bundles, including at pages 30 – 35 the statement of the Respondent, together with the admissions of the Respondent.

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

The Tribunal Orders that the Respondent, ROSEANNE EBUN TUGBOBO, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

The facts are set out in paragraphs 1 - 29 hereunder:-

1. The Respondent, Roseanne Eburn Tugbobo, was born in December 1959 and was admitted as a solicitor in January 2001 and her name remains on the Roll of Solicitors.

2. At all relevant times the Respondent carried on practice in partnership under the style of Thomas Rose solicitors from offices at 1st Floor, 140-142 Stockwell Road, Stockwell, London SW9 9TQ. It is understood that the firm closed on 1st September 2008.
3. The Forensic Investigation Department of the Solicitors Regulation Authority (“SRA”) carried out an inspection of the firm’s books of account commencing 8th October 2008 and produced a Report dated 28th October 2008.
4. No books of account were produced during the course of the investigation.
5. It was not possible for the Investigation Officer to comment on the overall position of the firm, but identified that an amount of £757,479.22 was due to a lender client.
6. On 13th May 2008, the Woolwich instructed the Respondent to act on its behalf in connection with the provision of a mortgage to Mr E. The transaction related to the property in London NW7. The net amount of the mortgage to be sent to the Respondent on completion was in the sum of £999,965.00. The funds were received on 28th May 2008. A charge in favour of the Woolwich has not been registered, and it appeared to be the case that Mr E did not purchase the property, because an official copy of the Title Register dated 28th August 2008 showed that the property was purchased by a Mr and Mrs C on 15th August 2008, with a charge registered in favour of Bank of Scotland plc.
7. A review of the firm’s bank statements did not record the return of the advance of £999,965.00 to the Woolwich. However, sheet 58 records that on 21st July 2008, three payments totalling £242,485.78 were removed by Barclays (who had taken over the Woolwich), with the narrative, “Payment re Funds Removed Ref:- 1 C Plac”. Consequently, the Woolwich was still owed the sum of £757,479.22 when only £390.00 was held in client bank account as at 29th August 2008.
8. By letter dated 18th August 2008, the solicitors acting for Barclays Bank, wrote to the Respondent requesting the return of the advance funds. The Respondent replied by letter dated 22nd August 2008 and said that:-

“We are in a position to remit funds to you as requested but are awaiting the sum of £240,000 which was unilaterally removed from our clients account by Barclays”.
9. However, a review of the firm’s client bank account for 22nd August 2008 showed that no funds were held at that date.
10. It was ascertained that between 29th May 2008 and 6th August 2008, eleven client to office transfers totalling £36,359.78 were made. It was not known why those transfers were made, but it was ascertained that the firm only conducted in the region of six property transactions during the period in question.
11. It was also ascertained that payments totalling £42,930.50 were made to Mr E.

12. Further client payments were made on 5th and 6th June 2008, totalling £12,560.00 to include £10,500 paid in cash.
13. The matter was considered by an Authorised Officer on 13th January 2009 who authorised the conduct of the Respondent to be referred to the Solicitors Disciplinary Tribunal.
14. By letter dated 5th January 2009, Joelson Wilson Solicitors made complaint to the SRA regarding the Respondent's failure to comply with an undertaking dated 20th March 2007.
15. Joelson Wilson acted for "CAL" a company which lends money against security of charges over properties. The Respondent acted for Ms FS. The transaction concerned a flat in London N12.
16. By letter dated 20th March 2007, the Respondent's firm wrote to Joelson Wilson and Co and provided an undertaking in the following terms:-

"We have taken further instructions from our client and hereby give the undertaking in the terms stated at paragraph 2 of your letter of 8th March, namely to pay your reasonable and proper costs, disbursements and VAT irrespective of whether the offer of loan facilities is accepted and whether or not completion of the transaction occurs. We limit the undertaking in the first instance to £600.00 plus VAT and disbursements".
17. By letter dated 22nd July 2008, Joelson Wilson solicitors wrote to the Respondent's firm, making reference to the undertaking dated 20th March 2007, and indicated that it was clear the matter was not to proceed, and therefore enclosing an account for settlement.
18. The invoice is in the sum of £250.00 plus VAT, giving a total of £293.75, and is dated 23rd July 2008.
19. The Respondent's firm requested a copy of the undertaking, which was sent by Joelson Wilson under cover of a letter dated 31st July 2008.
20. The Respondent failed to reply.
21. It was necessary for Joelson Wilson & Co to send chaser letters on 3rd September 2008, 14th October 2008 and to the Respondent at her subsequent practice, Corper Solicitors, dated 22nd October 2008.
22. The Respondent failed to reply.
23. By letter dated 6th April 2009, the SRA wrote to the Respondent seeking her explanation. The SRA wrote again by letter dated 22nd April 2009 giving an indication that a reply was required within 8 days to avoid further action.
24. By letter dated 30th April 2009, the Respondent's sister, Mrs O replied together with supporting documentation.

25. Mrs O indicated that her sister was in poor health, and that she did not intend to return to practice.
26. The last Accountant's Report filed by the Respondent was for the period ending 30th September 2007.
27. The Report in respect of the period ending 30th September 2008, although limited to 1st September 2008, having regard to the date the firm closed, has not been received, and remains outstanding.
28. By letter dated 9th June 2009, the SRA wrote to the Respondent in relation to the outstanding Accountant's Report. The Respondent failed to reply, and it was necessary for the SRA to write again by letter dated 1st July 2009.
29. By letter dated 13th July 2009, the Respondent replied and in relation to the outstanding Accountant's Report, accepted that it was outstanding but indicated that she was not in a position to provide it, due to a dispute with her Accountant.

The Submissions of the Applicant

30. The Applicant indicated that the Respondent accepted all of the allegations against her and admitted dishonesty in relation to those allegations where it had been raised.
31. The Applicant submitted that dishonesty was not an essential ingredient in any of the allegations. However the case was put against the Respondent in relation to allegations 3, 4, 5 and 6 on the basis that she was dishonest with regard to those allegations. In the Applicant's submission the dual test in *Twinsectra v Yardley* [2002] UKHL 12 was satisfied; that is the Respondent's conduct was dishonest by the standards of reasonable and honest people and that she herself realised that by those standards her conduct was dishonest.
32. Whilst the Respondent's medical condition was a matter that elicited sympathy, the allegations of dishonesty were not affected by her medical condition.
33. The allegation of breach of undertaking in the supplementary statement was advanced by the SRA as a serious matter. To the Respondent's credit this matter had been accepted and her apology had been noted.
34. The Applicant asked for costs in the sum of £8,506.44.

The Mitigation of the Respondent

35. By her letter dated 2nd June 2009 the Respondent had indicated that she relied on her statement exhibited at pages 30 - 35 of the Respondent's bundle accompanying his Rule 5 Statement. She was neither in a position nor intended to practice ever again and wished to express her deep sense of shame and remorse at what had occurred and the disrepute which she had brought upon herself and the profession. She had made no personal gain whatsoever from her association with Mr E and Ms FS and had been left in debt with no source of income. She was now suffering from a serious illness

which she was convinced had been caused by years of stress and worry concerning her dealings with Mr E, who had manipulated her at a time when she was very vulnerable.

36. Whilst she was willing to agree the Applicant's costs, she was currently unemployed and in receipt of state benefits. She had a dependant and a County Court judgement against her for £17,000 which had arisen as a result of the closure of her practice.

The Tribunal's Findings and its Reasons

37. The Tribunal found all matters to have been proved, indeed they had not been contested. Dishonesty had been both admitted and proved in respect of allegations 3, 4, 5 and 6. The Tribunal found that in behaving in the way she had the Respondent's conduct was dishonest by the standards of reasonable and honest people. Having heard all of the evidence and carefully considered the papers before it, the Tribunal is satisfied so that it is sure that the Respondent did not have an honest belief that she could utilise client funds as she had or mislead other solicitors and therefore that she knew that what she was doing was dishonest by those standards. Whilst the Tribunal found this to be a very sad case, they also found that the Respondent had known what she was doing at the relevant times and had known that her actions were dishonest. Whilst they gave her credit for her admissions in this case, in the circumstances and with the admission of dishonesty, taking into account that nearly £1m worth of monies had disappeared the only appropriate penalty in this case would be an order for striking off the Respondent.
38. In relation to costs the Tribunal had to consider the Respondent's ability to pay detailed in her letter of 16th November 2009. Whilst the costs submitted by the Applicant were reasonable, the Tribunal took into account the judgement of the court in the case of *D'Souza v the Law Society* [2009] EWHC 2193 and accordingly reduced the costs to be awarded to £5,000.00.
39. The Tribunal Ordered that the Respondent, Roseanne Eburn Tugbobo, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

Dated this 2nd day of March 2010

On behalf of the Tribunal

E Richards
Chairman