

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF INDIRA BUTCHER, (The Respondent)

Upon the application of Peter Steel  
on behalf of the Solicitors Regulation Authority

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Mr L N Gilford (in the chair)  
Mrs K Thompson  
Mrs L Barnett

Date of Hearing: 3rd June 2010

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**FINDINGS & DECISION**

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**Appearances**

Peter Steel of Capsticks Solicitors LLP, 77-83 Upper Richmond Road, London SW15 2TT.

The Respondent was not present and was not represented.

The application to the Tribunal on behalf of the Solicitors Regulation Authority (“SRA”) was made on 9th November 2009.

**Allegations**

1. The Respondent practised as a solicitor from 15<sup>th</sup> December 2008 whilst she did not hold a valid practising certificate in breach of Section 1 of the Solicitors Act 1974.
2. Knowing that she did not hold a practising certificate, the Respondent continued to operate a client account receiving and holding client money and authorising/making payments from client account in breach of Rule 23 of the Solicitors’ Accounts Rules 1998.

3. The Respondent practised when she had not obtained qualifying insurance for the indemnity period beginning 1<sup>st</sup> October 2008 in breach of Rule 4.1 of the Solicitors' Indemnity Insurance Rules 2008.

### **Factual Background**

1. At all material times the Respondent practised on her own account under the style of Barnes & Co from 15 Broad Street, Stamford, Lincolnshire PE9 1PG.
2. The Respondent was admitted to the Roll of Solicitors in 1971.

### The conduct alleged

3. On 15<sup>th</sup> December 2008, the SRA terminated the Respondent's practising certificate for the practice year 2007/2008 as she had not sent in an application for renewal. The Respondent's partner, Mr Barnes, left Barnes & Co on 1<sup>st</sup> January 2009, following which she practised as the sole principal of the practice.
4. The SRA wrote to the Respondent on 18<sup>th</sup> December 2008 to confirm that her practising certificate had been terminated. A reminder was sent to her work email address on 4<sup>th</sup> February 2009.
5. By 27<sup>th</sup> February 2009, the SRA had not received a response nor had they received the Respondent's application for a practising certificate. Further, the SRA had not received any information concerning the firm's indemnity providers for 2008/2009.
6. The SRA wrote to the Respondent on 27<sup>th</sup> February 2009 asking her to confirm within the following seven days whether she was continuing to practise as a solicitor and if so to explain what steps she had taken to renew her practising certificate.
7. No response was received from the Respondent and so the SRA caseworker rang her at Barnes & Co on 10<sup>th</sup> March 2009. The Respondent indicated that she had had two proposals for indemnity insurance, one from her usual broker and one from the Assigned Risks Pool. She said that she would chase the proposal and contact the caseworker once she had done so. The Respondent did not contact the caseworker. Consequently on 12<sup>th</sup> March 2009, the caseworker rang Barnes & Co. She was told that the Respondent was not in the office. The caseworker left her a message for the Respondent to return her call but, in the absence of a response, rang again later the same day. Again, the Respondent said that she was dealing with the indemnity providers and would call the following day if she had heard from them.
8. The Respondent did not contact the SRA further and so the caseworker wrote to her on 18<sup>th</sup> March 2009 to explain that if confirmation was not provided by 5pm on 26<sup>th</sup> March 2009 that she had either closed her practice or appointed a locum to supervise and manage the practice whilst she applied for a practising certificate, consideration would be given to exercising powers of intervention into Barnes & Co. The letter was sent by recorded delivery and was delivered on 19<sup>th</sup> March 2009.
9. In the light of this the Professional Regulation Adjudication Panel of the SRA resolved to intervene into the practice of Barnes & Co on 14<sup>th</sup> April 2009. Marion

Vesey, Partner of Shacklocks Solicitors was appointed the SRA's agent. She attended the practice on 16<sup>th</sup> April 2009 and took possession of the Barnes & Co practice papers.

Practising as a Solicitor without there being in force a practising certificate contrary to Section 1 of the Solicitors Act 1974

10. Amongst the papers secured by Marion Vesey were files indicating that the Respondent had practised as a solicitor after 15<sup>th</sup> December 2008, when her practising certificate was terminated.
11. In particular, the papers demonstrate that the Respondent was undertaking the preparation of instruments and the lodging of documents relating to the transfer or charge of land.

Authorising/making payments from client account whilst not holding a practising certificate in breach of Rule 23 of the Solicitors' Accounts Rules 1998

12. Numerous client ledgers demonstrate payments from client accounts after 15<sup>th</sup> December 2008.

Practising without qualifying insurance for the indemnity period beginning 1<sup>st</sup> October 2008 in breach of Rule 4.1 of the Solicitors Indemnity Insurance Rules 2008

13. As at 27<sup>th</sup> February 2009, the SRA had not received any information from the Respondent regarding Barnes & Co's indemnity providers for 2008/2009. No details of the Respondent's indemnity insurance arrangements were ever obtained by the SRA for the 2008/2009 practice year.
14. The Tribunal reviewed all of the documents before it which included the Rule 5 Statement of the Applicant together with associated bundles including the witness statement of Marion Elizabeth Vesey together with five exhibits. The Tribunal was told that there had been no response from the Respondent and the Applicant had no information as to what her stance was on the allegations.

**Findings as to fact and law**

Allegation 1

15. This allegation related to the Respondent practising as a solicitor from 15<sup>th</sup> December 2008 when she did not hold a valid practising certificate. The Applicant had presented the sworn witness statement of Marion Vesey and a sample of papers demonstrating that the Respondent was holding herself out explicitly or implicitly as a practising solicitor and/or undertaking reserved work. In the Applicant's submission the papers demonstrated that the Respondent was undertaking the preparation of instruments and the lodging of documents relating to the transfer or charge of land.
16. The Tribunal found this allegation to have been substantiated on the facts indeed there was a wealth of evidence to demonstrate that the allegation had been made out.

Allegation 2

17. The Applicant had presented copies of the ledger sheets for various matters which had been recovered by Marion Vesey and which were exhibited to her sworn statement. In the Applicant's submission all of these ledgers demonstrated payments from client account after 15<sup>th</sup> December 2008 in breach of Rule 23 of the Solicitors Accounts Rules 1998. Without a practising certificate, the Respondent was not entitled to make or authorise any withdrawals from client account.
18. The Tribunal found this allegation to have been substantiated on the facts indeed there was a wealth of evidence to demonstrate that the allegation had been made out.

Allegation 3

19. The Applicant told the Tribunal that no evidence of any qualifying indemnity insurance for the period beginning 1<sup>st</sup> October 2008 had ever been produced to the SRA and the Tribunal was shown a letter dated 1<sup>st</sup> April 2010 from the SRA to the Applicant confirming that there were no indemnity insurance details on record for the 2008/2009 practising year in respect of the Respondent and that the only details provided on the renewal form in relation to indemnity insurance were "to be advised".
20. The Tribunal found this allegation to have been substantiated on the facts.

**Costs Application**

21. The Applicant applied for his costs in the sum of £6,572.00. The costs schedule had been sent to the Respondent on 26<sup>th</sup> May 2010.

**Previous disciplinary sanctions before the Tribunal**

22. None.

**Sanction and reasons**

23. The Tribunal had found all of the allegations to be proved on the facts before them. The Allegations before the Tribunal were serious matters as, although they had taken place over a relatively short period, to have no practising certificate and no insurance were of themselves of real concern. There was no explanation or information forthcoming from the Respondent and the allegations were too serious for the imposition of a fine. The appropriate penalty would be an indefinite suspension.

**Decision as to costs**

24. In the Tribunal's view the costs stated at part two of the schedule of costs showing estimated fees for the hearing were in reality over and above those actually incurred. In that event the costs would be fixed in the sum of £6,000.00.

**Order**

25. The Tribunal Ordered that the Respondent, Indira Butcher, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 3rd day of June 2010 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,000.00.

Dated this 2<sup>nd</sup> day of August 2010  
On behalf of the Tribunal

L N Gilford  
Chairman