

IN THE MATTER OF MARK HARWOOD WILLIAMS, SOLICITOR

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J W Roome (in the Chair)
Mr. A Gaynor-Smith
Mr. D E Marlow

Date Of Hearing: 3rd October 1995

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Complaints Bureau by Geoffrey Williams of 36 West Bute Street, Cardiff, CF1 5UA that Mark Harwood Williams of Bovingdon, Hemel Hempstead, Hertfordshire (subsequently of Harrow Weald, Middlesex) might be required to answer the allegations contained in the statement which accompanied the application and that such orders might be made as the Tribunal should think right.

The allegations were that the respondent had been guilty of conduct unbecoming a solicitor in each of the following respects namely:-

- a. failed to reply to correspondence from the Solicitors Complaints Bureau (The Bureau) either promptly, adequately or at all;
- b. failed to reply to correspondence from and on behalf of clients either promptly, adequately or at all;
- c. gave false and misleading information to the Bureau;

- d. failed to reply to correspondence from the Solicitors Indemnity Fund Limited;
- e. unreasonably delayed in accounting to a client;
- f. failed to reply to correspondence from Solicitors either promptly adequately or at all;
- g. failed to comply with a direction of an Assistant Director of the bureau made pursuant to Section 37A Solicitors Act 1974 (the applicant sought the appropriate order of the Tribunal with regard to the enforcement of that decision);
- h. failed to pay Counsels' fees or take the necessary steps to procure the payment of Counsels' fees either promptly or at all;
- i. the course of conduct resulting in the allegations set out above was such as to compromise and impair the good repute of the Solicitors' profession and consequently the respondent was in breach of Rule 1 (d) of the Solicitors' Practice Rules 1990.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 3rd October 1995 when Geoffrey Williams solicitor and partner in the firm of Messrs. Cartwrights, Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent did not appear and was not represented. The Tribunal had however a letter addressed to it by the respondent dated the 29th September 1995 in which he said that he did not intend to attend the hearing.

The evidence before the Tribunal included the admissions of the respondent contained in his before mentioned letter, details of which are set out under the heading "The submissions of the respondent."

At the conclusion of the hearing the Tribunal ORDERED that the respondent Mark Harwood Williams of Harrow Weald, Middlesex (formerly of Bovingdon,, Hemel Hempstead, Hertfordshire) solicitor, be Struck Off the Roll of solicitors and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £4,235.87 inclusive. The Tribunal further Ordered that the direction made by the Solicitors Complaints Bureau on the 19th January 1994 be regarded for the purposes of enforcement as an Order of the High Court.

The facts are set out in paragraphs 1 to 12 hereunder:-

1. The respondent, born in 1946, was admitted a solicitor in 1977. At the material times he practised in partnership under the following styles:-
 - a. R H Speechley Owen & Co. (later Owen & Co.) - at 81a High road, Willesden, London NW10 2SU.
 - b. Walford & Co. - at 175 The Broadway, Cricklewood, London, NW2 3HX.
 - c. Carruthers & Co. - at:-

1. 239 Shaftesbury Avenue, London WC2H 8PJ
 2. 22 Bedford Place, Southampton SO9 4GL
 3. 36 Regent Street, Cambridge, CB2 1DT
2. The Solicitors Complaints Bureau had received a number of complaints about the respondent. The first complaint referred to by the applicant was by the Citizens Advice Bureau at Harrow and was made by letter of 23rd June 1993 concerning Mrs Y; the second complaint came from Messrs Hammond Suddards solicitors in July 1993, concerning Mr W; Messrs Janes, solicitors of High Wycombe complained to the Bureau on the 19th May 1993 in connection with C C M Ltd. and B P M Ltd. for whom the respondent had acted in litigation matters, Messrs. Richmond & Partners, solicitors, complained to the Bureau by letter dated the 17th May 1993 on behalf of Mrs L. In connection with the respondent's former client Mr H, the solicitors' Indemnity Fund Ltd complained to the Bureau by letter of the 15th October 1993. Messrs. Laderman & Co. a solicitors of South Woodford, London complained to the Bureau by letter dated the 26th November 1993 concerning Mrs E. The respondent had acted for Mrs McG of Co. Armagh, Northern Ireland who subsequently instructed M J J Haughey solicitor of 19 College Street, Armagh to act on her behalf and he in turn complained about the respondent to the Bureau on the 22nd April 1993. The seventh complaint was made by Mrs M of Cricklewood, London, a client of the respondent, to the Bureau on the 12th December 1993. The respondent had acted for Mr S of Watford who complained about him to the Bureau on the 23rd April 1993. Further the respondent had acted for Barclays Bank in connection with the re-mortgage transaction of a property in Repton. Completion had been effected on the 18th November 1992 and the Bank first wrote to the Bureau to seek the Deeds on the 4th May 1993. The tenth complaint was made in respect of Mr N concerning a possession action. The client's former solicitors complained to the Bureau by letter of the 27th May 1992. The eleventh complaint to the Bureau was by Mr S complaining about the respondent's handling of the administration of an estate. (It was in that matter that the Bureau made a direction with which the respondent had not complied) The twelfth matter arose from the fact that the respondent had instructed various Counsel on behalf of his clients in both private and legally aided matters. In many cases he failed to pay Counsels' fees promptly and failed to arrange for Legal Aid fees to be paid to Counsel promptly.
3. The Tribunal noted that one client of the respondent had consulted the Citizens Advice Bureau who had complained, four clients had consulted new solicitors in succession to the respondent and those new solicitors made complaint, one complaint came from the Solicitors Indemnity Fund, four complaints were made by clients direct and one complaint arose from a former solicitor of a client who had instructed the respondent. In connection with the non payment of Counsels' fees, fees remained unpaid of eleven Counsel in connection with six legally aided matters and fourteen privately funded matters. The sums outstanding ranged from £43.70 to £2,303.00 and totalled over £9,500. At the date of the hearing some £2,000 of those fees had been paid but had been paid late. In each of the complaints the Solicitors Complaints Bureau had telephoned the respondent or addressed letters to him. In some matters a number of letters had been sent. Although the respondent did respond on some occasions, and

indeed sought to request an extension of time in which to reply, there were many letters from the Bureau to the respondent to which he did not reply at all and on some occasions he did not respond promptly and on other occasions no proper or adequate explanation was given.

4. There were many instances where the respondent had not responded to correspondence addressed to him by his own clients or other persons on behalf of those clients, for instance the Citizens Advice Bureau or new solicitors instructed by those clients in succession to the respondent.
5. On two occasions, when the respondent did respond to the Bureau, he gave false and misleading information. In the matter of Mrs L, (the fourth complaint) in respect of whose matter Messrs Richmond and partners complained to the Bureau, the respondent wrote to the Bureau on the 22nd June 1993 requesting a further seven days to deal with the complaint but did not respond until the 5th August 1993. The respondent said that since the former litigation assistant had left the matter had remained in abeyance but that was due not only to pressure of work on the respondent's part but also because the client's husband had been convicted of certain offences and there was a likelihood of a claim by Central Confiscation Unit in relation to the matrimonial home. He went on to say "in the event Mrs L consulted other solicitors and her file has been passed to them." The file had not been passed to the new solicitors at that time.

A writ claiming damages for personal injury was issued in 1990 and subsequently a Statement of Claim was served. Whilst I accept that the matter did not proceed as speedily as Client may have expected, our difficulty became more acute when Mrs McC returned to Ireland. I had a number of lengthy telephone conversations with her after her return and I suggested to her that in view of all the circumstances she might feel more comfortable if she were to retain a local solicitor. Advice was accepted.

I accept that delay has occurred in forwarding the papers to Messrs J J Haughey, but they do now have everything they require. I regret that they were given cause to write to you regarding something which should not have arisen in the first place."

When Mr Haughey received a copy of that letter, he told the Bureau that he had not received any writ.

6. The complaint by the Solicitors Indemnity Fund Limited, arose in connection with a former client of the respondent, Mr H who subsequently notified the respondent of a claim against him for professional negligence. The respondent had notified the Solicitors Indemnity Fund Limited of the claim on the 5th August 1992. Subsequently the Fund had written seven letters to the respondent between the 25th August 1992 and the 19th July 1993, to which he had not replied.
7. It was on the 23rd April 1993 that Mr S complained to the Bureau about the respondent's conduct and inter alia requested the receipt of any monies owing to him. The matter was put to the respondent by the Bureau in its letter of the 9th June 1993. He did not comply with the extension of time granted to him but did reply on the 5th August 1993. In that letter the respondent said, inter alia.

"It is always embarrassing to tell a Client that his file has been "mislaidd" and cannot be found and with hindsight I acknowledge that my remark to Mr S to which he refers in the second and third paragraphs of his letter was ill-judged. I can only say that it was an attempt to make light of my difficulty, but in the circumstances was too flippant and to be regretted.

As to the balance of funds to which Client refers in his Complaint Form, the sum is less than £200 and this will be more than absorbed by our costs, VAT and disbursements when I am able to finalise the matter."

The respondent had thus not formally accounted to a client.

8. In connection with the tenth complaint concerning a matter in which the respondent acted in a possession action in succession to Messrs. Peter Horada solicitors, the respondent was proceeding to taxation of Legal Aid costs. Clearly his predecessors had an interest in the matter. Messrs. Peter Horada wrote to the respondent seeking information as to the taxation process, their letters being dated 4th February 1992, 13th March 1992, 7th April 1992 and the 6th May 1992 to none of which the respondent replied. Although after complaint to the Bureau some progress appeared to have been made the respondent then did not respond to letters addressed to him by Messrs. Peter Horada dated 23rd April 1993 and 21st May 1993.
9. As noted in paragraph 2 (in connection with the eleventh complaint) a direction was made by an assistant director of the Bureau pursuant to Section 37A of the Solicitors Act 1974 in the matter of the complaint by Mr S about the handling by the respondent of the administration of an estate. Following inspection of the respondent's file, an assistant director of the Bureau (to whom the power to make such decision had been delegated) was satisfied that the professional services provided by the respondent were not of the quality that could reasonably have been expected of him as a solicitor because of his continual failure to deal with and delay in dealing with the matter of the taxation of the estate costs. He decided that the inadequacies identified merited an award of compensation pursuant to paragraph 2(1)(C) of Schedule 1a to the Solicitors Act 1974 and that the sum of £500 would be appropriate in the circumstances as an adequate redress for the executors who had suffered the interminable delay caused by the respondent's failure.
10. The Assistant Director therefore directed that the respondent pay for the benefit of the estate the sum of £500.00 within thirty five days, but not before the expiry of twenty eight days of notification of the decision, and notify the Bureau as soon as that had been done. The Assistant Director also directed that the respondent personally take other action in the interests of the estate namely to take all steps necessary to deal with and conclude the distribution of the estate and confirm to the Bureau that he had done so. That action to be commenced within twenty eight days of notification of the decision with a view to the same being concluded within three months thereafter.
11. The decision and direction of the Assistant Director was dated the 19th January 1994; the respondent had been duly notified of it but had not complied.

12. The Tribunal had before it substantial bundles of copy correspondence setting out in detail the respondent's failures. The Tribunal has not considered it necessary to itemise in detail each of those numerous documents.

The submissions of the applicant

13. It was accepted on the whole that the individual allegations, apart from those of misleading the Bureau, were not at the most serious end of the scale but the sum of the allegations was considerably worse than each of the individual parts. The respondent had been guilty of a hopeless failure to discharge his duties to his profession, his clients, other solicitors, his partners, the Bar, and the Solicitors Complaints Bureau. He had lied on two occasions which provided bad examples of misconduct of that type.
14. Indeed it might be said that the respondent had been guilty of failure to communicate on a grand scale. He had failed to pay Counsels' fees and had failed to account to a client. The Tribunal was reminded that not only had the respondent been guilty of failures but there had also been an element of dishonesty in giving explanation to his own professional body.
15. In the submission of the respondent the Tribunal had before it a very serious case.
16. The applicant had had to read a large volume of papers which had taken him a considerable amount of time. In seeking an order for costs, he invited the Tribunal to bear that in mind.

The submissions of the respondent (contained in his beforementioned letter dated 29th September 1995)

17. "Dear Sirs,

Re: The Law Society, Solicitors Disciplinary Hearing, 3rd October 1995

I write in connection with the above hearing.

I have read the papers sent to me and it seems pretty clear to me that I have been guilty of conduct unbecoming a solicitor.

I offer no excuses or explanation. I am aware that you know of the pressures affecting a high street solicitor particularly over the last few years. I suffered from all the problems that you must have heard many times before. However so did other solicitors and they all didn't get in the mess I did.

When I left Walford & Co. in November 1993 I resolved not to practice again although I did apply for a certificate this year with a view to working as a locum but no work has materialised. I only did that this year as I have been unemployed since 1993.

I am nearly 50. My wife is divorcing me. I am on income support and have no assets. It is unlikely that any fine imposed could be paid.

On the plus side for the first time in some 15 years I do not get up at 2.30 a.m. every day and no longer contemplate suicide although I never seriously did.

I do not intend attending the hearing.

I assume that I will be Struck Off but as I am unemployed and unemployable that action will cause me some emotional but no financial distress.

I apologise for the trouble caused.

Yours sincerely,

signed Mark Williams"

The Tribunal FOUND all the allegations to have been substantiated, indeed they were not contested.

The Tribunal was considerably dismayed by the catalogue of failures perpetrated by the respondent. The worry, inconvenience and expense caused to other people by his failures was immeasurable as indeed was the damage caused to the good reputation to the solicitors' profession. It was accepted that the respondent had not entirely ignored the correspondence addressed to him by the Solicitors Complaints Bureau and had from time to time made response but a large number of letters went unanswered and on two occasions when answers were forthcoming, they were misleading. Whilst having some sympathy for the personal position of the respondent, the Tribunal considers it right and proper that he be Struck Off the Roll of solicitors and that he pay the costs of and incidental to the application and enquiry.

DATED this 30th day of October 1995

on behalf of the Tribunal



J W Roome
Chairman

*Findings filed with the
Law Society on the 1st
day of November 1995*

