

IN THE MATTER OF MARGARET ANDERSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A. Gaynor-Smith (in the Chair)
Mr. J.R.C. Clitheroe
Mr. M.C. Baughan

Date Of Hearing: 2nd January 1996

FINDINGS

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

An application as duly made on behalf of the Solicitors Complaints Bureau by Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 28th September 1995 that Margaret Anderson of Sheffield, S11 a solicitor 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 conduct unbecoming a solicitor in each of the following circumstances, namely that she had:

- (i) failed to comply with a direction duly made by an Assistant Director of the Solicitors Complaints Bureau ;
- (ii) failed to carry out clients' instructions with diligence and to exercise reasonable care and skill;
- (iii) failed to keep clients properly informed and to comply with reasonable requests from them for information concerning their affairs;

- (iv) failed to comply with a properly made Court Order requiring her to take a particular course of action;
- (v) been responsible for excessive and unreasonable delay in dealing with clients' affairs;
- (vi) been guilty of unreasonable delay in the conduct of professional business;
- (vii) failed to deliver clients' papers;
- (viii) failed to reply to correspondence from the Solicitors Complaints Bureau and from other solicitors.

The application was heard at the Courtroom, No.60 Carey Street, London, WC2 on the 2nd January 1996 when Roger Field solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant: the respondent did not appear and was not represented.

The evidence before the Tribunal included evidence as to the service of the proceedings and service of relevant notices upon the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Margaret Anderson of Sheffield, S11 be Struck Off the Roll of Solicitors and they further Ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,036.53 inclusive.

The facts are set out in paragraphs 1 to 9 hereunder.

1. The respondent, who was born in 1946, was admitted as a solicitor in 1971. From 1979 the respondent was employed as an assistant solicitor by Bingley Dyson & Furley of 18/20 Norfolk Row, Sheffield. Subsequently she practised on her own account under the style of Andersons of Mazda Buildings, Campo Lane, Sheffield before being employed as an assistant solicitor by Clegg & Sons of Mazda Buildings aforesaid. On 1st January 1992 she was employed as an assistant solicitor by R.A. Swift & Co. of the Vestry Hall, Tannery Street, Sheffield until her employment ended in August 1993. Thereafter she was employed as an assistant solicitor by Favell & Smith of Bank Street, Sheffield. The respondent was no longer in practice.
2. In June 1993 the Solicitors Complaints Bureau (the Bureau) received a complaint from Mr. R. Shelton of Sheffield relating to the handling by the respondent of a County Court claim. The Bureau took up the matter initially with RA Swift & Co. but then directed further correspondence to the respondent when it was made clear that they had not taken over the file. The first letter to the respondent was dated 8th October 1993 and requested a report and confirmation of whether the file had been finished. The respondent did not reply.
3. Further letters were written to the respondent by the Bureau, there being five between November 1993 and August 1994 two of which had been written by an Assistant Director.

4. On the 21st September 1994 an Assistant Director of the Bureau wrote to the respondent giving her details of a "paragraph 3" intervention. When the agent attended at the respondent's home on the 23rd September the file could not be found. Four further letters were written by the Bureau to the respondent between the end of January 1995 and May 1995 the respondent did not reply.
5. In or about 1979 Mr.M instructed the respondent in connection with a personal injury claim. In July 1993 Messrs. Taylor & Emmet solicitors of Sheffield were instructed to take over the matter. By letter of 20th April 1994 Messrs. Taylor & Emmet complained to the Bureau that the respondent had failed to respond to their correspondence and had failed to deliver the relevant file. On 29th June 1994 they informed the Bureau that they had commenced proceedings against the respondent on behalf of their client to recover the file.
6. The Bureau case worker dealing with the matter spoke to the respondent by telephone on the 20th July 1994. The respondent stated that she had not been able to find the file, that she should have it in her possession and would look for it. Nothing further was heard from her and on 23rd August a follow-up letter was sent to her. She did not reply.
7. Messrs. Taylor & Emmet wrote to the Bureau on 2nd November 1994. They had obtained a Court Order against the respondent for delivery of the file which Order had not been complied with. They were taking enforcement action. The applicant was unaware of the outcome.
8. The Bureau wrote to the respondent on four occasions between January 1995 and the 27th April 1995 to which the respondent did not reply. Messrs. R.A. Swift & Co. wrote to the Bureau on the 7th July 1994 when they described their unsuccessful attempt to obtain a medical negligence file relating to Mr. W from the respondent. The Bureau wrote to the respondent on the 23rd August 1994 followed by three letters between that date and the 18th May 1995 to which she did not reply.
9. On 16th January 1995 the Legal Aid Board wrote to the Bureau and complained that in connection with the matter of Mr. W (the client of R.A. Swift & Co.) the respondent had failed to respond to letters which had been written to her on 15th June, 26th September and 20th October 1994. The Bureau sought her explanation under warning by letter of 23rd February 1995 but she did not reply to this or subsequent letters dated 29th March and 18th May.

The Submissions of the Applicant

10. The allegations were made against the back-cloth of four client matters. In the submission of the applicant this was a bad case. Other firms of solicitors and the Bureau had been met with a wall of silence. The frustration caused to clients, other solicitors and to the respondent's own regulatory body was very great indeed.

11. There had been a total failure on the part of the respondent to deal with any points put to her which revealed a total abdication on her part of her proper professional responsibility.
12. The applicant himself had received no response to communications addressed by him to the respondent. Because of her failure to communicate the applicant was not able to indicate what was the respondent's position at the time of the hearing. Because of her failures he had in fact taken the unusual step of arranging for personal service of the disciplinary proceedings to be effected at an early stage.

The Tribunal FOUND all of the allegations to have been substantiated.

The respondent had appeared before the Tribunal to answer allegations on two previous occasions. On the 27th February 1990 the Tribunal had found the following allegations to have been substantiated. The allegations were that the respondent had been guilty of conduct unbecoming a solicitor on the grounds that she had:-

- (i) held herself out as a principal in private practice and acted as a solicitor whilst not holding a current practising certificate in force, contrary to the Solicitors Act 1974 Section 1;
- (ii) failed to make application for renewal of her practising certificate when required to do so by the Adjudication Committee;
- (iii) failed within the time prescribed by the Solicitors Act 1974 Section 34(2) to deliver an accountant's report to the Law Society in respect of the accounting period ended 30th June 1987;
- (iv) failed to tender an explanation for the late delivery of her accountant's report when required to do so by the Adjudication Committee;
- (v) failed to comply with the provisions of the Solicitors Accounts Rules 1986 and, in particular, improperly withdrew money from clients' account in breach of Rules 7 and 8 thereof;
- (vi) failed to pay the fees of Counsel whom she had instructed on behalf of a client;
- (vii) failed to pay such fees when so required by the Adjudication Committee
- (viii) failed, having been invited so to do, to provide a written explanation to the Law Society acting through the Solicitors Complaints Bureau which was sufficient and satisfactory in respect of matters affecting her conduct and also failed to reply within a reasonable time or at all to correspondence from the Bureau, Counsel and the Chairman of the Bar:
- (ix) failed to reply within a reasonable time or at all to communications from clients and other members of the profession in respect of professional business;

- (x) by reason of such failure to deal with correspondence received from clients, other members of the profession and the Solicitors Complaints Bureau caused inordinate and inexcusable delay in the conduct of professional business;
- (xi) failed to account timeously or at all to other solicitors for apportioned costs pursuant to an undertaking to that effect;
- (xii) failed to account such costs when required to do so by the Adjudication Committee;
- (xiii) given an assurance regarding the payment of apportioned costs to a professional colleague which she knew or ought to have known was untrue;
- (xiv) failed to pay the fees of her professional agents;
- (xv) failed to pay such fees when required to do so by the Adjudication Committee;
- (xvi) failed to comply with a professional undertaking;
- (xvii) by reason of the foregoing breaches of her professional obligations and responsibilities:-
 - (a) had brought the good name of the profession into disrepute.
 - (b) displayed gross discourtesy to clients and other members of the profession.
- (xviii) also been guilty of conduct unbecoming a solicitor in that she continued to practise as a sole principal and hold herself out as such in breach of the condition imposed by the Adjudication Committee upon her then current practising certificate and upheld by Lord Donaldson, Master of the Rolls, upon appeal.

On that occasion the Tribunal said that the respondent impressed them as a person of integrity and accepted that sole practice had been thrust upon her and her failure really was the initial one of not getting her administration organised. She also had considerable difficulties in her personal life.

On the 25th January 1994 the Tribunal Found the following allegations to have been substantiated against the respondent, namely that the respondent had been guilty of conduct unbecoming a solicitor in each of the following circumstances, namely that she had:-

- (i) failed to deliver a client's papers;
- (ii) failed to reply to letters from solicitors acting for a former client and from the Solicitors Complaints Bureau.

The Tribunal expressed concern that once again the respondent had put her head in the sand. It accepted that it was inevitable that files became mislaid from time to time, but it was incumbent upon the respondent to make a full explanation of her difficulty and she was certainly very much at fault in not replying to letters addressed to her by the Bureau.

Following the substantiation of the allegations against the respondent at the first hearing the Tribunal imposed a financial penalty of £2,000.00 upon the respondent. On the second occasion the Tribunal imposed a fine of £2,500.00.

The Tribunal has now to consider a number of further and broadly similar allegations substantiated against the respondent. The respondent's behaviour appears to have been extraordinary. She appears not to have learned any lesson at all from the earlier matters which had come before the Tribunal. This type of behaviour has a serious adverse effect on the good reputation of the solicitors' profession. Dishonesty was not alleged against the respondent and there seems to be no reason why there should be any suspicion of dishonesty having been perpetrated by the respondent.

The Tribunal has been told that the respondent is no longer in practice and by dint of that fact, and the fact that she appears to accept no professional responsibility to deal properly with correspondence and clients' matters, it is apparent that she has to all intents and purposes ceased to be a solicitor. In the circumstances the Tribunal consider it to be right that the respondent should not continue to be a solicitor and despite the fact that there has been no finding of dishonesty the respondent was not fit to remain as a solicitor and the Tribunal made an Order Striking her Off the Roll and making a further Order that she pay the costs of and incidental to the application and enquiry.

DATED this 1st day of February 1996

on behalf of the Tribunal

Adrian Gaynor-Smith

A. Gaynor-Smith
Chairman

