

IN THE MATTER OF GUY MARVEN DUNN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. G B Marsh (in the Chair)
Mrs E Stanley
Mr. D E Marlow

Date Of Hearing: 10th April 1997

FINDINGS

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

An application was duly made on behalf of the Office for the Supervision of Solicitors by Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 19th December 1996 that Guy Marven Dunn of Great Lindford, Milton Keynes, Buckinghamshire 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.

On the 7th February 1997 the respondent made a supplementary statement. The allegations set out below are those contained in the original and supplementary statements.

The allegations were that the respondent had:-

- (i). Failed notwithstanding the provisions of Section 34 of the Solicitors Act 1974 and the Rules made thereunder to deliver within time an Accountant's Report in respect of his practice as a solicitor;
- (ii) failed to comply with the duly made decision of the Conduct Committee of the Adjudication and Appeals Committee;

- (iii) failed to respond to correspondence from the Law Society and from the Solicitors Complaints Bureau;
- (iv) practised as a solicitor whilst not having in force a Practising Certificate

And by reason thereof had been guilty of conduct unbecoming a solicitor.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 10th April 1997 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 and the respondent appeared in person. The evidence before the Tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Guy Marven Dunn of Great Linford, Milton Keynes, Buckinghamshire, MK1 solicitor be suspended from practice as a solicitor for an indefinite period to commence on the 10th day of April 1997 and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,238.00.

The facts are set out in paragraphs 1 to 7 hereunder:-

1. The respondent, born in 1943, was admitted a solicitor in 1969. At the material times he practised on his own account under the style of G M Dunn at Milton Keynes.
2. The Solicitors Complaints Bureau (the predecessor of the Office for the Supervision of Solicitors hereinafter referred to as "the Bureau") wrote to the respondent on the 1st November 1995. The respondent's Accountant's report for the financial period ending on the 31st March 1995 had not been received. The respondent's explanation under warning was sought. He did not reply to that letter nor to a reminder of the 28th November.
3. On the 15th May 1996 the Conduct Committee decided to rebuke the respondent for his failure to deliver the outstanding Accountant's Report and required him to do so within sixty days of his receipt of their decision. He was informed by letter of the decision on the 17th June 1996 but he did not comply.
4. Following a visit by the Monitoring Unit of the Law Society the respondent had been asked to respond to a routine follow-up letter but had failed to do so despite reminders. The Monitoring Unit referred the matter to the Bureau on the 11th March 1996 and the Bureau wrote to the respondent on the 9th April, 20th May and 5th June 1996 but he did not respond.
5. The respondent's Practising Certificate was terminated on the 24th June 1996 when he failed to file his application for a new Practising Certificate. He had been sent the appropriate forms and various reminders by the Law Society. His explanation for his failure to apply under Section 12(1)(ee) for a Practising Certificate for 1995/1996 was sought by letter dated 18th July 1996 to which there was no reply.

6. On the 30th October 1996 an inspection of the books of account of the respondent was completed. Although the books of account were in compliance with the Solicitors Accounts Rules 1991 in all material respects, it was noted that the respondent held clients' monies totalling £14,029.91 at the inspection date even though his Practising Certificate had been terminated on the 24th June 1996. On the 8th November 1996 a letter to the respondent sought his explanation under warning for practising uncertificated but no response was received.
7. The respondent's Accountant's Report for the financial period ended on the 31st March 1996 remained outstanding and a letter of the 15th November 1996 addressed to the respondent required an explanation but did not attract any response.

The submissions of the applicant

8. The failures on the part of the respondent were serious. The breaches admitted by him went to the bedrock of the Rules relating to the solicitors' profession which sought to protect clients and the good reputation of the solicitors' profession. Proper compliance with the Solicitors Accounts Rules was the first bulwark against claims on the Law Society's Compensation Fund. The respondent had ignored letters addressed to him by his own professional body and that body's regulatory arm. The Tribunal has many times in the past expressed the serious view it takes of solicitors who ignore such correspondence. Practising without a Practising Certificate was always a serious matter from which many consequences would flow. The continuing holding of clients' money did amount to practice and required a current Practising Certificate to be held.

Submissions of the respondent

9. The respondent accepted the allegations made against him. In particular he accepted that over an approximately two year period he had held some £14,000 on client account. He accepted that technically if he was holding clients' money he must be practising.
10. In reality in the late part of 1994 and the early part of 1995 the respondent said that he had been diagnosed as suffering from clinical depression. That had gone on until late 1996 or early 1997 but the respondent told the Tribunal that he believed that he was recovering.
11. When the respondent's depression began he realised that he would get into difficulties with clients' affairs. He met with all of his clients whose matters were active and met with all of their new solicitors. He handed over the clients' files and put the new solicitors up-to-date to ensure that no client would suffer an interruption or delay in the conduct of his affairs.
12. With regard to the balance held on client account the sum of £14,029.00 included £4,000 held on behalf of one client who was indebted to the respondent in the sum of £5,000. He held another £4,000 for a different client, that client being a company in which the respondent was a major shareholder and director. That company owed the respondent some £10,000., a debt incurred outside the respondent's professional practice.

13. £4,800. remained owing to one client and needed to be refunded.
14. The balance of the monies was made up of what the respondent described as "all usual small balances found on any solicitors client account".
15. Only one client was owed a substantial sum of money; the respondent had not declined to pay it but the Law Society had intervened into his practice and in due course the Compensation Fund would pay. The Compensation Fund would then keep the money in the respondent's client account.
16. The respondent had handed over the last of his clients' files on the 14th April 1995. The respondent had hitherto practised from his home address and had employed a secretary.
17. Despite the respondent's difficulties no complaint had been made against him from any client relating to his honesty or competence, delay or any other matter.
18. The state of the respondent's health had caused him considerable difficulties both in his business and personal life. He had received no income since 1994 and had lived on his savings which had become exhausted. He had entered into a new business venture running and managing public houses. That business was under capitalised and any cash generated by it was ploughed back. The respondent had been assisted in that business by two friends and confirmed that his input had been somewhat limited owing to his state of health.
19. The respondent said that he had dealt satisfactorily with the handover of his client's affairs but acknowledged that he had not dealt with letters addressed to him by his own professional body or with the outstanding regulatory matters.
20. The respondent did not produce any medical evidence to the Tribunal.

The Findings of the Tribunal

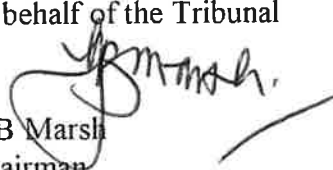
The Tribunal found the allegations to have been substantiated, they were not contested. On the face of it the respondent had been guilty of serious breaches. However the Tribunal gave the respondent credit for ensuring that his clients' affairs were properly looked after and that no client suffered. The respondent was also given credit for the fact that his books of account were in order in all material respects following an inspection. The respondent was himself unable to explain such serious failures when he appeared to have dealt adequately with the hand over of client files. The Tribunal accepted that the respondent had suffered from clinical depression and were pleased to learn that the respondent believed that his condition was improving. The Tribunal had, of course, to bear at the forefront of its mind the interests of the public and was concerned that the respondent might undertake further professional work, upon a Practising Certificate being granted to him, when the state of his health meant he was not yet ready so to do. In the circumstances the Tribunal believed it was right to impose an indefinite period of suspension upon the respondent making it clear at the same time to the respondent that he could make application to the Tribunal to

have the period of suspension determined when he was able clearly to demonstrate that he had fully recovered his mental health. The Tribunal further Ordered that the respondent should pay costs in the fixed sum agreed by him.

DATED this 20th day of May 1997

on behalf of the Tribunal

G B Marsh
Chairman



*Findings filed with the
Law Society on the 23rd
day of May 1997.*