

IN THE MATTER OF SARAH ELIZABETH CURRAN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the Chair)
Mr. D J Leverton
Mr. K J Griffin

Date Of Hearing: 6th May 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 Peter Harland Cadman solicitor of 2 Putney Hill, Putney, London, SW15 on the 18th December 1996 that Sarah Elizabeth Curran of _____, Cheriton, Folkstone, Kent, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made at the Tribunal should think right.

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

- (a) contrary to Rule 5 of the Solicitors Accounts Rules 1991 failed to pay funds received from client account in respect of undisbursed liabilities into a client account;
- (b) contrary to Rule 8 of the Solicitors Accounts Rules 1991 drawn money out of client account other than as permitted by Rule 7 of the said Rules;
- (c) utilised client's funds for the purposes of other clients;
- (d) utilised clients' funds for her own purposes;

- (e) misappropriated clients' funds;
- (f) misappropriated funds of the partnership;
- (g) misled clients.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 6th May 1997 when Peter Harland Cadman solicitor and partner in the firm of Messrs. Russell-Cooke Potter & Chapman of 2 Putney Hill, Putney, London, SW15 appeared for the applicant and the respondent was represented by Miss Sally Hatfield of Counsel.

The evidence before the Tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Sarah Elizabeth Curran of Cheriton, Folkstone, Kent, solicitor, 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 £655.14 inclusive.

The facts are set out in paragraphs 1 to 13 hereunder.

1. The respondent, born in 1963, was admitted a solicitor in 1988. At the material times she practised in partnership under the style of Ellis & Curran at Folkstone, Kent.
2. On the 19th June 1995 Messrs. Ellis & Curran wrote a letter to the Solicitors Complaints Bureau (superseded by the Office for the Supervision of Solicitors) making complaint about the respondent. On the 26th July 1995 Messrs. Thomas Eggar Verrall & Bowles complained on behalf of a client of theirs who had formerly instructed Messrs. Ellis & Curran.
3. There were complaints made in respect of seven client matters.
4. The respondent had been instructed by Mr B to defend allegations of driving with excess alcohol and drunk in charge. He had made payment in cash of £1,850 to the respondent of which £150 was credited to client account. Messrs. Ellis & Curran had invoiced Mr B after the respondent's resignation from the partnership offer which it became clear that he had paid more to the respondent than had been credited to client account.
5. The respondent had been instructed by Mr H in connection with a road traffic accident. That matter had been settled satisfactorily and the defendant had paid the firm's costs of £5,986.01. At the instigation of the respondent a transfer was made from the Miss H client account to that of Miss M in the sum of £5,486.01.
6. Miss M had instructed the respondent in connection with a road traffic accident. Although the respondent had issued the summons on the last day of the limitation period, the period for service had expired without service having been effected. Miss M had signed a receipt which had been drafted in the respondent's handwriting. It was as follows:

"I M hereby confirm that I have today received from Messrs. Ellis & Curran £6,000 in full and final settlement of all my claims against NV deceased.

dated 14th November 1994

(Signed) M"

Miss M had been paid cash of £513.99 and a cheque for £5,486.61. Thereafter the respondent had written to insurers:

"We write to advise that the personal injury claim arising out of the road traffic accident which occurred on the 19th September 1989 has now been settled. There will be no claim on our mutual client's insurance and in the circumstances we trust you will make arrangements to reinstate her no claims bonus."

7. The respondent acted for Mr and Mrs L in connection with a matter of theft in Folkstone Magistrates Court. On the 17th May 1993 they had been sent an invoice for costs of £393.00 and VAT of £68.78 making a total of £461.78. On the original letter accompanying the bill (but not on the carbon retained on the file) the respondent had written "PS. If you wish to call in personally to pay the bill please ensure that you see me personally."
8. Endorsed on the bill in the respondent's handwriting were the words "2.6.93 received with thanks" and inserted as figures "less received on account £117.50 balance due £344.28." Payment was sought from the clients after the respondent resigned from the practice when Mr L explained that the account had been paid and later they were able to provide a copy of the original letter with the hand-written postscript and a photocopy of the original account with the hand-written amendment.
9. The respondent had been instructed by Mr P who suffered an injury at work. The client had been granted a legal aid certificate limited to all necessary steps up to but excluding setting down but including discovery and, at that stage, obtaining counsel's opinion subject to a nil contribution. Counsel had been instructed and the particulars of the claim had been drafted. On the 3rd January 1989 the respondent wrote a letter to her client saying:

"I have heard nothing from you or Mr A for some considerable time and should therefore be grateful if you would please contact me with a view to arranging an appointment."

The limitation period expired on the 13th January 1989

10. On the 13th February 1989 the respondent wrote to her client Mr P:

"I am unable to get any response whatever from WP regarding the matter. In view of the fact that you are legally aided I am afraid that the time has come when I must recommend that it is no longer reasonable to pursue the case at public expense. I am afraid that I will have to make arrangements for your

Legal Aid Certificate to be discharged and the costs to date to be met from the Legal Aid Fund. Obviously you will not be responsible for paying any of those costs. I am obviously sorry that we were not able to take the matter any further but I am sure that you will appreciate the duty placed on solicitors to ensure that cases funded by the Legal Aid Board which show no sign of being successful cannot be allowed to continue to run up costs.

I am obviously sorry that the matter has ended in this way but feel that there is really no alternative.

Kind regards
Yours sincerely
(signed) S E Curran"

The respondent admitted that the letter of 13th February was inconsistent with the facts

11. Mr M who instructed the respondent had suffered an accident at work. In this matter a Legal Aid Certificate had been issued limited to all necessary steps up to and including Counsel's Opinion on merit and quantum but excluding issue of proceedings subject to a contribution of £183.50. The matter had proceeded in Folkestone County Court with automatic directions on the 26th February 1993, the matter being automatically struck out on the 25th May 1994. On the 20th July the respondent asked her client to make an appointment to see her at his earliest convenience. On the 12th September Mr M, the client, wrote to the respondent:

"I am writing to confirm that I will accept the offer of £2,000.00 in my claim against WB as advised by yourselves and that failure to accept this amount would only entail a drawn out court battle which may not return in my interest. I feel that insurance companies have complete control over the outcome and the past five years have been a complete waste of your and my time. Would you please confirm how I stand if in the future I develop any problem regarding my injuries as Mr K's report is the guiding document in this matter for the insurance company. I hope that the matter can be concluded in a matter of weeks not months. Many thanks for your help in this matter."

The respondent admitted that no offer of £2,000.00 or any other amount had been made.

12. The respondent acted for Mrs W following her injury in a road traffic accident. After initially advising the client under the Green Form Scheme, a Legal Aid Certificate to take proceedings without limitation condition or contribution was obtained on the 4th June 1991. On the 28th January 1992 the respondent wrote to Mrs W stating:

"I confirm that I have finally received the Legal Aid Board amendment to your Legal Aid Certificate to enable proceedings to be started against Mrs H. I confirm that I am in the process of the preparing these proceedings which I anticipate should be in the court within the next week to ten days."

The limitation period expired on the 16th February 1992. Thereafter the respondent asked Mrs W to make an appointment to see her and on the 9th March a further medical report was sought.

13. The respondent had indicated to Mrs W that an offer to settle had been made in the figure of £800. A second offer had been made for £1,200 but Mrs W had been advised to accept an offer of £1,550. No such negotiations had taken place and Mrs W was told that if she pursued the case she might risk losing and having to pay the other party's costs. She had not been advised that the limitation period had expired without the commencement of proceedings. The respondent had written a letter to the clients insurers asking them to reinstate their no claims bonus and that had been achieved.

The Submissions of the Applicant

14. In the submission of the applicant the allegations had been substantiated by the admitted facts.

The Submissions Counsel (Miss S Hatfield) on behalf of the Respondent

15. The respondent apologised to the Tribunal. She felt a deep sense of shame. Upon being confronted with the subject matter of the allegations she had made immediate admissions as she had done from the outset in the disciplinary proceedings. She had resigned from her partnership and had not practised as a solicitor since her resignation in February 1995.
16. The respondent had made a series of mistakes and had been guilty of a number of failures during a period of intense stress.
17. The Tribunal had before it two medical reports and a statement by the respondent's husband. The Tribunal gave due weight to those documents and noted that the respondent had had two pregnancies occurring close together. She pressed on with professional work without taking formal maternity leave and whilst there were other family difficulties.
18. The respondent had been articled at her father's firm and practised within that firm after qualification. The firms' standards were high and the respondent was particularly anxious to meet them and not let down her father or his partners. The respondent been regarded as exceptionally capable but turned out not be the "superwoman" that she believed was expected of her. She had been well liked by her clients and those with whom she worked and her actions were uncharacteristic.
19. Despite the seriousness of the matters alleged against her, it was hoped that the Tribunal would in the special circumstances of this matter be able to exercise leniency. The matter had been hanging over the head of the respondent for a very long time, and that was already a punishment in itself.

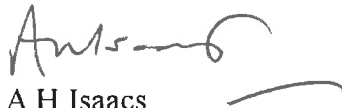
The Tribunal's Findings

The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested. The Tribunal was not unsympathetic to the respondent and noted the stresses and strains to which she had been subjected. There were however serious matters of complaint substantiated against her including misleading clients and misappropriation of funds. The Tribunal considered its duty to the public and to the profession left no room for a decision other than that the respondent should be struck off the Roll of Solicitors. The Tribunal was concerned that, in a case where there was an admission from the respondent at the very outset, it had taken eighteen months before proceedings against the respondent were initiated.

The Tribunal ordered that the respondent should pay fixed costs.

DATED this 5th day of June 1997

on behalf of the Tribunal


A H Isaacs
Chairman

Findings made by the
Law Society on 5th
day of JUNE 1997