

IN THE MATTER OF NEIL HARGET, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. J. C. Chesterton (in the Chair)  
Mr. D. E. Fordham  
Mr. M. C. Baughan

Date Of Hearing: 30th October 1997

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## FINDINGS

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

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An application was duly made on behalf of the Office for the Supervision of Solicitors by Roger Field, solicitor of Inhedge House, 30 Wolverhampton Street, Dudley, West Midlands on 15th April 1997 that Neil Harget, solicitor of Beckton, London E16 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 -

- (i) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors' Accounts Rules 1991;
- (ii) failed to produce his books of account for inspection when duly required so to do under Section 27 of the said Rules;
- (iii) practised as a solicitor whilst not having in force a Practising Certificate;

- (iv) failed, notwithstanding the provisions of Section 34 of the Solicitors Act 1974 and the Rules made thereunder, to deliver an Accountant's Report in respect of his practice;
- (v) abandoned his practice;

and by reason of the foregoing been guilty of conduct unbefitting a solicitor.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 30th October 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 did not appear and was not represented.

The respondent had written to the Tribunal's office by letter dated the 24th October 1997 in the following terms -

"I was, this morning, admitted to hospital at very short notice for the removal of a growth from my head.

Under the circumstances, I would ask that the above hearing be adjourned to a later date so as to allow my recovery from the operation.

I apologise for any inconvenience and look forward to hearing from you.

Yours faithfully, signed: Neil Harget"

The Clerk to the Tribunal responded on the 28th October thanking the respondent for his letter and regretting that the Tribunal would not agree to adjourn the matter unless they had a formal medical report before them.

The applicant told the Tribunal that he had telephoned the respondent's telephone number. The telephone had been answered by a lady who said she was the respondent's mother-in-law who told the applicant that the respondent and his wife were away on holiday. She said she would try to reach the respondent on his mobile phone.

In the circumstances, the applicant opposed the respondent's application for an adjournment.

The Tribunal refused the adjournment and required the matter to be dealt with substantively forthwith.

The evidence before the Tribunal included the oral evidence of Mrs. Valerie Ralph as to due service of the papers upon the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Neil Harget, solicitor of Beckton, London E16 be suspended from practice as a solicitor for an indefinite period to commence on the 30th October 1997 and they further ordered him to pay the costs of and incidental to the application and enquiry, fixed in the sum of £864 inclusive.

The facts are set out in paragraphs 1 to 7 hereunder.

1. The respondent, born in 1954, was admitted a solicitor in 1992. At the material times the respondent carried on in practice as a solicitor on his own account under the style of The Harget-Dash Partnership at 61 The Broadway, Stratford, London E15 4BQ.
2. Upon due notice to the respondent the Investigation Accountant of the Office for the Supervision of Solicitors ("the Office") endeavoured to carry out an inspection of the respondent's books of account. The Tribunal had before it a copy of the Investigation Accountant's Report of 3rd December 1996 which revealed that the respondent had not been present on the 25th November when the inspection was started. The Investigation Accountant left a note requesting that the respondent contact the Office as a matter of urgency. No response to that request had been received. Enquiries revealed that no telephone number was listed and a further letter notifying the respondent of the Investigation Accountant's intention to attend at the London E16 premises on the 2nd December 1996 was sent on the 26th November 1996, but no acknowledgement had been received from the respondent. The Investigation Accountant attended on the 2nd December at the respondent's premises, but found the premises unattended.
3. After talking to the respondent's chartered accountant, the Investigation Accountant established that no books of account had been maintained by the respondent until he recently instructed that chartered accountant to bring his book-keeping up-to-date. The chartered accountant was able to confirm that the respondent's books were reconciled up to April 1996 and contained entries up to July 1996. There was no evidence of a shortage on client bank account as at those dates. The Investigation Accountant was able to establish which bank accounts were held by the respondent, but was unable to establish what funds, if any, were held therein.
4. On 22nd July 1996 the Practising Certificate of the respondent was terminated. Thereafter, he practised as a solicitor whilst not having in force a Practising Certificate until the Law Society intervened in his practice in December 1996.
5. On 11th November 1996 the respondent addressed a letter to the Office stating that it had come to his notice that he no longer held a Practising Certificate and he had made arrangements to close the firm and transfer all files to other solicitors. He said his office remained open only as a vehicle for the smooth transfer of files and no advice was given from there.
6. The Office during the course of November 1996 received complaint that conveyancing transactions had not been properly dealt with and other communications were received by the office expressing concern about the state of the respondent's practice. The indications were that the respondent had disappeared.
7. The respondent was required to deliver an Accountant's Report for the period ended 31st March 1996, but failed to do so within the time allowed or at all.

**The submissions of the applicant**

8. Although the respondent had indicated to the Office that he had made arrangements for the orderly transfer of his clients' affairs to other solicitors, that apparently had not happened. Indeed, the respondent had abandoned his practice to the detriment of his clients and to the concern of other professionals in the area in which he practised. Such action was wholly inappropriate for a member of the solicitors' profession.
9. The respondent was aware of the allegations and the evidence offered in support. He had made no challenge to any of the facts.

The Tribunal FOUND the allegations to have been substantiated.

On the 11th March 1997 the Tribunal found the following allegations to have been substantiated against the respondent. The allegations were that the respondent had -

- (i) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1991;
- (ii) drawn money from a client account other than as permitted by Rule 7 of the said Rules, contrary to rule 8 of the said Rules;
- (iii) utilised clients' funds for the purposes of other clients.

The Tribunal FOUND those allegations to have been substantiated against the respondent together with another respondent (Mehalai Sivalingam). Each of the respondents was ordered to pay a fine of £1,000 and to pay one half each of the costs of and incidental to the application and enquiry.

On that occasion the Tribunal had taken due notice of the fact that a cash shortage had been speedily repaid. No client had suffered loss. No dishonesty had been alleged against the respondent. It appeared to the Tribunal that two inexperienced solicitors had allowed an unsatisfactory situation to arise and it was fortunate that a real disaster had not occurred. The Tribunal pointed out that it was of fundamental importance that solicitors handle clients' money fairly and strictly in accordance with the Solicitors Accounts Rules. A failure in that area of practice was a serious matter on the part of a solicitor and had far reaching consequences.

In October 1997, the Tribunal found itself unable to avoid reaching the conclusion that the respondent had simply abandoned his responsibilities as a solicitor and had made no attempt to comply with the Rules by which that honourable profession is bound. The respondent had addressed a letter to the Tribunal explaining that he was to be admitted to hospital although the seriousness of that situation was brought into question by the telephone conversation held between the applicant and the respondent's mother-in-law. Although the respondent's behaviour was entirely reprehensible, there had been no allegation of dishonesty against him and the Tribunal found it particularly difficult to decide upon an appropriate sanction without having heard anything further from the respondent. In the circumstances the Tribunal considered it right to order that the respondent be suspended from practice for an indefinite period of time and

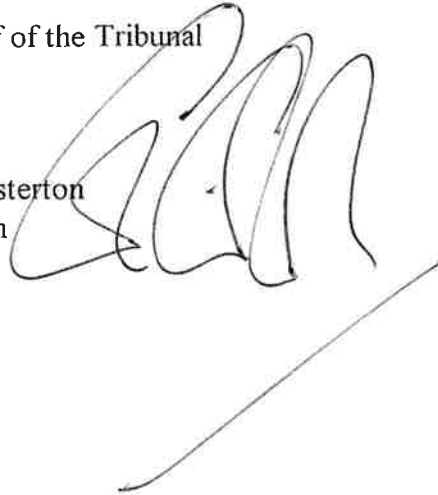
further ordered him to pay the costs of and incidental to the application and enquiry to include the costs of the Investigation Accountant of the Law Society, such costs set in a fixed sum.

The Tribunal wish to make it plain that it would be most unlikely favourably to entertain an application for the determination of the indefinite period of suspension until the respondent was able to demonstrate that he had put his house in order.

DATED this 3rd day of December 1997

on behalf of the Tribunal

J.C. Chesterton  
Chairman

A large, stylized handwritten signature in black ink, appearing to be 'J.C. Chesterton', written over a horizontal line.

*Findings filed with the  
Law Society on the 16<sup>th</sup>  
day of December 1997*