

IN THE MATTER OF MICHAEL HOWARD GLEDHILL TAYLOR, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D.E. Fordham (in the Chair)
Mr. A.G. Ground
Mr. K.J. Griffin

Date Of Hearing: 18th September 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 Jonathan Richard Goodwin, solicitor of 19 Hamilton Square, Birkenhead, Merseyside on the 2nd May 1997 that Michael Howard Gledhill Taylor, solicitor of

Gibraltar might be required to answer the allegations set out in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

The allegation was that the respondent had been guilty of conduct unbecoming a solicitor in that he had been convicted of an offence of dishonesty in the course of his practice as a solicitor.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on the 18th September 1997 when Jonathan Richard Goodwin, solicitor and partner in the firm of Messrs. Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead, Merseyside appeared for the applicant and the respondent did not appear and was not represented.

The respondent had instructed D. S. Messenger, solicitor of 15-16 Valley Bridge Parade, Scarborough, North Yorkshire to represent him. Mr. Messenger had written to the Tribunal

on the 2nd September 1997 saying that he wished to consider the respondent's position so far as an adjournment was concerned. He had understood that the respondent had indicated that the whole of September was inconvenient for a hearing.

The Tribunal had also been in receipt of a letter from the respondent direct expressing surprise that the hearing was to take place in September. He said that was a date which was inconvenient to him and he would not be able to attend. He said that he had informed the applicant that no date in September was convenient to him. He was surprised that the information had not been passed to the Clerk to the Tribunal at the preliminary listing hearing.

The applicant told the Tribunal that he had received no notification that a hearing date in September would prove inconvenient to the respondent and he strongly opposed any application for an adjournment.

The Tribunal agreed that the matter should proceed to the substantive hearing.

The evidence before the Tribunal included a Certificate of Conviction.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Michael Howard Gledhill Taylor, solicitor of Gibraltar 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 £1,341.90.

The facts are set out in paragraphs 1 to 4 hereunder.

1. The respondent, born in 1932, was admitted a solicitor in 1964. At the material times he practised on his own account under the style of Taylors at 18 York Place, Scarborough.
2. On 23rd September 1996 the respondent appeared before the Crown Court sitting at Kingston-upon-Hull and was convicted of an offence of making a false statement to prejudice Her Majesty the Queen and the Public Revenue within intent to defraud Her Majesty the Queen.
3. On 15th November 1996 the respondent was sentenced to nine months imprisonment and ordered to pay a fine of £20,000 to be paid within three months or in default to serve twelve months imprisonment.
4. The conviction related to the fraudulent undervaluation of an estate by the respondent when applying for a grant of probate during the administration of the estate of W S deceased. The respondent was both executor and beneficiary under the terms of Mr. S's Will.

The submissions of the applicant

5. The respondent had appealed against conviction, but the applicant had no details. The respondent's application was refused by a single judge on the 24th June 1997 and the respondent was notified in July.

6. The offence for which the respondent was convicted related to dishonesty of a serious nature. The Tribunal was invited to find the allegation to have been substantiated, and to take into account the sentencing remarks of His Honour Judge Bowers in the Crown Court when he said, "You had a windfall in the estate from your friend which even after paying the duty legitimately would have produced you a substantial sum, in excess of £20,000, but you felt you were entitled with your warped thinking to the extra forty odd thousand pounds worth of duty and you were greedy to keep the Revenue from taking that from you, and what you did was to embark really upon a very clever deception, which meant that the money would not be readily traced into your accounts, although I accept, as Mr. Muir said, the sudden appearance in a building society of large sums might in some circumstances trigger the Revenue's enquiries. It did not in your case. But what you did do was you did not tell the National Savings Bank of the death of your friend, which would have immediately revoked the power of attorney and you used that in order to get the money out of the National Savings Bank and into your own power."

The submissions of the respondent

7. The respondent had not made formal submissions, but in his letter of 2nd September 1997 addressed to the Clerk to the Tribunal he said,

"I do not and never have denied the underpayment of Inheritance Tax on the estate of WS. At the time it was something that I did not accept as being in any way outrageous. Other people have behaved much worse. I had worked for forty six years. I had paid tax and National Health Insurance. I was in need of a hernia operation. The first time in my life that I had ever needed hospital treatment. I was told that treatment was not available, at least not for three years. I would have to wait and suffer pain for three years. The alternative was to pay again. When I claimed unemployment benefit the answer was no because I had savings of my own."

The Findings of the Tribunal

The Tribunal FOUND the allegation to have been substantiated.

On the 9th August 1994 the Tribunal produced Findings relating to a hearing in respect of the respondent which had taken place on the 22nd March 1994 when an allegation that the respondent had failed to reply with reasonable expedition or at all to correspondence and enquiry addressed to him by other solicitors and by the Solicitors Complaints Bureau and accordingly had been guilty of conduct unbecoming a solicitor to have been substantiated but adjourned the matter until the 10th May 1994 to enable evidence of the respondent's health to be placed before the Tribunal.

On the 10th May 1994 a differently constituted Tribunal met to accept medical evidence in accordance with the earlier Tribunal's requirements. Such evidence was not available and the applicant was unable to offer assistance to the Tribunal save that the respondent's accountants had confirmed that the respondent had retired on grounds of ill health. During the eighteen months prior to the writing of the letter he had suffered an occasional loss of memory and it was thought that he might have had a form of Alzheimer's disease.

Although the Tribunal had before it no formal medical evidence it considered it was reasonable to infer that the respondent had been ill and the nature of such illness had prevented him properly from practising and shouldering the responsibilities of a solicitor. In the circumstances the Tribunal, mindful of its duty to protect the public and the good reputation of the solicitors' profession, considered that it was right that the respondent be suspended from practice for an indefinite period of time, such suspension to be determined only upon the successful application of the respondent to the Tribunal and an order to that effect was made on the 9th August 1994.

The Tribunal considering the application on the 18th September 1997 was concerned to note that there appeared to be an unanswered question in respect of the respondent's state of health. The Tribunal had read the sentencing remarks of His Honour Judge Bower in which it was plain that the respondent's state of health had not been regarded as sufficient grounds to suspend the custodial sentence imposed upon him. The Tribunal could not ignore the fact that the respondent had been convicted of a criminal offence involving serious dishonesty perpetrated whilst he was practising as a solicitor. The Tribunal and the solicitors' profession would not tolerate such behaviour and it was right that the respondent should be struck off the Roll of Solicitors. The Tribunal ordered him to pay the applicant's costs in a fixed sum.

DATED this 19th day of November 1997

on behalf of the Tribunal



Chairman

Findings filed with the
Law Society on the 21st
day of November 1997