

IN THE MATTER OF WILLIAM JOHN CLIFFORD ROSS-JONES, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr S N Jones (in the chair)
Mrs E Stanley
Mr D Gilbertson

Date of Hearing: 20th May 2004

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 (the OSS) by Roger Field a solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands, DY1 1EY on 3rd December 1997 that William John Clifford Ross-Jones of Windermere, Cumbria (whose address was subsequently notified to be Pont y Pant, Dolwydellan, Conwy) 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:-

- (i) that he failed he pay clients' money into a client account in accordance with Rule 3 of the Solicitors Accounts Rules 1991;
- (ii) that he utilised clients' funds for his own or for other improper purposes.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Roger Field appeared as the Applicant and the Respondent did not appear and was not represented.

Preliminary matter

1. The Tribunal had before it a volume of copy correspondence including letters addressed to the Tribunal's clerk by Mrs de Montford, the Respondent's carer. The most recent of those had been received in the Tribunal's office by fax on 19th May 2004. There were two such letters. Angela de Montford raised a number of issues and particularly stated that the Respondent was mentally and physically ill and was unable to appear before the Tribunal. The Tribunal treated those letters as a paper application for an adjournment of the substantive hearing.
2. The Applicant opposed that application for an adjournment pointing out that at a hearing before the Tribunal on 1st April 2004 the Tribunal had stated that it was not minded to adjourn the matter further as it had been going on since 1997. The Respondent had been given the opportunity of providing medical evidence which included a prognosis. He had not done so. The paperwork supplied by Angela de Montford with her letter addressed to the Tribunal on 31st March 2004 was of minimal assistance.

The decision of the Tribunal

3. The Tribunal had no evidence before it as to the present state of the Respondent's health nor did it have any prognosis. The medical evidence available, such as it was, did not differ from that before the Tribunal on 1st April 2004. Since that hearing the Respondent had a further opportunity of providing medical evidence together with a prognosis but had failed to do so. Angela de Montford was not as far as the Tribunal was aware, medically qualified and her letters while raising various issues did not assist the Tribunal greatly. Nor was any clear explanation given as to why the Respondent was unable or unwilling to provide the requisite medical evidence. Angela de Montford has raised a number of issues most of which are peripheral to the case, but has not fully addressed the issue of the medical evidence. The Respondent has had every opportunity to air his case or put forward medical evidence. He has failed to do so consistently. In the absence of up to date cogent medical evidence the Tribunal concluded in the interests of the public and the good name of the solicitors' profession that it would be quite wrong to have the matter put off any longer.

The Substantive Matter

4. The evidence before the Tribunal included the statement of David Stanley Kirwan together with its substantial attachments including statements from clients, the Investigation Accountant's Report dated 17th June 1996 and the handwritten notes of the Investigation Accountant. The Tribunal also had witness statements made by the clients KNG and RAE.
5. The Applicant pointed out to the Tribunal that there had been a suggestion by Angela de Montford on behalf of the Respondent that the Respondent had not been served with the papers in the disciplinary proceedings. Mr Field, the Applicant, explained to the Tribunal that he had received from the Respondent himself acknowledgements of receipt of all of the papers in the case. The Tribunal accepted that the Respondent had been in receipt of all of the papers.

6. During the course of the Applicant's opening of his case, it became clear that the Tribunal had not had the opportunity of reading the statement of David Stanley Kirwan (together with attachments) dated 8th June 1998. The Tribunal adjourned the hearing and retired in order to read that statement. The hearing recommenced when the Tribunal had completed their reading of this document.

7. At the conclusion of the hearing the Tribunal made the following order:-

The Tribunal order that the Respondent, William John Clifford Ross-Jones c/o Ms A de Montford, Plas Hall Country Manor, Pont y Pant, Dolwydellan, Conwy, LL25 0PJ solicitor, be struck off the Roll of Solicitors and they further order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society.

The facts are set out in paragraphs 8 to 31 hereunder:-

8. The Respondent, born in 1944, was admitted as a solicitor in 1976. Between 21st November 1994 and 28th December 1995 the Respondent was employed as an associate solicitor by Kirwans solicitors at Prenton, Birkenhead, Merseyside.
9. On 9th April 1996 an Investigation Accountant of the Law Society began an inspection of the books of account of Mr Kirwan's firm. At the completion of the inspection the Investigation Accountant found that the firm's books of account were in compliance with the Solicitors Accounts Rules in all material respects.
10. The Investigation Accountant went on to report other matters relating to the Respondent.
11. Mr Kirwan told the Investigation Accountant that the Respondent had joined his firm on 21st November 1991 on the basis that he would receive a percentage of the fees he earned for the firm. The Respondent was responsible for accounting for his own tax and National Insurance liabilities.
12. Mr Kirwan said that in the period leading up to the Respondent's departure from the firm on 28th December 1995 he had become aware of allegations that funds due to his firm had been diverted by the Respondent and had been paid to the Respondent, his girlfriend, Ms JH, or one of his creditors.
13. The Respondent was interviewed on 25th April 1996 by the Investigation Accountant in order to obtain his responses to the allegations made by Mr Kirwan.
14. The Respondent said that he had not received a written contract of employment but that an arrangement had been agreed between Mr Kirwan and himself whereby he would be entitled to 40% of the fees he earned. In addition, where it was considered that he had "put in extra effort or time" on behalf of a client he would receive more than 40% of the costs.

15. Four examples of the type of behaviour on which allegations made against the Respondent were founded were detailed in the Investigation Accountant's report.

Client: CEE

16. The Respondent acted for CEE in regard to a financial matter. CEE provided a statement stating that he paid cash of £100 and £400 on 24th November 1994 and during January 1995, respectively, to the Respondent on the understanding that the funds would be applied against costs. No record of this cash having been paid into the bank accounts of Kirwans could be found.
17. Initially the Respondent said that he could not remember any cash having been received in this case but then recalled that it had been agreed in respect of this matter that he was entitled to 50% of the costs and said that he had paid the balance to Mr Kirwan.
18. Mr Kirwan denied having received any cash in respect of the "balance" referred to by the Respondent.

Client: KNG

19. The Respondent acted for KNG in the matter of his divorce and the firm also acted for him on conveyancing matters.
20. KNG provided a statement stating that he paid the Respondent cash totalling £785 on or about 12th May 1995 and again on or about 23rd August 1995. The cash was paid when "Mr Ross-Jones asked for payment on account of his employer's professional charges". No record of this cash having been paid into the bank accounts of Kirwans could be found.
21. Mr Kirwan said that the Respondent had admitted to him that he had had the money personally.
22. The Respondent agreed that he had received cash from this client and further that he had retained more than 40% of it because of the "extra" work he had done on behalf of this client, the balance having been paid to Mr Kirwan.
23. Mr Kirwan denied having received any cash in respect of the "balance" referred to by the Respondent.

Client: RAE

24. The Respondent acted for RAE in financial and criminal matters. RAE provided a statement in which he states that, having been asked for "up front funding of approximately £1,000" he met the Respondent on either 16th or 17th August 1995 and handed him £750 in cash.

25. No record of this cash having been paid into the bank accounts of Kirwans could be found.
26. The Respondent said that RAE “took the money back” but did not comment further on this matter.

Client: EB Limited

27. Mr E had been a director of this company and had engaged the Respondent to act on the company’s behalf.
28. Mr E provided a statement in which he stated that at the Respondent’s request he paid £2,000 on account. He further stated that the Respondent asked for the payee on the company’s cheque to be left blank as “he was not sure which of Kirwans’ accounts it would be paid into”.
29. The relevant paid cheque dated 14th July 1995 had been obtained and the name “John Ross-Jones” had been inserted as payee.
30. Initially the Respondent said he had no comment to make but then said it was not he who had asked for the cheque to be left blank and then that Mr Kirwan was aware of this as it was “part of the arrangement”.
31. In his statement Mr Kirwan made reference to the letter which he wrote to the Solicitors Complaints Bureau (the predecessor to the OSS) on 3rd April 1996. In that letter he specified further similar activities undertaken by the Respondent supported by documentary evidence and statements made by the clients involved. The Tribunal sets out the above four matters by way of example and has not set out here every case in which monies had been paid to the Respondent by clients in respect of costs and with which the Respondent had dealt improperly.

The Submissions of the Applicant

32. It was clear that the Respondent had adopted a dishonest course of action. His dishonesty fell within the definition in the case of Twinsectra -v- Yardley and Others [2002] UKHL 12. There could be no doubt that what the Respondent did he recognised as wrong and dishonest and others would recognise it as wrong and dishonest.

The Submissions of the Respondent

33. The Respondent was not present and consequently made no submissions.

The Tribunal’s Decision

34. The Tribunal found the allegations to have been substantiated.

35. Following a hearing on 24th January 1991 the Tribunal's Findings and Order of 18th April 1991 found the following allegations to have been substantiated against the Respondent:-

- (1) that he had failed to exercise proper supervision over an unadmitted member of his staff;
- (2) that he had failed to comply with directions of the Adjudication Committee of the Bureau;
- (3) that he had failed to comply with Rules made by virtue of Section 32 of the Solicitors Act 1974, namely the Solicitors Accounts Rules 1986;
- (4) that he had failed promptly or at all to discharge the accounts of agents instructed by him on behalf of clients;
- (5) that he had failed promptly or at all to comply with professional undertakings;
- (6) that he had failed promptly or at all to deal with stamping and registration formalities in connection with a matter notwithstanding that he had received the necessary funds from his clients;
- (7) that he had failed promptly or at all to account to clients in respect of funds held on the clients' behalf;
- (8) that he had been responsible for excessive and unreasonable delay in dealing with clients' affairs;
- (9) that he had been responsible for unreasonable delay in the conduct of professional business;
- (10) that he had failed to deliver Accountant's Reports in accordance with Section 34 of the Solicitors Act 1974 and the Rules made thereunder;
- (11) Not substantiated.
- (12) that he had failed to reply to letters from other solicitors, agents instructed by him, the recipients of undertakings given by him and the Bureau.

36. In its Findings and Order of April 1991 the Tribunal said:-

“The Tribunal are drawn to the inescapable conclusion that the Respondent should have closed his office properly before leaving for Spain. All his consequential problems flowed from his omission to do that. They can appreciate that he was under a great deal of pressure at the time but he left behind a state of affairs which proved ultimately to be catastrophic both to himself, his clients, and his professional colleagues. He decided to wash his hands of the legal profession in this Country and in doing so acted unprofessionally with scant regard for others. They are aware that there is no dishonesty alleged or imputed on the respondent's behalf, but nevertheless he has still not paid many people whom he was duty bound, as a solicitor, to pay

and as such has brought the profession into disrepute. The Tribunal order that the Respondent, William John Clifford Ross-Jones of PO Box 625, Gibraltar, be suspended from practice as a solicitor for an indefinite period of time, such period of suspension to be determined only upon his making formal application to the Tribunal for the formal determination of the suspension order upon which occasion the Tribunal will wish to be fully satisfied in every respect that it is both right and proper that this suspension order be removed. The Tribunal further Order that the Respondent do pay the costs of and incidental to this application and enquiry, including the costs of the Investigation Accountant of the Solicitors Complaints Bureau, such costs to be taxed by one of the Taxing Masters of the Supreme Court.”

37. Following the hearing on 11th November 1993 of an application by the Respondent that the indefinite period of suspension imposed on him be determined the Tribunal refused to grant such application and in its written findings dated 8th February 1994 the Tribunal said:-

“The Tribunal agreed that this was a sad and difficult case. They were ever conscious that there had been no dishonesty on the part of the Applicant. His debts to the Compensation Fund whilst inexcusable were relatively small and the Applicant had demonstrated good faith with his intentions thereto. Nevertheless, the Tribunal were led to the inescapable conclusion that there were still too many loose ends to satisfy them that he, the Applicant, had done all he could to put his house in order. They were not entirely happy to settle for the explanation offered by the Applicant concerning the non availability of his papers preventing his presentation of the accounts. More could and should have been done by the Applicant in this regard. Additionally, the Tribunal were reluctant to determine the suspension with compensation claims still outstanding. The Applicant, whilst no doubt suffering considerable stress at the time had turned his back on the profession in 1987 and had left his practice in the hands of a person who proved to be untrustworthy. One could not ignore the effect that this would have had throughout the community, including both clients and professional colleagues. The Applicant had endeavoured to set up practice in this jurisdiction. He had recently come to terms with the fact that he could not walk away from his problems as he had endeavoured to do and, to his credit, when he belatedly realised this he had worked hard to make amends. However, he has not convinced the Tribunal that he has yet gone far enough - particularly in relation to the outstanding accounts - and as the Tribunal cannot express itself as wholly satisfied to allow the determination of the suspension, regrettably it must refuse the application. The Tribunal therefore order the period of suspension imposed upon the Applicant William John Clifford Ross-Jones, solicitor, of 31 School Knott Drive, Windermere, Cumbria, will not be determined. The Tribunal further order that the Applicant do pay the costs of and incidental to this application and enquiry fixed in the sum of £980 plus Value Added Tax.”

38. On 17th June 1994 the Respondent appealed against the Tribunal’s refusal to determine the indefinite period of suspension and the Master of the Rolls ordered that such period of suspension be determined.

39. In May of 2004 the Tribunal had before it overwhelming evidence of the Respondent's dishonest activities, indeed in the light of the evidence before the Tribunal it was difficult to surmise what he could have said either in defence or mitigation if he had appeared before the Tribunal. The Tribunal found the Respondent had been dishonest in his dealings with his clients and with his employer having retained clients' funds which he obtained in cash for his own benefit during 1994 and 1995. Such behaviour would not be tolerated by the solicitors' profession and in order to protect the public and maintain the good reputation of the solicitors' profession the Tribunal considered it right to impose an order that the Respondent be struck off the Roll. It was also right that the Respondent should bear the costs of and incidental to the application and enquiry and that such costs should be subject to a detailed assessment unless agreed between the parties.

Dated this 3rd day of August 2004
on behalf of the Tribunal

S N Jones
Chairman