

IN THE MATTER OF KEVIN GORDON JONES, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr. R. J. C. Potter (in the chair)
Mr. A. G. Gibson
Ms A. Arya

Date of Hearing: 5th February 2002

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 ("OSS") by Andrew Miller solicitor employed by the Law Society at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 9th August 2001 that Kevin Gordon Jones of Wheatlands Way, Harrogate, (now of Bethnal Green, London, E2) 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 against the Respondent were that he had been guilty of conduct unbecoming a solicitor in that he:-

- i) Had fabricated correspondence purporting to come from another solicitor;
- ii) Had caused that fabricated correspondence to be placed on his employer's files so creating a false record of the quantum of a claim against his employer;
and
- iii) Had submitted a false cheque requisition in respect of a claim against his employer in an attempt to procure a cheque in a form which could be utilised for his own benefit.

Consideration of Adjournment of the Proceedings

On 5th February 2002 prior to the substantive hearing the Tribunal considered whether it should of its own motion adjourn the matter as a criminal trial arising out of the same events was due to take place on 29th April 2002.

Neither party sought an adjournment.

The Applicant explained to the Tribunal the basis on which he would put the case to the Tribunal. If the outcome was unfavourable to the Respondent in the criminal proceedings the Applicant would reserve the right to revisit the matter before the Tribunal.

The Respondent confirmed that he was not seeking an adjournment and said that he accepted the allegations on the basis on which they were set out by the Applicant.

Having considered the submissions and the authority of Gilbert from the Divisional Court in November 2000 the Tribunal decided that it was appropriate to proceed with the substantive hearing.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 5th February 2002 when Andrew Miller solicitor employed by The Law Society at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent save that in relation to allegation iii) the Respondent denied any dishonest intent.

At the conclusion of the hearing the Tribunal Ordered that the Respondent Kevin Gordon Jones of Bethnal Green, London, E2 (formerly of Wheatlands Way, Harrogate) solicitor be struck off the Roll of Solicitors and they further Ordered that he do pay the costs of and incidental to the application and enquiry fixed in the sum of £923.00.

The facts are set out in paragraphs 1 to 9 hereunder:-

1. The Respondent born in 1952 was admitted a solicitor in 1978. His name remained on the Roll of Solicitors.
2. From on or about 1st November 1999 until 14th November 2000 the Respondent was employed as a solicitor in the Legal Department of Sheffield City Council. The Respondent there dealt with litigation on the Council's behalf and in particular personal injury claims brought against the Council or agencies of the Council. On 14th November 2000 the Respondent was dismissed by the Council.
3. The Respondent dealt with a personal injuries claim brought against the Council by a Mr L. On 28th September 2000 the Respondent, acting on the Council's behalf, negotiated a settlement of that claim with Mr L's solicitors, Messrs Graysons. He wrote a letter dated 28th September 2000 recording correctly the terms of the settlement. The Respondent then fabricated two purported letters from Messrs Graysons which depicted Mr L's claim as being for a greater amount than was the

case. The second of these fabricated letters purported to be a request by Graysons for a cheque in favour of Mr L in the sum of £7,900 (being the true amount of his claim as settled) and a further cheque for £19,350 “made payable to Susan Jones his daughter”.

4. On 26th October 2000 the Respondent submitted to the Council a requisition for a cheque in favour of “Susan Jones” in the sum of £19,350. “Susan” was the middle name of the Respondent’s wife. In the event no cheque was produced, because Council employees became suspicious of the Respondent’s actions, and on investigation discovered the fabrication of the letters and the true level of the settlement with Mr L. Details of the Council’s investigation were given in the Statement of Case of SE and the Statement of MW. With the Council’s investigation papers, relied upon by the Applicants in these proceedings.
5. In the course of the Council’s investigation the Respondent admitted he had fabricated the purported Graysons’ letters dated 4th and 18th October 2000 and submitted a false cheque request.
6. On 10th November 2000 the Council held a disciplinary hearing concerning the conduct of the Respondent as a result of which he was dismissed. Extracts from the Council’s Statement of Case and copies of the Respondent’s Statement of Case and the Council’s letter of dismissal were before the Tribunal.
7. The Respondent exercised his right to appeal the dismissal decision but without success. Complaint having been made by the Council to the OSS, the complaint was raised with the Respondent who replied on 29th March 2001.
8. By his ‘Employee’s Statement of Case’ and his response to the OSS the Respondent accepted that he fabricated the letters and falsified the cheque requisition. He maintained however that he did so not from the motive of personal dishonest gain, but with a view to exposing deficiencies in the Council’s procedures.
9. On 30th April 2001 the Law Society’s Professional Regulation Casework Sub-Committee resolved to refer the Respondent to this Tribunal. No appeal against the decision was made.

The Submissions of the Applicant

10. The Applicant put the case in relation to allegation i) as a matter which raised the issues of the Respondent’s honesty. The Applicant asked whether an honest solicitor would fabricate such a false record.
11. The Applicant put the case in relation to allegation ii) on the same basis.
12. In relation to allegation iii) the Applicant did not put the matter on the basis of dishonesty at the hearing before the Tribunal. The Applicant would accept the account of the Respondent’s own motive.

13. The Respondent had fabricated two letters and created a false file record and had raised a false cheque requisition. The Tribunal was asked to note the Code of Conduct for employees for Sheffield City Council which stated:-

“The public is entitled to demand of a local government employee conduct of the highest standard and public confidence in his/her integrity would be shaken were the least suspicion to arise that he/she could in any way be influenced by improper motives.

All employees of Sheffield City Council will be expected to conduct themselves in a manner that does not adversely affect their employment. The failure of any employee to do so, may result in disciplinary action being taken against him/her under the Authority’s disciplinary procedure.”

14. In the submission of the Applicant the general rule was that solicitors must not mislead or lie. Only in the most exceptional circumstances for example in the prevention of crime could an untruth by a solicitor be acceptable.
15. This was particularly serious when the untruth created a false file record. Solicitors’ files had to be accurate as they might be seen as having evidential value simply because they were a solicitor’s record.
16. Even on the terms on which the allegations had been put to the Tribunal the records should not have been falsified.

The Submissions of the Respondent

17. What the Respondent had done was in effect a whistle blowing exercise.
18. The Respondent accepted that he had used the wrong means to an end.
19. The Respondent accepted what the Applicant had said about file records.
20. The Respondent had felt that at Sheffield City Council there had been a scandalous disregard for the use of public resources especially in relation to insurance estimates. These were grossly inflated and encouraged colleagues to settle cases at inflated sums.
21. Because of the way the department had been structured the Respondent had felt that the only way to draw attention to this matter was to do something dramatic.
22. The Respondent accepted that Mr W the Head of Legal and Administrative Services at Sheffield City Council had disagreed with the Respondent’s view on insurance estimates saying that matters were settled on medical evidence at an appropriate level. However from the Respondent’s experience the reserves were often set unrealistically high which encouraged settlements of claim at the higher level. It had transpired that the insurers had queried the amount of the reserves.
23. There had been a whistle-blowing procedure at the Council but it had not been circulated at the Respondent’s level at that time.

24. The Respondent fully accepted that there were other ways he could have used to reveal his concerns but had felt that if he had gone through the usual channels he would not have been listened to.
25. At the first trial of this matter the jury had been hung which showed there was some basis to the Respondent's assertions.
26. In his personal life he had received a number of blows one after another at this time including job and health issues and the breaking up of his marriage. These had clouded his judgment and indeed a couple of clerical errors in the letters he had concocted were indicative of his mind not working particularly clearly at the time the letters were written.
27. The Respondent's motives had been well intentioned but he accepted that the way he went about things was inappropriate.
28. The Respondent was a solicitor with a conscience, a practising Christian who was conscious of what was right.
29. The Respondent gave the Tribunal information about his voluntary work.
30. He had not practised as a solicitor for a couple of years but was lecturing in business management. He was also trying to develop his own internet business.
31. The Respondent wished to retain his status as a solicitor as it was useful in his voluntary work
32. The voluntary work had been helpful therapy in rebuilding his life.
33. The Respondent's finances were poor. He had moved to London the previous year after separating from his wife.
34. The Respondent asked the Tribunal to bear in mind the mitigation advanced and not impose the ultimate sanction.
35. The Respondent apologised for what he had done. He had used the wrong way.
36. In the first two months of his work with Sheffield City Council he had voiced his misgivings to his team leader and his job sharer but had not put anything in writing.

The Findings of the Tribunal

The Tribunal found the allegations to have been substantiated indeed they were not contested.

The allegation had been put to the Tribunal on a particular basis. Allegations i) and ii) were put on the basis that the Respondent had been guilty of dishonesty and of fabricating items of correspondence and placing them on the files. The Respondent had accepted the allegations on that basis. The third allegation had been put not on the basis on dishonesty but on the

basis that the Respondent was conducting an ill-conceived whistle-blowing exercise. The Respondent had accepted that allegation on that basis.

Dishonesty had therefore been alleged against the Respondent and accepted.

It had been said on many occasions in this Tribunal and in the Higher Courts that the public was entitled to expect the highest standards of probity from solicitors. The Respondent had lamentably fallen well below this high standard. Dishonesty would not be accepted in the profession. The most appropriate penalty in the circumstances was the ultimate sanction.

The Tribunal Ordered that the Respondent Kevin Gordon Jones of Bethnal Green, London, E2 (formerly of Wheatlands Way, Harrogate) solicitor 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 £923.00.

DATED this 29th day of March 2002

on behalf of the Tribunal

R. J. C. Potter
Chairman