

IN THE MATTER OF ALEXANDER JULIAN BETTS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr. R. J. C. Potter (in the chair)
Mr. A. N. Spooner
Mr. K. J. Griffin

Date of Hearing: 25th March 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 Peter Harland Cadman solicitor and partner in the firm of Messrs Russell Cooke Potter and Chapman of 8 Bedford Row, London, WC1R 4BX on the 10th August 2001 that Alexander Julian Betts a solicitor of The Betts Partnership, 231A High Road, Loughton, Essex, IG10 1AD, 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.

At the opening of the hearing the Tribunal was informed that the parties had been in discussion and as a result an agreement had been reached as to the withdrawal and/ or amendments of certain allegations. The Tribunal consented. The allegations below are in the agreed amended form.

The allegations against the Respondent were that he had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:-

- a) withdrawn

- b) that he had been responsible for unreasonable delay in the conduct of professional business.
- c) that he has failed to reply to correspondence from other solicitors
- d) withdrawn

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Peter Harland Cadman solicitor and partner in the firm of Messrs Russell Cooke Potter and Chapman of 8 Bedford Row, London, WC1R 4BX appeared as the Applicant and the Respondent was represented by Mr Janna 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 Alexander Julian Betts of 231A High Road, Loughton, Essex, IG10 1AD solicitor be suspended from practice as a solicitor for an indefinite period to commence on the 25th March 2002 and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £4,000 inclusive.

The facts are set out in paragraphs 1 to 19 hereunder:-

1. The Respondent, born in 1959, was admitted as a solicitor in 1988. At the material times he practised in partnership under the style of The Betts Partnership at 231A High Road, Loughton, Essex IG10 1AD.

The Matter of Mr Y

2. On the 5th December 1993 Mr Y suffered an accident. Messrs Glazer Delmar solicitors were instructed by Mr Y to pursue a claim for damages. Mr Y was legally aided.
3. Mr Y instructed the Respondent in succession to Messrs Glazer Delmar. His Legal Aid Certificate was transferred to the Respondent's firm in October of 1997.
4. On the 4th November 1997 the Respondent wrote the following letter to Messrs Glazer Delmar:-

"Glazer Delmar 4th November 1997
Solicitors

Dear Sirs

Re: Our Client: Mr Y

We enclose a copy of the amendment to a legal aid certificate showing that this firm has conduct of the case.

A representative from this firm will attend your offices tomorrow to collect your file of papers.

We undertake to notify you of the outcome of the hearing and to include your costs in our final bill. Also, we will show you the bill for approval before we lodge it at court.

Thank you for your assistance.

Yours faithfully

T.B.P

THE BETTS PARTNERSHIP

5. In response Messrs Glazer Delmar pointed out they would expect the Respondent's firm to consult with them with regarding the instruction of a costs draftsman. Should the case be transferred to another firm of solicitors the Respondent was asked to confirm that he would seek an undertaking that Glazer Delmar's position would be preserved with regard to legal costs of the firm as so far as the Legal Aid Regulations applied. By letters of the 5th November The Betts Partnership undertook to consult about the costs draftsman and forward details of future solicitors who may be instructed in succession to the Respondent's firm.
6. Messrs Glazer Delmar pointed out to the Respondent by letter of 15th January 1998 that the matter should have concluded on the 11th December 1997. On 22nd January the Respondent notified Glazer Delmar that the matter had been adjourned and the hearing had been listed for the 17th and 18th March 1998.
7. On the 24th March 1998 Glazer Delmar asked for details of the outcome. On the 28th April 1998 that firm pointed out that it had not received details of the outcome and on the 28th May 1998 that firm felt constrained to report the matter to the OSS. On the 27th May 1998 the Respondent enclosed a copy of the consent order in the matter and confirmed that it proposed to instruct costs draftsman. The matter had been settled and Mr Y was to receive £20,000 in agreed damages.
8. On the 3rd August 1998 Messrs Glazer Delmar wrote to the Respondent putting him on notice that any prejudice that had arisen as a result of his firm's failure to collect the costs and lodge a bill would result in appropriate action being taken against him for breach of undertaking and any resultant losses. On the 23rd October 1998 Messrs Glazer Delmar wrote putting it on record that they had not seen a copy of any bill prepared for submission to the court and pointing out that they required consultation to discuss the appointment of a costs draftsman. Glazer Delmar expressed the view that the Respondent had been in breach of his undertaking because he had not protected their position with regard to costs.
9. The Respondent replied on the 26th October 1998 saying that he was in the process of having the file costed.
10. The response of Glazer Delmar dated 27th October 1998 pointed out that it did not wish the firm of costs draftsman which the Respondent proposed to instruct to undertake the work. They requested their file of papers so they could have their own costs draftsman to prepare the bill. After some further correspondence, on the 19th November 1998 The Betts Partnership returned to Messrs Glazer Delmar their entire file of papers. Glazer Delmar sent the file to their costs draftsman on the 23rd November 1998. They pointed out that the Respondent would then be able to

complete the final part of the bill and it would be his duty to submit the bill to the Court and pay the appropriate lodgement fee. He would also of course need to submit the appropriate "Claim 4" to the Legal Aid Board for payment of lodgement fee and thereafter the taxing fee. They stated that the plaintiff's costs had to be considered at one hearing and one hearing only.

11. In his letter of 24th November 1998 the costs draftsman instructed by Messrs Glazer Delmar pointed out that bills should have been filed by the 16th June 1998. It would be necessary to seek leave for taxation out of time.
12. On the 30th November 1998 Messrs Glazer Delmar wrote to the Respondent indicating that they wished to be present at the taxation hearing and would deal with the recovery of their own costs.
13. On the 30th December Messrs Glazer Delmar wrote to the Respondent seeking confirmation that the bills of costs had been lodged with the court. In the absence of a reply a chasing letter was sent on the 7th January 1999. On the 26th January 1999 the Respondent requested Glazer Delmar's proportion of the lodgement fee. Glazer Delmar replied on the 2nd February 1999 "as the holder of the Legal Aid Certificate in this case it is incumbent upon you to submit a Claim 4 to the Legal Aid Board for the lodgement fee on behalf of yourself and also this firm. Indeed when the bill is taxed you would also then need to submit to the Legal Aid Board a further Claim 4 to pay the balance of the taxing fee". On the 3rd February 1999 the Respondent wrote to Glazer Delmar to inform them that a Claim 4 had been submitted to the Legal Aid Board in respect of the appropriate fee. On the 15th April 1999 Glazer Delmar sought confirmation from the Respondent that the bill had been lodged and details of the assessment date. A chasing letter was sent on the 6th May 1999.
14. Throughout the correspondence, Messrs Glazer Delmar had sought the assistance of the OSS. On the 20th August 1999 the Respondent had written to the OSS saying "the real problem is that the Legal Aid Board statutory charge applies to the damages which have been recovered. Unless costs are either agreed and paid or assessed and paid there can be very little movement. I would hope that the costs situation would be resolved fairly soon and then all parties would be notified appropriately". In a letter addressed to the OSS dated 2nd September 1999 Glazer Delmar said the matter had not been resolved satisfactorily. The defendant's solicitor in the case had said that the last letter he had received from The Betts Partnership had been dated the 19th November 1998. That letter had said that the bill would be produced and served upon them.
15. On the 30th November 1999 Messrs Glazer Delmar wrote to the Respondent pointing out that their understanding was that the bill had not yet been lodged and that he had failed to comply with his undertaking. If it was true that the bill had not yet been lodged then there was a likelihood that the defendants could successfully claim that, in view of the delay of nearly two years, the bill should be struck out and the taxation should not proceed. Glazer Delmar notified the Solicitors Indemnity Fund of their concerns. On the 31st January 2000 Glazer Delmar wrote to Mr Y direct informing him that it was intended to seek permission from the court to have the bill assessed despite the lengthy period of delay. He asked Mr Y if he knew what was happening with regard to his compensation.

16. On the 10th February 2000 Messrs Procaccini Farrell & Co wrote to Glazer Delmar concerned that they were acting for Mr Y. They had been requesting The Betts Partnership to pay to Mr Y the £20,000 that he was awarded on the 17th March 1998. The money had not been forthcoming. Messrs Procaccini Farrell & Co. were to commence proceedings against The Betts Partnership. Procaccini Farrell had received no clarification from The Betts Partnership as to what was happening with regard to the costs. Messrs Glazer Delmar then entered into correspondence with the defendant's solicitors' who put forward an offer in an attempt to agree costs.
17. The client, Mr Y, had been kept out of his money for a long period of time. He had intended to utilise that money to assist with the purchase of a property under the "right to buy scheme" and had not been able to meet a notice to complete which had been served upon him.
18. Messrs Wallace Bogan & Co solicitors complained to the OSS about the Respondent's conduct. Messrs Wallace Bogan & Co had written letters to the Respondent on the 16th June, 3rd August and 11th September 1998 to which they had not received any response.
19. The letter of 16th June 1998 had reminded the Respondent that he had given an undertaking to deal with Wallace Bogan's costs when the case of Mr & Mrs B was finished. The letter pointed out that in order to comply with that undertaking the Respondent ought to obtain an undertaking from AF Barker & Co that they would also deal with Wallace Bogan's costs when the matter was completed in addition to the costs of the Respondent. Further letters were sent to The Betts Partnership by Wallace Bogan on the 15th July, 3rd August and 21st October 1998. There was no reply. The correspondence concerned the Respondent's failure to keep Wallace Bogan informed as to the progress of bills. The Respondent's failure to deal with correspondence related to four different client matters.

The Submissions of the Applicant

20. The Tribunal had before it a large bundle of documents and papers which had been generated by on what were the face of it fairly simple matters. The Respondent had not dealt expeditiously with the preparation and taxation of bills and had failed to respond to letters addressed to him by other members of the solicitors' profession. As a result other members of the solicitors' profession had been prejudiced. They had been kept out of their costs and more importantly Mr Y had been kept out of the damages to which he was entitled in the sum of £20,000.
21. At the date of the hearing not all of the matters complained of had reached a final resolution.

The Submissions of the Respondent

22. The Respondent apologised. He had encountered difficulties that were not unknown to solicitors undertaking legal aid work with the Legal Aid Board and in particular in Mr Y's matter the imposition of the statutory charge. Inevitably the matter became more complicated and there were further problems where a client had instructed more

than one solicitor and the Legal Aid Certificate had been transferred. The position had not been assisted where there was a feeling of unease between the two firms of solicitors.

23. The Respondent had given up practice as a solicitor. Hitherto his character had been exemplary and his career in the law had been without blemish. The Respondent had undertaken civil litigation. He was 42 years of age and had been in practice as a solicitor since 1988. The Respondent did not feel able to cope with that type of work. He had suffered greatly from the pressures of a legal aid practice, he had suffered from a lack of support in the firm and had not been assisted by the problems brought about by unreliable staff. In reality the Respondent had been overwhelmed. He had reached the conclusion that he could not continue any longer.
24. Upon giving up practice as a solicitor on the 5th March 2001 the Respondent intended to work outside the law, in business. The Respondent's wife would continue to practise as a solicitor undertaking conveyancing work only.
25. There had been no hint of dishonesty alleged against the Respondent.
26. The Respondent had not been guilty of a total failure to respond but he accepted that he had received correspondence to which he had failed to reply.
27. No client had suffered loss although the Respondent accepted that Mr Y had been put through a great deal of anxiety over a period of time. He apologised to Mr Y who was present at the Tribunal hearing.

The Findings of the Tribunal

The Tribunal found the allegations to have been substantiated. The Respondent did not have a previous disciplinary history. He himself had indicated that he had been overwhelmed by taking on legal aid cases and he himself had decided that he could no longer undertake that form of work.

The Respondent's failures had caused inconvenience and expense to other firms of solicitors and more importantly he had seriously let down his client, Mr Y.

In all of the circumstances the Tribunal considered it right to make an order suspending the Respondent from practice as a solicitor for an indefinite period of time. Should the Respondent wish to return to the profession in the future then he would have to make application to the Tribunal for the restoration of his right to practise.

He would be unlikely to succeed in such application to determine the indefinite period of suspension unless he could show that he had kept fully abreast of changes in the law and had for a period of time worked in a solicitors' office in a position of trust where those supervising his work had been entirely satisfied with his efforts.

The Applicant sought costs in a fixed sum. The Tribunal noted that some of the allegations initially made against the Respondent had been withdrawn and in view of the fact that the Tribunal found that the Applicant's Rule 4 statement did not clearly

set out the material supporting the allegations that were made the Tribunal decided to make an order for costs in a fixed sum which was lower than the figure sought by the Applicant. The Tribunal ordered that the Respondent should pay costs in the fixed sum of £4,000 inclusive of value added tax.

DATED this 14th day of June 2002

on behalf of the Tribunal

R. J. C. Potter
Chairman