

IN THE MATTER OF LORRAINE LENNON solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. W M Hartley (in the chair)
Mr. J N Barnecutt
Mrs C Pickering

Date of Hearing: 18th April 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 Geoffrey Williams solicitor and partner in the firm of Geoffrey Williams & Christopher Green Solicitor Advocates, of 2A Churchill Way, Cardiff CF10 4DW on 26th September 2001 that Lorraine Lennon of Birkdale, Merseyside, 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 respects:-

- a) she had drawn monies out of a client account otherwise than in accordance with Rule 7 of the Solicitors Accounts Rules 1991 contrary to Rule 8 of the said Rules;
- b) she had used the funds of a client for her own purposes;
- c) she had improperly dealt with the administration of Estate funds without obtaining a Grant of Probate.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 18th April 2002 when Geoffrey Williams appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the admissions of the Respondent made in correspondence to the OSS and the Respondent's letter addressed to the Tribunal dated 16th April 2002.

At the conclusion of the hearing the Tribunal ordered that the Respondent Lorraine Lennon of Birkdale, Merseyside, solicitor be struck off the Roll of Solicitors and they further ordered that she do pay the costs of and incidental to the application and enquiry fixed in the sum of £3,265.74.

The facts are set out in paragraphs 1 to 10 hereunder: -

1. The Respondent, born in 1964, was admitted as a solicitor in 1990. At the material times the Respondent had been an assistant solicitor and a partner in Coyne Learmonth solicitors at Liverpool and from the 1st April 1996 until 27th September 1996 had been an assistant solicitor with another firm. Between 14th October 1996 and 31st March 1996 she had been a partner in firms styled Wharton & Co and Wharton Bramwells both of which traded as Accident Aid Attorneys with offices at Southport and Preston. After that partnership the Respondent had been a sole practitioner under the style of Lennon & Co trading as Accident Aid Attorneys at Southport.
2. On 27th February 2001 the OSS resolved to intervene into the Respondent's practice.
3. EFE made a Will on 23rd September 1985. The residuary beneficiaries were charities. The Executors were a firm of solicitors which had been made the subject of a Law Society intervention during the lifetime of EFE.
4. In or about 1991 EFE instructed the Respondent's then firm to act on her behalf. By this time EFE was living in a residential home. The Respondent acted and obtained an Enduring Power of Attorney from EFE which the Respondent did not register.
5. On 31st October 1995, whilst a partner in a firm, the Respondent opened a bank account in the name of EFE. Only the Respondent could operate this account. Between the said date and 5th February 1996 the Respondent paid the sum of £30,500 from client bank account funds held in the name of EFE into the bank account that she had opened.
6. Between 1st November 1995 and 10th April 1996 the Respondent made fifteen payments out of the bank account. These payments were made for the Respondent's use and benefit and without the knowledge of EFE. They were in the sum of £25,650.
7. EFE died on 13th May 1997, without having changed her Will. The Respondent purported to make full repayment to the charitable beneficiaries in or about July 1998. At that time the Respondent had not obtained a Grant of Probate to the Will of EFE.

8. One of the charitable beneficiaries The Guide Dogs for the Blind Association instructed Messrs Henmans, solicitors of Woodstock to act on its behalf. That firm complained to the OSS on 30th May 2000.
9. On 18th September 2000 the OSS wrote to the Respondent seeking her explanation; she replied on 22nd September 2000 enclosing a signed statement, extracts from which are set out below.
10. An Officer from the Monitoring & Investigation Unit of the OSS carried out an inspection of the Respondent's books of account. The Report prepared upon the inspection was dated 24th October 2000. When the OSS wrote to the Respondent seeking her explanation on 7th November 2000, the Respondent replied on 20th November 2000, again making admissions.

The Submissions of the Applicant

11. The Applicant put the matter complained of before the Tribunal as a case of dishonesty on the part of the Respondent. It was not alleged however that any money remained outstanding to the charitable beneficiaries of EFE. The Applicant accepted that the Respondent had not formulated any intention permanently to deprive the charitable beneficiaries of the monies properly due to them and accepted that it had always been the intention of the Respondent to pay back the monies which she had taken. It was however the Applicant's submission that the Respondent had behaved dishonestly.

The Submissions of the Respondent

12. The Respondent's letter of the 16th April 2002 took the following form:-

"I refer to the above matter, please accept this brief letter as a sincere apology for my non-attendance.

As I have advised you in my statement and subsequent letters my health has suffered ever since I first took the sum of money concerned.

I have since the discovery of my shameful conduct been receiving treatment for depression, I am in receipt of ongoing counselling due to the stress and feelings my past actions have brought upon me and my marriage.

As a result of my treatment I have been advised to avoid all situations that I feel I cannot cope with if at all possible as I am still very ill.

I ask therefore that the Tribunal please excuse my absence, as no disrespect is intended or lack of acceptance for the consequence of my actions implied.

Yours faithfully,
Lorraine Lennon"

13. The Tribunal note below remarks made to the OSS by the Respondent in her written statement to the OSS sent with her letter dated 22nd September 2000:-

"Matters continued as before until October 1995. It is with the deepest regret and utter shame that I must now inform your office that I succumbed to horrendous personal financial difficulties and stress which forced me to abandon the honourable and trustworthy code of my profession resulting in me removing approximately £30,000 from my client's account.

Although I am sure many who find themselves in such a situation always intend to repay the money "they borrow" I can only state that it was always my intention to repay even if it meant selling my home to do so.

I can only state that although I had no right whatsoever under any circumstances to do what I did I falsely reasoned that I had no way out. I could not remortgage or borrow from another source and the builders who were demanding further payments had gone way over budget without my knowledge.

Having taken the money I had every intention of repaying the same.

On the 13th May 1997 EFE died at hospital without running out of her other funds. At that time I still did not have enough money to repay her although I remained firm in my intention to do so despite her death.

Fortunately, my business proved to be as successful as the figures prepared by the Accountants and very quickly all things considered. On the 6th July 1998 I repaid EFE's estate the money I had taken with interest and sent it out to the three registered charities to ensure her wishes were carried out.

I wish you to know that as difficult as it has been for me to remember this file and expose myself to whatever form of judgment that will befall me it is a great relief for me to finally unburden my conscience and face the consequences that should occur.

I can assure you that ever since my terrible and inexcusable wrongdoing I have suffered with my health. I am currently undergoing medical tests for anxiety attacks that began after I had taken the money. The attacks have led to blackouts and now prevent me from driving. I have been unable to explain the cause of these attacks until now.

I cannot express how sorry I am not only for letting down a profession I have loved being part of but also to the firm Coyne Learmouth and my husband who I have clearly deceived when they only ever showed support to me. Mrs EFE was never aware of what I did for which I am truly thankful. I am totally ashamed of my actions and I am so sorry for any distress the resulting proceedings will cause to her cousins Mr and Mrs Parry and her friend Mrs Maddocks should they be informed. It is difficult to think in personal terms towards large charities you have had no dealing with but I am in a strange way grateful that they have brought this to your attention. Perhaps punishment will bring further relief to my sorely troubled conscience."

The Findings of the Tribunal

The Tribunal find the allegations to have been substantiated. The Tribunal has given the Respondent proper credit for her very evident regret and contrition. It was clear that the Respondent had been deeply troubled by the affair. It has to be said however that a solicitor is bound punctiliously to comply with the Solicitors' Accounts Rules in order to ensure the fair and proper treatment of clients' funds with which that solicitor is entrusted. Further it is incumbent upon a solicitor to exercise a proper stewardship over monies. It is essential that members of the public have an unassailable confidence in the safety of its money when it is held by a solicitor. The Tribunal note that the Respondent was apparently driven by desperation but it cannot ignore the fact that the taking of clients' money for one's own personal use is a dishonest act and one which goes to the very heart of the trust which a client is entitled to repose in his or her solicitor. The Tribunal noted that the Respondent had no intention of depriving EFE permanently of the monies and that the monies had in fact been paid to those entitled together with an interest element.

The solicitors' profession cannot tolerate such behaviour on behalf of one of its members and both for the protection of the public and the preservation of the good reputation of the solicitors' profession it was right that the Respondent be struck off the Roll of Solicitors. The Tribunal further ordered that the Respondent do pay the costs of and incidental to the application and enquiry (to include the costs of the Monitoring & Investigation Unit Officer of the OSS) in a fixed sum.

DATED this 21st day of June 2002

on behalf of the Tribunal

W M Hartley
Chairman