

IN THE MATTER OF ANNE-MARIE JEFFREY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A.N. Spooner (in the chair)  
Mrs E. Stanley  
Mr G. Fisher

Date of Hearing: 19th September 2002

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#### FINDINGS

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Office for the Supervision of Solicitors ("OSS") by Katrina Elizabeth Wingfield, a solicitor and partner in the firm of Penningtons, Bucklersbury House, 83 Cannon Street, London, EC4N 8PE on the 10<sup>th</sup> April 2002 that Anne-Marie Jeffrey of Holland Solicitors of 29 D'Arblay Street, London, W1F 8EP 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 together with a direction under paragraph 5 of Schedule 1(A) to the Solicitors Act 1974 that the decision of Inadequate Professional Services dated 23<sup>rd</sup> January 2001 be treated for the purposes of enforcement as if it were contained in an Order made by the High Court.

On the 10<sup>th</sup> April 2002 the Applicant made a supplementary statement containing further allegations. The allegations set out below are those contained in both the original and supplementary statements.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor, namely:-

- (i) That she acted in breach of Rule 1 of the Solicitors Practice Rules 1990 in that she failed to act in the best interests of her client;
- (ii) That she acted in breach of principle 12.07 in that she abused the solicitor/client fiduciary relationship;
- (iii) That she failed to comply with an “IPS” (Inadequate Professional Services) decision of Mr Stewart Waterworth, Adjudicator, dated 23<sup>rd</sup> January 2001 within the specified time period;
- (iv) That she failed to administer an estate timeously;
- (v) That she failed to respond promptly to correspondence from a beneficiary of the estate, her solicitors and the OSS;
- (vi) That she misled the beneficiary of the estate as to the preparation of estate accounts during the ongoing administration;
- (vii) By virtue of the aforementioned, she has brought the solicitors’ profession into disrepute and is guilty of conduct unbecoming a solicitor.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 19 September 2002 when Katrina Elizabeth Wingfield, solicitor and partner in the firm of Penningtons, Bucklersbury House, 83 Cannon Street, London, EC4N 8PE appeared as the Applicant and the Respondent was represented by Stephen Lennard of Counsel.

The evidence before the Tribunal included the admissions of the Respondent to all of the allegations save that she denied misleading a beneficiary.

At the conclusion of the hearing the Tribunal made the following Order. The Tribunal ordered that the Respondent Anne-Marie Jeffrey of 137 Globe Wharf, 205 Rotherhithe Street, London, SE16 5XX solicitor be struck off the Roll of Solicitors and they further ordered that she should pay the costs of and incidental to this application and enquiry fixed in the sum of £3,300.00. And the Tribunal directed that the decision relating to Inadequate Professional Services made by the Law Society be treated for the purposes of enforcement as if it were contained in an Order made by the High Court.

Following an application by the Respondent, the Tribunal agreed that the filing of its Order with the Law Society might be suspended until 14 days after the filing of its written Findings. For the avoidance of doubt, the Tribunal wished to make it clear that the Order will be filed on the 14<sup>th</sup> day after the filing of the Findings and the suspension of the effect of the Order will not continue should the Respondent enter an appeal. The Tribunal indicated that the production of the Tribunal’s Findings would be expedited and it was hoped that they would be filed with the Law Society about four weeks after the date of the hearing.

The facts are set out in paragraphs 1 to 19 hereunder.

1. The Respondent, born in 1945, was admitted as a solicitor in 1984. At the material times, the Respondent carried on practice in partnership with another solicitor under the style of Holland Solicitors of 29 D'Arblay Street, London W1F 8EP.
2. The Respondent acted for Mr and Mrs M. in connection with the purchase of a flat in London SE16. The clients had occupied the flat as tenants of the leaseholder. Their tenancy expired in mid February 1999 but it had been agreed with the leaseholder that they could continue to occupy the property pending completion of their purchase. After the expiry of their tenancy Mr and Mrs M. were responsible for the usual household bills in respect of the property although not for rent. Mr and Mrs M. had arranged a long vacation in Australia in early March 1999. Mr and Mrs M. left for their holiday on or about 4<sup>th</sup> March 1999 having signed general powers of attorney in favour of the Respondent and also having signed the relevant conveyancing documents in anticipation of the completion of their purchase during their absence abroad. The Respondent was given a set of keys to the property in case there were any problems. The Respondent had a mobile telephone number upon which she could contact her clients.
3. At 4.00 am local time in Australia on 15<sup>th</sup> March 1999 Mr and Mrs M received a telephone call from a friend, who had walked past their flat on his way home from work and seen someone at the window. Mrs M contacted the leaseholder in Germany to establish that he had not given authority for anyone to be in the property. It was arranged for his son to walk past the flat to see if he could see anyone. The son subsequently called Mrs M to say he had seen two people in the flat. He then contacted the police who attended the flat. The occupants informed the police that they had rented the flat from the Respondent.
4. Mr and Mrs M then left several messages for the Respondent and she eventually contacted them. When asked about renting out their flat the Respondent replied that she did not think they would mind. She was requested to ensure that the occupants left the flat immediately. It appears that the occupants were in the flat from about 9<sup>th</sup> March and had stayed for two or three nights. They did leave immediately on being requested to do so. The occupants were known to the Respondent. They had contacted her when they found themselves to be homeless and were desperate. The Respondent already had a lodger staying in her own flat. The occupants slept on the sitting room floor of the Respondent's flat for the first night they were without accommodation. The Respondent had been in the process of buying another flat. She believed her purchase would shortly be completed and could be offered to the homeless occupants. She allowed them to use Mr and Mrs M's flat for what she believed would be a very short period of time.
5. The Respondent confirmed that she had received £75 from the occupants of the flat which she paid to the leaseholder's son.
6. The OSS gave the matter much consideration and eventually by an Order dated 16<sup>th</sup> November 2000 the Respondent was ordered to pay £750 to Mr and Mrs M. The Respondent voluntarily waived her legal costs.
7. The Respondent was an executor jointly with Mrs T of the estate of J. Deceased who died in February 1992. Messrs Booth and Blackwell acted for the executors until

February 1994 when the administration was transferred to the Respondent at her firm, Holland solicitors.

8. Mrs D, daughter of J. Deceased and one of his residuary beneficiaries, made a complaint to the then Solicitors Complaints Bureau in March 1995 regarding the delay in dealing with the administration of her late father's estate and queried bills produced by Messrs Booth and Blackwell. Following an investigation by the Solicitors Complaints Bureau, the Respondent agreed to have the estate account prepared by a member of the Society of Trust and Estate Accountant Practitioners in 1996. By October 1997 the accounts had still not been prepared as, it appeared, the trust and probate practitioner was awaiting further information by the Respondent.
9. By an Interim Decision made by the OSS on the 11<sup>th</sup> August 1999, the Respondent was ordered to produce estate accounts within 14 days. On 1<sup>st</sup> September 1999 a draft estate account was produced to Mrs D's solicitors who raised a number of queries by letter dated 23<sup>rd</sup> September 1999. There then followed extensive delays during the remainder of 1999 when a response to those queries was sought, without success. The matter was referred back to the OSS in December 1999.
10. The OSS wrote to the Respondent on several occasions during January 2000 without response, but in a telephone call on the 8<sup>th</sup> February 2000 the Respondent assured the case worker that a response would go to Mrs D's solicitors before the following weekend. Neither Mrs D nor her solicitors received any such response.
11. On 25<sup>th</sup> May 2000 a "Section 44B Notice" as issued to the Respondent's firm in order to inspect files. The files were delivered to the OSS on the 13<sup>th</sup> June 2000.
12. A detailed review of the file was carried out and an adjudicator, Mr Waterworth, reconsidered the matter and made a first instance decision that there had been inadequate professional services on 23<sup>rd</sup> January 2001 directing the firm Holland to refund to the estate of J. Deceased all fees charged by them and to indemnify the estate against costs payable to the trust and estate practitioner and refund to the estate fees already paid to him. In addition the adjudicator directed Holland to respond in full to the letter sent to them by Mrs D's solicitors, Martin-Kaye, dated 23<sup>rd</sup> September 1999 and to produce amended estate accounts within 28 days of notification of the decision.
13. By letter of 7 March 2001 the Respondent was notified that the decision had become final and that she should comply within 7 days. The Respondent failed to comply and on the 16<sup>th</sup> March 2001 she was notified by the OSS that referral to the Tribunal was being considered.
14. The Respondent notified the OSS that she had dealt with the 23<sup>rd</sup> September 1999 letter by a letter to Messrs Martin-Kaye dated 15<sup>th</sup> March 2001 but she was unable to deal with all the issues as her file remained with the OSS. Those files were returned on the 30<sup>th</sup> March 2001. Issues however remained outstanding in relation to the completion of the estate accounts and on the 7<sup>th</sup> June 2001 the Chief Adjudicator resolved that the Respondent should be referred to the Tribunal as a result of her failure to comply with the first instance decision.

15. The file was transferred to the Legal Services Department of the OSS who made contact with the Respondent in an effort to resolve the outstanding points. Correspondence continued until November 2001 at which time it appeared the estate accounts were almost complete save for a question regarding a petty cash account and interest. Since that time there had been some correspondence between the Respondent and Messrs Martin-Kaye but the matter had not been finalised.
16. From 1995 Mrs D made requests for estate accounts to be prepared. The Respondent indicated to Mrs D that she would instruct an estate practitioner to prepare the accounts. In 1997 there was correspondence between Mrs D and the Respondent who confirmed that the file had indeed been passed to a probate practitioner and that he was preparing accounts. Throughout 1997 and 1998 the Respondent indicated to Mrs D and/or her solicitors that the accounts were being prepared but that additional information was awaited. It appears however that Mr John Mitchell, who had been instructed to prepare the estate accounts, did not so prepare them but instead spent considerable time sorting the file into order. The draft accounts were prepared on the day following the first instance decision. The Respondent had written the following letters:-
  17. In the letter written to Mrs D's solicitors on 7<sup>th</sup> January 1998 the Respondent said:-

“The position at present is that I have received confirmation from Mr M ( the probate practitioner) that the missing Bank and Building Society statements have now been obtained in full. The Inheritance Tax Clearance Certificate has been received. The income tax situation still remains outstanding and a further chaser has been made to the Inland Revenue at Ty-Glass.

I understand that Mr Foster is now proceeding to prepare the draft accounts and as soon as I have further news from him regarding the progress of the same I will contact you”.
  18. In the letter of 28<sup>th</sup> October 1998 the Respondent said:

“I confirm that I have now met with Mr F (of the probate practitioner firm) last week and confirm that, save for the Statements from Portman Building Society which have been requested once again and some up to date information on Legal & General Endowment Policy, Mr F stated that he will be able to draft the estate accounts.

We have also now received confirmation from the Inland Revenue that no further monies are due to them from the estate.

I will write to you again once I hear from Mr F.”
  19. In the letter of the 12<sup>th</sup> February 1999 the Respondent said:

“The premium payments for Legal & General endowment policies are paid up to date and details of the current values of the policies have been requested.

I enclose a copy of a letter written to Mr M recently. The main item still outstanding is for information from Portman Building Society and a copy of our last letter is enclosed. If you could assist with extracting this information from the Building Society, it would speed matters up considerably

Save for the matters mentioned to Mr M, I have been informed that the estate accounts are in the main already drafted”.

### **The Submissions of the Applicant**

20. In allowing persons known to her into the occupation of a flat where she held power of attorney and was also in possession of the keys, the Respondent was not only guilty of a failing to act in the best interests of her client, but also acted in breach of the solicitor/client fiduciary relationship. Mr and Mrs M had been caused anxiety and concern while they were abroad.
21. The delay in the matter of the estate had been for a period of some ten years and was wholly unacceptable. Mrs D, a daughter of the deceased and a beneficiary, had asked for estate accounts as long ago as 1995. There had been some correspondence in 1997 when the Respondent confirmed the file had been passed to a probate practitioner. The probate practitioner had been instructed, but he did not prepare the accounts. He had spent some time putting the file in order. It was accepted that draft accounts had eventually been prepared by the firm of Holland either by another member of that firm or by the Respondent herself.
22. With regard to the denied allegation that the Respondent had misled Mrs D, the Tribunal was referred in particular to three letters written by the Respondent to Mrs D's solicitors on the 7<sup>th</sup> January 1998 and 28<sup>th</sup> October 1998 and a letter written by her direct to Mrs D on the 12<sup>th</sup> February 1999.
23. In the submission of the Applicant the inference to be drawn from those letters was that the Respondent did mislead Mrs D, the beneficiary, about the preparation of the estate accounts.

### **The Submissions of the Respondent**

24. The Respondent admitted that she had brought the solicitors' profession into disrepute. She was ashamed and embarrassed at having done so. The Respondent had taken a difficult route to qualification having first worked as a civil servant and then subsequently becoming a legal secretary. Whilst a legal secretary she studied for and obtained qualifications to become a Fellow of the Institute of Legal Executives. Thereafter she took the Law Society examinations and was admitted to the Roll. She had worked for a number of small firms in London and in 1992 set up in practice with her current partner.
25. With regard to the complaint of Mr and Mrs M., the Respondent had first met Mrs M. when she worked for her firm as a temporary legal secretary. They had kept in touch on a social basis. After learning that Mr and Mrs M. were to buy the flat in which they were living the Respondent had visited them early in March 1999 at the flat and went through the papers with them. They each signed powers of attorney, the

Respondent being the donee of both powers. They gave the Respondent keys so that she could admit builders to the flat and to enable her to check on the flat from time to time while they were away on an extended holiday in Australia. The Respondent had kept the keys at home as it was more convenient than the office, being only a few minutes away.

26. A few days later the Respondent had been with a friend when she received a phone call from a mutual friend in some distress. He and his fiancée had come to London from South Africa where they were both teachers, in order to work for a couple of years. They were both young, hard-working professionals and had found it hard to find accommodation they could afford in London. They had been required to leave their current accommodation immediately. At the time the Respondent had let a second bedroom in her flat, but was in the process of buying a flat in the same block together with a business partner. It was anticipated that completion would take place at the end of that week. Had the flat been available, the Respondent would have accommodated the homeless acquaintances in that flat at the time. The homeless couple had found somewhere to stay for a few days and vacated Mr and Mrs M's flat returning the keys to the Respondent.
27. There had been a delay in the completion of the flat being purchased by the Respondent and her business partner and the homeless couple had asked if they could stay again at Mr and Mrs M's flat.
28. The Respondent had been telephoned by Mr M. who had been notified that someone appeared to be in his flat. The Respondent told Mr M. that she did not think he would have objected. His response had been that he probably would not have minded if she had told him first. Upon receipt of Mr M's telephone call the Respondent went immediately to his flat and removed the couple staying there.
29. On the next day the Respondent spoke to the vendor's solicitor and the vendor's son and explained that the occupants had left having stayed there for 2 nights only. As compensation for the additional costs of the vendor's solicitor and any electricity consumed, the Respondent offered the sum of £75 which was accepted.
30. The Respondent had come to realise that her conduct was ill-advised and inappropriate. She had a misplaced concern to offer assistance to two people who were plainly in need of it. It had not been calculated nor did it bring any profit to the Respondent.
31. With regard to the probate matter of J. Deceased, the Respondent had been an executor together with Mrs T. Booth & Blackwell solicitors had acted for the executors and the Respondent had had no professional involvement in the estate. When the Respondent left the firm of Booth & Blackwell she had expected draft accounts to have been prepared. They had not been. Mrs T. had been very keen for the Respondent to deal with the estate. The Respondent acknowledged that the delays which had occurred were wholly unacceptable.
32. The Respondent seems to have had a mental block in relation to the file. She never made any conscious decision to defer dealing with matters arising or to refuse to

respond to requests for information in correspondence. She had never experienced such a block in connection with any other file.

33. After spending some time organising the file and discussing the matter with her co-executor, it had been decided to pass the file to a specialist probate practitioner. A practitioner had been chosen from advertisements in the Law Society's Gazette. The file had been passed to Mr M. in about March 1997. The files were with Mr M. until August 1999. The Respondent anticipated that estate accounts would be produced. An overwhelming difficulty was encountered when Mr F., a colleague of Mr M., retired in August 1999. The Respondent said that on every occasion when she said that she believed the accounts were being prepared, that was a genuine and honest expression of her opinion. She at no time had sought to mislead or deceive any beneficiary of J. Deceased's estate.
34. The Respondent accepted that she failed to administer the estate timeously and had not responded promptly to some correspondence. She emphatically denied that she ever intended to mislead any individual in relation to the state of the accounts.
35. With regard to the failure to comply with the "IPS" decision, the Respondent accepted that she had been late but had in fact been only one day late in complying with the "IPS" decision. The Respondent expressed her shame and regret and assured the Tribunal that she would not permit similar situations to arise again in the future.
36. The Tribunal was invited to take note of the fact that there had been no suggestion that the Respondent had behaved in any way dishonestly. In both matters she herself had suffered financial loss. The Tribunal was invited to give due weight to the written testimonials put in in support of the Respondent.

### **The Findings of the Tribunal**

37. The Tribunal found all of the allegations to have been substantiated.
38. The Tribunal was concerned at the inordinate delay which had taken place in the completion of the administration of the estate of the late Mr J. The Tribunal recognised that the Respondent had encountered a number of difficulties in the handling of that matter which were perhaps not routine. However, she herself accepted that she had a "mental block" when approaching that file. The Tribunal was concerned that when the Respondent wrote to explain the current state of affairs in January and October 1998 and February 1999 she had not been as frank as she might have been. They accepted with regard to the letter of the 7<sup>th</sup> January 1998 that she was reciting the current position having spoken quite recently with Mr M., the probate practitioner. The Tribunal considered that perhaps the letter of the 28<sup>th</sup> October 1998 referring to the recent meeting with Mr F., the probate practitioner, was not misleading. The Tribunal was however very concerned at the form of the letter dated the 12<sup>th</sup> February 1999 when she said she had been informed that the estate accounts were in the main already drafted, where she was merely repeating what had been said earlier without giving the matter any real consideration. That did amount to a misleading of Mrs D.



39. The Tribunal was more concerned by the events leading to the complaint by Mr and Mrs M. The Respondent was the solicitor acting for Mr and Mrs M. Not only did she have all the usual duties imposed upon her by virtue of the solicitor and client relationship, she also had an additional degree of trust imposed by the fact that she was a donee of a power of attorney made by both Mr and Mrs M. Mr and Mrs M. had placed an exceptional degree of trust in the Respondent. They expected her to complete the legal formalities for their purchase and left keys of their flat with her in order that she might facilitate the access of builders. The Tribunal was very concerned that the Respondent treated the property as if it was her own to do with as she liked. The consequences of allowing third parties into possession of the flat could have been disastrous to Mr and Mrs M. If the third parties had not left the property upon request, they could not have been removed without legal proceedings being taken against them.
40. As it was, Mr and Mrs M. had been deeply concerned and distressed to learn by a telephone call that somebody appeared to be living in their flat while they were away. There could hardly be a better illustration of a solicitor failing to put the best interests of his or her client first. The breach of the fiduciary duty existing between the Respondent and her clients was at the most serious end of the scale.
41. The Tribunal consider that the seriousness of the Respondent's behaviour was exacerbated by the fact that she had spoken with Mr or Mrs M. on the telephone on four occasions without having mentioned the fact that she had allowed third parties into occupation of the flat. That was not challenged by the Respondent and certainly was not indicative of a frank and honest approach on her part.
42. The Tribunal reached the conclusion that a solicitor who was prepared to behave in the manner of the Respondent, albeit on one occasion only, could not be permitted to remain a member of the solicitors' profession. The Tribunal ordered that the Respondent be struck off the Roll and pay costs in a fixed sum which had been agreed between the parties.
43. Although the Tribunal has criticised the frankness of the Respondent and was concerned that she had misled Mrs D., they accept that the latter had been more akin to "fobbing off" than dishonesty in the true sense of that word. In all of the circumstances, upon the application of the Respondent that the filing of the Tribunal's order should not come into effect immediately, the Tribunal agreed that the filing of its Order might be delayed until 14 days after the filing of its Findings on the basis that production of its written Findings would be expedited. The Tribunal considered that it was in the interests of the Respondent's clients that she should be given the opportunity of arranging her own and her clients' affairs.

DATED this 23<sup>rd</sup> of October 2002  
on behalf of the Tribunal

A.N. Spooner  
Chairman