

IN THE MATTER OF MICHAEL CHARLES EDMUND PATTISON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr D J Leverton (in the chair)
Mrs H Baucher
Ms A Arya

Date of Hearing: 12th December 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 The Office for the Supervision of Solicitors of Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 5th July 2002 that Michael Charles Edmund Pattison then of Wareham, Dorset (now of Lake Road, Poole, Dorset) 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.

Andrew Miller further applied that a direction be made by the Tribunal that the direction of The Law Society relating to inadequate professional services dated 16th August 2001 (and confirmed on appeal on 12th February 2002) by which the Respondent was required to pay to JH sums totalling £3,447.01 be treated for the purposes of enforcement as if it were contained in an order of the High Court.

By a Supplementary Statement of Andrew Miller dated 14th October 2002 further matters relevant to the allegations were set out.

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

- (i) he had failed to comply promptly with a direction made by the OSS pursuant to Section 37A and Schedule 1A of the Solicitors Act 1974 (as amended); and
- (ii) he had failed to promptly deal with correspondence from the OSS relating to a complaint made against him.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 12th December 2002 when Andrew Miller solicitor employed by The Law Society at the OSS of 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.

At the conclusion of the hearing the Tribunal made the following orders.

Provided that the Respondent, Michael Charles Edmund Pattison of Lake Road, Poole, Dorset (formerly of Wareham, Dorset) solicitor, comply with the Direction of The Law Society relating to inadequate professional services dated 16th August 2001 (and confirmed on appeal on 12th February 2002) by 31st January 2003 and notifies the Tribunal by that date that he has done so, the Tribunal order that the Respondent do pay a fine of £3,500 such penalty to be forfeit to Her Majesty the Queen.

If the Respondent fails so to comply with the said Direction then the Tribunal order that he be suspended from practice for an indefinite period to commence on 1st February 2003.

The Tribunal further order that he do in any event pay the costs of and incidental to this application and enquiry fixed in the sum of £924.95.

The facts are set out in paragraphs 1 to 15 hereunder: -

1. The Respondent, born in 1952, was admitted as a solicitor in 1980. The name of the Respondent remained on the Roll of Solicitors. At all material times the Respondent practised on his own account under the style of Michael Pattison & Co, solicitors, at 3 East Street, Wareham, Dorset, BH20 5PN. The Respondent was not currently practising as a solicitor.
2. On or about 21st February 2000 Mrs H made a complaint to the OSS concerning the manner in which the Respondent's firm had dealt with her matrimonial proceedings and the sale of her home.
3. The OSS undertook an investigation of the complaint and copies of the complete exchange of correspondence between the OSS and the Respondent were before the Tribunal.
4. On 16th August 2001 an OSS Adjudicator, exercising powers delegated to him under Section 79 of the Solicitors' Act 1974, decided that the Respondent's services in Mrs H's matter were not of the standard which it was reasonable to expect of a solicitor. He further directed that the Respondent refund to Mrs H the sum of £2,147.01 costs and further pay her the sum of £1,300 in compensation.

5. The Respondent appealed that decision but by a further decision dated 12 February 2002 the decision was ratified by the Compliance Board Adjudication Panel, in exercise of the powers delegated to that Panel under Section 79 of the Solicitors Act. The decision was published by an OSS letter dated 19th February 2002.
6. By a further letter dated 12th March 2002 the OSS chased the Respondent and threatened referral to the Tribunal if he failed to comply.
7. On 4th April 2002 an OSS Adjudicator resolved to refer the Respondent's conduct to the Tribunal if he should fail to pay the sum ordered within 14 days of that date.
8. The amount ordered to be paid by the Respondent to Mrs H remained unpaid.
9. A chronology of the correspondence between the OSS and the Respondent was before the Tribunal. An answer from the Respondent was first required by an OSS letter of 2nd May 2000. The substantive response was produced by the Respondent in April 2001. The OSS twice had to exercise its statutory power to require production of the Respondent's file. A full set of files was produced on the second exercise of those powers.
10. On or about 25th July 2001 a complaint was made to the OSS concerning the Respondent by a Mrs F. The Respondent had acted for Mrs F and her husband in the purchase of a domestic property. They complained of overcharging, alternatively that the Respondent had substantially exceeded a costs estimate.
11. The OSS raised the complaint with the Respondent by letter dated 12th October 2001. No reply having been received, further letters chasing the Respondent were sent by the OSS on the following dates:-
 - 22nd October 2001
 - 21st January 2002
 - 7th March 2002
 - 21st March 2002
 - 8th April 2002
12. OSS telephone notes recording attendances upon the Respondent and dated 25th February 2002, 8th April 2002 and 26th April 2002 were before the Tribunal.
13. On 19th June 2002 the Respondent forwarded his conveyancing file to the OSS.
14. Save for the letter of 19th June 2002 sending his file the Respondent had given no written or other substantive reply to the OSS correspondence relating to Mrs F's complaint.
15. On 8th October 2002 an OSS Adjudicator resolved to refer the Respondent to the Tribunal for his failure to reply to correspondence in relation to the complaint of Mrs. F.

The Submissions of the Applicant

16. The Respondent had admitted the facts and the allegations.
17. Payment to Mrs H remained outstanding.
18. The facts relating to allegation (ii) spoke for themselves. In relation to Mrs H a period of some 13 months had elapsed between the OSS letter to the Respondent on 2nd March 2000 and his substantive response on 6th April 2001.
19. In relation to Mrs F apart from the letter sending his file, the Respondent had made no response. In the submission of the Applicant, merely forwarding his file was not a substantive response.
20. The Tribunal was referred to the Respondent's statement dated 4th December 2002 in which the Respondent had written:-

"I do not appear to have been notified of any date of the review hearing and so was unable to ensure further representations were made."
21. The initial decision had been ratified on appeal. The Respondent had had the opportunity to and did make representations. The appeal hearing was conducted on the papers and although the Respondent had not been given that date, he had been given the opportunity to make his representations.
22. Also in his statement the Respondent had written:-

"As regards compliance I am concerned the decisions do not appear to take into account the solicitor's ability to pay."
23. The Applicant could not say the OSS would have taken such matters into account but the OSS did not then or now know the Respondent's financial circumstances.
24. The Respondent had written in his statement:-

"I shall therefore contact the Office for the Supervision of Solicitors with a view to making an arrangement for payment."
25. The payment had been outstanding since February 2002. Had the Respondent made proposals for payment he might have circumvented the proceedings but he had not done so.
26. The Respondent had said that he might be entitled to a set off as his ledger account showed a debit on office account of £544.13. In the submission of the Applicant until this amount could be ascertained it was not possible to say if there was a set off. The complainant had said that in the absence of an account how could she set off this sum. The Applicant had raised this in fairness to the Respondent but submitted that the Tribunal should be bound by the direction which had been made.

The Submissions of the Respondent

27. The Respondent apologised profoundly to the Tribunal, the profession and the OSS for failing to deal with the complaints in an appropriate manner.
28. This had been a particularly difficult time.
29. The Respondent could make payment by 31st January 2003. The Respondent submitted that an "Unless Order" would enable the Respondent to satisfy the Compensation Order.
30. The Respondent confirmed the truth of his statement which set out the personal difficulties he had experienced and his comments in relation to the allegations.
31. The Respondent had ceased practising from the end of September 2002 and was actively seeking salaried employment as a solicitor.
32. The Respondent was caring for his children effectively half of the time and this might mean that he needed to seek part-time employment.

The Findings of the Tribunal

33. The Tribunal found the allegations to have been substantiated indeed they were not contested.
34. The Tribunal had listened carefully to the submissions and had considered carefully the written statement of the Respondent. While the Tribunal noted the personal difficulties which the Respondent had experienced, the Tribunal considered that this was a serious matter and that the Respondent had not provided any real explanation as to why he had made no attempt to pay the Compensation Order. The Respondent had now said that he would pay by the end of January 2003 but the Tribunal was not satisfied that the Respondent was even now facing up to his responsibilities. The Tribunal disapproved of the cavalier attitude which the Respondent had adopted to this matter both in relation to correspondence from his regulatory body and in relation to the direction made by the OSS. The Tribunal's order would reflect the Tribunal's disapproval whilst also attempting to ensure that Mrs H received as soon as possible the money to which she was entitled. The order would give the Respondent one last opportunity to put matters in order for the benefit of the client.
35. The Tribunal made the following orders.

Provided that the Respondent, Michael Charles Edmund Pattison of Lake Road, Poole, Dorset (formerly of Wareham, Dorset) solicitor, comply with the Direction of The Law Society relating to inadequate professional services dated 16th August 2001 (and confirmed on appeal on 12th February 2002) by 31st January 2003 and notifies the Tribunal by that date that he has done so, the Tribunal order that the Respondent do pay a fine of £3,500 such penalty to be forfeit to Her Majesty the Queen.

If the Respondent fails so to comply with the said Direction then the Tribunal order that he be suspended from practice for an indefinite period to commence on 1st February 2003.

The Tribunal further order that he do in any event pay the costs of and incidental to this application and enquiry fixed in the sum of £924.95.

DATED this 6th day of February 2003

on behalf of the Tribunal

D J Leverton
Chairman