

IN THE MATTER OF GEORGE SAINTHOUSE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Mr J RC Clitheroe
Mr D E Marlow

Date of Hearing: 13th February 2003

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 David Elwyn Barton solicitor and partner in the firm of Whitehead Monckton of Monckton House, 72 King Street, Maidstone, Kent ME14 1BL on 5th September 2002 that George Sainthouse of Station Terrace, East Bolden, Tyne and Wear, 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 were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following respects namely:-

- (a) he failed to reply to correspondence from the OSS;
- (b) he failed to have in place on 1st September 2001 professional indemnity insurance for the year 2001/2002 as required by the Solicitors Indemnity Insurance Rules 2001;
- (c) he failed promptly to discharge professional indemnity insurance premiums during the year 1st September 2000 to 31st August 2001;

- (d) he failed promptly to remedy upon discovery breaches of the Solicitors' Accounts Rules 1998, contrary to Rule 7 of the said Rules;
- (e) he withdrew money from client account in circumstances other than permitted by Rule 22 of the said Rules;
- (f) contrary to Rules 32(1) and (3) of the said Rules, he failed to keep accounting records properly written up to show his dealings with client money;
- (g) contrary to Rule 32(5) of the said Rules, he failed to maintain his accounting records in such a way as to enable the current balance on each client ledger to be either shown or to be readily ascertainable;
- (h) he failed to carry out reconciliations of client account and designated client account monies, contrary to Rule 32(7) of the said Rules.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when David Elwyn Barton appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the exhibits to the Applicant's statement pursuant to Rule 4 of the Solicitors' Disciplinary Proceedings Rules 1994 which had been the subject of Civil Evidence Act Notices to the Respondent. The Respondent had not responded to letters addressed to him.

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

The Tribunal order that the Respondent George Sainthouse of Langholme Road, East Bolden, Tyne & Wear (formerly of, Station Terrace, East Bolden, Tyne & Wear) solicitor be struck off the Roll of Solicitors and they further order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,875 plus VAT.

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

1. The Respondent, born in 1950, was admitted as a solicitor in 1981. At the material times the Respondent carried on practice under the style of George Sainthouse, solicitor of Station Road, East Bolden, Tyne & Wear. The Law Society had intervened into the Respondent's practice.
2. The OSS wrote to the Respondent on 27th February 2001 to ascertain whether he had in place proper indemnity insurance in accordance with the Solicitors Indemnity Insurance Rules 2000. No reply was received and a reminder was sent on 7th March. A further letter requesting an explanation within 14 days was sent on 5th April. In the absence of a response to that letter a further letter was sent on 23rd April warning the Respondent that he ran the risk of disciplinary proceedings. That warning elicited a response by fax on 29th April.
3. In his letter of 29th April the Respondent admitted that he did not have proper indemnity insurance in place. He was obliged by 1st September 2000 to take out and maintain qualifying insurance. He did not do so, nor did he pay premiums to the

Assigned Risks Pool as required by Rule 3 of the said Rules. On 29th April 2001 the Respondent sent an Assigned Risks Pool proposal form to Eastgate Insurance Limited.

4. On 18th February 2002 an inspection of the Respondent's books of account was commenced by a Senior Investigation Officer employed by the OSS. A copy of the Senior Investigation Officer's Report dated 27th March 2002 was before the Tribunal.
5. The Report showed that the Respondent had practised alone since 1985. He operated a client account together with six designated client accounts. He was the sole signatory on those accounts and his wife was a joint signatory on the office account.
6. The Respondent maintained manual books of account but they were not in compliance with the Solicitors Accounts Rules as:-
 - a) the most recent posting was dated 31st August 2001;
 - b) the most recent client account bank reconciliation and comparison of client cash balances with liabilities to clients was dated 31st July 2001;
 - c) because of delays of posting, reconciliations for several months tended to be prepared at the same time;
 - d) a list of liabilities to clients prepared as at 31st July 2001 included ten debit balances, varying between £0.01 and £26,169.20 and totalling £26,514.22;
 - e) the client ledgers were not maintained in a way that showed a current balance;
 - f) records relating to transfers to/from client bank account were retained solely on client matter files, if at all, with the references on bank statements often being insufficient to identify the matter to which the entry related. The Respondent had agreed to forward to the OSS details of the matters for which transfers had taken place during December 2001 and January 2002 but he had not done so.
7. Because of the accounting deficiencies it was not possible to calculate the Respondent's total liabilities to clients as at 31st January 2002.
8. On one client ledger there was a shortage of £26,169.20. Whilst the overpayments and the resultant shortage had been corrected before the inspection, the Respondent did not send to the OSS information to show how the shortage arose.
9. The Report went on to confirm the position relating to the Respondent's professional indemnity insurance.

The Submissions of the Applicant

10. The Respondent had not maintained professional indemnity insurance as required by the Solicitors Indemnity Rules 2000.

11. The Respondent had not maintained proper books of account and after particular deficiencies had been drawn to his attention by the Senior Investigation Officer from the OSS the Respondent had given assurances that he would send full explanations to the OSS but he in fact had not done so.
12. The Law Society had intervened into the Respondent's practice. The Applicant understood that the Respondent had been adjudicated bankrupt on 28th January 2003.
13. The Respondent had taken no active part in the proceedings.

The Submissions of the Respondent

14. The Respondent made no submissions or representations.

The Findings of the Tribunal

15. The Tribunal found all of the allegations to have been substantiated. Solicitors have a clear duty and responsibility to comply with regulatory requirements some of which are, indeed, statutory. In order to demonstrate that a solicitor is acting with the probity, integrity and trustworthiness required of a solicitor and, indeed, that he is exercising a proper stewardship over clients' funds, he must be punctilious in his compliance with the Solicitors' Accounts Rules. Failure so to do is a serious matter. In this case the Respondent's deficiencies were pointed out to him and he had agreed to provide information to the OSS which in fact he had not done. Clearly clients are placed seriously at risk if a solicitor fails to have in place professional indemnity insurance.
16. It was the Tribunal's view that the Respondent had simply abrogated his responsibilities as a solicitor and in order to protect the public and the good reputation of the solicitors' profession it was right that he should be struck off the Roll of Solicitors. It was further right that the Respondent should pay the costs of and incidental to the application and enquiry and the Tribunal decided to make a fixed costs order in the sum of £1,875 plus VAT.

DATED this 28th day of March 2003
on behalf of the Tribunal

A H Isaacs
Chairman