

IN THE MATTER OF ANTHONY DAVID DOBBY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. W M Hartley (in the chair)
Mr. A Gaynor-Smith
Mrs. V Murray-Chandra

Date of Hearing: 25th March 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 Geoffrey Williams solicitor of 2A Churchill Way, Cardiff CF10 2DW on 17th September 2002 that Anthony David Dobby of Leigh-on-Sea, Essex solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such orders might be made as the Tribunal should think right.

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

- (a) That he practised as a solicitor without there being in force a practising certificate with respect to such practice [not proceeded with];
- (b) In the alternative that he held himself out to be a practising solicitor at times when he did not hold a practising certificate;
- (c) That he abandoned his practice without having made any or any proper arrangements for its management, supervision or disposal;

- (d) That he practised as a solicitor having failed to make any or any proper arrangements for professional indemnity insurance cover contrary to Section 37 Solicitors Act 1974 and the Rules made thereunder;
- (e) That he failed to comply with a direction of The Law Society made by an official with delegated powers pursuant to a finding of inadequate professional services.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 25th March 2003 when Geoffrey Williams solicitor and partner in the firm of Geoffrey Williams & Christopher Green Solicitor Advocates of 2A Churchill Way, Cardiff, CF10 2DW appeared as the Applicant and the Respondent did not appear and was not represented.

The Applicant gave evidence to the Tribunal regarding due service of the relevant documents and the Tribunal was satisfied that those documents had been duly served.

At the conclusion of the hearing the Tribunal ordered that the Respondent Anthony David Dobby of Leigh-on-Sea, Essex solicitor be struck off the Roll of Solicitors and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £4,561.12.

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

1. The Respondent, born in 1947, was admitted as a solicitor in 1970 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent carried on practice as a solicitor as follows:-
 - (a) Until about 4th August 2000 in partnership under the style of A G Freeman & Son at 81a High Road, Benfleet, Essex, SS7 5LE;
 - (b) From about 5th August 2000 as a sole practitioner under the style of Anthony D. Dobby Solicitor at the same address.
3. The Law Society intervened into the Respondent's sole practice on or about 20th February 2001. The Respondent had not practised as a solicitor since that date. The Respondent was adjudicated bankrupt on 6th February 2002.
4. The Respondent's practising certificate for the practice year 1st November 1999 to 31st October 2000 was terminated by The Law Society on 16th January 2001. The Respondent had failed to apply for a practising certificate for the practice year commencing 1st November 2000.
5. The Respondent was duly advised of the termination.
6. In a letter dated 31st January 2001 to the OSS the Respondent wrote that he had not learned about the termination of the practising certificate until on or about 23rd January 2001.
7. He further wrote in the letter:-

“We have written very few letters since we were advised that the Practising Certificate had been terminated. Admittedly those letters that we did send did have the word “Solicitor” in our usual heading. However, we will take steps now to ensure that this is crossed out for the time being. However we anticipate the necessity to write very few letters in view of the very limited scope available to us”.

8. The Respondent was believed to have gone abroad on or about 15th February 2001.
9. The intervening agent reported to the OSS what he had found when he attended the Respondent’s practice in a letter dated 10th July 2001 which said:-

“On the instructions of the OSS I attended at the premises at about 4.30 p.m. on the 19th February 2001. I found the premises dark and the front door locked....

I reported this to the OSS and I was instructed to enter the premises the next day....

There was nobody in the premises but there was a great deal of opened post in a number of the offices. Some of it was lying around as if for attention and other correspondence was simply lying in piles. There was post lying on the mat and the DX was full of post...

The answering phone had been switched on and the tape was entirely full with 59 messages on it....

My conclusions were that somebody was last in the premises to at least open the post on about the 9th or 12th February. No post from that date appeared to have been opened....

There was a very considerable amount of client post and other documentation which indicated that a number of persons and parties had been attempting to obtain a response from him for some time.

The immediate impression that was given was that neither Mr Dobby nor his staff had attended in the office for some days. We had heard rumours that Mr Dobby was out of the country but I had no idea whether it was his intention to return.”

10. The Respondent failed to obtain professional indemnity insurance for his sole practice for the insurance year commencing 1st September 2000.
11. In a letter dated 29th January 2001 to The Law Society the Respondent wrote:-

“In spite of the fact I have not been able to arrange PII yet the OSS have asked me to lodge my application for a practising certificate.”

The Respondent said that he enclosed his application and asked whether having sent this he was now covered by the Assigned Risk Pool (“ARP”).

12. In order to obtain an ARP policy, a solicitor has to apply to the manager of the ARP prior to the relevant 1st September. The Respondent did not apply.
13. Under Part 2 Rule 4 of the Solicitors Indemnity Insurance Rules 2000 a firm (the definition of which includes a sole practitioner) is required to take out and maintain qualifying insurance under the Rules if it carries on a practice during any indemnity period beginning on or after 1st September 2000. The Respondent had not complied with this requirement.
14. The Respondent (and an erstwhile partner not involved in these proceedings) acted for a Mr S.
15. Mr S complained about the conduct of and standard of professional services provided by the Respondent in or about October 1999. The matter was investigated and was held in abeyance pending a lengthy and complex taxation of costs.
16. When the matter was again taken up it was investigated as one of potential inadequate professional services.
17. Having considered all the papers, an Adjudicator holding delegated powers issued his decision on 18th October 2000.
18. The decision was notified to the Respondent on 3rd November 2000. There was no appeal.
19. The Respondent complied with the direction to pay compensation to Mr S. Payment was made slightly out of time. However, the Respondent did not comply at all with the remaining directions which related to Mr S’s Title to his property.

The Submissions of the Applicant

20. The Applicant had served the Rule 4 Statement and Civil Evidence Act Notice upon the Respondent. The Respondent had not been co-operative and the Applicant did not know his position. The Applicant would therefore seek to prove the allegations.
21. Allegations (a) and (b) had been put in the alternative and the Applicant elected to proceed on allegation (b). Without the input of the Respondent the Applicant took the view that he could not be more precise than allegation (b).
22. The Tribunal was referred to the letter of 29th January 2001 from the Regulation Unit of The Law Society to the Respondent referring to a telephone conversation on that date and confirming that the Respondent’s practising certificate for 1999 to 2000 had been terminated by The Law Society on 16th January 2001 and that the Respondent did not hold a current practising certificate.
23. The letter further said that the relevant practising certificate application forms had been sent to the Respondent and that the Respondent had said on the telephone that he

was in the process of trying to obtain insurance and would return his practising certificate form as soon as he had done so. He had also said that he was aware that as he did not hold a current practising certificate he might not do any work which required him to hold one and that he had made arrangements for a local solicitor to assist him with any urgent matters.

24. The Respondent in his letter of 31st January 2001 had claimed not to have known that his practising certificate had been terminated until 23rd January but the draft report of the Regulation Unit to the Committee said that the Law Society had spoken to the Respondent on 16th January 2001 and had faxed an application form to him. The Respondent had clearly known that his practising certificate had been terminated and in the submission of the Applicant, he had known that since 16th January 2001.
25. In his letter of 14th February 2001 the Respondent had written that he understood that although he did not have a practising certificate he could still collect costs to which he was entitled by virtue of work previously done and bills previously rendered. In the submission of the Applicant, however, what a solicitor could not do was to hold himself out as a solicitor without a practising certificate. It was clear from the reference in the Respondent's letter of 31st January 2001 to having "written very few letters" that he had held himself out as a solicitor.
26. The allegation was based on the Respondent holding himself out as a solicitor without a practising certificate for quite a short time and to no serious effect. However, coupled with the other allegations, it showed a pattern of conduct on the part of the Respondent.
27. In relation to allegation (c), the OSS had found out in a telephone conversation that the Respondent was leaving the country. The Law Society had intervened into the practice on the grounds of the Respondent practising uncertificated, the Solicitors' Indemnity Rules and abandonment.
28. The Tribunal was referred to the letter of 10th July 2001 from the intervening agent. In the submission of the Applicant, this was more of the same pattern of conduct by the Respondent.
29. In relation to allegation (d), the Tribunal was referred to the OSS email correspondence dated 2nd February 2001 relating to the ARP which said that on 19th September 2000 the Respondent asked for a proposal form which was sent on 20th September and re-sent on 22nd September. On 17th January 2001 ARP sent the Respondent a reminder and on 29th January 2001 ARP faxed the Respondent a proposal form. On 30th January 2001 ARP received a call intimating that the Respondent had sent the form but ARP had not received anything.
30. The Respondent had no practising certificate, had not arranged insurance and his office was neglected and abandoned.
31. In relation to allegation (e), the Respondent had played some part in the investigation of Mr S's complaint but had not responded to the OSS report on the standard of service sent to him on 25th August 2000.

32. On 3rd November 2000 the Respondent had been sent a copy of the decision of the Adjudicator which set out six heads of inadequate professional service.
33. The Respondent had complied, albeit slightly late, with the order for the payment of compensation and the Applicant took no point on that. The Respondent had, however, not complied with the practical part of the directions relating to Mr S's Title.
34. The timetable for compliance expired and the Respondent was sent a "chasing" letter on 13th December 2000 and again on 21st December 2000.
35. In a letter of 3rd January 2001 to the OSS Mr S had confirmed the Respondent's failure to comply.
36. Further correspondence had been sent to the Respondent and on 25th May 2001 the Chief Adjudicator had referred the matter to the Tribunal.
37. Mr S had had to instruct new solicitors. The Applicant was not seeking an enforcement order as the Respondent could not comply following the intervention but the Tribunal was asked to note that the Respondent had caused Mr S inconvenience and costs.
38. In the submission of the Applicant, allegation (e) was serious. The Respondent had failed to comply with his professional body which relied on the co-operation of the profession.
39. The Applicant asked the Tribunal to find the allegations proved.

The Findings of the Tribunal

40. The Tribunal, having considered the documents, which the Respondent had not challenged, and the submissions of the Applicant, found allegations (b), (c), (d) and (e) proved.
41. These were serious allegations. The Respondent did not appear to care for his clients or for his professional body. In particular his failure to heed the directions of his professional body meant that the reputation of the profession suffered. When a solicitor held himself out as being a practising solicitor when he had no practising certificate the public was misled, although the Tribunal noted the Applicant's submissions that in the circumstances no serious effect had flowed from this. It was, however, indicative of a pattern of conduct by the Respondent. Practising without insurance was a serious matter. The Tribunal noted that the Respondent had been fully aware of the position and indeed had requested and been sent an ARP proposal form which he had failed to return despite reminders and further copies. While the protection of the public was ensured by the systems put in place by the profession in respect of uninsured solicitors, if a solicitor practised uninsured then the rest of the profession ultimately bore the cost of any claims. The Respondent had finally abandoned his practice and the Tribunal had noted the disturbing comments of the intervening agent in that regard. Given these very serious matters, it was not appropriate that the Respondent be allowed to continue in the profession. The public

had to be protected from such conduct. The Tribunal ordered that the Respondent Anthony David Dobby of Leigh-on-Sea, Essex solicitor be struck off the Roll of Solicitors and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £4,561.12.

DATED this 1st day of May 2003
on behalf of the Tribunal

W M Hartley
Chairman