

IN THE MATTER OF MICHAEL THOMAS CONNOLLY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. A G Gibson (in the chair)  
Mr. P Kempster  
Mr. D Gilbertson

Date of Hearing: 18th March 2003

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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 (the "OSS") by Iain George Miller solicitor of Wright Son & Pepper, 9 Gray's Inn Square, London, WC1R 5JF on 14<sup>th</sup> October 2002 that Michael Thomas Connolly of Catterick Garrison, North Yorkshire, solicitor might be required to answer the allegation contained in the statement that accompanied the application and that such order might be made as the Tribunal should think right.

The allegation against the Respondent was that he was guilty of conduct unbecoming a solicitor in that he deceived two clients in respect of :-

- (a) whether proceedings had been brought on their behalf
- (b) whether a settlement had been obtained on their behalf

when, in truth, no such proceedings had been commenced and payments were made to the said clients from the Respondent's own resources.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 18<sup>th</sup> March 2003 when Iain George Miller solicitor and partner in the firm of Wright Son & Pepper of 9 Gray's Inn Square, London, WC1R 5JF 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.

At the conclusion of the hearing the Tribunal ordered that the Respondent Michael Thomas Connolly of Catterick Garrison, North Yorkshire, 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 £851.00. The Tribunal directed that the filing of the order with The Law Society be suspended for one month.

The facts are set out in paragraphs 1 to 8 hereunder:-

1. The Respondent, born in 1964, was admitted as a solicitor in 1990 and his name remained on the Roll of Solicitors.
2. At the relevant time the Respondent was employed as the head of the Matrimonial Department of Askew Bunting Solicitors in their Guisborough office. The Respondent was currently employed as an assistant solicitor with Clark Willis of 18 Richmond Road, Catterick Garrison, North Yorkshire.
3. In approximately 1995, Mr H suffered an injury at work. He instructed the Respondent to act on his behalf in recovering costs from the Criminal Injuries Compensation Board. Mr H was informed by the Respondent that he had initially received an interim payment of £500 and provided this to him in cash. The Respondent advised Mr H that he should make an application to a court in Newcastle for a review of the grant. The Respondent informed him that the outcome of this hearing was an award of £2,000. The balance was also provided to Mr H in cash.
4. In reality, no proceedings were commenced by the Respondent on behalf of Mr H and the money was paid by the Respondent.
5. Mr and Mrs S instructed the Respondent in or about November 1999 in connection with damage caused to Mrs S's vehicle by a paint spillage whilst transporting paint. Mr and Mrs S had understood that proceedings were issued on their behalf. Prior to the issue of proceedings the Respondent informed them that they had received an offer of £1,250. This offer was rejected.
6. Subsequently, Mrs S telephoned the Respondent who informed her that he was "going to Court that day". Later the Respondent informed Mrs S that the Judge had ordered compensation of £4,000. The Respondent advised that this was a good settlement. Mr and Mrs S were also paid in cash. Again, no proceedings were in fact issued and payment was made direct by the Respondent.
7. In neither case was a file opened by the Respondent with his employers and no money passed through his employer's accounts.

8. A copy of the Respondent's letter of 26<sup>th</sup> March 2001 to the OSS setting out his explanation for what had occurred was before the Tribunal.

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

9. These were two matters in which the Respondent had missed the relevant limitation period and had chosen the course of, in effect, covering up his mistake and lying to his clients regarding the state of the proceedings.
10. There was no evidence that the clients had lost money. The Respondent had paid them from his own money and had paid an amount which appeared to approximate to the amount they would have received.
11. The Respondent had admitted these matters from an early stage and the Tribunal was referred to the Respondent's letter of 26<sup>th</sup> March 2001 and his further letter of 14<sup>th</sup> March 2002.
12. The Respondent had been quite candid about what had occurred and had not sought to resile from his admissions.
13. In the absence of the Respondent, the Applicant referred the Tribunal to the letter of 8<sup>th</sup> March 2002 from the Respondent's former employers, Messrs Askew Bunting, which was in effect a reference as to their view of the Respondent at the time these matters had occurred.
14. These matters were however serious and involved the Respondent lying to clients.
15. In relation to costs, the Respondent had agreed the costs which had been notified to him by letter in the amount of £500 which were the costs incurred at that stage. The Applicant sought in addition his subsequent costs of preparation and attending the hearing. Costs were sought in the total sum of £851.

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

16. The submissions of the Respondent were contained in an undated letter to the Tribunal received on the day of the hearing which stated as follows:-

“I accept that I am guilty of conduct unbefitting a solicitor and that the substance of the statement of facts and allegations is correct.

In both of these cases I accepted instructions in matters that were outside my remit because I had in both cases acted for the people concerned or their relatives before.

I had intended to refer the matters to other solicitors in the firm but did not do so. This is the reason that the matters were not opened on the firm's accounts computer. Unfortunately I did not refer the cases on and the matters “went to sleep”. When the clients subsequently made enquiries as to progress they were informed by me that progress had been made when it had not.

The situation was made worse by the fact that documentation relating to the claims had been lost and I did not feel that I could ask for copies.

The position in which I found myself became steadily worse and led me to act as described in the statement of facts. I did so because I had caused the problem and felt that I should rectify it. I accept that I should have reported these matters at a much earlier stage and very much regret that I did not do so. At the time I was suffering from a good deal of stress because of the situation that I had got myself into and I feel that to some extent this led me to take the course of action that I did.

I entirely accept that my actions in dealing with these matters were wrong and I do not seek to suggest otherwise. I would ask the Tribunal to note that they were not intended to bring any financial benefit to me nor did they involve the misappropriation of clients funds. Although there are two incidents, they both occurred within a relatively short space of time.

I now only deal with matters within my remit and in the event that instructions outside of it are received they are passed onto another fee earner without delay. Such situation will not happen again.

I would also ask the Tribunal to take into account of the content of the letter of the 8<sup>th</sup> March 2002 from my former employers to the OSS (page 23 of the bundle).

This matter was initiated by a letter to me from the OSS dated 14<sup>th</sup> March 2001, it has therefore been ongoing for just over two years. There has been no delay on my part nor that of my former employers in responding to correspondence. I admitted my actions at the outset. Although the situation is one of my own making, it has been a considerable source of worry, concern and uncertainty over the last two years and I would ask the Tribunal to take this into account in deciding how to deal with this matter.

I greatly regret my actions not just because of the circumstances in which I now find myself but also because of the difficulties that I have caused others.

If the Tribunal imposes a penalty that prevents me from practising, I understand that it can be suspended for a short period to enable ongoing matters to be handed over to somebody else with a minimum of disruption to the clients, if this is the case I would ask that I be allowed to do so".

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

17. The Tribunal found the allegation to have been substantiated, indeed it was not contested. The Tribunal had considered carefully the explanations put forward by the Respondent for his conduct in the various documents before the Tribunal. This was, however, an extremely serious matter involving a deliberate and repeated deception of the clients concerned. This was not a one off aberration but an ongoing misleading of the clients. The Tribunal noted, for example, the note of the telephone conversation between Mrs S and Mr A of Askew Bunting on 29<sup>th</sup> January 2001 in which Mrs S had

given details of the information given to her by the Respondent including such details as:-

“The judge had taken everything away (books and papers etc) and that he would let his decision be known the following Monday”.

The Respondent had then subsequently told her that the compensation ordered by the Judge was £4,000 and that “4,000 is as much as you would get”. It was essential that clients could believe what their solicitors told them. The Respondent had clearly and deliberately lied to his clients over a period of time. The Tribunal noted that the Respondent had paid the clients from his own resources. The lack of probity he had shown, however, damaged the reputation of the profession and undermined the public’s confidence in it. A solicitor who had deceived his clients in this way could not be allowed to continue in practice. The Tribunal noted the Respondent’s request in his letter to the Tribunal that should he receive a penalty which prevented him from practising he be given time to sort out his clients’ affairs in order to minimise disruption to them. The Tribunal would grant this request.

18. The Tribunal ordered that the Respondent Michael Thomas Connolly of Catterick Garrison, North Yorkshire 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 £851.00. The Tribunal ordered that the filing of the order with The Law Society be suspended for one month.

DATED this 19<sup>th</sup> day of May 2003  
on behalf of the Tribunal

A G Gibson  
Chairman