

IN THE MATTER OF MAUREEN McCOURT, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D J Leverton (in the chair)
Mr A H B Holmes
Mr J Jackson

Date of Hearing: 26th June 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 Jonathan Richard Goodwin, a solicitor and partner in the firm of JST Mackintosh, Colonial Chambers, Temple Street, Liverpool, L2 5RH on 18th December 2002 that Maureen McCourt solicitor of Blyth, Northumberland, might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegation against the Respondent was that she had been guilty of conduct unbecoming a solicitor in that:-

- (i) She had applied for her own benefit and/or a third party funds received from clients by way of payment of fees due to her employer.

By a supplementary statement of Jonathan Richard Goodwin dated 6th May 2003 it was further alleged against the Respondent that she had been guilty of conduct unbecoming a solicitor in that:-

- (ii) She had been convicted of an offence of dishonesty on 11th September 2002 in the course of her practice as a solicitor.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 26th June 2003 when Jonathan Richard Goodwin, solicitor and partner in the firm of JST Mackintosh, Colonial Chambers, Temple Street, Liverpool, L2 5RH appeared as the Applicant and the Respondent did not appear and was not represented.

Prior to the substantive hearing the Applicant made submissions as to service and the Tribunal accepted that documentation including the notice of hearing date had been duly served upon the Respondent.

At the conclusion of the hearing the Tribunal ordered that the Respondent Maureen McCourt of Blyth, Northumberland, solicitor be struck off the Roll of Solicitors and they further ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £2,350.

The facts are set out in paragraphs 1 to 11 hereunder: -

1. The Respondent, born in 1960, was admitted as a solicitor in 2001 and her name remained on the Roll of Solicitors.
2. At all material times the Respondent was employed as an assistant solicitor with Messrs Evans Harvey solicitors of 34 and 39 Morshead Road, Crownhill, Plymouth, PL6 5AH for the period 15th May 2001 to 16th November 2001. Thereafter she was employed as an assistant solicitor with Messrs Thompson & Jackson of 4 and 5 St Lawrence Road, Plymouth, PL4 6HR for the period 19th November 2001 to 18th January 2002. The Respondent failed to return to work on the week commencing 21st January 2002 and subsequently by undated letter tendered her resignation with that practice.
3. By letter dated 22nd January 2002, Messrs Evans Harvey wrote to the OSS indicating that the Respondent had admitted to them that she had taken fees belonging to the practice when clients had paid by way of cash and that she had subsequently arranged for the debit entries raised on the delivery of a bill to be reversed to avoid clients being asked to pay an apparently unpaid bill.
4. By undated letter received by the OSS on 31st January 2002 the Respondent wrote to The Law Society indicating that she had:

“...committed a terrible wrong... I am thoroughly ashamed to admit that I took fees paid to me by clients in respect of the preparation of bills mainly and used this money to help my sister. The amount in total is less than £1,000. I always intended to repay the money but the opportunity to do so never came. My ex-employers are now aware of what I did and I have told them everything... I am thoroughly ashamed of what I have done and cannot stress enough the regret I feel.”

The Respondent set out the circumstances which she asserted led her to misappropriate the funds.

5. By letter dated 6th February 2002 Messrs Evans Harvey wrote to the OSS indicating that as a consequence of their investigations they had identified four cases where

money paid to the Respondent in cash by the client in settlement of the firm's costs and disbursements had not reached the firm's bank account. The firm identified two conveyancing matters, the first being in the name of G where a balance of £377 was written off at the Respondent's instigation and a further £6 subsequently had to be written off in respect of search fees. In the second case of M, the sum of £314.38 representing the balance of costs, VAT and disbursements was written off at the instigation of the Respondent. The firm also identified two client matters involving the preparation of Wills in the names of B and J where the sums of £99.88 and £70.50 respectively paid by the clients in respect of bills rendered did not reach the firm's account. The total loss identified by Messrs Evans Harvey amounted to £867.26.

6. By letter dated 29th January 2002 Messrs Thompson & Jackson wrote to the OSS concerning the conduct of the Respondent. As a consequence of the allegation of dishonesty by Messrs Evans Harvey, Thompson & Jackson carried out a review of the Respondent's files and ascertained that two files showed inconsistencies, that is to say that a sum of £199 was unaccounted for.
7. By letter dated 14th May 2002 Thompson & Jackson wrote to the OSS enclosing a statement prepared by Mr AS, a partner in the firm, relating to a missing £848.12.
8. By letter dated 28th May 2002 the OSS wrote to the Respondent seeking her explanation. By letter dated 6th June 2002 the Respondent replied indicating that she had already provided an explanation for her actions and expressed concern regarding the safety of her sister and her children.
9. The matter was considered by an Adjudicator who on 1st August 2002 resolved to refer the conduct of the Respondent to the Solicitors Disciplinary Tribunal.
10. On 11th September 2002 the Respondent appeared before the Plymouth District Magistrates' Court and was convicted of theft contrary to the Theft Act 1968 relating to the Respondent's theft of money in the sum of £894.76 belonging to Evans Harvey and £848.12 belonging to Thompson & Jackson, particulars of which were set out in the Certificate of Conviction, a copy of which was before the Tribunal. No appeal had been lodged against conviction.
11. A copy letter dated 10th April 2003 from the Clerk of the Court at Plymouth District Magistrates' Courts was before the Tribunal. This set out a brief note of the comments made by the District Judge when imposing sentence.

The Submissions of the Applicant

12. The facts leading to the Respondent's conviction were those which had given rise to allegation (i).
13. The Tribunal was referred to the comments in the case of Bolton v The Law Society regarding the need to maintain the reputation of the profession. The Respondent had been convicted of an offence of dishonesty.

The Findings of the Tribunal

14. The Tribunal had considered the documentation. It had before it a Certificate of Conviction in respect of an offence of dishonesty. Further, the Respondent had in her undated letter received by the OSS on 31st January 2002 made a clear admission of taking money from her employer. The Tribunal found the allegations to have been substantiated.
15. The Tribunal had considered carefully the letters from the Respondent to the OSS and the reasons she had given for her actions. Nevertheless, the Respondent had taken money to which she was not entitled which was a most serious matter for a solicitor. She had been convicted of an offence of dishonesty thereby damaging the reputation of the profession. It was not appropriate that she be allowed to remain as a solicitor.
16. The Tribunal ordered that the Respondent Maureen McCourt of Blyth, Northumberland, solicitor be struck off the Roll of Solicitors and they further ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £2,350.

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

D J Leverton
Chairman