

IN THE MATTER OF DAVID HAROLD ARTHUR WINCH, former solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Miss T Cullen (in the chair)
Mr P Kempster
Lady Bonham-Carter

Date of Hearing: 3rd July 2003

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made by Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Hertfordshire, SG14 1BY on 24th March 2003 that David Harold Arthur Winch former solicitor of Stansfield, Sudbury, Suffolk, CO10 8LT might appear before the Solicitors Disciplinary Tribunal to answer the allegation contained in the statement which accompanied the application and that the Tribunal should make such order as it thinks right.

The allegation was that the Respondent had been guilty of conduct unbecoming a solicitor in that contrary to section 34 of the Solicitors Act 1974 he failed to deliver to The Law Society an Accountant's Report within six months of the end of the relevant accounting period.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 3rd July 2003 when Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Hertfordshire, SG14 1BY appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included a letter from the Respondent dated 12th June 2003 in which he said:-

“Thank you for your letter of 11th June. As I have already agreed not to object to the Order being asked for, I shall not attend the hearing on 3rd July”.

At the conclusion of the hearing the Tribunal ordered that the Respondent David Harold Arthur Winch of Plough House, Stansfield, Sudbury, Suffolk, CO10 8LT former solicitor be prohibited from having his name restored to the Roll of Solicitors except by Order of the Tribunal and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £623.68.

The facts are set out in paragraphs 1 to 5 hereunder: -

1. The Respondent, born in 1930, was admitted as a solicitor in 1955. During the accounting period which ended on 30th September 2001 he was in practice on his own account as David Winch Solicitor at Stansfield, Sudbury, Suffolk.
2. The Respondent's accounts for the period ending 30th September 2001 should have been received by The Law Society on or before 31st March 2002. They were not received and the Respondent was written to by The Law Society on 12th April 2002. He replied on 24th April 2002 explaining that the delay was due to there being a small balance in his client account which was unaccounted for and that the necessary certificate would be sent as soon as possible.
3. The Accountant's Report still had not arrived with The Law Society in August 2002 and the Respondent was written to on 12th August asking for his explanation. He responded on 27th August saying that it should not take too long for the Report to be produced but it was not received and on 23rd September 2002 he was written to again and informed that the matter was being referred for adjudication.
4. The adjudicator considered the matter on 1st November 2002 and expected the Respondent to deliver the Accountant's Report within 56 days of being notified of her decision. The notification letter was sent out on 12th November 2002 thus giving the Respondent until 7th January 2003 to produce the Report otherwise his conduct was to be referred to the Tribunal without further notice. On 2nd January 2003 the Respondent wrote to the OSS explaining that he was not yet in a position to produce the Report. He was therefore informed on 8th January that the matter was being referred to the Tribunal. The Report had still not yet been received.
5. The name of the Respondent was removed from the Roll of Solicitors on 12th October 2002.

The Submissions of the Applicant

6. The Respondent had ceased to practise and his name had been removed from the Roll of Solicitors. The Respondent had indicated that he did not intend to practise again. He was 73 years of age.
7. He had notified the Tribunal that he did not propose to attend the hearing of this matter and intended no discourtesy to the Tribunal.
8. The allegation related to the Respondent's failure to file an Accountant's Report for the last year of his professional practice. The Report still had not been received by

The Law Society, although the Respondent had indicated in May that it was to be expected shortly.

The Submissions of the Respondent

9. The Respondent made no submissions.

The Findings of the Tribunal

10. The compliance by a solicitor with the statutory obligation to file an annual Accountant's Report was an important one. Due compliance with that requirement enabled The Law Society as the regulator of the solicitors' profession to establish that a solicitor has handled clients' money properly and is able to give an assurance to members of the public that placing money with that solicitor would not lead to their monies being placed in jeopardy. The Respondent would be aware that he is guilty of a continuing breach all the time that his final Accountant's Report has not been filed with The Law Society.
11. As the Respondent's name had been removed from the Roll of Solicitors it was appropriate that the Tribunal should make the Order sought, namely that the name of the Respondent should not be restored to the Roll unless such restoration was ordered by the Tribunal. It was further right that the Respondent should pay the costs of and incidental to the application and enquiry which the Tribunal ordered should be in the fixed sum of £623.68.

DATED this 15th day of August 2003
on behalf of the Tribunal

T Cullen
Chairman