

IN THE MATTER OF SALLY ANN LESLIE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the chair)
Mr. A Gaynor-Smith
Lady Maxwell-Hyslop

Date of Hearing: 21st October 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 (the "OSS") by Geoffrey Williams of Queen's Counsel, solicitor of 2A Churchill Way, Cardiff CF1 4DW on 12th May 2003 that Sally Ann Leslie of Rushden, Northants, 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 she had been guilty of conduct unbecoming a solicitor in the following respects namely that she had:-

- (a) drawn or caused to be drawn monies from client account otherwise than as permitted by Rule 7 and 8 Solicitors Accounts Rules 1991 or, in the alternative, contrary to Rule 22 Solicitors Accounts Rules 1998.
- (b) failed properly to account to beneficiaries of Estates.
- (c) prepared Estate Accounts which were inaccurate and thereby misleading.
- (d) prepared bills of costs claiming sums that she either knew or should have known could not be justified.
- (e) created inaccurate records of time spent.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Geoffrey Williams of Queen's Counsel, solicitor and partner in the firm of Geoffrey Williams & Christopher Green, Solicitor Advocates of 2a Churchill Way, Cardiff, CF1 4DW appeared as the Applicant and the Respondent was represented by Mr Giles Colin of Counsel.

The evidence before the Tribunal included the admissions of the Respondent.

At the conclusion of the hearing the Tribunal the Tribunal made the following Order:-

The Tribunal order that the Respondent, Sally Ann Leslie of Rushden, Northants, solicitor, be struck off the Roll of Solicitors and they further order that she do pay the costs of and incidental to the application and enquiry fixed in the sum of £4,253.50.

The facts are set out in paragraphs 1 to 21 hereunder:-

1. The Respondent born in 1961 was admitted a solicitor in 1986 and her name remained on the Roll of Solicitors.
2. At all material times the Respondent carried on practice as solicitor as a salaried partner with Messrs Dennis Faulkner & Alsop, Solicitors ("the firm") of Beethoven House, 32 Market Square, Northampton, NN1 2DQ. Such partnership ceased on 31st October 2000. The Respondent was not currently in practice and did not hold a Practising Certificate.
3. On 22nd November 2000 the firm submitted a complaint to the OSS. This related to matters discovered subsequent to the Respondent's departure from the firm.
4. The firm also instructed its Chartered Accountants Messrs Kilby Fox of Northampton to carry out investigations. Kilby Fox submitted an interim report and a final report.
5. The firm supplied the OSS with a bundle of accounting documents in relation to the matters made subject of the investigation.
6. The Respondent's misconduct arose in that she raised bills which were unjustified and which were supported by time records created by the Respondent, which were inaccurate. Thereafter the Respondent arranged for the costs in question to be discharged by transfers from client account to office account. The Respondent also improperly raised bills to clear small client account credit balances which bills were not justified and on a number of occasions the Respondent prepared Estate Accounts without reference to all the bills of costs that had been raised and paid. These matters came to light after her resignation from the partnership. Details of the relevant cases are set out below.

E G Deceased

7. The Respondent was the sole Executrix of this Estate. One beneficiary, the Estate of Mr A W (deceased), was represented by solicitors. The others (a hospital and four private individuals) were not.

8. The Respondent delayed in dealing with the Estate. On 20th June 1994 the Respondent paid or caused to be paid out of client account the sum of £302.56. This was by way of compensation for delays and accordingly the funds should not have been paid out of client account.
9. The Respondent made or caused to be made improper payments out of client account and applied them for the benefit of four other unconnected clients. The payments were in the sum of £194.07, £500.00 and two payments of £159.60.
10. The Respondent raised four bills of costs on this matter totalling £26,014.57, which could not be justified. Inaccurate time records had been created to support them. The firm later refunded these amounts to the estate.
11. With the exception of payments made to one of the beneficiaries represented by a firm of solicitors the Respondent failed properly to distribute the Estate assets among the beneficiaries. There were items of correspondence missing from the file but the firm established that in April 1995, a tax refund of £37,160.13 was received in respect of the Estate which was not taken into account when the Respondent made what was purported to be the final distribution of the Estate undertaken by her later that month.
12. On the 29th June 1995 the Respondent paid to the Estate of A W deceased the sum of £12,988.43. The correspondence was missing but it appeared that this sum was paid in respect of that beneficiary's further entitlement arising from the tax refund.
13. Following the further payment of that beneficiary, other than minor payments of dividend received there was no further distribution to any other residuary beneficiaries of the Estate. It appeared that the balance of the Estate was retained and used for the purposes of the improper payments and the four bills of costs referred to in paragraphs 8, 9 and 10 above.

D H Deceased

14. The Estate Accounts prepared by the Respondent did not make reference to bills of costs which had been raised by her. Further bills could not be justified and the firm had returned the funds to client account.

B M S Deceased

15. The Respondent had raised bills of costs in the sum of £1,175.00, on the 27th August 1999, which could not be justified. The firm returned these funds to client account.

P B Company

16. In October 2000 the Respondent prepared a bill of costs addressed to this client in the sum of £1,100.00 plus VAT. The bill was not sent to the client but it was discharged by an improper transfer from client account to office account instigated by the Respondent.

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17. The Respondent issued but failed to send to her client a bill of costs in the sum of £1,600.00 which could not be justified and which was discharged by an improper transfer from client account to office account instigated by the Respondent.

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18. The Respondent issued but failed to send to her client a bill of costs in the sum of £4,500.00 which could not be justified and which was partially discharged by an improper transfer from client account to office account instigated by the Respondent.
19. As stated above the Respondent on occasion adopted an improper practice of drafting bills of costs to clear client account balances and which did not in every case relate to work carried out. The bills would then be discharged by improper client account to office transfers, the bills not having been sent to the clients concerned. Specific examples were set out in the review carried out by the firm's Accountants, which was before the Tribunal.
20. The documentation which was before the Tribunal set out specific examples of the Respondent's improper practice of preparing Estate Accounts without reference to bills of costs which she had raised and had been discharged by transfer.
21. Representations had been made by and on behalf of the Respondent to the OSS in which admissions of a general nature had been made. Copies of the relevant documents were before the Tribunal.

The Submissions of the Applicant

22. The Applicant was alleging dishonesty against the Respondent and the test to be applied was that in the case of *Twinsectra Ltd v Yardley and others* [2002] UKHL 12. The Tribunal would need to be satisfied beyond reasonable doubt of the Respondent's dishonesty to make such a finding.
23. The Respondent's misconduct had been threefold. She had over-billed by making inflated and therefore false time records and the bills had been paid by transfers from client to office. She had swept up client account balances by bills paid by similar transfers and she had prepared misleading Estate Accounts. All the matters had come to light after she had left the firm. The Tribunal was asked to note that she had been with the firm for some time and indeed had been a salaried partner since 1988.
24. The Respondent had not benefited personally or financially nor had she benefited indirectly in terms of salary or prestige.
25. It was submitted that there had been a systemic breach of the Accounts Rules.
26. The Respondent had been punctilious in correspondence about these matters with the OSS and had been consistent from the start. In a letter dated 19th January 2001 she had attributed her conduct to the pressure of work and stress and said that an equity partner had signed all the accounts.

27. It was submitted that it was however in the Respondent's contemplation that the sums set out in the bills would be transferred from client to office. She was a trusted practitioner and the equity partner would have no reason not to sign her bills. The Applicant made no criticism against the firm.
28. The Respondent had also written:-
- “I realise it was an extremely foolish thing to do and I very much regret that course of action...I confirm that there was never any intention on my part to be dishonest”.
29. In submissions sent to the OSS on behalf of the Respondent in March 2002 her solicitors had referred to pressure and a confrontational way of managing the firm as she saw it. It was further submitted that:-
- “When the pressure from the department head and her fellow partner to raise her billing and to become more profitable became too much for her and with her health suffering, SL raised bills which she knew were incorrect based on time recording on certain files which had been exaggerated...
- SL accepts that she did over-record time on some files. However, these were in the main her problem files and ones which she found she had spent a lot of time and for which there was little work to show. Further bills were raised in respect of this time...
- SL accepts that she did exaggerate the time that she put down on client's matters. She also accepts that bills were raised for that time and money transferred from client account. However, SL did not receive any benefit from her actions save that she endeavoured to show that she was able to bill to an acceptable level. SL accepts that this was wrong but at the time she felt she had no other course of action due to the pressure that was being put upon by her partners”.
30. The Applicant acknowledged that this was a very sad case. The Respondent had been a salaried partner and there was no evidence that she had gained in any way personally. All she had achieved was catastrophe for herself.
31. The Respondent had submitted a psychiatric report to the Tribunal.
32. The Respondent knew that it was wrong to create false time records, to over-bill and to take bills to an equity partner for signature. She knew that transfers would be put in place from client to office account and must have known that this was wrong.
33. Stress and pressure continuously play a part in the lives of solicitors. A solicitor's reaction to that, defined their conduct and the Respondent's reaction had failed to meet the standards required to withstand that. In consequence that failure had been dishonest.

34. The Respondent's conduct had created considerable problems for the firm. Over £49,000 had had to be returned to client account although it was accepted that some of that would then be billable.
35. In the submission of the Applicant the Respondent was guilty of dishonesty leading to misappropriation of client funds.
36. The Respondent had agreed the Applicant's costs in the sum of £4,253.50.

The Submissions on behalf of the Respondent

37. The Respondent fully accepted the allegations. She now fully appreciated that her conduct had been wrong and dishonest within the test laid down in *Twinsectra v Yardley*.
38. The psychiatric report had not been put forward in an attempt to excuse but as an explanation.
39. The Respondent was under no illusion as to the likely outcome of the hearing. The matter had been hanging over her for the last three years. In her letter to the OSS of 19th January 2001 she had indicated that she did not intend to waste the valuable time of the OSS in disputing detail.
40. At the heart of the Respondent's conduct was the pressure she had felt under. In her letter she had expressed the hope that under the circumstances the OSS would feel able to take a lenient view of the situation which had caused her considerable stress for a long time.
41. In a further letter of 27th November 2001 the Respondent had explained the considerable pressure she felt under and had made admissions at that early time whilst stating that there had been no dishonest intent on her part.
42. The Applicant had referred the Tribunal to these submissions made in March 2002 on behalf of the Respondent which summarised her position.
43. The Respondent had left the legal profession and had not held a Practising Certificate since 2001. She had no wish to return to the practice of law in private partnership.
44. The Respondent had now faced up to her situation and had a very real insight. She was remorseful and was very sad to find herself in this situation.
45. The Respondent's situation at the firm following a reorganisation had been summarised in the psychiatric report. Having had to move departments she had had to "learn on the job" taking longer on tasks than she felt was fair to clients. She was also the only woman partner in what she felt to be a misogynistic atmosphere.
46. The Report described her inexperience, the pressure she felt under, her procrastination and the office atmosphere.
47. It was submitted strongly to the Tribunal that there was considerable pressure upon the Respondent and that these were factors which preyed upon her mind.

48. The Tribunal was referred to paragraphs 19, 20, and 23 of the psychiatric report which gave an insight into the Respondent's character.
49. The report further noted:-
- “How readily she became tearful on dissection of her lapses at work. She can only explain them as attempts to avoid criticism either from clients or senior partners in her already distressed state. By trying to reach targets or deal with work which was overdue she had exaggerated bills knowingly but with no personal gain to herself”.
50. The report noted the physical ill health of the Respondent at the relevant time for which she had sought medical advice. The report said that this supported her claim that stress was taking its toll at a time when the irregularities occurred in her work.
51. The report referred to:-
- “a chronic anxiety state which had the unfortunate effect of causing errors of judgement which in her normal state of mind would have been abhorrent to her”.
52. The Respondent did find what she had done absolutely abhorrent. She wished to stress that she put forward the psychiatric report by way of explanation and background not excuse.
53. The irregularities had occurred in a relatively small number of files namely twelve out of eighty-six. Her appraisals had been good. The sums in respect of each case were not significant with the exception of the E G matter.
54. The Respondent regretted the difficulties she had caused the firm.
55. The fact that she had not personally gained either financially or in terms of prestige was what had led her to believe she was not dishonest when she had written her earlier letters. Now that the matters had been explained to her, to her credit she had accepted that her conduct had been dishonest.
56. The Tribunal was given details of her work since leaving the firm and of her family and financial circumstances. The Tribunal was asked to be as lenient as was possible consistent with its public duty and to consider imposing a penalty of indefinite suspension. The Respondent had suffered in her health and in the loss of her good character.

The Findings of the Tribunal

57. The Tribunal found the allegations to have been substantiated indeed they were not contested. The Tribunal had given careful and anxious thought to the appropriate penalty in this case. The Tribunal was sympathetic to the position in which the Respondent had found herself. The Respondent may have thought that she was under

a great deal of pressure. There was no evidence from her then firm as to the extent of that pressure and the Tribunal made no criticism of them but clearly the Respondent had thought that she needed to meet what she perceived to be the expectations of the partners. The Tribunal had considered with great care and length the lenient sentence requested by the Respondent's Counsel. The Tribunal had given due weight to the psychiatric report and the pressures and physical ill health to which it referred. The psychiatric report had not however sought to negate the Respondent's ability to tell right from wrong and to her credit the Respondent's counsel had not made his submissions on that basis. The Respondent had properly accepted that her behaviour was rightly categorised as dishonest within the test laid down in *Twinsectra v Yardley*. In the mind of the Respondent it was possible that as she derived no personal benefit from her misconduct she did not regard it as seriously as if she had put her hands in the till and taken clients' money for herself. The Tribunal however regarded her misconduct as very serious. She had clearly put her clients' interests behind those she thought she owed to her firm. Dishonesty in any of its forms was unacceptable in the profession. As submitted by the Applicant, clients' funds were sacrosanct. Fine distinctions as to the reasons for dishonestly handling clients' funds would not be understood by the clients who had been disadvantaged. Fortunately the firm had been able to put matters right. The Tribunal was very saddened by this unfortunate case. There had been a serious failure on the part of the Respondent to abide by the professional standards which the profession absolutely must insist on in order to ensure public confidence in the trustworthiness of members of the profession. In these circumstances the appropriate penalty was to strike the Respondent's name from the Roll of Solicitors.

60. The Tribunal made the following order:-

The Tribunal order that the Respondent, Sally Ann Leslie of Rushden, Northants, 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 £4,253.50.

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

A H Isaacs
Chairman