

IN THE MATTER OF ANTHONY THOMAS FREER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs H Baucher (in the chair)
Mr R B Bamford
Lady Maxwell-Hyslop

Date of Hearing: 20th April 2004

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 George Marriott solicitor and partner in the firm of Gorrins, 4 Davy Avenue, Knowlhill, Milton Keynes, MK5 8NL on 23rd October 2003 that Anthony Thomas Freer of Wood Green, London, N22 (now of Cheshunt, Waltham Cross) might be required to answer the allegations contained in the statement which accompanied the application and that such Order 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 that he:

1. failed to deliver to the Law Society an Accountant's Report for the year ended 31st March 2001 contrary to Rule 35 of the Solicitors' Accounts Rules 1998;
2. failed to deliver to the Law Society an Accountant's Report for the year ended 31st March 2002 contrary to Rules 35 of the Solicitors Accounts Rule 1998;
3. failed to deal promptly or substantially or at all with correspondence from the OSS.

By a Supplementary Statement of George Marriott dated 3rd February 2004 it was further alleged against the Respondent that he had:

4. failed to deliver to the Law Society the Accountant's Report for the year ending 31st March 2003, contrary to Rule 35 of the Solicitor's Accounts Rules 1998;

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 20th April 2004 when George Marriott 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 contained in his fax to the Tribunal sent on 20th April 2004.

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

The Tribunal Order that the Respondent, ANTHONY THOMAS FREER of Cheshunt, Waltham Cross, (formerly of Wood Green, London, N22) solicitor, be STRUCK OFF the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,185.

The facts are set out in paragraphs 1 to 14 hereunder:-

1. The Respondent born in 1952 was admitted as a solicitor in 1994 and his name remained on the Roll of Solicitors. His practising certificate was terminated on 5th June 2001.
2. From 2nd April 1999 the Respondent practised as a sole principal under his own name from 67A High Road, Wood Green, London, N22 6BH until a date unknown but no later than 31st March 2000. Thereafter, according to the records maintained by the Law Society, the Respondent had not been employed within the profession.

Accountants Report for year ending March 2001

3. The Respondent's last Accountant's Report was filed for the year ended 31st March 1999. This Report did not indicate that clients' money and/or money subject to controlled trust had ceased to be held. Accordingly, the next Report to be filed by a the Respondent was the Report for the year ending 31st March 2000 which was due to be delivered to the Society no later than 30th September 2000. At a hearing in front of the Tribunal on 27th February 2003, the Respondent confirmed that his paperwork was up to date and that he could file an Accountant's Report. It was simply a question of seeing his accountant and making the necessary arrangements. He gave an assurance to the Tribunal that he would put that matter right.
4. The Respondent was due to file a Report for the year ending 31st March 2001 no later than 30th September 2001. As no Report was received from the Respondent, a letter requesting it was sent out to him on 7th November 2001, a reminder on 3rd October 2002 and a further reminder on 30th October 2002.

5. In the letter of 3rd October 2002, the Respondent was warned that failure to reply to correspondence from the OSS might be regarded as unprofessional conduct, and that he ran the risk of disciplinary proceedings.
6. No reply was received from the Respondent. The OSS wrote to him again on 21st January 2003 by which time the Accountant's Report for the year ending 31st March 2002 was also outstanding. It should have been filed by 30th September 2002.

Accountant's Report for year ending March 2002

7. By letter dated 8th October 2002, the Respondent was advised that he had not lodged his Accountant's Report for the period ended 31st March 2002. He was invited to apply for a waiver but failed to do so.
8. In the absence of hearing anything from the Respondent, the matter was referred for adjudication. On 30th July 2003, an adjudicator made an order that the two outstanding Accountant's Reports for 31st March 2001 and 31st March 2002 be delivered to the Law Society within twenty eight days, failing which the conduct of the Respondent be referred to the Tribunal.
9. The adjudicator also ruled that for failing to respond to correspondence from the OSS, the Respondent's conduct would also be referred to the Tribunal.
10. The Respondent was notified of the decision by letter dated 1st August 2003 and did not appeal.
11. The Respondent's Accountant's Report for the period ending 31st March 2003 was due for delivery by the 30th September 2003. By letter dated 31st October 2003, the OSS asked that it be forwarded to them without further delay.
12. By a telephone call, dated 5th November 2003, the Respondent advised that he was already subject to disciplinary proceedings, had now "got his act together" and had all outstanding Reports in hand and was hoping to deliver them within eight weeks.
13. By letter dated 14th January 2004 the OSS wrote to the Respondent, asking for an explanation as to why his Accountant's Report had not been filed with the Law Society by 30th September 2003. No response was received to that letter.
14. The outstanding Accountant's Reports were received by the Law Society on 20th April 2004, the day of the substantive hearing.

The Submissions of the Applicant

15. The Respondent had today sent a fax to the Tribunal admitting the allegations.
16. In the fax the Respondent had said "I am pleased to be able to advise that the various outstanding Reports have been filed, albeit extremely late." The Tribunal was asked to note that the last Accountant's Report filed by the Respondent until today had been for the year ending March 1999. That Report did not indicate that clients' monies and/or monies subject to a controlled trust had ceased to be held; the Respondent had

never applied for a waiver and despite his assurance to the Tribunal in 2003 had not filed the Report which had been the subject of those proceedings i.e. for the year ended March 2000, until today.

17. The Respondent still asserted that he had clients' money in the sum of some £17,500 pounds.

The Submissions of the Respondent

18. The Respondent's submissions were contained in his fax sent to the Tribunal on the morning of 20th April 2004 which is summarised below.
19. The Respondent asked that the matter proceed in his absence, admitted the allegations and apologised to the Tribunal.
20. The Respondent asked the Tribunal to accept that the breaches had not been brought about by anything deliberate on the part of the Respondent but had been caused by inertia and his inability to deal with matters since shortly after ceasing to practise.
21. The Respondent said that the outstanding Reports had been filed albeit extremely late. He said that his accountants had been in receipt of the necessary information to enable them to file the Reports save for his Roll number and his firm's reference number for some twelve months. He attributed the delay again to his inertia and failure to deal with matters.
22. While not seeking to excuse the breaches the Respondent asked the Tribunal to accept that by finally dealing with the matters he had mitigated to some extent.
23. The Respondent gave details of his current employment.
24. The Respondent hoped that the costs of the hearing might be reduced by his admissions.

The Findings of the Tribunal

25. The Tribunal found the allegations to have been substantiated indeed they were not contested.

Previous appearance before the Tribunal on 27th February 2003

26. At a hearing on 27th February 2003 the following allegations were substantiated against the Respondent namely that he had been guilty of conduct unbefitting a solicitor in that he:-
 - (1) failed to deliver to the Law Society an Accountant's Report for the year ended 31st March 2000 contrary to Rule 35 of the Solicitors Accounts Rules 1998;
 - (2) failed to deal promptly or substantively or at all with correspondence from the OSS;

- (3) failed to pay promptly or at all fees due to an expert witness he instructed contrary to Principle 20.01;
 - (4) failed to pay to Mrs YD the sum of £200 contrary to an order made by an adjudicator dated 2nd January 2001. In this connection the Applicant sought an order pursuant to paragraph 5 of Schedule 1A of the Solicitors Act 1974 directing that for the purposes of enforcement that this is an order made by the High Court;
 - (5) contrary to Rule 1 of the Solicitors Practice Rules 1990 in the course of practising as a solicitor compromised and impaired his independence and integrity, his good repute and that of the profession and his proper standard of work.
 - (6) following the termination of his retainer failed even though requested to deliver to the client's new solicitors (GW) all papers and property to which the client was entitled or otherwise to hold them to the client's order;
 - (7) failed to deal promptly or at all with communications relating to the matter of a client or former client;
 - (8) failed to honour the Undertaking given on 12th September 1994 namely to hold the papers to GW's order and to return the papers to them;
 - (9) failed to deal promptly or substantively or at all with correspondence from the OSS.
27. The Tribunal in 2003 had before it no formal medical evidence but it did accept the Respondent's explanation that he had been badly affected by his late father's death and had himself suffered from health problems. The Respondent's failures had caused inconvenience and expense to his professional body. It was a serious matter for a solicitor to flout a direction made by his professional body. It was equally serious for a solicitor not to comply with strict statutory and regulatory requirements, in particular the failure to lodge a requisite Accountant's Report. Such failure prevented the Law Society from properly exercising its duty as a regulator of the solicitors' profession and prevented the Law Society from being able to assure members of the public, who were clients of solicitors, that any particular solicitor could be entirely trusted to hold large sums of money on behalf of his clients.
28. The Tribunal took a serious view of a solicitor who did not make a proper response to correspondence addressed to him by his own professional body.
29. The Tribunal took into account the mitigating circumstances of the Respondent, the fact that he had rectified one or two of his failings and the fact that he gave the Tribunal an assurance that he would put the other matters right. The Tribunal adopted a lenient view and ordered the Respondent to pay a fine of £2,500. It was right, in the Tribunal's view, that the Respondent also should pay the costs of and incidental to the application and enquiry and the Tribunal fixed the relevant sum.

30. The Tribunal pointed out to the Respondent that he remained in continuing breach if he did not put right those matters which he had indicated that he would. If the Respondent remained in continuing breach it was not unlikely that the Law Society would seek to bring the Respondent before the Tribunal again in connection with those continuing breaches. In such circumstances he would not expect the Tribunal to be as lenient again.

Hearing on 20th April 2004

31. The Tribunal took an extremely serious view of the Respondent's conduct. At a Tribunal in 2003 the Respondent had indicated to the Tribunal that he could file the outstanding Accountant's Report. Despite that assurance, that Report and the subsequent Reports had not been sent to the Law Society until the day before the present hearing. The Tribunal confirmed the views of the earlier Tribunal regarding the importance of the filing of Accountant's Reports. The Respondent had continued to fail in his obligations acting only at the eleventh hour to send in the Reports which were not received until the day of the hearing.
32. The Tribunal also took a serious view, as had the earlier Tribunal, of a solicitor who did not reply to his own professional regulatory body. The Law Society could not carry out its regulatory functions, which were there for the protection of the public, if solicitors flouted the regulatory requirements in this way. The Respondent had been warned by the previous Tribunal that leniency could not be expected if he remained in continuing breach. The Respondent had remained in continuing breach in respect of the first Accountant's Report and had compounded that by failing to file further Accountant's Reports until the eleventh hour. The Reports had only been received by The Law Society today. The Respondent had put forward no medical evidence nor any cogent explanation of his failures. A solicitor who persistently failed in these important regulatory matters could not remain as a member of the profession.
33. The Tribunal made the following Order:-

At the conclusion of the hearing the Tribunal ordered that the Respondent, ANTHONY THOMAS FREER of Cheshunt, Waltham Cross (formerly of Wood Green, London, N22) solicitor, be STRUCK OFF the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,185.

Dated this 24th day of June 2004
On behalf of the Tribunal

H Baucher
Chairperson