

IN THE MATTER OF SIMON PATRICK CANNON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Ms K Todner (in the chair)  
Miss T Cullen  
Mr M G Taylor CBE

Date of Hearing: 5th August 2004

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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 ("OSS") (as it then was) by Stephen John Battersby solicitor and partner in the firm of Jameson & Hill, 72-74 Fore Street, Hertford, Herts, SG14 1BY on 18<sup>th</sup> November 2001 that Simon Patrick Cannon of Weybrook Park, Burpham, Guildford, Surrey 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 were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars:

- (i) that he failed to file Accountant's Reports within the requisite time;
- (ii) that he practised without Professional Indemnity Insurance or alternatively failed upon request to provide particulars of such insurance;
- (iii) that he failed to comply with an undertaking;
- (iv) that he withdrew monies from client account other than as permitted;

- (v) that he failed to produce books of account and other documentation to an Investigating Officer on request.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Stephen John Battersby appeared as the Applicant. The Respondent did not appear and was not represented.

On 18<sup>th</sup> May 2004 the Tribunal granted the Applicant's application for substituted service and the Tribunal was satisfied that good service had been achieved by way of advertisements in The Law Society's Gazette and in a national newspaper.

The evidence before the Tribunal included the oral evidence of Mr Dhanda, The Law Society's Investigation Officer.

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

The Tribunal Orders that the Respondent, Simon Patrick Cannon of Weybridge, Surrey, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 5th day of August 2004 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,632.83.

The facts are set out in paragraphs 1-8 hereunder.

1. The Respondent, born in 1959, was admitted as a solicitor in 1990. At the material times he practised on his own account under the style of Cannon & Co at 1A High Street, Cobham, Surrey.
2. The Respondent encountered severe financial, personal and business problems and ceased to practise at the end of 2002. A formal intervention by The Law Society into his practice was carried out on 14<sup>th</sup> March 2003.
3. A condition on the Respondent's practising certificate required the Respondent to file his Accountant's Reports with The Law Society every six months. His relevant accounting periods ended on 30<sup>th</sup> November and 31<sup>st</sup> May in each year and he had two months thereafter in which to file the Reports.
4. The Respondent's Accountant's Report for the period ending 30<sup>th</sup> November 2001 should have been filed by the end of January 2002. The Respondent successfully applied for an extension until 14<sup>th</sup> March 2002 but his request for a further extension was not granted. His explanation for the delay had been that he had become involved in a dispute with his accountants. The Report had not been received by 30<sup>th</sup> November 2002 when The Law Society wrote to the Respondent seeking his explanation. The Respondent did not reply.
5. During 2001 the Respondent acted for Mrs C in divorce proceedings. Her husband was represented by A & Co. On 29<sup>th</sup> October 2001 the Respondent wrote to A & Co asking them to prepare an affidavit in connection with an agreement between the

parties. This letter contained an undertaking by the Respondent in the following terms:

"I naturally undertake to be responsible for your reasonable costs in connection with the preparation of such an affidavit."

6. A & Co prepared the affidavit and on 21<sup>st</sup> December 2002 rendered their invoice for so doing to the Respondent. Reminders dated 18<sup>th</sup> January and 18<sup>th</sup> February 2002 were sent to the Respondent but the invoice remained unpaid. The matter was referred to the OSS and A & Co obtained a County Court Judgment against the Respondent.
7. On 5<sup>th</sup> September 2002 the OSS wrote to the Respondent about his failure to comply with the undertaking. He replied on 25<sup>th</sup> September 2002 accepting responsibility for the undertaking but explaining that his own financial circumstances had caused difficulty. He expected to be able to pay "within days". The payment was not forthcoming. On 16<sup>th</sup> June 2003 an OSS Adjudicator directed the Respondent to comply with the undertaking within 14 days of the expiry of the review period. The Respondent did not comply.
8. An Investigation Officer, Mr M Dhanda, visited the Respondent's practising address. His Report of 13<sup>th</sup> February 2003 was before the Tribunal. Mr Dhanda found that there was a cash shortage of £10,448.31 caused by a combination of over-payments from client account and incorrect transfers from client to office account. There was a lack of documentation and it was difficult for Mr Dhanda to investigate the Respondent's affairs properly. Mr Dhanda requested sight of certain files and also office account bank statements but the Respondent did not produce them. The shortage was not replaced.

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

9. The Law Society had acquired insufficient information to ascertain the precise position with regard to clients' money.
10. It was clear that the Respondent had found himself in financial straits. That had led to the breach of his undertaking. The Applicant passed to the Tribunal some information provided by The Law Society's Compensation Fund showing that a number of claims had been made upon that Fund and some payments had been made.

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

11. The Respondent did not make any submissions.

#### **The Tribunal's Decision and Reason**

12. The Tribunal found the allegations to have been substantiated.
13. On 13<sup>th</sup> April 2000 the Tribunal found the following allegations to have been substantiated against the Respondent. The allegations were that the Respondent had

been guilty of conduct unbefitting a solicitor in each of the following particulars namely that he had:

- (a) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1991;
- (b) contrary to Rule 8 of the Solicitors Accounts Rules 1991, withdrawn money from client account other than as permitted by Rule 7 of the said Rules.

14. In its Findings dated 26<sup>th</sup> May 2000 the Tribunal said:

"The Tribunal accept that the respondent's shortcomings fall at the lower end of the scale and further accept that there had been no question of dishonesty. Having said that, punctilious compliance with the Solicitors Accounts Rules is of fundamental importance to a solicitor in private practice. The Law Society could only assure prospective clients that their monies would not be put in jeopardy if placed with a solicitor, if the Society could be entirely satisfied that that solicitor was complying in every respect with the Solicitors Accounts Rules. The Tribunal give the respondent credit for his admissions, the seriousness with which he treated the matter, and his efforts to put matters right.

The Tribunal considered it right to impose a fine of £1,500.00 upon the respondent and further ordered him to pay the applicant's costs in the agreed fixed sum. With regard to the costs of the Investigation Accountant of The Law Society, the Tribunal have noted that of the three allegations made against the respondent, one had been withdrawn, and the Tribunal further considered that the Investigation Accountant's costs appeared very high having regard to the size of the respondent's practice. In all of the circumstances the Tribunal considered it right that the respondent should make some contribution to the costs of the Investigation Accountant of The Law Society but limited those costs to a contribution of £2,000.00."

- 15. In 2004 the Tribunal recognises that the Respondent appears to have been confronted with insuperable financial difficulties. The Tribunal gave the Respondent credit for having accepted that he had given the undertaking to A & Co. There was no evidence that he had deliberately been in breach of that undertaking but rather placed in breach by his financial circumstances.
- 16. It is of fundamental importance that solicitors file the Accountant's Reports required of them on time. The Tribunal adopts the words of the earlier Division of the Tribunal with regard to the importance that solicitors must attach to such matters.
- 17. In all of the circumstances the Tribunal considered it right that the Respondent should be suspended from practice for an indefinite period of time. The Applicant had specified the costs which he would claim. In the circumstances those costs appeared to the Tribunal to be entirely reasonable and the Tribunal considered it right to make an Order for fixed costs so that no further expense by way of the requirement for assessment be incurred.

18. The Tribunal has made the Order for indefinite suspension on the basis that it would not expect the Respondent to seek a determination of the period of suspension until he is in a position to demonstrate that he is up to date with all regulatory requirements.

DATED this 18<sup>th</sup> day of October 2004  
on behalf of the Tribunal

K Todner  
Chairman