

IN THE MATTER OF GEOFFREY STUART LAWTON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

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Mr A H Isaacs (in the chair)  
Mr R J C Potter  
Mr D E Marlow

Date of Hearing: 4th May 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 (the "OSS") by Rosemary Jane Rollason solicitor of Field Fisher Waterhouse 35 Vine Street, London EC3N 2AA that Geoffrey Stuart Lawton of Crowther Road, Heckmondwike, West Yorkshire (formerly of, Smithy's Moor Lane, Birstall) a solicitor 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 the following particulars namely:-

- (i) that at an inspection by The Law Society of his firm's books of account, commenced on 25<sup>th</sup> February 2002, he was found to have transferred costs from client to office bank account in respect of three client matters where no bills or written intimation of costs had been delivered to the clients, resulting in a cash shortage in client account in excess of £7,600.00;

- (ii) that he failed before the start of the indemnity period 1<sup>st</sup> September 2000 to 31<sup>st</sup> August 2001 either to have qualifying insurance in place in respect of his firm, or to apply to enter the Assigned Risks Pool, contrary to Rule 5 of the Solicitors Indemnity Rules 2000;
- (iii) that he failed before the start of the indemnity period 1<sup>st</sup> September 2001 to 31<sup>st</sup> August 2002 either to have qualifying insurance in place in respect of his firm, or to apply to join the Assigned Risks Pool, contrary to Rule 5 of the Solicitors Indemnity Rules 2001;
- (iv) that in the matter of the re-mortgage of 56 GF Crescent which had completed on 28<sup>th</sup> May 1999 he had, as at the date of the inspection on 25<sup>th</sup> February 2002, failed to register the lender Bank's charge and return the deeds to it, contrary to undertakings given to the Bank;
- (v) that in the matter of 84 I Crescent, the purchase of which completed on 19<sup>th</sup> October 1998 he had, as at the date of the inspection on 25<sup>th</sup> February 2002, failed to register the title to the property;
- (vi) that in the matter of G Gardens, the purchase of which completed on 8<sup>th</sup> October 1997 he had, as at the inspection date of 25<sup>th</sup> February 2002, failed to register the title or arrange for the payment of stamp duty due on the lease;
- (vii) that he failed to notify The Law Society that he had entered into an Individual Voluntary Arrangement;
- (viii) that he failed to make payment of the Assigned Risks Pool premium in respect of his firm for the indemnity period commencing 1<sup>st</sup> September 2000;
- (ix) that he failed to make payment of the Assigned Risks Pool premium in respect of his firm for the indemnity period commencing 1<sup>st</sup> September 2001;
- (x) that he failed to deliver to The Law Society an Accountant's Report in respect of his firm for the period ending 15<sup>th</sup> March 2002 by the due date of 15<sup>th</sup> September 2002, contrary to Section 34 of the Solicitors Act 1974 (as amended);
- (xi) that he had delayed/or failed in complying with the decision of an Adjudicator for the OSS dated 19<sup>th</sup> December 2002, made pursuant to Section 37A and Schedule 1A Solicitors Act 1974, concerning a complaint by his former client, Mr C.

The Applicant further applied that a direction be made by the Tribunal that the direction of The Law Society of 19<sup>th</sup> December 2002 relating to a finding of inadequate professional services in respect of Geoffrey Stuart Lawton in connection with the matter of Mr C (which direction required the Respondent to pay compensation of £750.00 to Mr C, compensation of £500.00 to Mrs C and to refund Mr and Mrs C's fees of £2,750.00 plus VAT) be treated for the purposes of enforcement as if it were an order of the High Court.

The evidence before the Tribunal included a letter addressed by the Respondent to the Tribunal dated 7<sup>th</sup> March 2004 and the record of a telephone conversation held between the Applicant and the Respondent on 5<sup>th</sup> March 2004 in which the Respondent confirmed that he

admitted the facts and some of the allegations and he indicated that he wanted to make representations in mitigation. He confirmed that he had received the papers.

The Tribunal noted that the papers had been served personally by a process server instructed by the Respondent. The Respondent had not made the submissions which he earlier indicated he intended to make. He had not responded to a letter addressed to him by the Applicant dated 20<sup>th</sup> April 2004 asking him to confirm his intentions in respect of the hearing.

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

The Tribunal Order that the Respondent, Geoffrey Stuart Lawton of Crowther Road, Heckmondwike, West Yorkshire (formerly of Smithy's Moor Lane, Birstall) solicitor, be suspended from practice as a solicitor for an indefinite period to commence on 4<sup>th</sup> day of May 2004 and they further Order that he do pay the costs of and incidental to this application to be subject to a detailed assessment unless agreed between the parties to include the costs of Investigation Accountant of The Law Society.

The Tribunal further Orders that the Direction of The Law Society dated 19<sup>th</sup> December 2002 that the Respondent do pay £7590 to Mr Campagna and £500.00 to Mrs Campagna and that the Respondent do refund to Mr & Mrs Campagna fees of £2,750 (plus VAT) be treated for the purposes of enforcement as if it were an Order of the High Court.

**The facts are set out in paragraphs 1 to 30 hereunder:-**

1. The Respondent, born in 1940, was admitted as a solicitor in 1965. At the material times he practised on his own account under the style of GS Lawton & Co from offices at 17 North Lane, Headingley, Leeds LS6 3HW.
2. Following notice duly given a Senior Investigation Officer of the OSS carried out an inspection of the Respondent's books of account. The inspection began on 25<sup>th</sup> February 2002. The Senior Investigation Officer's Report dated 9<sup>th</sup> April 2002 was before the Tribunal.
3. The Report revealed that the Respondent had practised alone since 1997 and had conducted primarily a conveyancing practice with some wills and probate work. He was assisted by three administrative staff.
4. The Respondent's books of account were found not to be in compliance with the Solicitors Account Rules 1998. A list of liabilities to clients as at 31<sup>st</sup> January 2002 was produced for inspection, which totalled £467,291.71. When compared with monies held on client account, after adjustment for un-cleared cheques, a cash shortage on client bank account of £7,630.97 was established. The Respondent agreed the existence of the cash shortage.
5. The cash shortage arose because in three estate matters, costs of £1,932.72, £2,585.00 and £3,113.25, had been transferred from client to office bank accounts when none of the client matter files contained any reference to the delivery of bills to the client. In each case, the top, white copy of the self-carboning set was retained on the client matter file.

6. In the matter of EW deceased, the total value of the bills was £1,938.75. That is different from the figure of £1,932.72 that was included in the Senior Investigation Officer's Report, and is explained by his erroneous noting of the value of one bill as £346.47. £352.50 was the correct figure. The error was carried through to the Report.
7. In the matter of Mrs GB (deceased) the total of the bills on the file was £2,585.00.
8. In the matter of Mrs BMR (deceased) the total of the bills on the file was £3,113.25.
9. The Respondent confirmed to the Senior Investigation Officer during the inspection that the white copy of the bill was supposed to go to the client. He agreed that bills had not been delivered to the clients in connection with these matters. He said that he had not realised that he was not entitled to transfer costs until a bill had been delivered.

#### Allegations (ii) and (iii)

10. The Respondent confirmed at the Senior Investigation Officer's inspection that, for the indemnity periods of 1<sup>st</sup> September 2000 to 31<sup>st</sup> August 2001, and 1<sup>st</sup> September 2001 to 31<sup>st</sup> August 2002, he had not obtained professional indemnity cover in respect of his firm. He said that he had no "sensible logical reason" for not arranging cover, but alluded to personal problems including a back problem in August 2000 and a long standing stomach complaint from which he was suffering at the time of the inspection.
11. The Respondent also stated that he was negotiating with the Assigned Risks Pool Manager about a default premium for the indemnity period 2000 to 2001.

#### Allegation (iv)

12. At the inspection, it was noted that the Respondent had acted for private clients and Yorkshire Bank Plc (the new lender) in connection with the re-mortgage of 56 GF Crescent. Completion had taken place on 28<sup>th</sup> May 1999.
13. On 10<sup>th</sup> and 13<sup>th</sup> May 1999, the Respondent had given undertakings to the Bank, inter alia, that he would register the Bank's charges and send the deeds to the Bank.
14. The latest correspondence on the file was dated 25<sup>th</sup> June 1999. The transfer and land certificate remained on the file. The Respondent expressed embarrassment that he had not attended to registration.

#### Allegation (v)

15. The Respondent acted for the purchaser of I Crescent. Completion took place on 19<sup>th</sup> October 1998. The most recent correspondence on the file, dated March 1999, explained that the Respondent was not able to register the title as he could not locate the land certificate or the lease. It appeared from the file that the seller's solicitors sent these documents to the Respondent on 20<sup>th</sup> October 1998.
16. The Respondent held the executed transfer deed. He had written to the seller's solicitors on 12<sup>th</sup> January 1999 and again on 2<sup>nd</sup> March 1999 requesting the land certificate and lease and stating that he could not deal with the registration of the

property without these documents. The reply had been the documents had already been sent.

17. The Respondent said he had transferred files to storage off site, and unfinished files had been transferred in error.

#### Allegations (vi)

18. The Respondent acted in connection with the purchase of a property at 4 G Gardens. Completion took place on 8<sup>th</sup> October 1997. At the inspection the Respondent agreed that the stamp duty of £904 due on the lease had not been paid and the title had not been registered. The Respondent said that in the absence of a lender, there had been no reminders to prompt him.

#### Allegation (vii)

19. At the time of the Senior Investigation Officer's inspection the Respondent was subject to a four year voluntary arrangement which was due to expire in October 2002. The Respondent had not informed The Law Society of this as he was required to do by the Practising Certificate Regulations 1995.

#### Allegations (viii) and (ix)

20. Tribunal accepted evidence that the Respondent had not made any payment to the Assigned Risks Pool for the two indemnity years commencing on 1<sup>st</sup> September 2000 and 2001.
21. On 8<sup>th</sup> April 2002, Nelson & Co, acting on behalf of The Law Society, wrote to the Assigned Risks Pool Manager and advised that The Law Society had intervened into the Respondent's practice.
22. During the interview with the Senior Investigation Officer, the Respondent confirmed that he had not obtained indemnity cover for the year commencing 1<sup>st</sup> September 2001.

#### Allegation (x)

23. Following the intervention into his practice the Respondent did not submit to The Law Society an Accountant's Report, as required by Section 34 of the Solicitors Act 1974.
24. Client monies were held by the Respondent's firm until the date of the intervention. The Respondent was required to deliver an Accountant's Report up to the date when he ceased to hold clients' money and this was due by 15<sup>th</sup> September 2002.
25. The Law Society wrote to the Respondent on 7<sup>th</sup> October 2002 advising him that such a Report had fallen due. It also pointed out he could apply in writing for a waiver of that requirement. The Respondent did not reply to this letter nor to a further letter of 12<sup>th</sup> March 2003.

#### Allegation (xi)

26. On 19<sup>th</sup> December 2002, an Adjudicator for the OSS, considered the quality of professional services provided by the Respondent's firm following a complaint made by a client, Mr C.
27. Mr C's complaint had been that the Respondent did not keep him informed about the progress of his matters and had unreasonably delayed in carrying out Mr C's instructions. The Respondent did not reply to Mr C's telephone calls and letters. Further complaints arose when Mr C instructed new solicitors and the Respondent delayed in accounting to them for monies held. Mr C also complained that the Respondent had not provided him with any costs information and had failed to render bills.
28. The Adjudicator determined that the services provided by the Respondent's firm were inadequate.
29. A copy of the Adjudicator's decision was before the Tribunal. In it he directed that the Respondent's firm pay compensation of £750.00 to Mr C and compensation of £500.00 to Mrs C and also that of £2,750.00 plus VAT be refunded to Mr C and Mrs C within seven days following the expiry of the fourteen day review period, should no review be requested.
30. The Respondent did not request a review. He did not make the payments he was directed to make.

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

31. Rule 22(3)(b) of the Solicitors Accounts Rules 1998 provides that money might be withdrawn from client account when it is money "properly required for payment of a solicitor's costs under Rule 19(2) and (3)". Rule 19 (2) provides that a bill of costs or other written notification of the costs must first be given or sent to the client.
32. The Solicitors Indemnity Insurance Rules 2000 and 2001 (Rules 4 and 5 of both sets of Rules) require a solicitor's firm to take out and maintain qualifying insurance for any indemnity period during which it practises. In particular Rule 5 provides "it shall be the responsibility of a firm carrying on a practice and any person who is a principal in a firm which is carrying on a practice during an indemnity period beginning on or after 1<sup>st</sup> September 2000 to ensure:-
  - (i) that the firm has in place and maintains qualifying insurance outside the Assigned Risks Pool during any such indemnity period;
  - (ii) that the firm has applied to enter the Assigned Risks Pool in accordance with the procedure set out in Rule 11;

In either case (i) or (ii) before the start of any relevant indemnity period or the commencement of practice whichever is the later".

33. The Respondent had accepted delays in completing conveyancing matters.

#### **Individual Voluntary Arrangements (IVA)**

34. The Practising Certificate Regulations 1995 provide “every application must ensure that all details relating to him or her given on any form prescribed under these regulations are correct and complete”. In the Guide to Professional Conduct of Solicitors (eight edition (pg 141)) provides “guidance: bankruptcy and voluntary arrangements: implications for Practising Certificates.
35. Unlike bankruptcy, an IVA does not suspend a solicitor’s Practising Certificate. However the OSS must be told that it has been entered into and may impose conditions on the Practising Certificate.....”

#### Indemnity Insurance

36. Rule 16 of the Solicitors Indemnity Insurance Rules 2000 provides that: “subject to Rule 17, any firm in the Assigned Risks Pool must pay to the Assigned Risks Pool Manager the Assigned Risks Pool premium within 30 days of such premium being notified to it by the Assigned Risks Pool Manager”.

#### Accountant’s Report

37. It was a requirement pursuant to Section 34 of the Solicitors Act 1974 and the Rules made thereunder that a “cease to hold” Report be made by a solicitor for the period ending on the date when he ceased to hold clients’ money. The Respondent had ceased to hold clients money on the date of The Law Society’s intervention into his practice. The Applicant accepted that it would prove very difficult for a solicitor to produce such a Report following an intervention into his practice but it had been open to the Respondent to seek a waiver of that requirement and The Law Society had told him that such a course was open to him.

#### Inadequate Professional Service

38. There had been a finding of inadequate professional service by the Respondent’s firm in respect of the clients Mr C and Mrs C. The Respondent had not paid any of the sums which the Adjudicator had directed him to pay.

#### Accountant’s Rules

39. The Respondent had replied to a letter from the OSS in a letter dated 12<sup>th</sup> March 2002. In that response the Respondent indicated that he had been unaware that he was required in all cases to submit bills to a client before transferring costs out of client account. He said he had not been dishonest.
40. The Respondent indicated that he had been absent from his office for some time owing to illness and understood that he was automatically covered for professional indemnity insurance by being in the Assigned Risks Pool. He would not have continued to practise if he had known that he was not covered.
41. With regard to the failures and the three conveyancing matters the Respondent said that these had been the results of oversights and owing to lack of space it had been

necessary to store completed files at an off site storage facility. By mistake some files which had not been concluded had been moved to the storage site.

42. The Respondent said he believed that those representing him in connection with the IVA had informed The Law Society of it.
43. On 28<sup>th</sup> November 2002 the Respondent had indicated to the OSS that he wished to comment in detail upon the Senior Investigation Officer's Report but no further letter had been received from the Respondent. Similarly the Respondent had indicated to the Applicant that he wished to make representations to the Tribunal, but he had not done so.

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

44. The Tribunal has considered the submissions made by the Respondent to the OSS to which the Applicant referred (the Respondent's letter dated 12<sup>th</sup> March 2002).
45. The Respondent had written a letter to the Tribunal's office dated 7<sup>th</sup> March 2004 in which he said "I have spoken to Ms Rollason of Field Fisher Waterhouse and I indicated to her that I wish to make representations to the Society, but I did not need to attend the hearing and I did not intend to be represented. I will therefore contact you further".
46. The Respondent had not written any further letter to the Tribunal's office.

### **The Decision of the Tribunal**

47. The Tribunal found the allegations to have been substantiated. None had been denied by the Respondent, and some had been admitted by him and in all cases the Tribunal considered that the documentary evidence before it enabled it to reach that finding.
48. The Tribunal had before it no satisfactory explanation from the Respondent. The Respondent had maintained a long unblemished record as a solicitor. There was no suggestion that the Respondent had behaved dishonestly, but the regulatory and other failures which had been drawn to the attention of the Tribunal were sufficiently serious to justify his being suspended from practice.
49. The Tribunal considered it appropriate to make such an order in order to protect the interest of the public and the good reputation of the solicitors' profession.
50. Further the Tribunal considered it right, in the absence of any satisfactory explanation from the Respondent, to order that the Respondent's suspension from practice be for an indefinite period of time. In such a case it is, of course, open to a Respondent to make an application to the Tribunal for the period of suspension to be determined in which case he would have to satisfy the Tribunal that he was competent in all respects to return to practice as a solicitor.
51. The Tribunal was not minded to make a fixed order for costs in view of the fact that the Respondent had not had an opportunity to consider the figures put forward by the Applicant. The Tribunal therefore ordered that the Respondent should pay the costs of



and incidental to the application and enquiry (for the avoidance of doubt such costs are to include the costs of the Senior Investigation Officer of The Law Society) all such costs to be subject to a detailed assessment if they are not agreed between the parties.

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

“The Tribunal Order that the Respondent, Geoffrey Stuart Lawton of Crowther Road, Heckmondwike, West Yorkshire (formerly of Smithy’s Moor Lane, Birstall) solicitor, be suspended from practice as a solicitor for an indefinite period to commence on 4<sup>th</sup> day of May 2004 and they further Order that he do pay the costs of and incidental to this application to be subject to a detailed assessment unless agreed between the parties to include the costs of Investigation Accountant of The Law Society.

The Tribunal further Orders that the Direction of The Law Society dated 19<sup>th</sup> December 2002 that the Respondent do pay £7590 to Mr Campagna and £500.00 to Mrs Campagna and that the Respondent do refund to Mr & Mrs Campagna fees of £2,750 (plus VAT) be treated for the purposes of enforcement as if it were an Order of the High Court”.

DATED this 21<sup>st</sup> day of June 2004

on behalf of the Tribunal

A H Isaacs  
Chairman