

IN THE MATTER OF SUSAN ANNE MANCHESTER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D J Leverton (in the chair)
Mr R J C Potter
Mr J Jackson

Date of Hearing: 13th July 2006

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Peter Harland Cadman, solicitor and partner in the firm of Russell Cooke Solicitors of 8 Bedford Row, London, WC1R 4BX on 23rd January 2004 that Susan Anne Manchester, solicitor, of North Petherwin, Near Launceston, Cornwall, 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 fit.

The allegations against the Respondent were that she had been guilty of conduct unbefitting a solicitor in each of the following particulars, namely:-

- (a) That she failed to apply for indemnity cover for the period 1st September 2002 to 31st August 2003 before the due date of 1st September 2002 contrary to Rule 8 of the Solicitors Indemnity Insurance Rules 2002;
- (b) That she failed to pay the indemnity premium due and owing contrary to Rule 16 of the Solicitors Indemnity Insurance Rules 2002;
- (c) That she failed promptly or at all to pay expert's fees;

- (d) That she manufactured and/or attempted to manufacture a letter purportedly dated 31st July 2001 that was misleading;
- (e) That she had in her possession a letter purportedly dated 31st July 2001 that was misleading;
- (f) That she failed to reply to correspondence from the Office for the Supervision of Solicitors promptly or at all.

By a supplementary statement of Peter Harland Cadman dated 24th June 2005 it was further alleged against the Respondent that she had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely:-

- (g) That she concealed correspondence and other documents from her partner;
- (h) That she had in her possession correspondence that was misleading and/or correspondence in various stages of preparation that would have been misleading.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 13th July 2006 when Peter Harland Cadman 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 to allegations (a) to (c) and (f) to (h). The Applicant submitted the originals of the documents referred to at allegations (d) and (h).

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

The Tribunal Orders that the Respondent Susan Anne Manchester of Brazzacot House, North Petherwin, Nr Launceston, Cornwall, PL15 8NE, solicitor, be struck off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties.

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

1. The Respondent, born in 1958, was admitted as a solicitor in 1982 and her name remained on the Roll of Solicitors. At all material times the Respondent had carried on practice in partnership with her husband DH under the style of Hayes Solicitors, 1164 Fore Street, Saltash, Cornwall. The Law Society intervened in the practice on 15th January 2003.
2. Under the Solicitors Indemnity Insurance Rules 2000 the Respondent should have applied for an indemnity cover for the period 1st September 2002 to 31st August 2003 on or before 1st September 2002. The Respondent failed to do so. Further, the Respondent failed to pay the indemnity premium due to the Assigned Risks Pool.
3. The Law Society wrote to the partners on 15th April and 25th June 2003 and, following consideration of the matter by an Adjudicator, on 25th July 2003.

4. PC was retained by the Respondent in November 2001 as an expert witness to prepare a technical report with regard to a fatal road traffic accident. The work was undertaken but despite reminders the Respondent did not pay the expert's fees. The expert commenced County Court proceedings resulting in a County Court Judgement against the Respondent and DH. PC referred to matter to the Office for the Supervision of Solicitors by letters of 24th September 2002 and 4th November 2002 with enclosures.
5. The Law Society wrote to the partners on 14th November 2002, 28th November 2002, 5th December 2002, 16th December 2002 and 26th March 2003. The Respondent replied by brief letters of 1st April and 21st April 2003. The Office for the Supervision of Solicitors further wrote to the Respondent on 1st May 2003 and on 16th May and 23rd June and 10th July 2003 to both partners.
6. The matter was considered by an Adjudicator on 25th July 2003 and further correspondence sent by the Law Society to the partners on 29th July and 7th August 2003.
7. Messrs Bevan Ashford were appointed as intervening agents by the Law Society after the intervention dated 15th January 2003. By their letter of 7th March 2003 the intervening agents reported the following:-

“Amongst this documentation, we found a letter dated 31st July 2001 which was glued on top of a letter from TP dated 25th January 2000. There were also a number of unsigned copies of this letter which were made in what appears to be an attempt to obliterate photocopying marks. It also appears that the signature on the bottom of the letter is somewhat different from the signature on the letter dated 25th January 2000.”
8. Messrs TP, Chartered Accountants, confirmed by their letter of 4th March 2003 that the purported letter of 31st July 2001 was not generated by their firm.
9. The Law Society wrote to the partners on 17th April, 14th May and 24th June 2003. The matter was considered by an Adjudicator on 23rd July 2003 and the Law Society wrote further to the partners on 24th July 2003.
10. Other than the two letters referred to from the Respondent at paragraph 5 above, no reply to correspondence was received from the Respondent or from DH. Unknown to the Law Society the Respondent concealed all correspondence and paperwork from her partner. The matter was considered by the Law Society in the absence of a reply from DH and as a result the Law Society resolved to refer his conduct to the Tribunal and proceedings were in fact issued.
11. At that point the Respondent's partner informed the Law Society and the Applicant that he had been unaware of the proceedings. The matter was remitted back to the Law Society to permit DH to make representations. The Law Society in due course revoked the referral to the Tribunal.

12. The Respondent had admitted that she concealed correspondence from her husband and copies of her affidavits dated 8th October 2003 and 17th March 2004 were before the Tribunal.
13. In addition to the letter referred to at paragraph 7 above, further misleading letters were found during the course of the intervention either in completed or in preparatory stages. The intervening agents wrote to the Law Society on 4th February 2004 enclosing:-
- (i) Two misleading letters purportedly from the Legal Services Commission;
 - (ii) A misleading “statement” from Lloyds TSB;
 - (iii) A misleading letter from Halifax Building Society.

None of the above letters were genuine. The intervening agents wrote further on 16th February 2004 with comments from the Legal Services Commission and genuine copies of the bank statements from Lloyds TSB.

The Submissions of the Applicant

14. The Tribunal had made directions in this matter on 4th April 2006 but the Applicant had heard nothing from the Respondent since that date despite correspondence sent to her.
15. The Applicant had told the Respondent in his letter of 12th June 2006 that he would invite the Tribunal to deal with the substantive hearing on 13th July. The Applicant had served a Notice to Admit documents on 27th February 2006.
16. The Tribunal was referred to the Respondent’s letter to the Applicant dated 21st October 2005 in which she admitted allegations (a) to (c) and (f) to (h). She stated that she did not accept allegations (d) and (e) “because it seems that these allegations are now covered by the allegation of “conduct unbecoming a solicitor” as set out in the supplementary statement of facts at (h) which I have accepted”.
17. The correspondence from the Respondent on 1st April and 24th April 2003 referred to allegation (c) but did not deal with the matter. The Law Society had no record of the letter of 1st April being received (a copy was enclosed with the letter of 24th April).
18. In relation to allegation (d) the Applicant submitted the original documents which showed that an old-fashioned cut and paste system had been used. All the documents gave false information about the firm’s financial circumstances. Although the Respondent had denied manufacturing the letters and had made no admission of dishonesty the Applicant submitted that there could be no honest explanation for the documentation. Anyone reading it would be misled. The correct letter from the chartered accountants dated 4th March 2003 was before the Tribunal.
19. Whilst noting that the Respondent was bankrupt the Applicant sought the Law Society’s costs to be assessed if not otherwise agreed.

The Findings of the Tribunal

20. Allegations (a) to (c) and (f) to (h) were admitted and the Tribunal found them to have been substantiated. The Respondent in her letter of 21st October 2005 had not accepted allegations (d) and (e) for the reasons set out at paragraph 16 above. The Tribunal noted however that in her affidavit dated 17th March 2004 the Respondent had stated that she had “manufactured documents such as the bank statement of 31st July 2001. I would do this to lead my husband to believe that the balance on Hayes Solicitors office account was healthier than it was”.
21. The Tribunal had noted carefully the information the Respondent had given in her affidavits regarding her mental state at the time of the events which had led to the allegations. The Respondent had however submitted no independent medical evidence despite an offer by the Law Society to fund the provision of a medical report in accordance with the Tribunal’s request at the hearing on 4th April 2006. In the absence of such medical evidence and in the absence of any explanation from the Respondent other than the reference to the bank statement in her affidavit the Tribunal was satisfied applying the tests set out in the case of Twinsectra -v- Yardley and Others [2002] UKHL 12 that the Respondent’s conduct had been dishonest. She had attempted to deceive her husband and partner regarding the financial state of the practice by the manufacture of documents all of which related to the financial state of the partnership and by concealing correspondence from him. The Tribunal was satisfied that allegations (d) and (e) were substantiated.
22. This was a sad case. The Respondent and her husband had been in partnership but she had kept from her husband a whole catalogue of serious matters affecting the practice. It was clear that she had been unable to cope with running the practice. She should have spoken to her husband and sorted matters out at a very early stage. Unfortunately she did not do so and in hiding from her husband what was going on she had led to the collapse of the practice and of her marriage. It was clear that the Respondent’s actions had brought the profession into disrepute. The Respondent had not attended the Tribunal nor sent any written submissions in mitigation. The Tribunal having found her conduct to be dishonest was satisfied that the appropriate penalty was to strike her name from the Roll of Solicitors and to order her to pay the Applicant’s costs.
23. The Tribunal Ordered that the Respondent Susan Anne Manchester of North Petherwin, Nr Launceston, Cornwall, solicitor, be struck off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties.

Dated this 5th day of October 2006

On behalf of the Tribunal

D J Leverton
Chairman