

IN THE MATTER OF IAN TUDOR UNSWORTH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr A H Isaacs (in the chair)
Mr I R Woolfe
Lady-Maxwell-Hyslop

Date of Hearing: 17th June 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 ("the OSS") by Robert Simon Roscoe a Solicitor and partner in Victor Lissack, Roscoe & Coleman of 70 Marylebone Lane, London, W1U 2PQ on 29th January 2004 that Ian Tudor Unsworth of 24 Lakeside Drive, Cardiff, South Glamorgan, CF23 6DF 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.

On 11th March 2004 the Applicant made a supplementary statement containing a further allegation.

The allegations set out below include the allegations contained in the original and supplementary statements.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in the following particulars namely:

- (i) he failed to deliver to The Law Society an Accountant's Report in respect of his firm, Ian Unsworth Solicitors, for the period ending 30th April 2001, contrary to Section 34 of the Solicitors Act 1974.
- (ii) he failed to deliver to The Law Society an Accountant's Report in respect of his firm, Ian Unsworth Solicitors, for the period ending 30th April 2002, contrary to Section 34 of the Solicitors Act 1974.
- (iii) he failed to deliver to The Law Society an Accountant's Report in respect of his firm, Ian Unsworth Solicitors, for the period ending 30th April 2003, contrary to Section 34 of the Solicitors Act 1974.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Robert Simon Roscoe appeared as the Applicant and the Respondent did not appear and was not represented. On the morning of the hearing the Respondent sent a letter by fax to the Clerk to the Tribunal. This letter is set out below under the heading "The Submissions of the Respondent".

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

The Tribunal Order that unless the Respondent do file a final Accountant's Report by 30th September 2004 the respondent, Ian Tudor Unsworth of 24 Lakeside Drive, Cardiff, South Glamorgan, CF23 6DF, solicitor, be suspended from practice as a solicitor indefinitely to commence on 1st October 2004 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,041.36 inclusive.

The facts are set out in paragraphs to 1-10 hereunder:

1. The Respondent, born in 1951, was admitted as a solicitor in 1987.
2. The Respondent practised on his own account under the style of Ian Unsworth, solicitors, at 24 Lakeside Drive, Cardiff, South Glamorgan, CF23 6DF.
3. The Respondent's Annual Accountant's Reports for the years ending 30th April 2001 and 30th April 2002 due respectively on or before 31st October 2001 and 31st October 2002 had not been filed with The Law Society.
4. On 14th August 2002 the OSS wrote to the Respondent asking for an explanation why his Accountant's Report for the year ending 30th April 2001 was outstanding. The Respondent was advised that if he did not provide a satisfactory explanation within 14 days then the provisions of Section 12(1)(e) of the Solicitors Act (as amended) may be relevant. No reply was received from the Respondent.
5. On 27th August 2002 the Respondent wrote to the OSS to advise them that ill-health had prevented him from acting as a solicitor although he had maintained his practising certificate and indemnity insurance. He further advised that he had carried out very little work in the preceding two years. He assured the OSS that there was nothing wrong with his accounts and enclosed copies of his bank statements. He stated that he would forward audited accounts as soon as possible. No accounts, audited or otherwise and no Accountant's Report had been received.

6. On 22nd October 2002 the OSS wrote to the Respondent indicating that the matter would be referred for adjudication. No reply was received from the Respondent.
7. On 16th June 2003 the OSS again wrote to the Respondent about the matter and about the Respondent's failure to deliver his Accountant's Report for the year ending 30th April 2002. No response had been received.
8. The Respondent's annual Accountant's Report for the year ending 30th April 2003 due on or before the 31st October 2003 remained outstanding.
9. On 18th November 2003 and on 13th January 2004 The Law Society wrote to the Respondent pointing out that no Accountant's Report for the year ending 30th April 2003 and due for delivery by 31st October 2003 had been received. No reply was received.
10. On 5th February 2004 the OSS wrote to the Respondent asking for an explanation why his Accountant's Report for the year ending 30th April 2003 was outstanding. The Respondent was advised that if he did not provide a satisfactory explanation within 14 days then the provisions of Section 12(1)(e) of the Solicitors Act (as amended) might be relevant. No reply was received.

The Submissions of the Applicant

11. The Respondent had not responded to every letter addressed to him by The Law Society. He had written to say that he had been unwell and had ceased to practice and had trouble sorting matters out. He said he would send audited accounts but had not done so.
12. Difficulty had been experienced in serving the Respondent with the papers.
13. Eventually the Respondent did accept service of the papers served personally upon him by a process server. He had restarted work and was understood to be working for a local authority.
14. The Respondent had contacted the Applicant and said he would admit the allegations and would attend the Tribunal's hearing. The Tribunal's office had reported that he had telephoned early in the morning to say that he would be arriving late and then later had telephoned to indicate that he would not be coming and would send a letter by fax. That letter had arrived.
15. The Tribunal's attention was drawn to the bank statements sent by the Respondent to The Law Society in August of 2002. The statements came from Lloyds TSB. The statements were three consecutive statements (sheets 28, 29 and 30) and demonstrated that there was little activity on that account between the beginning of July 2000 and 16th October 2000. The closing balances on each respective sheet were £676.76, £859.20 and £712.32. The subsequent statements revealed a balance of £370.52 on 12th February 2001 and £1,030.52 on 13th December 2000.

16. At the date of the hearing the Respondent had not submitted the outstanding Accountant's Reports nor had he submitted any final or closing Report.
17. It appeared from the bank statements that there had been sums of money due to clients at the dates of those statements.

The Submissions of the Respondent

18. "17 June 2004

The Clerk to the Tribunal
3rd Floor
Farringdon Street
London, EC4M 7NS

Dear Sir,

I am sorry that I am unable to attend the Tribunal today because of personal difficulties. I am however aware of the seriousness of the matter. I hope that the members of the Tribunal will not think that I am showing any disrespect by not attending.

I fully admit that I failed to submit my accounts for the years stated in the papers. The reason for not doing so was because I suffered a long period of ill health, which meant as a sole practitioner my business went into decline. I could not afford to pay an accountant to prepare my accounts. I managed to pay for my Law Society Certificate and my indemnity insurance but with great difficulty.

In October 2002 I decided that I would no longer carry on business and I informed the Law Society that I had ceased trading.

I was unemployed for 12 months before finding employment with a local authority. I am now starting to get my feet on the ground, though I still have considerable financial commitments.

During my time as a sole practitioner I rarely had need to use the client account as most of my work was legal aid as I was a criminal solicitor.

I have supplied to The Law Society copies of my bank statements to show that there was nothing untoward in my client account.

I apologise to the Tribunal for the matter having to be brought to their attention. I have always tried to obey the rules and have always acted honestly. As I have stated the only reason for my not submitting my accounts was because of illness and my financial precidament. I do dispute the costs claimed by Mr Roscoe as I feel they are in excess for the work done.

Yours faithfully
Ian Unsworth"

The Findings of the Tribunal

19. The Tribunal finds the allegations to have been substantiated, indeed they were not contested.
20. The filing of annual Accountants' Reports is important. It enables The Law Society to ensure that solicitors are exercising a proper stewardship over clients' monies. That is an important aspect of the regulation of the solicitors' profession by The Law Society and enables the Society to assure clients that monies placed with any solicitor are not thereby placed in jeopardy.
21. The Tribunal accepts the Respondent's explanation that he had suffered ill health although he did not provide any supporting evidence of that.
22. The bank statements supplied by the Respondent to The Law Society are an indication of the level at which his client account was run but not that he achieved compliance with the Solicitors Accounts Rules.
23. The Respondent was foolish not to respond to letters addressed to him by his own professional body. He should have sought help from The Law Society. The Tribunal considered that perhaps The Law Society should have offered such help at an early stage. The Tribunal noted that the Respondent continued to be in a difficult financial position. However he must as a practising solicitor fulfil the requirements of the regulatory legislation and the rules made thereunder.
24. The Tribunal ordered that unless the Respondent files the outstanding Accountant's Reports (including a final Accountant's Report) by the 30th September 2004, from the 1st October 2004 he will be suspended from practice indefinitely. The Tribunal considered that the Applicant's costs are entirely reasonable and considered it right that the Respondent should pay them. The Tribunal ordered the payment of such costs in a fixed sum.
25. The Tribunal would be satisfied that the Respondent has filed all outstanding Accountant's Reports if by the 30th September 2004 he files an affidavit to that effect with the Tribunal's Clerk attaching as exhibits to that affidavit copies of the relevant Accountant's Reports.

DATED this 27th day of July 2004

on behalf of the Tribunal

A H Isaacs
Chairman