

IN THE MATTER OF DANIEL THOMAS CHURCHMAN & LINDA SUSAN COLLIER,  
solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr J P Davies (in the chair)  
Mr A G Gibson  
Mr M G Taylor CBE

Date of Hearing: 13th October 2005

---

## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

---

An application was duly made on behalf of The Law Society by Emma Grace, solicitor and partner in the firm of Nelson & Co, St Andrews House, St Andrews Street, Leeds, LS3 1LF on 2nd February 2004 that the Respondent Daniel Thomas Churchman (and Linda Susan Collier) might be required to answer the allegations contained in the statement which accompanied the application and that the Tribunal should make such orders as it thought right.

The allegations against Linda Susan Collier were disposed of on 15th July 2004.

The allegations against Daniel Thomas Churchman (the Respondent) were that he had been guilty of conduct unbecoming a solicitor in that he:-

- 1) failed to deal promptly and substantively with correspondence from the Office for the Supervision of Solicitors (The Law Society);
- 2) acted as a solicitor in circumstances where he did not have in force a current Practising Certificate in breach of Section 1 of the Solicitors Act 1974;
- 3) failed to deal promptly with communications relating to the matter of a client and/or former client;

- 4) failed to comply, or alternatively delayed in complying, with a decision of an Adjudicator dated 18th February 2002;
- 5) in all matters alleged against him acted in a way which compromised or impaired his good repute and that of the profession contrary to Rule 1 of the Solicitors Practice Rules 1990.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Jonathan Richard Goodwin, Solicitor Advocate of 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT appeared as the Applicant and the Respondent did not appear and was not represented.

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

The Tribunal Orders that the Respondent, Daniel Thomas Churchman of 42 Blandford Avenue, Luton, LU2 7AY, solicitor, be struck off the Roll of Solicitors and it further ordered that he do pay the costs of and incidental to the application and enquiry to be subject to a detailed assessment unless agreed between the parties.

Additionally at the request of the Applicant the Tribunal hereby Orders that the Direction of The Law Society dated 18th February 2002 that an award of £1,500 compensation be made to Mr A and £300 to Mrs D be treated for the purposes of enforcement as if it were contained in an Order of the High Court.

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

1. The Respondent, born in 1962, was admitted as a solicitor in 1992.
2. The Respondent carried on practice as a partner in the firm of Churchman Thaker at 25 Upper George Street, Luton, Bedfordshire. The Respondent's Practising Certificate for the year 1999/2000 was suspended on 12th April 2000 when The Law Society intervened in the practice.
3. On 30th May 2002 The Law Society received a letter from Messrs Cunningham John. Their client Mr G had a potential claim against the Respondent's firm. Messrs Cunningham John reported that they had taken the matter over from another firm of solicitors, following an intervention into that firm, and that this firm had been asking for a file of papers or a response from the Respondent's firm since August 2001. The matter was further complicated by the fact that the firm of Churchman Thaker had itself been the subject of an intervention in 2000. The successors to the Respondent's firm had responded saying that following a takeover of the firm in April 2001 they had no responsibility for matters such as these, but that the request would be forwarded to the Respondent who had been a partner in the firm at the time the matter arose.
4. Subsequently Cunningham John required clarification of the Respondent's status. The Law Society on enquiry was informed that the Respondent worked at the firm. In the light of these concerns, in October 2002 a Law Society Practice Standards Unit (PSU) inspection of the Respondent's firm took place. The Report (undated but

making reference to the inspection carried out at Churchman Thaker on 29th and 30th October 2002) was before the Tribunal. The report set out the following matters.

5. The Respondent had been a partner in the firm of Churchman Thaker. That firm was intervened into by The Law Society in April 2000. The Respondent's Practising Certificate was suspended at that time.
6. During the visit the PSU Officer interviewed Mrs Linda Collier, the sole principal, and examined client files, accounts records and other documents.
7. Mrs Collier described to the PSU Officer the intervention into the firm of Churchman Thaker in April 2000. The partners at the time of the intervention were the Respondent and Kevin Brown. Mrs Collier stated that the intervention was due to the firm not having any proper books of account. She stated that the Respondent's Practising Certificate was suspended at that point and that it had never been reinstated. Mrs Collier was an assistant solicitor with the firm at the time. She then entered into negotiations with the intervention agents to take over the firm, which she subsequently did.
8. Mrs Collier stated that the Respondent "disappeared" for a period of approximately three months after the intervention.
9. Mrs Collier stated that on many pre-intervention files she did not know "what was going on" and that she needed help. She therefore allowed the Respondent back into the firm to chase debts owed to him on work undertaken before the intervention and to assist her on the files she was struggling with.
10. Mrs Collier stated that the Respondent began to take on tasks such as registration of properties in respect of clients of the firm. Then he effectively took over conduct of files for the firm, particularly for the clients Mr and Mrs H, Mr and Mrs B and L & Y. These clients regularly bought and sold properties. Mrs Collier stated that those clients without the Respondent's presence would not have instructed her on this work and that she needed him to do the work.
11. The PSU Officer examined a series of client files and established that the Respondent had worked extensively on client matters. There were appendices to the PSU report setting out a number of examples of the Respondent's work.
12. Payments totalling £38,333.61 had been made from the firm to the Respondent or to another to whom he was indebted.
13. The first of these payments to the Respondent was for work in progress at the time of the intervention to which he was entitled. Later payments were for the work undertaken by him for the firm after the intervention.
14. Mrs Collier stated that the Respondent had access to all incoming post of the firm whenever he was in the office, which could be two or three days per week. She did not arrive at the office in the morning until after him. She believed correspondence from the Office for the Supervision of Solicitors in relation to a complaint had been intercepted by the Respondent and was therefore never seen by her. Mrs Collier

stated that she had other concerns about the Respondent's conduct in connection with client matters.

15. Mrs Collier accepted that there had been a lack of any proper supervision being exercised over the Respondent and his work. Mrs Collier was prompted to disperse with the Respondent's services upon receipt of a letter from The Law Society's own solicitors.
16. The inspection revealed widespread breaches of the requirements of the Solicitors Costs Information and Client Care Code 1999. On virtually all matters examined the requisite costs and information on other matters had not been given to the clients.
17. Following the inspection, letters addressed to the Respondent about The Law Society's concern did not evoke a response from him. Eventually Mrs Collier did provide a full and detailed response. She confirmed what she had said to the PSU Inspection Officer and enlarged upon that, pointing out in her letter that the Respondent's name had never appeared on the firm's letterhead, save in the trading name, and at the date of her letter, 27th March 2003, no services were being provided to the firm by the Respondent. The Respondent then had no client files. All clients had been informed that the Respondent no longer worked at the offices. Mrs Collier said there had been no intention to provide the Office for the Supervision of Solicitors with misleading information during the inspection.
18. In February 1999 a client of the Respondent's, GP Services, through a director Mrs D, contacted him with a complaint about the services received over the past few months. The Respondent replied the next day promising to contact Mrs D that Friday afternoon. On 19th February 1999 Mrs D wrote again noting that no call had been made as promised, nor was her message returned. She requested that the file be made ready for collection to be taken to another solicitor.
19. Following this there was some concern about missing documents, and on 19th March 1999 the Respondent wrote stating that he had been unable to locate any missing documents and offering to finish the matter free of charge.
20. There followed further correspondence from Mrs D attempting to communicate with the Respondent without success until on 17th April 2000 a letter was received by The Law Society from Mrs D on behalf of GP Services formally complaining about the lack of response to her letters.
21. On 8th May 2000 The Law Society wrote to the First Respondent with details of the complaint and seeking a report to the client which was to be copied to The Law Society within 28 days.
22. On 14th June 2000 The Law Society wrote again noting that no report had been received.
23. On 20th June 2002 Mrs Collier wrote explaining that she had recently taken over the practice of Churchman Thaker.

24. Mrs Collier wrote on 8th August 2000 to GP Services providing details obtained from the Respondent and saying that money was outstanding and once this was paid, the files would be released.
25. When negotiations broke down, on 22nd January 2001 The Law Society wrote again to Mrs Collier detailing the outstanding complaints and seeking a response within two weeks. She replied pointing out that the complaint was not against the current firm, which was not a successor practice to the previous firm, but it was against the previous firm and its former partners. She promised to pass the letter to the Respondent. A further letter was sent on 7th February 2001 noting that the Respondent was to provide a written response. There was a further correspondence between Mrs Collier and The Law Society about her acquisition of the firm and her responsibility for former matters of the Respondent.
26. On 17th August 2001 a report prepared by The Law Society was sent to the Respondent. His comments and some specific information were sought. A supplemental report was prepared and sent to the parties on 14th January 2002.
27. On 18th February 2002 the matter was considered by the Adjudicator of The Law Society, who decided that inadequate professional services had been provided. An award of £1,500 compensation was made to GP Services' client Mr H, and £300 to Mrs D. No order was directly made in favour of GP Services. The Respondent and Mrs Collier were also ordered to forego their right to recover any fees in this case, such directions to be carried out within seven days following the expiry of the review period.
28. The decision was notified to the Respondent on 25th February 2002. He did not seek a review. On 22nd March 2002 the decision became final.
29. On 8th April 2002 Mrs D wrote to confirm that no communication at all had been received from the Respondent's firm.
30. On 5th September 2002 Mr Brown wrote to The Law Society enclosing cheques for half of the amount awarded to each party. Mr Brown's view was that The Law Society should pursue the Respondent for the rest. The Law Society replied on 24th September 2002 stating that although he had no dealings with the matter, the joint and several nature of liability meant that he could be pursued for the whole amount, and seeking it from him. The Law Society also wrote to the Respondent on the same date noting that Mr Brown had now paid half of the outstanding sum and that he had requested that they pursue the Respondent for the rest, and seeking his comments within seven days. No response was received.

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

31. The matter stood adjourned by the Tribunal for some time as the Respondent had been unfit to deal with the proceedings against him. Mrs Collier's case had been dealt with separately on an earlier occasion.
32. The Respondent was being assisted by a firm of solicitors although they did not formally represent him. At the last adjournment the Tribunal listed the matter for

substantive hearing on 13th October 2005 and directed the Respondent to file a response to the "Rule 4 statement". He had done so, although he did not appear at the hearing. It was clear from correspondence which the Applicant had with the firm of solicitors assisting the Respondent that the Respondent was fully aware of the hearing date.

33. Five allegations of conduct unbecoming had been made against the Respondent. The Respondent had on a number of occasions failed to deal promptly and substantively with correspondence. Whilst suspended from practice following an intervention into his firm the Respondent acted as a solicitor at a time when he did not have a current Practising Certificate. That was a breach of Section 1 of the Solicitors Act 1974. The Respondent did not deal promptly with communications addressed to him. He did not comply with an award made by an Adjudicator of The Law Society in February 2002. The Respondent's overall behaviour was such that it amounted to a breach of Practice Rule 1 as his behaviour served to compromise or impair the Respondent's own good reputation and that of the solicitors' profession.

**The Submissions of the Respondent (contained in his response filed with the Tribunal dated 1st September 2005)**

34. Some 18 months after the intervention the Respondent received notice of the disciplinary proceedings which contained no allegation of dishonesty as had initially been intimated to him. At the hearing before the Tribunal in June 2002 The Law Society withdrew three of its complaints against the Respondent and the Tribunal determined that he should pay a fine of £3,000 and 50% of the costs. The Respondent paid a much greater penalty as he lost his business and suffered from clinical depression which began after he was notified of the proposed intervention. He had suffered a massive delay in the matter being listed before the Tribunal.
35. After Mrs Collier had taken over the practice it was agreed that the Respondent would work in the back office to collect in money owed to the practice. The firm had been let down by its accountants in maintaining the accounts and client ledgers which led to the intervention. The Respondent helped in trying to sort out the client ledgers.
36. About six months after the intervention the Respondent started doing work on some files for the firm. When the post came in it was put with the file in Mrs Collier's room. She would give him the files that she wanted him to do work on. All of his work was supervised by Mrs Collier, who saw all incoming post and signed all outgoing post. The Respondent did prepare handwritten notes and completion statements on files. These were prepared for Mrs Collier for her approval.
37. The Respondent did not accept the assertion that he received payments totalling £38,333.61, either directly or by way of payments to those to whom he was indebted. That figure should have been about £24,000.
38. The Respondent disputed the following sums identified in the PSU Report:-
- (i) £60.00 - outstanding salary. Mrs Collier paid this sum without the Respondent's knowledge.

- (ii) £1,683.20 - Inland Revenue. The Respondent did not know whether Mrs Collier paid that sum. The Respondent had not asked her to do so.
  - (iii) £494.71 - Customs & Excise. The Respondent did not know whether Mrs Collier paid that sum. He did not ask her to pay it.
  - (iv) £904.74 - Murray Young Accountants. They were Churchman Thaker's Auditors. The Respondent did not know what this sum was for. The auditor's fees were always paid promptly.
  - (v) £176.25 - Warren Accounting Services, a part-time bookkeeper. He would have been paid up to the end of March and if there was a payment to be made to him it would only have been for a few days at the beginning of April.
  - (vi) £113.00 - HM Land Registry. These were costs which would already have been billed to clients.
  - (vii) £282.56 - Luton Borough Council Rates. There were never any arrears of rates. The Respondent found it difficult to believe that this sum was a payment made on his behalf.
  - (viii) £224.00 - Butterworths. Mrs Collier retained all of the books and continued to do so. The Respondent did not understand how that was a payment made for him.
  - (ix) £2,768.59 - SIF. The Respondent did not know what this payment was for. It was made without his knowledge.
  - (x) £472.25 - Kevin Brown. Kevin Brown was a partner in Churchman Thaker (the second firm of that name). The Respondent did not know what this payment was for nor did he ask for it to be made.
  - (xi) £807.91 - Henmans. The Respondent did not know what that payment related to. He did not ask for it to be paid.
39. The Respondent did not accept that Mrs Collier made all of the payments to him that were set out in the list of payments that was before the Tribunal. Over the three years he received about £12,000 directly. So far as he was aware, all of the payments that were made to the Respondent were for work in progress from before the intervention. In around June or July 2002 Mrs Collier said that the payments that she had made for the Respondent exceeded the work in progress from before the intervention and she asked him to transfer all of the office furniture and equipment including computers to her. The Respondent was never paid any money for work which he did after the intervention.
40. The Respondent denied that he intercepted post. The Respondent did not open the post because he would not have been able to face doing it. The post would be opened by one of the secretaries until around June 2002 when Jonathan Bottom joined the practice.

41. Because of his illness, from October 2002 the Respondent's sister and his father intercepted post addressed to him. The Respondent ignored correspondence up until October 2002. Unfortunately because of his mental state he was unable to cope with dealing with it.
42. The Respondent did respond to GP Services and he did speak to them on the telephone. He disputed that he failed to deal promptly with communications.
43. The Respondent had been unable to pay the compensation awarded by the Adjudicator because he did not have the money. The Respondent had not had a job since the intervention.
44. In about June 2000 the Respondent received a letter from The Law Society asking if he wanted his name to remain on the Roll of Solicitors. He did not respond as he was unable to afford to pay the fee. He received similar letters in 2001 and 2002. Initially the Respondent thought that not having responded to the letter in June 2000 his name had been removed from the Roll as he believed the letter addressed to him had indicated.
45. The Respondent was still receiving treatment for his mental illness and the Tribunal was invited to give due consideration to the medical evidence.
46. The Respondent apologised for his actions. Had he not been suffering from his illness he would have given all correspondence his full attention. His illness rendered him unable to do so.
47. Since April 2000 owing to his illness the Respondent had not been able to think rationally. Whilst working in the back office the Respondent would continually fall asleep, have migraines and break down crying. Because he was unable to think rationally he had not considered the professional impropriety of his working on clients' files. The Respondent continued to receive treatment for his illness. It would be a long time before he was fully recovered and able to work.

### **The Tribunal's Findings**

48. The Tribunal finds all of the allegations to have been substantiated. It was clear that the Respondent had not dealt promptly and substantively with a range of correspondence addressed to him by The Law Society. It was also clear that the Respondent acted as a solicitor at a time when he did not hold a current Practising Certificate. The Respondent had failed to deal promptly with communications received from a client and he had not on his own admission complied with the ruling of the Adjudicator of The Law Society. Overall the Respondent's behaviour would compromise or impair the good reputation of the Respondent himself and that of the solicitors' profession.

### **Previous disciplinary proceedings**

49. At a hearing on 24th February 1999 the Respondent had been found guilty of conduct unbecoming a solicitor in that he had persistently failed to reply to communications from the OSS. The Tribunal on that occasion spoke of the seriousness with which it



regarded a solicitor's failure to respond to letters or telephone calls addressed to him by his own professional body. On the face of it such behaviour indicated the level of regard that a solicitor had for his professional body and in reality prevented The Law Society from dealing with complaints and regulating the profession. The Tribunal noted that the Respondent did not enjoy a strong financial position and imposed a fine in the sum of £1,000 together with costs. The Tribunal said that the Respondent might not expect to be treated as leniently should he repeat his offences.

50. At a hearing on 18th June 2002 the Tribunal found the following allegations to have been substantiated against the Respondent:-
- (i) (Withdrawn with the consent of the Tribunal).
  - (ii) That he failed to comply with a professional undertaking.
  - (iii) (Withdrawn with the consent of the Tribunal).
  - (iv) That he failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1991.
  - (v) That he failed to inform his Building Society clients of relevant information.
  - (vi) That he unreasonably failed to comply with instructions from his Building Society clients.

On that occasion the Tribunal said:-

“At the hearing on 18<sup>th</sup> June 2002 the Tribunal noted that no dishonesty was alleged against the Respondent yet for some nineteen months he had hanging over him an allegation of dishonesty.

This was a case which presented disturbing factors to the Tribunal. Breach of a solicitor's undertaking was a very serious matter notwithstanding the circumstances in which it was given. Solicitors' undertakings were crucial to the operation of the conveyancing system and it was essential that they were honoured. Breach of an undertaking could in some circumstances lead the Tribunal to take away a solicitor's right to practise. The Tribunal was also disturbed however at the delay in bringing the proceedings. The Respondent had had his career in suspension for some 2 years and had been labouring under a suspicion of dishonesty from the date of the intervention until the letter of 27<sup>th</sup> November 2001 from Mr Cadman. The Tribunal had been impressed by the points made in mitigation on behalf of the Respondent and noted that the Respondent had co-operated throughout with the Monitoring and Investigation Unit and at the time of the intervention. Without in any way minimising the seriousness of the allegations which had been substantiated the Tribunal also noted that effectively only half of the original allegations remained as allegations (v) and (vi) could properly be rolled into one.

Having considered all the matters put before them the Tribunal concluded that the appropriate penalty was a financial penalty together with a payment by the Respondent of part of the Applicant's costs. The Tribunal therefore ordered that the

Respondent Daniel Thomas Churchman of c/o Blandford Avenue, Luton, Bedfordshire (formerly of Morrell Close, Luton, Bedfordshire) solicitor do pay a fine of £3,000 such penalty to be forfeit to Her Majesty the Queen and they further ordered him to pay 50% of the costs of and incidental to the application and enquiry to be subject to detailed assessment unless otherwise agreed.”

**The Tribunal’s Decision and its Reasons**

51. The Tribunal was dismayed to find the Respondent appearing before them on a third occasion. The cumulative effect of the current allegations reflected a grave situation. In particular the Tribunal considers the Respondent’s continuing to undertake the work of a solicitor in his old firm at a time when he was suspended from practice and did not hold a current Practising Certificate to be very grave indeed.
52. The Tribunal has noted the Respondent’s ill health and is pleased to note that he has enjoyed a degree of recovery.
53. Nevertheless the Respondent appeared to act with a complete disregard for an important regulatory requirement and had delayed in dealing with correspondence and to complying with a Direction of a Law Society Adjudicator.
54. Given the Respondent’s disciplinary history the Tribunal reached the conclusion that he was not fit to be a solicitor.
55. The Tribunal ordered that the Respondent be struck off the Roll of Solicitors and further ordered him to pay the costs of and incidental to the application and enquiry, such costs to be subject to a detailed assessment unless agreed between the parties.

Dated this 18th day of November 2005  
On behalf of the Tribunal

J P Davies  
Chairman