

IN THE MATTER OF LIVINUS NNAWIHE DOUGLAS DURUGO, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J P Davies (in the chair)
Mr J R C Clitheroe
Lady Bonham Carter

Date of Hearing: 16th December 2004

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, Riverside West, Whitehall Road, Leeds LS1 4AW on 2nd February 2004 that Livinus Nowise Douglas Durugo of Douglas & Co Solicitors, Suite 7F, Britannia House, Leagrave Road, Luton, Bedfordshire LU3 1RJ, 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.

Subsequently the Tribunal was notified that the Respondent's address was c/o C J Pattersons Solicitors, 74 George Street, Bedfordshire LU1 2BD.

At the hearing the Tribunal was notified that the Respondent's home address was Mansfield Road, Luton.

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

- (i) He failed to comply with the decision of an Adjudicator (of The Law Society) dated 16 December 2002;
- (ii) He failed to deal properly and substantively with correspondence from the Office for the Supervision of Solicitors.
- (iii) He failed to operate a proper complaints handling procedure contrary to Rule 15 of The Solicitors Practice Rules 1990.
- (iv) He failed to deal promptly with communications relating to the matter of a client.

The Application was heard at the Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7Ns when Robert Roscoe, Solicitor and Partner in the firm of Victor Lissack, Roscoe & Coleman of 70 Marylebone Lane, London W1U 2PQ appeared for the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included copy of an advertisement appearing in the South London Press on 22nd October 2004 and a letter from Begbies Traynor (Insolvency Practitioners) confirming the Respondent's present home address.

The Tribunal ruled that the Respondent had been properly served with the Disciplinary Proceedings and was aware of the allegations. He had chosen to take no part in the proceedings.

The evidence before the Tribunal included the fact that the papers before the Tribunal had been the subject of notices to the Respondent both under the Tribunal's own Rules of Procedure and under the provisions of the Civil Evidence Act. No counter notice had been received.

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

The Tribunal Orders that the Respondent, Livinus Nnawihe Douglas Durugo of c/o CJ Patterson Solicitors, 74 George Street, Beds, LU1 2BD, Solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 16th day of December 2004 and they further order that he do pay the cost of and incidental to this application and enquiry fixed in the sum of £2,846.41.

The facts are set out in paragraphs 1 to 12 hereunder:-

1. The Respondent, born in 1958, was admitted as a Solicitor in November 1995. His name remained on the Roll of Solicitors. He carried on practice as a principal in the firm of Douglas & Co Solicitors at Leagrave Road, Luton, Bedfordshire.
2. Mr S complained to the Respondent's firm about the conduct of his case by a solicitor in the firm; their delay in dealing with his matter; the fact that his initial application for LSC funding was rejected and not appealed promptly; failure to keep him up-to-date with the progress of his matter; changes in personnel dealing with his matter not being properly explained to him and the general lack of progress in his complaint. The file was relatively straightforward. The complaint by Mr S was about a locked

gate erected by a neighbour of his, which he argued was inhibiting his right to enjoy the balcony outside his property.

3. The Respondent's client, Mr S, complained to the Law Society about the conduct of the Respondent in a letter dated 13th February 2001. Mr S had written a letter of complaint to the Respondent on 6th February 2001 to which the Respondent did not reply. Mr S said he had not been notified of the firm's complaints handling procedures.
4. The Law Society wrote to the Respondent on 2nd May 2001 with a full detail of the outstanding complaint, seeking a response to each complaint raised within 14 days.
5. The Respondent replied on 8th May 2001 stating that he had already responded. He later wrote to confirm that he would deal with specific issues with which it was felt he had not dealt, but he would need to track down fee earners involved who had left his practice.
6. In response to The Law Society's letter of 20th July 2001 the Respondent requested and was granted further time to reply in full.
7. On 30th August 2001, outside the additional time granted to the Respondent, The Law Society noted that no full reply had been received. Immediate contact by telephone was sought. The Respondent did reply in writing on 3rd September 2001 in some detail. He apologized for the delay in responding explaining that it had taken some time to contact former fee earners. He did not supply any documents in support of his explanations.
8. Between September 2001 and January 2002 The Law Society dealt with Mr. S to establish which of his complaints remained outstanding. A schedule of complaints was agreed and sent to the Respondent on 30th July 2002, requiring a response by 13th August 2002.
9. The Respondent replied on 1st August 2002. stating that the complaints had already been dealt with by his previous letters and he had given sufficient time to the matter. The Respondent provided his file of papers to The Law Society on 20th August 2002. The Law Society asked Mr S for a sight of papers sent to his current solicitor by the Respondent. Mr S said his current solicitors had told him that they never received a file from the Respondent's firm.
10. A Report was prepared and forwarded to the Respondent. He did not comment.
11. An Adjudicator of The Law Society considered the matter on 16th December 2002 and made a number of findings. The Adjudicator gave detailed findings on the facts behind the complaints. The Adjudicator found no evidence of Mr S having received a copy of the Respondent's firm's complaints handling procedure. The Adjudicator directed that the sum of £400 compensation be paid to Mr S for the anxiety and inconvenience suffered by him.

12. On 13th March 2003, the Respondent told the Law Society that he had been making efforts to send the £400 as directed, but he was having cashflow problems which were preventing him from doing so.

Submissions of the Applicant

13. The Tribunal was invited to find the allegations to have been substantiated. The Respondent had not paid the £400.00 compensation as directed by The Law Society's Adjudicator.
14. The Respondent had not dealt promptly and substantively with correspondence addressed to him by The Law Society although it was recognized that he had made some efforts and there had not been a total failure to respond.
15. In his Review of the Facts The Law Society's Adjudicator found that Mr S had not been notified of the Respondent's complaints handling procedure and no such procedure had been adopted by the Respondent.
16. Mr S had complained to The Law Society when the Respondent had not dealt properly with letters he addressed to the Respondent. The Applicant accepted that Mr S appears to have been a very difficult client and that the Respondent's firm had been suffering from "financial melt-down". The Respondent had been adjudicated bankrupt in the Luton County Court on 18th December 2003.

The Findings of the Tribunal

17. The Tribunal found the allegations to have been substantiated. The Tribunal accepted that Mr S was a difficult client and his demands and expectations had been less than realistic. Nevertheless the Respondent did have a duty to deal promptly and substantively with the correspondence addressed to him by his own professional body and to deal with communications from Mr S. It is important from the point of view of regulation that a solicitors' firm should have in place a proper complaints handling procedure and that the firm's clients are made fully aware of the same.
18. The Tribunal takes a serious view of a solicitor who does not comply with a direction made by an Adjudicator of The Law Society.
19. The Tribunal recognises that the Respondent has not deliberately failed to pay the compensation awarded to Mr S but has been prevented from so doing by his financial circumstances.
19. The Tribunal concluded that the appropriate Order would be to suspend the Respondent from practice for an indefinite period of time. Should the Respondent in the future seek to have that indefinite period of suspension brought to an end the Tribunal dealing with his Application would, in addition to satisfactory evidence as to the Respondent's fitness to practise as a solicitor, be likely to require evidence that he has complied with the Adjudicator's direction and has paid the costs awarded in this case.

20. The Applicant made application for costs in the sum of £2,846.41. This figure included disbursements of £522.26 and the balance accounted for the costs of and incidental to the Application and enquiry including value added tax. The Tribunal considered this to be a reasonable figure in the light of the work undertaken by the Applicant's representative and in order to save time and further expense concluded that it was right to order the Respondent to pay those costs as a fixed sum.

DATED this 19th day of April 2005
on behalf of the Tribunal

J P Davies
Chairman