

IN THE MATTER OF RICHARD THOMAS LLOYD AND PETER WILSON, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr L N Gilford (in the chair)
Mr I R Woolfe
Mr D E Marlow

Date of Hearing: 21st October 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 David Elwyn Barton, Solicitor Advocate of 5 Romney Place, Maidstone, Kent, ME15 6LE on 26th April 2004 that Richard Thomas Lloyd solicitor of Hatton Park, Warwick, and Peter Wilson solicitor of Barford, Warwick, 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 against the First Respondent were that he had been guilty of conduct unbecoming a solicitor in each of the following respects, namely:-

- (a) He acted in breach of the Solicitors Accounts Rules 1991 in that contrary to the provisions of Rules 7 and 8 of the said Rules (Rule 22 of the Solicitors Accounts Rules 1998) he drew from clients account monies other than in accordance with the said Rules and utilized the same for his own benefit;
- (b) He wrote two letters that were materially misleading thereby compromising or impairing his integrity and his good repute and that of the solicitors' profession contrary to Rule 1 of the Solicitors Practice Rules 1990;

- (c) He failed to render a bill of costs within a reasonable time of concluding the matter to which the bill related, thereby compromising or impairing his duty to act in the best interests of his client and his proper standard of work contrary to Rule 1 of the Solicitors Practice Rules 1990.

The allegations against the Second Respondent were that he had been guilty of conduct unbecoming a solicitor in each of the following respects:-

- (d) He acted in breach of the Solicitors Accounts Rules 1991 in that contrary to the provisions of Rules 7 and 8 of the said Rules (Rule 22 of the Solicitors Accounts Rules 1998) he drew from clients account monies other than in accordance with the said Rules and utilized the same for his own benefit;
- (e) He failed to render a bill of costs within a reasonable time of concluding the matter to which the bill related, thereby compromising or impairing his duty to act in the best interests of his client and his proper standard of work 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 on 21st October 2004 when David Elwyn Barton appeared as the Applicant and the Respondents appeared in person.

The evidence before the Tribunal included the admissions of the Respondents. At the conclusion of the hearing the Tribunal made the following orders:-

The Tribunal Order that the Respondent Richard Thomas Lloyd of Hatton Park, Warwickshire, solicitor, be struck off the Roll of Solicitors and they further Order that he be jointly and severally liable with the Respondent Peter Wilson to pay the costs of and incidental to this application and enquiry fixed in the sum of £3,356.04.

The Tribunal order that the Respondent Peter Wilson of Barford, Warwick, solicitor, be struck off the Roll of Solicitors and they further order that he be jointly and severally liable with the Respondent Richard Thomas Lloyd to pay the costs of and incidental to this application and enquiry fixed in the sum of £3,356.04.

The facts are set out in paragraphs 1 to 9 hereunder:-

1. The First Respondent, born in 1948, was admitted as a solicitor in 1972. The Second Respondent, born in 1946, was admitted as a solicitor in 1974. Their names remained on the Roll of Solicitors.
2. At all material times the First Respondent carried on practice in partnership under the style of R W Hemmings and Co in Coventry until that partnership was dissolved on 30th April 1991. Until 1st October 1991 he practised alone as Lloyd and Co on which date he entered into partnership with the Second Respondent as Lloyd Wilson. On 1st October 1998 the Respondents merged with Alsters solicitors of 11-13 Queen Victoria Road, Coventry, and both Respondents remained with that firm until they resigned on 31st October 2002. The resignations followed the emergence of the matters which were the subject of the application to the Tribunal.

3. RW Hemmings & Co acted for RC Ltd (“the company”) and in the course of so doing held in client account the sum of £53,375.38. That sum was retained by the First Respondent following the dissolution of the RW Hemmings partnership, and was thereafter retained by both Respondents in the client account of the Lloyd Wilson partnership.
4. In or about September 1998 the Respondents issued a bill for work done for the company in the sum of £25,000 plus VAT and used some of the monies described above to discharge it. Neither a bill nor a written intimation of an intention to take the money in respect of costs was sent to any client. The bill was said to relate to work undertaken during the late 1980s and early 1990s involving High Court litigation. The withdrawal was a breach of the Accounts Rules.
5. Thereafter the balance of the monies was placed into a building society account in the joint names of the Respondents and it was used to defray business expenses in relation to the practice.
6. Following an enquiry from the Liquidator of the company as to the existence of any company money, the First Respondent wrote on 1st June 2000 to the solicitors acting for the Liquidator to inform them that he was not holding any monies on behalf of the H Group, of which the company formed part. He wrote in similar terms on 16th May 2001.
7. When pressed by the Liquidator and shown ledger entries the Respondents conceded that they held money. On 8th July 2002 the Liquidator made a formal complaint to the Office for the Supervision of Solicitors (“OSS”) about the Respondents’ conduct.
8. On 5th August 2002 the OSS wrote to the Respondents asking for their explanations of the matters raised in the complaint. On 2nd September 2002 the Respondents’ solicitor wrote to the OSS in answer. The Respondents admitted holding a sum of money “something in excess of £53,000”. It was admitted that the bill was issued for the sum described above, that a transfer was effected from client to office account to settle the bill and that no bill was despatched to any client. It was also admitted that the balance of the monies remaining were deposited in a building society account and that the account was used to defray business expenses.
9. On 15th May 2003 the Respondents’ Solicitor wrote again in connection with the bill confirming that it related to work undertaken during the late 1980s and early 1990s. No bill for the work had therefore been rendered within a reasonable time.

The Submissions of the Applicant

10. The Respondents had admitted the allegations including the allegations of dishonesty.
11. The letters of the First Respondent to the Liquidator had been materially misleading because the balance of the monies was held by both Respondents.
12. The monies held by the Respondents had on their own admission been used to defer business expenses. The money had also been used in part to settle a substantial bill and no attempt had been made to notify anyone of an intention to do so. The balance

was held in a separate building society account in the joint names of the Respondents. For those reasons allegations (a) and (b) were put as allegations of dishonesty, as was allegation (d). The First Respondent had disclosed the true position only when pressed by the Liquidator.

13. The Tribunal was referred to the witness statement of the Second Respondent in which he had said:-

“Why is it that an honest person should have taken a step that was so out of character? And, more perplexingly, how is it that two honest people should mutually agree at the same time to take the same step? How is it that one of us did not say to the other “this is stupid and wrong”?”

For my part all I can say is that the money seemed to be a windfall where no person, certainly no individual, would be hurt by the action we intended to take.

...

With regard to the money itself you are aware of the steps that we took and I have no need to repeat them to you here. All I can say is that we used the money for business purposes, namely the payment of PAYE and partnership tax. At no time did we use any of the money for our own direct benefit although I do accept that, by doing what we did, we did not need to try to raise the money from other sources.”

These were clear admissions.

The Submissions of the Respondents

14. The Respondents had submitted written statements which were before the Tribunal. The First Respondent gave details of his practising history. His record prior to the current proceedings had been without blemish. He gave the Tribunal information regarding ill-health which he had been suffering at the relevant time which might have impaired his judgement. He asked to be allowed to continue employment in his chosen profession.
15. In oral submissions the First Respondent said that he was deeply ashamed of all he had done and hoped he had done his best to explain the inexplicable. He was no longer working. The First Respondent said that it was his family who had suffered.
16. The Second Respondent in his written statement gave details of his practising history and details of the difficulties faced by firms such as that of the Respondents during the 1990s. He said that at the time of the events in 1998 he had felt detached from the situation. He had also been satisfied that no person would be harmed by the Respondents’ action. He had not been aware of the correspondence between the First Respondent and the Liquidator until April 2002. The Second Respondent described the actions the Respondents had taken as an error with which he would live with for the rest of his days and as one mistake in 39 years in the law. He asked that he be allowed to continue in his current agency work for the Crown Prosecution Service.

17. In oral submissions the Second Respondent said that he was ashamed of what he had done and would regret it for the rest of his days.

The Findings of the Tribunal

18. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
19. The Respondents had admitted allegations of dishonesty. This was dishonesty of the worst kind in that it related to money held on client account. Further, this was not a question of a single temporary aberration but of a number of withdrawals over a period of time. The Tribunal did not accept the Second Respondent's view that no person would have been harmed by the Respondents' actions. The company could have had creditors and shareholders who were entitled to the money held by the Respondents. The Tribunal also did not accept that the Respondents had not used any of the money for their own direct benefit. They had admitted using it to defray business expenses and they had taken costs from it in breach of the Solicitors Accounts Rules.
20. The Tribunal had taken due note of the Respondents' long careers in the law but it was right that the Tribunal put the interests of the public before the wishes of the Respondents to be able to continue working within the profession. The public had to be able to have complete confidence in solicitors to whom they entrusted funds. Client funds were sacrosanct but the Respondents had knowingly and dishonestly taken client funds for their own benefit. They had thereby damaged the reputation of the profession and it was not right that they should remain members of it. The Tribunal would order that the Respondents be struck off the Roll of Solicitors and that they pay the Applicant's agreed costs.

Dated this 16th day of December 2004
On behalf of the Tribunal

L N Gilford
Chairman