

IN THE MATTER OF JOAN CAROLE ANTHONY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J R C Clitheroe (in the chair)
Mr R B Bamford
Mr D E Marlow

Date of Hearing: 18th November 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 Margaret Bromley, solicitor of TLT Solicitors of One Redcliffe Street, Bristol, BS99 7JZ on the 25th May 2004 that Joan Carole Anthony, solicitor of Harrow, Middlesex, might be required to answer the allegation contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

On the 23rd August 2004 Miss Bromley, the Applicant, made a supplementary statement containing a further allegation.

The allegations set out below are those contained in the original and supplementary statements. The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely:-

1. She failed and/or delayed in registering title following completion and in so doing failed to act in the best interests of client(s) contrary to Practice Rule 1.

2. She failed to deal promptly or at all with letters and communications relating to the matters of a former client, namely Barclays Bank.
3. She failed to comply with a direction made pursuant to Section 44b of the Solicitors Act 1974.
4. She failed to respond substantively to correspondence from the Office for the Supervision of Solicitors.
5. She failed to comply with the direction of the adjudicator dated 12th March 2003.
6. She failed to file an Accountants Report for the year 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 on the 18th November 2004 when Margaret Eleanor Bromley appeared as the Applicant and the Respondent did not appear and was not represented.

Service of the Proceedings

The Tribunal had before it a note of the arrangements made by the Applicant to serve the Respondent with the documents. The details of which were set out in a chronology and a statement of a petitioning creditor's solicitor handed up at the hearing. The Tribunal ruled that the Respondent had been duly served with all appropriate documents and that she was aware of the date of the hearing. The Tribunal concluded it was right to deal with the matter in the Respondent's absence. The matter proceeded to the substantive hearing.

The evidence before the Tribunal included the papers annexed to the Rule 4 Statement and the Supplementary Statement. Notices to Admit and Civil Evidence Act Notices in respect of those documents had been served upon the Respondent. No counter notice had been received.

At the conclusion of the hearing the Tribunal made the following order. The Tribunal Ordered that the respondent, Joan Carole Anthony of Harrow, Middlesex, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 18th day of November 2004 and they further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,102.00.

The facts are set out in paragraphs 1 to 53 hereunder:-

1. The Respondent, born in 1952, was admitted to the Roll of Solicitors in 1985. Her name remains on the Roll. At the material times the Respondent practised on her own account under the style of J. C. Anthony at 190 Temple Chambers, 3-7 Temple Avenue, London, EC47 0HP. The Respondent's firm closed on the 31st October 2002.

Failure and/or Delay in Registering Title

2. The Respondent acted for Barclays Bank in connection with mortgages secured on properties at Walham Grove, London and Danbrook Road, London. In both cases the Respondent also acted for the purchasers.
3. On 18th September 2000, the Respondent completed the mortgagee's certificate of title in respect of Walham Grove.
4. The funds were released for completion to take place on 21st September 2000.
5. The Respondent completed the mortgagee's certificate of title in respect of Danbrook Road on 30th April 2001. Completion of the matter took place on 10th May 2001.
6. Both certificates of title included the undertaking set out in the Appendix to Rule 6(3) of the Solicitors Practice Rules in the following terms:-
 - “(c) Will within the period of protection afforded by the searches referred to in paragraph (b) above:
 - (i) complete the mortgage;
 - (ii) arrange for the stamping of the transfer if appropriate;
 - (iii) deliver to the Land Registry the documents necessary to register the mortgage in your favour and any relevant prior dealings;
 - (iv) effect any other registrations necessary to protect your interests as mortgagee.
7. The Respondent forwarded the title deeds relating to Walham Grove to solicitors appointed by Barclays Bank on about 31st July 2003. The property had three separate titles. The Respondent had dealt with registration in respect of one of the titles but not the other two. It was necessary for further work to be undertaken before an application for registration in respect of the remaining two titles could be made on 11th February 2004.
8. In December 2002 the Respondent forwarded her file and title deeds relating to Danbrook Road to Barclays Bank's solicitors. The purchaser's title had not been registered. Land Registry searches had not been carried out. A number of problems with the title had arisen because of delay. Further work had to be undertaken before an application for registration could be lodged on 20th December 2002.

Failing to deal promptly or at all with letters and communications relating to the matters of a former client
9. In connection with the above property transactions, Barclays Bank wrote to the Respondent about the deeds of Walham Grove on 3rd April, 14th June and 26th July 2001. They received no response.

10. Barclays Bank's solicitors wrote to the Respondent on 26th September 2001 and 8th October 2001 and telephoned on 19th October 2001 when a message was left on an answer phone. The Respondent advised that a small strip of land remained to be dealt with and she was dealing with this.
11. The solicitors rang again on 25th October 2001 and were told that the Respondent was not available. They spoke to the Respondent on 2nd November when she informed them she had done nothing further on the matter.
12. The solicitors telephoned again on 13th November 2001 and were unable to get through. They telephoned again on 14th November and spoke to the Respondent who promised to deal with the matter by the following Friday.
13. The solicitors received a letter from the Respondent on 19th November 2001 and they confirmed to her that they were prepared to give her seven days to deal with the matter.
14. Nothing further was heard and the solicitors telephoned again on 28th November leaving a message on the answer phone. A further letter was sent the same day. A telephone call was made on 7th December 2001 and a message left on the answer phone. The Respondent replied on 17th December by way of a compliments slip saying the matter was being dealt with.
15. The solicitors rang again on 7th January 2002. A further phone call was made on 11th January 2002 and a message left on the answer phone. This was repeated on 17th January and a further letter sent.
16. The solicitors spoke to the Respondent on the 28th January 2002 when she again promised to deal with the matter.
17. Further messages were left on the answer phone on 5th, 8th and 22nd February to which there was no response. A fax was sent on 8th March and a telephone call was made on 2nd April 2002.
18. Further messages were left on 15th and 24th April 2002. On 24th April the solicitors spoke to the Respondent who said she would fax a relevant document to them the following day. She did not do so and the solicitors wrote again on 3rd May and did not receive a response.
19. The solicitors telephoned on 10th, 15th and 16th May 2002 and left a message on the answer phone. On 16th May they left a message with a gentleman who said that he would pass their message on.
20. The solicitors wrote again on 17th May and on that occasion asked for details of the Respondent's indemnity insurers.
21. With regard to the Danbrook Road property, Barclays Bank wrote to the Respondent on 9th October 2001, 20th November 2001 and 2nd January 2002. They instructed their solicitors on 19th February 2002 and they wrote to the Respondent on 25th February and 7th March. There was no reply to any of these letters.

22. The solicitors wrote again on 13th March 2002 and telephoned on 19th March and left a message on the answer phone.
23. From this point the same telephone calls and letters were made as in the Walham Grove matter.
24. On 24th May 2002 the solicitors to Barclays Bank complained to the Office for the Supervision of Solicitors (the Office).

Failure to comply with a direction made pursuant to section 44b of the Solicitors Act 1974 dated 4th July 2002

25. The Respondent acted for a Mr P in connection with a number of matters including acting for him as a director of K. Limited, acting for the company and acting for Mr K in a partnership dispute with a Mr N.
26. Mr P. complained to the Office about a number of matters. On 20th February 2002 the Office wrote to the Respondent setting out details of the complaints and requesting a response.
27. The Respondent did not reply and the Office wrote again on 26th March. The Respondent did not reply and on 9th April 2002 the Office wrote again in the terms of a statutory notice.
28. The Respondent did not reply and on 4th July 2002, under section 44b of the solicitors Act 1974, the Respondent was directed to produce the documents within seven days. The Respondent did not comply.
29. On 2nd August 2002 the Office instructed Russell-Cooke, solicitors, to collect the files. Russell-Cooke attended at the Respondent's offices on that date and took possession of files and papers relating to Mr P.

Failure to respond substantively to correspondence from the Office for the Supervision of Solicitors

30. The Office wrote to the Respondent about the complaint by Barclays Bank on 24th September 2002 requesting a reply within 14 days. The Respondent did not reply. The Office wrote again on 11th November 2002.
31. On 9th December 2002, the Respondent wrote to the Office enclosing a copy of the letter sent to Barclays Bank's solicitors on the same date. This dealt with the Danbrook Road matter not the Walham Grove matter.
32. On 11th December, the Office wrote to the Respondent requesting an explanation as to why she failed to keep the solicitors to Barclays Bank informed about the position in relation to her undertakings despite their numerous letters and telephone calls.
33. On 6th February 2003 the Office wrote to the Respondent attaching a report prepared for adjudication. The Respondent did not reply.

34. The Office was also in correspondence with the Respondent about her practising arrangements. On 8th October 2002 the Office wrote to the Respondent enclosing a list of all outstanding complaints and asked the Respondent to reply within the next eight days.
35. On 14th October 2002 the Respondent wrote to the Office dealing with one of the complaints and saying that relevant authorities from the clients, for release of the files, had not been sent to her.
36. On 21st October 2002 the Respondent acknowledged receipt of the letter of 8th October and said that "I will prepare a more detailed reply which will follow shortly". She confirmed in that letter that her office would be closing on 31st October 2002 although she would continue to attend the office to conclude administrative matters. She enclosed a medical certificate and confirmed the amount she currently held in client account.
37. The Office wrote again on 23rd October asking the Respondent to reply by 5th November 2002 and to provide an update on the outstanding files, a copy of her insurance certificate and details of arrangements for her Accountant's Report. The Respondent did not reply.
38. The Office wrote again on the 5th November requesting certain information by 13th November 2002, including a report outlining what action the Respondent had taken to address the balance of the complaints detailed in the letter of 8th October. That letter also mentioned that a further complaint had been received.
39. The Respondent replied by letter dated 13th November 2002. In that letter she said she would reply by fax "on Monday". She then went on to deal with certain of the complaints.
40. On 26th November 2002 the Respondent wrote further to the Office confirming that her practice had closed on 31st October. She clarified the position about storage of files.
41. With regard to the list of complaints she enclosed a copy of a letter sent to the Office in connection with one matter. She said she would write further by the end of the week in connection with another matter. She said she would write further in connection with the complaint by Mr P. She made the point that it was going to take considerable time and mental stamina to deal with that complaint which raised matters going back over eight years. She went on to say that she was still dealing with the other complaint matters and would write a further letter within the next 7 days.
42. The Office wrote again on 2nd December pointing out that evidence of indemnity cover was required for the period from 1st to 7th September 2002.
43. On 9th December the Respondent wrote to the Office in connection with the complaint by Barclays Bank.

44. On 16th December the Office write again to the Respondent, pointing out that four complaints were still outstanding. That letter also requested confirmation of her indemnity insurance cover. The Respondent did not reply to that letter. The Office wrote again on 2nd January and on 16th January 2003. The Respondent did not reply.

Failure to comply with the direction of the adjudicator dated 12th March 2003

45. On 12th March 2003 an adjudicator at the Law Society directed that the Respondent either produce evidence to the Office of indemnity insurance cover or submit a formal application to the Assigned Risks Pool relating to indemnity insurance cover for the period 1st to 7th September 2002 within 14 days of the date of the letter notifying her of the decision.
46. The adjudicator made a finding that the Respondent had failed to reply substantively to the Office's correspondence and directed that the Respondent should pay to the Law Society fixed costs of £444.
47. A copy of the adjudicator's decision was sent to the Respondent on 14th March 2003. No response had been received.
48. On 14th October 2002 the Respondent wrote to the Law Society confirming that as at that date the current balance on her client account was £78,198.
49. On 31st October 2002 the Respondent sent a fax to the Law Society requesting an extension of time for filing her Accountant's Report for the year ended 30th April 2002. An extension to 14th January 2003 was granted.
50. The Respondent's Accountant's Report for the year ended 30th April 2002 was sent to the Law Society on 29th January 2003.
51. On 12th August 2003 the Law Society wrote to the Respondent enclosing the Accountant's Report forms for the period ending 30th April 2003. No reply was received. The Law Society wrote a reminder on 18th November 2003.
52. No reply was received to that letter and on 23rd January 2004 the Law Society wrote to the Respondent requesting her explanation within 14 days for failing to file her Accountant's Report. No reply was received. On 1st June 2004 the Law Society wrote to her again addressing the letter to the Respondent's home address. No reply was received.
53. The Accountant's Report remained outstanding.

The Submissions of the Applicant

54. The overall picture which had emerged was that the Respondent appeared to act when she was pushed hard enough.
55. It appeared to the Applicant that this was a sad case. The Respondent appeared to have lost control of her practice and could no longer cope. She had made some

attempts to close down her practice but had not remained in control. Allegations 1. and 2. went back to matters which had happened some two years before the Respondent closed her practice.

56. The allegations fell into two categories, one related to client matters and the other related to regulatory matters.
57. The Respondent's failure to register title in connection with two properties put her client to inconvenience and expense and she had not taken steps to ensure that her client's interests were protected.
58. Those failures were aggravated by the Respondent's failure to reply to the clients or to their solicitors.
59. The Respondent was a sole practitioner and full responsibility for the conduct of client matters and her practice was hers.
60. The Respondent's failure to comply with regulatory matters was serious. When a solicitor ignored correspondence addressed to him by the Law Society, his own professional body, he is acting contrary to his duty to deal with such matters and in turn prevents the Law Society from fulfilling its duty as the regulator of the solicitors profession.
61. A solicitor must comply with regulatory matters no matter what his or her personal difficulties may be.
62. The Applicant noted that there had in correspondence been some reference to the Respondent's ill health, but no substantive evidence of ill health had been supplied.
63. The Law Society had not considered it necessary to intervene into the Respondent's practice as she had closed down her office herself. It was not known what the Respondent was doing at the time of the hearing. It was noted that the Respondent had not held a Practising Certificate since October 2002.

The Submissions of the Respondent

64. The Respondent made no submissions.

The Findings of the Tribunal

65. The Tribunal found all of the allegations to have been substantiated.

The Decision of the Tribunal

66. The Tribunal accepted the Applicant's view that it appeared that the Respondent had not been able to cope with being a sole practitioner solicitor. Not only had she let clients down very badly but she had failed to deal appropriately with important regulatory matters such as indemnity cover and the filing of Accountant's Reports.

67. It is a matter for regret that proper medical evidence has not been placed before the Tribunal. The Respondent's failures lead the Tribunal to conclude that the Respondent is not currently fit to practise as a solicitor and that she should not be permitted to practise both in the interests of the public and in the interests of the good reputation of the solicitors' profession.
68. The Tribunal concluded that the imposition of an indefinite period of suspension would be both appropriate and proportionate. The Tribunal made such an order but wished to indicate that should the Respondent seek to apply to the Tribunal for the determination of such period of indefinite suspension a future division of the Tribunal considering such application would be likely to require to be satisfied that the Respondent was not only fit in every way to practise as a solicitor but also that she had regularised her position with regard to the outstanding regulatory issues.
69. The Tribunal ordered that the Respondent be suspended from practice for an indefinite period of time and further ordered that she should pay the costs of and incidental to the application and enquiry fixed in the sum of £3,102. The Tribunal made a fixed costs order as it considers the Applicant's costs to be entirely reasonable and it was right to avoid the delays and additional costs that would be incurred if the costs were not fixed at the hearing.

Dated this 24th day of January 2005
On behalf of the Tribunal

J R C Clitheroe
Chairman