

IN THE MATTER OF GEOFFREY HUGH CASTLE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A N Spooner (in the chair)  
Mr W M Hartley  
Lady Bonham Carter

Date of Hearing: 28th September 2004

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Hilary Susan Morris, solicitor employed by the Law Society at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 24th May 2004 that Geoffrey Hugh Castle solicitor of Linton Hill, Linton, Maidstone, Kent, (now of Prospect Road, Sandgate, Folkestone, Kent,) 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 fit.

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

- (1) he failed to deliver to the Law Society an Accountant's Report for the years ended 31st August 2001 and 31st August 2002, contrary to Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998;
- (2) he failed to comply with the Decision of an Adjudicator dated 10th November 2003.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 28th September 2004 when Hilary Susan Morris appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent.

At the conclusion of the hearing the Tribunal made the following order:-

The Tribunal orders that the Respondent, Geoffrey Hugh Castle of Prospect Road, Sandgate, Folkestone, Kent, (formerly of, Linton Hill, Linton, Maidstone, Kent) solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 28th day of September 2004 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £768.90.

**The facts are set out in paragraphs 1 to 8 hereunder:-**

1. The Respondent, born in 1948, was admitted as a solicitor in 1973 and his name remained on the Roll of Solicitors. The Respondent's last Practising Certificate was terminated on 20th January 2003. The Respondent practised as a sole principal at Castle & Co, The Bull, Linton Hill, Linton, Maidstone, Kent, ME17 4AW.
2. The Respondent's firm's Accountant's Reports for the years ending 31st August 2001 and 31st August 2002 were due to be received by the Law Society on or before 28th February 2002 and 28th February 2003 respectively. The Law Society wrote to the Respondent on 11th March 2003 and again on 21st July 2003 informing him that the reports had not been received and requesting delivery of them.
3. The Respondent replied on 13th August 2003 explaining his difficulties and that he was anxious to deal with the Accountant's Report and to ensure that everything was in order following his ceasing to practise as a solicitor. He hoped to do this within three months.
4. In telephone conversations on 14th August 2003, the Respondent informed the caseworker that he still had money in his client account and he enquired about the possibility of a waiver. The caseworker explained that she would put the matter to an Adjudicator and requested that he send in copies of his client account bank statements so that a decision might be made.
5. The Respondent was sent a copy of the Report to be considered by the Adjudicator and he was informed that he had 14 days to make representations. No representations were received.
6. On 10th November 2003 an Office Adjudicator refused the request for a waiver and expected the Respondent to deliver the outstanding Accountant's Reports for the years ending August 2001 and 2002 within three months of the date of notification of her Decision, failing which the Respondent's conduct was to be referred to the Tribunal. The Respondent was informed of this Decision by letter on 13th November 2003.

7. The Law Society wrote to the Respondent on 2nd February and 20th February 2004 requesting an explanation for his failure to comply with the Adjudicator's Decision. The Respondent replied on 24th February 2004 to say that he had instructed accountants the previous month to prepare the outstanding reports but had not given them all the papers to enable them to do so. In summary the reasons given were that he had been helping his partner in her restaurant business; they then had had personal difficulties. Further, his accounts had been prepared manually and some files were mislaid and some ledger sheets and slips had become separated from files. He said he hoped the reports would be prepared by the end of the following week.
8. At the date of the hearing the Respondent's Accountant's Reports for the years ending 31st August 2001 and 31st August 2002 remained outstanding.

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

9. The Respondent had admitted the allegations. The Respondent continued to hold some clients' money.
10. The Adjudicator had refused the Respondent's application for a waiver because of concern at the amount of activity on the client account. There had however been no activity since the Respondent's Practising Certificate had been terminated.
11. The Law Society had first written to the Respondent in this matter on 11th March 2003. In the Law Society's letter of 21st July 2003 he had been told about the Solicitors Assistance Scheme but he had not taken advice.
12. The Tribunal was referred to the Respondent's further letters to the Law Society of 21st May 2004 and 2nd June 2004. The Respondent had had personal difficulties in providing the information to the accountants. He had been distressed by the matter and had indicated that he was still hoping to get the papers to his accountants in the near future. In the submission of the Applicant, however, the public could not be confident that solicitors were properly regulated if they did not file their Accountant's Reports. It was a matter of concern that the Accountant's Reports remained outstanding.

### **The Submissions of the Respondent**

13. The Respondent took his duties as a solicitor seriously. He was still holding clients' money in a total of £5,000 or £6,000. This included money held in respect of his late mother who had been a client.
14. The Respondent told the Tribunal of the extensive care he had given to his mother during a long illness. He had been her only child and had had to look after her physically and mentally, providing both care at home and constant visits to hospital. Ultimately he and his partner had provided 24 hour care. The Respondent had been trying to run down his business and support his partner in hers.

15. During this period the Respondent had not been eating or sleeping and had become depressed. This had become worse after his mother's death. He still found it difficult to concentrate and had very low energy levels.
16. He had always prepared his accounts manually and although he had started the process of preparation for the Accountant's Report some time ago it had taken much longer than anticipated.
17. He had instructed accountants in Maidstone at the beginning of the year who had been waiting for papers from him. In the intervening period he had had further personal difficulties including a bereavement in his partner's family. He was also the sole executor of his mother's estate.
18. He had spent a considerable time on his accounting paperwork and had hoped to have his Accountant's Reports today. He very much regretted that this had not occurred. He felt however that he was on the "home run" and his accountants had indicated that once they had received the papers they could deal with the reports in short order.
19. The Respondent had always taken the view that he should be able to cope but over this period he had not been able to pull himself up. He had not consulted a doctor although he had spoken with friends, including one with medical qualifications. With hindsight he should perhaps have consulted a doctor but he still felt that he should be able to cope himself and pull himself out of his difficulties.
20. The Respondent hoped to get his papers to his accountant by the beginning of the following week. He was not practising.
21. The Respondent agreed the Applicant's costs.

### **The Findings of the Tribunal**

22. The Tribunal found the allegations to have been substantiated, indeed they were not contested.

### **Previous appearance before the Tribunal on 23rd July 2002**

23. On 23rd July 2002 the following allegations were substantiated against the Respondent, namely that he had been guilty of conduct unbefitting a solicitor in that he:-
  - (1) failed to deliver to the Law Society an Accountant's Report for the year ended 31st August 2000 contrary to Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998;
  - (2) failed to comply with a decision of an Adjudicator dated 31st October 2001.

24. The Tribunal in 2002 regarded the delays as serious. The Respondent had been treated with a degree of leniency by the Law Society. Accountant's Reports were required to be filed with the Law Society by solicitors and that was a fundamental part of the Law Society's role as a regulator and served to afford the public the greatest possible protection when it entrusted its money into the hands of a solicitor. The failure to submit an Accountant's Report within the appropriate time limits was a matter that was not to be taken lightly. The Tribunal noted the Respondent's assurances that matters would be put right shortly after the hearing. The Tribunal was anxious to ensure that that was so and further to ensure that the public was not placed at risk if the Respondent remained in continuing breach. The Tribunal therefore ordered the Respondent to pay a fine of £1,000 but if he had not filed his outstanding Accountant's Report with the Law Society within 21 days of 23rd July 2002 then he would additionally be suspended for an indefinite amount of time. The Respondent was required to notify the Tribunal of the date upon which he filed his Accountant's Report to the Law Society. The Respondent was further ordered to pay the costs of and incidental to the application and enquiry in an agreed fixed sum.
25. The Tribunal on 28th September 2004 considered that this was a sad case. The Tribunal was grateful to the Respondent for his courage and courtesy in attending the Tribunal. The Respondent had however failed to deal with the filing of Accountant's Reports for two years and had not complied with the decision of the Adjudicator in that regard. The Tribunal was extremely concerned that this was the Respondent's second appearance in very similar circumstances. The Tribunal adopted the views expressed by the previous Tribunal in 2002. The Respondent had for a second time appeared before the Tribunal in continuing breach of the regulatory requirements. The Tribunal had noted the Respondent's sad personal circumstances but these did not excuse the Respondent's continuing failure to comply with his duties as a solicitor. The Respondent appeared not to have learned a lesson from his previous appearance and the Tribunal considered that the Respondent should not be able to practise as a solicitor in these circumstances
26. The Tribunal made the following order:-
- The Tribunal orders that the Respondent, Geoffrey Hugh Castle of Prospect Road, Sandgate, Folkestone, Kent, (formerly of, Linton Hill, Linton, Maidstone, Kent) solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 28th day of September 2004 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £768.90.

Dated this 29th day of November 2004  
On behalf of the Tribunal

A N Spooner  
Chairman