

IN THE MATTER OF NICHOLAS PAUL ADAMS AND  
MONICA JOANNA SCRACE, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr I R Woolfe (in the chair)  
Mr S N Jones  
Mrs V Murray-Chandra

Date of Hearing: 15th February 2005

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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 Margaret Eleanor Bromley solicitor of TLT Solicitors, One Redcliff Street, Bristol BS99 7JZ on the 20<sup>th</sup> July 2004 that Nicholas Paul Adams of Barnsole, Near Staple, Kent and Monica Joanna Scrace of Tooting, London SW17 (whose address was subsequently notified to be Ide Hill, Sevenoaks, Kent) might be required to answer the allegations contained in the statement which accompanied the application and that such Order may be made as the Tribunal shall think right).

**The Allegations made against both Respondents were:-**

That they had been guilty of conduct unbefitting a solicitor in that:

1. they practised uncertificated from 21<sup>st</sup> January 2003;
2. they failed to act in the best interests of their clients in failing to close down the practice of Nicholas Adams & Co. properly;

3. they failed to comply with directions made under Section 44B of The Solicitors Act 1974 relating to the matters of two clients, Miss O'B and Miss L;
4. they failed to comply with the directions of the Adjudicator (of The Law Society) dated 31<sup>st</sup> March 2004;

Against the second Respondent, Monica Joanna Scrace, alone it was alleged that she had been guilty of conduct unbecoming a solicitor, in that she failed to reply to correspondence from the Office for the Supervision of Solicitors in respect of a complaint by Mrs D.

The application was heard at the Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7NS when Margaret Eleanor Bromley appeared as the Applicant. Mr Adams appeared in person. Miss Scrace did not appear and was not represented but she had addressed a letter dated 14<sup>th</sup> February 2005 to Miss Bromley in which she stated:

“I refer to the above and your recent correspondence. As you are aware, I have not practised since March 2003 and I am aware of the likely consequences of the hearing. In any event I would not be returning to practice and therefore do not intend to contest the matter.”

The evidence before the Tribunal included the admissions of Mr Adams and the admissions of Miss Scrace contained in the aforementioned letter.

At the conclusion of the hearing, the Tribunal made the following Orders:

The Tribunal Order that the Respondent, Nicholas Paul Adams of Sandwich, Kent, solicitor, be suspended from practice as a solicitor for the period of two years to commence on the 15<sup>th</sup> day of February 2005 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,243.67.

The Tribunal Order that the respondent, Monica Joanna Scrace formerly of Tooting, London, but now of Ide Hill, Sevenoaks, Kent, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 15<sup>th</sup> day of February 2005 and they further Order that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,089.07.

**The facts are set out in paragraphs 1 - 54 hereunder:**

1. Mr Adams, born in 1949, was admitted as a solicitor in 1974. Miss Scrace, born in 1962, was admitted as a solicitor in 1989. At the material times the Respondents practised in partnership as Nicholas Adams & Co at 30-30A Brixton Road, London. The Law Society intervened into the firm on the 28<sup>th</sup> May 2003.
2. On 20<sup>th</sup> January 2003, the Respondents' Practising Certificates for the practice year 2001/2002 were terminated by The Law Society.
3. On 24 February 2003, separate letters were sent to Mr Adams and Miss Scrace at 30-30A Brixton Road pointing out that their Practising Certificates had been terminated on 20 January and enquiring whether they were continuing to practise.

4. On 3rd March 2003, Mr Adams wrote to the OSS on headed paper of Nicholas Adams & Co on which his name and that of Miss Scrace appeared as partners. He said he was submitting the appropriate application for a Practising Certificate. Mr Adams confirmed that he had dealt with various matters such as registration of titles since January.
5. On 24th March 2003, Mr Adams and Miss Scrace were sent a draft report from the OSS in connection with their practising uncertificated and were informed that this matter was being referred for formal adjudication.
6. On 28th March 2003, a Law Society case worker spoke on the telephone to Miss Scrace. Miss Scrace confirmed that she had one ongoing criminal matter and had been at the Old Bailey “yesterday” and that the firm was winding down and that she had written to all clients to ask where their papers should go.
7. Mr Adams wrote on 27<sup>th</sup> March 2003. He confirmed that he was in the last stages of completing those matters which needed his attention.
8. On 15<sup>th</sup> April 2003 The Law Society wrote to Miss Scrace pointing out that it had still not received the form RFS 12 which it needed for the renewal of her Practising Certificate. On the same date the Law Society wrote to Mr Adams pointing out that he had not yet taken steps to apply for a Practising Certificate. Both letters drew attention to the fact that The Law Society continued to receive enquiries from members of the public about papers or files held by the firm.
9. On 19<sup>th</sup> December 2002 a client of the practice, Miss S wrote to Mr Adams complaining about his failure to reply to correspondence and telephone messages. On 16<sup>th</sup> January 2003 Capital Home Loans wrote to Mr Adams in connection with the same transaction in which they were the lender.
10. On 10<sup>th</sup> February 2003, H L Miller & Co wrote to Nicholas Adams & Co informing them that they had been instructed by Capital Home Loans Limited and Miss S. With that letter was enclosed a signed form of authority and a request for release of the full file of papers together with monies currently held on client account. No reply was received. H R Miller wrote again on 11<sup>th</sup> February referring to telephone calls that had not been returned.
11. H L Miller & Co rang on 10<sup>th</sup> February 2003 and were informed that Mr Adams was at court. They rang again on 11<sup>th</sup> February 2003 and left messages.
12. H L Miller & Co wrote again on 13th February 2003 and again on 14th February 2003. No reply was received.
13. On 14th February 2003 H L Miller complained to The Law Society.
14. On 6<sup>th</sup> March 2003 Miss C, a client of the firm, wrote to Mr Adams and Miss Scrace complaining about lack of response. In that letter she said:

“I have left over 20 messages over the last three weeks. My doctor has also rung on several occasions. No messages have been returned.”

She went on to say in the letter:

““I have now heard the firm is closing down at the end of the month can you please confirm this as I have had nothing in writing to inform me.”

15. Miss C then complained to The Law Society.
16. The Law Society then wrote to Mr Adams and Miss Scrace. Mr Adams replied by letter dated 26 June 2003 in which he said:
 

“I am very aware of Miss C’s complaint in that she has telephoned me several times to enquire about the matter and I have been in the embarrassing position of being unable to respond in any helpful way because I neither have any knowledge of the matter nor the whereabouts of the papers.”
17. On 10<sup>th</sup> April 2003, Bruce J Reed, solicitor, wrote to Miss Scrace referring to difficulties in contacting her and the fact that she had failed to settle outstanding fees due to him. Mr Reed received no reply to that letter and on 14 April he formally complained to The Law Society.
18. On 29<sup>th</sup> April 2003, Wainwright Cummins Solicitors wrote to The Law Society. They had been instructed by a number of former clients of the Respondents’ firm and urgently needed access to case papers. Phone calls, faxes or callers went unanswered.
19. On 15<sup>th</sup> May 2003 The Law Society wrote to Mr Adams and Miss Scrace pointing out that it continued to receive enquiries from members of the public and former clients of the firm as to the whereabouts of their papers.
20. By letter dated 20<sup>th</sup> July 2003, (but possibly written on 20<sup>th</sup> June) Mr Adams informed The Law Society that he had become aware that there were outstanding requests for the transfer of files but he was powerless to deal with these as he had been unable to trace or establish any contact with Miss Scrace.
21. On 3<sup>rd</sup> February 2003, Russell-Cooke, solicitors, were instructed by The Law Society to take possession of documentation relating to a client of the practice, Miss O’B.
22. Russell-Cooke attempted to contact the firm by telephone on 4<sup>th</sup> February 2003 and left a message on the answering machine for Miss Scrace to contact them. On the same date a fax was sent to Nicholas Adams & Co advising of Russell-Cooke’s appointment and requesting that Miss Scrace contact Russell-Cooke to make collection arrangements. On 5<sup>th</sup> February 2003, a message was left for Miss Scrace to return the call. On the following day, 6<sup>th</sup> February, Russell-Cooke telephoned again and spoke to the Respondents’ member of staff who confirmed that the earlier phone message had been passed to Miss Scrace. A further message asking Miss Scrace to call was left.

23. On 7<sup>th</sup> February 2003, Russell-Cooke left a message on the Respondents' answering machine and a facsimile was sent the same day confirming the unreturned phone calls and requesting contact with Russell-Cooke without further delay. Further messages were left on 11<sup>th</sup> and 14<sup>th</sup> February 2003.
24. On 27<sup>th</sup> February 2003, Russell-Cooke received instructions from The Law Society to take possession of documentation relating to Miss L.
25. On 3<sup>rd</sup> March 2003, Russell-Cooke wrote to Nicholas Adams & Co sending the letter by facsimile and recorded delivery and setting a deadline of 7<sup>th</sup> March 2003 for a reply.
26. That day a letter was received from Nicholas Adams & Co advising that the files would be sent by Russell Cooke by courier on 10<sup>th</sup> March 2003. This did not happen.
27. On 14<sup>th</sup> March 2003, two employees of Russell-Cooke attended at the offices of Nicholas Adams & Co, arriving at approximately 11.00 am. The office was closed. There were no lights on and nobody answered the door.
28. On 24<sup>th</sup> March 2003, The Law Society instructed Russell-Cooke to obtain a Court Order under Section 44B requiring Mr Adams and Miss Scrace to hand over the files relating to Miss O'B and Miss L.
29. On 7<sup>th</sup> April 2003 Russell-Cooke wrote to Nicholas Adams & Co setting out details of the claim and requesting that the papers be returned within two days or court documents would be filed.
30. On 24<sup>th</sup> April 2003, the application having been issued, it was sent by recorded delivery to both Miss Scrace and Mr Adams at the office address. The papers were returned to Russell-Cooke by the Post Office on 9 May 2003.
31. On 8<sup>th</sup> May 2003, the Court hearing took place and an order for costs amounting to £4,500 was made. A copy of the Court Order was sent by recorded delivery to Mr Adams and Miss Scrace at the office address but these were returned by the Royal Mail on 9<sup>th</sup> May 2003.
32. On 12<sup>th</sup> May 2003 a further attempt was made to serve the Court Order by first class post and copies were delivered by hand to the Office by a Russell-Cooke representative.
33. The Law Society resolved to intervene into the Respondents' practice on 22<sup>nd</sup> May 2003 and the intervention took place on 28<sup>th</sup> May 2003.
34. When a representative of Russell-Cooke attended at the Respondents' offices on 29<sup>th</sup> May 2003, there were no personnel present; the filing cabinets were empty; files and client papers were piled haphazardly on the floor. No clients or employees attempted to gain access during Russell-Cooke's attendance.
35. On 5<sup>th</sup> June 2003, Russell Cooke left a message on the mobile telephone of Mr Adams asking him to return the call urgently. Mr Adams returned the call the same day. He

indicated that he had been absent from the practice for a few months and had thought that Miss Scrace was winding it up appropriately.

36. On 6<sup>th</sup> June 2003, telephone messages were left for Miss Scrace on both her home and mobile telephone numbers and a letter was written confirming that the messages were left and that no calls had been returned. The letter confirmed Russell-Cooke's appointment as The Law Society's agent and the requirement for all client papers and records to be handed to Russell-Cooke.
37. On 11<sup>th</sup> June 2003, a letter was received by fax from Miss Scrace advising that all files were in two separate secure garages in Kent. She went on to say that she could arrange the hire of a van and delivery of the files on "Monday or Tuesday of next week".
38. Russell-Cooke replied by letter dated 13<sup>th</sup> June 2003 pointing out that some clients were still endeavouring to telephone the former practice and that client related post was being received at the premises. Russell-Cooke enclosed a form of authority in relation to the post and telephone and requested that Miss Scrace execute them and return them by fax.
39. Miss Scrace returned the authorities duly signed by fax on 18<sup>th</sup> June 2003. She gave details of one of the sites at which files were stored.
40. On 26<sup>th</sup> June 2003 Russell-Cooke wrote again to Miss Scrace requesting that she contact them urgently to arrange a convenient collection time in respect of the stored files. No reply was received.
41. On 14<sup>th</sup> July 2003 an application was made to Court for an Order for delivery of the papers.
42. On 16<sup>th</sup> July 2003, a telephone call was received from Mr Adams when he informed Russell-Cooke that he would be out of the country on the return date for the application.
43. On 22<sup>nd</sup> July 2003, Russell-Cooke attended at Court when an Order was made and costs amounting to £4,785.42 were awarded against the Respondents.
44. The Respondents' firm was instructed by Mrs D in connection with the purchase of a property. On 4<sup>th</sup> December 2002, Mrs D paid £31,267.75 which included a 15% deposit on the purchase price of £190,000, 1% stamp duty, disbursements and legal fees to the Respondent.
45. Completion of the purchase was initially due to take place on 13 December 2002 but did not take place until March 2003.
46. Mrs D complained to The Law Society on 7<sup>th</sup> March 2003. The Law Society wrote to Mr Adams on 15<sup>th</sup> May 2003 setting out details of Mrs D's complaint and requesting his response within 14 days. Mr Adams did not respond. The Law Society wrote again on 25<sup>th</sup> June 2003.

47. Mr Adams replied by letter dated 3<sup>rd</sup> July 2003 explaining that he had left the practice in early December 2002 leaving all live matters in the hands of Miss Scrace. Mr Adams was unable to confirm whether registration had taken place. He did confirm that a sum of about £31,000 had remained in Mrs D's account and acknowledged that there might be an issue in respect of the interest.
48. On 30<sup>th</sup> July 2003, The Law Society wrote to Miss Scrace about Mrs D's complaint and requesting an explanation within 14 days. Miss Scrace did not reply. The Law Society wrote again on 9<sup>th</sup> September.
49. In the absence of a reply The Law Society wrote in the form of a Statutory Notice on 30<sup>th</sup> October 2003.
50. Following examination of the file by The Law Society it was clear that the Respondents were continuing to deal with Mrs D's transaction during February and March 2003 notwithstanding that they did not have Practising Certificates.
51. On 11<sup>th</sup> February 2004 The Law Society wrote to Mr Adams and Miss Scrace separately enclosing a Report that had been prepared for adjudication. Neither Respondent replied to that letter and on 8<sup>th</sup> March The Law Society wrote again to Mr Adams and Miss Scrace separately indicating that in the absence of any comments they were assuming that they were happy with the Report.
52. On 31<sup>st</sup> March 2004 the Adjudicator made the following directions:

“That Nicholas Adams & Co pay compensation to Mrs D in the sum of £1,000.

That Nicholas Adams & Co refund costs to Mrs D in the sum of £260 plus VAT (£305.50) and to limit their own costs to £500 plus VAT.

That Nicholas Adams & Co ... apply for and obtain a Deposit Interest Certificate from their client account bank in respect of the sum of £31,267.75 held between 4<sup>th</sup> December 2002 and 26<sup>th</sup> March 2003. They shall within 14 days thereafter, account to Mrs D in respect of interest that would otherwise have been attracted to that sum between those dates.”
53. On 7<sup>th</sup> April 2004 The Law Society wrote to Mr Adams and Miss Scrace enclosing a copy of the Adjudicator's decision.
54. The Respondents had not complied with the decision of the Adjudicator.

### **The submissions of the Applicant**

55. The allegations made against the Respondents were serious and encompassed a number of regulatory failures as well as a failure to act in the best interests of the Respondents' clients. A clear picture emerged of client matters where there had been delay and where clients were unable to make contact with the Respondents at their firm. Inevitably this had caused clients anxiety and concern. Such behaviour on the

part of the Respondents served only to damage the good reputation of the solicitors' profession. Both Respondents as partners in the firm had been responsible for the failures. It was obvious on Mr Adams's return to the United Kingdom that Miss Scrace had not acted as he had requested and expected and he had not been copied in on some of the correspondence emanating from The Law Society. The outcome of the failures was that The Law Society was forced to effect an intervention into the firm. It had been incumbent on both the partners in the firm to close it down in an orderly fashion. They had failed in that respect.

56. Claims had been made on The Law Society's Compensation Fund and the Tribunal was invited to consider the schedule of payments from that Fund handed up at the hearing.

### **The submissions of Mr Adams**

57. Mr Adams regretted that his appearance before the Tribunal was a second occasion in two years.
58. Early in 2002 it had been clear to Mr Adams that the firm was no longer viable. Mr Adams had wished to become involved in projects in Africa. He had approached Miss Scrace to tell her that he did not consider that the firm could continue. She indicated that she wished to remain with the firm. She did not wish to effect a sale but would close it down at the end of March 2003. Mr Adams had agreed to let the partnership continue until that time but he gave up active participation in the firm in November 2002. Mr Adams had been satisfied that there was sufficient work in progress to cover the firm's outgoings. He passed his conveyancing work to another firm of solicitors. He dealt with some Land Registry registrations and similar matters and sent deeds to mortgagees. He had some six to ten live matters. He passed these to Miss Scrace, some of which were then passed on to other solicitors at the election of the client. There had been no cause for complaint in any of these matters.
59. One matter passed to Miss Scrace had been that of Miss D. When Mr Adams left the firm that matter had been due for completion in about one week. Miss Scrace said she would deal with the completion. Mr Adams had been in East Africa for two months although he had been available by email and telephone. No queries had been passed to him. As far as Mr Adams was concerned the matter simply did not complete but it was not clear why. He did not know why the matter had not been passed to a colleague in a local firm. He had been aware of no major difficulty himself.
60. Mr Adams had not intended to stay in the United Kingdom. He had found it difficult to see Miss Scrace. He had tried to meet her but she had not attended meetings as arranged. Effectively she had abandoned their office. One member of the firm's staff had assisted Mr Adams as a kindness.
61. Mr Adams had left all documents relating to applications for Practising Certificates with Miss Scrace. He had come to learn that they had not been submitted to The Law Society. Miss Scrace had not submitted her own application nor that of Mr Adams.



62. Mr Adams had not practised while away from the United Kingdom and he did his best to resolve difficulties upon his return. He came to realise that he had been at error in not removing himself as a partner and not ensuring that his name had been removed from the firm's letterhead.
63. Miss Scrace had taken some live files from the office. Mr Adams had telephoned her incessantly and tried to help the clients who had not known what was happening. Mr Adams' state of alarm increased with every telephone call received.
64. Mr Adams had tried to ensure that the files were indexed and removed from the office but he could not do anything with regard to the files that were not in the office.
65. In April the locks of the office had been changed. The files Mr Adams had archived had been removed. After a period of some three weeks Mr Adams acquired keys from the Landlord. Still many calls from clients were being received and Mr Adams received notification that The Law Society was considering effecting an intervention. In May Mr Adams had contacted The Law Society to say that he could not resolve the situation and he thought The Law Society should intervene even if that prejudiced Mr Adams's own position. He offered full assistance to Russell-Cooke but they did not take up his offer.
66. The intervention took its course and disciplinary proceedings began. Mr Adams had not sought to renew his Practising Certificate as disciplinary proceedings were outstanding. The Applicant's statement had been made in July 2004 and the substantive hearing was taking place in February 2005. Mr Adams had not practised since a date at the end of 2003 or early in 2004. He believed that even when the disciplinary proceedings had come to an end it would be difficult for him to practise.
67. Mr Adams had been engaged in work outside the solicitors' profession. He, his wife and three children had endured a very difficult time. He would not again be involved in running a practice.
68. Mr Adams was unemployed and was actively seeking work. Mr Adams had always tried to carry out his professional work in a faithful and proper manner. He had not been the subject of criticism for that work. He accepted that he was not good at management. At the time when he had practising problems he was also beset with family problems and had become a lone parent for a while. He had tried to do everything and had not been successful.
69. At the date of the hearing Mr Adams was faced with a big financial burden. The cost of the intervention had been some £84,000. Mr Adams had sold both of the properties which he owned. He had put three-quarters of the money raised into the practice. He had not made drawings from the practice for the last 30 months of its existence and had lived very carefully. He had an outstanding tax bill.
70. Mr Adams believed his main mistake had been that he seriously misjudged Miss Scrace's ability to continue with the practice in his absence. He had made a substantial error of judgement in this regard which had been at the root of all of the difficulties and had in turn led to Mr Adams's financial and professional ruin.

71. Mr Adams recognised that there had been considerable inconvenience to clients and was very sorry that a mess had been created which had to be cleared up.
72. Mr Adams hoped that the Tribunal would be able to avoid imposing the ultimate sanction. He hoped that he would again be permitted to practise in the future accepting that his right to practise might well be subject to severe restrictions.

### **The submissions of Miss Scrace**

73. Miss Scrace made no submissions other than her letter set out above.

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

74. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested.
75. At a hearing on 13<sup>th</sup> February 2003 the Tribunal had found the following allegations to have been substantiated.
76. The allegations against Mr Adams were that he had been guilty of conduct unbecoming a solicitor in that in respect of the complaint of Mr F:-
  - (i) he had failed to reply promptly or alternatively at all to correspondence from the Office for the Supervision of Solicitors; and
  - (ii) he had failed to reply promptly or alternatively at all to correspondence from other parties.

The allegations against Mr Adams and Miss Scrace were that they had jointly been guilty of conduct unbecoming solicitors in that, in relation to National Westminster Bank plc, they:

- (iii) had failed to perform a professional undertaking;
- (iv) had failed to reply promptly or alternatively at all to correspondence from the OSS;
- (v) had failed to reply promptly or alternatively at all to correspondence from other parties; and
- (vi) by reason of the foregoing they had failed within their firm to operate a complaints handling procedure as required by Rule 15 of the Solicitors Practice Rules 1990 and the Solicitors' Costs Information and Client Care Code;
- (vii) they had failed promptly to comply with directions made by the Office pursuant to s37A and Schedule 1A of the Solicitors Act 1974 (as amended).

Against Miss Scrace it was alleged that she had been guilty of conduct unbecoming a solicitor in that:

(viii) she had misled a client as to the progress of a matter.

77. In its written Findings dated 16<sup>th</sup> April 2003 the Tribunal said:

“On the face of it the matters found to have been established against each of the Respondents represented conduct unbecoming a solicitor of a serious nature.

The Tribunal have heard Mr Adams in person. The Tribunal concludes that Mr Adams is a decent man who has served the community in an exemplary fashion handling a wide range of work including work on behalf of legally aided clients and indeed undertaking pro bono work. The pressure at his firm increased at a time when he was shouldering heavy, and what at times must have been overwhelming, domestic responsibilities. He himself demonstrates his decency by telling the Tribunal that his domestic pressures had kept him away from his firm and that in turn had led to enormous pressures falling upon Miss Scrace, whose experience of practice had not been as great as his own.

The Tribunal gives Mr Adams full credit for his admissions and his contrition. They accept that none of the matters alleged against him had been deliberate and that the reality was that Mr. Adams had been a victim of circumstance. The Tribunal gives Mr Adams credit for confirming that he accepts that the compensation awarded to clients had to be paid and the Tribunal accepts that as at the time of the hearing Mr. Adams was not in a position to make such payment. They accepted his assurance that he would discharge his obligations to make compensation payments to clients as soon as he was in a position to do so.

The Tribunal was grateful for the help afforded to it by Mr. Miller when he told the Tribunal that it was sometimes the practice for compensation payments to be met by the exercise of its discretion by the Law Society's Compensation Fund. The Tribunal recognises that the clients in this case would be best served if their compensation were to be paid in this way and if the Compensation Fund would then look to the Respondents for reimbursement over time.

Although the Tribunal was sympathetic to the difficult domestic circumstances of Mr. Adams, and accepted that he had put forward compelling mitigation, it would not be right for the serious allegations found substantiated against him to go without the imposition of a sanction. The Tribunal concluded that the strong mitigation enabled it not to impose a sanction that would interfere with Mr. Adams' ability to practise and, indeed, the Tribunal was supported in this decision by the view that it formed of Mr. Adams' integrity and probity which led them to conclude that he was not a danger to the public nor was he likely to damage the good reputation of the solicitors' profession in the future. The Tribunal decided that Mr. Adams' conduct could be marked by the imposition of a reprimand and a fine of £5,000. The reprimand was in respect of

allegations (iii), (iv) and (v), a fine of £1,000 was imposed in respect of allegations (i) and (ii), a fine of £4,000 was imposed in respect of allegations (vi) and (vii).

With regard to Miss Scrace, the Tribunal did not have the advantage of having her appear before it but it did take into account the letter which she had addressed to the Tribunal. She had not ignored the disciplinary proceedings and the Tribunal accepted that the pressures of the practice exacerbated by the personal pressures on Mr. Adams had made things difficult. The Tribunal accepts Ms. Scrace's submission that she had found it difficult to balance administration and professional work and her statement that it was her intention to ensure that financial commitments are met and all awards of compensation paid when outstanding costs had been assessed and paid by the Legal Services Commission. The Tribunal imposed upon Ms. Scrace a fine of £6,500 apportioned as to £4,000 in respect of allegations (iii)-(vii) for which she was jointly liable with Mr. Adams and £2,500 in respect of allegation (viii). The misleading of Mr. C that counsel had been instructed to advise when he apparently had not, was a serious matter. The Tribunal accepted as Ms. Scrace said in her letter that she had no intention of misleading Mr. C and the Tribunal was prepared to accept that the misleading had not been deliberate.

Mr. Adams had been notified of the proposed figure for costs and did not object. Miss Scrace had not been notified of the figure. The Tribunal considered that it would be right to accept the figure calculated by the Applicant on the basis that the Respondents' admissions had not been made at an early stage and in order to ensure that the quantum was not increased by the costs of an assessment. The Tribunal therefore ordered that the Respondents should pay the costs of £3,350. In view of the fact that the allegations found substantiated against each of the Respondents were broadly in line, the Tribunal considered it right that each should pay one half of those costs."

### **The Tribunal's decision and reasons**

78. The Tribunal expressed some sympathy with the predicament in which Mr Adams found himself. The Tribunal recognised the substantial part played by Miss Scrace in the failures brought before the Tribunal. Both parties had a duty to ensure that their practice was properly wound up. Both Respondents had appeared before the Tribunal on an earlier occasion dealing with allegations, the subject matter of which went back as far as the year 2000. On the earlier occasion the Tribunal felt there was little danger that the Respondents would appear before the Tribunal again and inflict further damage on the good reputation of the solicitors' profession. The Tribunal's faith in the Respondents was not well founded.
79. Mr Adams accepted that he had made an error of judgement when he left Miss Scrace in charge of the proper winding down of the practice. The Tribunal considered that in so doing Mr Adams had abrogated the responsibility which he had for ensuring that clients of the firm and, indeed, his own regulatory body, were not inconvenienced by the closure of the firm. In all of the circumstances and in order to reflect the

seriousness of Mr Adams' failures the Tribunal concluded that it would be right for Mr Adams to be suspended from practice for the period of two years to commence on 15<sup>th</sup> February 2005. The Applicant had calculated that the costs in connection with Mr Adams's part in the proceedings amounted to £2,243.67. The Tribunal ordered Mr Adams to pay the costs fixed in that sum.

80. It was clear that Miss Scrace had a greater culpability for the disastrous state of affairs which was allowed to arise. She had compounded that state of affairs by a lack of cooperation both with The Law Society and Mr Adams. She had thwarted his attempts to put matters right. She had sought to avoid service of the disciplinary proceedings. She had offered no excuse or explanation for her lack of cooperation. The Tribunal might have been assisted had details been placed before them of Miss Scrace's background and state of health. In the absence of such further information the Tribunal had to conclude in the light of her behaviour that she was not fit to practise as a solicitor and in order to protect the public interest and the good reputation of the solicitors' profession it was right that she should be suspended from practice for an indefinite period to commence on 15<sup>th</sup> February 2005. The Applicant indicated that the greater share of the costs had been caused by Miss Scrace including the necessity of an application for substituted service and attempts to serve documents personally. The Tribunal accepted this to have been the case and also accepted the figure put forward by the Applicant on the basis that it seemed entirely reasonable. The Tribunal therefore ordered that Miss Scrace should pay her share of the costs of and incidental to the application and enquiry in the sum of £4,089.07.

DATED this 4th day of April 2005  
on behalf of the Tribunal

I R Woolfe  
Chairman