

IN THE MATTER OF JOHN UZOMA EKE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A Gaynor-Smith (in the chair)  
Mr J R C Clitheroe  
Mr M G Taylor CBE

Date of Hearing: 5th July 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 Iain George Miller, solicitor advocate and partner in the firm of Wright Son & Pepper, 9 Gray's Inn Square, London WC1R 5JF, on 6<sup>th</sup> September 2004 that John Uzoma Eke of Forest Gate, London E7, 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.

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

1. he provided letters to The Law Society which he knew or ought to have known were fabricated at a later date;
2. he failed to adequately supervise his practice;
3. he failed to comply with directions made in respect of Inadequate Professional Service ("IPS") pursuant to Schedule 1A of the Solicitors Act 1974 (as amended) ("the Act") by The Law Society. An Order pursuant to paragraph 5(2) of the Act was sought in relation to those matters;

4. he failed to reply or delayed a reply to correspondence from The Law Society;
5. he failed to file Accountants' Reports with The Law Society for the years ending 30<sup>th</sup> September 2001 and 30<sup>th</sup> September 2002 in breach of Section 34 of the Act.

By a supplementary statement by Iain George Miller dated 27<sup>th</sup> May 2005 it was further alleged against the Respondent that he had been guilty of conduct unbecoming a solicitor in that:-

6. he presented a file in respect of a bill of costs to the High Court for assessment which contained attendance notes which purported to be contemporaneous but were in fact created after the event.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 5<sup>th</sup> July 2005 when Iain George Miller appeared as the Applicant and the Respondent did not appear and was not represented.

The Applicant submitted to the Tribunal during the hearing a schedule of IPS awards and an internet document setting out a schedule of changes to mobile phone numbers.

At the commencement of the hearing the Applicant gave evidence as to due service of the proceedings upon the Respondent, in respect of which the Applicant had submitted outline submissions, and a copy of an advertisement placed in The Times of 17<sup>th</sup> May 2005. The Applicant also handed in a witness statement of a process server. The Tribunal was satisfied that the proceedings and notification of the hearing date had been appropriately served upon the Respondent.

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

The Tribunal ORDERS that the respondent, JOHN UZOMA EKE of Forest Gate, London, E7, solicitor, be STRUCK OFF the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties.

The Tribunal ORDERS pursuant to paragraph 5(2) of the Solicitors Act 1974 (as amended) that the Directions made by the Law Society in respect of Inadequate Professional Services pursuant to Schedule 1A of the Solicitors Act 1974 (as amended) as set out below be treated for the purposes of enforcement as if they were contained in an Order of the High Court.

- 15<sup>th</sup> January 2003 in respect of Mr U in the sum of £417.50
- 24<sup>th</sup> July 2003 in respect of Mr N in the sum of £300.00
- 14<sup>th</sup> January 2004 in respect of Ms R in the sum of £400.00
- 15<sup>th</sup> January 2003 in respect of Dr B in the sum of £400.00
- 15<sup>th</sup> January 2003 in respect of Mr T in the sum of £300.00
- 15<sup>th</sup> January 2003 in respect of Mr A in the sum of £400.00
- 15<sup>th</sup> January 2003 in respect of Mr K in the sum of £250.00

**The facts are set out in paragraphs 1 to 27 hereunder:-**

1. The Respondent born in 1962 was now admitted as a solicitor in 1997 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent practised as a sole practitioner under the name of Eke & Co. The Respondent's Practising Certificate was now subject to conditions that he work only in approved employment or partnership. The Respondent had informed The Law Society that he was suffering from ill-health which had impeded his ability to practise.

Client TU (allegations 1, 2 and 3)

3. Mr U instructed Eke & Co in about June 2000 in connection with a fault that occurred on a car he had purchased.
4. Mr U first saw a Mr W at Eke & Co. Mr W subsequently instructed Counsel to advise upon the merits of the case for the purposes of legal aid. That advice was dated 20<sup>th</sup> September 2000. On 26<sup>th</sup> October 2000, Eke & Co wrote to Mr U to inform him that Mr W had left the practice and asked him to attend the firm's offices to discuss the matter further.
5. Mr U became dissatisfied with the service he had received from Eke & Co and, eventually, instructed other solicitors. On 9<sup>th</sup> June 2001, he complained to the Office for the Supervision of Solicitors (OSS) about the way in which his file was dealt with at Eke & Co.
6. In answer to this complaint, the Respondent provided to the OSS a Rule 15 letter on Eke & Co notepaper purportedly dated 22<sup>nd</sup> July 2000. Mr U claimed that he did not receive this Rule 15 letter in July 2000 or at all.
7. The Respondent's explanation in relation to that was contained in a letter dated 30<sup>th</sup> April 2002 a copy of which was before the Tribunal. The Respondent indicated that the letter had been prepared by Mr W although sent out some time later having incorporated further documents and information after the date of the original draft letter. He denied that the letter had been fabricated. The Respondent further wrote that he was unable to assist further with information in the matter and that he could not trace Mr W to obtain his response.
8. On 15<sup>th</sup> January 2003 a direction was made by an Adjudication Panel that the Respondent should pay the sum of £417.50 by way of compensation for Inadequate Professional Service. The amount remained outstanding.

Client N (allegations 2 and 3)

9. Client N made a complaint in connection with advice relating to a housing matter. On 24<sup>th</sup> January 2003 an Adjudication Panel of The Law Society directed the Respondent's firm to pay to Mr N the sum of £300 compensation for Inadequate Professional Service. In a letter to The Law Society dated 16<sup>th</sup> May 2002 the

Respondent indicated that he needed to contact the fee earners who had been involved in the file, they having left the firm, in order to deal with the complaint.

Client A (allegations 1 and 3)

10. Mrs A complained to the OSS in connection with Eke & Co's conduct of an application for a charging order to secure a debt. On 13<sup>th</sup> August 2002 an Adjudication Panel of The Law Society reduced an earlier award of compensation to be paid by the Respondent to Mrs A from £400 to £250 and that amount was paid by the Respondent. The Respondent did not comply with a further direction made by the Adjudicator and upheld by the Adjudication Panel that he supply a statement to Mrs A showing the interest that was earned, the period over which it was earned and the rate applicable.
11. A copy of a letter purporting to be a Rule 15 letter sent by the Respondent to Mrs A dated 30<sup>th</sup> June 1998 was before the Tribunal. The letter was addressed to Mr KA. Mrs A's full name was LKA. The letter was vague as to the nature of the work to be undertaken.
12. Mrs A denied receipt of the letter. Mrs A's file was not opened until 10<sup>th</sup> August 1999 over a year after the purported date of the letter.

Client R (allegation 3)

13. On 13<sup>th</sup> October 2003 an Adjudicator directed the firm to pay compensation to Ms R for Inadequate Professional Service in the sum of £400 to be set off against outstanding costs. This was varied upon review by the Adjudication Panel on 14<sup>th</sup> January 2004 who directed that there should be no set off. The award remained outstanding.

Clients A, K, B and T (allegations 2, 3 and 4)

14. The matters were all complaints brought to one firm of solicitors CK.

Mr A

15. Mr A instructed Eke & Co in July 2000 in relation to his application to the Home Office to remain in the United Kingdom. His complaints were set out in a letter dated 23<sup>rd</sup> March 2001 from CK to the OSS. In the light of the complaints made and in the absence of any response from the Respondent the Adjudication Panel of The Law Society made a direction in respect of Inadequate Professional Service on 15<sup>th</sup> January 2003 that the Respondent pay the sum of £400 in compensation. The direction was reconsidered on 24<sup>th</sup> July 2003 and 18<sup>th</sup> September 2003. The documents showed that practical difficulties had been caused by a failure to respond by the Respondent. The IPS award remained outstanding.

BK

16. Mr K's complaints regarding Eke & Co were also contained in the letter from CK dated 23<sup>rd</sup> March 2001 and also in relation to an immigration matter.

17. On 15<sup>th</sup> January 2003 an Adjudication Panel of The Law Society directed the Respondent to pay Mr K the sum of £250 for Inadequate Professional Service. The decision was subject to a similar review process as the matter relating to Mr A above. The IPS award remained outstanding.

Dr AB

18. Dr AB sought asylum in the United Kingdom and he instructed Eke & Co in September 2000. He transferred his instructions to CK in January 2001 concerned that he had not been kept informed of the progress of his case and that telephone messages left for the fee earner involved were not replied to. The matter was considered by an Adjudication Panel on 15<sup>th</sup> January 2003 and Eke & Co were directed to pay the sum of £400 to Dr AB in compensation. The decision was subject to the same review process as the above matters and the IPS award remained outstanding.

OT

19. Mr T also sought asylum in the UK and instructed Eke & Co in August 2000 transferring his instructions to CK on 8<sup>th</sup> January 2001. His complaints were set out in a letter from CK dated 28<sup>th</sup> March 2001 which stated that the fee earner involved had failed to attend a Home Office interview in Croydon and that Mr T had not been kept informed of the progress of his case and his telephone calls were not returned.
20. On 15<sup>th</sup> January 2003 an Adjudication Panel of the OSS directed the Respondent to pay £300 by way of compensation to Mr T in respect of Inadequate Professional Service. The decision was subject to the review process referred to above and the amount remained outstanding.
21. The complaints were collated and put to the Respondent by way of formal letters on 9<sup>th</sup> May 2001. The letters required a substantive response by 23<sup>rd</sup> May 2001. No reply was received and chasing letters were sent on 23<sup>rd</sup> July 2001. In the absence of a response a statutory notice was served on the Respondent on 31<sup>st</sup> July 2001. The Respondent then telephoned the OSS and asked to deal with the matter under Rule 15 but no substantive progress was made.
22. The matter was then sent by the OSS to a Local Conciliation Officer who indicated that the matter could be resolved by way of payment of compensation. This was put to the Respondent in a letter dated 19<sup>th</sup> February 2002 but no reply was received nor to a subsequent chasing letter of 15<sup>th</sup> March. No substantive response was received from the Respondent in relation to any of the complaints.
23. The Respondent indicated that he could not deal with the matters without speaking to those employees who had dealt with the cases concerned.

Allegation 5

24. The Respondent had failed to file Accountant's Reports for the years ending 30<sup>th</sup> September 2001 and 30<sup>th</sup> September 2002 which were due on 31<sup>st</sup> March 2002 and 31<sup>st</sup> March 2003 respectively.

Allegation 6

25. The Respondent represented a Mr A in an immigration matter that led to successful judicial review proceedings. The Secretary of State was ordered to pay the costs of the proceedings. The Respondent's claim for costs was the subject of contested assessment proceedings. In those proceedings the Secretary of State applied for an order that the Respondent's costs be disallowed in the light of the Respondent's alleged misconduct. The Secretary of State's application was heard by Chief Master Hurst. The hearing lasted 10 days and numerous witnesses were called. In his judgment Chief Master Hurst said
- “ With regard to Mr Eke's preparation of attendance notes after the event, there can be no doubt that he intended to insert these into the files in their chronological place and that he intended to provide attendance notes for all items of work, where they were missing. None of the attendance notes identified as having been made after the event bore any indication as to the date on which they were actually prepared. Whilst it may be permissible to prepare an attendance note of an event which happened within the previous few days, and to put on that note only the date upon which the event happened, where attendance notes are prepared wholesale, a considerable time after the event they purport to support, some indication of the date upon which they were in fact prepared should be inserted. It goes without saying that recollection of an event occurring within the preceding few days will be clearer and more accurate than recollection years after the event. Although Mr Eke asserts that he intended to inform the court that attendance notes had been prepared subsequently, there is no indication on the attendance notes which would enable a Costs Judge to distinguish between notes made contemporaneously and those made subsequently.”
26. “ I am left with no doubt that his intention was that the attendance notes should be used to induce the Costs Judge to accept them as genuine contemporaneous notes, and by reason of so accepting them, to allow more costs than would otherwise have been the case, to the prejudice of the paying party, the Secretary of State. Had the bill been presented without attendance notes the Costs Judge would have allowed such figure as appeared reasonable and proportionate for doing the work, but given the absence of supporting contemporaneous notes the amount allowed would be the minimum which could be inferred from the surrounding circumstances.”
27. On 25<sup>th</sup> October 2004 The Law Society wrote to the Respondent asking for his comments. A further letter was sent on 24<sup>th</sup> November. No response was received to either letter nor subsequently.

## The Submissions of the Applicant

28. In the matter of client TU the contents of the letter purportedly dated 22<sup>nd</sup> July 2000 were completely inconsistent with it being a letter prepared at the relevant time. The Applicant relied on the following:
- i. The letter of the 22<sup>nd</sup> July 2000 provided clear advice that Mr U was not entitled to public funding. It stated in terms:
 

“In your case you are not entitled to public funds because of your means (namely your annual salary of £26,500). It follows therefore that in order for us to continue to represent you, you will need to pay privately.”

This was entirely inconsistent with the instructions to Counsel to advise upon the merits for legal aid purposes. It was clear from the letter from Counsel’s clerk dated 9<sup>th</sup> March 2001 that Counsel had understood that instructions were under a legal aid certificate.
  - ii. The letter of the 22<sup>nd</sup> July 2000 also asked for money on account of £2,000: “to enable us to continue”. Mr U made clear in a letter dated 9<sup>th</sup> June 2001 that he had not signed any terms and conditions with the firm and in a letter dated 23<sup>rd</sup> February 2002 that he had not made any payment to Eke & Co.
  - iii. The letter of the 22<sup>nd</sup> July 2000 set out under the heading “your instructions” an exact quotation from the written advice of Counsel, (paragraphs 3 to 5 of Counsel’s advice). It followed from this, that the letter dated the 22<sup>nd</sup> July 2000 could not, at the very least, have been written until after Counsel’s advice was received on or after the 20<sup>th</sup> September 2000. This passage in the letter also referred to the client in the third person notwithstanding the letter was addressed to him.
  - iv. In numbered paragraph 3 under the heading “your instructions” in the letter reference was made to two documents dated the 26<sup>th</sup> July 2000 and the 30<sup>th</sup> July 2000 which post dated the date of the letter.
  - v. The reference on the letter was the Respondent’s reference not that of Mr W who had had conduct of the matter. The most contemporaneous letter in the matter to the date of July 2000 was a letter dated 28<sup>th</sup> September 2000 which bore Mr W’s reference.
  - vi. The Applicant submitted that as between the two letters the notepaper was also different in that the letter of 28<sup>th</sup> September 2000 bore a mobile telephone number commencing “0410”. The letter purportedly of 22<sup>nd</sup> July 2000 bore the same mobile telephone number but commencing “07710” as the code. The Applicant submitted that the date of change from 0410 numbers to 07710 numbers was the 28<sup>th</sup> April 2001 and submitted a website document to that effect but informed the Tribunal that the website document had only very recently been acquired and had not been served on the Respondent.

29. The Applicant regarded the Respondent's explanation that the letter was sent out after the date of the original draft as unconvincing.
30. The Applicant also relied on this matter in relation to allegation 2. There was an apparent absence of knowledge on the part of the Respondent of the conduct of Mr W as evidenced by the Respondent's letter of 30<sup>th</sup> April 2002. The Respondent's approach, that he was unable to deal with the substance of the complaint without speaking to Mr W, was a stance which he took in relation to a number of the other matters referred to above, albeit in relation to different fee earners. In the submission of the Applicant this approach was inconsistent with proper supervision which required the Respondent to have a knowledge of matters dealt with by his firm and to ensure adequate records were kept. In the matter of the four immigration cases it appeared that work was being carried out by non-admitted staff without any supervision by the Respondent.
31. In relation to allegation 6 the Applicant said that creating attendance notes at a particular time and not making clear that they had not been made contemporaneously was dishonest. The Applicant accepted that Chief Master Hurst had not viewed the matter as seriously as it had first been put by the Secretary of State in the proceedings but he questioned whether the Respondent was suited to running his own practice. Master Hurst stated in his judgment  
" After Eke & Co was set up, the picture which emerged was of chaotic working practices, on top of a seething caldron of mistrust, turbulent relationships and intra office gossip."
32. The Applicant said no claims had been made on the Compensation Fund in relation to the Respondent's practice.
33. The Applicant sought his costs of the application which amounted to £8,450 + VAT. The Applicant explained the volume of work which had been necessary to bring the matter before the Tribunal and the need to make a substituted service application and to instruct process servers. The lack of co-operation from the Respondent had added to the costs.

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

34. The Tribunal considered carefully the documentation including the correspondence from the Respondent.

#### Allegation 1

35. The Tribunal accepted the submissions of the Applicant in relation to the letter in the matter of Mr TU purportedly dated 22<sup>nd</sup> July 2000. Given the inconsistencies referred to by the Applicant, the Tribunal did not accept the Respondent's explanation in his letter of 30<sup>th</sup> April 2002. The Respondent had not had notice of the Applicant's submission relating to the change of mobile phone numbers although this was a matter of public knowledge. There were however sufficient other inconsistencies for the Tribunal to find the allegation proved. Similarly in the matter of Mrs A the Tribunal noted Mrs A's denial of receiving the letter purporting to be a Rule 15 letter



dated 30<sup>th</sup> June 1998 and the fact that the file was not opened until August 1999. The Tribunal was satisfied that allegation 1 was substantiated.

#### Allegation 2

36. The Tribunal considered the Respondent's letters in response to the various complaints and his apparent inability to deal with the complaints until he had contacted former employees. The Tribunal also noted the comments of Chief Costs Master Hurst regarding the chaotic working practices in the Respondent's firm. The Tribunal was satisfied that allegation 2 was substantiated.

#### Allegation 3

37. It was clear from the documents that a total of seven directions for compensation to be paid in respect of Inadequate Professional Service had not been complied with by the Respondent. Allegation 3 was substantiated.

#### Allegation 4

38. Again it was clear from the documents before the Tribunal that the Respondent had failed or delayed in replying to correspondence from the OSS. This was shown by the need for The Law Society to serve a statutory notice on the Respondent in respect of the four immigration cases in the absence of a reply from the Respondent and the Respondent's further failure to reply to the correspondence regarding conciliation. Allegation 4 was substantiated.

#### Allegation 5

39. Allegation 5 was clearly substantiated on the documentation.

#### Allegation 6

40. This matter had been extensively argued before Chief Master Hurst and the Tribunal was satisfied from the judgment of Chief Master Hurst that allegation 6 was substantiated.
41. Serious allegations had been substantiated against the Respondent. The profession and the public expected the highest standards of probity and integrity from solicitors. The fabrication of documents fell very far below the expected standard. The Respondent had failed to supervise his practice and had not honoured his obligations to pay compensation to clients affected by the inadequate service the firm provided to them. Seven directions for the payment of compensation remained outstanding, all but one of them had been outstanding for some two years or more.
42. The Respondent had failed to comply with the regulatory requirements to file Accountant's Reports. This is an obligation imposed on all practising solicitors in order to reassure the public that clients' money was being properly dealt with. The Respondent had failed to reply to his regulatory body. The Respondent had chosen not to participate in the proceedings and had made no representations to the Tribunal. Given the seriousness of the allegations, in particular the fabrication of documents

and the number of former clients still waiting for compensation from the Respondent, the Tribunal was satisfied that for the sake of the reputation of the profession and in the interests of the public the Respondent should not be allowed to continue to be a member of the profession. The Tribunal made the following orders:

The Tribunal ordered that the respondent, JOHN UZOMA EKE of Forest Gate, London, E7, solicitor, be STRUCK OFF the Roll of Solicitors and they further ordered that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties.

43. The Tribunal ordered pursuant to paragraph 5(2) of the Solicitors Act 1974 (as amended) that the Directions made by the Law Society in respect of Inadequate Professional Services pursuant to Schedule 1A of the Solicitors Act 1974 (as amended) as set out below be treated for the purposes of enforcement as if they were contained in an Order of the High Court.

15<sup>th</sup> January 2003 in respect of Mr U in the sum of £417.50

24<sup>th</sup> July 2003 in respect of Mr N in the sum of £300.00

14<sup>th</sup> January 2004 in respect of Ms R in the sum of £400.00

15<sup>th</sup> January 2003 in respect of Dr B in the sum of £400.00

15<sup>th</sup> January 2003 in respect of Mr T in the sum of £300.00

15<sup>th</sup> January 2003 in respect of Mr A in the sum of £400.00

15<sup>th</sup> January 2003 in respect of Mr K in the sum of £250.00

DATED this 14th day of September 2005  
on behalf of the Tribunal

A Gaynor-Smith  
Chairman