

IN THE MATTER OF DERILDENE ERIKA ELIZABETH BROWN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr A H Isaacs (in the chair)  
Mr A H B Holmes  
Lady Maxwell-Hyslop

Date of Hearing: 18th October 2005

---

## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

---

An application was duly made on behalf of the Law Society by Jonathan Richard Goodwin of Jonathan Goodwin Solicitor Advocate, 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 18th January 2005 that Derildene Erika Elizabeth Brown of High Road, Tottenham, London, N17 might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

On 9th September 2005 the Applicant made a supplementary statement containing further allegations.

The allegations contained in the original and supplementary statements are set out below.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars:-

- (i) That contrary to Section 84 of the Solicitors Act 1974 (as amended) she failed to give notice of any change in her place of business and/or register the practice of the D Brown Associates;

- (ii) That she made representations to the Law Society and/or its representatives that she knew or ought to have known were misleading and/or inaccurate, in that she indicated that she was an employee/caseworker of the firm D Brown Associates when she knew that not to be so and/or by stating that Mr David Brown was the principal of the firm D Brown Associates when she knew that not to be so as she had established the practice herself and was a sole principal of same;
- (iii) That contrary to Rules 4 and 5 of the Solicitors Indemnity Insurance Rules 2002 and 2003 she failed to ensure that the practice of D Brown Associates had in place and maintained qualifying indemnity insurance;
- (iv) That she purported to carry on practice on her own account as sole principal of D Brown Associates at a time when she was not qualified to supervise and/or there was no-one present to supervise her work, contrary to Rule 13 of the Solicitors Practice Rules 1990. (The Respondent was admitted as a solicitor on 15th October 2001 and thereby not capable of supervising until 15th October 2004 in the absence of a waiver.);
- (v) That she carried on practice as a solicitor in breach of the condition(s) attached to her Practising Certificate for the year 2003/2004;
- (vi) That contrary to Rule 16 of the Solicitors Indemnity Insurance Rules 2004 she failed to make payment of the premium within 30 days of notification of the premium to her by the Assigned Risks Pool manager;
- (vii) That she has failed to reply to correspondence from the Law Society.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Jonathan Richard Goodwin appeared as the Applicant. The Respondent did not appear and was not represented. The Applicant told the Tribunal that he had spoken to the Respondent on the telephone on 29th September 2005 when she confirmed she was aware of the hearing. She had received the supplementary statement. They discussed the allegations. After that discussion had come to an end the Respondent telephoned the Applicant's office to say that she did not contest the allegations. The Applicant wrote to the Respondent on 29th September 2005 to confirm what had been said. He asked the Respondent to confirm her position in writing but she did not do so. During the course of the hearing the Respondent telephoned the Tribunal's office to confirm that she would not be attending the hearing. No adjournment was sought. The Applicant invited the Tribunal to hear the matter. The facts in support of the allegations would be proved on the documents before the Tribunal. Mr Martin Anthony Wood gave oral evidence and produced a bundle of documents relating to the advertisement of the Respondent's firm on Premier Christian Radio.

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

The Tribunal Orders that the Respondent, Derildene Erika Elizabeth Brown of High Road, Tottenham, London, N17, solicitor, be struck off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,000 inclusive.

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

1. The Respondent, born in 1963, was admitted as a solicitor in 2001. At all times relevant to the allegations the Respondent carried on practice on her own account under the style of D Brown Associates from offices at Elco House, 22-24 Homercroft Road, Wood Green, London, N22 5EL. At the time of the hearing the Respondent practised in partnership under the style of D Cowan & Co from offices at John Gilpin House, 867-869 High Road, Tottenham, N17 8EY. "Cowan" is the married name of the Respondent.

Allegation (i)

2. The Respondent did not inform the Law Society of the commencement of her practice, D Brown Associates and/or she did not notify the Law Society of her status or position at D Brown Associates or the date upon which she commenced practice with that firm.
3. By letter dated 24th May 2004 to the Law Society the Respondent admitted that she had breached the provisions of Section 84 of the solicitors Act 1974 in this respect.

Allegation (ii)

4. The IO attempted to carry out an inspection of the books of account of D Brown Associates on 11th November 2003. A copy of his report dated 19th December 2003 was before the Tribunal. The IO recorded a telephone conversation with the Respondent on 12th November 2003 in which she indicated that she was an employee of the firm, and in a subsequent telephone conversation on 15th December 2003 the Respondent indicated that she had worked at D Brown Associates as a caseworker. When asked what she knew about the books of account, she said she knew a Mr David Brown to be in charge of "absolutely everything".
5. By letter dated 10th February 2004, which was received by the Law Society on 27th April 2004, the Respondent said that she was a caseworker at D Brown Associates and, if asked, she would confirm that she was a qualified solicitor. She also wrote "I do not have a contact address for David Brown. As far as I know he left the UK because of family problems. My last contact with him was well over a year and a half ago."
6. In a letter dated 30th August 2003 to the Law Society the Respondent, writing under her married name of Cowan, stated "the firm is not mine, the owner is David Olatunde Kwame-Brown." In her letter to the Law Society dated 24th May 2004 the Respondent said David Olatunde Kwame-Brown "is a qualified barrister and a solicitor of many years."
7. Enquiry revealed that Mr Kwame-Brown was not recorded in the Law Society's records as a solicitor and the General Council of the Bar confirmed that a Mr Kwame Brown or Mr Kwame-Brown had not been called to the Bar in England and Wales.

8. The IO reported that “D Cowan” drew the office rent cheques. The Respondent confirmed in her letter dated 10th February 2004:-

“In relation to the rent, I was occasionally asked to take the rent downstairs to the landlord and as an employee I did what I was asked. The rent was in the envelope so I do not know the method of payment used. I took the rent down occasionally. I do not pay rent for Elco House.”

9. The practice of D Brown Associates advertised its services on Premier Christian Radio. Having been served with a witness summons requesting his attendance at the Tribunal and the delivery of documents to it Mr Wood, the company secretary and finance manager of Premier Christian Radio, said in his oral evidence that the radio station’s primary contact at D Brown Associates was the Respondent. She had confirmed in documents handed up at the hearing that she was the proprietor of D Brown Associates. Scripts for advertisements had been signed off “D Cowan” and impressed with the stamp of D Brown Associates. A brochure provided to the radio station described the Respondent as the proprietor of D Brown Associates. In an undated business plan and forecasts document (marked copyright 2004) relating to D Cowan & Co solicitors it was said:-

“Mrs Cowan started operations in 2000 after working for many years as a solicitor with prestigious law firms in London ... D Cowan & Co Solicitors first operated as D Brown Associates...”

“D Cowan & Co Solicitors is a sole proprietorship legal practice. The business was commenced by Mrs D Cowan and commenced trading in 2000 ...”

Allegation (iii)

10. The Law Society had no record that D Brown Associates had applied for or held qualifying indemnity insurance.
11. By letter dated 24th May 2004 the Respondent indicated:-

“In relation to the Solicitors Indemnity Insurance Rules 1990 I was not responsible for this. David was and I assumed that he had the necessary insurance in place. I did not check this. I had no reason to. I have never checked the indemnity for any firm I have worked for in the past.”

Allegation (iv)

12. The Respondent was admitted to the Roll on 15th October 2001. She was not capable of supervising a practice until 15th October 2004. During the existence of D Brown Associates the Respondent was not capable of supervising, nor was she supervised by an appropriate member of staff.
13. In her letter dated 24th May 2004 the Respondent said that she was supervised by David Brown.

Allegation (v)

14. On 15th October 2004 an Adjudicator of the Law Society resolved pursuant to Section 13A of the Solicitors Act 1974 (as amended) to impose immediate conditions on the Respondent's Practising Certificate for the year 2003/2004 such conditions being that she act as a solicitor only in employment which was approved by the Law Society in connection with the imposition of that condition, or as a member of a partnership which was so approved and that any employer or prospective employer be informed of the conditions.
15. The Adjudicator also resolved to approve the Respondent's partnership under the style of D Cowan & Co of London, subject to the following conditions:-
  - “(i) that she is appropriately supervised by Mr M D Tammer;
  - (ii) she may not hold or receive client monies and may not be a signatory to any office or client account cheque; and
  - (iii) this approval and the conditions attached to it can be reviewed at the discretion of the Law Society.”
16. The Respondent was notified of the Adjudicator's decision by letter dated 20th October 2004.
17. By letter dated 29th October 2004 the Respondent indicated to the Law Society that Mr Tammer had left the practice.
18. In response to correspondence from the Law Society Mr Tammer replied by letter dated 22nd February 2005 in which he stated he was not a signatory to either the office or client account and that he was only a salaried partner, and that the financial arrangements of the firm were controlled by Mrs Cowan.
19. The Respondent did not reply to letters addressed to her about this matter in December 2004 and January 2005, but on 1st February 2005 a caseworker from the Law Society telephoned D Cowan & Co and spoke to the Respondent. The Respondent did admit to continuing to practise after Mr Tammer's departure from the partnership. The Respondent said that she had “buried her head in the sand”. She had received only the second letter from the Law Society, which she had passed on to her solicitors.
20. The facts set out in paragraph 11 above are also relevant to allegation (v).
21. On 14th February 2005 the Law Society wrote to the Respondent explaining that as she was in breach of the conditions attaching to her Practising Certificate she should not be practising as a solicitor without prior written approval from the Society. During a telephone conversation on 15th February 2005 the Respondent indicated that she would cease to practise immediately. During further telephone conversations on 16th and 17th February 2005 the Respondent said she would be applying for approval to practise as a partner with Ms Rosemary Okeno who had been acting as a partner following the dissolution of the partnership with Mr Tammer. Ms Okeno had been

admitted only on 3rd March 2003 and was not qualified to supervise a practice, consequently she would apply for a waiver of Rule 13 of the Solicitors Practice Rules 1990. The Respondent indicated that Mr John Hall practising from High Road, London, N17 0DH would supervise her office and, indeed, had been supervising since 15th February 2005.

22. On 4th May 2005 the caseworker of the Law Society telephoned Mr Hall and asked him about the supervision arrangements for the Respondent's practice. He confirmed that proposals had been discussed with Ms Brown but nothing had come of them. He had not attended the office of D Cowan & Co.
23. Also on 4th May 2005 the caseworker spoke to the Respondent seeking clarification as to what supervision arrangements had been put in place for her practice. The Respondent explained that her office was being supervised by Mr John Hall and that he agreed to do this in November 2004 initially to cover for maternity leave.

#### Allegations (vi) and (vii)

24. The Respondent's practice D Cowan & Co applied to join the Assigned Risks Pool ("ARP") on 6th January 2005.
25. On 27th January 2005 the Respondent was informed by the ARP manager that the ARP had engaged the services of a finance company, Premium Credit Limited, to assist the Respondent in paying the premium of £26,359.20 by way of 12 monthly instalments of £2,196.60. A debit note dated 25th January 2005 was sent to the Respondent indicating that a cheque for £8,786.40 representing the monthly instalments for October 2004 to January 2005 was due for payment.
26. On 23rd March 2005 the manager of the ARP sent to the Respondent a certificate for the 2004/2005 indemnity period. No monthly instalments had been paid. On 11th April 2005 the ARP wrote to the Respondent indicating that as of that date no monthly payment had been paid and in order to bring the payment of instalments up to date, the Respondent was required to pay £15,376.20 in respect of the seven monthly instalments for October 2004 to April 2005, and to send a completed credit agreement form within 14 days from the date of the letter. The Respondent did not pay the premiums or deliver the completed credit agreement.
27. By letter dated 18th April 2005 the Law Society wrote to the Respondent seeking her explanation for the breach of Rule 16. The Respondent failed to reply. The Law Society wrote to her again by letter dated 6th May 2005 reminding her of the obligation to reply to correspondence from the Society. The Respondent did not reply.

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

28. Section 84(1) of the Solicitors Act 1974 provides:-

"For the purpose of facilitating the service of Notices and other documents every solicitor who has in force, or has applied for, a Practising Certificate shall give notice to the Society of any change in his place or places of business

before the expiration of 14 days from the date on which the change takes effect.”

The Respondent as she admitted had acted in breach of that section.

29. With regard to the representations made by the Respondent to the Law Society that she was employed at D Brown Associates as a caseworker, she knew that she herself established the firm and was sole principal of the same. The person asserted by the Respondent to have been the principal of the firm who was said to be both a barrister and a solicitor was not shown in the records of the Law Society or the Bar Council to be either a solicitor or a barrister. It was clear that the Respondent had told Premier Christian Radio that she was the proprietor of the firm when arranging for the firm to be advertised.
30. The firm of D Brown Associates did not hold qualifying indemnity insurance.
31. Rule 13 of the Solicitors Practice Rules 1990 provided that principals in a practice must ensure that their practices are supervised and managed by a solicitor qualified to supervise. A solicitor is qualified to supervise if, inter alia, he or she has held a Practising Certificate for at least 36 months within the last 10 years. The Respondent was not admitted until 15th October 2001 and was not capable of supervising a practice until 15th October 2004. During the existence of D Brown Associates the Respondent was not capable of supervising nor was she supervised by an appropriate member of staff.
32. At the practice of D Cowan & Co the Respondent continued to practise in breach of the conditions attached to her Practising Certificate. She acted in breach of the condition of approved employment/partnership when she continued to practise on her own account following the departure of Mr Tammer and further she acted in breach of the condition under which approval had been granted, namely that she should be supervised by Mr Tammer, might not hold or receive client monies and might not be a signatory to any office or client account cheque.
33. Rule 16 of the Solicitors Indemnity Insurance Rules provided:-
 

“any firm in the Assigned Risks Pools must pay to the Assigned Risks Pool manager the Assigned Risks Pool premium within 30 days of such a premium being notified to it by the Assigned Risks Pool manager.”

It was clear that the Respondent was in breach of that requirement.
34. The Respondent did not reply to letters addressed to her about the breach of the conditions on her Practising Certificate or about her failure to pay the premium notified to her by the ARP manager.
35. The Applicant invited the Tribunal to consider the untrue representations made to the Law Society to be very serious. It was incumbent upon a solicitor to act at all times with the highest standards of probity, integrity and trustworthiness.

36. Notices to Admit had been served upon the Respondent and no counter notices had been received from her.
37. The public and third parties and, indeed, the Law Society, were entitled to believe that what a solicitor says is true. The Respondent had not been honest. It was clear that, contrary to her assertion, she was the sole proprietor of D Brown Associates.

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

38. The Respondent did not make any submissions.

### **The Tribunal's Findings**

39. The Tribunal find all of the allegations to have been substantiated. There was a wealth of evidence to support the Applicant's allegations and the Respondent had indicated her admissions to the Applicant.

### **The Tribunal's Decision and its Reasons**

40. The Applicant asserted that the Respondent had been dishonest. The Tribunal agreed. In making a finding of dishonesty against the Respondent the Tribunal has applied the test in Twinsectra -v- Yardley and Others [2002] UKHL 12. The Respondent could have been in no doubt herself that she was being dishonest when she claimed that the practice solely controlled by her was in fact that of Mr Kwame Brown and responses she gave to enquiries made by The Law Society were patently untrue and misleading.
41. The regulatory breaches and acting in breach of conditions on her Practising Certificate were also serious matters.
42. In order to protect the public and the good reputation of the solicitors' profession the Tribunal must ensure that any solicitor can be trusted to the ends of the earth. The Respondent has failed to demonstrate the qualities of probity, integrity and trustworthiness required of a solicitor. In such a case it was both right and proportionate that the Respondent be struck off the Roll of Solicitors.
43. The Applicant invited the Tribunal to order that the Respondent pay the costs of and incidental to the application and enquiry. He had not prepared detailed figures but indicated that he estimated his costs to be £8,500 plus VAT and disbursements. In view of the fact that there was an indication that the Respondent had been adjudicated bankrupt, and in order to dispose of the matter as efficiently as possible he invited the Tribunal to make a fixed costs order of £8,000 inclusive. The Applicant had not communicated this figure to the Respondent.
44. The Tribunal considered that on the basis put forward by the Applicant the figure of £8,000 inclusive of VAT and disbursements was reasonable.
45. Although the Respondent had not been informed of the costs figure, the Tribunal considered that she could not resist the making of a costs order against her having regard to the finding against her. The Tribunal was of the view that the Applicant's claim for costs could probably be justified at a higher figure following a detailed



assessment and in order to save time and expense considered that it would be both right and proportionate to order the Respondent to pay the costs in the fixed sum of £8,000 inclusive.

Dated this 11th day of November 2005  
On behalf of the Tribunal

A H Isaacs  
Chairman