

IN THE MATTER OF CATRIONA MACBETH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J N Barnecutt (in the chair)
Mr L N Gilford
Ms A Arya

Date of Hearing: 27th September 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 Katrina Elizabeth Wingfield, solicitor and partner in the firm of Penningtons, Bucklersbury House, 83 Cannon Street, London EC4N 8PE on 31st March 2005 that Catriona Macbeth of Queens Road, Eastbourne, 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 were that the Respondent had been guilty of conduct unbefitting a solicitor, namely:-

- (i) that she had breached Practice Rule 1(c), (d) and/ or (e) of the Solicitors Practice Rules 1990 and/or Principles 12.08 and/or 17.01;
- (ii) that she had failed to respond promptly and substantively to correspondence from The Law Society in breach of Principle 30.04.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 27th September 2005 when Katrina Elizabeth Wingfield appeared as the Applicant and the Respondent did not appear and was not represented. Miss Wingfield told the Tribunal that the Respondent had played no part in the proceedings. The Tribunal

was satisfied by the evidence placed before it that all material documents had been served on the Respondent.

The evidence before the Tribunal was that contained in the Applicant's statement together with accompanying documents, notices under the Rules and the Civil Evidence Act having been served upon the Respondent who had not provided any counter-notice.

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

The Tribunal orders that the Respondent, Catriona Macbeth of Queens Road, Eastbourne, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 27th day of September 2005 and it further orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,786.87

The facts are set out in paragraphs 1 to 3 hereunder:-

1. The Respondent, born in 1966, was admitted as a solicitor in 1991. At the material time she was employed as an assistant solicitor by Messrs Thomson, Snell & Passmore (TSP), solicitors of Tunbridge Wells.
2. In May 2004 TSP notified The Law Society that following the Respondent's resignation TSP had referred 19 of her matters to their insurers. In six of those matters issues of misconduct arose, in particular where clients' claims had been struck out for failure to comply with time limits, failures to consider funding options, failures to record conversations/ meetings, apparent failures to submit Legal Aid applications, failure to notify the client of strike out, failure to take client instructions, failures to respond to correspondence and the removal of a paragraph from a "Head of Loss" schedule without the client's authority. A report prepared by TSP was before the Tribunal setting out details of these client matters. TSP had provided to The Law Society copies of relevant file reviews and confirmed that the Respondent had been supervised in a manner which was consistent with her length of qualification and experience.
3. On 28th June 2004 The Law Society wrote to the Respondent requesting an explanation and a reminder letter was sent on 16th July 2004. There had been no response. The Respondent had not responded to a letter addressed to her by TSP in which her explanation had been requested.

The Submissions of the Applicant

4. The Applicant relied on the facts which had been placed before the Tribunal. The Respondent had been in breach of Practice Rule 1. The Respondent had been in breach of her duty as a solicitor to act in the best interests of the client, her conduct would damage her own good reputation and that of the Solicitors' profession and she had not maintained a proper standard of work.
5. Principle 12.08 requires a solicitor to carry out client's instructions diligently and promptly. Rule 17.01 provides that solicitors must not act, whether in their professional capacity or otherwise, towards anyone in a way which is fraudulent, deceitful or otherwise contrary to their position as a solicitor. Solicitors must not use

their position as solicitors to take unfair advantage either for themselves or for another person. The Applicant did not put her case on the basis that the Respondent had in any of the client matters in which complaint arose been guilty of taking an unfair advantage.

6. The Applicant had prepared a schedule of costs which was placed before the Tribunal. She confirmed that a copy had been served on the Respondent.

The Findings of the Tribunal and its Reasons

7. The Tribunal found both of the allegations to have been substantiated.
8. Some elements of the Respondent's conduct were particularly serious. The Tribunal expressed particular concern that she had removed a paragraph from a head of loss schedule without the client's authority. The Tribunal recognises that the Respondent had played no part in the proceedings and has not offered any explanation for her conduct. In all of the circumstances the Tribunal considers that the appropriate order to make with a view to protecting the public and the good reputation of the solicitors' profession was that the Respondent be suspended from practice for an indefinite period of time. It was also right that she should pay the costs of and incidental to the application and enquiry. The Tribunal concluded that the Applicant's costs were entirely reasonable and in order to save time and further expenditure ordered that the Respondent pay the Applicant's costs in the fixed sum of £1,786.87.

DATED this 28th day of October 2005
On behalf of the Tribunal

J N Barnecutt
Chairman