

IN THE MATTER OF THOMAS MCGOLDRICK, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D Green (in the chair)
Mr K W Duncan
Mr J Jackson

Date of Hearing: 17th June 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Gerald Malcolm Lynch, solicitor and consultant to the firm of Drysdales of Cumberland House, 24-28 Baxter Avenue, Southend on Sea, Essex SS2 6HZ on 5th April 2005 that Thomas McGoldrick formerly of 79 Park Lane, Croydon, Surrey CRO 1JG and of Warrant House, High Street, Altrincham, Cheshire WA14 1DZ, now serving a sentence of imprisonment, 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 as follows:-

- (i) He dishonestly alternatively improperly misappropriated monies due to a client.
- (ii) He acted in breach of the provisions of the Solicitors Accounts Rules 1998 in the following particular:
 - (a) Rule 32. The Respondent's books of account were not in compliance with the Accounts Rules in relation particularly to the improper withdrawal and/or payment from client bank account.

- (b) Rule 22. The Respondent undertook improper transfers from client to office bank account and improper withdrawal from client bank account and as hereinafter appears.
- (c) Rule 21. In that the Respondent failed to account to the Legal Services Commission in respect of sums recovered for his client.
- (iii) Acted in breach of principle 12/09 of the Guide to the Professional Conduct of Solicitors 1999 in that he improperly took advantage of his client for his own purposes.
- (iv) Acted in breach of principle 15/04 of the said Guide in that he acted when his interest conflicted with that of a client.
- (v) Acted in breach of provisions of Practice Rule 1 of the Solicitors Practice Rules 1990 and in particular sub paragraphs a, c, d and e of the said Practice Rules.
- (vi) By virtue of each and all the aforementioned had been guilty of conduct unbefitting a solicitor.

By a supplementary statement of Gerald Malcolm Lynch dated 22nd April 2008 it was further alleged against the Respondent that:

- (vii) The Respondent having been convicted of serious dishonesty was in breach of Practice Rule 1 of the Solicitors Practice Rules 1990 in that he had brought himself and the profession into disrepute.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 17th June 2008 when Gerald Malcolm Lynch, solicitor, appeared as the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant explained that the matters which were the subject of his statement dated 5th April 2005 had been adjourned by the Tribunal on a number of occasions in the light of ongoing criminal proceedings. As the Respondent was now serving a sentence of imprisonment the Applicant had corresponded with the Governor of the prison and had sent all relevant documents relating to the supplementary statement to the prison together with his schedule of costs. A letter from the prison dated 6th June 2008 had confirmed that all the documentation had been passed to the Respondent. The Respondent was therefore aware of the proceedings.

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

The Tribunal Orders that the Respondent, Thomas McGoldrick, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,590.26.

The facts are set out in paragraphs 1 - 20 hereunder:-

1. The Respondent now aged 59 was admitted as a solicitor in 1973.

2. At all material times the Respondent was in practice on his own account under the title of McGoldricks at 79 Park Lane, Croydon, Surrey, CRO 1JG with a further office at Warrant House, High Street, Altrincham, Cheshire WA14 1DZ. The Law Society had intervened into the practice of the Respondent.
3. An Officer of the Forensic Investigation Department of the Law Society undertook an inspection of the books of account and documents of the Respondent starting on 20th September 2004. A copy of the resulting report dated 26th November 2004 was before the Tribunal. The report noted the matters set out at paragraphs 4 to 16 below.
4. The books of account were not in compliance with the Solicitors Accounts Rules.
5. The Respondent acted for Mr A in connection with a personal injury claim following a road accident in 1996. As a result of the accident Mr A sustained injuries which caused him to become a tetraplegic. Mr A had the benefit of legal aid.
6. Settlement with regard to the damages payable to Mr A was reached in December 2002. The sum of £1,727,367.94 had been received by the firm in 2002 and lodged in client bank account. Costs were agreed in May 2003 in the total sum of £185,000.00.
7. The relevant account in the clients' ledger however showed only £85,000.00 received on 22nd May 2003. A letter on the client file from the Treasury Solicitor enclosing a cheque for £85,000.00 described it as being "the balance of your client's agreed costs in this matter".
8. The Investigation Officer noted that a sum of £100,000.00 received on 12th December 2002 had been credited to an unrelated client ledger account in the name of Mereo Limited with a description "HMPG-Sett/monies". The Investigation officer believed that the sum was in respect of the costs agreed on the A matter but this had not been confirmed to him by the Respondent.
9. A company search indicated that Mereo Limited was a company of which the Respondent had been a director and share holder and that the company had been dissolved in June 1997.
10. The ledger account for Mr A also showed a further client account payment to Mereo Limited on 21st June 2002 in the sum of £30,000.00 with a narrative "Mereo Ltd-Property Deposit".
11. The Respondent confirmed that he had not accounted to the Legal Services Commission for any sums recovered and he agreed that he was therefore in breach of Legal Aid Regulations.
12. The Investigation Officer noted that the Respondent had taken a total of £917,772.01 in respect of the firm's profit costs together with the sums totalling £130,000.00 via Mereo Limited referred to above.
13. The Respondent told the Investigation Officer that his client Mr A had insisted that the total sum recovered was shared equally between Mr A and the Respondent and the Respondent provided a copy of a letter said to have been signed by Mr A. The Respondent said that he had himself drafted the letter on his client's instructions

during a meeting with him. He said that he had then arranged for the letter to be typed and sent to Mr A for him to sign. The Respondent said that his client was advised to take independent legal advice but declined. The Respondent said that he did not consider it necessary for him to cease acting for this client and said that his client simply would not take independent advice.

14. The Respondent said that he had raised internal bills for the amounts withdrawn from client account as he had agreed with his client that those amounts were in respect of work carried out and that he had to account for VAT and income tax thereon. No bill was raised however in respect of the sums totalling £130,000.00 withdrawn by Mereo Limited.
15. There were no funds retained in client bank account in respect of the sum payable to the Legal Services Commission except a closing balance of £67.21 as at 20th September 2004. The Legal Services Commission had advised that payments made on account in this matter totalled £65,377.59.
16. In addition the ledger account showed a client account cheque payment of £50,000.00 to Standard Life Bank which the Respondent said was an investment on behalf of his client. This contention was supported by three documents found on the client matter file. A copy of the paid cheque obtained from the Bank showed however that it was made payable to T M McGoldrick.
17. A meeting arranged with the Respondent at which his reporting accountant was to be present to discuss the Investigation Officer's concerns was not held as the Respondent failed to be present at the said meeting.
18. The appointed officer intervening on the Law Society's behalf into the practice of the Respondent said that the client was not aware of the letter referred to at paragraph 13 above and alleged to have been signed by him. A copy of Mr A's Affidavit dated 25th August 2005 was before the Tribunal.
19. In March 2008 following a lengthy trial the Respondent was found guilty of 59 counts involving dishonesty as follows:-
 - (a) Fifty two counts of false accounting contrary to Section 17 (1)(a) of the Theft Act 1968.
 - (b) Three counts of money laundering contrary to Section 327 of the Proceeds of Crime Act 2002.
 - (c) One count of forgery contrary to Section 1 of the Forgery and Counterfeiting Act 1981.
20. A certified Certificate of Conviction and a copy of the sentencing remarks of His Honour Judge Thomas were before the Tribunal.

The Submissions of the Applicant

21. The Respondent had made no contact with the Applicant following the service of the documents relating to the supplementary statement and the Applicant was not aware of any application by the Respondent to attend the substantive hearing.
22. In the Applicant's statement of 5th April 2005 the Applicant had alleged dishonesty on the part of the Respondent in respect of Mr A.
23. After a three week trial the Respondent had been found guilty on all counts and had received a 10 year prison sentence.
24. The counts of dishonesty included the forging of a letter created by the Respondent supposedly signed by Mr A as referred to at paragraph 13 above.
25. The sentencing remarks showed the Learned Judge's concerns at the seriousness of the Respondent's misconduct over a lengthy period. The Respondent had taken advantage of a very vulnerable client.
26. This was the worst case of dishonesty the Applicant had brought before the Tribunal in respect of a solicitor.

The Findings of the Tribunal

27. The Tribunal was satisfied from the documentary evidence before it including the report of the Investigation Officer and supporting documents and the Certificate of Conviction that all of the allegations were substantiated. This was an extremely serious case of dishonesty by a solicitor. The Tribunal noted the sentencing remarks of His Honour Judge Thomas which included:-

"Serious offending, over a long period of time, with the very worst breach of trust that one can effectively imagine from a professional man".

The Respondent by his dishonest conduct in relation to a very vulnerable client had severely damaged not only his own reputation but also that of the whole profession. The appropriate sanction was the striking of the Respondent's name off the Roll of Solicitors. The Applicant had served a schedule of his costs on the Respondent through the prison Governor and the Tribunal would order the Respondent to pay the Applicant's costs in the fixed sum sought.

28. The Tribunal ordered that the Respondent, Thomas McGoldrick, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,590.26.

Dated this 24th day of October 2008

On behalf of the Tribunal

D Green
Chairman