No. 9270-2005

IN THE MATTER OF CHRISTOPHER CHARLES GIBBONS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr P Kempster (in the chair)
Mr A Gaynor-Smith
Lady Maxwell-Hyslop

Date of Hearing: 1st December 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 George Marriott, solicitor advocate and partner in the firm of Gorvins of 4 Davy Avenue, Knowlhill, Milton Keynes MK5 8NL on 1st June 2005 that Christopher Charles Gibbons of Westmorland Road, Manchester, 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 he:-

1. Failed to ensure that his firm was adequately supervised in his absence contrary to Rule 13 of the Solicitors Practice Rules 1990;

2. Failed to ensure that there were sufficient fee earners to deal with the number of cases held by the firm contrary to Rule 1(c) and 1(e) of the Solicitors Practice Rules 1990;

3. Failed to act in the best interests of clients contrary to Rule 1(c) and 1(e) of the Solicitors Practice Rules 1990;

4. Failed to notify clients of the extent of their liability on interest on disbursement funding and providing them with adequate cost information contrary to Rule 15 of the Solicitors Practice Rules 1990;

5. Failed to notify clients of changes in fee earners contrary to Rule 15 of the Solicitors Practice Rules 1990;

6. Failed to properly supervise fee earning staff and keep a record of case reviews contrary to Rule 13 of the Solicitors Practice Rules 1990;

7. Failed within a reasonable time or at all to respond to enquiries, solicitors and other third parties contrary to Rule 1 of the Solicitors Practice Rules 1990;

8. Paid referral fees from clients' damages against the express wishes of clients;

9. Breached the Introduction and Referral Code 1990 by making payments to an introducer and referrer of work;

10. Withdrew monies from client account otherwise than in accordance with Rule 22 of the Solicitors Accounts Rules 1998;

11. Dishonestly made a misleading statement to The Law Society.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 1st December 2005 when George Marriott appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the oral evidence of Ms Joanne Liddle. At the commencement of the hearing the Tribunal heard submissions from the Applicant as to due service of the proceedings upon the Respondent and was satisfied that the documentation had been duly served.

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

The Tribunal ORDERS that the Respondent, Christopher Charles Gibbons of Westmorland Road, Manchester, 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 £16,250.00.

The facts are set out in paragraphs 1 to 71 hereunder:-

1. The Respondent, born in 1969, was admitted as a solicitor in 1999 and his name remained on the Roll of Solicitors. From April 2001 until 15th February 2005 the Respondent practised as a sole practitioner under the name of Gibbons & Co solicitors, latterly from 40 Princess Street, Manchester M1 6DE. Following the Respondent's disposal of the practice The Law Society records did not show that he was employed within the profession

2. An inspection of the Respondent's books of account and other documents was commenced on 1st July 2004. The subsequent report dated 27th September 2004 was before the Tribunal. The report noted the matters set out at paragraphs 3 to 61 below.

Supervision and Management of the Office

3. The Respondent stated to the Investigation Officer that he was a sole practitioner conducting personal injury work and was assisted by one locum, two paralegals who were part time, and a temporary secretary.

4. The Respondent informed the Investigation Officer on Thursday 1st July 2004 that he was leaving the office for a long weekend in Amsterdam but had made arrangements for a locum to attend the following day.

5. The Respondent was unable to name the locum but the Investigation Officer established that the locum had "years of experience" but was neither a solicitor nor a legal executive nor held any legal qualifications. The Respondent stated that he could not remember whether or not he knew the locum was not a solicitor, but stated that during his absence from the office he was in contact by telephone.

Staffing Levels

6. At the commencement of the inspection, the only staff were two cashiers and a temporary secretary but the Respondent stated that he might recruit two or three more staff to ensure that there was an adequate level of service for staff. The Respondent confirmed the firm's work was split into two. The locum and one paralegal were responsible for approximately one thousand industrial deafness cases, and five hundred road traffic accident cases were divided between the Respondent and the part time paralegal. The Respondent "chipped in" from time to time with regard to the industrial deafness files.

7. With regard to the existing staff levels, the Respondent's response was as follows:-

- The industrial deafness claims needed one or two more fee earners;
- He was not struggling at present;
- To prioritise, limitation reports were taken first, then post where litigation had started, and then outstanding post;
- He conceded that he was short staffed and that recent weeks had been difficult;
- He prioritised calls and attended the office every day. He showed to the Investigation Officer his efforts to increase staff by providing copies of invoices from a recruitment agency and time sheets for temporary staff.

8. Nevertheless it was evident to the Investigation Officer that the main workforce was administrative staff in the persons of filing clerks and secretaries rather than qualified fee earners.

Delay in progressing matters and explanation

9. The Investigation Officer noticed a number of client ledgers which had only one entry namely a disbursement payment made December 2002 or January 2003 and described as an investigation fee/ medical report.

10. On an examination of the files, it was demonstrated that the sums of £600 or £530 had been paid on behalf of the clients to two referrers of work. However no medical reports had been received. At the same time a number of client ledgers recorded the receipt of a disbursement funding on 1st May 2003 with regard to the investigation and report referred to above. The funding was provided by a bank (S&F) at an interest rate of 8.6% p.a.

11. The Respondent produced a schedule where payments had been made for reports not received and where funding had been received, but his schedule had not been updated and he said that since its preparation some medical reports had been received.

12. In summary £64,840 had been paid on behalf of clients without receipt of any medical report amounting to a total of 116 cases, and on 29 cases funding had been received from the bank. The Respondent:-

- Agreed that without the medical report the clients' claims could not progress;
- Agreed that the matters had been delayed for a period of at least twelve months;
- Could not remember whether he usually paid for medical reports prior to receipt;
- Produced a copy of his agreement with a referrer and his letter of instruction to the agents who were to arrange the medical examinations;
- Neither document included a provision that invoices had to be settled before the medical reports were received;
- Acknowledged that he paid the invoices prior to receipt of the medical report;
- Explained that he believed the medical examinations had been carried out and therefore the reports would shortly follow;
- Conceded that at one time he had paid for the reports after receipt of them but said that procedure had obviously changed at some stage;
- Conceded that some medical reports had been outstanding since December 2002;
- Agreed that he had drawn down funds in respect of investigation fees and medical reports against the clients' disbursement loans;
- Confirmed that the disbursement funding was retained in client bank account;
- Asserted that the delay was attributable to the bank in part;
- Stated that he had instructed Counsel in July 2004 to prepare a case against the referrer to argue for specific performance or the recovery of monies paid;
- Stated that as at 3rd August 2004 Counsel had not provided an opinion;
- Agreed that between 5th July and 3rd August 2004 he had worked on cases discussed with the Investigation Officer but had simply told the client that the delay in the progress of the case was because the case had slipped through the net;
- Asserted that the letters to say such were in dictation and had not gone out;
- Asserted he had complied with the code regarding delay in progress of clients' matters;
- Conceded that as at 3rd August 2004 clients had not been notified for the reasons for delays in the progress of their cases;

- Declined to comment when asked if his actions breached Solicitors Practice Rule 1(c) and 1(e).

Client RY

13. This was an industrial deafness claim where the case was referred to the firm and the fee earner was described as PC, a former employee.

14. In November 2002 the Respondent wrote to RY confirming that he had entered into a conditional fee agreement with the Respondent, and a consumer credit agreement which attracted interest at 8.6% p.a. with the bank.

15. In December 2002 the Respondent received £600 by way of disbursement funding from the bank in respect of an investigation fee and medical report.

16. Seven days later the Respondent paid the sum of £600 to the referrer for the investigation fee.

17. On 12th January 2004 there was a note on the file confirming there was no medical report on the file and "Chris" (presumably the Respondent) needed to be told.

18. On 30th April 2004 the Respondent wrote to the referrer seeking the medical report, asserting the delay was unacceptable and that unless it was received within seven days legal proceedings would be issued.

19. Nonetheless at the date of inspection there was no medical report on the file and interest continued to run on the consumer credit loan to the detriment of RY.

Client BF

20. Again this was a claim for industrial deafness with the same departed fee earner.

21. In February 2003 the Respondent wrote to BF confirming the conditional fee agreement had been entered into with the practice, and a consumer credit agreement with the bank attracting interest at 8.6% p.a.

22. In May 2003 the Respondent received disbursement funding from the bank totalling £530. That was retained in client bank account.

23. In April 2004 the Respondent wrote to the referrer asking for the medical report to be forwarded as soon as possible.

Failure to Notify Change of Fee Earners

24. In the course of a review of client files, the Investigation Officer noted that the Respondent only employed one fee earner out of five previously responsible for client matters. None of the clients had been notified of the change of fee earners.

25. The Respondent was asked why there had been no notification and he gave the following explanations:-

- "Can't explain. If you have not seen that, then it shouldn't be the case. Has happened";
- In the vast majority of cases clients had been advised of the change;
- "If you have seen otherwise they must have slipped through the net";
- He accepted that it was his responsibility to notify the change of fee earners;
- He accepted that he was aware of the requirements of the rule.

Supervision of Work

26. The Respondent explained his supervisory role as reviewing clients' files on a sample basis every two months.

27. He stated that he kept his review comments on the client file and that he used to keep a central database of reviews but that had stopped approximately six months previously.

28. When the Investigation Officer asked to see the central database, the Respondent stated that he would "try and dig it out- must be somewhere". The database had not been produced by the Respondent.

29. The Respondent asserted that he had reviewed the vast majority of the files of fee earners who had left his employment. When it was pointed out to him that on the files examined by the Investigation Officer there were no such notes of reviews, the Respondent's explanation was "no- that's me looking at files and progressing them".

30. When asked to explain why no action had been taken on the industrial deafness cases reviewed the Respondent's explanation was it was "an on-going process" and he "hadn't been able to look at all of them (files)".

Failing to deal promptly with communications and progress files

31. On three industrial deafness cases, the Respondent retained the clients' damages in client bank account for periods between seven and nine months. The delays had occurred because the Respondent failed to reply promptly to correspondence from insurers or solicitors with the result that the disbursement loans remained outstanding for longer than necessary which in turn would mean the client would be penalised by having that interest deducted from their damages.

32. In industrial deafness cases it was possible for clients to bring claims against several former employers. If successful, each former employer would pay a proportionate share of the overall damages. Each case was handled independently. The result was that one claim could be settled before another, but the Respondent did not pay over any of the damages received until the entire claim was settled. He stated that when "all damages are in" the file was sent to a costs draftsman who would then negotiate costs with the other side. Only then would he repay the clients' outstanding loans and any accrued interest.

33. The Respondent did not know whether he could repay the loans piecemeal but agreed to check the position with the bank.

34. With regard to all three matters reviewed, conditional fee agreements had been entered into with the Respondent and consumer credit agreements with the bank where the interest rate was 13.2% p.a. The Respondent explained in his client care letter that the client would be charged 13.9% p.a, that interest was not recoverable, and would be deducted from the client's damages if the client was successful.

35. The Investigation Officer subsequently reminded the Respondent that he had agreed to check whether the loans were repayable piecemeal. The Respondent told her that that was not possible. When asked if he had received a letter to confirm that, the Investigation Officer was told that it was by telephone. Nonetheless the Respondent agreed that he would get it in writing.

36. Section G of the Agreement stated to the contrary and the Respondent produced no letter contradicting that.

37. When asked about these matters, the Respondent:-

- Agreed that his principal duty was to the client;
- Asserted that he was not benefiting from his actions in failing to take account of accruing interest;
- Conceded that on the sample shown his actions for his clients were "not great";
- Conceded that there had been delay and when asked about the proper standard of work stated that those cases had "slipped through the net";
- Conceded that he had not fulfilled his duty to those clients in those cases and stated that a full apology and explanation would be given to them;
- Claimed that they would not be financially prejudiced and any interest due would be borne by the practice.

38. The report set out details of the three cases reviewed.

<u>IA</u>

39. IA was referred to the Respondent by a referrer. According to the file the fee earner responsible had left the firm.

40. On 11th March 2002 IA entered into a conditional fee agreement with the Respondent and signed a consumer credit agreement with the bank which provided a total loan facility of £2,670 broken down as to insurance premium and tax £1,470 and running account to cover legal expenses £1,200. The interest rate applicable was 13.2% p.a.

41. On 5th April 2002 the Respondent drew from the loan facility a total of £1,213.69 broken into five categories:-

- Sign-up fee £211.50;
- Investigation Fee £425.00;
- Medical Report £425.00;
- GP fee £75.00;
- Employee Information £27.19.

42. In July 2003 IA confirmed to the Respondent that he wished to accept an offer of damages from one of his three former employers totalling £1,250. He was told that the figure would be placed into the Respondent's client bank account. Payment was received by September 2003. At the time of the inspection no interim payment had been made to IA and no repayment had been made to the bank. The Investigation Officer noticed that the Respondent had failed to pursue IA's claim against his two other former employers.

43. In July 2003 insurers representing one former employer confirmed their interest in the claim and requested clarification of IA's employment history. In the same month a further letter was received from the insurers acting for the other former employer in similar terms. In November 2003 the insurers acting for the former employer who had paid the damages asked for details of their costs. No response had been made by the Respondent to any of those three letters. His explanation was that "generally other fee earners do industrial deafness work, I mainly do RTA".

GM

44. The claim was again for industrial deafness brought against four former employers with the same referrer. Two fee earners were referred to on the file, neither of whom were employed by the Respondent at the date of the inspection.

45. In February 2002 GM entered into a conditional fee agreement with the Respondent and signed on the same day a consumer credit agreement with the same bank for the same amounts and in the same manner as IA.

46. In March 2002 the same amount was drawn as in the case of IA with a similar description.

47. In August 2003 insurers acting for two of the former employers paid damages totalling £622.50 into the Respondent's client bank account. Two weeks later GM was advised of receipt of the money and that it had been placed into client bank account.

48. In November 2003 following an enquiry by GM concerning his claim the Respondent stated that he was unable to advance any monies to GM until the conclusion of the entire case at which time he would receive a cheque in respect of damages less interest payable on the loan.

49. In December 2003 GM received an apology for the delay and was updated as to the status of his claim and thereafter the Respondent wrote to insurers chasing a letter written in February 2003 and stating that the delay was unacceptable.

50. Nothing then happened on the file until February 2004 when the Respondent wrote to insurers for another former employer referring to letters written in January and May 2003 and stating that the delay by them was unacceptable.

51. Accordingly at the time of the inspection GM's damages had been retained in client bank account for in excess of nine months, no interim payment had been made to him

and no reduction in the loan had been made. When the Investigation Officer put it to the Respondent that he had been chasing the insurers on the matter since January 2003 he stated it was "not fantastic".

GA

52. The facts of this case were similar to the two above. In March 2002 £1,213.69 was drawn down from the loan facility. In July 2003 GA accepted £2,500 by way of damages from one former employer. The money was received by October 2003. Details of the Respondent's costs were requested in September, October and November 2003 but no details were given.

53. In September 2003 insurers acting for the second of the two former employers requested further information and the Respondent replied eight months later in May 2004.

54. In answer to the Investigation Officer's request as to why there had been little or no progress on this claim, the Respondent stated that it was disappointing. He further stated "fee earners have been paid money to work on them. It is not as if I did not have any staff."

Money paid to referrers against the express wishes of clients and in breach of the referral code

55. The Respondent made payments to referrers from damages received on behalf of clients in respect of RTA cases.

56. On reviewing the files it was seen that clients entered into an agreement with a referrer authorising the solicitor to deduct an agreed sum from damages received. The figure was either fixed at £250 or based on a sliding scale relating to the amount of damages received.

57. The Respondent explained that he did make payments to referrers out of damages following an authority from the client.

Mr & Mrs HI

58. A review of the files demonstrated that Autocare referred both clients to the Respondent. They had deleted the authority permitting the referral fee to be paid by the Respondent.

59. Damages were received for the female client totalling £1,400 in February 2004. The Respondent sent her a cheque totalling £1,150 and stated that £250 had been forwarded to Autocare following her instructions. On the same day a cheque was sent to Autocare for £250.

60. The same happened with the male client. The Respondent received £1,800, which was paid into client bank account in March 2004, and a month later the Respondent sent a cheque to the male client for £1,550 advising that £250 had been deducted and paid to the referrer. He sent a cheque for that sum to the referrer.

61. The Respondent was asked to explain why payments had been made against the wishes of the clients and said:-

- he needed to see the file;
- he could not comment on whether he had discussed the payments with his clients.

62. Following the report, The Law Society sent to the Respondent a letter dated 11th October 2004 with enclosures. The letter concentrated upon the report which was sent with the letter and then dealt with a number of other matters where The Law Society had received complaints. Those matters were as follows.

PQ

63. PQ complained to The Law Society as the Respondent had retained £750 to cover interest charges on the disbursement funding of a loan and the Respondent had not given an explanation as to how that figure was calculated. He then stated to PQ that the interest charges had doubled to £1,500. The Law Society wanted to know what steps he had taken to deal with PQ's complaint.

Matrix Solicitors

64. Matrix had written to the Respondent in July, September and October 2004 to obtain files for two clients who had terminated their instructions with the Respondent. Despite an undertaking to include the Respondent's schedule of costs, the Respondent failed to reply to any letters or to release the files.

65. The letter from The Law Society dated 11th October 2004 asked for an explanation within seven days. No explanation was given within that time and no application by the Respondent was made to extend the time.

66. Accordingly the matter was referred to adjudication and the Respondent notified of this by letter dated 22nd October. Following that, the Respondent telephoned The Law Society and was advised that provided representations were received by 1st November, they would be considered by the adjudication panel.

67. Accordingly the Respondent submitted a letter to The Law Society dated 1st November 2004, settled by Jeremy Morgan QC with documents attached.

68. In summary the Respondent:

- stated he was still waiting to hear from the bank;
- stated he had paid PQ;
- agreed he was short staffed but now had a complement of well trained staff including Ms Liddle a solicitor of 4 years PQE who supervised industrial deafness claims;
- accepted there were delays in progressing cases;
- accepted that loans made to clients were not discharged until all the damages were settled;
- believed his locum was a qualified solicitor;
- claimed if he had more qualified staff he would probably go out of business;

- accepted the delay in transferring the file to Matrix was unacceptable;
- claimed he had stopped using the medical reporting agency and that Counsel had drafted a letter before action;
- stated there was no reason to expect any delay in the provision of the reports as they were paid for up-front.
- stated he had given instructions to fee earners to notify clients of change of fee earner;
- stated he had improved his arrangements for supervision;
- claimed he had agreed to compensate clients for delay;
- claimed he had repaid monies to Mr and Mrs HI.

69. Enquiries were made of Ms Liddle who stated she worked for the Respondent for less than one day in October 2004 via a recruitment agency and that he did not employ her.

70. By decision made by an adjudication panel dated 8th November 2004, the Respondent's conduct was referred to the Tribunal. In addition the adjudication panel resolved to impose conditions on the Respondent's practising certificate, stating that within three months from the date of notification of the decision, the Respondent might only act as a solicitor in employment or partnership or as a member, office holder or shareholder of an incorporated solicitors' practice the arrangements for which had first been approved by The Law Society. The Respondent was also ordered to inform any actual or prospective employer, partner or co-member, office holder, or shareholder of the conditions and the reasons for their imposition.

71. Finally The Law Society was directed to carry out an immediate re-inspection of the Respondent's firm.

The Submissions of the Applicant

72. The Applicant had served on the Respondent a Notice to Admit and Civil Evidence Act Notices in respect of documents including statements except for that of Ms Liddle. Ms Liddle's statement had been served upon the Respondent who had been invited to agree it. The Applicant had received no response to the Notices nor to the many letters the Applicant had sent to the Respondent's home address.

73. The Respondent had made no admissions or denials and the Applicant would therefore seek to prove the allegations including the allegation of dishonesty to the highest standard of civil proof.

74. In relation to allegation 1 there was a clear breach of Rule 13. The Respondent had left an individual who was neither a solicitor nor a legal executive in charge of the practice for at least 1 day.

75. In relation to allegation 5 the Applicant submitted that the Tribunal could be satisfied on the evidence that there had been a breach of Practice Rule 15.

76. The most serious allegation against the Respondent was allegation 11. The letter of 1st November 2004 had been settled by Queen's Counsel but was on the Respondent's notepaper and signed by the Respondent.

77. The Tribunal was referred to paragraph 10 of the letter which stated,

> "It will be apparent that, save for the delay in paying interest to clients, all the other problems are related. I entirely accept that I have been short-staffed during recent months- and I said as much to Ms Y [the Investigation Officer]. I have however been recruiting staff and now have a complement which is well capable of dealing with the case load. My most senior assistant is Joanne Liddle, a solicitor with four years' post qualification experience who started with me very recently. She supervises the Industrial Deafness claims. She is assisted by David S and Michael W, two unqualified managing clerks each with about 10 years experience of personal injury litigation work. David has been employed at this practice since July and Michael has been with us for six weeks. The road traffic cases are dealt with by myself and MA, a trainee legal executive who works part-time and has been with me since I set up practice. She has on or around 12 years experience of dealing with RTA personal injury cases. I should perhaps make it clear that almost all the firm's cases are relatively straightforward, relatively low value personal injury cases, which since the abolition of Legal Aid, are invariably handled by solicitors in quite high volumes using a number of paralegal staff. This has been the inevitable result of the introduction of "proportionality" by the CPR into both the running of litigation and the costs recoverable from opponents. My present complement of staff is well able to handle the case load."

78. This was not the situation which the Investigation Officer had found and it was also contradicted by Ms Liddle's statement that she had not been employed by the Respondent. The letter of 1st November 2004 had been used by the Respondent to answer the allegations and to attempt to prevent an intervention. The Respondent had lied. The Respondent must have known that Ms Liddle had only been in his office for one day but seven days later he had signed a letter stating that she was supervising Industrial Deafness claims. The Respondent must have known that this was untrue. The Respondent's assertion may have been one of the factors which persuaded The Law Society not to intervene at that time.

79. The practice had been mostly disposed of and The Law Society had intervened into the remnants in February 2005.

80. The Tribunal was invited to find all the allegations proved.

The oral evidence of Ms Joanne Liddle

81. Ms Liddle confirmed the truth of her statement dated 11th November 2005.

82. Ms Liddle had been placed through an agency with her previous firm of Fentons but had ceased to work there in 2004 as she wished to change her working career and reduce her daily travelling time. When she left she had called the agency and asked for locum work.

83. The agency had contacted Ms Liddle to say that a Manchester firm was looking for a solicitor with experience of running Industrial Injury cases. The work was described as tidying up and bring cases to a conclusion.

84. Ms Liddle had arrived at the Respondent's firm on 25th October 2004. Only a secretary and a person in the cashier's department whom Ms Liddle understood to be the Respondent's brother were present.

85. Ms Liddle had found the Industrial Deafness caseload. The desk had been littered with correspondence which had not been allocated to files and which she tried to put in order.

86. The Respondent had arrived just before lunch and had told her to do what she could.

87. Ms Liddle had had concerns as significant correspondence had not been attached to files and the correspondence was not recent. The files were stacked around the office. She had difficulty finding files and was concerned at the delay in how the files had been handled. She did not see David S or Michael W or MA referred to in the Respondent's letter. She saw only the Respondent, the secretary and the cashier.

88. Ms Liddle had left the Respondent's firm in the middle of the afternoon as she was not prepared to tolerate these conditions. The Respondent had gone out by the time she left. Ms Liddle had rebuked the agency for sending her to the Respondent's firm. She had not been paid for her time there.

89. The firm had been a picture of chaos. There was too much for her to undertake and it was clear she would have been doing the work alone. From the lack of direction she had received on arrival it was clear that the situation would not change. The Respondent had never contacted her again. The agency had told the Respondent that she would not be returning. She had wanted no contact from the Respondent.

90. The Respondent could not have been under any impression that his statement about Ms Liddle in paragraph 10 of his letter of 1st November 2004 was correct. He would have known the true situation from 26th October 2004.

Costs

91. After the Tribunal had reached its decision on liability the Applicant sought costs fixed in the sum of £16,250 in respect of which a schedule had been served.

The Findings of the Tribunal

Allegations 1 to 10

92. The Tribunal considered carefully the documentation before it in respect of which Notice had been served upon the Respondent without response. The Tribunal was satisfied that allegations 1 to 10 were clearly substantiated by the documentation.

Allegation 11

93. This was an allegation of dishonesty made on the basis of the letter signed by the Respondent and dated 1st November 2004 to The Law Society. The Tribunal had heard oral evidence from Ms Liddle and had found that evidence to be straightforward and conclusive. The Tribunal was satisfied to the high standard required that in signing the letter of 1st November 2004 the Respondent's statement in respect of Ms Liddle at paragraph 10 of the letter had been dishonest. In reaching that decision the Tribunal taken into account the information which the Respondent, on the evidence of Ms Liddle, would have had at the time and was satisfied, applying the tests in Twinsectra v Yardley, that the allegation of dishonesty had been substantiated.

Previous appearance of the Respondent on 30th March 2004

94. At a hearing on 30th March 2004 the following allegations were substantiated against the Respondent, namely that he had been guilty of conduct unbefitting a solicitor in that he:-

(i) failed to keep books of account properly written up contrary to Rule 32 of the Solicitors Accounts Rules 1998;

(ii) maintained client accounts which were overdrawn contrary to Rule 22(8) of the Solicitors Accounts Rules 1998;

(iii) breached the Introduction and Referral Code 1990 by becoming dependent upon one introducer (MLR);

(iv) breached the Introduction and Referral Code 1990 by making payments to his sole introducer and referrer (MLR);

(v) acted where there was a conflict between his interests and those of his clients;

(vi) compromised and impaired his integrity and independence, his duty to act in the best interests of his clients, his good repute and that of the solicitors' profession, and his proper standard of work, contrary to Practice Rule 1 of the Solicitors Practice Rules 1990.

95. The Tribunal in 2004 said that,

"213. No allegation of dishonesty had been made against the Respondent. The Tribunal considered that the breaches of the Accounts Rules had been a consequence of the breaches of the Introduction and Referral Code, although they accepted the submissions in mitigation on behalf of the Respondent supported by the statement of Mr C and the report of the Reporting Accountants that the Respondent had not been aware of the breaches until they were identified by Mr C. While it was no excuse for a solicitor to say that he had relied too much on a bookkeeper the Tribunal noted that the Respondent had made good the shortfall as soon as he had been able to arrange funding to do so.

214. In relation to allegations (iii) to (vi) the Tribunal considered that the scheme operated by the Respondent was one in which the clients' interests had come a long way down the list of priorities. While the clients may have derived some benefit in that repairs to their homes were effected there had been no serious attempt by the Respondent to consider the best way for each individual client's matter to be dealt with. The Tribunal however had considered with great care and given due weight to the arguments put forward initially in the preliminary application but repeated by way of mitigation relating to the number of other firms of solicitors who had been involved in similar schemes and the fact that matters had been clarified by the test cases and new Guidance had very recently been published by The Law Society in relation to such matters. The Tribunal took the view that this was substantial mitigation in respect of allegations which were on the face of it extremely serious. Taking that mitigation into account and noting also the reference put forward on behalf of the Respondent the Tribunal considered that the appropriate penalty was a fine. The Tribunal would impose a fine of £5,000 in respect of the Accounts Rules breaches and a fine of £2,500 for each of allegations (iii), (iv) and (v). The Tribunal imposed no additional penalty in respect of allegation (vi)."

Hearing on 1st December 2005

96. A large number of serious allegations had been substantiated against the Respondent of which the allegation of dishonesty was the most serious. The Respondent had contacted neither the Tribunal nor the Applicant to put forward any matters in mitigation. It was clear from the facts that clients had suffered because of the Respondent's conduct. Claims for Industrial Deafness were cases of extreme importance to clients.

97. In his letter of 1st November 2004 the Respondent had lied to The Law Society and it was clear from the first paragraph of that letter that the Respondent intended to influence the adjudication panel. The fact that the letter had been settled by Queen's Counsel, presumably on instructions, was no excuse. The Respondent had signed the letter knowing that it included an untrue assertion by him.

98. The Tribunal had noted the previous findings against the Respondent in 2004.

99. In all the circumstances and particularly given the substantiated allegation of dishonesty on the part of the Respondent it was right that he not be permitted to remain as a member of the profession. His conduct had damaged the profession in the eyes of the public. The Tribunal would order that the Respondent's name be struck off the Roll of Solicitors and also would order him to pay the Applicant's costs in the fixed sum sought.

100. The Tribunal made the following order:-

The Tribunal ordered that the Respondent, CHRISTOPHER CHARLES GIBBONS of Westmorland Road, Manchester, 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 £16,250.00.

Dated this 16th day of January 2006
On behalf of the Tribunal

P Kempster
Chairman