

IN THE MATTER OF KEITH ROBERTS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr P Haworth (in the chair)  
Mr J P Davies  
Mr D E Marlow

Date of Hearing: 13th April 2006

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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 Katrina Elizabeth Wingfield, solicitor and partner in the firm of Penningtons, Bucklersbury House, 83 Cannon Street, London, EC4N 8PE on 14<sup>th</sup> July 2005 that Keith Roberts of Troedyrhiw, Merthyr Tydfil, Mid Glamorgan, 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 he breached the Solicitors Account Rules by transferring sums in respect of costs when no bill of costs or other written intimation of the amount of the costs had been delivered to the client;
- (ii) that he overcharged a client, namely the executors of the late Miss E in relation to work allegedly undertaken on her behalf prior to her death.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Katrina Elizabeth Wingfield appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal regarding service of the proceedings and all documents on the Respondent was that service had been effected by an enquiry agent who did not see the Respondent. He had left documents with a lady who appeared to be the Respondent's mother. The enquiry agent had made four visits and had gained the impression that the Respondent was avoiding service. A letter of 24<sup>th</sup> March 2006 was put through the letterbox of the lady believed to be the Respondent's mother giving the date of the substantive hearing as 13<sup>th</sup> April 2005. The Tribunal considered in the circumstances that proper service had taken place and agreed that it would be appropriate to abridge time for the notice of the hearing date.

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

The Tribunal Orders that the Respondent, Keith Roberts of Troedyrhiw Merthyr Tydfil, Mid Glamorgan, 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 £6,417.15.

**The facts are set out in paragraphs 1 to 11 hereunder:-**

1. The Respondent, born in 1957, was admitted as a solicitor in 1981. His name remained on the Roll but he did not hold a current practising certificate. The Respondent last practised in or about June 2000 when he retired from a firm in South Wales owing to his ill health.
2. The Respondent had looked after the affairs of Miss E for a number of years. She died on 16<sup>th</sup> November 1998 and the Respondent was instructed by the executors to wind up the estate. After experiencing delay the executors informed the Respondent that they were terminating their instructions. In his place they instructed HE, Solicitors.
3. HE made complaint to The Law Society by letter of 7<sup>th</sup> July 2000, enclosing a copy of a letter addressed to the Respondent dated 1<sup>st</sup> June 2000 to which no reply had been received. The Law Society wrote to the complaints handling partner at the South Wales firm on 13<sup>th</sup> July 2000 who replied on 7<sup>th</sup> September 2000 explaining, inter alia, that the Respondent had retired and that he had exclusively handled Miss E's affairs. All files had been transferred to HE.
4. On 13<sup>th</sup> March 2003 letters were sent by The Law Society to the former South Wales firm's managing partner and to the Respondent requesting comments on the Report prepared by The Law Society. The Respondent telephoned requesting an extension of time which was granted. The Respondent stated that he was unwell and in subsequent conversations that he was unable to write. A local Conciliation Officer was offered and the Respondent provided further information in a letter dated 22<sup>nd</sup> April 2003.
5. The Respondent failed to make contact with the Local Conciliation Officer and the case was forwarded to an adjudicator who considered the matter on 24<sup>th</sup> July 2003. An "Interim Hybrid First Instance Decision" was notified by letter of 11<sup>th</sup> August

2003. The Adjudicator directed the return of £28,697.33 which had been deducted by the Respondent from the estate of the late Miss E in respect of costs between December 1998 and December 1999. Upon learning that the Respondent's former complaints partner had been unaware of the pending adjudication, the matter was reconsidered by the Adjudicator on 1<sup>st</sup> October 2003 when it was directed that Ms E's executors be compensated in respect of inadequate professional services. Concern was expressed that some £28,000 from the estate had "disappeared". The firm's managing partner applied for a review. The Respondent telephoned The Law Society on 9<sup>th</sup> December 2003.

6. The Respondent said he had handled the affairs of the late Miss E for twenty five years but had never made any charge. During that telephone conversation the Respondent indicated he had applied to Abbey National for the inheritance tax as his firm had been short of money. He denied dishonesty stating he was thinking of Ms E's daughters: Miss E was a spinster with no children. The Respondent sought to attribute blame to his former managing partner who denied the allegations.
7. The Respondent had forwarded to HE copies of the ledger accounts. They had found on the files bills dated 1<sup>st</sup> December 1998 in the sum of £12,000 plus VAT (£14,100), 3<sup>rd</sup> December 1998 £475 plus VAT (£558.13), 31<sup>st</sup> December 1998 £8,448.25 plus VAT (£9,926.70) and 20<sup>th</sup> December 1999 £3,500 plus VAT (£4,112.50). There was a letter on the "personal" file opened in 1998 dated 27<sup>th</sup> January 1999 addressed to one of the executors. The executor said that neither he nor the co-executor received any of these bills. The 27<sup>th</sup> January letter stated:-

"Further to the above and as discussed, I enclose herewith copies of the invoices arising in connection with Miss E's estate.

These fees are of course fully inclusive and will incorporate all works done to date and to be done in connection with Miss E's assets."

The letter predated the December 1999 bill.

8. The bills purported to be for work done "over many years". They included "at the very minimum one hour per week for 50 weeks of the year..." and purported to include dealing with various freehold reversions owned by Miss E. On examination of three files relating to the sale of such freehold reversions the costs were to be met by the purchasers as was customary.
9. On the Respondent's files there was no evidence of client care information being given either to Miss E or her executors. At the date of the bills probate had not been granted.
10. Miss E died on 16<sup>th</sup> November 1998. The ledger recorded that £88,439.55 was transferred by bank telegraphic transfer from Abbey National to the Respondent's firm on 23<sup>rd</sup> December 1998. A letter on the administration file from Abbey National dated 27<sup>th</sup> November 1998 set out details of the sums held on behalf of the deceased totalling some £213,000. According to the ledger, funds were transferred from client account to office account to meet costs on 2<sup>nd</sup> December 1998, 31<sup>st</sup> December 1998 and 29<sup>th</sup> January 1999. The first transfer took place on 2<sup>nd</sup> December 1998 before any funds had been received. Costs were transferred in December 1999 within two days

of the date of the bill. There was no copy letter on the files indicating that that the bill had been sent to the executors.

11. A letter on file addressed to one of the executors dated 11<sup>th</sup> October 1999 dealt with “monies received and expenses paid” but made no reference to the bill of costs allegedly delivered in December 1998 or the transfer of funds to meet them.

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

12. It was submitted that the Respondent acted dishonestly and/or with conscious impropriety in relation to the substantial transfers of money to office account. The Respondent informed The Law Society that at the time the firm was unable to pay staff their salaries. There was no evidence on files subsequently produced that the bills of costs raised on 1<sup>st</sup>, 3<sup>rd</sup> and 31<sup>st</sup> December 1998 were justified.

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

13. The Respondent took no part in the proceedings.

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

14. The Tribunal found the allegations to have been substantiated. The Tribunal was satisfied that the Respondent had not undertaken sufficient work to justify the bills raised and that he had been dishonest when he transferred, in total, a substantial sum of money to office account.

#### **The Decision of the Tribunal and its Reasons**

15. Having found that the Respondent was dishonest both in billing for work that had not been undertaken and in transferring money in respect of the amounts purportedly billed to office account, in order to fulfil its duty to protect the public and its duty to uphold the good reputation of the solicitors’ profession the Tribunal ordered that the Respondent be struck off the Roll of Solicitors.
16. The Applicant sought her costs in the sum of £6,417.56. A copy of her schedule of costs had been sent to the Respondent. The Tribunal considered that the sum requested was entirely reasonable and the Respondent had raised no objection. The Tribunal further ordered that the Respondent pay the costs fixed in the sum sought by the Applicant.

Dated this 30th day of May 2006  
On behalf of the Tribunal

P Haworth  
Chairman