

IN THE MATTER OF YUSUF NOOR ELMI, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr A G Gibson (in the chair)  
Mr R J C Potter  
Mr G Fisher

Date of Hearing: 2nd February 2006

---

## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

---

An application was duly made on behalf of the Law Society by Michael Robin Havard, solicitor and partner in the firm of Morgan Cole Solicitors of Bradley Court, Park Place, Cardiff, CF10 3DP on 21st July 2005 that Yusuf Noor Elmi of 83 Lewisham High Street, London, SE13 5JX, 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 unbecoming a solicitor in that:

- 1) He conducted himself in a manner which was likely to compromise or impair his integrity contrary to Rule 1(a) of the Solicitors Practice Rules 1990;
- 2) He acted in a deceitful way contrary to his position as a solicitor;
- 3) He failed to reply to correspondence from the Law Society.

The Respondent's application for an adjournment and the substantive application were heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 2nd

February 2006 when Michael Robin Havard appeared as the Applicant and the Respondent did not appear and was not represented.

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

The Tribunal Orders that the Respondent, Yusuf Noor Elmi of 83 Lewisham High Street, London, SE13 5JX, 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 to be subject to a detailed assessment unless agreed between the parties.

### **Application for an Adjournment**

1. By a fax dated 2nd February 2006 from Messrs Develmi & Co an adjournment was sought on behalf of the Respondent on the grounds that his Counsel was unable to attend due to unforeseen circumstances.
2. The Applicant opposed the application for adjournment. The Applicant said that the fax to the Tribunal was the first communication which had been received from the Respondent. The Respondent had not said what the unforeseen circumstances were and in the submission of the Applicant it was too late. Proceedings had been issued on 21st July 2005 and a Civil Evidence Act Notice served on 4th October 2005 to which no counternotice had been received and which had not been returned.
3. The Tribunal had sent notice of the hearing date by special delivery to the Respondent on 21st October 2005. The Respondent was clearly aware of that hearing date, hence his fax.

### **The Decision of the Tribunal in relation to the Application for Adjournment**

4. The Respondent had given no good reasons for his application for an adjournment. There was no explanation as to why he was without representation. It would have been open to the Respondent to attend to explain the situation. It was not the practice of the Tribunal to grant adjournments of substantive hearings unless cogent and persuasive reasons were provided by the parties seeking the adjournment. In the absence of such reasons the Tribunal's duty to the public required it to deal with matters brought before it expeditiously. The Respondent's request for an adjournment was refused.

### **The Substantive Hearing**

#### **The facts are set out in paragraphs 5 to 13 hereunder:-**

5. The Respondent, born in 1963, was admitted as a solicitor in 1996 and his name remained on the Roll of Solicitors. The Respondent practised as one of two partners in the firm of Develmi & Co of 83 Lewisham High Street, London, SE13 5JX. Previously the Respondent also operated as a partner in Develmi & Co of 86b High Street, Southall, Middlesex, UB1 3DB until its closure on 31st October 2004.
6. By letter of 31st August 2004 the Law Society wrote to the Respondent informing him of a complaint from a client, Mr A. The letter stated that as a consequence of Mr A's

failure to provide further information to the Law Society, the complaint would not be taken any further.

7. By letter of 25th November 2004 the Law Society, having received further information about Mr A's complaint, wrote to the Respondent setting out the bases of complaint, requesting a response. The letter was sent to the Respondent care of Develmi & Co Solicitors by Document Exchange at DX 200963 Lewisham 2. Document Exchange had stated that an account was opened in 1999 and remained open to the present day, but in respect of Elmi Wesley & Co Solicitors. However, the address to which that DX number related was 83 Lewisham High Street, London, SE13 5JX. The Respondent was given 14 days in which to reply to the letter. He did not do so.
8. By letter of 30th December 2004 the Law Society sent a further letter to the Respondent enclosing a copy of the letter of 25th November 2004. The Respondent was requested to provide a substantive response by 11th January 2005. The Respondent did not reply. By letter of 17th January 2005 the Law Society wrote to the Respondent enclosing further copies of the letters of 25th November 2004 and 30th December 2004 requiring a reply within eight days. Again, the Respondent did not reply.
9. On 2nd and 3rd March 2005 Mr S of the Law Society endeavoured to speak with the Respondent on two occasions on each day but received no reply. On 14th March 2005 a letter and Order under Section 44(b) was sent to the Respondent.
10. On 17th March 2005 the Chief Adjudicator decided that the matter should be transferred to the Intervention & Disciplinary Unit and that the Respondent should be referred to the Tribunal for his failure to reply to correspondence from the Law Society.
11. Mr S of the Law Society held a conversation with the Respondent on 22nd March 2005 relating to the complaint of Mr A. By letter of 23rd March 2005 Mr S confirmed the telephone conversation in which the Respondent said that he would forward his file in relation to Mr A on or before 1st April 2005. A Law Society file note dated 19th May 2005 indicated that the file had now been received from the firm.
12. By a letter dated 17th June 2005 the Respondent endeavoured to provide an explanation to the Law Society for the delay. He made reference to correspondence and telephone conversations with, for example, Mr S of the Law Society. He enclosed a letter to Mr S purportedly dated 7th December 2004. Mr S has stated that he never received that letter. Further, the letter contained the Law Society's reference TRI/1794 - 2005/MSB. This was the reference of Mr MB from the Intervention & Disciplinary Unit who only became involved in the matter when the file was referred to him in April 2005. Further, the letter dated 7th December 2004 acknowledged a letter dated 28th November 2004 but Mr S has said that he did not write to the Respondent on 28th November 2004. Mr S has also said that he did not write to the Respondent on 11th January 2005, although the Respondent made reference to not having been aware of a letter bearing that date in his letter of 17th June 2005.
13. Also enclosed with the Respondent's letter of 17th June 2005 was a copy of a letter dated 29th March 2005 from the Respondent to Mr S. Mr S has stated that he never received such a letter.

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

14. As a consequence of the Respondent's letter of 17th June 2005 the Applicant alleged that the Respondent had acted in a deceitful manner. At the purported date of the copy letter enclosed with the June letter, ie 7th December 2004, the matter had not been referred to the Intervention & Disciplinary Unit and the Respondent could not have known to whom it would be allocated, nor their reference. Further, the reference quoted by the Respondent in the purported copy letter was marked 2005 while the letter itself was dated December 2004. It was submitted that the Respondent had made matters worse by attempting to establish that he had been in correspondence with the Law Society when that had not been the case.
15. The Applicant submitted that the allegations were substantiated. Allegation 2 was the most serious. The Respondent had concocted a letter in or about June 2005 but had dated it December 2004 adding a reference which would not have existed in December 2004. He had tried to deceive his professional body.

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

16. The Tribunal noted that a Civil Evidence Act Notice had been served upon the Respondent without counternotice. The Tribunal found the allegations substantiated on the unchallenged documentation.
17. This was a very serious matter. The Respondent had attempted to deceive his professional body. The Respondent could have been in no doubt from the wording of allegation 2 and from the Rule 4 statement that dishonesty was being alleged against him. The Tribunal considered carefully the relevant tests for dishonesty set out in the case of Twinsectra -v- Yardley and Others [2002] UKHL 12 but in the light of the reference appearing on the letter purportedly dated 7th December 2004 the Tribunal was satisfied to the high standard required that the test of dishonesty was met and that the Respondent's conduct had been dishonest. Deception of the professional body was totally unacceptable conduct on the part of a solicitor and it was not right that the Respondent remain a member of the profession.
18. The Tribunal made the following order:-

The Tribunal Orders that the Respondent, Yusuf Noor Elmi of 83 Lewisham High Street, London, SE13 5JX, 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 to be subject to a detailed assessment unless agreed between the parties.

Dated this 28th day of March 2006  
On behalf of the Tribunal

A G Gibson  
Chairman