

IN THE MATTER OF LOUIS HARDY CHARLEBOIS, solicitor

- and -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr P Kempster (in the chair)  
Mrs E Stanley  
Mr D E Marlow

Date of Hearing: 23rd February 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 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 9<sup>th</sup> August 2005 that Louis Hardy Charlebois of Epsom, Surrey, might be required to answer the allegations contained in the statement which accompanied the application and such order might be made as the Tribunal should think right.

The allegations against the Respondent were as follows:-

- (1) He acted in breach of the Solicitors Accounts Rules 1998 in that:-
  - (a) He withdrew from client account monies other than in accordance with the provisions of the said Rule and as hereinafter it appears.
  - (b) In breach of Rule 34, failed to produce at a time and place fixed by the Society with the Respondent the Respondent's records and papers and financial accounts.

- (2) Contrary to Section 1 of the Solicitors Act 1974 acted as a solicitor when no Practising Certificate was in force.
- (3) Failed to account or adequately to account for monies received in relation to a conveyancing transaction and as hereinafter appears.
- (4) Contrary to the Solicitors Indemnity Rules 2004, failed to renew indemnity insurance for the Practice Year 2004/2005 or to provide run-off insurance cover for his firm after closure.
- (5) Had been guilty of unreasonable delay in effecting registration of land pursuant to completion of a conveyancing transaction.
- (6) By virtue of each and all of the aforementioned had been guilty of conduct unbefitting a solicitor.

By a Supplementary Statement of Gerald Malcolm Lynch dated 22<sup>nd</sup> September 2005 it was further alleged against the Respondent as follows:-

- (7) Contrary to the provisions of Section 34 of the Solicitors Act 1974 the Respondent failed to deliver an Accountant's Report upon his practice as by the section required.
- (8) The Respondent failed to respond to correspondence and enquiry addressed to him by The Law Society.
- (9) In consequence the Respondent had been guilty of conduct unbefitting a solicitor.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House 1 Farringdon Street, London, EC4M 7NS on 23<sup>rd</sup> February 2006 when Gerald Malcolm Lynch appeared as the Applicant and the Respondent appeared in person.

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

The Tribunal Orders that the Respondent, Louis Hardy Charlebois of Epsom, Surrey, solicitor, be Struck off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,000.00.

**The facts are set out in paragraphs 1 to 21 hereunder:-**

1. The Respondent now aged 70 was admitted as a solicitor in 1999 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent was a sole practitioner under the style and title of Invictus Solicitors of 1<sup>st</sup> Floor, Holborn Gate, 330 High Holborn, London. The Law Society intervened into the Respondent's practice on 4<sup>th</sup> May 2005. On the application of The Law Society a Bankruptcy Order had been made against the Respondent on 10<sup>th</sup> January 2006.

3. The Respondent was certificated and had indemnity insurance for the practice year terminating on 31<sup>st</sup> October 2004. He failed to make an application for a further Practising Certificate or any arrangements for indemnity insurance for any period after the above named. Reminders in that regard were sent to him by The Law Society on 19<sup>th</sup> November 2004, 10<sup>th</sup> December 2004 and 4<sup>th</sup> January 2005. On 11<sup>th</sup> January 2005, The Law Society wrote again at greater length, pointing out that in the absence of an application by the Respondent his right to practise had terminated on 4<sup>th</sup> January 2005. No information had been received as to closure of the practice and enquiry was made in that regard. Practising uncertificated was alleged.
4. On 17<sup>th</sup> January 2005, Messrs Loosemores, Solicitors wrote to The Law Society in complaint against the Respondent. They were acting for Vendors of premises in London and the Respondent was acting for the proposed Purchaser. Loosemores said that the Respondent had been evasive. They were ready to exchange and complete matters prior to the end of October 2004, but excuses had been given why the matter could not complete. After the Christmas period, the Respondent had said that his Practising Certificate had expired and he was not going to renew it, so he could not proceed with the transaction. Loosemores had asked what were his client's instructions, but it was alleged that the Respondent could not obtain them as his client was away, and no further correspondence was received. However on 10<sup>th</sup> January 2005, Loosemores received the sum of £32,000.00 unsolicited from the Respondent. No reason was given for the transfer. Having contacted the Respondent, Loosemores were told that the amount represented the balance due from the Respondent's client to complete the conveyancing transaction. The proposed Purchaser had sought to instruct the complainant firm who were unable under the rules of conflict to accept those instructions and so advised the Respondent's client.
5. A further letter from Messrs Loosemores dated 1<sup>st</sup> February confirmed that a further sum of £110,000.00 had been received from the Respondent's firm on 27<sup>th</sup> January 2005. The Respondent's client said that he had provided the Respondent's firm with the deposit in the sum of £32,000.00 during 2004. A large part of the balance of the purchase money was to be made up of a mortgage via Mortgage Express in the sum of £165,800. The Respondent had drawn this money on 28<sup>th</sup> December 2004. There was however an apparent shortfall of £55,800.00 outstanding in regard to the matter. The purchase price of the property was £200,000.00. The Respondent's client had instructed new solicitors.
6. On 1<sup>st</sup> February 2005, The Law Society wrote to the Respondent both at his practice address and home address, raising the issues of renewal of the Practising Certificate, practising uncertificated and necessary steps in relation to closure. The Respondent was reminded of the relevant provisions of the Solicitors Act.
7. On 2<sup>nd</sup> February, the Respondent in telephone conversation with The Law Society, stated as follows:-
  - (a) He had received the letter of 1<sup>st</sup> February. He had not abandoned his practice but had closed it down, which was why he had not renewed his Practising Certificate and taken out indemnity insurance. He said he had told somebody at The Law Society but could not remember who.

- (b) There were no active files at the time of closure and he held closed files at his home address.
  - (c) He was not aware of the requirement to provide run-off cover in respect of indemnity insurance, but said he would make the necessary arrangements.
8. During the telephone conversation, it was explained to the Respondent that The Law Society's Forensic Investigation Department would wish to inspect his books. Over the telephone, it was arranged that the following Monday from midday could be fixed for such an appointment.
  9. Also during the telephone conversation, the matter of the Loosemore complaint was raised. The Respondent said that he had received monies from the mortgagees, Mortgage Express, and had merely passed them on. He did not know that he should not be acting or operating client account in the absence of a valid Practising Certificate. He alleged that he was not acting as solicitor for his client but merely passing money to Loosemores, whom he regarded as agents for his client. He was reminded that conflict of interest would prevent such instruction and was told that accounts should have been closed and not operated. He said that there was no movement other than in respect of monies sent to Loosemores. He was asked about the sum of £55,800.00 alleged to be missing and replied "That's been sorted now". No further explanation was advanced.
  10. In a further telephone call of 2<sup>nd</sup> February, The Law Society asked Messrs Loosemores to confirm whether or not the missing monies totalling £55,800.00 had been received. They were also asked to indicate whether or not the firm had been held out as agents for the Respondent's client and this was emphatically denied.
  11. The Respondent did not adhere to the arrangement made for inspection of his books and further attempts to contact him over the telephone were made on 7<sup>th</sup> February. Initially, the Respondent was said to be in a meeting. Two further attempts in the morning and afternoon on 8<sup>th</sup> February failed to establish contact.
  12. On 8<sup>th</sup> February, Messrs Loosemores confirmed that they had not received £55,800.
  13. A further attempt to contact the Respondent was made on 9<sup>th</sup> February, both during the morning and afternoon, but no contact was made.
  14. On 28<sup>th</sup> February 2005, the Forensic Investigation Officer appointed to inspect the Respondent's books reported. Arrangements had been made for inspection to be started on 7<sup>th</sup> February. There was no response when the officer had arrived at the fixed appointment time. There had been no response to telephone attempts to contact him. A second attempt to carry out the inspection on Wednesday 16<sup>th</sup> February was made, a letter having been sent to the Respondent by Registered Post on 11<sup>th</sup> February. Royal Mail had confirmed that the registered letter was delivered and signed for on 15<sup>th</sup> February. Attendance on 16<sup>th</sup> February was made but there was again no reply. The officer had waited for approximately one hour, but no-one was seen either to enter or leave the property. A further telephone attempt to contact the Respondent was made without response.

15. On 3<sup>rd</sup> March 2005, Mortgage Express wrote to The Law Society confirming that on 15<sup>th</sup> December 2004, they had received from the Respondent's firm a Certificate of Title indicating a completion date of 21<sup>st</sup> December and funds were released on 24<sup>th</sup> December totalling £165,325.00. This was made to Barclays Bank and to the credit of the Respondent's firm. It was confirmed that in the light of remittances made to Loosemores, there was an apparent shortage of £55,325.00.
16. On 11<sup>th</sup> March 2005, a letter was sent to the Respondent seeking his explanation of the matters raised by the Forensic Investigation report, but there had been no response.
17. On 22<sup>nd</sup> April 2005, Messrs Loosemores wrote to The Law Society confirming that they continued to hold £32,000.00 which appeared to be the property of the Respondent's client Mr W. Documentary evidence accompanied the letter indicating payments made by Mr W to the Respondent's firm.
18. On 11<sup>th</sup> March 2005, a Mr S sent an email to The Law Society in relation to the Respondent. The Respondent's firm had acted on behalf of Mr S and his sister in the purchase of leasehold property which was completed on 24<sup>th</sup> May 2004. Mr S was resident there and had been paying the mortgage costs in relation to the property to Portman Building Society. In October or November 2004, the company managing the leasehold property contacted the Respondent requesting documents which they had not received regarding the transfer of ownership of the property to the complainant. A number of messages left by the management company and also Mr S with the Respondent's office had gone unanswered. Mr S had enquired as to the position with the Land Registry responsible for the area in which he lived, and had ascertained that the property remained registered with the previous owner and nothing had been done to register the purchase by Mr S and his sister. Mr S said that he had paid to the Respondent their full conveyancing fee of £490.00 and stamp duty of £2,115.75 and the Land Registry fee of £250 as well as other disbursements. They had received no documentation regarding their ownership of the lease. There had been no response from enquiry made to the Respondent.
19. A report was submitted for consideration by the relevant panel of The Law Society who on 28<sup>th</sup> April 2005 resolved inter alia to refer the conduct of the Respondent to the Tribunal. The Respondent was advised by letter of 18<sup>th</sup> May 2005. There had been no application for review of the decision.
20. The Respondent's Accountant Report for the period ending 30<sup>th</sup> September 2004 was due to be filed with The Law Society not later than 31<sup>st</sup> March 2005. The Report remained outstanding.
21. On 4<sup>th</sup> July 2005 The Law Society wrote to the Respondent with regard to the outstanding Report. The Respondent did not reply to the letter.

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

22. Payment had been made from the Compensation Fund to Mr S and his sister in the sum of £2,365.75. An application had been made to the Fund in respect of the matter of Mr W, which was still the subject of enquiry.
23. The Respondent had clearly been practising well beyond the period for which he held a Practising Certificate or Professional Indemnity Insurance. The money sent to Loosemores had been sent during that period. The Respondent should not have been operating his client account which should have been closed. The mortgage had been drawn down on 28<sup>th</sup> December 2004. The whereabouts of the £55,000.00 was unknown. The documentation before the Tribunal showed that the Respondent had been acting in a full blown conveyancing matter.
24. The Respondent had admitted the documents and facts and had agreed that there was no need for live evidence.
25. The Respondent had agreed the Applicant's costs in the sum of £3,000.00.

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

26. The Respondent was not denying the allegations but preferred not to admit them. The Law Society had all his accounts and he was offering no evidence. He had no submissions to make.
27. After the Tribunal's findings that the allegations were substantiated the Respondent said in mitigation that he was bankrupt and unemployed. He would be pleased to work gratuitously to alleviate The Law Society's costs.

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

28. The Tribunal considered carefully the documentation and the submissions of the Applicant noting that the Respondent had chosen to make no submissions on liability and to offer no evidence. The Respondent had admitted the facts and documentation and the Tribunal was satisfied from the documentation that the allegations were substantiated.
29. The Respondent had given the Tribunal no information whatsoever about the position regarding the closure of his practice. He had not co-operated with The Law Society in an inspection of his accounts. An Accountant's Report remained outstanding. The sum of some £55,000.00 of a client's funds remained unaccounted for. The Respondent had practised without a Practising Certificate or Professional Indemnity Insurance. If there were any mitigating circumstances the Respondent had not put these before the Tribunal. The Respondent clearly could not cope with his responsibilities as a solicitor and in the absence of any explanation for his conduct the protection of the public clearly required that his name be removed from the Roll of Solicitors.
30. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent, Louis Hardy Charlebois of Epsom, Surrey, solicitor, be Struck off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,000.00.

DATED this 25<sup>th</sup> day of April 2006  
On behalf of the Tribunal

P Kempster  
Chairman