

IN THE MATTER OF RONALD FRANK MACLEAN WILLIAMSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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

Date of Hearing: 13th April 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 Jayne Willetts solicitor advocate of Hammonds, Rutland House, 148 Edmund Street, Birmingham B3 2JR on 17th August 2005 that Ronald Frank Maclean Williamson of RFM Williamson Solicitors, First Floor, 38a Oswald Road, Scunthorpe DN15 7PQ 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.

On 7th March 2006 Jayne Willetts, the Applicant, made a supplementary statement containing further allegations.

The allegations set out below are those contained in the original statement and the supplementary statement.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in that:-

1. He has breached an undertaking given to his client, the Royal Bank of Scotland (“the Bank”) in August 2002;

2. He has failed to respond substantively or at all to correspondence from the Bank from January 2003 to date or to correspondence from The Law Society from March 2004 to date;
3. He failed to produce to The Law Society Investigation Officer at the outset of the inspection in May 2005 the accounting records for the practice of R F Williamson LLB Solicitor (“the Firm”), in breach of Rule 34 (1) of the Solicitors Accounts Rules 1998;
4. He failed to keep the Firm’s accounting records properly written up and/or maintained after 31st August 2004 to show his dealings with client monies and office monies in relation to client monies, in breach of Rule 32 (1), 32(2), 32(4) and 32(5) of the Solicitors Accounts Rules 1998;
5. He failed to carry out client account bank reconciliations during the 8 month period from 1st September 2004 until 30th April 2005 in breach of Rule 32(7) of the Solicitors Accounts Rules 1998;
6. He held two suspense ledger accounts, one with an unexplained debit balance of £4,808.90 and the other with an unexplained credit balance of £4,535.51 in breach of Rule 32(1) and 32(16) of the Solicitors Accounts Rules 1998;
7. He failed to keep copy bills within the Firm’s central bills file and/or failed to distinguish on client bills between disbursements and fees and/or between disbursements paid or not yet paid as at the date of the bill, in breach of Rule 32(8) of the Solicitors Accounts Rules 1998;
8. He failed to maintain adequate accounting procedures and systems in breach of Rule 22(1), and 22(5), Rule 32(1), 32(2), 32(4) and 32(5) of the Solicitors Accounts Rules 1998 and not conforming with Law Society guidelines issued under Rule 29 of the Solicitors Accounts Rules 1998;
9. He allowed the client bank account to have a minimum cash shortage of £2000 as at 30th April 2005, in breach of Rule 7(1), Rule 19(2) and Rule 22(8) of the Solicitors Accounts Rules 1998;
10. He paid costs directly into the office bank account when no bill of costs had been rendered to clients in breach of Rules 19(1) and 19(2) of the Solicitors Accounts Rules 1998;
11. He provided misleading costs information to clients contrary to Practice Rule 15 and to the Solicitors’ Costs Information and Client Care Code;
12. He failed to take adequate steps to wind up the Firm and to protect the interests of his clients before and after the bankruptcy order made against him on 22nd September 2005.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 13th April 2006 when Jayne Willetts appeared as the Applicant, the Respondent did not appear and was not represented.

The evidence before the Tribunal

At the opening of the hearing the Applicant explained that nothing had been heard from the Respondent. All relevant documents, including Civil Evidence Act Notices under the Tribunal's procedural rules had been served upon the Respondent. They had been served by special delivery to what was believed to be his home address. He had appeared on the electoral roll at that address for the past twenty years. No documents had been returned and no indication had been received that he was not at that address. The Law Society had intervened into the Respondent's practice and the Applicant explained that The Law Society's intervention agent had not heard from him.

The Tribunal ruled that due service had been achieved of all relevant papers, the Respondent had been notified of the hearing date. He had not responded to evidential notices served upon him.

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

The Tribunal Orders that the Respondent, Ronald Frank Maclean Williamson of RFM Williamson Solicitors, First Floor, 38a Oswald Road, Scunthorpe, DN15 7PQ, 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 £18,040.55.

The facts are set out in paragraphs 1 to 25 hereunder:-

1. The Respondent, born in 1949, was admitted as a solicitor in 1973. He practised as a sole practitioner from 38a Oswald Road, Scunthorpe DN15 7PQ.
2. On 8th August 2002 the Royal Bank of Scotland instructed the Respondent to act for it in a mortgage to Mrs H who was an existing client acting as a guarantor for EYNTS Ltd. The guarantee was secured by a charge on property owned by Mrs H.
3. Royal Bank of Scotland provided the Respondent with standard written instructions and certified that the instructions were subject to paragraph 3 (c) and (e) of Practice Rule 6 of Solicitors Practice Rules 1990 (acting for more than one party).
4. On 9th August 2002 the Respondent signed and sent the Report on Title which contained the following information:-

“We owe the Bank a duty of care as our client, subject to the limitations set out in rules 6(3) (c) and (e) of the Solicitors Practice Rules 1990 and we have complied with all the conditions referred to in the Bank's instructions”.
5. On 4th November 2002 the Respondent wrote to the Bank enclosing the original guarantee and confirming that registration of the charge was in hand.
6. On 15th January 2003 the Bank wrote to the Respondent requesting the title deeds. The Bank wrote ten further letters requesting the deeds. No response was received from the Respondent.

7. Land Registry Office Copy Entries obtained by the Bank demonstrated that at 28th July 2005 the Bank's charge had not been registered.
8. The Bank complained to The Law Society and a caseworker spoke to the Respondent by telephone on 16th March 2004 when he confirmed that there was no excuse and that he was in the process of registering the title; he expected that to be done by the end of March.
9. On 6th, 15th and 22nd April 2004 the Law Society caseworker left messages and then did speak to the Respondent who confirmed that he was waiting to hear from the Stamp Duty Office about penalties which he would meet. He would contact the Bank. The Respondent was out of the office on 17th May 2005 when the caseworker telephoned: he wrote on 21st May 2004 asking the Respondent to confirm within 7 days that the matter was in hand. No reply was received.
10. Another Law Society caseworker wrote requesting the Respondent to reply within 14 days on 20th September 2004.
11. On 25th October 2004 he spoke to the Respondent by telephone. The Respondent confirmed that the charge had not been registered and that he would be instructing another company to sort it out. In a letter of the same date the Respondent was told that unless he responded to The Law Society within 8 days he ran the risk of disciplinary proceedings. No reply was received.
12. When he accepted the Bank's instructions the Respondent undertook to complete and register the charge. He confirmed these instructions and his undertaking, which included registration of the charge and sending the title deeds to the Bank, when he completed the Report on Title on 9th August 2002.
13. A Forensic Investigation Officer of The Law Society (the "FIO") began an inspection at the Respondent's practice in May 2005. The FIO's report dated 29th September 2005 was before the Tribunal.
14. The report revealed that the Respondent's accounting records were in an adequate state and that there were numerous breaches of the Solicitors Accounts Rules. The Respondent's accounting records were not available for inspection by the FIO because they were with the Respondent's accountants. The Firm's accounting records had not been maintained since 31st August 2004; no client bank reconciliations had been carried out between 1st September 2004 and 30th April 2005; there were two unexplained "suspense ledger" accounts. A ledger entitled "unreconciled transfers" had an unexplained debit balance on the client side of £4,808.90 and a ledger entitled "query transactions" had an unexplained credit balance on the office side of £4,535.51.
15. Bills did not distinguish between disbursements and fees or between disbursements paid or not yet paid as at the date of the bill. Copy bills were not kept in a central bills file.
16. The accounting procedures were generally unsatisfactory and did not comply with The Law Society Guidelines including books of account not having an adequate narrative for each transaction and the balance on the office side of the client ledger not being readily ascertainable.

17. There was a minimum cash shortage on client account which arose when the Respondent had paid costs in two matters into office account where the clients had not received a bill or other notification of the firm's costs.
18. The Respondent charged £20 for a telegraphic transfer fee and £40 for completion of a Stamp Duty Land Transaction Return on conveyancing matters as disbursements. The fee for completing the Stamp Duty Land Transaction Return was not a disbursement. The telegraphic transfer fee was generally omitted from the costs estimate provided to clients. The Respondent agreed in discussion with the FIO on 15th August 2005 that the information could have been clearer.
19. The Respondent also told the FIO that he had not received any advice from his accountants on accounting procedures and systems and they had not taken proper steps with regard to the accounts since August 2003. The Respondent agreed that the accounting records were inadequate and there had not been compliance with the Solicitors Accounts Rules.
20. On 22nd September 2005 the Respondent was adjudged bankrupt; his practising certificate was automatically suspended.
21. On 28th September 2005 a Law Society caseworker wrote to the Respondent reminding him that he should not be practising as a solicitor.
22. On three occasions in October 2005 the Respondent telephoned the caseworker for advice.
23. On 13th October 2005 the Respondent said that he was considering having the bankruptcy order annulled and entering into an Individual Voluntary Arrangement. He also said that he was not practising as his mental state would not allow it.
24. The Intervention Agent reported that the Respondent had not closed down his firm in an orderly way. A number of clients had been seriously inconvenienced by his failures. Examples of this included the striking out of a client's claim to the Employment Tribunal and in a debt action; a client having been told that her conveyancing file had been sent to another firm when it had not; on the date when a client was to complete his purchase of property the client found that the Respondent's office was in darkness and no completion arrangements had been made and one client had not been notified of the date of a court hearing.
25. The Respondent had written to a client about financial proposals following a matrimonial separation after the date of his bankruptcy when his practising certificate had been suspended.

The submissions of the Applicant

26. The Respondent undertook to act on behalf of the Royal Bank of Scotland as lender as well as Mrs H as borrower and to complete and register the charge. The Bank's instructions to the Respondent were subject to the limitations contained in paragraphs 3 (c) and (e) of Practice Rule 6 relating to the situation where solicitors act for both lender and borrower. Paragraph 3 (c) sets out the basis upon which a solicitor is

permitted to accept instructions to act on behalf of both lender and borrower in an institutional mortgage and included at subparagraph 3 (c) (xi) was the work involved in registering the transfer and mortgage. Paragraph 3 (e) provided that the terms of Practice Rule 6 would prevail in the event of ambiguity.

27. An undertaking was defined by principle 18.01 of the Guide to the Professional Conduct of Solicitors, 8th edition, as “an unequivocal declaration of intent made by a solicitor and addressed to someone who reasonably places reliance on it.” An undertaking need not include the word “undertake”. The Respondent had undertaken to the Royal Bank of Scotland to carry out its instruction including the completion and registration of the mortgage. The Respondent had not denied that he had given such undertaking. He remained in continuing breach.
28. The Respondent had accepted in discussion with the FIO that he had not complied with the Solicitors Accounts Rules.
29. The Law Society’s Intervention Agent had ascertained that although the Respondent had taken some steps to inform clients that he was intending to close down his practice he had not done this in a structured way and many clients had been severely inconvenienced because he failed to notify them that he would not be in a position to practise after 22nd September 2005 because of the bankruptcy order.

The submissions of the Respondent

30. The Respondent made no submissions

The Tribunal’s Findings

31. The Tribunal found all of the allegations to have been substantiated.

The Tribunal’s decision and its reasons

32. It was a serious matter for a solicitor to breach an undertaking given to an institutional client. A solicitor’s failure to deal promptly and substantively with written and telephoned enquiry made by his professional regulatory body was also to be viewed seriously. Such failure prevented the regulatory body from exercising its proper duties and functions which were in place for the protection of the public.
33. A solicitor is bound to comply punctiliously with the Solicitors Accounts Rules. Those rules are in place for the protection of the public and any breach is to be deprecated.
34. Whilst all of these matters are serious the Tribunal takes the most serious view of the inconvenience which the Respondent caused to his clients. As a solicitor he had a clear and high duty to put the best interests of his clients first and he simply abandoned that important responsibility.
35. The Respondent’s behaviour could serve only to damage the good reputation of the solicitors’ profession. It was clear that the public had a need to be protected from a solicitor who was prepared to allow his behaviour to fall so far below the standards of probity, integrity and trustworthiness required of a member of the solicitors’ profession.

36. The Tribunal ordered that the Respondent be struck off the Roll of Solicitors.
37. The Applicant had sought her costs and indicated to the Tribunal the level of those costs. The Tribunal considered that the costs sought were entirely reasonable. The Respondent had played no part in the proceedings and had not given any indication as to whether or not he agreed with the quantum of costs sought. In the circumstances the Tribunal considered that it was reasonable to save time and further cost by ordering the Respondent to pay the Applicant's costs in the figure sought namely £18,040.55 which included the figure of £9,000.00 for the costs of The Law Society's Forensic Investigation Officer.

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

P Haworth
Chairman