

IN THE MATTER OF PETER ANTHONY YEELES, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A Gaynor-Smith (in the chair)
Mr P Kempster
Mr D E Marlow

Date of Hearing: 12 September 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 Jonathan Richard Goodwin, Solicitor Advocate of 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 17th August 2005 that Peter Anthony Yeeles, solicitor, formerly of Gosforth, Newcastle upon Tyne, NE3 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 unbecoming a solicitor in each of the following particulars namely:

- (i) that he practised in breach of condition(s) attached to his Practising Certificate for 2001/2002;
- (ii) that he failed to comply with a Direction of an Adjudication Panel dated 19th December 2002 in that he failed to produce evidence to the Office for the Supervision of Solicitors ("OSS") that he had closed his practice;
- (iii) that he improperly claimed costs which he knew or ought to have known he could not justify in the administration of the estate of WJH deceased;

- (iv) that he acted improperly and contrary to his position as a solicitor in that he took unfair advantage of the estate of WJH deceased by charging the estate costs for work done in relation to a personal injury claim when in fact the claim had the benefit of Green Form Funding and from whom the Respondent received payment;
- (v) that he failed to reply to correspondence from The Law Society;
- (vi) that he held himself out as being a solicitor whilst he did not hold a Practising Certificate for the period 10th January 2003 – 30th January 2003;
- (vii) that he made representations to The Law Society that were misleading and/or inaccurate concerning the payment of Counsel's fees;
- (viii) that he failed to act in the best interests of his client in that he took instructions directly from his client subsequent to the appointment of a Court of Protection Receiver;
- (ix) that he failed to act in the best interests of his client in that he failed to oppose an application which resulted in the setting aside of a judgment in favour of his client;
- (x) that he made representations to his client and/or solicitors which were misleading in that he represented that the Court had of its own volition, set aside a judgment when he knew or ought to have known that that was untrue.

By a supplementary statement dated 21st July 2006 it was further alleged that the Respondent had been guilty of conduct unbefitting a solicitor in each or any of the following further particulars, namely:

- (xi) that he made a claim(s) for cost which he knew or ought to have known he could not justify (an allegation of overcharging and dishonesty);
- (xii) that he made representations to his client which were misleading and/or inaccurate (an allegation of dishonesty);
- (xiii) that he withdrew money from client account other than as permitted by Rule 19 and/or 22 of the Solicitors Accounts Rules 1998;
- (xiv) that he had utilised clients' funds for his own benefit.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 12th September 2006 when Jonathan Richard Goodwin appeared as the Applicant and the Respondent appeared unrepresented.

The evidence before the Tribunal included the Respondent's admission of the allegations in their entirety.

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

The Tribunal Orders that the Respondent, Peter Anthony Yeeles of Gosforth, Newcastle upon Tyne, NE3, 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 £17,000.

The facts are set out in paragraphs 1-19 hereunder:

1. The Respondent, born in 1946, was admitted as a solicitor on 5th December 1972. At all material times the Respondent carried on practice on his own account under the style of Peter Yeeles & Co from the offices at 27 Lansdowne Terrace, Gosforth, Newcastle upon Tyne.

Allegations (i)-(ii)

2. On 31st May 2002 an Adjudicator imposed immediate conditions upon the Respondent's Practising Certificate. In particular, the Respondent was no longer able to act as a solicitor other than in employment approved by the then Office for the Supervision of Solicitors ("OSS"). This condition became effective from 10th September 2002.
3. On 21st October 2002 a caseworker from the OSS telephoned the Respondent's office and the Respondent's receptionist answered " Peter Yeeles & Co". The receptionist stated that the Respondent was with a client. The OSS wrote to the Respondent on 22nd October 2002 requesting an explanation of this and, in particular, for information as to his arrangements to apply for approval of employment or partnership or arrangements to dispose of his practice. The Respondent did not reply.
4. The matter was referred to an Adjudication Panel on 19th December 2002 which directed that the Respondent provide evidence of closure of his practice by 10th January 2003. The Respondent failed to provide any such evidence and on 27th January 2003 an Adjudication Panel resolved to intervene into the Respondent's practice on the ground of breach of a condition imposed on his Practising Certificate for the practice year 2001/2002.

Allegations (iii) – (v)

5. The Respondent had been instructed by a Mr H in 1998 in relation to a personal injury action in 1998. Legal Aid had been refused and the Respondent had been paid the sum of £213.33 from the then Legal Aid Board in respect of Green Form work carried out by him in relation to the matter. On 5th July 2000 Mr H died and the Respondent was instructed by Mr H's daughter to deal with the administration of the estate. The Respondent's fees in his client care letter to Mr H's daughter quoted fees at £60 per hour. Following distribution of the estate, the Respondent submitted six bills in the total sum of £4,150 plus VAT and disbursements. The daughter requested a Remuneration Certificate and the matter was considered by an Adjudicator. The Adjudicator determined that the correct charge in respect of administration of Mr H's estate was £1,700. The Adjudicator further noted that the Respondent had raised a bill to the estate in the sum of £470 for work undertaken in relation to the personal

injury action but in respect of which the Respondent had already received the sum of £213.33 from the Legal Aid Board.

6. In December 2001 a caseworker from the OSS wrote to the Respondent requesting his comments upon the apparent overcharging. The Respondent failed to reply and, when the caseworker telephoned the Respondent's office on 14th January 2002 and again on 22nd January 2002, the Respondent on both occasions did not reply. A further letter from the OSS dated 9th February 2002 likewise failed to elicit a response from the Respondent, and likewise a final letter from the OSS dated 3rd April 2002.

Allegation (vi)

7. The Respondent's Practising Certificate terminated on 20th January 2003. The resolution to intervene in his practice was dated 27th January 2003 and became effective on 30th January 2003. The Respondent held himself out as a solicitor in the period 20th January - 30th January. The Respondent, by his solicitor's letter dated 17th February 2003, accepted that there had been a ten day period when he had practised uncertificated.

Allegation (vii)

8. In May 2001 the General Council of the Bar advised the OSS under the Withdrawal of Credit Scheme 1988, that a withdrawal of credit direction had been issued to the Respondent on grounds of non-payment of Counsel's fees to Mr Carlisle, Mr Dye and Mr Stewart. The OSS sought the Respondent's explanation and the Respondent replied by letter dated 13th August 2001 that Mr Stewart's fees had been met. The Respondent further stated by letter dated 18th October 2001 that Mr Dye had also been paid. Mr Dye was not in fact paid until 30th October 2001 and the fees due to Mr Stewart remained unpaid.
9. The OSS wrote to the Respondent on 7th February 2002 when the above came to light and requested the Respondent's explanation for misleading it as to the true position. The Respondent did not reply.

Allegations (viii)-(x)

10. In December 1997 Blake-Turner, solicitors, wrote to the Respondent to state that they acted for a Mr ET through a Mental Health Act Receiver, Mr NHS, appointed by the Court of Protection in January 1997. On 3rd March 1998 the Respondent commenced proceedings in the County Court in the name of Mr ET suing by his next friend, Mr NHS, the Receiver.
11. By letter dated 11th September 1998 Blake-Turner queried with the Respondent whether he had the Receiver's authority to commence proceedings. The Respondent's reply implied that proceedings had begun before the Receiver's appointment.
12. On 2nd March 1999 summary judgment was obtained by the Respondent on behalf of Mr ET. On 11th March 1999 solicitors acting for the judgment debtor issued an application that judgment be set aside. The Respondent failed to attend the hearing of the application. The judgment was set aside. The Respondent thereafter wrote to

Blake-Turner to say that the court had of its own volition set aside the judgment. This was untrue in that the Respondent had chosen not to attend the application.

Allegation (xi-xii)

13. The Respondent was instructed in connection with the administration of the estate of Mrs O who died in September 1997. Mr and Mrs T were executors of Mrs O's estate, the gross value of which was £1,496,818.
14. It was agreed between Mr T and the Respondent that the latter's standard charges would apply save that the "value element" should be a charge of 1% of the value of the estate and capped at a maximum of £10,000.
15. In January 1998 the Respondent wrote to Mr and Mrs T to say that considerable time had been spent on the administration of Mrs O's estate and he would like to take a payment on account as regards his fees. Interim fees were agreed in a telephone conversation with Mr T subsequently. The Respondent's attendance note of the time indicates that Mr T was asked for £1,000 plus VAT which was deducted from the estate on 9th January 1998 as a first payment on account. In reality however the Respondent had already deducted £15,000 plus VAT in respect of three bills all of which were issued in November 1997.
16. The Respondent furthermore sent Mr and Mrs T an 'up to date cash statement' in December 1998 which he presented as a statement of receipts and payments to date. The schedule included an item for payment of £47,000 to the Respondent's firm but in reality the Respondent had by that date already deducted £71,688.05 representing some 19 bills.
17. Mr and Mrs T subsequently changed solicitors and it came to light that the Respondent had charged Mr and Mrs T costs totalling £86,359. On a strict application of the terms of business agreed between Mr T and the Respondent, the total costs should have been £33,000. Scrutiny of the files by a costs draftsman led to a report dated 6th February 2006 in which the costs draftsman gave his opinion that the global maximum charge in respect of all time costs, maximum value element and mark up should have been £45,578.
18. The Respondent was aware of the over-charging and this over-charging therefore amounted to an act of dishonesty. The Respondent was likewise aware of his misrepresentations to Mr and Mrs T and this too amounted to dishonesty.

Allegations (xiii)-(xiv)

19. The Respondent's client matter file showed that none of the bills had been sent to Mr and Mrs T. In some circumstances the ledger showed costs had been deducted but there was no corresponding bill on file. Nearly all the bills were for round sum amounts and did not represent actual costs.

The Submissions of the Applicant

20. This was a very serious case of misconduct. Allegations (xi) and (xii) involved dishonesty. The Respondent had not sought to deny any of the allegations. In cases of proven, or as in this case admitted, dishonesty, a professional body has little choice other than to remove the dishonest member from membership: see Bolton -v- The Law Society 1994 2ALL ER 486.

The Respondent's submissions and mitigation

21. The Respondent had admitted from the outset of the hearing that he was guilty of all the allegations made against him. He said the work done on Mrs O's estate had been done by a locum over whom he had failed to exercise proper control. The Respondent had however been aware that Mrs O's executors had been overcharged for the work done. The Respondent was conscious of this dishonesty and acknowledged that he had failed as a solicitor. In mitigation, the Respondent spoke of the turmoil in his personal life for the last ten years. His father had died and his marriage had broken down. He had lost control of his work and had failed to seek help from those who could have helped him. He had turned to alcohol instead. The Respondent asked the Tribunal to take into account a number of personal references now produced to it.

The decision of the Tribunal and its reasons

22. The Tribunal found all the allegations proved against the Respondent on his own admissions. This was a very serious case and included findings of dishonesty. The Applicant had rightly referred the Tribunal to the judgment in Bolton -v- The Law Society. It had been cited with approval in The Law Society -v- Wilson (2006) EWHC 1022. It could only be in the most exceptional case that a finding of dishonesty on the part of a solicitor did not result in that solicitor being struck off the Roll. The Respondent's case was not exceptional, notwithstanding the Respondent's frankness in acknowledging his own wrongdoing. The Tribunal for its part acknowledged that the Respondent's conduct, which was the subject of the allegations heard today, was at a time of considerable emotional distress in the Respondent's life and was no doubt out of character. However the fact remained that the Respondent was aware of the dishonesty perpetrated upon Mr and Mrs T. This was conscious impropriety on the part of the Respondent and the Tribunal concluded that it was right that he should be Struck Off the Roll of Solicitors.
23. Costs of £17,000 had been agreed between the Applicant and the Respondent at the outset of the hearing and the Tribunal ordered the Respondent to pay costs in this sum.

DATED this 15th day of November 2006
on behalf of the Tribunal

A Gaynor-Smith
Chairman

