

IN THE MATTER OF PETER SCHILLI-SOMJEN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Mr R J C Potter
Lady Maxwell-Hyslop

Date of Hearing: 1st August 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 Jane Willetts, Solicitor Advocate of Hammonds, Rutland House, 148 Edmund Street, Birmingham, B3 2JR on 23rd January 2006 that Peter Schilli-Somjen of Hanwell, London, W7, solicitor, might be required to answer the allegations contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think right.

The allegations against the Respondent were:

1. He failed to deliver to The Law Society by 30th June 2004 an Accountant's Report ("the 2003 Accountant's Report") for Peter Schilli-Somjen Solicitors for the year ending 31st December 2003 contrary to Section 34 of The Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998.
2. He failed to deliver to The Law Society by 30th June 2005 an Accountant's Report ("the 2004 Accountant's Report") for Peter Schilli-Somjen Solicitors for the year ending 31st December 2004 contrary to Section 34 of The Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998.

3. He had been guilty of conduct unbefitting a solicitor in that he failed to comply with an Adjudicator's decision made on 7th February 2005 "expecting" him to deliver to The Law Society the 2003 Accountant's Report within 28 days of his notification of the decision.
4. He had been guilty of conduct unbefitting a solicitor in that he practised as a solicitor without there being in force a practising certificate since his last practising certificate was terminated on 1st December 2004.
5. He carried on practice without indemnity insurance cover from 6th October 2004 to 12th January 2005 contrary to the Solicitors Indemnity Insurance Rules 2004.
6. He had been guilty of conduct unbefitting a solicitor in that he failed to respond to correspondence from The Law Society promptly or at all.

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

The evidence before the Tribunal included a bundle of documents prepared by the Applicant containing letters addressed by her to the Applicant and relevant Royal Mail delivery certificates.

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

The Tribunal Orders that the Respondent, Peter Schilli-Somjen of Hanwell, London, W7, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 1st day of August 2006 and the Tribunal 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.

The facts are set out in paragraphs 1 to 17 hereunder:

1. The Respondent, born in 1954, was admitted as a solicitor in 1980. He was until 12th January 2005 a sole practitioner practising as Peter Schilli-Somjen Solicitors from 806 Harrow Road, Wembley, Middlesex, HA0 3E1 and latterly from Suite 304 Canada House, 272 Field End Road, Eastcote, Ruislip, Middlesex, HA4 9NA.
2. On 8th July 2004 The Law Society wrote to the Respondent reminding him that he had not delivered his 2003 Accountant's Report. No response was received. A request for this Accountant's Report was made on 23rd August 2004 with a chasing letter on 7th October 2004. There was no response.
3. On 26th October 2004 The Law Society wrote to the Respondent reminding him that he had not applied for a practising certificate for the practising year 1st November 2004 to 31st October 2005. Further reminders were sent on 22nd November and 13th December 2004. No response was received.

4. On 11th January 2005 The Law Society wrote to the Respondent to confirm that his current practising certificate had been terminated with effect from 11th January 2005.
5. On 18th January 2005 the Respondent telephoned The Law Society confirming that he had a problem with his accountants but that he hoped the Accountant's Reports would be filed within one to two months. On the same date The Law Society wrote to the Respondent reminding him that he had not held a practising certificate since 11th January 2005 and warning him of the consequences of practising uncertificated.
6. On 25th January 2005 the Respondent wrote to The Law Society confirming that he had been nursing his wife who was suffering from cancer and that as his practising certificate had been terminated with effect from 12th January 2005 he had transferred all his current files to another solicitor.
7. On 7th February 2005 a Law Society Adjudicator ordered that unless the Respondent filed his 2003 Accountant's Report within 28 days of the date of the letter notifying him of the decision his conduct should be referred to the Tribunal.
8. On 9th February 2005 The Law Society wrote to the Respondent to ascertain whether he had indemnity insurance from 5th October 2004 onwards. The Respondent did not reply.
9. On 16th February 2005 a copy of the Adjudicator's decision was sent to the Respondent at his office address at 806A Harrow Road. The Respondent was no longer at this address and had notified The Law Society of this by telephone on 18th January 2005.
10. On 30th March 2005 a second copy of the Adjudicator's decision was sent to the Respondent at his new office address. The Respondent had by his letter dated 25th January 2005 indicated that this office address would be open only until the end of February 2005 or thereabouts.
11. The Law Society was subsequently notified that the Respondent had been adjudged bankrupt on 1st December 2004. The Respondent did not notify The Law Society of his bankruptcy.
12. On 9th May 2005 a third copy of the Adjudicator's decision was sent to the Respondent at his home address 36 Cowper Road. The 28 day period for delivery of the 2003 Accountant's Report was to run from this date.
13. On the same date The Law Society wrote to the Respondent advising him that as his practising certificate automatically terminated on the date of the bankruptcy order he had been practising uncertificated from 1st December 2004 to 12th January 2005, the date that he transferred his files to another solicitor. The Respondent did not reply to this letter. The Respondent was also reminded that he had not replied to The Law Society's letter dated 9th February 2005 regarding indemnity insurance cover.
14. On 12th July 2005 The Law Society wrote to the Respondent pointing out that he had not delivered his 2004 Accountant's Report. The Respondent did not respond.

15. On 16th August 2005 The Law Society wrote to the Respondent stating that his 2004 Accountant's Report was outstanding and requesting a response within 14 days. The Respondent did not reply.
16. The Respondent's Practising Certificate expired by reason of his bankruptcy on 1st December 2004 but on 14th December 2004 the Respondent wrote two letters to his client Mr R regarding appearances before the Magistrates Court. On 11th January 2005 he wrote to the Crown Prosecution Service regarding his client Mr B and a hearing before Watford Magistrates Court fixed for 23rd May 2005. On 20th January 2005 the Respondent wrote to his client Mr J reporting on the outcome of a hearing before Watford Magistrates Court on 18th January. He included in the letter client care information and confirmed that he would be ceasing practice for a short while for pressing personal reasons and that a colleague would be taking over his case.
17. Enquiries with West Herts Magistrates Court have revealed that the Respondent personally represented Mr J before the West Hertfordshire Magistrate on 18th January 2005 and made a successful application to vary conditions of bail.

The Submissions of the Applicant

18. The Tribunal was invited to find the facts of the allegations proved on the documents before it. The Applicant had no information as to what the Respondent was currently doing. The Respondent had written a letter indicating that his wife was ill and that he was on "self imposed gardening leave".
19. The Respondent made no submissions.

The Tribunal's Findings

20. The Tribunal found the allegations to have been substantiated.
21. At a hearing on 12th July 1994 the Tribunal found the following allegations to have been substantiated. The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following respects namely that he had:
 - (a) practised as a solicitor without a practising certificate;
 - (b) failed promptly to pay the contributions due from him to the Solicitors Indemnity Fund Limited;
 - (c) failed to reply to correspondence from the Solicitors Complaints Bureau.
22. In its written Findings dated 9th August 1994 the Tribunal said:

"The matters alleged against the Respondent were perhaps not at the most serious end of the scale relating to professional misconduct. However the Respondent was without a practising certificate over a lengthy period of time when he continued to act for clients. If solicitors are to maintain any credibility with members of the public they must be punctilious in adhering to the regulations by which they are bound. A failure to respond to letters addressed to a solicitor by his own professional body prevents that body from monitoring the profession and actively protecting the public and thus

maintaining its confidence in the solicitors' profession as a whole. The Tribunal had considered imposing a period of suspension but on consideration believed that a fine would be an appropriate sanction to impose upon the Respondent. The quantum of the fine reflected the seriousness with which the Tribunal regarded the Respondent's breaches".

23. At the conclusion of the hearing the Tribunal ordered that the Respondent, Peter Schilli-Somjen of 36 Cowper Road, Hanwell, London, W7 pay a fine of £3,500 such penalty to be forfeit to Her Majesty the Queen and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,638.25 inclusive.

The Tribunal's Decision and its Reasons

24. The Tribunal was concerned to note that the Respondent had had similar allegations substantiated against him in 1994. The Tribunal recognised, of course, that this was some time ago and it also appeared from the letter written by the Respondent referred to above that he had at the material time encountered personal difficulties. The Respondent had taken no part in the proceedings and the Tribunal recognised that the information that it had was somewhat limited. There appeared to be no evidence of financial irregularity or dishonesty and consequently the Tribunal considered that it would be both appropriate and proportionate to order that the Respondent be suspended from practice for an indefinite period of time.
25. The Applicant had applied for the costs of and incidental to the application and enquiry and it was right that the Respondent should bear these. However the Tribunal was not minded to fix the costs, which were fairly substantial, in the absence of the Respondent or in the absence of his having made any representations about them.
26. The Tribunal therefore ordered that the Respondent pay the Applicant's costs, such costs to be subject to a detailed assessment if not agreed between the parties.

DATED this 18th day of September 2006
on behalf of the Tribunal

A H Isaacs
Chairman