

IN THE MATTER OF GEOFFREY JOHN HAWORTH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr P Kempster (in the chair)
Mr A H B Holmes
Mr D E Marlow

Date of Hearing: 16th November 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 Peter David Godfrey McCormick, senior partner in the firm of McCormicks Solicitors, Britannia Chambers, 4 Oxford Place, Leeds, LS1 3AX on 18th May 2006 that Geoffrey John Haworth, solicitor, of Bramhall, Stockport, 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 fit.

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

- 1) Prepared and/or submitted false applications to the Legal Services Commission ("the LSC");
- 2) Falsely amended the date on a client's witness statement.

Dishonesty was alleged in respect of both of the allegations.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 16th November 2006 when Peter David Godfrey McCormick appeared as the Applicant and the Respondent was represented by Mr A M MacPherson of Ascroft Whiteside Solicitors of Blackpool.

The evidence before the Tribunal included the admissions of the Respondent both as to the allegations, facts and documents and the oral evidence of the Respondent. A bundle of written testimonials in support of the Respondent was before the Tribunal.

Upon opening his case the Applicant indicated to the Tribunal that he would not rely on the evidence set out in paragraphs 23 to 27 (relating to the client K) and paragraphs 31 to 33 (relating to the client M).

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

The Tribunal Orders that the Respondent Geoffrey John Haworth of Bramhall, Stockport, 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 £5,000.

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

1. The Respondent, born in 1952, was admitted as a solicitor in 1989. At the material times he was employed as a solicitor at Clifford Johnson & Co Solicitors of Manchester. The Respondent resigned from that firm in December 2004 and at the time of the hearing he was working for Skemp & Co Solicitors of Burnage, Manchester.
2. The Respondent specialised in family law.

Allegation 1 - Preparing and/or submitting false applications to the LSC

3. Amendment to an LSC costs limitation can be obtained when future work is to be done on a file which is likely to exceed that limitation. Retrospective costs amendments are rarely granted. A solicitor's bill should be submitted to the LSC within three months of conclusion of the case. This would normally be within three months of a judgment, final court order or termination of the solicitor's retainer.
4. The facts in support of allegation 1 were provided by the cases of clients Ms F, Mrs T, Mr S and Mrs Q.

Ms F

5. This case concerned ancillary relief proceedings which concluded on 3rd September 2004. On this date the costs draftsman wrote to the Respondent informing him that the LSC costs limitation had been exceeded. He did not consider that a retrospective amendment would be allowed.
6. The Respondent completed an application form to extend the costs limitation on the ground that he had to "prepare a Scott Schedule to instruct Counsel for finding of fact hearing". The Respondent also stated that the current LSC funded costs were £8,000. The LSC costs limitation was £10,000 and the costs incurred as at 3rd September 2004 were £13,508.67. An LSC Funding Certificate was issued on 18th October 2004 increasing the limitation costs from £10,000 to £14,000.78. A Scott Schedule had been served on 18th May 2004 and a finding of fact hearing took place on 24th and

25th May 2004, three months before the extension of limitation form had been prepared.

7. The Respondent's written explanation agreed that his statement was misleading and that he "made an irrational decision in an attempt to tidy the file".

Mrs T

8. The Respondent submitted a claim for assessment form dated 2nd November 2004 to the LSC in which he stated that the date for the final work on the file was 24th June 2004. The most recent relevant date was 24th March 2003 which was when the client's husband withdrew from the case after a reconciliation between the parties.
9. The Respondent amended a handwritten telephone note so that it gave the impression that Mrs T agreed to the withdrawal on 24th June 2003 rather than 24th March 2003. The last telephone call on the file took place on 24th March 2003. The LSC paid out £298.18 which was £29.82 in excess of the correct amount. When admitting his actions in writing the Respondent said:-

"Feeling under increasing pressure, I misled the LSC by putting in dates that were incorrect... I deeply regret my actions and I am relieved that the excess payment ... has been repaid to the LSC."

Mr S

10. The Respondent prepared and submitted an application to extend the LSC costs limitation in this case when the matter had already concluded on 20th October 2004 after a Consent Order was agreed. The Respondent sent the client a copy of the Consent Order stating "This now brings your instructions to a conclusion and we will now be closing our file and billing the Legal Services Commission for our costs".
11. The Respondent's bill was for £3,104.63. The LSC costs limitation was £2,500.
12. The Respondent subsequently prepared an application to the LSC on 9th November 2004 requesting an extension to the costs limitation for the following reason: "Costs limitation has expired, require increased funding to attend pre-hearing review. If no agreement, the matter is to be listed for a final hearing and for us to represent the client at this hearing."
13. In his written response to the Law Society the Respondent stated, "The effect of the application is to extend the cost limit from the date it was granted and was thus irrelevant. I am pleased that the claim was not processed and the application form was returned".

Mrs Q

14. In the matter of his client Mrs Q, the Respondent prepared a claim form for assessment of costs on 18th October 2004 claiming that the date for the final work on the case was 30th July 2004. The case had been settled on 18th June 2004 and the final work on the file was carried out on 23rd June 2004.

15. The case had been resolved by Consent Order on 11th March 2004. The Respondent wrote to Mrs Q on 18th June 2004 stating “your case has now been settled and we hold monies in your favour in an interest earning account”.
16. The Respondent admitted that he inserted an incorrect date. There had been no need to insert any date as the statutory charge applied to this case and it was the client who discharged the bill, not the LSC. The Respondent did not claim for any work done on 30th July 2004.

Allegation 2 - Falsely amending a court witness statement

17. On 7th July 2003, the Respondent sent his client, Mrs P, her witness statement for signature. She signed and returned it in July 2003, dated 7th July 2003. The Respondent did not process the court application until 15th November 2004 at which point he amended the date on Mrs P’s witness statement to 7th July 2004.

The Submissions of the Applicant

18. The LSC would not necessarily pick up errors or alterations in documents submitted to it. The LSC tended to trust solicitors and would not be looking for something fraudulent or deceitful. Even if the LSC had not been persuaded to make payments over and above those that were proper, the acts in question had been performed by the Respondent.
19. The Applicant did put the allegations made against the Respondent as ones of dishonesty.

The Submissions of the Respondent

20. The Respondent accepted the allegations and accepted that his behaviour as alleged had been dishonest.
21. In particular the Respondent accepted that in the case of Mrs P he had amended the date on the client’s witness statement because there had been significant delay. The Respondent thought the court might consider the application to be out of date and further delay would be caused if an up to date statement was required. The Respondent accepted that he amended the statement to try to avoid the consequences of delay from arising. The alteration was blatant and obvious. It was accepted that it was a serious matter to submit a statement to a court of law amended by the solicitor without the client’s consent.
22. That matter had come to the attention of the Respondent’s firm following a file review in October 2004. An investigatory meeting had been called by the firm’s senior partner to deal with the events in the matters of Mrs T and Mrs Q. The Respondent had not been able to attend that meeting owing to illness and he had produced a note confirming that from his doctor, who said that owing to stress the Respondent would not be able to give a proper account of himself. The firm adjourned the meeting and the cases of Ms F and Mrs P came to light.

23. At the material time the Respondent had been suffering from stress of work and the profound effect upon him of the death of his mother. Those aspects had not been denied by the Law Society.
24. The Respondent had not sought at any time to prevaricate but had accepted what he had done and that what he had done had been wrong.
25. The Respondent had qualified later in life than was customary, having previously been a fire fighter. He was injured during the course of working as a fire fighter in a serious accident and it was during his recuperation that he began to study law.
26. The Respondent undertook work in the field of family law and had been on the Law Society's Family Law and Children's Panels.
27. Staff at the firm where the Respondent was employed had also suffered from stress and had left. The Respondent had found himself handling not only his own workload but also that previously handled by those members of staff. Further staff recruited did not stay with the firm. The Respondent found himself taking over the workload of a new member of staff who had left. The reality was that he was carrying the workload of about three family law solicitors.
28. The Respondent reported to the firm's senior partner who was an unapproachable man.
29. Further applicants were interviewed but no-one was appointed to fill the staff vacancies. It had become the Respondent's practice to work some 50 or 60 hours per week. There had been occasions when he could only undertake work that was absolutely necessary and had not been able to achieve the progress in cases that he would have wished.
30. In June 2004 the Respondent had been praised by his employers for his excellent cost results and had been awarded a bonus. He had been able to cope but files had been falling behind.
31. The Respondent's father had died leaving his mother alone. His mother suffered from Parkinson's disease and by the summer of 2004 her illness had grown worse. She had been in and out of hospital and had a tendency to discharge herself earlier than she should. She wished to go back to her own home. The Respondent was the only relative living locally who could help her and he did so as a conscientious son. He visited his mother almost every day. When the Respondent's mother passed away he visited her home in the morning and then went back to the office. He continued to work and took only two days off to organise and attend to matters relating to the funeral.
32. The Respondent had a heavy workload and lacked help from his employers. The Respondent undertook almost all of his own advocacy and spent a great deal of time in court. He continued to see clients and undertake client work but unfortunately billing and administrative matters were given a lesser priority. The Respondent's employers at the time of the Respondent's mother's death had expressed their condolences but had done nothing to assist.

33. After the death of his mother the Respondent began to suffer from physical symptoms. One of his arms began to shake and there had been several occasions when he believed he was having a heart attack. He had become irritable. On one morning he went to the wrong court.
34. The Respondent had been appraised by his employers a week or so after his mother died. That in itself was surprising but even then that like all other appraisals showed that he was doing well.
35. It was the Respondent's position that his employer was interested only in the financial side of the practice and had no interest in the welfare of the firm's employees.
36. Because of the Respondent's stress-related symptoms it must have been obvious that the Respondent was going downhill.
37. The Respondent had come to recognise that he should not have continued to go to work. However, he had taken the view that there was no-one at the firm to help his clients and he did not want to let them down.
38. By 11th October 2004 the Respondent had been close to a nervous breakdown. He had too much work to do. He told the senior partner at the firm who replied that the Respondent must sort out files that had not yet been brought up to date.
39. One of those files was that of Ms F. The Respondent realised that work done had exceeded the LSC costs limitation. He accepted that what he did was dishonest but it was clear that at the time he was not thinking straight. He had also come to realise that his action was not likely to achieve anything.
40. The Respondent admitted that his actions had been dishonest. He had made no attempt to prevaricate. He had been seeking to do what his employer wanted but had done it in what appeared to be a childish way. It was common to all of the cases placed before the Tribunal that the Respondent had no intention to extract any financial gain for himself or the firm. He deliberately put in dates that he knew were not correct, his purpose really being to get the client file back into a state that would be acceptable to his employer.
41. The Tribunal was invited to take the view that the Respondent's dishonesty (which he had openly admitted) was at the bottom of the scale. The Respondent had been very close to denying that he had been dishonest but he could not truthfully say that he had not known what he was doing.
42. The Respondent's actions were very easy to discover. When initially some matters were discovered the reaction of his employers was to postpone the meeting with him for only two days and then to say that more mistakes had been found. The employer agreed to take the two days off the Respondent's annual leave allowance. The employer's attitude had, of course, contributed to the Respondent's stress. He had been working under pressure to keep costs up to a satisfactory figure.
43. The Respondent had cooperated fully with the Law Society. He wished to see this matter behind him and hoped that he might be permitted to continue doing his good work.

44. Written testimonials in support of the Respondent had been handed up. All attested to his competence and integrity. He was currently employed by a firm of solicitors who were happy to give him their full support.
45. At the material time the Respondent had been under relentless pressure and had suffered a difficult bereavement. He was now working entirely satisfactorily and in the absence of such demanding pressure.
46. At the time of the hearing the Respondent was enjoying good health and was entirely reliable. He was a man clearly of great integrity. He was friendly and pleasant and there were no longer any indications of stress.
47. The Respondent should have sought help and/or taken time off work when pressures became too great. It was unfortunate that his background led him not to wish to show what he perceived to be weakness and to grit his teeth and soldier on. He would not permit feeling sorry for himself. He had a close and loving family but they had not understood what he was going through.

The Findings of the Tribunal

48. The Tribunal found the allegations to have been substantiated, indeed they were not contested.

The Tribunal's Decision and its Reasons

49. The Tribunal found this to be a very sad case. The Tribunal did accept that the Respondent had at the material time been placed under considerable pressure of work whilst caring for his elderly, infirm mother. The Tribunal accepts that her death was hard for him to bear.
50. The Respondent gave oral evidence and was in the witness box clearly a straightforward and honest witness. The Tribunal accepted that he had soldiered on in order not to let down the clients of the cases of which he had conduct. The Tribunal recognises that an employer who perceives an employee to be exhibiting a rock-like strength might well underestimate the effect of pressure and bereavement upon that person.
51. The Tribunal has given the Respondent credit for his admission, his cooperation with his professional regulatory body, the frank way in which he gave evidence, the excellent testimonials offered in his support and the fact that he has been working in the field of matrimonial law entirely satisfactorily since the events before the Tribunal and has the support of his current employers.
52. The Tribunal has had, however, to contend with the fact that the Respondent's actions in the matters drawn to the Tribunal's attention were, upon his own admission, dishonest. He himself accepted that he knew that what he was doing was wrong. The Tribunal accepted that he was not in his own words "thinking straight".
53. Whilst the Tribunal has sympathy for the position of the Respondent it has to bear in mind its duty to protect the public and the good reputation of the solicitors'

profession. Having heard the Respondent the Tribunal did not consider that protection of the public was an issue which it need keep in the forefront of its mind. In considering the protection of the good reputation of the solicitors' profession the Tribunal bore in mind the judgment of Sir Thomas Bingham, Master of the Rolls (as he then was) in the 1993 Court of Appeal case of Bolton -v- The Law Society 1994 1 WLR 512 and in particular when he said:-

“It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness ... Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty whether or not leading to criminal proceedings and criminal penalties. In such cases the Tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors. ... The decision whether to strike off or to suspend will often involve a fine and difficult exercise of judgment to be made by the Tribunal as an informed and expert body on all the facts of the case.”

54. In reaching its decision the Tribunal has considered what the perception of the public would be if a solicitor who has been found on his own admission to have been dishonest were permitted to continue as a member of the profession which requires such high standards. Even though the Tribunal gave credit to the Respondent as set out above, it was both right and proportionate that the Respondent be struck off the Roll of Solicitors. It was also right that the Respondent should pay the costs of and incidental to the application and enquiry. The parties had not reached agreement as to the quantum of such costs. In all the particular circumstances of this case the Tribunal considered that it would save a further expenditure of time and money if it were summarily to fix the costs. It did so, fixing the costs to be paid by the Respondent in the sum of £5,000 to include Value Added Tax.
55. Having made it plain in its reasons above that the Tribunal does not consider that the Respondent posed any threat to the public and whilst, of course, not seeking to bind the Law Society in any way, it encouraged the Law Society to give favourable consideration to any application by the Respondent to be employed within the solicitors' profession.

Dated this 11th day of January 2007
On behalf of the Tribunal

P Kempster
Chairman