

IN THE MATTER OF IAN PATRICK BELL AND
[RESPONDENT 2 – NAME REDACTED], solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A G Ground (in the chair)
Mrs H Baucher
Lady Maxwell-Hyslop

Date of Hearing: 1st March 2007

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by George Marriot, solicitor and partner in the firm of Gorvins Solicitors, 4 Davy Avenue, Knowlhill, Milton Keynes, MK5 8NL on 24th July 2006 that Ian Patrick Bell of Billericay, Essex, CM12, and *RESPONDENT 2* of Colchester, Essex, CO4, solicitors, 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 against both Respondents were that they had been guilty of conduct unbecoming a solicitor in that they:-

- 1) Failed to respond promptly and substantively to communications from the Law Society;
- 2) Failed to comply with the Solicitors Accounts Rules 1998 contrary to Rule 6 of the SAR 1998;
- 3) Failed to keep their accounting records properly written up so as to show all dealings with client and office money contrary to Rule 32 (1-4) of the SAR 1998;
- 4) Failed to remedy the breaches contrary to Rule 7 of the SAR 1998;

- 5) Maintained an overdrawn client account balance contrary to Rule 22(5) of the SAR 1998;
- 6) Failed to reconcile their client account in breach of Rule 32(7) SAR 1998;
- 7) Failed to adequately supervise their bookkeeper contrary to Rule 13 of the Solicitors Practice Rules 1990;
- 8) Failed to notify promptly the Law Society of a closed office contrary to Section 84 of the Solicitors Act 1974.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 1st March 2007 when George Marriott appeared as the Applicant, Mr Bell did not appear and was not represented and *RESPONDENT 2* was represented by Mr Brown of Counsel.

The evidence before the Tribunal included the admissions of Mr Bell contained in a letter addressed to the Applicant in which he confirmed that he would not attend the hearing. *RESPONDENT 2* admitted the allegations and invited the Tribunal to take into account his written statement.

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

The Tribunal Orders that the Respondent Ian Patrick Bell of Billericay, Essex, CM12, 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 £6,975.43.

The Tribunal Orders that *RESPONDENT 2* of Colchester, Essex, CO4, solicitor, do pay a fine of £5,000, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,975.43.

The Tribunal made it clear in relation to the above orders that the obligation of the Respondents to pay the total costs of the application and enquiry in the sum of £6,975.43 was a joint and several one.

The Tribunal further Orders that *RESPONDENT 2* be subject to the condition that he practise only on the basis that:-

- a) he does so in employment which has been first been approved by the Solicitors Regulation Authority;
- b) he is not a member, office holder or shareowner of an incorporated solicitor's practice;
- c) he shall immediately inform any actual or prospective employer of these conditions and the reasons for their imposition;
- d) he is not a signatory to any client or office account and does not receive, hold or have access to any client monies;

- e) his work is directly supervised by a solicitor who has held a Practising Certificate for the previous 36 months free from conditions.

The facts are set out in paragraphs 1 to 28 hereunder:-

1. Mr Bell, born in 1947, was admitted as a solicitor in 1973 and his name remained on the Roll.
2. *RESPONDENT 2*, born in 1946, was admitted as a solicitor in 1976 and his name remained on the Roll.
3. The Respondents practised together as Bell & Howe from St Mary's Business Centre, 29 Manor Road, Colchester, Essex, CO3 3LX and from Christmas House, 98A Newland Street, Witham, Essex, CM8 1AH. The Witham office was run by Mr Bell. The Colchester Office was run by *RESPONDENT 2*.
4. At the time of the hearing Mr Bell did not hold a Practising Certificate. *RESPONDENT 2* held a Practising Certificate that was subject to conditions and was employed by a firm of solicitors with the approval of the Law Society.
5. The Practice Standards Unit (PSU) of the Law Society visited the Respondents' firm on 18th and 19th March 2003. The PSU produced a report on 8th April 2003 setting out the steps that should be taken by the firm.
6. The PSU identified the firm did not have a written complaints procedure and, with regard to current complaints, had delayed in responding to letters and telephone calls from the Law Society.
7. The PSU drew the Respondents' attention to their standard client care documents pointing out the name or status of the fee earner and the name of the partner with overall responsibility for the matter had not been identified.
8. The PSU found no client care letters appeared on a number of matters being dealt with at the Witham office.
9. There had been a breach of Rule 6 of the Solicitors Practice Rules 1990 in that the Respondents acted for both vendors and purchasers in a variety of transactions conducted at the Colchester Office.
10. There had been numerous breaches of the Solicitors Accounts Rules 1998 and in particular the Respondents had not undertaken monthly reconciliations of client accounts contrary to Rule 32(7), there were overdrawn client balances, failure to post entries and balances on client account had been maintained long after the conclusion of the client matters.
11. The PSU required in its summary of its Report a number of actions from the Respondents.
12. No reply was received to the letter sending the PSU Report to the Respondents and reminders were sent by the PSU on 23rd May, 10th June and 3rd July 2003. No reply

was received. Following a telephone call a further copy of the PSU Report was sent on 25th February 2004. No reply was received to that or to reminders sent on 23rd March, 13th and 30th April 2004.

13. In the absence of response the PSU transferred the matter to the Regulation Unit of the Law Society which, on 10th August 2004, requested an explanation from the Respondents for their failure to reply to queries raised of them by the PSU.
14. Mr Bell did respond on his own and *RESPONDENT 2*'s behalf by letter dated 2nd September 2004, in which Mr Bell confirmed *RESPONDENT 2* had been absent from the office through ill-health from 20th August 2004 until 7th September 2004, that he was aware of the visit from the PSU which the two Respondents had discussed, changes had been put in hand but the delay in replying earlier was due to the absence of training to be given to the firm's cashier by its accountants and the Respondents were under pressure largely because they practised from two offices at Witham and at Colchester. The Witham office shortly was to be closed.
15. In addition Mr Bell supplied a copy of the firm's complaints procedure and a copy of a reconciliation to March 2003. He asserted that the firm's response times had improved and he appreciated the necessity of training.
16. The Forensic Investigation Unit of the Law Society, the FIU, began an inspection of the firm's books of account on 28th June 2005.
17. The FIU officer recorded there were no properly written up books of account and accordingly the Law Society was not able to express any opinion as to whether or not there were sufficient monies in client bank accounts to meet liabilities to clients.
18. *RESPONDENT 2* stated most of the accounting problems arose at the Witham office, which the Respondents had closed. *RESPONDENT 2* stated he thought bank reconciliations were being prepared on a monthly basis but reviewed them "as and when" the bookkeeper had given them to him. The firm's reporting accountant attended but was unsure of the location of the relevant books of account. *RESPONDENT 2* had agreed that the firm's books of account were "in muddle".
19. Owing to the inadequate bookkeeping the Law Society was unable to determine whether or not there were debit balances on client ledgers. The FIU Officer identified an overpayment from client account of £17,000 because an earlier payment to the client in the same amount had not been recorded on the relevant ledger. However, as there were no complete records, the Law Society was not able to verify whether a shortage actually existed then and if so how much. It had been noted the ledger showed a payment had been made in August 2002 but the transaction entry had not been posted until September 2003.
20. Owing to the absence of records, the Law Society was unable to determine whether clients' money had been incorrectly held in office bank account. The Society was provided with a list of transfers from office to client bank account which were said to be uncleared as at 30th November 2004 for the Colchester office and as at 30th June 2004 for the Witham office.

21. The Law Society found there were no bank reconciliations for designated deposit accounts, noted a bank reconciliation for the Colchester office at 31st May 2003 showed figures in respect of unpresented cheques, uncleared lodgements and a book difference but no figures to be verified. The Law Society also noted a manual client bank reconciliation for Colchester which showed, as at 24th November 2004, an unexplained manual adjustment and no list of liabilities to clients.
22. The Law Society also noticed that a manual client bank reconciliation for the Witham office which showed, as at 30th June 2004, 193 unexplained manual adjustments and no list of liabilities to clients against which reconciled client account balances could be compared.
23. The Law Society discovered that there were no office bank reconciliations.
24. The Respondent's Accountant's Reports for the years ending 31st March 2003 and 2004 made reference to substantial breaches of the Solicitors Accounts Rules 1998. In particular the Reports pointed out that there were client bank account surpluses, 11 overdrawn client ledger accounts and no bank reconciliations had been carried out in accordance with Rule 32(7). The Report also pointed out that on 14 occasions between March 2003 and March 2004 monies were not transferred from client to office account to cover bills within 14 days of being posted, files requested for a review could not be located, client bank reconciliations showed many occasions when client monies received or paid were not recorded, on some occasions there was little or no documentation on the client matter files to evidence entries on the relevant client ledger accounts, client ledger account current balances were not always readily ascertainable, postings to client ledger accounts were not always made in chronological order, on all occasions the computerised monthly client bank reconciliations were only agreed with additional handwritten adjustments, and the Witham office was lax in recording all transactions on file and notifying the cashier.
25. The Witham office in fact closed in October 2004. The Law Society records indicated that the office had been closed in March 2005.
26. An explanation was sought from both Respondents by letter dated 3rd August 2005, to which the Respondents replied by letter dated 17th August 2005. In that letter the Respondents disputed that the cashier had been absent from January to May 2005 and set out the chronology of her absence leading to her dismissal. *RESPONDENT 2* assumed responsibility for dealing with all "transfers of funds through the banking system and ensuring that all cheques were drawn". Mr Bell had moved from the Witham to the Colchester office in October 2004. Afterwards the Witham office was used as a consulting room. The Respondents had relied upon their cashier. They had not exercised close supervision of the cashier in view of her "seniority and qualifications".
27. The Respondents had arranged for their reporting accountant to attend in August 2005 to bring the books of account up to date. The Respondents undertook to report back to the Law Society following their meeting with their accountant. They did not seek to appoint a cashier until the reporting accountant had been able to resolve all issues. The Respondents said the administration of their firm had been found wanting and this had been as a result of the cashier's input and had been aggravated by the

maintenance of two offices and two sets of books of account. The Respondents said they had made a start with regard to postings and resolving the outstanding issues.

28. On 22nd August *RESPONDENT 2* telephoned the Law Society to confirm he had engaged a locum cashier who was making a start with the reporting accountant on the process of bringing the firm's books of account up to date. A further letter from *RESPONDENT 2* dated 12th September 2005 indicated a delay because of the weather and the cashier's lack of familiarity with the system and reported that the Respondents were engaging a further cashier.

The submissions of the Applicant

29. The Respondents had admitted the facts and the allegations. The Applicant did not allege that either of the Respondents had behaved dishonestly. Proper accounts records were required to be kept by solicitors to show all dealings with clients' money. The Respondents had not complied with the Solicitors Accounts Rules and had been guilty of a failure to remedy errors made contrary to Rule 7 of those Rules. They had maintained a number of client account debit balances and had failed to effect the reconciliations required under the Rules. The Respondents' bookkeeper (who had ceased to work for the Respondents) indicated that she had never been told to make reconciliations or compile lists of liabilities to clients.
30. The Law Society had taken the view that the situation was such that it was right to intervene into the Respondents' practice.
31. The Applicant applied for his costs in the sum of £6,975.43. He recognised that both of the Respondents had been adjudicated bankrupt. He invited the Tribunal to distinguish between liability and ability to pay. Counsel for *RESPONDENT 2* had indicated that the sum sought by the Applicant was not disputed. The Tribunal was invited to order the Respondents to pay the costs on a joint and several basis.
32. A number of claims had been made upon the Law Society's Compensation Fund, some of which had been paid. A number of claims were being processed.

The submissions of Mr Bell

33. Mr Bell did not appear and had made no submissions.

The submissions of *RESPONDENT 2*

34. After a period working as an assistant solicitor, *RESPONDENT 2* joined Mr Bell in partnership in April 1997. At that time they employed three solicitors and a legal executive, and then a further solicitor joined as a consultant. *RESPONDENT 2* assisted with the criminal side but his principal interest was matrimonial law. Mr Bell dealt with commercial property and development work. The Witham office was acquired with the purchase of a firm known to have existing commercial property clients. Mr Bell moved to this office in 1997 as did the cashier and accounts computers.

35. Staff problems led to difficulties at the Witham office which made a loss. Mr Bell had to inject more capital. *RESPONDENT 2* believed that it was probably at that time that Mr Bell became depressed with the situation.
36. Mr Bell had concealed from *RESPONDENT 2* the fact that the firm's indemnity insurance was not in place. The premium had not been paid and judgement had been obtained by the insurers against the Respondents.
37. That was the first time *RESPONDENT 2* had come into contact with the Law Society in any disciplinary matters and he suffered a restriction on his Practising Certificate.
38. The pressures on *RESPONDENT 2* grew. Mr Bell's health deteriorated and he was absent from his office for several months. *RESPONDENT 2* dealt with the post and DX at Colchester. He would be in the office between 4 and 5 am to dictate on his files, the stamped post would arrive by 7 am and he would collect the DX between 8 and 8.30, check this and open the Witham office by 9 am. Once he arrived at Witham he found he had to read and check virtually every file that had not been closed. Mr Bell's secretary had not told him of problems out of loyalty to Mr Bell. The problems seemed to be a lack of attention to administrative procedures, including correct accounting procedures, and a failure to respond promptly to clients and to complete work properly, including registering property matters.
39. After nearly three months at Witham *RESPONDENT 2* believed that he had remedied all matters and contacted Mr Bell to assure him that he would clear any problems so Mr Bell could return for a fresh and a clear start. When Mr Bell returned *RESPONDENT 2* continued to visit on a regular basis until he believed that Mr Bell had returned to full health.
40. *RESPONDENT 2* took the accounts department to Colchester, where he was still under pressure. There were staff difficulties. The number of complaints referred to *RESPONDENT 2* was steady, but he still found that even when he did clear matters Mr Bell had intercepted the post. *RESPONDENT 2* had to ensure that his letters were despatched.
41. By the end of 2001, although he continued to visit Witham, matters appeared to have improved and Mr Bell was very busy with development clients. Despite a number of queries referred to *RESPONDENT 2* as complaints partner, he genuinely believed the firm had "turned the corner".
42. It was in 2002 that the conveyancing legal executive's husband was diagnosed with lung cancer. She needed time off. *RESPONDENT 2* had to spend more time on her department. By 2003 Mr Bell had become increasingly depressed and talked of bankruptcy. In December 2003 *RESPONDENT 2* discovered that his own sister had cancer and had been given a matter of months to live.
43. By the beginning of 2004 there had been a great deal of tension between Mr Bell and *RESPONDENT 2*. *RESPONDENT 2* had not been able to take a break for some time. When he did attempt to take a week away from the office, he was compelled to return when the conveyancing legal executive's husband died.

44. *RESPONDENT 2* accepted that there had been unacceptable delay in responding to the PSU. The Respondents had dealt with the PSU requirements.
45. There had been “no properly written up books” because they could not be supported by proper reconciliations. *RESPONDENT 2* had never received any complaint from any client as to finances. The cashier worked in an open plan office with the conveyancing department. *RESPONDENT 2* was in the next room. At any time anyone with a need to see a ledger card would ask the cashier who would then print this out from the computer. Towards the end of the cashier’s time with the office there were delays in posting matters which could be put down to her absences from the office and the volume of postings. *RESPONDENT 2* himself checked all details before making transfers of funds in conveyancing transactions.
46. *RESPONDENT 2* had believed that bank reconciliations had been prepared monthly. He saw the pages of figures which the cashier told him had been prepared in accordance with the scheme supervised by the firm’s accountant. *RESPONDENT 2* had made considerable efforts to ensure that the firm’s accounts were in order. He accepted that there had been errors and the books had not been written up to date.
47. *RESPONDENT 2* had been made aware at the inspection that there were no reconciliation sheets for the designated deposit accounts, but he had understood that all monies transferred to such accounts were shown on the ledger sheet so were properly recorded. The bank sent statements on these accounts on a regular basis.
48. The firm’s accountant spoke to *RESPONDENT 2* each year before her reports and while he was made aware of matters he understood that many of the problems were of long standing and that they were being cleared as the cashier worked through the reconciliations and once these were up to date such matters would become immediately apparent as postings were made and could be resolved. *RESPONDENT 2* was aware that these matters were breaches, but at no time did the accountant tell him that these were so serious that they could be the subject of action. In all cases he had understood that while they existed on inspection, they had been remedied.
49. *RESPONDENT 2* had relied on a very experienced and able cashier and had referred matters to the firm’s accountant, but he had to accept that he had fallen short of expectations in respect of accounts matters. There had of course been no suggestion of dishonesty.
50. Mr Bell’s move to the Colchester office had been intended to be a temporary measure as Mr Bell had indicated he was leaving, and in any event he did spend some days each week at the office collating old files and wills and deeds. It was for this reason that the Law Society was not notified more promptly about the closure of the Witham office as there had been no intention of any permanent closure.
51. Because of his circumstances at the time of the initial inspection *RESPONDENT 2* failed to take proper and effective steps. He should not have confined himself to questions of reconciliation but should have addressed the issue of the level of service from the offices, the existing cashiers and even the existing accountant as *RESPONDENT 2* had relied on those persons to support and advise him. He had not

appreciated the level of the shortcomings which should have been addressed at that time.

52. This situation would not have occurred had *RESPONDENT 2* and Mr Bell been able to work properly together. *RESPONDENT 2* had come to appreciate he should have sought independent advice at an earlier stage, though at that time he honestly believed he would be able to bring all accounts up to standard.
53. *RESPONDENT 2* apologised for his failure to maintain standards to the expected level. As a result of that failure on his part he had lost a practice which he had worked hard to expand. He suffered bankruptcy.
54. *RESPONDENT 2* hoped to be able to continue to practise law, and although he had been adjudicated bankrupt he had been able to work within a firm of solicitors with the consent of the Law Society.

The Findings of the Tribunal

55. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested by either Respondent.

Previous Findings in respect of Mr Bell

56. On 11th January 2001 the Tribunal found the following allegations to have been substantiated against Mr Bell. The allegations were that he were that he had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely:-
 - (i) he had failed and/or delayed to account to his client for monies due;
 - (ii) he continued to act for a client where the client could not be represented with either competence or diligence;
 - (iii) he failed to discharge his duties to his client with due diligence and/or in his interests;
 - (iv) he failed to operate a complaints handling procedure contrary to Rule 15 of the Solicitors Practice Rules 1990;
 - (v) he failed to deal promptly or at all with communications relating to the matter of a client and to communications from a client;
 - (vi) he failed to reply to correspondence from the Office.

57. On that occasion the Tribunal said:-

“This was a very serious case of a solicitor who had completely ignored his professional body. His client Mr J, an elderly man, had had to resort to a court order to ensure that his matter was properly completed and that monies owed to him were paid. The respondent’s behaviour had been very damaging to the profession in the eyes of the public. The explanation put forward to the Office

by the respondent's partner in no way excused the respondent's conduct. The respondent himself had not added to that explanation by his letter of 8th January 2001 nor had he appeared before the Tribunal to explain his position. The gravity of the matter would be reflected in the financial penalty imposed.

The unusual circumstances of the undertaking to Hunt & Hunt meant that the breach of undertaking, which the respondent had said was inadvertent, was of a technical nature. Nevertheless it was essential that solicitors honour undertakings to the letter and a financial penalty would be imposed in respect of the breach.

The Tribunal therefore ordered that the respondent Ian Patrick Bell of 98a Newland Street, Witham, Essex, CM8 1AH solicitor do pay a fine of £9500.00 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 £2604.00.”

58. In March 2007 the Tribunal was concerned that both Respondents appeared to be guilty of a complete abdication of their professional responsibilities. The allegations were most serious and the abdication of professional obligations went on for a considerable period of time. Mr Bell had already appeared before the Tribunal on an earlier occasion to answer broadly similar allegations and on that occasion the Tribunal had pointed out that his was a serious case of a solicitor completely ignoring his professional duties and responsibilities and the failures in this case prior to the Law Society's intervention into the Respondents' practice repeated the previous conduct of Mr Bell.
59. The Tribunal concluded that Mr Bell's repeated continuing misconduct was such that he had forfeited the right to remain a member of the solicitors' profession. The Tribunal concluded that it was both proportionate and appropriate that he be struck off the Roll of Solicitors.
60. The Tribunal had also given serious consideration to imposing a sanction on *RESPONDENT 2* that would interfere with his ability to practise given their serious concern about the admitted allegations. However the Tribunal considered that in the case of *RESPONDENT 2* there were a number of instigating factors. *RESPONDENT 2*'s explanations and mitigation presented to the Tribunal were taken into account. To an extent *RESPONDENT 2* was a victim of the failures, absences and in certain matters, concealment of the true position on the part of Mr Bell and unlike Mr Bell, he had not appeared previously before the Tribunal.
61. Given these investigating factors the Tribunal has concluded that it would be right to mark the seriousness with which it viewed *RESPONDENT 2*'s shortcomings to impose a financial sanction upon him and impose conditions on the way in which he might practise as a solicitor in the future. These conditions were put in place in order to protect the public and the good reputation of the solicitors' profession.
62. For the avoidance of doubt the Tribunal here wishes to make it plain that it places no time limit on the conditions it imposes on *RESPONDENT 2* and that the removal or

alteration of such conditions can be achieved only upon *RESPONDENT 2* making application in that regard to this Tribunal.

63. The Tribunal considered it was right that the Respondents should bear the Applicant's costs on a joint and several basis fixed in the sum sought by the Applicant which the Tribunal considered reasonable.

DATED this 20th day of April 2007
on behalf of the Tribunal

A G Ground
Chairman