

IN THE MATTER OF GUY WELBY RICHARDSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mrs K Todner (in the chair)  
Mrs J Martineau  
Lady Maxwell-Hyslop

Date of Hearing: 16th July 2007

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of The Law Society by Peter David Godfrey McCormick, senior partner of McCormicks Solicitors, Britannia Chambers, 4 Oxford Place, Leeds, LS1 3AX on 24<sup>th</sup> July 2006 that Guy Welby Richardson, solicitor of Dorridge, Solihull, West Midlands, 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.

At the hearing Mr McCormick notified the Tribunal that his address had changed to that of East Parade, Harrogate, North Yorkshire.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:

- (1) he acted contrary to Rule 1 of the Solicitors Practice Rules ("SPR") and Principle 19.01 of the Guide to Professional Conduct of Solicitors ("the Guide") by making misleading and/or inaccurate statements to both Frearsons and Blackhams Solicitors;
- (2) he acted contrary to Principle 21.01 of the Guide and the provisions of Rule 1 SPR by filing a misleading and/or inaccurate statement with the court;

- (3) he acted contrary to Rule 22 of the Solicitors Accounts Rules 1998 ("SAR") and Rule 1(a) and/or (d) SPR by improperly withdrawing and/or inaccurate statements to a client and a Law Society investigator.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 16<sup>th</sup> July 2007 when Peter David Godfrey McCormick appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included a bundle of documents to establish due service of the proceedings and other documents upon the Respondent. A Civil Evidence Act Notice and a notice pursuant to Rule 17A of the Solicitors (Disciplinary) Proceedings Rules 1994 had been served upon the Respondent.

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

The Tribunal Orders that the Respondent, Guy Welby Richardson of Dorridge, Solihull, West Midlands, 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 £11,796.23 inclusive.

**The facts are set out in paragraphs 1-26 hereunder:**

1. The Respondent, born in 1971, was admitted as a solicitor in 1996. His practising certificate was suspended on 29<sup>th</sup> April 2005 when he was adjudicated bankrupt. His bankruptcy remained undischarged.
2. At all material times the Respondent was practising as a consultant at Blackhams Solicitors of Birmingham ("the firm"). The Respondent joined the firm on 13<sup>th</sup> April 2004 when the firm took over Merricks Solicitors (where the Respondent had previously been employed) which went into administration on 8<sup>th</sup> April 2004.
3. The Respondent's employment with the firm was terminated on 10<sup>th</sup> January 2005 after which he joined LHP Law Solicitors in Redditch.
4. An Investigation Officer of The Law Society ("the IO") began an inspection of the firm's books of account and other documents on 20<sup>th</sup> April 2005. The IO's Report dated 15<sup>th</sup> September 2005 was before the Tribunal.

(i) Deliberately misleading Frearsons and Blackhams Solicitors

5. The Respondent acted for Mr E until he transferred instructions to Frearsons Solicitors. The Respondent did not transfer the file at the appropriate time and subsequently fabricated a letter so that it appeared that it had been sent on 27<sup>th</sup> October 2004.
6. The Respondent then wrote to Frearsons Solicitors on 13<sup>th</sup> December 2004 enclosing a copy of that fabricated letter and suggested that Frearsons check their local DX office to see if the file was there.

7. He wrote to Frearsons on 6<sup>th</sup> January 2005 enclosing the file, stating that it had been returned to the Respondent by the DX as it had not "been called for".
8. In his interview with the IO the Respondent said "I had understood the file had been transferred but when I realised it had not I foolishly misled them."

(ii) Filing a deliberately misleading witness statement at court

9. The Respondent filed a witness statement on behalf of Ms H with the West London County Court in respect of the case of Ms H and Ms P. The witness statement was made by the Respondent and was dated 27<sup>th</sup> July 2004. In it the Respondent stated that he had had conduct of this matter until September 2003 whilst he was a member of Merricks LLP. He said the file was transferred to the Merricks London office after this time. He said:

"The Claimant's previous solicitors Merricks LLP were placed into administration with effect from the 8<sup>th</sup> April 2004. At that time I had joined my present practice [the firm] and had worked for that practice for a number of months."

10. Merricks went into administration on 8<sup>th</sup> April 2004 and the Respondent joined the firm on 13<sup>th</sup> April 2004.
11. In his meeting with the IO on 27<sup>th</sup> April 2005 the Respondent admitted that the dates were inaccurate and accepted that he intended to try to distance himself personally from the matter.

(iii) Improper withdrawals from office and client account

12. The Respondent was the sole director of a company called Ibcus Ltd, the registered office of which was the Respondent's home address. The IO's Report provided details of transfers to Ibcus from the firm's office and client accounts totalling £6,558.07.
13. Merricks had acted for W plc in relation to a commercial dispute. A letter dated 5<sup>th</sup> October 2000 was found on the file which showed that £2,976 plus VAT was held in a stakeholder account to the joint order of W plc and Mr C.
14. On 18<sup>th</sup> June 2004 the Respondent created a letter addressed to a Mr JC of W plc seeking authority to transfer the stakeholder monies to his new practice. The Respondent provided Mr JC with account details for the transfer. The authority dated 26<sup>th</sup> August 2004 appeared to have been signed by Mr JC and was dated 26<sup>th</sup> August 2004.
15. W plc had confirmed that a Mr JC had never worked at W plc, and similar confirmation was given to the IO by a longstanding employee of W plc.
16. The Respondent had acted for a Ms JC on a personal injury matter. It appeared that he had copied her signature from a "Form of Authority" regarding the release of her medical records. This signature was also dated 26<sup>th</sup> August 2004.

17. The Respondent opened a client matter in the name of Ibcus and arranged for the stakeholder monies to be transferred to the firm from Merricks. On 13<sup>th</sup> October 2004 the Respondent transferred £3,496.22 to Ibcus followed by a further £58.75 on 19<sup>th</sup> October 2004. The Respondent was the sole director of Ibcus and its registered address was also his home address.
18. When a partner of the firm sent a letter dated 2<sup>nd</sup> February 2005 to the Respondent requesting that the monies be returned, he received an email on 6<sup>th</sup> February 2005 in response which purported to be from a Mr Tim Murphy of Ibcus Ltd requesting a letter of instruction for the release of the monies which were being held on behalf of the parties.
19. At interview with the IO the Respondent denied that there had been any wrongdoing and claimed that Tim Murphy was a consulting engineer who was going to act as a mediator between E&W plc. When the IO questioned the Respondent about the signature on the authority and said there was some concern that it might have been forged, the Respondent indicated he "understood this but denied he was responsible". The Respondent said he could not give an explanation "off the top of his head."
20. During the 27<sup>th</sup> April 2005 meeting, the Respondent agreed to provide the IO with contact details for Mr M and details of the movement of the money in the Ibcus client account. The Respondent faxed a letter on 29<sup>th</sup> April 2005 with Mr M's contact details, stating that there would be enclosures with the hard copy of the letter. No hard copy of the letter was received. The IO wrote to the Respondent on 10<sup>th</sup> May 2005 requesting the documents. On 18<sup>th</sup> May 2005 the Forensic Investigation Unit of The Law Society received a letter purporting to enclose the documents but there were no enclosures.
21. Seven payments had been made from the firm's office account and one payment had been made from its client account to Ibcus. The Respondent claimed that the payments had been made to Ibcus for Dr L's medico-legal reports. A trainee solicitor who had been asked to look into the files to find out whether Dr L had received payment had established that, although there were letters on the file apparently enclosing cheques to Dr L for fees, the cheques had instead been paid to Ibcus Limited. Dr L's secretary had confirmed that Dr L had never received payment.

(iv) Misleading a client

22. The Respondent acted for Ms R in relation to an accident claim. The firm received a letter of complaint from solicitors subsequently instructed by Ms R who alleged that the Respondent had incorrectly informed Ms R on 2<sup>nd</sup> June 2004 that he had issued an application for an interim payment and that he had discharged an expert's fees. On 25<sup>th</sup> June and 5<sup>th</sup> June 2004 the Respondent said that the application for an interim payment was with the court and that he was awaiting a hearing date. No interim payment application had ever been filed with the court.
23. On 19<sup>th</sup> November 2004 the Respondent told the client he had asked the insurers to make a voluntary payment. He had not.

24. The Respondent acted for Ms H in relation to a personal injury matter which was listed for trial at Birmingham County Court on 24<sup>th</sup> November 2004.
25. The Respondent advised Ms H that he had settled her claim for the sum of £3,250. He had not and the the client never received any settlement sums.
26. The Respondent had filed a Notice of Discontinuance with the court on 22<sup>nd</sup> November 2004 thereby withdrawing his client's claim and incurring payment of the defendant's costs. He had no instructions from the client to do this.

### **The Submissions of the Applicant**

27. With regard to the misleading witness statement the Respondent filed at the court, it had been a view of a partner in the firm, and it was the Applicant's submission, that the Respondent had not dealt with Ms H's case properly and had tried to distance himself from having had personal conduct of the matter.
28. The Respondent had engineered payments of money from the firm, both from office and client account, to his own company Ibicus Limited. The Respondent was the sole director of Ibicus and that company's registered address was the Respondent's home address.
29. The Tribunal would note a statement of a partner at the firm with the papers who had signed certain client account cheques. He did not question the payments and explained that it would not have been normal or necessary to do so when appropriate cheque requisitions had been completed.
30. With regard to the client, Ms R, the Respondent simply had not told her the truth.
31. With regard to the matter of Ms H, it had been the view of a partner at the firm and was the Applicant's submission that the Respondent had been grossly negligent in that case and had discontinued it so that the client would not find out at court that he had failed to issue proceedings against a further party and that her claim was likely to fail as a result. In connection with this matter the Respondent had lied both to a partner in the firm and to the IO.
32. The Tribunal was invited overall to take the view that the facts spoke for themselves.
33. The Applicant did put his case against the Respondent as one of dishonesty. He invited the Tribunal to apply the tests in Twinsectra Ltd v Yardley and Others [2002] UKHL 12 summarised in the following way namely by the standards of ordinary people the Respondent had been dishonest and that he realised that by those standards his conduct was dishonest. It was not open to the Respondent to set his own standards.
34. At the time of the hearing the Respondent remained on the Roll of Solicitors although his practising certificate remained suspended owing to his remaining an undischarged bankrupt.
35. The Applicant sought his costs and explained to the Tribunal how they were made up.

### **The Findings of the Tribunal**

36. The Tribunal found the allegations to have been substantiated and made a finding that the Respondent had been dishonest. The Respondent had told lies, forged documents and taken moneys to which he was not entitled. By the standards of ordinary people such behaviour was dishonest. The Respondent knew that what he was doing was wrong and dishonest as was indicated by action taken by him to disguise what he had done. The Tribunal concluded that the Respondent was in fact a stranger to the truth. It was recognised that the solicitor's profession required the highest standards of integrity, probity and trustworthiness of its members and dishonesty on the part of a solicitor will not be tolerated.
37. The Tribunal Ordered that the Respondent be struck off the Roll of Solicitors. The Tribunal considered the Applicant's application for costs and in all the circumstances considered that the quantum sought was reasonable and in order to save a further expenditure of time and cost the Tribunal ordered the Respondent to pay the Applicant's costs fixed in the sum of £11,796.23 inclusive.

Dated this 3<sup>rd</sup> day of September 2007

K Todner  
Chairman