

IN THE MATTER OF ADAM PATRICK BUTLER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A N Spooner (in the chair)
Mr A H B Holmes
Mr P Wyatt

Date of Hearing: 20th 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 Michael Robin Havard, solicitor and partner in the firm of Morgan Cole, solicitors of Bradley Court Park Place, Cardiff, CF10 3DP on 7th August 2006 that Adam Patrick Butler, solicitor of Grotton, Oldham, 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:

1. He had conducted himself in a manner which compromised and impaired his integrity contrary to Rule 1(a) of the Solicitors Practice Rules 1990;
2. He had conducted himself in a manner which was likely to compromise or impair his good repute and that of the Solicitors profession contrary to Rule 1(d) of the Solicitors Practice Rules 1990
3. He had acted in a deceitful way contrary to his position as a solicitor.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 20th March 2007 when Michael Robin Havard appeared as the Applicant and the Respondent was represented by Alistair Wright of Counsel.

The evidence before the Tribunal included the admissions of the Respondent who gave oral evidence and the oral evidence of Mr Parry and Mr Parsons.

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

The Tribunal Orders that the Respondent, Adam Patrick Butler of Grotton, Oldham, 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 £2,815.06.

The facts are set out in paragraphs 5 hereunder:

1. The Respondent, born in 1962, was admitted to the Roll in 1990. At the material time the Respondent was employed as an assistant solicitor with Ian Simpson & Co of Royal London House, 196 Deansgate, Manchester, M3 3WF. At the date of the hearing the Respondent was employed by Messrs Winder Taylor Fallows of Harley House, 568 Chorley Old Road, Bolton, BL1 6AB.
2. The Respondent had conduct of conveyancing matters for a developer client during the course of which he prepared stamp duty land tax ("SDLT") returns showing incorrect dates of completion in order to avoid penalties that would have been incurred if the forms had not been submitted to the SDLT office within 30 days of completion.
3. The SDLT returns related to the purchase of individual properties on one development for the same developer client. In one case the completion date was 9th September 2005 but was stated to be 30th September 2005, in the second case the completion date was 26th August 2005 but was stated to be 27th October 2005, in the third the completion date was 27th May 2005 and was stated to be 29th May 2005 and in the fourth the completion date was 19th August 2005 but was stated to be 11th August 2005. SDLT returns had been submitted late in five matters, which included the fourth matter referred to above.
4. The Respondent's course of conduct had been brought to the attention of his employer by the client to whom the Respondent explicitly stated the reason (ie the avoidance of the payment of a penalty) for inserting incorrect dates into the SDLT returns.
5. There had been a further file where the SDLT return had been signed by the client but had become out of time for submission to the SDLT office, and a further matter had come to light where completion had taken place on 23rd September 2005 but the transfer on the file had been dated 23rd October 2005. On another file the SDLT form had been correctly completed but had not been sent to the client for signature.

The Submissions of the Applicant

6. The Applicant did allege that the Respondent had behaved dishonestly and the Respondent had admitted such dishonesty.
7. At an early stage the Respondent had admitted what he had done and had stated why he had done it. He had been forthright and had made the position clear claiming to have been under considerable stress at the material time and having also lacked supervision.
8. The Applicant further noted that testimonials had been submitted in support of the Respondent which spoke highly of him.
9. Nevertheless the matter was put before the Tribunal as a case disclosing dishonesty on the part of the Respondent and The Law Society took such a matter very seriously. The reputation of the solicitors' profession was paramount and the perception of the public of the integrity of the profession was built on the trust and confidence that the public had to have in it.

The Submissions of the Respondent

10. During his first few years at Ian Simpson & Co the Respondent was happy and enjoyed his work in the field of property law. The Respondent had not practised law for several years previously, having been engaged in legal recruitment.
11. The Respondent had generated substantial fee income but this was dramatically reduced when an important client withdrew its instructions. The Respondent felt pressure to make up his fee income and began to take on more work than he could sensibly handle and this led to his working longer hours and working weekends and on holidays, putting his job before the interests of his wife and children.
12. In particular 2005 had been an extremely difficult year. Attempts to move house had caused much difficulty, the Respondent had been working especially long hours and had not taken proper holidays.
13. The SDLT forms in question related to one of the firm's best clients, a construction company, C Limited. The matter had been unusual including the purchase of subsidising properties by insurers and their transfer to the client company.
14. Because he was working under considerable pressure the Respondent overlooked getting the SDLT forms signed by the clients.
15. The Law Society had placed a condition on the Respondent's practising certificate limiting his ability to practise to approved employment only. His current employment was in compliance with that condition.
16. In September 2005 the Respondent's principal had taken a holiday and the Respondent had conduct of the largest transaction he had ever handled. At this time the Respondent's wife became ill and suffered distressing symptoms. She was diagnosed with a condition that is difficult to live with but is treatable and rarely life

threatening. The treatment involved a high dosage of steroids which itself was not pleasant. The Respondent's wife had found it difficult to cope and had pressed the Respondent to go home early to help with domestic arrangements.

17. In October the Respondent realised that he had overlooked the SDLT forms. He knew that penalties would be payable. He was anxious not to burden his employer with even relatively small penalty amounts (£100 in each case) and the Respondent took the decision to post date the forms. The forms had been sent to the client on different dates but the Respondent's action had been a "one off" aberration rather than a series of actions. He appreciated that one of the forms dated back to May but he had not been able to recall that one at all.
18. The Chairman of the client company discovered what the Respondent had done and called upon him for an explanation. The Respondent immediately owned up and wrote an explanation to him. This was on Friday 28th October. He knew that the Chairman informed the Respondent's employer on the same day. The Respondent had not sought to conceal the matter from his employer, but had intended to raise it after discussing it with the client.
19. The Respondent had to find a new job. He had been open and frank about his situation and in January 2006 Winder Taylor Fallows offered him a position with the full knowledge of his circumstances. The partners at Winder Taylor Fallows had ensured that the Respondent had been able to cope with his daily caseload and with the additional pressure of the disciplinary proceedings. The firm had stood by him.
20. The Respondent had at all times been open and frank about his actions and had fully cooperated with The Law Society.
21. The Respondent was held in high regard by his current employers and others, all of whom spoke highly of his competence and integrity. His action had been an uncharacteristic lapse in the face of severe personal pressure. In all of the particular circumstances it was hoped that the Tribunal could deal with the Respondent with a degree of leniency and not interfere with his ability to practise.

The Findings of the Tribunal

22. The Tribunal found the allegations to have been substantiated and made a finding that the Respondent had been dishonest, indeed he did not contest the position.

The Tribunal's decision and its reasons

23. The Tribunal gave the Respondent credit for his frank and open admissions and his acceptance that his actions had been not only unacceptable but also dishonest. The Tribunal has taken into account the mitigating circumstances placed before them by the Respondent and has also taken into account the high regard in which the Respondent was held by those who knew him, including his current employers. The Tribunal accepted that the Respondent's behaviour had been out of character but it could not accept that it had amounted to a single aberration as the Respondent had falsified the dates on documents on more than one occasion over a period of time. The Tribunal was particularly concerned that the Respondent had presented to his

client a document containing a false date for the client to sign which was to be submitted on his behalf to the Stamp Duty Land Tax Office. This was a very serious matter. The Respondent had explained to the client the reason for the incorrect date and it was the client himself who had realised that what was proposed was not right.

24. The Tribunal recognised that the sums of money involved were not large and that the Respondent by acting as he did had not done so for any personal gain save, perhaps, not having to face up to his employer and admit his mistakes. It was not beyond the realms of possibility that such admission would have had an adverse affect upon the annual bonus that he received.
25. The Tribunal recognises that the sanction which it imposed represented a personal tragedy for the Respondent and for his family. The Tribunal's first duty was to ensure the protection of the public and its second duty was to ensure that the good reputation of the solicitors' profession was maintained. Sometimes an Order which serves to fulfil the Tribunal's duties is hard on an individual. The Tribunal Ordered that the Respondent be struck off the Roll of Solicitors and the Tribunal further Ordered that he should pay the costs of and incidental to the application and enquiry. The Respondent had agreed the quantum of costs with the Applicant and the Tribunal Ordered him to pay those costs in the agreed fixed sum.

DATED this 27th day of April 2007
on behalf of the Tribunal

AN Spooner
Chairman