

IN THE MATTER OF JEREMY FIELDHOUSE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J N Barnecutt (in the chair)
Ms A Banks
Mr G Fisher

Date of Hearing: 27th 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 Jayne Willetts, solicitor advocate of Hammonds, Rutland House, 148 Edmund Street, Birmingham, B3 2JR on 25th August 2006 that Jeremy Fieldhouse of Tillworth, Axminster, Devon, 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 fit.

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

- 1) He failed to notify the Law Society and the members of Penningtons LLP that he had been made bankrupt;
- 2) He practised as a solicitor between 21st April 2005 and 14th July 2005 when he did not hold a current Practising Certificate.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 27th March 2007 when Jayne Willetts appeared as the Applicant and the Respondent was represented by Mr Andrew Hopper of Queen's Counsel, solicitor. The evidence before the Tribunal included the admissions of the Respondent.

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

The Tribunal Orders that the Respondent Jeremy Fieldhouse of Tillworth Axminster, Devon, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 27th day of March 2007 and they further Order 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 11 hereunder:-

1. The Respondent, born in 1946, was admitted as a solicitor in 1974. The Respondent no longer held a Practising Certificate.
2. The Respondent was until 14th July 2005 a partner with Penningtons LLP.
3. The Respondent was adjudged bankrupt on 21st April 2005.
4. On 14th July 2005 this matter came to the attention of Penningtons LLP when a letter relating to the bankruptcy was opened in Penningtons' post room.
5. On 14th July 2005 Penningtons LLP asked the Law Society whether it was aware that the Respondent had been made bankrupt and whether he had applied for the resulting automatic suspension to be terminated. The Law Society had received no such information or application from the Respondent.
6. A check on the Individual Insolvency Register showed that the Respondent had been made bankrupt on 21st April 2005 and that previously an Individual Voluntary Arrangement ("IVA") had been made on 8th October 1999.
7. The Respondent also contacted the Law Society on 14th July 2005 and followed this with a letter dated 15th July 2005 in which he applied for the automatic suspension of his Practising Certificate to be terminated.
8. By letter dated 21st July 2005 the Regulation Unit formally notified the Respondent that bankruptcy automatically suspended his Practising Certificate and that he could not practise as a solicitor from the date of the bankruptcy order.
9. The Regulation Unit wrote again to the Respondent on 8th August 2005 requesting his explanation as to why he failed to notify the Law Society and his fellow members of Penningtons LLP of his bankruptcy when he was first aware of it on 21st April 2005 and also asked whether he had practised as a solicitor since 21st April 2005.
10. By letter dated 20th August 2005 the Respondent provided his explanation for the events that had occurred. In particular he confirmed that he had been advised by his supervisor that an application for an annulment of the bankruptcy proceedings should be made due to the availability of third party funds to clear the debt. He understood that the effect of the pending application for annulment was to suspend the bankruptcy order and therefore allow him to continue in practice without notifying the

Law Society or Penningtons LLP. He had been suffering from ill-health and apologised for the situation that had arisen.

11. By further letter dated 14th August 2005 (date stamped 19th September 2005) the Respondent confirmed that he had ceased to be a member of Penningtons LLP on 14th July 2005. He said that he had carried out conveyancing work after the date of the bankruptcy order and had been held out as a solicitor as he had not appreciated that he was practising uncertificated.

The Submissions of the Applicant

12. The Respondent had admitted the allegations.
13. The Respondent had not advised either his firm or the Law Society of his bankruptcy and the matter had only come to light in the circumstances set out at paragraph 4 above. The Respondent and Penningtons had parted company on that day.
14. The Tribunal was asked to note that the matter had only been discovered by Penningtons inadvertently and also to note the potential serious consequences for Penningtons as the partnership would be terminated by the failure to notify. The position might be even more complicated by the fact that Penningtons was an LLP.
15. The Applicant had served a schedule of costs which had not been agreed and she therefore sought her costs to be subject to a detailed assessment unless agreed.

The Submissions on behalf of the Respondent

16. The serious consequences for Penningtons referred to by the Applicant would not have followed as the Respondent was a salaried partner only. Penningtons had not indicated any further concern on that point.
17. In the early 1990s the Respondent had been a highly successful solicitor in a large well-known Manchester practice. Three matters had then occurred:-
 - (i) The Respondent had undergone an acrimonious divorce following which the Respondent had liability for £3,000 per month maintenance and his wife also received the property.
 - (ii) There had been a property crash and the Respondent's income was seriously affected. He was head of property at his firm. This had led to internal feuding and moves to replace him by a younger man.
 - (iii) The above factors had led the Respondent to move to London. The Respondent had been known for his "rainmaking skills" but in London without his contacts he was unable to do this. His divorce had left him with nothing but he had the burden of mortgage debt which he struggled to maintain.
18. The debts incurred by the Respondent had been personal not professional liabilities and had been appropriate for him to incur at the time when he had been a high earner

with a sound marriage. In early 2000 he entered an IVA but struggled to pay the required monthly amount. He tried harder but being in debt and unable to see his way out led to clinical depression at around the time of the bankruptcy.

19. What had led to the offences before the Tribunal was not the fact of the bankruptcy but his failure to react to it for regulatory purposes.
20. A solicitor and philanthropist known to both the Respondent and Mr Hopper QC had, uninvited, offered to clear the Respondent's debts out of the proceeds of an international transaction the solicitor was about to complete. That solicitor had and continued to have total belief that the transaction would complete and the Respondent had shared that belief. Mr Hopper now did not. Ironically the same solicitor had promised to pay Mr Hopper's fees when the transaction was completed. Unfortunately the promises had continued to hold out hope for the Respondent.
21. An annulment of the bankruptcy had been expected and the Respondent had been told by his supervisor that the latter was so satisfied regarding the funds from the third party that he had drafted an appropriate application. This was the reason why the Respondent had not told anyone about the bankruptcy, as he thought the solution was around the corner. He persuaded himself for all practical purposes that bankruptcy was not in effect. There had been a degree of self-delusion.
22. The Respondent's failure to act was forgivable in context especially given the medical evidence and he was not to be judged as if he had been entirely responsible during that period. The Tribunal was referred to some of the expressions of shock and panic and feelings of paralysis written by the Respondent in relation to the bankruptcy. The Respondent had plainly been ill but also responsible.
23. The Respondent had been paralysed by shame because he could not pay his debts. The Respondent had continued to bank on the money coming from the third party. He had been unable to get back on his feet. He had not fully understood that he could have got his Practising Certificate back and obtained employment.
24. The Respondent was living in rented accommodation. It was hoped that he would be able to move on after the proceedings.
25. This was a purely regulatory issue. There had been no complaint or loss. The Respondent had undergone a self-imposed suspension of some 15 months. His financial position was ruinous which was why it had not been possible to agree costs, which would be discussed later.
26. The Respondent was a decent and honourable man who had got into a terrible mess and made himself ill. He had suffered shame and regret. It was submitted that this was a case which called for very little sanction given his self-imposed suspension and his financial situation.
27. The Respondent would have to move on in the realisation that there would be no miracle. His bankruptcy was about to be discharged. He had not worked for some time.

28. Penningtons had been aware of the IVA and had been supportive but had not been aware of the Respondent's crisis and inability to manage.
29. The Respondent now recognised that moving to London in his wish to achieve a clean break had been a disaster.

The Findings of the Tribunal

30. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
31. After very careful consideration of all the circumstances the Tribunal concluded that the appropriate penalty was an indefinite suspension. The reasons for this were the Tribunal's concern that the Respondent had not worked for 18 months and also the slight concern expressed by his own consultant psychiatrist regarding the possibility of a relapse, although the Tribunal was pleased to note that the consultant's view was that the precipitants were unlikely to occur again. Further the Respondent had shown a series of unsound judgements in this matter to date including his continuing belief that matters would be made right by a third party. The medical report referred to the Respondent's tendency to bury his head and referred to his unsound judgement. The Respondent had breached important professional requirements.
32. The Tribunal was not saying that the Respondent should never come back on the Roll or practise as a solicitor again. The Respondent needed however to have rehabilitation at the front of his mind and to find employment in the law with the permission of the Law Society. When he was able to show that he was a fit and proper person to be employed in the law it would be open to the Respondent to seek the termination of the indefinite suspension. The Tribunal could not bind the Law Society but felt able to indicate that it saw no reason, subject to the views of the Law Society, why the Respondent should not seek employment in the law. A future Tribunal would be unlikely to grant the determination of the suspension unless the Respondent had engaged in such employment.
33. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent Jeremy Fieldhouse of Tillworth, Axminster, Devon, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 27th day of March 2007 and they further Order 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.

DATED this day 18th of May 2007

On behalf of the Tribunal

J N Barnecutt
Chairman