

IN THE MATTER OF PHILIP JOHN WILLIAMS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr I R Woolfe (in the chair)
Mr K Duncan
Mrs V Murray-Chandra

Date of Hearing: 15th 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 David Elwyn Barton, solicitor advocate of 5 Romney Place, Maidstone, Kent, ME15 6LE on 14th September 2006 that Philip John Williams, solicitor of Strides Lane, Ringwood, Hants, (formerly of College Road, Ringwood, Hampshire,) 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 the Respondent were that he had been guilty of conduct unbefitting a solicitor in each of the following respects, namely:-

- (a) He failed to deliver to the Law Society his Accountant's Report for the year ended 30th June 2002;
- (b) He failed to deliver to the Law Society his Accountant's Report for the year ended 30th June 2003;
- (c) He failed to deliver to the Law Society his Accountant's Report for the year ended 30th June 2004;

- (d) He failed to deliver to the Law Society his Accountant's Report for the year ended 30th June 2005;

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 15th March 2007 when David Elwyn Barton appeared as the Applicant and the Respondent appeared in person.

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 Philip John Williams of Strides Lane, Ringwood, Hants, (formerly of College Road, Ringwood, Hampshire,) solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 15th day of March 2007 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,683.75.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The Respondent, born in 1948, was admitted as a solicitor in 1981 and his name remained on the Roll of Solicitors.
2. The outstanding Reports which were the subject of the allegations were due in respect of the Respondent's practice under the style of Philip J Williams Solicitor of Suite 1, Stirling House, 48-50 Poole Hill, Bournemouth, Dorset, BH2 5PS. The firm closed on 31st December 2002.
3. The last Accountant's Report delivered for the firm was for the period ending 30th June 2001. On 30th November 2004 the Law Society wrote to the Respondent about outstanding Accountant's Reports for the years ending 2002 and 2003. Since then the Reports for the years ending 2004 and 2005 had fallen due.
4. On 17th December 2004 the Respondent telephoned the Law Society and a copy of the Society's attendance note was before the Tribunal. The note recorded the Respondent's admission that the three Reports were outstanding. In a further telephone call on 21st March 2005 the Respondent again confirmed that the Reports were outstanding. The Law Society's attendance note which was before the Tribunal stated:

"He confirmed what he had told me during our previous conversation that he does hold client money and, in respect of one estate matter, to the tune of £20,000."
5. The Respondent had not communicated with the Law Society between the date of the telephone conversation and the date of the Applicant's Rule 4 statement. At the date of the hearing the Reports remained outstanding.

The Submissions of the Applicant

6. The Respondent had admitted the allegations in an email to the Applicant in response to the Applicant's letter of 22nd February 2007.
7. In that letter the Applicant had asked the Respondent for details of money held in his client account as Mr F who worked for the Respondent's insolvency advisor had told the Applicant that he had approximately £20,000 of client money in his possession. The Applicant referred the Tribunal to the note of the telephone conversation on 21st March 2005 (paragraph 4 above) which had led the Applicant to try to obtain further information from the Respondent.
8. The Applicant sought an order for costs in the agreed sum of £2,683.75.

The Submissions of the Respondent

9. The Respondent accepted his failure to deal with the Reports. He had given up practice following substantial health problems. He had suffered four years of depression including a period of agoraphobia. This had begun some six months before he closed his practice but he had kept the practice running in order to tidy things up. When he had closed his practice his financial circumstances had been very poor.
10. Until the last few months the Respondent would not have felt able to be present at the Tribunal. He was now employed by a former client as a project manager for a construction company and was rehabilitated in every sense.
11. The Accountant's Report for 2002 was the most substantial in that he had been practising at the time. He had had a firm of accountants complete it but had been unable to face dealing with it. He had now been back in touch with the accountants who could produce the Report in a short time.
12. In subsequent years there had only been two or three movements of client money in total.
13. When the Respondent had closed his practice he had been overdrawn with the bank who had improperly closed both his office and client account. He had been unable to open a proper client account but had opened an Abbey National account as a safe repository for clients' money. The money remained in that account.
14. The Respondent had all the papers necessary for accountants to prepare the Reports. This would have been a simple matter for anyone who had been able to deal with it. The Respondent intended to deal with it and it could be completed within three months at most.
15. The Abbey account had initially been frozen during the bankruptcy even though the Respondent had said that it was client money. He was not aware that the money was under his control and had not received any notification that the receiver had released it. His accountant was now in touch with the receiver over various related matters.

16. The principal sum held related to an estate. When the Respondent had become ill the file had gone to the co-executor. Of the £21,879.81 in the account, £17,000 belonged to that estate and the balance was a number of small matters readily identifiable. No client had asked for their money. These were small residual balances.
17. The Respondent's accounts had been kept scrupulously and there had been a full printout when he retired. The clients were probably not aware of the small balances held.
18. The Respondent had sought help from his general practitioner. He had been heavily medicated for two years but medication had ceased two years ago. He was feeling substantially stronger. He regretted that no steps had yet been taken to produce the Reports.

The Findings of the Tribunal

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

Previous appearance of the Respondent

20. At a hearing on 26th November 2002 the following allegations were substantiated against the Respondent, namely that he had been guilty of conduct unbecoming a solicitor in each of the following respects:-
 - (a) He had failed to take out and maintain Professional Indemnity Insurance with effect from the 1st September 2000;
 - (b) He failed to deal promptly with correspondence from the Office for the Supervision of Solicitors.
21. The Tribunal on that occasion said as follows:-

“It was understood that the Respondent held a current Practising Certificate although his letter indicated that he had in fact retired in order to undertake the work related to the winding down of his firm. The Respondent had not promptly addressed important matters although the Tribunal accepts that his poor health might well have been a material factor. The Respondent had put matters right. He had enjoyed an unblemished career of some length. The Respondent's misconduct was such that the Tribunal considered the appropriate penalty was a reprimand and an order that he pay the costs of and incidental to the application and enquiry in a fixed sum...”

22. At the hearing on 15th March 2007 the Tribunal expressed great concern about this case. The Respondent had admitted four allegations of failing to provide Accountant's Reports. The Tribunal note that a further Report which was not the subject of the allegations was now overdue. A sum in excess of £21,879.81 (the figure at 13th August 2005, being client funds) was held in an Abbey account in the

name of the Respondent. To that sum interest had accrued. The Tribunal had been told that the monies were not held in a solicitor's client account with the protection that would give.

23. The Respondent had stated that he could arrange for the outstanding Accountant's Reports to be prepared within three months. The Tribunal noted however that despite ceasing medication two years ago, no steps had yet been taken to deliver these Reports.
24. With regard to the client funds, neither the Respondent nor the Law Society appeared to have taken steps to deal with them, although the bank statement from 15th May 2005 to 13th August 2005 which the Tribunal had seen showed two withdrawals in July 2005. The Respondent had admitted that the beneficial owners of these funds might well be unaware that he was holding them. The Tribunal felt great concern about this and expressed surprise that the Law Society had apparently not yet taken any appropriate steps to resolve the matter.
25. The Tribunal was also concerned both that there had been a previous hearing before the Tribunal relating to the Respondent which he had not attended in 2002 and that he had stated in the present hearing that he had forgotten about this. In the 2002 hearing the allegations had been admitted by the Respondent and medical evidence of mental and physical ill-health had been provided. The Tribunal noted however that no such evidence was before it today. At the previous hearing the Tribunal had reprimanded the Respondent. In the present case the Tribunal could not be so lenient. It was necessary for the Tribunal to protect the interests of the public and the reputation of the profession. Accordingly the Tribunal would order that the Respondent be suspended from practice as a solicitor for an indefinite period and that he pay the Applicant's agreed costs.
26. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent Philip John Williams of Strides Lane, Ringwood, Hants, (formerly of College Road, Ringwood, Hampshire), solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 15th day of March 2007 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,683.75.

DATED this 21st day of May 2007
on behalf of the Tribunal

I R Woolfe
Chairman