

IN THE MATTER OF DERRICK FRENCH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr L N Gilford (in the chair)
Mr R Nicholas
Mrs S Gordon

Date of Hearing: 7th June 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 Jonathan Richard Goodwin Solicitor Advocate of 17E Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 17th November 2006 that Derrick French of 2 Priory Court, Pilgrim Street, London, EC4V 6DE might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

At the opening of the hearing the Applicant pointed out that his supplementary statement had not been served on the Respondent within 30 days of the date of the hearing. It had been served on 17th May 2007. The Tribunal was invited to abridge time. The Tribunal was invited to take the view that this would not prejudice the Respondent as the allegation made was similar to that in the originating statement and it would save time and expense if all allegations were dealt with together. The Tribunal agreed and consented to the abridgement of time. The originating and supplementary statement allegations were therefore to be considered by the Tribunal.

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

- (i) he failed and/or delayed in the delivery of an Accountant's Report for the six month period ending 31st December 2003 (due for delivery on or before 28th February

2006), contrary to Section 34 of the Solicitors Act 1974 (as amended) and the Rules made thereunder;

- (ii) he failed to comply with conditions attached to his Practising Certificate for practice year 2004/2005 as follows:-
 - (a) requiring him to deliver half yearly Accountant's Reports to the Law Society, such Reports to be delivered within two months of the end of the period to which they relate; and/or
 - (b) to attend a course on practice management approved by the Law Society for the purposes of continuing professional development within six months of the date of notification of the decision and he shall provide confirmation of his attendance with his next application for a Practising Certificate;
- (iii) he failed and/or delayed in replying to correspondence from the Law Society.

In a supplementary stated dated 17th May 2007 the following additional allegation was made against the Respondent, namely that he had been guilty of conduct unbecoming a solicitor in that:-

- (iv) he failed and/or delayed in the delivery of an Accountant's Report for the six month period ending 31st December 2006 (due for delivery on or before 28th February 2007), contrary to Section 34 of the Solicitors Act 1974 (as amended) and the Rules made thereunder.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 7th June 2007 when Jonathan Richard Goodwin appeared as the Applicant and the Respondent did not appear and was not represented. The Respondent had however addressed a letter to the Clerk to the Tribunal dated 6th June 2007 in which he said he had hoped to appear in person and apologise for the fact that he had not done so. This letter is further referred to the heading 'Submissions of the Respondent'.

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

The Tribunal Orders that the Respondent Derrick French of 2 Priory Court, Pilgrim Street, London, EC4V 6DE, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 7th day of June 2007 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,500.

The facts are set out in paragraphs 1 to 16 hereunder:-

1. The Respondent, born in 1951, was admitted as a solicitor in 1979. His name remained on the Roll of Solicitors. At the material times he carried on practice on his own account under the style of Derrick French & Co from offices at 2 Priory Court, Pilgrim Street, London, EC4V 6DE.
2. On 22nd April 2005 an Adjudicator granted the Respondent a Practising Certificate for the practice year 2004/2005 subject to the conditions:-

“that he deliver half yearly Accountant’s Reports to the Law Society, such Reports to be delivered within two months of the end of the period to which they related, and:

that Mr French shall attend a course on practice management, approved by the Law Society for the purposes of continuing professional development, within six months of the date of notification of this decision and he shall provide confirmation of his attendance with his next application for a Practising Certificate.”

3. The Respondent was notified of the Adjudicator’s decision by letter dated 27th April 2005.

Allegations (i), (ii) and (iii)

4. The Accountant’s Report for the firm of Derrick French & Co for the six month period ending 31st December 2005 was due to be delivered to the Law Society on or before 28th February 2006.
5. By email dated 28th February 2006 the Respondent wrote to the Law Society and pointed out that the Report was due for filing that day (28th February 2006) and he requested an extension until Friday 17th March 2006. The Law Society acknowledged receipt of the Respondent’s email by letter dated 1st March 2006 indicating that the matter would be considered in due course.
6. On 3rd April 2006 an Adjudicator refused the Respondent’s request for an extension of time to file the Accountant’s Report. The Adjudicator’s decision was:-

“I expect Mr French to deliver the outstanding Accountant’s Report by 31st May 2006 failing which I direct that his conduct is referred without further notice to the Solicitors Disciplinary Tribunal.

In the event that the outstanding Accountant’s Report is delivered by the due date, I direct that this matter is referred back to an Adjudicator to consider what alternative disciplinary action and regulatory steps are appropriate.”

7. The Respondent was notified of the Adjudicator’s decision by letter dated 4th April 2006.
8. The Accountant’s Report for the period ending 31st December 2005 was filed by the Respondent’s accountants on 31st May 2006.
9. By letter dated 26th June 2006 the Law Society wrote to the Respondent seeking his explanation in respect of the late delivery of his Accountant’s Report. The Respondent did not reply or provide explanation. The Law Society wrote again by letter dated 12th July 2006. The Respondent did not reply or provide explanation.
10. The Law Society wrote to the Respondent by letter dated 1st March 2006 in relation to his application for a Practising Certificate for the practice year 2005/2006. The Law Society made reference to the condition attached to his 2004/2005 Certificate that he attend a practice management course within six months of the date of

notification of the decision (27th April 2005) and provide confirmation of his attendance with his next application for a Practising Certificate. The Law Society indicated in its letter of 1st March 2006 that it had not received confirmation from the Respondent of his attendance and he was asked to provide documentary evidence of it. The Respondent did not reply or provide the documentary evidence requested.

11. By letter dated 17th March 2006 the Law Society wrote to the Respondent indicating it was unable to process his application for a Practising Certificate in respect of the practice year 2005/2006 until documentary evidence of attendance upon the practice management course was provided. The Respondent failed to reply or provide explanation.
12. In a letter dated 11th July 2006 the Law Society wrote to the Respondent about his failure to reply to earlier correspondence. He was asked to reply within eight days. The Respondent did not reply.
13. On 11th August 2006 the Law Society wrote to the Respondent enclosing copy letters dated 1st March, 17th March, 5th June and 11th July 2006. By letter dated 29th September 2006 the Respondent did reply to the Law Society. He did not deal with the matters upon which he was required to provide explanation. He explained that he had been ill and unable to deal with correspondence.
14. The Respondent indicated he intended to stop practising as Derrick French & Co from 29th September 2006.
15. The Accountant's Report for Mr French's former practice for the six month period ending 31st December 2006 was due to be delivered on or before 28th February 2007. The Report remained outstanding.
16. By letter dated 19th March 2007 the Solicitors Regulation Authority ("SRA") wrote to the Respondent seeking his explanation. The Respondent failed to respond to that letter and it was necessary for the SRA to write again on 17th April 2007. The Respondent did not reply or provide explanation.

The Submissions of the Applicant

17. The Tribunal was invited to find the allegations made out. The Respondent had failed to file Accountant's Reports on time and had not responded promptly and indeed on some occasions not at all to correspondence addressed to him by the Law Society.
18. It was a serious matter not to file an Accountant's Report as the filing of Accountant's Reports enabled the Law Society to establish that solicitors holding clients' monies had done so in compliance with the Solicitors Accounts Rules. This ensured that the public was protected and monies belonging to the public were properly handled by solicitors.

The Submissions of the Respondent (summary of the Respondent's letter dated 6th June 2007)

19. The Respondent had not found it easy to write to the Tribunal.

20. In September 2006 he had closed his practice because he had a qualified Practising Certificate and there was no practical way of meeting the qualification.
21. By that time Mr French had been ill for some time. He had been seriously ill and had suffered from a phobia of opening any kind of official correspondence. The Respondent had consulted his general practitioner and a consultant. He had received medication and therapy. He said that his phobia had been cured.
22. He had been left unemployed, unemployable and uninsurable. His medication had embarrassing side-effects as it caused slurring of speech and short-term memory loss. It also caused him to “hang” words in mid-sentence, which was why he was reluctant to attempt to address the Tribunal.
23. The Respondent had the burden of paying off the balance of his office lease and six years’ run-off insurance.
24. Mr French hoped that his ability to practise might not be restricted as he hoped to work again after his recovery. He was not in a position to pay any substantial fine.
25. No client had complained about his work and he had never been required to make an insurance notification or claim and none of his Accountant’s Reports had been qualified.

Findings of the Tribunal

26. The Tribunal found all of the allegations to have been substantiated.

Previous Decisions of the Tribunal

27. At a hearing on 27th April 2004 the Tribunal found the following allegations to have been substantiated. The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars:-
 - (i) That he failed and/or delayed in the delivery of Accountants Reports for year ending 31st December 2000 (due for delivery on or before 30th June 2001), year ending 31st December 2001 (due for delivery on or before 30th June 2002) and year ending 31st December 2002 (due for delivery on or before 30th June 2003) contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder;
 - (ii) That he failed to comply with a Direction made by an Adjudicator dated 5th November 2002.
28. In its written Findings dated 3rd August 2004 the Tribunal said:-

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

The purpose of requiring the filing of Accountant’s Reports by solicitors was to enable the Law Society to regulate the profession and to ensure that money held by solicitors was being looked after properly. A failure to file three

Reports was not acceptable. It was also essential that members of the profession complied with the directions of an Adjudicator and failure to do so could not be regarded as a minor matter. The profession had through its regulatory body been put to considerable trouble pursuing the Respondent about these matters. The Tribunal accepted that the Reports had now been filed, albeit late. The Tribunal would mark its disapproval of the Respondent's conduct by a fine.

The Tribunal made the following Order:-

The Tribunal Order that the Respondent, Derrick French of 2 Priory Court, Pilgrim Street, London, EC4V 6DE solicitor, do pay a fine of £3,000, such penalty to be forfeit to Her Majesty the Queen, and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,400.”

29. Following a hearing on 23rd June 2005 the Tribunal found the following allegations to have been substantiated. The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely:-

- (i) that he failed to deliver an Accountant's Report for the year ending 31st December 2003 due to be delivered on or before 30th June 2004, contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder.
- (ii) that he failed to reply to correspondence from The Law Society.

30. In its Findings dated 18th August 2005 the Tribunal said:-

“The Tribunal was dismayed to find the Respondent appearing before it again to answer allegations similar to those dealt with in 2004. The Respondent appeared to have paid little heed to the sanction then imposed upon him.

The failure on the part of the Respondent to file an Accountant's Report or to deal with correspondence addressed to him at his practising address by his own professional body amounted to serious breaches.

In view of the fact that the allegations substantiated against the Respondent in 2005 were the same as those in 2004, the Tribunal has given close consideration as to whether it would be appropriate to make an Order suspending the Respondent from practice.

The Tribunal accepted the Respondent's assurances that he was putting things in order and had been advised by his accountant that the outstanding Accountant's Report upon which the allegation was founded, together with another due at the end of June 2005, would be filed with The Law Society by the end of June

The Tribunal deprecates the Respondent's failure to reply to correspondence addressed by his own professional body. Notwithstanding that the Respondent

is often out of the United Kingdom, he must be absolutely sure that he makes arrangements for important correspondence to be redirected to him.

The Tribunal was able to conclude that the Respondent's breaches need not be met by an Order that would interfere with his ability to practise but considered that it was both right and proportionate that he should pay a substantial fine. The Tribunal ordered that the Respondent pay a fine of £7,000 (£5,000 being in respect of the failure to file an Accountant's Report and £2,000 in respect of his failure to respond to correspondence addressed to him by The Law Society). However, if all outstanding Accountant's Reports are not filed with The Law Society by the Respondent by the 1st August 2005 then, in addition to the financial sanction, the Respondent will also be suspended from practice for an indefinite period of time.

The Tribunal will wish to be sure that outstanding Accountant's Reports have been filed in due time. That being the case the Respondent is required to file with the Tribunal's Clerk an affidavit confirming the position to which copies of the relevant Accountant's Reports have been exhibited.

It was also right that the Respondent should bear the Applicant's costs. The figure had been agreed enabling the Tribunal to order the payment of costs in a fixed sum.

The Tribunal wished to make it very plain to the Respondent that should he have similar allegations substantiated against him in the future then his ability to practice would very seriously be in doubt."

The Findings of the Tribunal

31. The Tribunal noted that the Respondent had appeared before the Tribunal on a number of occasions. On this occasion he appeared to have repeated previous offences. He had not complied with important regulatory requirements and had not heeded the warnings that were implicit in the Tribunal's earlier decisions. A solicitor who is not prepared to comply with the important regulatory requirements of practice may not expect to be allowed to continue in practice. The Tribunal, mindful of its duty to protect the public and the good reputation of the solicitors' profession, concluded that the appropriate and proportionate sanction to impose on the Respondent was that of suspension from practice for an indefinite period. It was right that the Respondent should bear the Applicant's costs. He sought the costs in the sum of £2,500 which the Tribunal considered to be reasonable. In order to save further time and cost the Tribunal ordered the Respondent to pay the Applicant's costs fixed in the sum of £2,500.

DATED this 23rd day of July 2007
on behalf of the Tribunal

L N Gilford
Chairman

Typed by:
Clerk:
Date typed:
Date Amended: