

IN THE MATTER OF CRAIG WILKINSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Miss T Cullen (in the chair)  
Miss J Devonish  
Ms A Arya

Date of Hearing: 13th 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 Stephen John Battersby solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Hertfordshire, SG14 1BY on 1<sup>st</sup> December 2006 that Craig Wilkinson of Buchanan Close, London, N21 (now of Newsholme Drive, London N21) 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 unbecoming a solicitor in each of the following particulars:-

- i. That he misled clients as to the progress of cases which he was dealing with.
- ii. That he misled his supervising solicitor as to the progress of cases he was dealing with.
- iii. That he falsely represented to his employers that he was unaware of any

matter which may give rise to any insurance claim.

- iv. That he failed to respond substantively to correspondence from The Law Society.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 13<sup>th</sup> July 2007 when Stephen John Battersby 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, Craig Wilkinson of Newsholme Drive, London, N21, 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 £2,158.26.

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

1. The Respondent born in 1971 was admitted as a solicitor in 2000. At the material time he was employed as an assistant solicitor with DMHS solicitors. He is not currently employed in the profession.
2. The Respondent was employed by DMHS from June 2004 until 10<sup>th</sup> October 2005 when he left after giving three months' notice. Following his departure, DMHS carried out a review of files which he had been dealing with and it came to light that he had misled clients and DMHS on a number of occasions. DMHS wrote to The Law Society regarding the conduct of the Respondent on 10<sup>th</sup> November 2006 and attached supporting documentation.
3. DMHS drew to the attention of The Law Society a number of matters in which the Respondent had been acting for clients in which he had provided false information to make it appear that actions had been taken to progress cases when in fact this was not so. This is exemplified by the following cases.
  - i. BT Ltd - The Respondent was acting for the firm in Landlord and Tenant proceedings. He fabricated a file note and an email, indicating that proceedings had been served on 12<sup>th</sup> August 2005 and informed the client that a Court Hearing had been fixed for 27<sup>th</sup> September 2005. This was not the case and the partner who had been responsible for the supervision of the Respondent (Mr R J), telephoned him on the day after his departure to query the situation with him. The Respondent admitted that he had provided false information. During this conversation the Respondent admitted other misconduct.
  - ii. DK Group Companies - The Respondent had been acting for one of these companies called J (re QS) in connection with recovery of a debt of about £11,000.00. The Respondent falsely reported on the file that proceedings had been issued on 21<sup>st</sup> March 2005 and that a defence had been filed thereafter. The client had been falsely informed by the Respondent on

17<sup>th</sup> August 2005 that an extension had been agreed in the case until 16<sup>th</sup> September 2005.

- iii. QS and S Ltd - This was a case in which the Respondent had acted for the client in respect of debt collection. The Respondent had falsely advised the client on 21<sup>st</sup> January 2005 that proceedings had been served on the defendants and that a defence was due by 11<sup>th</sup> February 2005. Further misleading information was provided to the client in an email of 18<sup>th</sup> March 2005. The Respondent also systematically misled Mr RJ as to the situation in the case.
  - iv. QS Ltd - The Respondent was acting for the client in connection with a small debt where the defendant was in Scotland. The Respondent had led the client and Mr RJ to believe that Scottish agents had been instructed to deal with the matter, whereas that was not the case.
  - v. Mr G - In this case, the Respondent was acting for a Landlord and had been instructed to serve a Notice to Terminate the Lease. He had told a colleague that he had served the Notice when in fact this was not the case and the colleague, in good faith, passed the same information to the client.
  - vi. QS and S Ltd (re C Ltd) - This was a debt recovery case in which the Respondent had falsely advised the client by email on 12<sup>th</sup> September 2005 that proceedings had been issued and served.
  - vii. QS and S Ltd (re F Ltd) - In this case the Respondent had falsely informed the client by an email of 12<sup>th</sup> September 2005 that a Statutory Demand and a County Court Claim Form had been served. This was not the case as the Demand was only served on 21<sup>st</sup> September 2005.
  - viii. CF Ltd - In this case, the Respondent was acting for a client who was a defendant to proceedings in the County Court. Judgment had been entered and set aside before, on 17<sup>th</sup> March 2005, the Court made an Order that a defence was to be filed by 30<sup>th</sup> March 2005 and £2448.16 paid into Court. Correspondence on the file suggested that the payments into court had been made on 23<sup>rd</sup> March and that the defence had also been filed in accordance with the Order. This was not in fact the case. Subsequently, the Respondent falsely told Mr RJ that the proceedings were stayed and he repeated this in his leaving note of 10<sup>th</sup> October. It was discovered that, in fact, the Court had dealt with the case on 7<sup>th</sup> September and made an Order against the client.
4. As part of its internal proceedings, DMHS required fee earners each to certify that they were unaware of any unreported circumstances which could give rise to a claim under the firm's Professional Indemnity Insurance. The Respondent signed an internal memorandum on 2<sup>nd</sup> September 2006, confirming that he had looked at all his open files and did not know of any such circumstances.

5. The Law Society wrote to the Respondent on 24<sup>th</sup> November 2005 seeking his explanation for what happened. There was a protracted exchange of emails and correspondence during which the Respondent gave The Law Society the impression that he would be giving a substantive reply once he had discussed the matter with his own legal advisers. Despite this, no substantive reply was received. The Adjudicator therefore had to consider the matter on 10<sup>th</sup> August without any proper explanation from the Respondent and decided to refer his conduct to the Tribunal.

### **The submissions of the Applicant**

6. The Respondent had been honest throughout the investigation. He had not quite admitted every aspect of the allegations but the Applicant took no issue with that. Nevertheless the allegations against the Respondent included instances in which he had misled clients and his employers as to action taken in civil proceedings which he was conducting during his employment. The conduct of the Respondent had to be viewed as dishonest.
7. This was a sad story of a comparatively young and inexperienced solicitor who had felt under tremendous pressure.
8. The Tribunal was referred by way of example to the case of BT Limited. In this matter the Respondent had made the situation worse by fabricating a file note and an email.
9. The Respondent's conduct could not be put forward on any other basis than dishonest applying the test set out in the case of *Twinsectra Ltd v Yardley and Others* [2002] UKHL 12. This was not a case of a solicitor taking client money. Under pressure the Respondent had acted in a way which was uncharacteristic.
10. A schedule of costs was before the Tribunal but it was accepted that the Respondent was in a poor financial position.

### **The Submissions of the Respondent**

11. The Tribunal had before it a detailed written statement from the Respondent accepting that he had misled clients and his former employer on occasions and setting out the "incredible pressure" that he had felt while working at DMHS.
12. He did not accept that he had intentionally misled the firm in relation to the memorandum signed on 2<sup>nd</sup> September 2006 stating that he was not thinking clearly at that time. He set out in his statement details of the difficulties he had experienced in his employment.
13. In oral submissions the Respondent said that he had nothing to add to his written submissions. He had felt that he did not have support at DMHS but he deeply regretted what he had done which had been out of character. He wished to continue to be a solicitor but understood the position he had put himself in and the range of penalties available to the Tribunal.

14. The Respondent took no issue with the amount of the Applicant's costs.

**The Findings of the Tribunal**

15. Subject to the Respondent's clarification as to allegation 3 (paragraph 12 above) he had admitted the allegations and the Tribunal found them to have been substantiated. The allegations had been put on the basis of dishonesty and applying the test set out in the case of *Twinsectra v Yardley* the Tribunal found that the Respondent's conduct had been dishonest. The Tribunal accepted that the Respondent had been young and inexperienced and that he had felt unsupported. It was important that all young solicitors were fully supported (although the Tribunal implied no criticism of the Respondent's former employers). In this particular case however the Respondent had followed a dishonest course of conduct over a period of time which included the fabrication of documentation. While the Respondent clearly perceived himself to be under tremendous pressure he knew that he was deceiving clients and his employer. In so doing he had damaged the reputation of the profession. The Tribunal had in mind the case of *Bolton v The Law Society* which said the upholding of the reputation of the profession had to take priority over individual members of the profession. Whatever sympathy the Tribunal might have for the Respondent personally as someone young and inexperienced it was essential that members of the public could trust any member of the profession. It was right that the Respondent be struck off the Roll of solicitors and that he be ordered to pay the Applicant's costs.

The Tribunal Ordered that the Respondent, Craig Wilkinson of Newsholme Drive, London, N21, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,158.26

Dated this 15<sup>th</sup> day of November 2007  
On behalf of the Tribunal

Miss T Cullen  
Chairman