

IN THE MATTER OF GEORGE STEPHEN MILLS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs J Martineau (in the chair)
Mr E Richards
Mr D Gilbertson

Date of Hearing: 22nd January 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by James Moreton, solicitor of Bankside Law Solicitors, 58 Southwark Bridge Road, London, SE1 0AS, on 15th October 2007 that George Stephen Mills of Mottram, Hyde, Cheshire, solicitor, 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 allegation against the Respondent was that he had been guilty of conduct unbecoming a solicitor in the following particulars, namely:-

- (1) he failed to reply to correspondence from the Law Society promptly or at all;
- (2) he failed to deliver promptly or at all a final Accountant's Report for the year ending 1st June 2006, as required by section 34 of the Solicitors Act 1974 and the Rules made there under;

By a supplementary statement dated 20th December 2007, the further allegations were added:

- (3) he failed to comply promptly or at all with an Order of the Northampton County Court of 29th November 2006;
- (4) he failed to reply to correspondence from the Solicitors Regulation Authority promptly or at all;

By a second supplementary statement dated 25th February 2008, the further allegation was added:

- (5) he failed to deliver promptly or at all a final Accountant's Report for the year ending 1st June 2007 and/or a cease to hold Report as required by 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 22nd January 2009 when James Moreton appeared as the Applicant and the Respondent did not appear and was not represented.

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

The Tribunal Orders that the Respondent, George Stephen Mills of Mottram, Hyde, Cheshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 22nd day of January 2009 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,880.77.

Preliminary Application

The Tribunal had before it a letter from the Respondent dated 19th January 2009, details of a telephone attendance note with the Respondent and the Tribunal dated 21st January 2009 and also dated 22nd January 2009, Affidavit of Robert Keith Stowell and Affidavit of Service from Alan Curtis. At the commencement of the hearing, the Tribunal noted from the Respondent's letter and telephone calls that he had requested a deferment of today's hearing and for the hearing to take place in Manchester. The Respondent had indicated that due to his medical condition he was unable to travel to London but could, with the help of friends, attend a hearing in Manchester in the near future. The Respondent had referred to the Tribunal's letter to him dated 27th November 2008 in which the Tribunal had said "the Tribunal notes the request for the hearing to be heard in Manchester but sees no reason to change their usual practice and direct that the hearing should take place in London". The Respondent submitted that the use of the word "usual" indicated that the practice could be varied and he therefore requested the hearing should be moved to Manchester. The Respondent had indicated in his telephone calls with the Tribunal office and with the Clerk to the Tribunal that he had physical and mental problems and was unable to travel to London. His medication was due to be reduced and he anticipated that by June 2009 he would be on the minimum level of diazepam and may be able to attend a hearing. The Respondent indicated his Doctor had advised him it would be pointless to lodge further medical evidence as the most recent letter provided from his Doctor, dated 19th November 2008 indicated what the position was and that had not changed. The Respondent stressed he did not wish to avoid his responsibilities in the matter, he wanted to attend the hearing and in a few months time, perhaps in June 2009, he may be able to attend the hearing in London. At the moment the Respondent was incapable of driving. He had tried to get on a train on the evening of 21st January 2009 in order to come to London to attend the Tribunal hearing but he had been

unable to do so. The Respondent submitted his condition was due to his genuine mental state and he hoped to attend a hearing later this year if today's hearing could be postponed.

The Applicant reminded the Tribunal that this matter had been adjourned previously on 8th April 2008 and again on 22nd July 2008. The Memorandum of those adjournments indicated the difficulties the Respondent had been suffering from and there was a body of correspondence from the Respondent and his GP.

The Applicant reminded the Tribunal that at the last hearing on 22nd July 2008, the Tribunal had made an Order that if the Respondent sought a further adjournment of the substantive hearing, he must provide a Consultant Medical Practitioner's Report including a diagnosis and prognosis, setting out when he would be able to attend the hearing before the Tribunal and also addressing the issue of the Respondent's ability to instruct someone to appear on his behalf if appropriate. The only evidence provided by the Respondent was the letter from his GP dated 19th November 2008. The Applicant indicated that in relation to the Respondent's application to adjourn, the Applicant's position was neutral and he appreciated that there were clear problems and obvious difficulties which could be seen from the letter provided by the Respondent's GP. The Tribunal had sent the Respondent a letter on 8th April 2008 making it clear that he was expected to comply with his undertaking, set out in his letter to the Tribunal received on 7th April 2008, that he would file a Doctor's letter within fourteen days. Regrettably the Respondent had failed to comply with that undertaking.

The Respondent had filed a letter dated 18th July 2008 from Doctor K Phillips, GP which referred in detail to the Respondent's difficulties, his anxiety, his agoraphobia and the medication that he was on. The Report did confirm that the Respondent found it difficult to travel small distances and the journey to London would be virtually impossible. The subsequent letter from Doctor Rushton dated 19th November 2008 referred to the Respondent's history of chronic high dose Benzodiazepine usage due to previous problems with extreme stress and anxiety and that letter did support the Respondent's request to postpone his hearing until the New Year at which stage the Doctor anticipated the Respondent would have fully completed his Benzodiazepine reduction programme.

The Applicant did submit that whilst he remained neutral concerning the application for the adjournment, it did seem that the Respondent was not assisting his cause by failing to comply with the Tribunal directions requiring a Consultant Medical Practitioner's Report.

The Tribunal's decision on the preliminary application

The Tribunal considered all the submissions before it and were mindful of the history of this case. It had now been adjourned on two occasions and this was the third request for an adjournment. There did not appear to be any proper medical evidence provided despite the letter dated 20th January 2009 sent by the Tribunal to the Respondent making it clear to him that fresh medical evidence must be lodged in support of the Respondent's application for an adjournment. This was also stressed to the Respondent during his telephone conversation with the Tribunal office on 20th January 2009. Regrettably the Respondent had not provided any fresh medical evidence and it appeared that his medical position remained unchanged and was exactly the same as it had been in November 2008.

The Tribunal noted that the letter provided by Doctor Phillips dated 18th July 2008 stated "when I discussed this with him I did mention that of course he really does need to face up to

the hearing which is due to take place and having issues such as this “hanging over you” does in fact lead to an increase in generalised anxiety levels”. The Tribunal were mindful that delaying the case was increasing the anxiety suffered by the Respondent and, furthermore, it felt that it was both in the Respondent’s interest and in the public’s interest for this matter to be heard and concluded.

In all the circumstances, the Tribunal refused the Respondent’s application to postpone today’s hearing and confirmed the substantive hearing would proceed in his absence.

The facts are set out in paragraphs 1-11 hereunder:

1. The Respondent was born in 1954 and was admitted as a solicitor on 15th January 1980. He was not currently practising as a solicitor although his name remained on the Roll of Solicitors.
2. At all material times the Respondent carried on practice on his own account under the style of Mills & Co of Europa House, Barcroft Street, Bury, Lancashire, BL9 5BT.
3. On 22nd August 2006, the Law Society received information that the Respondent had abandoned his practice and wrote to him asking for information within five days. The Respondent having supplied some information during telephone conversations with the Law Society, and having been granted extensions of time within which to submit a substantive response, replied by a letter dated 12th September 2006. As a result of the information provided, on 21st September 2006 the Law Society wrote to the Respondent again asking for further information and recommending the Respondent deal appropriately with any money remaining in his client account. He was also reminded of his need to file a Cease to Hold Accountant’s Report. Further matters were raised by the Law Society with the Respondent in a letter dated 9th October 2006. The Respondent provided further information by letters dated 17th and 26th October 2006 and acknowledged his obligations with regard to filing a Cease to Hold Report.
4. The Law Society wrote to the Respondent on 31st October 2006 requesting further information but the Respondent failed to reply to that letter. The Law Society wrote to him again on 16th November 2006, 18th December 2006 and 23rd February 2007 but the Respondent failed to reply to any of this correspondence. The letter of 18th December 2006 was, in March 2007 returned undelivered by the Royal Mail, the recorded delivery package being marked “not called for”.
5. In a separate letter dated 18th December 2006, the Law Society informed the Respondent he had failed to supply an Accountant’s Report for the period ending 1st June 2006, such Reports having been required by 1st December 2006.
6. On 18th July 2007 an adjudicator of the Law Society directed that the Respondent should deliver the outstanding Accountant’s Report within twenty eight days. The Respondent was notified of this decision by a letter dated 19th July 2007. The Respondent did not respond and to date has not filed an Accountant’s Report or a Cease to Hold report.

7. On 29th November 2006 the Respondent was ordered by Northampton County Court to pay the sum of £3,172.50 (plus costs and interest amounting to £294.11,) such amount relating to the unpaid professional fees of Wilds Ltd, a firm of accountants who had acted for the Respondent whilst trading as Mills & Co.
8. In January 2007 Wilds Ltd furnished the Respondent with details of the debt and requested settlement by the end of the month. In April 2007 the Respondent informed Wilds Ltd that he was no longer in employment and made a payment of £20 towards the amount outstanding. In October 2007 the Respondent made a further payment of £100. As at 13th November 2007 the amount outstanding was £3,052.50.
9. On the 18th June 2007 the Solicitors Regulation Authority wrote to the Respondent informing him of a complaint received from Wilds Ltd and he was asked to respond to the allegation that he had failed to pay fees owing to them and that they had obtained a County Court Judgment against him as a result. The Respondent failed to reply to this letter.
10. The SRA wrote again to the Respondent on 9th July 2007 but the Respondent failed to reply.
11. The Respondent has failed to provide an Accountant's Report for the period from 2nd June 2006 to 1st June 2007 and/or a Cease to Hold Report, given that his firm ceased trading on 1st June 2006. The Report was due by 1st December 2007.

The Submissions of the Applicant

12. The Applicant referred the Tribunal to the Affidavit of Robert Keith Stowell and the Affidavit of Service from Alan Curtis. It was clear from the Affidavit of Robert Keith Stowell that the Respondent was definitely residing at 33 Stalybridge Road, Mottram, Hyde, Cheshire, SK14 6NF as at March 2008. The Applicant confirmed that the Respondent had been served properly with the Statement and Supplementary Statements together with the Notice to admit and the Civil Evidence Act Notices as required.
13. The Applicant confirmed that the Respondent was now residing at 39 Shaw Street, Mottram, Hyde, Cheshire, SK14 6LE indeed his letter of 19th January 2009 to the Tribunal was from this address. In the Applicant's submission, the Respondent was fully aware of all the allegations made against him and had been properly served. The Applicant submitted that the evidence supported the allegations. The Applicant also submitted a schedule of costs in the total sum of £8,880.77 which he also sought.

The Findings of the Tribunal

14. The Tribunal considered carefully the documentation and submissions of the Applicant. In the absence of any evidence or submissions put forward by the Respondent, the Tribunal were satisfied from the documents available to it that all the allegations were substantiated. The Tribunal were also satisfied that all documents and notices had been properly served upon the Respondent.

15. The Tribunal were concerned that the Respondent had been in breach of an Order made by the Northampton County Court for a considerable period of time, such Order having been made in November 2006. It was not acceptable for the Respondent, as a member of the solicitors' profession to breach a Court Order and it appeared to the Tribunal that failure to comply with such an Order would bring the profession into disrepute.
16. Furthermore, the Respondent had not complied with regulatory requirements in that he had failed to deliver the Accountant's Reports required. This was an important method of ensuring clients had confidence that their money was properly handled by solicitors and the Authority was unable to carry out its regulatory function if solicitors did not comply.
17. The Tribunal was mindful of its duty to protect the public and although the Tribunal had sympathy with the Respondent's medical position it was clear the Respondent needed some time and an opportunity to rehabilitate himself given his medical problems.
18. It was also noted that the Respondent had not replied to correspondence from his regulatory body, despite numerous opportunities to do so. This could well be related to the Respondent's medical condition but this could not be an excuse for failure to co-operate with the Authority.
19. The Tribunal felt that the appropriate Order in this case would be to suspend the Respondent for an indefinite period in order to allow him the opportunity to rehabilitate himself, comply with the Order of the Northampton County Court, and to comply with any regulatory requirements. If the Respondent wished to practise again as a solicitor, he should be able to provide medical evidence to confirm he has been rehabilitated, that he is capable of practising as a solicitor and that he no longer is in breach of the Court Order.
20. The Tribunal also Ordered the costs be paid as requested by the Applicant. It was noted there had been difficulties with service of documents and this had inevitably increased the fees.
21. The Tribunal Ordered that the respondent, George Stephen Mills of Mottram, Hyde, Cheshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 22nd day of January 2009 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,880.77.

Dated this 19th day of May 2009
On behalf of the Tribunal

J Martineau
Chairman