

IN THE MATTER OF ANTONY PAUL RAIWA, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Miss T Cullen (in the chair)
Mrs E Stanley
Mr G Fisher

Date of Hearing: 3rd July 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Regulation Authority by Michael Robin Havard, solicitor and partner in the firm of Morgan Cole, solicitors, of Bradley Court, Park Place, Cardiff, CF10 3DP on 20th November 2007 that Antony Paul Raiwa of Meriden Street, Coventry, West Midlands, 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 right.

The allegations against the Respondent were that he had been guilty of conduct unbecoming a solicitor and/or, where stipulated, in breach of the Solicitors Practice Rules 1990 in each of the following respects, namely that:

1. He conducted himself in a manner that was likely to compromise his integrity contrary to Rule 1(a) of the Solicitors Practice Rules 1990;
2. He conducted himself in a manner which was likely to compromise or impair his duty to act in the best interests of the client contrary to Rule 1(c) of the Solicitors Practice Rules 1990;

3. He conducted himself in a manner which was likely to compromise or impair the good repute of the solicitors profession contrary to Rule 1(d) of the Solicitors Practice Rules 1990;
4. He conducted himself in a manner which impaired his proper standard of work contrary to Rule 1(e) of the Solicitors Practice Rules 1990;
5. He had deliberately made misleading statements, both verbally and in writing, in order to misrepresent the true position on client matters;
6. He had acted dishonestly;
7. He had failed to deal promptly and substantively with correspondence from The Law Society.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 3rd July 2008 when Michael Robin Havard 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, Antony Paul Raiwa of Meriden Street, Coventry, West Midlands, 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 £4,605.10.

Preliminary matter of service

1. At the commencement of the hearing the Applicant gave the Tribunal details of the steps he had taken to ensure that the Respondent had been properly served with notice of the proceedings and also with the Civil Evidence Act Notices and confirmation of the hearing date. The Respondent had been personally served on 18th March 2008 with notice of the proceedings and by a letter dated 25th March 2008 the Respondent had been served at his last known address with details of the hearing date and with a Civil Evidence Act Notice by the Applicant. That letter had not been returned to the Applicant.
2. In addition to this the Applicant had also arranged for personal service of details of today's substantive hearing and the Civil Evidence Act Notice on Thursday, 26th June 2008. The Tribunal expressed some concern that if the Applicant wished to rely on the personal service on 26th June 2008 as evidence of service that would not be sufficient service within the Rules. The Applicant indicated that he had spoken to the Respondent on his mobile telephone on one occasion and that the Applicant was confident the Respondent was aware of the hearing and the proceedings.
3. The Applicant had had some difficulties in tracking down the Respondent but when the enquiry agent served the Respondent personally the first time on 18th March 2008, the enquiry agent believed that the Respondent was still living at his last known address. The Tribunal asked the Applicant to try and contact the Respondent by telephone to make sure he was aware of today's hearing and the Civil Evidence Act Notice. The Tribunal was concerned that the Respondent was not present and he was

not represented and therefore in the interests of fairness the Tribunal must make sure that the Respondent had been properly served.

4. There was a brief adjournment to allow the Applicant to try and contact the Respondent. On resuming the hearing the Applicant advised the Tribunal that he had tried to telephone the Respondent but had not been able to get through. The Respondent's mobile phone was ringing but his phone went to an answer-machine and the Applicant had left a message for the Respondent to call the Applicant urgently.
5. The Applicant indicated that he felt that he had acted with an over-abundance of caution. He advised the Tribunal that he intended to rely upon his letter of 25th March 2008 as proof of service on the Respondent. That letter had not been returned to the Applicant in the post and clearly notified the Respondent of the date of today's substantive hearing and also enclosed a Civil Evidence Act Notice. The Applicant submitted that this letter was sufficient service and referred the Tribunal to Rule 25 of the Solicitors (Disciplinary Proceedings) Rules 1994 where it was clearly stated that the Respondent could apply to the Tribunal for a rehearing within one calendar month of the Tribunal's Findings with an affidavit in support setting out the facts upon which he wished to rely, if he has not been represented at the hearing and has not attended in person.
6. In the circumstances the Tribunal indicated they were content to proceed on the basis that the Respondent had been properly served by a letter dated 25th March 2008 and was therefore aware of the date of the substantive hearing and also the contents of the Civil Evidence Act Notice.

The facts are set out in paragraphs 1 - 8 hereunder:

1. The Respondent, born in 1962, was admitted as a solicitor in February 1999 and his name remained on the Roll.
2. Between 1st October 2001 and 3rd March 2006, the Respondent was employed by Angel & Co solicitors of 117-119 New Union Street, Coventry, CV1 2NY as a solicitor specialising in personal injury work. The Respondent did not currently hold a Practising Certificate.
3. These proceedings related to the Respondent's conduct when employed by Angel & Co solicitors and specifically related to his conduct when acting on behalf of seven clients of the firm. The conduct of the Respondent was brought to the attention of The Law Society by a letter dated 12th September 2006 from a partner at Angel & Co solicitors, Lesley Duff, in which she stated that on 3rd March 2006, she was obliged to dismiss the Respondent on the grounds of gross misconduct.
4. In relation to three separate clients, Mr TCK, Mr VP and Mr TJ, there had been similar irregularities which were that the Respondent had advised his employers both verbally and in writing that the files had been sent to law cost draftsman. It subsequently transpired that the files had not been sent to law cost draftsman. Furthermore the Respondent had made false entries on the time recording ledgers and deliberately made misleading statements to his employers both verbally and in

writing, in order to give the appearance that the files had been sent to law cost draftsman.

Mr SF

5. In this case which concerned a claim for personal injuries sustained as a result of an accident on 7th December 2001 the Respondent issued proceedings on 7th December 2004 which was the last day upon which proceedings could have been issued. The Respondent then had four months from the date of issuing proceedings within which to serve the proceedings. He served the proceedings on the last day of the four months period, namely 7th April 2005, serving by personal service on the defendant. It subsequently transpired that proceedings had been issued and served in the name of an incorrect defendant and even though there was no basis upon which any action could be re-issued or re-served against the correct defendant, the Respondent made verbal and written statements to both his employers and his clients indicating that matters were proceeding.

Mr BP

6. Again in this case, the Respondent advised his employers that the file had been sent to a law cost draftsman. When the employer contacted the law cost draftsman, the employer was informed that they had not received the file. When the Respondent was confronted with this the Respondent admitted he had never sent the file to the law cost draftsman.

Mr RGH

7. When the Respondent was asked on a review of this file what the current situation was, he advised his employers on 16th January 2006 that "three months protocol period now running". At a subsequent meeting between the Respondent and his employers on 16th February 2006 the file of Mr RGH was discussed and the Respondent advised his employers that there had been a three month delay in order that the protocol be followed. He stated in a handwritten note that the file "is now moving again". The Respondent was asked in a note from his employers on 21st February 2006 what work had been actioned on the RGH matter. The Respondent indicated he had agreed that such work that needed to be done would be completed by 22nd February 2006. However it consequently transpired that on 22nd February 2006 the Respondent had dictated instructions to a secretary for her to type backdated letters which were to be placed on the file. When the Respondent was confronted he stated that he may have "dressed up the file knowing that [his employer] would look at it".

Mr SR

8. The Respondent had advised his employers that there were no reasonable prospects of succeeding with this case and that he had advised the client not to pursue the claim. It subsequently transpired that the Respondent had not advised the client and in fact there were no time recording entries for the dates of purported meetings with the client as claimed by the Respondent. On 22nd February 2006 the Respondent again dictated instructions to a secretary which included a backdated letter to the client

dated 2nd December 2005, which the Respondent described as a dummy letter and not to be sent to the client and also an attendance note dated 30th November 2005.

The Submissions of the Applicant

9. The Applicant submitted the Respondent had acted dishonestly in providing misleading statements, both verbal and written, to his employers and his clients. Further he had requested secretaries to type correspondence on his behalf which had no purpose other than to attempt to mislead his employer. These were serious allegations.
10. In relation to Mr SF the Respondent should have acknowledged his mistake immediately and told the client to get independent legal advice. Instead the Respondent gave the appearance to the client's representative and his employers that everything was OK and the action was proceeding quite satisfactorily. Indeed, it was a year after the Respondent made his final mistake in failing to issue and serve on the correct company that his employers became aware of the true situation and advised the client to seek independent legal advice accordingly.
11. In all the circumstances the Applicant submitted that the Respondent had behaved dishonestly and that he had failed to act in his clients' best interests. The Respondent had made false time recording entries deliberately designed to mislead his employers and by instructing secretaries to type backdated documents on his behalf, the Respondent had tempted the secretary to behave inappropriately. The Applicant confirmed that the Respondent had been dismissed by his employers on the grounds of his gross misconduct on 3rd March 2006.
12. The Respondent had also failed to reply to correspondence from The Law Society which the Applicant submitted was unprofessional conduct.
13. Finally, the Applicant submitted that it would have been bad enough if the Respondent had behaved in this way on just one particular matter but this was a systemic course of behaviour over a period of time in relation to a number of different matters.

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 was satisfied from the documentation available to it and submissions made that all the allegations were substantiated.
15. The Tribunal had considered the test of dishonesty laid down in the case of Twinsectra v Yardley and Others [2002] UKHL 12. The Tribunal found that in making misleading statements both verbal and written to his employers and his clients and in making false entries in the time recording ledger designed to mislead his employers, and in instructing secretaries to type backdated correspondence for files, the Respondent's conduct was dishonest by the standards of reasonable and honest people. In considering all the evidence before it, the Tribunal was satisfied that the

Respondent did not have an honest belief that his conduct was not misleading and therefore that he knew what he was doing was dishonest by those same standards.

16. The Tribunal noted that the Respondent had not appeared before the Tribunal and nor had he arranged for representation on his behalf. He had not sought to mitigate his situation or explain matters in circumstances where there were very serious allegations of dishonesty. The Tribunal agreed with the Applicant that there had been a systemic course of behaviour and that the allegations of dishonesty had been proved. The Tribunal felt that the public interest was paramount and the public must be protected at all costs. In the circumstances the Tribunal felt that the Respondent had fallen far below the accepted standards of the profession and that he had damaged the reputation of the profession in the eyes of the public. It was right that he should no longer be a member of the profession.
17. The Tribunal also Ordered that the Respondent pay costs in the fixed sum of £4,605.10 sought by the Applicant.
18. The Tribunal Ordered that the Respondent that the Respondent, Antony Paul Raiwa of Meriden Street, Coventry, West Midlands, 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 £4,605.10.

Dated this 9th day of September 2008
On behalf of the Tribunal

Miss T Cullen
Chairman