

IN THE MATTER OF MARK LAURENCE URDING, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A H Isaacs (in the chair)  
Mr D Glass  
Lady Maxwell-Hyslop

Date of Hearing: 27th May 2008

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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 Solicitors Regulation Authority by Peter Harland Cadman, solicitor and partner in the firm of Russell-Cooke of 8 Bedford Row, London, WC1R 4BX on 30th January 2008 that Mark Laurence Urding solicitor of Catherine McAuley Close, Hull, 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 fit.

The allegations against the Respondent were that:

- (a) he deliberately and persistently misled his client, Mrs A as to the status of her matrimonial and ancillary relief proceedings;
- (b) he failed to follow the instructions of his client Mrs A promptly or at all by failing to institute divorce proceedings and failing to make an application for ancillary relief;
- (c) he deliberately and persistently misled his client, Mrs G as to the status of her matrimonial and ancillary relief proceedings;
- (d) he failed to act promptly or at all on the instructions of his client Mrs G;

- (e) he prepared an affidavit on behalf of his client Mrs A that he knew to be untrue;
- (f) he permitted his client Mrs A to swear an affidavit that he knew to be untrue;
- (g) he himself prepared a Financial Statement purporting to have been completed by his client's husband;
- (h) he drafted a Financial Statement on behalf of his client Mrs A purporting to criticise a document that he himself had fabricated (allegation g above);
- (i) he received a Police caution for obtaining property by deception;
- (j) he received an adult formal warning for false accounting;
- (k) he dishonestly misappropriated clients' funds.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 27th May 2008 when Peter Harland Cadman appeared as the Applicant and the Respondent was represented by Mr Frances George, solicitor advocate.

Preliminary application that the substantive hearing be held in private

**The Submissions of the Respondent**

1. The Respondent made application that the substantive hearing be heard in private pursuant to Rule 12 of the Solicitors Disciplinary Proceedings Rules 2007. It was the Respondent's case that for the matter to be held in public would cause him and others exceptional hardship.
2. Mr Urding's primary work was in a college of further education teaching a group of impressionable young people who respected his understanding and explanation of the law. Should the matters before the Tribunal be aired in public then those young people would be adversely affected. Mr Urding's primary area of work while in practice had been in childcare. Mr Urding's wife was a recognised government advisor and investigator in that field and public knowledge of the matters alleged against the Respondent and the outcome would potentially have an adverse affect upon her position, her status and her authority. Not only would publicity affect the family as Mrs Urding was the primary earner in the family but would inevitably have an adverse effect upon her professionally.
3. The Respondent's name was somewhat unusual and the publicity would lead others to conclude that the case did indeed relate to him.

**The Submissions of the Applicant**

4. It was right that professional disciplinary proceedings relating to solicitors should take place in public. The purpose of that was to ensure that the public had confidence in the disciplinary processes to which solicitors were subjected and it was only transparency that would ensure that the public was fully aware of the protection afforded to it by those regulating the profession. It was accepted that there were

exceptional cases where a private hearing would be appropriate, but in the submission of the Applicant this case was not exceptional and was not one where the hearing should be heard in private.

### **The Tribunal's Decision**

5. It is in the interest both of the public and the solicitors' profession that professional disciplinary proceedings be conducted in public. It is right that the public and the rest of the solicitors' profession be made fully aware of the nature and outcome of such proceedings. That the Rules made provision for the conduct of substantive hearings in private only where exceptional circumstances rendered it appropriate. In all cases before this Tribunal there is the potential for publicity that would adversely affect a Respondent, his family and others. That alone was not an exceptional circumstance that would lead the Tribunal to conclude that a private hearing was appropriate. The Tribunal has balanced the interests of the Respondent with the wider interest of the profession and the public and concludes that those wider interests prevail in this case. There were no circumstances that were so exceptional that the Respondent's interests should outweigh those of the wider interests of the public and the profession. The Tribunal Ordered that the substantive hearing proceed in public.

### **The Substantive Hearing**

6. The evidence before the Tribunal included the oral evidence of the Respondent, who admitted the facts and the allegations.

### **At the conclusion of the hearing the Tribunal made the following Order:**

The Tribunal Orders that the Respondent, Mark Laurence Urding of Catherine McAuley Close, Hull, 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 £1,750.00.

### **The facts are set out in paragraphs 1 to 9 hereunder:**

1. The Respondent, born in 1971, was admitted as a solicitor in 1999. His name remained on the Roll of Solicitors.
2. At all material times the Respondent was an employed solicitor at the firm of Myer Wolff ("the firm") of King William House, Lowgate, Kingston upon Hull, HU1 1YE. He was employed as an assistant solicitor from 25<sup>th</sup> March 2002 until his dismissal on 26<sup>th</sup> February 2007.
3. The firm by letter dated 21<sup>st</sup> March 2007 reported the Respondent's conduct to the Legal Complaints Service.
4. In the matter of a client, Mrs A, the Respondent had been instructed to institute divorce proceedings in June 2005 and make an application for ancillary relief. The Respondent did not follow these instructions. He informed Mrs A that:
  - (a) He had obtained Legal Aid for ancillary relief proceedings;
  - (b) He had instituted both divorce and ancillary relief proceedings;

- (c) That a Decree Nisi had been obtained on 8<sup>th</sup> December 2006;
- (d) That ancillary relief hearings had in fact taken place;
- (e) That her husband had instructed solicitors and was instructing them with regard to the ancillary relief proceedings;
- (f) That her husband had lodged a Financial Statement of Means.

None of those statements was true.

5. The Respondent prepared the following untrue documents:
  - (a) An affidavit purportedly in support of the Petition. (The Respondent accompanied Mrs A to the Court where the affidavit was sworn);
  - (b) A Financial Statement of Means purporting that it had been completed by the client's husband;
  - (c) A Financial Statement of Means on behalf of Mrs A which purported to criticise the financial information said to have been supplied by the client's husband.
6. In a separate matter on behalf of Mrs A, the Respondent obtained an Injunction and led her to believe that public funding had been granted, when it had not. No application for public funding had been made.
7. In the case of a client Mrs G, the Respondent misled her in the following way:-
  - (a) He informed her that he had issued an application for ancillary relief when no such application had been lodged;
  - (b) He led her to believe that there would be a hearing in connection with the ancillary relief proceedings and that a hearing would take place on or about 1<sup>st</sup> February 2007. This was not the case; no application had been made.
8. In a further letter dated 23<sup>rd</sup> April 2007, The firm reported to the Solicitors Regulation Authority further misconduct of the Respondent, namely that on 2<sup>nd</sup> August 2006 the Respondent had requested a cheque drawn on client account and payable to "S Utting". The Respondent paid that cheque into a joint account of M L and S Urding, being his own bank account. In his evidence the Respondent explained that he had represented a child's guardian, having received instructions direct from CAFCASS. This body had delayed in settling the firm's bills. Because the Respondent had felt under pressure to ensure the firm was paid, he paid £2,500 of his own money into the firm's account to settle the bill. The cheque paid into his own account represented a refund of his own money.
9. The firm reported the Respondent's conduct to the police. The Respondent received a police caution for obtaining property by deception and an adult formal warning for false accounting.

**The Submissions of the Applicant**

10. The facts of the matter spoke for themselves. The Respondent had admitted the facts and the allegations.
11. The Applicant put allegations (e), (f), (g), (h), (i), (j) and (k) on the basis that the Respondent had been dishonest and his admission included admissions of dishonesty in these respects.

**The Submissions of the Respondent**

12. The Respondent admitted the allegations in their entirety. He invited the Tribunal to consider his mitigation and hope that it would be able to deal with him with leniency.
13. The events underlying the allegations occurred at a time when the Respondent was under such severe pressure to perform by his supervising partners and when he was undertaking a large and complex case case load. The Respondent fell down on the primary administrative functions in dealing with his mainly publicly funded cases and the effects were such that his mental health suffered.
14. The Respondent had had some treatment but had had to join a waiting list for psychological treatment. Despite the absence of a psychological report the Tribunal was invited to make a finding based upon the evidence of the Respondent himself and based upon the nature of his actions, which were so obvious that he was bound to be found out, and were in fact a cry for help.
15. Although the firm did not agree, it was the Respondent's case that he was under significant costs and work pressure. He was the highest performing fee earner in the firm and he dealt with the complex and difficult care cases which involved him in as much as 15 days advocacy in the High Court. It was in this context that he missed the time limits to provide the Legal Services Commission with their public funding forms and thus was not in a position to continue with the retainer and be paid for the work on the two cases in which he misled the clients.
16. The Respondent had been in a state of paralysis. This led to his misleading his clients and his continuing to do so. He could not tell the firm that there was no public funding certificate and he couldn't tell the client that he had failed to follow instructions. He concocted a story that delayed the inevitable disclosure of the true position. That of course was the least favourable option and one was that was bound to lead to the current situation but one which, in his state of mind, he chose. That in itself was evidence of the irrationality of the Respondent.
17. The Respondent was well respected for his efforts and achievements in the law. Many assistant solicitors were the subject of pressure in the course of their work. That arises from two sources, first their own incompetence or secondly from the excessive burdens of an unmanageable work load and/or unrealistic expectations of an employer. The firm did not suggest that the Respondent was anything other than competent when functionally well.

Allegations (a) to (h)

18. In relation to misleading his two clients, the Respondent accepted that this happened, he had apologised to both clients. He was contrite and had made full and frank admissions. The only explanation for an able and competent solicitor acting entirely out of character was that he was unwell. In a well managed environment the situation would not have arisen.

Allegations (i) to (k)

19. This event proved to be the culmination of an ongoing situation. The Respondent had utilised his own funds to meet costs due to the firm from a government body. That was symptomatic of the pressure the Respondent was placed under by the firm. Having met those costs he later withdrew funds in breach of the Solicitors Accounts Rules. The Respondent contended this was irrational. He committed an offence with no personal financial gain. He had accepted the adult caution. He was contrite, indeed, ashamed of his behaviour. That behaviour was out of character and irrational.
20. The Respondent accepted that his breaches were serious and included dishonesty which was admitted. The Tribunal was asked to determine the issue of the Respondent's mental health without a medical report and come to the conclusion that he was unwell at the material times. He should not be denied that finding because of an inability to fund a medical report. The Tribunal was invited to balance the public interest in ensuring the probity and honesty of solicitors against the personal mitigation provided by the Respondent. It was asserted that an indefinite period of suspension would do that. The public would be protected and an application would be required by the Respondent before he could again practise as a solicitor. He would have to demonstrate that he had recovered his mental health. The public interest would be better served by the Respondent's being able to return to the excellent work he had been carrying out.
21. Stringent conditions could be imposed to prevent any prospect of a recurrence of his misconduct. The maintenance of public confidence in the solicitors' profession could be achieved with a proper recognition of the effects upon the Respondent of his work load, supervision and the complexity of his case load, together with the lack of administrative support which led to his behaviour without the sanction that he be struck off the Roll. This case fell into the rare category where dishonesty did not necessarily mean a strike off, having taken into account the early admissions, the Respondent's co-operative behaviour and his state of health at the material times. The Tribunal was invited to exercise its discretion in the Respondent's favour.

**The Findings of the Tribunal**

22. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
23. The matters alleged against the Respondent were at the serious end of the scale and included allegations of dishonesty which the Respondent admitted.

24. The Tribunal gave the Respondent credit for appearing at the hearing and giving evidence as well as giving him credit for his early admissions, his cooperation and his reputation for excellent work in a difficult field.
25. The Tribunal did not have formal medical evidence in the form of a psychological report placed before it, but it recognised that the Respondent was not in a balanced mental state. The Tribunal accepted the Respondent's belief that he was under huge pressures at his firm but has to point out that it had before it no evidence from the firm itself as to the pressure that its employees were put under to get in costs or the volume and complexity of cases allocated to employed solicitors or the structure of support that was in place. The Tribunal fully accepts that it was the Respondent's perception that he was under an inordinate degree of pressure.
26. The Respondent had accepted that his behaviour was dishonest and he had accepted a caution and a warning from the Police. Whatever the Respondent's mental state he has accepted that his behaviour was dishonest and he had not sought to argue that his mental state was such that he did not know that what he was doing was dishonest.
27. Having recognised the difficult circumstances surrounding this case, the Tribunal has found that the allegations to be substantiated, indeed, they were not contested, and this included a finding that in respect of the allegations where the Applicant alleged that the Respondent had been dishonest, he had been dishonest as alleged.
28. The Tribunal concluded that it would be both appropriate and proportionate in recognition of its duty to protect the public and maintain the good reputation of the solicitors' profession to impose a striking off Order upon the Respondent. The Tribunal was told that the parties had agreed between them that the Respondent should pay the costs of and incidental to the application and enquiry and the quantum had been agreed. The Tribunal further Ordered therefore that the Respondent do pay the Applicant's costs fixed in the agreed sum.

Dated this 18<sup>h</sup> day of August 2008  
On behalf of the Tribunal

A H Isaacs  
Chairman