

IN THE MATTER OF MICHAEL ROWLAND TIPLADY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Mr R Nicholas
Mr D Gilbertson

Date of Hearing: 17th September 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 Lorraine Patricia Trench, solicitor, employed by the Law Society at the Solicitors Regulation Authority at 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 19th February 2008 that Michael Rowland Tiplady 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 is that he breached Rule 1.06 of the Solicitors Code of Conduct 2007 as he had behaved in a way that was likely to diminish the trust the public placed in him or the profession by reason of the fact that he had been convicted on 6th August 2007 upon indictment of three counts of furnishing false information relating to accounts.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 17th September 2008 when Lorraine Patricia Trench appeared as the Applicant. The Respondent did not appear and was not represented.

The Applicant provided an Affidavit of Service dated 18th April 2008 in which Andrew McGrath, a Process Server, was instructed to effect service upon the Respondent and a letter from the Tribunal dated 26th February 2008 together with the Application, Rule 5 Statement and Exhibits dated 19th February 2008. The Process Server explained in his Affidavit of Service that enquiries were carried out by his office in relation to the whereabouts of the Respondent which confirmed that he continued to reside at an address shown in a letter sent by the Respondent to the Law Society dated 19th January 2008 and that he worked from home. The Process Server attended the address on 9th April 2008 and he met a man of approximately 50 years of age, with greying hair, wearing glasses, was tall and of a slim build. Mr McGrath served the documentation on the gentleman who at first denied that he was the Respondent and claimed to be Mr Willis. The Process Server explained that he was aware that Mr Willis was an alias of Mr Tiplady which he did not deny but said that he would take the documents for Mr Tiplady and pass them on to him later that day. Mr McGrath explained that he believed the man to be the Respondent, Michael Rowland Tiplady and that he was deliberately trying to avoid accepting service of the documents.

The Tribunal accepted that good service of the Application and Rule 5 Statement and Exhibits had been served on the Respondent and proceeded with the hearing in his absence.

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

The Tribunal ORDERS that the Respondent, MICHAEL ROWLAND TIPLADY of Hook Heath Avenue, Woking, Surrey, 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 £1,531.35.

The facts are set out in paragraphs 1 - 13 hereunder:-

Evidence before the Tribunal

1. The Respondent was born on 31st July 1960 and was admitted as a solicitor on 15th November 1990 and his name remained on the Roll of Solicitors. The Respondent is not currently practising as a solicitor and his last practising certificate was terminated on 13th March 2007.
2. It came to the attention of the Solicitors Regulation Authority ("the Authority") that the Respondent had been charged with criminal offences contrary to the Forgery and Counterfeiting Act 1981 and the Theft Act 1968.
3. On 22nd August 2006 the Authority sent a letter to the Respondent seeking his explanation in relation to the information it had received from the Kent Police that he had been charged with the following:-
 - (i) Three counts of theft contrary to Section 17(1)(B) of the Theft Act 1968.
 - (ii) One count of forgery contrary to Sections 1 and 6 of the Forgery and Counterfeiting Act 1981.
 - (iii) One count of forgery contrary to Sections 3 and 6 of the Forgery and Counterfeiting Act 1981.

- (iv) One count of Theft contrary to Section 17(1)(A) of the Theft Act 1968.
4. On 31st August 2006 the Law Society received a letter from the Respondent's representatives, who explained that they were instructed by the Respondent, but before they could respond they required to have sight of the information received by the Law Society from Kent Police. This was then forwarded to them on 31st August 2006. On 4th September 2006 the Respondent's representatives wrote to the Law Society explaining that the Respondent had been charged by Kent Police but that he had not been convicted of any criminal offence. All the charges were denied and it was explained that the Respondent was not employed by anyone in the capacity as a solicitor. The Respondent's representatives also referred to the fact that they had contacted the Law Society's Ethics and Guidance line on 14th July 2006 to seek advice about what matters needed to be reported to the Law Society. They were advised that as the Respondent had been charged and criminal proceedings had been instituted against him it did not mean that those had to be reported to the Law Society as he had no duty to self report the fact that he had been arrested and charged unless he wished to apply to renew his practising certificate. It was contended therefore that there had been no question of any deliberate concealment from the Law Society on the part of the Respondent that he been charged with any criminal offences.
5. On 18th September 2006 the Law Society's Regulation Unit wrote to the Respondent's representatives explaining that whilst they understood that the Respondent did not intend to renew his practising certificate, the Respondent had nonetheless been charged with matters involving allegations of dishonesty and as such the Law Society's primary concern was to protect the interests of the public until the outcome of the charges were known, in which case a note would be prepared to be placed before an Adjudicator at the Law Society to consider whether in the circumstances it was appropriate to impose immediate conditions on the Respondent's practising certificate in the event that he decided to practice as a solicitor in the future. Reference was made to Section 13A of the Solicitors Act 1974 (as amended) - 'Imposition of conditions whilst Practising Certificates are in force'. Further information was requested from the Respondent's representatives as to whether he had been charged and convicted of:-
- (i) An offence involving dishonesty or deception; or
 - (ii) A serious arrestable offence (as defined by Section 116 of the Police and Criminal Evidence Act 1984).
6. On 2nd October 2006, Bark & Company on behalf of the Respondent, wrote to the Law Society explaining that the Respondent was not currently working as a solicitor and did not intend to apply to renew his practising certificate. They went on to explain that the Respondent had been employed as a consultant by the construction industry between 1st September 2002 to 30th June 2003 providing advice to them in relation to public finance initiatives and projects. The charges under the Forgery and Counterfeiting Act related to the allegation that the Respondent had forged the signature of one of the directors of a property company on a document sent to the Land Registry in order to have the title of land owned by the company conveyed into the name of another company. The false accounting allegations arose out of information that the Respondent was alleged to have provided in relation to the annual

tax returns for the company. In relation to both sets of allegations the Respondent had been acting in his capacity as a private individual and not in relation to any work carried out as a solicitor on behalf of any other client.

7. Subsequently the Law Society obtained a copy of the certificate of conviction. On 6th August 2007 the Respondent had been convicted on his own confession of three counts of furnishing false information relating to accounts. He was sentenced on 13th September 2007 to community sentence which required him to carry out unpaid work for 150 hours. He was also fined £3,500.00 or serve three months imprisonment in default.

8. The Law Society also obtained a copy of the transcript of the sentencing hearing that took place on 13th September 2007 before Mr Recorder Bate QC. The Respondent had pleaded guilty to three counts of tax evasion totalling £1,046.00 and all counts related to the same misrepresentation to his accountant in order that the Inland Revenue should be deceived. The counts related three occasions over a period of one year and therefore not so to an isolated incident. The Judge commented that the Respondent had been frank enough to admit to the probation officer who had compiled the pre-sentence report that he committed the offences on the basis that he thought there was a very small chance of ever being detected. The Respondent was noted to have pleaded guilty at a very late stage of the proceedings and the Judge adjusted the sentence accordingly making a small reduction in the sentence. The Judge commented that:-

"Tax evasion is a serious offence because the welfare state, upon which all our citizens rely, depends on people paying their taxes and not evading them".

9. The Judge however did comment that he was:-

"not satisfied that this case passes the custody threshold and therefore I am not going to impose a prison sentence. I am, however, satisfied that the offence is serious enough to warrant a community order".

10. On 16th January 2006 the Authority wrote to the Respondent at his last known registered address setting out the allegations that had been proved before Maidstone Crown Court on 6th August 2007 and whether or not his solicitors at that time would be willing to accept service of the proceedings on his behalf.

11. On 21st January 2008 the Authority received a letter from the Respondent dated 19th January 2008 in which he explained:-

"Thank you for your letter of 16th January 2008. I am afraid that you are writing to the wrong person. I am not a solicitor and I would be grateful if you would amend your records accordingly."

12. On 18th April 2007 the Authority wrote to the Respondent enquiring whether he wished to maintain his name on the Roll of Solicitors. This was completed and returned by the Respondent and was dated 24th April 2007 in which he explained that he did not wish to retain his name on the Roll of Solicitors.

13. On 8th May 2007 the Authority wrote to the Respondent explaining that as he was subject to an outstanding investigation by the Regulation Unit and as it was considered that the information provided by the Regulation Unit amounted to a complaint. The Authority decided to refuse his application for the removal of his name from the Roll until the matter had been resolved under Regulation 8 of the Solicitors (Keeping of the Roll) Regulations 1999.

The Submissions of the Applicant

14. The Applicant submitted that she was not in a position to confirm whether or not the allegation was admitted as there had been no substantive response received from the Respondent. Whilst the letter dated 19th January 2008 had been received from him, he did not indicate what his position was in regard to the allegation. The Civil Evidence Notice had also been served on 9th April 2008 and had not been returned by the Royal Mail. A costs schedule had also been served on the Respondent.
15. The Applicant said that none of the documentation had been returned to the Authority.
16. The Applicant relied on the Rule 5 Statement and the fact that before the Crown Court the Respondent had admitted all of the offences. Having been admitted on 15th November 1990 the Respondent had last held a practising certificate in 2005, on being asked by the Law Society if he wished to remain on the Roll the Respondent asked for his name to be removed - an application which was refused.
17. The charges were serious in relation to forgery and making a false tax return. These were serious matters for a solicitor and whilst the Respondent's representatives sought to explain in their letter dated 2nd October 2006 that these matters arose in his personal capacity and not as a solicitor the fact remained that he was at the time a solicitor.
18. The Applicant argued that the public needed to be satisfied that solicitors were acting with integrity, probity and honesty and the seriousness of the offence meant that the good repute of the profession had to be maintained.
19. Reference was made to the fact that this was not an isolated case and the Respondent had admitted all of the offences on the basis that he thought there was a small chance of being detected.

The Findings of the Tribunal

20. The Tribunal carefully considered the allegation against the Respondent. It found that good service had been effected and found the allegations against him proved.
23. It was not capable of being disputed that the Respondent had pleaded guilty to a serious offence of tax evasion based on forgery of a document and the p..... of false information to the tax authorities. He had admitted his offence. There was no evidence that in relation to the offences the Respondent was acting as or holding himself out as a solicitor and there was no mention in the Judge's sentencing remarks that the Respondent was a solicitor. The Respondent stated in correspondence that he did not wish to renew his practising certificate and he applied to have his name

removed from the Roll. These proceedings therefore are solely the result of the refusal to allow the Respondent to cease to be a solicitor and the retention of his name on the Roll. The Tribunal however considers that the Respondent's criminal conviction is not compatible with the remaining on the Roll as a solicitor and that it has no option but to Order that he be struck off.

24. The Tribunal regarded the matter as serious and ordered that that the Respondent, Michael Rowland Tiplady 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 £1,531.35.

Dated this 12th day of December 2008
On behalf of the Tribunal

A H Isaacs
Chairman