

IN THE MATTER OF NICHOLAS LAWRENCE WOODROW CHURCHWARD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr R Nicholas (in the chair)
Mrs H Baucher
Mr D Gilbertson

Date of Hearing: 10th February 2009

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 Gerald Malcolm Lynch, solicitor and consultant to the firm of Drysdales, Cumberland House, 24-28 Baxter Avenue, Southend-on-Sea, Essex, SS2 6HZ that Nicholas Lawrence Woodrow Churchwood, solicitor of Glenholt, Plymouth (formerly of Plymouth, Devon) 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 are as follows:

- (a) the Respondent acted in breach of Rule 1 of the Solicitors Practice Rules 1990 in the following particular:
 - (i) in breach of his integrity;
 - (ii) in maintaining a proper standard of work;
 - (iii) in observing his duty to the Court.
- (b) the Respondent acted in breach of Principle 21.01 of the Guide to the Professional Conduct of Solicitors 1999 in that in eight separate client matters the Respondent knew or ought reasonably to have known that statements made by him to the Court

were untrue, alternatively that in respect of the said matters the Respondent made statements of truth without checking the veracity thereof whereby the Court was deceived, alternatively misled as to the true position.

- (c) the Respondent failed to deal with correspondence and enquiry received from the Solicitors Regulation Authority in an open, prompt and cooperative way and was thus in breach of Rule 20.03 of the Solicitors Code of Conduct 2007.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 10th February 2009 when Gerald Lynch of Drysdales appeared on behalf of the Applicant and Mr Churchwood 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, Nicholas Lawrence Woodrow Churchward of Glenholt, Plymouth (formerly of Plymouth, Devon), solicitor, be Struck Off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,733.33.

The facts are set out in paragraphs 44 hereunder:

1. The Respondent, born 1973, was admitted as a solicitor on 15th September 1998. His name had been suspended from the Roll of Solicitors following a petition for bankruptcy presented on 5th June 2008.
2. At all material times the Respondent was practising in partnership in the firm of M P Jones & Co at 97 Mutley Plain, Plymouth, Devon. The partnership was dissolved on 1st January 2007.
3. The Respondent practised as an assistant solicitor in the firm of Russell Worth, 2 Endurance House, Parkway Court, Longbridge Road, Marsh Mills, Plymouth, Devon, PL6 8LR but at the time of the hearing was unemployed.

The Issues

4. The Respondent had been required to file a Statement of Truth with the Plymouth County Court in relation to a number of cases. The Civil Procedure Rules Part 22 provide that a document where a rule or practice direction is required has to be verified by a Statement of Truth. The party putting forward the document had to sign a certificate to the effect that he believes the facts therein are true.
5. On 8th March 2007 Mr MP, the principal of M P Jones & Co, which carried on practice in Plymouth, Devon, wrote to the then Office for the Supervision of Solicitors in respect of his ex-partner the Respondent. They had practised in partnership until that agreement had been terminated on 1st January 2007. The letter explained that the Respondent's files had been distributed to fee earners within the firm and members of his staff had identified issues potentially amounting to professional conduct on files, namely C, W and M. The concern related to

applications made to the Plymouth County Court for extensions of time for the service of court proceedings. The applications were in all cases made without notice to the other side by the Respondent and signed by him with a Statement of Truth. Questions arose as to the veracity of the Statements of Truth presented to the Court on those individual files. The firm wrote to the Respondent seeking his explanation. The firm had also then instructed Counsel to review the files. The firm was advised that they should report the Respondent to the Solicitors Regulation Authority. Counsel subsequently identified further instances of poor work on the Respondent's files which the firm invited the Respondent to comment upon.

6. On 20th February the Respondent replied to the letter from the firm following an inspection by him of the files and enclosed a statement in respect of the cases of C, W and M. The Respondent explained:

"I wholly accept that the way I have run these files has been below the standard expected but I deny any intention to deceive or mislead the Court."

7. The Tribunal was invited to consider the following evidence in respect of the file.

Case C

8. The Respondent applied to extend the time for service of proceedings. On 7th July 2006 he stated he had entered into a Conditional Fee Arrangement (with the Claimant) and he had spoken to an After the Event Insurers insurer who had confirmed their ability to insure the matter.
9. In a further application dated 8th September 2006 the Respondent stated he had prepared a very detailed Particulars of Claim, and was awaiting his clients' confirmation that he approved the schedule of loss drafted and awaited a reply from After the Event Insurers with confirmation that they would provide cover. He also stated that he was awaiting a full copy of medical records on the basis that the NHS would not release copy notes whilst the client was being seen by his medical experts.
10. In a further application dated 6th October 2006 the Respondent said, the Particulars of Claim were with his client for signature, and the After the Event insurance underwriters wanted to see the filed Particulars of Claim and schedule of loss approved by Counsel before they would confirm the indemnity position. Further he had not been able to obtain the medical records and the medico legal expert had advised he would need to see all the records.
11. The court, in respect of all three applications, granted further time for service.
12. In a response to enquiries from the firm the Respondent made a statement in respect of the C file. He confirmed that on checking the file he had not actually entered into a Conditional Fee Agreement but had recalled discussing the same. He had forgotten to provide the client with the agreement and to have him sign it but believed that when he made his application on 7th July that he had done so. In relation to the After the Event Insurers he had checked the file but there was no note to confirm any conversation with them although the Respondent had a recollection of a conversation.

13. In respect of the application of 8th September the Respondent said that he recalled preparing the Particulars of Claim and a schedule of loss and that the client had approved them, he acknowledged there was no copy of any draft Particulars on the file and he assumed that he had destroyed them. He agreed that the lack of evidence on the file was his fault.
14. In respect of the After the Event Insurers, he had failed to make or had lost all relevant notes but recalled speaking to the insurers.
15. In respect of medical records he claimed that what he said was true. He agreed when examining the file that he had failed to check the position but recalled that he had obtained some of the clients' notes but not all of them. He had obtained a report from a local GP to serve with the proceedings. He could find no notes on the file relating to a local medical expert but did recall discussing the case with a local orthopaedic surgeon to ascertain whether he would be happy to see the client at short notice. No file note had been made.
16. In relation to the application of 6th October the Respondent said he had drafted the Particulars and discussed them with the claimant who had approved them. The Respondent explained that he must have destroyed his draft papers because the file disclosed no copy. He accepted he had not sent them to the claimant for signature. He had intended to do so but presumed that he must have typed up the application first and taken it to the court and failed to send the Particulars to the client. That part of the statement in the application was accordingly untrue.
17. The Respondent said that he believed in the truth of the statement made to the court.

Case M

18. In an application of 7th September 2006, the Respondent said that the claimant had to spend long periods of time in Pakistan and he had not been able to contact him. He had drafted the Particulars and a schedule of special damages and was awaiting approval from his client. He had not been able to obtain medical evidence as the client had been out of the country. The Respondent obtained signed authorities and instructed an orthopaedic surgeon and a medical appointment had been scheduled to take place on 20th September. In a further application dated 8th October the Respondent said that the claimant had approved the Particulars of Claim, that the After the Event Insurers wished to have the particulars checked by Counsel, that the claimant was unable to properly plead his financial losses or obtain final accounts and that there had been an appointment for a medical expert on 20th September which had been cancelled.
19. The court extended the time for service on the basis of the applications.
20. On 20th February 2007 the Respondent made a statement. He explained he genuinely believed he could not contact his client. He said:

"I believe and believed this statement to be true. Unfortunately, I have to accept that I had done a very poor job on Mr M's claim and indeed when I considered the file of papers on 18th February I was aghast at just how badly I

had let this file slip to the point that a number of my notes were not dated or were illegible."

The Respondent said he understood that the client was out of the country and was planning to go away for about six months. Whilst his notes were not clear, he believed the statement was true. As to discussing the matter with his client, upon checking the file he confirmed that he had lost or not kept a proper note of the Particulars and schedule but recalled discussing the same with the client. He had not been able to obtain the necessary medical evidence. His notes were not clear or present but he recalled he had arranged a visit to a surgeon in the London area which did not proceed. He believed it was true that he had signed authorities. The file contained signed authorities to obtain medical notes but the appointment notes were not clear. He recollected a discussion with a medical agency on several occasions but was disappointed that there were no clear notes on the file. As to the request from the After the Event Insurers, there was no record of this and he had failed to keep any note. He had however discussed the matter with the insurers' solicitors and had no reason to suspect that the statement he had made was not true. What he had said in relation to the clients being unable to plead financial losses was true, the dates as to the medical examination were true, he again recollected a telephone conversation. He had not made clear notes on the file and could not recall what happened about following up the appointment.

Case W

21. In an application of 8th October 2006 the Respondent alleged that the claimant had approved the Particulars of Claim and that the After the Event Insurers required them to be checked by Counsel. There was a question as to when cover would be confirmed; that information was awaited from the claimants' employers to calculate the loss of earnings and a medical appointment was awaited.
22. On 20th February 2007 the Respondent replied to the firm explaining that he recalled having prepared the Particulars of Claim in draft and discussing the matter with the claimant and that took place on the 15th August 2006. Unfortunately his note of the meeting had not been clear but he had discussed the Particulars. No copy of the Particulars was on the file which he assumed had been destroyed but admitted that the lack of a clear note on the file was his fault. There was no record on file of conversations he had with After The Event Insurers and he could not be certain of dates. He believed that the statement that the client was waiting for information to calculate his claim for loss of earnings was true as he recalled discussions on the point. The note on the file was not clear and he could not recall all that had been discussed. The Respondent stated:

"When I made my statement I was certain that I must have mentioned the fact that he was obtaining the loss of earnings information for a reason or I would not have mentioned it but I do not know why I said this. However, I see no reason to doubt that this was true and that I had not intended to mislead or deceive the Court."

In relation to the medical appointment the Respondent had not made or kept any notes of conversations with the expert but recalled a discussion.

23. Counsel reviewed a number of additional files and the following issues were identified.

Case R

24. Three applications were made by the Respondent to the Plymouth County Court to extend time to serve proceedings on 4th May, 5th July and 7th August 2006 and in each case were granted.
25. The August application stated that the claimant was told at the last minute that the appointment for a medical examination was cancelled but there was no evidence on the file as to the cancellation or any evidence that any appointment had indeed been made. The 4th May application was based on the Respondent's failure to take instructions from the claimant due to his medical condition which included a stroke and diabetes. There was no evidence on the file to suggest that the client suffered from any such disability. The July application was said to be due to a difficulty in obtaining instructions due to the claimant being in Leeds during the recovery from the above medical conditions. In addition to the lack of evidence of any diagnosis there was no evidence on the file in any letter or any attendance note that the claimant was in Leeds at any material time.

Case DS

26. The Respondent made an application to Plymouth County Court to extend time for service, this being 8th October 2006. The Statements of Truth were not supported by any evidence that the After the Event Insurer required the Particulars of Claim to be examined by Counsel, that the Particulars of Claim were with the claimant or that an appointment was awaited with the medical expert. There was no evidence that the Particulars of Claim had been drafted before the October 2006 application to the Court or that they were with the claimant for approval. There was no evidence of the instruction of a medical expert referred to and medical notes had not been obtained. The Respondent in the application to the court further stated that the claimant had not provided earnings information but there was an attendance note that he had obtained such information from the claimant. The claim had been with the Respondent for nearly three years during which time no progress had been made. Within the file there were matters for concern including loose attendance notes some of which were written on the back of copy medical records of other people. There were pages with only the claimant's name on and nothing else and pages with notes which did not belong to that file.

Case MA

27. Applications had been made to the Plymouth County Court to extend time for service of proceedings on 16th June, 11th August, 15th September, 8th October and 24th November 2006. In relation to the first application of 16th June 2006, the Respondent said that he had no instructions from the client but the file confirmed the client had regularly telephoned him. The Respondent claimed that the client was trying to establish who owned the vehicle he was driving, but this was not supported by any evidence on the file that that was an issue. In the application it was said that the client

could not continue in employment because of his injuries. However the Respondent had identified that whilst the client was not at work, he was due to commence work only some two weeks later.

28. In relation to the second application of 11th August 2006 the Respondent suggested that the client had been on holiday but there was no evidence of that. There was no evidence either that time was needed to properly plead the claim for loss of earnings.
29. In relation to the third application there was no evidence to support the contention that the Particulars of Claim were with the client for signature or that there was any evidence of dispute with a credit hire company. The Respondent suggested that the client was obtaining bank statements and payslips but there was no evidence to that effect. There was also no evidence of any instruction of a medical expert or of the arrangement of any appointment.
30. In respect of the fourth application of 8th October, the statement said that the client had approved the Particulars of Claim but the file confirmed that the Particulars had not been sent to the client. The statement that the client was unable to properly plead financial losses was not supported by evidence. There was no letter to the effect that the client's accounts from the Inland Revenue were outstanding or of the cancellation of the medical appointment.

Case PT

31. The last day for service was 12th May 2006 and on this date the Respondent made an application for an extension of time. The primary reason argued by the Respondent for not being able to serve in time was that he did not have permission from the organisers of the insurance policies, but there was no evidence on the file that the Respondent had made any approach to those persons. He had said that his last two letters to the claimant requesting clarification and documents had been unanswered but in fact the Respondent had not written to the claimant since 27th September 2003. The Respondent said that he only had one medical report on file which did not meet with the approval of the client and needed updating but that report had been obtained in November 2003 and no steps had been taken to update it.

Case AE

32. The Respondent made an application to Plymouth County Court to extend time for service on 7th July 2006. The Respondent stated that he was without instructions for a period up to the date of the application but there was no evidence of any contact between the Respondent and the claimant on 7th July. There was an attendance note on 2nd June when there had been contact. The Respondent stated that he had the Particulars of Claim and schedule of loss but the Particulars were actually signed by him and dated 6th October.
33. The Statement of Truth stated that there was a signed copy of the Particulars of Claim on the date of the application which had been effected by the claimant but that was untrue. The Particulars of Claim was served without any medical report and that was undertaken without the permission of the court.

Case AH

34. On 8th January 2005 the client contacted the Respondent requesting an update of his claim and in an undated e-mail, which was sent after 1st January 2005 and before 14th January 2005, the Respondent stated:

"this is my first day in the office since Friday as I am engaged in a three day trial which will finish hopefully successfully today."

Later, on 24th January, the Respondent said he had returned to the office "having finished my trial."

35. In a letter of 13th September 2007 the Respondent's partner confirmed that the Respondent had never had conduct of a three day trial whilst with the firm. The client also asked the Respondent to deal with the apparent delay in the progress of his matter, to which the Respondent did not respond.

Case JM

36. On 28th September 2005 the Respondent wrote to the Defendant in this matter. The file did not contain any notes to show that the Respondent had made contact with the Defendant's insurer at any time between the summer of 2003 and the date of the letter. The only evidence to support the position taken by the Respondent that he had been trying to contact anyone was a series of undated handwritten notes in no particular order.

Case FG

37. The Respondent wrote to TLP Ltd and PM on 27th February 2004. The Respondent stated that there were good pictures of the scene of the injury and that "he anticipated obtaining Counsel's opinion within two months". However an unfavourable opinion had been obtained two years previously and no other Counsel had been instructed by the Respondent.

Case MW

38. The Respondent informed the insurers in this matter, in a number of telephone conversations in or around January 2005 that he was having difficulty contacting the client which was untrue. There were only occasional problems as there were a number of handwritten attendance notes in relation to conversations between the Respondent and the client.

Case EM

39. On 20th July 2004 the Respondent wrote the insurers a letter suggesting that the delay in the medical report was the fault of the expert which was incorrect.

Case YC

40. The Respondent wrote to Plymouth County Council on 14th November 2005. There was one letter that was of slight concern in relation to the pictures taken at the scene of the accident and the Defendant had asked when and how they were taken. The Respondent said in the above letter that they were taken by the claim management company but there was no evidence of that. Documents within the file suggested that the pictures were taken by the claimant a few weeks after the event.

Case CR

41. The Respondent wrote to Plymouth Nuffield Hospital on 24th November 2003. The Respondent wrote to the hospital stating that he had chased the GP for medical notes but the Respondent only wrote for the first time that same day to the GP for the notes stating that the matter was "most urgent". In the letter of 24th November (two weeks before the appointment with the expert) the Respondent stated that he had chased the medical records but an inspection of the file papers indicated that was not the case. The Respondent, only a matter of days before, had sent the forms of authority to the claimant to sign. He wrote to the GP on the same day, requesting the notes as a matter of urgency. The instructions to the orthopaedic surgeon suggested an attempt to mislead in relation to what steps had been taken to obtain the medical notes.
42. The Tribunal was also provided with the following evidence on client matters:
- (a) MA - delay and failure to progress the case
 - (b) DS - three years delay in progressing the case
 - (c) LD - delay and failure to progress
 - (d) JE - delay in obtaining medical evidence
 - (e) JT - delay, which was not the fault of the client, and muddled papers in the file. The Respondent said that any delay was as a result of the difficulty in obtaining the clients' instructions but an examination of the file indicated that the claimant was prompt in responding to enquiries either by letter or telephone
 - (f) LW - delay on the part of the Respondent in obtaining medical evidence. The Respondent had failed to obtain any evidence which necessitated the need for an extension of time for service as there were no medical notes and no medical evidence in support of the claim
 - (g) DS - there was a failure on the Respondent's part to properly control the file and the request for medical evidence was cancelled
 - (h) JS - there was evidence of delay and failure to inform the client. There was no other evidence in relation to the claim obtained by the Respondent. The Respondent spent time chasing a witness statement without result. There were protracted periods when there was no progress on the file and proceedings were issued with no contact having been made with the claimant for a significant time

- (i) JM - the file was disorganised with a large number of loose papers. There were two long periods when nothing was done which constituted delay
- (k) GG - there was delay and a failure to consider the merits of the matter earlier than November 2005 when a verbal opinion had been obtained from Counsel that was non-supportive in July 2005
- (l) PL - there was delay and failure to apply pressure to surgeons to ensure compliance with court orders
- (m) PS - there was a failure to manage the file in the proper manner and delay. There was delay in making an appointment and during 2004 and into 2005 and no steps were taken to progress the file. There was a negative assessment in the case which could have been made earlier. The Respondent had failed to consider material provided in September 2003 by November 2003
- (n) JW - there was a failure to advise regarding the risk of signing the discharge form for the defendant
- (o) EM - there was a delay and in particular delay in obtaining medical records. The Respondent also appeared to have acted without instructions
- (p) MB - failure to progress the case. The Respondent stopped any work on the file and there was no correspondence after April 2004
- (q) RW - there was delay in obtaining medical evidence over a period of two years
- (r) KW - there was delay from November 2005 and a failure to progress the matter from November 2005
- (s) AR - there was a failure to monitor the claim properly and the defendants were able to successfully strike out the claim. The claim had been issued without medical evidence or a schedule of loss
- (t) CW - there was delay and a failure to progress the claim and that failure was instrumental in the client being made bankrupt. The Respondent did not seek a medical report at the time and never sought one until it was too late despite an admission of liability
- (u) JM - there was delay of between 12-18 months. Counsel observed that "over the course of the next 18 months (from early 2005) the Respondent went round in circles in relation to how to proceed and whether or not to revert to the consultant". He reverted frequently to the claim but gave no further advice. The Respondent failed to comply with court directions relating to service of a list of documents, witness evidence and a special damage schedule. He did not agree extensions in advance or apply to the court and that placed the client at risk of having evidence excluded.

- (v) IC - there was delay in obtaining medical evidence and delay in progressing matters. There was failure by the Respondent to advise regarding the Part 36 offer or on the interim payment and he failed to respond to the client's enquiries. The claimant frequently emailed the Respondent for advice and information but those enquiries were not dealt with
 - (w) PT - there was delay and a failure to advise
 - (x) The B Family - there was delay and a failure to deal with the claimant's request for information. The Respondent was less than frank regarding the true position. The Respondent did not progress the settlement of the matter of costs between February and December 2004 and was inactive.
43. On 3rd December 2007 the Solicitors Regulation Authority wrote to the Respondent seeking his explanation. No response was received to that letter and on 4th January the Authority wrote again drawing the Respondent's attention to his failure to report and requiring a response within the next eight days. There was again no response and on 14th February the Authority wrote again to say that consideration would now be given to an allegation of failure to deal with the Authority.
44. The only response received from the Respondent was in respect of the three cases C, M and W and in response to the letter sent by his firm.

The Submissions of the Applicant

Case C

45. In the applications made by the Respondent to the court, the witness statement in relation to the application of July 2006 suggested that the Respondent was in contact with the claimant in September 2004 but had not received instructions until 2006. However the initial contact was on 21st September 2004. On 24th November 2004 the Respondent took on the first injury case and the attendance notes stated that the limitation date had been placed in the diary. A review of the file showed that that could not be the case as the claimant had signed the authority for copies of medical notes during the course of 2005 and there was also the advice from Counsel on the merits of the claim. On 21st September 2005 the Respondent wrote to the claimant stating that he now had all of the medical notes and on 11th November that he had reviewed the insurance policy and legal expenses cover. On 5th December 2005 the Respondent had sent a letter to the claimant containing his draft statements in relation to two accidents for approval. Proceedings were eventually served on 8th November and Counsel considered that the applications made by the Respondent had sought to deliberately mislead the court in light of the timescales demonstrated in the advice.

Case M

46. The Tribunal's attention was drawn to Counsel's opinion in relation to the two applications made to the Plymouth County Court. The Statements of Truth were not supported by any evidence. There was nothing in the file which supported the statement that more time was needed to obtain medical notes or that the client was in Pakistan. Signed authorities to apply for copies of the medical notes had been obtained on 20th December 2004 but no progress had been made by the Respondent to do so. In relation to the medical examination there was nothing on the file that demonstrated that any appointment had been made for the claimant to see an expert nor was there any evidence of a cancellation of the appointment. There was also no evidence to show that Counsel had been instructed for an opinion on the merits of the case and none had been received. In reviewing the Respondent's files, Counsel had advised that there was evidence that the Respondent had sought to deliberately mislead the court in the applications and if there was evidence to support the claims made by the Respondent such evidence was not on the file.

Case W

47. In reviewing the file Counsel observed that:

"I have identified a number of areas of very serious concern in the litigation process in relation to this case. I have identified attempts deliberately to mislead the court and failure to progress the case in a professional manner."

He further stated that there was no evidence within the file to support the Respondent's statement that the claimant had approved the Particulars of Claim, nor was any explanation provided as to why, if approval had been obtained, the Particulars of claim was not signed by the claimant rather than by the Respondent with the schedule and the medical report all dated on the same day. There was no evidence of any attendance note or letter indicating that enquiries had been made with After the Event Insurers. There was no evidence that any attempt had been made during the three year period to obtain evidence of earnings from the claimants' employers. There was no evidence that the Respondent had made an appointment with the medical expert or why the medical notes had only been applied for at the last minute. The Respondent had been working on the file for some considerable time and the medical evidence was only sought after obtaining an extension of time for service of the claim form. The Respondent had not appeared to have taken any steps to obtain the medical evidence until August 2006 which was nearly three years after his initial instructions. The consent forms had been signed after the pleadings had been issued. It was submitted that the application of 8th October 2006 was of considerable concern as it was based on a number of untruths.

48. In relation to the additional matters placed before the Tribunal it was submitted that there was evidence that the advice given to the clients in those matters by the Respondent was so poor as to amount to professional misconduct.
49. Furthermore, the Solicitors Regulation Authority had written to the Respondent on 3rd December 2007 to which no response had been received. They wrote again on 4th January 2008 and again 14th February, to which no response was received. As a result

the Tribunal was asked to conclude that the Respondent had failed to meet his obligations to deal with correspondence from the authority in a prompt and open and cooperative manner.

The Submissions of the Respondent

50. The Respondent explained that in the C matter he had made applications to extend time on three occasions based on the three statements of truth. He accepted that there was no basis to have made such statements to the court. In relation to the CFA's he expressed surprise to the court that he had not entered into a CFA and said he must have forgotten to do so. He did not believe that he had misled the court in making the statements of truth. He had made the statement in an honest belief as to its contents as he believed he had indeed entered into the CFA. He denied deceiving the court with regard to the Particulars of Claim which he had said were with the client. He now accepted that that was untrue. He blamed pressure of work and the fact that he was about to go on holiday. He denied he had done anything serious or anything which could amount to serious misconduct.
51. In the additional client matters, the Respondent largely accepted the poor service identified by the Applicant but gave the Tribunal details of each case, explaining briefly the facts and how the poor service had arisen.
52. The Respondent explained that he was handling between 120-150 cases, which he dealt with from 'cradle to grave'. He impressed upon the Tribunal that there was no allegation of financial impropriety, no clients had suffered any loss and no claims had been made on the firm's professional indemnity insurance, but he accepted that his conduct had fallen below the standard expected. He apologised to the profession and his clients. He accepted that he had failed to prioritise. He had buckled under the pressure; everything had come too easily to him and as a result he had taken his 'foot off the gas'.

Findings of the Tribunal

53. The Tribunal found all the allegations proved on the Respondent's own admission.
54. This was not a case where dishonesty had been alleged by the Applicant. The allegations had been framed in terms that the Respondent knew what he was doing and/or was reckless.
55. The Respondent had admitted all the allegations but had sought to explain in a limited way how the poor service to each client matter had arisen. The Tribunal noted that the Respondent had denied he had deceived the court or that the court had been misled. The court relied on the Respondent's lengthy and detailed applications before agreeing to extend service. There was no evidence that any such applications were ever refused. There was evidence that of the 11 orders extending time for service, the same Judge dealt with 9 of those applications. The applications had been lengthy and detailed. The Tribunal concluded that the Respondent had misled the court by providing false statements of truth. The Tribunal was satisfied that he knew what he was doing and he had done so with the purpose of deceiving the court.

56. The Tribunal were conscious the Respondent, who at 36 years of age was just starting his legal career. However, there was strong and compelling evidence that he had sought to mislead the court in a systematic manner. The evidence before the Tribunal was not of an isolated incident of poor service, or misleading the court, but of conduct over a period of time which was calculated and designed to mislead clients and the court by concealing his own failures to progress matters properly. In making the applications to the court he was attempting to manage his caseload by the worst possible means. The Tribunal had before it evidence of 17 separate statements of truth submitted by the Respondent which had resulted in time being extended. The court acted both on the contents of those statements of truths and the fact that they were being made a solicitor.
57. The Respondent had failed to provide any satisfactory explanation as to how the situation had arisen and the context in which he had found himself or to explain what he had done and why. When asked what level of supervision and training he had undergone, the Respondent conceded that any bad habits he had acquired were "home-grown". In the absence of any satisfactory explanation from the Respondent, the Tribunal were particularly concerned that he had gone to such lengths to mislead the court and clients in so many matters. The duty held by the Tribunal to protect the public and the reputation of the profession was paramount.
58. Whilst recognising that there was evidence that service had been given to some clients, veracity and truth were cornerstones of the profession. The Tribunal were mindful that the penalty that they chose to impose would deprive the Respondent of his ability to earn a livelihood, particularly in light of his bankruptcy, but concluded that the need to protect the public and maintain the reputation of the profession was essential in this case. The Tribunal ordered that the Respondent be struck off the Roll of Solicitors.

Dated this 17th day of June 2009
On behalf of the Tribunal

R Nicholas
Chairman