

IN THE MATTER OF MARTIN WILLIAM HARRISON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs K Todner (in the chair)
Mr A Gaynor-Smith
Mr J Jackson

Date of Hearing: 7th May 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 Jayne Willetts, Solicitor Advocate and Partner in the firm of Townshends LLP, Cornwall House, 31 Lionel Street, Birmingham, B3 1AP on 28th May 2008 that Martin William Harrison, 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 fit.

The allegations against the Respondent were that:

1. In acting on behalf of his clients Ms H and Mr G he failed to act with integrity or in the best interests of his clients and he behaved in a way that was likely to diminish public confidence in the profession in breach of Rules 1.02 and 1.04 and 1.06 of the Solicitors Code of Conduct 2007;
2. He paid client monies belonging to Ms H into his own private bank account in breach of Rule 15 of the Solicitors Accounts Rules 1998 ("SAR") which for the avoidance of doubt is an allegation of dishonesty.
3. He utilised client funds belonging to Ms H for his own purposes, which for the avoidance of doubt was an allegation of dishonesty.

4. He withdrew monies from client account belonging to Mr G otherwise than as permitted by Rule 22 of the SAR.
5. He utilised client funds belonging to Mr G for his own purposes.
6. He acted in breach of Rule 19(2) of the SAR in that costs were transferred from client to office account before bills of costs or other written notification were provided to his client, Mr G.
7. He failed to deal with the Solicitors Regulation Authority in an open, prompt and cooperative manner contrary to Rule 20.03 Solicitors Code of Conduct 2007.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4 7NS on 7th May 2009 when Jayne Willetts appeared as the Applicant and the Respondent did not appear and was not represented.

The Tribunal received a letter from the Respondent dated 6th May 2009 which confirmed he would not attend the hearing on 7th May 2009. The letter indicated the Respondent accepted allegations 1, 2, 4 and 6 but he did not accept the allegations of dishonesty in allegations 2 and 3. The letter gave the Respondent's current address as c/o 6 Tuscany View, Vine Street, Salford, M7 3TX.

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

The Tribunal Orders that the Respondent, Martin William Harrison, 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 £12,500.

The facts are set out in paragraphs 1-9 hereunder:

1. The Respondent, born in 1959, was admitted as a solicitor on 2nd April 1984. He formerly practised in partnership as Harrison Solicitors, 7th Floor, Quay House, Quay Street, Manchester, M3 3JE. His practising certificate for the practice year 2006/2007 was terminated on 12th December 2007 and he did not have a current practising certificate although his name remained on the Roll of Solicitors.
2. On 22nd October 2007, an inspection was commenced at Harrison's Solicitors by an Investigation Officer ("IO") of the Solicitors Regulation Authority ("SRA") and a copy of his Report dated 12th December 2007 was before the Tribunal.
3. The IO identified that the books of account were not in compliance with the Solicitors Accounts Rules in all material respects. The Respondent's partner, Mrs TH informed the IO that there were two client matters where she had concerns about the actions taken by the Respondent.
4. In the first matter, the Respondent acted for Ms H in the sale of a property for £76,500. Contracts were exchanged on 7th August 2007 and completion was due on 7th September 2007. A copy of the register of title showed that the new purchaser was registered as owner of the property on 11th October 2007. Ms H wrote to the

Respondent on 21st September 2007 complaining she had not received the completion monies or any documentation from the Respondent.

5. The IO found no record of either the deposit of £7,650 (paid early August 2007) or the balance of completion monies of £68,850 (paid 7th September 2007) being paid into client account. The Respondent had paid the monies into his own private bank account, having given instructions to the purchaser's solicitors to pay the balance of the purchase monies into his private bank account.
6. The Respondent informed the IO that he had raised £78,000 by way of a secured loan to pay Ms H back and that he had accounted to her on 2nd October 2007 including a payment of £1,500 for compensation and interest.
7. In a second matter, the Respondent acted initially for Mr G in relation to a litigation matter before the file was transferred to Mrs TH. On 14th June 2007, £13,000 was received into client account in respect of settlement of Mr G's claim. On 19th June 2007 the Respondent transferred £9,000 from client account to his own private bank account and on 14th September 2007, £9,500 (including an additional amount of £500 due for a disbursement) was transferred back to Mr G's client account. On 18th September 2007 the full amount due to Mr G was paid to him.
8. When questioned by the IO about these matters, the Respondent stated that the monies relating to Ms H had been paid into his private bank account due to a "work related muddle" and that he had not intended to keep the monies. In relation to Mr G, the Respondent admitted he had used £9,000 to pay his own private expenses. He stated he believed that £9,000 was due to the firm in costs and that he had not checked the file before making the transfer.
9. On 16th January 2008 the FI Report was sent to the Respondent by the SRA but no response was received. A reminder was sent on 1st February and again no response was received.

The Submissions of the Applicant

10. The Applicant submitted that in interview with the IO, the Respondent had admitted gaining a financial benefit as a result of not paying monies into client account. In relation to Ms H, the Respondent had had the use of his client's deposit of £7,650 for his own financial benefit from early August 2007 until 2nd October 2007 and, from 7th September to 2nd October 2007 he had had the use of the full amount of £76,500.
11. Regarding the monies relating to Mr G, the Respondent had had the use of these for his own financial benefit from 19th June to 14th September 2007.
12. The Applicant was pursuing an allegation of dishonesty in relation to the matter concerning Ms H. The Applicant reminded the Tribunal of the test of dishonesty set out in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12 and subsequently endorsed in the case of Bryant and Bench v The Law Society [2007] EWHC 3043 Admin. The Tribunal had to consider firstly, whether the Respondent had acted dishonestly by the standards of ordinary and reasonable people. The Applicant submitted that using client money for his own purposes would satisfy this

part of the test. Secondly, the Tribunal had to consider whether the Respondent was aware that what he did was dishonest by the standards of ordinary and reasonable people.

13. The Applicant referred the Tribunal to the IO's Report where the Respondent had been unable to offer any explanation to the IO as to why he gave his private bank details to the solicitors acting for the purchaser of the property. The Applicant submitted that this appeared to be more by design than by accident. Furthermore, the Respondent had subsequently raised a secured loan in order to repay the money to Ms H. In the circumstances, the Applicant invited the Tribunal to conclude both tests laid down in the case of Twinsectra v Yardley were satisfied and the Respondent had acted dishonestly.
14. The Applicant confirmed dishonesty was not alleged regarding the case of Mr G because there was a possibility that there could have been a misunderstanding regarding costs that were due to the firm. The Applicant also confirmed that the Respondent had provided nothing in writing to the SRA and that was the basis for allegation 7.
15. The Applicant also submitted an application for costs in the sum of £13,315.13. A schedule of costs was provided to the Tribunal for consideration.

The Findings of the Tribunal

16. The Tribunal considered carefully the documentation and submissions of the Applicant together with the letter from the Respondent dated 6th May 2009. The Tribunal noted that the Respondent admitted allegations 1, 2, 4 and 6 and in relation to allegations 2 and 3 he did not accept the allegations of dishonesty.
17. Having considered matters carefully, the Tribunal was satisfied that all the allegations had been proved. The Tribunal accepted the submissions of the Applicant regarding the test of dishonesty and was satisfied that by paying the deposit and completion monies relating to the sale of Ms H's property into his own private bank account, the Respondent had utilised funds for his own purposes. This was behaviour that would be regarded as dishonest by the standards of ordinary and reasonable people. Furthermore, whilst the Respondent stated he had not intended to keep the monies, it was clear from his comments to the IO that he had raised £78,000 by way of a secured loan to repay Ms H which meant that he had utilised Ms H's funds for his own purposes as they were no longer available. He had also paid an additional amount of £1,500 for compensation and interest to Ms H and on this basis, together with the fact that he had given instructions to the purchaser's solicitors to pay the balance of the purchase monies into his own private bank account, the Tribunal was satisfied the Respondent was aware that his behaviour was dishonest by the standards of ordinary and reasonable people.
18. In relation to allegation 7, the Respondent did not appear to have replied to letters sent to him by the SRA and accordingly had not dealt with the SRA in an open, prompt and cooperative manner.

19. The Tribunal was extremely concerned that the conduct of the Respondent had brought the profession into disrepute. The Respondent had utilised money that did not belong to him for his own purposes and whilst he may have repaid this to the clients involved, he had abused the trust placed in him by those clients as well as depriving those clients from the use of money which properly belonged to them. Such behaviour was not acceptable and severely damaged not only the Respondent's reputation but that of the profession. In such circumstances, it was right that the Respondent should be prevented from being a member of the profession and the public should be protected from him.
20. Accordingly, the Tribunal Ordered that the Respondent be struck off the Roll of Solicitors.
21. Regarding the question of costs, the Tribunal considered the Applicant's costs to be a little high, particularly given that the hearing had been much shorter than anticipated. Accordingly, the Tribunal assessed the Applicant 's costs in the sum of £12,500.
22. The Tribunal Ordered that the Respondent, Martin William Harrison, 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 £12,500.

DATED this 4th day of August 2009
on behalf of the Tribunal

Mrs K Todner
Chairman