

IN THE MATTER OF ROGER BILLINGHAM, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M Hartley (in the chair)
Mr N Pearson
Ms A Arya

Date of Hearing: 24th July 2007

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Jane Willetts, Solicitor Advocate and Partner of Hammonds, Rutland House, 148 Edmund Street, Birmingham, B3 2JR on 26th March 2007 that Roger Billingham of 17 Woodbridge Road, Halesowen, West Midlands, B63 3SA, 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 fit.

The allegations were that the Respondent had:

- (i) failed to deliver to The Law Society by 31st October 2005 the Accountant's Report ("the 2005 Report") for his former practice Roger Billingham for the period ending 30th April 2005 contrary to Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998;
- (ii) been guilty of conduct unbefitting a solicitor in that he failed to comply with an Adjudicator's decision made on 22nd November 2006 expecting him to deliver to The Law Society the 2005 Report within 28 days of his notification of the decision;

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farrington Street, London, EC4M 7NS on 24th July 2007 when Jane Willetts appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the admission of the Respondent in his letter addressed to the Clerk to the Tribunal dated 24th July 2007.

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

The Tribunal Orders that the Respondent, Roger Billingham of 17 Woodbridge Road Halesowen, West Midlands, B63 3SA, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,279.72.

The Tribunal further Orders that the Respondent regularises his position with the Law Society by the 24th day of September 2007, failing which he will be suspended from practice as a solicitor indefinitely.

The facts are set out in paragraphs 1-7 hereunder:

1. The Respondent, born in 1948, was admitted as a solicitor in 1974. The Respondent had practised on his own account but had not done so since the summer of 2003. He had been employed as a full time consultant by Sanders & Co, solicitors of Stourbridge since that date.
2. The Law Society had written to the Respondent to remind him that his Accountant's Report for the period ending 30th April 2005 was outstanding. The Respondent had telephoned on 18th May 2006 to confirm that a "ceased to hold" Accountant's Report had already been filed. By letter of 15th June 2006 The Law Society informed the Respondent that confirmation had not been received from him or his Accountant that he had ceased to hold client moneys. In the absence of a response The Law Society wrote a reminder letter of 5th July 2006. There was no response.
3. On 31st July 2006 the matter was referred to an Adjudicator of The Law Society.
4. In a letter dated 4th August 2006 Compton & Co, accountants acting for the Respondent, confirmed that the Respondent ceased to trade as a sole principal in July 2003 and that an Accountant's Report for the year end 30th April 2005 was irrelevant. The Law Society pointed out that it had not received a "ceased to hold" Report. The accountants said that their Accountant's Report for the year ended 30th April 2004 was a ceased to hold Report and that there were no client moneys held for the period 1st May 2003 to 31st July 2003.
5. The Accountant's Report for the period to 30th April 2004 indicated that £554.61 was held in client account, as at 30th April 2004.
6. The Law Society explained that this was not a ceased to hold Report as it showed the Respondent was continuing to hold client money. It said that the accountants did not reply, despite a reminder.

7. On 22nd November 2006 a Law Society Adjudicator directed that unless the Respondent filed the 2005 Report within 28 days of the date of the letter notifying him of the decision his conduct would be referred to the Tribunal.

The Submissions of the Applicant

8. The Law Society's records indicated that the Respondent continued to hold a small amount of client money. The Respondent had contacted the Applicant by telephone on the day before the hearing and indicated that he had a clear bank statement. The most recent Accountant's Report, that to the period ending in April 2004, indicated that the Respondent was holding some £500 of clients' money. The Respondent should have dealt with the formality of lodging either a ceased to hold account or obtaining a waiver of the requirement to do so from The Law Society. A direction had been made by an Adjudicator of The Law Society and the Respondent had not complied. The Respondent had only himself to blame for the fact that he was facing disciplinary proceedings.

The Submissions of the Respondent (the Respondent's beforementioned letter of 24th July 2007)

9. "Further to your letter of 8th June and my subsequent telephone conversation with Ms Jane Willets of Messrs Hammonds Solicitors, I write to confirm that these proceedings will not be opposed and I would respectfully ask the Tribunal to deal with the same in my absence.

Hopefully, thanks to Ms Willets' kind advice yesterday, the situation can be resolved for future years since I am now employed purely as a consultant at this firm and have no intention in future of holding clients' money.

Perhaps this letter may be brought to the attention of the Tribunal for today's hearing.

Yours faithfully
Roger Billingham"

The Findings of the Tribunal

10. The Tribunal found the allegations to have been substantiated, indeed they were not contested by the Respondent.
11. The Tribunal accepts that the Respondent ceased to practise as a sole principal some time ago. At the time when he ceased to practise his Accountants indicated to The Law Society that he retained some £500 of client money. The Tribunal noted that the Respondent discussed his position with the Applicant on the telephone prior to the hearing and indicated that his client bank account had a nil balance. Whilst the Tribunal accepted that the figures are modest and also that the reality is that the Respondent holds no client money at all, his failure to cooperate with The Law Society, which has done its best to assist him, is wholly unacceptable. In failing to deal formally with the fact that he has ceased to hold clients' money, the Respondent has prevented his professional regulatory body from fulfilling its duties which are in place to protect the public. The Tribunal considered that it would be both

proportionate and appropriate to impose a financial sanction upon the Respondent and it Ordered him to pay a fine of £1,000 together with an Order for costs against him fixed in the sum of £3,279.72, the sum sought by the Applicant.

12. At the time of the hearing the Tribunal had not only found the Respondent to be in breach of an important regulatory requirement but recognised that he continued to be in breach. Clearly that was a situation that could not be allowed to continue indefinitely. For that reason the Tribunal Ordered that unless the Respondent regularised his position with The Law Society by 24th September 2007 he would be suspended from practise as a solicitor for an indefinite period.

Dated this 27th day of September 2007

On behalf of the Tribunal

W M Hartley
Chairman