

IN THE MATTER OF HENRY EARL ELLIS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs J Martineau (in the chair)
Mr D Glass
Mr D E Marlow

Date of Hearing: 29th September 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made to the Solicitors Regulation Authority (SRA) by Patrick Matthew Bosworth, solicitor, in the firm of Russell-Cooke LLP of 8 Bedford Row, London, WC1R 4BX on 23rd day of October 2008 that Henry Earl Ellis, solicitor of 18 Cawdor Crescent, Hanwell, London, W7 2DD may 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. he closed his firm, Ellis Solicitors, in July 2006 without notifying the Solicitors Regulation Authority contrary to s.84(1) of the Solicitors Act 1974.
2. he failed to notify his insurers of the firm's closure and failed to obtain the requisite run-off insurance cover for the firm contrary to Rule 2.8 of the Solicitors Indemnity Insurance Rules 2006.
3. he failed to deliver certified accounts for the firm, Ellis Solicitors for the year ending 30th April 2006 to The Law Society contrary to s.34 of the Solicitors Act 1974 and Rule 36(5) of the Solicitors Accounts Rules 1998.

4. he failed to deliver certified accounts for the firm, Ellis Solicitors for the period 1st May 2006 to the date that he ceased to hold client monies to The Law Society contrary to s.34 of the Solicitors Act 1974 and Rule 36(5) of the Solicitors Accounts Rules 1998.
5. he failed to respond to correspondence from the Solicitors Regulation Authority promptly or at all.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 29th September 2009 when Patrick Matthew Bosworth, solicitor, appeared on behalf of the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal

The evidence before the Tribunal included the Rule 5 Statement of the Applicant together with the accompanying bundle and a letter in mitigation from the Respondent dated 28th September 2009, together with accompanying documents.

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

The Tribunal Orders that the Respondent, Henry Earl Ellis of 18 Cawdor Crescent, Hanwell, London, W7 2DD, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 29th day of September 2009 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,085.92.

The facts are set out in paragraphs 1 – 12 hereunder:

1. The Respondent, born in November 1959, was admitted as a solicitor in October 1987 and his name remains on the Roll of Solicitors.
2. At all material times the Respondent had practised on his own account under the style of Ellis Solicitors, 11a Ormsby Gardens, Greenford, Middlesex, UB6 9NR.
3. The Respondent's current address is 18 Cawdor Crescent, Hanwell, London, W7 2DD.
4. By letter of 8th January 2008 the Respondent wrote to The Law Society Records Department stating that he had already informed them that he would not be seeking a practising certificate as his practice had ceased.
5. On 7th February 2008 an Administrative Officer in the Customer Records Unit of The Law Society emailed the Respondent asking for information connected with the closure of his firm.
6. By a letter of 12th March 2008 the Administrative Officer in the customer records unit wrote to the Respondent asking for information connected with the closure of his firm.
7. Upon due notice to the Respondent the Solicitors Regulation Authority ("SRA") carried out an inspection of the Respondent's books of account.

8. By a further letter of 8th April 2008 a caseworker in the Regulatory Investigations Unit wrote to the Respondent confirming a Report had been received from the Head of Forensic Investigations and requesting a response to the questions raised in that Report within a 14 day period. The Report, dated 20th March 2008, listed the difficulties experienced by the Investigation Officer in carrying out his inspection and noted that:
 - (a) the Respondent had told the Investigation Officer that he had closed his practice in the summer of 2006 and he had not practised since then. He said that he had not informed the SRA or his insurers and had "buried his head in the sand". He stated that he had not obtained run-off indemnity insurance cover;
 - (b) the Respondent also said that he would be unable to file a final Accountant's Report due to financial difficulties;
 - (c) the firm's Accountant's Report for the year ended 30th April 2006 remained outstanding.
9. By email of 8th April 2008 the same caseworker in the Regulatory Investigations Unit sent the information contained in her letter to the Respondent's email address.
10. By letter of 23rd July 2008 the caseworker wrote to the Respondent informing him that the matter was being referred to an Adjudicator and giving him a period of 14 days in which to make any representations.
11. The Respondent did not respond to any correspondence from The Law Society or the SRA.
12. The matter was considered by an Adjudicator who, on 22nd August 2008, referred the conduct of the Respondent to the Tribunal. The Respondent was notified of that decision by letter dated 2nd September 2008.

The submissions of the Applicant

13. The Applicant indicated that the Respondent had contacted him by email on 25th September 2009 admitting all of the allegations and indicating that he would be offering mitigating circumstances with regard to any Order that the Tribunal might make. The Applicant said that it would be apparent from the mitigation that the Respondent was now the subject of bankruptcy proceedings.
14. In regard to costs, the Applicant indicated that these had not been agreed with the Respondent. The Applicant referred the Tribunal to the case of D'Souza v The Law Society [2009] EWHC 2193 (Admin) heard in the Administrative Court on 27th July 2009. Whilst the Tribunal would need to keep the principles in D'Souza in mind when looking at the costs claimed in the matter, the Applicant did make representations that he had made every effort to keep the costs down as far as possible.

The mitigation of the Respondent

15. The Respondent's letter in mitigation dated 28th December 2009 was before the Tribunal. In that letter the Respondent had detailed his difficult personal circumstances and the way in which fundamental changes in the way that business was being done had affected his practice. He had become more and more depressed about his situation and had failed to open correspondence concerning his debts which had resulted in a repossession warrant being executed on his home. He had been declared bankrupt on 10th June 2009.

The Findings of the Tribunal

16. The Tribunal noted that the allegations had been admitted in full and, from the nature of the allegations, the history of the matter and the Respondent's mitigation, they had reached the view that the Respondent was not currently fit to practice. An indefinite suspension was therefore the most appropriate penalty in this case.
17. Having considered the principles laid out in the case of D'Souza and the Applicant's submissions that costs had been kept down as far as possible, the Tribunal was minded to Order the full amount of the costs requested.
18. The Tribunal Ordered that the Respondent, Henry Earl Ellis of 18 Cawdor Crescent, Hanwell, London, W7 2DD, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 29th day of September 2009 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,085.92.

DATED this 19th day of December 2009
on behalf of the Tribunal

Mrs J Martineau
Chairman