

IN THE MATTER OF MICHAEL JOHN GRUNDY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M Hartley (in the chair)
Mr I R Woolfe
Mrs N Chavda

Date of Hearing: 16th June 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 (“SRA”) by Annabel Sarah de Mussenden Dunlop (nee Leathes) a solicitor in the firm of Penningtons LLP, Abacus House, 33 Gutter Lane London EC2V 8AR on 30th July 2008 that Michael John Grundy, solicitor, of Messrs Thorpes, The Mews, 19/21 King Street, Hereford, Herefordshire HR4 9BX might be required to answer the allegations contained in the statement that accompanied the application together with the allegations contained in the supplementary statement dated 23rd March 2009 and that such Order might be made as the Tribunal should think right.

The allegations against Michael John Grundy (“the Respondent”) were that:-

1. He had acted in breach of Section 18 of the Solicitors Indemnity Insurance Rules 2006, by failing to provide details of his indemnity insurance when requested to do so by a claimant making a claim against his firm, between 7th November 2006 and 28th June 2007.
2. He had failed to deal promptly and substantively with correspondence from the SRA in breach of Principle 30.04 of the Guide to the Professional Conduct of Solicitors (8th Edition) and Rule 20.03 of the Solicitors Code of Conduct 2007.
3. He had failed to provide an Accountant’s Report for the year ending 31st March 2008, by the due date of 30th September 2008, in breach of Section 34 (2) of the Solicitors Act 1974.

4. He had failed to respond promptly to correspondence from the SRA in breach of Rule 20.03 of the Code.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 16th June 2009 when Annabel Sarah de Mussenden Dunlop appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent to all the allegations.

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

The Tribunal Orders that the Respondent, Michael John Grundy of Thorpes Solicitors, The Mews, 19/21 King Street, Hereford, Herefordshire, HR4 9BX, solicitor, do pay a fine of £3,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,990.36.

The facts are set out in paragraphs 1 - 15 hereunder:-

1. The Respondent, born in 1952, was admitted to the Roll in 1976. He practised on his own account at Thorpes Solicitors, The Mews, 19/21 King Street, Hereford, Herefordshire HR4 9BX.
2. By a letter dated 7th November 2006, Humfreys & Symonds had written to the Respondent's firm asking for the name and address of the firm's indemnity insurers. The request had been followed up in letters from Humfreys & Symonds to the Respondent on 8th December 2006, 3rd January 2007, 15th January 2007 and 29th January 2007. By a letter dated 14th February 2007 Humfreys & Symonds had informed the Respondent's firm that if they did not hear from them with details of the indemnity insurers, they would "have to make a complaint to the Law Society Consumer Complaints Service". The Respondent's firm had been informed that not being able to communicate with their indemnity insurers had been holding up any prospects of their clients being able to settle the matter. This in turn had been followed up by a letter dated 1st March 2007.
3. By a letter dated 15th May 2007, Humfreys & Symonds had written to the SRA, forwarding to them the letters referred to above.
4. Humfreys & Symonds had written to the Respondent's firm on 12th June 2007, informing the Respondent's firm that they had been "instructed to make a complaint against yourselves with regard to matters arising from the sale of PH to Mr and Mrs V in October 2003". Humfreys & Symonds had told the Respondent's firm that they had advised their clients that they had a claim in negligence and in contract with regard to that transaction. Again Humfreys & Symonds had asked the Respondent's firm for details of its indemnity insurers.
5. By a letter dated 15th June 2007, Humfreys & Symonds had forwarded their letter to the Respondent dated 12th June 2007 to Mrs Pickering, a Professional Indemnity Executive at the SRA, reporting that they had heard nothing from the Respondent following their

letter asking for the required information, and requesting the required details from Mrs Pickering.

6. By a letter dated 18th June 2007, Mrs Pickering had written to the Respondent's firm saying, "We have been contacted by Humfreys & Symonds in connection with their request that you provide them with the details of your qualifying insurer in order that they may bring a claim against you for alleged negligence on behalf of their client". She had also made reference to Section 18 of the Solicitors Indemnity Insurance Rules and had confirmed that a breach of those Rules could lead to disciplinary action by the SRA. Mrs Pickering had forwarded this letter to Humfreys & Symonds under cover of a letter dated 18th June 2007.
7. By letter dated 28th June 2007, Mrs Pickering had written to Humfreys & Symonds, confirming the details of Thorpes' qualifying insurer.
8. By a letter dated 5th December 2007, Jonathan Hattersley, caseworker at the SRA, had asked the Respondent for a response to the allegations made by Humfreys & Symonds. This had been followed up by a letter dated 20th December 2007 from Jonathan Hattersley to the Respondent, stating that the Respondent's "failure to respond to the letter from this office may be regarded as unprofessional conduct and unless we hear from you by 9th January 2008, I should warn you that you will run the risk of disciplinary proceedings". No response had been received.
9. In a letter dated 10th January 2008 Jonathan Hattersley had written to the Respondent enclosing a copy of his case note and informing him that he was referring the matter to an Adjudicator for a formal decision.
10. By a letter dated 21st February 2008, Jonathan Hattersley had forwarded to the Respondent a copy of the Adjudicator's Decision confirming that the matter had been referred to the Solicitors Disciplinary Tribunal.
11. The Respondent had been due to file an accountant's report for the year ending 31st March 2008 by the due date of 30th September 2008, which he had failed to do.
12. By a letter dated 9th October 2008, the Respondent had written to the Law Society stating that he regretted that his accountant's report for the financial year ended 31st March 2008 had been delayed. The letter stated that he was waiting for the bank to provide a sample of paid cheques but that his accountant believed that the report should be completed by December 2008, at the latest.
13. On 4th November 2008 an Administrative Officer of the SRA had written to the Respondent informing him that the matter would be referred to Regulatory Investigations, as was standard procedure for all reports outstanding over one month. The letter stated that either an Adjudicator or the adjudication panel would consider his explanation when deciding on future action.
14. A case worker of the SRA had written to the Respondent on 19th November 2008. The Respondent had been asked if he had anything to add to his explanation concerning the accountant's report. The letter had required a response within 14 days. The Respondent had been informed that if he did not provide a satisfactory explanation within 14 days,

the SRA might decide to invoke the provisions of Section 12(1) (e) of the Solicitors Act 1974.

15. The Respondent had not responded to this communication from the SRA.

The Submissions of the Applicant

16. The Applicant referred to the full admissions of the Respondent and took the Tribunal through the allegations and the relevant facts. She confirmed that an accountant's qualified report had been received on 10th December 2008.

The Submissions of the Respondent

17. The Respondent explained that he had been responsible for submitting accountant's reports for some 30 years and the report for 2008 was the first report that had ever been late. He explained his difficulties in obtaining cheques from the bank due to a misunderstanding. The Respondent said that the delayed report had been qualified because of minor bookkeeping errors. He confirmed that work was in hand for the preparation of the current report.
18. Turning to the first and second allegations, the Respondent explained that the issues were quite different, arising as they had from a single file relating to the sale of business premises. The Respondent said that he had no excuse in that he had fallen out with the clients and had behaved in an unprofessional manner by ignoring correspondence. He explained that his insurers were now dealing with the matter and that his former clients would not suffer any material prejudice. The Respondent apologised to the Tribunal stressing that he was not in the habit of behaving in such a manner.

The Decision of the Tribunal

19. Having considered all the evidence and the submissions of the Applicant and of the Respondent, the Tribunal was satisfied that the four allegations were both admitted by and proved against the Respondent. Ignoring correspondence from one's regulator was viewed very seriously by the Tribunal. However, after careful consideration, the Tribunal had accepted that the Respondent's conduct had been a one off case of putting one's head in the sand. Since his admission in 1976 the Respondent had had no previous regulatory offences. In these circumstances the Tribunal determined that a financial penalty of £3,000 was appropriate together with an Order for costs, agreed between the parties in the sum of £4,990.36.

Dated this 13th day of January 2010
On behalf of the Tribunal

W M Hartley
Chairman