

IN THE MATTER OF ALPHONSO CONSTANTINE WYNTER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A G Ground (in the chair)
Mr R Nicholas
Mr D E Marlow

Date of Hearing: 21st 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 (“SRA”) by Patrick Matthew Bosworth a solicitor in the firm of Russell-Cooke LLP of 8 Bedford Row, London WC1R 4BX on 20th October 2008 that Alphonso Constantine Wynter a solicitor of Wainwright & Cummins, 30A Acre Lane, London SW2 5SG might be required to answer the allegation contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think right.

The allegation was that the Respondent had failed to respond to correspondence from the SRA promptly or at all.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 21st May 2009 when Patrick Matthew Bosworth appeared as the Applicant and Robert Simon Roscoe appeared for the Respondent who was present.

The evidence before the Tribunal included the admissions of the Respondent and his statement of 19th May 2009.

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

The Tribunal Orders that the Respondent Alphonso Constantine Wynter of Wainwright & Cummins, 30a Acre Lane, London, SW2 5SG solicitor, be Severely Reprimanded and it

further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,328.25.

The facts are set out in paragraphs 1- 7 hereunder

1. The Respondent, born in 1958, was admitted to the Roll of Solicitors in 1984. His name remains on the Roll.
2. The Respondent is employed as a Consultant at Wainwright & Cummins, 30A Acre Lane, London SW2 5SG.
3. The Respondent had been the subject of a complaint by his lay client Mr H as a result of delay in handling a matter that the Respondent had been originally instructed in relation to in 1997. The Legal Complaints Service (“LCS”) had dealt with the complaint. As a result of the Respondent not responding to correspondence from the LCS, the matters had been referred to the SRA to investigate alleged misconduct. By letter of 8th February 2008 David Johns, Caseworker in the Conduct Assessment and Investigation Unit, had written to the Respondent regarding the allegation of misconduct from the LCS and requesting a response from the Respondent.
4. By letter of 26th February 2008 David Johns had written to the Respondent regarding the Respondent failing to reply to his letter of 8th February 2008 and requesting a response from the Respondent. The Respondent had also been informed that under Rule 20.03 of the Solicitors Code of Conduct 2007, a Solicitor was obliged to deal “promptly, openly and cooperatively with correspondence from the Solicitors Regulation Authority”. A reply had been requested within an eight day period.
5. By letter of 5th March 2008 David Johns had written to the Respondent at the Respondent’s domestic address enclosing the letters sent to the Respondent at the Wainwright & Cummins address dated 8th and 26th February 2008. A reply had been requested with a seven day period.
6. No reply was made by the Respondent to the above letter dated 8th and 26th February and 5th March.
7. By memorandum of 13th March 2008 David Johns had referred the matter to an Independent Adjudicator asking for a decision as to whether the matter should be referred to the Solicitors Disciplinary Tribunal under the fast track procedure.
8. The matter had been considered by an Adjudicator who on 25th March 2008 had referred the conduct of the Respondent to the Solicitors Disciplinary Tribunal. The Respondent had been notified of that decision by letter dated 12th August 2008.

The Submissions of the Applicant

9. The Applicant referred to the details of the allegation and confirmed that the complaint of Mr H had been resolved.

The Submissions on behalf of the Respondent

10. Mr Roscoe provided details of Mr H's complaint and of its background. He stressed that no civil proceedings had resulted from the complaint in that the complainant's remedy, had his original claim been successful, would have been an opportunity to purchase a freehold but that the claimant had had no funds to do so.
11. However, the Respondent accepted that failing to reply to his professional body was a serious allegation. He had appeared before the Tribunal to answer similar allegations on 30th September 1994. Mr Roscoe explained that in times of stress some people reverted to character and at such times the Respondent had blocked out and ignored matters rather than dealing with them as he would normally do.
12. Mr Roscoe referred to a supportive letter from Jonathan Cummins, a partner in the firm in which the Respondent was now a consultant. Mr Roscoe also gave details of the Respondent's personal and professional history, including family difficulties that in 2007, coming as they had on top of business problems, had put the Respondent under extreme stress. Mr Roscoe explained that the Respondent's reaction to that extreme stress had been to ignore some important matters of correspondence.
13. Mr Roscoe offered his client's apologies to the Tribunal. He stressed that the Respondent was fully aware that he had acted incorrectly in ignoring correspondence from both the Legal Complaints Service and the Solicitors Regulation Authority. The Respondent wished to assure the Tribunal that he would never again ignore such correspondence. The Respondent had agreed to pay costs of £1,328.25. He and his wife both worked. The Respondent was subject to a voluntary arrangement.

The Decision of the Tribunal

14. Having considered all of the evidence and the helpful submissions of the Applicant and on behalf of the Respondent, the Tribunal considered that the Respondent should be severely reprimanded and ordered to pay costs. The Tribunal stressed that failing to cooperate with the Regulator was a serious matter. It noted that it was the Respondent's second appearance before it in relation to such matters. However, the Tribunal had taken into consideration the exceptional difficulties that the Respondent had been facing during the relevant period of difficulties both of a business and a personal nature and of the extreme stress that these difficulties had occasioned the Respondent. However, the Tribunal warned the Respondent that any further appearance before the Tribunal in relation to delay in responding to correspondence would be looked upon as an extremely serious matter.

Dated this 1st day of December 2009

On behalf of the Tribunal

A G Ground
Chairman