

IN THE MATTER OF IAN MUIR JEWELL, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A. H. Isaacs (in the chair)
Mr L. N. Gilford
Mr. S. Marquez

Date of Hearing: 31st January 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Gerald Malcolm Lynch solicitor, consultant with Drysdales, Cumberland House 24-28 Baxter Avenue, Southend-on-Sea, Essex, SS2 6HZ on 7th August 2007 that Ian Muir Jewell, solicitor, of 52A Eastgate, Cowbridge, Vale of Glamorgan, CF71 7AB 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 right.

The allegations were that:-

- (a) The Respondent acted contrary to the provisions of Practice Rule 1 of the Solicitors Practice Rule 1990 in compromising his independence and integrity and the good repute of the solicitors' profession in the admitted forgery of the signature of one [C] in relation to the sale of a property. For the sake of clarity it is confirmed that this is an allegation of dishonesty alternatively of extreme recklessness.
- (b) The Respondent acted in breach of Principle 17/01 of the Guide to the Professional Conduct of Solicitors (8th Edition) 1999 in that he has acted

whether in his professional capacity or otherwise towards others in a way which is fraudulent, deceitful or otherwise contrary to his position as a solicitor.

- (c) By virtue of the aforementioned has been guilty of conduct unbecoming a solicitor.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 31st January 2008 when Gerald Malcolm Lynch appeared as the Applicant and the Respondent was represented by Alan Jenkins of Counsel.

The evidence before the Tribunal included the admissions of the facts and the allegations by the Respondent, save that he denied dishonesty. Two testimonials were handed up at the hearing. The Respondent gave oral evidence.

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

The Tribunal Orders that the Respondent, Ian Muir Jewell of 52a Eastgate, Cowbridge, Vale of Glamorgan, CF71 7AB, 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 £3,161.55.

The facts are set out in paragraphs 1 - 5 hereunder:-

1. The Respondent, aged 64, was admitted as a solicitor in 1965. His name remained on the Roll of solicitors but he did not hold a practising certificate. His letterhead referred to him as "Commercial Property Consultant" and letters written by him at the time material to the allegations had described him as "Solicitor - Non-Practising."
2. Mr C had been involved in three litigious disputes with various parties. One of those disputes included, as a third Defendant, the Respondent.
3. On 26th February 2006, Mr C wrote to the Office for the Supervision of Solicitors to complain about the Respondent and others. The Respondent, when a non-practising solicitor, had written the signature of Mr C on a conveyancing document and had witnessed that signature.
4. During the course of the litigation in which the Respondent was a party he admitted that he had signed Mr C's name and had added his own name as a witness. He explained that he had done this because he had been unable to contact Mr C by calling at his home. He believed Mr C was at home but would not answer. The Respondent explained that in February 2001 the purchaser's solicitors wished to amend certain documents relating to the purchase contract and Land Registry transfers. He was a friend of Mr G, one of the parties. Mr G's solicitor was about to go away as was Mr G and the Respondent had been entrusted with the task of obtaining Mr C's signature on a transfer. The Respondent was acting as a friend and not as a solicitor acting in the transaction. The Respondent believed that he was assisting both Mr C and Mr G in completing the transfer. He accepted that he was foolish and wrong to sign Mr C's name and witness that signature and accepted that the transfer so completed was a forgery.

5. The litigation culminated in a Judgment by His Honour Judge Graham Jones which was before the Tribunal.

The Submissions of the Applicant

6. In his Judgment, His Honour Judge Graham Jones described the Respondent's action as "Highly unusual - particularly for a solicitor."
7. Whilst the Applicant accepted that the Respondent's conduct had not been for his own profit and he had no ulterior motive the Respondent's action amounted to the deliberate forgery of the signature of a third party (not a client) and that in turn amounted to dishonesty. In the event that the Tribunal should consider that dishonesty had not been demonstrated, then it was an action of extreme recklessness on the part of a solicitor. The fact that the solicitor concerned was not in practice did not affect the seriousness of the conduct alleged. The name of the Respondent remained on the Roll of solicitors and whilst that was the case the Respondent was required to conduct himself in accordance with the Practice Rules of the profession. The public's perception of the integrity and the good reputation of the solicitors' profession is seriously damaged by a solicitor forging the signature of another.
8. The Tribunal was invited to find that the Respondent's action was dishonest. The appropriate test to apply was that in Twinsectra Ltd v Yardley and Others [2002] UKHL 12 as was endorsed in the recent case of Bryant & Bench [2007] EWHC 3043 (Admin).

The Submissions of the Respondent

9. The Respondent accepted that he had written Mr C's name on the Transfer and had signed the document himself as the witness to that signature. The Respondent had not at the time been a practising solicitor as he had suffered a serious accident while on holiday in Greece that had left him disabled. He had not practised since his accident from which he had not fully recovered and he had since then been living on disability benefits and income support.
10. Mr C had complained about the matter some six years after the event. Clearly he had known at the very outset that he had not signed the transfer which enabled a transaction to proceed to completion both to the benefit of Mr C and the benefit of Mr G, the Respondent's friend.
11. It was accepted that when considering the question of dishonesty the Tribunal should apply the dual test in Twinsectra v Yardley.
12. The Respondent was not a dishonest man. The Tribunal was invited to give weight to two references which were handed up at the hearing written in support of the Respondent and attesting to his integrity. Further his Honour Judge Graham Jones in his judgment had fully accepted the Respondent's reliability as a witness.
13. The Respondent had agreed to approach Mr C for his signature on the transfer by way of doing a favour to his friend Mr G and Mr G's solicitor who was about to go away. By obtaining a signed transfer the Respondent thought he was doing a favour both for

Mr C and a friend, Mr G. He explained that he had gone to Mr C's house on four occasions. He was sure he was there as his car had been parked outside. Mr C did not answer the door when the Respondent knocked and shouted through the letterbox.

14. The Respondent said he had retired from practice some eleven years ago after receiving serious injuries following an accident falling off a ladder in Greece.
15. The Respondent had explained that in a moment of despair he had stupidly forged Mr C's signature on the transfer. There had never been any criminal dishonest intent on his part nor was there any gain or benefit to him financial or otherwise. The only person to benefit from the act was Mr C. The Respondent had never tried to deny or hide what he had done, evidenced by the fact that the Respondent himself witnessed the forged signature with his own.
16. As a result of the Respondent's action Mr C received £200,000 and was thereby relieved from enormous financial pressure which he had been suffering. He waited six years before lodging his complaint that his signature had been forged.
17. During the course of the litigation hearing His Honour Judge Graham Jones had accepted that there had been no criminal intent on the Respondent's part and made no referral of his actions to The Law Society nor to the Crown Prosecution Service.
18. The Respondent had never attempted to make any lame excuse for his action or attempted to state anything but the truth. He unreservedly apologised for what he had done. It was a course of action that he regretted but one with which he had to live.
19. The Respondent's health had been such that he had no intention of going back into practice.

The Findings of the Tribunal

20. The Tribunal found the allegations to have been substantiated including a finding that the Respondent had been dishonest. The Respondent clearly knew that the forgery of a signature was a dishonest act.

Previous Matters

21. In its Findings and Order dated 20th December 1984 the Tribunal found the following allegations to have been substantiated against the Respondent. The allegations were that:-
 - (a) the Respondent had acted in breach of the Solicitors Accounts Rules 1975 in that he notwithstanding the provisions of Rule 7 and 8 of the said Rules drew from his client account money not permitted to be so drawn and utilised the same improperly, so drawn for the benefit and for the purposes of himself and/or other clients not entitled thereto.
 - (b) he was in breach of Section 34 of the Solicitors Act 1975 in that he failed and/or unreasonably delayed to deliver an Accountant's Report as by the said Act required.

(c) by virtue of these matters he had been guilty of conduct unbefitting a solicitor.

22. On that occasion the Tribunal said:-

"The Tribunal FIND the allegations to have been substantiated and indeed they were not in dispute. Notwithstanding the previous warning which he received, the Respondent has been guilty of lax administration in his accounting. He must realise if there are any further complaints of this nature against him the Tribunal must necessarily take a very serious view and they ORDER that there be imposed upon the Respondent Ian Muir Jewell of No. 20 Dunraven Place, Bridgend, Mid Glamorgan a penalty of £1,000.00, such penalty to be forfeit to Her Majesty The Queen and that he do pay to the Applicant the Applicant's costs of and incidental to this application and enquiry, including the costs of the accountant employed by The Law Society to inspect his books of account in 1983, such costs to be taxed by one of the Taxing Masters of the Supreme Court."

23. Following a hearing on 16th January 1996 the Tribunal found substantiated the allegation that the Respondent had contrary to the provisions of the Solicitors Act 1974 (as amended) practised as a solicitor whilst uncertificated and accordingly had been guilty of conduct unbefitting a solicitor.

24. In its written findings dated 26th February 1996 the Tribunal said:-

"The Tribunal FOUND the allegation to have been substantiated, indeed it was not contested. If the Law Society was properly to regulate the solicitors' profession and ensure that members of the public were protected then it was fundamental that solicitors purporting to act as such must hold a current practising certificate. This was the bedrock of regulation and certificates would only be issued to persons who were considered by The Law Society to be fit and proper persons to act as solicitors, who had proved that they had been meticulous in the proper handling of clients' monies and that their indemnity insurance was in place. It was a serious matter for a solicitor to give the impression that he was properly qualified to act when he did not hold a practising certificate. In the circumstances the Tribunal considered it right to impose a five year period of suspension upon the Respondent and further to Order him to pay the costs of and incidental to the application and enquiry."

The Tribunal's sanction and its reasons in 2008

25. The Tribunal found this to be a sad case. The Tribunal gave the Respondent credit for his admissions and took into account his mitigation. However neither of these matters detracted from the fact that in the Tribunal's view a solicitor could not have an honest belief that he could properly forge a third party's signature on a document whether that forgery was for the benefit of another or not. Such an action represented misconduct at the most serious end of the scale and would serve seriously to damage the profession's reputation for probity, integrity and trustworthiness.

26. The Tribunal had further taken into account the Respondent's unfortunate disciplinary history.
27. The Tribunal concluded that it was both appropriate and proportionate that the Respondent be struck off the Roll of solicitors.
28. The Tribunal noted that the Respondent had agreed to pay the Applicant's costs and the figure had been agreed between them. The Tribunal therefore ordered the Respondent to pay the Applicant's costs fixed in the agreed sum.

Dated this 11th day of March 2008
On behalf of the Tribunal

A H Isaacs
Chairman