

IN THE MATTER OF DARREN ROY PEAKE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A G Gibson (in the chair)
Mrs J Martineau
Mr J Jackson

Date of Hearing: 10th 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 Geoffrey Williams of Queen's Counsel of Geoffrey Williams and Christopher Green, Solicitor Advocates of 2A Churchill Way, Cardiff CF10 2DW on 25th June 2007 that Darren Roy Peake whose address for service was TMJ Law Solicitors 23 Rayleigh Close, Shenley Church End, Milton Keynes MK5 6ET 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 allegation was that the Respondent breached Rule 1(d) of the Solicitors Practice Rules 1991 (as amended) by virtue of the terms of his correspondence with The Law Society.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Geoffrey Williams of Queen's Counsel appeared as the Applicant and the Respondent did not appear and was not represented. The Respondent had lodged a bundle of documents with the Tribunal which included a document entitled "Requested answer to statement pursuant to Rule 4 of the Solicitors (Disciplinary Proceedings) Rules 1994", a document entitled "With reference to the substantive hearing on Thursday 10th January 2008 and a document entitled "It's all happening at the zoo." In a letter addressed to the clerk to the Tribunal by the Respondent dated 11th October 2007 he indicated his decision not to attend the hearing but meant the Tribunal no disrespect.

The evidence before the Tribunal included the papers accompanying the Rule 4 Statement.

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

The Tribunal Orders that the Respondent, Darren Roy Peake of 23 Rayleigh Close, Shenley Church End, Milton Keynes, MK5 6ET, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 10th day of January 2008 and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

The facts are set out in paragraphs 1 to 8 hereunder:-

1. The Respondent, born in 1962, was admitted as a solicitor in 1987.
2. At all times material to this application the Respondent carried on practice as a solicitor in partnership under the style of TMJ Law Solicitors at Milton Keynes.
3. Prior to his practice in partnership the Respondent practised as a sole practitioner under the style of D Peake & Co. The Law Society was in correspondence with the Respondent with respect to the accounting situation arising upon the cessation of that practice and in particular with regard to an outstanding Accountant's Report.
4. In letters addressed to The Law Society in the course of the consequent inquiry the Respondent ranged over a number of issues not directly concerned with the matter in hand, but apparently addressed in an effort to explain his professional background, history and experience.
5. At the outset of the relevant correspondence the Respondent was warned that his reply would be used in any disciplinary proceedings taken against him.
6. Without prejudice to the generality of the correspondence the Applicant relied specifically upon the extracts from the Respondent's letters to The Law Society that appeared in the Applicant's bundle at page 4 - page 5 first paragraph; page 5 final three paragraphs; page 11 final paragraph - page 12; and page 31 second paragraph.
7. Such correspondence having been received the Regulation Unit of The Law Society (which had been dealing with the accounts aspect) referred the matter to the Conduct Assessment & Investigation Unit. The formal letter written to the Conduct Assessment & Investigation Unit identified remarks of particular concern and requested an explanation. Again a warning was issued to the Respondent with respect to any reply.
8. The detailed reply from the Respondent was before the Tribunal as was his reaction to a case note prepared for a Law Society Adjudicator.

The Submissions of the Applicant

9. The allegation made against the Respondent was made on the basis that solicitors owe a duty in conduct to observe the requirements of good manners and courtesy towards other members of the profession or their staff. A solicitor must not write offensive

letters to other members of the profession. In the submission of the Applicant in this context “other members of the profession” included the professional body.

10. The allegation was not made on the basis of what the Respondent intended to convey as a meaning in what he wrote, but on the basis of what he actually said and its clear potential to cause offence and distress.
11. By writing as he did (for whatever purported motive) it was alleged that the Respondent had been unnecessarily and improperly offensive and ill mannered. Letters he wrote showed a disregard for the feelings of the direct recipient or the feelings of those who may in the course of their employment by The Law Society have been called upon to consider the letters. The issue of such correspondence by the Respondent was at the very least liable to impair the reputation of the profession.

The Submissions of the Respondent

12. The Respondent had in letters and the documents lodged with the Tribunal which, have been referred to above, provided a wealth of submissions that were difficult to follow mostly irrelevant and therefore hard to summarise. In essence the Respondent appeared not to agree with what had been alleged against him. He considered the Applicant’s concern to be “an antithetical stance towards the use of strong language.” He pointed out that strong language existed within the repertoire of human communications for a purpose. The use of strong language was a highly subjective metaphysic which seemingly appeared as an infinitely variable quantity and this according to the individual’s contextual register in relation to any given set of circumstances. He said that he found what he considered to be the pointless or else the gratuitous use of strong language to be something of a disagreeable quantity - but no more. He personally found the use of strong language to be a useful tool which was justified when he perceived himself to be locked in opposition with combined forces of ignorance and arrogance. He went on to say that he found the use of strong language in the register of “the pressure release expletive” to be tolerable and immediately excusable at the incidence of others. He did not accept that his use of strong language offended against good manners and courtesy towards others in his dealings with the Solicitors Regulatory Authority asking which individual was offended and if so why. His choice of language was never gratuitously designed and it was never his intention that this material be exposed to weak and vulnerable members of society.

The Tribunal’s Findings

13. The Tribunal found the allegation to have been substantiated. There was no doubt that the Respondent had written the letters to which the Applicant made reference. At the hearing the Tribunal did not require details of what the Respondent had written to be read out at the public hearing. The Respondent’s approach and the substantial documents which he had composed and filed with the Tribunal caused the Tribunal to have concern about his mental state. The greater part of the submissions made to the Tribunal had no bearing whatsoever on the allegations made against him and were indicative of the wholly confused mind state of the Respondent. The Tribunal did not consider that the Respondent’s mental state would be assisted by the publication of any of the letters or documents which he had composed.

14. The Tribunal was in no doubt that Practice Rule 1(d) related not only to other solicitors but also encompassed letters written to the solicitors' own professional body. To a large degree what the Respondent wrote was gratuitously offensive, racially discriminatory and his use of expletives and for language was unacceptable for a member of a profession whose duty was to uphold the law and act at all times with a proper courtesy both because of his capacity as an officer of the court and because of his duty to maintain the highest standards and thus protect the good reputation of the solicitors' profession.
15. The Tribunal concluded that any solicitor who was prepared to write letters and other documents in the terms adopted by the Respondent was not fit to be a solicitor. If he was prepared to write in the terms he did to his own disciplinary body the Tribunal was deeply concerned about the quality of advice and service that he might be providing to his clients. The Tribunal ordered that the Respondent be suspended from practice as a solicitor for an indefinite period to commence on the 10th January 2008. It was both appropriate and proportionate that the Respondent pay the costs of and incidental to the application and enquiry. The Applicant had provided to the Tribunal a schedule of his costs and confirmed that a copy had been provided to the Respondent. The Tribunal considered that the costs were entirely reasonable but noted that the hearing had taken a rather shorter time than had been anticipated. The Tribunal considered it reasonable and proportionate to fix the Applicant's costs in the sum of £5,000 and ordered the Respondent to pay the costs fixed in that sum.

Dated this 7th day of March 2008
on behalf of the Tribunal

A G Gibson
Chairman