

IN THE MATTER OF BRUCE ROBERT DOUGLAS STATHAM, 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

**APPLICATION FOR THE DETERMINATION
OF AN INDEFINITE SUSPENSION**

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

1. An application was made by affidavit to which he attested on 24th September 2007 by Bruce Robert Douglas Statham of 2 The Courtyard, Westgate, Chichester, West Sussex, PO19 3DH by way of application that the indefinite period of suspension imposed upon him by the Tribunal on 18th June 2002 be determined.
2. The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Mr Statham appeared in person and The Law Society, the Respondent to the application, was represented by Inderjit Singh Johal, a barrister employed by The Law Society at the Solicitors Regulation Authority.

The History of the Matter

3. At a hearing on 18th June 2002 the following allegations were found to have been substantiated against Mr Statham. The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following respects namely:-
 - (a) that he failed to maintain properly written up books of account contrary to Rule 11 of the Solicitors Accounts Rules 1991;

- (b) that he drew monies from a client account otherwise than as permitted by Rule 7 of the Solicitor Accounts Rules 1991 contrary to Rule 8 of the said Rules;
- (c) that he failed properly to account to the LAB upon the conclusion of litigation matters contrary to Regulations 100(8), 105 and 106A Civil Legal Aid (General) Regulations 1989;
- (d) that he used monies properly belonging to the Legal Aid Board (LAB) for his own purposes;
- (e) that he failed to pay his contributions to the Solicitors Indemnity Fund as the same fell due;
- (f) that he failed promptly to reply to correspondence from the Monitoring & Investigation Unit of The Law Society.

4. In its Findings dated 24th September 2002 the Tribunal said:-

5. “The Tribunal found the allegations to have been substantiated indeed they were not contested.

The statements from the LAB were described as demands but appeared to be rather statements of a running state of indebtedness. The LAB had allowed the indebtedness to continue over a long period. The Tribunal found it difficult to infer dishonest behaviour from this state of affairs especially given the evidence of Mrs Statham. The LAB had tolerated the situation for five years.

The books of account did not record the real situation and the Respondent had rightly accepted responsibility for this although the Tribunal accepted that he had not himself run the accounts. The Respondent had repaid the LAB by late 1999. It was clearly a serious matter however that other clients’ money had effectively been used by virtue of the system used to record the LAB transactions. The Respondent had admitted serious breaches of the Accounts Rules and other serious matters. The Tribunal was not satisfied on the evidence available that the Respondent’s conduct had been dishonest.

The Applicant practised on his own account in the firm of Stathams from May 1995 until it was intervened into by The Law Society on February 16th 2000 on the grounds of a breach of the Solicitors Accounts Rules and suspected dishonesty. There was a subsequent disposal of the firm to Daltons Solicitors. The Applicant’s practising certificate was suspended as a result of the intervention. The Applicant has not subsequently held a practising certificate. The Applicant was adjudicated bankrupt on the 24th May 2001”.

6. On 18th June 2002 the Tribunal considered that there were many sad facets to this case. The Tribunal gave credit to the Respondent for accepting responsibility for what had occurred. Although the Tribunal had not found the Respondent to have been dishonest, serious allegations had been substantiated against him. Additionally the Tribunal had heard that the Respondent was extremely unwell. It was clearly right that the Respondent should not be allowed to practise as a solicitor at present. The

Tribunal trusted that the Respondent would take such help as was available to him to overcome his problems and to recover his health. The Tribunal ordered that the Respondent Bruce Robert Douglas Statham of 84 Angelsey Road, Shirley, Southampton, SO15 5QS (formerly of 4 Alyne House, Northlands Road, Southampton) solicitor be suspended from practice as a solicitor for an indefinite period to commence on 18th June 2002 and they further ordered him to pay the costs of and incidental to the application and enquiry to be subject to a detailed assessment unless agreed”.

7. Mr Statham had appeared before the Tribunal on an earlier occasion. At a hearing on 14th September 1999 the following allegations had been substantiated against him namely that he had been guilty of conduct unbecoming a solicitor in that he had:-
- (i) failed promptly to pay Counsel’s fees for which he was liable;
 - (ii) failed in a legally aided matter promptly to procure the taxation or assessment of his costs so as to enable the payments of Counsel’s fees.
8. The Tribunal on that occasion acknowledged the difficult position in which the Respondent (Mr Statham) had found himself but said that ensuring that Counsel’s fee was paid was entirely the Respondent’s responsibility and he should not have allowed matters to have run on for so long in connection with total fees in the region of £5,500. He had of course already paid out of his own pocket substantial funds representing Counsel’s fees and the costs in a wasted costs order as a result of the way in which an employee dealt with certain areas of work. Nevertheless he had not availed himself of the 28 days given to him by The Law Society’s Professional Regulation Case Work Sub-Committee in January 1999 in which to put matters right. The Tribunal on that occasion recognised that the Respondent’s breaches were not at the most serious end of the scale but said that it had been the Respondent’s own behaviour which necessitated his appearance before the Tribunal. The Tribunal felt that his failures and breaches should be marked by the imposition of a moderate fine and ordered him to pay £750 together with fixed costs.

The Submissions of Mr Statham

9. Mr Statham gave oral evidence. He had been suspended from practice for more than 5 years. He ceased practising on 16th February 2002.
10. During this interim period he had had only two jobs, one as a postman (9 months), and the other as a legal assistant to the company secretary to a building company (6 months). For the remaining period he had been unemployed. Mr Statham was in a position of trust in each of his jobs. Mr Statham had sustained injury after being knocked off his bicycle when working as a postman. He had had six months off work and had not returned.
11. The central reason for Mr Statham’s fall from grace was his alcohol problem, which had now been remedied.
12. In October 2002, at the expense of his colleagues and friends, Mr Statham was an inpatient at the Marchwood Priory Clinic, being treated for an alcohol related disease.

He later continued, on his discharge, attending as part of his Community Rehabilitation Order, 20 sessions from 9th June 2004 to 15th September 2004 at an alcoholic awareness course. He received from that course a drink impaired driver's completion certificate. He had been convicted of drink driving. That was nearly three years ago. Mr Statham continued to attend Alcoholics Anonymous meetings. He was a member of Law Care and continued to subscribe to "Law Care News".

13. Mr Statham produced letters of rejection for employment from solicitors and provided details of his efforts to find employment recorded in the book he was required to compile by the Department of Work and Pensions.
14. Mr Statham did not set out his disciplinary history when applying for jobs within the solicitor's profession. He considered it appropriate to gain an interview first and then to disclose such matters. Even though prospective employers had not been made aware of Mr Statham's difficulties, he had not been offered an interview. Firms would not be likely to employ a suspended solicitor. Mr Statham in his oral evidence said that letters written by him in connection with seeking work were misleading, but he was trying to get a job and did not consider it prudent "to start with the bad news".
15. Mr Statham had lost his living, his house, his wife, his income and his prestige. He asked that he be allowed to practise again as a solicitor. He had made his application now because he needed income.
16. The Tribunal was invited to give due weight to the medical report dated 25th November 2005 from Mr Statham's own doctor, Dr Y. Sunak, setting out the efforts he had made in rehabilitation. Mr Statham's medical condition was good and remained unchanged since the date of the medical report. Mr Statham had voluntarily told the Tribunal of his medical condition. Mr Statham recognised that he had had a drink problem but now he drank only at a level that was within clinical guidelines. Mr Statham was clear in his own mind that he had recovered more than sufficiently to regain his place in the solicitors' profession. He was prepared to work under supervision in a solicitor's office.
17. Mr Statham did not still properly understand how it could be said that "he used moneys properly belonging to the Legal Aid Board for his own purposes." Over four years was spent by the Legal Aid Board and Mr Statham's own accounts department trying to resolve the situation, but without success.
18. Mr Statham had at no time brought the solicitors' profession into disrepute. When considering the Findings of the Tribunal dated 24th September 2002 the Tribunal was invited to note the following:-

Paragraph 102: "The Tribunal was not satisfied on the evidence available that the Respondent's conduct had been dishonest".

Paragraph 105: "The Tribunal gave credit to the Respondent for accepting responsibility for what had occurred and were grateful that the matter could be concluded today".

19. Mr Statham had admitted all of the allegations and had not contested them right from the start. In paragraph 105, the Tribunal had stated “It was clearly right that the Respondent should not be allowed to practise as a solicitor at present.” Mr Statham submitted that the expression “at present” was a clear indication that the Tribunal was not closing the door on him completely.
20. Mr Statham had heeded sympathetic advice from the members of the Tribunal to take such help as was available to him to overcome his problems and to recover his health. He had done this with substantial success and effect and he asked that his suspension from practice be lifted to allow him to practise once more, and to allow him to earn a decent living. Mr Statham did not intend ever again to be a principal. He sought employment where his experience and expertise in the field of personal injury work could be fully utilised.

The Submissions of The Law Society

21. The Law Society opposed Mr Statham’s application.
22. The principles to be observed were similar to those on an application for restoration to the Roll and in particular Mr Statham had to establish that he was an entirely fit and proper person to practise as a solicitor in that he had sufficiently rehabilitated himself and that the reputation of the profession would not be diminished by the lifting of the indefinite suspension and that it would not be contrary to the interests of the public.
23. Mr Statham had not demonstrated that he was sufficiently rehabilitated within the profession. Although he had made efforts to find legal employment Mr Statham had not been employed within a solicitor’s practice or in a position of trust since being suspended. There were no references or testimonials from recent employers to assist the Tribunal.
24. Although Mr Statham’s regulatory and disciplinary history could be discovered by a prudent employer by making enquiries with The Law Society, Mr Statham might have been expected to present a more accurate picture of his current status and history when making applications to firms of solicitors for employment.
25. Mr Statham had not demonstrated his commitment to keep up to date with changes in the law and practice and refresh his knowledge since his suspension.
26. There was no up to date report on Mr Statham’s medical condition. The 2005 Report documented Mr Statham’s fluctuating dependence upon alcohol over a period of four and a half years.
27. It was submitted that the reputation of the solicitors’ profession would be diminished if the indefinite suspension were to be lifted. The Tribunal found serious allegations to have been proved against Mr Statham at the hearing on 18th June 2002, in what was his second appearance before it. The most serious allegation was that he ‘used monies properly belonging to the Legal Aid Board (LAB) for his own purposes.’ This course of conduct occurred over a period of some four years. Mr Statham also failed to maintain properly written up books of account. Entries had been made in the books

to the effect that money had been paid into client account from the LAB but funds covered by the entry were not actually paid into client account.

28. An allegation of dishonesty was found not proved, however it was submitted that Mr Statham had breached a fundamental duty to treat clients' money properly, fairly and in accordance with the Solicitors Accounts Rules and in all respects exercise proper stewardship over that money. Such failure went to the very heart of the requirement that solicitors operate with the highest standards of probity, integrity and trustworthiness.
29. The views of Mr Statham's local law society had been sought but none had been provided.
30. It was submitted that in all the circumstances Mr Statham was not a fit and proper person to practise as a solicitor.

The Findings of the Tribunal

31. The Tribunal considered with great care the submissions made by both sides.
32. The Tribunal was concerned that Mr Statham did not understand how it could be said that he used moneys properly belonging to the Legal Aid Board for his own purposes.
33. Clearly the division of the Tribunal imposing the indefinite suspension was aware of Mr Statham's unfortunate alcohol related problems. Mr Statham has not provided up to date medical evidence, or any letters in support of his application from Alcoholics Anonymous, professional colleagues or members of the public.
34. Mr Statham had not provided any evidence to demonstrate that he had kept abreast of the law during his period of suspension.
35. The Tribunal was deeply troubled by the way in which Mr Statham framed written applications for jobs. In one such letter he had indicated a voluntary disposal of his practice to another solicitor when in reality he had been allowed by The Law Society to make such disposal as an alternative to an intervention into his practice. The Respondent had sought not to disclose to prospective employers his unfortunate disciplinary history. In the Tribunal's view Mr Statham was not acting with the probity and integrity required of a member of the solicitors' profession when he considered that it was an acceptable course to make an application for employment and only after gaining an interview notify the prospective employer of his disciplinary history.
36. The burden lay squarely upon Mr Statham to demonstrate to the Tribunal that he was a fit a proper person to practise as a solicitor and it was the Tribunal's view that he had failed to discharge that burden.
37. For these reasons the Tribunal concluded that Mr Statham had not demonstrated himself to be fit to practise as a solicitor and the Tribunal dismissed his application for the determination of the indefinite period of suspension imposed upon him.

38. Mr Statham, very properly, accepted that he must bear the costs of The Law Society in defending his application and he had agreed the figure of £935.50 with Mr Johal.
39. The Tribunal therefore made the following Order:-

The Tribunal Orders that the application of Bruce Robert Douglas Statham of 2 The Courtyard, Westgate, Chichester, West Sussex, PO19 3DH for the determination of the indefinite suspension be refused and the Tribunal further Order that he do pay the costs of the response of the Law Society to this application fixed in the sum of £935.50.

Dated this 7th day of March 2008

On behalf of the Tribunal

A G Gibson
Chairman