

IN THE MATTER OF JOHN CHARLES PRIEST, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr J N Barnecutt (in the chair)  
Mr E Richards  
Mrs N Chavda

Date of Hearing: 3rd January 2008

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of The Law Society by Jane Willetts, solicitor advocate and partner of Hammonds, Rutland House, 148 Edmund Street, Birmingham, B3 2JR on 6<sup>th</sup> February 2007 that John Charles Priest of Williams & Co, 3 Woburn Street, Ampthill, Bedford, MK45 2HS might be required to answer the allegations contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think fit.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in that:

1. He delayed in complying with a professional undertaking given to Sharman Law Solicitors in January 2005;
2. He subsequently failed to keep Sharman Law Solicitors, the recipients of the undertaking, informed of any reason for the delay in fulfilling the said undertaking;
3. He failed to deal promptly and substantively with correspondence addressed to him by Sharman Law Solicitors;

4. He failed to deal promptly and substantively with correspondence addressed to him by Jacobsens Solicitors;
5. He failed to deal promptly and substantively with correspondence from The Law Society in relation to a complaint by Jacobsens Solicitors.

The application was heard at The Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 3<sup>rd</sup> January 2008 when Jane Willetts appeared as the Applicant and the Respondent was represented by Mr Roe of Counsel.

The evidence before the Tribunal included the admissions both as to the facts and the allegations by the Respondent. Immediately prior to the hearing the Respondent had lodged a written statement.

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

The Tribunal Orders that the Respondent, John Charles Priest of Williams & Co, 3 Woburn Street, Ampthill, Bedford, Bedfordshire, MK45 2HS, solicitor, do pay a fine of £20,000.00, 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 £7,211.11.

**The facts are set out in paragraphs 1 - 14 hereunder:-**

1. The Respondent, born in 1945, was admitted as a solicitor in 1970. He practised as a partner at the firm of Williams & Co of 3 Woburn Street, Ampthill, Bedford.
2. The Respondent acted for AH plc in connection with the purchase of a property in Cambridge. Sharman Law Solicitors, acted on behalf of NatWest Bank plc in connection with a loan that was to be secured against the property.
3. By letter dated 24<sup>th</sup> January 2005 the Respondent undertook to Sharman Law as follows:

"I confirm that on completion to hold the S deceased/A Transfer to your order until we submit it to the Land Registry for registration and we undertake to deal with the payment of the Stamp Duty Land Tax on the Transfer. I will let you have copies of all the completion documentation as soon as it arrives here."

In reliance upon the above undertaking to deal with payment of the Stamp Duty Land Tax and the registration of title at HM Land Registry Sharman Law released the loan monies to the Respondent.

4. Sharman Law wrote to the Respondent on 25<sup>th</sup> February, 12<sup>th</sup> May, 1 and 12<sup>th</sup> December 2005 and 5<sup>th</sup> January 2006 chasing progress of the registration. No response was received. The letters dated 12<sup>th</sup> December 2005 and 5<sup>th</sup> January 2006 both confirmed that in the absence of a response Sharman Law would have no alternative but to refer the matter to The Law Society. Mr Codrington of Sharman Law also telephoned the Respondent on a number of occasions and left messages for him to return his calls but no response was received. With the exception of a letter

dated 27<sup>th</sup> January 2005 the Respondent had not replied to any letters or telephone calls from Sharman Law during a 14 month period from 24<sup>th</sup> January 2005.

5. By letter dated 5<sup>th</sup> April 2006 the Respondent wrote to Sharman Law confirming that registration of title and the bank's mortgage were pending at HM Land Registry and that the bank's priority had been protected at all times. The Respondent also stated that there had been a delay in obtaining the Land Transaction Certificate from the Inland Revenue and apologised for the delay.
6. By letter of 11<sup>th</sup> April 2006 the Respondent's partner told The Law Society that registration was pending and that the Bank's priority had been maintained.
7. By letter dated 22<sup>nd</sup> May 2006 to the Respondent's firm Sharman Law confirmed that the application for registration had now been completed. Further Sharman Law requested that the Respondent forward to them certain documents that were required to complete their report to their client. Two further chasing letters were sent by Sharman Law on 23<sup>rd</sup> June and 4<sup>th</sup> July 2006. The documents were sent to Sharman Law under cover of the Respondent's letter dated 5<sup>th</sup> July 2006.

Background to allegations 4 and 5

8. Jacobsens Solicitors acted on behalf of JC Ltd in connection with the lease of premises in Luton. The Respondent acted on behalf of the lessor of the premises, KC Ltd.
9. By letter dated 16<sup>th</sup> September 2005 the Respondent requested from Jacobsens £26,154.70 to enable completion to take place. He also stated:
 

Once the money is received for completion Mrs Kelly will arrange for keys to be handed over and send Crowley a VAT invoice and I'll let you have the executed lease."
10. By letter dated 19<sup>th</sup> September 2005 Jacobsens explained to the Respondent that they would be sending £25,539.37 on completion having deducted rent, insurance premium and VAT. Jacobsens requested:
 

Would you please hold the sum of £25,539.37, once received, strictly to our order until you are able to send us the executed original lease by way of completion?"
11. Jacobsens wrote to the Respondent on 22<sup>nd</sup> and 30<sup>th</sup> September; 7 and 19 October; and 21 November 2005 requesting production of the original lease. Jacobsens also notified the Respondent of their intention to refer the matter to The Law Society in their letter dated 7<sup>th</sup> October and confirmed they had done so in their letter dated 19<sup>th</sup> October 2005.
12. Jacobsens complained to The Law Society by letter dated 19<sup>th</sup> October 2005 about the Respondent's persistent failure to reply to correspondence.

13. A Law Society caseworker raised the allegations made by Jacobsens in a letter to the Respondent dated 8<sup>th</sup> February 2006. No response was received.
14. Further letters dated 23<sup>rd</sup> February and 7<sup>th</sup> March 2006 were sent to the Respondent by The Law Society. No response was received. A telephone call was made to the Respondent on 15<sup>th</sup> March 2006 and a message left but the Respondent did not return the call.

### **The Submissions of the Applicant**

15. The Respondent admitted the allegations but had notified his admission only on the morning of the hearing.
16. The Applicant's application had been lodged in February 2007: there had been a directions hearing in July 2007 and the matter had been listed for hearing in September 2007. The matter had been adjourned to January 2008 following the death of a family member of the Respondent.
17. All of the allegations related to commercial conveyancing transactions.
18. The Respondent had failed timeously to comply with an undertaking, had failed to keep the solicitors relying on the undertaking informed and had in two commercial conveyancing transactions failed to respond to correspondence and other communications.
19. In the submission of the Applicant the subject matter of the allegations was serious. The Respondent's failures had put his professional colleagues in difficulty with their clients.
20. The Applicant sought the costs of and incidental to the application and enquiry in the sum of £7,211.11. She pointed out that her costs were rather higher than might have normally been the case. There had been a directions hearing and an adjourned hearing: the allegations had not been admitted until a late stage. Because of this a witness had attended the hearing in order to give oral evidence. He had not been called in the light of the Respondent's admissions.

### **The Submissions of the Respondent**

21. The Respondent expressed gratitude to the Tribunal for the grant of the adjournment in September when he suffered a bereavement.
22. The Respondent had a partner and his firm dealt mainly with commercial property work.
23. The allegations related to two instances where after the conclusion of the transactions the Respondent failed to deal promptly with the registration of a transfer and charge of a property under arrangements made with the mortgagees' solicitor and the conclusion of a lease where the counterpart delivered to the Respondent after completion had been modified but not properly executed.

24. The Respondent accepted that the post-completion arrangements were not dealt with promptly. That sort of administrative arrangement had for a long time been dealt with by a very experienced member of staff. But at the time these transactions went wrong she had retired and her replacements proved not to be up to the task. The Respondent had not been able to keep up with the pressure of work, a great deal of which was complex. The Respondent's partner had been unwell, culminating in his absence for many weeks in 2006 for surgery and recuperation. A competent locum had been employed in his absence but she simply could not deal fully with matters without the Respondent's guidance. Difficulties arose when the bookkeepers moved together to another firm and the replacement bookkeeper proved not up to the task.
25. The Respondent and his partner had successfully addressed these problems by appointing competent staff and upgrading bookkeeping and management systems.
26. Since 2005 the Respondent had been deeply involved in co-ordinating the work of several solicitors.
27. The backup available to the Respondent had not been as great as would have been the case in a larger firm.
28. It was accepted that the Respondent had appeared before the Tribunal on two earlier occasions, but both had been a long time ago.
29. The Respondent was sorry for what had happened. Solid action had been taken to prevent similar problems from arising in the future.

### **The Findings of the Tribunal**

30. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested.

### Previous Findings

31. On 19<sup>th</sup> July 1990 the Tribunal had found the following allegations to have been substantiated against the Respondent in that he had:
  - (a) failed to reply at all or alternatively failed to reply with reasonable expedition to correspondence and enquiry addressed to him by other solicitors, existing and erstwhile clients, and the Solicitors Complaints Bureau;
  - (b) failed until Part 3 intervention by The Law Society to deliver clients' papers pursuant to instructions;
  - (c) delayed in the administration of an estate;

And by virtue of the aforementioned had been guilty of conduct unbecoming a solicitor.

32. On that occasion the Respondent was Ordered to pay a penalty of £2,500 plus costs. The Tribunal said:

"A solicitor should not accept instructions if he is not able to handle them with proper care and expedition. This solicitor appeared to be concerned with substantial clients and did not have time for smaller clients. The Tribunal consider that to be the worst sort of discourtesy. The Tribunal always takes a serious view of a solicitor who does not reply to correspondence addressed to him by the Solicitors Complaints Bureau, and this is a bad case. This Respondent appeared to have a complete disregard for his obligations to his profession although it was accepted that he had found himself under very severe pressure."

33. At a hearing on 11<sup>th</sup> April 1995 the Tribunal found the following allegations to have been substantiated against the Respondent.
34. The allegations were that the Respondent had:
- (i) failed alternatively had failed with reasonable expedition to reply to correspondence and enquiry addressed to him by other solicitors;
  - (ii) failed alternatively had failed with reasonable expedition to reply to correspondence and enquiry addressed to him by the Solicitors Complaints Bureau;
  - (iii) failed to act in accordance with a direction of the Conduct Sub Committee of the Adjudication and Appeals Committee of the Solicitors Complaints Bureau;
  - (iv) by virtue of each and all of the aforementioned had been guilty of conduct unbecoming a solicitor.

35. At the conclusion of the hearing the Tribunal Ordered the following against the Respondent John Charles Priest of Williams & Co, 3 Woburn Street, Amptill, Bedford, MK45 2HS:

as to allegation (i), that the Respondent be Reprimanded.

as to allegation (ii), that the Respondent do pay a penalty of £2,500.

as to allegation (iii), that the Respondent do pay a penalty of £5,000.

The sum of the penalties to be forfeit to Her Majesty the Queen. They further Ordered that the Respondent do pay the Applicant's fixed costs in the sum of £745 inclusive of VAT and disbursements.

36. The Tribunal made the following remarks in its findings dated 10<sup>th</sup> May 1995:

"The Respondent was before the Tribunal for the second time in five years upon broadly similar disciplinary matters. On the earlier occasion in 1990, the division of the Tribunal considered the Respondent's behaviour to be a bad case. They found then that he appeared to have had complete disregard for his obligations to his profession. The Respondent's attitude appeared not to have changed significantly. He still felt that the unreasonable behaviour lay with

the Bureau and not with himself. He still did not seem to appreciate the damage that was being done to the profession by his cavalier attitude. The Tribunal had seriously considered suspending the Respondent from practice and it was only the fact that his own clients had not made a complaint nor had there been any complaint of dishonesty, that persuaded them otherwise. Were this Respondent to appear before the Tribunal again upon similar matters, then it is unlikely that any future Tribunal would consider a financial penalty adequate."

**The decision of the Tribunal and its reasons in January 2008.**

37. The Tribunal had found substantiated five allegations including a failure to comply with an undertaking given to another firm of solicitors in the course of a conveyancing transaction in due time. He did not keep that firm of solicitors informed and failed in that matter and another to reply promptly and substantively to correspondence addressed to him by solicitors on the other side of conveyancing transactions. Even more seriously he had not dealt promptly and substantively with letters addressed to him about these matters by The Law Society.
38. A failure to act properly towards other firms of solicitors was serious. The conveyancing system in England and Wales depended to a great degree upon total reliance being able to be placed upon solicitors' undertakings. The firms of solicitors on the other side of the two conveyancing transactions were put to inconvenience, expense and anxiety and in the case of one firm the relationship with their client had been damaged.
39. A failure on the part of a solicitor to reply promptly and substantively to letters addressed to him by his own professional body serves to prevent that body from fulfilling its proper duties as a regulator. It also is put to inconvenience and expense by such failure.
40. All of these matters underline the seriousness with which the allegations substantiated against the Respondent were to be regarded.
41. However the Tribunal was bound to regard those allegations as even more serious in the light of the fact that the Respondent had appeared before the Tribunal and had had broadly similar allegations substantiated against him in the past. The Tribunal paid particular note to what was said by the earlier divisions of the Tribunal and, indeed, in view of the indication in the 1995 Findings that the Tribunal considered that any further similar failings on the part of the Respondent could well lead to his being suspended from practice, the Tribunal had given very serious thought to imposing the sanction of a suspension but had stepped back after reaching the conclusion that such a sanction might be considered to be disproportionate in view of the fact that a considerable period of time had elapsed between 1995 and the present. Nevertheless in order to indicate to the Respondent how seriously his failures were regarded, the Tribunal considered it appropriate and proportionate to impose a fine of £20,000 upon him. That figure was made up by the imposition of £5,000 in respect of allegations (i), (iv) and (v) and £2,500 in respect of each of allegations (ii) and (iii).

42. It was right that the Respondent should bear the Applicant's costs. The Tribunal noted that the Respondent had agreed both to pay the costs and the amount. The Tribunal Ordered the Respondent to pay the Applicant's costs fixed in the agreed sum of £7,211.11.

Dated this 8<sup>th</sup> day of April 2008  
On behalf of the Tribunal

J N Barnecutt  
Chairman