

News release

Professor Phil Shiner and the Solicitors Disciplinary Tribunal

2 February 2017

Professor Phil Shiner of Public Interest Lawyers (PIL) has been struck off by the Solicitors Disciplinary Tribunal (SDT) for professional misconduct in the Al-Sweady Inquiry. It also ordered him to pay interim costs of £250,000.

In a prosecution we brought, the Tribunal found allegations of misconduct when representing claims against British soldiers - including acting dishonestly - proven to the criminal standard of proof. A second solicitor from PIL, John Dickinson, was reprimanded by the SDT and ordered to pay £2,000 costs after it was admitted and found that he failed to keep the Al-Sweady clients properly informed as to the progress of the Inquiry.

Paul Philip, SRA Chief Executive, said: "We welcome the SDT's decision to strike off Professor Shiner, who has been found to have been dishonest. It is important that solicitors can bring forward difficult cases, but the public must be able to place their trust in them.

"His misconduct has caused real distress to soldiers, their families and to the families of Iraqi people who thought that their loved ones had been murdered or tortured. More than £30m of public funds were spent on investigating what proved to be false and dishonest allegations.

"The Lord Chief Justice said in 2014 that misleading court must be regarded by any disciplinary tribunal as one of the most serious offences that a solicitor could commit. He said it was not simply a breach of a rule of a game, but a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings.

"We expect solicitors to maintain the highest professional standards in all areas of their work, to uphold the rule of law, act with integrity and act honestly. If they do not, we will take action to maintain the trust the public places in solicitors."

The Tribunal aims to publish its decision within seven weeks. Professor Shiner will then have 21 days to appeal.

Note to editors

The standards required of lawyers conducting litigation were confirmed by the Lord Chief Justice in the case of *Brett v SRA* (2014) when he commented about the seriousness of misleading the court:

- "...misleading the court is regarded by the court and must be regarded by any disciplinary tribunal as one of the most serious offences that an advocate or litigator can commit. It is not simply a breach of a rule of a game, but a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings. Such conduct will normally attract an exemplary and deterrent sentence. That is in part because our system for the administration of justice relies so heavily upon the integrity of the profession and the full discharge of the profession's duties and in part because the privilege of conducting litigation or appearing in court is granted on terms that the rules are observed not merely in their letter but in their spirit. Indeed, the reputation of the system of the administration of justice in England and Wales and the standing of the profession depends particularly upon the discharge of the duties owed to the court.

- "Where an advocate or other representative or a litigator puts before the court matters which he knows not to be true or by omission leads the court to believe something he knows not to be true, then as an advocate knows of these duties, the inference will be inevitable that he has deceived the court, acted dishonestly and is not fit to be a member of any part of the legal profession."

Solicitors are also banned by the Code of Conduct from "cold calling", approaching potential clients without permission. The greatest risk of "cold calling" is that it could generate false claims, which is what has happened in this case.

The allegations made by the SRA, the admissions made by Prof Shiner and the findings of the SDT are as follows:

1. Professor Shiner encouraged and authorised the making of unsolicited direct approaches to potential clients arising out of the Battle of Danny Boy, through the agency of an individual, Mazin Younis, and three others, which he adopted when client instructions were forthcoming. This allegation is admitted including the allegation of acting without integrity. The SDT found this proven
2. Professor Shiner improperly authorised and procured Public Interest Lawyers Limited to enter into an agreement in June 2015 providing financial benefits to Mazin Younis in order to cause or persuade him to change his evidence on the issue of how the Al-Sweady clients had been identified. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved.
3. Professor Shiner improperly presented the changed evidence from Mazin Younis to the SRA without explanation as to the circumstances in which it had been obtained. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved.
4. Professor Shiner improperly sanctioned and approved the creation of emails dated 29 and 30 June 2015 which did not disclose the true reason for the agreement with Mazin Younis, but falsely gave the impression that it was the product of a routine discussion. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved. Allegations 2 to 4: These three allegations are admitted including the allegation of acting without integrity. The allegations of acting dishonestly or recklessly are not admitted. The SDT found these allegations proven.
5. Professor Shiner authorised, procured and approved the payment to Mazin Younis of prohibited referral fees in or about September 2007.
6. Professor Shiner authorised, procured and approved an improper fee sharing arrangement with Mazin Younis pursuant to tripartite agreements made on or about 17-23 March 2009, which was an improper arrangement in that it was an improper contingency fee arrangement.
7. Professor Shiner authorised, procured and approved an improper fee sharing arrangement with Mazin Younis pursuant to tripartite agreements made on or about 27 April 2010, which was an improper arrangement in that it was an improper contingency fee arrangement.
8. Professor Shiner authorised, procured and approved an improper fee sharing arrangement with Mazin Younis pursuant to tripartite agreements made on or about 17-23 March 2009, which was an improper arrangement in that it was an arrangement for the payment of a referral fee in respect of historic cases;
9. Professor Shiner authorised, procured and approved an improper fee sharing arrangement with Mazin Younis pursuant to tripartite agreements made on or about

27 April 2010, which was an improper arrangement in that it was an arrangement for the payment of a referral fee in respect of historic cases; Allegations 5 to 9: These five allegations are admitted. The SDT found these allegations proven, except in relation to Rule 1.01.

10. Professor Shiner authorised, procured and approved an improper fee sharing arrangement with Mazin Younis pursuant to tripartite agreements made on or about 17-23 March 2009, which was an improper arrangement in that it was an arrangement for the payment of a referral fee in respect of publically funded cases.
11. Professor Shiner authorised, procured and approved an improper fee sharing arrangement with Mazin Younis pursuant to tripartite agreements made on or about 27 April 2010, which was an improper arrangement in that it was an arrangement for the payment of a referral fee in respect of publically funded cases. Allegations 10 to 11: These two allegations are not admitted. The SDT found these allegations proven, except in relation to Rule 1.01.
12. Professor Shiner authorised, procured and approved the payment to Mazin Younis of £25,000 in prohibited referral fees on or about 30 March 2009. Allegation 1.12 is admitted including the allegation of acting without integrity, save that it is not admitted that the payment related to publicly funded cases as alleged. The SDT found this allegation proven, except in relation to Rule 1.01.
13. Professor Shiner provided the SRA with a misleading and incomplete response to question 10 of a notice dated 23 April 2015 issued under s44B Solicitors Act 1974. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved.
14. Professor Shiner provided the SRA with a misleading and incomplete response to question 15 of a notice dated 23 April 2015 issued under s44B Solicitors Act 1974. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved.
15. Professor Shiner provided the SRA with a misleading and incomplete response to question 17 of a notice dated 23 April 2015 issued under s44B Solicitors Act 1974. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved.
16. Professor Shiner provided the SRA with a misleading and incomplete response to question 21 of a notice dated 23 April 2015 issued under s44B Solicitors Act 1974. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved. Allegations 13 to 16: These four allegations are admitted including the allegations of acting without integrity. The allegations of acting dishonestly and recklessly are not admitted. The SDT found allegations 13 and 14 proven, including dishonesty. Dishonesty in respect of allegations 15 and 16 was not pursued, so the SDT was not required to make a finding of dishonesty or recklessness. It found the allegations proven.
17. Professor Shiner failed to provide the SRA with a timely response to questions 1 and 3 of a notice dated 23 April 2015 issued under s44B Solicitors Act 1974. This allegation was admitted, and found proven by the SDT.
18. Professor Shiner authorised and approved the payment of sums of money which he knew or suspected to be improper and failed to take proper steps to satisfy himself that such disbursements were proper. Dishonesty is alleged in relation to this allegation, although it is not a requirement for the allegation to be proved. This allegation was not pursued and will lie on Professor Shiner's file.

19. Professor Shiner failed, during the period June 2007 to August 2013, to establish and maintain proper and effective arrangements with a third party law firm for the sharing of information and documents which they held in respect of Al-Sweady claims and matters. This allegation is admitted, and found proven by the SDT.
20. Professor Shiner failed to comply with his duty of candour to the Court in relation to the Judicial Review and failed to take proper steps to ensure that the relevant Al-Sweady clients complied with their duty of candour to the Court.
21. Professor Shiner failed to comply with his duty of full and frank disclosure to the Legal Services Commission in relation to the Judicial Review and failed to take proper steps to ensure that the relevant Al-Sweady clients complied with their comparable duties. These two allegations were not admitted, the SDT found them partially proven.
22. At a press conference on 22 February 2008, Professor Shiner made and personally endorsed allegations that the British Army had unlawfully killed, tortured and mistreated Iraqi civilians, including his clients, who had been innocent bystanders at the Battle of Danny Boy in circumstances where it was improper to do so. This allegation was admitted including the allegation of acting recklessly. The allegation of acting without integrity was not admitted, and was not pursued. The SDT found the allegation proven.
23. Professor Shiner failed to comply with his duty of full and frank disclosure to the Al-Sweady Inquiry in a timely manner or at all, and failed to take proper steps to ensure that the relevant Al-Sweady clients complied with their comparable duties. This allegation was not admitted, and was not pursued by the SRA, but will lie on Professor Shiner's file.
24. Both Professor Shiner and Mr Dickinson failed, in the period March 2013 to March 2014, to keep the Al-Sweady clients properly informed as to the progress of the Al-Sweady Inquiry and in particular as to the declining prospects of their allegations that cold-blooded executions had occurred at Camp Abu Naji ("CAN"). This allegation was admitted, and was found proven by the SDT.

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