

IN THE MATTER OF WILLIAM JOHN EAGLEN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D.E. Fordham (in the Chair)

Mr. K.I.B. Yeaman

Dame Simone Prendergast

Date Of Hearing: 6th April 1995

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Complaints Bureau by Geoffrey Williams, solicitor, of 36 West Bute Street, Cardiff on 1st December 1994 that William John Eaglen of Hastings, East Sussex, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made that the Tribunal should think right.

On 13th March 1995 Mr. Williams, the applicant, filed a supplementary statement.

The allegations set out below are those contained in the original and supplementary statements, the Tribunal having agreed to abridge time in connection with the service of the supplementary statement and certain evidential affidavits on the basis that the respondent had not objected and would not have been prejudiced.

The allegations were that the respondent had been guilty of conduct unbecoming a solicitor in that he drew monies from a client account otherwise than in accordance with Rule 7 of the Solicitors Accounts Rules 1986 and 1991 contrary to Rule 8 of the said Rules.

Further, the respondent had been guilty of conduct unbecoming a solicitor in that he had been convicted of conspiracy to defraud and sentenced to two years imprisonment in respect thereof.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 6th April 1995 when Geoffrey Williams, solicitor and partner in the firm of Messrs. Cartwrights with Adams & Black of 36 West Bute Street, Cardiff, appeared for the applicant and the respondent did not appear and was not represented. The respondent addressed a letter to the Tribunal dated 18th March 1995 details of which are set out under the heading "the submissions of the respondent".

At the conclusion of the hearing the Tribunal ORDERED that the respondent, William John Eaglen of _____, Arundel, West Sussex (formerly of Hastings, East Sussex), solicitor, be Struck Off the Roll of Solicitors and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,693.47 inclusive together with the costs of the Investigation Accountant of the Law Society to be taxed if not agreed.

The facts are set out in paragraphs 1 to 6 hereunder.

1. The respondent, born in 1948, was admitted a solicitor in July 1973. At the material times he practised as a solicitor under the style of Eaglen & Co. at 2b Chestnut Grove, Balham, London SW12. He so practised in partnership until on or about 1st October 1993 and as a sole practitioner thereafter. He ceased so to practise on or about 14th March 1994.
2. Upon notice duly given to the respondent an inspection of his books of account was carried out by the Investigation Accountant of the Law Society. The Tribunal had before it a copy of the Investigation Accountant's report dated 11th February 1994 which disclosed the following matters.
3. The books were not in compliance with the Solicitors Accounts Rules. A list of liabilities to clients as at 31st October 1993 was produced for inspection and the items which totalled £1,412,120.23 after proper adjustment were in agreement with the balances in the clients' ledger as far as could be ascertained. In excess of thirty client ledger cards had however been removed by police and it was not possible to verify all balances included on the listing. A comparison of the liabilities to clients with cash available at that date, after allowance for uncleared items, revealed the following position:-

Liabilities to Clients	£1,412,120.23
Cash Available	<u>270,226.07</u>
Cash Shortage	<u>£1,141,894.16</u>

4. The cash shortage was accounted for by debit balances totalling £1,172,044.79 and the book difference (a surplus) of £30,150.63. It was agreed that debit balances totalling £2,992.19 existed and a transfer of that amount from office to client bank account was made on 6th December 1993. The respondent told the Investigation Accountant that he agreed the position as shown by his books but contended that the debit balances were all capable of off-set against credit balances shown elsewhere in the ledger.

5. The Investigation Accountant reported that the respondent's Accountant's Report (together with his partner's) for the six months ending 30th April 1993, signed by Mr. BAC Hull, FCA, showed liabilities to clients as being equalled by clients' funds available as at that date. No mention had been made of the debit balances and apparent shortages on client bank account.
6. Between 4th and 26th October 1994 the respondent (together with other defendants) appeared in the Southwark Crown Court. He was convicted upon indictment of conspiracy to defraud and sentenced to two years imprisonment.

The submissions of the applicant

7. The Investigation Accountant found a cash shortage of over £1 Million. The respondent had said that he had book-keeping problems and that the apparent shortage was not an actual shortage. The Investigation Accountant had indicated that the respondent might well have been right but the books were in such a mess that it was impossible to establish an accurate position.
8. Claims had been made on the Law Society's Compensation Fund. The sum actually paid out was £2,947.16 and claims pending amounted to £502,048.50.
9. The Tribunal was invited to give the most consideration to the second and more serious allegation. The respondent had entered a not guilty plea and his trial had taken three weeks. At the end of the trial he had been convicted on one count of conspiracy to defraud and a two year custodial sentence had been imposed upon him.
10. The Tribunal was reminded of a recent judgment of the Lord Chief Justice, then Lord Lane, in which he said that for a solicitor to play a part in mortgage fraud was "to commit professional suicide".
11. The Tribunal was referred to the sentencing remarks of His Honour Judge Martineau in the Crown Court at Wood Green when passing sentence on 20th January 1995. His Honour Judge Martineau said when speaking of another defendant in the same case "it goes without saying that as a solicitor he was in perpetrating these frauds in breach of trust vis a vis his other client, namely the building society. He should have been looking after their interests. In fact he was doing the very opposite. Of course, that same comment applies to Mr. Eaglen as regards those transactions in which he was admittedly involved."
12. His Honour Judge Martineau went on to say "Mr. Eaglen, I come to you last. You were only involved in applications in relation to four properties. I disregard any suggestion, as I think I must, that these are only specimens. I have regard to your positive good character. I am satisfied that you were probably recruited, and I take into account as an important mitigating factor that all the mortgages in your case were properly registered so that the building societies got their security. However, you did not see fit to plead guilty and even now you insist that you did nothing wrong, nothing dishonest and, therefore, of course, by doing that you show no remorse. Your sentence would have been significantly reduced if you had pleaded guilty. As it is you must go to prison for two years."

13. The Learned Judge went on to say "It is clearly very much in the public interest that there should not be frauds on building societies. It is not just the building society that suffers but it is the general public that may suffer too. Mortgages may become more difficult to come by for ordinary, honest people, and the costs of the building societies in investigating these frauds and dealing with them are bound inevitably to be passed on to the general public."

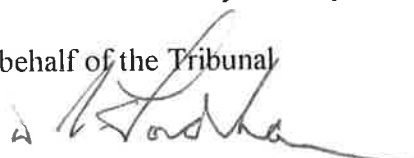
The submissions of the respondent (contained in his before mentioned letter of 18th March 1995)

14. After the shortcomings in the respondent's accounting records were drawn to his attention by his own solicitor and the Investigation Accountant he took immediate steps to rectify them. Client debit balances totalling £20,731.55 were made good. A new book-keeper was appointed and a new firm of accountants had agreed to act in substitution of those previously instructed.
15. Many months after the disposal of Eaglen & Co. the client account remained in credit. The respondent therefore contended that there was no shortage on client account at the time of the disposal of the practice in March 1994. On the contrary, he believed that there were costs remaining on client account which could have been transferred to office account.
16. The respondent was not able to dispute that he had been convicted but he was not guilty of the charge against him. He was duped by a client whom he trusted. There was never any suggestion that the respondent had played an active role in the conspiracy or had misappropriated any funds.

The Tribunal FOUND the allegations to have been substantiated. The Tribunal had noted that at best the respondent's accounts were in a terrible muddle. That in itself was a serious matter because a solicitor has a clear duty to deal meticulously with clients' moneys held by him and to record all transactions made on behalf of clients meticulously and comply punctiliously with the Solicitors Accounts Rules. However, following the matters of concern set out in the Investigation Accountant's report the respondent was convicted of a serious criminal offence involving dishonesty and at the time of the Tribunal hearing was serving a two year custodial sentence. The Tribunal had to treat the conviction of a solicitor in respect of such an offence as a matter of great gravity. For a solicitor so to be convicted damaged the good reputation of the solicitors' profession. It was right that he should be Struck Off the Roll of Solicitors and ordered to pay the costs of and incidental to the application and enquiry.

DATED this 1st day of May 1995

on behalf of the Tribunal


D.E. Fordham
Chairman

