

IN THE MATTER OF JOHN ANDREW BLAKE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the Chair)
Mr. D.W. Faull
Mr. K.J. Griffin

Date Of Hearing: 4th May 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 Carlton Maurice Edwards, solicitor of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex on 4th January 1995 that John Andrew Blake, solicitor of London E15 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 allegations were that the respondent had -

- (a) failed to comply with the Solicitors' Accounts Rules 1991 in that he -
 - (i) notwithstanding the provisions of Rule 8 of the said Rules drew out of a client account money other than permitted by Rule 7 of the said Rules;
 - (ii) notwithstanding the provisions of Rule 11 of the said Rules failed to keep properly written up such books and documents of account as are required by such Rule;

- (b) been guilty of conduct unbecoming a solicitor in that he -
- (i) utilised money held and received by him on behalf of a certain client or certain clients for his own purposes;
 - (ii) failed to act in accordance with his client's instructions;
 - (iii) failed to comply with a professional undertaking;
 - (iv) misused monies held by him as a stakeholder;
 - (v) failed to account to a client for monies received by him on their behalf;
 - (vi) abused the process of the court.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 4th May 1995 when Carlton Maurice Edwards, solicitor and partner in the firm of Messrs. Marsh Ferriman & Cheale of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex appeared for the applicant and the respondent did not appear and was not represented.

The respondent had addressed a letter to the applicant dated 28th April 1994 which was before the Tribunal (exhibit "JAB 1") in which he said he would not be able to attend the hearing in May as he would be abroad.

The respondent in his letter said he would have liked the opportunity to attend the hearing with legal representation but was unable so to do until he had earned some money. Consequently he requested that the hearing be adjourned until the end of 1995. He thought it might affect the Tribunal's decision (whether to adjourn or not) to know that the respondent was not working in any legal capacity, and that he was not on the Roll of Solicitors. The applicant confirmed that in fact the respondent was on the Roll and it was thought that he intended to indicate that he was not holding a Practising Certificate.

In the circumstances it was right that the Tribunal should consider the respondent's application for an adjournment. The applicant strongly opposed that application pointing out that the evidence before the Tribunal would reveal a cash shortage on client account in excess of £390,400.00.

The Tribunal confirmed that it would proceed to hear the substantive matter and the case proceeded.

The evidence before the Tribunal included all documentary evidence which had been the subject of Civil Evidence Act Notices and Notice pursuant to Rule 17A of the Solicitors' (Disciplinary Proceedings) Rules 1994. The Tribunal had before it the before-mentioned letter (exhibit "JAB 1") and a breakdown of the Investigation Accountant's charges being exhibit "JAB 2".

At the conclusion of the hearing the Tribunal ORDERED that the respondent John Andrew Blake, solicitor of London E15 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 £966.80 inclusive, together with the charges of the Law Society's Investigation Accountant in the sum of £5,251.83.

The facts are set out in paragraphs 1 to 9 hereunder.

1. The respondent, born in 1962, was admitted a solicitor in 1988. At the material times he practised as a solicitor in partnership with others under the style of Cannon Silver Quastel of 25 Harley Street, London W1. The respondent ceased to be a partner in the firm on 10th March 1994.

2. On 21st March 1994 the Chief Investigation Accountant of the Solicitors Complaints Bureau (the Bureau) inspected the books of account of Messrs. Cannon Silver Quastel. A copy of the Report dated 10th June 1994 was before the Tribunal. That Report disclosed that as at 28th February 1994 there was a shortfall on client account of £390,404.70 which was made up as follows -

(a)	Misuse of sale proceeds of property	£264,765.00
(b)	Breach of undertaking re Messrs. Coutts & Co.	56,118.82
(c)	Misuse of monies held as stakeholder	55,000.00
(d)	Debit balance	7,500.00
(e)	Unallocated payments	<u>7,020.88</u>
	TOTAL	<u>£390,404.70</u>

3. The respondent acted for Mr. D in respect of the sale of his property and for the Woolwich Building Society in connection with the redemption of its first charge secured on the property. The respondent purported to complete the sale and utilised the proceeds in accordance with Mr. D's instructions. He failed to redeem the charge.

4. The respondent acted for the same Mr. D in respect of a purchase and sale of another property in London and for Messrs. Coutts & Co. who loaned Mr. D the sum of £64,000.00 in connection with the purchase. The respondent gave an undertaking to remit the net proceeds of sale to Coutts & Co. and to utilise all money received solely for the purposes of acquiring a good and marketable title to the purchased property. Of that sum £55,914.07 was transferred to the firm's office bank account in November and December 1993.

5. The respondent acted again for Mr. D in respect of the purchase and sale of a property. On 22nd December 1993 the respondent received £55,000.00 as stakeholder being the deposit on the sale of the property pending completion arranged for April 1994. On 7th January 1994 the respondent paid £40,000.00 of that sum to Mr. D and £15,000.00 to the firm's office bank account.

6. The Investigation Accountant's Report disclosed that numerous client bank account receipts and payments were unallocated and had merely been posted to a suspense account.

7. The respondent acted again for Mr. D regarding the purchase and sale of another property. The purchase price was £181,000.00. The respondent acted also for Messrs. Coutts & Co. who provided the sum of £180,000.00 to assist with the purchase. On or about 14th October 1992 the respondent undertook with Messrs. Coutts & Co.
- (a) that any sums received would be applied solely in acquiring a good and marketable title;
 - (b) to hold to the order of Coutts & Co. the documents of title of the existing property pending completion of the sale;
 - (c) to pay to Coutts & Co. the net proceeds of sale of the property having deducted only the deposit, estate agent's commission, legal fees, costs and disbursements relating to the transaction;
 - (d) to advise Coutts & Co. immediately of any subsequent claim by a third party upon the net proceeds of sale of which he had knowledge.
8. On 25th November 1992 £115,431.25 was received from Wintrust Securities Limited for whom the respondent also acted further to assist with the purchase of the same property. A first charge was registered in favour of that company and on completion of the sale on 2nd April 1994 the charge was released by payment to Wintrust Securities Limited of £143,352.71. No monies were remitted to Messrs. Coutts & Co.
9. The respondent acted for BS Limited who remitted to him the sum of £3,200.00 in respect of a proposed conveyancing transaction. The transaction did not proceed and the respondent failed to account to his clients for the monies resulting in the company instituting proceedings against the firm in the Brighton County Court. The defendant, knowing that the firm had no defence to the proceedings, filed a purported defence which consisted of a bare denial. The respondent failed to attend the hearing of the application for summary judgment. The filing of the purported defence was an abuse of the process of the court. Complaint was made by the District Judge of the Central London County Court.

The submissions of the applicant

10. In the submission of the applicant the respondent had adopted a course of total dishonesty and that had been confirmed by the respondent's erstwhile partners. Those partners had rectified an earlier cash shortage. The Account's Rules breaches and the wrongful use of clients' monies spoke for themselves.
11. A complaint had been made by a District Judge that the respondent had filed a bare denial by way of defence and in the submission of the applicant that amounted to an abuse of the process of the court. The respondent's firm was the defendant in the proceedings and there could be no question that the respondent was acting properly upon clear instructions of a client. The County Court Rules made it plain that a defendant in filing a defence must make it plain what his defence is.

The submissions of the respondent

12. In his letter the respondent had sought an adjournment and also indicated that he wished to present allegations against other solicitors at the Tribunal's hearing. He made no other submissions.

The Tribunal FOUND the allegations to have been substantiated.

If the respondent had appeared before the Tribunal, it would not have heard the allegations which he wished to make. The hearing of allegations against other solicitors was not a matter for the Tribunal when hearing allegations against a particular respondent: the respondent was at liberty to report matters to the Solicitors Complaints Bureau which had the powers of investigation not enjoyed by the Tribunal.

The Tribunal accepted the applicant's submission that the respondent had adopted a wholly dishonest course of conduct, such conduct served to cause immediate loss to clients and seriously to damage the good reputation of the solicitors' profession and would not be tolerated. Whereas the loss to clients would be rectified in due course by other members of the profession the damage to the profession was irreparable. The Tribunal Ordered the respondent to be struck off the Roll of Solicitors and further Ordered him to pay the costs together with the charges of the Investigation Accountant of the Solicitors Complaints Bureau.

DATED this 31st day of July 1995
on behalf of the Tribunal

A G Gibson
Chairman



August 4th
95

