

IN THE MATTER OF JOHN FRANKLIN RICE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the Chair)
Mr. D.W. Faulk
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 David Rowland Swift, solicitor of 19 Hamilton Square, Birkenhead, Merseyside on 24th January 1995 that John Franklin Rice, solicitor of Hemel Hempstead, Hertfordshire 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 been guilty of conduct unbefitting a solicitor in the following particulars, namely that he had -

- (i) contrary to Rule 8 of the Solicitors' Accounts Rules 1986 drawn money out of client account other than as permitted by Rule 7 of the said Rules;
- (ii) utilised clients' funds for the purposes of other clients;
- (iii) utilised clients' funds for his own purposes;
- (iv) misappropriated clients' funds.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 4th May 1995 when David Rowland Swift, solicitor and partner in the firm of Messrs. Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead, Merseyside appeared for the applicant and the

respondent did not appear and was not represented. The Tribunal had before it a letter addressed by the respondent to the applicant dated 19th April 1995.

The evidence before the Tribunal included exhibits "JFR1" and "JFR2". It was right that the respondent's before-mentioned letter be regarded as an application for an adjournment of the disciplinary proceedings pending the outcome of the respondent's criminal trial.

The Tribunal considered that there was a public interest in the expeditious conclusion of disciplinary proceedings concerning solicitors. The Tribunal were guided by the principles laid down by the Court of Appeal in the matter of "Gallagher". It appeared that the respondent's criminal trial was not to take place immediately. The waters of justice would not be muddied in that trial if the Tribunal were to deal substantially with the application of Mr. Swift.

Further consideration was given to the possibility of resolving the matter by conducting the hearing in private. That was not considered to be in the public interest. The Tribunal's Order and Findings would be available to the public in due course in any event.

In the circumstances, the Tribunal decided to proceed to hear the matter, and to do so in public in the usual way.

At the conclusion of the hearing the Tribunal ORDERED that the respondent John Franklin Rice, solicitor of Hemel Hempstead, Hertfordshire 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 £4,524.60 inclusive.

The facts are set out in paragraphs 1 to 5 hereunder.

1. The respondent was admitted a solicitor in 1978 and at the material times he practised as a solicitor in partnership with others under the style of Breeze & Wyles at which firm he was the partner in charge at an office of that firm at 57d Turners Hill, Cheshunt, Hertfordshire. The respondent resigned from the partnership on 31st March 1992.
2. Upon due notice to the then partners in the firm of Breeze & Wyles the Investigation Accountant of the Solicitors Complaints Bureau (the Bureau) carried out an inspection of the firm's books of account. The Investigation Accountant's Report of 4th December 1992 showed that the respondent was responsible for the serious misuse of clients' funds to the extent of £422,500.00.
3. The respondent had acted for P. Developments Ltd. in connection with a property sale. He was a director and fifty percent shareholder in that company. On 28th February 1992 the client ledger was charged with a payment of £98,500.00 to Mr. McM, an unrelated client, leaving a balance of £11,579.79. On 16th March the account was credited with £98,500.00 purporting to be a lodgement into client account on behalf of the company but no moneys were paid into client bank account. It appeared from the ledger that there was a credit balance of £109,674.41 which enabled a proper payment of £109,469.00 to be made to the company on the same date.
4. The respondent acted for Mrs. R, a close associate of Mr. McM, in connection with a purported purchase of a flat, funded by a mortgage advance of £225,000.00 from

Halifax Building Society which also instructed the respondent. The advance was received from Halifax Building Society, but the purchase was never completed. The balance on the client ledger had been reduced to nil by the following payments -

November 1991	Repayment of office loan A/C	£45,000.00
24th January 1992	Mrs. R	4,786.00
19th February 1992	Redemption re Mr. McM	217,544.00

The account had received credits on 19th February expressed respectively to be interest - £3,000.00 and a receipt from Mr. McM - £39,000.00. As the purchase of the flat had not been completed the full amount of the building society advance should have remained credited to the ledger.

5. The respondent acted for Mr. S in connection with the sale of two flats, in respect of which there were separate ledger accounts. On 18th February 1992 the combined accounts were in credit by £117,289.22. On that date the respondent made a payment of £99,000.00 to Mr. McM.

The submissions of the applicant

6. The moneys improperly paid out had been replaced in part by the respondent's former partners and in part by the Solicitors' Indemnity Fund. The respondent had admitted either to those former partners who had interviewed him, or to a representative of the Solicitors' Indemnity Fund making all the wrongful payments.
7. The applicant was unable to assist the Tribunal as to the nature of the respondent's relationship with Mr. McM, who, it was understood was abroad.
8. The respondent was responsible for the serious misuse of clients' funds to the extent of £422,500.00 and his dishonest activities resulted in a shortfall in clients' funds of that amount, which had been replaced by his remaining partners and the Solicitors' Indemnity Fund.

The Tribunal FOUND the allegations to have been substantiated. The actions of the respondent appear to have been extraordinary. He appears simply to have utilised moneys held in his firm's client account for unrelated and improper purposes. The Tribunal have no doubt that the respondent acted dishonestly, indeed false entries in the clients' ledger accounts had been made. Such widescale abuse of large sums of clients' moneys put those clients at risk and represented the most serious breach of the trust those clients had reposed in their solicitor. The damage caused to the good reputation of the solicitors' profession is incalculable and the public must be protected from the actions of the respondent. The Tribunal Ordered that the respondent be struck off the Roll of Solicitors and further Ordered him to pay fixed costs.

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

A.G. Gibson
Chairman



August 4th 95

