

IN THE MATTER OF RICHARD JOHN WAKEFIELD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D.J. Leverton (in the Chair)
Mr. A.G. Gibson
Mrs. C. Pickering

Date Of Hearing: 13th June 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 Gerald Malcolm Lynch, solicitor, of 16 Warrior Square, Southend-on-Sea, Essex on 20th March 1995 that Richard John Wakefield, solicitor, whose address was Worthing, West Sussex BN14 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:

- (i) dishonestly alternatively improperly utilised clients' money for his own purposes alternatively for the purposes of other clients not entitled thereto;
- (ii) acted in breach of Rules 7 and 8 of the Solicitors Accounts Rules 1991 in that he drew from clients account money other than as permitted by the said Rules and utilised the said funds for his own benefit alternatively for the benefit of clients not entitled thereto.
- (iii) contrary to the provisions of Rule 11(6) of the Solicitors Accounts Rules 1991 allowed or permitted clients account cheques to be signed by persons other than those permitted by the said Rule;

- (iv) by virtue of each and all of the aforementioned had been guilty of conduct unbefitting a solicitor.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 13th June 1995 when Gerald Malcolm Lynch, solicitor and partner in the firm of Messrs. Drysdales & Janes of 16 Warrior Square, Southend-on-Sea, Essex appeared for the applicant and David Freeman, consultant with Messrs. D.J. Freeman of 43 Fetter Lane, London EC4A 1NA, appeared for the respondent.

The evidence before the Tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent, Richard John Wakefield of , Worthing, West Sussex BN14 , 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 £1,289.60 inclusive.

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

1. The respondent, aged 43, had been admitted a solicitor in 1979 and at the material times practised on his own account under the style of Richard Wakefield & Co. at 30 Brunswick Road, Shoreham-by-Sea, West Sussex.
2. On 20th February 1995 the Investigation Accountant of the Law Society reported upon an inspection of the respondent's books of account pursuant to statutory power and notice given.
3. The report revealed, inter alia, that the respondent's clients' accounts at Lloyds Bank and National Westminster Bank could be operated by the respondent and by K. Redlich and (National Westminster only) Mrs. J. Harrild, a secretary. During the course of the hearing it was ascertained that Mr. Redlich was in fact a Fellow of the Institute of Legal Executives and was an acceptable signatory. Mrs. Harrild was not.
4. The books of account contained numerous false entries made at the instigation of the respondent. He admitted a minimum cash shortage of £14,297.83 on clients' bank account as at 15th February 1995. He was not able to rectify the shortage.
5. The shortage was caused by the respondent having made improper transfers from client to office bank account during the period 12th October 1994 to 13th February 1995 in respect of thirty-one separate client transactions. The respondent admitted that all of the transfers were improper as no bill of costs had been delivered to the clients concerned and no funds were held in client bank account from which such transfers could properly have been made.
6. The respondent had explained that since the early part of 1994 he had been in serious financial difficulty and under pressure from creditors and had instigated a scheme whereby false entries were made in the books of account "in anticipation" of receipts and in order to conceal the improper transfers to the office bank account.

The submissions of the applicant

7. The shortage on client account had been caused entirely by improper transfers in thirty-one cases. The respondent admitted that the transfers should not have been

made. No bills had been delivered to the client and no funds had been held on behalf of the client.

8. The applicant told the Tribunal that the respondent had been extremely cooperative. The applicant did allege dishonesty on the part of the respondent although the respondent had denied any dishonest motive, saying that money had been transferred in anticipation of bills to support post-dated cheques passed to pressing creditors, including the Inland Revenue and Customs & Excise.
9. The respondent had committed a clear breach of Rules 7 and 8 of the Solicitors Accounts Rules. Further, there was a breach of Rule 11 in that a secretary was mandated to sign client account cheques.
10. The Law Society intervened in the respondent's practice on 24th February 1995. There had since been a disposal of the practice.
11. The applicant told the Tribunal that a subvention grant had been made out of the Law Society's Compensation Fund in the sum of £14,297.83, the precise amount of the minimum shortage disclosed in the Investigation Accountant's report. There was one pending claim in the sum of £431.77. At the date of the hearing no recoveries had been made.

The submissions on behalf of the respondent

12. The most important submission was that the respondent had no intention of defrauding the Law Society's Compensation Fund. Through the disposal of his practice it was thought likely that the whole of the amount paid out of the Compensation Fund would be made good.
13. The respondent was 43 years of age, he had been divorced six years previously and had three children aged 16, 14 and 9. When the respondent was only 20 his father had died when there were two younger brothers at school. The respondent had studied physics at Leeds University and thereafter had worked as a hospital porter for one year, the money so earned together with a gift from his grandmother funded his study of law at Guildford Law School. It was there that he met his wife who was a radiographer and they moved to the West Sussex coast to be near his parents-in-law.
14. The respondent had joined a firm in Worthing and had become an equity partner in January of 1980. The firm had been so structured that a new equity partner had to buy into the firm over a period of fifteen years which had meant the respondent could not keep his family and pay school fees. The respondent bought the firm's office at Shoreham in 1987 with the assistance of loans from the Bank to set up practice alone. The financial recession which followed almost immediately upon his purchase of the office proved disastrous.
15. The first year of trading from the practice had been good. But in the following year things had become extremely difficult. The respondent's overdraft had increased from £15,000 to £50,000 and his firm had become insolvent.
16. The Tribunal was told that the respondent initiated the enquiry. As a result the Investigation Accountant was sent in but stayed at the office only for one hour. He needed only to check what the respondent had told the Law Society.

17. The respondent had been a capable and good lawyer. He had employed a number of staff at the outset, but he had to reduce their numbers as the firm's income fell.
18. The respondent had been greatly involved in his community being a member and past Chairman of Round Table and being a member of Rotary.
19. It was accepted that the respondent should not have done what he did but he had no dishonest intent. He was ashamed and he apologised. He believed that when the income from outstanding bills of costs had been collected, their total sum would meet the deficiency. The respondent's former wife's family had also expressed a willingness to help.
20. The Tribunal was invited to consider the 23 testimonial letters placed before them. Each spoke very highly of the respondent, his capabilities as a solicitor and of his excellent character.
21. The most pressing creditors of the respondent were the Inland Revenue and the Customs and Excise for VAT who had threatened to make him bankrupt. He had been placed under great pressure.

The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested. The Tribunal have taken note of the respondent's hitherto good character. The respondent must be given credit for having reported his actions to the Law Society himself. That was the action of an honourable man. The Tribunal have much sympathy for a sole practitioner whose practice was severely hit by the economic recession and badly affected by the fall in the property prices and the downturn in conveyancing instructions. Indeed the respondent had purchased the freehold of his office and had found himself with "negative equity". Having taken all of those salient matters into consideration, the Tribunal cannot overlook the fact that the respondent had in the most fundamental terms "helped himself" to clients' money in order to pay his own outstanding debts. The Tribunal was particularly concerned that such money had been used to pay PAYE tax to the Inland Revenue when in fact that money had already been deducted from the wages paid to the respondent's staff. The Tribunal had come to the conclusion that the respondent had behaved dishonestly, and in such circumstances it was not appropriate that he remain on the Roll of Solicitors. The Tribunal Ordered that the respondent be struck off and that he pay the fixed costs.

DATED this 31st day of July 1995

on behalf of the Tribunal



D.J. Leverton
Chairman

August 16th 95

