

IN THE MATTER OF PHILIP WATSON STRAW, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. K I B Yeaman (in the Chair)  
Mr. D J Leverton  
Lady Bonham-Carter

Date Of Hearing: 10th October 1995

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## FINDINGS

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

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An application was duly made on behalf of the Solicitors Complaints Bureau by Geoffrey Williams, 36 West Bute Street, Cardiff, CF1 5UA on the 25th April 1995 that Philip Watson Straw solicitor of Whitley Bay, Tyne & Wear might be required to answer the allegations contained in the statement that 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 unbecoming a solicitor in each of the following respects namely that he had:-

- a. failed to maintain properly written books of account contrary to Rule 11 Solicitors Accounts Rules 1991;
- b. drawn monies out of a client account other than in accordance with Rule 7 Solicitors Accounts Rules 1991 contrary to Rule 8 of the said Rules;
- c. dishonestly misappropriated clients' funds for his own purposes.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 10th October 1995 when Geoffrey Williams solicitor and partner in the firm of Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent did not appear and was not represented.

The respondent sent a letter by fax on the 6th October 1995 to the Tribunal stating that he would not attend.

The evidence before the Tribunal included the admissions of the respondent contained in his aforementioned letter.

At the conclusion of the hearing the Tribunal Ordered that the respondent be Struck Off the Roll of Solicitors and that he pay the costs of the application and enquiry fixed in the sum of £3,623.86p.

The facts are set out in paragraphs 1 to 7 hereunder:-

1. The respondent, who had previously been a barrister, was admitted a solicitor in 1986. He was almost fifty years old. At the material times he practised as a solicitor on his own account under the style of Straw & Co. at 4 St George's Road, Cullercoats, North Shields, Tyne & Wear.
2. Upon notice duly given, the Investigation Accountant of the Law Society carried out an inspection of the respondent's books of account. The Tribunal had before it a copy of the Investigation Accountant's report dated the 7th November 1994.
3. That report revealed that there was a shortage on the respondent's client account.
4. A list of liabilities to clients as at the 30th September 1994 was produced for inspection which totalled £24,712.21. The items were in agreement with the balances shown in the client's ledger. However, the list did not include further liabilities to clients totalling £13,168.11 revealing the following position:-

Liabilities to clients per ledger	£24,712.21
Further liabilities not shown by the books of account	<u>13,168.11</u>
	37,880.32
Cash available	<u>13,022.85</u>
Net cash shortage	<u>£24,857.47</u>

5. The net cash shortage was caused by improper transfers from client to office bank account in respect of bills of costs not delivered to clients, debit balances, clients' funds improperly retained in office bank account in respect of unpaid professional disbursements, unallocated transfers from client to office bank account, bank interest and charges charged to client bank account and in particular personal payments made out of client bank account totalling £10,818.04. (a book difference surplus was set off against the shortage).
6. Eighteen personal payments had been made out of client account between the 14th November 1992 and the 18th September 1994 and included office equipment leasing,

Law Society's Practising Certificate fee, Value Added Tax and undefined office expenses, secretary's wages, certain unidentified payments, one payment to the respondent's private bank account and in addition to those, between the 7th August 1993 and the 11th September 1994, twenty two amounts had been drawn to cash in the total of £1,909.22p. The respondent admitted to the Investigation Accountant that those transactions were improper. At the time of the inspection the respondent was not in a position to replace the cash shortage.

7. The Investigation Accountant pointed out that the respondent's accountant's report for the year ended 30th September 1993 had not been signed by the reporting accountant until the 14th July 1994 and received by the Law Society on the 15th July. The report was qualified by references to shortages which existed upon the two comparison dates. The later of the shortages (at the 30th September 1993) remained unrectified on the date of the inspection.

#### **The submission of the applicant**

8. The respondent had dishonestly misappropriated clients' funds for his own purposes. He was unable to pay back the money which he had taken. The respondent's own accountant's report filed with the Law Society had itself referred to shortages. Clients' records had been dealt with only spasmodically.
9. In his submissions the respondent would say that he had been ill-advised to take on a sole practice. He also said that his accountant had not drawn shortages to his attention. The respondent would say that he had not been dishonest and that all apparent improprieties were genuine errors. He said that he openly kept a record of all transactions however in the submission of the applicant it was no less dishonest for example to pay a secretary's wages out of client account simply because the respondent made a record of that transaction. The applicant accepted, however, that some discrepancies were the result of errors and genuine mistakes. However, the nub of the matter was that the respondent had made a number of dishonest payments out of client account. The respondent had been guilty of misconduct which came at the serious end of the scale.
10. The applicant was able to tell the Tribunal that four applications had been made to the Law Society's Compensation Fund which had paid out a total sum of £21,751.20. At the time of the hearing there were ten claims totalling £3,995.32 outstanding. No recoveries had been made. The Law Society had intervened in the respondent's practice and the intervening agent had reported that the entire contents of the practice amounted only to some twenty files.

#### **The Submissions of the Respondent (contained in his aforementioned letter of the 6th October 1995)**

11. The respondent apologised for not attending the hearing, he had not worked for some time and had no income and no assets.
12. The respondent accepted what was set out in the papers before the Tribunal, he wished to add that he had co-operated throughout with the persons appointed by the Law

Society and the Solicitors Complaints Bureau, and he had provided all documents files and replies to questions as required. He had made no attempt to conceal or dissimulate about anything.

13. The respondent had always passed all appropriate records to his accountant who had completed the relevant accountant's certificates. The respondent's attention had never been drawn by his accountant to any errors or mistakes.
14. The respondent entered practice as a solicitor after going directly from the Bar without serving articles. After a short period of employment he had become a sole practitioner without experience in a number of areas. In retrospect the respondent accepted he had been ill-advised to enter sole practice but he had the choice of being made redundant and thus unemployed or taking over the practice of his sole practitioner employer. The respondent had undertaken three office moves in 1993 and 1994 leading to an inevitable confusion of some files which took some time to sort out.
15. The respondent accepted that transfers were made from client account that should not have been made. They were made as the result of mistakes following advice from the respondent's accountant, various mistakes accrued on a number of files over a period of four years some of which had not been called to the respondent's attention for some time, there were a number of transfers mainly against balances which the respondent mistakenly thought were due to him himself (a bank standing order was improperly paid until identified by the respondent and stopped). A number of transfers were made in respect of bills issued for probate work. The respondent had been ignorant of the requirement that the executors' consent was required and he treated the matters as being akin to conveyancing transactions.
16. There had been no dishonesty on the part of the respondent. He had made no attempt to hide or disguise transactions all of which were made openly and duly recorded. He said that errors had come to light as result of his proper and open keeping of records.
17. The respondent accepted fully his responsibility for the errors and mistakes and apologised for any harm that had accrued as a result.
18. The respondent had been unwell during his time in practice particularly the latter part. His judgement had been clouded and indeed damaged to a very marked extent. The respondent had sought medical help and the Tribunal had before it a copy of the letter received from the respondent's doctor.
19. The respondent did not seek to return to sole practice and hoped the Tribunal might permit the respondent the opportunity in due course to practise his profession in an employed capacity.
20. The respondent believed he had been of value as a lawyer to many clients over the years. He had always participated in all duty solicitor and legal aid schemes and would wish to continue to be of service in some capacity in the years ahead.

21. The letter from the respondent's doctor was dated the 13th December 1994 and confirmed that the respondent had been ill for some time and was receiving treatment for severe depression.

The Tribunal FIND the allegations to have been substantiated, indeed they were not contested.

The respondent appeared to use client account, and the money belonging to clients contained therein, as if it was a private and personal account which he could operate as he thought fit. There had been improper transfers, debit balances had arisen and other accounting errors had not been put right. There could be no satisfactory explanation for the large number of transactions between then end of 1992 and September of 1994 which were personal payments made out of client bank account. That had represented a wrong and dishonest use of client's money. The wrongful handling of clients' money by the respondent has meant that the burden of replacing that money has fallen upon the rest of the solicitors' profession via the Law Society's Compensation Fund. Such behaviour will not be tolerated. The Tribunal ORDERED that the respondent be Struck Off the Roll of Solicitors and further Ordered that he pay the costs of and incidental to the application and enquiry.

DATED this 6th day of November 1995

on behalf of the Tribunal



Chairman

Findings filed with the  
Law Society on the 13th  
day of November 1995

