

IN THE MATTER OF DUDLEY ALEXANDER STONES, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.R.C. Clitheroe (in the Chair)
Mr. A.G. Gibson
Mr. G. Saunders

Date Of Hearing: 25th July 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 Roger Field, solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on 4th May 1995 that Dudley Alexander Stones, solicitor of _____, Aylesbury, Buckinghamshire HP22 _____ 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 each of the following circumstances, namely that he had -

- (i) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors' Accounts Rules 1991;
- (ii) drawn money from a client account other than as permitted by Rule 7 of the said Rules, contrary to Rule 8 of the said Rules;
- (iii) utilised clients' funds for his own purposes and/or for other improper purposes.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 25th July 1995 when the said Roger Field, solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant and the respondent did not appear and was not represented.

The respondent had intimated in a letter (exhibit "DAS 1") that he would not be attending the hearing. In earlier correspondence with the applicant he stated that he did not dispute the basic facts but did not accept the interpretation or implication based upon those facts by the applicant.

The evidence before the Tribunal included the admissions of the respondent as to facts only.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Dudley Alexander Stones of Aylesbury, Buckinghamshire HP22 solicitor be Struck Off the Roll of solicitors and they further Order that he do pay the costs of and incidental to the application and enquiry fixed in the sum of £840.00 inclusive plus £1,367.72 Investigating Accountant's costs.

The facts are set out in paragraphs 1 to 8 hereunder:-

1. The respondent was admitted a solicitor in 1965 and at all material times carried on practice on his own account under the style of Dudley Stones & Co. at 30 High Street, Wendover, Buckinghamshire. On the 27th March 1995 the Law Society intervened in his practice.
2. Upon due notice to the respondent the Investigating Accountant of the Solicitors Complaints Bureau carried out an inspection of the respondent's books of account.
3. The Investigating Accountant's report of the 23rd March 1995 revealed that the books of account was not in compliance with the Solicitors Accounts Rules 1991 since there were in excess of one hundred payments from client bank account which were not allocated to any account in the clients' ledger. Other breaches of the Solicitors' Accounts Rules were noted.
4. In view of this, the Investigating Accountant Mr Duerden, did not consider it practicable to attempt to compute the total liabilities to clients. From available documentation, however, he calculated that a minimum liability of £70,175.19 in respect of the Cheltenham & Gloucester Building Society alone, existed at the 28th February 1995.
5. A comparison of this figure with the cash available at that date, after allowance for uncleared items showed the following position -

Minimum Liability to Clients	£70,175.19
Cash available	<u>28.83</u>
Minimum cash shortage	<u>£70,149.36</u>

6. The respondent agreed the existence of the minimum cash shortage at 28th February 1995 and said that he could not replace those monies immediately and that he would advise the Bureau if and when he had done so.
7. In view of the state of the bookkeeping it was not possible for Mr Duerden to account for even the minimum cash shortage. Numerous payments from client bank account which had not been allocated to any account in the clients' ledger may have been a contributory factor.
8. The Investigating Accountant cited examples of amounts charged to client bank account and credited to office bank account for which no documentary evidence was seen to suggest that they were, in any way, connected with any individual client matters. The respondent was not able at the time of the investigation to identify the clients to whom the said payments related.

Submissions of the applicant

9. The cash shortage had still not been replaced and the respondent still had not offered any explanation as to the payments charged to client bank account and credited to office bank account as exemplified in the report. It had not been possible to ascertain whether or not these were personal payments or whether they were in excess of monies owed to clients. What was known, was that there were some one hundred and forty nine such transfers where there were no details in the cash book nor even any details on the cheque book stubs which would have enabled the payments to be identified.
10. The respondent had intimated in correspondence that he thought the transfers were made because of overpayments to clients. He disputed that he raided the client account for his own benefit but provided no evidence then or since as to how this state of affairs had come about.
11. In actual fact, the position on the Compensation Fund was worse than would appear from the Investigating Accountant's Report. There had been a total of eight applications made to the Fund and to date some £77,149.36 had been paid out of the fund (an amount equal to the minimum cash shortage identified by the Investigation Accountant). There were however pending some further claims totalling £236,378.40 in total. No monies had yet been recovered from the respondent's practice. The cost of the Intervening agents to date amounted to £2,010.00

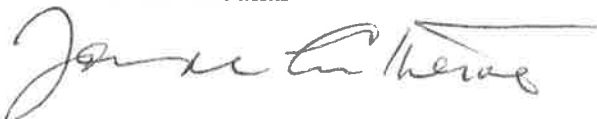
Submissions of the Respondent

12. The respondent had written to the Tribunal and explained the background to his accounting system which he inherited when he acquired the practice. He accepted that he had never studied the Accounts Rules in sufficient depth and it was possible for breaches to have occurred out of ignorance. He accepted that he placed too great a reliance on others and that his bookkeeping lacked supervision on his part. He referred to personal and domestic problems.

The Tribunal FOUND the allegations to have been substantiated. Whether or not the respondent was raiding his client account the position revealed a total failure on his part to abide with the Solicitors Accounts Rules. There was a very large admitted deficit and an even worse situation revealed on the Compensation Fund. The respondent had not addressed the problem of where the monies had gone and demonstrated a total failure to keep accounts. Such an abdication of responsibility necessarily led to only one appropriate sanction. The Tribunal Ordered that the respondent be Struck Off the Roll and further that he pay the costs of the applicant and the Investigating Accountant.

DATED this ^{20th} day of Sept. 1995

on behalf of the Tribunal



J R C Clitheroe
Chairman

Stamp: [Illegible]
22nd
September 95