

IN THE MATTER OF MICHAEL ANDREJCZUK, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. K I B Yeaman (in the Chair)

Mr. A H Isaacs

Lady Bonham Carter

Date Of Hearing: 27th 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 Andrew Christopher Graham Hopper solicitor of P O Box 7, Pontyclun, Mid Glamorgan, CF7 9XN on the 9th May 1995 that Michael Andrejczuk of , Corby, Northamptonshire 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 allegation was that the respondent had been guilty of conduct unbecoming a solicitor in that he had been convicted of an offence of dishonesty and sentenced to a term of imprisonment.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 27th July 1995 when Andrew Christopher Graham Hopper, solicitor of P O Box 7 Pontyclun, Mid Glamorgan CF7 9XN appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included exhibit "MA1". The Tribunal accepted that the respondent had been served with the papers, following his telephone conversation with the applicant, and, as the papers had not been delivered by the Royal Mail when initially served by

the Tribunal's office, and had been posted to the respondent by the applicant on the 16th June 1995, which meant that the respondent had these papers in his possession slightly less than the forty two days required by the Solicitor's Disciplinary Proceedings Rules, the Tribunal agreed to abridge the period of notice required by the Rules and confirmed that the matter would proceed to a full hearing.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Michael Andrejczuk of Corby, Northamptonshire, 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 £560.00.

The facts are set out in paragraphs 1 to 3 hereunder:-

1. The respondent, born in 1949, was admitted a solicitor in 1978.
2. On the 18th January 1994 at the Crown Court at Warwick the respondent was convicted of an offence of theft. On the 11th March 1994 he was sentenced to nine months imprisonment.
3. There had been six counts on the indictment. The offences were related to an alleged purchase by the respondent's wife (then known as M K), of a property near Market Harborough, Leicestershire for the sum of £100,000 subject to a first mortgage on the property in favour of National Home Loans PLC to secure repayment of the sum of £68,980. The respondent had been guilty of what had become to be known as "mortgage fraud".

The submissions of the applicant

4. The Tribunal was referred to the sentencing remarks of His Honour Judge Nicholl at the Crown Court at Warwick on the 11th March 1994 in which the Learned Judge referred to the fact that the respondent had been the first solicitor in Leicester to try to run an estate agents practice along side his successful litigation practice. The offence had arisen because the respondent found himself in financial difficulties. The Learned Judge said that it seemed to him the public interest required that when a person in a position of responsibility such as the respondent was in convicted for a serious offence involving dishonesty then the Court had to take the view that only an immediate custodial sentence would suffice. He was able to impose a sentence of nine months, shorter than would normally have been imposed, because of the mitigation placed before the Court.

The respondent made no submissions.

5. On the 19th day of July 1990 the Tribunal Found the following allegations to have substantiated against the respondent. The allegations were that the respondent had
 - (1). failed to comply with the Solicitors' Accounts Rules 1986 in that he withdrew money from client account other than as permitted by Rule 7 of the said Rules contrary to Rule 8 of the said Rules;

- (2) been guilty of conduct unbefitting a solicitor in that he utilised client's money for the purposes of other clients;
- (3) been guilty of conduct unbefitting a solicitor in that he utilised client's money for his own purposes;
- (4) failed to comply with Section 34 Solicitors Act 1974 and the Rules made thereunder in that he failed to deliver accountants reports as required by the said statutory provisions;
- (5) failed to comply with the Solicitors' Accounts Rules 1986 in that he failed to carry out bank reconciliations of the client account at least once every three months, contrary to Rule 11 (4) of the said Rules;
- (6) been conduct unbefitting a solicitor in that he had been guilty of unreasonable delay in the conduct of professional business;
- (7) been guilty of conduct unbefitting a solicitor in that he failed to communicate with his clients, to reply to client's letters and failed to keep his clients reasonably informed;
- (8) been guilty of conduct unbefitting a solicitor in that he failed unreasonably to release clients' files as requested;
- (9) (found not to have been substantiated)
- (10) been found guilty of conduct unbefitting a solicitor in that he failed to comply with the direction duly given for the production of papers to an agent of the Solicitors Complaints Bureau pursuant to Section 35 of and Paragraph 3 and 9 of the first schedule to the Solicitors Act 1974;
- (11) (found not to have been substantiated)
- (12) been guilty of conduct unbefitting a solicitor in that he failed to reply to letters from the Solicitors Complaints Bureau;

After explaining the reasons for their decisions, the Tribunal said they were sympathetic to the respondent's personal difficulties and the considerable pressure of work to which he had been subjected, however they considered his behaviour to have been somewhat cavalier in placing heavy reliance upon others and then seeking to rely upon such reliance as a factor reducing his own personal liability. The Tribunal ORDERED that the respondent be suspended from practice as a solicitor for the period of two years from the 19th July 1990 and that he pay the costs of and incidental to that application and enquiry.

The Tribunal were dismayed to find that the criminal offence for which the respondent had been convicted had arisen at the same time as the earlier matters which had been brought to the attention of the Tribunal but had not at that time come to light. The respondent had committed his crime during the ordinary course of his practice as a

solicitor. That was entirely reprehensible and served only to tarnish the good reputation of the solicitors' profession. The Tribunal Ordered the respondent be Struck Off the Roll of Solicitors and further Ordered him to pay the costs of and incidental to the application and enquiry.

DATED this 18th day of september 1995

on behalf of the Tribunal



K I B Yeaman
Chairman

26th
September 95