

IN THE MATTER OF GEOFFREY CATTERALL - solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. Fordham (in the Chair)
Mr. Faull
Mr. Saunders

Date Of Hearing: 14th September 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 the 1st June 1995, that Geoffrey Catterall a solicitor of _____ Station Road, Wollacombe, North Devon might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made that the Tribunal should think right.

The allegations were that the respondent:

- (1) had dishonestly, alternatively improperly utilised clients' money for the benefit of clients not entitled thereto;
- (2) he acted in breach of the Rules 7 and 8 of the Solicitors Accounts Rules 1991 in that he drew from client account monies other than as permitted by the said Rules as to be drawn and utilised the same for the benefit of other clients not entitled thereto;

- (3) he acted in breach of his duty of good faith to his partners in that he had by breach of the Solicitors Accounts Rules 1991 brought his said partners into breach;
- (4) by virtue of each and all the aforementioned had been guilty of conduct unbecoming a solicitor.

The application was heard at the Courtroom No.60 Carey Street, London, WC2 on the 14th September 1995 when Gerald Malcolm Lynch solicitor and partner in the firm of Messrs Drysdales & Janes solicitors of 16 Warrior Square, Southend-on-Sea, Essex appeared for the applicant and the respondent appeared in person.

At the outset the respondent made application that the hearing be made in private, the Tribunal dealt with the application in private and following the submissions of the respondent and the fact that the applicant had no objection, the Tribunal decided that the hearing should take place in private.

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

At the conclusion of the hearing the Tribunal ORDERED that the respondent Geoffrey Catterall be suspended from practice as a solicitor for an indefinite period. In the circumstances the Tribunal made no Order for costs.

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

1. The respondent who was 34 years of age had been admitted as a solicitor in 1986. At the material times the respondent was a partner in the firm of Toller Beattie, solicitors, who had an office in Barnstaple, Devon, while the respondent managed the firm's branch office at Braunton, Devon.
2. On the 19th April 1994 the senior partner in Messrs. Toller Beattie wrote to the Solicitors Complaints Bureau notifying it of the discovery that the respondent had been taking money from the firm's client account and paying it to unentitled clients or third parties. The sum involved appeared to be £114,153.00. All affected clients had been reimbursed.
3. On the 10th May 1994 in a lengthy letter the firm wrote again to the Bureau setting out details of the individual client matters which had been the subject of the wrongful action of the respondent. There were eleven instances. Messrs. Toller Beattie's letter was before the Tribunal and they were apprised of the details. There was no indication that the respondent had benefited personally from his conduct and indeed it appeared that he had even made payments to clients out of his own monies.
4. An Investigation Accountant of the Law Society inspected the Books of Account of Messrs. Toller Beattie, the inspection commencing on the 31st May 1994. The Investigation Accountant's report dated the 9th September 1994 was before the Tribunal.
5. The report revealed the following matters;

- (1) Clients funds misused totalled £214,182.00p;
 - (2) The books were in compliance with the Solicitors Accounts Rules;
 - (3) Between the 23rd July 1993 and the 25th March 1994 nineteen improper payments from client account varying in amounts between £291.00 to £40,000.00 had been made at the instigation of the respondent.
6. On the 10th October 1994 the Bureau wrote to the respondent for explanation. He acknowledged the letter on the 17th October and wrote a substantive letter on the 26th October. It was made clear to the Bureau that the respondent had been unwell, he had sent to the Bureau the report of a Consultant Psychiatrist.

The Submissions of the Applicant

7. It was not the applicant's case that the respondent had derived any personal benefit from his actions. In the submission of the applicant the respondent's actions could have amounted to dishonesty but if they had not, then they certainly did amount to serious impropriety.
8. The respondent did not quarrel with the allegations made against him. It had to be pointed out that his actions had brought his partners into breach of the Solicitors Accounts Rules. It appeared clear that the respondent had deliberately utilised clients' money for the benefit of other unconnected clients. It appeared that he had taken that step out of sympathy for the client recipients. It was the submission of the applicant that gain or personal benefit was not an essential ingredient in ascertaining whether or not an action was dishonest.

The submissions of the Respondent

9. The respondent accepted everything which had been placed before the Tribunal by the applicant.
10. After attending University and College, the respondent had joined a District Council in order to serve his Articles of Clerkship. His principal there suggested that he could usefully gain experience in a private firm. The senior partner of Messrs. Toller Beattie asked the respondent to work for his firm even though the respondent had made it clear that he had gained only local authority experience and had no experience in a solicitor's firm. He was not then qualified as a solicitor.
11. The respondent told the Tribunal how within one hour of arriving at the firm's Barnstaple office he was taken to its Braunton office and told that it was his office and his job to build it up. At that time the respondent remained an Articled Clerk. At the Braunton office there was one conveyancing clerk and the respondent believed that he would not have been able to cope had it not been for the very good secretaries who gave him a great deal of assistance at the Braunton office. A solicitor called to that office on a daily basis to pick up criminal files.
12. The respondent himself undertook every type of work. He never turned away work, he worked extraordinary hours and held himself always available for clients even at home. He had been unable to take uninterrupted holidays, always returning to the

office to deal with matters before returning to his family on holiday. The respondent's wife was entirely supportive.

13. The respondent had undertaken a wide range of voluntary work within his community which added to his burden. He had however, after qualifying come to realise that he was very unhappy with the pressures to which he was subjected and he had sought and was offered employment with a local authority. When he gave notice to Messrs. Toller Beattie they persuaded him of his great capabilities as a solicitor and asked him to stay with the firm. He was offered a partnership in respect of which he was to pay the partners in the firm the sum of £35,000 to be raised by way of a bank loan. At that time the respondent had been qualified for only nine months. He decided to take back his notice and stay with Messrs. Toller Beattie. The £35,000 was paid to the partners in the firm and did not go into the respondent's capital account. Interest rates increased and payments to the bank in respect of that loan escalated. A point was reached when the payments to the bank equalled the amount of the respondent's monthly drawings and his wife had to work to keep the couple's four children.
14. Without the respondent's knowledge his wife had approached a senior partner in the firm about what she perceived to be the respondent's intolerable workload after he had been told by his partners to manage the firm's office at Ilfracombe as well as the Braunton office.
15. The respondent told the Tribunal that he had never done anything dishonest in his life. He never meant to be dishonest. Because of the extreme pressure to which the respondent had been subjected he was never "off duty". He cited as an example of a payment out of his own pocket of swearing fees because it was simply easier to provide a client with the money than to spend a great deal of time on the administrative paperwork to obtain the money from the firm. The respondent said he was scared of his former partners. He felt that he had been pressured by a person with a dominant personality which his own personality did not match. Since leaving the firm he said that he had moved away from the area and was at present undertaking work with handicapped people and residential care assistant work.
16. The respondent's house had been repossessed and because the loan obtained from the bank to pay monies to the partners in the firm of Toller Beattie had been a business loan and not for the purchase of a house, the respondent was unable to get help from the department of Social Security. The respondent's wife continued to work. He had no assets nor any valuables. His family now lived in rented accommodation.
17. In addition to the pressures of work to which the respondent was subjected, he had suffered personal financial worries. There were occasions when payment of partners' drawings had been stopped and the respondent had not been told. This had meant that there was no money in the bank to pay domestic bills and to the respondent's horror, while he was a partner in a firm of solicitors, his wife had to go to the Department of Social Security to ask for an emergency payment.
18. The respondent expressed a wish to continue to work in the law and hoped that he might be able to specialise in legally-aided personal injury work or matrimonial work.

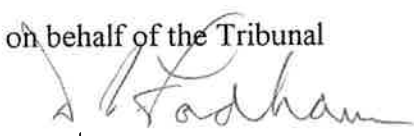
19. The Tribunal had before it very helpful medical evidence which made it clear that in layman's terms the respondent had suffered a "break down".
20. The respondent placed a number of unsolicited letters before the Tribunal from persons writing to support him. He selected about ten of the letters for the Tribunal to read which was a small proportion of the very large bundle in the respondent's possession.

The Tribunal FIND the allegations to have been substantiated. They find this a very sad case indeed. What had happened was clearly a bitter blow not only to the respondent but to his wife and their young family. The Tribunal gave a great deal of credit to the respondent for, attending before them and informing them most eloquently of the pressures to which he had been subjected, despite the fact that he clearly had not fully recovered from his breakdown. It was clear in any terms that those pressures were intolerable. It is, of course, very important for a solicitor to be able to refuse to take on any more work when he considers that his workload is too large. This is of course notoriously difficult for an experienced solicitor to do and must be far more difficult for a young and inexperienced solicitor who is striving to build up a practice. There seems little doubt that the work undertaken by the respondent was done to the satisfaction of the clients concerned, it was clear that the respondent's mental health and judgement had been so impaired by the pressures to which he had been subjected that he ceased to function rationally. The Tribunal Found that the respondent had not behaved dishonestly because his mental state was such that he probably was not capable of the appropriate mens rea. It was right that the respondent should be suspended from practice as a solicitor for an indefinite period of time to enable him fully to recover his health. In the very sad circumstances of this case, the Tribunal considered that there would be no useful purpose in imposing a further financial burden upon the respondent and his family by ordering him to pay the costs of and incidental to the application and enquiry and trusted that the conclusion of the matter before the Tribunal would be the first step in the respondent's recovery. The Tribunal made no order as to costs.

It is a matter of great concern when a young and inexperienced solicitor, indeed at the outset of this case the respondent was a trainee who had not qualified, undertakes an intolerable insufficiently supervised workload. Senior members of the profession must take responsibility for providing, giving assistance to and monitoring the progress of young members of the profession for whom it is difficult to say "no". Equally young solicitors must have the strength to be able to tell their employers their feelings as soon as they believe that a workload is becoming intolerable. The Tribunal has seen situations very similar to that arising in this case and sincerely hope that they can be avoided in the future.

DATED this 19th day of October 1995

on behalf of the Tribunal


D E Fordham
Chairman

*Findings filed with the
Law Society on the 20th
day of October 1995*

