

IN THE MATTER OF PETER MALCOLM CHAPMAN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D J Leverton (in the Chair)
Mr. J N Barnecutt
Dame Simone Prendergast

Date Of Hearing: 28th 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 13th June 1995 that Peter Malcolm Chapman solicitor whose address was care of Chapmans, 2 Spa Lane, Wigston Magna, Leicester 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 misappropriated clients' funds and utilised the same for his own benefit;
- (ii) by his actions brought the partners of his erstwhile employers as hereinafter appears, into breach of the Solicitors Accounts Rules 1991;
- (iii) acted in breach of his duty of good faith to his erstwhile employers;

(iv) been guilty of conduct unbecoming a solicitor.

The application was heard at the Court Room No. 60 Carey Street London WC2 on the 28th September 1995 when Gerald Malcolm Lynch a solicitor and partner in the firm of Messrs Drysdales & Janes of 16 Warrior Square, Southend on Sea, Essex appeared for the applicant and the respondent did not appear and was not represented. The Tribunal had before it a letter addressed by the respondent to the applicant dated the 6th September 1995 in which he said "having considered the papers received I confirm that none of the facts in the statement are disputed. It is not my intention to be represented in the hearing."

The evidence before the Tribunal included the admissions of the respondent as set out in the previous paragraph and exhibits "PMC 1" "PMC 2" and "PMC 3".

At the conclusion of the hearing the Tribunal ORDERED that the respondent, Peter Malcolm Chapman, be Struck Off the Roll of solicitors and further ordered that he pay the costs of and incidental to the application and enquiry fixed in the sum of £3,069.04p inclusive.

The facts are set out in paragraphs 1 to 6 hereunder:-

1. The respondent, who was fifty years of age, was admitted a solicitor in 1969.
2. The respondent was at the material times an Assistant Solicitor employed by the firm of Messrs Denham Foxon and Watchorn his employment having commenced on 1st March 1990 until his dismissal for gross misconduct on the 31st January 1995. Following his dismissal the respondent practised on his own account as Chapmans at Wigston Magna, Leicester in which practice the Law Society intervened in May 1995.
3. An alleged misuse of clients' funds was reported to the Solicitors Complaints Bureau (The Bureau) by the partners of Messrs Denham Foxon & Watchorn. The Investigation Accountant of the Law Society undertook an inspection of the firm's books of account in February 1995. His report was before the Tribunal dated the 20th April 1995.
4. That report revealed that the books of account were not in compliance with the Solicitors Accounts Rules as they contained numerous false entries made at the instigation of the respondent.
5. There was a minimum cash shortage on client account of £33,200.00 caused by the respondent's admitted misuse of clients' funds.
6. As an example of such misuse in the matter of an estate the entries in the client account showed payments made in September 1993 of £32,000 and April 1994 of £3,700 and a receipt in November 1994 of £2,500 which the respondent admitted had no connection with the affairs of the estate. The respondent further admitted that the entries had been made at his own instigation to conceal his earlier misuse of clients' funds including the satisfaction of personal debts.

The submissions of the applicant

7. The respondent had been guilty of clear and blatant dishonesty. Although the amount of money involved was not particularly great when compared with some of the other defalcations with which the Tribunal had in the past had to deal, in the submission of the applicant the respondent's behaviour was nevertheless at the serious end of the scale of professional misconduct. The respondent had not made restitution although his former partners had replaced the monies.

The Tribunal FOUND the allegations to have been substantiated.

On the 27th September 1988 the Tribunal had found the following allegations to have been substantiated, namely, that the respondent had been guilty of conduct unbecoming a solicitor in each of the following circumstances:-

- (1) he had drawn money from client account other than as permitted by Rule 7 of the Solicitors Accounts Rules 1986 contrary to Rule 8 of the said rules;
- (2) he improperly falsified or caused to be falsified accounting records of his firm;
- (3) by deceit he obtained for his own benefit funds advanced by a bank for the purposes of bridging finance for clients.

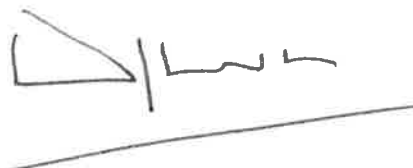
The Tribunal on that occasion found the respondent to have been guilty of dishonesty and deception. They had taken into account the support of the respondent by his partner. Full restitution had been made by the respondent. The Tribunal took an exceptional and lenient course although they wished to make it plain that they considered the respondent's actions to have been reprehensible and they ordered that the respondent be suspended from practice as a solicitor for the period of one year to commence on the 27th September 1988.

It is with great dismay that the Tribunal find the respondent, who had been given a chance in 1988, was again before them. The solicitors' profession is an honourable one and dishonesty amongst its members will not be tolerated. The Tribunal Ordered that the respondent be Struck Off the Roll of solicitors and that he pay the costs of and incidental to the application and enquiry including the costs of the Investigation Accountant of the Solicitors Complaints Bureau.

DATED this 30th day of October 1995

on behalf of the Tribunal

D J Leverton
Chairman



*Findings filed with the
Law Society on the 30
day of November 1995*

