

IN THE MATTER OF RICHARD WILLIAM HILL, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. Fordham (in the Chair)  
Mr. Faull  
Mrs. Pickering

Date Of Hearing: 12th 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 David Rowland Swift solicitor of 19 Hamilton Square, Birkenhead, L41 6AY on 19th June 1995 that Richard William Hill of 14/16 Mitcham Road, London SW17 9NA (subsequently of Sutton, Surrey, SM1 ) might be required to answer the allegations contained in the affidavit 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 unbecoming a solicitor in each of the following particulars namely that he:-

- (i) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1991;
- (ii) that contrary to Rule 8 of the Solicitors Accounts Rules 1991 drew money out of client account other than as permitted by Rule 7 of the said Rules;
- (iii) utilised client's funds for the purposes of other clients;

(iv) utilised client's funds for his own purposes.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 12th October 1995 when David Rowland Swift a solicitor and partner in firm of Messrs Percy Hughes & Roberts appeared for the applicant and the respondent did not appear and was not represented. The Tribunal had before it a letter addressed to it by the respondent on the 9th October 1995.

The evidence before the Tribunal included the admissions of the respondent. The respondent had because of difficulties with service received the papers less than four weeks before the date of the hearing. The papers had been served personally. The applicant had discussed the matter with the respondent who considered it foolish to postpone the hearing and expressed himself willing to accept an attenuated period of notice if sanctioned by the Tribunal. The Tribunal confirmed that it would accept that due notice of the proceedings had been given and ordered the matter to proceed to a full hearing.

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 and incidental to the application and enquiry in a fixed sum together with the costs of the Investigation Accountant to be taxed if not agreed.

The facts are set out in paragraphs 1 to 10 hereunder:-

1. The respondent born on the 27th January 1955, was admitted as a solicitor in 1979.
2. The respondent carried on practice on his own account under the style of Hill & Co. at 14/16 Mitcham Road, London, SW17 9NA until the 30th June 1994. He practised in partnership as Donovan Hill & Co. from the same address from 1st July 1994 until 31st January 1995. Thereafter he returned to sole practice as Hill & Co. at 14/16 Mitcham Road, London.
3. On the 2nd May 1995 the Adjudication and Appeals Committee of the Law Society resolved to intervene in the respondent's practice pursuant to the provisions of Section 35 and Part 11 of Schedule 1 of the Solicitors Act 1974. The intervention took place on the 4th May 1995.
4. Upon due notice to the respondent the Investigation Accountant of the Law Society carried out an inspection of the respondent's books of account on the 24th April 1995. A copy of the Investigation Accountant's Report was before the Tribunal. It revealed the respondent's books of account were not in compliance with the Solicitors Accounts Rules as they were incomplete from at least the 1st July 1994.
5. A list of liabilities to clients as at the 31st March 1995 was produced for inspection. The items were in agreement with the balances shown in the clients' ledger and totalled after adjustment, £145,207.47. A comparison of that figure with the cash held on client bank account at that date after allowance for uncleared items revealed the following position-

Liabilities to clients	£98,594.40
Cash Available	<u>NIL</u>
Cash shortage	<u>£98,594.40</u>

6. The cash shortage arose in the following way:-

	£
(i) Personal payment	3,908.30
(ii) Debit balances	91,832.72
(iii) Book difference	<u>2,853.38</u>
	<u>98,594.40</u>

7. The cash shortage was partly rectified on the 26th April 1995 when the respondent recovered £4,700.00 from a client.

8. On the 19th December 1994 the client bank account was charged, inter alia with a bank draft in favour of Leeds Permanent Building Society for £3,908.30. The payment had not been allocated to any individual client ledger account but had merely been debited to a suspense account. The respondent was unable to satisfy the Investigation Accountant that the bank draft was in respect of a client transaction.

9. Between the 1st July 1994 and the 31st March 1995 overpayments, varying in amount between £0.04p and £67,861.47 and totalling £91,832.72 had been made in respect of sixty one individual client ledger accounts.

10. In a written statement the respondent genuinely believed that the debit balance of £67,861.47p relating to a client Mr C was a book-keeping error resulting from all of the book-keeping changes which had been introduced, including the employment of a book-keeper when the respondent's firm merged with Donovans, and the introduction of a computerised accounts system. Mr C had been a client in respect of whom the respondent had undertaken a great deal of conveyancing work in connection with which it was not unusual for properties to be both purchased and sold simultaneously.

#### **The Submissions of the Applicant**

11. The shortfall on the respondent's Client Account spoke for itself. Claims had been made upon the Law Society's Compensation Fund in the order of that shortage.

#### **The submissions of the respondent**

12. The respondent offered certain explanation for matters set out in the Investigation Accountant's Report.

13. With regard to the total debit balance there was a figure of approximately £27,000 was included which was shown on a suspense account. There was a counterbalancing credit for exactly the same figure on the suspense account and both entries should have been allocated to the same client.

14. With regard to the client Mr C, the respondent had been dealing with a number of different matters for this client, none of which were straightforward conveyancing transactions. His instructions had been always to proceed with the utmost haste and

the respondent was under constant pressure from his to expedite matters. The respondent became confused as to the precise amount of money he needed to complete various transactions on his behalf. Clearly, the respondent had made a number of errors at a time when substantial sums of money were regularly coming in and going out of client account. The respondent mistakenly believed that there was always a sufficient credit balance to cover the payments. The respondent had brought the shortfall to Mr C's attention, he accepted that and indicated that he would repay the shortfall when he was approached with an exact figure. The respondent had apprised the Law Society's Compensation Fund of that.

- 15 The respondent was deeply ashamed that he should be the subject of disciplinary proceedings for the second time within a year. He had tried to rectify his previous shortcomings by entering into a partnership with another local firm. That involved changing his accounting system from a manual system to a computer. The respondent was not conversant with computers and was sceptical of the information given by the book keeper. He did not properly address those issues. The respondent was in a strained financial situation and it became apparent that the firm with which he had merged his own firm was loss making when the merger took place. Instead of helping the respondent's situation his strained finances became worse. Following the combination of pressures over the final year with the earlier investigation and the ill-conceived partnership the respondent's judgement had become impaired and his ability to run his practice properly had lessened. He was suffering from nervous strain which affected his family life. He had found it difficult to sleep.
16. After practising for sixteen years as a solicitor the respondent had lost his business and been made bankrupt. His career had culminated in failure, shame and embarrassment. His employment prospects were not particularly good. The respondent hoped that the Tribunal would accept his submissions, and not feel it necessary to impose the ultimate sanction. The respondent told the Tribunal that he had not been dishonest in his dealings and had never wilfully put clients' money at risk.

The Tribunal FOUND the allegations to have been substantiated.

On the 8th August 1984 the Tribunal found the following allegations to have been substantiated against the respondent together with Christopher Richard Hinde the allegations were that the respondents' had been guilty of conduct unbefitting a solicitor in that:-

- (i) The first respondent, Mr Hinde, obtained the signature of the second respondent, Mr Hill, being a solicitor empowered to administer oaths, to three affidavits without the purported deponents being sworn to the document in his presence; thereafter the first respondent, Mr Hinde, obtained the signatures of the purported deponents without their being sworn to the affidavits in the presence of Mr Hill, the second respondent; and thereafter he represented that the affidavits were properly sworn;
- (ii) The second respondent, Mr Hill, purported to administer three oaths in the absence of the deponents.

The Tribunal said the respondent had acted very foolishly and had committed an act of professional misconduct. The Tribunal had been mindful of the fact that the affidavits in question were for use in Court proceedings but accepted the explanation given by the respondent that the first respondent had prepared the affidavits from proofs already checked by the deponents and there was a close friendship and trust between the two respondents. The respondents had however, been guilty of professional misconduct and both were reprimanded and ordered to pay the costs of the applicant in connection with application and enquiry.

On the 24th April 1995 the Tribunal found the following allegations to have been substantiated against the respondent namely that he had been guilty of conduct unbefitting a solicitor in each of the following particulars:

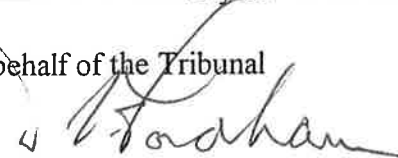
- (i) contrary to Rule 8 of the Solicitors' Accounts Rules 1991 he had drawn money out of client account other than as permitted by Rule 7 of the said Rules;
- (ii) he had utilised clients' funds for the purposes of other clients;
- (iii) he had utilised clients' funds for his own purposes.

On that occasion the Tribunal accepted entirely that no client had lost any money consequent upon the respondent's failures. As soon as the problems with the accounts were drawn to his attention he put them right straight away and made explanation to his professional body immediately. He admitted that he over relied upon his bookkeeper and appreciated that changes were necessary in his book keeping department and in his monitoring of the same. It was the Tribunal's opinion that the respondent had done all he could to make good the situation. The matter had caused him a lot of inconvenience and expense and it was felt in the circumstances that the imposition of a fine was the most appropriate course of action to take and the Tribunal imposed a fine of £1,500 and ordered the respondent to pay fixed costs and the costs of the Investigation Accountant of the Law Society to be taxed by one of the taxing masters of the Supreme Court.

It was with great dismay that the Tribunal find this respondent to be appearing before them for a second time during the course of the same year. On this occasion large sums of clients' money are unaccounted for and substantial claims have been made upon the Law Society's Compensation Fund. The Tribunal ORDERED that the respondent be Struck Off the Roll of solicitors and that he do pay the fixed costs and the costs of the Investigation Accountant of the Law Society to be taxed if not agreed.

DATED this 23rd day of November 1995

on behalf of the Tribunal

  
D E Fordham  
Chairman

Findings filed with the  
Law Society on the 24th  
day of November 1995

