

IN THE MATTER OF MICHAEL FABIAN SPUNGIN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. G.B. Marsh (in the Chair)
Mr. D.J. Leverton
Dame Simone Prendergast

Date Of Hearing: 31st October 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 Geoffrey Williams solicitor of 36 West Bute Street, Cardiff on the 20th July 1995 that Michael Fabian Spungin of West Bridgford, Nottingham 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.

At the opening of the hearing the applicant invited the Tribunal to order an amendment to the allegations. The Tribunal agreed and the allegations set out below are in the agreed amended form.

The allegations were that the respondent had been guilty of conduct unbecoming a solicitor in each of the following respects, namely that he had;

- (i) drawn monies out of a client account otherwise than in accordance with Rule 7 of the Solicitors Accounts Rules 1986 and 1991, contrary to Rule 8 of the said Rules;
- (ii) made false entries in books of account and falsified accounting documents;

- (iii) failed to pay clients' monies into client account, contrary to Rule 3 of the Solicitors Accounts Rules 1991.

The application was heard at the Courtroom, No.60 Carey Street, London, WC2 on the 31st October 1995 when Geoffrey Williams solicitor and partner in the firm of Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included the admissions of the respondent contained in letters written on his behalf by Messrs. Brown Jacobson solicitors of 44 Castle Gate, Nottingham. The letter in which full acceptance of the allegations was contained was that dated 17th August 1995.

At the conclusion of the hearing the Tribunal ORDERED that the respondent be Struck Of 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 £5,675.85p.

The facts are set out in paragraphs 1 to 5 hereunder.

1. The respondent was admitted as a solicitor in 1962.
2. At the material times the respondent carried on practice as a solicitor under the style of Armstrong Spungin & Scott at 10a Kingswalk, Nottingham, NG1 2AE.
3. Upon notice duly given to the respondent, an inspection of his books of account was carried out by the Investigation Accountant of the Law Society. The Tribunal had before it a copy of his Report dated the 14th December 1994.
4. The Report revealed that a minimum cash shortage of £8,706.59 existed on client bank account at the 31st October 1994 in respect of clients' money improperly held in office bank account. Seventeen amounts varying between £58.50 and £1,921.50 had been improperly retained in office bank account. The largest sum arising when on the 31st December 1993 a cheque was drawn on office bank account in respect of counsel's fees. When the cheque was not presented the sum was re-credited to the relevant office ledger on the 30th June 1994. The fees remained unpaid at the date of the inspection.
5. A review of individual client ledger accounts revealed the purported existence of numerous client loans. The Investigation Accountant gave details of seventeen fictitious loans, the earliest having taken place in February 1991, and the latest in September 1994. Details of the purported lenders and purported borrowers and the dates and the amounts were set out, the total sum involved in those seventeen fictitious transactions was £28,692.81. On one client ledger a credit of £1,500 was made, described in the narrative as a loan from another client, and immediately there was debited an interim bill of £1,468.75 followed by an office debit of £31.25 leaving a nil balance on the ledger. On other ledgers not only had fictitious loans been credited or debited but fictitious repayments had also been recorded.

The Submissions of the Applicant

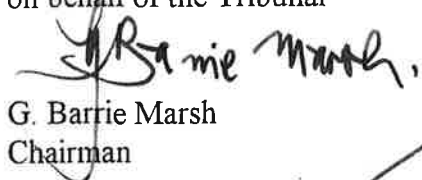
6. The respondent had accepted the allegations and was not attending before the Tribunal owing to his ill health.
7. The allegations spoke for themselves and the examples of the mis-handling of client's funds set out in the Investigation Accountant's Report clearly set out the position. Immediately upon the receipt of the Investigation Accountant's Report these proceedings and an intervention into respondent's practice on the grounds of his suspected dishonesty were resolved upon.
8. There had been twenty seven applications to the Law Society's Compensation Fund in all. As at the 25th October 1995 the total sum paid out of the Compensation Fund was £1,250,377.46. There were pending claims totalling a further £370,812.49. The costs of the intervention were £73,328.12. Recoveries had been made on behalf of the respondent in the sum £7,633.83. The net exposure of the Compensation Fund (taking into account recoveries) was therefore £1,316,071.75.
9. That was a disastrous position arising directly from the respondent's dishonest misconduct.

The Submissions of the Respondent (contained in letters from his solicitors)

10. The respondent was ill, suffering from mental and physical ill health.
11. The solicitors acting on behalf of the respondent invited the Tribunal to take note of the fact that the respondent had always intended to repay the various monies.
12. The respondent's memory of detail was not good but he was suffering greatly due to the disgrace of his position after having been an eminent person in his locality. He was also in a state of financial hardship and he and his wife were and would effectively remain dependant upon their children.

The Tribunal FOUND the allegations to have been substantiated. It was plain that the respondent had over a period of time taken large sums of money from clients for his own purposes. The solicitors' profession has had to pay in financial terms for the respondent's wrongdoing to ensure that no client suffered loss. The behaviour of the respondent showed a course of disinterest and disgraceful conduct. He was not fit to remain on the Roll. The Tribunal Ordered that the respondent be Struck Off the Roll of Solicitors and further Ordered that he pay the costs of and incidental to the application and enquiry (to include the costs of the Investigation Accountant of the Law Society).

DATED this 23rd day of November 1995
on behalf of the Tribunal


G. Barrie Marsh
Chairman

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

