

IN THE MATTER OF ROBERT MICHAEL SALMON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the Chair)
Mr. D.W. Faull
Mr. R.P.L. McMurtrie

Date Of Hearing: 9th November 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 27th July 1995 that Robert Michael Salmon, solicitor of London SW12 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 been guilty of conduct unbecoming a solicitor in each of the following respects, namely that he had -

- (a) failed to maintain properly written books of account contrary to Rule 11 of the Solicitors' Accounts Rules 1991;
- (b) drawn monies out of a client account otherwise than as permitted by Rule 7 of the Solicitors' Accounts Rules 1991 contrary to Rule 8 of the said Rules;
- (c) made or caused to be made false entries in the books of account.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 9th November 1995 when Geoffrey Williams, solicitor and partner in the firm of Messrs. Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and Hugh Jones, solicitor and partner in the firm of Messrs. Harter & Loveless of 398 Caledonian Road, London N1 appeared for the respondent.

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

At the conclusion of the hearing the Tribunal ORDERED that the respondent Robert Michael Salmon, solicitor of London SW12 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 £3,276.42.

The facts are set out in paragraphs 1 to 12 hereunder.

1. The respondent, born in 1949, was admitted a solicitor in 1974. At the material times he practised as a solicitor in partnership under the style of Hobson & Arditti at 5 Staple Inn, London WC1. He ceased so to practise on or about 5th April 1995.
2. Upon notice duly given an inspection of the books of account of Messrs. Hobson & Arditti was carried by the Investigation Accountant of the Law Society. A copy of his Report dated 28th April 1995 was before the Tribunal.
3. The Report revealed that there were then two partners in the firm, the respondent having left on 5th April 1995.
4. The remaining partners had received two faxed letters from the respondent stating that the problems in the running of the firm were due solely to his own stupidity and stemmed from a number of sources. One letter detailed matters where monies were due to clients and stated all other matters were in order. The Investigation Accountant interviewed the respondent on 7th April 1995 when he made certain admissions.
5. The Report went on to reveal that the books of account were not in compliance with the Solicitors' Accounts Rules as they were incomplete, contained numerous false entries made at the respondent's instigation and in connection with other reasons dealt with in the Report.
6. A list of liabilities to clients as at 28th February 1995 was produced for inspection. The items were in agreement with the balances shown in the clients' ledger and totalled £241,257.86 after adjustment. However, further liabilities of £217,350.00 existed in respect of two clients which were not shown by the books. A comparison of the liabilities, including the further minimum liabilities, with cash held on client bank account revealed the following position -

Liabilities to clients shown by the books	£241,257.86
Minimum liabilities not shown by the Books	<u>217,350.00</u>
	458,607.86
Cash available	228,509.40
Minimum cash shortage	<u>£230,098.46</u>

7. The minimum cash shortage arose in the following way -

(i)	Misuse of clients' funds by the respondent	£217,350.00
(ii)	Debit balances	5,039.31
(iii)	Receipts and payments not allocated to any client ledger account (net)	<u>7,762.04</u> 230,151.35
(iv)	Less interest credited to client bank account	<u>(52.89)</u> <u>£230,098.46</u>

8. The misuse of clients' monies by the respondent arose in connection with two matters.

9. In connection with G deceased, the respondent acted for himself and his co-executor. On 1st July 1994 the relevant account in the clients' ledger was charged with a client account payment of £100,000.00 with the narration "Exec Account". The payee on the cheque was P.E. Jones Esq.

10. When interviewed on 7th April 1995 the respondent admitted that the payment had no connection whatsoever with the affairs of the estate. The payment and false accounting entry had been made at his instigation in order to conceal his earlier misuse of funds held in client bank account on behalf of an unconnected client.

11. The second matter was that of Mr. H. deceased in which the respondent acted. At the time of the Investigation Accountant's visit, application for a grant of probate had not been made. Client bank account was credited, inter alia, with £32,750.00 on 20th December 1994 in respect of the proceeds of the sale of estate assets and with £84,600.00 on 16th February 1995 in respect of a bank loan to be used for the payment of inheritance tax.

12. Neither of those receipts was credited to H deceased client ledger account but to other unconnected client ledger accounts instead. The respondent admitted that the receipts had no connection whatsoever with the affairs of the clients whose individual client ledger cards had been credited and that false entries had been made, at his instigation, in order to conceal his earlier misuse of funds held in client bank account on behalf of unconnected clients.

The submissions of the applicant

13. The respondent had been utilising clients' funds for his own purposes. He had taken monies belonging to one client and had used it to cover the monies taken by him on an earlier occasion. At his own instigation the respondent had caused numerous false entries to be made "to cover his tracks".

14. The applicant alleged dishonesty on the part of the respondent.

15. Because the respondent practised in partnership no claims would lie on the Law Society's Compensation Fund, but the Solicitors' Indemnity Fund would have been exposed. It was thought that claims against that Fund would be in the region of a quarter of a million pounds.
16. The Tribunal's attention was drawn to letters written by the respondent which he had written in a state of desperation. The contents were very sad. It was clear that he had never intended to defraud anyone and had reached the position where he was no longer able to pay monies back. However, in the submission of the applicant the facts represented serious dishonesty on the part of the respondent and the professional misconduct was at the top and serious end of the scale.

The submissions of the respondent

17. The facts in the case were not disputed. The respondent had served five years articles with his firm, had been an assistant solicitor for a long period of time and then had been offered a partnership. The respondent's senior partner was taken seriously ill in 1989 and died in 1991. The respondent then effectively became a sole practitioner. He inherited a substantial overdraft and owing to his lack of experience had paid a considerable sum of money to the late partner's widow. After taking Counsel's advice it became clear that in fact the late partner's estate owed money to the respondent and matters were in due course put right.
18. The firm had been an old-fashioned one and had not generated sufficient income for it to remain viable.
19. The respondent had indicated that he had not taken money for his personal benefit. Clearly in his mind he had distinguished between he himself as a person and his firm as a separate entity. He had given assurances that he had not taken the money with a view to a personal gain meaning that he had used the money to keep his firm afloat. The money had not been spent on high living or an extravagant life-style.
20. The situation before the Tribunal was a tragic one. The respondent owned a house against which substantial loans were secured. An order for possession had been obtained by the respondent's building society and loans to the firm were secured by way of a second mortgage.
21. The respondent was very conscious of what he had done and had tried to raise monies by way of a substantial bank loan to put matters right. He had a friend who was a wealthy Dutch lawyer who had agreed to stand as guarantor with a Dutch bank, even so the bank refused to make the loan to the respondent because the income generated by the firm was insufficient to service the repayments.
22. The respondent had been arrested by the police in June 1995 and his case was scheduled to come up before the City of London Magistrates on 11th December 1995 and was likely to be dealt with in the Crown Court early in 1996. The respondent's offences had been charged as theft. The respondent would make admissions.

23. The respondent did not enjoy good health. At the time of the hearing his only income was derived from washing glasses in a public house. The respondent's representative was unaware of any extant bankruptcy proceedings, but believed they were likely to be contemplated by the firm's bankers. The respondent was a single man and had no family.

The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested. It appeared that the respondent had been guilty of a wholesale raiding of client account in order to keep his firm afloat over a long period of time. That was a very serious matter indeed and behaviour which would not be tolerated.

The Tribunal Ordered the respondent to be struck off the Roll of Solicitors and further Ordered that he should pay the costs of and incidental to the application and enquiry.

DATED this 1st day of December 1995

on behalf of the Tribunal



A.G. Gibson
Chairman

Findings filed with the
Tribunal on 12/12/95
12th of December 1995

