

IN THE MATTER OF CHARLES ANDREW MANDLEBERG, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. G B Marsh (in the Chair)  
Mr. R B Bamford  
Mr. M C Baughan

Date Of Hearing: 30th November 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 and partner in the firm of Percy Hughes & Roberts, 19 Hamilton Square, Birkenhead on the 4th August 1995 that Charles Andrew Mandleberg of Alrewas Burton Trent DE13 might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegation was that the respondent had been convicted of the criminal offence of driving with excess alcohol for which he was sentenced inter alia, to a period of four months imprisonment suspended.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 30th November 1995 when David Rowland Swift solicitor and partner in the firm of Messrs Percy Hughes & Roberts 19 Hamilton Square Birkenhead appeared for the applicant and the respondent was represented by David Morris of Portman House 5/7 Temple Road West Birmingham B2 5NY.

The evidence included the admissions of the respondent and exhibit "CAM1" (a medical report).

At the conclusion of the hearing the Tribunal ORDERED that the respondent Charles Andrew Mandleberg of Churchside, 11 Mill End Lane, Alrewas, Burton on Trent, solicitor be

suspended from practice as a solicitor for an indefinite period to commence on the 30th November 1995 and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £501.98.

The facts are set out in paragraphs 1 to 4 hereunder:-

1. The respondent, born in 1950, was admitted as a solicitor in 1974. The respondent was not practising following an intervention into his practice by the Law Society in April 1994. The respondent practised on his own account under the style of Andrew Mandleberg & Company at Gazette Buildings 168 Corporation Road, Birmingham.
2. On the 3rd March 1987 the respondent was convicted of an offence of driving a motor vehicle having consumed excess alcohol for which offence he was fined £250 and disqualified from driving for twelve months. On the 27th September 1988 the respondent was convicted of a further offence of driving a motor vehicle having consumed excess alcohol for which offence he was fined £500 and disqualified from driving for three years.
3. On the 23rd January 1995 the respondent appeared before the Magistrates Court sitting at Burton upon Trent and was convicted of an offence of driving a motor vehicle having consumed excess alcohol.
4. On the 3rd May the respondent was sentenced to four months imprisonment suspended for two years, disqualified from driving for a period of five years and ordered to pay £40.00 in costs. In passing the sentence of imprisonment the Court indicated that a custodial sentence was appropriate because the respondent was four times over the legal limit and had a previous history of similar offences. The sentence was suspended because the Court found that there were exceptional circumstance relating to the respondent's professional, personal and financial circumstances.

#### **The submissions of the applicant**

5. The conviction of a solicitor on a third occasion for driving a car having consumed excess alcohol and in respect of which a custodial sentence, albeit suspended, was imposed and upon which a certain amount of publicity attended would compromise or impair or would be likely to compromise or impair the respondent's own good reputation as well as that of the solicitors' profession.

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

6. The respondent had not practised as a solicitor since the intervention in 1994. At that time the Serious Fraud Office commenced an investigation which was still ongoing. At the time of the intervention the respondent's income ceased. At the time of the hearing he was deeply in debt and was described as "teetering on the verge of bankruptcy". A possession order had been obtained on his home which had been suspended.
7. The respondent had been a reasonably moderate social drinker, but pressures imposed upon him had been instrumental in his heavy drinking and caused him to suffer immense depression.

8. The Tribunal had before it medical reports and the reports which had been placed before the Magistrates.
9. The respondent had worked hard to overcome his dependence on alcohol and had not taken alcohol since the earlier part of 1995.
10. Since the intervention into his practice the respondent had not worked, although he had devoted a great deal of time to charitable projects. It was considered impossible for him to find gainful employment until the investigation into his practice had been concluded. He would strenuously deny any allegation that he had been dishonest, should that be the outcome of the investigation.
11. The respondent had been married for a second time and had two young children by his second marriage.
12. The pressures upon him had been enormous. He was in a parlous financial position and living on income support. The imposition of a financial penalty would, in the submission of the respondent, have been unrealistic. It was hoped that the conviction before the Tribunal would not attract the ultimate sanction.

The Tribunal FOUND the allegation to have been substantiated, indeed it was not contested.

The Tribunal did indeed recognise the enormous pressures to which the respondent had been subjected. There can be no doubt that a third conviction for an offence of driving a motor vehicle having consumed excess alcohol was a matter that would attract adverse publicity and criticism from members of the public. The respondent had three separate criminal convictions which might in the public's perception indicate a course of deliberately breaking the law. That was, of course, wholly unacceptable behaviour on the part of a solicitor. However the Tribunal does recognise that a dependency on alcohol is in the nature of an illness. Although the Tribunal accept that the respondent is taking steps to overcome his dependence on alcohol, they are not satisfied on the evidence before them that the stage has been reached where such dependence is completely under control. The Tribunal take the view that until it can be certain the respondent has his dependence on alcohol completely under control he should not be permitted to practise as a solicitor. The Tribunal thought it was right to impose an indefinite period of suspension upon the respondent. They further Ordered him to pay the costs of the application and enquiry in an agreed fixed sum.

DATED this 28th day of December 1995

on behalf of the Tribunal

  
G.B. Marsh  
Chairman



