

IN THE MATTER OF JAMES BRADBURY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D J Leverton (in the Chair)
Mr. J W Roome
Dame Simone Prendergast

Date Of Hearing: 3rd October 1996

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Complaints Bureau (subsequently the Office for the Supervision of Solicitors) by David Rowland Swift solicitor of 19 Hamilton Square, Birkenhead on 31st August 1995 that James Bradbury, solicitor, of

Blackpool might be required to answer the allegations contained in the statement which accompanied the application and that such Order be made that the Tribunal should think right.

On the 21st December 1995 the applicant filed a supplementary statement pursuant to Rule 4(2) of the Solicitors (Disciplinary Proceedings) Rules 1994 with the Tribunal. It was subsequently served upon the respondent and stood in substitution for the original statement.

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

- (i) contrary to Rule 3 of the Solicitors Accounts Rules 1991 failed to pay clients' funds into a client account;
- (ii) utilised clients' funds for his own purposes;

- (iii) misappropriated clients' funds;
- (iv) obtained loans from clients without ensuring the client was separately represented;
- (v) behaved in a way which compromised or impaired or was likely to compromise or impair his reputation or that of the solicitors' profession;
- (vi) took advantage of his client by misusing his position as a solicitor in a situation of conflict of interest;
- (vii) failed to disclose material information to his client.

The matter had been before the Tribunal on a number of occasions. On the 30th November 1995 the Tribunal agreed that the hearing of the matter might be adjourned upon medical grounds. On the 21st December 1995 the applicant told the Tribunal that he had just received an indication that solicitors acting for the respondent were seeking further information from the consultant but that the consultant required a fee and an application for payment had to be made to the Legal Aid Board. The respondent's practising certificate had been terminated and he was not in a position to practise. The Tribunal noted the position and accepted that the matter might stand adjourned on the 21st December but required the matter to be listed for hearing in a routine way.

Subsequently the matter was listed for hearing on the 18th April 1996. The medical evidence placed before the Tribunal was not very helpful and had been faxed at the eleventh hour. It appeared that the respondent had been admitted to a psychiatric hospital. The Tribunal on the 18th April 1996 agreed that the matter might be adjourned but made it plain that there was a public interest in disciplinary matters being dealt with expeditiously and that it would be unlikely to agree a further adjournment.

The applicant had confirmed the date of the hearing with the solicitors representing the respondent by letter of the 2nd September. They responded on the 4th September 1996 stating that the respondent had had to be admitted yet again to hospital for treatment. There was no indication as to how long he was to be there. On the 11th September 1996 the applicant wrote to the solicitors saying

"you will no doubt recollect that the Tribunal indicated that on this occasion it was intended that the matter should progress and the case should be heard. There is a public interest in requiring that disciplinary matters of this sort should be dealt with quickly and that the public should be satisfied that matters are dealt with expeditiously. If it appears that your client is not going to be able to attend, then it seems to me that it is likely that the matter will proceed in his absence. If he is really unfit to attend but wishes to make comments then I suggest that some thought be given to your attending on his behalf or written representations be submitted."

There had been no response.

The Tribunal agreed that the matter should proceed to a full hearing.

The evidence before the Tribunal: the respondent had made no admissions but all evidence had been the subject of notices served upon him and no counter notices had been received.

At the conclusion of the hearing the Tribunal ORDERED that the respondent James Bradbury of [redacted] Blackpool solicitor, 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 £5,135.84 inclusive.

The facts are set out in paragraphs 1 to 6 hereunder.

1. The respondent, 55 years of age, was admitted a solicitor in 1981. At all material times the respondent practised in partnership with one salaried partner under the style of James Bradbury & Co. at 53 King Street, Blackpool, Lancashire. From the 1st January 1995 the respondent was employed there as a consultant until the 14th February 1995. It was believed that the respondent was not currently employed. The salaried partner was not implicated in the respondent's misconduct and had assisted with the provision of evidence.
2. Upon due notice the Investigating Accountant of the Law Society carried out an inspection of the respondent's books of account. A copy of the Investigating Accountant's report of the 7th December was before the Tribunal.
3. In November 1993 Mrs S consulted the respondent for financial advice following a win on the football pools. Following the advice of the respondent she deposited the sum of £30,000 with him on the 11th November 1993 on the basis that he would secure investment of that sum for her at a reasonable return. The respondent did not tell his client that the funds paid to him were treated as a loan. The respondent placed this sum in a building society account in his own name. Sums were paid by the respondent from office account purporting to be interest on the sum invested on behalf of Mrs S. In reality the respondent retained the funds for his own use and benefit although a sum of £15,000 was repaid to Mrs S. The balance of £15,000 with accumulated interest had not been repaid and the respondent had never accounted for that sum.
4. In November 1993 Mrs I consulted the respondent for financial advice again following a win on the football pools which resulted in her becoming entitled to a sum of £170,000. Following the advice of the respondent she deposited the sum of £20,000 with him on the 11th November 1993 on the basis that he would secure investment of that sum for her at a reasonable return. The respondent did not tell his client that the funds paid to him by his client were not invested but were treated by him as a loan. The respondent placed this sum in a building society account in his own name. Sums were paid by the respondent from office account purporting to be interest on the sum invested on behalf of Mrs I. In reality the sum purporting to be invested on behalf of Mrs I was largely transferred from the building society account into the respondent's overdrawn office account. The sum of £20,000 with accumulated interest had not been repaid and the respondent had never accounted for that sum.
5. The respondent acted for Mr. F in connection with a conveyancing transaction. On completion a sum of £42,735.62 was received by the respondent and paid into his client account. The respondent, with the agreement of Mr F, retained the sum of

£10,000 for investment. The respondent treated the funds as a loan to him by Mr F. Mr. F was not independently advised and the respondent did not advise Mr F to seek independent advice. There was no written agreement or memorandum and the terms of the alleged loan were not clear. Although interest payments were made by the respondent from his office account the sum of £10,000 with accumulated interest had not been repaid and the respondent had never accounted for that sum.

6. On the 4th February 1995 Mr L complained to the Solicitors Complaints Bureau that the respondent had misapplied funds. The respondent acted on behalf of Mr L and his wife in 1986. On the 25th March 1986 Mr and Mrs L had paid sums totalling £15,000 to the respondent for investment. The respondent paid "interest" to Mr and Mrs L from his office account but made no investment on their behalf, treating the funds as a loan to himself. The respondent repaid the capital sum that he borrowed from Mr and Mrs L by payments ceasing in December 1994 but the interest that was paid was far less than the rate that he led Mr and Mrs L to expect, the shortfall being some £6,020.

The Submissions of the Applicant

7. The clients who had passed monies to the respondent believed that they had been applied on genuine investment transactions brokered by the respondent whereas in reality he had used his clients' money to bolster up his overdrawn practice account. On any view that was a serious misuse of clients money.
8. No submissions were made on behalf of the respondent.

The Tribunal FOUND the allegations to have been substantiated. The facts before the Tribunal revealed a serious misuse of clients' money representing a fundamental breach of the trust implicit in the solicitor and client relationship. Such behaviour would not be tolerated. The Tribunal Ordered that the respondent be struck off the Roll of Solicitors and further ordered that he pay costs in a fixed sum including the costs of the Investigation Accountant of the Solicitors Complaints Bureau.

DATED this 30th day of October 1996

on behalf of the Tribunal

D J Leverton
Chairman



Handwritten note: This copy filed with the Law Society on the 1st day of November 1996