

IN THE MATTER OF GEOFFREY MARTIN GRIMWADE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J W Roome (in the Chair)
Mr. D J Leverton
Mr. D E Marlow

Date Of Hearing: 22nd February 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 by Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 20th November 1995 that Geoffrey Martin Grimwade of Longthorpe, Peterborough solicitor 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 circumstances namely that he had:-

- (i) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1986 and/or 1991;
- (ii) drawn money from a client account other than as permitted by Rule 7 of the said Rules, contrary to Rule 8 of the said Rules;
- (iii) utilised clients' funds for his own purposes;

- (iv) misappropriated funds belonging to a client in respect of whom he was acting under a power of attorney.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 22nd February 1996 when Roger Field solicitor and partner in the firm of Messrs Higgs & Sons, of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant and Miss I Ray-Crosby of Counsel instructed by the respondent appeared for the respondent.

At the opening of the hearing an application was made on behalf of the respondent that the hearing should take place in private. It was said that large sums of money had been involved. The respondent had endured disgrace. Clients were involved and concern was expressed as to the confidentiality of those clients' affairs. The applicant objected to the request for a hearing in private. It was exceptional that a matter should be heard in private before the Tribunal and there was nothing in this case which rendered it in any way exceptional.

The Tribunal asked that the names of clients be referred to by using initial letters only in the customary way and ordered that the hearing take place in public.

The evidence before the Tribunal included the admissions of the respondent as to the facts. He admitted allegations (i) and (ii). In the case of allegations (iii) and (iv) the respondent denied that he had been dishonest; and the oral evidence of Rev. Nicholas C H Vernon.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Geoffrey Martin Grimwade of Longthorpe, Peterborough, 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 £2,325.84p inclusive.

The facts are set out in paragraphs 1 to 9 hereunder:-

1. The respondent, born in 1946, was admitted a solicitor in 1970. At the material times he practised on his own account under the style of Grimwades at 54B Broadway, Peterborough, Cambridgeshire.
2. Upon due notice to the respondent the Investigation Accountant of the Solicitors Complaints Bureau (the Bureau) carried out an inspection of his books of account. A copy of the Report of the Investigation Accountant dated 20th October 1995 was before the Tribunal.
3. The Report indicated that there had been a number of improper transfers from client to office bank account made at the instigation of the respondent. A minimum cash shortage of £41,590.23 was ascertained as at 30th September 1995. The Investigation Accountant said that the respondent had misappropriated clients' funds in the sum of £28,665.23 and had misappropriated funds held under a Power of Attorney in the sum of £12,925.00.
4. The respondent had acted for himself and Mr. D, the executors of the estate of Mrs. L who died on 29th December 1992. The estate accounts revealed that after payment of the respondent's firm's costs and disbursements, the funeral account and pecuniary legacies, the residuary estate amounted to £43,817.96. The residue was to be divided

equally between a hospital trust and a musicians' charity. Each body should, therefore, have received £21,908.98. In fact £30,681.94 had been paid into client account in respect of one asset but it had been shown as £23,925.69. That had the effect of understating the residue available for distribution by £6,756.25.

5. The sum of £21,908.98 had been passed to the National Health Service Hospital Trust (less than the correct figure), but the musicians' charity had not been paid.
6. During the period July to October 1993 the relevant client ledger account was charged with four transfers from client to office bank account purporting to be in respect of bills of cost. The total sum transferred was £28,665.23. When questioned by the Investigation Accountant, the respondent said he had not been able to find the whereabouts of the remaining residual beneficiary, the musicians' charity, so he took the monies "as costs".
7. The respondent acted for Mrs. S under a General Power of Attorney. During the period 23rd January 1992 to 22nd June 1995 a number of transfers had been made from the personal account of Mrs. S to the respondent's office account. Two transfers had been made in each year and the total transferred over the whole period was £12,925.00. The respondent admitted to the Investigation Accountant that he could not justify the amounts transferred.
8. A further matter was referred to in the Investigation Accountant's Report relating to the trustees of F deceased. The respondent acted for himself and Mrs. F, Mr. F's widow, who were the trustees of the estate of the late Mr. F who died in September 1965.
9. Mrs. F was named the sole beneficiary of the trust. The estate was valued in the region of £1 million. A number of transfers had been made between January 1992 and March 1995 in respect of costs. In all there had been twelve transfers totalling £131,862.50. Each transfer had been made in conjunction with a sale of shares and the receipt of monies therefor. It was not apparent that any other work had been carried out in respect of the trust during the relevant periods. The respondent admitted to the Investigation Accountant that Mrs F had not been aware of the amounts transferred to his office bank account. He said that all the transfers were in respect of costs and retainers and that all the amounts were justified.

The submissions of the applicant

10. The first two allegations relating to statutory breaches were admitted. With regard to the remaining two allegations, the applicant did put his case as one involving dishonesty.
11. In the first matter referred to in the Investigation Accountant's report, Mrs L deceased, the sum available for distribution being the residuary estate was understated. The one half paid to the NHS Trust hospital therefore was smaller than it should have been and the balance which should have been paid to a musicians' charity was simply taken for costs. The applicant invited the Tribunal to take the view that that amounted to palpable dishonesty. For costs in excess of twenty eight thousand pounds to arise in

an estate valued at under fifty thousand pounds would in any event have been preposterous.

12. In the matter of Mrs F, where the respondent acted under a General Power of Attorney, transfers had been made from Mrs F's personal account to the firm's office bank account. The transfers were purported to be in respect of bills of costs. The Tribunal had before it copies of the purported bills which were characterised by very sparse details. The respondent could not justify the costs transferred and the Tribunal was invited to take the view that it should ask itself "was what was done honest?" The answer would be, "no" and the natural conclusion to be drawn was that the respondent had acted dishonestly.
13. In the matter of the trustees of Mr F, it was accepted that the estate assets were of substantial value. However many transfers in substantial sums were made in respect of costs. The bills drawn contained little explanation as to their calculation and referred only to "trust management" or "administration". In fact there had been only sales of shares. Mrs F, the sole beneficiary and co-trustee, was not aware of the sums transferred. The respondent said that they were justified.
14. It was clear that the respondent had taken and utilised clients' funds for his own purposes and had misappropriated funds belonging to a client in respect of whom he was acting under Power of Attorney and in doing so had behaved dishonestly.

The submissions of the respondent

15. The respondent was a man of honour and integrity. He accepted that he might have acted with bad judgement, but he had not behaved dishonestly.
16. At the time when the transfers had been made the respondent had suffered a painful long drawn out and traumatic breakdown of his marriage from which followed considerable financial implications.
17. He was a sole practitioner, who worked very long hours, assisted by two employed solicitors. He was normally a hard working and conscientious solicitor who for a period of time had allowed himself to slip out of control.
18. The respondent accepted that he should not have taken the sum due to a charitable residuary legatee as costs. He found himself unable to explain why he had done that, his action was wholly out of character.
19. With regard to the Power of Attorney of Mrs F, the respondent was entitled to charge that account. He had come to accept that not all of the monies transferred had been justified but the sums transferred were not wholly unjustified. Again any excess transfers were a result of poor judgement but not of dishonesty. Billing was not an exact science and all firms of solicitors varied considerably in the amounts charged. The Tribunal was invited to accept that the majority of the billing in that matter was entirely legitimate.

20. With regard to the trust of F deceased, the respondent's predecessors had been involved with that matter over a number of years. Previously they had charged only on a nominal basis. The larger billing of the respondent reflected the inadequate billing of previous years. The value of the trust was still substantial, the respondent having worked hard as executor and trustee. The sole beneficiary had decided to release her life interest in order to accelerate payments to her four children. Even though payments of £125,000 each had been made to each of the children, the value of the fund had risen to £650,000 after those payments had been made.
21. The Tribunal was referred to the large bundle of glowing references written in support of the respondent and the evidence as to the respondent's character given by the Reverend Nicholas Varnon who spoke about his loyalty to the church and assistance in community affairs.
22. The respondent's practice had been closed following an intervention by the Law Society. He had entered into an insolvency voluntary arrangement with his creditors. His only income was that provided by the state. The respondent had worked hard as a solicitor since 1970 and had been ruined. He had nothing left to show for twenty five years practice as a solicitor.
23. The respondent had made no attempt to conceal the transfers of monies. The evidence provided to the Tribunal had, indeed, come from the respondent's own accounting records. The respondent had never enjoyed an extravagant life style.
24. The respondent was over forty years of age and it was hard to envisage what the future might hold. Inevitably it would be extremely difficult for him to find work. The respondent's ability to find work was also hampered by the fact that he suffered from "back trouble" and was in constant pain.
25. The respondent's financial difficulties were however outweighed by the loss of his good name which he had cherished over many years. He had hitherto enjoyed an unblemished career as a solicitor and it was hoped in view of this and in view of the high regard in which the respondent was held and the great value the community placed upon him that the Tribunal would be able to adopt a lenient stand.

The Tribunal FOUND all the allegations to have been substantiated. The Tribunal found that the respondent's actions had, indeed, been dishonest. The Tribunal found this to be a sad case as it was clear that the respondent had worked hard as a solicitor, had been highly respected and trusted by those whom he had served and undoubtedly he in turn had served them well as well as giving generously of himself to his church and the wider community. The Tribunal accept that the respondent had been subjected to some pressure, but it takes the firm view that no pressure is so great that it would excuse an act such as taking monies properly due to a charity as costs. A solicitor who holds a General power of Attorney on behalf of a client is in a position of extraordinary trust. An abuse of that trust strikes at the very heart of everything that the solicitors' profession stands for. Simply to take clients' monies for costs when in control of those monies was a matter to be deprecated. The transfer of large sums of money from the substantial trust, again apparently by way of costs, could only be seen as a calculated and cynical way of taking for himself large sums of money from a pool from which he

thought it would not be missed. Such activities on the part of a solicitor would not be tolerated. It was right that the respondent should be Struck Off the Roll and further he should pay the costs off and incidental to the application and enquiry in a sum fixed by the Tribunal, to include the costs of the Investigation Accountant of the Solicitors Complaints Bureau.

DATED this 4th day of April 1996

on behalf of the Tribunal



J W Roome
Chairman

Findings filed with the
Court Society on the 15th
day of April 1996