

IN THE MATTER OF ANELAY COLTON WRIGHT HART, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr. D.E. Fordham (in the Chair)  
Mrs. E. Stanley  
Mr. G. Saunders

Date Of Hearing: 14th March 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 David Rowland Swift solicitor of 19 Hamilton Square, Birkenhead on the 11th December 1995 that Anelay Colton Wright Hart of Richmond, North Yorkshire, DL10 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 allegations were that the respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely that he had:-

- (i) caused books of account to be improperly written up contrary to Rule 11 of the Solicitors Accounts Rules 1991;
- (ii) contrary to Rule 8 of the Solicitors Accounts Rules 1991 drew money out of client account other than as permitted by Rule 7 of the said Rules;
- (iii) utilised clients' funds for the purposes of other clients;

- (iv) misappropriated clients' funds;
- (v) misled his client in connection with matters in which he was instructed as a solicitor.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 14th March 1996 when David Rowland Swift solicitor and partner in the firm of Messrs. Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead appeared for the applicant and the respondent did not appear and was not represented.

By letter of the 7th March 1996 addressed to the Clerk to the Tribunal, Messrs. O'Roukes solicitors of Middlesborough, Cleveland confirmed that neither the respondent nor a representative would attend the hearing and enclosed a medical report for consideration by the Tribunal.

The evidence before the Tribunal included all matters placed before the Tribunal by the applicant which had been the subject of notices pursuant to the Tribunal's rules of procedure and the Civil Evidence Acts, and the admissions of the respondent contained in a letter from Messrs. O'Roukes of the 7th March 1996.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Anelay Colton Wright Hart of Richmond, North Yorkshire, DL10 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 £1,025.82 together with the costs of the Investigation Accountant of the Law Society to be taxed if not agreed.

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

1. The respondent, born in 1934, was admitted a solicitor in 1961. At the material times he practised in partnership under the style of Appleby Hope & Matthews at 35 High Street, Normanby, Middlesborough. On the 15th June 1995 the respondent retired from the partnership.
2. Upon due notice, the Investigation Accountant of the Law Society carried out an inspection of the books of account of the firm of Appleby Hope & Matthews. A copy of his report dated the 11th August 1995 was before the Tribunal.
3. The Investigation Accountant's report revealed that the books of account contained numerous false entries made at the instigation of the respondent. Although the state of the books made an exhaustive inspection impractical it was possible to ascertain that there was a minimum shortage of clients' funds totalling £225,193.52 arising as a result of the respondent's misuse and mishandling of clients' funds.
4. In particular the Investigation Accountant identified an unallocated withdrawal of £9,000 by the respondent from a building society client account which was transferred into an account under the control of the respondent and used in partial repayment of borrowings by the respondent. Further the respondent had instigated the improper withdrawal of sums totalling £135,193.52 from clients account which sums were used by the respondent for his own use and benefit.

5. In one matter the respondent had acted for a client, who had suffered injury in an accident, in negotiations with an insurer. The matter was finally compromised on the basis that the insurer pay compensation in the sum of £50,000 together with costs. During the course of the negotiations two interim payments of £2,000 were sent to the respondent. The respondent paid two sums of £1,500 to his client in respect of the interim payments and made a final payment of £40,000 indicating to the client that the total settlement figure was £43,000. That was untrue. A total of £7,000 was retained by the respondent and paid into an account in the name of Appleby Hope & Matthews but which was in reality under the control of the respondent. The sum of £7,000 was retained in that account by the respondent for his own use and benefit.

#### **The Submissions of the Applicant**

6. The respondent had misappropriated large sums of clients' money for his own use and benefit. His partners had been unaware that he, the senior partner, had been behaving in that fashion. The respondent left his partnership as soon as these matters had been discovered. The respondent's partners made good the shortfall subject to rights of recovery from the respondent.
7. The applicant put the matter to the Tribunal as a serious case involving dishonesty on the part of the respondent where large sums of clients' money had been misappropriated for his own use and benefit. In the matter of the personal injury case the respondent had in addition deceived his client.

#### **The Submissions of the Respondent**

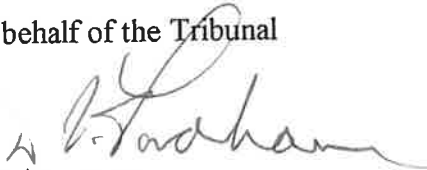
8. The Tribunal took into account the medical report referred to above which indicated that the effect on the respondent of the onset of Alzheimer's disease might well negate any element of criminal dishonesty, subject to that, the respondent accepted the allegations.
9. The respondent no longer sought to practise as a solicitor in any capacity.
10. The respondent had limited financial resources. He had meagre prospects of being able to work again. His wife was in poor health.
11. The respondent had never previously been the subject of any disciplinary action and had always been held in high esteem by the solicitors' profession in the locality in which he practised. He enjoyed a modest lifestyle.
12. The Tribunal was invited to deal with the respondent sympathetically on the basis that his recently diagnosed mental condition was the root cause of his apparently bizarre behaviour. The respondent had been a highly respected experienced senior partner of a busy practice and had been close to retirement following an otherwise exemplary career as a solicitor for more than thirty years.

The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested. Although the Tribunal noted that the respondent appeared to have been suffering from some mental deterioration, the Tribunal and the solicitors' profession

could not tolerate the dishonest misappropriation by a solicitor of clients' monies and his deliberate deception of a client. It was right that the respondent be struck off the Roll of Solicitors and pay the costs of and incidental to the application and enquiry in a fixed sum together with the costs of the Investigation Accountant of the Law Society to be taxed by one of the Taxing Masters of the Supreme Court if not subject to agreement.

DATED this 26<sup>th</sup> day of April 1996

on behalf of the Tribunal



D.E. Fordham  
Chairman

Findings filed with the  
Law Society on the 30<sup>th</sup>  
day of April 1996