

IN THE MATTER OF PAUL ATKINSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.C. Chesterton (in the Chair)
Mr. A. Gaynor-Smith
Mr. G. Saunders

Date Of Hearing: 19th April 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 Andrew Christopher Graham Hopper, solicitor of P.O. Box 7, Pontyclun, Mid Glamorgan on 19th February 1996 that Paul Atkinson, solicitor of South Shields, Tyne & Wear 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 -

- (i) failed to comply with the Solicitors' Accounts rules 1986 and 1991 in that he drew money from client account other than as permitted by Rule 7 of the said Rules and contrary to Rule 8 of the said Rules;
- (ii) been guilty of conduct unbecoming a solicitor in that he utilised clients' money for his own purposes.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 19th April 1996 when Andrew Christopher Graham Hopper, solicitor of P.O. Box 7, Pontyclun, Mid Glamorgan appeared for the applicant and the respondent did not appear and was not represented.

The Tribunal was satisfied that the service of the proceedings had been achieved. The applicant told the Tribunal that a service by delivery by an enquiry agent had taken place some five weeks before the hearing and the period of notice was therefore less than that required by the Tribunal's rules of procedure. The Tribunal granted the applicant's application that the period of service be abridged and ordered that the matter proceed to a full hearing.

The evidence before the Tribunal included the oral evidence of Mr. Cotter, a senior investigation accountant of the Solicitors Complaints Bureau.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Paul Atkinson, solicitor of South Shields, Tyne & Wear 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 £2,594.80 inclusive.

The facts are set out in paragraphs 1 to 8 hereunder.

1. The respondent, born in 1939, was admitted a solicitor in 1978. At the material times he practised in partnership under the style of Bage Atkinson & Co. at 3 Beech Road, South Shields, Tyne & Wear.
2. Following discoveries by the auditors of Messrs. Bage Atkinson & Co. an investigation of the accounts of the practice was undertaken by Mr. Cotter, a senior investigation accountant at the Solicitors Complaints Bureau (the Bureau). The Report of the Chief Investigation Accountant dated 25th October 1995 was before the Tribunal who heard the oral evidence of Mr. Cotter.
3. The Investigation Accountant's Report and the oral evidence revealed that the respondent had been in partnership with three other solicitors in the firm of Bage Atkinson & Co. He resigned from the partnership on 11th August 1995, following a meeting of the partners in which irregularities in the books of account, including the misappropriation of clients' funds by the respondent, were discussed. On 16th August 1995 Mr. Cotter had interviewed the respondent who made certain admissions regarding his improper dealings with clients' funds. At a subsequent interview on 12th September 1995, the respondent said he had been independently legally advised that he should not answer any questions.
4. A list of liabilities to clients as at 31st July 1995 had been produced for inspection by Mr. Cotter. The balances were in agreement with those shown in the clients' ledger and totalled £412,585.62. However, further minimum liabilities not shown by the books totalling £110,390.22 existed at 31st July 1995 in respect of the respondent's misappropriation of clients' funds. After comparison with cash available on client bank and building society accounts, after allowance of uncleared items, as at 31st July 1995 a minimum cash shortage of £110,390.22 was established.
5. The minimum cash shortage was caused entirely by the misappropriation of clients' funds by the respondent from four clients.
6. In the estate of LY deceased the respondent had lodged £47,480.44 with Halifax Building Society in a nominee account for JDR. Funds had been withdrawn from Halifax Building Society account in the name of LY deceased and had not been paid into client account in the sum of £35,138.76. A payment of £14,503.63 had been

made on behalf of an unconnected client and allocated payments had been made from client account of £2,440.70. The respondent's former partners had managed to secure £22,719.51 being the remaining balance in the Halifax Building Society nominee account for JDR, leaving the minimum cash shortage in respect of the estate of LR deceased at £76,844.02.

7. In his interview with Mr. Cotter, the respondent admitted that he had withdrawn from the Halifax nominee account for JDR the sum of £18,712.00 in respect of his purchase of a Mercedes Benz motor car for his personal use and that £6,500.00 had been paid to Northern Rock Building Society, in part redemption of a mortgage on a property co-owned by himself and another.
8. The Tribunal have not considered it necessary to set out details of misappropriations made in respect of the remaining three clients.

The submissions of the applicant

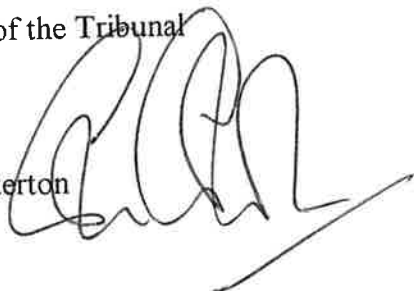
9. The respondent had created a minimum cash shortage over £110,000 on client account. The respondent had spent large sums of clients' monies specifically for his own benefit. He had adopted a deliberate course of action to achieve his personal benefit.
10. The applicant had made enquiry as to whether any personal pressure or difficulties might have pressed upon the respondent. His enquiry had not given any indication that the respondent was subject to any such difficulties.
11. It appeared that the respondent had undertaken a series of transactions over a period of some eight years in a deliberate course of conduct motivated by greed. Nothing was known that could provide any meaningful mitigation on the respondent's behalf.
12. The remaining partners in the respondent's former firm had indicated that the final shortfall figure was likely to be in the region of £130,000.
13. There were no submissions made on behalf of the respondent.

The Tribunal FOUND the allegations to have been substantiated. The respondent clearly had taken clients' money for his own personal use and enjoyment. Clients' funds are sacrosanct. The Tribunal had before them nothing that could persuade them from taking the view that the respondent's actions were deliberate and dishonest. Such behaviour on the part of a solicitor would not be tolerated and the Tribunal Ordered that he be struck off the Roll and pay the costs of and incidental to the application and enquiry.

DATED this 24th day of May 1996.

on behalf of the Tribunal

J.C. Chesterton
Chairman



Findings filed with the
Law Society on the 5th
day of June 1996