

IN THE MATTER OF KENNETH JAMES CRAWLEY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. G.B. Marsh (in the Chair)  
Mr. A.H. Isaacs  
Mr. G. Saunders

Date Of Hearing: 30th July 1996

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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 Harvey A. Silverman, solicitor of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex, BN11 1SD on the 25th April 1996 that Kenneth James Crawley a solicitor, of Spofforth, Wetherby, North Yorkshire 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:-

- (a) failed to comply with the Solicitors Accounts Rules 1991 in that he:
  - (i) notwithstanding the provisions of Rule 8 of the said Rules drew out a client account money other than as permitted by Rule 7 of the said Rules;
  - (ii) notwithstanding the provisions of Rule 11 of the said Rules failed to keep properly written up such books of account as are required by such Rule;

- (b) been guilty of conduct unbefitting a solicitor in that he:
- (i) utilised money received by him on behalf of a certain client or clients for the purposes of a person other than such client or clients;
  - (ii) utilised money held and received by him on behalf of a certain client or clients for his own purposes;
  - (iii) failed to comply with the provisions of the Section 34 of the Solicitors Act 1974 in that he did not deliver to the Law Society an Accountant's Report in respect of his accounting period ending on the 30th September 1993;
  - (iv) failed to reply to letters sent to him by a client and the Solicitors Complaints Bureau
  - (v) failed to carry out his retainer using proper care and skill pursuant to Principle 17.01 in that he failed to deal with a matter as instructed with the appropriate care and skill, diligence and promptness and to keep the client properly informed.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 30th July 1996 when Harvey A. Silverman solicitor and partner in the firm of Messrs. Marsh Ferriman and Cheale of Southfield House, 11 Liverpool Garden, Worthing, West Sussex appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included a letter addressed by the respondent to the Tribunal of the 24th July 1996 (hereinafter called the respondent's letter) in which he confirmed he accepted the basis of the allegations made against him and did not propose to contest the proceedings.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Kenneth James Crawley of Spofforth, Wetherby, North Yorkshire, 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 £4,236.65 inclusive.

The facts are set out in paragraphs 1 to 12 hereunder.

1. The respondent was admitted as a solicitor in 1980.
2. On the 25th May 1994 an Investigation Accountant of the Solicitors Complaints Bureau (the Bureau) attended at the respondent's offices at Princes Square, Harrogate, North Yorkshire (where he practised alone) to inspect his books of account. The Tribunal had before it a copy of the Investigation Accountant's report dated the 18th July 1994.
3. The report revealed that the books of account were not in compliance with the Solicitors Accounts Rules as the total of clients' balances had not been compared to available clients' funds nor had the client account cash book been reconciled with client bank account later than September 1992.

4. Because of those failures, it was considered impracticable to compute the respondent's total liability to clients, but the respondent agreed that a minimum liability to clients of £125,836.04 existed at the 15th June 1994 in respect of eight identified clients. Available clients' funds at that date amounted to £64,521.52 leaving a minimum shortage on client account of £61,314.52. The respondent said he was not in a position to rectify the minimum shortage and would inform the Bureau if and when he had done so. The Investigation Accountant was not able to determine the exact cause of the minimum cash shortage but it appeared that improper transfers had been made from client to office bank account totalling £18,187.93 and overpayments had been made to clients or third parties which totalled £44,771.89.
5. The Investigation Accountant's report detailed three examples of overpayments or improper transfers. In one case the respondent himself was one of three shareholders in a company (with a holding of three percent taken in lieu of fees) which ran a nursing home. On the 10th February 1994 when the balance in the relevant client ledger account stood at only £1,958.82 it was charged with a client account payment of £2,500 creating a debit balance of £541.18. Five further payments totalling £29,260, one transfer to office on account of costs in the sum of £2,500 had been made and two client accounts receipts totalling £6,500 led to a debit balance of £15,801.18 by 15th June 1994. The further receipt of £5,000 from the client on the 26th June reduced the debit balance to £10,801.18. The respondent was unable to explain why he had made payments on behalf of the client and taken costs when his records showed that there were no funds properly available.
6. The Investigation Accountant went on to report that the respondent's Accountant's Report covering the period up to the 30th September 1992 had been signed by a chartered accountant showing the figures to be in agreement at 30th June 1992 and 30th September 1992, the comparison dates. Those unqualified reports were given when there were a number of debit balances at both dates.
7. The respondent had not delivered an Accountants Report covering a period later than the 30th September 1992.
8. On the 21st July 1994 the Bureau wrote to the respondent requiring his explanation on the matters raised in the Investigation Accountant's report within seven days. He did not respond and on the 10th August 1994 the appropriate committee of the Bureau resolved to intervene in the respondent's practice. On the 22nd August 1994 the respondent disposed of his practice to Messrs. Berwin Morely Bloomer.
9. During 1991 the respondent acted for clients in respect of a re-mortgage of a property at Harrogate. He obtained a second charge certificate from HF Limited to enable appropriate entries to be made at HM Land Registry. The respondent failed to return the charge certificate and did not reply to any correspondence relating thereto from HF Limited and the Bureau.
10. In June 1992 the respondent was instructed to act by Mr. L to issue proceedings to recover monies. The respondent accepted the retainer but failed to keep the client

advised and after a three month period the respondent advised the client that process had been issued and the matter had been transferred to the Aldershot County Court for hearing. Throughout that year and during 1993 Mr. L pressed the respondent and had been advised that there was a hearing initially been between solicitors and thereafter towards the end of 1993 a final hearing after which judgement had been signed in Mr. L's favour. The respondent advised Mr. L that the bailiff would be instructed and would be levying execution to obtain return of the sum of £1,000. Payment was not made and in January 1994 Mr.L began to telephone the respondent once a fortnight. In due course Mr. L became suspicious as to what had gone on and after investigation it was ascertained that process had not been issued.

11. During 1993 the respondent acted for Mr. and Mrs C in connection with the sale of a property at Ripon. The clients made it clear to the respondent that curtains and carpets at the property were not included in the sale price. The respondent failed to pass on that information to the purchaser. In due course the purchaser issued proceedings in the County Court and obtained a judgement against the complainants in the sum of £560. The respondent had failed to reply to correspondence concerning the matter and, indeed, failed to comply with a decision of the Assistant Director of the Bureau of the 7th June 1995 which determined an award of compensation pursuant to the statutory powers of the Bureau in connection with inadequate professional services.
12. After the transfer of the respondent's business to Messrs. Berwin Morley Bloomer, that firm submitted a formal application for a grant out of the Compensation Fund on the 31st January 1995 in the sum of £15,847.07. The application related to seventeen conveyancing matters where the respondent had acted for vendors. Upon completion of the transactions he had failed to account for the commission payments due and documentary evidence had been produced to substantiate that in each case the respondent had been put in funds to enable him to settle estate agent's accounts.

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

13. There was no doubt that the respondent had been guilty of the matters alleged and in particular had dishonestly utilised clients' monies for his own purposes. When confronted with that situation the respondent had "burst into tears". The respondent's activities had been reported to the Director of Public Prosecutions and it was understood that no steps were being taken until the outcome of the disciplinary proceedings became known.

#### **The Submissions of the Respondent (contained in the respondent's letter)**

14. The respondent considered it appropriate to offer some explanation of the background to the matters alleged. It was almost two years since the intervention took effect and he had found it a difficult period to contend with. He had been unable to come fully to terms with the events that had occurred through stress or anxiety.
15. The respondent had practised in Harrogate at first as an assistant solicitor and later in partnership. He at one stage taken over the running of a branch office which had developed with some success. This led him to feel confident to venture on his own.

After setting up a practice on his own he believed he had traded quite successfully, despite a couple of setbacks, the first being an injury received whilst playing rugby requiring surgery to his ankle and the second being an involvement in a car crash from which the respondent had to be extracted by the fire service while unconscious. He suffered minor concussion and a broken collar bone. He suffered post traumatic amnesia regarding the car crash. He returned to work very shortly after his surgical operations and the car accident.

16. It was difficult for a sole practitioner to cope with the such unforeseen events.
17. The respondent experienced problems when taking on a particular client who was involved in an application for project funds involving international banks and negotiable instruments. The respondent had come to believe that the work had been beyond his understanding and he had spent an enormous amount of time on the project which turned out to have been a "wild goose chase". A client had been conned and lost a substantial amount of money. The respondent failed properly to assess the situation and had not take a retainer for fees incurred. It turned out that he had been acting on information which turned out to be false.
18. That particular project ran for well over a year and had taken up a considerable amount of the respondent's time and energy. He had been far too ambitious and had fallen behind with his ordinary workload particularly with regard to post completion matters on conveyancing files and the proper keeping of accounts.
19. Following the intervention letter he reached early agreement for the transfer of his practice which meant that existing clients were immediately looked after.
20. The respondent had been involved in setting up a business caring for the needs of young adults with a mental handicap. He had become involved in the running of a charity offering advocacy to people with disabilities. Upon the collapse of his firm he had been forced to resign as a director and relinquish any financial involvement.
21. The respondent had come to recognise that there were many pitfalls in the solicitors' profession and the difficulties faced by a member of the profession were magnified when the difficulties of being a sole practitioner were added. Those difficulties became almost intolerable and he wished he had been more fully aware of the pressures before making the decision to embark on a sole practice.
22. The respondent was a married man with three young children and he was concerned about his failure to provide for them.
23. The respondent regretted the disgrace which he had brought on himself and the problems he had caused the solicitors' profession and offered his sincere apologies to anyone who might have been affected or inconvenienced by his actions.

The Tribunal FOUND all of the allegations to have been substantiated, indeed they were not contested. The breaches of which the respondent had been guilty were serious. There had indeed been a catalogue of breaches of important regulations binding members of the solicitors' profession. Due and proper compliance with such

regulations as well as the trustworthy and proper handling of clients' monies was important to uphold the good reputation of the solicitors' profession. Failures on the scale of the respondent could not be tolerated and the Tribunal Ordered that he be struck off the Roll of Solicitors and further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £4,236.65 fully inclusive, including also the costs of the Investigation Accountant of the Solicitors complaints Bureau.

DATED this 30th day of August 1996

on behalf of the Tribunal

  
G.B. Marsh  
Chairman

*Findings filed with the  
Law Society on the 4th  
day of September 96*