

IN THE MATTER OF ANDREW MARK JONES, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. J.C. Chesterton (in the Chair)  
Mr. A.G. Ground  
Mrs. C. Pickering

Date Of Hearing: 12th 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 Peter Harland Cadman solicitor of 2 Putney Hill, Putney, London, SW15 6AB on the 7th May 1996 that Andrew Mark Jones of \_\_\_\_\_, Northampton, NN3 \_\_\_\_\_ 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 been guilty of conduct unbefitting a solicitor in each of the following particulars, namely that he had:-

- (i) 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;
- (ii) utilised clients' funds for the purposes of other clients.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 12th July 1996 when Peter Harland Cadman solicitor and partner in the firm of Russell-Cooke Potter and Chapman of 2 Putney Hill, Putney, London SW15 6AB appeared on behalf of the applicant and the respondent appeared in person.

The evidence before the tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Andrew Mark Jones of \_\_\_\_\_, Northampton, NN3 \_\_\_\_\_ 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 £548.36 inclusive.

The facts are set out in paragraphs 1 to 3 hereunder.

1. The respondent, born in 1965, was admitted a solicitor in 1989. At the material times he had been an assistant solicitor employed by Messrs. Toller Hales & Collcutt at Northampton.
2. On the 19th April 1995 Messrs. Toller Hales & Collcutt lodged a complaint with the Solicitors Complaints Bureau (the Bureau) about the respondent. Following that complaint an Investigating Accountant of the Bureau attended at the offices of Messrs. Toller Hales & Collcutt to inspect their books of account. He reported that following the discovery of irregularities the respondent resigned from his employment on the 18th April 1995. It had subsequently been discovered by the partners that the respondent had misused at least £11,241.75 from the firm's client bank account for the benefit of unrelated clients. The minimum cash shortage which had existed on client account had been rectified by the partners in the firm in full prior to the inspection. The partners added that the respondent did not appear to have gained any personal benefit from his misuse of clients' funds. The Investigation Accountant set out an example of the respondent's misuse of clients' funds.
3. That misuse occurred in connection with the matter of Mr S. for whom the respondent acted in a litigation matter relating to the client's personal injury. The respondent advised Mr. S that his claim had been settled in December 1994 and that damages had been awarded in his favour. On the 24th February 1995 £65,000 was paid at the instigation of the respondent to Mr. S from client bank account and the payment was charged to the ledger account of Ms KEBK, an unrelated client, thereby reducing the balance thereon to £23.50. A further payment of £6,500 on the 27th February 1995 made to Mr. S from client bank account was charged to the ledger account of Mr. HFW deceased another unrelated client thereby reducing the balance thereon to nil. There had been a number similar incidences.

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

4. The applicant relied upon the detailed letters of complaint received by the Bureau and the Investigation Accountant's report. He accepted that there was no evidence that the respondent had any personal financial gain from his activities.

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

5. The respondent had decided upon a career in the law from an early age. He had been proud to be a solicitor.

6. The respondent was married to a lady who was also a solicitor. In or about January 1994 she was diagnosed as suffering from multiple sclerosis. There followed a time of great distress and difficulty. She was made redundant in March 1994: their efforts to start a family had been unsuccessful. The respondent's wife worked for a short time for his employers on a part time basis. She became pregnant and their son was born in February 1995.
7. The respondent had joined the firm of Toller Hales & Colcutt early in 1991 as an assistant solicitor in their personal injury department. He took over the case load from a solicitor who had left to have a baby, he was directly responsible to the head of civil litigation in the firm. He had his own secretary and the case load which he inherited was in good order. Many of the cases had been large matters which would not be concluded for some time. The respondent had applied himself diligently and remained completely up to date for a considerable period time.
8. As time went by concern was expressed at the level of billing achieved by the respondent. The respondent received indications that he should work longer hours and not enjoy as friendly a relationship with other male members of staff as he had done hitherto. He was to draw more bills. The respondent desperately wanted to succeed. He worked hard and long hours. In the autumn of 1992 the respondent's level of billing was still not deemed satisfactory. The respondent's work in progress figures were high which he believed indicated that costs on his own files would come through and that he was working hard.
9. In 1992 the respondent switched the emphasis of his efforts away from big cases, which took several years to settle and were not billable in the short term to smaller matters which could be concluded more swiftly. The first case of the respondent to come to trial, probably due to that change in emphasis, had been ill prepared. The respondent knew that he was struggling but did not seek assistance for fear that incompetence would be added to low fee earning complaints against him. The case was lost and the clients complained. The respondent had been taken through the file by a partner and his shortcomings had been discussed. The larger cases at that time went unattended through long periods of time. The respondent's secretary had been made redundant which meant that he had to undertake more administrative tasks leaving him with less time to deal with files. The respondent attended a legal surgery at a shopping centre which had been an attempt to attract new business but that ended in failure.
10. Further discussion of the respondent's perceived low billing took place. Clients began to ask questions as to the lack of progress and the respondent said he either fobbed them off or misled them by telling them he had done things which he had not. He felt guilty about doing it and did not like to let his clients down. He rescued many files by spending extra time on them and getting them back on track. He had no real case management system.
11. The firm began a marketing initiative for personal injury work involving a "free phone". That generated a considerable volume of work. From the partners' points of view the respondent's costs were satisfactory, his work in progress figures were high and there was a ready supply of work.

12. The respondent's position appeared to improve considerably. There was a ready supply of work, his work in progress figures were high and his billing had improved. He was, however, haunted by problem files. He awoke at night worrying over them and the stress was becoming intolerable. That was about the time when his difficulties at home were coming to a head. He avoided dealing with the problem files so that he would not have to go through the torment of thinking about them. The delays became worse and the explanations increasingly false. He said matters reached ridiculous proportions when the respondent advised clients that their cases had been settled when they had not. He had found it impossible to catch up and stalled clients for as long as he could. Eventually he caved in totally and used moneys from another client's ledger to pay the client who was expecting a settlement sum.
13. The respondent knew the truth could not be avoided in the long term but his priority had been to get a particular client off his back. On the first occasion the wrongful payment was made just four days after the birth of the respondent's son. The respondent endeavoured to work longer hours starting very early in the morning to try to catch up. He said the longer hours undoubtedly helped but did not cure the problem. The only holiday that he took was a few days staying with his wife's parents
14. Eventually the respondent had succumbed to the temptation of using client account money to support the lies he had told the clients about the progress of their cases. In nearly all of the cases there was a realistic prospect of recouping the money when he could properly settle the case. At first he used only money that was being retained on files under his control in relation to costs. However as the situation grew worse more money was needed on files to support the lies. Once the respondent had started that course of action there really was no turning back. His choice was either to continue and get all the files sorted out or to own up and say that he had misused client account and certainly lose his job. He believed it was right to say that his actions were only ever postponing the inevitable. The respondent had failed to think straight.
15. On the surface everything appeared to be in order. New work was flooding in and the respondent's costs performance had been good. He was nevertheless under a great deal of stress. It was by chance that the respondent's employers found an irregularity on a file and it came as something of a relief when matters came out into the open. The respondent immediately offered his resignation and set about preparing a breakdown of all the problem files and his acts upon them.
16. The respondent had an intense sense of shame and found it a humbling experience when those he let down still lent him their support, particularly his wife and family. He bitterly regretted his actions and wished he could turn the clock back. The respondent had not found work, apart from a brief temporary job in a solicitor's office. His wife received incapacity benefit and a disability living allowance. Their financial situation was difficult. In addition Toller Hales & Colcutt indicated that they would look to the respondent for any shortfall that they suffered as a consequence of his actions. He did not know how much might be involved.
17. The respondent asked the Tribunal to deal with him leniently. He had never appeared previously before the Tribunal and no complaints had been made about him to the

Solicitors Complaints Bureau prior to 1995. He accepted that many clients were badly treated but none had lost out financially.

18. The respondent believed he had the potential to be a good solicitor and a credit to the profession. His experience had strengthened his resolve and had made him think positively about how to avoid making the same mistakes. He had become a more mature person.
19. The respondent had not used any client moneys for his own benefit or use.
20. The respondent bitterly regretted his actions and the effect they might have had upon all concerned. He had jeopardised a career in the only profession he had wanted to follow.
21. The respondent's actions at work had been set against a domestic backdrop of considerable stress and upset.
22. Because of the impending hearing and the uncertain outcome, the respondent had undergone a de facto suspension from practice of twelve months. He had suffered financially to a considerable extent.

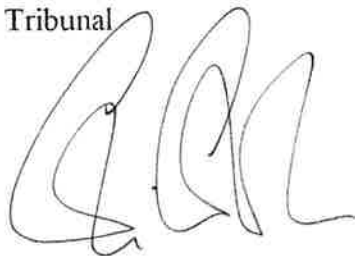
The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested.

Whilst the Tribunal had great sympathy for the very unfortunate personal circumstances in which the respondent found himself and accepted that he was under considerable stress from a number of directions, they could not condone his misuse of clients' moneys. Clients had been misled and so had his employers. The Tribunal accept that the respondent gained no personal financial benefit, however they feel it is right to point out that the respondent did derive some benefit from his dishonest actions in that he acquired and sustained the esteem of those with whom he worked with the probability that his apparent success would lead to promotion within the firm. Notwithstanding the unfortunate circumstances of this case, the Tribunal considered it right that the respondent should be struck off the Roll of Solicitors and he should pay the costs of the applicant in a fixed sum.

DATED this 9th day of August 1996

on behalf of the Tribunal

J.C. Chesterton  
Chairman



*Findings filed with the  
Law Society on the 19th  
day of August 1996*

