

IN THE MATTER OF CHRISTOPHER ANDREW SHAW, 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 Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 9th May 1996 that Christopher Andrew Shaw of Highburton, Huddersfield, West Yorkshire, HD8 solicitor 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 unbecoming a solicitor in each of the following circumstances namely that he had:-

- (i) failed, notwithstanding the provisions of Section 34 of the Solicitors Act 1974 and the Rules made thereunder, to deliver in time or at all an Accountant's Report in respect of his practice as a solicitor for the year ending 30th September 1994;
- (ii) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1991;

- (iii) 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;
- (iv) utilised clients' funds for his own purposes.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 30th July 1996 when Roger Field solicitor and partner in the firm of Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for 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 Christopher Andrew Shaw of Highburton, Huddersfield, West Yorkshire solicitor be suspended from practice as a solicitor for an indefinite period and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £2,152.80p inclusive.

The facts are set out in paragraphs 1 to 8 hereunder:-

1. The Solicitors Complaints Bureau (the Bureau) wrote to the respondent on the 31st July 1995 requesting his explanation for the fact that his Accountant's Report for the period ending 30th September 1994 had not been received. The respondent replied promptly acknowledging that the Accountant's Report was outstanding. He indicated his expectation to be in a position to file the report within a few weeks, but in fact it was not forthcoming. On the 15th February 1996 the appropriate committee at the Bureau rebuked the respondent for his delay in filing the Report and required him to submit it within twenty eight days.
2. The Report was not and has not been filed.
3. Upon due notice the Investigation Accountant of the Bureau carried out an inspection of the respondent's books. The Investigation Accountant's Report was dated the 27th March 1996 and revealed that the respondent's books of account were not in compliance with the Solicitors Accounts Rules as he had not maintained proper accounting records since he commenced sole practice.
4. The respondent did not produce a list of liabilities to clients as at the 31st January 1996 admitting that he had not kept adequate records. It was not considered practical to calculate the respondent's total liabilities to clients but a minimum liability to clients of £216,450.75 was established as at the 31st January relating to eleven specified clients. Clients' funds available at that date were £181,036.56, indicating a minimum cash shortage of £35,414.19p. The respondent was not able to replace the minimum cash shortage when it was established but said he would inform the Bureau when he had done so. The respondent instructed his accountants to bring his records up-to-date and said that he would replace any shortage there may be in addition to the minimum cash shortage set out above.

5. The Investigation Accountant was unable to determine the exact cause of the minimum cash shortage but the following were contributory factors:-

a)	Improper Transfers to Office Bank Account	£5,181.30
b)	Personal payments	3,309.03
c)	Debit balances	<u>3,020.00</u>
		<u>£11,510.33</u>

6. The improper transfers to office bank account had risen in connection with a wine importation company for whom the respondent acted in connection with which he was one of three directors and a fifty percent shareholder. On the 1st December 1995, 14th December 1995 and the 17th January 1996 three transfers in respect of costs being £1,971.30, £860.00 and £2,350.00 respectively were made from client to office bank account and charged to the ledger of the wine importation company where no bill or written intimation had been delivered to the company or the respondent's fellow directors. The relevant account in the client ledger had a debit balance of £4,012.25 at the 19th January 1996. The respondent said that his co directors were aware of and were in agreement with the amounts transferred.

7. Personal payments were made by the respondent to his client Mr T for whom he acted in debt collection matters. The respondent admitted that he had failed to instigate court proceedings in accordance with his client's instructions and as a result of Mr T's claim that he had suffered losses the respondent agreed to pay him damages. In June 1995 a payment of £2,000 was made to Mr T direct. That payment had properly been made out of office account. Two payments of £1,735 and £1,574.03 made to Mr T's solicitor on the 27th October and the 15th December 1995 had been made out of client account. The respondent explained that the payments had been made from client account in error. Because they had been made by bank transfer to another firm of solicitors his bank had mistakenly assumed that they were intended to have been made from client bank account.

8. Debit balances totalling £3,020.00 had arisen in connection with two client matters alone. The Investigation Accountant set out details of one client matter relating to the purchase of a property in respect of which matter there was a debit balance of £2,000 resulting from overpayments which the respondent said had arisen owing to errors on the completion statement.

The submissions of the applicant

9. The applicant did not put the case as one involving dishonesty. The matters to be dealt with by the Tribunal were limited only to the period after the Bureau's formal rebuke of the respondent.

10. The respondent had not at the time of the hearing replaced the shortages revealed by the Investigation Accountant. £100.00 had been paid out of the Law Society's Compensation Fund and there were pending claims totalling £55,828.87p. No

recoveries had been made and at the time of the hearing the costs of the Law Society's intervention agent amounted to £30,507.86p.

11. The respondent's books did not comply with the provisions of the Solicitors Accounts Rules. Indeed no proper records had been kept by him since he began in sole practice. A shortage had been discovered on his client account which the respondent was not able to replace although he had indicated that he would do so following the sale of a property owned by his parents.
12. There were two main bulwarks in relation to the Law Society's Compensation Fund. The first related to the prompt filing of Accountant's Reports and the second to the scrupulous keeping of accounts making a clear definition between a solicitor's own money and the money of his clients. The failure of a solicitor to comply with those two important aspects of practice amounted to an abdication of his responsibility as a solicitor.

#### The Submissions of the Respondent

13. The respondent fully accepted the allegations.
14. He did not wish to continue to practise as a solicitor but hoped that the Tribunal would deal with him leniently and allow his name to remain on the Roll of Solicitors. He had not behaved dishonestly and accepted that he had been foolish in his haste to set up in practice on his own account. He previously had been an assistant solicitor with a large firm in Leeds and then had entered salaried partnership with a firm in Huddersfield. His practice had been on the outskirts of Huddersfield where he handled mainly conveyancing and debt collection work. He had employed a small staff who had been laid off upon the intervention into the practice by the Law Society.
15. The respondent had tried to do his books himself. His accountants had found the records which he kept inadequate and that was why there had been a difficulty in supplying and filing an Accountant's Report.
16. The respondent acknowledged that there had been a shortage on client account caused by error but not by any dishonest action. He would ensure that any payments made out of the Compensation Fund would be reimbursed. His parents' house was on the market and it was thought that its sale would raise enough money to settle that indebtedness. The respondent's parents had an alternative property. If the sale of the property did not provide sufficient monies, then the respondent would find an alternative means of repaying the outstanding money.
17. At the time of the hearing the respondent was working for an uncle and he hoped he might forge an alternative career with wine merchants.
18. The respondent was a married man with no children. His wife had been employed in his practice as an office manager.
19. The respondent recognised that his failure to file Accountant's Reports amounted to a continuing breach and that was a matter which would have to be addressed.

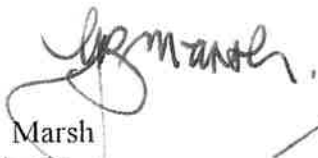
The Tribunal FOUND the allegations to have been substantiated.

The Tribunal considered this to be a serious case. It was a matter for great concern that a solicitor should set out in sole practice with no apparent intention of keeping proper books of account. The Tribunal accept the applicant's submission that to behave in that way represented total abdication of the respondent's responsibilities as a solicitor. The Tribunal did however accept that the respondent had behaved foolishly and inadequately but without dishonesty. The Tribunal gave credit to the respondent for accepting the allegations and his position. The Tribunal gave due note to the respondent's intention and endeavours to repay monies met out of the Compensation Fund. In the circumstance of this particular case the Tribunal considered it appropriate to suspend the respondent for an indefinite period. The Tribunal pointed out to the respondent that he could apply to the Tribunal for that indefinite suspension to be lifted but indicated that it was unlikely that the Tribunal would look favourably upon such an application unless it could be shown at the time that the respondent had repaid all outstanding monies and that the position with regard to the filing of his Accountant's Reports had been regularised.

The Tribunal further Ordered that the respondent should pay the costs of and incidental to the application and enquiry in the fixed sum which included 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

