

IN THE MATTER OF HILARY LOUISE STONE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the Chair)
Mr. D E Fordham
Lady Bonham Carter

Date Of Hearing: 17th October 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 (subsequently the Office of the Regulation of Solicitors) by Andrew Hopper of P O Box. 7 Pontyclun, Mid Glamorgan on the 10th June 1996 that Hilary Louise Stone of London, NW3 a 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:-

- (1) failed to comply with the Solicitors Accounts Rules 1991 in that she had drawn money from client account other than as permitted by Rule 7 and contrary to Rule 8 of the said Rules;
- (2) failed to comply with the said Rules in that she failed to keep her books of account properly written up, notwithstanding Rule 11 of the said Rules;
- (3) been guilty of conduct unbefitting a solicitor in that she utilised clients' funds for her own purposes;

- (4) been guilty of conduct unbecoming a solicitor in that she has caused false entries to be made in her firm's books of account.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 17th October 1996 when Andrew Hopper solicitor of PO Box 7 Pontyclun Mid Glamorgan appeared for the applicant and the respondent was represented by Stephen Pollard solicitor and partner in the firm of Kingsley Napley of Knights Quarter, 14 St John's Lane. London, EC1M 4AJ.

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

At the conclusion of the hearing the Tribunal ORDERED that the respondent Hilary Louise Stone of London, NW3 solicitor, be Struck Off the Roll of Solicitors and they further ordered her to pay the costs of and incidental to the application and enquiry to be taxed if not agreed.

The facts are set out in paragraphs 1 to 15 hereunder:-

1. The respondent, born in 1945, was admitted a solicitor on the 15th June 1970. At the material times she practised in partnership under the style of Shindler & Co. at North End Road, London NW11. With effect from the 4th December 1995, the firm of Shindler & Co. merged with another firm of solicitors (to which the matters before the Tribunal were not related.)
2. Upon due notice to the respondent and the other partners in Shindler & Co. an inspection of their books of account relating to the former practice was undertaken by an Investigation Accountant of the Solicitors Complaints Bureau (the Bureau) in January and February 1996. The Investigation Accountant's report dated the 29th February 1996 was before the Tribunal.
3. The report revealed that there had been five equity partners and one salaried partner in the firm.
4. The respondent had taken responsibility for Messrs Shindlers finances and books of account in her capacity as the firm's senior and managing partner. The other partners had not been involved in the day to day management of the firm's finances and although they had been aware of the financial difficulties they had not been aware of the way in which the client account had been used to support the firm.
5. The books of account were not in compliance with the Solicitors Accounts Rules as they contained numerous unallocated receipts and payments, fictitious bills of costs and improper and fictitious entries made, at the instigation of the respondent.
6. Because of the state of the books it was not practicable for the Investigation Accountant to attempt to compute the firm's liabilities to clients. However, it was agreed that a minimum cash shortage of £467,687.50 had existed on client bank account as at the 1st December 1995. The respondent agreed that a minimum cash shortage of £453,000 had existed on client bank account as at 1st December 1995.

7. The respondent admitted that she had misused clients' funds of £453,000. Bills had been raised without notification and they had not been delivered to the clients concerned. The bills had been prepared by her for the purpose of eliminating liabilities to clients from the books of account.
8. The partners were not in a position to replace the minimum cash shortage.
9. The £453,000 shortage had arisen in two matters where the client concerned was a local government authority. The respondent herself acted in the sale of a property in London W9. Upon receipt of the balance to complete of £243,000 on 24th October 1995 the books revealed that the client had received the full amount of the proceeds of sale on 27th October 1995. The payment was not made to the client.
10. In the second matter, the respondent, again acting for the same client on completion of the sale of a property in London W10, received £210,000 on 16th May 1995 and on 27th October 1995, according to the books, three payments were made to the seller client of £77,187.50, £86,300 and £46,512.50. In fact no payment had been made to the client.
11. The respondent had drawn up bills of costs for £46,512.50 and £86,300 in connection with matters of which the firm had conduct with the same client but which were being dealt with by another partner. No transfers had in fact been made from client to office bank account in respect of the bills of costs. The bills of costs were entirely fictitious and the balance of £453,000 apparently made available by fictitious postings had been utilised by the respondent to off-set and thereby to conceal a cash shortage in excess of £600,000 on client bank account.
12. During the course of the inspection it became evident that the respondent had been systematically transferring funds from the client to office bank account in excess of the costs properly available. Those transfers that could not properly be allocated to individual client ledger accounts were posted to "suspense" accounts. As at 31st October 1975 the debit balance on those suspense accounts combined totalled £642,133.04.
13. It appeared that two schemes of accelerating the firm's cash flow had been devised and operated by the firm's cashier. They both involved the transfer of funds from client to office bank account in advance of the client paying fees. The justification for that was that the transfers were made either against bills actually delivered to clients or against pro forma invoices representing bills of work in progress. The respondent had believed that the suspense balance had arisen as a result of the monies received in settlement of such costs instead of being paid into client bank account thereby replacing the funds originally taken being paid into office bank account and thereby effectively taking the costs twice.
14. The respondent had been aware of the £300,000 problem on client account but she had not been informed by the cashier until November 1995 that the cash shortage had reached £600,000. At that time she introduced £150,000 into client bank account in order to reduce the shortage. she had on another occasion introduced £100,000 borrowed from her mother.

15. The Investigation Accountant pointed out that an unqualified Accountant's Report for the period ended 1st December 1995 had been submitted to the Law Society.

The submission of the applicant

16. During the course of a one year period transfers had been made from client to office bank account in the region of £640,000 in excess of the sums properly due to the firm for costs. That had been achieved by adding large sums to monies properly transferable. It was said that such transfers were made in anticipation of bills not raised.
17. The books of account contained entries to cover an actual deficit which had been in the region of £450,000. The books contained serious inaccuracies.
18. Because the misappropriation of clients' monies had taken place within a partnership, the Solicitors' Indemnity Fund was exposed to a substantial claim.

The submissions of the respondent

19. Mr. Pollard made submissions on behalf of the respondent. The respondent had been a model solicitor successfully in practice for many years. The firm had been founded by her father and she in due course had taken over as a senior and managing partner. She was very skilled in her work and always did her best for her clients. The Tribunal was invited to consider the letters of a testimonial nature offered in support of the respondent. The respondent's misfortune had been that in the face of personal and professional pressures her judgment had not held.
20. The firm itself had endured a very difficult time during the financial recession. A number of important clients became insolvent at a time when substantial fees were owing to the firm.
21. In addition to the financial pressures, the respondent had suffered a car accident in February 1993 and had to be admitted to hospital in March of that year to undergo major surgery.
22. In May 1993 the respondent's father was diagnosed as suffering from cancer, which led to his death in August of that year.
23. It was in 1993 that the firm's cashier embarked upon a system of suspense accounts to assist with the firm's cash flow. The respondent had been under the impression that the cashier had cleared that approach with the auditors of the firm. The cash flow position was not assisted when some partners in the firm over-drew to a considerable extent.
24. In 1994 the firm's cashier had informed the respondent that there was a shortfall of about £100,000 on client account arising from the suspense account system. At that time the respondent immediately introduced £100,000 of her own money.

25. The system had evolved whereby if monies were held on account, a bill was drawn up and posted in the books but not sent to the client. A transfer from client to office account was made. If the particular fee earner having conduct of the matter agreed the bill, then all was well. If, however, it required amendment by reduction then the reduced bill was sent to the client and a credit note was issued if required.
26. When the respondent visited a colleague of the cashier whilst she was in hospital, she was informed that "the hole in client account was more like £450,000". The respondent checked the books but could not understand where the problems lay.
27. She then sought to speed up the collection of cash and to arrange for the merger of the firm with another. She paid in £150,000 of her own money. She thought that by collecting debts with the assistance of her partners the money could have been repaid before it was missed. That did not happen.
28. A full financial review was undertaken for the purposes of the merger. It then became clear that there was a very much greater shortfall, that was to say a shortfall in the region of £450,000. The respondent panicked.
29. Immediately upon discovery the respondent attempted to take her own life. She had since that time achieved some mental equilibrium.
30. The anguish felt by the respondent was great as she strove ever harder to save the practice, which her father had spent his life building up. Her emotional compulsion so to do was understandable. She had not been a solicitor "milking" the firm to enhance her own lifestyle.
31. The respondent had to face the ruin of her life-time's endeavour in the law. She had always given herself whole-heartedly to her clients and to the profession as a whole.
32. The respondent felt intense shame. She was no longer suicidal, but she had cut herself off from all her former friends and colleagues. The respondent wished to apologise both to the Tribunal and to the solicitors' profession.
33. The respondent had been an exceptional person. She had been a great force for good. She had been a member of the Court of the City of London solicitors' Company and had taken on tasks with energy, enthusiasm, imagination and cheerfulness. Her tremendous potential had been thrown away and with it the better part of her life. The collapse of her world had already inflicted a devastating punishment upon her.

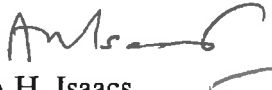
The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested. The Tribunal took due account of the standing of those who had written letters in support of the respondent and the very high regard in which the respondent clearly was held by all of them. The Tribunal recognised that what had happened represented a personal tragedy for the respondent, but in the circumstances of the case the Tribunal could not come to any other conclusion than that the only appropriate penalty to impose upon the respondent was that of striking off. It was with profound regret that they made their decision and they hoped that the respondent, having already apparently bravely overcome her initial despair, might take heart in what was said

about her in the testimonials which had been placed before the Tribunal and re-build her life.

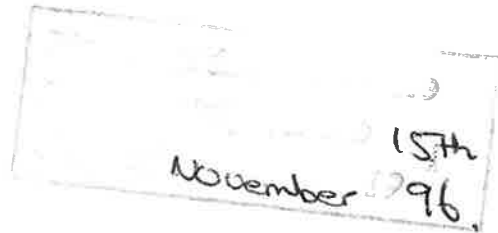
The Tribunal Ordered that the respondent be struck off the Roll of Solicitors and they further Ordered that she should pay the costs of and incidental to the application and enquiry, to be taxed by one of the Taxing Masters of the Supreme Court, if not agreed.

DATED this 11th day of November 1996

on behalf of the Tribunal



A.H. Isaacs
Chairman



15th
November 1996