

IN THE MATTER OF KEITH ALEXANDER HOTCHKISS, SOLICITOR

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr. A.G.Ground (in the chair)

Mr. A. H. Holmes

Mr. M.C. Baughan

Date of Hearing: 5th January 1999

FINDINGS

of the Solicitors' Disciplinary Tribunal
Constituted under the Solicitors' Act 1974

An application was duly made on behalf of the Office for the Supervision of Solicitors by Gerald Malcolm Lynch solicitor, formerly of 16 Warrior Square, Southend on Sea, Essex but subsequently of Cumberland House, 24-28 Baxter Avenue, Southend on Sea, on the 19th June 1996 that Keith Alexander Hotchkiss, solicitor, of Headon on the Wall, Newcastle upon Tyne, NE15 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.

On the 23rd October 1998 Gerald Malcolm Lynch made a supplementary statement containing a further allegation. The allegations set out below are those contained in the original and supplementary statements.

The allegations were that the respondent had:

- (i) dishonestly alternatively improperly utilised clients' money for his own purposes alternatively for the purposes of other clients not entitled thereto

respect of alleged costs due but no evidence had been produced to the Investigation Accountant that such bills had been delivered to the clients nor that the clients had consented to the transfers.

5. In the estate of JV deceased costs had been transferred in the sum of £3889.19 although an administration account in which costs were quoted at £1,783.04 had been delivered to and approved by the client.
6. On the 21st August 1998 at Newcastle Crown Court the respondent was upon his own confession convicted upon indictment of six counts of theft and sentenced to twelve months imprisonment on each count to run concurrently. The Tribunal had before it the certificate of conviction. The six counts of theft related to the same matters as those which the Investigation Accountant had identified as improper transfers from client to office account.

The Submissions of the Applicant

7. The respondent had helped himself to monies which he held as a solicitor in connection with probate and administration matters. He had made transfers from office to client account but no bills had been drawn. In the submission of the applicant that was an entirely dishonest course of conduct.
8. The application to the Tribunal had been held in abeyance pending the outcome of the respondent's prosecution by the police. Eventually upon his own confession he had been convicted on six counts of theft and had been sentenced to twelve months in prison. At the time of the hearing he was still serving his custodial sentence. The theft related to monies taken from probate and administration matters of which the respondent had conduct.
9. In his letter addressed to the clerk to the Tribunal, the respondent recognised his misconduct and apologised.
10. The Tribunal had before it a clear-cut case of serious dishonesty.

The Submissions of the Respondent

11. The respondent's letter to the Clerk to the Tribunal dated 24th December 1998 was as follows:-

"Dear Sir,

Re: Keith Alexander Hotchkiss, Hearing: 4th January, 1999

I am writing to you direct from my present address because I have been forced to discharge the services of my solicitors, Messrs. Percy, Hughes & Roberts of Birkenhead, due as I am sure you will appreciate, to my financial circumstances.

However, because of the disgrace which I have brought upon myself, and my family, as well, of course, on the solicitors' profession, I felt that I should write direct to you

in order to make clear my position, including admissions. I wish to enable the Tribunal to complete its deliberations with minimal additional cost.

My response to the allegations are best encapsulated by reference to the note of the matters, drawn up by Counsel, upon which I was convicted at Newcastle Crown Court on 21st August, 1998.

In so far as they relate to the matters contained in the Rule 4 statement, I therefore accept and admit the allegations. However, in relation to the remaining matters, in view of the fact that my not guilty pleas were accepted by the prosecution, and matters allowed to remain on file, I deny the allegations.

May I offer to the Tribunal my sincerest apology for the dishonour that I have brought upon the profession. I recognise that my conduct can only result in my being struck off the Roll. I can only ask that in determining any other penalty which may be considered, particularly a pecuniary penalty, and costs, the Tribunal will note my present situation, viz.:

- 1) I am imprisoned until the 17th February, 1999
- 2) I shall be sixty in February 1999, and any realistic employment prospects after my release are, I have found, small
- 3) My financial circumstances: (a) I have a County Court judgment against me for income tax of £9,000, plus interest, (b) I owe the bank some £3,500, plus interest, as a result of negative equity, (c) I have personal loans outstanding of some £12,000 plus interest
- 4) My former dwelling house of 3 years, owned jointly with my wife was sold, after County Court action by the first mortgagee, with negative equity and consequently continuing obligation of my and wife and me to make up shortfall due to the second mortgagees, the bank
- 5) My wife, fifty-eight, has had to resume full-time employment as a physio-therapist, in order to try to meet domestic outgoings, including the rental of our present accommodation
- 6) Neither I, or my wife, have any assets of any kind which could be realised
- 7) I am also indebted to the Compensation Fund

I, accordingly, can only invite the mercy of the Tribunal, and ask that matters may be adjudicated upon as leniently as possible as the circumstances permit.

I apologise for writing this letter in longhand.

Yours faithfully,

K.A. Hotchkins”

The Findings of the Tribunal

The Tribunal found all of the allegations to have been substantiated, and in relation to allegation (i) found the utilisation of clients’ money to have been dishonest.

In his letter to the clerk to the Tribunal, the respondent recognised the disgrace which he had brought upon himself, his family, and the solicitors' profession. The Tribunal agree. The public must be protected from a solicitor who has behaved in this way: he adopted a deliberate dishonest course and such behaviour will not be tolerated. The Tribunal Ordered that the respondent be Struck Off the Roll of solicitors and further Ordered him to pay the applicants costs in a fixed sum to include the costs of the Investigation Accountant of The Law Society.

DATED this 1st day of March 1999

on behalf of the Tribunal



A. G. Ground
Chairman

