

IN THE MATTER OF EDWIN RAMSEY PEART, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J R C Clitheroe (in the Chair)

Mr. D W Faull

Mr. D E Marlow

Date Of Hearing: 15th 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An application was duly made on behalf of the Solicitors Complaints Bureau (superseded by the Office for the Supervision of Solicitors) by Geoffrey Williams solicitor of 36 West Bute Street, Cardiff on the 18th June 1996 that Edwin Ramsey Peart of Newcastle-upon-Tyne, NE18 might be required to answer the allegations contained in the statement which accompanied the application and that such orders might be made as the Tribunal should think right.

The allegation was that the respondent had been guilty of conduct unbecoming a solicitor in that he misappropriated funds from a client account which funds were held by him in trust for beneficiaries.

On the 30th September 1996 a supplementary statement was filed by the applicant containing the following additional allegations, that he had been guilty of conduct unbecoming a solicitor in that the respondent had been convicted of offences of dishonesty and had been sentenced to 18 months imprisonment, the sentence being suspended for a period of 18 months.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 15th October 1996 when Geoffrey Williams solicitor and partner in the firm of Messrs. Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent was represented by Peter Allan solicitor and partner in the firm of Messrs. Ward Haddaway of Alliance House, Newcastle-upon-Tyne, Tyne and Wear.

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

At the conclusion of the hearing the Tribunal ORDERED that the respondent Edwin Ramsey Peart of ^{vv} Newcastle-upon-Tyne, 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 to be taxed if not agreed.

The facts are set out in paragraphs 1 to 6 hereunder.

1. The respondent was admitted a solicitor on 1st March 1960. He was born on 11th April 1936.
2. At all material times the respondent carried on practice as a solicitor in partnership under the style of Kidd and Spoor at:-
 - (a) 7 Marden Road, Whitley Bay, Tyne & Wear
 - (b) 29 West Road, Newcastle-upon-Tyne.
 - (c) 25 Northumberland Square, Northshields.
3. Upon notice duly given an inspection of the respondent's firm's books of account was carried out by the Investigation Accountant of the Law Society. A copy of his report dated 26th January 1996 was before the Tribunal.
4. The Investigation Accountant established a cash shortage on client account of £8,764.96. The respondent had acted in the estate of a deceased person who had died intestate in March 1980. Under the intestacy £3,923.68 was left to a beneficiary who could not be traced. The sum was placed on a client designated deposit account and the balance of capital and interest had grown to £8,764.96 by the 15th November 1993. By letter dated 15th November 1993 the respondent purported to write to Lloyds bank in Whitley Bay enclosing cheques to the value of £8,764.96 to the credit of "our mutual client Mr. B". In fact the cheques had been paid into the respondent's personal bank account.
5. The respondent had also acted in the estate of the late Mrs H who died in November 1994. Probate was granted on the 8th February 1995 to the respondent who was sole executor named in the will. The will provided for a life interest to Miss H's brother in the income from some TSB shares. A copy of the will on the relevant client file had been annotated with the words "and £10,000" alongside the clause providing for the gift to the deceased's brother. On the 19th July 1995 the relevant account on the client's ledger was charged with two cheque payments each of £5,000 totalling £10,000 to Lloyds Bank Plc. In the file there was a copy letter of the same date to Mr H stating "we confirm having handed to you two cheques each for £5,000 in respect of your legacy in your sisters will." The respondent had confirmed to the Investigation

Accountant that the words "and £10,000" and the letter purporting to confirm the handing over of the cheques to Mr. H were false. Mr. P had taken the cheques and put them in his drawer. Thereafter he had paid one cheque into his personal account, the second cheque having been cancelled by the respondent's partners when it was found still to be in his desk.

6. At the Crown Court at Newcastle-Upon-Tyne the respondent was convicted of two counts of theft and one count of false accounting and was sentenced to eighteen months imprisonment, suspended for eighteen months.

The Submissions of the Applicant

7. The respondent's former partner's conduct had been examined and no criticism was made of them. The applicant accepted that this was a sad case. The respondent after a long and blameless record had gone wrong in a bad way at the end of his career in the law. He had been guilty of flagrant dishonesty, he had deceived his partners and beneficiaries in Estates. He had been convicted of a serious criminal offence involving dishonesty in the criminal court. The respondent had been a disgrace to himself, his firm and his profession.

The Submissions of the Respondent

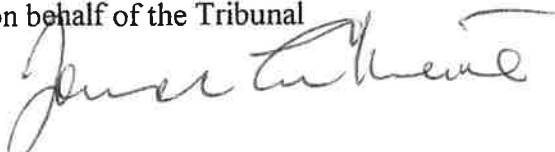
8. The respondent accepted the seriousness of his behaviour and his position. He did not seek to excuse or belittle his conduct. He admitted what he had done at the earliest possible stage and had co-operated in every way with the Law Society's Investigation Accountant, the police and the Bureau. He had hitherto always been a perfectly straightforward and honourable man.
9. The respondent had always enjoyed the highest reputation both as a human being and in professional terms.
10. The respondent had been subjected to enormous pressures, both in his professional and personal life and with the result that he was subject also to financial pressures.
11. The Tribunal was invited to take into account the respondent's readiness to admit what he had done, his openness and the fact that no attempt was made by him to cover up what had happened.
12. In the Crown Court the respondent was given a suspended sentence. The learned judge clearly recognised that there were special circumstances in this case.
13. The Tribunal was aware of the very distressing problems from which the respondent suffered in his personal life. The respondent would not have those matters raised at the Crown Court and had certainly refused to have them addressed in open court in order to save those persons concerned. The Tribunal had details of the respondent's difficulties before them and it was hoped that they would not put them in the public arena. The monies taken had been repaid from the respondent's capital account in his former firm. The respondent had not achieved any gain from his defaults.

14. The Tribunal was invited to read a number of letters of a testimonial nature written by colleagues of the respondent in the north-eastern area of England. All of the referees were senior and experienced people who had given the matter careful consideration. They all centred on the fact that the respondent's position represented a personal tragedy. They expressed extraordinary sympathy and did not express outrage.
15. The respondent had suffered expulsion from his partnership enormous personal family problems, bankruptcy, ill health and a criminal conviction: he was broken man.

The Tribunal FOUND the allegations to have been substantiated. Clearly this was a very sad case. The Tribunal recognise that the respondent had been a highly regarded solicitor. He had behaved in a way which was described by those who supported him as uncharacteristic. However the Tribunal felt unable to overlook the fact that the respondent had deliberately taken clients' monies and had been convicted of a serious criminal offence involving dishonesty in respect of which he had been sentenced to a custodial sentence, albeit suspended. The Tribunal considered it right to make an order striking the respondent off the Roll of Solicitors. Because the Tribunal was concerned at the quantum of costs submitted on behalf of the Investigation Accountant of the Law Society, the Tribunal ordered that the applicant's costs to be paid by the respondent and that those costs should be taxed by one of the Taxing Masters of the Supreme Court if not agreed.

DATED this 2nd day of December 1996

on behalf of the Tribunal



J R C Clitheroe
Chairman

