

IN THE MATTER OF LEWIS LEON RUSKIN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. K I B Yeaman (in the Chair)
Mr. R J C Potter
Dame Simone Prendergast

Date Of Hearing: 2nd December 1997

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 Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley West Midlands on the 2nd July 1996 that Lewis Leon Ruskin solicitor might be required to answer the allegations contained in the statement which accompanied the application and such order might be made as the Tribunal should think right.

On the 7th October 1997 a further statement was made by the applicant. The allegations below set out the allegations contained in both the original and supplementary statements.

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 to keep accounts properly written up for the purposes of Rule 11 of the Solicitors Accounts Rules 1986 and/or 1991;
- (ii) 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;

- (iii) utilised clients' funds for his own purposes;
- (iv) been convicted of offences of dishonesty and sentenced to a term of imprisonment.

The application was heard at the Court Room No. 60 Carey Street London WC2 on the 2nd December 1997 when Roger Field solicitor and partner in the firm of Messrs Higgs and Sons of 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant and the respondent did not appear and was not represented.

The Tribunal had before it the respondent's letter of the 13th November 1997 which is set out below under the heading "the submissions of the respondent."

At the conclusion of the hearing the Tribunal Ordered that the respondent Lewis Leon Ruskin of c/o Messrs. Cohen & Naicker, 4B/4C Warwick Court, Shirland Mews, Maida Vale, London W9 3DY 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 £6,769.10p.

The facts are set out below in paragraphs 1 to 12 hereunder:-

1. The respondent, born in 1939, was admitted a solicitor in 1963. At the material times he practised in partnership or on his own account under the style of Ruskin at 14, North Audley Street, London W1. On the 15th April 1996 the respondent's practice was taken over by Messrs. Cohen & Naicker solicitors of 4B/4C, Warwick Court, Shirland Mews, Maida Vale, London W9 after which date the respondent was employed by them as a consultant.
2. Following notice duly given the Investigation Accountant of the Solicitors Complaints Bureau (which body was superceded by the Office for the Supervision of Solicitors hereinafter referred to as "the Office") carried out an inspection of the respondent's books of account. The Tribunal had before it a copy of the Investigation Accountant's Report of the 23rd April 1996. The Report revealed that the respondent alone was able to operate the firm's bank accounts. The books of account were not in compliance with the Solicitors' Accounts Rules as they contained numerous fictitious and improper entries made at the respondent's instigation. In view of that state of affairs the Investigation Accountant did not consider it practicable to compute the firm's liabilities to clients. He established that a minimum cash shortage of £179,747.46 existed on client bank account as at 29th February 1996, as a result of improper transfers from client to office bank account made by the respondent.
3. Improper transfers had been made in respect of four client matters as follows:-

(i) Mr B deceased	£48,859.87
(ii) Mr E deceased	£99,472.47
(iii) Mr C	£21,163.30
(iv) Mrs M	<u>£10,251.82</u>
	<u>£179,747.46</u>
4. In the matter of Mrs B deceased the respondent acted for her sole executor who survived Mrs B but died without having proved the will which provided that the deceased executor, the testatrix's brother, would inherit the whole estate. Mr W was

granted probate to Mrs B's estate in March 1992. The net probate value of the estate was £163,77.40. During the period 10th October 1991 to 25th August 1993 the relevant account in the clients' ledger had been charged with twenty six transfers, varying in amount between £705.00 and £4,700.00 and totalling £54,147.37, from client bank and building society accounts to office bank account. The transfers were expressed to be in respect of costs and VAT. At the time the transfers had been made the respondent had not delivered any bills to the executor nor had he delivered any subsequent to the transfers. However he had delivered a bill of costs for £52,385.00 in July 1994. On the 4th April 1996 the Law Society issued a Provisional Remuneration Certificate assessed at £4,500.00 excluding VAT. This revealed an apparent overcharge of £48,859.87 and an overtransfer of the same amount.

5. In the matter of E deceased the respondent acted for the beforementioned Mr W the sole executor of the late Mr E. Mr W was granted probate to the late Mr E's estate in January 1992. The net value for probate purposes of the estate was £246,765.12. During the period 17th October 1991 to 18th October 1995 the relevant account in the clients' ledger had been charged with fifty-two transfers, varying in amount between £587.50 and £7,285.00 and totalling £109,459.97, from client bank and building society accounts to office bank account. The transfers purported to be in respect of costs plus VAT. At the time the transfers had been made the respondent had not delivered any bills to the executor nor had he delivered any of those bills subsequently. On the 5th July 1994 the respondent had delivered a separate bill of costs to Mr W, the executor, in the sum of £95,559.62. On the 4th April 1996 the Law Society issued a Provisional Remuneration Certificate which assessed the respondent's costs in the matter at £8,500 plus VAT. The respondent had therefore overcharged and the resultant cash shortage was £99,472.47.
6. In the matter of Mr C. the respondent acted in his claim for damages in respect of which he was legally aided. The matter was settled just before it went to trial and the respondent had received agreed damages of £56,000.00 and £14,000.00 respectively which had been paid into client bank account. During the period 19th November 1993 to 17th May 1994 the relevant account in the clients' ledger had been charged with ten transfers, varying in amount between £1,762.50 and £7,050.00 and totalling £42,391.16 from client to office bank account purporting to be in respect of costs.
7. On the 10th February 1994 a further sum of £21,000.00 was received from the defendant's solicitors on account of the inter partes costs, which was paid into client bank account that £21,000.00 was due to the respondent only. None of the specific bills had been delivered.
8. On the 20th June 1994 client bank account was debited with a payment of £40,838.47. By letter of the same date the respondent informed his client "I have now had authority from Legal Aid to release such sum as is available. There is currently available the sum of £40,838.47 made up as attached and the balance of moneys will be released when the taxation of the costs are completed and the costs recovered from the defendants." The respondent explained that the defendants had agreed to pay the inter partes costs, and that Mr C was aware that he would be liable for the Legal Aid element. The respondent agreed with the Investigation Accountant that he should have retained the sum of £29,161.53 (£70,000.00 less £40,838.47) in client bank account until such time

as the taxation process was completed or he had delivered a bill of costs for the Legal Aid element to Mr C.

9. The taxation process had been a protracted matter but had finally been settled in February 1996 which determined the following position:-

Total Taxed Costs	£30,760.00
<u>Less: inter partes costs - payable by the defendants</u>	<u>£22,761.77</u>
Legal Aid - balance payable by Mr C.	£7,998.23
Notionally retained	<u>£29,161.53</u>
Balance due to Mr C.	<u>£21,163.30</u>

The respondent agreed that a resultant cash shortage of £21,163.30 existed as at the 29th February 1996 as no funds were held in client bank account on behalf of the client. The respondent told the Investigation Accountant that he had paid £18,058.72 to Mr C from office bank account on the 11th April 1996 and he agreed that there remained an unrectified shortage of £3,104.58.

10. The respondent acted for Mrs M as the next friend of Miss M a Legally Aided client pursuing a claim for damages. On the 26th January 1996 the firm received £40,000.00 as an interim payment on account of Miss M's damages which was paid into client bank account. The relevant account in the client's ledger between the 25th January and the 29th February 1996 had been charged with five transfers from client to office bank account varying in amount between £949.35 and £3,800.00 and totalling £10,251.82. Since the inspection date there had been two further improper transfers totalling £2,797.10. The respondent contended that he had rectified the shortage primarily from office bank account and from his personal resources.
11. On the 25th July 1997 at the Crown Court at Southwark the respondent was upon his own confession convicted upon indictment of false accounting, theft and making a false instrument. On the 1st October 1997 he was sentenced to a total of eighteen months imprisonment.
12. The applicant had made his application to the Tribunal some time before the substantive hearing. The Tribunal had adjourned the matter on the basis that the respondent sought taxation of his costs. The quantum so established would considerably mitigate the matters alleged against him. The Tribunal was made aware that there was a possibility of criminal proceedings being brought against the respondent and they had declined to agree to adjourn the matter pending a criminal trial. The Tribunal had reviewed the matter in May 1997 when it was told that the respondent had encountered complications in connection with the taxation and it was not anticipated that the taxation matters would be concluded before July 1997. The Tribunal had noted the position and had expressed the requirement that the matter be dealt with substantively at the earliest possible opportunity.

The submissions of the applicant

13. The applicant had not gone into any great detail as to the matters contained in the Investigation Accountant's report as since he had made his initial application to the

Tribunal the respondent had been convicted of a number of criminal offences involving dishonesty and had been sentenced to a term of imprisonment. The respondent had made improper and dishonest transfers of monies from client to office account at a substantial level. In the submission of the applicant the respondent's behaviour was at the very top of the scale of serious professional misconduct with which the Tribunal had from time to time had to deal. It was to the respondent's credit that he had made certain attempts to repay monies. Certain sums which remained unpaid were being pursued against the Solicitors Indemnity Fund. Although precise figures were not available, the indications were that the respondent had repaid about one third of the monies the subject of improper transfers.

14. The Tribunal was invited to consider the sentencing remarks of His Honour Judge Bathurst-Norman in the Southwark Crown Court when he said "No matter how severe the cash flow problems were within (the respondent's) firm no solicitor has the right to keep his practice afloat at the expense of his clients by putting into his office account monies which were due to them." He went on to point out that a child who had suffered from cerebral palsy had been kept out of her money and went on to say "Words fail me to describe that kind of conduct towards those who have already suffered injury. ... clearly in the case of a child they may be among the more vulnerable members of our society. " He went on to say "I have to say to you that any solicitor who behaves in that way, not only forfeits the trust of the public and the trust of the public in the legal profession, but also commits an offence which is so serious that only an immediate custodial sentence can be justified".

The submissions of the respondent (the respondent's letter addressed to the Clerk to the Tribunal dated the 13th November 1997)

15. "Dear Sir,

Number 7168/1996 - Lewis Leon Ruskin

As you are no doubt aware, I am currently serving a custodial sentence of eighteen months following my sentencing and conviction on 1st October 1997 at Southwark Crown Court.

I will therefore be unable to attend the Tribunal hearing on 2nd December 1997, and furthermore do not have the financial resources to be represented at that hearing.

I am deeply aware that the members of the Tribunal will have no alternative, but to forfeit my Practising Certificate and strike my name from the Roll. I have to accept the inevitability of this pending decision which fills me with such deep remorse and regret.

I am deeply ashamed of the circumstances and offences which have not only resulted in my criminal conviction, but the pending Tribunal hearing. However, because of my financial circumstances, I unfortunately will not be able to be represented at the hearing, and tender to the Tribunal, through my representative, my apologies and regret for the circumstances which have led to the Tribunal hearing.

I do not have in my possession, in prison, the papers in the matter, but I would wish to point out that in neither the M nor the C matters did the clients suffer any financial loss, as the position was made good in both cases in the early months of 1996.

Insofar as the B and E estates are concerned, the Taxing Master has recently dealt with an objection hearing to his original taxation of my firm's bills of costs, which took place in 1997. The outcome was that the Taxing Master increased the amount allowed on the original taxation from £14,564.13 to £24,978.15. Whilst this amount is almost double that assessed by the Remuneration Department, I am acutely aware of the fact that there is still a substantial shortfall.

I am currently addressing the shortfall situation and whilst it is almost impossible to deal with matters due to my imprisonment, I shall be making every effort possible to reimburse the amount due to the estates.

I wish to tender my deepest regret and remorse for the disrepute that I have brought on the profession.

A copy of this letter is being sent to Higgs & Sons to give them as early notice as possible of the fact that there will be no representation or attendance at the Tribunal on my behalf and the purpose of writing to you, well in advance, is to enable the list for the day to be reorganised accordingly, well in advance.

Yours faithfully,

(Signed)
Lewis Leon Ruskin"

The Findings of the Tribunal

The Tribunal found all of the allegations to have been substantiated. The facts of this unfortunate matter spoke for themselves. The Tribunal had before them professional misconduct at the most serious end of the scale which would not be tolerated. They Ordered that the respondent be Struck Off the Roll of Solicitors and further ordered him to pay costs of and incidental to the application and enquiry to included the costs of the Investigation Accountant of the Law Society.

DATED this 9th day of January 1998

on behalf of the Tribunal



K I B Yeaman
Chairman

Findings filed with the
Law Society on the 13th
day of January 1998