

IN THE MATTER OF AVRIL ROSEMARY MUNSON AND
RESPONDENT 2 solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J W Roome (in the Chair)
Mr. D J Leverton
Dame Simone Prendergast

Date Of Hearing: 23rd April 1997

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An application was duly made on behalf of the Solicitors Complaints Bureau (superseded by the Office for the Supervision of Solicitors) by David Rowland Swift solicitor of 19 Hamilton Square, Birkenhead on the 5th August 1996 that Avril Rosemary Munson formerly of 89/97 St. John Street, London, EC1 (subsequently notified to be of Beer, Devon), solicitor, and RESPONDENT 2 of Streatham Hill, London, SW2, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that order might be made as the Tribunal should think right.

The applicant made a supplementary statement on the 17th January 1997.

The allegations set out below are those contained in the original and supplementary statements.

At the opening of the hearing the applicant sought to amend the allegations made against RESPONDENT 2 and the applicant had reached an agreed position and the Tribunal consented thereto. The allegations below are set out in the agreed amended form:-

(i) against Mrs Munson:

that she has been guilty of conduct unbecoming a solicitor in that she failed to take any adequate or reasonable steps to ensure that the performance of her firm's instructions did not mislead third parties, to the advantage of her client and herself;

against RESPONDENT

that he has been guilty of conduct unbecoming a solicitor in that he failed to take any adequate or reasonable steps to ensure that the performance of his instructions did not mislead third parties, to the advantage of his client;

against the respondents:

(ii) they acted in a manner that was fraudulent deceitful and otherwise contrary to their positions as solicitors;

(iii) against Mrs Munson alone:

that she obtained a loan from clients without ensuring that the clients were separately represented;

against both respondents:

(iv) they failed to comply with professional undertakings;

(v) they behaved in a manner which was unbecoming a solicitor of the Supreme Court.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 23rd April 1997 when Andrew Christopher Graham Hopper solicitor of PO Box 7, Pontyclun, Mid Glamorgan appeared for the applicant, RESPONDENT 2 was represented by Mr. Philip Newman of Counsel instructed by Messrs. David Levene & Co. of 235-239 High Road, Wood Green, London, N22 4HF and Mrs Munson did not appear and was not represented. Mrs Munson had addressed a letter to the Tribunal shortly before the hearing in which she confirmed that it was not her intention to attend.

The evidence before the Tribunal included the oral evidence of RESPONDENT 2 and Mr Davies, the Investigation Accountant and Miss Lin Kuo, Assistant Director of the Commercial Crime Bureau of the International Chamber of Commerce and exhibits "M&C1" and "M&C2". Mrs Munson filed a number of statements during the course of the disciplinary proceedings. Under the heading "The Submissions of Mrs Munson" the Tribunal have set out extracts from Mrs Munson's statements dated 25th September 1996, 23rd January 1997 and 14th April 1997.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Avril Rosemary Munson of Beer, Devon, EX12 (formerly of 89/97 St. John Street, London, EC1M 4AS) be Struck Off the Roll of Solicitors and they further ordered her to pay two thirds of the costs of and incidental to the application and enquiry to be taxed by one of the Taxing Masters of the Supreme Court to include the costs of the Investigation Accountant of the Law Society.

The Tribunal ORDERED that the respondent 2 of Streatham Hill, London, SW2 solicitor, be suspended from practice as a solicitor for the period of five years to commence on the 23rd April 1997 and they further ordered him to pay

one third of the costs of and incidental to the application and enquiry to be taxed by one of the Taxing Masters of the Supreme Court to include the costs of the Investigation Accountant of the Law Society.

The facts are set out in paragraphs 1 to 58 hereunder.

1. Mrs Munson, born in 1938, was admitted a solicitor in 1983. ~~RESPONDENT 2~~ born in 1960, was admitted as a solicitor in 1988.
2. At the material times the respondents carried on in practice under the style of Stevensons at 89/97 St. John Street, London, EC1. From the letterhead they were held out as partners in the firm, but it was common ground that ~~RESPONDENT 2~~ was in fact a salaried employee of Mrs Munson who was a sole principal. The Law Society intervened into the practice in June 1996.
3. Mrs Munson and ~~RESPONDENT 2~~ conducted a general practice employing an unadmitted staff of nine. Included among the staff was a Mr Brian Roger Lizzimore, a former solicitor who had been struck off the Roll of Solicitors by October of 1995, the Tribunal having made a finding of dishonesty against him. After the Law Society had refused to grant their consent to Mrs Munson to employ Mr Lizzimore, Mrs Munson had continued to employ that gentleman apparently regarding him as an independent contractor and made arrangements to pay £2,000 a month to his wife. Mrs Munson had formed the view that Mr Lizzimore was an honourable man who had been found guilty of something he had not done. Additionally an arrangement had been made with Mrs Jennifer Newmarch who had shared the firm's office premises. Mrs Newmarch was a client of the firm as was her company, Financial Resources & Associates. During the course of the hearing Mrs Newmarch had been described as an "in-house client". All financial dealings were recorded on ledger accounts entitled Newmarch J Financial - G9780, Paulssen Hans Dr. Dev - G9818 and Paulssen - P89/97 St Jo - G9855.
4. It was the respondents' position that Mrs Newmarch had been involved in the raising of finance for investment schemes and that she had entered into a joint venture with Dr. Hans Paulssen. An investment programme had been set up whereby a collection of individuals would pool their resources, such monies to be invested with a view to making a profit.
5. It emerged from the evidence before the Tribunal that Mrs Newmarch had been given a free rein in the respondents' offices. She had given instructions to the firm's staff including accounts staff and secretaries to produce written documents drafted by her.
6. In written statements made by Mrs Munson which were before the Tribunal she indicated that she played very little part and had very little to do with Mrs Newmarch. ~~RESPONDENT 2~~ in the main had had contact with Mrs Newmarch and her apparent business dealings. A number of undertakings written on the firm's letterhead had been made in connection with Mrs Newmarch's business activities. It appeared that some of these written undertakings were forgeries and some had been signed on behalf of the firm by ~~RESPONDENT 2~~. None of them had been discharged. Details of these undertakings have been set out later in these findings.

7. On the 23rd May 1996 a Senior Investigation Accountant of the Law Society, Mr Davies, attended at the respondents' offices to inspect their books of account, notice having first been duly given.
8. Mr Davies prepared a report which was signed by the Law Society's Chief Investigation Accountant, Mr James, and dated the 19th June 1996. A copy was before the Tribunal and supported by Mr Davies' oral evidence.
9. The report revealed that the following bank accounts which either respondent alone might operate were maintained and the credit balances were those appearing on the bank statement as at 30th April 1996.

Barclays Bank Plc, 99 Hatton Garden, London EC1N 8DN

Clients Premium Account	£315,788.14
Clients US\$ Account	NIL
Clients designated Deposit Accounts re:	
E	1,754.08
J	890.57
J	746.58
M	12,537.06
P	591.67
Firm re Dr. Hans Paulssen	100,000.00
Office Account	418.01
Office Private Account	10,439.23
Office B P A Account	200.00

10. The report revealed that the books of account were not in compliance with the Solicitors Accounts Rules. A list of liabilities to clients as at the 30th April 1996 was produced for inspection. The items were in agreement with the balances on the clients ledger and totalled £421,635.25. Mr Davies calculated that a further minimum liability of £648,929.30 (the equivalent of US\$ 1 million) existed in respect of one client matter which was not shown by the books. That liability was in respect of a Mrs Sieblad. It meant that there was a cash shortage of £648,929.30. On the 13th December 1995 the firm gave an undertaking to Gunter Gaertners & Partners acting for Mrs Sieblad who was investing US\$ 1 million in an investment programme masterminded by Mrs Newmarch and it confirmed inter alia, that the sum of US\$1,800,000 would be repaid on the 19th February 1996. On the 18th December 1995 the sum of US\$1 million was received on behalf of Mrs Sieblad and lodged in the US Dollar client account. The lodgement was not credited to any account in the clients' ledger. By the 12th June 1996 the balance of the funds shown as being held on behalf of all of the "investors" including Mrs Sieblad had been reduced to £21,576.50 and no repayments had been made.
11. Mrs Newmarch had asked the respondents to open a US Dollar client account and Mr Davies had been able to establish the position on that account to be as follows

US\$ Clients Account

<u>Received from Investors</u>	<u>US\$</u>	<u>US\$</u>
4.12.95 Jo B Denion	1,199,990.85	

15.12.95 Rudolf H Kersting	6,999,953.65	
18.12.95 Hella Sieblad	<u>*1,000,000.00</u>	9,199,944.50

Payments

Samuel G Franco	225,000.00	
Dr H Paulssen	275,000.00	
Dr Heinrich Schain	2,000,000.00	
Draft	250,000.00	
Draft	250,000.00	
Dr H Paulssen	2,000,000.00	
Irene Jurgens	<u>700,000.00</u>	
		<u>5,700,000.00</u>
		3,499,944.50
Transfers to client bank account		<u>*3,499,944.50</u>
		<u>NIL</u>

12. The position on the firm's client account was as follows:

US\$ Clients' Account

Transfers from Client Bank Account No.86011066	
US\$ 3,499,944.50 - Sterling equivalent	*2,272,443.36
i) Swiss Bank	252,121.35
ii) Pyritt Ltd	126,416.25
iii) Interest on moneys placed on deposit	<u>12,104.25</u>

*Transfers include moneys received on behalf of Mrs Sieblad.

Payments

iv) To: Stevensons - Costs re Dr Paulssen	128,500.00	
Disbursements	3,721.96	
v) Loan	<u>130,000.00</u>	
	262,221.96	
vi) Abortive Purchase of 89/97 St. John Street by Dr Paulssen	217,375.00	
vii) Bryan Roger Lizzimore & family members	451,277.50	
viii) H C Paulssen	162,654.52	
ix) Brad Simmons	32,626.43	
x) Butler & Binion	<u>326,264.27</u>	
	1,452,419.68	
xi) Prince I I	<u>350,000.00</u>	
	1,802,419.68	
xii) Sundry Payments to and on behalf of Mrs Newmarch	<u>750,927.50</u>	<u>2,553,347.18</u>
Monies held in Client Bank Account at 30.4.96		<u>£109,738.03</u>

The funds held in client bank account at 30th April 1996 amounting to £109,738.03 were subsequently reduced to £21,576.50 by 12th June 1996 by the following payments -

i)	Abortive Purchase of 89/97 St. John St. by Dr Paulssen	40,000.00	
	Dr. Paulssen - Cash	6,000.00	
	Jo. B. Denion - Legal Fees	10,000.00	
	On behalf of Mrs Newmarch	<u>32,161.53</u>	
			<u>£88,161.53</u>
	Monies held on client accounts as at 12.6.96		<u>£21,576.50</u>

13. The payments out of client account had been made upon the oral authority of Mrs Newmarch.
14. As well as making a substantial payment for costs, Mrs Newmarch had agreed to provide Stevensons with an unsecured loan of £130,000.00 which sum was paid from client bank account on the 8th December 1995 and charges to the Newmarch J ledger account. In written representations which were before the Tribunal Mrs Munson said that she had not regarded that loan to be from a client but to be from a friend. Mrs Munson said that she had discussed the future of the firm with Mrs Newmarch and Mrs Newmarch had been aware of the nature of the work to be undertaken by the firm and the fact that it was in some financial difficulty.
15. In the matter of the abortive purchase of the property in St John Street by Dr Paulssen four payments totalling £257,375.00 had been made in March April and May of 1996 to the vendor's solicitors and that sum was forfeit when Dr. Paulssen had apparently been unable to raise funds to complete his purchase.
16. The payment of £350,000 from client bank account to Prince II had apparently been a repayment due in connection with a previous investment. Prince II obtained a Mareva injunction against Mrs Newmarch on the 29th April 1996 which prohibited the disposal of assets world-wide up to a value of £135 million.
17. Further an order was obtained against Ruldolf Kersting (who had deposited US\$6,999,953.65 in the US Dollar client account of the firm on the 15th December 1995, in pursuance of his acting for investors), with the firm and Mrs Newmarch as co-defendants.
18. The order required, of the firm, amongst other things:

"If the whole or part of the deposited funds are not within your possession custody or control please identify the recipients of the same and the terms under which or basis upon which those recipients hold the same of the monies choses in action investments or other assets of any kind wheresoever situate now representing the same."

Further the firm was required to produce

"all circulars brochures and other documentation relating to the bank's transactions referred to in the second defendant's letter of the 11th June 1996

to the plaintiff's solicitor and/or the High Yield Investment Programme referred to in the second defendant's letter of 22nd February to the first defendant."

19. In a written statement before the Tribunal Mrs Munson said that the funds in the US dollar account had been sent to the firm for the Financial Resources investment programme and were credited to the Financial Resources account. Of the money which went into Financial Resources' account part was sent out to be invested in Dr Paulssen's programme, part was paid out to various people by way of commission and the balance was Mrs Newmarch's commission.
20. Mrs Munson in her statement said she had not been involved in the work of Financial Resources. She had ascertained in general terms how they operated but had no knowledge of the details of any particular transaction.
21. She said Mrs Newmarch had been unable to complete Dr Paulssen's purchase of the St John's Street property owing to her having become subject to the Mareva Order. The sum paid to Prince II was paid for his services in connection with a another programme organised by Financial resources.
22. The funds received and held by the respondents in connection with Financial Resources and Associates were in connection with three purported investment schemes apparently established by Mr Newmarch, Financial Resources & Associates and Dr. Paulssen under which the respondents were to hold and/or invest the funds subject to undertakings to pay greater sums to the investors on or before specified dates.
23. At all times the "investors" believed that the funds deposited with the respondents were to be applied by way of investment in "bank security" transactions pursuant to "investment programmes".
24. There were few documents relating to the proposed investment schemes. The respondents disbursed those sums apparently in accordance with instructions given by Mrs Newmarch in a way that was apparently contrary to the expectations and the understanding of the investors.
25. On the 1st December 1995 Financial Resources (using the respondents' firm's address telephone and fax numbers) wrote to Gary Schultz of Anderson Associates Ltd Bahnhofstrasse 75, CH-8001 Zurich a letter described to have been despatched by fax only as follows:-

"Re; U.S.\$ 1.2 Million-Trust Account.

As per your telephone conversation of yesterday, we have spoken to Joe Danion regarding the transaction and it has been confirmed that our solicitors will accept the above funds into their client account for the Enhancement Programme.

The terms of our agreement will adhere to the contract already agreed upon, namely 50% return on the initial funds after thirty days of the start of the Programme.

We can therefore state that if the funds are transferred as at today's date the Programme will begin as from Monday 4th of December 1995. The return on

the programme (being US\$ 0.6 Million) plus the initial funds of US\$ 1.2 million equating to US\$ 1.8 Million, is to be paid on Monday the 8th day of January, please note the Christmas period intervening between the dates referred to above.

Our solicitors Banking details are as follows, namely:-

Barclays Bank PLC
99 Hatton Garden
London EC1N 8DN
Sort Code No: 20-37-75
Stevensons Client Dollar Account No.86011066
Stevensons Client Sterling Account No. 70876720
Bank Telephone No:0171 445 5100
Bank Fax No: 0171 445 5175
Bank Officer: Mr Neil Cressy

The above details are for the transmission of the funds.

Yours sincerely
(Signed) Jenny Newmarch"

26. On the 11th December 1995 on Stevensons' own letterhead the following letter was addressed to Mr Helmut Rudolf Kersting and Ms. Irene Jurgens, Fasanentrass 3,, 32427 Minden.
27. This letter was not signed by either respondent and appeared to have been a forgery.
28. On the 13th December 1995 a letter on Stevenson's letterhead was addressed to Messrs. Gunter Gaertners & partner (Mrs Hella Sieblad) and expressed to be sent by hand. It was in the following terms:-

"Dear Sir and Madam

re: Financial Cash Transaction U.S. \$1 Million

We confirm that as solicitors for our client, Financial Resources, our undertaking that upon your placement of Good Clean Cleared effects of non-criminal origin in the sum of U.S. \$1 Million on no later than this Friday, the 15th day of December, 1995, we shall on the 19th day of February, 1996, make payment to your designated account the sum of U.S. \$1.8 Million.

Kindly note that this is a slightly longer period of investment than usual due to the usual upheaval with the programming bank not being open for the two complete weeks during the Christmas festivities.

If you wish to avail yourselves of this facility the payment is to be made to the following co-ordinates, namely:-

Barclays Bank Plc
99 Hatton Garden
London

ECIN 8CN
England
Sort Code No: 20-37-75
Stevensons Client Dollar Account No: 86011066
Bank Telephone No: 0171-404-4411
Bank Fax No: 0171-405-6701
Bank Officer: Neil Cressy"

The signature was not that of either of the respondents and again the letter was a forgery.

29. On the 13th December 1995 Irene Jurgens from Petershagen wrote a letter addressed to Messrs. Stevensons but marked for the attention of Mrs Newmarch in the following terms:-

"Dear Jenny

We refer to the undertaking dd 11.12.1995 addressed to Mr Helmut Rudolf Kersting & Mrs Irene Jurgens for a placement of US\$ 7,000,000, - not later than Friday the 15th of December 1995.

Please be so kind and arrange the following:

1. Undertaking for USDoll 1,500,000, - Ref.1/15/12/95
Ortima AG
2. Undertaking for USDoll 1,500,000, - Ref.2/15/12/95
Finanzkonzept
3. Undertaking for USDoll 1,500,000, - Ref.3/15/12/95
H. Gamon
4. Undertaking for USDoll 1,000,000, - Ref.4/15/12/95
Continental Finance
5. Undertaking for USDoll 1,500,000, - Ref.5/15/12/95
Britania F.S. Limited

All other details as per undertaking dd. 11.12.1995

Please let me have this by fax stating that the fax is to be considered an original and let me have the originals by express/mail.

Kind regards
(Signed) Irene Jurgens"

30. Five undertakings as requested all dated the 14th December 1995 given on the respondents' firm's letterhead were despatched by fax and post. Those letters had not been signed by either respondent and again were forgeries.
31. On the 18th December 1995 a letter on Stevenson's letterhead had been addressed to Barclays Bank at Hatton Garden in the followings terms:-

"Dear Sir

Re: HANS PAULSSEN

Please treat this letter as authority for an International Money Order payable to Mr Hans Paulssen drawn on our Client Dollar Account No.86011066 for the sum of U.S. \$2,000,000.00 (i.e. the client's US\$ Account)

All charges to be debited to our Office Account No.50876674. We will be collecting the international money order.

Yours faithfully
Stevenson's
(Signed) Avril Munson, Partner"

On the 17th January 1996 a letter signed by Mrs Munson was sent to Barclays Bank requesting another International Money Order payable to Brad Simmons in the sum of US\$50,000.

32. On the 19th February 1996 the following letter on Stevenson's letterhead was sent to Messrs. Gaertner & Partner expressed to be by fax only:-

"Dear Sirs

RE: Financial Resources - U.S. \$ 1 Million

We refer to our letter to you of the 13th December 1995 and to yours of the 16th February 1996.

Our clients were informed before Christmas that they could trade up to the 22nd December 1995 and recommence on the 29th December 1995. In fact all trading stopped before Christmas and did not recommence until the 29th January 1996. Accordingly our client was unable to trade for some six weeks.

This has caused a delay on the first returns on funds taken in for December 1995 until they are returned to our client (via this firm) on Monday the 18th March 1996 for release to you for your client (Mrs Hella Sieblad) no later than the 21st March 1996.

We are instructed that notwithstanding the obvious inconvenience to your client and indeed ours that our client will now be able to enter into an extra trade with the result that no later than the 21st March 1996 we will be able to undertake to forward to you U.S. \$ 1.9 Million and thereby provide further interest to compensate for the inconvenience.

Yours faithfully
Stevenson's"

Neither of the respondents had signed that letter.

33. A further letter of the 19th February was sent to Mr. Bachmann by fax only - again on Stevenson's letterhead:-

"Dear Sir

Re: Cash Transaction - US\$ 1 Million

We refer to our letter to you of the 17th January 1996. Our clients were informed before Christmas that they could trade up to the 22nd December 1995 and recommence on the 29th December 1995. In fact all trading stopped before Christmas and did not recommence until the 29th January 1996. Accordingly, our client was unable to trade for some six weeks.

This has caused a delay on the first returns on funds taken in for December 1995 until they are returned to our client (via this firm) on Monday the 18th March 1996 for release to you direct no later than the 21st March 1996.

We are instructed that notwithstanding the obvious inconvenience to you and our client, our client will now be able to enter into an extra trade with the result that no later than the 21st March 1996 we will be able to undertake to forward to you US\$ 1.9 Million and thereby provide further interest to compensate for inconvenience.

Yours faithfully
Stevensons"

The letter had not been signed by either respondent.

34. Mr Cooke first became involved in Mrs Newmarch's affairs when he signed a letter on the firm's letterhead dated the 22nd February addressed to Mr Kersting. It was expressed to be sent by fax only and was in the following terms:-

"Dear Sir

Transaction Code Number: 2/15/12/95 - FINANZKOZEPT

We hereby undertake that no later than the twenty first day of March 1996, we shall make payment by SWIFT wire transfer return of the capital investment of US\$1,500,000 together with agreed interest earned by our clients in the High Yield Investment Programme. No extension of time is sought nor requested nor permitted.

May we explain the reason for the delay in making payment on 19th February 1996. The Federal Reserve in New York set down guidelines at Christmas last. Whilst our clients were informed that they could trade up to 22nd December and then recommence on 29th December 1995, the new guidelines placed a hold on such investments and the formal guidelines, as issued by the Federal Reserve meant that trading could not recommence without compliance until 29th January 1996. As a direct result, our clients lost some six weeks trading.

You may well appreciate that the monies invested by your client are included with other more substantial investments (which thus enabled higher returns for the investor) and it is physically impossible to withdraw the investments until conclusion of the programme. In this instance, the programme will conclude by 18th March 1996 the monies will then be received and cleared into our account and passed onto the investor no later than 21st March 1996.

We hope the above is clear but please do not hesitate to contact us for any further clarification.

Whilst this firm and our clients wish to express sincere apologies, it should be understood that this delay was due to circumstances beyond our client's control.

We look forward to pre-advising you and then making direct payment no later than 21st March 1996.

Yours faithfully
Stevensons"

35. ~~RESPONDENT 2~~ accepted that he had not understood the nature of the purported transactions. He had no reason to be suspicious of Mrs Newmarch and her activities. ~~RESPONDENT 2~~ recollection was that Mrs Newmarch had drafted the letter and he had signed it having no doubt as to the veracity of its contents and the bona fides of Mrs Newmarch or that the firm would be in a position to fulfil its undertaking within the prescribed time limits. Further communications passed between Irene Jurgens and Rudolf Kersting and Stevensons during February, March and April 1996. The Tribunal had copies of those letters before them which protested at delay and required payment within specific time limits. ~~RESPONDENT 2~~ was unable to recall having seen the incoming letters which had been addressed to Stevensons. Two had apparently been marked for the attention of Mrs Newmarch but one had been marked for the attention of ~~RESPONDENT 2~~ and Mr Lizzimore and the other had been marked for the attention of "RESPONDENT 2 , partner". It was clear that the freedom of the office afforded to Mrs Newmarch and Mr Lizzimore would not have imposed any obstacle to either of those persons taking posted mail and faxed communications and retaining them without any member of the respondents' firm being aware of their content, or even that they had arrived at the office.
36. On the 23rd April 1996 a letter was written again ostensibly from Messrs. Stevensons to Irene Jurgens in the following form:-

"Dear Irene

RE: CASH TRANSACTION

We than you for fax of the 23rd April.

On behalf of our client Financial Resources we can confirm that we have been in constant contact and party to the confirmed confirmation from the Bankers that the funds are en route to our Bankers in London. The funds are imminent to arrive but this is not satisfactory to your needs as per your fax of today. Therefore we are setting a date that maybe longer than the actual arrival of the funds but this date will then satisfy all parties.

Therefore the date for the funds to be physically in your Bank from our Bankers as per the Contract will be Wednesday 8th May 1996.

Our clients have other assets which we are now insisting to be called upon which they have no objection and have in fact offered this to be to satisfy the

undertaking. The realisation of these assets taking into account they will not be dealt with until tomorrow 24th April 1996 will take fifteen days for the cash to reach our Bank.

In conclusion we can confirm that either way your investment and interest is secure for payment.

Yours faithfully
Stevensons"

37. On the same date the following letter purporting to be written by Messrs. Stevensons was addressed to Dr. Paulssen:-

"Dear Hans

RE: PAYMENT OF REINDEL \$200,000.00

On behalf of our client Financial Resources we can confirm that we have been in constant contact and party to the confirmed confirmation from the Bankers that funds are en route to our Bankers in London. The funds are imminent to arrive but this is not satisfactory to your needs as per your fax of today. Therefore we are setting a date that maybe longer than the actual arrival of the funds but this date will then satisfy all parties.

Therefore the date for the funds to be physically in your Bank from our Bankers as per the Contract will be Wednesday 8th May 1996.

Our clients have other assets which we are now insisting to be called upon which they have no objection and have in fact offered this to be done to satisfy the undertaking. The realisation of these assets taking into account they will not be dealt with until tomorrow 24th April 1996 will take fifteen days for the cash to reach our Bank.

In conclusion we can confirm that either way your investments and interest is secure for payment.

Yours sincerely
Stevensons"

38. RESPONDENT 2 close involvement began when he acted for Mrs. Newmarch in the Mareva Injunction proceedings. He wrote a letter from Messrs. Stevensons dated the 17th May 1996 addressed to Miss Jurgens. It was expressed to be sent by fax only and was signed by RESPONDENT 2. The letter took the following form:-

"Dear Ms Jurgens

RE: Cash Transactions

We refer to our telephone conversations of today with Mrs Newmarch and Mr Joseph Denion her American Attorney, in which were discussed the status of payment on the Cash Investment.

As per the conversation Mrs Newmarch was served with a Mareva Injunction on the 29th April 1996 which prohibits her from disposing of her personal and business assets world-wide. A copy of the said Injunction is enclosed for reference. The effect of this action has been to unfortunately delay Mrs Newmarch's ability to pay the monies due and owing on the 8th May 1996 in accordance with our prior correspondence. A hearing is scheduled for 10.30 Wednesday 8th May 1996 in which we shall present the evidence that will dissolve the Mareva and allow Mrs Newmarch to arrange prompt payment.

Regardless of the outcome of the hearing realistically it will take some seven International Banking days to forward the amount to the accounts. We apologise for any inconvenience that this may have caused but we can assure you that the action that is the subject of the Mareva has absolutely nothing to do with the Cash Transaction.

We can confirm that Mrs Newmarch could not have possibly foreseen this Mareva action being served and she had done everything in her power to rectify the situation.

Once again thank you for your patience in the matter and we shall arrange for Mrs Newmarch to telephone you upon return from Court tomorrow.

Yours faithfully
(signed) Jeremy M Cooke
Stevensons"

39. In evidence ~~RESPONDENT~~ told the Tribunal that he had been involved in the Mareva Injunction proceedings on behalf of Mrs Newmarch and had been satisfied by Mrs Newmarch's explanation and assurances that a small amount of time was needed to resolve matters and there was in reality no difficulty. A similar letter was sent on the same date to Mr Kersting also signed by ~~RESPONDENT~~
40. A further letter was addressed to Ms Jurgens by fax only on the 8th May 1996 by the firm, Stevensons. ~~RESPONDENT~~ had signed that letter in the firm's name. Mrs Newmarch had instructed him upon the form of the letter. It was in the following terms:-

"Dear Ms Jurgens

REF: PAYMENT - CASH TRANSACTION

We refer to our facsimile message of yesterday and would like to clarify several matters about which we believe that you may have been misinformed regarding the pending transactions.

The items are as follows:

1. MAREVA INJUNCTION

The Mareva Injunction a copy of which you have now received has nothing whatsoever to do with this transaction. Out of an abundance of caution, Mrs

Newmarch instructed the Bank holding the funds not to transfer them until she receives clearance from her Barrister that the money due to you and other Investors will not be affected by the Mareva action. After several hours of consultation with several solicitors and her Barrister Mrs Newmarch has now instructed the immediate transfer of the funds in order to fulfil all her obligations relating to this transaction as soon as possible.

After a brief hearing as well as a consultation with opposing Counsel, the parties agreed to an adjournment of the hearing until the 22nd May 1996 in order to file further evidence. From Mrs Newmarch's point of view this was to facilitate the obtaining of documents which we believed would dissolve the Injunction and end the matter. However, we would like to reiterate our position that upon advice we are now satisfied that this in no way affects payment of the monies due and owing under the current transaction.

2. VERIFICATION OF THE FUNDS

We have included with this correspondence a sanitised Irrevocable Letter of Commitment which had been provided this date to Mrs Newmarch to unconditionally verify funds to be received in an amount which exceeds Mrs Newmarch's obligations to you and other investors in this transaction. We hope you can appreciate the necessity of sanitising such a document because as you know any contact to the Bank issuing the letter would not only jeopardise the prompt receipt of the funds but also would jeopardise the prompt receipt of the funds but would also jeopardise the long standing relationships. Moreover, as you can read on the copy provided, the letter sent was "strictly private and confidential" and therefore Mrs Newmarch must honour this obligation to the Bank.

3. PAYMENT DATE

As indicated in our correspondence of the 7th May 1996 we anticipate no more than seven international banking days shall be required to have the funds properly moved into the account for immediate disbursement to you and the other Investors. We regret the length of time it shall take to accomplish transfer as well as payment but Mrs Newmarch was given legal advice from more than one source that she could not effectively finalise this transaction until she personally met with her Barrister and received proper advice on the safest manner in which to proceed. Unfortunately, this meeting could not be held until 9.15 a.m. today at which time we received all the necessary information to adequately handle this situation.

As a practical matter, since it is Wednesday today and no actual banking arrangements can be effected on a Friday we are realistically faced with the instructions being acted upon no earlier than Monday 13th May 1996. Assuming everything follows our specific instructions, and we have no reason to believe otherwise, you can realistically expect payment on Monday the 20th May 1996 and we will of course remit payment earlier if at all possible.

4. SALE OF OTHER ASSETS

We informed you in our prior correspondence that Mrs Newmarch had arranged for the sale of other assets in case the monies due and owing could not be paid on the 8th May 1996. Once again we did not and could not anticipate the filing of a Mareva Injunction obtained without prior notice and which effectively required Mrs Newmarch to cease action until she had the advice of counsel. The Mareva Injunction unfortunately prevents Mrs Newmarch from selling any personal assets in order to pay the Investors. The main reason for this is that Mrs Newmarch is prohibited specifically by the Injunction of disposing of these and all other assets and any payment to Investors may be construed as an attempt to circumvent the Injunction. Even the appearance of attempting to circumvent a Mareva Injunction had grave consequences in a UK Court of law.

5. INFORMATION

Due to the fact that the Mareva Injunction was served upon us very late on the 29th April 1996 and the supporting Affidavit which contained the pertinent information we required in order to formulate a proper response was not served upon us until the 2nd May 1996 we now must address the question of why we did not make any earlier notifications to you and other Investors. The simple reason is that we were under the firm belief that we would be provided with the necessary documentation to have the Mareva removed prior to the date upon which Mrs New March was scheduled to pay you and the Investors.

We had a verbal commitment from several institutions to provide us with the documentary evidence but after consultation with their own legal Counsel these Institutions were reluctant to formalise their positions in order that we may present them in Court. Therefore, this required us as well as Mrs Newmarch's Barrister to explore several additional avenues to obtain the required information which was made more difficult by the fact that the supporting Affidavit was served upon us at such a late date. We can absolutely assure you that we already have in hand some of this information as at the end of the day today and fully expect the remainder by the end of the week. Although in hindsight it may have been prudent to advise you earlier, we fully expected the issue to be resolved without any delay in your transaction. Once again we apologise for any inconvenience that this may have created.

Yours faithfully
Stevensons"

41. The "sanitised" document referred to was described as an irrevocable letter of commitment and was in the following form. In evidence ~~RESPONSE AT 7~~ had said he had seen the complete document but was unable to remember specific details. He had not heard of the Bank from which it apparently emanated.

"STRICTLY PRIVATE AND CONFIDENTIAL

IRREVOCABLE LETTER OF COMMITMENT

Date: 8th May 1996

To: Financial Resources
97 St. John Street

London, EC1M 4AS
Great Britain
Attn: Ms Jenny Newmarch
Senior Partner

Agreement Number: PCEL/FR /
Contract Number: / /250 MM
Account Number: 005
Account Name: Ltd

Acting under authority and on behalf of the Board of Directors,
Int'l Bank, I hereby give our irrevocable commitment to remit the stipulated
disbursement () in accordance with our client's
contractual agreement under the
above referenced codes, to your nominated bank co-ordinates.

Please be guided accordingly.

In witness whereof, I have set my hand and the bank official stamp on the 8th
day of May 1996, in Singapore.

(signed) Director S'pore & Malaysia Operations
Authorised Bank Officer"

42. RESPONDENT 2 did not recognise or understand the nature of the document and took it from Mrs Newmarch without enquiry that it was a genuine and meaningful document. In evidence Ms Kuo told the Tribunal that the term "irrevocable letter of commitment" was not a recognised banking term and there were other indications that the document could not have been genuine.
43. On the 4th June 1996 RESPONDENT 2 signed a letter as a partner of Stevensons addressed to Ms Jurgens in the following terms:-

"Dear Irene

We are in receipt of your facsimile message of today.

As you are aware our client has been organising the release of funds from transactions that are now finalising. Our client is not avoiding the issue and has not in place Bank endorsed Pay-Orders on two completed accounts to be verified into the Bank into the Bank of Dr. Helmig on a full Banking responsibility that the Pay-order is being prepared and will be in the Bank of Tuesday the 25th June 1996.

Either of these Pay-Orders will, be in excess of any liability to you and will be discountable immediately. There are two ways in which the whole process will take place, either the Bank discounting the Pay-Order and forwarding the funds into the designated account or the Pay-Order is forwarded in its entirety and we allow for Dr. Helmig's designated Bank to do the discounting.

Our client has today contacted Dr. Paulssen to enquire from Dr. Helmig whether this procedure is acceptable to his Bankers so that without any further

delay our client can proceed. We are now awaiting confirmation from Dr. Paulssen once he has been in contact with Dr. Helmig.

Our client is now at the point of completion of any liability and to now allow our client to finalise at this stage would cause further delay which can not be in anyone's interest. We understand that interest must be accruing and our client under these circumstances agrees that further interest is payable and will make further adjustments to cover this.

Once we have formal agreement from Dr. Helmig that either procedure is acceptable to him and his Bank we would request on behalf of our client that once he has confirmation from the Bank that he informs Dr. Paulssen who in turn will respond directly to yourselves.

On behalf of our client we thank you for your co-operation and look forward to the final conclusion.

Yours faithfully
(signed) RESPONDENT 2 (Partner Stevensons)"

44. The third paragraph of that letter was apparently couched in the English language but had no meaning. Mrs Newmarch appeared to be subject to fifth deadline but RESPONDENT 2 still gave assurance apparently upon her unquestioned instruction. A further letter was signed by RESPONDENT 2 from the firm addressed to Ms Jurgens on the 5th June 1996 in the following terms:-

"Dear Madam

As you are aware our client has been organising the release of funds from transactions that are now finalising. I have now had a telephone conversation with you today and have carefully considered what you have said. In the light of our conversation our client will, as previously discussed with you, agree to discount the Pay-Orders from her own Banking source and pay into the designated accounts of Mr Kersting and your goodself the sums due on the 25th June 1996.

On behalf of our client we thank you for your continued co-operation.

Yours faithfully
(Signed) RESPONDENT 2
Partner
Stevensons"

45. Ms Jurgens addressed a letter to RESPONDENT 2 (describing him as a senior partner) the letter being marked urgent dated the 10th June 1996 as follows:-

"Dear RESPONDENT 2

We refer to the various undertakings of Stevensons dated 14th December 1995 for a total amount of USDollars 14 Million.

You extended those undertakings various times and confirmed on 5th June 1996 that payment would now be made on 25th June 1996.

We have reason to call up the amount with immediate effect as information as been made available to us that calls for this action.

Should you not advise us of your payment within 24 hours or give us bank-proof that the amount is on the way, we have to take immediate steps.

We expect your telephone-call still today to give us an explanation of the situation and our steps you want to handle this.

Yours sincerely
(Signed) Irene Jurgens (Mrs)"

46. RESPONDENT 2 letter (signed by him on behalf of the firm) also of the 10th June took the following form:

"Dear Madam

REF: CASH TRANSACTION

We are pleased to confirm that Mr J B Denion, Attorney-at-Law (USA) will travel to meet with you tomorrow in Zurich or Frankfurt or indeed as previously arranged by him or Dr Paulssen with you by telephone today. He will provide you with information on how you shall be paid on your investment originally made with Financial Resources in London.

If necessary he will be available to stay during the course of the week in order to finalise with you all aspects of the transaction.

Yours faithfully
Stevensons"

47. It was clear that the letter had been written other than by RESPONDENT 2 but he had signed it.
48. Messrs. Eking Manning solicitors, who had been instructed on behalf of an "investor" wrote to Messrs. Stevensons, the letter addressed to RESPONDENT 2 as follows:-

"Dear RESPONDENT 2

F.K. Finanz-Konzept GmbH

I refer to our telephone conversation of 4.00 p.m. yesterday. I pointed out to you that I was instructed as the English solicitor for Dr. Eberhard Braum who was appointed Konkursverwalter of the above company by an order of the Amstgericht dated 10th April 1996.

The purpose of my conversation was to enquire as to an answer to the letter of the 15th May 1996 written on behalf of the Konkursverwalter to yourself and to which there has been no reply.

When we spoke yesterday afternoon you indicated that you would be coming back to me. I have made a number of attempts to reach you this morning on the telephone. These culminated in your secretary informing me at 11.15 a.m. that you were with a client but that you would be getting back to me at mid-day.

I now request your immediate and substantial response to the letter of 15th May from Schultze & Braun. I further confirm that I shall be ringing your office myself again at approximately 3.00 p.m. today.

Yours sincerely

D.A.H. Griffiths

(Dictated by D.A.H. Griffiths but signed by T.R. Collins in his absence)"

49. In response on the 11th June 1996 ~~respondent 2~~ signing it on behalf of the Stevensons, wrote the following letter:-

"Dear Sir

REF: FINANZ-KONZEPT GmbH

Further to your fax and your subsequent telephone conversations with ~~respondent 2~~ today we have now looked further at the matter as agreed.

The sum that was invested by the individual, the identity who we and our clients (sic) was not at time aware was received via Mr Kersting into this firm's Client Account on behalf of that client for the purposes of being applied to Bank Security transactions. The amount which relates to the individual person referred to above has been stated to us as being \$3,062,399.85 USD.

The total amount received from Mr Kersting was \$7,000,000.00 although again we and our clients were not aware and remain unaware of names of all the investors and the individual amounts that they passed to Mr Kersting for investment. The total amount received from Mr Kersting however was under separate Transaction Codes numbered but not named. The condition of receiving the monies was clearly expressed to Mr Kersting that such monies were to be of "good clean, cleared effects of non-criminal origin".

An amount of money greater than the sum apparently invested by the individual was sent to various Banks in relation to Bank Securities in accordance with the programme.

The programme was delayed and the payment dates have been revised. We are now instructed by our client that the new payment is to be the 25th June 1996. We await details of the arrangements for payment on that date however, we understand payment is to be arranged directly by our client and not through this firm. We are not therefore as such able to give you an undertaking as to payment as you have requested.

We are still looking at the effect of the terms of the Order dated the 10th April 1996 upon our client and this firm. We are aware however that Mr Kersting,

who has not assigned any of his rights in relation to his transaction with our client, is of the view that the individual position, now controlled by Dr Braun, is governed by German law and is concerned that whilst Dr Braun is approaching him directly for information you are also instructed to seek information from us and our client which he and she regard as confidential.

We understand that Mr Kersting is to attempt to speak with Dr Braun today, although given the time it may have to be tomorrow.

We feel that our client, or ourselves if he wishes to speak to us directly, must at least ascertain Mr Kersting's views as to the disclosure of further information to you and either to seek his permission to do so, if he is able to give it or otherwise seek confirmation that the terms of the Order requires to disclose it to you in any event.

We intend to seek Counsel's advice regarding the terms of the Order as soon as possible unless we hear from Mr Kersting tomorrow morning to the contrary.

Yours faithfully
Stevensons"

50. The Tribunal noted the fourth paragraph in which ~~RESPONDENT 2~~ stated that money had been sent to various banks in relation to bank securities. In evidence ~~RESPONDENT 2~~ told the Tribunal that the statement in the beforementioned paragraphs was misleading but he had not intended to mislead. That had not been the case, the destination of the money was apparent from the figures set out in the Investigation Accountant's report. ~~RESPONDENT 2~~ knew that the money had been sent to two individuals.
51. The Tribunal had before it a copy of a "Joint Venture Agreement" and a power of attorney which are set out below.

"THIS JOINT VENTURE AGREEMENT is made this Second day of October One thousand nine hundred and ninety-five.

BETWEEN:-

(1) DR HANS PAULSEN of 78 BAHNOFSTRASSE ZURICH SWITZERLAND CH08001 of the one part AND

(2) FINANCIAL RESOURCES 97 ST. JOHN STREET, LONDON, EC1M 4AS of the second part

WHEREAS the parties hereto have entered into a JOINT VENTURE AGREEMENT dated the 2nd day of October 1995 AND desire to enter into a JOINT VENTURE AGREEMENT as follows:-

1. Cash funds to be placed into trading situations that FINANCIAL RESOURCES has with its trading entities which includes hypothication of Bank Instruments where a line of credit will be given.

2. Large cash funds over Ten Million will be placed with a trading entity where a 108 can be given.

3. Where funds are invested under Ten Million USD FINANCIAL RESOURCES will return the initial funds plus the profit into an account or nominated accounts nominated by Dr Paulssen for the first year of this Joint Venture. This being a precautionary measure to ensure that Dr. Paulssen is fully assured that this kind of trading can be achieved.

4. Dr Paulssen agrees as to Paragraph 3 above referred to and guarantees to FINANCIAL RESOURCES that the sums invested via his clients and their profits will be returned from the nominated accounts where they have been placed.

5. With regard to the JOINT VENTURE PARTNERSHIP any clients that are directly or indirectly introduced to FINANCIAL RESOURCES Financial Resources will at their own discretion pay to DR. PAULSSEN a percentage on the completion or any such transaction whether this be cash or Bank Instruments.

6. All Contracts regarding cash and Bank Instrument will be for forty weeks and one year and fifteen days.

SAVE FOR THIS AGREEMENT the Joint Venture will remain in full force and effect as from the date hereof.

IN WITNESS whereof the parties hereto have set their hands this 2nd day of October 1995.

SIGNED by the above named
DR HANS PAULSSEN in the presence of:-

SIGNED BY THE ABOVE NAMED
FINANCIAL RESOURCES in the prescience of:-

IN WITNESS WHEREOF, the Venturers have executed this instrum this 2nd day of October 1995.

FINANCIAL
By Title Joint Proprietor
Signed by Dr. Hans Paulssen

Executed by both parties in the presence of as with ~~RESPONDENT~~ 297 St. John Street, London, EC1M 4H. A solicitor.

POWER OF ATTORNEY

COUNTRY: ENGLAND
COUNTY: LONDON
CITY: LONDON

TO WHOM IT MAY CONCERN

On the date first entered herein below the "signatory" himself by authority vested in the "Signatory" domiciled in the above does hereby irrevocably grant constitute and appoint JENNIFER NEWMARCH of 97 St. John Street, London, EC1M 4AS and RESPONDENT 2 of Solicitor of Messrs. Stevensons 97 St. John Street, London, EC1M 4AS as its true and lawful Attorney-in-Fact as at the date hereof for the purpose of taking instructions from Jennifer Newmarch of Financial resources and any commissions that are due to persons executing the business that Financial Resources are doing within the Joint Venture Agreement. That as per our JOINT VENTURE AGREEMENT dated the 2nd day of October 1995 Jennifer Newmarch has the full power to execute that Joint Venture to transfer funds from my account into FINANCIAL RESOURCES account that is held by Messrs. Stevensons Client Account including their costs for acting on my behalf and for the Joint Venture situation.

AND THEREFORE Jennifer Newmarch of Financial Resources and her Solicitors, Messrs. Stevensons are intercepted to forward funds into designated account as per the Joint Venture Agreement.

This Power of Attorney is hereby approved to transmit via facsimile and said fax shall be recognised as an original by any party with whom RESPONDENT 2 act as Attorney-in-Fact on behalf of Jennifer Newmarch who will control the accounts held by Messrs. Stevensons.

IN WITNESS WHEREOF sets it hand this twentieth day of October One thousand nine hundred and ninety Five.

52. The Joint Venture Agreement appeared to have been witnessed by . The document was signed by him and stated to have been signed in the presence of the two signatories.
53. Again the document was without meaning and contained terms which were not used in standard banking transactions and were recognised as terms frequently employed by fraudsters.
54. In another matter that was not connected with Mrs Newmarch, Messrs. Davies Frankel & Mead solicitors of London complained to the Solicitors Complaints Bureau on the 1st May 1996 on behalf of their clients WFC Ltd that the respondents had been in breach of a professional undertaking. The respondents had acted for Mr ADH who borrowed £132,000 from WFC Ltd. The loan was to be in respect of works to be undertaken at a property in London and was to be supported by a solicitors undertaking that funds received from proceedings commenced by ADH against tenants at the property would be paid by the solicitors to WFC Ltd.
55. On the 28th July 1995 RESPONDENT 2 had signed an undertaking on behalf of the firm in the following terms:-

"Please accept this letter as this firm's undertaking that upon receipt by this firm of a sum of money in respect of Mr ADH's claim for service charges in the High Court of Justice (reference to case) and after deduction of all legal costs, VAT and disbursements of Mr ADH's prior solicitors (Messrs. Lizzimore

furthest from Financial Resources. The chances of a Financial Resources' person picking up a fax intended for Stevensons while not non-existent were remote.

81. Mrs Munson had not supervised RESPONDENT 2 work.
82. Mrs Munson said it was ironic that the only work about which she had no concern at all was that of Financial Resources. As the client was immediately adjacent to the office there was no danger of its work getting second rate treatment.
83. Mrs Munson pointed out that the only benefit she received from all of the matters before the Tribunal was the sum of £130,000 which was a loan. Because RESPONDENT 2 was a salaried partner it could not be argued that he had any benefit therefrom.

The Submissions of RESPONDENT 2

84. RESPONDENT 2 apologised for the trouble which he had caused.
85. RESPONDENT 2 had entirely believed that Mrs Newmarch was genuine and the apparent nature of the transactions in which she was involved had not in any way aroused his suspicions. Equally he had not been unduly concerned or surprised when Mrs Munson had granted free access to Mrs Newmarch to her office premises, RESPONDENT 2 describing Mrs Munson as a somewhat eccentric lady who was prone to adopt a dogmatic stance in particular matters.
86. The Tribunal was invited to take the view that the respondent was an honest man who had behaved very foolishly. He had been taken in by an expert and very clever fraudster. The Tribunal was aware of the extent and type of the frauds which had been perpetrated on a world-wide basis. RESPONDENT 2 was an individual who found himself in unique circumstances. He had been duped.
87. RESPONDENT 2 entirely accepted that he should not have given an undertaking unless he was certainly able to meet it.
88. RESPONDENT 2 had misplaced his confidence in Mrs Newmarch, repeating again that he had been taken in by a fraudster. That was not an excuse for what he had done but it was offered as the strongest possible mitigation. RESPONDENT 2 had not tried to wriggle out of his responsibility.
89. RESPONDENT 2 had not been in practice for some time. He was married to a young wife who was a barrister and they had a young baby of four months. The Law Society's intervention into the practice of Stevensons was a bad time for the respondent. His wife had to take time off because of her pregnancy and after giving birth. They had suffered severe financial difficulties. There had indeed been a "double hit" on the family economy. The respondent and his wife had endured a time of immense stress.
90. RESPONDENT 2 hoped he might be permitted to return to practice as a solicitor. He had learnt his lesson. In the future he would be extremely wary of any unusual transactions of which he had not had prior experience. RESPONDENT 2 accepted that conditions might well be placed upon his practising certificate and he further accepted that such a course would be unobjectionable.

91. ~~RESPONDENT 2~~ appreciated that the matters to be dealt with by the Tribunal were of a serious nature. The Tribunal was invited to give due consideration to the fact that the undertaking given by the respondent was not for the purpose of fraudulently obtaining money but in connection with the disbursement of money already obtained. He had not been instrumental in originating the fraud; at most he might have delayed its detection.
92. It was understood that Mrs Newmarch had, before setting up her business within the offices of Messrs. Stevensons, served a prison sentence as a result of a conviction for criminal offences involving fraud.
93. In the unusual circumstances of the matter the Tribunal was invited to deal leniently with ~~RESPONDENT 2~~

The Findings of the Tribunal

The Tribunal FOUND all the allegations in the amended form to have been substantiated. The picture painted by the evidence was an alarming one. Mrs Munson appears to have flown in the face of proper and good practice. Mrs Munson's attempts to circumvent the Law Society's decision to refuse to permit her to employ Mr Lizzimore, a struck off solicitor, and her extraordinary step of allowing a person independent of her firm to have free access and use of her office accommodation, its equipment and apparently its staff, without regard for the great need for confidentiality in clients' affairs and control over work undertaken by the firm and its financial arrangements was a recipe for disaster. Indeed the Tribunal adopted the expression used by the applicant when he said that Mrs Munson had been responsible for creating an environment in which fraud could flourish.

There was no doubt in the Tribunal's mind that Mrs Munson's behaviour had not reflected the integrity propriety and probity that was required of a member of the solicitors' profession.

In considering the position of ~~RESPONDENT 2~~ the Tribunal found it hard to understand the crass stupidity with which he acted. He himself was only too well aware of the fact that he had dealt with documents which were meaningless. He had revealed an extraordinary weakness of character in signing letters and undertakings which had simply been placed before him. He did not understand their content; he had not drafted the letters himself - he had merely allowed himself to be used for the purposes of a fraudster. To behave in that way was not acceptable for a member of an honourable profession.

The Tribunal have taken the view that ~~RESPONDENT 2~~ was dominated by an eccentric and dogmatic senior partner. He did not regard himself as being in a position to question arrangements for the firm sanctioned or initiated by her. He clearly became a victim of Mrs Newmarch and probably of Mr Lizzimore both of whom appeared to have been experienced fraudsters. Even the most sensible and cautious person can from time to time be totally taken in by a confidence trickster. The Tribunal accept ~~RESPONDENT 2~~ submission that he behaved extraordinarily stupidly and allowed himself to be used. They do not find that he had any intention of becoming complicit in the fraud and it was clear that he neither made nor anticipated any real personal gain. Nevertheless his behaviour was so unsatisfactory that the Tribunal considered it appropriate to impose a

severe sanction upon him and they ordered that he be suspended from practice for the period of five years.

The Tribunal further ordered that the costs of the application and enquiry should be paid by the respondents and shared between them as to two thirds to be paid by Mrs Munson and one third to be paid by ~~RESPONDENT 2~~ to reflect their respective parts and the culpability which fell upon their respective shoulders.

DATED this 28th day of May 1997

on behalf of the Tribunal



J W Roome
Chairman

Findings filed with the
Law Society on the 3rd
day of June 1997

THE SOLICITORS' DISCIPLINARY TRIBUNAL

PLEASE ATTACH A COPY OF THIS NOTE TO YOUR FINDINGS.

NOTE

DATE: 04/09/97

Re: Munson and ~~response~~ No. 7201/1996

Upon the completion of the Tribunal's Findings, the applicant pointed out to the Clerk that he had sought to amend the allegations set out in Mr Swift's originating application. The Clerk accepted that there had been an error in setting out the allegations which the respondents had to answer. The Clerk accepted that allegation (ii) had in effect been withdrawn and allegation (v) had also been withdrawn as being repetitive. The Clerk confirmed that the Tribunal had found allegation (i) (charged separately against Mrs Munson and ~~response~~ ^{MR 2} as set out in the Findings) and allegation (iv) to have been substantiated. Their Findings and sentencing comments were confirmed.