

IN THE MATTER OF WILLIAM HENRY SPARKS RELTON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. G B Marsh (in the Chair)

Mr. A Gaynor-Smith

Dame Simone Prendergast

Date Of Hearing: 6th February 1998

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 Geoffrey Williams solicitor of 36 West Bute Street, Cardiff on the 22nd August 1996 that William Henry Sparks Relton of Pimlico, London SW1V might be required to answer the allegations contained in the statement which accompanied the application and that such order be made as the Tribunal should think right.

On the 18th April 1997 the applicant made a further statement containing additional allegations.

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

The allegations were that the respondent had been guilty of conduct unbefitting a solicitor in each of the following respects namely that he had:-

- a. drawn money out of a client account otherwise than in accordance with Rule 7 Solicitors Accounts Rules 1991 contrary to Rule 8 of the said Rules;

- b. failed to maintain properly written books of account contrary to Rule 11 Solicitors Accounts Rules 1991;
- c. been in breach of a professional undertaking;
- d. again been in breach of a professional undertaking;
- e. failed to reply to correspondence from the Solicitors Complaints Bureau.

The application was heard at the Court Room No. 60, Carey Street, London WC2 on the 6th February 1998 when Geoffrey Williams solicitor and partner in the firm of Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and Colin Nott solicitor and partner in the firm of Hallinan Blackburn Gittings & Nott of 28 Buckingham Palace Road, London SW1 appeared for the respondent.

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

At the conclusion of the hearing the Tribunal ordered that the respondent William Henry Sparks Relton of _____ London SW1 (formerly of _____ Pimlico, London SW1) solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 6th day of February 1998 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 16 hereunder:-

1. The respondent, born in 1930, was admitted a solicitor in 1958. At the material times he practised as a solicitor on his own account under the style of William Relton & Co., at 120 Horseferry Road, London SW1P 2EF and at P O Box 9403 16-18 Strutton Ground, London, SW1P 2ZA.
2. By a letter to the Solicitors Complaints Bureau (the Bureau) dated the 10th February 1996 the respondent gave notice of his intention to abandon his practice. He requested that an intervention take place and an intervention was resolved upon on the 12th February 1996.
3. Upon notice duly given to the respondent an inspection of his books of account was carried out by an Investigation Accountant of the Law Society. A copy of the Investigation Accountant's report dated the 13th February 1996 was before the Tribunal and revealed that he had practised alone since 1984 conducting a predominantly criminal practice.
4. Bank accounts were maintained at National Westminster Bank Plc, 27-29 Horseferry Road, London, SW1 and details were contained in the report.
5. On the 9th February 1996 client and office bank accounts had been opened by Mr F, the respondent's firm's office manager or "trouble-shooter" at Barclays Bank Plc., Pall Mall branch. The respondent had not known the existence of these bank accounts and they had been withheld from the Investigation Accountant by Mr F. The respondent

had come to believe that the Barclays Bank accounts had been set up to be operated independently by Mr F, acting under a Power of Attorney given to him by the respondent, but contrary to his wishes. The Investigation Accountant had been unable to review the operation of the Barclays accounts.

6. The respondent's books of account were not in compliance with the Solicitors Accounts Rules 1991. Owing to the failure to provide information about the Barclays Bank accounts it was not possible for the Investigation Accountant to ascertain the respondent's total liabilities to clients. In respect of the accounts which had been disclosed the Investigation Accountant calculated that the respondent's minimum liabilities to clients as at the 14th December 1995 totalled £8,527.75. A comparison with cash available in client bank accounts at that date, after allowance for unclear items revealed a minimum cash shortage of £6,342.38. The minimum cash shortage was part-rectified on the 8th February 1996 by the introduction of funds totalling £1,659.26 by the respondent. The minimum cash shortage had been caused by unallocated transfers from client to office bank account of £4,683.12 and overpayments totalling £1,659.26.
7. On the 19th October 1995 and 2nd November 1995 the disclosed client bank account was charged with two transfers of £1,850.00 and £2,833.12 respectively from client to office bank account. The transfers were not allocated against any known liabilities to clients. The clients to whom those transfers related could not be identified.
8. The Investigation Accountant reported upon another matter relating to a failure to comply with an Undertaking on behalf of the respondent.
9. The respondent acted for C Trust in connection with obtaining lines of credit from a Mr R. The respondent confirmed that on the 11th March 1995 he had issued an Undertaking to Mr R on behalf of his client company and its directors, Mr S and Mr F in the following terms

"Please accept this letter as our assurance that the sum of USD50,000.00 (fifty thousand dollars), owing on the formation of accounts will be remitted to your bank (details of which are available to our client), no later than close of business New York time on Tuesday 14th March 1995. It is within our knowledge that funds expected for delivery on Friday will now be credited to his account no later than Tuesday next week."

That was Tuesday 14th March 1995. The respondent had never been placed in funds by his client and had been unable to comply with his Undertaking.
10. On the 23rd May 1995, Mr R obtained a High Court Judgement against the respondent to pay US\$50,031.71 in the sterling equivalent to Mr R.
11. The respondent confirmed to the Investigation Accountant that on the 3rd November 1995 an office account cheque in the sum of £32,828.06 (being the sterling equivalent), had been paid into Court, to allow him to seek appeal against the Judgement.

12. The respondent said that he was unaware that on the 5th November 1995 that cheque had been recovered from the Court and substituted by another in the sum of US\$52,000.00 drawn on the account of Mr HBV at Bank of America. The respondent said that he did not know who Mr HBV was although he added "it would have come from one of F's connections".
13. The respondent had been surprised to learn from the Investigation Accountant that the Bank of America cheque was bogus. The respondent insisted that he would continue to contest the Judgement although he was unsure what actions he would be taking in the near future.
14. The respondent acted for GFG Plc (the Company) which owed professional fees to a firm of Chartered Accountants. On the 6th September 1995 the respondent wrote the following letter to the firm of accountants

"We hereby irrevocably Undertake to pay any outstanding fees due to yourselves by the above named company within the next 30 days. This Undertaking is given on the understanding that you release all the relevant statutory documentation that are held by your company."
15. On the 6th October 1995 a director of the company collected from the firm's offices all the documents referred to in the exhibited letter. By that date the outstanding accountant's fees amounted to £1,438.75.
16. The firm wrote to the respondent seeking compliance with his Undertaking. In default of reply or compliance the firm submitted a complaint to the Solicitors Complaints Bureau (the Bureau) by a letter dated the 18th December 1995. The Bureau wrote to the respondent seeking his observations upon the complaint on the 8th and 31st January and the 14th February 1996. The respondent failed to provide any explanation about the matter and he had not complied with the terms of his Undertaking in part or at all.

The Submissions of the Applicant

17. The applicant accepted that the respondent had been a respected prosecution solicitor for many years and that he had suffered serious ill health after the commencement of his sole practice. It was accepted that two or three unadmitted clerks had effectively taken over the running of the respondent's practice. Two were being investigated by the Metropolitan Fraud Squad and, one of those had been Mr F referred to as the respondent's office manager. No decision had been made as to whether criminal charges would be brought. It was accepted that the respondent was not involved in any way in the criminal investigation.
18. There had been some cost to the profession. The Compensation Fund had paid out the sum of £1,418.50 and pending claims amounted to over £192,000.00.
19. The applicant did not allege dishonesty on the part of the respondent.

20. The applicant accepted that this was a sad case where a respondent suffering from ill health had relinquished his practice to individuals who proved to be untrustworthy. Despite the sad circumstances, the respondent's conduct reflected badly upon the solicitors' profession as a whole.

The Submissions of the Respondent

21. The respondent accepted the allegations and the facts before the Tribunal and did not seek to excuse himself. The Tribunal was however invited to take due note of the circumstances surrounding the respondent's appearance before the Tribunal. There had been no suggestion of dishonesty on the part of the respondent. He had not been guilty of deliberate, wilful or cynical misconduct. He was a solicitor of considerable experience and he conceded that his conduct had fallen below the required standards.
22. In the submission of the respondent his main failure had been a failure to manage and supervise his practice. In this connection there had been two major factors. The first had been the onset of Parkinson's disease with its own dreadful physical manifestations and mental impairment affecting his judgement and the second had been his taking on of two unadmitted clerks to help to put the practice on a more secure footing. Those clerks had then used the respondent as an innocent dupe and his practice as a vehicle for fraud.
23. The respondent had been a respected Scotland Yard Prosecutor for many years and after leaving that employment due to ill health he had subsequently worked as a freelance advocate during which time he had no management responsibilities. When eventually he set up in private practice on his own account it was clear that his previous experience rendered him not the best equipped person to deal with office administration. He worked hard and took on massive amounts of work. In the early days he was extremely successful and worked in a right and proper way. His abilities diminished considerably with the onset of Parkinson's disease which went undiagnosed until about October 1993.
24. At the same time the respondent had to shoulder the problems of having a child who suffered from Downs Syndrome. A daughter of the respondent had passed her solicitors' examinations only to find that she was prevented from pursuing her career owing to the onset of a disabling illness.
25. The respondent, with personal problems and poor health, became the victim of those whose help he sought but who in reality were predators who moved in on his practice.
26. The respondent and those advising him had been closely involved with the Fraud Squad. Mr F had been engaged by the respondent as what come to be termed a "trouble-shooter" and he came with impeccable credentials. He was described as an excellent financial manager and had first class experience and capabilities when it came to Legal Aid billing. It had also been indicated that the employment of Mr F would attract additional privately funded work to the firm.

27. It appeared that a large overdraft had been incurred on the respondent's office account. Mr F had produced cash flow projection to the respondent's bankers who had been impressed and had agreed to increase the overdraft facility to £40,000.00.
28. The respondent had no knowledge of the accounts opened at Barclays Bank. The Fraud Squad were in the process of carrying out a major investigation. It appeared that those accounts were utilised to assist in a substantial fraud.
29. Mr F dismissed the respondent's previous firm of accountants and brought in his own firm. The respondent trusted Mr F. He had not, however, realised that the accountants instructed by him had been dismissed until some time thereafter. The respondent had given the Undertaking to pay US\$50,000. The respondent had been naive and foolish and had relied upon Mr F to make funds available on the date when they were required on the understanding that he would be introducing commercial work. The respondent had had no knowledge as to the recovery of the cheque from the High Court and the substitution of a bogus cheque for it.
30. The respondent continued to liaise with the Solicitors Indemnity Fund in connection with these matters but the severe problems suffered with his health had rendered his memory somewhat unreliable. The respondent had not signed the second Undertaking but he said that he had trusted Mr F sufficiently that if he had put the letter in front of him for signature, the respondent would have signed it.
31. Mr F arranged for the second office of the respondent to be opened. The respondent began to realise what was going on. Post addressed to the firm was not reaching him - it appeared that a separate post office box had been opened. Telephone calls were not getting through to the respondent.
32. It appeared that when bills were drawn the main part of monies received were paid into the new office account at Barclays Bank and only a small part was paid into the old account.
33. Although the respondent's health was such that his judgment was impaired he was still able to consult with other solicitors and he himself invited the Law Society to intervene into his practice. He took the advice of the solicitors he consulted and was very concerned about the safety of the public and his own position. He had considered that he had been put on notice that all was not well not only in the light of the matters set out above but particularly when staff began to ask him why they were being paid in cash.
34. The respondent should be given credit for doing his public duty and asking the Law Society to intervene. At the same time he reported matters to the police. At that point Mr F removed all computers and paper work from the respondent's offices and disappeared.
35. It was subsequently discovered that the overdraft had been run up to a figure in the region of £78,000.00. The bank issued proceedings and the respondent and his wife sold their property to meet that indebtedness. They had also to pay off a mortgage. At that stage they found that three cautions had been registered against their property

by a Member of the Bar, a client and another solicitor. The sums secured by the cautions were discharged only when the respondent's wife encashed a life insurance policy. On the 16th July 1997 the respondent had been adjudicated bankrupt.

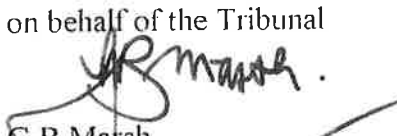
36. So far as the respondent's health was concerned the prognosis was poor. He was living on a pension. Any money recouped from his former practice would be used to pay the costs of the intervention.
37. The respondent recognised that the perception of the public of the solicitors' profession was paramount. He was in no doubt that he had fallen below the required high standards. The respondent's probity and integrity were not an issue. The public could trust him. He was not appearing before the Disciplinary Tribunal to answer allegations because of lack of honesty on his part but because he had not been sufficiently capable to run a solicitor's practice. The respondent himself knew that he was unfit and he had not sought to take out a Practising Certificate. The respondent should be given credit that despite his illness he had ultimately acted in a responsible way. The public needed no protection from the respondent, indeed it was submitted that the public would have considerable sympathy for him.
38. The respondent's appearance before the Tribunal amounted to a serious punishment in itself for a solicitor who hitherto had enjoyed an unblemished and distinguished career until suffering from illness and becoming the victim of predators. The Tribunal was asked to allow the respondent to retain his dignity.

The Findings of the Tribunal

The Tribunal found all of the allegations to have been substantiated, indeed they were not contested. Clearly this was a very sad case. The Tribunal had before it a medical report setting out in detail the respondent's health problems. They have not thought it appropriate to set out all of the details in these Findings. It was clear that the respondent had endured problems in his personal life at a time when his health was deteriorating. It did seem that the respondent had fallen victim of fraudsters who had used his firm as a vehicle for perpetrating their activities. The Tribunal accept that the respondent, in appealing to the Law Society for help, ultimately had acted with responsibility. Unfortunately in the state of health enjoyed by the respondent he was no longer able to practice as a solicitor. For this reason the Tribunal ordered that he be suspended from practice for an indefinite period and further ordered he should pay the costs of and incidental to the application and enquiry. For the avoidance of any doubt the Tribunal wish to make it plain that the respondent's probity and integrity are not at issue and have never been brought into question by these proceedings.

DATED this 27th day of February 1998

on behalf of the Tribunal


G B Marsh
Chairman

Findings filed with the
Law Society on the 12th
day of March 1998