

IN THE MATTER OF WILIAM PARISH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J W Roome (in the Chair)
Mr. H Isaacs
Mrs C Pickering

Date Of Hearing: 9th January 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 David Rowland Swift solicitor of 19 Hamilton Square, Birkenhead on the 4th September 1996 that William Parish of St Ives, Cornwall (who's address was subsequently notified as Penzance, Cornwall) might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

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

- (i) contrary to Rule 8 of the Solicitors Accounts Rules 1991 drawn money out of client account other than as permitted by Rule 7 of the said Rules;
- (ii) utilised clients' funds for the purposes of other clients;
- (iii) utilised clients' funds for his own purposes;

- (iv) failed to discharge his duties as executor/trustee with due diligence and/or in the best interest of an estate;
- (v) failed to disclose material information to his client.
- (vi) failed to act in accordance with his instructions and/or in the affairs of his client with due diligence.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 9th January 1997 when Jonathan Goodwin solicitor and partner in the firm of Messrs Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead appeared for the applicant and the respondent did not appear and was not represented. The respondent wrote a letter to the Tribunal dated the 7th January 1997 in which he confirmed he would not be attending the hearing on the 9th January nor would he be represented.

The evidence before the Tribunal included the respondent's letter addressed to the Tribunal dated the 7th January 1997 (hereinafter referred to as the respondent's letter).

At the conclusion of the hearing the Tribunal ORDERED that the respondent William Parish of [redacted], Penzance, Cornwall (formerly of [redacted] St Ives, Cornwall) 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 £3,821.37 inclusive.

The facts are set out in paragraphs 1 to 17 hereunder:-

1. The respondent was admitted a solicitor in 1968. At the material times he practised on his own account under the style of Parish & Co. at The Guildhall, St Ives, Cornwall. On the 2nd April 1996 the Law Society resolved to intervene in the respondent's practice. Upon due notice the Investigation Accountant of the Law Society carried out an inspection of the respondent's books of account on the 23rd October 1995. His report dated the 31st October 1995 was before the Tribunal.
2. That report revealed that the respondent intended to retire on the 31st October 1995 when his practice was being taken over by another solicitor. The respondent indicated that he did not intend to return to practice as a solicitor in the future.
3. The Investigation Accountant's report disclosed that the respondent's books of account were not in compliance with the Solicitor's Accounts Rules.
4. A list of liabilities to clients as at 30th September 1995 was produced for inspection. The items were in agreement with the balances shown in the clients' ledger and totalled £80,874.19. The respondent agreed that further liabilities of £2,142.62 existed which were not shown by the books and records, increased the total to £83,016.81 and a comparison of that figure with cash held on client bank and building society accounts at that date, after allowance for uncleared items, showed the following position -

Liabilities to clients	£83,016.81
Cash available	<u>75,924.38</u>

Cash shortage £7,092.43

The cash shortage arose in the following way:-

(i) overpayment	£4,949.81
(ii) improper transfers of costs from client to office A/c	<u>2,142.62</u>
	<u>7,092.43</u>

5. The respondent agreed the existence of the cash shortage on client bank account of £7,092.43 as at 30th September, 1995, which he said he would rectify on the 31st October 1995 when he retired and his practice was to be taken over.
6. The overpayment was made in connection with Mr P for whom the respondent acted in connection with various conveyancing matters.
7. On the 30th October 1994 the relevant account in the clients' ledger had been charged with £8,239.06 in respect of a payment to Portman Building Society relating to Mr P's mortgage arrears on a property at St Ives when only £3,289.25 stood to its credit thereby giving rise to a debit balance of £4,949.81. This remained the position as at 30th September 1995, eleven months later.
8. During the period 5th November 1994 to 11th August 1995 four transfers, varying in amount between £998.87 and £1,175.00 and totalling £2,142.62 were made at the respondent's instigation from client to office bank account in respect of three different clients. The respondent agreed that the transfers were improper, as no written intimation or bill of costs had been delivered to the clients concerned.
9. The Investigation Accountant went on to report two further matters - W deceased and another matter for Mr P.
10. The respondent was the sole executor of the estate of W deceased, who died on 2nd March 1993 leaving an estate with a gross probate valuation of £183,470.00. On the 24th August and the 12th December 1994 the respondent made two withdrawals from client bank account of £25,000 and £2,000 respectively in favour of Mr Noel Horner (another solicitor). The payments were charged to the relevant account in the clients' ledger and reduced the balance thereon to £2,529.90 at the latter date.
11. The respondent explained that Mr Horner was a solicitor based in Truro, Cornwall, whom he had known for many years. He said that he had given Mr Horner the money from the deceased 's estate as an investment, which was secured by way of an undertaking from Mr Horner to repay the monies on 28 days notice. The respondent said he "believed that the general undertaking was adequate security for the loans". He had demanded repayment from Mr Horner, who had been unable to repay the loans.
12. The respondent had not advised the beneficiaries, or made a complaint to the Solicitors Complaints Bureau, regarding this matter.
13. The respondent acted for Mr P and TSB Homeloans in connection with the purchase of a property at St Ives, which transaction was to proceed by way of an exchange of

properties. Mr P was to provide "equality money", the property he was to acquire being of the higher value.

14. Mr Noel Horner was to act for the vendor of the higher value property and in his purchase of Mr P's property.
15. The respondent had not advised TSB Homeloans that transaction was by way of exchange, with only a proportion of the consideration being by way of cash, as he had assumed that they knew that was the case.
16. On 5th August 1994 the respondent's firm, received £165,000 from their client TSB Homeloans in respect of the mortgage advance which was credited to the relevant account in the clients' ledger. The respondent transferred £6,000 and £150,000 on the 16th August and 19th August 1994 respectively, to the vendor's solicitor, Noel Horner, and those payments reduced the client's balance to £8,252.13 by the latter date. Completion had not taken place as agreed, and had still not taken place. The respondent had not received the title deeds of the property to be purchased from Noel Horner. The respondent had not advised his mortgagee client TSB Homeloans, that the exchange of properties had not been completed and that he had paid £156,000 to the vendor's solicitors without obtaining any security.
17. The respondent agreed that the remaining mortgage funds of £9,000 (£165,000 - £156,000) had been utilised on behalf of Mr P, but said that he did not believe that those payments represented a misuse of client funds as "they had to be considered in conjunction with the client's sale." Those payments were as follows:-

<u>Payee</u>	<u>Purpose of Payment</u>	<u>£</u>
Inland Revenue	Stamp Duty	2,250.00
Walter & Barbary	Rent payment on unrelated property	747.87
Portman	Balance due to client	3,506.98
Parish & Co.	Costs	1,203.40
Portman Building Society	Mortgage arrears on unconnected property	1,291.75
		<u>9,000.00</u>

The submissions of the applicant

18. The position of the respondent was entirely plain from the facts set out in the Investigation Accountant's report placed before the Tribunal. The respondent had not met his obligations as a solicitor. His handling of clients' funds on a number of occasions had been improper. There was no doubt that the respondent had behaved in a way which amounted to conduct unbecoming a solicitor and he had seriously mishandled clients' funds. The mishandling of clients' funds included the serious misuse of funds belonging to an institutional lending client.

The submissions of the respondent - (the respondent's letter dated 7.1.97 addressed to the Tribunal)

19. "Dear Sir,

Re: 7225/96 William Parish

I shall not be attending the hearing on the 9th January nor shall I be represented.

I have not seen the documents referred to in Mr Swift's letter to me dated 12th December 1996. His letter was sent to the wrong address and did not contain the enclosures it referred to.

Subject to that I do not think I can add much to the letter I wrote to the SCB on the 3rd June last year, a copy of which I believe Mr Swift will put before you. I ceased practising at the end of October 1995. I was not in practice at all when the Law Society resolved to intervene in April 1996. I had passed current files and 'dead' files not more than 5 years old to Mr S at the end of October the previous year along with my client account cheque for the balance due to clients. Some older files had been disposed of but not before each file had been checked and original documents passed on to Mr S. I passed the remaining old files to the Law Society's agents.

Yours faithfully,

W Parish."

20. The Tribunal had a copy of the respondent's letter of the 3rd June. The Tribunal set out hereunder the respondent's relevant remarks.
21. The cash shortage represented by the payment of money for Mr P was a foolish attempt to help a client in a crisis which had arisen while the client had been away and was repaid when the balance of the respondent's client account was paid to Mr S.
22. The costs improperly transferred were costs actually due to the respondent for work already undertaken.
23. With regard to the monies paid from the estate of W deceased to N Horner, the payments were loans secured by the unqualified undertaking of a solicitor, who the respondent had known professionally (hardly at all socially) for many years and who at the time was a long standing and, the respondent thought, a respected member of the profession. The respondent had not even begun to conceive the slightest notion that anything had been amiss. When Mr Horner "disappeared" he contacted the respondent by telephone and assured the respondent that arrangements were in hand for the money to be repaid. The respondent had wanted to believe that but as time went by the respondent realised that his own position was becoming more difficult. That had influenced the respondent in his resolve to leave the profession and to leave to others the task of recovering the money.
24. The transaction involving the exchange of properties was one which took place at a time when Mr Horner was a normal part of the professional scene. TSB Homeloans must have known that it was lending money to both Mr P and the vendor to enable them to buy each other's houses. Both mortgage applications were processed through the same broker, at the same branch of the bank by a manager who interviewed both of

the prospective borrowers and within the same period of time. Both sets of TSB instructions went to the respondent but he declined to act for both vendor and purchaser and invited the vendor of the higher value property to find another solicitor to whom he would send on the TSB paperwork.

25. The TSB required a first charge on the higher value property being purchased by Mr P for whom the respondent did act. The money received from TSB was for that purpose and the respondent sent to the vendor's solicitors a sum which he said that he required. The respondent did not see it as a matter for the TSB if the arithmetic permitted Mr P to have some money too. The respondent said that many people build some money into the conveyancing transaction figures to pay for new carpets, curtains and so on. Mr Horner undertook to send the deeds of the property to the respondent. Mr Horner had assured the respondent that all the necessary arrangements were in hand and there were just one or two minor problems which were being sorted out. It was Mr Horner's failure to act properly which caused the problem.
26. The respondent went on in that letter to say that he was not sorry to be away from the pressures which members of the solicitor's profession faced more and more each day. He had no intention of trying to return to them.

The Findings of the Tribunal

The Tribunal FOUND the allegations to have been substantiated. The Tribunal consider that the respondent appeared entirely to have abrogated his responsibilities as a solicitor. It was wholly inconsistent with a solicitor's duty to send monies belonging to a deceased's estate to another solicitor secured only by an undertaking and apparently by way of unsecured loan without the authority of the persons in a position to give it. It was right that the respondent be Struck Off the Roll of Solicitors and he was Ordered to pay the costs of and incidental to the application and enquiry in a fixed sum which included the costs of the Investigation Accountant of the Solicitors Complaints Bureau.

DATED this 6th day of March 1997

on behalf of the Tribunal



J W Roome
Chairman

