

Filing of Order with Law Society suspended
for 14 days after filing of the Findings

No. 7257/1996

IN THE MATTER OF CHARLES VINCENT ROWE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.C. Chesterton (in the Chair)
Mr. J.W. Roome
Mr. K.J. Griffin

Date Of Hearing: 28th May 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 Peter Harland Cadman, solicitor of 2 Putney Hill, Putney, London SW15 on 14th October 1996 that Charles Vincent Row, solicitor of Grange Barn, The Street, Thurlow, Nr. Haverhill, Suffolk might be required to answer the allegations contained 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 -

- (a) contrary to Rule 8 of the Solicitors' Accounts Rules 1975 drawn money out of client account other than as permitted by Rule 7 of the said Rules;
- (b) utilised clients' funds for his own purposes;
- (c) misappropriated clients' funds.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 28th May 1997 when Peter Harland Cadman, solicitor and partner in the firm of Messrs. Russell-Cooke, Potter & Chapman of 2 Putney Hill, Putney, London SW15 appeared for the applicant and Brian Hulme of Counsel, instructed by Messrs. Lloyd Cooper of 7a Grafton Street, London W1, appeared for the respondent.

The evidence before the Tribunal included the oral evidence of the respondent, Peter Bottomley and David Jonathan Hervey-Murray.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Charles Vincent Rowe of Grange Barn, The Street, Thurlow, Nr. Haverhill, Suffolk CB9 7LA solicitor be Struck Off the Roll of solicitors and they further ordered him to pay the costs of and incidental to the application and enquiry to be taxed if not agreed.

Upon the application of the respondent the Tribunal agreed that the filing of the order with the Law Society might be suspended for the period of fourteen days after the filing of the Tribunal's Findings with the Law Society to enable him to consider an appeal to the Divisional Court.

The facts are set out in paragraphs 1 to 32 hereunder:-

1. The respondent, born in 1941, was admitted as a solicitor in 1964. At the material times he practised on his own account under the style of Charles Vincent Rowe at Grange Barn at Thurlow near Haverhill, Suffolk. On the 28th March 1990 the Law Society intervened in the respondent's practice.
2. The respondent had been the solicitor retained by S I Ltd. and acted on the company's behalf in the receipt and payment of substantial sums of money.
3. The company made complaint that on a number of occasions in 1986 and 1987 monies belonging to the company were transferred at the request of the respondent into accounts held by him to include his client account at the Royal Bank of Scotland.
4. The respondent arranged for a number of sums of money to be applied for his own use and benefit.
5. The relevant movements of money were as follows:-

Date	£ Payments	\$ Payments	\$/£ Exchange Rate	Total £ equivalent
24.11.1986		25,000	1.4125	17,637.00
2.12.1986		61,500	1.4298	43,013.00
3.12.1986	150,000			150,000.00
3.12.1986	54,000			54,000.00
18.5.1987	35,000			35,000.00
28.9.1987		30,000	1.6427	<u>18,263.00</u>

Grand Total 317,913.00

6. The respondent accepted that he had instigated the payment of the first five of those figures and explained the receipts and payments as follows:-
- (i) That sum was transferred to the client account of the respondent and credited to the account of S I Ltd. On or about the same date that sum was paid out of the respondent's client account and used for his own purposes.
 - (ii) That sum was transferred by Messrs. Nigel Harris & Partners (solicitors in Jersey) at the request of the respondent, who directed its destination, but it was not received into his client account. That money was used for the respondent's own purposes.
 - (iii) That sum was also transferred by Messrs. Nigel Harris & Partners at the request of the respondent to his client account. Shortly thereafter the whole sum was transferred by a Chaps payment from the respondent's client account to British Bloodstock Agency Plc.
 - (iv) That sum was transferred by Messrs. Nigel Harris & Partners at the respondent's request and was received into the respondent's client account. Shortly thereafter the respondent utilised the money for his own purposes.
 - (v) That transfer was made by Messrs. Nigel Harris & Partners upon the authority of the respondent and the money was received into the respondent's client account and credited to a ledger in the name of S P Ltd. The bulk of that money was distributed over the following few days.
7. The sums of money set out in numbers (i) to (v) above together with a claim for interest thereon and after allowance for repayments by the respondent totalling £51,500 was the subject matter of a writ served upon the respondent. The respondent had not defended the action and judgement had been obtained.
8. The respondent confirmed that all of that money transferred had been utilised by him in connection with bloodstock transactions. He owed money. He had outstanding debts in relation to bloodstock transactions and deals that required to be finalised.
9. There was contention as to the nature of the monies so transferred. The respondent said that the payments to him represented agreed loans. Mr Bottomley, who the respondent said had agreed to the loans, denied that he had so agreed and asserted that the monies had been misappropriated by the respondent.
10. The Tribunal next deal briefly with the history of the relationship between Mr Bottomley and the respondent. The respondent and Mr Bottomley had met in the middle of the 1960's. The respondent was, of course, a solicitor and Mr Bottomley who was originally an aircraft mechanic, had built up a substantial business a large part of which related to the aviation industry. The two men enjoyed a close relationship - Mr Bottomley being the technical expert and the respondent lending commercial expertise. It appeared that they were a "well known team" and were constantly and closely in contact. Over the years Mr Bottomley had become an extremely wealthy man. The relationship between Mr Bottomley and the respondent was a mixture of

business and friendship. They both agreed that for the majority of the time whilst they were ad idem theirs was an entirely successful and productive association. On occasions when they did not agree the very opposite was the case. The respondent had been a director as well as solicitor to a number of Mr Bottomley's companies.

11. S I Ltd. was a company created to buy DC8 aircraft and to resell them at a profit. On the respondent's advice the company was set up in Jersey. There were three share holders: Mr Bottomley's holding company, which owned one third of S I Ltd, and two other foreign share holders who would derive tax benefits where dealings were conducted through an offshore company.
12. Messrs Nigel Harris & Partners, English solicitors based in Jersey, were instructed. They were aware of the respondent's role in Mr Bottomley's companies.
13. It was the respondent's evidence that he and Peter Bottomley had discussed the possible purchase of another aircraft and a number of other matters at the time when the transfers of monies were made. He said that Mr Bottomley, who shared his interest in bloodstock, was aware of the respondent's debts and the use to which the money was to be put.
14. The respondent said that at the time the purported loans were made he thought he would be able to repay them. Monies were outstanding to him for directorship fees, legal fees, expenses and management fees and all of these would be off set against the loans. The respondent said that up to 1989 he was owed a vast amount of money in respect of such matters. He had never rendered a bill for work done although he had come to realise that he should have done. He calculated that he was owed between £200,000 and £300,000 in respect of unpaid fees. He had made the assumption that as Peter Bottomley and the respondent were friends as well as working colleagues they would be able to agree a set off.
15. It turned out that the respondent could not repay the monies to S I Ltd. as the bloodstock transactions went wrong. He said that Mr Bottomley was fully aware of his involvement with bloodstock and what the loans were for. After the monies were loaned Mr Bottomley had from time to time asked when the monies could be repaid. By 1989 it had become clear that the respondent would not be able to repay.
16. Mr Bottomley who gave evidence to the Tribunal denied that the monies utilised by the respondent were loans authorised by him.
17. In view of the long and successful history of Mr Bottomley's relationship with the respondent he had been shocked and disappointed at the respondent's action. Mr Bottomley said that he had previously stood surety for the respondent in an unrelated matter.
18. Mr Bottomley said that the respondent was always paid for his professional work and there was no question of any outstanding fees owed by Mr Bottomley or his companies to the respondent.

19. Mr Bottomley accepted that at the time the monies in question were transferred, he and Mr Rowe might well have been in regular contact but at no stage did the respondent discuss the transfer of the monies and Mr Bottomley had not been asked to lend money to him. Mr Bottomley said that if he had been asked to lend money he would have refused because he had previously lent money to the respondent and had made it plain to him that he would never do so again. In addition the money in S I Ltd. was not Mr Bottomley's to lend - his holding company was merely one of the share holders. The respondent was a director of the holding company and it would not have been lawful for him to borrow money from it or from S I Ltd.
20. Mr Bottomley said that he had previously lent money to the respondent on two occasions. The most recent occasion involved a loan of £41,000 because he owed a race horse trainer some money. The respondent was being threatened with bankruptcy. That loan was confirmed in writing. It took the respondent four years to repay and involved Mr Bottomley in much chasing of him. The respondent had given a series of promises and excuses and Mr Bottomley recalled that eventually the loan was off-set against his legal fees. Mr Bottomley said that as a result of that experience Mr Bottomley told the respondent he would not lend him money again and if he had asked to borrow money from Mr Bottomley then he would have refused.
21. Mr Bottomley had not been aware of the use to which the money had been put at the time when it was transferred.
22. When the shortage of money was discovered Mr Bottomley made good the loss to the other investors and asked for the return of the monies from the respondent.
23. Mr Bottomley said that he had not been aware of the transfers of money until an attempt was made to distribute the profits from S I Ltd. When the subject of the missing money was raised with the respondent he made excuses including one that the monies were on long term investment and could not be raised quickly. In due course Mr Bottomley threatened to report the respondent to the Law Society.
24. Mr Bottomley recalled a meeting which took place in December 1987 between the respondent, Mr Bottomley and Mr Hervey-Murray when the respondent said that he had put the money into long term investment and it could not be liquidised at short notice. He was never specific about the whereabouts of the money. He made promises to repay the monies in specific tranches by specified dates.
25. Mr Bottomley said that he had not actively pursued the respondent when the apparent defalcation became evident because at the time Mr Bottomley's companies were negotiating a major international transaction in which the respondent was playing a considerable part and any suggestion that he might not be a man of the utmost integrity might well have jeopardised the successful outcome of the negotiations.
26. Mr Hervey-Murray gave evidence to the Tribunal. He was a Chartered Accountant who used to be the Financial Director of Mr Bottomley's holding company. Mr Hervey-Murray said he obtained all relevant information from the company records and elsewhere - in particular a visit to Nigel Maine & Partners in Jersey concerning the

transfers of money to or at the direction of the respondent - in order to pursue a claim for compensation from the Solicitors Compensation Fund.

27. Mr Hervey-Murray said that there was no justification for any of the respondents' actions with regard to the taking of those funds. There was no bill rendered and unpaid, there were no disbursements outstanding for which payment had been requested by the respondent.
28. Mr Hervey-Murray said that when the problem was discovered and the respondent was approached initially he gave a series of excuses and said that the money would be available in the near future. He said the money was on overnight investments and that "the money was on its way." Eventually the respondent admitted that all the money had been used and he could not replace it in the immediate future.
29. Mr Hervey-Murray confirmed that he was aware of the civil action for the recovery of the money in which judgement had been obtained against the respondent. No money had been recovered however from the respondent pursuant to the judgment. A payment had been made out of the Law Society's Compensation Fund.
30. The Tribunal noted that all of those giving evidence pointed out that the subject matter of their evidence had taken place many years earlier and each of them had difficulty as to precise recollection.
31. The respondent in evidence said that the loans were not documented and that was entirely consistent with the long relationship which he had enjoyed with Mr Bottomley when many such matters were dealt with on an entirely informal basis.

The submissions of the applicant.

32. The issue before the Tribunal was a simple one. Were the five sums of money transferred to or by the direction of the respondent loans to the respondent made with proper consent or were those monies wrongly taken by him. The movement of the monies was not disputed. The monies were removed at the instigation of the respondent. There were many admitted facts and the applicant relied upon the evidence of Mr Bottomley and Mr Hervey-Murray that there had been no agreement with the respondent that he might treat such money as a series of loans and use it for his own purposes. In the submission of the applicant the allegations, which were serious, were made out.

The Submissions of the respondent

33. The Tribunal was invited to take into account the fact that ten or eleven years had elapsed since the transactions in question and the fact that the witnesses' memories of what had taken place had dimmed.
34. The Tribunal was invited to ask itself that if the payments were not properly sanctioned loans to the respondent then why had Mr Bottomley continued to employ the respondent's services as director and solicitor.

35. It was not unusual for Mr Bottomley to lend money. The Tribunal was invited to look carefully at the suggestion that Mr Bottomley had not pursued the respondent earlier because of his involvement with major business transactions. Would Mr Bottomley really have continued to use the respondent particularly in the negotiation of major international transactions if he had really thought that he had stolen large sums of money?
36. Mr Bottomley's holding company employed a financial controller and it was hard to believe that he had not been aware of the transfers of substantial funds. In the considerable correspondence which had been placed before the Tribunal there was a clear recognition on both sides that the monies represented a debt, that was to say an indebtedness of the respondent which implied authority.
37. Mr Bottomley, although his holding company was a one third shareholder in S I Ltd, undoubtedly regarded S I Ltd as part of his "fiefdom" and considered himself entirely at liberty to authorise loans made by that company.
38. The Tribunal was invited to conclude that the transfers of money in question represented authorised loans to the respondent and that the matters alleged against him should fail.

The Findings of the Tribunal

The Tribunal found all of the allegations to have been substantiated.

On the 27th February 1990 the Tribunal found the following allegations to have been substantiated against the respondent.

The allegations were that the respondent had:

- (a) failed to comply with the Solicitors Accounts Rules 1986 in that he notwithstanding the provisions of Rule 8 of the said Rules drew out of a client account money other than that permitted by Rule 7 of the said Rules;
- (b) had been guilty of conduct unbecoming a solicitor in that he:
 - (i) utilised money held and received by him on behalf of a certain client or certain clients for the purposes of a person other than such client or clients;
 - (ii) practised as a solicitor without taking out a Practising Certificate;
 - (iii) failed to observe his duty to keep a client, namely Bloodstock Holdings Limited, informed and to comply with reasonable requests from the client for information concerning its affairs;
 - (iv) notwithstanding a rebuke from the Adjudication Committee on 14th September 1988 he failed to deal properly or at all with correspondence from the Law Society.

The Tribunal then accepted that the Accounts Rules breaches were not of the most serious nature and accepted that they reflected errors of book-keeping rather than any dishonesty. They said that the respondent's failure to put some matters right expeditiously was indicative of his general failure to deal with matters of administration in connection with his practice. That was also exemplified by his failure to take out Practising Certificates when he was required so to do.

The Tribunal on that occasion accepted that the respondent undertook work which was not strictly speaking work relating to his solicitor's sole practice. However he was practising as a solicitor and should properly have complied with the laws, rules and regulations governing the profession. The Tribunal took a serious view of the respondent's failure to keep Bloodstock Holdings Limited informed and to deal with their reasonable requests for information. The Tribunal took an even more serious view of the respondent's failure to heed a rebuke from the Adjudication Committee of the Solicitors Complaints Bureau. The Tribunal said that it was unacceptable for a solicitor not to heed the requirements of his own professional body and to ignore that body when dealing with his own shortcomings.

The Tribunal said that it was pleased to note that the respondent did not continue in sole practice as a solicitor and indeed they wished to recommend to the Law Society that should he make an application for a Practising Certificate in the future they might give close consideration to placing a condition thereon preventing him from continuing in sole practice.

The Tribunal Ordered that the respondent be suspended from practice for the period of six months to begin on the 27th February 1990 and they further Ordered him to pay the costs of the application and enquiry.

In May 1997 the Tribunal was dismayed to find the respondent appearing before them again having been rebuked by his own professional body, and having been suspended from practice by the Tribunal on an earlier occasion.

The Tribunal note that the matters leading to the disciplinary proceedings before them on this occasion took place before the respondent's earlier suspension. The single matter of fact to be decided by the Tribunal was whether or not the monies belonging to S I Ltd., which were utilised by the respondent for his own purposes, were authorised loans or whether he took those monies without such authorisation. There was no documentary evidence to support either contention and the oral evidence was in conflict. The Tribunal noted that civil proceedings for the recovery of the money had been instituted and concluded. The judgment obtained against the respondent had proved unenforceable. The respondent was insolvent. Mr Bottomley had successfully made a claim upon the Law Society's Compensation Fund.

The respondent put himself forward as a man of great commercial experience and business acumen. On his own case the respondent was a solicitor who appeared to have ignored what authority or whose authority would have been necessary for loans to be made to him and not to have taken any steps formally to document the transaction or transactions. It was entirely reprehensible for a solicitor to take very

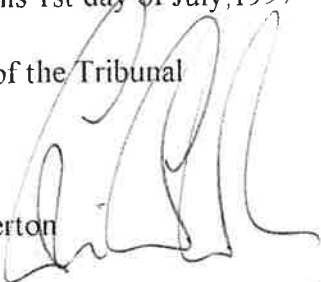
large sums of money from a client without proper documentation and without ensuring that all the professional rules of conduct relating thereto had been adhered to most strictly. The Tribunal found the respondent's evidence unconvincing. The Tribunal are of the view that the respondent helped himself to money to which he was not entitled to settle his own very large debts perhaps in the belief that he would be able to reconcile his very wealthy friend and client as to what had occurred in the light of their unusual relationship and the great importance that the respondent appeared to play in the success of Mr Bottomley's business ventures.

The Tribunal were of the view that this was a very serious case. Members of the public were entitled to believe that their money in the hands of a solicitor would never be placed in jeopardy. The taking by a solicitor of money over which he had exercised control for his own purposes served to destroy the good reputation of the solicitors' profession and the public must be protected from the possibility of any repetition of such behaviour. The Tribunal deprecate the actions of the respondent who had not displayed the regret and contrition that would have been appropriate. His fellow practitioners had contributed a great deal of money to ensure that the respondent's clients would not suffer loss. The public must be protected from him. The Tribunal Ordered that the respondent be Struck Off the Roll of Solicitors and they further ordered him to pay the costs of and incidental to the application and enquiry to be taxed if not agreed.

DATED this 1st day of July, 1997

on behalf of the Tribunal

J C Chesterton
Chairman



Findings filed with the
Law Society on the 18th
day of July 1997