

IN THE MATTER OF JOHN PATRICK BEIRNE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. D E Fordham (in the Chair)  
Mr. J R C Clitheroe  
Lady Bonham Carter

Date Of Hearing: 15th May 1997

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## FINDINGS

of the Solicitors' Disciplinary Tribunal  
constituted under the Solicitors Act 1974

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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 November 1996 that John Patrick Beirne, solicitor, of 1192 Stratford Road, Hall Green, Birmingham, 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.

At the opening of the hearing the applicant sought to withdraw one of the allegations. The Tribunal agreed. The allegations are set out below in the agreed amended form.

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 his own purposes;
- (iii) misappropriated clients' funds;

- (iv) failed to account for funds handled by him in his capacity as a solicitor;
- (v) withdrawn
- (vi) 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 15th May 1997 when Roger Field solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared on behalf of the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included affidavit evidence by an enquiry agent as to due service of the proceedings and evidential documents and notices.

At the conclusion of the hearing the Tribunal ORDERED that the respondent John Patrick Beirne of 1192 Stratford Road, Hall Green, Birmingham, 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 £4,594.97 inclusive.

It was noted from the enquiry agent's affidavit that the respondent appeared to be resident at Kings Heath, Birmingham.

The facts are set out in paragraphs 1 to 13 hereunder.

1. The respondent, born in 1956, was admitted as a solicitor in 1990. At the material times he practised on his own account under the style of Mulrey Beirne & Co. at 1192 Stratford Road, Hall Green, Birmingham. On the 17th July 1996 the Law Society resolved to intervene into the respondent's practice.
2. Upon due notice to the respondent the Investigation Accountant of the Law Society carried out an inspection of the respondent's books of account commencing on the 12th March 1996. The Investigation Accountant's Report dated the 5th July 1996 was before the Tribunal.
3. The report revealed that the respondent's books of account were not in compliance with the Solicitors Accounts Rules.
4. A list of liabilities to clients as at the 29th February 1996 was produced for inspection and after adjustments totalled £198,015.30. The items were in agreement with the balances shown in the clients' ledger, however the list did not include further minimum liabilities to clients amounting to £15,850.50 and the inclusion of those additional liabilities increased the total to £213,865.80. A comparison of that figure with cash held on client bank account revealed a minimum cash shortage of £15,765.50. The shortage had not been rectified. It had been caused by improper payments and transfers from client to office bank account of £15,850.50 and a surplus caused by a bank error of £85.00.
5. The whole of the improper payments and transfers had arisen in connection with two clients of the respondent Mr J and Mr OB in respect of whom he acted in connection with various matters. The following transactions had taken place debiting office account and crediting client account:-

19.1.96	Payment	£8,200.00
07.2.96	Transfer	3,900.50
12.2.96	Payment	<u>3,750.00</u>
		<u>£15,580.50</u>

The respondent said the sum of £15,850.50 related to bills of costs which had been raised and delivered to the clients. During the inspection the clients were contacted and they confirmed they had not received any of the bills of costs. The Investigation Accountant had made several attempts to contact the respondent to seek his explanations without success.

6. A further cash shortage arose after the inspection date in connection with the client Mr OB. On the 24th May 1996 the relevant account in the clients' ledger was charged with a payment of £4,300 from client into office bank account which had been annotated "to office account costs". The payment increased the credit balance on the office column of the ledger from £40.00 to £4,340.00. There was no evidence that bills of costs had been raised or delivered to the client.
7. On the 22nd March 1996 Messrs. George Jonas solicitors of Birmingham complained to the Solicitors Complaints Bureau (the Bureau) (which body was superseded by the Office for the Supervision of Solicitors) that the respondent had failed to account for funds that had come into his possession as a solicitor. The respondent acted for Mrs D in connection with proceedings against Mrs K for whom George Jonas were acting.
8. Mrs D obtained judgment against Mrs K and the respondent was instructed to obtain an order for sale of Mrs K's property which was duly sold and the proceeds passed to the respondent.
9. The respondent failed to account to Mrs K for the proceeds of sale after the discharge of the judgment debt.
10. Messrs. George Jonas applied to the court for an order that the respondent should account and on the 3rd October 1995 the respondent admitted that the sum of £18252.26 was due to Mrs K but he failed to make payment.
11. On the 23rd February 1996 the respondent gave an undertaking to the court to pay that sum into court which he did. The matter was further investigated by the court which determined that the respondent had not fully accounted for the sums which he had received as he had sought to deduct costs which were not properly due to him. The respondent was ordered to pay a further £25,000 into court which he failed to do.
12. On the 29th January 1995 Birmingham City Council complained to the Bureau that the respondent had failed to account to it for the sum of £36,000 which was the balance of a sum of £165,000 deposited with the respondent to be held to the order of the Council in connection with the Council's acquisition of land. The City Council requested return of the sum of £36,000 with accrued interest on the 3rd November 1995 but the respondent did not make payment.
13. On the 26th February 1996 the Bureau wrote to the respondent seeking explanation. He did not reply nor did he provide any explanation. A further letter was sent to the

respondent on the 27th March 1996 but the respondent did not reply and did not account for the funds.

**The Submissions of the Applicant**

14. The Law Society had interferred into the practice of the respondent on the grounds of his suspected dishonesty.
15. The facts before the Tribunal represented an extremely serious case. The Investigation Accountant's report showed that the respondent raided client account for money for his own use. He treated clients' monies as if he were entitled to them when he was not. Undertakings given to the court still remained to be resolved.
16. Sixteen applications had been received and were being examined by the Law Society's Compensation Fund. At the date of the hearing the Compensation Fund had paid out £524.00. The total of the pending claims amounted to £3,510.63. Those administering the Compensation Fund believed that sums claimed might reach a somewhat higher order but there had been insufficient time clearly to establish the position. The Fund had made no recoveries.

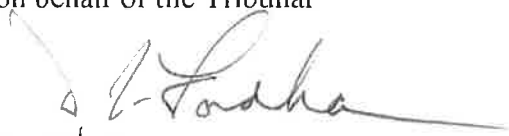
**The Tribunal's Findings**

The Tribunal FOUND the allegations all to have been substantiated.

The respondent had made no representations or indeed any response at all to the proceedings. It was apparent from the facts before the Tribunal that the respondent had simply taken monies for his own use and benefit without any regard for the position of utmost trust in which as a solicitor he was placed. It was a serious matter to fail to comply with an undertaking and if it were possible for such a failure to be placed at the highest possible level then perhaps to fail to discharge an undertaking given to the court might be afforded that description. A solicitor who behaved as the respondent has done severely damages the good reputation of the solicitors' profession and undermines the trust which members of the public should rightly be able to repose in it. The Tribunal ordered that the respondent be struck off the Roll of Solicitors and further ordered that he should pay the costs of and incidental to the application and enquiry.

DATED this 16th day of June 1997

on behalf of the Tribunal

  
D E Fordham  
Chairman

