

IN THE MATTER OF WILLIAM ELLIS CRAWFORD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A G Gibson (in the Chair)
Mr. D E Fordham
Lady Maxwell-Hyslop

Date Of Hearing: 7th May 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 Peter Harland Cadman of 2 Putney Hill, Putney, London, SW15 on the 14th November 1996 that Williams Ellis Crawford of Messrs. Crawfords, 1st Floor, 98 Standishgate, Wigan, WN1 1TN might be required to answer the allegations contained in the statement which accompanied the application and that:-

1. Such order might be made as the Tribunal should think right; and
2. The Payment of compensation pursuant to paragraph 2(1)(c) of Schedule 1A of the Solicitors Act 1974 the said Direction be enforced as if it were contained in an order made by the High Court Pursuant to paragraph 5(2) of Schedule 1A of the Solicitors Act 1974.

On the 4th November 1997 the applicant made a supplementary statement containing further allegations. The allegations set out below are those contained in both the original and supplementary statements.

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) been guilty of unreasonable delay in the delivery of clients; papers;
- (b) failed to reply to correspondence from other solicitors and from the Solicitors Complaints Bureau;
- (c) failed to pay counsels' fees as the same became due;
- (d) failed to comply with a professional undertaking;
- (e) been in breach of his duty to the Court as an Officer of the Court;
- (f) failed to comply with a direction made by an Assistant Director of the Solicitors Complaints Bureau acting pursuant to delegated powers ;
- (g) failed to deliver or delivered late his Accountant's Report notwithstanding Section 34 of the Solicitors Act 1974 and the rules made thereunder;
- (h) 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;
- (i) utilised clients' funds for his own purposes;
- (j) been guilty of unreasonable delay in the conduct of professional business;
- (k) been guilty of undue delay in failing to register a property transfer and a charge on behalf of clients;
- (l) contrary to Rule 8 of the Solicitors Accounts Rules further drawn money out of client account other than permitted by Rule 7 of the said Rules;
- (m) failed to pay counsel's fees as the same became due (on another occasion);
- (n) practised as a solicitor in breach of conditions on his Practising Certificate;
- (o) failed to deliver or delivered late Accountant's Reports for the period ending 30th June 1995 notwithstanding Section 43 of the Solicitors Act 1974 and the Rules made thereunder;
- (p) failed to keep accounts properly written up;
- (q) contrary to Rule 5 of the Solicitors Accounts Rules 19912, failed to pay funds received from or on behalf of clients in respect of undisbursed liabilities into client account.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 7th May 1998 when Peter Harland Cadman solicitor and partner in the firm of Messrs.

Russell-Cooke Potter & Chapman of 2 Putney Hill, Putney, London, SW15 6AB appeared for the applicant, the respondent did not appear and was not represented.

At the opening of the hearing the applicant explained the history of service of the proceedings upon the respondent and his communication with the respondent. The Tribunal had previously made an order for substituted service and an advertisement of the proceedings appeared in a newspaper which was placed before the Tribunal.

The applicant sent formal notice to admit to the respondent's matrimonial home address. The respondent's wife telephoned the applicant to enquire if the respondent would be struck off the Roll and if the disciplinary proceedings and the outcome would appear in the newspapers. Subsequently the respondent telephoned the applicant to say that he would accept service of papers at the matrimonial home and, in the submission of the applicant, it was clear that the respondent was aware of the proceedings.

In addition the applicant had received a letter dated the 6th May 1998 from Messrs. Arnold Rosen & Co., confirming the respondent's position in the following terms:-

"I said that I would pro bono and as a courtesy to the Tribunal deal with Mr Crawford's enquiry concerning his appearance before the Disciplinary Tribunal tomorrow morning.

I can confirm speaking to him after speaking to you and he telling me that he was not in a fit state to attend the Tribunal hearing. Further he says that he has not received papers.

If the hearing goes ahead it follows that there would be no point in having live witnesses present as their evidence would be unchallenged.

I am sorry not to be able to do more. Could you kindly proffer a copy of this letter to Mrs Elson.

Yours sincerely
(signed) Arnold Rosen"

The Tribunal expressed itself content that the respondent was fully aware of the proceedings and required the matter to be dealt with substantively on the 7th May 1998.

The evidence before the Tribunal included the oral evidence of Mr Martin Duerden, and exhibits "WEC1" and "WEC2" being respectively the newspaper advertisement of the proceedings and Mr Rosen's letter of the 6th May 1998 addressed to the applicant.

At the conclusion of the hearing the Tribunal ORDERED that the respondent William Ellis Crawford of Messrs. Crawfords, 1st Floor, 98 Standishgate, Wigan, Wigan, WN1 1TN (subsequently notified to be of _____, Wrightington, Wigan, WN6 _____) 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 £12,604.49 inclusive.

At the conclusion of the hearing the Tribunal did not make an order directing that the payment of compensation pursuant to Paragraphs 2(1)(c) of Schedule 1A of the Solicitors Act 1974 the subject of a direction of the Solicitors Complaints Bureau be enforced as if it were contained in order made by the High Court pursuant to Paragraphs 5(2) of Schedule 1A of the Solicitors Act 1974. However in preparing the findings the Tribunal decided to make such an order which accordingly was dated and filed with the Law Society on the 1st day of July 1998. The Order was made in the following form. The Tribunal Ordered that the Direction made in respect of the respondent William Ellis Crawford of , Wrightington, Wigan, of payment of compensation pursuant to Paragraph 2(1)(c) of Schedule 1A of the Solicitors Act 1974 be enforced as if it were contained in an Order made by the High Court pursuant to Paragraph 5(2) of Schedule 1A of the Solicitors Act 1974.

The facts are set out in paragraphs 1 to 78 hereunder.

1. The respondent, born in 1947, was admitted a solicitor in 1972. At the material times he practised on his own account under the style of Messrs. Crawfords, 1st Floor, 98 Standishgate, Wigan.
2. By letter dated 8th June 1995 Messrs, Banks Wilson of Preston complained to the Solicitors Complaints Bureau (the Bureau) on behalf of their clients Mr and Mrs D with regard to the failure of the respondent to forward to them all the clients' papers.
3. The respondent was notified of the complaint by letter dated 6th July 1995 and replied by letter of 14th July 1995. Further correspondence was forwarded to the respondent on 23rd August 1995, 7th November 1995, 6th December 1995 and by letter dated 4th January 1995 (which in fact should have been dated 4th January 1996).
4. There was further correspondence from the respondent dated 11th January 1996 and to the respondent dated 30th January 1996. A further letter of complaint was received from Messrs. Banks Wilson by the Bureau dated 26th February 1996 and the respondent was notified by letter dated 13th March 1996.
5. The matter was considered by the Adjudication Sub Committee on 7th August 1996 and the respondent was notified by letter dated 12th August 1996 that his conduct was to be referred to the Tribunal.
6. By letter dated 22nd February 1995 Messrs. Stephenson of Leigh, Lancashire complained on behalf of their client Mr P to the Bureau with regard to the failure of the respondent to forward papers and answer correspondence.
7. The respondent was notified by letters dated 13th and 30th March and 8th June 1995. Further details of the complaint relating to the respondent's persistent failure were lodged by Messrs. Stephenson by letter dated 15th August 1995 and there was further correspondence to the respondent dated 4th September 1995 and 4th January and 13th March 1996. The respondent wrote a letter to the Bureau dated 11th January 1996 in response to that of 4th January in which he said "The file relating to Mr P has been forwarded to the solicitors who are now in communication with my insurers concerning the claim. So far as I am aware the cause of the initial complaint has been remedied but perhaps you would confirm"

8. The matter was considered by the Adjudication Sub Committee on 7th August 1996 when reference to the Tribunal was resolved upon.
9. By letter dated 14th November 1995 Messrs Alker & Ball of Wigan complained to the Bureau on behalf of their client Mr B with regard to the respondent's failure to forward papers or answer correspondence.
10. The respondent was notified of this complaint by letters dated 23rd November and 20th December 1995. The respondent replied by letter dated 11th January 1996 to the effect that he had been awaiting a medical report which had arrived. The file had been forwarded to Mr Wilcock (of Alker & Ball).
11. In a letter to the Bureau from Messrs Alker & Ball dated 17th January 1996 they confirmed they had not received the file. Further letters were addressed by the Bureau to the respondent on 24th January and 5th February 1996.
12. Further details of the complaint were lodged with the Bureau by Messrs Alker & Ball by letter of 12th February 1996. They had received copy files from the third party's insurers, and as a result listed further specific complaints. The respondent was notified by the Bureau by letters of 26th February and 13th March 1996.
13. There were further letters from Messrs Alker & Ball to the Bureau dated 27th March enclosing copies of letter addressed to the respondent to which he had not replied and 24th May 1996. The respondent was notified by letter dated July 1st 1996. No reply was received from the respondent. The respondent did not meet the Committee's expectation that he deliver up the file in seven days. Eventually a limited intervention was ordered.
14. The matter was considered by the Adjudication Sub Committee which resolved to refer the matter to the Tribunal on the 7th August 1996.
15. By letter dated 24th October 1996 the Bar Council complained to the Bureau that the respondent had failed to pay Counsels' fees or answer correspondence.
16. The Bureau wrote to the respondent about this on 16th November and 12th December 1995.
17. The Bar Council confirmed the fees remained outstanding on 24th January 1996. The respondent was notified by letter dated 14th February 1996.
18. On 7th August 1996 the Adjudication Sub Committee expected the respondent to settle the outstanding fees and decided to refer the matter to the Tribunal.
19. By letters dated 15th December 1995 and 11th January 1996 Messrs Birchall Blackburn of Preston complained to the Bureau that the respondent had been in breach of undertaking, breach of duty to the Court and had failed to reply to correspondence. Messrs. Birchall Blackburn acted for Mr T, a licensed insolvency practitioner in his capacity as supervisor of the Individual Voluntary Arrangement proposed by Mrs S.

Mr T had instructed Birchall Blackburn to issue bankruptcy proceedings against clients of the respondent. After one adjournment the matter was listed for hearing at Wigan County Court on the 13th November 1995. On the morning of the hearing the respondent's firm wrote by facsimile giving an undertaking "to forward to you within the next twenty eight days the amount of the petition debt." They then asked Birchall Blackburn to withdraw the petition. The gentleman having conduct of the matters spoke to the respondent following the receipt of the facsimile who confirmed his undertaking. In reliance on that undertaking the petitions were withdrawn. The respondent, who should have complied with his undertaking not later than the 11th December 1995 had not complied by the date of the letter namely the 15th December. In his letter of the 13th November, the respondent had said that he was "in a position to give an undertaking" in the ensuing telephone conversation he confirmed that he intended the letter to be an undertaking.

20. The complainant wrote to the Bureau on 13th June 1996 stating that a cheque had been received from the respondent in the sum of £7,831.50p purportedly to satisfy the petition but it had been noted that the cheque had been drawn on the respondent's office account.
21. The Adjudication Sub Committee decided to refer this matter to the Tribunal on 7th August 1996 and the respondent was notified.
22. By letter dated 5th March 1996 Messrs. McCarthy & Bennett of Wigan complained on behalf of their clients as to breach of undertaking given by the respondent. The respondent had given undertakings following the completion of the sale of three separate building estate plots to provide forms of discharge of mortgage within a specified time limit. The respondent was notified by letter dated 18th March 1996.
23. There was further correspondence between the complainant and the Bureau and the respondent was notified by letters dated 1st April and 16th April 1996, 16th May and 1st July. There was no response.
24. On 16th July 1996 Messrs McCarthy & Bennett confirmed the eventual compliance with the undertakings, however the matter was referred to the Adjudication Sub Committee on 7th August 1996 and reference to the Tribunal was decided upon.
25. Mrs O'N lodged a complaint against the respondent in connection with inadequate professional services. After representations were made and received the matter was considered by the Assistant Director on 10th February 1996, who directed that the respondent should not have any costs, he should refund £500 to his client, fully account to his client and pay interest in all moneys due to the client.
26. The respondent was notified by letters dated 16th February and 22nd March 1996. A lengthy correspondence followed concerning payment and the calculation of interest. Some payment had been made, but the respondent had not fully complied with the Direction.
27. The matter was referred to the Adjudication Sub Committee on 7th August 1996 and it was resolved to refer the matter to the Tribunal.

28. The respondent failed to deliver his Accountant's Report for the year ending 30th June 1995. The respondent was reminded about this. By letter dated 22nd July 1996 said he had never received an application form for an Accountant's Report, and requesting the same. The Bureau's response was not before the Tribunal. The Accountant's Report had not been delivered.
29. Upon due notice to the respondent the Investigation Accountant of the Law Society carried out an inspection of his books of account. The inspection began on 5th August 1996. There was before the Tribunal a copy of the Investigation Accountant's Report dated 29th August 1996, which revealed the following matters.
30. The respondent practised alone since August 1994 following the Law Society's intervention into the practice of Isherwood Smith by whom the respondent had been employed as an assistant solicitor.
31. A list of liabilities to clients as at the 30th June 1996 was produced for inspection and totalled £75,736.01. The items were in agreement with balances shown in the clients' ledger but did not include further liabilities of £32,125.81. Cash held on client bank accounts was the equivalent of the liabilities to clients recorded, but there was, of course, a cash shortage of £32,135.81. The cash shortage had arisen because of improper transfers from client to office bank account totalling £30,373.31 and the failure to retain Legal Aid monies in client bank account of £1,762.50. The respondent said that he would rectify the improper transfers by retrospective delivery of bills of cost. The retention of Legal Aid monies in office bank account would be rectified by the remittance of such monies to the Legal Aid Board once costs were recovered from the other side.
32. During periods between September 1994 and March 1996, client bank account had been charged, inter alia, with seven transfers to the office bank account, varying in amount between £234.56 and £16,450.00 and totalling £30,373.31. The transfers had been made in respect of three unconnected client matters, and had not been supported by the corresponding delivery of bills of costs to the clients concerned.
33. On the 28th November 1995 the respondent had received £1,762.50 from the Legal Aid Board in respect of costs and the monies had been paid into client bank account. On the same date the relevant account in the clients' ledger showed that a transfer of a like amount was made from client to office bank account. On the 16th April 1996 the respondent received £20,056.98 from the client's former wife's solicitors in respect of the client's agreed one third share of the net proceeds of sale of the former marital home. The proceeds were credited to the client ledger account and were applied as follows:-

16/04/96	Transfer to Office Account re. costs etc.	£4,688.25
24/05/96	Payment to Client	<u>£15,368.73</u>
		<u>£20,056.98</u>

The respondent agreed with the Investigation Accountant that having received the monies from the sale of the house the Legal Aid Board was entitled to reimbursement of £1,762.50 paid by them in November 1995.

34. The Investigation Accountant went on to refer to the breach of undertaking dealt with above in connection with the withdrawal of bankruptcy petitions against his clients. The undertaking was in the following form "We confirm that we are in a position to give our undertaking to forward to you within 28 days the amount of the petition debt following completion of our clients' refinancing of their business. In those circumstances, we understand that you will withdraw the Petition at today's hearing before the County Court." The Investigation Accountant's Report set out details of the relevant clients' ledger. The respondent had not been in a position at any time during the twenty eight day life of the undertaking to discharge the undertaking from monies held on behalf of his client. Subsequently the undertaking was discharged by the payment of £7,831.50 from the firm's office bank account.
35. By letter dated 18th March 1996 Royal Bank of Scotland (RBS) complained against the respondent. The respondent had conduct of a conveyancing matter in which RBS was the mortgagee. The mortgage advance of £42,000 had been remitted to the firm of Isherwood Smith on 6th May 1994 (RBS was aware that the respondent had taken over conduct of the matter). Despite requests RBS had not been able to obtain a copy of their legal charge. In a telephone conversation with the respondent's firm on the 19th May 1995 the firm stated that they had not been paid by the mortgagor. On the 8th June 1995 RBS agreed to settle the outstanding costs. On the 29th June RBS received a copy charge and notice of charge to the lessor, which had been duly acknowledged. The details of the leasehold property in the charge did not correspond with the details supplied to RBS in the report on title. Registration at H M Land Registry had not been dealt with as the mortgagor had not passed the registration fee to the respondent's firm. RBS agreed to pay that fee and sent a cheque to the respondent's firm on 15th September 1995.
36. RBS pressed the respondent's firm for action and information. On 15th February 1996, RBS ascertained from a secretary there that the property had not been transferred into the mortgagor's name, RBS's charge had not been registered and the underlease referred to in the bank's charge had not been registered. Despite further communications with the respondent RBS had not been able to make any progress in this matter.
37. The respondent was notified of the complaint by letter dated 24th April 1996. He replied by letter dated 25th April 1996 when he said that he was obtaining the full file and undertook to complete outstanding matters.
38. Further letters were forwarded to the respondent on 14th June 1996 and a further complaint received from RBS that the respondent would not reply was made by letter on 18th July 1996. The respondent was notified of that correspondence by letter dated 6th September 1996.
39. By letter of 24th September 1996 RBS confirmed no progress had been made and letters were forwarded to the respondent by the Office on 9th October 1996 and 13th

November 1996 which later letter informed the respondent of a "paragraph 3" intervention. The respondent replied by letter dated 25th November 1996 enclosing the relevant file and cheque for the Land Registry fee.

40. The Office wrote to the respondent on 17th February 1997 informing him that his conduct was to be referred to the relevant Committee and on 26th March 1997 it was resolved to refer the matter to the Tribunal.

41. Upon due notice to the respondent the Investigating Accountant of the Law Society carried out an inspection of the respondent's books of account. The inspection began on 11th November 1996 and the Investigation Accountant's Report dated 22nd November 1996 was before the Tribunal. It revealed the following matters.

42. A list of liabilities to clients as at the 31st October 1996 was produced for inspection and totalled £84,050.39 after adjustments. The items were in agreement with the balances shown on clients' ledger however they did not include further liabilities for £17,501.25. A comparison of total liabilities with cash held on client bank account revealed the following position:-

Liabilities to clients shown by the books	£84,050.39
Add: liabilities to clients not shown by the books	<u>£17,501.25</u>
	£101,551.64
Cash available	<u>£76,964.72</u>
Cash shortage	<u>£24,586.92</u>

43. The respondent agreed only to the existence of a cash shortage on client bank account of £20,899.42 as at 31st October 1996.

44. The cash shortage arose in the following way -

	£
(i) Improper transfers from client to office bank account	14,158.75
(ii) Unallocated improper transfer from client to office bank a/c	4,794.75
(iii) Clients funds improperly retained in office bank a/c	3,342.50
(iv) Overpayments	1,911.82
(v) Personal payment	200.00
(vi) Payment of a personal nature	180.00
(vii) Book difference	<u>(0.90)</u>
	<u>£24,586.92</u>

45. The cash shortage was reduced by £4,935.00 to £19,651.92 by the retrospective delivery of written intimations of costs transferred in connection with some estates. The respondent said that he was in a position to replace the balance of the disputed cash shortage on client bank account of £19,651.92 and he would provide proof to the Office when he had done so.

46. The Investigation Accountant set down details of the improper transfers made from client to office bank account which had occurred during the period 21st November 1995 to 29th October 1996. There had been twelve transfers apparently in respect of costs in amounts varying between £411.25 and £2,937.50 and totalling £14,158.75.

47. The respondent agreed that transfers totalling £11,221.25 had been made in excess of bills of costs delivered to the clients or were not supported by the corresponding delivery of a bill of costs or other written intimation of costs to the clients concerned.
48. The respondent agreed that the transfers totalling £11,221.25 had been improper and that a resultant cash shortage on client bank account of £11,221.25 existed at the inspection date. The Investigation Accountant's Report set out details of the client matters concerned.
49. An unallocated improper transfer from client to office bank account had been made on the 19th August 1996 when client bank account was charged with £4,794.75 to be transferred to the office bank account which was not allocated to any individual account in the clients' ledger. The respondent told the Investigation Accountant that the transfer had been in respect of approximately eight to ten clients the details of which his secretary had recorded in a shorthand notebook which she had since misplaced.
50. The total of £3,342.50 of clients' funds improperly retained in office bank account had occurred during the period 28th August 1996 to 18th September 1996 when clients' funds varying in amount between £100 and £2,196.25 had been transferred or lodged in office bank account in respect of five clients. The respondent agreed that clients' funds totalling £2,952.50 had been improperly retained in office bank account but did not agree the further shortage of £750.00 in respect of Mr & Mrs B.
51. The respondent had acted for Mr & Mrs B in a litigation matter. on 28th August 1996 the office column of the relevant account in the clients' ledger was credited with an office bank account receipt of £750.00. The respondent's explanation was that that sum had been received from his clients to reimburse him for a sum of approximately £1,000 which he had earlier paid from office bank account in settlement of the action. The respondent said that he would provide proof to the Investigation Accountant but such proof had not been supplied.
52. Overpayments had been made on 29th August 1996 and 30th September 1996 respectively in the sums of £1,911.72 and £0.10. The respondent admitted that both of these payments were improper as he had insufficient funds available in order properly to make the payments.
53. By letter dated 18th September 1996 the General Council of the Bar complained to the Law Society that the Vice Chairman of the Bar had had occasion to write to the respondent in relation to unpaid Counsel's fees. They had not received a response. The Office wrote to the respondent on 25th October 1996 and 19th November 1996 about this complaint. The respondent did reply on 20th November 1996 enclosing a letter which he sent to the Chairman of the Fees Collection Committee of the Bar Counsel on 6th September 1996. He said that he had no knowledge of the matters and asked the Office to let him know whether the Chambers Clerk had been successful in obtaining payment in relation to the fee notes. In his letter to the Chairman of the Fees Collection Committee, a copy of which he enclosed, the respondent said that the fee notes relating to two matters had been in connection with work commissioned by Mr

Roger Smith who had worked as a consultant with the respondent's practice for a period of one year from August 1995 to August 1996. On leaving the practice he removed the files relating to the two cases and took them to another firm. The respondent suggested that Counsel's clerk should contact that gentleman. He went on to confirm that he was sorting out the other fee notes which related to work undertaken on behalf of a company and its directors who were represented by Mr Smith and the respondent said that he would speak to the respective clerks within the ensuing few weeks. Further letters were addressed to the respondent, reminding him of his responsibility and the fact that matters remained outstanding, by the Office on 17th January, 7th March and 17th April 1997 which did not attract a response. The later letter confirmed that the Compliance and Supervision Committee on the 16th April 1997 expected the respondent to pay the fees due to Mr Andrew Noble in the sum of £235.00 and to Mr Grahame Wood in the sum of £346.63 within seven days. It was further resolved to refer the conduct of the respondent to the Tribunal.

54. The Law Society wrote to the respondent on 13th June 1997 saying that the Law Society's records showed that the respondent was practising as a sole principal. Because he had not submitted a properly completed application form for the practice year 1996/97 the respondent was still practising under his certificate granted for the year 1995/96. On 30th September 1996 the Compliance and Supervision Committee of the Law Society decided to grant that certificate subject to the condition that the respondent act only in approved employment or partnership. The respondent was practising in breach of that condition. The respondent's explanation was sought as were his proposals for ensuring that he comply with the condition in future within the ensuing fourteen days.
55. The respondent replied by letter dated 31st July 1997 he apologised for the delay in replying and pointed out that a relevant form had been returned to the wrong address and in fact the form had been correctly completed but the respondent's declaration had not been witnessed by one of the referees. That had been corrected and the form had been submitted.
56. He went on to say that with regard to the condition on his Practising Certificate he had put in hand discreet enquiries through his accountants either with a view to amalgamate with another local firm or take on a qualified solicitor as an employee/prospective partner. The respondent's bankers had already been provided with a full business proposal by his accountants. He said that he had arranged for the greater part of his conveyancing work to be taken by two other local firms with whom he had formed close relationships.
57. The respondent had arranged for his accountants to meet with him after his return from holiday in mid August to discuss the result of their enquiries. If it became necessary the respondent would advertise the position and forward a copy of the advertisement to the Office.
58. On 4th August 1997 the Law Society confirmed that it had completed its investigation and would refer the matter to the Compliance and Supervision Committee at its next meeting which would take place about six to eight weeks thereafter. That letter was acknowledged by the respondent's office stating that he was away on holiday. On

27th August 1997 by letter the respondent was notified that the Committee had decided to refer the respondent's conduct to the Tribunal and had also resolved to intervene into the respondent's practice.

59. By a letter from the Law Society dated 8th January 1996 the respondent was notified of his obligation to deliver Accountant's Reports. That letter stated that the Law Society's records revealed that the respondent's Accountant's Report for the year ending 30th June 1995 had not been submitted. Further letters about this were addressed to the respondent on 14th June 1996 and 24th July 1996 the respondent replied by letter dated 22nd July 1996 saying

"I refer to your letter of 16th June which I regret to say has only recently been delivered. You will note the firm's new address.

I have never received the application form for the Accountant's Certificate although my accountant has concluded the accounts for the year ending 30th June 1995 and indeed I am to meet him on 10th August to sign off the accounts I should be pleased if you would forward to me the application form for completion by the accountant which I will return following my meeting with him on 10th August."

60. At the date of the hearing the respondent still had not submitted his Accountant's Report.
61. Following due notice to the respondent the Investigation Accountant of the Law Society carried out a second inspection of the respondent's books of account. The inspection began on 18th August 1997 and the Investigation Accountant's Report dated 29th September 1997 was before the Tribunal.
62. The Investigation Accountant's Report revealed that on his initial visit the respondent's books of account had not been written up for a period later than May 1997 and no reconciliation between client liabilities and available cash held in client bank accounts had been prepared after 31st May 1997. The inspection was therefore postponed until 11th September 1997 to enable the books of account to be brought up to date.
63. Upon his return on 11th September 1997 the Investigating Accountant was told that no further progress had been made, either on the writing up of the books or the reconciliation work because the Law Society's intervention into the practice had taken place on 29th August 1997.
64. The Investigation Accountant was however able to report that the books of account were still not in compliance with the Solicitors Accounts Rules.
65. It was not considered practicable to attempt to compute the total liabilities to clients and the Investigation Accountant was unable to express an opinion as to whether or not the cash available as at 31st July 1997 was sufficient to meet the liabilities to clients as at that date. However the Investigation Accountant was able to ascertain that a minimum cash shortage of £32,307.64 existed on client bank account as at 31st July 1997 caused in the following way:-

(i)	Improper transfers from client to office bank a/c	£27,841.62
(ii)	Clients' funds incorrectly retained in office bank a/c	<u>£4,466.02</u>
		<u>£32,307.64</u>

66. The respondent did not agree to the existence of the minimum cash shortage although he did agree that there was a cash shortage of £4,466.02. He was unable to replace even the agreed cash shortage. The respondent was in the process of filing for his personal bankruptcy.
67. There were two improper transfers from client to office bank account both purported to be in respect of costs one in respect of Mr S in the sum of £18,800 and the other in respect of Mr B in the sum of £9,041.62.
68. The respondent had acted for Mr S following serious injuries sustained by him as a result of a criminal assault in June 1993. On 3rd April 1995 the Criminal Injuries Compensation Board made an award of £20,000 to Mr S from which the respondent deducted £5,875 in respect of his firm's costs.
69. Following an appeal to the CICB regarding the level of the initial award a further and final award of £20,000 was made at a hearing on 10th July 1997. Client bank account had been credited with that further sum on 25th July 1997. On 29th July 1997 client bank account was charged with £18,800 purportedly in respect of the firm's costs in respect of the appeal. The client matter file contained the bill of costs which was annotated "as agreed" but the Investigation Accountant saw no evidence to suggest that the bill of costs had been delivered to Mr S nor was there any evidence that the level of costs had been agreed by that client.
70. The Investigating Accountant wrote to Mr S on the 21st August 1997 asking for confirmation that he had agreed the level of costs and had received the bill. Mr S stated that he had not discussed the question of costs with the respondent and he had not been sent a bill (the client had told the Investigation Accountant that following receipt of the letter from the Investigation Accountant the respondent had visited him at his home and had given him the bill of costs in respect of £18,800 saying "this is to straighten things out." In addition the respondent had intimated to Mr S that if he would write to the Office for the Supervision of Solicitors confirming that he had received the bill of costs and also that he had agreed the level of those costs then the respondent would pay Mr S £14,000 at the rate of £1,000 a week "as he was having financial difficulties").
71. The Investigation Accountant noted that following the transfer of £18,800 to office bank account on the 29th July 1997 two payments had been made from office bank account as follows:-

31/07/97	CHAPS payment W E & S Crawford	£8,289.51
01/08/97	Chq. No. 001624 T M	£7,000.00

In his Report the Investigation Accountant pointed out that if the transfer of £18,800.00 had not been made to office bank account then there would have been

insufficient funds to facilitate those payments. In the second matter, namely that of Mr B, the respondent acted for Mr B and his family as well as various family controlled companies in connection with a number of matters. On 9th November 1994 client bank account was credited inter-alia with £25,464.31 representing monies received from Windsor Life Pension Fund which was to be loaned by Mr B to a third party. On the same date client bank account was debited with £9,041.62 in respect of a transfer to office bank account. The relevant client account showed the transfer to be in respect of purported costs in varying amounts in connection with twelve different matters.

72. The respondent subsequently ceased to act for Mr B whose new legal advisers had pursued the respondent for the return of £9,041.62 as the costs should not have been taken from the pension fund monies received.
73. On 3rd July 1997 the respondent issued a cheque drawn on office bank account in the sum of £9,041.62 which cheque subsequently had been dishonoured twice by his firm's bankers.
74. At the meeting with the Investigating Accountant on 11th September 1997 the respondent stated that he did not believe that there was a client account shortage as he was awaiting a receipt of monies from the B family in respect of his costs.
75. The sum of £4,466.02 was held incorrectly in office bank account. The respondent had acted on behalf of a group of people and since 13th June 1996 office bank account had been credited with £31,538.29 in respect of thirty nine individuals. Included within the monies received from the firm's clients was £4,466.02 in respect of contributions from the group towards Counsels' and surveyors' fees which remained unpaid.
76. The Investigation Accountant reported upon another matter being monies held on behalf of Messrs R & M. The respondent had acted for Mr R in respect of various transactions. On 30th June and 9th July 1996 office bank account had been credited with £2,000 and £5,000 respectively, purportedly in respect of monies due to the firm.
77. One of the relevant client matter files contained a letter dated 2nd June 1997 from a firm of solicitors who were acting on behalf of Mr M in his defence against drug trafficking charges. The letter enclosed a note, signed by Mr R authorising the respondent's firm "to release an amount of £7,000 paid to him by two instalments currently held by him to the solicitors from Mr M." In addition to that letter the file also included a letter dated 9th June 1997 from H M Customs & Excise stating "I believe you are holding approximately £7,000 for Mr M an associate of your client Mr R."
78. Following Mr M's acquittal the respondent sent the monies to Mr M's solicitors by way of an office account cheque dated 1st August 1997. The respondent denied that he should have been holding those monies in client bank account stating that he had in effect loaned the monies to Mr R and the respondent contended there was no resultant client account shortage.

The Submissions of the Applicant

79. Following a question raised by the Chairman, the applicant confirmed the view that the respondent was not in breach of an undertaking simply because he appeared not to be in a position to comply with it. It was not necessary to hold sufficient funds to comply with an undertaking in client account. Clearly an undertaking would have been recklessly given if a solicitor was not absolutely certain that he would be in a position to fulfil it. The undertaking in respect of which complaint had been made related to what in fact had amounted to an undertaking to give an undertaking in twenty eight days the applicant confirmed that he did not press that matter.
80. The applicant had gone through all of the eighteen allegations and the evidence in support of each of them with some care, and in his submission all of the allegations were made out and the Tribunal was invited to impose an appropriate sanction upon the respondent.

There were no submissions of the respondent

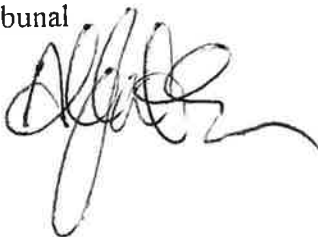
The Findings of the Tribunal

The Tribunal was concerned to have placed before it a catalogue of professional misconduct at the serious end of the scale. Clearly the respondent had turned his back on the obligations that were imposed upon him in his capacity as a practising solicitor. Even worse the respondent had taken clients' monies which were not properly due to him and had helped himself to funds due to his client from the Criminal Injuries Compensation Board. The Tribunal considered that the respondent had behaved with dishonesty and that his behaviour was disgraceful: he was not fit to be a solicitor. The Tribunal ordered the respondent be Struck Off the Roll of Solicitors and further ordered that he pay costs in a fixed sum which included the costs of the Investigation Accountant of the Law Society.

DATED this 6th day of July 1998

on behalf of the Tribunal

A G Gibson
Chairman



Findings filed with the
Law Society on the 15th
day of July 1998