

IN THE MATTER OF ANDREW NORMAN PAYNE, 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  
Mrs. C. Pickering

Date Of Hearing: 27th February 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 of the Supervision of Solicitors by David Rowland Swift, solicitor and then a partner in the firm of Messrs. Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead on 18th November 1996 that Andrew Norman Payne, solicitor of Packington, Ashby de la Zouche, Leicestershire 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) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors' Accounts Rules 1991;
- (ii) 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;
- (iii) contrary to Rule 17 of the Solicitors' Accounts Rules 1991 drawn money out of a controlled trust account other than as permitted by Rule 16 of the said Rules;
- (iv) utilised clients' and other funds for his own purposes;

- (v) misappropriated clients' funds.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 27th February 1997 when Jonathan Goodwin, solicitor and partner in the firm of Messrs. Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead, Merseyside appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included the admissions of the respondent which he had made during the course of correspondence.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Andrew Norman Payne, solicitor of Stable End, Packington, Ashby de la Zouche, Leicestershire LE65 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 £2,555.98 inclusive.

The facts are set out in paragraphs 1 to 7 hereunder.

1. The respondent, born in 1951, was admitted as a solicitor in 1977. At the material times he practised on his own account under the style of Payne & Co. at 1688 High Street, Knowle, West Midlands B93 9LY.
2. On 20th May 1996 the Adjudication & Appeals Committee of the Law Society resolved to intervene in the respondent's practice on the grounds of suspected dishonesty.
3. The decision to intervene was made following the report of the Law Society's Investigation Accountant following an inspection carried out by him of the respondent's books of account commencing on 14th May 1996 after due notice of such inspection had been given to the respondent.
4. The Tribunal had before it a copy of the Investigation Accountant's Report dated 17th May 1996.
5. The Report revealed that the respondent's books of account contained numerous false and misleading entries which meant that it was impractical to ascertain the true extent of the respondent's liabilities to his clients. It had been possible to compute a minimum liability to clients in the sum of £812,888.75. The sum held in the respondent's client account was £48,932.15 resulting in a minimum shortfall of clients' and trust funds of £763,956.60. The minimum shortfall comprised improper transfers from client account to office account totalling £300,375.00 together with the misuse of clients' funds amounting to £112,593.00 in the case of B deceased and controlled trust funds of £50,000.00 in the matter of T deceased. The sums totalling £763,956.60 were taken by the respondent for his own use and benefit.
6. In the case of B deceased, the respondent had received two cheques from London Life made payable to the late Mr. B's two daughters both in the amount of £55,896.44. The cheques were not forwarded on to the daughters who were entitled, but were paid into a current account at National Westminster Bank plc designated "Trustees of B deceased". The account was not a designated client account and the respondent was sole signatory. In due course those monies were drawn against and the cheques

obtained were paid into client bank account and credited to two unrelated client ledger accounts in order to conceal the earlier misuse of funds held on behalf of those latter clients.

7. In the matter of T deceased, the respondent was a sole executor. There were no pecuniary legacies and the residual beneficiaries were two charities. The two charities had received no payment.

**The submissions of the applicant**


8. The respondent had admitted serious mishandling of clients' funds involving very large figures. The Law Society's Compensation Fund had paid out £20,800.36. Sixteen claims were pending, the total of which was in excess of £587,000.00. Over and above those pending claims nine claims were outstanding which had not been quantified.
9. The applicant put the case on the basis of a serious mishandling of clients' funds and the deliberate use of controlled trust monies for the respondent's own purposes.
10. It was clear from the schedule produced by the Law Society's Compensation Fund that improper transfers had been undertaken for a considerable period of time, at least as far back as 1990.
11. Following questions from members of the Tribunal, the applicant had been unable to offer any explanation as to why the respondent's activities had not been considered earlier. He pointed out that annual Accountant's Reports must have been filed and they had revealed nothing to alert the Law Society's suspicions. The applicant was unable to assist the Tribunal as to whether or not a criminal investigation had been carried out.

The respondent did not make any submissions.

The Tribunal FOUND the allegations to have been substantiated. This was an appalling case. It was a matter for enormous regret that the respondent's nefarious activities had been permitted to continue over a long period of time. The cheques and balances put in place precisely to avoid the sort of mischief demonstrated here had markedly failed in this particular matter. The damage to the good reputation of the solicitors' profession by a solicitor who behaves in such a disgraceful way is incalculable. 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 include the costs of the Investigation Accountant of the Law Society in a fixed sum.

DATED this 28th day of March 1997

on behalf of the Tribunal



D.E. Fordham  
Chairman

