

IN THE MATTER OF CHRISTOPHER ALBERT SHORT, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the Chair)
Mr. J.C. Chesterton
Mrs. C. Pickering

Date Of Hearing: 27th 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 that Christopher Albert Short, solicitor of Barry, Vale of Glamorgan CF62 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.

At the opening of the substantive hearing the applicant indicated that the respondent admitted all of the allegations except allegation (b). The applicant sought to withdraw allegation (b) to which the respondent agreed and the Tribunal consented.

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) failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors' Accounts Rules 1991;
- (b) withdrawn
- (c) 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;

- (d) utilised clients' funds for the purposes of other clients;
- (e) utilised clients' funds for his own purposes;
- (f) misappropriated clients' funds.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 27th 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 the respondent appeared in person.

The respondent made a preliminary application that the matter might stand adjourned. The respondent believed he needed assistance with the conduct of his case. He had considered that he would be able to represent himself, but having realised that his livelihood depended upon the outcome of the disciplinary hearing, he wished to instruct a legal representative.

The respondent told the Tribunal that the application had been dated 7th February and had been served upon him at the end of February. The respondent had not communicated with the applicant until the week before the hearing. The applicant was ready to prove his case. The respondent had given no indication as to which legal representative he intended to instruct and whether or not that representative was prepared to act. The respondent had not indicated how long he needed. The Law Society had intervened into the respondent's practice and the serious matter of misappropriation of clients' funds was alleged against him.

The respondent told the Tribunal that he had been winding-up his practice and had undertaken administrative work to assist the intervening agent. His Practising Certificate had been suspended upon the intervention, but had been restored to him at the end of March subject to the condition that he work only in approved employment.

The Tribunal considered that the respondent had been given a great deal of time in which to consider his position and instruct a legal representative. The Tribunal refused the application for an adjournment and the matter proceeded to a full hearing.

The evidence before the Tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Christopher Albert Short, solicitor of Barry, Vale, Glamorgan CF62 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 £935.96 together with the costs of the Investigation Accountant of the Law Society to be taxed if not agreed.

The facts are set out in paragraphs 1 to 27 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 Christopher Short in Charles Street, Cardiff. The appropriate Committee of the Law Society resolved to intervene into the respondent's practice on 11th November 1996.
2. After due notice was given to the respondent an inspection of his books of account was carried out by the Investigation Accountant of the Law Society commencing on

8th July 1996. The Investigation Accountant's Report dated 14th August 1996 was before the Tribunal.

3. A list of liabilities to clients as at 31st May 1996 was produced for inspection. The items were in agreement with the balances shown in the clients' ledger and totalled £24,289.52. The respondent agreed that additional liabilities of £6,752.50 existed at that date which, when included in the total liabilities and were then compared with cash held on client bank account at the inspection date after allowance of uncleared items, revealed a cash shortage of £20,213.28. The respondent had partly rectified this cash shortage by a lodgement of £17,500 in client bank account on 10th July 1996 which money had been provided by a relative.

4. The cash shortage had arisen in the following way -

(i)	Unallocated transfers from client to office account	£7,000.00
(ii)	Clients' funds incorrectly retained in office account	6,752.50
(iii)	Over-payments	4,204.74
(iv)	Office expense paid from client account	1,028.78
(v)	Unallocated payment from client account	1,200.00
(vi)	Interest incorrectly retained in client account	(25.11)
(vii)	Bank charges incorrectly debited to client account	<u>52.37</u>
		<u>£20,213.28</u>

5. The under-noted transfers from client to office bank account had been made on the dates shown, but none had been allocated to any individual account in the clients' ledger -

31st July 1995	£2,500.00
5th October 1995	2,150.00
31st October 1995	<u>2,350.00</u>
	<u>£7,000.00</u>

6. The respondent told the Investigation Accountant that his book-keeping had fallen into arrears during the latter part of 1995 and these transfers had been made on an estimated basis, generally on account of costs which he had thought were due to him.
7. As at 31st May 1996 clients' funds, varying in amounts from £120 to £3,116.50 and totalling £6,752.50 in respect of five individual clients, were incorrectly retained in office bank account.
8. During the period between 18th June 1991 and 7th February 1996 over-payments, varying in amounts from £0.30 to £1,667.95 and totalling £4,204.74, had been made from client bank account in respect of six individual client matters.
9. On 23rd November 1995 a payment of £1,028.78 was made from client bank account and had been allocated to five individual accounts in the clients' ledger. No funds were held in client bank account in respect of any of those clients and consequently debit balances arose on each client ledger account which remained the position as at 31st May 1996. The respondent said that the payment of £1,028.78 was in respect of fees paid to a costs draftsman and should have been made from the office bank account. He said it had been paid from client bank account in error, even though the payments

had been allocated to individual client ledger accounts. The resultant shortage on client bank account remained in existence for more than seven months and was rectified on 10th July 1996.

10. The Investigation Accountant went on to report another matter concerning Mr. F D A re S M I deceased. The respondent acted initially for Mr. A in connection with the winding up of the estate of Mr. I deceased who died on 10th August 1990. Subsequently he acted in connection with sums due to Mr. I's widow from her late husband's pension fund.
11. Letters of administration were granted on 22nd February 1993 when the net value of the estate was said to be not exceeding £10,000. The relevant account in the clients' ledger showed a lodgement in client bank account in respect of the realisation of estate assets in the sum of £2,387.37 on 9th March 1993 relating to the closure of the deceased's bank account.
12. All other lodgements in client bank account in respect of this client matter related to monies received from Merchant Navy Pension Administration Limited. There was a lump sum payment of £23,380.62 on 1st February 1993 followed by monthly payments from April 1993 until May 1996 varying in amount between £46.23 and £61.97 and totalling £2,154.61 together with one payment of £1,387.13 on 8th July 1993 in respect of pension arrears. The total of all receipts together with bank deposit account interest was £30,233.62.
13. Between 18th February 1993 and 19th June 1995 transfers totalling £15,972.51 had been made from client to office bank account and were said to be in respect of costs and disbursements due to the firm and, as at 31st May 1996, payments to the sole beneficiary totalled £16,250. The account was therefore overdrawn by £1,988.89 at the inspection date.
14. From an examination of the relevant client matter file it was apparent that the beneficiary, Mrs. I, lived in Djibouti and was illiterate. She granted a general Power of Attorney to the respondent on 11th October 1992.
15. In a letter dated 15th March 1994 the respondent advised Mrs. I that his firm's costs and disbursements at that date totalled £7,857.59 although the ledger account revealed transfers to that date totalling only £7,242.65, the transfers having been made as follows -

<u>Date</u>	<u>Amount</u>
18.02.93	£1,380.62
27.06.93	940.00
21.07.93	1,057.50
20.12.93	500.00
01.02.94	940.00
02.02.94	413.74
15.02.94	1,012.04
10.03.94	998.75
	<u>£7,242.65</u>

16. Mrs. I replied on 31st March 1994 indicating that although she accepted the charges she thought they were rather high and she requested that they be kept to a minimum in future.

17. Subsequently, further transfers were made from client to office bank account as follows -

<u>Date</u>	<u>Amount</u>
11.04.94	£ 940.00
27.05.94	1,175.00
19.07.94	177.50
08.11.94	1,057.50
05.12.94	2,115.00
05.01.95	2,350.00
19.06.95	<u>914.86</u>
	<u>£8,729.86</u>

18. Mrs. I appeared to have been advised of the transfers but no copies of bills were found on the file and the Investigation Accountant noted that there appeared to be very little evidence on the file after February 1994 to justify the transfers which were said to be in respect of costs and disbursements.

19. In June 1995 Mrs. I requested details of the costs charged but that information had not been provided to her. The respondent told the Investigation Accountant that he believed his costs could be justified.

20. Again, following due notice, a second inspection of the respondent's books of account by an Investigation Accountant of the Law Society took place starting on 28th October 1996. The Investigation Accountant's Report dated 8th November 1996 was before the Tribunal. That Report revealed that the respondent's books of account were not in compliance with the Solicitors' Accounts Rules as they contained false entries made at the respondent's instigation which concealed the fact that improper cash withdrawals had been made from client bank account. In those circumstances no opinion could be expressed as to whether or not the funds held on client bank account were sufficient to meet the respondent's liabilities to clients. A minimum cash shortage of £8,366.21 was established on client bank account as at 30th September 1996.

21. The minimum cash shortage was reduced by £141.02 on 15th October 1996 by way of a transfer of funds from office to client bank account.

22. The minimum shortage had been caused in the following way -

(i)	Improper personal payments from client account	£4,636.00
(ii)	Monies due to the Legal Aid Board incorrectly retained in office bank account	2,689.19
(iii)	Clients' funds improperly retained in office account	900.00
(iv)	Debit balances	<u>141.02</u>
		<u>£8,366.21</u>

23. Between 31st January and 4th May 1996 three cash amounts respectively of £786, £1,150 and £2,700 had been improperly withdrawn from client bank account and

charged to individual client ledger accounts. In respect of one the relevant cheque book stub stated that the cheque which was payable to cash was in respect of damages payable to the client who in fact had not received them. The respondent said he believed the details on the cheque book stub which he had written were incorrect. He had probably cashed the cheque at the bank but he was unable to explain what had happened to the cash withdrawn.

24. In the case of the second client, client account cheque stubs in respect of two withdrawals of £1,150 and £786 were both annotated "name of client - monies due to client". The details shown on the face of the relevant client account bank statement for each transaction was "cheque - cash". The respondent told the Investigation Accountant that the cheque book stubs which he had written were incorrect and he had probably cashed the cheques at the bank. He could not provide an explanation as to what happened to the cash withdrawn. No client had received the two payments.
25. Mrs. I, the widow of S.M. I deceased had written again to the respondent on 25th June 1996 requesting details as to the funds held on her behalf. As at 31st October 1996 the respondent had not provided her with any details of the costs actually taken or of the balance of funds held in client bank account on her behalf.
26. The respondent acted for two unconnected clients, Mrs. F and Mrs. C. In both cases the respondent had made deduction from the damages awarded to his clients for what were perceived to be losses incurred by him in respect of costs billed having been in excess of the costs subsequently agreed by the third party.
27. In the matter of Mrs. F, costs of £1,625.13 had been awarded and lodged in office bank account on 12th September 1996. Notwithstanding the fact that costs had been awarded, the respondent transferred a further £1,000 to the office bank account on 17th September 1996.

The submissions of the applicant

28. The applicant made no specific submissions relying upon the admitted facts of the case. He had investigated the position vis-à-vis the Law Society's Compensation Fund and was able to report that no claims had been made thereon. It appeared that such matters had been resolved between the intervening agent and the clients.

The submissions of the respondent

29. The respondent regretted appearing before the Tribunal. The respondent was a married man, having two children. He had been a solicitor for twenty-five years and although his Practising Certificate had been suspended in November 1996 it had been restored to him on 27th March 1997. The respondent had worked for a long time in the law and had a bachelor of arts law degree and a masters degree in European Law. He believed he had given good service to many clients.
30. The respondent had suffered difficulty with his accounts, in particular with regard to keeping them written up to date. His problems had been caused by part-time staff and by a turn-over of members of staff.

31. The respondent was unable to tell the Tribunal of the progress of matters such as the outstanding estate in which Mrs. I was the sole beneficiary as the files had been taken over and the respondent had not been consulted and did not know what stage the settlement had reached.
32. The respondent had practised on his own account since 1983, having previously been in a large partnership. The allegations before the Tribunal related only to the two years immediately prior to the hearing.
33. He had suffered difficulties as a sole practitioner. In 1992 the respondent had suffered an almost fatal car crash. He had been seriously injured and had been detained in hospital for some six to eight weeks. The hospital to which he had been admitted after the accident was a short distance from his office and he had continued to conduct clients' affairs, having files brought to his hospital bed from day to day.

The Findings of the Tribunal

The Tribunal FOUND the allegations to have been substantiated, indeed they were not contested. The respondent had made round sum transfers from client to office account, he appeared to have transferred monies when no bills had been delivered. He appeared to have taken the extraordinary step of cashing cheques on client account and being unable to offer any explanation as to why and as to what had happened to the cash. Although dishonesty had not specifically been alleged against the respondent, there was an allegation that he had been guilty of false accounting. The Tribunal found the respondent's behaviour somewhat puzzling. The Tribunal noted that an early shortage was immediately replaced. The respondent appeared not to be working at all. The respondent could not avoid the fact that he had been guilty of a gross breach of trust insofar as Mrs. I had been concerned: he had continued to take very substantial sums from his client's account without apparently doing any work to justify it, and without delivering bills or details of the charges.

In the circumstances the Tribunal considered it was appropriate to make an Order striking the respondent off the Roll of Solicitors. The Tribunal 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 which were to be taxed if not agreed.

DATED this 1st day of July 1997

on behalf of the Tribunal



A.G. Gibson
Chairman

