

IN THE MATTER OF SIDNEY DAVIDSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D W Faull (in the Chair)
Mrs. E. Stanley
Lady Maxwell-Hyslop

Date Of Hearing: 22nd July 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 Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands, on the 2nd April 1997 that Sidney Davidson solicitor 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 unbefitting a solicitor in each of the following circumstances 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) failed to pay clients' money into a client account in accordance with Rule 3 of the said Rules;
- (iii) drawn money from a client account other than or permitted by Rule 7 of the said Rules contrary to Rule 8 of the said Rules;

- (iv) utilised clients' funds for his own purposes;
- (v) acted where his own interests conflicted with the interests of clients.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 22nd July 1997 when Roger Field, solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant and the respondent was not represented and did not appear.

The evidence before the Tribunal included the admissions of the respondent contained in a letter addressed by Messrs. Edwin Coe to the applicant, which letter is set out below under the heading "The submissions of the respondent".

At the conclusion of the hearing the Tribunal ORDERED that the respondent Sidney Davidson of _____, Hampstead Heath, London, NW3 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 £6,015.54p

The facts are set out in paragraphs 1 to 19 hereunder:-

1. The respondent who was 75 years of age, was admitted a solicitor in 1947. At the material times he practised on his own account under the style of Davidsons at Argyle House, 105 Seven Sisters Road, London N7. On the 21st August 1996 the Law Society intervened into his practice.
2. Upon due notice to the respondent the Investigation Accountant of the Solicitors Complaints Bureau carried out an inspection of the respondent's books of account. A copy of the Investigation Accountant's Report dated 16th August 1996 was before the Tribunal.
3. The Books of Account were not in compliance with the Solicitors Accounts Rules. A number of files requested by the Investigation Accountant were not produced for inspection.
4. In view of the non compliance no opinion could be expressed as to the liabilities to clients. However a minimum cash shortage of £181,045.54p existed on client bank account as at the 15th August 1996.
5. The Investigation Account saw correspondence which indicated that a Rabbi had agreed to lend amounts of £70,000 and £75,000 respectively to two of the respondent's clients. He drew cheques for those sums on the 7th December 1993 and the 18th January 1994 made payable to the respondent's firm. The respondent confirmed by letter to the Rabbi that he had obtained security for the loans by placing charges on the respective borrowers' properties. No record could be found that the funds had ever been received or paid through the firm's known bank accounts. No charges had been placed upon the purported borrowers' properties. The Rabbi had died. The solicitors representing his widow confirmed payments in respect of the repayments of the loans had ceased on the Rabbi's death but subsequently varying

amounts had been repaid directly, either from client or personal bank accounts by the respondent. When interviewed by the Investigation Accountant the respondent replied that it was a personal matter on which he was seeking advice and he refused to answer further questions on it.

6. During the period from 17th June 1996 to 1st August 1996, four improper payments ranging in amount from £2,500.00 to £7,045.54 and totalling £19,545.54 had been made from the client bank account and debited to two individual client ledger accounts. The respondent admitted that those payments had been made either to himself or on his behalf. He said that he had received oral permission from the respective clients to use their funds for his own purposes.
7. During the period from 10th June 1996 to 8th August 1996, four improper transfers ranging in amount from £1,000.00 to £8,000.00 and totalling £16,500.00 had been made from the respondent's clients bank account to the office bank account and the same two individual client ledger accounts referred to in the previous paragraph had again been debited. The respondent admitted that the transfers were purely to provide the firm with funds and related neither to a bill rendered to the respective clients nor to disbursements paid on their behalf. He said that he had received oral permission from the clients to use their funds for his own purposes.
8. The Investigation Accountant went on to report that the respondent had personally received the loans from clients. The respondent had not suggested that the clients concerned should seek independent legal advice prior to the granting of their respective loans and that no security had been provided in respect of them. In a second matter a loan of £10,000 was received by the respondent from a client which was unsecured, the client being an employee of the respondent who was the executor of an estate. When questioned by the Investigation Accountant the respondent said " if the client is the person I have to ask and they agreed, then this would be alright - As the client is an employee, I don't know - I hadn't thought about it." The loan had been repaid with interest some eighteen months later.
9. A loan was made in two parts, on the 8th April 1992 as to £13,000 and on the 20th August 1992 as to £2,000 paid from client bank account to Mr Baum, an employee of the respondent. Mr Baum said that those payments represented a loan to himself by the executor in the estate, being his former wife, who authorised it. When asked about the matter the respondent said that he thought he had "probably been aware" of the loan and he confirmed that it had been unsecured.
10. Unauthenticated payments had been made from client bank account totalling £151,779.41. The client ledger accounts relating to F M L (dec'd) and P G (dec'd) were examined and the Investigation Accountant noted that they had been charged with significant withdrawals in respect of payments made to high street banks. In the first client matter eight payments had been made on one date in 1993 to Barclays Bank, Bank of Scotland, National Westminster Bank and Midland Bank and in the second matter seven payments had been made, six to National Westminster Bank and one to Barclays Bank.

11. The respondent told the Investigation Accountant that the files for the above two matters could not be found and he did not know what the payments related to. Only one paid cheque had been obtained which was in respect of £40,000.00 paid to National Westminster Bank on the 12th December 1995 in connection with the second client matter. The cheque had been banked at the Stamford Hill branch where the respondent had a personal account. When interviewed the respondent said that he was not able to say why that cheque had been banked there.

The submissions of the applicant

12. The Law Society had intervened into the respondent's practice upon the suspicion of dishonesty. The Tribunal was referred to a letter from Messrs. Edwin Coe who had been instructed by the respondent which had been placed before them. The applicant was content to accept what was set out in that letter. The applicant was able to accept that no client had been deceived.
13. Nevertheless the respondent had been guilty of reprehensible conduct. Taking loans from clients without ensuring that they received independent advice was incompatible with the respondent's position as a solicitor. By so doing he put himself in a clear conflict of interest situation. The Rules relating to conflict of interest specifically referred to the conflict which would arise if an employee of a solicitor accepted a loan from a client without that client first receiving independent advice.
14. It was clear that the respondent's accounts had not been properly written up as they did not accurately reflect transactions which had taken place. Particularly serious were the payments made to high street banks which were unexplained.
15. The way the Rabbi's money was dealt with was wholly improper although the Rabbi had been anxious not overtly to lend money at interest.
16. The applicant said that the respondent could not avoid the allegation that he had utilised clients' funds for his own purposes and the applicant put the case forward as one of dishonesty. It was clear that the respondent had "raided" client account for his own purposes.
17. The exposure of the Law Society's Compensation Fund, as a result of the respondent's activities, had been substantial. At the time of the hearing the Compensation Fund had already paid out a sum of £588,890.00 and there were claims pending amounting to £260,666.00. No recoveries had been made.
18. The applicant invited the Tribunal to view the matter as an extremely serious case revealing the respondent's dishonesty for personal gain. In the most simple terms the respondent had taken clients' money for his own benefit.

The submissions of the respondent

19. The letter referred to above from Messrs. Edwin Coe dated the 18th April 1997 addressed to the applicant is set out below:-

"Dear Sirs,

The Solicitors Disciplinary Tribunal
The Office for the Supervision of Solicitors - Mr S Davidson

We have been consulted by Mr Sidney Davidson, and will be acting for him in the disciplinary proceedings in which you are acting. We understand that there is a preliminary hearing on 23 May.

There is only one respect in which your proceedings are in any sense challenged. We say at the outset that Mr Davidson accepts that it is inevitable that he will be struck off. It seems very likely that he will be criminally prosecuted and that he will be passing into bankruptcy.

We leave it to you to indicate how significant is the only challenge which Mr Davidson must make to the case which you make out against him.

In relation to the allegations which are contained in paragraphs 11 to 14 of the appendix to your Mr Field's Affidavit the position is that Mr Davidson challenges any dishonesty or impropriety against Rabbi M. What happened in that respect was that Rabbi M, a long-time client and old and personal friend of Mr Davidson, agreed to lend to Mr Davidson the sums of money referred to in paragraph 11 of the appendix to your Mr. Field's affidavit. Rabbi M was constrained by his religious obligations not to lend money to and receive interest from, anyone not of the Jewish faith. Rabbi M simply told Mr Davidson that whilst he did not want to agree to do anything which he would find embarrassing in his capacity as a Rabbi, he would leave it to Mr Davidson to do whatever he thought fit to protect Rabbi M's reputation and he paid the money to Mr Davidson accordingly. It was only several months later that Rabbi M asked for documentary evidence to the effect that funds had been advanced to a non-Jewish person. Mr Davidson is Jewish and an arrangement was made between Mr Davidson and Rabbi M to the effect that Mr Davidson would record that the monies in question, the payments of £70,000 and £75,000 respectively had been loaned to two of Mr Davidson's clients. That was not true, but Rabbi M knew that that was the case. No doubt the above arrangement was unusual and Mr Davidson concedes that he created records which were untrue, but the suggestion that he defrauded or improperly took Rabbi M's funds is disputed by Mr Davidson.

With that exception, the case made out against him in the appendix to your Mr Field's Affidavit is accepted, and Mr Davidson is content to co-operate in whatever procedure is appropriate which will lead to the least expense and trouble being incurred by the Law Society in bringing about his inevitable striking off.

As we have already indicated, Mr Davidson believes that he will soon pass into bankruptcy. He is aged 76 and has had a recent serious heart condition which is currently being treated at the Royal Free Hospital. He has no desire or intention of practising in the future and undertakes, insofar as that is of any value, never to apply for re-admission.

Yours faithfully,

Signed Edwin Coe."

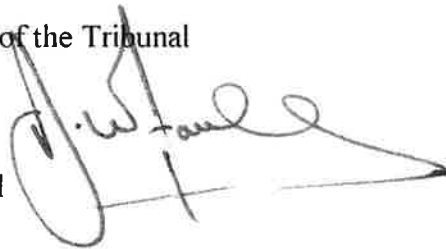
The Findings of the Tribunal

The Tribunal found the allegations to have been substantiated. This was a sad case. A solicitor of some 75 years of age had behaved dishonestly after what appeared to have been a long and unblemished career in the law. The Tribunal found that the respondent had been dishonest and his behaviour was such that it could not be tolerated by the solicitors' profession. They ordered that the respondent be Struck Off the Roll and further ordered that he 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 9th day of September 1997

on behalf of the Tribunal

D W Faull
Chairman

A handwritten signature in cursive script, appearing to read 'D W Faull', written over a horizontal line.

*Findings filed with the
Law Society on the 17th
day of September 1997*