

IN THE MATTER OF JOHN CROSSLEY CULPAN, Solicitor

AND

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H B. Holmes (in the chair)
Mr. A N Spooner
Mr. M G Taylor CBE

Date of Hearing: 30th April 2002

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 ("OSS") by Stephen John Battersby solicitor and partner in the firm of Jameson & Hill of 72/74 Fore Street, Hertford, Herts, SG14 1BY, on 5th March 2001 that John Crossley Culpan solicitor of Richmond, North Yorkshire, 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.

By a supplementary statement of Stephen John Battersby dated 14th February 2002 a further allegation was made against the Respondent, namely, that he had been guilty of conduct unbecoming a solicitor in that he had been convicted of offences of dishonesty in the course of his practice as a solicitor.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS, on 30th April 2002 when Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72/74 Fore Street, Hertford, Herts, SG14 1BY, appeared as the Applicant and the Respondent did not appear and was not represented.

With the consent of the Tribunal the application was made only on the basis of the allegation contained in the supplementary statement dated 14th February 2002.

The evidence before the Tribunal included the admission of the Respondent to the allegation contained in the supplementary statement. The admission was set out in the written submissions of the Respondent dated 22nd April 2002.

At the conclusion of the hearing the Tribunal ordered that the Respondent, John Crossley Culpan, solicitor of Richmond, North Yorkshire, 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 £6,311.76.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The Respondent born in 1939 was admitted a solicitor in 1966 and his name remained on the Roll of Solicitors.
2. The events giving rise to the allegation occurred between 28th November 1994 and 4th October 1999. At the material time the Respondent practised first in partnership in the firm of Messrs Culpan Vizor and then on his own account at Culpans at Midland Bank Chambers, Victoria Square, Droitwich Spa, Worcestershire, until 17th January 2000 when he joined Messrs Parkinson Wright as a consultant.
3. On 19th November 2001 the Respondent appeared before Shrewsbury Crown Court and was convicted upon his own confession of 19 offences of false accounting.
4. The Respondent was sentenced on 11th January 2002 to a period of eighteen months imprisonment.
5. The Respondent appealed against his sentence to the Court of Appeal. A transcript of the Judgment of the Court of Appeal was before the Tribunal. On that occasion his sentence was reduced to one of nine months imprisonment.

The Submissions of the Applicant

6. The Respondent had withdrawn money from client account on the basis of bills which were not genuine and which were not delivered to clients.
7. It had been accepted by the Judge at the criminal trial that there had been no intention on the part of the Respondent permanently to deprive clients of money but that the Respondent had acted in order to keep his office afloat.
8. This was a very sad case but the Respondent had been convicted on his own plea of offences of dishonesty.

The Submissions of the Respondent

9. The written submissions of the Respondent dated 22nd April 2002 were before the Tribunal.

10. It was submitted that in the Judgment of the Court of Appeal the sentence of imprisonment imposed at Shrewsbury Crown Court had been stated to have been “too long” and “manifestly excessive”.
11. It was further submitted as follows:-
 - (a) “The Respondent committed these professional and criminal offences as a result of the pressures of running a High Street practice which overwhelmed him despite his best effort to run the practice efficiently and honestly. The Respondent could demonstrate that what had been a prosperous and thriving practice in the early 1990’s was able barely to make a profit by 1994; a healthy balance sheet in the good times; by 1998, the Respondent had a personal debt of over £100,000. The client’s funds which the Respondent used for his own purposes were applied to ease the practice cash flow. The monies were not spent on the Respondent personally, or for the benefit of his family. Character referees were prepared to speak to the trials and tribulations of the Respondent’s practice and the enormous pressure under which he laboured as the decade progressed. Written references were produced in the criminal proceedings.
 - (b) It was accepted by the Crown that the Respondent, as he is now, had no intention of permanently depriving his clients, nor anybody else, of the monies to which they were entitled. He was not charged with theft accordingly.
 - (c) The Respondent always intended to make good any client account shortfalls; they were made good, and no client, nor any other person, had lost any money.
 - (d) Effectively, the Respondent used probate clients’ monies to keep his business afloat. Evidence of the Respondent’s intention to make good client account shortfalls and evidence of the absence of any intention to permanently deprive his clients of their monies is to be found in the fact that in those cases, finalised before the inspection of the Investigation Accountant and, significantly, before the Respondent had notice of any such inspection, he had made good any shortfall on or before the distribution of the Estate.
 - (e) In passing sentence at Shrewsbury Crown Court, the Learned Judge stated ‘you made full restitution and I very much note you did so prior to the Investigation commencing’
 - (f) The criminal charges were specimen charges. All the monies the subject matter of the Professional and Criminal Proceedings, whether the subject matter of charge or not, had been repaid with interest nearly two years before the sentencing hearing at Shrewsbury Crown Court.
 - (g) Prior to these professional and criminal proceedings, the Respondent was properly described as a man of the highest reputation; given to charitable work and hard work in his profession. He is a family man with three children and two grandchildren. He has been married for 35 years to a woman who has stood firmly by him.

- (h) The professional and criminal proceedings have taken a heavy toll, not only on the Respondent, but also on his wife. The Respondent's wife suffered a heart attack, and treatment for her heart condition commenced only a few weeks before the imposition of the custodial sentence upon the Respondent."
12. The Tribunal was invited to note the bundle of references in support of the Respondent. It was submitted that the references attested to the essential decency of the Respondent; his difficulties in practice; his work in the community and the impact of the case upon him.
13. The Respondent's written submissions also contained details of his current financial position.
14. The Respondent expressed his deep regret to the Tribunal.

The Findings of the Tribunal

The Tribunal found the allegation to have been substantiated. Indeed, it was not contested.

The Tribunal had noted the many letters of reference in support of the Respondent. This was a sad case. The Respondent had been a member of the profession for many years but had run into financial difficulties in the 1990s. The Learned Judge at the Respondent's criminal trial had accepted that there had been no intention permanently to deprive his clients of monies to which they were entitled. Nevertheless, as the Respondent himself had said in his written submissions, he had used probate clients' monies to keep his business afloat. Whatever the personal difficulties faced by a solicitor and however many years he had given to the profession, clients' funds were sacrosanct. The public had to be able to feel absolute confidence that their money was safe in the hands of their solicitor. The Respondent had been convicted on his own admission of offences of dishonesty and it was right that the ultimate sanction be imposed upon him. The Tribunal therefore ordered that the Respondent, John Crossley Culpan, solicitor, of Richmond, North Yorkshire, 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 £6,311.76.

DATED this 25th day of July 2002

on behalf of the Tribunal

A H B Holmes
Chairman