

IN THE MATTER OF DAVID GRAHAM DORRANCE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J P Davies (in the chair)
Mr. A N Spooner
Mr. G Fisher

Date of Hearing: 24th October 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 (the "OSS") by Ian Christopher Bonney-James solicitor employed by the OSS at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE on 5th July 2001 that David Graham Dorrance of Wolverhampton, West Midlands, (now of Burntwood, Staffordshire) solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such orders might be made as the Tribunal should think right.

The allegation against the Respondent was that he had been guilty of conduct unbefitting a solicitor in that he had failed to comply with the resolution of an adjudicator (amended on appeal) to whom powers contained in Section 37(A) and schedule 1(A) of the Solicitors Act 1974 had been delegated under Section 79 of the Solicitors Act 1974 as amended by the Courts and Legal Services Act 1990.

A direction was sought by the said Ian Christopher Bonney-James that the direction of the Law Society relating to inadequate professional service dated 22nd January 2001 as amended by the decision of the Appeals Committee dated 11th April 2001 made in respect of David

Graham Dorrance be treated for the purposes of enforcement as if it were contained in an order of the High Court.

Subsequently Geoffrey Williams solicitor of 2A Churchill Way, Cardiff CF10 2DW took over conduct of the proceedings from Ian Christopher Bonney-James and by a supplementary statement of Geoffrey Williams dated 29th May 2002 it was further alleged against the Respondent that he had been guilty of conduct unbecoming a solicitor in each of the following respects namely:-

- (a) that he had failed to maintain properly written books of account contrary to Rule 11 Solicitors Accounts Rules 1991 and Rule 32 Solicitors Accounts Rules 1998.
- (b) that he had drawn monies out a client account otherwise than as permitted by Rule 7 Solicitors Accounts Rules 1991 contrary to Rule 8 of the said Rules and contrary to Rule 22 Solicitors Accounts Rules 1998.
- (c) that he had wrongly retained funds in his office account contrary to the Solicitors Accounts (Legal Aid Temporary Provision) Rule 1992.
- (d) that he had wrongly paid funds into his office account contrary to Rule 15 Solicitors Accounts Rules 1998.
- (e) that he had used clients' funds for his own purposes.

By a second Supplementary Statement of Geoffrey Williams dated 23rd July 2002 it was further alleged against the Respondent that he had been guilty of conduct unbecoming a solicitor in each of the following respects namely:-

- (f) that he had failed to comply with directions of the OSS.
- (g) that he had failed to reply to correspondence from the OSS.

In the second Supplementary Statement Geoffrey Williams also applied for orders pursuant to paragraph 5(2) of schedule 1A Solicitors Act 1974 to the effect that the directions of the OSS made on 7th February 2002 that the Respondent should pay the sum of £400 compensation for inadequate professional services to Messrs M.J.B and J.C.B respectively be treated for the purpose of enforcement as if they were contained in orders made by the High Court.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 24th October 2002 when Geoffrey Williams, solicitor and partner in the firm of Geoffrey Williams & Christopher Green Solicitor Advocates, of 2A Churchill Way, Cardiff CF10 2DW appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the admissions of the Respondent contained in the written representations enclosed with his letter dated 22nd October 2002.

At the conclusion of the hearing the Tribunal ordered that the Respondent David Graham Dorrance of Burntwood, Staffordshire (formerly of Wolverhampton, West Midlands) 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 £7,266.78.

The Tribunal further ordered that a direction be made that the direction of the Law Society relating to inadequate professional service dated 22nd January 2001 as amended by the decision of the Appeals Committee dated 11th April 2001 made in respect of David Graham Dorrance of Burntwood, Staffordshire (formerly of Wolverhampton, West Midlands,)

solicitor be treated for the purposes of enforcement as if it were contained in an order made by the High Court.

The Tribunal further ordered that a direction be made that the direction of the OSS made on 7th February 2002 that the Respondent David Graham Dorrance of Burntwood, Staffordshire (formerly of Wolverhampton, West Midlands) solicitor should pay the sum of £400 compensation for inadequate professional services to M.J.B be treated for the purpose of enforcement as if it were contained in an order made by the High Court.

The Tribunal further ordered that a direction be made that the direction of the OSS made on 7th February 2002 that the Respondent David Graham Dorrance of Burntwood, Staffordshire (formerly of Wolverhampton, West Midlands) solicitor should pay the sum of £400 compensation for inadequate professional services to J.C.B be treated for the purpose of enforcement as if it were contained in an order made by the High Court.

The facts are set out in paragraphs 1 to 58 hereunder:-

1. The Respondent born in 1954 was admitted as a solicitor in 1979 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent carried on practice as a solicitor under the style of Dorrance & Co of 1st Floor Trafalgar House, Market Street, Wolverhampton, West Midlands.
3. In April 2001 the Respondent moved to a new firm as an employed solicitor, a position which he left in May 2002.
4. On the 26th June 2002 the Respondent was made bankrupt. He currently had an application for a Practising Certificate pending.
5. By a letter dated 21st September 1998, Michael J Parry Solicitor wrote in to the OSS on behalf of his client, Mrs PW, the widow of AW, complaining that correspondence sent to Dorrance & Co had been ignored. The complainant was particularly unhappy as AW deceased was formerly a solicitor who had employed the Respondent.
6. This letter was acknowledged on 29th September 1998 and on the same day a letter was sent from the Client Relations Office to Dorrance & Co enquiring whether the matter could be dealt with under the firm's internal Rule 15 procedure.
7. On 6th October 1999 the OSS contacted Michael J Parry, enquiring whether the matter was still live. On 8th November 1999 Mr Parry was advised that if the matter was not pursued, then the file would be closed. This prompted a telephone call from Mr Parry on 19th November 1999, stating that the matter was still an issue and requesting that the file was not closed.
8. On 23rd November 1999 Mr Parry confirmed that various issues raised in his letters to Messrs Dorrance & Co in 1998 remained outstanding. He was particularly concerned that his client had not received the estate accounts in relation to her deceased husband's estate. This was chased up by Mr Parry on 6th April 2000.

9. On 19th April 2000 the OSS attempted to contact Mr Parry to be informed that he was currently ill and a Miss J, a locum, informed the caseworker that Mrs PW was the lay executor of the estate.
10. The OSS formally wrote to the complaints handling Partner of Dorrance & Co on 4th May 2000, seeking his formal explanations and putting the allegations to him and warning him that any reply would be disclosed to the complainant. Mr Parry was also notified on 4th May 2000 that the OSS was seeking the Respondent's formal explanations.
11. On 1st June 2000 the OSS contacted the firm of Dorrance & Co by telephone and the Respondent's secretary returned the call, stating that the Respondent was involved in a High Court case but was aware of the letter.
12. On 29th June 2000 a letter was received from Dorrance & Co, stating they were enclosing further correspondence and saying they had been attempting to resolve the matter.
13. On 6th July 2000 the OSS contacted Dorrance & Co, seeking responses to the explanations sought in the formal letter. Unfortunately, the Respondent was unavailable and the caseworker left a message to call.
14. On 12th July 2000 a further telephone call was made to the firm. Again, the Respondent was unavailable and the message was left for him to telephone.
15. On 14th July 2000 the Respondent called the OSS and stated that he would go through the file that he held and would answer specifically the issues raised and reply within the next 3 to 4 days. He further stated that he would attempt to conciliate the matter with Messrs Parry & Co.
16. There was a further telephone conversation on 17th July 2000 from the Respondent, stating that Mr Parry had been unavailable but he was attempting to speak to him. Mr Dorrance assured the caseworker that he would telephone again at the end of the week.
17. On 25th July 2000 a call was made by the OSS to Mr Dorrance, seeking formal responses to the specific questions raised in the OSS's letter of 4th May 2000. The Respondent was again unavailable and a message was left for him to deal with the issues and seeking clarification of whether the matter had been conciliated. Further telephone messages were left.
18. On 11th August 2000 a further call was made to the Respondent, who stated he had been in correspondence with Michael J Parry and was trying to ascertain what his client was seeking. Further contact was made on 21st August 2000 by the OSS and a message was left.

19. A further message was left on 24th August 2000 and the Respondent was notified that if the OSS did not hear to the contrary, the matter would be pursued on a formal basis and conciliation be deemed to be impossible.
20. Further telephone conversations took place and on 1st September 2000 the OSS again formally wrote to the Respondent, seeking further progress and informing the Respondent that if the OSS did not hear by return, then a report would be drafted based on the information obtained already and would be sent to him for comment. Mr Parry was also notified on the same date of the OSS's action.
21. On 12th September 2000 a direction was made under Section 44B of the Solicitors Act 1974 as amended, that the file of papers relating to Mrs PW and her deceased husband should be delivered to the OSS for investigation.
22. On 21st September 2000 Messrs Dorrance & Co complied with the Section 44B direction and enclosed the file.
23. On 30th November 2000 a report was disclosed to the Respondent for his comments. A further copy was sent to Mr Parry for his comments also.
24. Further correspondence took place, including representations from Michael J Parry & Co that their client's health had suffered as a result of the stress of the complaint.
25. On 26th January 2001, the Respondent and the complainant's instructed solicitor were notified of the decision of the Adjudicator. They were notified of their right of appeal.
26. On 2nd February 2001 an Appeal was received from the complainant's solicitor as to the level of the reduction of fees and seeking further compensation from the Respondent. The Respondent was notified of this on 9th February 2001 in relation to the Appeal and on 12th April 2001 the Respondent and the complainant were notified that the Compliance and Supervision Committee had considered the Appeal and notifying the Respondent that he must comply with the decision immediately. The Compliance and Supervision Committee had varied the original decision of the Adjudicator by increasing the reduction in costs to £1,200 plus VAT and had upheld the other directions.
27. Further correspondence took place with the parties, however compliance with the direction (as amended) had not taken place.
28. Upon notice duly given to the Respondent an inspection of his books of account was carried out by the Monitoring & Investigation Unit ("MIU") of the OSS. A copy of the report dated 20th December 2000 was before the Tribunal. At the request of the OSS the Respondent provided written representations upon the report and a copy of that correspondence was before the Tribunal.
29. The report identified the following matters.
30. The books of account were not in compliance with the Solicitors Accounts Rules.

31. A cash shortage in the sum of £7,010.06 was identified during the inspection. The Respondent agreed the existence of a cash shortage as at 31st August 2000 and it was replaced in full by means of a transfer from office to client bank account during the inspection.

32. The cash shortage of £7,010.06 arose as follows:-

(i)	Legal Services Commission professional disbursements incorrectly retained in office bank account	£2,634.57
(ii)	Debit balances – overtransfers	1,880.91
(iii)	Client money incorrectly lodged in office bank account	1,468.76
(iv)	Debit balances – overpayments	926.87
(v)	Office expenses incorrectly made from client bank account	100.00
(vi)	Book difference (surplus)	(1.05)
		<u>£7,010.06</u>

Items (i) and (ii) are dealt with below.

Legal Services Commission Professional Disbursements Incorrectly Retained in Office Bank Account - £2,634.57

Mr A P

33. The firm acted for Mr P in connection with a legally aided contract dispute.

34. Between 26th October, 1999 and 9th March, 2000 the following amounts, in respect of surveyor's fees paid by the Legal Aid Board in respect of this client, were lodged in office bank account:-

26 th October 1999	£1,377.70
24 th December 1999	891.40
9 th March 2000	<u>365.47</u>
	<u>£2,634.57</u>

35. The Respondent confirmed that these disbursements remained unpaid at 31st August, 2000.

36. The resulting cash shortage was replaced by way of a transfer of funds from office to client bank account on 16th October, 2000, in excess of eleven months after the first payment was received from the Legal Aid Board.

Debit Balances – Overtransfers - £1,880.91

37. Between 13th January, 2000 and 30th June, 2000 amounts varying between £35.00 and £822.50, and totalling £1,880.91 in respect of five client matters were transferred from client to office bank account when insufficient funds were available. The largest item is exemplified below.

Mr V G – 3822.50

38. The firm acted for Mr G in respect of an unfair dismissal claim.

39. The relevant account in the clients' ledger showed that on 15th March, 1999 an amount of £822.50 was lodged in office bank account and the file revealed that this amount was provided by the client. The Respondent confirmed that this was in settlement of the firm's costs in this matter.
40. The ledger also showed that a further amount of £822.50 was transferred from client to office bank account on 13th January, 2000, when there were no funds available for this client.
41. The resulting cash shortage was replaced by way of a transfer of funds from office to client bank account on 16th October, 2000, some nine months later.
42. The Respondent said that the transfer of £822.50 on 13th January, 2000 had probably been made under the mistaken belief that the receipt on 15th March, 1999 had been paid into client bank account.

Shortages Replaced Prior to 31st August 2000

Debit Balances

43.	<u>Client</u>	<u>Payment/ Transfer</u>	<u>Date of Payment /Transfer</u>	<u>Date Corrected</u>	<u>Cause</u>
	C	<u>£1,175.00</u>	28 th May 99	29 th June 00	Overtransfer
	Ha	<u>£645.42</u>	9 th July 99	29 th June 00	Overtransfer
	Hu	155.00	27 th April 99		Overtransfer
		<u>88.00</u>	10 th Sept 99		Overtransfer
		<u>£243.00</u>		29 th June 00	
	Sa	3,539.85	9 th May 00		Overpayment
		5,566.25	10 th May 00		Overpayment
		1,059.75	21 st June 00		Overtransfer
		1,515.00	28 th June 00		Overpayment
		<u>200.00</u>	17 th July 00		Overpayment
		<u>£11,880.85</u>		30 th August 00	
	So	2,892.60	15 th March 00		Overpayment
		300.00	29 th March 00		Overpayment
		<u>791.25</u>	9 th April 00		Overtransfer
		<u>£3,983.85</u>		18 th August 00	

Office Expenses Incorrectly Paid From Client Account

44. The following payments were incorrectly made from client bank account in respect of staff wages:-

<u>Amount</u>	<u>Date arose</u>	<u>Date corrected</u>
£394.57	25 th January 99	1 st July 99
649.54	12 th March 99	
<u>126.07</u>	14 th May 99	
<u>£775.61</u>		29 th June 00

45. The Respondent had explained that these payments had been made in error by using the wrong cheque book and informed the Investigating Officer that at the time these payments were made the firm was not under any financial pressure.

Complaint by Mr M J and Mr J C B

46. Messrs B were the executors of the Will of their late mother. The Respondent was instructed by them in the administration of the Estate.
47. In June 2002 Messrs B complained to the OSS about the Respondent's work on their behalf.
48. The OSS investigated the matter as one of potential inadequate professional services. Correspondence was before the Tribunal to show the progress of the investigation.
49. On 7th February 2002 a First Instance decision was made by an Adjudicator of the OSS in relation to compensation for inadequate professional services.
50. The Respondent was directed to pay the sum of £400 to each of Mr MJB and Mr JCB and to waive his right to render a bill in respect of any of the work done in connection with the Estate.
51. He was further directed to return the file of papers relating to the Estate to Mr MJB within 7 days of the date of the letter.
52. Notwithstanding reminders from the OSS the Respondent did not comply with the direction relating to compensation.
53. He also failed to comply in due time with the direction to return the file of papers within 7 days of notification.

Complaint by Mr TB

54. Mr TB submitted a complaint to the OSS on 19th July 2001.
55. The progress of the OSS investigation was shown by the documents before the Tribunal.

56. On 22nd March 2002 the OSS made a direction for the production of documents. The Respondent had not complied with this direction.

Complaint by Messrs Millichips

57. Messrs Millichips Solicitors complained to the OSS about the conduct of the Respondent on 19th September 2001. The progress of the OSS investigation was shown by the documents which were before the Tribunal.
58. The Respondent failed to provide any explanation to the OSS in response to the complaint and in particular failed to reply to OSS letters dated 8th January 2002, 4th February 2002 and 6th March 2002.

The Submissions of the Applicant

59. The Respondent had admitted his allegations in his letter and had confirmed that the sums ordered to be paid in compensation had not been paid.
60. In relation to the matter of the Estate of AW the documents before the Tribunal showed the unsuccessful attempts by the OSS to deal with the matter by conciliation. A formal order had to be made by the OSS in order to obtain the papers.
61. The decisions of the OSS in relation to compensation had not been complied with. For people to have confidence in the profession, solicitors had to co-operate with the regulatory body. The Respondent had not done so.
62. The Applicant would apply for orders in respect of the people to whom compensation was due even though the Respondent had been made bankrupt.
63. In relation to the MIU report it was clear from the report that the shortages which had been made good before the inspection had existed for some time, for periods ranging from 5 to 14 months.
64. Further on three occasions staff wages had been paid out of client account. The Applicant could not gainsay the Respondent's assertion that this had been a mistaken use of the wrong cheque book. The Applicant was not alleging dishonesty against the Respondent.
65. Nevertheless the Tribunal was asked to note the times taken to rectify the errors which were periods between 6 weeks and 5 months.
66. In relation to allegation (c) the funds wrongly retained in office account had stayed there for 11 months rather than the 14 days allowed by the Rules.
67. The Tribunal's attention was drawn to the letter from the Respondent dated 28th February 2001 giving his response to the MIU report. The Applicant knew that the Tribunal would take full account of what the Respondent had to say on his own behalf.

68. In relation to the allegations contained in the second Supplementary Statement the Respondent had again failed to co-operate with the regulatory body. Indeed there had been a wholesale failure to co-operate with the professional body and this caused inconvenience, expense and damage to the reputation of the profession.
69. It was plain from the Respondent's letter of 22nd October 2002 that the Respondent had had some problems and it was fair to say that he had co-operated at times.
70. There had however been wide scale misconduct and a pattern of non co-operation.

The Submissions of the Respondent

71. The submissions of the Respondent were contained in his written representations enclosed with his letter of 22nd October 2002 as follows:-

"I would confirm that I wish to plead guilty to all of the allegations against me. I am grateful for the time allowed to me to enable me to consider fully all of the matters which I am facing.

With regard to the alleged breaches of Accounts Rules I can add nothing further to the letter dated 28th February 2001 which I forwarded to the OSS following receipt of their report following on from the inspection which took place at my office in October 2000.

Shortly after this I made a decision to terminate my practice. I had been a sole practitioner for a number of years and I was finding administration of the practice to be an increasing burden. My practice was heavily dependant upon legal aid and I was unable to obtain a Legal Services Commission Franchise which meant that I could not undertake any further legal aid work as from the Spring of 2001.

In April 2001 I obtained employment as an Assistant Solicitor with a firm in Wolverhampton. I was employed as a criminal advocate. The firm that employed me did only this type of work. This job was then my only form of income. I took over a large client base and my employer required that often I work during the evenings and at weekends attending clients at police stations. This unfortunately left me very little time to deal with other matters.

Regarding the complaint by Mr M J and Mr J C B this was a matter which was ongoing at the time of my ceasing to practise. I would maintain that all of my existing clients were advised to seek other representation as I could not move any matters to my new employment. Although an order for compensation was made in this case I would like it to be known that no charge was levied to the clients in respect of a substantial amount of work carried out up to the time of transfer of the file to new solicitors.

In relation to the complaint by Mr T B I had no documents in my possession to deliver. I thought that this had been made clear to The Law Society.

I wrote to Mr T B on the 4th January 2002 (copy letter attached) and heard nothing further from him.

Regarding the complaint made by Millichips I was of the understanding that the relevant file of papers had been forwarded. In relation to the estate of the late A W (complaint by Michael J Parry) this was a matter which had been dealt with by me over a substantial period of time. It has saddened me greatly being the administration of the Estate of my former senior partner. An Estate account and a bill of costs were delivered to Mrs W after the substantive part of the Estate was finalised in, I believe, 1996. Complaint was thereafter made regarding outstanding matters which I attempted to deal with by correspondence with my client, her step son and her then solicitor.

I accept that in two of the above cases I have failed to make payments of compensation as ordered.

I had ceased practising in part as a result of financial difficulties. I was facing, albeit disputed, debts owed to H.M. Customs & Excise and Inland Revenue. Earlier this year I had instructed accountants with regard to disputing these debts. Bankruptcy proceedings were commenced against me and I made trips to Court in London on more than one occasion to contest these proceedings”.

72. The Respondent then gave details of his wife’s serious illness and resulting treatment. The Respondent further wrote:-

“I found myself having to juggle looking after my family, a demanding full time job, my financial difficulties and administering what was left of my former practice. A Bankruptcy Order was made against me in my absence on the 28th May last. Since that time my Practising Certificate has been suspended and I have not worked.

I have made application for my suspension to be lifted to enable me to practise in approved employment. This application has not yet been determined. My employer paid me until the end of July. Thereafter I did not register as unemployed because my employer informed me that he might pay my salary further in September pending the outcome of my application. He was unable to pay me and I have therefore been without income for nearly three months. I have now claimed Job Seekers Allowance. I have today been advised that I am entitled to benefit (having registered on the 30th September) but I am still awaiting payment of benefit. I am therefore unable to attend the hearing in this matter or to arrange representation. I would ask that these matters are dealt with in my absence as I wish this matter to be resolved now without further delay.

I apologise for my non-attendance and I would ask that the above matters are taken into account on my behalf”.

The Findings of the Tribunal

73. The Tribunal found all the allegations to have been substantiated indeed they were not contested.
74. The Tribunal had noted that dishonesty had not been alleged against the Respondent in respect of the accounting failures. Nevertheless the serious accounting irregularities including the use of the client account to pay wages, albeit in error, meant that the Tribunal had to consider the appropriate way to protect the public.
75. The Respondent had co-operated at times with the OSS but overall had shown a lamentable failure to respond to his regulatory body or comply with its decisions. Clients were still awaiting compensation. Co-operation with the OSS had to be a priority for every solicitor. Without that co-operation The Law Society could not regulate the profession and the public could not have confidence in it. The difficult family circumstances which had arisen this year had been noted with sympathy by the Tribunal but they did not explain the previous serious misconduct by the Respondent. The Respondent had failed in his duty with regard to the accounting regulations which were there for the protection of the public. He had also failed in his duties towards The Law Society in the exercise of its regulatory functions which were also designed to protect the public.
76. The Respondent had admitted the allegations although only two days prior to the hearing. The allegations were serious. The Respondent had still not complied with the various directions. In the interests of the protection of the public and the reputation of the profession the Respondent could not be allowed to continue in practice as a solicitor.
77. The Tribunal ordered that the Respondent David Graham Dorrance of 7 Metcalf Close, Burntwood, Staffordshire, WS7 9LH (formerly of 445 Dudley Road, Wolverhampton, West Midlands, WV2 3AQ) 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 £7,266.78.
78. The Tribunal further ordered that a direction be made that the direction of the Law Society relating to inadequate professional service dated 22nd January 2001 as amended by the decision of the Appeals Committee dated 11th April 2001 made in respect of David Graham Dorrance of 7 Metcalf Close, Burntwood, Staffordshire, WS7 9LH (formerly of 445 Dudley Road, Wolverhampton, West Midlands, WV2 3AQ) solicitor be treated for the purposes of enforcement as if it were contained in an order made by the High Court.
79. The Tribunal further ordered that a direction be made that the direction of the OSS made on 7th February 2002 that the Respondent David Graham Dorrance of 7 Metcalf Close, Burntwood, Staffordshire WS7 9LH (formerly of 445 Dudley Road, Wolverhampton, West Midlands, WV2 3AQ) solicitor should pay the sum of £400 compensation for inadequate professional services to M.J.B be treated for the purpose of enforcement as if it were contained in an order made by the High Court.

80. The Tribunal further ordered that a direction be made that the direction of the OSS made on 7th February 2002 that the Respondent David Graham Dorrance of Burntwood, Staffordshire (formerly of Wolverhampton, West Midlands) solicitor should pay the sum of £400 compensation for inadequate professional services to J.C.B be treated for the purpose of enforcement as if it were contained in an order made by the High Court.

DATED this 16th day of December 2002

on behalf of the Tribunal

J P Davies
Chairman