

IN THE MATTER OF VELLUPILLAI ARUMUGAM, solicitor

AND

IN THE MATTER OF THE SOLICITORS ACT 1974

Miss. T Cullen (in the chair)
Mr. A H B Holmes
Mrs. C Pickering

Date of Hearing: 14th May 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 Ian Paul Ryan solicitor and partner in the firm of Messrs Russell-Cooke Potter and Chapman of 2 Putney Hill, Putney, London, SW15 6AB, on 23rd July 2001 that Vellupillai Arumugam solicitor c/o David T. Morgan, of 9 Gray's Inn Square, London, WC1R 5JF, (now of 65 Downshall Avenue, Ilford, Essex) 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 against the Respondent were that he had been guilty of conduct unbefitting a solicitor in each of the following particulars namely:-

- (i) That he failed to keep accounts properly written up for the purposes of Rule 11 of the Solicitors' Accounts Rules 1991;
- (ii) that contrary to Rule 8 of the Solicitors' Accounts Rules 1991 he drew money out of client account other than was permitted by Rule 7 of the said Rules;
- (iii) that he obtained client's funds purportedly for costs in circumstances that he knew or ought to have known that he could not justify;

- (iv) that he utilised client's funds for the purposes of other clients;
- (v) that he deliberately and improperly utilised client's funds for his own purposes.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS, on 14th May 2002 when Ian Paul Ryan solicitor and partner in the firm of Messrs Russell-Cooke Potter and Chapman of 2 Putney Hill, Putney, London SW15 6AB appeared as the Applicant and the Respondent was represented by David T. Morgan, solicitor of 9 Gray's Inn Square, London WC1R 5JF.

The evidence before the Tribunal included the admissions of the Respondent to allegations (i),(ii) and (iv) and his partial admission in relation to allegation (v) save that he denied the words "deliberately and improperly". The evidence also included the oral evidence of the Respondent and of Mr I Inman together with a bundle of letters of reference in support of the Respondent.

At the conclusion of the hearing the Tribunal ordered that the Respondent Vellupillai Arumugam solicitor of Downshall Avenue, Ilford, Essex, 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 being the agreed costs of the Investigating Accountant fixed in the sum of £8,522 together with legal costs to be subject to detailed assessment unless agreed.

The facts are set out in paragraphs 1 to 21 hereunder:-

1. The Respondent born in 1953 was admitted as a solicitor in 1985 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent was carrying on practice in partnership under the style of Pillai & Jones of 1a Leytonstone Road, London, E15 1GA.
3. Upon due notice to the Respondent the Investigating Accountant of the Law Society, Mr I Inman, carried out an inspection of the Respondent's books of account. A copy of his Report dated 11th October 1999 was before the Tribunal.
4. The Report noted the following matters:-
5. The books of account were not in compliance with the Solicitors' Accounts Rules as they contained numerous improper transfers from client to office bank account.
6. In view of the above, no opinion could be expressed by Mr Inman as to the firm's liabilities to clients as at 2nd September 1999 but the Respondent and his salaried partner Mrs S agreed that a minimum cash shortage of £24,790.12 existed on client bank account as at that date.
7. The minimum cash shortage was rectified by the Respondent making payments into client bank account from his personal funds totalling £24,390.12, such payments being made in tranches on 20 and 22nd September and 1st October 1999, and by the payment from office bank account of £400.00 on 16th September 1999.
8. The minimum cash shortage arose as follows:-

| | | |
|------|---|-------------------|
| (i) | Improper transfers from client to office bank account | £23,890.12 |
| (ii) | Client monies lodged in office bank account | <u>900.00</u> |
| | | <u>£24,790.12</u> |

Improper Transfers from Client to Office Bank Account - £23,890.12

9. During the period from 2nd November 1998 to 2nd September 1999 client bank account was charged, inter alia, with twenty three transfers to office bank account varying in amount between £352.50 and £5,287.50, purportedly in respect of costs, when no such monies were due to the firm.
10. The Respondent agreed with Mr Inman that the transfers from client to office bank account were not due to the firm and he added that inter client ledger transfers had been recorded in the books of account to disguise their true nature. The Respondent denied instructing Mr C (his bookkeeper) to effect these transactions and responded to the question of why did Mr C effect the transactions with "I don't know I think it may be a rashness".
11. The Respondent disagreed that he had benefited personally from the transactions even though the firm's office bank account had been operating in overdraft for at least two years. He also disagreed that the interest paid on the office bank account overdraft over the last year had been reduced by those transactions.
12. The Report set out two transfers totalling £4,120 by way of example.
13. The Respondent's firm acted for Mr A in a purchase.
14. The relevant account in the client ledger showed the following client account transactions for this matter:

| <u>Date</u> | <u>Narrative</u> | <u>Transaction</u> | | <u>Balance</u> |
|-------------|---------------------|--------------------|--------|----------------|
| | | £ | | £ |
| 21.7.99 | deposit | 4,250.00 | credit | 4,250.00 |
| 21.7.99 | deposit | 1,450.00 | credit | 5,700.00 |
| 30.7.99 | costs | 460.00 | debit | 5,240.00 |
| 2.8.99 | deposit on exchange | 3,000.00 | debit | 2,240.00 |
| 19.8.99 | stamp duty | 1,120.00 | debit | 1,120.00 |

15. Mr Inman carried out a review of the corresponding client matter file in the presence of the partner dealing with the matter, Mrs S.
16. The first three transactions were verified to the client file, however, the payments of £3,000 and £1,120 were not.
17. An inspection of the corresponding client bank account cheque stub in respect of the £3,000 payment showed the narrative as 'deposit on exchange', however, the client account cheque showed 'Pillai & Jones – office account' as the payee. The cheque was signed by the Respondent and dated 2nd August 1999. The office bank account paying in slip dated 2nd August 1999 showed £3,000 as paid in with the narrative 'H costs'.

18. On further inspection of the client account cheque stub and another unrelated client file it was ascertained that the payment of £1,120 was in respect of stamp duty for another client.
19. Mr Inman asked the Respondent for an explanation of the discrepancies and he replied 'I thought it was costs – it was an error it shouldn't have been taken'.
20. Mr Inman asked the Respondent if when he signed the cheque he had a list of client matters to which the 'costs' related and he replied 'yes Mr C will have it'. However no list was produced and Mr C was unavailable to confirm to Mr Inman this due to his absence on holiday.
21. Mr Inman asked the Respondent as to why Mr C posted the transactions to the 'A' matter ledger card and described the £3,000 payment as 'deposit on exchange'. He replied, 'it must have been rashness on his part'.

The Submissions of the Applicant

22. The Respondent had admitted allegations (i),(ii),(iv) but denied allegation (iii) and accepted allegation (v) save for the words "deliberately and improperly".
23. The Respondent's position was that he accepted wrongdoing but said that these were not deliberate and improper acts on his behalf.
24. The Respondent's admissions were accepted as far as they went but the Applicant wished the Tribunal to have the opportunity to consider whether the acts of the Respondent were improper and/or deliberate.
25. In the submission of the Applicant allegations (iii) and (v) stood or fell together.
26. The Applicant had not pleaded dishonesty. The burden of proof for a finding of dishonesty would be beyond reasonable doubt.
27. The Applicant was saying that maybe the acts of the Respondent had been improper or deliberate and dishonesty might be an inference which the Tribunal might draw having heard the evidence.
28. The submissions of the Applicant were supported by the oral evidence of Mr Inman.

Oral Evidence of Mr Inman

29. At the relevant time Mr Inman had been employed by the OSS as an Investigating Accountant.
30. He had commenced the inspection on 9th September 1999.
31. He had initially interviewed Mrs S and Mr C as the Respondent had not been available.
32. Copies of his interview notes were before the Tribunal.

33. Consistent with findings of previous inspections, the books of account had not been fully written up and Mr Inman had had to work through the ledger cards. Mr Inman had found that the ledger card for a client O’G was not consistent with the matter. It appeared that there were transactions from other matters and two transfers from other ledger cards which had allowed payments to be made to residuary beneficiaries.
34. The narrative on the ledger card showed discrepancies when compared with cheques and Mr Inman had suspected that there had been teeming and lading.
35. Mrs S had said in interview that she knew nothing about that but that she did not have access to the accounting records on a day to day basis. If she needed a cheque she asked Mr C.
36. On the O’G ledger card an amount marked as “refund” had been paid into office account but costs had already been taken consistent with the estate accounts.
37. Mr Inman worked through every transaction and reviewed them with Mrs S who was the only fee earner available.
38. Mr Inman had received a schedule from Mr C on 17th September 1999 which was before the Tribunal.
39. Because a ledger card had an incorrect narrative, this raised the question of the veracity of the accounting records and Mr Inman had to go through every client file.
40. In his opinion there was a shortage due to transfers from client to office account when those sums were not due to the firm.
41. There were also transfers from one ledger card to another which allowed that to be covered up. Mr Inman had prepared his own schedule dated 28th September 1999 which was before the Tribunal.
42. Mr Inman had held a final interview with the Respondent and Mrs S to discuss the accounts.
43. The Respondent had agreed the figures and the shortage. He had taken responsibility for this and had put money back into client account.
44. The Respondent had said
“It is my responsibility, it is the cashier’s muck up”.
45. The Respondent had been asked in interview to explain the procedures for ensuring that payments made from client account were in compliance with the Solicitors Accounts Rules. The Respondent had replied that there was a cheque request form system starting from July 1998 but Mrs S had said that she had not requested any cheques by a cheque request form since that date.
46. Asked how often he checked his firm’s office and bank account statements for any unusual transactions the Respondent had replied that he had “a quick look”.

47. Asked if the Respondent agreed that the funds in Mr C's schedule were not due to the firm the Respondent had replied
"I don't agree with the whole lot, some may be due to the firm and some not".
48. Asked if he agreed that there had been an improper transfer to the extent of £19,035.15 as agreed by Mrs S the Respondent had replied "oh yes".
49. Asked if he agreed that the transfers had been recorded in the books of account in a manner to disguise deliberately their true nature the Respondent had replied "Yes I agree it is wrong".
50. The Respondent had denied asking Mr C to effect those transactions. The Respondent had said that Mr C would do a list of costs for transfer and the Respondent would sign the cheque which Mr C wrote out and that Mr C brought the cheque unattached from the cheque book.
51. Asked why Mr C had effected the transactions being the transfers from client bank account to office bank account and the transfers between the ledgers to conceal the bank account transfers the Respondent had replied
"I don't know, I think it might be a rashness".
52. The Respondent had denied that he had benefited personally from the transactions and denied that the interest paid on his office bank account over the last year had been reduced by these transactions.
53. He had not agreed that it was likely that the transfer had prevented the firm from exceeding its office bank account overdraft limit saying that he would have injected his personal funds to keep below the overdraft limit.
54. He had said that his overdraft limit at the beginning of the year was £25,000 then £27,500, ten thousand pounds of which was converted to a loan leaving an overdraft of £17,500.
55. The Respondent had said to Mr Inman
"At the end of the day I would like to take responsibility – mistakes happen. We would say that we would be more careful in the future"
56. The Respondent had been the only equity partner. Mrs S had said that she had little to do with the accounting records saying that Mr C had day to day control of them and the Respondent had responsibility for them.
57. The Respondent had normally signed cheques but Mrs S would sign if the Respondent was not available.
58. The schedule prepared by Mr Inman represented transfers which he had agreed with Mrs S as being improper.
59. The matters were Mrs S's files.

60. On the A matter cheque number 1048 for £3,000 had been described on the cheque stub as “deposit on exchange” but the cheque had been paid into office account which was inconsistent with the narrative. The cheque had been signed by the Respondent. The narrative on the paying in slip was “H – Costs”.
61. The funds had gone from one name to another and had changed their nature considerably moving from the client ledger to the office account.
62. The actual deposit on the A matter had been paid by cheque number 1091 in the sum of £2,850. to TGB. This transaction had not been reflected on the ledger card.
63. Cheque number 1079 in the sum of £1,120. on the A ledger with the narrative “stamp duty” related according to the Respondent to the matter of client Ah not the A matter.
64. In the matter of S, Mr Inman had verified the client ledger as against the file.
65. On 4th June 1999 there had been two payments for costs. On 5th July 1999 cheque number 1019 in the sum of £528.75 had the narrative on the ledger “refund”. This cheque had been paid into office bank account. The cheque stub had the narrative “refund to client”.
66. In the matter of Ah, the narrative on the ledger account of the costs taken on 24th June 1999 (cheque number 1014) was consistent with the file. The narrative of cheque 1018 on the ledger account of costs and disbursements on 5th July 1999 was not consistent with the file. The cheque in the sum of £587.50 was part of a number of cheques paid into office account on that day.
67. In the matter of D cheque number 991 in the sum of £1,527.50 had the narrative on client ledger of “deposit on exchange”. This was dated 7th June 1999 but the matter had been completed on 28th May 1999. The cheque had been paid into office account.
68. Mr Inman had not been able to recover the cheques and therefore could not say who signed them save for the A matter where the cheque had been recovered and had been signed by the Respondent.
69. The matter of O’G had been the ledger card on Mr Inman’s first review which had drawn his concern. There were transactions on the 30th April and on 4th May 1999 which were transfers to other ledger cards. On 12th August 1999 there were transfers of funds into the O’G ledger card from the ledgers of Mr Al and Mr H. The transfer from Mr H brought the balance on the account to £10,926.58 on 12th August and on the same day two cheques were written to beneficiaries on the O’G matter.
70. Without the transfers from Mr Al and Mr H the O’G client ledger would have been in debit.
71. On 1st June on the O’G matter cheque 979 in the sum of £1,057.50 had the ledger narrative “refund” and cheque 980 on the same date in the sum of £768.00 had the ledger narrative deposit on exchange. These formed part of a payment into office account on 1st June.

72. On 3rd June 1999 cheque number 982 in the sum of £470 had the ledger narrative “refund”. The cheque stub had the same narrative but the cheque formed part of a sum paid into office account.
73. Mr Inman said that there had been an inspection of the firm’s books of account in 1994 when concerns over the quality of the writing up of the books of account had been expressed to the firm.
74. In 1995 there had been a further inspection and some improvements had been made.
75. In 1998 there had been a one day inspection and concerns had been expressed that the writing up of the books appeared to cover up debit balances on client account. The letter of the Investigating Officer expressing his concerns to the Respondent was before the Tribunal.
76. In cross examination Mr Inman confirmed that the fee earner on the accounts to which he had referred was Mrs S.
77. Mr Inman had said that he had gone through Mr C’s list to verify whether the costs could properly have been taken and had gone through the matters with Mrs S and had gone through files, cheque stubs and paying in slips. This had resulted in Mr Inman’s schedule which identified the amounts which formed part of the shortage. He had asked the Respondent whether he was satisfied that the schedule was accurate and the Respondent had so agreed at the final interview. Mr Inman had explained what he had done and the Respondent had agreed to that. He had not agreed Mr C’s list but had agreed Mr Inman’s list. In respect of the additional sums arriving from the H matter, when asked whether the transfer was improper the Respondent had said that he had not authorised Mr C to transfer the monies. He had accepted responsibility as senior partner.
78. Mr Inman had explained the procedures that he had used so that the Respondent knew what he was agreeing.
79. Mr Inman had not specifically asked who had signed the cheques but the Respondent had said Mr C would bring a list of costs for transfer and the Respondent would sign the cheques. The Respondent had said that he did not instruct Mr C to effect the transfers.
80. Some of the transactions had been carried out while the Respondent was not in the country but the Report covered the period from 2nd November 1998 to 2nd September 1999.
81. Mr Inman did not know who had written the paying in slip or the cheque stub details. He was not alleging that it was the Respondent.
82. It was correct that the Respondent had said that he had not benefited personally from the transfers but the firm was operating with an overdraft on office account incurring interest charges.

83. The firm was operating close to the limit of its overdraft and over £20,000 had been taken from client account as set out in the Report between November 1998 and September 1999.
84. At the conclusion of Mr Inman's evidence the following further submissions were made by the Applicant.
85. The Respondent had agreed the facts.
86. Mrs S had been a salaried partner at the relevant time. She had stated in a letter of 17th November 1999 that she had been unaware of the improper transfers until she had been told of them by Mr Inman.
87. The relevant Law Society Committee had made the decision to reprimand her.

The Submissions on the part of the Respondent

88. The Respondent gave oral evidence as follows:

Oral evidence of the Respondent

89. The Respondent confirmed that the facts stated in his written statement of 9th May 2002 were true and correct to the best of his knowledge.
90. The matters raised in Mr Inman's evidence were largely those of Mrs S. The bookkeeper had made mistakes. The responsibility lay on the Respondent for not exercising more supervision but the Respondent did not know how these things had happened.
91. The cheque on the A matter had been signed by the Respondent but it was the bookkeeper's handwriting on the cheque, on the cheque stub and on the paying in slip. It was Mrs S's handwriting on the cheque stub dated 1st September 1999 to TGB in the sum of £2,850.00. The Respondent at that time had been on holiday in Colombo.
92. The Respondent had not signed that cheque so Mrs S must have done so as she was the only other authorised signature. The cheque which the Respondent had signed dated 2nd August 1999 he had believed were the costs in the H matter as indicated on the paying in slip.
93. This sum had been allocated to the A ledger as "deposit on exchange". The Respondent could not comment on why Mrs S or Mr C would have done that.
94. After the monitoring visit the Respondent had spoken to Mr C who would not cooperate. The Respondent had terminated his services on 2nd November 1999.
95. Mr C had written a letter subsequently accepting responsibility. When the Respondent had passed the papers to his auditors he had not been able to give them an explanation and they had spoken to Mr C direct who had faxed the letter. The auditors had checked the account subsequently and produced the Reports which were before the Tribunal.

96. When transfers to office account were made, the Respondent would check that the bill had been raised first, that the client had been notified and that proper transfer slips had been written up.
97. Before a bill was posted the Respondent would make sure that enough money was available.
98. When the book-keeper would bring a list of costs the Respondent would not check each one but would rely on the list. The Respondent had relied on Mr C for information.
99. The first time the Respondent had seen the list Mr C had given to Mr Inman had been during his interview with Mr Inman and he had not been able to decide the issue at that point. He did not know at that point whether the transfers were proper or improper. He had agreed that the records were wrong but that he had not done this.
100. The Respondent had not been facing financial pressures. He had had his personal borrowings. He was able to make good the shortfall and had injected the money from personal resources. He paid out of his personal facilities when he needed to keep the overdraft within the limit.
101. The Respondent had not been aware that Mr C was making transfers and payments not properly drawn or not on the correct client account.
102. Of the matters on Mr Inman's schedule most of these were matters of Mrs S. He could not remember exactly but about four of the matters were his.
103. In cross examination the Respondent said that the H matter had been his.
104. The Respondent had been in charge of the firm from 1992 until the firm was the subject of an intervention in 2000. Mrs S had been employed from the same date.
105. The Respondent thought that Mr C had been employed from 1997 until 1998 but accepted from the documentation before the Tribunal that Mr C must have been with the firm in 1994.
106. On the day to day basis Mr C had done the bookkeeping. The Respondent accepted that Mr C had been important enough in the firm to sit in on the OSS discussions in 1994.
107. Mr C must have made the mistakes largely in the absence of the Respondent.
108. The Respondent confirmed that he had been on holiday in Sri Lanka from 14th August 1999 until 11th September 1999. He accepted that improper transfers were made, according to Mr Inman's schedule, between January 1999 and August 1999.
109. The Respondent said that he had had personal problems as set out in his statement. He had rectified the shortage.

110. When asked whether he agreed that none of the dates on the schedule corresponded with when the Respondent was away, the Respondent said that he accepted that there were improper transfers but he had not agreed the dates.
111. He accepted that he had signed the cheque in the A matter while he was not on holiday. The dates in August and September 1999 had not been the only time he had been away.
112. A letter dated 28th June 2000 from the Respondent's representative to the OSS said that the transfers

“Happened during Mr Arumugam's absence under the authority of Mrs S at the behest of his bookkeeper Mr C”.

The Respondent said that this meant that the transfers on the schedule might have been effected by Mrs S while the Respondent was out of the office whether abroad or otherwise out of the office but in his absence. Mrs S might have given Mr C instructions but the Respondent could not give a firm answer. Mrs S had not given the Respondent an explanation but had said that it was the Respondent's problem. The Respondent had asked her to leave and she had left in December 1999.

113. Mr C had given his letter in February to the accountants. The Respondent had not asked him to give evidence or sign a statement. The letter had been faxed to the Respondent to pass to the auditors.
114. The Respondent denied that the five ledger cards referred to in Mr Inman's evidence showed deliberate transfers. The Respondent said that he could not comment, he had not done anything. Mr C had brought the cheques without the cheque stubs and with a list of costs.
115. The procedure which the Respondent had described for making transfers related to his matters. He trusted his fee earners to sort their matters. He relied on his bookkeeper's information. Mr C would say that the fee earners checked it. The Respondent checked the balance on his own matters. Mrs S had had access to the ledger cards which were maintained in the central computer in the Respondent's room. The Respondent would check them in his room and Mrs S would check them in his room or, if he was not in, she would take the computer to her room. The Respondent did not accept Mrs S's assertion that she had not had access to the accounting records.
116. The Respondent accepted that the previous monitoring visits had identified areas of concern. He had complied with what had been asked.
117. After 1998 he had carried on in his usual way but certain things had happened in his personal circumstances.
118. He had not reviewed the individual ledger cards of other fee earners after the 1998 inspection.
119. The Respondent did not know what would be “in it” for Mr C if he effected all the transfers. He could not comment on what benefit there might be for Mr C. He could

not comment on what benefit there would be for Mrs S if she had authorised the transfers, he did not know why she had done it. The only benefit for Mrs S would be to distort the Respondent's practice, to damage it and to cause problems for the Respondent.

120. The Respondent had not authorised the transfers and there would be no benefit to him from them.
121. He had converted £10,000 of his overdraft to a loan rather than using personal funds on the advice of his auditors which had been a business decision. This meant that at the beginning of the year the overdraft became £17,500.
122. The Respondent accepted that on the day the £3,000 from the A ledger marked "H costs" had been received in the office bank account there had been direct debits going out to the London Borough of Newham and the Solicitors Indemnity Fund. It was correct that if the £3,000 had not wrongly gone into office account the overdraft would have been more and with the direct debits it would have been very close to the overdraft limit.
123. The Respondent accepted that the payment in on 5th July 1999 of £1,703.75 consisted of amounts wrongly paid into office account at a time when the overdraft was £18,884.13. Out of the payment in it had been reduced to £14,475.75. He accepted that the three improper transfers included in the sum paid in had brought the overdraft under its limit.
124. The Respondent accepted that the payment in to office account on 7th June 1999 of £1,527.50 relating to the D matter which was an improper transfer brought the overdraft limit down from £17,310.13 to £15,000 plus.
125. The Respondent admitted that he had benefited on each of these occasions from the overdraft being reduced but said that the interest might have been due to him. He accepted that the payments kept the overdraft below its limit and that he was the sole equity partner.
126. He had not thought about that inference. These were Mrs S's matters. She would have brought the costs to be transferred and the Respondent would have signed cheques relying on the list brought.
127. The Respondent accepted that he was in the country at the time of the above mentioned transfers.
128. In re-examination the Respondent said that the cheque on the A matter was meant to be written out for H costs and that it had been in the list given to him. He had been relying on information from Mr C and on Mr C's assurance. He had not checked. The Respondent thought that an interim bill had been rendered. He had not know that the money had been drawn on the A ledger.
129. The Respondent accepted that some of the transfers were made while he was in the office. It depended on the list of the respective fee earners which the cashier would bring to him of costs to be transferred. The Respondent might have signed the cheques. He had placed reliance on the respective fee earners and the cashier.

130. The interim bill on the H matter was sent to the client and the Respondent did not have a copy.
131. Following the oral evidence of the Respondent the following further submissions were made on his behalf.
132. The Tribunal was asked to note the written statement of the Respondent and of Mr Pascalides, his present employer.
133. It was accepted that the Respondent's handling of his accounts was extraordinarily bad and that he had carried out inadequate checks. He had paid the penalty for non-compliance with the intervention and through being brought before the Tribunal.
134. The Respondent was however not guilty of any dishonest act.
135. What had happened was partly the result of the Respondent's own stupidity in failing to supervise properly and in his inconsistent replies to Mr Inman.
136. The Tribunal would note that in evidence the Respondent had had difficulty in answering the questions asked. This could be a linguistic problem or stupidity on his part. The Respondent was his own worst enemy, but he was not dishonest. The standard of proof beyond all reasonable doubt had not been met.
137. The transfers related mostly to matters conducted by the salaried partner.
138. The Respondent had been totally unaware that the £3,000 which he had thought was for the H costs had been drawn on the A file.
139. Many solicitors relied on their cashier to make correct entries on cheque stubs and ledgers. It was not known why Mr C had done what he did.
140. The Applicant had not entirely accepted the faxed letter from Mr C but it had been sent subsequent to Mr C's dismissal so that it was unrealistic to expect the Respondent to be able to get Mr C to give evidence before the Tribunal.
141. The Respondent had made a basic mistake on relying on Mr C as much as he had done but this had been done innocently with no intention to deprive clients.
142. When the shortfall had been brought to his attention he had made the refund out of his own pocket. This was inconsistent with the actions of a desperate man.
143. The Tribunal was asked to take into account the testimonials put forward on behalf of the Respondent.
144. In further mitigation the Tribunal was asked to note the domestic trauma which was referred to in the Respondent's written statement.
145. The Respondent was a valued member of his community and it was hoped that he would be able to continue to provide a service to the community.

The Findings of the Tribunal

The Tribunal found allegations (i),(ii) and (iv) to have been substantiated indeed they were not contested.

In relation to allegation (iii) and the words “deliberately and improperly” in allegation (v) the Tribunal after careful consideration did not accept the Respondent’s evidence. The Tribunal noted that H had been the Respondent’s client. The cheque of 2nd August 1999 drawn on the A matter but paid into office account with the narrative ‘H-costs’ had been signed by the Respondent. The Tribunal noted that the improper transfers had occurred over a substantial period of time during which the Respondent had been in the country. The correlation between the dates of transfer and the reduction in the overdraft from above or approaching its limit bore strong evidence against the Respondent’s assertion that the transfers were made by mistake. Likewise the documentation suggested that an attempt had been made to conceal the transfers and that there had been teeming and lading. The Respondent was a sole equity partner and the only person likely to derive a benefit from what had occurred. The Tribunal found allegations (iii) and (v) to have been substantiated. The Tribunal was satisfied to the required standard of proof that the Respondent had been dishonest.

The public had to have complete confidence that when they entrusted money to solicitors there would be honest and careful stewardship of those funds. The Respondent had fallen far short of the standards expected of and by the profession. It was not in the interests of the public that he should be allowed to continue in practice.

The Respondent’s representative had asked that the filing of the order be stayed pending an appeal. The Tribunal having concluded that the Respondent was not a fit person to practise as a solicitor saw no justification for a stay of the filing of the order. This would be inconsistent with the Tribunal’s Findings. The application for a stay was refused.

The Tribunal ordered that the Respondent Vellupillai Arumugam solicitor of Downshall Avenue, Ilford, Essex (formerly c/o David T. Morgan, of 9 Gray’s Inn Square, London, WC1R 5JF) 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 being the agreed costs of the Investigating Accountant fixed in the sum of £8,522 together with legal costs to be subject to detailed assessment unless agreed.

DATED this 30th day of July 2002

on behalf of the Tribunal

T Cullen
Chairman