

IN THE MATTER OF DEBORAH HAYWARD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

---

Mr. J. N. Barnecutt (in the chair)  
Mr. J. R. C. Clitheroe  
Lady Maxwell Hyslop

Date of Hearing: 22nd November 2001

---

## 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 Stuart Roger Turner solicitor and partner in the firm of Messrs Lonsdales of 342 Lytham Road, Blackpool, Lancashire, FY4 1DW on the 22<sup>nd</sup> of August 2001 that Deborah Hayward solicitor of Westward, Wigton, Cumbria, 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 she had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:-

1. She utilised for her own purposes the firm's money.
2. She acted in a dishonest and deceitful manner.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Roger Stuart Turner solicitor and partner in the firm of Lonsdales of 342 Lytham Road, Blackpool, Lancashire, FY4 1DW appeared as the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included the documents exhibited to the applicant's Rule 4 Statement.

At the conclusion of the hearing the Tribunal ordered that the respondent, Deborah Hayward of Westward, Wigton, Cumbria, solicitor, be struck off the Roll of Solicitors and they further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £920.90.

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

1. The respondent, born in 1969, had commenced her employment with the firm of Scott Duff & Co. of Carlisle, Cumbria in 1991 as a trainee legal executive. She had passed her legal executive's exams and went on to take the solicitors professional examination and the legal practice course, qualifying as a solicitor in November 1998. She continued to work for the firm of Scott Duff & Co., where she became an assistant solicitor.
2. The respondent was a signatory to office account cheques.
3. A number of discrepancies had come to light on files of which the respondent had conduct either as a legal executive or as a solicitor which were discovered when she took maternity leave:-

a) G Body Repairs

On the 1<sup>st</sup> February 1997 the sum of £1484.03 for car repair was wrongly debited to the file of a client Mrs K. After a query the respondent gave instructions to transfer this debit to the file of Mrs B, saying it had gone to the wrong ledger. On the 19<sup>th</sup> February 1999 the respondent rendered a bill to E.R.S insurers which did not include that disbursement leaving, after the deduction of profit costs, disbursements outstanding of £1,522.18. The B file was missing from the office.

Enquiries had been made at G Body Repairs who had sent a copy of the invoice which clearly showed that it related to the repair of the respondent's own motor car. The cheque stub had been dated and the payee had been named by the respondent but the amount had been left blank for an accounts clerk to complete. The cheque had been made out by the respondent. The accounts clerk had completed the requisition chit.

(b) Clients F and O'N

The respondent acted for both of these clients. On the 20<sup>th</sup> September 1998 she drew a bill on the O'N file. She then drew two further cheques which were not part of the bill for £150.00 and £50.00. On the 28<sup>th</sup> June 1999 the respondent received a cheque for £3,482.11 from C.G.U, which was meant for the O'N file, which she placed on the F file. The F ledger card showed a payment of £3,482.11 out of client account to the respondent herself. The respondent had signed the cheque.

When this matter was queried by another member of staff the respondent told her that Mrs F was her cousin and that she was on income support and that the respondent was to give that lady the money in cash.

The respondent had caused a note to be placed on the F file to say that she had agreed the sum with Zurich Insurance Co. and Mrs F but clearly that had not been the case. Mrs F had never received the money. The respondent had made out the chit but only completed the cheque stub as to the date and the payee details. The O’N file was missing.

(c) Client H

The ledger card showed a payment on the 1<sup>st</sup> November 1999 of £910.63 to an occupational therapist. He denied having received payment and there was nothing on the file to indicate that payment had been sent.

The respondent had completed a cheque stub but had not dated it. From that and the bank statement it was clear that the cheque had never been sent to the occupational therapist. Another cheque had been written out by the respondent on the 11<sup>th</sup> October 1999 for travelling expenses in the sum of £64.10. The statements clearly showed that both cheques had cleared the firms account on the 13<sup>th</sup> October 1999 and were noted consecutively on the bank statement. That suggested that the cheques were presented at the same time. It was not possible for the cheque sent to the occupational therapist to have been sent to him on the 11<sup>th</sup> October 1999 and to have been cleared by the bank on the 13<sup>th</sup> October.

The words “late entry” had been marked against both the cheques indicating that the accounts clerk had not received a chit for the payment. The two cashed cheques were missing.

(d) Client M

There had been two entries on the M file made out to HMPG one for £465.00 and one for £300.00, the one for £300.00 was the correct amount for the issue of proceedings.

The cheque stub for £465.00 was made out by the respondent and completed only as to the payee. The date and amount were left blank and the accounts clerk completed them when the cheque showed on the statement. That cheque was missing.

The court had confirmed that they had not received fees totalling that amount. The chit was not made out by the respondent but by the accounts clerk. The file was missing.

(e) Client S

On the 1<sup>st</sup> April 1999 the ledger showed that there was a payment to the respondent for a train fare to London in the sum of £135.00. It bore no relation to any work on that file at that time.

(f) The Stables

On the 30<sup>th</sup> April 1998 the respondent drew a cheque for £300.00 and on the 9<sup>th</sup> October 1998 a further cheque was drawn for £36.00 to pay her own fees for a matter concerning the respondent's own house.

(g) Client R

There had been an interim bill drawn on that file but nobody had a copy and it was not shown to whom the bill was sent. There were three items of travel that were unaccounted for. The respondent had undertaken a review of the file as late as the 25<sup>th</sup> November 1999. The sum of £552.06 was written off on the 20<sup>th</sup> October 1999 without explanation. The file was missing.

4. The total of all the discrepancies amounted to £7,564.83.
5. When confronted by the firm about the discrepancies the respondent had admitted being dishonest and again she had admitted her dishonesty on the 25<sup>th</sup> August 2000 in response to the OSS. The respondent had since repaid all of the monies taken from the firm.

**The Submissions of the Respondent**

6. All money taken by the respondent had come from the firm's office account. It was accepted that the respondent had since repaid all such money. However the conclusion could not be avoided that the respondent had been guilty of conduct unbecoming a solicitor and had behaved with dishonesty.
7. The applicant accepted that the respondent had been studying to qualify whilst working full time and also whilst she had a young child.

**The Findings of the Tribunal**

The Tribunal found the allegations to have been substantiated, indeed they were not contested.

It was clear that the respondent had deliberately stolen money belonging to the firm by which she was employed. Whilst the Tribunal offers some sympathy for the respondent's personal circumstances recognising that it must have been very difficult to study while working full time and in due course also having a young child to look after, the solicitors' profession does demand of its members, and the public is entitled to expect, the qualities of integrity, probity and trustworthiness. The respondent had departed from those required high standards to a considerable degree and the Tribunal was in no doubt that she had behaved dishonestly.

The Tribunal gave the respondent credit for having made full restitution but her dishonesty placed her misconduct at the highest end of the scale and in order to protect the public and the good reputation of the solicitors' profession the Tribunal considered it right to impose the ultimate sanction upon the respondent. They ordered that her name be struck off the Roll of Solicitors and they further ordered her to pay the applicant's costs in a fixed sum.

DATED this 28<sup>th</sup> day of January 2002

on behalf of the Tribunal

Mr Barnecutt

Chairman