

IN THE MATTER OF MICHAEL RICHARD ADDISON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

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Mr. R J C Potter (in the chair)  
Mr. J N Barnecutt  
Mr. M C Baughan

Date of Hearing: 24th January 2002

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## FINDINGS

of the Solicitors' Disciplinary Tribunal  
Constituted under the Solicitors' Act 1974

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An application was duly made on behalf of the Office for the Supervision of Solicitors ("OSS") by Rosemary Rollason solicitor and partner in the firm of Messrs Field Fisher Waterhouse of 35 Vine Street, London, EC3N 2AA on the 31<sup>st</sup> August 2001 that Michael Richard Addison of Princes Close, Newcastle upon Tyne, 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 unbecoming a solicitor in that:-

- i) at an inspection in November 1999, the books of account of his firm, Addison Lister, were found not to be in compliance with the Solicitors Accounts Rules 1991, in that clients' funds in the sum of £144,814.60 were incorrectly lodged in office account, resulting in a shortage in that sum on client account;
- ii) that in respect of six client matters which had been completed as at 30<sup>th</sup> September 1999, he had failed to submit "Claim 2" forms to the Legal Aid Board thereby preventing the recoupment by the Board of monies paid to the firm on account of costs and disbursements.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Rosemary Rollason solicitor and partner in the firm of Messrs Field Fisher and Waterhouse of 35 Vine Street, London, ECN3 2AA appeared as the applicant and the Respondent was represented by Lawrence West of Counsel.

The evidence before the Tribunal included the admissions of the Respondent as to the facts and the allegations.

At the conclusion of the hearing the Tribunal made the following order:-

The Tribunal ORDER that the respondent, MICHAEL RICHARD ADDISON of Princes Close, Newcastle upon Tyne, solicitor, be STRUCK OFF the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties.

The facts are set out in paragraphs 1 to 15 hereunder: -

1. The Respondent, who was 66 years of age, was admitted as a solicitor in 1962.
2. At all material times, the Respondent carried on practice under the style of Addison Lister, whose practising address was Milburn House, Dean Street, Newcastle upon Tyne, NE1 1LF. From 1991 until 1<sup>st</sup> July 1999, the Respondent practised in partnership with David Edward Lister. Thereafter the partnership was dissolved and the Respondent practised alone under the same firm name.
3. Following the authorisation of an inspection of the books of account of Addison & Lister under the Solicitor's Accounts Rules 1991, an inspection of the firm's books of account commenced on 1<sup>st</sup> November 1999 at the firm's practice address. The inspection was conducted by OSS Investigation and Compliance Office ("ICO"). The ICO's Report dated 22<sup>nd</sup> February 2000 was before the Tribunal.
4. The Respondent informed the ICO that he had practised in partnership with Mr Lister until 1<sup>st</sup> July 1999 when the partnership was dissolved. He had always dealt with legally aided matters and personal injury work and, at the time of the inspection, was assisted by a staff of three including a part-time solicitor.
5. Mr Lister maintained separate bank accounts and separate books of account for the purposes of his own transactions and those books were not reviewed during the inspection.
5. The Respondent's books of account were in compliance with the Solicitor's Accounts Rules 1991.
6. A list of liabilities to clients as at 30<sup>th</sup> September 1999 was produced for inspection. The items on the list were in agreement with the balances shown in the clients' ledger but did not include further liabilities of £144,814.60. As a result, there existed on client bank account a cash shortage in that sum.

7. The cash shortage was caused by payment having been received from third parties in respect of costs in relation to some ten legally aided matters lodged in the firm's office bank account but in respect of which the sums received had not been accepted by the Respondent in full and final settlement.
8. It was pointed out to the Respondent that in accordance with the Solicitor's Accounts Rules 1991 the definitions of "clients' money" included moneys received by a solicitor in respect of an offer for the full and final settlement of costs whereas in these cases, that offer had not been accepted by the solicitor.
9. The ICO provided the Respondent with a schedule detailing the individual amounts in question which the Respondent accepted were correct as far as he could tell. The Respondent agreed that because he had not accepted the payments in full and final settlement, the moneys did not belong to him. He said that he did not know that the money should not have been held in office account and did not realise that he was doing wrong.
10. The Respondent accepted that he had benefited although he had not submitted claims on account of costs to which he would have been entitled.
11. The Respondent had not been able to replace the cash shortage. His bank had a charge over his pension fund and his house. He would accept the amounts received and submit relevant claims to the Legal Aid Board.
12. The ICO Report noted that a number of the Claim 2 forms submitted to the Legal Aid Board in respect of these matters included a note from the Respondent indicating that the payments received had not been accepted in full and final settlement thereby not giving him ownership of the funds. It was not possible at the inspection to ascertain whether the cash shortage had been rectified. At the hearing the Respondent told the Tribunal that it had not been rectified at the date of the inspection but by the time of the hearing all moneys due to the Legal Aid Board (or its successor the Legal Services Commission) had been paid.

Allegation (ii) – Paragraphs 18-25 of the Report

13. The Report noted that in respect of six legal aid matters those matters had been completed but the Respondent had failed to submit "Claim 2" forms to the Legal Aid Board. The Board was therefore unable to recoup monies paid to the firm in respect of costs and disbursements in the sum of £36,304.69.
14. When asked why he had not submitted his Claim 2 forms previously the Respondent replied "I haven't the funds in office account, the bank told me not to sign any cheques otherwise they will bounce....".
15. The Respondent accepted that he had benefited financially from not submitting the Claim 2 forms subject to the fact that the Legal Aid Board had benefited by his not submitting claims for payment on account. The Respondent indicated that he had stopped submitting claims for payment on account "Due to the volume of work, it would take hours."

### **The Submissions of the Applicant**

16. The Respondent had admitted the allegations. It appeared that he had never regarded the moneys in question as client moneys. It had not occurred to him that the Legal Aid Board was to be treated as a client for that purpose. The Respondent had benefited from those moneys in his office account at a time when his cash flow situation did not permit him to make an immediate payment of the six figure sum due to the Legal Aid Board. The gravity of this matter was that the Respondent had utilised public funds to which he had not personally been entitled for his own benefit by using those funds to bolster his firm's office account.

### **The Submissions of the Respondent**

17. The Respondent had admitted the allegations at the earliest opportunity.
18. The Respondent was 66 years of age and had retired.
19. The Respondent had placed before the Tribunal details of his monthly income and expenditure from which it would be seen that he was a man of modest means.
20. At the time when the respondent's partnership with Mr Lister had been dissolved the Respondent had taken on the responsibility of the lion's share of the liabilities of the practice. The Respondent had successfully negotiated the take over of his firm by another local firm of solicitors. He had been confident that there would be no loss to any client because of the availability of a large figure for unbilled costs.
21. At the time the Respondent had never regarded the moneys in question as client moneys. It had not occurred to him that the Legal Aid Board was to be treated as a client for that purpose and the Respondent believed he was entitled to pay the moneys into office account. At the material time the Respondent had been subject to considerable pressures of work when he had ceased to be in partnership and had become a sole practitioner. The Respondent's cash flow position had not permitted him to make good the shortfall immediately. It had however always been the Respondent's intention to regularise the position at the earliest possible moment.
22. When another firm of solicitors took over the Respondent's practice the Respondent had stayed with that firm as a consultant. They had however ceased to pay him and after staying with the firm without payment for a period the Respondent ceased altogether to have any connection with that firm.
23. The Tribunal had placed before it a letter from the Legal Services Commission dated 22<sup>nd</sup> January 2002 acknowledging the receipt of two cheques from the Respondent on the 9<sup>th</sup> and 11<sup>th</sup> January and confirming that those two payments cleared the outstanding debt. There was therefore at the time of the disciplinary hearing no sum of money due to the Legal Services Commission or to any client. The shortfall on the Respondent's client account had been fully replaced. The Tribunal was invited to take into account that the Respondent had not been guilty of any dishonesty, he had admitted his wrongdoing at the first opportunity, he had after making strenuous efforts paid back all money due to the Legal Services Commission and he had enjoyed a long and unblemished career as a solicitor.

### **The Findings of the Tribunal**

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

The Respondent was an experienced legal aid practitioner and the Tribunal find it extraordinary that he was not aware of the strict accounting rules relating to interim payments received from the Legal Aid Board in actions where the solicitor had been successful on the part of his client and costs had been paid by a third party. The Tribunal accepted that the procedures involved were complex but were not beyond solicitors experienced in Legal Aid work. The Tribunal was unable to ignore the fact that the Respondent had carried on a course of conduct over a period of time and that was unacceptable.

The Tribunal asked itself what the public's view would be of the Respondent's improper use of public funds. The sum of money involved was very large.

The Tribunal had to conclude that the matters alleged against the Respondent were very serious and at the highest end of the scale and that it was right that he should be struck off the Roll of Solicitors.

The Tribunal further ordered that he should pay the costs of and incidental to the application and enquiry (to include the costs of the Investigation and Compliance Officer of The Law Society), such costs to be subject to a detailed assessment if they were not agreed between the parties.

DATED this 12<sup>th</sup> day of March 2002

on behalf of the Tribunal

R J C Potter  
Chairman