

IN THE MATTER OF PETER JOHN SMITH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. A. G. Ground (in the chair)  
Mr. J. C. Chesterton  
Mr. D. E. Marlow

Date of Hearing: 10th 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 Linda Louise Rudgyard solicitor employed by the OSS at Victoria Court, 8 Dorner Place Leamington Place, Warwickshire on the 15<sup>th</sup> October 2001 that Peter John Smith of Potters Bar, Hertfordshire 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 allegation was that the respondent had been guilty of conduct unbecoming a solicitor in that he had been convicted upon indictment of theft.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Linda Louise Rudgyard employed by the OSS appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admission of the Respondent and two testimonials handed up in his support at the hearing.

At the conclusion of the hearing the Tribunal Ordered that the Respondent Peter John Smith of Totnes, Devon (formerly of Potters Bar, Hertfordshire) 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 £4,407.25 inclusive.

The facts are set out in paragraph 1 to 10- hereunder:-

1. The Respondent, born in 1953, had been admitted as a solicitor in 1980. At the material times the Respondent practised as a partner in the firm of Stephens & Scown at 25-28 Southernhay East, Exeter, Devon, EX1 1RS.
2. The Respondent appeared on 15<sup>th</sup> December 2000 before the Crown Court at Exeter and upon his own confession was convicted upon indictment of one count of Theft. The Respondent was sentenced to a period of two years imprisonment. He served one year in prison and was released on the 15<sup>th</sup> October 2001.
3. On the 1<sup>st</sup> August 2000 an Investigation Accountant of the OSS inspected the books of account of Messrs Stephens & Scown. His report dated the 14<sup>th</sup> November 2000 was before the Tribunal. The subject matter of that report was the same as the underlying facts supporting the charge of Theft.
4. The misuse of clients' funds by the Respondent totalled £96,156.22 and the details were as follows.
5. Mr Smith had been a salaried partner with Stephens & Scown from the 15<sup>th</sup> February 1993 until the 27<sup>th</sup> July 2000 when his employment was terminated.
6. Mr Smith had instigated the payment of fifty amounts from client bank account and three amounts from client funds which had been lodged in office bank account. Those amounts varied between £100.00 and £17,771.32 and totalled £96,156.22. In interview with the investigation accountant the Respondent had agreed that he had personally benefited from those funds and accepted that the misappropriation had given rise to the cash shortage of £96,156.22 as at the 27<sup>th</sup> July 2000. Mr Smith had told the Investigation Accountant that the vast majority of the payments were to pay his numerous creditors. His debts had arisen as a result of his long drawn out litigation with his former firm.
7. The partners in Stephens & Scown had replaced the shortage on client account.
8. The Investigation Accountant set out the following example of the respondent's activities.
9. Mr Smith acted for Mr & Mrs R in a professional negligence claim. On the 24<sup>th</sup> May 2000 the court awarded damages totalling £30,000.00 to Mr & Mrs R. The relevant client matter file showed the receipt of £5,000.00 on the 25<sup>th</sup> May 2000, in part settlement of the damages. The receipt had been allocated to the client ledger of Mr S an unconnected client, and on the same day, the Mr S client ledger had been charged with a payment to a Mr C of £4,890.96. The Respondent had confirmed to the investigation accountant that the payment to Mr C had been a personal payment for counsels fees in relation to his personal litigation matter concerning his former firm.
10. On the 16<sup>th</sup> June 2000 the balance of the settlement monies totalling £25,000.00 had been received and lodged in client bank account. The funds were correctly posted to the client ledger for Mr & Mrs R and on the same day a payment totalling £17,771.32 had been made to Abbey National from client bank account charged to the Mr & Mrs R ledger. The Respondent had agreed that the payment had been made into his own personal Abbey National Account.

**The Submissions of the Applicant**

11. It was accepted that the Respondent and his family had been going through an extremely difficult time. However it was well established that a solicitor must discharge his professional responsibilities with probity, integrity and trustworthiness. The Respondent had not done so. He had behaved in a dishonest fashion and had been guilty of professional misconduct at the highest end of the scale.

**The Submissions of the Respondent**

12. The Respondent admitted the allegation and accepted that he had been guilty of conduct unbefitting a solicitor at a serious level. He appeared before the Tribunal to apologise to the solicitors' profession, his former firm and his family, particularly his wife, who had supported him throughout a difficult time.
13. The respondent accepted that the inevitable outcome would be the making of a striking off order. He accepted that he had fallen well below the standards properly to be expected of members of the solicitors' profession. He had no intention of returning to the Law and hoped he would be able to find other employment after completing a training course.
14. The Tribunal was invited to take into account a statement by the Respondent and a statement by the Respondent's wife lodged with the Tribunal prior to the hearing. The Tribunal has not here set out in detail the contents of those statements but it was clear that the Respondent and his family had lived through a very difficult time. There was the suggestion that the Respondent had been driven to behave as he had because his parents' home had been mortgaged to secure his considerable debt.

**The Findings of the Tribunal**

The Tribunal found the allegation to have been substantiated and indeed it was admitted. It was clear, as the Respondent himself readily accepted, that he had been convicted of theft, a serious criminal offence involving dishonesty. It was in his view inevitable that the Tribunal would make an order striking him off the Roll of Solicitors and he accepted that that was a proper course. The Tribunal did make such an Order. It was clear that the Respondent had taken uncharacteristic steps when confronted with considerable difficulties and considerable debt. The Tribunal gave the Respondent credit for the fact that he had attended before the Tribunal to apologise for what he had done. It was right that the respondent should pay the costs of and incidental to the application and enquiry in an agreed fixed sum which included the costs of the Law Society's Investigation Accountant.

DATED this 5<sup>th</sup> day of March 2002

on behalf of the Tribunal

A. G. Ground  
Chairman