

IN THE MATTER OF STEPHEN PULESTON WILLIAMS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. A H Isaacs (in the chair)  
Mr. J N Barnecutt  
Mr. G Fisher

Date of Hearing: 11th July 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 Law Society at the Office for the Supervision of Solicitors, Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE on 2<sup>nd</sup> November 2001 that Stephen Puleston Williams of Treaddur Bay, Holyhead, Gwynedd, 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 each of the following respects namely:-

- (i) That contrary to Rule 8 of the Solicitors' Accounts Rules 1991 he withdrew monies from client account other than as permitted by Rule 7 of the said Rules (Rule 22 of the Solicitors' Accounts Rules 1998);
- (ii) that he utilised clients' funds for his own purposes;

- (iii) that he had acted in breach of Rule 7 Solicitors' Accounts Rules 1998 in that he has failed to rectify a shortage of £172,642.20 on client account immediately it was brought to his attention;
- (iv) he has utilised funds due to the Legal Services Commission or their predecessor for his own purposes;
- (v) he has breached the fiduciary duty owed to two of his clients in circumstances where he placed his own financial interests above those of the clients and failed to act with complete frankness towards those clients;
- (vi) that he has taken unfair advantage of a client by overcharging for work done or due to be done.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when the Applicant was represented by Mr Barnett solicitor employed by the OSS and the Respondent was represented by John McGlashan solicitor and partner in the firm of Messrs Colin Watson & Co. of 13 Bold Street, Warrington, WA1 1DJ.

The evidence before the Tribunal included the admissions of the Respondent.

At the conclusion of the hearing the Tribunal ordered that the Respondent Stephen Puleston Williams of Treaddur Bay, Ynys Mon, 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 £6,615.95p inclusive.

The facts are set out in paragraphs 1 to 18 hereunder:-

1. The Respondent who was born in 1955 was admitted as a solicitor in 1980.
2. Allegations (i),(ii) and (iii)  
Upon due notice a Senior Investigation Officer of the Law Society carried out an inspection of the Respondent's books of account commencing on the 5<sup>th</sup> September 2001.
3. The Monitoring and Investigation Unit (MIU) interim Report dated 20<sup>th</sup> September 2001 showed that the Respondent's books of account did not comply with the Solicitors' Accounts Rules 1998.
4. A list of liabilities to clients as at 31<sup>st</sup> July 2001 was produced for inspection and totalled £980,169.22. Whilst the items were in agreement with the balances shown in the clients' ledger the Investigating Officer ascertained that the list did not include further additional liabilities to clients amounting to £172,642.20 which were not shown by the books. It was ascertained that there was a shortfall in clients' funds of £172,642.20. This shortfall arose as a consequence of:-

|     |   |                    |
|-----|---|--------------------|
| (a) | misuse of clients' funds  | £132,698.54        |
| (b) | funds due to the Legal Services Commission<br>but utilised for profit costs | <u>£39,943.66</u>  |
|     |   | <u>£172,642.20</u> |

5. The Respondent identified five client matter files where client account cheques had been drawn between 26<sup>th</sup> June 1998 and 12<sup>th</sup> April 2001, varying in amount between £207.20 and £70,000.00 and totalling £132,698.54. The cheques were not for or on behalf of the clients concerned but were subsequently deposited into a personal account belonging to the Respondent and held with Halifax Plc.

Allegation (iv)

6. The Respondent identified a further ten client matters where funds had been received in settlement of his firm's costs in relation to legally aided litigation matters. In each case he had failed to notify the Legal Aid Board or the Legal Services Commission of the recovery of those funds to enable those bodies to recoup the monies due to them.
7. The amounts involved varied between £1,175.00 and £12,715.67 and totalled £39,943.66. The Investigating Officer established that the firm had been in receipt of their costs in relation to these ten matters between 6<sup>th</sup> May 1994 and 4<sup>th</sup> June 2001.
8. The largest amount related to Ms N, for whom the firm acted in relation to a legally aided litigation matter, the case was settled about February 1996 with the client being awarded damages of £149,682.41. The firm's costs were agreed at £20,000.00 to include profit costs, VAT and disbursements. This sum was received and credited to the relevant ledger on 4<sup>th</sup> June 1996. As at the date of the MIU Report, more than five years later, the firm had failed to report the conclusion of the case to the Legal Services Commission or its predecessor. Consequently recoupment of the monies due back to those bodies had not taken place.
9. The relevant account within the clients' ledger records that following receipt of the £20,000.00 transfers from client to office bank account of £6,425.41 and £2,768.70 were made on 5<sup>th</sup> June and 13<sup>th</sup> September 1996 respectively in respect of profit costs. On 28<sup>th</sup> April 1997 the £10,849.80 remaining in client account was transferred to a designated deposit account. On 8<sup>th</sup> May 1997 and 6<sup>th</sup> November 1998 transfers of £1,175.00 and £9,239.15 were made from client to office bank account following simultaneous withdrawals from the designated deposit account. The Respondent confirmed to the Investigating Officer that at the time these transfers were made he was aware those monies were due to the Legal Aid Board.
10. The Investigating Officer noted that the total profit costs including VAT taken by the firm in relation to this matter amounted to £28,015.93. The costs settlement of £20,000.00 included £5,386.47 in respect of disbursements. The firm had therefore calculated their entitlement to costs as being £14,613.53. Accordingly, the firm had received excess profit costs of £13,402.40.

Allegation (v)

11. The Respondent acted for Mr & Mrs T in relation to the sale of land and in respect of a boundary dispute. On 24<sup>th</sup> March 1998 the relevant client ledger account was credited with sale proceeds of £99,092.31. Additionally the account was credited with what were described as further "Sale Proceeds" of £79,207.85 on 11<sup>th</sup> June 1998, a total of £178,300.16.

12. On 31<sup>st</sup> March 1998 client bank account was charged with a payment of £50,000.00 under the narrative “Halifax B/S Invest. Re-Sale”. On 21<sup>st</sup> September 1998 the account was charged with a payment of £30,000.00 under the narrative “Halifax Customer Investment”. The Respondent admitted that both those payments, totalling £80,000.00 were made to his personal account with Halifax Plc.
13. The Respondent further stated that both payments were in the nature of a loan to himself although when questioned he said there was no written agreement between himself and Mr & Mrs T, that the clients had not been advised to seek independent legal advice and that the loan was unsecured.
14. When asked by the Investigating Officer whether the clients were aware of the nature of the investment they had made the Respondent replied “I have my doubts. The more I think about it – I didn’t make it quite clear what the money was to be used for.” The Respondent added that he had agreed to pay the clients 8.25% per annum interest and that he had made a number of repayments of £5,000.00 which included interest and capital. As at the date of the Report the amount of £80,000.00 was outstanding on the account.

Allegation (vi)

15. The Respondent informed the Investigating Accountant that on 15<sup>th</sup> January 1998 he had raised an invoice for profit costs of £17,625.00 inclusive of VAT and settled the same by way of a contemporaneous client to office bank account transfer. When interviewed, the Respondent indicated the true value of the work was in the region of £1,000.00 - £1,500.00. The Investigating Officer also noted that this same matter had been the source of funds for three payments to the Respondent’s personal Halifax Plc account totalling £33,698.54 which formed part of the client account shortage referred to above.
16. The Respondent co-operated with the Investigating Officer throughout his inspection on 18<sup>th</sup> September 2001 and produced a Report from his own Accountants, Messrs William Denton Jones, detailing the various client account discrepancies and Legal Aid matters referred to above. A copy of that Report was before the Tribunal.
17. On 18<sup>th</sup> September 2001 the Respondent wrote to the Law Society admitting that the irregularities on his firm’s client account were entirely his responsibility and confirming that his partner Mr Gwilym Owen was completely blameless and had been unaware of the irregularities.
18. On 21<sup>st</sup> September 2001 the Chairman, by way of Emergency Delegated Decision, resolved to intervene into the Respondent’s firm and to refer the conduct of the Respondent to the Tribunal.

**The Submissions of the Applicant**

19. All of the allegations arose from the MIU inspection which began on 8<sup>th</sup> September 2001. As soon as the matters reported were revealed the inspection was terminated. The allegations all related to a solicitor who found himself in financial difficulties and had misused money belonging to others for his own benefit.

20. The Respondent accepted responsibility for all of the matters alleged and had specifically exonerated his former partner. It was said by the Applicant that the Respondent had co-operated fully throughout and he had provided his own Accountant's Report to the Investigating Accountant.
21. Although credit had to be given to the Respondent for his co-operation and assistance the matters before the Tribunal represented a clear case of a deliberate and systematic misuse of money belonging to clients and the Legal Services Commission.
22. The Applicant accepted that the improper handling of monies in client account had come about following the illness of the Respondent's brother, also his partner, and that difficult times had been faced following a substantial increase in the professional indemnity premiums and other pressures in the firm. Nevertheless it had to be said that the Respondent's misuse of monies was extremely serious.
23. In the submission of the Applicant the only conclusion which the Tribunal could reach was that the Respondent had been involved in a course of action which involved dishonesty on his part.

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

24. The Respondent admitted all of the allegations, he offered his deep regret and apologies for what he had done. He extended his apologies to the solicitors' profession, his family, his clients and in particular his local professional colleagues who had supported him. At the time of the hearing the Respondent had become overtaken with shame and remorse.
25. The Respondent was forty seven years of age, he had two children one of whom was attending university and the other awaited A level examination results.
26. The Respondent's firm dated back to 1874. The Respondent had joined his father in practice and his brother had also joined the practice. It was a small country practice operating in a deprived area. Legal Aid work formed a substantial part of the practice.
27. By 1987 the practice had been conducted by the Respondent's father, then aged 75, and his brother together with the Respondent. The father retired from active practice in 1991 and became a consultant. The Respondent and his brother bought out the father's interest in the practice and the father consulted for two to three days per week.
28. In about 1994 the Respondent's brother became ill with a stress related illness. Up until 1998 he continued to be responsible for the Legal Aid work of the firm. In 1996 his illness became so acute that he was no longer able to help in the practice.
29. At that point effectively the Respondent became a sole principal and found himself trying to cope with a volume of work previously undertaken by three solicitors.
30. The firm had obtained a Legal Aid franchise in the area of welfare rights, debt, personal injury and crime.

31. The firm had been presented with a massive increase in its negligence indemnity premiums rising in 1998 from £15,000 per annum to £30,000 per annum thereafter rising again to £56,000 per annum. The firm did not have a bad claims record. It was a firm with a small staff and the application of the formula used for calculating indemnity premiums in firms which undertook personal injury and conveyancing work carried a loading factor which led to the massive increase.
32. The firm enjoyed a healthy inflow of work but suffered from poor cash flow. Because of pressures the Respondent had not submitted bills for work done on some files.
33. The Respondent accepted that he had utilised money in the firm's client account improperly. He had not formulated an intention permanently to deprive anyone of any money and the Respondent, possibly with the assistance of his family, and through collection of monies due to the firm was confident that he would in due course make good any shortfall.
34. The Respondent had voluntarily submitted to a Police interview in January 2002. The Police had decided to take no action.
35. The Tribunal was invited to take the view that the monies which should have been recouped by the Legal Services Commission remained in client account largely as a result of pressures of work and the fact that the Respondent had not filled out and submitted the relevant forms.
36. The matter involving overcharging had been overstated. The costs figure of £1,000.00 to £1,500.00 pounds had related to the Respondent's efforts to trace a person interested in the estate.
37. It was noteworthy and to the Respondent's credit that in the Report produced by his own auditors the figures matched those produced by the Law Society's Investigating Officer.
38. The Tribunal was invited to give due weight to the written testimonials handed up in support of the Respondent all of which attested to his competence, diligence and trustworthiness and all of which indicated that his actions forming the subject matter of the allegations were entirely out of character.

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

39. The Tribunal find all of the allegations to have been substantiated, indeed they were not contested. The Tribunal considers this to be a sad case. The Tribunal recognises that the Respondent was under a great deal of pressure when his father and brother were no longer working in the firm and he was left alone to cope with a large volume of work and financial problems. It could not be denied, however, that the Respondent had utilised monies belonging to clients or the Legal Services Commission for the purposes of running his firm and that, was of course, synonymous with utilising money for his own purposes. The Tribunal recognises that it has a duty to protect the interests of the public and the good reputation of the solicitors' profession. It considers that the Respondent's actions did amount to dishonesty and in order to fulfil its clear duty it is right to impose the ultimate sanction upon the Respondent. It was

also right that he should pay the costs of and incidental to the application and enquiry. The Tribunal therefore ordered that the Respondent be struck off the Roll of Solicitors and they further ordered him to pay the costs of the application and enquiry in an agreed fixed sum.

DATED this 26<sup>th</sup> day of September 2002

on behalf of the Tribunal

A H Isaacs  
Chairman