

IN THE MATTER OF TREVOR MICHAEL JONES, Solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A N Spooner (in the chair)
Mr. S N Jones
Mr. D Gilbertson

Date of Hearing: 1st October 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 (the "OSS") by Andrew Miller solicitor employed by the Law Society at the OSS at Victoria Court, 8 Dorner Place Leamington Place, Warwickshire CV32 5AE on 11th March 2002 that Trevor Michael Jones of 58-62 Adelaide Street, Fleetwood, Lancashire, FY7 6EE 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 he had:-

- (i) Applied for his own benefit the assets of an estate of which he was executor;
- (ii) given a misleading account of events to his client and the OSS in correspondence;
- (iii) applied for his own benefit the assets of a client;

- (iv) without authority utilised client funds for the purposes of an unrelated client and/or for his own purposes; and
- (v) caused misleading entries to be made in his firm's books of account.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 1st October 2002 when Andrew Miller was the Applicant and the Respondent was represented by Geoffrey Williams, of Geoffrey Williams & Christopher Green, Solicitor Advocates, 2A Churchill Way, Cardiff, CF10 2DW.

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

At the conclusion of the hearing the Tribunal ordered that the Respondent, Trevor Michael Jones of 58-62 Adelaide Street, Fleetwood, Lancashire, FY7 6EE 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 fixed in the sum of £3,750.

The facts are set out below in paragraphs 1 to 27 below:-

1. The Respondent (born in 1947) was admitted as a solicitor in December 1972. At the material times the Respondent practised as senior partner in the firm of Addie Jones, Solicitors of 58-62 Adelaide Street, Fleetwood, Lancashire.
2. Following due notice an Investigation and Compliance Officer of the Law Society ("the ICO") carried out an inspection of the books of account of Addie Jones. The inspection began on 24th January 2001. The ICO's Report dated 15th March 2001 was before the Tribunal.
3. The Respondent had made admission of misuse of clients' funds and the ICO's Report had been limited to a brief review of the then current books of account and a detailed examination of those matters to which the ICO had been referred by the Respondent. In addition to the specific matters referred to the Respondent informed the ICO that on occasions he had cleared small credit balances on completed client matters by raising a supplemental invoice which had not been sent to the client. The Respondent had not been able to say how much had been involved.
4. The ICO's Report set out details of all of the firm's bank accounts. All of the firm's office accounts were substantially in credit as was an office tax reserve account.
5. The ICO went on to report that the firm's books of account were not in compliance with the Solicitors' Accounts Rules as they contained false entries made at the Respondent's instigation and for other reasons referred to in the Report.
6. The list of liabilities to clients as at 31st December 2000 was produced for inspection and totalled £1,594,861.54p after adjustment. The items on the list were in agreement with the balances on the clients ledger. There were however further minimum liabilities to clients totalling £20,504.76p which were not shown by the books. This meant that there was in effect a minimum cash shortage of this sum. The minimum cash shortage was replaced by a transfer from office to client bank account by two instalments the first one on 26th January and the second on 31st January 2000.

7. In his Report the ICO listed the following items as being the cause of the minimum cash shortage:-

(i)	Personal Benefit from Misuse of Clients' Assets	2,183.61
(ii)	Misuse of Clients' Funds by Mr Jones	<u>17,763.95</u>
		19,947.56
(iii)	Legal Services Commission Disbursements Lodged in Office Bank Account and Not Paid Within 14 Days	410.20
(iv)	Unpaid Disbursements Lodged in Office Bank Account	147.00
(v)	Book Difference-Surplus	<u>(1.00)</u>
		<u><u>£20,503.76</u></u>

8. Of the total minimum cash shortage, £19,947.56 resulted from the Respondent's misuse of client funds.
9. During the course of administering two probate matters, shares properly due in respect of the estates, following conversion of building societies to public limited companies, were utilised by the Respondent for his personal benefit.
10. The Respondent acted in the administration of the estate of W Deceased who died on 24th October 1996. Probate to her Will was granted on 22nd November, 1996. The Respondent was executor (with power reserved to other executors).
11. Included in the estate assets was a Woolwich Building Society account which was closed in January 1997. The Respondent re-opened the account in order to preserve the deceased's share entitlement upon the Society's conversion to a public limited company.
12. The account qualified for 450 shares in Woolwich Plc. The shares were issued in the name of the Respondent who retained them and added them to his personal investments.
13. The Respondent's letter to the OSS dated 2nd January 2001 repeated the explanation he had given to the ICO and stated,
- "I regret that, in error, when the Woolwich Plc shares were issued in October, 1997 they were incorporated within the assets of the estate of W Deceased in which I was appointed executor, and included within the share portfolio of such estate. The portfolio was subsequently sold and the proceeds were remitted to the residuary beneficiaries of such estate. I cannot satisfactorily explain how this error occurred, save only the similarity of the names and references. I accept full responsibility for this error on behalf of my firm".
14. At a meeting on 31st January 2001 with the ICO the Respondent confirmed that he had misled both his client and the OSS.
15. The Respondent acted in the administration of the estate of C Deceased who died on 24th March 2000. Probate to his Will was granted on 17th April 2000. The Respondent was co-executor with one other.

16. Included in the estate assets was a Bradford and Bingley Building Society Account. The Respondent registered the executors as holders of the account to enable them to retain conversion benefits.
17. On 14th August 2000 the Respondent wrote to the residuary beneficiary confirming completion of the estate and he enclosed final estate and administration accounts, together with a cheque for the sum due.
18. By letter dated 20th October 2000 Bradford and Bingley Conversion Office notified the Respondent that in his capacity as a Personal Representative for a deceased sole investing member, he would be eligible for 250 shares in Bradford and Bingley Plc.
19. On 30th October 2000 the Respondent wrote to Bradford and Bingley Conversion Office enclosing a share sale form duly completed. Around 17th December 2000 he received a cheque from Bradford and Bingley for £609.65 following the sale of the shares. The Respondent paid the cheque into his personal account.
20. In the period 4th June 1999 to 19th December 2000 the Respondent utilised the funds of two clients, totalling £17,645.95, for the benefit of another client and to meet a liability of the firm.
21. The Respondent acted for Mr W, the plaintiff, in a civil litigation. Following a catalogue of errors by the Respondent judgment for £10,445.95 was made against Mr W on 5th May 1999. The client was not aware of the judgment.
22. Following correspondence with the OSS the Respondent agreed to pay £7,000 to compensate the client.
23. The Respondent acted in the administration of the estate of EHW Deceased.
24. On 4th June 1999 the Respondent drew a cheque on client bank account for £10,445.95 payable to Leslie Harris, solicitors for the defendant in the Mr W's civil litigation matter. The Respondent had completed the cheque stub to show the payee to be 'Inland Revenue' and described the payment to be in respect of inheritance tax in the client matter EHW Deceased.
25. A receipt of £10,000 relating to another client matter EC Deceased was credited to the account of EHW Deceased. The Respondent had endorsed the cheque to effect the payment in.
26. The client ledger for the Mr W civil litigation matter contained the following entries:-

Date		Client Amount	
30/11/00	Scottish Provident	£7,383.73	Receipt
12/12/00	T Wright: Agreed settlement	7,000.00	Payment
19/12/00	Mr T Wright: Reimbursement	200.00	Payment

The payments had been made representing compensation and an account to Mr T Wright amounting to £7,000.00.

27. The receipt of £7,383.73 from Scottish Provident had been on behalf of an unconnected client matter M K Deceased.

The Submissions of the Applicant

28. The Applicant accepted that when the matters of complaint came to light the Respondent made prompt restitution to those concerned. It was accepted that his activities were inexplicable. It was accepted that hitherto the Respondent had enjoyed a long successful and unblemished career in the law. The Tribunal would be referred to the medical evidence. However the Tribunal was invited to bear in mind the public's perception of a solicitor who had behaved in the way admitted by the Respondent whatever excellent history the Respondent might have had. Defaults of this kind were serious.

The submissions of the Respondent

29. The Respondent admitted all of the allegations and the underlying facts. He did so with a deep sense of shame. He accepted that he had brought disgrace on himself, his firm and his family. The Respondent made profound apologies to the Tribunal and to the profession which he loved. The Respondent had found it difficult to attend the disciplinary hearing but had been determined to do so out of respect for his profession.
30. The Respondent accepted that he had been guilty of serious misconduct and did not in any way seek to diminish the gravity of his situation.
31. The Respondent's behaviour had been completely out of character and such behaviour lacked any rational explanation. The behaviour had been aberrational. It was noteworthy that the word "dishonest" had not featured when the applicant opened his case.
32. The Respondent's firm had grown and was successful. He had longstanding and loyal staff. The Respondent was financially secure and the firm had no financial difficulties. The Respondent had acted with generosity when he took into partnership a former legal executive who had qualified as a solicitor. The matters complained of had nothing to do with greed, or the need for money or the desire for gain.
33. The Respondent was described as a "workaholic". He enjoyed and thrived on long hours of work.
34. The Respondent and his wife, who worked in the practice as a cashier, enjoyed a modest lifestyle.
35. The Respondent was invited to give due weight to the medical report placed before it. The Tribunal would note that the Respondent had always enjoyed a drink and although the Respondent never drank during the working day, his drinking had become heavier. The Respondent's marriage had become unhappy. At the time of the disciplinary hearing his marriage had broken down irretrievably. After one of the Respondent's former partners left the firm the Respondent took over that partner's workload and added it to his already great burden of work. The Respondent had been working 12 to 14 hours per day and "something had to give". There was no rational explanation but it appeared that what did give was professional conduct.

35. When the Respondent was notified of the pending accounts inspection he made full and complete disclosure of his wrong doing and made sure that his partners and colleagues were absolved from any blame.
36. The nature of the sums involved highlighted the irrationality of the Respondent's actions. With regard to the compensation which would have been payable to Mr W, the firm had a nil excess on its policy of indemnity insurance and the reality was that a claim against that insurance would have cost nothing. The Respondent had tried to make payment to Mr W without anybody knowing. He appeared not to have been able to admit to making a mistake. He had always intended at a later date to make everything good. His intention had been that no client should suffer loss.
37. The Respondent had indicated to the ICO that he had not been able to offer explanation but said he had felt low personal esteem and had found it difficult to explain his feelings.
38. The Tribunal was invited to note that the Law Society could have decided to intervene into the Respondent's practice and decline the issue of a Practising Certificate to the Respondent. In fact the Law Society allowed the Respondent to remain in practice and in his partnership subject to certain supervisory conditions relating to accounts matters.
39. On the 1st October 2001 the Respondent retired as a partner in the firm and as a solicitor. His retirement had been conducted in an ordinary fashion. At the time of the disciplinary hearing the Respondent was not well enough to work. He would never return to work in the legal profession and was prepared to give an undertaking to that effect to the Tribunal. The Respondent was only too well aware of the harm he had done to his profession. The Tribunal was invited to consider the bundle of written testimonials which supported the Respondent.
40. There had been an inexplicable irrational pattern of behaviour by the Respondent for a short period of time. His career was at an end. It was hoped that the Tribunal would be able to mark the seriousness of the Respondent's offences by imposing a sanction which fell short of a striking off order. The Respondent had lost everything - his marriage, his career and respect. He already had been severely punished. He had served the profession and the public well for many years. He had been open and frank in his admissions and sincere in his apologies. It was hoped the Tribunal would feel able to permit the Respondent to retain some dignity and save him from the ignominy of a striking off order.

The Findings of the Tribunal

41. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested.
42. The Tribunal recognised that the Respondent had enjoyed a long and unblemished career as a solicitor until the occurrence of the offences in question. The Tribunal also recognised that the Respondent had been under considerable pressure of work and had personal difficulties.

43. The Tribunal rejected the argument that the Respondent's behaviour was aberrational. It reflected a pattern of behaviour over a period of time running from about the middle of 1999 until the end of 2000. It was very clear that the Respondent was at all times aware of the fact that what he was doing was wrong. It is fundamentally important that members of the public who are clients of solicitors have the utmost confidence in the integrity and trustworthiness of the solicitors to whom they entrust large sums of money. In this case that trust had been destroyed and such behaviour was condemned by both the public and the solicitors' profession alike.
44. Although this was a sad case there was no rational explanation for the extraordinary behaviour of the Respondent. Indeed the Tribunal took a particularly serious view of the taking and retaining of "windfall" shares made available to building society investors when those building societies changed their status to that of "Plcs". The beneficiaries of the two estates concerned were entitled to those shares and had been deprived of them.
45. The deliberate use of one client's money for the purposes of another client or to meet the firm's own liability was a very serious matter. It is fundamental to the practice of a solicitor that he treats clients' funds held by him absolutely fairly and that he exercises a proper stewardship over them. The Respondent had failed to do either.
46. Despite the eloquent plea made on the Respondent's behalf, the Tribunal considered that its duty to protect the public and the good reputation of the solicitors' profession, which included the public's perception of members of that profession, outweighed consideration of the Respondent's individual dignity. It was right and proper that the Respondent should be struck off the Roll of Solicitors. The Tribunal further ordered that the Respondent should pay the Applicant's costs in an agreed fixed sum.

DATED this 4th day of November 2002
on behalf of the Tribunal

A.N. Spooner
Chairman