

IN THE MATTER OF JENNIFER ANNE HALLAM, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. L N Gilford (in the chair)  
Mrs E Stanley  
Lady Maxwell-Hyslop

Date of Hearing: 26th November 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 Geoffrey Williams, solicitor of 2A Churchill Way, Cardiff CF10 2DW on 1<sup>st</sup> May 2002 that Jennifer Anne Hallam solicitor of Chipping, Preston, Lancashire, 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 the following respects namely:-

- (a) That she had behaved improperly in a conflict of interest situation.
- (b) That she had failed to pay clients' funds into a client account contrary to Rule 3 of the Solicitors Accounts Rules 1991.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 26<sup>th</sup> November 2002 when Geoffrey Williams solicitor and partner in the firm of Geoffrey Williams and Christopher Green Solicitor Advocates of 2A Churchill

Way, Cardiff, CF10 2DW appeared as the Applicant and the Respondent did not appear and was not represented.

Immediately prior to the substantive hearing the Applicant addressed the Tribunal in relation to service. The Applicant said that the Respondent had played no part in the proceedings but that documentation sent by the Applicant and by the clerk to the Tribunal to the Respondent's last known address had not been returned. The documentation sent to the Respondent included the Applicant's Civil Evidence Act Notice exhibiting the documentation which was before the Tribunal. The Tribunal was invited to proceed with the substantive hearing and the Tribunal agreed to do so.

At the conclusion of the hearing the Tribunal ordered that the Respondent Jennifer Anne Hallam of Chipping, Preston, Lancashire, solicitor be struck off the Roll of Solicitors and they further ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,880.

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

1. The Respondent born in 1951 was admitted a solicitor in 1982 and her name remained on the Roll of Solicitors.
2. At all material times the Respondent carried on practice as a solicitor in partnership under the style of Wharton Bramwells at 1 Church Road Chambers, Longton, Preston, Lancashire. The Respondent was not now currently practising as a solicitor.
3. The Respondent acted for Ms S who traded as CGSS. On or about 23<sup>rd</sup> June 1999 the Respondent borrowed the sum of £10,000 from CGSS and drafted an agreement made between the Respondent and her client, a copy of which was before the Tribunal.
4. The Respondent had a duty in conduct to insist that Ms S obtained independent legal advice before proceeding with the transaction. The Respondent did not do so but nevertheless took the loan.
5. On 25<sup>th</sup> September 2000 a Bankruptcy Order was made against the Respondent in the Manchester County Court. By this date no repayment had been made under the loan.
6. On 30<sup>th</sup> January 2001 Messrs Marsden Huck Hodgson solicitors acting on behalf of Ms S complained to the OSS. The firm provided further information on 4<sup>th</sup> July 2001.
7. The Respondent's Practising Certificate was suspended upon the making of the Bankruptcy Order and the suspension had not been lifted.
8. The Respondent acted for a Mr T.
9. On 22<sup>nd</sup> February 2000 Mr T drew a cheque on a Company account in the sum of £10,000. The Respondent was the payee.
10. Mr T had advised the OSS that this was a payment on account of costs and disbursements in a litigation matter.

11. The cheque was not paid into any client account operated by the Respondent but rather it was credited to an account at the Woolwich Building Society in Bexleyheath.
12. On 6<sup>th</sup> September 2000 Mr T complained about this and other matters to the OSS. The Respondent failed to provide any explanation further to correspondence despatched to her by the OSS.
13. However in a discussion with her former partner Mr W on 6<sup>th</sup> July 2000 the Respondent claimed that the £10,000 had been a gift from Mr T.
14. If the payment of £10,000 had been intended as a gift then the Respondent should not have accepted it unless Mr T had received independent legal advice. He was not so advised.
15. Mr T had said that the payment was on account of costs and/or disbursements and in those circumstances the cheque should have been paid promptly into the Respondent's client account.

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

16. Allegation (a) related to the loan to Ms S and allegation (b) related to the money paid by Mr T for costs and disbursements.
17. The Tribunal was referred to the agreement prepared by the Respondent in respect of the loan from Ms S. Although the figure had not been completed Ms S had informed Mr W that the loan had been in the sum of £10,000.
18. The loan was unsecured.
19. The letter dated 30<sup>th</sup> January 2001 from Messrs Marsden Huck Hodgson to the OSS confirmed that the loan had been made when the Respondent was acting for Ms S.
20. The Respondent had made no reply to The Law Society and no explanation of her conduct had been given.
21. Ms S had drawn money from her business building society account and had paid it into the Respondent's building society account.
22. The Respondent had solicited the loan from the client. She had not insisted that the client take independent legal advice and she had then become bankrupt.
23. The Applicant put this as a serious case of its type.
24. The Tribunal was asked to note the letter of 12<sup>th</sup> June 2000 to Mr T from a bank making clear that Mr T's cheque for £10,000 paid to the Respondent for costs and disbursements had been credited to an account at the Woolwich Building Society in Bexleyheath.

25. The Tribunal was asked to draw a proper inference that a solicitor in Preston would be unlikely to have a client account in Bexleyheath. It was therefore unlikely that Mr T's funds had been placed in a client account as required by the Rules.
26. This was a breach of the Respondent's duty as a solicitor in respect of the stewardship of client funds.
27. Mr T had not had a proper accounting for his money nor had he received his money back.

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

28. Having carefully considered the documentation before it which had not been challenged by the Respondent the Tribunal found the allegations to have been substantiated.
29. In relation to Ms S the Tribunal had before it the signed agreement and confirmation from Ms S's new solicitors that the sum of £10,000 had been paid to the Respondent by Ms S as a loan. This had occurred at a time when the Respondent was acting for Ms S. The Respondent had not insisted that Ms S obtain independent legal advice and the Tribunal was satisfied that the Respondent had behaved improperly in a conflict of interest situation.
30. In relation to Mr T the Tribunal had been asked to draw an inference in respect of the location of the building society account into which Mr T's funds had been paid. The Applicant had not been able to give an indication as to where the Respondent's client account was held. The Tribunal had before it however a letter dated 3<sup>rd</sup> March 2002 from Mr T to the Applicant confirming that the £10,000 was for costs and disbursements and that any monies paid to the Respondent by Mr T were not gifts. Mr T was clear that the money had been paid on account of costs and the Respondent had not challenged this document. The Respondent had not accounted to Mr T for the funds nor had they been repaid to him. Taking that information into account in addition to the unusual location of the account the Tribunal was satisfied that the Respondent had failed to pay clients' funds into a client account contrary to Rule 3 of the Solicitors Accounts Rules 1991.

### **Previous appearance before the Tribunal**

31. At a hearing on 26<sup>th</sup> November 1998 the following allegations were substantiated against the Respondent namely that:-
  - (a) She had failed to disclose material information to a client and was in breach of Practice Rule 1(e).

and that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following respects namely:-

- (b) She had failed to maintain properly written books of account contrary to Rule 11 of the Solicitors Accounts Rules 1991.

- (c) She had practised as a solicitor whilst there was no Practising Certificate in force in relation to such practice.
- (d) She had practised as a solicitor having failed to pay the contributions due from her to the Solicitors Indemnity Fund Limited contrary to section 37 of the Solicitors Act 1974 and the Rules made thereunder.

32. The Tribunal on that occasion had said that on the face of it the allegations made against the Respondent were very serious. However, the Tribunal had recognised that the Respondent had endured a very difficult time in her personal life and had set up in practice on her own account at a time when those personal difficulties were bound to impinge upon her practice as a solicitor, bearing in mind that at the same time she was inexperienced in matters of administration and the keeping of accounts.

The Tribunal had accepted that clients' money in the hands of the Respondent had never been at risk. She had not been guilty of dishonesty and indeed no complaint had been made by any client. The Tribunal had said that clearly the Respondent had to be given a great deal of credit for taking enormous steps to put all matters right.

The Tribunal had accepted that the Respondent was a dedicated, hardworking, competent and conscientious solicitor. All that had been wrong had been put right by May 1997 and the Respondent had maintained a good track record since then.

In order to mark the importance with which the Tribunal regarded a breach of the Rules by which solicitors were bound they had felt it was right to impose a fine upon the Respondent. Nevertheless the fine imposed had reflected the difficulties faced by the Respondent, her financial problems, and the fact that she had put matters right.

The Tribunal in 1998 had imposed a penalty of £1,500 in respect of allegations (b), (c) and (d). They had considered it appropriate to reprimand the Respondent in respect of allegation (a) accepting her admission that she had been guilty of the failure but concluding that it did not amount to conduct unbecoming a solicitor.

The Respondent had also been ordered to pay the Applicant's costs.

In pronouncing its order the Tribunal had expressed the hope that the Respondent would be able to put all of these unfortunate matters behind her and that she would continue to practise with the approval of the Law Society in the future in a way that would serve her clients and the solicitors' profession well.

33. At the hearing on 26<sup>th</sup> November 2002 the Tribunal noted that the Tribunal in 1998 had been lenient and had given the Respondent a second chance. At the present hearing allegations of serious misconduct had been proved against the Respondent. She had taken a loan from a client without ensuring that the client obtained independent legal advice and had been made bankrupt before the loan had been repaid. The Rules regarding the proper conduct of solicitors in situations of a conflict of interest, and particularly in situations where a solicitor was benefiting from that conflict, were intended to protect clients from precisely this kind of situation. The Respondent had put her own interests before those of her client to the detriment of her client. This was a serious matter.

34. In relation to Mr T, he had made it clear that he had made no gifts to the Respondent. The Respondent had provided no explanation as to why his money had not been paid into a client account nor as to why she had not accounted to him for those funds. This was very serious misconduct which showed a lack of probity on the part of the Respondent. It was essential that the public be protected and that clients felt able to have confidence in the profession and confidence that solicitors would carry out their professional duties in accordance with the Rules. The Respondent, who had been brought before the Tribunal for the second time, had fallen so far short of the standards of probity required of solicitors that in the interest of the public she should not be allowed to continue as a member of the profession.
35. The Tribunal therefore ordered that the Respondent Jennifer Anne Hallam of Chipping, Preston, Lancashire, solicitor be struck off the Roll of Solicitors and they further ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,880.

DATED this 22nd day of January 2003  
on behalf of the Tribunal

L N Gilford  
Chairman