

IN THE MATTER OF RICHARD JOHN DAWSON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M Hartley (in the chair)
Mr I R Woolfe
Mrs V Murray-Chandra

Date of Hearing: 18th September 2003

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 ("OSS") by David Elwyn Barton solicitor of 5 Romney Place, Maidstone, Kent, ME15 6LE on 6th May 2003 that Richard John Dawson solicitor of Cardiff, South Glamorgan, 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:-

- (a) he had dishonestly utilised clients' money for his own purposes;
- (b) he had acted in breach of the Solicitors Accounts Rules 1991 in that contrary to the provisions of Rules 7 and 8 of the said Rules, he had drawn from client account moneys other than in accordance with the said Rules and utilised the same for his own benefit;
- (c) he had been guilty of conduct unbefitting a solicitor.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 18th September 2003 when David Elwyn Barton appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent. The Tribunal had before it a bundle of testimonials written in support of the Respondent.

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

The Tribunal Order that the respondent, Richard John Dawson of Cardiff, South Glamorgan, 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 include the costs of the Law Society's Investigation Accountant to be subject to a detailed assessment if not agreed) the applicant's costs to be fixed in the sum of £2,250.00.

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

1. The Respondent, born in 1952, was admitted as a solicitor in 1985.
2. At the material times he carried on in practice under the style of Dawsons Solicitors and Home Conveyancing Direct Limited, an incorporated practice in which he was a 50% shareholder.
3. Dawsons Solicitors practised from 12 Gold Tops, Newport, Wales and Home Conveyancing Direct Limited operated from that address and Room 45 Llandaff Road, Canton, Cardiff.
4. On 17th September 2002 an Investigation Officer in the Forensic Investigation Department of the OSS attended at the Respondent's sole practice address to inspect his books of account. The Investigation Accountant produced a Report dated 10th December 2002 which was before the Tribunal.
5. The Report covered the Respondent's sole practice and the incorporated practice. Separate books of account were maintained for each practice. The Report confirmed that the books of account of Home Conveyancing Direct Limited were in compliance with the Solicitors' Accounts Rules in all material respects. The books of account of the Respondent's sole practice, Dawsons, were not in compliance with the Solicitors Accounts Rules as monthly reconciliations of the client account showed unallocated transfers from client to office bank account, no accounting records had been maintained in respect of designated client accounts and for other reasons set out in the Report.
6. The Investigation Officer was not able to express an opinion as to whether funds held on client bank and building society accounts were sufficient to cover the Respondent's liabilities to his clients. A minimum cash shortage of £233,269.94 existed as at the 3rd December 2002.
7. The cash shortage was caused in the following way:-

(i)	Unallocated transfers from client to office bank account	
	Prior to 31 st August 2002	£141,600.26
	Post 31 st August 2002	<u>5,000.00</u>
		£146,600.26
(ii)	Improper transfers from client to office bank account	79,565.23
(iii)	Debit balance/overpayment	<u>24,077.05</u>
		<u>£250,242.54</u>
	<u>Less Repaid 2nd September 2002</u>	<u>16,972.60</u>
		<u>£233,269.94</u>

8. During the period December 1999 to June 2002 fifteen unallocated transfers ranging in amount from £2,364.71 to £15,000 and totalling £141,600.26 had been made from client to office bank account. A further unallocated transfer of £5,000 from client to office bank account occurred on 3rd September 2002.
9. Six improper transfers from client to office bank account, purportedly in respect of the firm's costs, ranging in value from £1,465.23 to £35,250 and totalling £79,565.23 had been made in respect of two clients. The total sum transferred in respect of Ms P deceased was £72,815.23 and the total sum transferred in respect of Mr HP was £6,750. In the case of Ms P deceased, in which the Respondent was instructed by the executors to obtain a grant of probate and administer the estate, transfers had been made in May and June of 2001, April, July and August of 2002. None of those transfers was supported by a bill of costs or other written intimation delivered to the executors. A transfer shown by the books to have been made on 31st July 2002 had in fact been made on 26th November 2001. The transfer was shown as a reconciling entry on the client bank account reconciliation. Following lodgement of the sum transferred of £22,000 in office bank account on 26th November 2001, a payment in the same sum was made on 28th November 2001 from office bank account to Home Conveyancing Direct Limited.
10. With regard to the debit balance/overpayment of £24,077.05, the Investigation Officer's Report gave details of the debit balance of £16,972.60 in the matter of Mrs T for whom the Respondent acted in the purchase of residential property. The sum required to complete the transaction was £17,016.60 and that amount had been paid into client bank account on 20th August 2002. On the same day an amount of £16,712.60, being the balance of the purchase price, was paid to the vendor's solicitors. On 23rd August 2002 the bank debited the firm's client bank account in the amount of £17,016.60 as the result of the client's cheque being returned unpaid. After the transfer from client bank account to office bank account of fees and disbursements, there was a resulting debit balance of £16,972.60 as at 31st August 2002.

The Submissions of the Applicant

11. The Tribunal would note that the Respondent had admitted all of the matters alleged against him. He had been entirely cooperative. The Applicant put the matter as one involving dishonesty and the Tribunal's attention was drawn to the reported conversation between the Respondent and the Investigation Officer. In particular the Respondent had explained to him that Home Conveyancing Direct Limited had not been making money and had been running at a loss. Money had been needed to pay for certain things and as a result the Respondent had transferred money from client to office bank account in his sole practice indicating that he would sort out the bills to

cover the transfers at a later stage. He had said that things "got away from him" and as the company continued to make a loss he made further transfers from client account to office bank account. The Respondent had agreed with the Investigation Officer that his conduct had been dishonest. The Investigation Officer had made notes of the meeting which the Respondent had signed. A copy of those notes had been placed before the Tribunal.

12. The Respondent had confirmed to the Investigation Officer that he had not submitted bills of account or other written intimations to the executors of the estate of Ms P and confirmed that his conduct in respect of this matter also was dishonest.

The Submissions of the Respondent

13. The Respondent confirmed that he admitted the allegations. He told the Tribunal that he was in the process of selling property in order to pay the monies which he had taken from client account back. He thought he could return the money. He had been anxious to keep on staff and had been guilty of a grave error of judgement.
14. Prior to October 2002 the Respondent had two practices, Dawsons in Newport and Home Conveyancing Direct Limited (HCD) in Cardiff and Newport. HCD employed two solicitors, one in Cardiff and one who was based in Newport.
15. Once the Respondent became aware that HCD was not sound financially, he immediately made it known that if the situation did not improve he would close down HCD at the end of September. Owing to accountancy mismanagement he had not been aware how bad the situation was. Money had been withdrawn from client account contrary to the provisions of Rules 7 and 8 of the Solicitors Accounts Rules 1991. As soon as he was informed of the situation he arranged to sell a property he owned in Newport in order to replace the shortfall with interest.
16. The Respondent had been prevented from taking immediate action because of circumstances beyond his control which forced him to take on the work of the other two solicitors, one of whom needed to take six weeks compassionate leave and the other was hospitalised.
17. During this period the Respondent's cashier informed him that Dawson's auditors wanted to carry out an inspection of the books and he had to cancel their visit until the beginning of October 2002 as he was in the process of closing down HCD and selling the Newport property. He knew that the money had to be replaced.
18. The property sale had not been completed before the Respondent received a visit from the Investigation Officer. The Respondent immediately admitted to him what had happened, confident that the Investigation Officer would accept his explanation of the sale of the Newport property. The Investigation Officer said that he would be reporting back to The Law Society's Monitoring Panel which then resulted in the intervention ordered by The Law Society.
19. It was a matter for regret that the Respondent had not been given a time limit to repay the monies to client account so that clients and staff would not have been disadvantaged.

20. As a result of the intervention the Respondent's bankers, suppliers and other creditors immediately demanded payment. A letter was sent to The Law Society stating that the Respondent hoped to be able to make a full restitution of the funds. He enquired how much money was outstanding. The Law Society did not reply to that request it did not reply when the request was repeated.
21. The Respondent was thereby compelled to take alternative immediate action in that the proceeds of the sale of the Newport property went to pay his creditors in order to avoid bankruptcy.
22. The Respondent was unemployed and his only source of income was the job seekers allowance. The Respondent hoped to secure a position that would allow him to repay the Law Society's Compensation Fund as quickly as possible.

The Finding of the Tribunal

23. The Tribunal found the allegations to have been substantiated, indeed they were not contested. The Respondent's admissions included an admission that he had behaved with dishonesty. Members of the public are entitled to be certain that any solicitor instructed by them should be a person upholding the utmost standards of probity, integrity and trustworthiness, a person who will exercise a proper stewardship over money entrusted by them to him and to be a person whose honesty could not be impugned. The Respondent has badly let down the trust his clients placed in him and his action can only serve seriously to damage the good reputation of the solicitors' profession. It was right that he should be struck off the Roll of Solicitors. The Tribunal made that Order and further ordered that he should pay the costs of and incidental to the application and enquiry including the costs of The Law Society's Investigation Officer.

DATED this 13th day of November 2003

on behalf of the Tribunal

W M Hartley
Chairman