No. 8813/2003

IN THE MATTER OF MICHAEL ROBERT TAYLOR, solicitor

AND

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J P Davies (in the chair)
Mrs K Todner
Ms A Arya

Date of Hearing: 11th November 2003

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was made on behalf of the Office for the Supervision of Solicitors (the "OSS") by Margaret Eleanor Bromley solicitor of Bush House, 72 Prince Street, Bristol BS99 7JZ on 22nd May 2003 that Michael Robert Taylor of Peterborough, Cambridgeshire, 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:-

1. He failed to comply with Solicitors Accounts Rules in that:-
   - 1.1 He failed to pay client money into client bank account;
   - 1.2 Between 1st April 1999 and about June 2000 he failed to maintain a client bank account;
   - 1.3 He withdrew money from client account other than in accordance with Rule 19;

1.4 He incorrectly retained unpaid professional disbursements in office bank account;
1.5 He failed to remedy breaches promptly upon discovery.

2. He had been guilty of conduct unbefitting a solicitor in that:-

2.1 He misled his client, Mr I S, Miss C S and Mr J L as to the progress of their claim;
2.2 He misled an officer of the Forensic Investigation Unit of the OSS;
2.3 He entrusted notepaper bearing his name to a third party with knowledge that it would be used;
2.4 He permitted an unadmitted third party to issue proceedings in his name;
2.5 He permitted an unadmitted third party to instruct Counsel in his name;
2.6 He employed Mr Graham Hewitt in connection with his practice without the consent of the Law Society, when Mr Hewitt was in fact suspended.
2.7 He used client funds for his own purposes;
2.8 He failed to comply with the Solicitors Indemnity Rules 1998 and the Solicitors' Indemnity Insurance Rules 2000;
2.9 By reason of the above he compromised or impaired his good repute and that of the solicitors' profession.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 11th November 2003 when Margaret Eleanor Bromley solicitor of TLT Solicitors Bush House, 72 Prince Street, Bristol, BS99 7JZ appeared for the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the Respondent's admissions to allegations 1.3, 1,4 and 2.7 and his partial admissions to allegations 1.1 and 2.8. The Tribunal heard oral evidence from the Respondent and from Mr Carruthers the Forensic Investigation Officer.

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

The Tribunal Ordered that the Respondent, Michael Robert Taylor of Peterborough, Cambridgeshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 11th day of November 2003 and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to detailed assessment unless agreed.

The facts are set out in paragraphs 1 to 111 hereunder:-

1. The Respondent born in 1938 was admitted as a solicitor in 1965 and his name remained on the Roll of Solicitors.

2. The Respondent practised as a sole principal under the style or title of Bridgeman Taylor until 31st March 1999 when he sold that business to Mr T K. From 1st April 1999 until 2nd July 2001 he was a Consultant to the firm Bridgeman Taylor. From 1st April 1999 he practised on his own account under the style of Michael R Taylor at 555 Lincoln Road, Peterborough. That firm was intervened on 18th November 2002.

3. An inspection of the books of account of the Respondent's firm was commenced on 28th March 2002 by Mr Carruthers, Investigation Officer of the OSS. A copy of the resulting report dated 28th June 2002 was before the Tribunal. The report noted the matters set out below.

Allegation 1.2 - Failure to maintain a client bank account

4. When the Respondent set up under the style Michael R Taylor Solicitors on 1st April 1999, he did not open a client account for that practice. He continued to use the Bridgeman Taylor client account to conduct transactions relating to his clients at Michael R Taylor Solicitors.

5. In the course of the investigation by the Forensic Investigation Unit the Respondent said that he found this arrangement had become progressively unsatisfactory and that in or about June 2000 he decided that it would be better if he took control of his clients' funds.

6. The Respondent had already been a signatory on the Bridgeman Taylor client account and on 19th June 2000 he paid to Bridgeman Taylor an amount of £89,166.62 leaving the Respondent with what he described as "his balances" in the sum of about £18,000. The account continued to be called "Bridgman Taylor Solicitors Clients Call" until 8th June 2001. Thereafter it was called the "M R Taylor Clients Call".

7. In the course of the final interview with Mr Carruthers on 6th June 2002, he was asked to agree that in conducting matters as Michael R Taylor Solicitor, he had therefore held or received clients' money before June 2000 and he said that was difficult to answer but "probably yes". The Respondent also agreed that he had lodged clients' money in Bridgeman Taylor's client bank account and that he had relied upon Mr T K to maintain the required books of account.

Failure to pay client money into client bank account

8. Between 1st April 1999 and June 2000 the Respondent received client money in respect of clients for whom he was acting as Michael R Taylor Solicitor, which he paid into the Bridgeman Taylor client account not his own client account. This was confirmed by the fact that when he transferred the sum of £89,166.62 to Bridgeman Taylor he retained about £18,000.00, which belonged to his clients.

9. On 12th September 2001, the Respondent lodged an amount of £3,375.77 in office bank account in respect of a payment received from K Credit Collections Limited. On the same date, the Respondent drew two client account cheques for amounts of £587.50 and £2,788.27 totalling £3,375.77 in respect of his costs and the payment to K.

10. In the final interview on 6th June 2002 with Mr Carruthers the Respondent said that in this case he had incorrectly assumed that he had paid this amount into client bank account. He admitted that there were no funds properly available from which to make these payments and together they created a cash shortage of £3,375.77.

11. The shortage was replaced by a lodgement of £3,000 in client bank account on 6th June 2002 and the lodgement of £375.77 in client bank account on 11th June 2002.

12. The Respondent acted for Mr M, the claimant, in a litigation matter against Messrs H & C of Peterborough. Judgement was obtained on 26th July 1999 for damages of £2,002.60, interest of 290.57 and costs. The Order provided that the £1,900 in Court be paid to the claimant in part satisfaction.

13. On 15th November 1999, the defendants offered the Respondent £2,000 in full and final settlement of his client's claim for costs and enclosed a cheque for that amount. This date was after the Respondent had started practising as Michael R Taylor but before he had a client account in his firm's name.

14. On 25th October 2000 Mr M complained to the Respondent that he had not received all of his damages. He calculated the balance due as £793.17 plus interest. On 6th February 2002, following a complaint by Mr M to The Law Society, the Respondent wrote to him enclosing an office account cheque for £586.62 in respect of the balance of the damages.

15. The only entries on the client ledger card were the sum of £230.00, which was described as "brought forward" on 14th August 2000. On 6th February 2002 that sum was transferred to office account as part payment of the sum due to Mr M. The balance was then shown as nil.

16. Barristers' fees in connection with the claim totalled £1,175.00. As indicated above as at 6th February 2002 the relevant account in the client's ledger showed that no funds were held in client bank account. As at that date, the Counsels' fees remained unpaid.

17. In the final interview on 6th June, the Respondent agreed that he owed the two barristers a total of £1,175.00 and that no funds were held on the relevant client's ledger account. The Respondent agreed that a cash shortage of £1,175 existed.

<u>Allegation 1.3 - Withdrew money from client account other than in accordance with Rule 19 of the Solicitors Accounts Rule 1998</u>

18. On 15th January 2002, a sum of £696.25 was transferred from client to office bank account. This consisted of 7 transfers in respect of bills of costs.

19. In respect of 6 of the 7 transfers Mr Carruthers found the letterhead copy of the bill on the clients' matter files.

20. In the final interview with Mr Carruthers on 6th June 2002, the Respondent confirmed that the top copy bearing the practice letterhead of the bill was the client's copy. The Respondent also accepted that it looked as if he had not sent the bill to the clients concerned.

21. The Respondent accepted that the transfers totalling £696.25 were made in breach of the Solicitors Accounts Rules and that they created a cash shortage of that amount.

22. The Respondent acted for Mr M in connection with his matrimonial affairs including the sale of his matrimonial home.

23. On 24th November 2001, £15,293.00 was transferred from client account to a client deposit account designated "Re Mr and Mrs C D M".

24. On 13th March 2002, a bill in the sum of £587.50 had been raised by the Respondent in respect of the sale of the formal matrimonial home. The bill was addressed to Mr and Mrs M. On that date, the sum of £587.50 was withdrawn from the client designated deposit account and transferred to office bank account. On 15th March 2002, the deposit account was charged with a second transfer of £587.50 to office bank account. The top copy of the bill was found in the client file.

25. In the final interview with Mr Carruthers on 6th June 2002, the Respondent confirmed that the top copy bearing the practice letterhead of the bill was the client's copy. The Respondent accepted in respect of the bill addressed to Mr and Mrs M that he had not sent the bill to them.

26. The Respondent agreed the existence of a cash shortage of £1,175.00 in respect of the M matter.

27. By letter dated 12th June 2002, the Respondent stated that he had lodged an amount of £696.25.00 in client bank account.

28. On 25th June 2002 the Respondent wrote to Mr Carruthers sending him copies of letters to each of the clients referred to in paragraph 20 above enclosing the bill of costs.

<u>Allegation 1.4 - Incorrectly retained unpaid professional disbursements in office bank account</u>

29. The Respondent took over a personal injury claim on behalf of Mrs R against the Ministry of Defence.

30. On 21st February 2002, an amount of £3,936.25 was lodged in the overdrawn office bank account in respect of the payment by the MOD of the Respondent's costs and disbursements. This included Counsel's fees of £998.75.

31. Counsel's fees were not paid until 16th April 2002 and remained in office bank account until payment.

32. In the final interview, the Respondent agreed that the real issue was not the fact that the fee should have been paid earlier but that the funds should not have been in office bank account.

<u>Allegation 1.5 - Failed to remedy breaches promptly upon discovery</u>

33. In respect of a sum of £400.00 drawn in respect of payment of the Respondent's personal Lloyds TSB Visa credit card bill (see paragraph 99 below), Mr Carruthers'

contemporaneous notes of the final interview with the Respondent stated that the Respondent said that he discovered the cash shortage at the end of February.

34. The cash shortage was not replaced until 27th March 2002. Mr Carruthers asked the Respondent why he did not replace it immediately. Mr Carruthers's contemporaneous notes stated that the Respondent replied: "because he did not have sufficient money".

35. In respect of the M matter, the Respondent had received payment in respect of costs and disbursements on 15th November 1999.

36. The Respondent received regular reminders from Counsel's chambers about the outstanding fees.

37. The fees were still outstanding when this matter was first raised with the Respondent by Mr Carruthers on 1st May 2002.

38. As at the date of the FIU report, the fees had still not been paid and no payment had been made to client bank account. At the date of the Rule 4 Statement the fees remained outstanding.

39. In respect of the matter of Mr and Mrs M, the two sums of £587.50 were transferred from the client designated deposit account in March 2002. In the final interview, the Respondent told Mr Carruthers that he had discovered the error "about April time". He went on to say that "he would have to find some money to cover that".

40. In his letter of 2nd August 2002 to the OSS, the Respondent said that the money had been refunded.

<u>Allegation 2.1 - Misleading clients Mr I S, Miss C S and Mr J L</u>

41. The Respondent acted for Mr S, Miss S and Mr L in connection with a personal injury claim arising from a road traffic accident on 22nd July 1997.

42. On 24th February 1998, Crowe Motor Policies at Lloyds admitted liability for the accident on behalf of their policy holder and paid to Mr I S £1,035.00 in respect of the write off value of his vehicle.

43. On 24th May and 27th July 1999, Crowe Insurance Group wrote to the Respondent requesting copies of medical reports.

44. On 24th July 2000, two days after the expiration of the limitation period, the Respondent issued proceedings in Peterborough County Court.

45. On 23rd April 2001, C S telephoned the Respondent's office wanting to know what was happening.

46. On 30th July 2001, the Respondent wrote to I S saying: "I regret that you are not in court tomorrow. I have had to postpone matters, as I have been unwell. In any case, it is unlikely that you will be needed at this stage as the sole purpose is to obtain a judgement amount and obtain the Court's approval to a provisional assessment… I

am trying to rearrange the case for next week or the following week. As you probably know, I have been out of the office unwell and this has delayed the final preparation of the case".

47. On 26th November 2001, the Respondent wrote to J L saying: "I regret that I have been out of the office at Court when you have telephoned and called. I am just telling you that there is no need for you to attend Court in person, as I will handle it myself. I have statements from both you and C S and I S, which will be sufficient for the purpose. I will tell you the result of my attendance at Court once I have been there".

48. On 29th November 2001, the Respondent wrote to C S and I S. To C S, he said: "You will be offered the sum of £1,910.60. I should be grateful if you will sign the attached letter indicating your approval". To I S, he said: "I write to notify you that a figure of £2,070.90 has been offered to you and I should be grateful if you would notify me if this is acceptable".

49. On the Respondent's file there were signed letters of acceptance from C S which simply referred to the offer made "in full settlement of my claim" and from J L which stated "I accept the offer of £1,500.00 made in full settlement of my claim…".

50. On 1st February 2002, the Respondent wrote to C S apologising for things taking longer than expected. He went on to say: "I confidently expect that next week I shall be able to settle up with you".

51. On the Respondent's file, there was a letter dated 8th February 2002 headed "draft" addressed to Crowe Motor Policies at Lloyds. The letter opens in the following terms: "We refer to our previous correspondence in this case and with the greatest of respect, appears to have been overlooked not only by ourselves but also by yourselves in an attempt to try and form any settlement". The letter concluded in the following terms: "We will give you some time to consider it and anticipate sending you a Part 36 Offer on Monday 18th February". At the bottom of the letter there was a note in the following terms: "Plus: consider writing to clients saying that case has been reopened?"

52. It was not clear that this letter was ever sent to Crowe Motor Policies. They had no record of ever having received it.

53. On 22nd February 2002, the Respondent wrote to C S saying: "I regret that the balance of your money had not yet come through. However, I am pressing as hard as I can to resolve the matter".

54. Mr Carruthers made further enquires in connection with this matter. He was informed by Peterborough Combined Courts that all that happened in this case, was that a claim had been issued. The claim was served on 27th July 2000 and neither party had responded since. No request for judgement had been received.

55. Mr Carruthers was informed by P G at the Insurance Company that the matter had been closed two years ago. They had paid out £1,035.00 in respect of the insurance value of the car and that was all. An amount had initially been reserved in respect of

a personal injury claim but after no correspondence for a period the file had been closed.

56. On 23rd January 2002, a cheque was requested from office bank account payable to Mr J L for £750.00. On 8th February 2002, a further cheque was requested from office bank account payable to Mr J L for £750.00 and on 18th February 2002 a cheque was requested from office bank account payable to Miss C S for £1,000.00.

57. In the final interview on 6th June 2002 the Respondent confirmed to Mr Carruthers that he had made the three payments from office bank account. The explanation given by the Respondent for drawing the money from office bank account was that: "J L, was about to leave the country and he (Mr Taylor) agreed to pay him in advance, before receiving the monies from the insurance company. Mr Taylor said that he had also paid C S in anticipation of receipt of the damages from the insurance company".

58. The Respondent accepted that he had not actually got Crowe to agree those figures commenting: "Crowe have been very slow … hopefully I will resolve it with them shortly".

59. Mr Carruthers put to the Respondent the letter to I S dated 30th July 2001 in which he referred to trying to rearrange the case for next week or the following week. The Respondent accepted that this letter was misleading.

<u>Allegation 2.2 - He misled an officer of the Forensic Investigation Unit of the OSS</u>

60. At the initial interview on 28th March 2002 Mr Carruthers' notes indicated that he had asked the Respondent if he had any judgement debts and that the Respondent told him that there was one to Barclays Bank, which had been satisfied.

61. The judgment was dated 23rd April 2001 and was in the sum of £45,483.15 plus interest.

62. On 28th May 2002 Barclays Bank wrote to the Respondent setting out the amount required to redeem his liabilities.

63. On 29th May 2002, two months after the initial interview with Mr Carruthers, the Respondent wrote to Barclays Bank enclosing a cheque for £23,500.00. That sum was offered in full settlement of the outstanding sum

64. On 30th May Barclays Bank replied accepting the sum offered in full and final settlement.

65. At at 28th March 2002 the Respondent also had a judgment debt against him in respect of sums owed to the Solicitors Indemnity Fund "SIF".

66. SIF obtained judgment against the Respondent on 23rd January 1999 for £29,344.23 in respect of contributions for the period 1997-98. At that date the Respondent was practising under the style or title of Bridgeman Taylor.

67. In the final interview on 6th June 2002 Mr Carruthers asked the Respondent if he owed SIF anything in respect of Bridgeman Taylor. The Respondent described this as being a grey area and said he couldn't give a straight answer at this stage.

68. Mr Carruthers then asked if judgment had been obtained against him in respect of any debt owed to SIF and the Respondent said: "I can't answer that".

69. Mr Carruthers indicated that he was aware of the judgment of 23rd January and the Respondent said that he didn't understand: "how much and for what period, but I will disclose to you the full situation as soon as I have found out".

Allegations 2.3 - 2.5 - Entrusted notepaper bearing his name to a third party with knowledge that it would be used:
Permitted an unadmitted third party to issue proceedings in his name:
Permitted an unadmitted third party to instruct Counsel in his name

70. In the course of his investigation, Mr Carruthers noticed a ledger in client account titled "K". He also noted a pattern of office bank account receipts and payments which indicated that the Respondent was being paid £250.00 plus VAT per month by K.

71. In an interview with the Respondent on 28th March 2002, Mr Carruthers was told that K were a debt collecting company. The Respondent said that they used his name and they did the bulk of the work. He went on to say that it was a relationship that had been sanctioned with professional ethics and the OSS albeit some years ago.

72. The Respondent said K had instructed Counsel in his name and that he had received letters concerning the non payment of fees.

73. The letterhead used by K referred to the "debt recovery and insolvency department" of Michael R Taylor. The DX number shown was the same as the Respondent's. The telephone number and fax number were different.

74. K would issue proceedings in the name of Michael R Taylor solicitor. Each month they would invoice the Respondent for what was described as "secretarial services". A copy of the invoice for February 2002 was before the Tribunal. The amount of the invoice was based on sums recovered under Part 7 claims in accordance with the schedule attached to the invoice. The Respondent would then invoice K for the amount of their invoice plus £250.00. In the case of the February invoice this as for £1,606.00 plus £250.00 which equalled £1,856.00 plus VAT.

75. On 3rd May 2001, Mr T of K wrote to the Respondent acknowledging: "We do have a backlog of supplier invoices. However, these have been attended to in recent times and in particular the matter of barristers' fees have received priority".

76. The letter went on to make it clear that client account cheques received by K were now being paid into "K's bespoke client account". Mr T suggested that the Respondent might wish to consider endorsing each cheque so that this practice could continue.

77. The Respondent wrote to the Professional Ethics Division of The Law Society on 8th May 2001 enclosing a copy of that letter. The Law Society replied on 21st May pointing out that in order to comply with the Solicitors Act 1974 any act done by an unqualified person had to be done: "at the direction and under the supervision of a qualified person". The letter went on to say: "From what you set out in your letter it is not clear that this is the case… If you were properly directing and supervising the litigation you should already be aware of the clients' identity".

78. On 22nd May 2001 the Respondent wrote to Mr T suggesting a meeting. He went on to say: "I would also welcome a further substantial payment of my fees. You may not fully appreciate it but you are making things extremely difficult for me by not keeping up to date with your fee payments and I would appreciate if you could made a concerted effort to pay me a substantial amount by the end of the month".

79. The Respondent wrote to Mr T again on 23rd November 2001 enclosing a letter from Peterborough County Court which referred to £160.00 being outstanding. The Respondent went on to require that he be provided with "a list of all payments and all invoices relating to suppliers and Courts including Sheriffs, Bailiff, Enquiry Agents, Counsel and any other service provider, every month, so that I know what is being incurred in my name". The Respondent concluded by complaining about the delay in payment of his bill.

80. On 4th January 2002, the Respondent wrote to Dawbarns Pearson solicitors in response of a complaint received from them about non payment of their fees. He said: "The problem is that you have actually been instructed by a firm known as "K Credit Collection Limited" in order for them to comply with Sections 20, 21 and 22 of the Solicitors Act 1974, it is necessary for them to issue proceedings through a firm of solicitors. I assist them". He went on to say: "I therefore have no personal knowledge of the matters which you have raised, but you may rest assured that I have drawn the attention of Mr T, the proprietor of K Credit Collections Limited who would normally be responsible for payment of your account".

81. On 7th February the Respondent wrote again to Mr T complaining about the delay in payment of his fees.

82. On 26th February 2002, the Respondent received a reminder from the Sheriff Officers concerning settlement of an outstanding account and on 27th February he received a reminder from W M Investigation Service. That letter indicated that the outstanding invoices dated back to 18th June 2001 and polite requests for payment had been ignored.

83. On 28th February 2002 the Respondent wrote to Mr T in connection with outstanding bills from suppliers. He pointed out: "It is my reputation that is on the line and I am no longer willing to put up with this situation".

84. On 12th April 2002 the Respondent wrote to the Professional Ethics Department requesting their advice with regard to the situation with K. This letter was written after the inspection by Mr Carruthers had started. That letter explained that K: "in order to issue proceedings need to use Mr Taylor's Practising Certificate". The letter also made it clear that: "K have instructed certain suppliers, in Mr Taylor's name,

whom they have not paid. These suppliers range from Counsel through to Sheriffs, Enquiry Agents and others".

85. On 19th April 2002, the Respondent wrote to K's suggesting certain changes in the arrangements. He said: "I am not happy that letters are written on my firm's notepaper without me receiving copies of them".

86. On 30th July 2002, the Respondent wrote to the Clerk to Fenners Chambers about outstanding Counsel's fees. He said: "I am not at all amused that K have been instructing Counsel not only from your Chambers but other Chambers too in my name but without my consent".

Allegation 2.6 - Employed Mr Graham Hewitt in connection with his practice without consent of The Law Society when Mr Hewitt was suspended from practice

87. Mr Graham Hewitt had been in practice on his own account. On 12th October 2001 his practice had been intervened in. The Respondent took over a number of matters that Mr Hewitt had formerly dealt with. As referred to at paragraph 29 above, the Respondent took over dealing with Mrs R's matter on 25th October 2001.

88. On 3rd December 2001, the Respondent wrote to Mrs R confirming that he had taken over the file from Graham Hewitt. He went on to say: "He (Graham Hewitt) is still in close contact with me concerning the file and the progress of the litigation".

89. On 9th January 2002, the Respondent wrote again to Mrs R setting out his advice on the level of damages. He went on to say: "I know this is short notice but we do have a meeting with the MOD of Friday and it will be useful if you could telephone either Graham or myself to let me have your comments".

90. On 11th January 2002, the Respondent wrote to Mrs J at the Treasury Solicitor asking for that afternoon's meeting to be postponed because Mr Graham Hewitt who was due to accompany the Respondent was unwell. He went on to say: "I would prefer to have any meetings with you with Mr Hewitt present as he has been responsible for the early part of the claim".

91. Following the meeting with the MOD, the Respondent wrote to Mrs R on 23rd January 2002 saying: "As you know, I went down to London with your former solicitor, Mr Graham Hewitt, to have a meeting with the MOD to negotiate a settlement of your claim. I understand that Mr Hewitt has spoken to you personally and notified you of the outcome of that meeting".

92. The Respondent wrote again on 31st January 2002 in which he said: "I know that Graham Hewitt has written to you another letter explaining the proposed offer of £130,000.00 should be accepted". He went on to say: "If you have any doubt at all then I would be grateful if you would made an appointment to see me and I will arrange for Graham Hewitt to be present at that meeting so that we can discuss the matter sensibly together".

93. Filed on the Respondent's client file was a copy of a letter from Mr Hewitt to Mrs R dated 31st January 2002 in which he gave advice about the claim and the offer made in

settlement. He concluded by saying: "Therefore, in my opinion (and Mike's) together with the Barrister involved, the amount offered is reasonable and a fair settlement to expect from this case… If you have any further queries, please do not hesitate to contact me".

94. On 5th February 2002, the Treasury Solicitor wrote to Mr Hewitt, addressing it to G J Hewitt & Co at the Respondent's DX address. In that letter they referred to a telephone call with Mr Hewitt on 1st February when costs had been discussed. On the same date, the Treasury Solicitor wrote separately to the Respondent about his costs.

95. In his schedule of costs the Respondent included a claim for Mr Hewitt's time in travelling to and attending the settlement conference on 17th January 2002 and the conference with Counsel on 30th November 2001.

96. On 6th February, the Respondent wrote to the Treasury Solicitor confirming that Mr Hewitt had authority to discuss the Respondent's costs as well as his own costs with the Treasury Solicitor. In that letter he asked that separate cheques be issued for each of their costs.

97. The Treasury Solicitor paid the sum of £7,050.00 direct to Mr Hewitt in respect of his costs.

98. On 27th February 2002 the Respondent wrote to the OSS asking for advice on the extent to which he was allowed to seek assistance from Mr Hewitt on matters he had taken over. The OSS replied on 11th March making it clear that Mr Hewitt was not permitted to practise: "and assisting you, even without remuneration, would be practising".

Allegation 2.7 - Used clients' money for his own purposes

99. On 23rd January 2002 the Respondent drew two cheques on client bank account in the amounts of £350.00 and £50.00 in respect of the payment of his personal Lloyds TSB Visa credit card bill.

100. The cash shortage was replaced by the lodgement of an office bank account cheque in the sum of £400.00 on 27th March 2002.

Allegation 2.8 - Failed to comply with the Solicitors' Indemnity Rules and the Solicitors Indemnity Insurance Rules 2000

101. The Respondent failed to pay the contributions due to the Solicitors' Indemnity Fund in respect of the Indemnity Years 1997/98 in respect of Bridgeman Taylor; 1998/99 in respect of Bridgeman Taylor; 1999/00 in respect of Michael R Taylor.

102. The Solicitors' Indemnity Rules 1998 rule 3.1.1 imposed an obligation on every principal: "to make or cause to be made Initial and Supplementary Contributions in relation to each Indemnity Period…"

103. On 23rd January 1999 SIF obtained judgement against the Respondent in the sum of £29,344.23.

104. The Respondent failed to obtain indemnity cover for the period 1st September 2000 to 8th October 2001. In the final interview Mr Carruthers asked the Respondent whether he had obtained cover for the interim period 1st September 2000 to 8th October 2001. The Respondent admitted that he had not taken out cover during that period.

105. In his letter of 2nd August 2002 to the OSS the Respondent stated: "I accept that, for a period of time, there was no professional indemnity cover. I have been in correspondence and am in the process of rectifying that mistake and all forms of steps have been taken to rectify it".

106. The Respondent had now obtained retrospective cover through the Assigned Risks Pool. At the date of the hearing part of the premium remained outstanding.

Correspondence with the OSS

107. On 12th June 2002 the Respondent wrote to Mr Carruthers referring to the payment of various sums into client account. Mr Carruthers replied on 21st June requesting further information. In particular Mr Carruthers requested confirmation that Counsel's fees in respect of M had been paid.

108. On 22nd July 2002, the OSS wrote to the Respondent asking for his comments on the forensic investigation report.

109. The Respondent replied on 23rd July requesting an extension of 7 days in which to respond. He then responded in detail by letter dated 2nd August 2002. In respect of the unpaid Counsel's fees on M he confirmed that they had not been paid and said: "I intend to make payment of those sums as soon as I can".

110. In connection with the S matter he denied that the clients had been misled although he accepted that he had paid two of the clients out of his own funds. In connection with the R matter, the Respondent said that he had asked Mr Hewitt to accompany him to the meeting with the MOD: "Not as a solicitor but as a technical advisor".

111. On 14th November 2002 the Respondent wrote to the OSS in response to the report prepared for the adjudicator. He admitted a number of the Accounts Rules breaches but continued to deny that the clients in the S matter had been misled.

The Submissions of the Applicant

112. It was submitted that the Respondent should have had a client bank account for his practice of Michael R Taylor. The Applicant referred the Tribunal to the relevant part of Rule 14 of the Solicitors Accounts Rules. Under the terms of Rule 14 if the Respondent, who was a sole practitioner in the firm of Michael R Taylor, held or received client money he had to have a client account in the name of the firm or of himself.

113. It was submitted that the transfer of £18,000 from Bridgeman Taylor to a client account in the name of M R Taylor on 19th June 2000 showed that the Respondent had received client money in that sole practice prior to the opening of his client account.

114. In relation to the matter of Mr M the Respondent had clearly received the sum of £2,000 in settlement of his client's claim which should have been paid into his own client account for his own sole practice but which was instead paid into the client account of Bridgeman Taylor. The defendants in that matter had corresponded with him as Michael R Taylor solicitors and his own client had written to him at the practising address of Michael R Taylor. The client had clearly been told that the Respondent was operating under that name from that address in this matter.

115. The Applicant was not suggesting that there had been a loss to clients by the failure to open an account but rather a breach of the Rules. The Respondent had accepted in his interview with Mr Carruthers that he had acted as Michael R Taylor and had paid money into Bridgeman Taylor.

116. In the matter of the sum of £3,375.77 received from K Ltd the Respondent had paid money into his office account and had immediately drawn client account cheques against that sum. The resulting shortage had been in existence for some nine months.

117. In relation to the transfers of costs in breach of the Solicitors Accounts Rules there had been a period of some five months between the client to office transfer and the client receiving notification of the costs.

118. In relation to incorrectly retained unpaid professional disbursements the Respondent had admitted that a sum in respect of Counsel's fees had remained in his office account for two months. Under the Solicitors Accounts Rules unpaid disbursements must be transferred to client account or be paid by the end of the second working day after receipt.

119. The Respondent was disputing that he had failed to remedy breaches promptly upon discovery and Mr Carruthers would deal with this in evidence. Initially the Respondent had accepted that he had discovered the personal payment from client account at the end of February 2002.

120. The Respondent had not dealt in his statement with his failure to remedy the breach in relation to the matter of M where the Respondent had received payment including payment in respect of disbursements in November 1999 but Counsel's fees remained outstanding at May 2000 and at that time there was nothing in the client account. The Respondent had admitted in his letter to the OSS of 2nd August 2002 that those Counsel's fees had at that date still not been paid.

121. In respect of the double transfer from client designated deposit account in the matter of Mr and Mrs M the Respondent had said in his letter that the money had been repaid but had not said when. It had not been repaid at the time of the interview with Mr Carruthers.

122. In relation to the misleading of clients the Respondent had accepted the facts.

123. The Tribunal was asked to note that having issued proceedings in July 2000 nothing further was done yet the Respondent had written to the clients on numerous occasions giving an indication that proceedings and negotiations were ongoing and that offers had been made. The Tribunal was referred to the relevant correspondence. Proceedings had been issued two days after the expiry of the limitation period.

124. The Applicant accepted that the clients had received the money from office account but submitted that they had clearly been misled and that they would be surprised to know that their damages had been paid by the Respondent personally. On 30th July 2001 the Respondent had accepted in interview with Mr Carruthers that his letter to IS of 30th July 2001 had been misleading.

125. In relation to allegation 2.2, despite what the Respondent had said to Mr Carruthers on 28th March in respect of the Barclays Bank judgement, this had not been satisfied until two months later. The Respondent had not told Mr Carruthers about the SIF debt at all.

126. It was relevant for Investigation Officers to know if solicitors had judgement debts. Solicitors also had a duty to pay judgement debts immediately. The existence of such debts was relevant to their financial standing. The Respondent had been less than frank with Mr Carruthers.

127. In relation to allegations 2.3 to 2.5 again the Respondent had acknowledged the facts.

128. The Tribunal was asked to note the headed note paper used by K, which referred to them as the debt recovery and insolvency department of the Respondent's firm. The Respondent's letter of 4th January 2002 to Dawbarns Pearson solicitors graphically illustrated the situation. The Respondent was saying that they had not been instructed by him but that he was simply assisting K by letting them have use of his name. There were other similar letters where it was clear that the Respondent was not exercising any clear supervision or direction of K and the Tribunal was referred to that correspondence.

129. The letter from the Law Society to the Respondent on 21st May 2001 made clear what the Respondent needed to do and summarised the problem.

> "In order to avoid any offence, you would need to be satisfied that any act undertaken by an unqualified person was done "at the direction and under the supervision" of a qualified person, (i.e. in these circumstances a solicitor with a current Practising Certificate). From what you have set out in your letter, it is not clear that this is the case. For example, you mention in your penultimate paragraph that you have no idea which client matter to credit when you receive cheques from the Sheriff's office. My view is that to avoid any breach of the Solicitors Act 1974 you should be aware of the identity of the client on behalf of whom money is received. If you were properly directing and supervising the litigation you should already be aware of the client's identity".

130. Despite that guidance the same situation had continued into 2002 as was shown by the letter of 30th July 2002 to the Clerk of Fenners Chambers.

131. The whole flavour of the correspondence from R to Mr T of K was that of a complaint regarding debts to others but equally regarding money owed to him by K. The Respondent had done nothing to bring the arrangement to an end until well after July 2002.

132. The Tribunal was referred to documents showing that K had issued proceedings in the name of the Respondent's firm but from K's address.

133. The letter of 23rd November 2001 to Mr T clearly showed the Respondent asking for his payments under the retainer which was in place.

134. In relation to allegation 2.6 the Respondent would say that Mr Hewitt had been used for his aviation experience but in the submission of the Applicant Mr Hewitt had been closely involved in the settlement of Mrs R's claim. He had attended the meeting regarding damages and had continued to advise Mrs R in that regard. Mr Hewitt's letter of 31st January 2002 to Mrs R was the kind of letter which would be expected from the solicitor dealing with the matter.

135. Further Mr Hewitt had been authorised to negotiate the Respondent's costs and the Respondent included Mr Hewitt's costs in his bill to the Ministry of Defence.

136. The Respondent would say that he had not paid Mr Hewitt but the Tribunal was referred to Section 41 of the Solicitors Act 1974 which referred to employing or remunerating a person in connection with the practice as a solicitor. The Respondent's letter to the OSS in February 2002 had been somewhat after the event.

137. In relation to allegation 2.8 the Respondent had accepted that he did not have insurance cover from September 2000 to October 2001. He had described this "a terrible lacuna" in his interview with Mr Carruthers. At the relevant time he had not had cover through the Assigned Risks Pool.

Oral evidence of Mr James Alexander Carruthers

138. Mr Carruthers gave evidence in support of the Applicant. He confirmed his report of 25th June 2002..

139. He said that a solicitor needed a client account whenever he held or received client money and that the Respondent when asked whether he had received client funds in his sole practice said "probably yes".

140. In relation to the personal payment from client bank account Mr Carruthers' interview notes stated that the Respondent had said that he had discovered the shortage at the end of February 2002 and that he had written up his books for February at the end of February. Mr Carruthers's interview notes also stated that the Respondent had said that he had not replaced the cash shortage immediately because he did not have sufficient money. The Respondent had gone on to say that the shortage had been replaced on 27th March 2002 because there were then sufficient funds. Mr Carruthers noted that the replacement coincided with the start of the inspection which had been due to start on 27th March but had been delayed for a day at the request of the

Respondent. The Respondent had denied that there was any connection stating that he had replaced the money as soon as he could.

141. In relation to allegation 2.2 Mr Carruthers' notes showed that the Respondent had said in the initial interview that his debt to Barclays Bank "was satisfied". He had made no reference to any other judgement debts. In fact the Barclays debt had only been partially satisfied at the time of the initial interview the balance being paid in May.

142. When asked in the final interview in June about the SIF judgement debt the Respondent had described it as "a grey area". Any agreement however which the Respondent might have made with the purchaser of Bridgeman Taylor did not absolve the Respondent from the debt.

143. In relation to allegations 2.3 to 2.5 documents were collected daily by someone from K and Mr Carruthers had witnessed that collection which had been an administrative task only.

144. In relation to allegation 2.6, Mr Hewitt's letter to Mrs R of 31st January 2002 had been on the Respondent's matter file. It had Mr Hewitt's address on it, there was no covering letter to the Respondent with it.

145. In relation to allegation 2.8 Mr Carruthers' contemporaneous notes stated that the Respondent had said that he had mistakenly not taken out separate cover during the period in question and that he was trying to rectify this.

146. Mr Carruthers accepted that the Respondent had drawn his attention to the £400 deficit and its repayment made the day before inspection. The Respondent had drawn his attention to the breach in relation to the payment received from K, which the Respondent had corrected.

Further submissions of the Applicant

147. The Respondent had accepted that he had received new client money in his sole practice. It was clear from the Rules that he should have had a client account, this was a matter of strict liability.

148. There was a dispute between the Respondent and Mr Carruthers as to when the Respondent was aware of the £400 personal payment and the Tribunal had heard evidence on that. The Respondent had not addressed the issue of the non payment of Counsel's fees in the matter of M, which were outstanding for so many years.

149. In relation to the allegations of conduct unbefitting a solicitor, although the clients had not lost money that was not the issue. The whole tenor of the correspondence was misleading.

150. In relation to allegation 2.2 it was a matter for the Tribunal whose evidence to accept.

151. In relation to allegations 2.3 to 2.5 it was submitted that the evidence was overwhelming.

152. In relation to allegation 2.6 it was very clear from the correspondence Mr Hewitt was closely involved and nothing in the documentation said that his role was limited. He had been involved in relation to quantum and to costs and his time had been claimed for in the Respondent's schedule of costs.

153. Allegation 2.9 flowed from the other allegations. The misleading of clients and the allegations 2.3 to 2.5 were at the serious end of the scale of misconduct. Such conduct damaged the reputation of the profession.

The Oral Evidence of the Respondent

154. In relation to allegations 1.1 and 1.2 it was easy with hindsight to think that matters might have been handled differently. The Law Society had asked him to be a consultant to Bridgeman Taylor. The Respondent's plan had been to finish off his litigation matters and retire by April 2002.

155. The Respondent had written to Ms D at the OSS and had understood her to say that he did not need a client account if the money was paid into the Bridgeman Taylor client account. The Respondent was to exercise management and supervision as a consultant.

156. Most of the clients he had acted for had been continuing clients for whom money was already held in Bridgeman Taylor but new clients had also instructed him and old clients had added further money. The whole of the £18,000 had not been accrued in the short period in question but the Respondent accepted that some of it had been.

157. By June 2002 the Respondent had concluded that all was not as it should be in Bridgeman Taylor and he had set up his own client account. He had asked the Law Society for his role as a consultant to be reduced. The accounts due in the eighteen months in question had been kept in a perfectly proper manner.

158. The Respondent accepted allegation 1.3 but regarded this as a technical matter. Clients had paid money on account and had agreed an interim bill but the Respondent's secretary had not dispatched the bills. The Respondent had spoken to the clients in the main on the telephone but could not say whether the actual sum was agreed or whether he had only said he would be raising an interim bill.

159. In relation to allegation 1.4 he accepted that in the matter of Mrs R he had held on to Counsel's fees for six to eight weeks to clarify certain points but counsel had been paid. This was some two years ago and his memory was not clear but he recalled that there were various queries being raised.

160. In relation to allegation 1.5 his recollection differed from that of Mr Carruthers. His secretary had taken out the client account cheque book for the payment of the £400 and the Respondent had signed the cheque. This had only been spotted at reconciliation and had been put right within seventy two hours.

161. The Respondent had matched his manual ledgers and computerised cash book on a four weekly basis but on this occasion that timing had slipped to some six weeks.

162. In relation to allegation 2.1 liability had been admitted by the insurance company who had paid Mr S for his car. All three clients had small injuries. A locum had been handling the matter and had done so badly. The Respondent had had to take the matter over. The locum had issued proceedings on a Friday afternoon but the Court had not stamped them until Monday morning and the Respondent was concerned about the limitation period. He could have brazened it out with the insurance company. In the event they had considered very carefully the amount to which the clients were entitled. The Respondent thought that he was by that time covered by professional indemnity insurance.

163. In relation to allegation 2.2 if the Respondent had misled Mr Carruthers it had not been intentional. He could recall the discussion on 6th June regarding debts but not the earlier discussion. He produced evidence in June of the Barclays debt having been satisfied.

164. The reason he had tried to dispose of Bridgeman Taylor was because he could not afford the SIF premiums. Proceedings had been taken against him and he had arranged for part of the price for the practice to be used for trade debts. Mr TK however went bankrupt and paid nothing. The SIF solicitors however had not been in touch and the Respondent was confused. He had been horrified to find that this was still very much a live issue.

165. In relation to allegations 2.3 to 2.5 the Respondent had taken over K by which he meant taken on as a client some years ago and had approached the Ethics department of the Law Society at that time. He had approached Ethics and the OSS some four or five years ago.

166. Prior to the inspection he had felt his position was being abused by K and he had tried to set up a system which complied with the Solicitors Act. Proceedings had to be in his name and he tried to control it as best he could.

167. Letters before action were sent in his name from K's address but had to be under his control. He had set up the department with a post office box and DX address so that all post came to him and someone from K came to collect it.

168. He said that within the last eighteen months of practice the proprietor of K had abused his good nature. The Respondent had become unhappy and this was set out in one of the letters. He had realised however that if he said he was not going to continue because there were too many irregularities this would mean sacking all of K's staff. He was reluctant to do this. He used to go and do audits at K but he accepted that a number of things had gone wrong and K was running up debts with suppliers ostensibly in his name. No client had ever been put at risk, it was only a matter of one or two suppliers not being paid promptly.

169. In relation to allegation 2.6 the Respondent had not been happy with Mr Hewitt writing the letter of 31st January 2002. This had however been an aviation matter which Counsel had indicated that contributory negligence might be found. The Respondent had taken the matter over shortly before the limitation period was about to expire in the January.

170. The Respondent had arranged a meeting with the MOD but had made clear that he was a solicitor and Mr Hewitt was a technical advisor. The Respondent utterly refuted that Mr Hewitt had been employed by him to do legal work.

171. In relation to allegation 2.7 the £400 shortage had been corrected by the Respondent and had been inadvertent.

172. In relation to allegation 2.8 the Respondent had had a serious accident following the sale of Bridgeman Taylor. He had taken a long holiday which had coincided with the change in the profession's insurance arrangements. He had been advised wrongly by an insurer that he was covered as a consultant on Bridgeman Taylor's policy. On his return from holiday he had discovered that this was not the case. He had applied to the Assigned Risks Pool and the bulk of the premium was now paid. No claim had been made.

173. The Respondent had never intended to arrive at a situation where he was dealing with so many difficult situations. He accepted his administrative errors but had tried to behave honestly and impartially. He did not want to find himself considered to be dishonest and hoped that the Tribunal would allow him to remain on the Roll of Solicitors.

174. **In cross-examination** the Respondent was asked if the letter to IS of 30th July 2001 was misleading and he replied "Yes and No". He had spoken to IS and had said that the way forward was an application for assessment of damages and that he would go down to the Court to see when that could be arranged. The Respondent had then realised the difficulties regarding the limitation period and had decided to pay the clients. He had agreed figures with them.

175. He accepted that his letter to JL of 26th November 2001 gave a clear indication that there were ongoing Court proceedings. The matter was however two years ago and he had not looked at the file. JL was the first to be paid. They were very precise figures worked out with clients.

176. In relation to his letter to CS of 22nd February 2002 and the phrase "I am pressing as hard as I can to resolve the matter" the Respondent had at that stage been pressing himself rather than the other side. He accepted that it was misleading but the clients had not suffered. He accepted that he had no contact with the Court for two years but had been afraid that there would be a problem if he proceeded because of the limitation acts.

177. It was easier said then done to be open with the clients as he was also dealing with Bridgeman Taylor and it had not been an easy time.

178. In relation to the matter of Mr Hewitt, Mrs R was in no doubt that the Respondent had taken the matter over but also knew that he was speaking to Mr Hewitt. The technical aspects were a large proportion of the claim and the Respondent's letter to Mrs R of 3rd December 2001 made clear that the Respondent was receiving advice on the aviation aspect of the matter.

179. In relation to his letter to Mrs R of 9th January 2002 in which he had invited her to telephone either Mr Hewitt or himself this had been a sensitive matter in which there had been a great deal of disparity of views. He had needed the co-operation of the client in her own best interests. The Respondent had been in charge but the client had been friendly with Mr Hewitt for years and the Respondent had had to deal with the matter carefully.

180. In relation to his letter to Mrs R on 31st January 2002 in which he had indicated that he was aware that Mr Hewitt had written to her the Respondent thought that Mr Hewitt had called in the office and left a copy of his letter with the Respondent. Mr Hewitt had written the letter of his own free will and had posted it. It was difficult for the Respondent to manage that situation without irritating the client. The client had known that Mr Hewitt had no Practising Certificate.

181. The client's interests had to come first and the claim needed settling quickly. The Respondent had been completely successful.

182. He denied that Mr Hewitt had typed the letter of 31st January 2002 in the Respondent's office.

183. There was some confusion regarding the Respondent's schedule of costs and schedule of work. The Respondent had been claiming for himself and thought that the reference to "x2" referred to two conferences. He knew that Mr Hewitt would be doing a separate bill. He found it difficult to answer without the file.

184. Asked when Mr Hewitt was authorised to discuss his costs as set out in Mr Hewitt's letter to the Treasury solicitor on 5th February 2002, the Respondent said that he had needed to find out what Mr Hewitt's costs were to send to Mr Hewitt's insolvency practitioner. Mr Hewitt had been entitled to his legal costs up to the time of the intervention into his firm. The issue was how to charge for Mr Hewitt in his capacity as a technical advisor. Mr Hewitt's claim for preparing brief to Counsel related to the draft Mr Hewitt prepared before the intervention.

185. He accepted that both conferences were after Mr Hewitt's intervention but said it had not been his intention to include a claim for any legal work for Mr Hewitt.

186. In relation to the letter from the Treasury solicitor to Mr Carruthers of 22nd April 2002 referring to a telephone conversation with Mr Hewitt who said he had authority to negotiate for the Respondent, the Respondent said he was a little taken aback. It was correct that he had discussed with Mr Hewitt what their costs should be but he did not think he was aware of that phone call. He accepted that from his letter to the Treasury Solicitor of 6th February 2002 it appeared that he had authorised Mr Hewitt to discuss the Respondent's costs as well as his own.

187. The Respondent felt that the Law Society had been remiss in not contacting him regarding Mr Hewitt. By the beginning of the following year the Respondent had become concerned and following the letter from the Law Society of 11th March 2002 Mr Hewitt had not assisted any further.

188. In cross-examination about the K matter the Respondent referred to his letter to K of 22nd May 2001 attempting to bring about changes. A number of recommendations the Respondent had suggested were not implemented by K. The Respondent saw some outgoing post in his audits but did not see it as a matter of routine. He accepted that on a reading of his letter to K of 23rd November 2001 some six months after the letter from the Law Society matters had not improved as much as he would have liked.

189. Asked about his letter to Dawbarns Pearson of 4th January 2002 the Respondent said that the provisions of the Solicitors Act only referred to the issue and conduct of proceedings not correspondence. The Respondent had tried to narrow down the field in which his name was being used. He denied that he was happy to have his name used by an unqualified third party but said that the situation had not been easy. K had been an independent firm and he could not just insist that they joined with him. He had attempted to exercise some control but had not received co-operation.

190. In relation to allegation 2.2 he accepted that Mr Carruthers appeared to have a contemporaneous note of the discussions on 28th March regarding judgement debts but the Respondent could not recall this. He did not recall being asked the question.

191. Asked whether shortly after Mr TK took over Bridgeman Taylor that firm had moved premises to which the Respondent did not have a key the Respondent said that he might have had a key for a while but could not truthfully answer the question.

The Submissions of the Respondent

192. With regard to the breaches of the accounts rules the Respondent had taken advice from the Law Society regarding the client bank account. A solicitor had to be able to rely on advice from the parent body.

193. The Respondent accepted that Mr Hewitt was fairly closely involved with the case of Mrs R and the Respondent allowed it to happen but there had been no payment. It was proper for the Respondent to have advice on technical issues but he accepted that the correspondence was equivocal. There was no clear evidence that the Respondent had employed Mr Hewitt and he had received no advice from the Law Society regarding the intervention into Mr Hewitt's practice until he had written to them.

194. The Respondent disagreed that he had misled Mr Carruthers. He had tried to be courteous throughout and there had clearly been a slight misunderstanding. The Tribunal was asked to give him the benefit of the doubt.

195. In relation to the allegation of misleading clients the Tribunal was asked to accept that the clients had not suffered. If any of the letters had been misleading the intention had been honourable. The priority was for clients to be safe.

196. Following the Finding of the Tribunal as to liability the Respondent made further submissions in mitigation. As soon as the Respondent knew things had gone wrong he had tried to put them right. There had been administrative errors caused by problems not of his making and he apologised for his mistakes.

197. He asked that he be allowed to remain on the Roll. He referred to his written statement. He said that he had not defrauded anyone and asked the Tribunal to allow him to withdraw with dignity.

198. He gave the Tribunal details of his financial situation. He was currently subject to a bankruptcy order but intended to apply for an annulment in order to put an individual voluntary arrangement in place.

199. He was currently employed in debt collection. If he was allowed to work as a solicitor again he would be able to discharge the outstanding professional indemnity premiums.

200. The costs schedule served by the Applicant was substantial and the Respondent was not in a position to make proposals on costs.

The findings of the Tribunal

Allegations 1.1 to 1.5 – breaches of the Accounts Rules

201. Allegation 1.1 was admitted in relation to the payment received from K but not otherwise. Allegations 1.3 and 1,4 were admitted. The Tribunal found the admitted allegations to have been substantiated. The Respondent had denied that part of allegation 1.1 relating to the alleged failure to open a client bank account. The rules in this regard were however quite clear and the Respondent had accepted that he had received clients' funds relating to his sole practice before the opening of a client bank account. The Tribunal found allegation 1.1 substantiated on the facts set out in the Rule 4 Statement, the supporting documentation and the oral evidence. The Respondent had denied allegation 1.5. The Tribunal however accepted the evidence of Mr Carruthers based on his contemporaneous note that the Respondent had told him that the personal payment had not been corrected immediately because there was insufficient money available. Mr Carruthers' contemporaneous notes also quoted the Respondent as saying that he had discovered the shortage at the end of February 2002. It was not corrected until 27th March and the Tribunal found the allegation substantiated. The Tribunal also found the allegation substantiated in relation to Counsels' fees in the matter of M and in relation to the two transfers in the matter of Mr and Mrs M.

Allegations 2.1 to 2.9 – conduct unbefitting a solicitor

202. The Respondent had denied these allegations save for allegation 2.7 where he had admitted inadvertent use for his own purposes of clients' funds and a partial admission of allegation 2.8 in that he had inadvertently not been covered by professional indemnity insurance for a period but this had been rectified by virtue of the Assigned Risks Pool. The Tribunal found allegations 2.7 and 2.8 substantiated. In relation to allegation 2.8 the subsequent retrospective cover by the Assigned Risks Pool did not prevent a Finding that the allegation was substantiated. The Respondent had clearly been without cover for the period in question.

203. The Tribunal had considered carefully allegation 2.1 which was a serious allegation which had to be proved beyond reasonable doubt. The Tribunal was satisfied from

the correspondence which was before it that the Respondent had misled the clients. In his evidence he had admitted that he was concerned about the expiry of the limitation period and had gone some way to accepting that the correspondence had been misleading. The correspondence clearly suggested to his clients that there were ongoing proceedings and negotiations when this was not the case. The Tribunal was satisfied to the high standard required that this allegation was proven.

204. In relation to allegation 2.2 the Respondent had listened carefully to the oral evidence of Mr Carruthers and the Respondent. This again was an allegation which had to be proved beyond reasonable doubt and the Tribunal considered that there was a possibility of a misunderstanding by the Respondent of the questions put to him on 28th March 2002. The Tribunal was therefore not satisfied that this allegation was substantiated to the high level of proof required.

205. Allegations 2.3, 2.4 and 2.5 were clearly substantiated on the documentation. K had issued proceedings in the name of the Respondent's firm using their own address. Their note paper described them as a department of the Respondent's firm yet it was clear from the Respondent's correspondence that they were a separate organisation not controlled by him. The Tribunal found the allegations substantiated.

206. The Tribunal considered carefully allegation 2.6 and the Respondent's assertion that Mr Hewitt had been employed purely for his technical expertise. This assertion was contradicted by the correspondence and the costs claims. The Respondent's own letter to the Treasury Solicitor of 6th February 2002 confirmed that Mr Hewitt had authority to discuss the Respondent's costs. The Respondent's letter to Mrs R of 31st January 2002, written in the full knowledge that Mr Hewitt had written to her on the same date, had made no effort to contradict the clear impression given in Mr Hewitt's letter that he was fully involved in the legal aspects of the case and indeed referred to arranging a further meeting with both the Respondent and Mr Hewitt regarding negotiations. The Respondent had said that he had not remunerated Mr Hewitt but this did not negate his liability under this allegation. He had clearly employed Mr Hewitt and the Tribunal was satisfied that the allegation was substantiated.

206. The Tribunal had found serious allegations substantiated against the Respondent and particularly in relation to the matter of K, the misleading of clients and the employment of Mr Hewitt. The Tribunal was satisfied that allegation 2.9 was substantiated. Allegations 2.1 and 2.3 to 2.9 having been substantiated the Tribunal was further satisfied that the Respondent had been guilty of conduct unbefitting a solicitor.

207. The Tribunal had found a substantial number of allegations proven against the Respondent. The Tribunal regarded the misleading of clients as a very serious matter. The fact that the clients appeared not to have lost money as a result of that misleading was not the issue. The Respondent in his evidence appeared to minimise this matter saying that he had put his clients' interests first. He had admitted his own anxieties over the limitation period. He had given his clients a false impression of the progress of their matters. The Tribunal also regarded the matter of K as particularly serious. He had allowed a firm of debt collectors to use his name when he had had minimal involvement in their activities. Suppliers including Counsel had not been paid but the Respondent accepted no responsibility for that as shown in his letter to Messrs

Dawbarns Pearson. The Respondent's letters to K appeared to be as concerned with the payment of his retainer as with the difficulties suppliers were facing. The Respondent had in evidence minimised this matter saying that no clients had lost and that it was only a matter of one or two suppliers receiving late payment. Even after clear advice from the Law Society he had allowed this totally unsatisfactory situation to continue. He appeared even in his evidence to have no understanding of the seriousness of this matter. The correspondence before the Tribunal clearly showed the employment of Mr Hewitt, a solicitor whose Practising Certificate was suspended, by the Respondent. This was a substantiated allegation which carried a mandatory penalty of suspension or strike off. The Respondent had asked the Tribunal not to strike his name off the Roll and indeed had indicated that he would like to continue in practice. The Tribunal however considered that probity, trustworthiness and integrity were the hallmarks of the solicitors' profession. Regrettably the Respondent had fallen well below the standards acceptable to clients. In view of the serious nature of the allegations substantiated against the Respondent the Tribunal had considered very carefully imposing the ultimate sanction on the Respondent. The Tribunal was concerned at the Respondent's continuing lack of appreciation of the seriousness of his misconduct. The Tribunal accepted in mitigation that no former clients of the Respondent had suffered any financial loss and that the Respondent who, had had a long career in the law, had not had any previous allegations substantiated against him before the Tribunal. In all the circumstances the Tribunal considered that the appropriate penalty was to suspend the Respondent from practice for an indefinite period.

The Tribunal made the following order:-

The Tribunal Order that the Respondent, Michael Robert Taylor of Peterborough, Cambridgeshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 11th day of November 2003 and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to detailed assessment unless agreed.

Dated this 29th day of December 2003
On behalf of the Tribunal

J P Davies
Chairman