

IN THE MATTER OF KENNETH WILLIAM GOOD AND GRAHAM
MICHAEL CARDONA, solicitors, AND ANNE ELIZABETH AMY DAVIES, a solicitor's
clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D J Leverton (in the chair)
Mr R B Bamford
Mrs V Murray-Chandra

Date of Hearing: 17th March 2005

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Stuart Roger Turner, Solicitor, and partner in the firm of Lonsdales Solicitors, 3342 Lytham Road, Blackpool, Lancashire, FY4 1DW, on 3rd August 2004, that Kenneth William Good, of West Hunsbury, Northampton, Solicitor, and Graham Michael Cardona, of Whitton Gate West, Central Milton Keynes, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

AND

An Order be made by the Tribunal directing that as from a date to be specified in such Order no solicitor should accept in accordance with the permission in writing granted by The Law Society for such period, and subject to such condition as the Society might think fit to specify in the permission, employ or remunerate in connection with the practise as a solicitor an Elizabeth Amy Davies of Newton Longville, Buckinghamshire, a person who was or had been a clerk to a solicitor or that such other Order might be made as the Tribunal should think right.

The allegations against Kenneth William Good (“Mr Good”) were that he had been guilty of conduct unbecoming a solicitor and each, any or all, of the following circumstances namely:

- 1) That he deliberately misappropriated or otherwise misappropriated Client funds by using client funds for payments of a personal nature;
- 2) that he allowed a shortfall to arise on client account;
- 3) that he failed to comply with Undertakings given by either himself and/or on his behalf or on behalf of his firm;
- 4) that contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report to The Law Society for the firm Good Partnership for the period ending 30th April 2001;
- 5) that contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report to The Law Society for the firm Good Partnership for the period ending 31st July 2001;
- 6) that contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report to The Law Society for the firm Good Partnership for the period ending 31st July 2002;
- 7) that contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report to The Law Society for the firm Good Partnership for the period ending 31st August 2001;
- 8) that contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report to The Law Society for the firm Good Partnership for the period ending 31st August 2002;
- 9) That contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report to The Law Society for the firm Good Partnership for the period ending 17th April 2003;
- 10) That on 26th January 2004 at Walsall Magistrates Court he was upon his own admission convicted of a criminal offence such as to impair the integrity of himself and the profession;
- 11) Failed to respond substantively or at all to communications from The Law Society.

The allegations against Mr Good and Graham Michael Cardona (“Mr Cardona”) were conduct unbecoming a solicitor in each, any or all of the following circumstances, namely:-

- 12) That contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant’s Report for the firm Good Cardona for the period ending 31st August 2001;

- 13) That contrary to Section 34 of the Solicitors Act 1974 and the Rules made thereunder failed to deliver an Accountant's Report for the firm Good Cardona for the period ending 31st August 2002;

The allegation against Anne Elizabeth Amy Davies ("Mrs Davies") was that she, being a person who was or had been clerk to a solicitor, had, in the opinion of The Law Society, with or without the connivance of the solicitor to whom she as a clerk, occasioned or been a party to an act or default in relation to the solicitor's practice which involved conduct on the part of the Respondent of such nature that, in the opinion of The Law Society, it would be undesirable for her to be employed by a solicitor in connection with his or her practice, namely that she failed to honour an undertaking given by her to a third party on behalf of her employers.

The application was heard at the Court Room, Gate House, Farringdon Street, London EC?, where Stuart Roger Turner appeared as the Applicant and Mr Cardona appeared in person. Mr Good and Mrs Davies did not appear and were not represented.

The Orders

The Tribunal Order that the respondent, Kenneth William Good of West Hunsbury, Northampton, solicitor, be Struck off the Roll of Solicitors and they further Order that he do, save for the total contribution of £1,000 to be made by the other two Respondents, pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society.

The Tribunal Order that the respondent Graham Michael Cardona of New Bradwell, Milton Keynes, solicitor, be Reprimanded and they further Order that he do pay a contribution towards the costs of and incidental to this application and enquiry fixed in the sum of £500.

The Tribunal Orders that as from 17th day of March 2005 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice, Anne Elizabeth Amy Davies of Newton Longville, Buckinghamshire, a person who is or was a clerk to a solicitor and the Tribunal further Order that she do pay a contribution towards the costs of and incidental to this application and enquiry fixed in the sum of £500.

Preliminary Matter

1. By letter of 15th March 2005, Mr Good applied to have the substantive hearing adjourned.
2. In his letter Mr Good apologized for the lateness of the application. He said that Mr Cardona had indicated his consent to the adjournment.

3. Mr Good enclosed a letter from his General Practitioner couched in the following terms:

“Mr Good presented acutely on 9th March 2005 complaining of feeling highly stressed. His stress was apparently largely due to The Law Society’s disciplinary tribunal due on 17th March.

I had no previous consultations with Mr Good and so have no prior knowledge of his past history. He certainly presented as suffering from stress and indeed his concentration was reduced such that he complained that it was impossible to prepare adequately for the Tribunal. Given these symptoms, I felt that he was not fit to attend the Tribunal at this current time. I felt it appropriate to refer him to a psychiatrist who had seen him in the past to have a more expert assessment of his current condition. I have thus referred him to Doctor Staley, consultant psychiatrist, at St Andrew’s Hospital in Northampton.”

There accompanied a copy of the letter addressed to the consultant psychiatrist.

4. Mr Cardona confirmed that he had sent an email agreeing to the adjournment sought. He told the Tribunal that he had done so because he considered that Mr Good was the only person who could give complete evidence as to what had happened and he felt that his own position might be prejudiced in the absence of evidence given by Mr Good. Mr Cardona had confirmed that he would like the matter to be concluded as soon as possible.
5. Mr Cardona was given a copy of Mr Good’s letter of 15th March and his attention was drawn to the fifth paragraph of that letter which said

“In the event that you will not agree to such a request (the adjournment) then the Tribunal will no doubt proceed in my absence. For the record, I completely and comprehensively exonerate Graham Cardona from any allegation of negligence, act or omission. He was a junior litigation partner in name only and had no dealings whatsoever with client account matters or conveyancing. I respectfully submit that he should leave the Tribunal with his record and honour intact and unpunished and without any financial penalty for which I will accept full responsibility notwithstanding my current state of bankruptcy.”

6. The Applicant told the Tribunal that a statutory “sick note” of 11th March 2005 had been supplied by Mr Good. The Applicant had told him that he would oppose the adjournment application and sent Mr Good a copy of the Tribunal’s current practice note relating to adjournment applications. He also sent a copy of the decision of the Court of Appeal in the case of Awan versus The Law Society (C1/2002/0409) which he also handed up to the Tribunal.
7. Mr Good had written a lengthy letter to the Applicant dated 7th September 2004 a copy of which the Applicant handed up to the Tribunal. Amongst other things in that letter he suggested that the allegations against Mr Cardona should be dealt with separately from those against Mr Good and Mrs Davies and dealt with expeditiously.

8. The Tribunal considered that the medical evidence supplied by Mr Good was inadequate. It had been forwarded at the eleventh hour.
9. The Tribunal adopted the words of Peter Gibson LJ in Teinaz -v- London Borough of Wandsworth 2002:

“Applications for adjournments may have to be granted, however inconvenient, if not granting an adjournment would cause injustice to the Litigant seeking the adjournment. But the Tribunal is entitled to be satisfied before granting the adjournment, that the inability of the Litigant to be present is genuine, and the Applicant has the burden of proving the need for an adjournment. Courts and Tribunals have sometimes to consider applications to adjourn which look as if they may be advanced for insubstantial reason in order to put off a hearing which the Applicant would rather not face up to. If medical reasons are advanced, the Tribunal may well require production of a medical report or certificate in support of the application. If a report or certificate is produced the Tribunal is entitled to consider whether it sufficiently supports the reason of the adjournment which is relied upon. It is not obliged, in my judgment, to grant the application to adjourn simply because a medical certificate is produced, whatever its content.”

10. Any solicitor facing allegations before his professional disciplinary tribunal is likely to suffer anxiety and stress. Not only did the Tribunal have to consider the position of Mr Good, but also its duty to protect the public and the good reputation of the solicitors’ profession. It can fulfill that duty only by dealing expeditiously with matters brought before it if it is just so to do. The Tribunal has also taken into consideration the fact that there were two other Respondents in this case. Although, Mr Cardona had initially consented to the adjournment he recognised that Mr Good had made it plain that he was not culpable for any of the matters alleged in his position as a junior salaried partner. It was in the interests of Mr Cardona and Mrs Davies that the matters alleged against them should be dealt with without delay.
11. In all these circumstances the Tribunal refused Mr Good’s application for an adjournment.
12. The matter proceeded to the substantive hearing.

The facts are set out in paragraphs 13 - 43 hereunder:

13. A Law Society Investigation Officer (“IO”) visited Good Cardona & Co on 28th and 31st March 2003. The written report dated 28th May 2003 was before the Tribunal. Following receipt of the report The Law Society intervened into the practice of Good Cardona & Co on 15th April 2003 on the basis of suspected dishonesty.
14. The IO reported that minimum liabilities to clients as at 28th March 2003 were £220,931.65. Cash available at the bank, after allowing for uncleared items, was £80,849.49, so that there was a minimum cash shortage of £140,082.16.

15. The books of account had not been written up since 31st January 2003. This meant that it was not possible precisely to account for the cause of the cash shortage. Three items were identified, and were:

Personal payments from client bank account	£35,431.10
Unallocated payments from client bank account	£ 7,265.64
Unallocated transfers from client to office account	£16,795.07
	<u>£59,492.81</u>

16. Mr Good had used Client monies to pay his office rent (£25,287.47) to pay his wife (£1,850.00), to pay himself (5,523.82) and to pay a fine (£2,769.81). These payments totalled £35,431.10. Various sums totalling £7,265.64 had been withdrawn from Client account without any allocation to any individual client ledger. £16,795.07 was improperly transferred from Client account to Office account over a period of fifteen months. None of these transfers was allocated to any individual client ledger account.
17. Mr Good had in two instances failed to repay his client's money.
18. On 14th April 2003 Mr SRW wrote to Mr Good notifying him that despite a letter from the firm confirming settlement of the mortgage with Coventry Building Society, £92,352.42 remained outstanding. On 17th April 2003 Mr SRW wrote to The Law Society to complain upon the completion of a remortgage. The former mortgage had not been redeemed so that Mr SRW was being held responsible for repayment of his former mortgage as well as his new mortgage.
19. Mr SRW also reported that he had met with Mr Good at a public house when Mr Good was aggressive and abusive towards him.
20. On 7th August 2003 The Law Society wrote to Mr Good about Mr SRW's complaint, inviting a reply within fourteen days. No reply was received.
21. The Law Society's compensation fund redeemed Mr SRW's former mortgage in July 2003.
22. On 15th May 2003, GC and A, Solicitors, complained to The Law Society. On 14th March 2003 their clients purchased a property from clients of Mr Good's firm. An undertaking was given to discharge the vendor's mortgage to Coventry Building Society. The redemption figure was approximately £85,000. The redemption monies had not been paid.
23. On 7th August 2003 The Law Society wrote to Mr Good about this complaint, inviting a reply within fourteen days. No reply was received.
24. On 22nd October 2002 the Law Society received a "Complaints Resolution Form" from Mr TW of CLS about a breach of an undertaking to pay their professional fees upon completion of a remortgage.
25. Mrs Davies acted through Good Cardona & Co for herself and her partner in their own remortgage. CLS acted as the mortgage broker. The remortgage was completed on 1st December 2001.

26. On 24th October 2001 Mrs Davies gave the firm's undertaking to CLS "to forward to you the sum of £2,000.00 upon completion of our above Clients' mortgage in respect of your fee"
27. On the 25th July 2002 CLS wrote to Good Cardona & Co asserting that the firm was now in breach of its undertaking, as the fee had not been paid.
28. Mr Good replied to CLS on 26th July 2002 saying that the person who gave the undertaking was "no longer in our employ and we are contacting her immediately".
29. On 27th November 2002 The Law Society wrote to Mr Good and in the absence of a response sent a chasing letter on the 16th December 2002.
30. On 3rd February 2003 the Adjudicator of The Law Society found Mr Good to be in breach of his undertaking and in his Decision "expected" Mr Good to comply with it within seven days.
31. On 16th February 2003 Mr Good requested a formal review of the Adjudicator's Decision. This was undertaken on 10th April 2003 and dismissed. Mr Good was given a further seven days in which to comply with the undertaking. He did not do so.
32. For the year ending 30th April 2001 Mr Good was required to deliver an Annual Accountant's Report to The Law Society by 31st October 2001 in respect of his firm, The Good Partnership. The Law Society wrote to him on 16th December 2002 asking for an explanation for his failure to file a Report. No reply was received and so on 28th January 2003 a chasing letter as sent advising him of the consequences of a failure to reply. Neither letter had been returned marked 'undelivered'.
33. For the years ending 31st July 2001 and 31st January 2002 Mr Good was required to file an Annual Accountant's Report with The Law Society by 31st January 2002 and 31st January 2003 in respect of his former firm of Good & Co (closed 29th February 2000). Both reports remained outstanding.
34. Although Mr Good ceased trading under the style of Good & Co on 29th February 2000 his responsibility to submit Accountant's Reports to The Law Society remained as he had not confirmed that he no longer held client's money on behalf of former clients of that firm.
35. The Law Society wrote to Mr Good on 10th August 2002 and 7th February 2003 seeking to clarify whether he had ceased to hold Client's money and advising him that if he did not, he would not be obliged to provide any further Accountant's Reports. Mr Good wrote to The Law Society on 10th September 2002 stating that no client account monies were held after the firm ceased trading. The Law Society wrote to Mr Good on 18th September 2002 and requested that he confirm that he had ceased to hold clients' money, controlled trust money, and operating client accounts as signatory in the style of Good & Co following 29th February 2000. These matters were highlighted in The Law Society's letter to Mr Good of 7th February 2003.

36. Mr Good replied on 18th February 2003. The letter did not confirm that he ceased to hold clients' money in the name of Good & Co at the time the firm ceased trading. He said he was attempting to "... get all outstanding reports completed as necessary but unfortunately due to the loss of computer information it is proving to be a time consuming exercise not aided by the recent departure of my own accountant from his practice."
37. In the absence of confirmation that Mr Good ceased to hold Clients' money under the style of Good & Co solicitors from 29th February 2000 he remained bound to submit Accountant's Reports from that date.
38. For the periods ending 31st August 2001 and 31st August 2002 Mr Good was due to deliver an Annual Accountant's Report to The Law Society within six months after the end of the respective accounting periods for the firm "Good Solicitors". He was also required to file with The Law Society an Accountant's Report for the period ending 17th April 2003.
39. The Law Society wrote to Mr Good on 10th November 2003 explaining that an Accountant's Report was due despite the fact that The Law Society had intervened. No reply was received. On 5th February 2004 a further Law Society letter was sent seeking an explanation. No reply was received.
40. Mr Good and Mr Cardona practised in partnership as Good Cardona & Co. For the year ending the 31st August 2001 and the year ending 31st August 2002 their Annual Accountant's Report was due to be filled with The Law Society before 28th February 2002 and 2003 respectively. The Law Society wrote to Mr Good and Mr Cardona about the absence of those Reports on 15th July 2002. No reply was received. A chasing letter was sent on 2nd September 2002.
41. On 9th September 2002 Mr Good replied. He said documents were awaited from the bank in order to attend to the outstanding finer points of enquiry. They had been undergoing a restructuring of the practice. He anticipated the submission of the Report within fourteen days if not sooner. The Report remained outstanding.
42. On 10th March 2003 The Law Society wrote separately to Mr Good and to Mr Cardona reminding them that their Accountant's Reports were outstanding and should be forwarded without delay. Mr Good did not reply. Mr Cardona replied on 10th June 2003 explaining that he was a salaried partner with no authority for the management or control of the business. The Law Society records showed that he was held out as a partner.
43. On 26th January 2004, Mr Good was convicted at Daventry Magistrates Court of an offence, committed on 16th April 2003, contrary to Section 7(6) Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 of failing, without reasonable excuse, to provide a specimen of breath when required to do so. He was fined £300.00, disqualified from driving for a period of twelve months, and Ordered to pay a contribution towards the Crown Prosecution Service's costs of £250.00.

The Submissions of the Applicant

44. The Applicant put the allegations against Mr Good, in particular where he had been guilty of deliberate misappropriation of client money in order to make personal payments, and the fact that a minimum shortfall on client account had been established by the IO, at the high end of a scale of severity.
45. There had been two instances where monies had been paid to the firm in order to redeem a client's mortgage and the mortgages had not been redeemed. Substantial sums of money had been involved.
46. The mortgagees, in one case a client of Mr Good, were caused anxiety, stress and inconvenience when it became apparent that they were required to pay monthly installments in respect of two mortgage advances.
47. With regard to the breach of undertaking given personally by Mrs Davies, there could be no doubt that the Respondent became aware of that undertaking and did not accept his absolute responsibility for undertakings given in the name of his firm as he was required to do under Principle 18:11.
48. Insofar as Mrs Davies was concerned it appeared that she had given the undertaking during the course of doing conveyancing work on her own behalf.
49. Mr Good's position had been that she had given the undertaking without his authority. Nevertheless The Law Society had decided that Mr Good should comply with the undertaking and he continued to remain in breach.
50. Mrs Davies had written a letter dated 24th September 2004 to the Applicant in which she said that the brokers to whom the undertaking had been given had confirmed both to Mrs Davies and her partner on several occasions that the fees had been waived. The Applicant had told her that the onus was upon her to provide evidence of that. Mrs Davies had also indicated that she had paid the Brokers but again there was no evidence of that.
51. The Applicant accepted that Mr Cardona had no direct role in any of the matters upon which the allegations were founded. Further, Mr Good in his letter of 7th September 2004, referred to above, had sought to exonerate Mr Cardona and he also in that letter said "I have no defence except that I am not dishonest."
52. On the question of dishonesty the Tribunal was invited to draw its own conclusions about Mr Good's conduct.
53. There was no doubt that Mr Cardona was held out as a partner in the firm, indeed his name appeared in the firm's title.
54. The Applicant confirmed that Mr Cardona had, at the earliest opportunity, admitted the matters alleged against him and made it plain that he understood the implications of his being held out as a partner.
55. There had been a number of examples of a failure on the part of Mr Good to reply to letters addressed to him by The Law Society.

56. The Applicant concluded his application by making an application for the costs of and incidental to the application and enquiry to include the costs of The Law Society's IO. He gave the figure for his own costs of £12,205.70 and handed up a Schedule showing how this figure had been calculated.

The Submissions of Mr Cardona

57. Mr Cardona accepted that he was a partner in the firm of Good Cardona & Co. He told the Tribunal that he had become a partner by default. Upon his return from holiday he found that Mr Good had made a decision by himself to include his name in that of the firm. Mr Cardona believed that that had been because he had earlier indicated to Mr Good that he wanted to have his own business and become self-employed.
58. A partnership proposal had not been discussed and he and Mr Good had not come to any mutual decision. Mr Cardona said that he felt flattered when he was offered the salaried partnership after Mr Good had said that he was very happy with Mr Cardona's work.
59. Mr Cardona had nothing to do with conveyancing. He had no experience of that discipline. His field was work relating to business or consultancy.
60. Mr Cardona had a good relationship with the staff at the firm and regarded them as colleagues. He had tried to intervene on behalf of the staff with Mr Good but Mr Good had not welcomed this, taking the view that "they are my staff and I will deal as I think fit".
61. Mr Cardona did not know about the matters upon which the allegations were based until the disciplinary proceedings began. Mr Good had kept much from him.
62. It had become clear that Mr Good made the decision to make Mr Cardona a partner because he needed a clean slate as far as credit was concerned. Mr Good had big debts.
63. Mr Cardona had not sought to see the accounts of the practice on becoming a partner. He trusted Mr Good and trusted him to make the right decisions. At that time Mr Good had been qualified as a solicitor for only three years and had no experience of running a practice. Mr Cardona accepted that he had been naïve. He recognised that being held out as a partner carried responsibility and he should not have permitted that to happen without seeking a great deal of information. Mr Cardona urged Mr Good to file Accountant's Reports and had always been assured by Mr Good that that was being done.
64. Mr Cardona felt that he had done all that he could. He could not do more because he did not have access to the documents: he did not know who the firm's accountants were. He believed that Mr Good had instructed more than one accountancy practice.
65. Since The Law Society's intervention into the practice, Mr Good had been practising on his own.

66. He had suffered severe financial repercussions. Mr Good had dealt with the firm's debts and had properly accepted responsibility for them. Mr Cardona confirmed that he had been working in the same office as the firm of Good Cardona & Co as Mr Good had given him licence to use the premises because he felt bad about what had happened.

The Submissions of Mr Good (contained in his letter of 7th September 2004 addressed to the Applicant)

67. The Respondent said his career was in ruins. He remained a caring and competent professional. He said he had become perilously close to losing his life over the situation which had arisen and had worked himself into total exhaustion over the previous ten years.
68. Mr Good said that with regard to his criminal conviction the Magistrates found that special reasons applied and he was concerned that the matter had been referred to the Disciplinary Tribunal.
69. Mr Good had been involved in two multi-million pound community and sport development projects and the creation of thousands of new jobs and new community facilities. The projects had been very time consuming. He had been able to cope with the detail of those projects but could barely attend his office and found himself unable to open his post.
70. If any monies had found their way into Mr Good's personal account it could only have been by accident. He did not have an expensive lifestyle and had very few assets.
71. Mr Good had been proud of his career until his last "audit" in 1998. There had been threats against his practising certificate and extraordinary claims from the Solicitors' Indemnity Fund for excessive contributions. He had kept going hoping that he would be able to sort things out. He had informed The Law Society that he needed psychiatric help.
72. Mr Good removed Mrs Davies from her position of employment in 2002 and changed the firm's modus operandi for completions by telegraphic transfer back to a manual method using signal numbers and faxed documentation. After setting up in partnership with Mr Cardona in 2000, Mr Good outsourced the accounts to bring a more efficient way of operating. He retained all staff including the bookkeeper.
73. Mr Good said that there had been a short overlap with his old practice and as the practices merged the "black hole" must also have reopened. He said that no blame whatsoever could be attached to Mr Cardona, describing him as a very nice and decent person and a competent practitioner. Mr Good said that as soon as he realized the problem was a difficult one he immediately dissolved the partnership and then tried to ascertain the extent of the problem and then rectify it. He went on to say that Mr Cardona should be exonerated completely.

74. Mr Good found himself to be unable to find any redeeming feature with regard to Mrs Davis. He blamed himself for keeping her on. She had given the undertaking for her own purpose and he had subsequently discovered that a number of her clients used his firm and other local practices for criminal purposes.
75. The Respondent had borrowed heavily from his family. He did not consider that his responsibility to repay those sums was extinguished with his bankruptcy.
76. Mr Good said in that letter that he had no real defence save that he was not dishonest and had no interest in taking other people's money. He said that once he knew there was a serious problem he had tried to rectify matters.
77. The situation had taken Mr Good and his immediate family to the edge of financial ruin. He had not been able to work properly for the previous 18 months. In the last six months of 2002 he could barely attend his office and for the last three months he could not open any letters.
78. Mr Good went on to say that he took full responsibility for everything that had happened and would personally undertake to repay all monies found missing as soon as he was able to do so.

The Tribunal's Findings

79. The Tribunal found all of the allegations to have been substantiated.

The Tribunal's Previous Findings in Respect of Mr Good

80. Following a Hearing on 10th September 2002 against Mr Good and Christopher George Thompson the Tribunal found an allegation against both Respondents that they had failed to deliver Accountant's Reports in accordance with Section 34 of the Solicitors Act 1974 and the Rules made thereunder to have been substantiated. On that occasion the Tribunal said that it gave credit to Mr Good for accepting responsibility for what had occurred. The Tribunal recognised that there have been difficulties with his firm's computer system but Mr Good had buried his head in the sand. The Tribunal ordered Mr Good to pay a fine of £2,000 and ordered him to pay all of the costs of an incidental application and enquiry in a fixed sum.

The Tribunal's Decision and Its Reasons

81. In 2005 the Tribunal was dismayed at the catalogue of allegations made against Mr Good. There was clear evidence before the Tribunal that there had been a large minimum shortfall on Client account. Monies had been taken from Client account for the Respondent's own personal and office purposes. There had been a complete and utter failure to file Accountant's Reports over a period of time. This was an important statutory requirement and a failure to comply prevented The Law Society from carrying out its duties as the regulator of the solicitors' profession.

82. The Tribunal concluded that Mr Good was not fit to practise as a solicitor. He had abused the trust reposed in him by his clients and had failed to exercise the proper stewardship over client monies required of a solicitor. It was fundamental to the practice of a solicitor that when holding client monies, those monies were to be regarded as sacrosanct.
83. The Applicant put his case against Mr Good at a high level. The Tribunal concluded that Mr Good had been dishonest within the test set out in Twinsectra -v- Yardley & Others [2002] UKHL 12. There could be no doubt that ordinary members of the solicitors' profession would regard Mr Good's behaviour in utilising clients' money for his own purposes as dishonest and there could be no doubt that Mr Good himself would have been aware that his actions would have been so regarded.
84. With regard to Mr Cardona he had been extraordinarily naïve. He had trusted Mr Good. When he questioned Mr Good about the outstanding Accountant's Reports he had accepted Mr Good's assurances that they were being dealt with.
85. The Tribunal accepted that Mr Cardona was a partner in name only and had no responsibility for the accounting practices and procedures of the firm, nor any responsibility for management or financial control. The Tribunal concludes that Mr Cardona was not culpable for the breaches that occurred and gave him credit for the fact that he recognised that he had been held out as a partner and he could not avoid the liability that a partner has for compliance with the Solicitors Accounts Rules and the other rules and regulations relating to practice as a solicitor.
86. Mr Cardona was also given credit for the fact that he appeared before the Tribunal to explain his position.
87. With regard to Mrs Davies, an unadmitted Clerk, the Tribunal accepted that she had given an undertaking in a personal conveyancing transaction without authority. She appeared to have done that on her own initiative and then had taken no step to comply with the undertaking. That was serious misbehaviour on the part of a solicitor's employee and it was right that her future employment within the solicitors' profession should be subject to control.
88. The Tribunal concluded that it would be right in order to protect the public and the good reputation of the solicitors' profession that Mr Good should be struck off the Roll of Solicitors.
89. In view of Mr Cardona's unfortunate involvement and low level of culpability the Tribunal considered it right that he be reprimanded.
90. The Tribunal made the Order sought, pursuant to Section 43 of the Solicitors' Act 1974 in respect of Mrs Davies but used in its Order the wording set out in the amendment to Section 43 in the Access to Justice Act 1999 (Schedule 7 Section 7).
89. With regard to the question of costs, it was right that the Applicant should have the costs of and incidental to the application and enquiry. Because of Mr Cardona's low level of involvement in the matters before the Tribunal and because Mrs Davies was an unadmitted Clerk in respect of whom one allegation had been substantiated, the Tribunal considered that it would be proportionate if each of them were to be ordered

to pay a contribution towards the costs fixed in the sum of £500 (inclusive of VAT). As Mr Good did not attend the hearing and had not had an opportunity to make any comment on the costs figure prepared by the Applicant, the Tribunal considered that it would be fair to Order that Mr Good pay the costs of and incidental to the application and enquiry (subject to the deduction of the total £1,000 contribution to be made by Mr Cardona and Mrs Davies) such costs to include the costs of the Investigation Officer or Accountant of The Law Society and to be subject to a detailed assessment if not agreed between Mr Good and The Law Society.

DATED this 4th day of April 2005

On behalf of the Tribunal

D J Leverton
Chairman