

IN THE MATTER OF JILLIAN SUSAN BLAKE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr L N Gilford (in the chair)  
Mr W M. Hartley  
Lady Maxwell-Hyslop

Date of Hearing: 4th July 2006

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Victoria Jane Hunt, a solicitor employed by the Law Society at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 17th January 2006 that Jillian Susan Blake, a solicitor of Cookham, Maidenhead, Berkshire, 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 fit.

The allegations against the Respondent were that she had been guilty of conduct unbecoming a solicitor in that:-

- (a) The Respondent failed to keep account records properly written up in breach of Rule 11 of the Solicitors Accounts Rules 1996, Rule 11 of the Solicitors Accounts Rules 1991 and/or Rule 32 of the Solicitors Accounts Rules 1998;
- (b) The Respondent deliberately misled the Law Society on her applications for Practising Certificates when she indicated that she did not hold client monies, when client monies were held and received during that period, which for the avoidance of doubt is an allegation of dishonesty;

- (c) The Respondent failed to file Accountant's Reports with the Law Society for the period ending 31st May 1990 to the year ending 30th April 2003, in breach of Section 34(1) of the Solicitors Act 1974 (as amended).

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 4th July 2006 when Hilary Susan Morris, a solicitor employed by the Law Society, appeared on behalf of the Applicant and the Respondent was represented by Mr Mainwaring of Counsel.

The evidence before the Tribunal included the admissions of the Respondent and her oral evidence.

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

The Tribunal Orders that the Respondent Jillian Susan Blake of Cookham, Maidenhead, Berkshire, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,011.89.

**The facts are set out in paragraphs 1 to 17 hereunder:-**

1. The Respondent, born in 1952, was admitted as a solicitor in 1979 and her name remained on the Roll of Solicitors. At all material times the Respondent practised as a solicitor on her own account under the style of Jillian Blake of Eight Wings, 2 Popes Lane, Cookham, Maidenhead, Berkshire, SL6 9NY. There was a conflict in the Law Society records as to exactly when the Respondent started practising on her own account, possibly due to a change in the Law Society's computer system at around the relevant time. The Respondent had indicated that she started her practice as a sole practitioner in 1988 and that she opened her client account in the same year, which had been confirmed by the Respondent's bank. The Law Society therefore accepted that the Respondent did not have a client account prior to 20th November 1988. The firm of Jillian Blake ceased on 16th December 2004. The Respondent was currently practising in partnership in the firm of Maher & Co of 19 York Road, Maidenhead, Berkshire SL6 1SQ.
2. On 26th April 2004 a Forensic Investigation Officer ("FIO") from the Forensic Investigation Unit of the Law Society carried out an inspection of the Respondent's books of account and other documents in relation to the firm of Jillian Blake. A copy of the resulting report ("the Report") dated 17th May 2004 was before the Tribunal. The Report noted the matters set out below.

Failure to keep accounting records properly written up

3. The inspection revealed that there were no books of accounts available and that in the years since the Respondent had opened a client account at the NatWest Bank plc no cash books or client ledgers had been maintained by the Respondent, and that consequently she was not able to produce any books of accounts for inspection.
4. Further, during the inspection the Respondent provided a client account reconciliation for the period 30th September 2002 to 7th May 2004. However the reconciliation was limited to just client account movements and contained no entries regarding office

bank account movements and thus the FIO was unable to give any opinion as to whether the Respondent had sufficient client funds to meet her liabilities to clients as at 7th May 2004.

5. In a letter to the Law Society of 27th June 2004 the Respondent confirmed that she had never kept client accounts or client ledgers since her client account was opened in 1988 but that on each file she kept a record of all client monies that went in and out of her client account that related to each client.
6. On 27th June 2004 the Respondent indicated that her books of accounts were now written up to date and that she would be ready to present them to the Law Society within three months. The Respondent also said that although she did not keep proper time ledgers she did keep necessary papers and records to enable accounts from 1988 to be prepared. In her letter of 26th July 2004 the Respondent indicated that she had asked an accountant to provide qualified accounts for the whole period and that she would be preparing her accounts for the period up to 31st October 2004. The Respondent said that she provided each client on conveyancing matters with a completion statement as to costs, expenses and the utilisation of funds. During the course of her interview with the FIO, the Respondent was also asked why she chose not to do any accounts to which she responded "there was an issue in my mind with regard to producing accounts". When asked if she wished to expand on what that issue was, the Respondent replied saying "no not really, just stupidity really".

#### Failure to file Accountant's Reports with the Law Society

7. Having held clients' money since 1988, according to the Society's records Accountant's Reports were required to be filed for the period from the year ending 30th April 1989 until the cessation of the Respondent's practice. The Respondent had filed an Accountant's Report for the period 1st May 2003 to 30th April 2004 but that was the only Report which has been filed with the Law Society to date. That Report was a Ceased to Hold report. Each Accountant's Report up to and including the year ending 30th April 2003 had not been delivered to the Law Society.
8. During the Respondent's interview with the FIO the Respondent admitted that she had not filed any Accountant's Reports with the Law Society since the commencement of the practice although she was aware of the requirement to do so. When asked why she did not, the Respondent replied "just incompetence really" but she accepted that as she was holding clients' money she should have been filing the Reports.
9. Further in relation to the allegation concerning the Respondent having misled the Law Society in relation to her applications for Practising Certificates (see paragraph 11 below) the Respondent was asked by the FIO why she had said she did not hold client money when she did. The Respondent replied that it was because she wanted a Practising Certificate and if she said she did not hold client money then she would not have to provide an Accountant's Report.

#### Providing misleading and incorrect information on applications for a Practising Certificate

10. The Respondent, in applications for a Practising Certificate for the years 1990/1991 to 2001/2002 inclusive, on the form RF1, indicated that she had not held or received

client monies, which was incorrect and misleading as during that period of time the Respondent operated a client account. A copy of the Respondent's application forms RF1 for the relevant years was before the Tribunal. For practising years 1993/1994 and 1995/1996 the Law Society could not find the Respondent's forms but the Society's records indicated that no contribution was paid to the Compensation Fund for those years and this would have been paid if the Respondent had said that she had held client monies. Further, for the year 2001/2002 the Respondent indicated on the form RF1 that she did not hold client monies but the Law Society's records indicated that she paid a contribution to the Compensation Fund of £200. The Respondent had now repaid to the Law Society all of the outstanding monies due to the Compensation Fund.

11. When interviewed by the FIO on 7th May 2004, the Respondent was asked if she had provided incorrect information on her Practising Certificate application to which she responded "yes". The Respondent was asked "why did you say that you did not hold client money on client account when you did?". The Respondent replied saying "because I wanted a Practising Certificate. If I said that I did not hold client money then I would not have had to provide Accountant's Reports".
12. On the application form for the year 1999/2000 it had originally been stated that the Respondent did hold client money. This form had apparently been completed by a locum and not the Respondent. The Respondent later, on 15th December 1999, wrote to the Law Society and indicated that she did not hold any client money. The effect of the Respondent's letter to the Law Society was a refund of £70 in respect of her contribution to the Society's Compensation Fund.
13. In October 2003 the Respondent disclosed to the Law Society that she held client money. The Respondent was asked by the FIO why she had chosen now to disclose that she held client money. The Respondent said that she felt that the position had been going on for long enough without disclosing the existence of client money.
14. In response to the Law Society's letter of 8th June 2004 enclosing the Report, the Respondent replied on 27th June 2004 saying "I know that I should have stated on my application that I held clients' funds. However I would say that I have not done anything which compromised my integrity or independence. I have at all times conducted each matter on behalf of each and every client with care and with proper standards of work".
15. In her letter of 27th June 2004 the Respondent said that although she was continuing to practise in partnership she did not intend to renew her Practising Certificate and therefore she would cease to be a partner at the end of that year. However according to Law Society records the Respondent had continued to renew her Practising Certificate and continued to be a partner in the firm of Maher & Co.
16. On 15th July 2004 the Law Society sent a copy of the casenote to the Respondent and invited her to make any representations within 14 days. On 26th July 2004 the Respondent sent a letter in response. Having considered the Respondent's letter the caseworker wrote to the Respondent on 8th September 2004 seeking further clarification and documentation. The Respondent replied on 10th September 2004 reaffirming her belief that she opened a client account in 1988, and said that she had

instructed a firm of Accountants to file an Accountant's Report for the period ending 30th April 2004.

17. On 16th September 2004 the Respondent was notified of the Adjudication Panel's decision to refer her conduct to the Tribunal. The Respondent replied on 22nd September 2004 requesting a review of the decision on the basis that the Respondent had made a decision not to renew her Practising Certificate and to cease to practise as a solicitor at the end of October 2004. Since that date the Respondent had continued to practise. On 9th December 2004 the Law Society notified the Respondent that the Review Panel had resolved to dismiss her review.

### **The Submissions on behalf of the Applicant**

18. The Respondent had made admissions to the FIO in interview which were reiterated in correspondence. The Tribunal would note from the Respondent's application forms for a Practising Certificate that she had clearly marked 'X' in the box saying that she did not hold clients' monies. Further, following the completion of an application form by her locum she had on 15th December 1999 sent a handwritten letter to the Law Society stating that she did not hold client money.
19. It was submitted on behalf of the Applicant that the Respondent's conduct had been dishonest. Dishonesty could be inferred from the facts. There had been a deliberate misrepresentation for the purpose of obtaining a Practising Certificate and a deliberate and calculated deception made with the intent to avoid the regulatory requirements. This had occurred on many occasions. There had been as many as 12 application forms plus correspondence.
20. It was submitted that the tests for dishonesty in the case of Twinsectra -v- Yardley and Others [2002] UKHL 12 had been satisfied. The Accounts Rules and Practising Certificates went to the heart of the profession and were a fundamental requirement for the proper regulation of the profession and the protection of the public. It was not open to the Respondent simply to decide not to comply. There had been a blatant deceit of the regulatory body to avoid those requirements, which was a matter of great concern.
21. The Respondent had agreed the Applicant's costs in the sum of £4,011.89.

### **Oral evidence of the Respondent**

22. The Respondent confirmed the truth of her witness statement dated 13th June 2006 subject to an amendment to paragraph 21 in which she had said that she did not know whether she would continue practising or not. If the Respondent was permitted to continue she now intended to continue only until her Practising Certificate expired in October 2006. She would then retire.

### **Submissions on behalf of the Respondent**

23. The Respondent had placed herself in an awful situation and the Tribunal was asked to note the contents of her witness statement which went some way to explain what

had occurred. While the Tribunal might consider that it had to impose a serious sanction, the Tribunal was asked to try to understand how these events had happened.

24. The Tribunal was referred to paragraph 6 of the witness statement which explained that after having children the Respondent had done a small amount of work at home for family and friends.

25. Paragraph 7 of the witness statement set out the Respondent's fundamental mistake when she first made an inaccurate statement in an application for a Practising Certificate. The Respondent had written:-

“I am ashamed to have done this and deeply sorry that I ever did.”

It was accepted that the tests in Twinsectra -v- Yardley were fulfilled by the inaccurate statement on the Practising Certificate although the Tribunal was asked to note that the relevant box was small and it was perhaps understandable how someone who had carried out only a very small amount of work might be tempted to complete the box inaccurately.

26. As set out in paragraph 8, having done this once the Respondent's hands were in a sense tied. She was not in a position to tell the truth or her world would come crashing down.

27. The Tribunal was asked to have regard to the fact that it had been the Respondent, albeit very late, who had owned up to having given inaccurate and untruthful information as set out at paragraph 13 above.

28. There was no allegation that monies had been misappropriated at any point. It was deeply significant that no members of the public had lost any money. There had not been a single complaint from the public and the Respondent had had no previous appearance before the Tribunal.

29. The Tribunal was referred to the references in support of the Respondent.

30. Momentum had developed in this matter but the Respondent had owned up and had done everything she could to put matters right, including arranging for the drawing up of accounts and repayment to the Compensation Fund. The Respondent had cooperated in every respect with the Law Society investigation. The Respondent's genuine remorse was shown in her witness statement.

31. The mistake had begun through the small nature of her practice and a failure to think through the consequences of her actions. Matters had then snowballed.

32. The admitted dishonesty did not relate to clients' money and the Tribunal was asked to note that no case law stated that a solicitor who had acted dishonestly had to be struck off the Roll. The Tribunal had to protect the reputation of the profession but also had to be fair. There was strong mitigation as set out above, the Respondent would have to pay the Applicant's costs and the Respondent intended to retire. It was submitted that it would be unfair and wrong to strike her off the Roll of Solicitors.

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

33. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
34. The Tribunal had listened carefully to the mitigation put forward on the Respondent's behalf and had considered carefully her witness statement and the references in support of her. The Respondent had however committed acts of dishonesty over a protracted period of time, which went to the heart of her practice. The regulations relating to Accounts Rules and the solicitor's Practising Certificate were there to protect the public. The Respondent had made false statements to her professional regulatory body in order to avoid complying with those rules. While the Tribunal noted that there had been no complaint from the Respondent's clients, the Respondent had conducted her practice on a dishonest basis which left her clients' money essentially unprotected. The dishonesty was calculated and deliberate, as confirmed by the Respondent's handwritten letter of 15th December 1999 sent to the Law Society to reverse the effect of the application form having been correctly completed by a locum. This was serious misconduct on the part of the Respondent and a solicitor who had behaved in such a dishonest fashion should not be allowed to remain a member of the profession. In the interests of the profession and above all for the protection of the public the Tribunal would strike the Respondent's name off the Roll of Solicitors and order her to pay the Applicant's agreed costs.
35. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent Jillian Susan Blake of Cookham, Maidenhead, Berkshire, solicitor, be **STRUCK OFF** the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,011.89.

Dated this 12th day of September 2006  
On behalf of the Tribunal

L N Gilford  
Chairman