

IN THE MATTER OF PETER EDWARD CREED, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr P Haworth (in the chair)  
Mr J P Davies  
Lady Bonham Carter

Date of Hearing: 29th June 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 Jonathan Richard Goodwin of Jonathan Goodwin, Solicitor Advocate, 17E Telford Court, Dunkirk Lea, Chester Gates, CH1 6LT on 29<sup>th</sup> March 2006 that Peter Edward Creed of Dunstable, Bedfordshire, might be required to answer the allegations set out in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

The allegations were that the Respondent had been guilty of conduct unbefitting a solicitor in each of the following particulars namely:

- (i) he failed to keep accounts properly written up as required by Rule 32(2)(b) of the Solicitors Accounts Rules 1998;
- (ii) that he allowed his client account to become overdrawn contrary to Rule 22(8) of the Solicitors Accounts Rules 1998;
- (iii) that he acted for the buyer and seller in conveyancing transaction(s) without having the written consent of both parties, contrary to Rule 6(2) of the Solicitors Practice Rules 1990;

- (iv) that he failed to notify his lender client(s) in writing that he was acting for buyer and seller in conveyancing transaction(s), contrary to Rule 6(3)(b)(ii);
- (v) that he failed to disclose material information to his lender client(s);
- (vi) that he failed to act in the best interests of his lender clients, contrary to Rule 1 of the Solicitors Practice Rules 1990;
- (vii) that he made a representation to his lender client that was misleading and/or inaccurate;
- (viii) that he utilised clients' funds for the benefit of other clients and/or unconnected parties, and/or not for their intended purpose;
- (ix) that by virtue of the matters set out in the Report dated 13<sup>th</sup> February 2004, he acted contrary to Rule 1 of the Solicitors Practice Rules 1990, in that his conduct was compromised or impaired or was likely to compromise or impair his independence or integrity as a solicitor, his duty to act in the best interest of a client(s), his good repute or that of the Solicitor's profession, and in particular: he failed to make any or sufficient enquiry as to funds received into, and paid out of his client account, and in so doing disregarded the Guidance issued by The Law Society;
- (x) that he failed to reply to correspondence from The Law Society.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Jonathan Richard Goodwin appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent.

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

The Tribunal Orders that the Respondent, Peter Edward Creed of Dunstable, Bedfordshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 29th day of June 2006 and it further Orders that he pay the costs of and incidental to the application and enquiry and no more than 50% of the costs of the Investigation Accountant of the Law Society to be subject to a detailed assessment unless agreed between the parties.

**The facts are set out in paragraphs 1 to 28 hereunder:**

1. The Respondent, born in 1934, was admitted as a solicitor in 1961. His name remained on the Roll of Solicitors although he did not hold a current practising certificate. At the date of the hearing the Respondent remained an undischarged bankrupt.
2. At all material times the Respondent practised in partnership under the style of Alan Budds & Co from offices at 29 King Street, Luton, Bedfordshire, LU1 2DW. The Respondent's partnership with Mr Budd was dissolved on 25<sup>th</sup> April 2003 following the Respondent's bankruptcy on that date.

3. The Law Society had dealt with the Respondent's former partner, Mr Budd, in connection with the background to this matter, internally.
4. On 1<sup>st</sup> April 2003 a Law Society Senior Investigation Officer ("the SIO") commenced an inspection of the books of account of Alan Budds & Co ("the firm"). The SIO's Report dated 13<sup>th</sup> February 2004 was before the Tribunal.

Allegation (i)

5. The SIO's Report revealed that the firm's books of account were not in compliance with the Solicitors Accounts Rules, because transactions were recorded on five accounts within the client ledger in respect of two or more separate client matters, rather than being recorded on a separate ledger account for each client, which amounted to a breach of Rule 32(2)(b) of the Solicitors Accounts Rules 1998.

Allegation (ii)

6. One client ledger was overdrawn in the sum of £156.04 between 30<sup>th</sup> August 2002 and 19<sup>th</sup> September 2002.

Allegation (iii)

7. The Respondent confirmed that he had not complied with the provisions of Rule 6(2)(a)(i) in that he had failed to obtain the written consent of the buyer and seller in cases where he had acted for both of them in a number of conveyancing transactions. Details of ten such transactions were set out in the SIO's Report.

Allegation (iv)

8. In eight conveyancing transactions upon which the SIO reported, the Respondent had failed to notify his lender client that he was acting for both buyer and seller.
9. There had been a failure on the part of the Respondent to notify lender clients of material information. The SIO set out details of eight conveyancing transactions where the Lender client had not been notified of other loans to their borrower, shortfalls in respect of stated purchase prices and/or payments being made directly between purchaser and vendor.
10. There was an overlap of cases referred to in paragraphs 7 and 9 above.

Allegations (vi)

11. The Respondent acted for Mr SK in his purchase of a property at Luton. The Respondent also acted for Halifax plc, the mortgage lender. The purchase price was £120,000. The mortgage advance was £95,480 plus £2,864.40 "cash back".
12. The Respondent failed to follow his lender client's instructions to obtain a first charge in their favour as a result of the Respondent's former partner's failure to remove Mrs AK's prior charge. The problem was resolved in March 2002 when the property was sold by Mrs SK and the Halifax's advance was redeemed from the proceeds of sale.

Allegation (vii)

13. The Respondent acted for Kensington Mortgage Co in connection with an advance made to Mr WK in respect of his purchase of a property at Luton. It became apparent that Mr ZK had provided Mr WK with monies to assist in the purchase. It was ascertained by the SIO that following receipt of £13,267.13 from Mr ZK, Mr W had paid those funds to Mr SK as part of the completion monies in an amount of £157,135.38 on 11<sup>th</sup> March 2002. It was also ascertained that from the amount of £157,135.38 Mr SK had paid Mr ZK £38,502.87 and £18,267.13. It was suggested to the Respondent by the SIO that the transactions demonstrated a relationship between Mr ZK, Mr WK and Mr SK. The Respondent had explained that Mr ZK was Mr WK's son and Mr SK had been introduced as a relative of Mr ZK.
14. By letter dated 5<sup>th</sup> March 2002 Kensington Mortgage Co asked the Respondent if there was a connection between Mr WK and Mr SK. In a letter dated 5<sup>th</sup> March 2002 the Respondent informed Kensington Mortgage Co that there was no connection between Mr WK and Mr SK other than that Mr WK's company had acted as a letting agent for the seller. The Respondent also indicated to his lender client that Mr WK's company would not be continuing to let rooms in the house and that it was Mr WK's intention to live in the property as his residence.
15. It was ascertained that the firm's bill of costs in respect of the purchase of the property was addressed to Mr WK at another address in Luton which was also the address used for the firm's bill of costs in respect of Mr SK's sale of the property. It was ascertained that this correspondence address for Mr WK and Mr SK was also a correspondence address used for Mr ZK. The SIO came across a power of attorney given by Mr SK to Mr ZK on the client matter file relating to Mr SK's purchase of the property.
16. The Respondent said the bills had been addressed in that way because that was what he had been asked to do. When the SIO suggested to the Respondent that there was a connection between Mr ZK, Mr SK and Mr WK and that taking into account the funds provided by Mr ZK to Mr WK, that the transactions were other than at arm's length, the Respondent said that his letter dated 5<sup>th</sup> March 2002 had been written in good faith and that that was what Mr WK had told him.

Allegation (viii)

Purchase of Property: CG, Luton

17. The Respondent acted for Mr PA in his purchase of a property. The purchase price was £150,000. Completion took place on 27<sup>th</sup> September 2002. The Respondent also acted for Abbey National in its mortgage advance of £126,975. That advance was received from Abbey National on 27<sup>th</sup> September 2002 and on the same day the sum of £45,000 was paid to Mr B. The Respondent was asked to explain why that sum had been paid to Mr B as Mr B was not a party to the transaction. The Respondent said he did not understand why that had happened but accepted that it had. The Respondent agreed that he should not have done this and that the funds provided by Abbey National should have been utilised to purchase the property. The Respondent indicated that the payment of £45,000 should have been charged against the sum of

£70,482.75 which was subsequently transferred from the ledger relating to Mr FHS (also known as Mr B).

18. On 18<sup>th</sup> September 2002 the client's ledger account was credited with the sum of £5,000 provided by Mr B and on 15<sup>th</sup> November 2002 the sum of £5,000 was transferred to Mr HM's ledger. When asked why the £5,000 had been transferred to Mr HM's ledger when Mr B had provided it, the Respondent said that Mr HM had a connection with Mr B and that Mr B had introduced Mr HM to the firm as a relative. When asked if the transfer on 15<sup>th</sup> November 2002 was a correction, the Respondent replied that he did not know.

Purchase of property: CC, Luton

19. The Respondent acted for Mr SG in connection with his purchase. The purchase price was £111,000. Completion took place on 19<sup>th</sup> July 2002. The ledger was used to record the receipt of monies from Mr H who was not connected with the transaction. A client bank account paying in slip dated 5<sup>th</sup> July 2002 recorded the sum of £3,000 paid into client bank account in £20 notes with the narrative "B and a different property". The Respondent accepted that £3,000 in cash was credited to the ledger in the name of H notwithstanding that it had apparently been provided by Mr B. A client account cheque book stub showed a payment on 9<sup>th</sup> July 2002 of £3,637.24 as follows: "M property CC". When asked to whom that money had been paid, the Respondent said he could not recall. When asked what connection, if any, the two transactions had with this particular matter the Respondent said, "Nothing comes to mind".
20. The Respondent was instructed in the subsequent sale of CC property at Luton on behalf of Mr SG and the purchaser Mr SQM. There was no correspondence on the client matter file addressed to Mr SQM but there was a letter from the Respondent to Mr B dated 20<sup>th</sup> January 2003. The Respondent indicated that the reason he had written to Mr B was because "He was the obvious person to write to because he organised everybody". It was ascertained that monies advanced by Abbey National to Mr SQM were utilised for the benefit of Mr SG.

Sale and purchase of property: EC, Luton

21. The Respondent acted for Mr SIM in respect of his sale of EC at Luton and for Mr FHB in the related purchase.
22. On 23<sup>rd</sup> August 2002 £28,702 was transferred to the client account of Mr IHS relating to the purchase of a different property (RR) in circumstances where the two transactions were not connected. The effect of the transfer was to provide Mr IHS with funds to pay the vendor Mr FHS also known as Mr FHB. It was in fact Mr FHB who had borrowed £67,475 from Abbey National in the first place and credited to this ledger on 25<sup>th</sup> July 2002.
23. The £67,475 was partly used by way of transfer of £28,702 to Mr IHS's account with the result that following the transfer, there were insufficient funds to discharge the outstanding mortgage.

Allegation (ix)

24. The SIO's Report showed that substantial sums of money were received by the Respondent's firm from clients in circumstances where it was not at all clear why it was necessary for the Respondent to receive and pay out large amounts of cash and in circumstances where the Respondent did not make any or sufficient enquiry as to the source of the funds received and did not clarify from whom the money had been received. In his Report the SIO provided details of the following transactions.
25. Transaction (i)
- On 11<sup>th</sup> March 2002 the ledger account was debited with two payments of £38,502.87 and £18,267.13 which were described on the ledger account as "TO CLIENT". Copies of the relevant paid cheques showed that the cheques had been cashed. The Respondent confirmed that he had signed the cheques and that they had been made out to cash. He said that he would almost certainly have collected the cash from the bank but could not remember to whom the cash had been given.
26. Transaction (ii)
- (i) On 21<sup>st</sup> February 2002 cash in the amounts of £26,000 and £5,000 were received into the client ledger relating to Mr W and his purchase of the property at Luton. The Respondent confirmed that the debit/credit slips were in his handwriting. The slip counterfoils showed that £26,000 was paid over in £50 notes and £5,000 was paid over in £20 notes. The Respondent confirmed that to be so.
- (ii) There was a crossing out made on the debit/credit slip and to start with the whole £31,000 was attributed to Mr WK's ledger but subsequently the funds were allocated to that ledger in the sum of £26,000 and £5,000 to the ledger of Mr ZK. The Respondent was not able to say who had given him the £31,000 in cash on 21<sup>st</sup> February 2002. He could not recall. The Respondent could not recall if it was the same person who had given him the £26,000 and the £5,000 or if it had been given to him by separate persons.
27. Transaction (iii)
- (i) In connection with the purchase of a property, GR, at Luton by Mr ZK, the Respondent's former partner acted but it was the Respondent who recorded receipt of the total amount of £31,000. On 11<sup>th</sup> March 2002 cash of £13,267.13 was drawn. The Respondent signed the cheque. The sum of £13,267.13 was credited to Mr WK's ledger account on 11<sup>th</sup> March 2002 in connection with his purchase of the property at Luton.
- (ii) The Respondent confirmed that he had been instructed by ZK to make this payment. On 11<sup>th</sup> March 2002 sums of £38,502.87 and £18,267.13 were credited to the ledger account. On the same day exactly the same sums were charged to Mr SK's ledger in connection with his sale.

- (iii) Mr ZK had therefore been paid £56,770 (£38,502.87 plus £18,267.13) in March by Mr SK from the proceeds of the sale of the property at Luton which Mr ZK had sold to Mr SK in January 2000. The Respondent told the FIO that the payments had been made because Mr SK had given Mr ZK a power of attorney and accordingly Mr ZK could provide instructions.
- (iv) Mr ZK received a minimum of £704,938.81 over the period between 29<sup>th</sup> November 1999 and 13<sup>th</sup> March 2003 of which he was paid a total of £378,860.76 in connection with the proceeds of the sale of properties. Out of the £704,938.81 the total sum of £66,500 was received by him in cash. The Law Society's Warning Card about mortgage fraud made specific warnings about dealings with significant amounts of cash, unusual settlement requests and secretive clients.

#### Allegation (x)

- 28. By letter dated 6<sup>th</sup> April 2004 a copy of the SIO's Report was sent to the Respondent and his explanation was sought. The Respondent did not reply. Solicitors acting for the Respondent's former partner did so reply.

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

- 29. The Respondent admitted all of the allegations. The allegations were serious and amounted to a collective failure on the Respondent's part to conduct himself properly.
- 30. The Applicant did not allege that the Respondent had acted dishonestly. He did not mount an attack on his integrity.
- 31. At the time of the hearing the Respondent did not hold a practising certificate which had terminated on 1<sup>st</sup> November 2003.
- 32. The Respondent had been in partnership with Mr Budds who had been dealt with internally by The Law Society.
- 33. There were many cases where the Respondent had acted in breach of Practice Rule 6. There were serious and significant breaches of the Solicitors Accounts Rules and the Practice Rules in connection with the handling of conveyancing transactions.
- 34. The Respondent had failed to recognise that not only did he have an obligation to his private client but he also had an obligation to his lending institutional client. The Respondent had been guilty of a serious dereliction of his duty in this respect.

#### **The Submissions of the Respondent**

- 35. The Respondent had found it hard to believe how he had allowed the situation to arise.
- 36. The Respondent had relished hard work and he believed that he had tried to do too much when his health let him down.

37. In 1997 he had undergone surgery but had not needed time off work since then. In the mid 1990s following a routine health check, he began to receive routine treatment for high blood pressure.
38. The Respondent had then come to realise that he was not coping with work related stress as well as he believed he had been.
39. The Respondent encountered further difficulty when the income taxation system changed to self-assessment. He did not cope well with dealing with tax matters and tax arrears began to accumulate. The Respondent negotiated payment by instalments but he had not been able to keep up with them.
40. The Respondent re-negotiated the instalment payments in 2001. When he failed to make payment and was taken to court by the Inland Revenue he had given explanations and made further payment leading to an adjournment. There continued to be a bankruptcy petition hanging over the Respondent's head.
41. The Respondent was 65 years of age in March 1999 and he had hoped that he could continue to work until the age of 70. Unfortunately the Inland Revenue had intervened. On 25<sup>th</sup> April 2003 the Respondent believed that the bankruptcy petition hearing would be adjourned as on previous occasions but it was not and the Respondent was declared bankrupt on that day.
42. The Respondent said that he was shattered by this ruling. It had never been his intention to be relieved of his financial difficulties. His partnership was brought to an end. He had remained in the office for two weeks as an employee hoping that The Law Society would permit him to remain. At the end of the second week on 9<sup>th</sup> May 2003 it had become apparent that the Respondent could not continue to work at the firm and he left to return only to attend the interview with the SIO.
43. The Respondent had attempted to assist with enquiries arising on the files of which he previously had conduct but because he did not have access to those files he was not able to assist as fully as he would have wished.
44. The Respondent had tried to gain employment with other local firms but had been unsuccessful. On 22<sup>nd</sup> October 2003 he suffered a heart attack and was hospitalised. Following major heart surgery the Respondent was re-admitted to hospital for treatment for a stomach ulcer. He had been in hospital almost continuously for four weeks and that was why he had not responded promptly to a letter addressed to him by The Law Society.
45. The Respondent admitted the allegations and expressed the hope that the Tribunal would put them in the context of the medical difficulties suffered by him.
46. With regard to allegation (i) the Respondent accepted his responsibility. He could not understand how he allowed the situation to develop. He invited the Tribunal to take into account the fact that no cash shortage of client funds had been identified on inspection of the firm's books of account.



47. With regard to allegation (ii) the Respondent accepted that there was a technical overdrawing of client account. He had no idea how that came about and was grateful that the matter had put itself right.
48. The firm had adopted a practice where clients were buying and selling property Mr Budds acted for one of them and the Respondent acted for the other. It was not uncommon that sometimes established clients both wanted to be represented. In order to assist Mr Budds when he was suffering from a difficult time in his personal life, the Respondent had taken on both clients. Established clients would have confirmed that they were happy with the arrangement. The Respondent was sure that the clients would confirm in writing that that was the position had the Respondent asked them to do so.
49. With regard to allegation (iv) the Respondent said he simply could not understand how he behaved in that way. He was not coping. Nearly all of the matters in which complaint arose had occurred in 2002.
50. With regard to allegation (v), Mr ZK and the other clients were all longstanding clients of the firm. The clients were known to the Respondent as longstanding clients of the firm for whom Mr Budds normally acted. The Respondent had acted in these matters because Mr Budds had not been available.
51. With regard to allegation (vi) the Respondent was not notified that there was a second charge. It was in favour of Mr ZK's mother and Mr ZK told the Respondent that she would release the charge when he gave her another property. In fact the mother refused to sign the release for a long time. The Respondent believed that she had gone abroad. The Respondent felt bad that Halifax plc had not obtained a first charge.
52. The clients to whom the SIO referred in his Report were all known to the firm and were known to be businessmen in the locality. They seemed always to be able to raise money when they needed it. The Respondent recognised that he should have asked more questions. He had been afraid of offending them when they had been with the firm for such a long time.
53. The Respondent had reluctantly come to the conclusion that he was not well enough to work. He hoped that he would be able to finish his life remaining on the Roll of Solicitors.
54. The Respondent said that he would be happy to be suspended from practice for an indefinite period of time.
55. The Respondent had been married to his wife for many years. They did not own their own home but lived in rented accommodation. They were both in receipt of state pensions.
56. The Respondent put no blame on his partner, Mr Budds, who had behaved honourably. The Respondent sympathised with Mr Budds whose wife died in 2001. He was naturally very upset for a long time and she had previously played a part in the firm.

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

57. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested.
58. The allegations substantiated against the Respondent were serious. The Respondent had in the main failed to act with the due care required of a member of the solicitors' profession. The consequences of his failures could have had serious repercussions.
59. The Tribunal gave credit to the Respondent for his long unblemished career as a solicitor, his admissions and explanations and the fact that he accepted full responsibility and wished to absolve Mr Budds from any blame.
60. Despite having been apprised of the rather sad and difficult situation in which the Respondent found himself, the Tribunal had to bear in mind its main duty to protect the public. The Respondent himself did not believe that he would be able to practise again as a solicitor. The Respondent was not found to have behaved dishonestly, indeed dishonesty was not alleged against him. He had rather failed to perform the duties required of a solicitor. In all of the circumstances the Tribunal concluded that the appropriate and proportionate sanction to impose upon the Respondent was that of suspension from practice indefinitely.
61. The Applicant sought the costs of and incidental to the application and enquiry to include the costs of The Law Society's SIO. It was not possible for the Respondent to agree a figure as he was an undischarged bankrupt. He did, however, agree in principle that he should bear The Law Society's costs.
62. The Tribunal noted that the Respondent and Mr Budds were partners in the firm and, of course, Mr Budds as a partner had an absolute liability for compliance with the Solicitors Accounts Rules. In all of the circumstances the Tribunal did not consider it right that the Respondent should bear the whole of the costs of and incidental to the application and enquiry relating to the case brought against him and he should be responsible for one half of the costs of The Law Society's SIO. All such costs to be subject to a detailed assessment if not agreed between the parties.

Dated this 12<sup>th</sup> day of August 2006  
on behalf of the Tribunal

P Haworth  
Chairman