

IN THE MATTER OF LORRAINE ANNE MIERS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr I R Woolfe (in the chair)  
Mr P Kempster  
Lady Maxwell-Hyslop

Date of Hearing: 13th March 2008

---

## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

---

An application was duly made on behalf of The Law Society by Robert Simon Roscoe solicitor and partner in the firm of Victor Lissack, Roscoe & Coleman of 70 Marylebone Lane, London W1U 2PQ on 4<sup>th</sup> December 2007 that Mrs Lorraine Anne Miers of Adel, Leeds West Yorkshire, 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.

The Respondent's address for service was care of Godloves solicitors, 8-16 Dock Street, Bridge End, Leeds.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in the following particulars, namely:-

- (a) That she failed to act in the best interests of her clients in breach of Rule 1(c) of the Solicitors' Practice Rules 1990.
- (b) That her conduct was likely to compromise or impair her good repute as a solicitor or of the solicitors' profession in breach of Rule 1(d) of the Solicitors' Practice Rules 1990.

- (c) That she improperly withdrew client money from client account and in breach of Rule 22 of the Solicitors' Accounts Rules 1998 and that in doing so her conduct was dishonest.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 13<sup>th</sup> March 2008 when Robert Simon Roscoe appeared as the Applicant and the Respondent was represented by John Mehrzad of Counsel.

The evidence before the Tribunal included the admissions of the Respondent who had filed a witness statement dated 20<sup>th</sup> April 2007.

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

The Tribunal Orders that the Respondent Lorraine Anne Miers of Adel, Leeds, 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 £10,000.00 inclusive.

**The facts are set out in paragraphs 1- 8 hereunder:-**

1. The Respondent, born in 1958, was admitted as a solicitor in 1984. Her name remained on the Roll of Solicitors. At the material time the Respondent was a salaried partner and head of her firm's private client department.
2. The firm had made a report about the Respondent's activities to the Solicitors Regulation Authority and an Investigation Officer, ("the IO"), attended the firm to inspect its books of account and other documents. The IO produced a report dated 9<sup>th</sup> August 2007 that was before the Tribunal.
3. The Respondent had had conduct of probate files in respect of Mr D (deceased) and Miss G (deceased).
4. In the estate of the late Mr D, the Respondent had caused the firm to issue client account cheques and had withdrawn £72,454.75. In three instances in April and May 2004, cheques payable to the Inland Revenue and totalling £16,868.75 had been issued. All three payments had been credited to the Respondent's own tax record.
5. The Respondent had caused the issue of 32 cheques for sums totalling £55,586.00 between November 2003 and June 2005. All were payable to the Yorkshire Bank and had been paid by the Respondent into her personal Yorkshire Bank account. None of the cheque requisition forms had been retained on the client file.
6. In the estate of the late Miss G, between August 2005 and October 2006, the Respondent had caused the firm to issue 14 client account cheques payable to Yorkshire Bank totalling £25,880.00. The Respondent had paid all but one of the cheques (which had not been presented) into her personal account. She had thereby taken £23,980.00.
7. Following the discovery of the loss, the firm issued proceedings against the Respondent on 16<sup>th</sup> April 2007. The firm also arranged for its client account to be

credited with the sums taken by the Respondent. In her affidavit dated 20<sup>th</sup> April 2007 the Respondent admitted taking those monies.

8. In response to the SRA's enquiries, the Respondent provided in October 2007 a full admission as to her conduct in October 2007.

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

9. The facts of the matter spoke for themselves. The Respondent had admitted both the facts and the allegations which included an allegation of dishonesty. The cheques had been made payable to Yorkshire Bank or a subsidiary and had been paid into the Respondent's own account therefore making it not immediately apparent to whom the cheque had been paid. Three cheques drawn payable to the Inland Revenue were used to meet the Respondent's personal tax liability. In total £98,334.75 had been taken from the firm's client account.
10. The firm and the Respondent came to an agreement whereby she would repay the monies taken and costs. It was not certain whether the Respondent had been required to leave the firm or whether she had resigned. Mrs Miers had declined to be interviewed by the IO. The Police and the Fraud Intelligence Unit at The Law Society had been notified of the Respondent's activities. Neither civil nor criminal proceedings had been taken against the Respondent.
11. The Applicant sought the costs of and incidental to the application and enquiry in the sum of £10,000. He was able to report that the Respondent had agreed to pay the costs in that figure.

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

12. The Respondent admitted the allegations. She did not expect to practise again. She hoped to avoid being struck off.
13. The Respondent asked the Tribunal to take into account her mitigating circumstances.
14. The Respondent had been unwell and had not worked since leaving the firm. Her marital situation was such that her parents were the only potential source of money to effect repayment. They were pensioners and had no income so raising money by way of mortgage was not straightforward. When on 24th April 2007 Summary Judgment in favour of the firm was entered by agreement for £96,434.25, the Respondent also agreed to Cautions being registered at HM Land Registry against her home.
15. The Respondent's parents agreed to mortgage their home, with the repayments being made by the Respondent.
16. The firm acknowledged receipt of monies on 16th August 2007 and confirmed that the Judgment was fully satisfied.
17. Despite the Respondent being ill and unemployed, and despite the large sums involved, financial restitution took place within just four months.

18. The Tribunal was invited to give due weight to a number of testimonials and references written in support of the Respondent.
19. The Respondent's present employer (where she worked as a law lecturer) described her work as exemplary and said she was making a significant contribution.
20. The Respondent had been under extreme stress and pressure at the firm and this was at a time when she had a number of problems with her physical and mental health.
21. Obtaining new employment was fundamental to her recovery and the Respondent was fortunate to have been able to return to teaching.
22. The Respondent had no hope of keeping her teaching job if she were to be struck off the Roll.
23. The Respondent's parents mortgaged their house to raise the money for the firm. They depended totally on the Respondent's ability to make the repayments. If that stops, they lose their home. They were pensioners. They had neither capital nor income. The Respondent would not be able to meet the repayments if she had to take up less well paid work.
24. The Respondent's husband had abandoned her financially. The Tribunal was invited to bear in mind the human rights of the Respondent's parents who ran the risk of being made homeless.
25. The Respondent worried about her teenage son, for whom she was solely responsible. He suffered from ill health induced by stress.
26. The Respondent had sought removal of her name from the Roll. This was rejected by the SRA. The Respondent had no desire to return to private practice but wished to go on teaching. Protection of the public would be achieved by allowing voluntary removal from the Roll and ensuring that the Respondent's name could not be restored. The good reputation of the solicitors' profession could be maintained by a means other than a striking off order. The Tribunal was asked to make an order suspending the Respondent from practice indefinitely. That would amount to a proportionate means of protecting the public. The ultimate sanction would lead to severe financial problems for the Respondent, and health, employment and family life consequences for her and members of her family.
27. The Respondent had tried wherever possible to co-operate fully and minimise the disruption to everyone involved. The Respondent was not mentally well enough to attend the hearing. No discourtesy was intended.

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

28. The Tribunal found the allegations to have been substantiated indeed they were not contested. Finding the allegations to have been substantiated included an allegation that the Respondent had been dishonest which she herself accepted.

29. The Tribunal had born in mind carefully all that had been said on the Respondent's behalf. It noted her mitigating circumstances and the fact that she had repaid the monies taken.
30. The Tribunal was of the view that the confidence of the public in the unquestionable probity, integrity and trustworthiness of solicitors could be met only by an order that the Respondent be struck off the Roll. The Tribunal considered this to be the appropriate and proportionate sanction. It would be hard to envisage a situation where a solicitor, who has conducted himself or herself with dishonesty in particular having regard to their treatment of client monies which must always be regarded as sacrosanct, might expect any sanction to be imposed other than the ultimate sanction.
31. The Tribunal gave the Respondent credit for recognising that she must be responsible for the Applicant's costs and for agreeing a figure with him. The Tribunal further ordered the Respondent to pay the Applicant's costs fixed in the agreed sum.

Dated this 2<sup>nd</sup> day of June 2008

On behalf of the Tribunal

I R Woolfe  
Chairman