

IN THE MATTER OF TIMOTHY JOHN CHAPMAN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. W. M. Hartley (in the chair)  
Mr. P. Kempster  
Mr. D. E. Marlow

Date of Hearing: 6th January 2009

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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 Paul Robert Milton, solicitor employed by the Law Society at the Solicitors Regulation Authority at 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 23<sup>rd</sup> April 2008 that Timothy John Chapman, solicitor of Skipton, North Yorkshire, 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:-

- (1) that he dishonestly misused a Power of Attorney by withdrawing monies from his client's bank account in excess of a permitted sum;
- (2) that in breach of Principle 15.04 of the Guide to the Professional Conduct of Solicitors (8<sup>th</sup> Edition) the Respondent failed to advise his client to take independent legal advice in a situation where there was a conflict or potential conflict of interest between the Respondent and his client;
- (3) [withdrawn with the consent of the Tribunal]
- (4) [withdrawn with the consent of the Tribunal]

The Application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 6<sup>th</sup> January 2009 when Paul Robert Milton appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent. Mr Beeley, Dr Salamon and Ms Miles gave oral evidence in support of the Respondent.

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

The Tribunal Orders that the Respondent, Timothy John Chapman previously of Skipton, North Yorkshire, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,407.90

**The facts of the case are set out in paragraphs 1-15 hereunder:**

1. The Respondent born in 1955 was admitted as a solicitor in 1980 and his name remained on the Roll of Solicitors.
2. At all material times the Respondent practised on his own account as Timothy J Chapman at The Old Courthouse, Otley Street, Skipton, North Yorkshire, BD23 1ED.
3. Following information received from the Respondent that he had misused a substantial sum of monies under a Power of Attorney, upon due notice the Law Society carried out an inspection of the Respondent's firm and produced a Forensic Investigation Report ("the Report") dated 15<sup>th</sup> February 2008.

Allegation 1

4. The Respondent explained to the Investigation Officer ("the IO") that he had acted for a Mr T in the sale of some land and in the sale of Mr T's interests in a company. Mr T became resident in Switzerland and Cyprus and on 4<sup>th</sup> September 2001 signed a General Power of Attorney in favour of the Respondent, in order that the Respondent could operate Mr T's UK bank account and affairs generally. The Respondent told the IO that in addition to his business relationship Mr T was a close family friend.
5. The Respondent told the IO that due to the close relationship between himself and Mr T, Mr T provided funding to enable the Respondent to set up his own (the Respondent's) practice in the sum of £22,459.00 as well as jointly purchasing with the Respondent the premises from which the Respondent practised.
6. On 13<sup>th</sup> February 2001 the Respondent entered into an agreement with Mr T and Mr T's wife whereby Mr T agreed to loan a further £60,000 to the Respondent to assist the Respondent with his finances. In order to pay back the loan Mr T would be entitled to share the net sale proceeds of the Respondent's house when it was sold at a later date. The loan would be made by way of the Respondent drawing monies from Mr T's account as and when required, under the General Power of Attorney.
7. Appended to the Report was a copy of the hand written account kept by the Respondent showing the amounts withdrawn from Mr T's account. The total of the amounts borrowed exceeded the £60,000 covered by the 13<sup>th</sup> February 2001

agreement on 19<sup>th</sup> September 2001 and from that point all sums drawn from the account by the Respondent were unauthorised.

8. A review of the account by the IO showed that between 15<sup>th</sup> February 2000 and 19<sup>th</sup> December 2006, 352 withdrawals were made by the Respondent from Mr T's account, varying between £20 and £23,173.70 totalling £277,677.18 variously described as "cash" payments, "transfer TJCOA" and "transfer TJC private a/c" amongst others.
9. The Respondent's position and his explanation to the IO was set out in full in the Report. The Respondent expressed regret for what he had done and said he was "horribly ashamed". In a letter to Mr T in December 2006 the Respondent indicated how much he had overdrawn the £60,000 limit and that "Mr T replied that he was staggered by the amount and he (Mr T) would go along with my (the Respondent's) suggestion that it would be rectified in a separate agreement to cover the further advances which were made... which had been made unauthorised...."
10. The Respondent also explained to the IO that following repayment discussions with solicitors acting for Mr T and realising that he was not in a position to repay the amounts outstanding he felt it "only right and essential that the matter be put forward as a breach of my obligations to the SRA".
11. The separate agreement referred to by the Respondent and dated 6<sup>th</sup> March 2007 provided no confirmation that Mr and Mrs T were aware of or approved amounts drawn from Mr T's personal bank account in excess of the original loan of £60,000.
12. In a letter dated 12<sup>th</sup> February 2008 solicitors acting for Mr and Mrs T wrote to the Respondent regarding the monies "unlawfully withdrawn" from Mr T's account whilst seeking proposals for repayment "within the next 10 days".
13. The IO asked the Respondent if his actions in the matter of Mr T had been dishonest. In reply, the Respondent said "in retrospect I see that I didn't act honestly, but I did think it was honest at the time because obviously I shut my mind to the... I suppose I felt it was alright. I wasn't initially content with it, but as I didn't mean to do anything other than borrow it, I seem to have come to terms with it in a peculiar way.... I see now that it was a dishonest act."

### Allegation 2

14. The IO asked the Respondent whether he advised Mr T to take independent legal advice regarding the loans which Mr T was making to the Respondent's firm. The Respondent said he had not. He was also asked whether he had considered that there existed a potential conflict of interest to which he replied "no".
15. Following consideration of the Report an Adjudication Panel resolved on 21<sup>st</sup> February 2008 to intervene into the Respondent's practice and refer his conduct to the Tribunal.

**The submissions of the Applicant**

16. The Applicant sought and obtained leave of the Tribunal to withdraw allegations (3) and (4).
17. In relation to the admitted allegations the Applicant alleged that the Respondent had acted dishonestly. Over a period of some years he had made a series of unauthorised withdrawals from Mr T's account. The facts were consistent with an allegation of dishonesty. The conduct of the Respondent in taking monies to which he was not entitled amounted to conscious impropriety. The Respondent knew and had admitted that what he was doing was wrong but proceeded regardless. It was not necessary to demonstrate that the Respondent intended permanently to deprive his clients of the funds. No reasonable, prudent and honest solicitor would have acted as the Respondent did.
18. The Applicant sought his costs in the agreed sum of £3,407.90.

**The submissions of the Respondent**

19. The Respondent reiterated that he was horribly ashamed of what he had done. His behaviour in this matter had been an aberration. At all other times he had done his best within the law to serve his clients honestly. He accepted in this matter he had acted dishonestly.
20. The Respondent had never intended not to repay the money and this had been accepted by Mr T. Faced with the business problems of his practice he had succumbed to the temptation to borrow beyond the limit agreed with Mr T. Matters had spiralled out of control and he had informed Mr T of what he had done. When it became clear to him that he could not repay the money the Respondent had informed the SRA.
21. The Respondent had done his best to make amends. He had charged the balance of the equity in his house in favour of Mr T and had paid back £48,000 by selling his house. The Respondent had also passed his interest in his practice premises to Mr T.
22. Having the authority to borrow the money the Respondent had felt a blurring between what he could and could not do. He had been in practice by himself with no one to test his assumptions or to consider the best way forward when the pressures of practice became too much.
23. The Respondent had let down his profession and his client. Mr T was also a friend who had helped the Respondent a great deal. This had been a dreadful breach of trust by the Respondent.
24. The Respondent invited the Tribunal to take account of the references in his support which showed the kind of person he was apart from this horrible lapse.

**Oral evidence of Mr Beeley**

25. Mr Beeley gave evidence in support of the Respondent who had been his close friend for many years. Mr Beeley spoke of the dedication, honesty and trust the Respondent had shown within his profession and said that the matter before the Tribunal was completely out of character for the Respondent. The Respondent had run his business for the benefit of his clients and had had a hard working and modest lifestyle. The Respondent had shown symptoms of stress over many years and found it difficult to cope. Mr Beeley asked the Tribunal to deal as leniently as it felt able with the Respondent.

**Oral evidence of Dr Salamon**

26. Dr Salamon gave evidence in support of the Respondent whom he had known for many years. Dr Salamon referred the Tribunal to his letter of reference.
27. In all his dealings with the Respondent, the Respondent had been a responsible and reliable solicitor who had acted as a family solicitor for Dr Salamon and his father. The Respondent had given Dr Salamon a lot of sound advice over the years.
28. The Respondent was a generous, very hard working person who had provided a service to his profession over many years. He had worked hard and given a very personal service to his clients.

**Oral evidence of Ms Miles**

29. Ms Miles, who was a solicitor and the daughter of Mr Beeley, gave evidence in support of the Respondent. She had known the Respondent all her life and he had instilled a love of the law in her and was part of the reason she had become a solicitor.
30. Ms Miles had been shocked to hear of what had occurred. She had undertaken work experience in the Respondent's firm and had seen him in practice and had seen the hours of work he put in for his clients.
31. There had been a blurring of the lines on the part of the Respondent between Mr T as his friend and Mr T as his client.
32. Ms Miles worked in a small practice with a sole practitioner and understood the problems of sole practitioners. It saddened her that the Respondent could not have come to someone sooner to discuss his problems.

**The findings of the Tribunal**

33. The Respondent had admitted the allegations and the Tribunal found them to have been substantiated. This was a case in which dishonesty had been found and admitted. It was a sad case. The testimonials including the oral evidence in support of the Respondent spoke very highly of him. The public were however entitled to have confidence when appointing a solicitor as an Attorney that he would act properly and honestly. This was one of the bedrocks of the profession. The Tribunal was mindful of

the judgment of the Court of Appeal in the case of Bolton v Law Society [1994] 1 WLR 512 in which it was said:

“a profession’s most valuable asset is its collective reputation and the confidence which that inspires....it often happens that a solicitor appearing before the Tribunal can adduce a wealth of glowing tributes from his professional brethren. He can often show that for him and his family the consequences of striking off or suspension would be little short of tragic. Often he will say, convincingly, that he has learned his lesson and will not offend again..... the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.”

34. The Tribunal had considered carefully the submissions of the Respondent and the oral and written testimonials on his behalf. The Respondent had however on his own admission pursued a course of dishonest conduct over some considerable period of time. The Tribunal had a duty to maintain public confidence in the profession. In all the circumstances it was right that the Respondent be Struck Off the Roll of Solicitors and that he pay the Applicant’s agreed costs.
35. The Tribunal Ordered that the respondent, Timothy John Chapman previously of Skipton, North Yorkshire, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,407.90

Dated this 7<sup>th</sup> day of April 2008  
On behalf of the Tribunal

W M Hartley  
Chairman