

IN THE MATTER OF WILLIAM GEORGE HICKS, IAN DEREK HUDSON and
RICHARD GRAHAM GOULDSBOROUGH, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Mrs H Baucher
Lady Bonham Carter

Date of Hearing: 2nd July 2007

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Margaret Eleanor Bromley of TLT Solicitors, One Redcliff Street, Bristol, BS1 6TP on 11th October 2005 that William George Hicks of 8-10 Piccadilly, Bradford, BD1 3LS and Ian Derek Hudson of Stirling House, 139 Netheroyd Hill Road, Huddersfield, HD2 2LX and Richard Graham Gouldsborough of Fenix House, New Kirkgate, Shipley, BD18 3QY might be required to answer the allegations contained in the statement which accompanied the application and that such Orders might be made as the Tribunal should think right.

The allegations were:

1. That the Respondents had failed to comply with the Solicitors Accounts Rules 1998 in that they:
 - (i) transferred money from client to office account in respect of the firm's costs without sending a bill to the clients contrary to Rule 19 and 22;

- (ii) failed to retain monies due to be recouped by the Legal Services Commission (LSC) in client bank account pending recoupment contrary to Rule 21(2).
2. The allegations against Richard Gouldsbrough alone were that he had been guilty of conduct unbecoming a solicitor in that he had:
- (i) failed to act in his lender clients' best interests;
 - (ii) failed to comply with the instructions of his lender clients;
 - (iii) acted for the seller, the buyer and the lender in breach of Practice Rule 6;
 - (iv) took money, namely rental income of £2,750, which he knew, or ought to have known, he was not entitled to.

[NOTE: the solicitors Accounts Rules breaches were alleged against Mr Gouldsbrough only in respect of the period when he was a partner with the other two Respondents. Mr Gouldsbrough ceased to be a partner on 26th October 2002.]

The evidence before the Tribunal included the admissions of the Respondents save that Mr Gouldsbrough denied allegation 2(iv). He did not dispute the facts but did dispute that his action amounted to conduct unbecoming a solicitor.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Margaret Eleanor Bromley appeared as the Applicant. Mr Hicks and Mr Hudson were represented by Peter Harland Cadman, solicitor and partner in the firm of Russell-Cooke of 8 Bedford Row, London, WC1R 4BX and Mr Gouldsbrough was represented by David Barton, solicitor advocate of 5 Romney Place, Maidstone, Kent, ME15 6LE.

At the conclusion of the hearing the Tribunal made the following Orders:

The Tribunal Orders that the Respondent William George Hicks of 8-10 Piccadilly, Bradford, BD1 3LS solicitor, be reprimanded and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,716.

The Tribunal Orders that the Respondent Ian Derek Hudson of Stirling House, 139 Netheroyd Hill Road, Huddersfield, HD2 2LX solicitor, be reprimanded and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,716.

The Tribunal Orders that the Respondent Richard Graham Gouldsbrough of Fenix House, New Kirkgate, Shipley, BD18 3QY, solicitor, do pay a fine of £7,500, such penalty to be forfeit to Her Majesty the Queen, and the Tribunal further Orders that he be reprimanded. The Tribunal further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £14,500.

The facts are set out in paragraphs 1 to 40 hereunder:

1. Mr Hicks, born in 1962, was admitted as a solicitor in 1995. Mr Hudson, born in 1956, was admitted as a solicitor in 1980. Mr Gouldsbrough, born in 1954 was admitted as a solicitor in 1978 the names of all of the Respondents remained on the Roll of Solicitors.
2. Mr Hicks and Mr Hudson had practised in partnership under the style of Couch and Hicks. Mr Gouldsbrough had practised in partnership under the style of Gouldsbrough. In January 1998 Couch and Hicks merged with Gouldsbrough. The merged firm was known as Gouldsbrough Hicks. In June 2000 the name of the firm was changed to William Hicks and Partners. Mr Gouldsbrough retired from the partnership and joined the firm of Atkinson & Firth as a consultant on 26th October 2002.
3. William Hicks and Partners practised at 8-10 Piccadilly, Bradford, BD1 3LS. They had other offices at Stirling House, 139 Netheroyd Hill Road, Huddersfield, HD2 2LX, and at 3 Carlton Street, Halifax HX1 2AL. Mr Gouldsbrough continued to practise at Fenix House New Kirkgate Shipley BD18 3QY, the office of Atkinson & Firth.
4. The Law Society intervened into the firm of William Hicks and Partners on 18th April 2006. Mr Hicks had been adjudicated bankrupt on 26th April 2006. His bankruptcy had been discharged. Mr Hudson had entered an IVA which had two years left to run.
5. An investigation of the books of account of William Hicks and Partners by an Investigation Officer of The Law Society (the IO) was commenced on 29th April 2003. A copy of the IO's Report dated 20th November 2003, was before the Tribunal.
6. An investigation of the books of account of Atkinson & Firth by an IO commenced on 21st November 2002. A copy of the IO's Report dated 28th November 2003, was before the Tribunal.

Breaches of the Solicitors Accounts Rules

7. Mr D was a probate clerk employed by William Hicks and Partners. In the course of his inspection the IO examined four probate files and noted that there were original bills of costs on the files.
8. Mr D had told the IO that he was unaware that bills or a written intimation of costs had to be delivered to the executors before the costs could be transferred. Mr D provided details of a number of files where he had transferred costs but had not delivered bills to the executors. The costs totalled £6,088.30. Subsequently Mr D delivered bills of costs to rectify the position
9. William Hicks and Partners acted in various personal injury matters where, after the firm received payment of damages but before the issue of costs had been resolved, bills of costs had been issued and the costs transferred from client to office bank account such payment having been met from clients' damages. The clients had not been told this would happen.

10. In the matter of Mr R in his personal injury claim. The claim was funded under a legal expenses insurance policy. A cheque for £2,600.00 had been received from the defendant's insurers in respect of general damages and paid into client bank account on 20th November 2002. A bill for £1,769.28 (inclusive of VAT and disbursements) had been raised on 3rd December 2001, prior to the insurance being put in place. The fee earner, Ms N, had agreed with the client that this invoice would be dealt with as part of the firm's fees at the conclusion of the case.
11. By two transfers from client to office bank account dated 28th February 2003 and 14th March 2003 a total of £2,079.28 was transferred from client to office bank account. Mr R had not been informed that the costs would be deducted from his damages. Ms N had sent a memo to cashiers dated 10th March 2003 saying she had not authorised the transfer of costs.
12. The firm acted for Mr S in a personal injury claim. On 17th May 2002 a cheque for £2,100.00 in respect of general damages had been received from the defendant's insurers and paid into client bank account. On 25th July 2002 costs of £1,500.00 plus VAT and disbursements were billed and £2,100.00 was transferred from client to office bank account. No bill or other written intimation of costs was sent to Mr S. On 30th August 2002, £2,750.00 was received from the office side and on 2nd September 2002, £2,100.00 was sent to Mr S.
13. William Hicks and Partners acted for a number of clients who were legally aided. In the course of acting for the clients the firm received substantial payments on account of profit costs and disbursements from the LSC.
14. The IO examined the files relating to four legal aid matters. In all of them the clients' claims had been settled and the damages and costs had been paid to the firm. In all cases a recoupment was to be made by the LSC.
15. On 31st January 2003 bills on the four matters totalling £22,269.94 were raised and money transferred from client to office bank account.
16. On 14th February 2003 further bills were raised on 2 matters and monies transferred from client to office bank account totalling £14,362.68. All of the transfers had been made before a recoupment by the LSC had been notified.
17. At the time that the transfers had been made the office overdraft stood at £847,322.82 on 31st January 2003 and £837,686.72 on 14th February. The agreed overdraft limit was £800,00.00. Mr Hicks told the IO that he authorised the transfers after discussions with members of staff. The money had not been transferred with the specific intention of reducing the firm's overdraft.
18. Mr Hicks had written a letter to The Law Society enclosing a letter written by the firm's cashier in which he set out his belief that under Rule 21(2)(c) the money to be recouped by the LSC belonged to the firm and could therefore be transferred to office account even though Rule 21(2)(b) expressly provided "A sum representing the payments made by the Board must be retained in the client account".

The allegations against Mr Gouldsbrough alone

Failing to act in clients' best interests.

19. Mr Gouldsbrough acted for Mr L who had been made bankrupt in 1981 and again in 1996. Mr Gouldsbrough knew of Mr L's bankruptcy because he had acted in respect of his successful discharge from bankruptcy in October 2001.
20. Mr Gouldsbrough acted for Mr L in respect of various property purchases and also for the lenders who granted mortgage advances to assist with the purchases. A number of the files reviewed by the IO contained a copy of the mortgage application in which Mr L declared that he had not been bankrupt and had not been convicted of a criminal offence. Examples of four such application forms completed by Mr L found on Mr Gouldsbrough's files were before the Tribunal.
21. Mr Gouldsbrough told the IO that he never looked at this information, even though it was in the lender client's "solicitor's folder". Mr Gouldsbrough had to agree that Mr L had obtained mortgage advances by deception and Mr Gouldsbrough should have reported such matters to his lending clients.
22. Mr Gouldsbrough wrote to The Law Society on 26th January 2004 saying:

"If I had read the document and in particular if I had read the section dealing with his previous credit history then I would have reported the inconsistency to his lender and indeed his broker. I would regard this information as important"

He accepted that he had:

"albeit unintentionally and unwittingly... failed to act in the interests of lender client".

23. Mr Gouldsbrough acted for Mr L and the mortgage lender in a number of transactions. The IO's Report of 20th November 2003 set out details of nine transactions relating to Mr L and P Properties, two transactions relating to Mr H and one relating to Mr G.

Property: S Terrace

24. Mr Gouldsbrough acted for Mr O and Mr F in the purchase of S Terrace. Completion took place on 23rd May 2002, the purchase price was £71,500.00.
25. In May 2002 Mr Gouldsbrough acted on a re-mortgage of S Terrace to Future Mortgages Ltd.
26. Mr Gouldsbrough did not tell Future Mortgages that he had acted on the purchase only four days earlier, and did not notify the purchase price.

27. The lenders' instructions to Solicitors required the solicitor to notify them if the solicitor was acting or had acted in the past six months for the clients in connection with any other property transaction.
28. The following facts were established in connection with a number of transactions conducted by Mr Gouldsbrough on behalf of Mr L:
- (a) The properties had been purchased by Mr L from BP Trust plc, or a Mr Wn or a Mr W.
 - (b) Transfers were made from Mr L either to PP Ltd or Mr O'D, trading as PP.
 - (c) On the same dates the properties were transferred back from PP Ltd or Mr O'D to Mr L.
 - (d) Consideration for the transfers at (b) was substantially less than the consideration for the transfers at (c).
 - (e) Mr L's purchases at (c) were achieved with the assistance of mortgage advances from The Mortgage Business plc, Verso, Birmingham Midshires or GMAC Residential Mortgages and were based on the higher consideration and Mr Gouldsbrough acted both for Mr L and the mortgage lenders.
 - (f) The mortgage lenders were not told of Mr L's former ownership of the properties, the "back-to-back" nature of the transactions and were not told of the history of Mr L's ownership of the properties.
 - (g) It was in the purchases made with advances from The Mortgage Business plc that the application forms confirmed that Mr L had never been made bankrupt and that he had not been convicted.
 - (h) Mr Gouldsbrough told the first IO that he did contact by telephone the mortgage company in some cases and he spoke to girls in the office who did not seem concerned by the information he was giving. He said he had not, on other occasions, contacted the prospective lender because he did not think they would be interested.
 - (i) In the course of an interview with two other IO's Mr Gouldsbrough said that he would report matters to lenders if he thought they were relevant and that he had informed lenders of those facts which he considered to be relevant although accepting with hindsight that he could have reported more.

Disputed allegation 2(iv)

29. This allegation was that Mr Gouldsbrough took money, namely rental income of £2,750.00 which he knew or ought to have known he was not entitled to.
30. Mr Gouldsbrough was instructed by Mr P in the sale of a property at H Place. The property was subject to a charge in favour of Barclays Bank plc.

31. Prior to completion of the sale Mr P was made bankrupt and on 16th January 2002 Mr Bateman of KPMG was appointed as his trustee in bankruptcy.
32. Mr Gouldsbrough agreed with the solicitors acting for the buyers that their clients could have access to the property to carry out repairs.
33. It subsequently transpired that the buyer had gone into occupation of the property prior to completion. Mr Gouldsbrough negotiated an agreement under which the buyer paid rent.
34. On 15th August 2002 the buyer's solicitors paid the balance of the purchase monies plus £2,750.00 in respect of rent to William Hicks & Co.
35. Mr Gouldsbrough did not inform Barclays Bank plc or Mr P's trustee in bankruptcy that the firm had received rent of £2,750.00.
36. On 28th October Mr Gouldsbrough moved from William Hicks & Co to Atkinson & Firth. The sum of £60,456.25 representing the proceeds of sale, less the fees of the Trustee in Bankruptcy, plus the rent was transferred to the client account of Atkinson & Firth.
37. Completion took place on 19th December 2002.
38. On 17th January 2003 a sum of £1,280.65 was transferred from the client ledger to the Graham Gouldsbrough – Debt Collection account. This was in payment of an invoice raised whilst Mr Gouldsbrough was at William Hicks & Co.
39. On 7th May 2003 the sum of £1,280.66 was transferred from the client ledger to the Graham Gouldsbrough – Debt Collection account.
40. Mr Gouldsbrough had believed that Mr P had been entitled to the rent as income received after his bankruptcy. When it was pointed out to Mr Gouldsbrough that he was wrong in that belief Mr Gouldsbrough sent a cheque in respect of the rental money to Mr P's trustee in bankruptcy on 19th August 2003.

The Submissions of the Applicant - Re disputed allegation 2(iv)

41. Mr Gouldsbrough had acted for Mr P in connection with the sale of his property. Prior to exchange of contracts the client had been adjudicated bankrupt when the property became vested in Mr P's trustee in bankruptcy. The purchaser had entered into occupation and had agreed to pay £2,750.00 rent. That sum had been paid on completion of the sale to Mr Gouldsbrough. Mr Gouldsbrough had needed money to pay two outstanding invoices issued to Mr P. Mr P's instructions had been given to Mr Gouldsbrough while he was at William Hicks and Partners but he took the money when he was at Atkinson & Firth, where he was still instructed by the same client. There had been an agreement between Mr Gouldsbrough and the other Respondents that he would recover part of the capital owing to him in respect of William Hicks & Co by calling in invoices for work that he had done. Mr Gouldsbrough well knew that Mr P's property had become vested in Mr P's trustee in bankruptcy. Mr Gouldsbrough required the permission of the trustee in

bankruptcy to complete the sale of the property. The property had been charged to Barclays Bank and all of the proceeds of sale were to be paid to Barclays as the proceeds of sale were less than the sum required to redeem the charge.

42. The rental payment should have been paid either to the trustee in bankruptcy or to Barclays Bank, a question that should have been resolved between those two parties. The rental income was not available to Mr P and Mr Gouldsborough was not entitled to seek payment of Mr P's outstanding invoices from the rental payment. For an experienced solicitor to act as Mr Gouldsborough did, when he had full knowledge of the history of the bankruptcy of the client and the fact that the proceeds of sale would not fully discharge the debt to a secured creditor, to utilise a balance of monies in hand for his own purposes did amount on the part of Mr Gouldsborough to conduct unbecoming a solicitor.
43. Mr Gouldsborough relied on a letter written by Mr C who was not a solicitor and not qualified to offer advice as to what actions on the part of a solicitor did or did not amount to conduct unbecoming a solicitor.
44. The Applicant confirmed that the allegation was put that "Mr Gouldsborough ought to have known".

The Submissions of Mr Gouldsborough in connection with disputed allegations 2(iv)

45. The allegation had been put that Mr Gouldsborough "had known or ought to have known". The allegation had not been put as one where the Respondent had been reckless and there had been no suggestion of dishonesty. Mr Gouldsborough took no issue over the facts of the matter. He simply had taken the monies in error. To have used the money to pay delivered invoices was a satisfactory course for his client, Mr P, and also was part of an agreed arrangement with his former partners. When it was pointed out to Mr Gouldsborough that neither Mr P nor he was entitled to the rental money paid on completion he came to accept the position. In acting as he did he made a genuine and honest mistake. Mr Gouldsborough's action and his belief at the time did not support an allegation of conduct unbecoming a solicitor which necessarily involved a degree of culpability on the part of the solicitor against whom the allegation had been made.
46. The objections raised by the Applicant to the letter written by Mr C were noted. It was, of course, for the members of the Tribunal themselves to determine what conduct amounted to conduct unbecoming a solicitor and whether or not the Respondent's own action in connection with this particular allegation itself amounted to conduct unbecoming a solicitor. It was pointed out that Mr C had expressed the view that it was not unusual for experienced solicitors to get aspects of insolvency law wrong.
47. As soon as Mr Gouldsborough came to realise that he had misdirected himself he immediately put matters right by paying the monies back.

The Tribunal's decision on conduct unbefitting a solicitor in connection with allegation 2(iv)

48. The Tribunal accepted that Mr Gouldsbrough had made a genuine mistake that might well be regarded as surprising for a solicitor of Mr Gouldsbrough's experience and the Tribunal recognised that Mr Gouldsbrough's competence left something to be desired. However the Tribunal took the view that his action did not cross the threshold of misconduct that was so serious as to amount to conduct unbefitting a solicitor. The Tribunal therefore found allegation 2(iv) not to have been substantiated.

The Applicant's Submissions in connection with the rest of the allegations

49. There had been mention of disputed facts concerning whether Mr Hicks had had discussions with members of staff about transfers of costs. Witnesses had not been called and it was the Applicant's view that it would not be proportionate to ask the Tribunal to resolve such disputes. It remained open for Mr Hicks to put forward his explanations as part of any mitigation he might wish to make. It was accepted that Mr Hicks did not admit the assertions made by a particular member of staff. Witness statements had been placed before the Tribunal but such evidence had been untested and the Tribunal would in due course give them appropriate weight.
50. Mr Gouldsbrough had, when acting in breach of Practice Rule 6, lost sight of his duty to his lender clients. The entire conveyancing process in England and Wales depended on the integrity of solicitors as did the ability of solicitors to act both for the lender and purchaser/borrower in a conveyancing transaction. The actions of Mr Gouldsbrough seriously undermined that process and the confidence that the public had in it.
51. It was recognised that Mr Gouldsbrough did not have a personal involvement in the breaches of the Solicitors Accounts Rules. He was, however, liable as a partner up to the date when he left the firm of William Hicks & Co.
52. The breaches of the Solicitors Accounts Rules were serious and there had been a failure to comply with particular Rules that had been put in place to safeguard public funds.

The Submissions of Mr Hicks and Mr Hudson

53. There had not been an allegation that Mr Hicks or Mr Hudson had been guilty of conduct unbefitting a solicitor. The allegations had been couched on the basis of strict liability under the Solicitors Accounts Rules and it was acknowledged that both were liable for non-compliance with the Rules in their position as partners.
54. The fact that the firm's office account was overdrawn to any particular extent was not the reason for the transfer of money to office account which had been the subject of the alleged breaches.
55. An accountant had visited the firm and had given advice. There had been scope for misunderstanding both in the form of the Rules and the advice given. The fact that

office account had been overdrawn at the material time was little more than a red herring.

56. Mr Hicks formerly had been in the Police Force and had been pensioned out of the Police Force following injury while arresting burglars. He had gone on to take a law degree and eventually to qualify as a solicitor. Mr Hicks had obtained a law degree and had qualified as a solicitor in 1995. He had been employed as a solicitor at the time where Mr Hudson was completing his law finals. When Mr Hicks had been made a partner in the firm in 1996 Mr Hudson had begun to work as a trainee. Mr Hudson had been made a partner in 1999. Following Mr Gouldsbrough's arrest in connection with allegations of fraud in a case where he became a prosecution witness in 1991 The Law Society had carried out an inspection of the firm and no issues arose.
57. Following another inspection in March 2001 the Investigator's Report led to a member of staff being severely reprimanded but no action had been taken against the partners. One member of staff had taken the Respondents to the Employment Tribunal.
58. The Respondents' firm had become a substantial practice having amalgamated with older practices that were going concerns.
59. The firm had employed a former senior audit employee at LSC (he had left William Hicks & Co with Mr Gouldsbrough in October of 2002). Following the second audit carried out by the LSC in 2001 the LSC asserted that the firm owed it some £80,000.00. Later the LSC had agreed that the proper figure was in fact £7,000.00.
60. Following the LSC 2004 audit all matters for the previous 15 years had been looked at. The LSC had not been able to find some files and papers. The LSC had noted that a number of firms had been taken over but if they could not render a final bill in particular cases then the LSC would recoup the interim payments made, a total of some £200,000.00. The LSC required to be paid £20,000.00 per month on the basis that it would not make any payments to the firm. As a result of this the firm collapsed and Mr Hicks and Mr Hudson became insolvent. The source of the firm's income had dried up, they received no payments for publicly funded work in either criminal or civil matters. They were not able to pay creditors and this had led to The Law Society's intervention into the practice. The Respondents had consented to the intervention.
61. It was noteworthy that no conduct matters had arisen as a result of the intervention.
62. It was thought that the Respondents' treatment at the hands of the LSC was to be a test case taken against the LSC. The proposed action was supported by the local Law Society.
63. Errors had been made by the probate clerk who had been supervised by Mr Gouldsbrough until he left the firm. Subsequently he was supervised by Mr Hicks. The probate clerk had left the firm by the date of The Law Society's inspection.

64. The interim bills in respect of which transfers had been made had been included in the final estate accounts. The paying parties had been made fully aware of them. There had in connection with this allegation been no suggestion that there had been any overcharging.
65. Mr Hicks and Mr Hudson had come to accept that the transfers made had been wrong despite advice that they had been given. In assessing Mr Hicks and Mr Hudson's culpability the Tribunal was invited to take into account the fact that they had a computerised system, the software of which had been approved by The Law Society and they had been following what they believed to be a reasonable system.
66. Mr Hicks and Mr Hudson had as a result of the events surrounding them lost their good names. They had suffered catastrophic financial losses. Mr Hudson had become a valued employee. Mr Hicks had come out of his bankruptcy but was not working. He was supported by his wife. Mr Hudson was endeavouring to rebuild his life and hoped to be able to continue to abide by the terms of his IVA.
67. The Law Society would make a claim for costs in a substantial figure.
68. There had been delays in bringing the matter before the Tribunal. In all of the circumstances the Tribunal was invited to divide the costs of and incidental to the application and enquiry between the three Respondents on allocating such proportions as it thought proper bearing in mind the delays in bringing the matter before the Tribunal.
69. In all of the circumstances the Tribunal was invited to impose reprimands upon Mr Hicks and Mr Hudson.

The Submissions of Mr Gouldsborough

70. Mr Gouldsborough was 52 years of age. He qualified as a solicitor in 1978 and had successfully practised in the law since then in partnership and as a sole principal and had experience in a range of legal work.
71. Encouraged by a representative of the Legal Services Commission (then the Legal Aid Board) having obtained a Legal Aid Franchise at an early date, Mr Gouldsborough's firm was told that due to change within the framework of public funding it should seek to grow and undertake a merger.
72. Mr Gouldsborough was introduced to Mr Hicks in the summer of 1997. He was a partner in a firm called Couch & Hicks with a criminal practice. The combined fee income of the two firms was potentially considerable, there were benefits of establishing a large firm and it meant that there would be security of income in the light of changes in Legal Aid funding. The merger went ahead in 1998.
73. Following advice better management controls were put in place and a chartered accountant was employed to prepare financial and cash flow information for the firm and for its bank. The work kept rolling into the firm but the cash flow diminished. Members of staff left in 1998 and 1999 to set up their own practices and the loss of

work and income that resulted had serious consequences for the financial position of the business.

74. The financial problems suffered by the firm had an adverse effect on Mr Gouldsbrough's health.
75. In late 1999 a required £100,000.00 could be achieved by the introduction of two new partners. In October 1999 two assistant solicitors became partners of the practice (one of them was Mr Hudson) each having a 10% equity share. At that point the practice was effectively controlled by three criminal practitioners.
76. Mr Hicks had in early November 1999 expressed the view that Mr Gouldsbrough had been involved in some impropriety and also expressed concern that the Legal Services Commission franchise could be affected. Mr Gouldsbrough was removed from the bank mandate, stripped of all management powers and votes on partnership matters. He remained an equity partner in the practice. He accepted liability for the breaches of the Accounts Rules in that capacity for the period of time when he remained a partner. In June 2000 Mr Gouldsbrough's wife, the practice manager had been dismissed.
77. In June 2001 a senior member of staff at LSC joined the practice as a compliance manager. By a majority vote the name of the firm was changed from Gouldsbrough Hicks to William Hicks & Partners. Mr Gouldsbrough had no say in the matter.
78. Mr Gouldsbrough went on holiday in April 2002, he did not wish to return to work. He went to see his GP and was referred to a consultant psychiatrist. He diagnosed depression. Mr Gouldsbrough was advised to get out of the firm. Had he left voluntarily he would have suffered a loss of half his capital. In 2002 Mr Gouldsbrough resolved to leave no matter what the financial costs were. He left the partnership in October 2002. The only way that he could be paid out was by taking work with him.
79. In his last twelve months at William & Hicks Mr Gouldsbrough did not undertake conveyancing. This was dealt with by assistants who handled work that had been recommended to Mr G. He was finding it difficult to cope with work generally and when asked to sign documents he did so whether or not he had considered the cases and matters fully. Any errors at the time and subsequently he would put down to ill health.
80. Mr L, who had previously been drawn to Mr Gouldsbrough, made an approach in 2001 asking Mr Gouldsbrough to assist in his discharge from bankruptcy. Mr L had explained that he had been bankrupt for several years and needed to apply to the Court. Mr Gouldsbrough dealt with the application and in 2001 Mr L was discharged.
81. Mr L then told Mr Gouldsbrough that he intended to buy some properties and asked if the firm would be willing to act on his behalf. Mr Gouldsbrough saw no difficulty. Mr L intended to buy properties in his own name and then transfer them into a company on accountant's advice. He explained that he renovated properties

and they were then transferred back into his name for the long term so that the gain in value went into the company rather than to him.

82. Mr Gouldsbrough's role was to act on Mr L's behalf in purchasing the properties from Mr L's limited company. Much of the work had been carried out by the conveyancing team. When it came to the point of applying for funds reports on title would be prepared by staff. Mr Gouldsbrough acknowledged that owing to his health and mental condition he did not check these thoroughly and that was why he failed to disclose to the lenders the fact that Mr L had previously been bankrupt. Mr Gouldsbrough had to acknowledge that he had not seen or read application forms for mortgages which had been included in the "solicitors' pack".
83. Mr Gouldsbrough had not been sent a client's mortgage application before despite his having been in practice for twenty years. The lenders would have carried out all relevant checks before agreeing to lend Mr L the money, including details of his bankruptcy. If Mr Gouldsbrough had seen Mr L's statement that he had not been bankrupt Mr Gouldsbrough would immediately have reported this to the lender.
84. Mr Gouldsbrough accepted professional responsibility for his errors.
85. Mr L's transactions continued because he was in the course of buying a portfolio at Atkinson & Firth when Mr Gouldsbrough moved there in 2002. Mr L had told Mr Gouldsbrough that he had acquired some land and buildings at Selby which he was converting. He said they had been bought in his company's name and he wished to convert them to "buy to let" in his own name. He had obtained mortgages from two lenders to do so. As he was the sole shareholder of the company and sole director Mr Gouldsbrough treated each matter as an associated transaction and did not consider that Rule 6 applied. He was criticised for this by the accountants when they came into the firm.
86. Mr Gouldsbrough had to accept that he had not acted in the best interest of the lenders by not disclosing to them Mr L's history.
87. When he left William Hicks Mr Gouldsbrough took his working files with him. He also took outstanding bills of costs and it was agreed when such costs were collected they would form part of Mr Gouldsbrough's capital.
88. Mr Gouldsbrough had known Mr P through business and on a personal basis for over 17 years. Mr P had been adjudicated bankrupt but before that he had put his property on the market. The property had been on the market for many months without any interest but a purchaser had been eventually found. The prospective purchaser offered to buy at a price less than the amount owing on the mortgage.
89. Mr Gouldsbrough had approached the Bank Mortgagee and asked them if they would be willing to release the property. The bank agreed to accept the proceeds of sale in settlement. As there was no equity in the property Mr P's Trustee in bankruptcy was not interested in the sale although the Trustee had to sign the transfer deed. It was understood by Mr Gouldsbrough that the Trustee would receive no money and that the Bank would receive less money than it was entitled to.

90. The purchaser moved in to the property before completion. Mr P felt that the purchaser should pay rent for that period, and he did. It was Mr Gouldsbrough's view at the time that this was income to which Mr P was entitled. That had been Mr Gouldsbrough's honestly held view because everything relating to the property had been effectively disowned by both the bank and the Trustee. The money was available to Mr P on completion and he owed fees to Mr Gouldsbrough for legal work in respect of which invoices had been properly rendered. Mr P instructed Mr Gouldsbrough to use the money in settlement which he did. Mr Gouldsbrough had not for one moment thought that he was taking money to which he was not entitled. Mr Gouldsbrough had come to recognise that he had been wrong and he repaid the money.
91. The period of time since the inspection and interviews by The Law Society officers had been enormously stressful for Mr Gouldsbrough. He accepted his professional shortcomings. Once the disciplinary proceedings had been concluded Mr Gouldsbrough would have fully emerged from what had been a very dark and difficult period of his life. Conditions had been placed on Mr Gouldsbrough's Practising Certificate and he had complied with them. Mr Gouldsbrough had the support of his wife and family and many other professional colleagues. The Tribunal was invited to give due weight to the written testimonials supporting Mr Gouldsbrough which attested to his competence and good character. He was an honest man. He had made mistakes and had admitted certain professional allegations against him.

The Findings of the Tribunal

92. The Tribunal found all of the allegations to have been substantiated save for allegation 2 (iv) which for the reasons set out above the Tribunal has already found not to have been substantiated.
93. With regard to Mr Gouldsbrough the Tribunal did consider that his failures to look after the interests of his institutional lending clients was a serious matter. The Tribunal accepted that his liability for the breaches of the Solicitors Accounts Rules was on the basis of his strict liability as a partner but only up to the date when he left the partnership in October 2002.
94. The Tribunal was told that The Law Society had placed a condition on Mr Gouldsbrough's Practising Certificate and it was the Tribunal's view that such condition was entirely appropriate.
95. The Tribunal concluded that it would be both appropriate and proportionate in order to demonstrate the seriousness with which it regarded Mr Gouldsbrough's failures to impose a fine upon him of £7,500.00.
96. The culpability of Mr Hicks and Mr Hudson for the Solicitors Accounts Rules breaches was properly reflected in each of their cases by the imposition of a reprimand.
97. The Tribunal considered the representations of the parties with regard to costs noting that in the case of those Respondents that were either bankrupt or subject to a IVA

they could not agree a figure without consultation with those responsible for their financial arrangements. However the Tribunal took note of the figure put forward by the Applicant and concluded that it would be right that Mr Gouldsbrough pay costs fixed in the sum of £14,500.00 and that Mr Hicks and Mr Hudson should each pay costs fixed in the sum of £8,716.00. In each case the costs were inclusive and reflected, like the sanctions imposed, the Tribunal's view of the level of culpability of each of the Respondents. In reaching its decision the Tribunal had taken into account all of the mitigating circumstances, the admissions that had been made and the fact that the matters alleged had been hanging over the Respondents' heads for a length of time.

DATED this 21st day of September 2007
on behalf of the Tribunal

A H Isaacs
Chairman