

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF JOLYON CHARLES BLAND, solicitor (The First Respondent)  
and ROBIN ARTHUR BLAND, solicitor (The Second Respondent)

Upon the application of Mr Andrew John Bullock  
on behalf of the Solicitors Regulation Authority

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Mr J C Chesterton (in the chair)  
Mrs J Martineau  
Mrs L McMahon-Hathway

Date of Hearing: 14th July 2010

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**FINDINGS & DECISION**

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**Appearances**

Mr Andrew John Bullock, Barrister, of The Solicitors Regulation Authority, 8 Dorner Place, Leamington Spa, Warwickshire, CV32 5AE for the Applicant.

Mr George Marriott, Solicitor, of Russell Jones & Walker, 50-51 Chancery Lane, London, WC2A 1HL for the Respondents.

The application was dated 9<sup>th</sup> December 2009.

**Allegations**

1. The Respondents failed to ensure compliance with the Solicitors Accounts Rules 1998 by the partners and employees of Bland & Co in breach of the Solicitors Accounts Rules 1998 Rule 6.

2. The Respondents failed to replace money improperly withdrawn from the client account of Bland & Co promptly upon discovery of the withdrawals in breach of Solicitors Accounts Rules 1998 Rule 7(1).
3. The Respondents improperly withdrew money held for clients from the client account of Bland & Co in breach of the Solicitors Accounts Rules 1998 Rule 22(1).
4. The Respondents withdrew amounts of money in relation to particular clients of Bland & Co from the general client account of that firm which exceeded the money held on behalf of that client in that general client account in breach of the Solicitors Accounts Rules 1998 Rule 22(5).
5. The Respondents failed to keep accounting records properly written up for the purposes of the Solicitors Accounts Rules 1998 Rule 32(1).

Both Respondents admitted the allegations.

### **Factual Background**

1. The First Respondent, born in 1976, was admitted as a solicitor on 15<sup>th</sup> October 2001 and his name remained on the Roll of Solicitors.
2. The Second Respondent, born in 1931, was admitted as a solicitor on 1<sup>st</sup> July 1954 and his name remained on the Roll of Solicitors. He did not have a current practising certificate.
3. At all material times the Respondents carried on in practice together in partnership under the style of Bland & Co from premises at 29 King Street, Luton, Bedfordshire, LU1 2DW.
4. An Investigating Officer ("IO") of the Solicitors Regulation Authority ("SRA") began an inspection of the books and accounts of Bland & Co and a Report dated 20<sup>th</sup> March 2009 was produced.
5. The inspection showed that a client ledger described as "Maintenance Ledger 2008" was maintained and used to record receipts and payments made through client account and transfers from client account to office account which were not allocated to the ledger accounts for specific clients. The IO checked the total liabilities of Bland & Co to its clients as at 28<sup>th</sup> January 2009 with the cash available on the client bank accounts and found a minimum cash shortage of £33,968.13. This had resulted from overpayments to clients, costs transfers that could not be allocated to clients, direct debit payments incorrectly debited by the bank, and an incorrect transfer from client to office account. Further, the inspection also revealed the existence of debit balances on some client ledger accounts.
6. The Respondents were informed of the existence of a cash shortage on the client bank accounts maintained by Bland & Co during the inspection and agreed its minimum extent with the IO.

7. Subsequently on a date between 2<sup>nd</sup> November 2009 and 10<sup>th</sup> November 2009 the Respondents caused their practice accountant to review their list of client balances as at 2<sup>nd</sup> November 2009 together with the relevant client ledger accounts and client and office account bank statements and thereby ascertained that the actual cash shortage on the client bank accounts (as at 2<sup>nd</sup> November 2009) was in fact £40,467.50.
8. The cash shortage identified by the IO was not replaced in full until 27<sup>th</sup> November 2009; albeit that in the period between 28<sup>th</sup> February 2009 and 27<sup>th</sup> November 2009 the sum of £6,477.94 was received by way of part replacement of that shortage.

The Tribunal reviewed all the documents submitted by the Applicant which included:

- (i) Rule 5 Statement together with all enclosures;
- (ii) Schedule of Costs;

The Tribunal reviewed all the documents submitted by the Respondents which included:

- (i) A number of references relating to Mr Jolyon Charles Bland.

### **Witnesses**

No witnesses gave oral evidence.

### **Findings as to Fact and Law**

9. The Tribunal found all the allegations were proved, indeed they were admitted by both Respondents.

### **Mitigation**

10. Mr Marriott on behalf of the Respondents provided the Tribunal with a history of their professional careers. The shortfall of £33,968.13 had been replaced and the only amount now outstanding was £4,574. 70 which was due to a double posting error. Both Respondents were declared bankrupt in March 2010 and had therefore been unable to replace that shortfall but it would be replaced by the Assigned Risks Pool.
11. The Second Respondent had been concerned about his pension and in an attempt to try and put money away for his retirement, he sold his freehold building from which he practised and ploughed the proceeds into a caravan park which resulted in him losing all his money. The practice was then moved to the Second Respondent's home. The First Respondent, who was the Second Respondent's son, went into partnership with his father and they moved offices taking over the lease of a practice in Luton town centre. Unfortunately the practice ran into financial difficulties and in 2009 the Respondents were told to file for bankruptcy. They could not raise the Court fees to do so and had to wait for a creditor to start bankruptcy proceedings.
12. Both Respondents recognised that they would become bankrupt and with this in mind, they worked seven days a week to do whatever was required to keep the practice afloat and to protect their clients. They did not draw any money from the practice and

most of the clients were taken on by another firm. The First Respondent, with the permission of the Authority was able to continue working at the firm which took on their clients, although conditions had been placed on his practising certificate in relation to accounting procedures. The Tribunal was provided with details of his income. He had a two year old child and a partner and it was likely that they would rent a property or move into Council accommodation in the near future. The Second Respondent received a state pension. From the pension the First Respondent was paying £65 per month for storage charges for client files. Any deeds and Wills were being returned to clients where possible so that the files could be shredded. No loss had been suffered by clients.

13. Mr Marriott submitted that the Tribunal could order no penalty given the manner in which the Respondents had acted to protect their clients and the reputation of the profession. The Tribunal was also referred to a number of references which had been handed in. The Second Respondent had no practising certificate and did not intend to practise again in the future.

### **Costs Application**

14. The Applicant requested an Order for his costs in the sum of £2,843.36. Mr Marriott on behalf of the Respondents did not challenge or resist those costs but referred the Tribunal to the case of D'Souza v The Law Society [2009] EWHC 2193 (Admin) in relation to the Respondents' ability to pay those costs.

### **Previous disciplinary sanctions before the Tribunal**

15. None.

### **Sanctions and Reasons**

16. The Tribunal had considered carefully the submissions of the parties and all the documents provided including the references. This case was serious as a significant sum of client money was exposed to risk by reason of accounting deficiencies and impending bankruptcy. The Applicant did however volunteer that it was not the worst case of its type. However, there had been regulatory breaches in relation to the accounts of the practice. It was important for solicitors to comply with the Solicitors Accounts Rules both to protect client funds, and to allow the Authority to carry out its regulatory function. Mr Marriott had addressed the Tribunal with some passion regarding the steps that these solicitors had taken to protect their client's interests and this enabled the Tribunal to take the view that a financial penalty was appropriate.
17. The sanction the Tribunal would have imposed was a fine of £5,000 each as a measure of the seriousness of the situation. The Tribunal then considered the case of D'Souza v The Law Society having relied upon Mr Marriott's submissions regarding the Respondent's means and the Tribunal found that there were exceptional financial circumstances which should reduce the figure for the fine to £1,000.

### **Decision as to Costs**

18. In relation to the question of costs, the Tribunal Ordered that each Respondent should pay half the amount of costs in the sum of £1,421.68 each.
19. The Tribunal did consider the case of Merrick v the Law Society [2007] EWHC 2997 (Admin) in relation to the Second Respondent. However, the Tribunal distinguished the case of the Second Respondent from that case. The Tribunal was not depriving the Second Respondent of his ability to earn a living and accordingly was of the view that he should pay his share of the costs in full.
20. However, having taken into account D'Souza v The Law Society and the financial circumstances of both Respondents, the Tribunal Ordered that the Order for costs was not to be enforced without leave of the Tribunal.

### **Orders**

21. The Tribunal Ordered that the Respondent, Jolyon Charles Bland of 110 Putteridge Road, Luton, Bedfordshire, LU2 8HQ , solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,421.68.
22. The Tribunal Ordered that the Respondent, Robin Arthur Bland of 29 Mixes Hill Road, Luton, Bedfordshire, LU2 7TX , solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,421.68.
23. Such costs not to be enforced without leave of the Tribunal.

Dated this 20<sup>th</sup> day of October 2010  
On behalf of the Tribunal

J C Chesterton  
Chairman