

IN THE MATTER OF BRUCE WILLIAM HARGREAVES, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. R.B. Bamford (in the Chair)

Mrs. E. Stanley

Mr. R.P.L. McMurtrie

Date of Hearing: 21st March 1995

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Gerald Malcolm Lynch, solicitor of 16 Warrior Square, Southend-on-Sea, Essex on 21st November 1994 that an Order be made by the Tribunal directing that as from a date to be specified in such Order no solicitor should, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Bruce William Hargreaves of Tetbury, Gloucestershire who was or had been a clerk to a solicitor, or that such other Order might be made as the Tribunal should think right.

It was subsequently notified to the Tribunal that the respondent's address had changed to Nailsworth, Gloucestershire.

The allegation was that the respondent had been convicted of a criminal offence which disclosed such dishonesty that in the opinion of the Law Society it would be undesirable that he should be employed by a solicitor in connection with his or her practice.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 21st March 1995 when Gerald Malcolm Lynch, solicitor and partner in the firm of Messrs.

Drysdales & Janes of 16 Warrior Square, Southend-on-Sea, Essex appeared for the applicant and the respondent appeared in person.

The evidence before the Tribunal included the agreed facts. The respondent resisted the application that an Order be made pursuant to Section 43 of the Solicitors' Act 1974.

At the conclusion of the hearing the Tribunal did however ORDER that as from 21st March 1995 no solicitor should, except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Bruce William Hargreaves of , Tetbury, Gloucestershire C18 (subsequently notified to be Nailsworth, Gloucestershire) a person who was or had been a clerk to a solicitor.

In his opening the applicant explained that his statement in support of the application contained certain errors. With the agreement of the respondent and consent of the Tribunal both errors were amended. The statement of facts set out hereunder reflects those amendments.

The facts are set out in paragraphs 1 to 4 hereunder.

1. The respondent, who was not a solicitor, had been employed in the practice of R. T. Bate & Co. of Tetbury, Rodney Thompson of Hamstead in London and Longrigg Sansbury Harris of 37 Gay Street, Bath.
2. On 22nd March 1994 at Bristol Crown Court the respondent was convicted upon indictment on five counts of obtaining property by deception. The respondent had vigorously defended himself. He had been acquitted of other counts in the indictment. He was fined a total of £500.00 and ordered to pay £950.00 in costs.
3. The allegations had arisen out of the fact that the respondent had written out cheques in respect of his business to a value of £360.00 knowing that they would not be met. Accepting that the Tribunal would not go behind the conviction, the respondent explained that cheques paid to him had not been honoured and that was how his difficulty had arisen.
4. The Adjudication & Appeals Committee of the Solicitors Complaints Bureau (the Bureau) resolved on 5th October 1994 that application should be made to the Tribunal for an Order pursuant to Section 43(2) of the Solicitors' Act 1974.

The submissions of the applicant

5. The respondent had been convicted of criminal offences involving dishonesty. It was appropriate that the public should be protected by the provisions of an Order made pursuant to Section 43.

The submissions of the respondent

6. Following the amendment of errors contained in the applicant's statement, the matters before the Tribunal were very much less serious than they had earlier appeared.
7. The respondent's conviction had been a great blow to his personal life. It had cost him his marriage following the pressures of maintaining a failing business and being brought and convicted before a Crown Court. The respondent had also suffered greatly in financial terms.
8. The respondent wished to work within the legal profession again. He was not qualified and it was the only work that he knew. He accepted that the Order sought would control his employment within the solicitors' profession and was not a bar, however he believed that he would have great difficulty in finding appropriate employment and considered that the fact that he was subject to a Section 43 Order would make finding employment even more difficult.

The Tribunal FOUND the allegation to have been substantiated.

The Tribunal accepted that the offences of which the respondent had been convicted related to cheques which had not been met in sums which, if they had not been paid out of a business account, would have been covered by a banker's card and the problem would not have arisen. The Tribunal accepted, as the respondent had to accept, that he had been convicted of five criminal offences involving dishonesty and in those circumstances it was right that the Tribunal should make the Order sought.

It was clear that the respondent had been particularly unfortunate and the Tribunal considered that the finding of dishonesty against him had to be the lowest end of the scale. The Tribunal took the view that if the respondent were to explain his circumstances fully to a future employer both as to the circumstances and nature of his conviction and the fact that a Section 43 Order was in place, a reputable and well-run firm of solicitors confident of its internal procedures and level of supervision should not be deterred from employing the respondent if he were to apply for a position to undertake work in an area in which he was experienced. The Tribunal hoped that that would be the case. It would not be right if the Order made by the Tribunal were to operate as a bar to the respondent's future employment and general rehabilitation.

Having considered the matter very carefully, the Tribunal made the Order sought. However, in view of the amendments made to the statement of the applicant and the fact that the respondent had already paid a high price for what he had done no further financial penalty was considered by the Tribunal to be desirable. The Tribunal did not make an Order for costs.

DATED this 24th day of April 1995
on behalf of the Tribunal



R.B. Bamford
Chairman



