

IN THE MATTER OF DAVID GASS, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.H. Isaacs (in the Chair)
Mr. K.I.B. Yeaman
Mr. G. Saunders

Date Of Hearing: 23rd 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 Carlton Maurice Edwards of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex on 3rd January 1995 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 David Gass of , Llantairfechan, Gwynedd LL33 a person who was or had been a clerk to a solicitor, or that such other Order might be made as the Tribunal should think right.

The allegation was that the respondent, having been a clerk to a solicitor but not being a solicitor, had in the opinion of the Law Society occasioned or been a party to, with or without the connivance of the solicitor to whom he was or had been a clerk, an act or default in relation to that solicitor's practice which involved conduct on his part of such a nature that in the opinion of the Law Society it would be undesirable for him to 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 23rd March 1995 when Carlton Maurice Edwards, solicitor and partner in the firm of Messrs. . Marsh Ferriman & Cheale of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex, appeared for the applicant and Richard Jones, solicitor and partner in the firm of Messrs. Gamlins Storrar Cowdry of 31/33 Russell Road, Rhyl, Clwyd LL18 3DB appeared for the respondent.

At the conclusion of the hearing the Tribunal ORDERED that as from 23rd 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 David Gass of Llanltairfechan, Gwynedd L33 a person who was or had been a clerk to a solicitor and the Tribunal further Ordered him to pay the costs of and incidental to the application and enquiry, fixed in the sum of £582.03 inclusive.

The Tribunal further ruled that the Order should not be filed with the Law Society for a period of two months in view of the fact that the current employers of the respondent proposed to make an application to the Law Society for consent for the respondent to continue in such employment.

The facts are set out in paragraphs 1 to 3 hereunder.

1. The respondent, who was not a solicitor, was from September 1993 until February 1994 employed by Messrs. Percy Hughes & Roberts, solicitors at their office at 19 Hamilton Square, Birkenhead, Merseyside as a clerk in the firm's debt collection department.
2. During the course of his employment, the respondent misappropriated monies belonging to the firm in the total sum of some £613.00.
3. On 21st September 1994 the Adjudication & Appeals Committee of the Solicitors Complaints Bureau (the Bureau) resolved 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

4. The respondent had pocketed petty cash passed to him for payment of court fees. In the circumstances, it was right that the Order restricting his employment by solicitors should be made.
5. The applicant had been instructed not to oppose the application for a suspension of the filing of the Order to enable Messrs. Gamlins Storrar Cowdry to make application to the Law Society for permission to employ the respondent. It was the view of the applicant that the respondent was employed by a good firm and was properly and closely supervised.

The submissions of the respondent

6. At the time when the respondent took the money he was under extreme financial and domestic pressure.
7. After leaving Messrs. Percy Hughes & Roberts the respondent had gained employment with Messrs. Gamlins Storrar Cowdry at Rhyl, Clwyd, and was represented at the hearing by Mr. Richard Jones, one of the partners. After discussion with the firm's senior partner, it had been decided that the firm would stand by the respondent. They had known of the disciplinary proceedings only shortly before the hearing as the respondent had "buried his head in the sand".

8. That firm had arranged to make a loan to the respondent, which would be repaid following agreed deductions from his salary, to enable him to repay Messrs. Percy Hughes & Roberts.
9. The Tribunal was invited to consider assessing the applicant's cost in a smaller sum than that sought in view of the respondent's financial problems.

The Tribunal FOUND the allegation to have been substantiated and made the Order sought. The Tribunal noted that the firm employing the respondent provided proper and adequate supervision of staff and the monies taken from Messrs. Percy Hughes & Roberts were to be paid back to them. The Tribunal decided that the filing of the Order with the Law Society was to be suspended for a period of two months to enable the Law Society to consider an application to employ the respondent by Messrs. Gamlins Storrar Cowdry. They have ordered the respondent to pay the costs of and incidental to the application and enquiry, fixed in the sum of £582.03.

DATED this 1st day of May 1995

on behalf of the Tribunal



A.H. Isaacs
Chairman

Findings filed with the
Law Society on the 31st
day of May 1995

