

IN THE MATTER OF SCOTT MICHAEL CANAVAN, Solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A G Gibson (in the Chair)
Mr. D W Faull
Mr. K J Griffin

Date Of Hearing: 4th May 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 David Rowland Swift, solicitor of 19 Hamilton Square, Birkenhead on the 25th January 1995 that an Order be made by the Tribunal directing that, as from a date specified in the Order, no solicitor should, except with the permission of the Law Society for such period and subject to such conditions as the Law Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Scott Michael Canavan of Swindon Village, Cheltenham, a person who was or had been a clerk to a solicitor within the meaning of the Solicitors Act 1974, or that such Order might be made as the Tribunal should think right.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 4th May 1995 when David Rowland Swift solicitor and partner in the firm of Messrs Percy Hughes & Roberts of 19 Hamilton Square, Birkenhead appeared for the applicant and the respondent did not appear and was not represented.

The allegations were:-

- (1) 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 for him to be employed by a solicitor in connection with his practice.
- (2) that the respondent had been guilty of conduct 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 practice as a solicitor, in that he sought to reveal for reward details of the affairs of a former client of the solicitor by whom he had been employed.

The evidence before the Tribunal included notices to admit served on the respondent.

At the conclusion of the hearing the Tribunal ORDERED that as from the 4th May 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 Scott Michael Canavan of Swindon Village, Cheltenham 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 £1,185.63p inclusive.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The respondent who was not a solicitor was employed for a period between February and June 1994 by Howard Ogden in connection with his practice as a solicitor.
2. Prior to that employment, on the 8th February 1993, at the Cheltenham Magistrates Court the respondent had been convicted of an offence of burglary and theft and on the 10th January 1994 at Cheltenham Magistrates Court he had been convicted of an offence of theft.
3. During the period of the respondent's employment with Mr Ogden, Mr Ogden was instructed by Frederick West who had been alleged to have committed a number of murders.
4. The respondent attended interviews between the police officers investigating the case and Frederick West. The respondent made notes during the course of those interviews in a notebook which he retained after his employment had ceased.
5. On or about the 4th January 1995 the respondent contrary to his duties to his former employer and his former client entered discussions with newspapers for the sale of his notes and recollections.

The submissions of the applicant

6. The applicant was instructed that the respondent was 21 years of age and resided in Cheltenham and was not employed at the time of the hearing. He had been employed by Mr Ogden, a sole principal in Cheltenham as a solicitor's clerk at an annual salary of £5,200. His duties were those which might have been expected of a clerk in a solicitor's criminal practice. A short time after his employment commenced his employer had been instructed in a high profile case. Many interviews of the client by

the police had taken place and the respondent had attended some of them. There had been much public interest in the particular case and many newspaper articles had been written. The respondent had tried to sell a story supported by notes which he had taken during the conduct of the police interviews.

7. It was apparent that the respondent had already been convicted of criminal offences prior to his employment by Mr Ogden.
8. In the submission of the applicant the criminal convictions would have been sufficient for the Tribunal to make an Order pursuant to Section 43 of the Solicitors Act 1974 but his behaviour when he tried to sell his story to a newspaper was in clear breach of a solicitor's duty of confidentiality and in breach of the clerk's duty of confidentiality to his employer it was right that his future employment by solicitors should be controlled
9. An Order had been made by the High Court upon application by Gloucester Council (representing Frederick West's children) and by Mr Ogden himself that the respondent should be prevented from making the disclosures to newspapers which he had sought to make.
10. The respondent had not responded to any letter seeking explanation of his actions.

The Tribunal FOUND the allegations to have been substantiated.

The solicitor's clerk has a duty to maintain the confidentiality of that solicitor's clients and indeed has a further duty to his solicitor employer. Any breach of those duties was reprehensible. It was right that the respondent's future employment by solicitors should be controlled by the Law Society and, indeed, the Tribunal had serious doubts as to whether he should ever be permitted to be so employed.

DATED this 31st day of July 1995
on behalf of the Tribunal

A G Gibson
Chairman



August 4th 95

