

IN THE MATTER OF GERALDINE ELIZABETH HART, Solicitor's Clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the Chair)
Mrs E Stanley
Mr G Saunders

Date Of Hearing: 14th June 1995

FINDINGS

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

Application was duly made on behalf of the Law Society by Carlton Maurice Edwards solicitor of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex, BN11 1SD on the 22nd March 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 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 Geraldine Elizabeth Hart of Billericay, Essex 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 had been convicted before Thames Magistrates' Court of three offences of theft relating to misappropriation of monies of clients of the solicitors by whom she was employed.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 14th June 1995 when Carlton Maurice Edwards solicitor and partner in the firm of Messrs Marsh Ferriman and Cheale of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex appeared for the applicant and the respondent appeared in person.

The evidence before the Tribunal included the admissions of the respondent. At the conclusion of the hearing the Tribunal ORDERED that as from the 14th June 1995 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 Geraldine Elizabeth Hart of Billelicay, Essex a person who was or had been a clerk to a solicitor. The Tribunal made no order for costs.

The facts are set out in paragraphs 1 to 4 hereunder:-

1. The respondent was not a solicitor and was employed as a conveyancing clerk with Messrs Edward Fail Bradshaw & Waterson (the solicitors) at their office at 3 Gladstone Place, Roman Road, London E3 between the 1st September 1989 and the 5th December 1991.
2. On the 14th April 1992 the respondent was convicted before Thames Magistrates Court of three offences of theft namely:-
 - (a) On or before the 5th December 1991 at 3 Gladstone Place, Roman Road, London E3 did steal cash belonging to the solicitors valued at £100 contrary to Section 1 of the Theft Act 1968
 - (b) On or before the 5th December 1991 at 3 Gladstone Place, Roman Road, London E3 did steal cash belonging to the solicitors valued at £450 contrary to Section 1 of the Theft Act 1968
 - (c) On or before the 5th December 1991 at 3 Gladstone Place, Roman Road, London E3 did steal cash belonging to the solicitors value at £267.63 contrary to Section 1 of the Theft Act 1968
3. The offences of theft related to misappropriation of monies of clients of the solicitors. The respondent was placed on probation for a period of two years in respect of each offence to run concurrently.
4. On the 15th February 1995 the Adjudication and Appeals Committee of the Solicitors Complaints 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

5. The respondent had been charged with criminal offences involving dishonesty whilst employed by the solicitors. It was right that her employment within the solicitors profession should be controlled.
6. The applicant understood that the respondent would complain about the delay in the matter being brought before the Tribunal. The applicant said that he had sympathy for her complaint. There appeared to have been delay within the Solicitors Complaints Bureau.

The submissions of the respondent

- 7 The respondent did not oppose the making of the order pursuant to Section 43 of the Solicitors Act 1974.
- 8 The respondent had worked within the Law for a period of some twenty years and had no blemish on her character until the offences which were before the Tribunal. She had paid back all money taken before the Court hearing.
- 9 The respondent had in the circumstances found it extremely difficult to find employment and had only been able to secure temporary secretarial work. She had been rejected for jobs because of her conviction.
10. It had taken some three and a half years to bring the matter before the Tribunal and in the view of the respondent that was disgraceful. In those circumstances she would resist an order for costs against her and, in any event, asked the Tribunal to bear in mind her own difficult financial circumstances.

The Tribunal FOUND the allegation to have been substantiated, indeed it was not contested.

Clearly it was right that a solicitor's clerk who had been convicted of offences of theft which had been carried out during her employment by solicitors should be regulated if she were again to seek employment within the solicitors profession.

The Tribunal were troubled by the delay in bringing the case. The respondent was convicted in April 1992 and the Tribunal was being asked to make an Order in June 1995. The Tribunal considered that the respondent had good reason to complain and accepted that it was unsatisfactory that these matters were resurrected over three years after the conviction and when she had long since served her sentence of probation. In the circumstances the Tribunal consider it wrong that she should be expected to pay the applicant's costs. The Tribunal made the appropriate Order pursuant to Section 43 of the Solicitors Act 1974, and made no order for costs.

DATED this 25th day of July 1995
on behalf of the Tribunal



A H Isaacs
Chairman



JULY 28th 95

