

IN THE MATTER OF JOHN RICHARD OWEN McCARTHY, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.C. Chesterton (in the Chair)
Mrs. E. Stanley
Mr. G. Saunders

Date Of Hearing: 20th June 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, solicitor of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex on 3rd April 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 John Richard Owen McCarthy of , Hedge End, Southampton, Hampshire a person who was or had been 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 upon his own confession been convicted of five offences of theft.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 20th June 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 the respondent did not appear and was not represented.

The evidence before the Tribunal included exhibit "JROMcC 1", a bundle of correspondence which included a letter addressed by the respondent to the applicant dated 23rd May 1995 in which he formally admitted the facts of the matter.

At the conclusion of the hearing the Tribunal ORDERED that as from 20th June 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 John Richard Owen McCarthy of Hedge End, Southampton, Hampshire a person who was or had been a clerk to a solicitor and the Tribunal further Ordered that he pay the costs of and incidental to the application and enquiry fixed in the sum of £508.40 inclusive.

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. Eric Robinson & Co., solicitors at their office at 18 West End Road, Bitterne, Southampton between 24th April 1983 and 18th November 1992.
2. On 6th August 1993, the respondent was upon his own confession convicted of five offences of theft and was sentenced to a total of 240 hours community service.
3. The offences of theft related to misappropriation of money belonging to Messrs. Eric Robinson & Co. The total loss to that firm was in the region of £18,000.00. The thefts in respect of which the respondent had been convicted were specimen charges and an additional twenty-nine matters were taken into consideration. It appeared that the respondent had used his employers' funds to make an unauthorised loan to a client when in reality the agreement was that client would then pass the money back to the respondent for his personal use. That had not, however, formed part of the criminal proceedings.
4. On 15th February 1995, the Adjudication & Appeals Committee of the Solicitors Complaints Bureau (the Bureau) resolved that application should be made to the Tribunal for an Order under Section 43(2) of the Solicitors' Act 1974.

The submission of the applicant

5. It was appropriate that an Order controlling the employment of the respondent within the solicitors' profession should be made. In response to the Chairman's comment as to the length of time taken by the Bureau to bring the matter before the Tribunal, the respondent accepted that there had been and apologised for the delay.

The Tribunal FOUND the allegation to have been substantiated, indeed it was not contested. It was right that an Order pursuant to Section 43 of the Solicitors' Act 1974 should be made in respect of the respondent and that he should pay the costs of and incidental to the application and enquiry in a fixed sum.

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

J.C. Chesterton
Chairman

