

IN THE MATTER OF  
JOHN SIMON BASKERVILLE CADWALLADER HOPTON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. J.R.C. Clitheroe (in the Chair)  
Mr. J.N. Barnecutt  
Dame S. Prendergast

Date Of Hearing: 13th July 1995

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## FINDINGS

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

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An application was duly made on behalf of the Solicitors Complaints Bureau by Geoffrey Williams, solicitor of 36 West Bute Street, Cardiff on 4th April 1995 that John Simon Baskerville Cadwallader Hopton, solicitor of \_\_\_\_\_, Aylesbury, Buckinghamshire HP18 \_\_\_\_\_ might be required to answer the allegation contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

The allegation was that the respondent had been guilty of conduct unbecoming a solicitor in that he had practised as a solicitor notwithstanding that there was no Practising Certificate in force in respect of such practice.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 13th July 1995 when Geoffrey Williams, solicitor and partner in the firm of Messrs. Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent did not appear and was not represented.

The statement made by the respondent dated 8th July 1995 was handed to the Tribunal (exhibit "JSBCH 2"). The respondent had written to the applicant acknowledging receipt of all documentation, conceding the allegation and stating his intention to mitigate only. The Tribunal accepted this document (exhibit "JSBCH 1") as evidence of notification of the hearing and as an admission to both the facts and charge.

At the conclusion of the hearing the Tribunal ORDERED that the respondent John Simon Baskerville Cadwallader Hopton, solicitor of \_\_\_\_\_, Aylesbury be STRUCK OFF the Roll of Solicitors and they further Ordered him to pay the costs of and incidental to the application and enquiry, fixed in the sum of £940.00 inclusive of VAT and disbursements.

The facts are set out in paragraphs 1 and 2 hereunder.

1. The respondent, born in 1934, was admitted a solicitor in 1966 and at all material times carried on practice as a solicitor as follows -
  - (a) Until March 1992 as an employed solicitor in the employment of Messrs. Davis & Co.;
  - (b) Between August 1992 and January 1993 as a self-employed solicitor;
  - (c) From January 1993 as an employed solicitor with Messrs. Sherringtons, solicitors of Top Floor, Premier House, 112 Station Road, Edgware.
2. The last Practising Certificate issued to the respondent expired on 31st October 1988. Since that date and notwithstanding the lack of a Practising Certificate the respondent had practised as a solicitor as aforesaid.

#### **The submissions of the applicant**

3. Although the applicant has cited the respondent's practising history since the expiry of his last Practising Certificate, namely 31st October 1988, it was arguable that until 1st January 1991 he would not have needed one. Messrs. Davis & Co. were the in-house solicitors of the First National Bank. However, since January 1991 when the amendments of the Solicitors' Act made by the Courts & Legal Services Act 1990 became effective, any solicitor whose name is on the Roll and who works for a firm of solicitors in connection with a provision of any legal services, needs a Practising Certificate. Thus, during the latter part of the respondent's employment with Messrs. Davis & Co. he would have needed a Practising Certificate, but he did not have one. After leaving Messrs. Davis & Co., and after a short period of unemployment the respondent then became a self-employed solicitor providing litigation services to a firm of accountants. During this time (inter alia) he appeared before various Masters in High Court proceedings as a solicitor when he did not hold a Practising Certificate.
4. Since he joined Messrs. Sherringtons in 1993 he has been engaged in the provision of legal services in the full knowledge that he is not entitled to do so.

5. In the bundle of documents supplied by the applicant it was clear that the respondent had been subjected to Section 12 for some time and had enquired about the lifting of those restrictions. It had been explained to him that conditions could only be lifted when an application was received to renew the certificate and, despite his suggestions that he would do so, no application appeared to have been made. The respondent was having some difficulty in obtaining the two references required and he also complained of the expense in obtaining a Practising Certificate when he had a limited amount of work nevertheless, as he was on the Roll of Solicitors, he had to have a Practising Certificate to undertake any legal work. The upshot was that the respondent had been uncertificated for some four and a half years. He had been engaged in private practice in one form or another almost continuously since then and he was carrying on in uncertificated practice even as the Tribunal were sitting to consider the matter. Without a Practising Certificate, the respondent was in effect an unqualified person acting as a solicitor and pursuant to Section 20 of the Solicitors Act 1974 (as amended) ran the risk of committing a criminal offence.

**Submissions of the respondent as appeared in his statement (JSBCH 2)**

6. The respondent submitted that the Tribunal should take particular cognisance of the way in which the matter came to the Society's attention.
7. The respondent also had difficulties in getting referees for the PCR 4 and was concerned at the expense. He did not practice in the conventional sense. He had no office or client account: it was totally impossible for him to get a good job at his age (he was sixty) and could only scrape along as best he could.

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

On the 7th February 1987 an Order was filed with the Law Society in relation to the following allegations against the respondent, namely that he had:-

- (a) been guilty of delay in dealing with the affairs of clients;
- (b) provided false or misleading information to clients regarding progress of their cases;
- (c) thereby been guilty of conduct unbefitting a solicitor.

On that occasion the Tribunal ordered the respondent to pay a penalty of £1,000.00 plus half of the costs.

The Tribunal viewed this case as a serious one. The applicant's bundle of correspondence showed that the respondent had been in communication with the Law Society for some considerable period of time about his uncertificated practice. Any competent solicitor, on having such failings pointed out to him, would take immediate steps to put the matter in hand but the respondent, having had ample opportunity to do so, allowed the matter to drift. The simple fact was that the respondent felt that he could not afford a Practising Certificate and could not find sufficient referees to apply for one. The respondent appeared to have set his face against becoming certificated and yet he continued in practice in defiance of the requirements. He did not attend the

hearing as he did not want to lose a day's uncertificated work. It was not without some difficulty that the Tribunal reached their decision, bearing in mind there had been no complaint about his conduct save the present complaint and the matters which brought him before the Tribunal in 1987 and bearing in mind his age and long service to the profession. Nevertheless he has had ample opportunity to put his house in order and had not done so, neither had he expressed any serious intention of remedying the situation. In all the circumstances the Tribunal felt that it was appropriate to order the ultimate sanction. The Tribunal Ordered that the name of John Simon Baskerville Cadwallader Hopton be struck off the Roll of solicitors and they further ordered that he do pay the costs of and incidental to the application and enquiry fixed in the sum of £904. inclusive.

DATED this 15th day of August 1995

on behalf of the Tribunal



J R C Clitheroe  
Chairman

Filed with the  
Law Society on the 23rd  
day of August 1995