

IN THE MATTER OF MARGARET WHITEHOUSE, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J R C Clitheroe (in the Chair)
Mr. A G Gibson
Mr. G Saunders

Date Of Hearing: 25th July 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 Roger Field solicitor of 31 Wolverhampton Street Dudley West Midlands on 2nd May 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 such a period and subject to such conditions as the Society might think fit to specify in the condition, employ or remunerate in connection with the practice as a solicitor Margaret Whitehouse of

Fairfield, Stockton-on-Tees a person who had been or was a clerk to a solicitor, or that such other Order may be made as the Tribunal should think right.

The allegation was that the respondent over a period of 3rd July 1992 to 14th July 1992 misappropriated funds held or received by the firm for and on behalf of their clients. In the course of such misappropriation the respondent committed acts or defaults which resulted in breaches of the Solicitors Accounts Rules 1986 and/or 1991.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 25th July 1995 when Roger Field solicitor and partner in the firm of Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands DY1 1EY appeared for the applicant and the respondent did not appear and was not represented. In a letter of 12th June

1995 addressed to the applicant she acknowledged receipt of the application together with supporting documents and admitted the facts.

At the conclusion of the hearing the Tribunal FOUND the allegations to have been substantiated. They made the Order under Section 43 as requested. The application was properly brought and the respondent should therefore pay for the applicants costs (the costs of the Investigation Accountant had not been applied for). The Tribunal would hope that the Law Society would consider the respondents circumstances in deciding whether or not to enforce the Order for costs.

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

1. The respondent who was not a solicitor was in the employ of Messrs Ian Boddy & Co. (hereinafter called "the Firm") solicitors of 15/19 Bedford Street, Middlesborough, Cleveland TS1 2LL, 115a High Street, Stockton-on-Tees, Cleveland TS18 1AA and 37 Tubwell Row, Darlington, Durham BL1 1PE.
2. The respondent was employed by the Firm in connection with their practice as solicitors for a period of 10 years before she resigned in August 1992. She was employed as a conveyancing secretary and was responsible, under the supervision of a partner, for dealing with those aspects of the professional business of clients of the firm which were given to her. Upon due notice to the Firm the Investigating Accountant of the Solicitors Complaints Bureau carried out an inspection of the Firm's books of account. The Accountant's Report of 11th May 1994 revealed a cash shortage of £3,177.61, £1,240.01 of which was due to misappropriation by the respondent.
3. During June 1993 a new book-keeper at the Firm noticed a payment dated 15th June 1992 for £258 having been charged to the client ledger account of a Mrs T. The payment was described as a guarantee premium. The paid cheque was obtained and it was found to have been made payable to the respondent. Further files were examined and unusual payments were investigated by obtaining the relevant paid cheques. At the date of the inspection, seven cheques varying in amount between £100 and £258 and totalling £1, 240.01 drawn on the client bank account had been examined. The cheques drawn during the period 3rd January 1992 to 14th July 1992 were all made payable to the respondent. The respondent admitted to Mr Boddy having misused clients funds from the middle of 1990 up till the time she left the Firm in 1992.
4. The cheques returned to date made payable to the respondent were signed by Mr Boddy. Mr Boddy said the respondent would have asked him to sign them when he was "on his way out" and he would have done so without checking further as to their use.

Submissions of the applicant

5. The respondent had admitted the misappropriation. She cited the very severe debt in which she found herself and her difficult personal circumstances. She also mentioned she was under severe pressure at work in dealing with the conveyancing files.
6. The question of the respondent's pressure of work was put to Mr Boddy who stated that her work-load was relatively modest in terms of conveyancing practice and at no time did she give any indication that she was anything but fully happy with her job.

Submissions of the respondent

7. In respondent's letter to the applicant of 7th July 1995 (MW1) she repeated that she was under considerable pressure at work. She referred to her husband's illness and the family's problem with debt. She expressed her sincere regret. Her financial circumstances were still dire.

DATED this 20th day of September 1995

on behalf of the Tribunal



J.R.C. Clitheroe
Chairman

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