

IN THE MATTER OF ANDREW JESSON, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the Chair)
Mr. A.H. Isaacs
Dame Simone Prendergast

Date Of Hearing: 4th January 1996

FINDINGS

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

An application was duly made on behalf of the Law Society by Geoffrey Williams solicitor of 36 West Bute Street, Cardiff on the 1st June 1995 that an Order be made 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 Andrew Jesson of Spalding, Lincolnshire, FE11 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 having been a clerk to a solicitor but not being a solicitor had in the opinion of the Law Society occasioned or been a party to without the connivance of the solicitor to whom he had been a clerk acts or defaults in relation to that solicitor's practice which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed by a solicitor in connection with his practice in that he forged the signatures of clients of his employers upon documents purporting to reflect the agreement of those clients to the said employers retaining commission earned in investment business.

The application was heard at the Courtroom, No.60, Carey Street, London, WC2 on the 4th January 1996 when Geoffrey Williams, solicitor and partner in the firm 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 evidence before the Tribunal included a letter addressed by the respondent to the Tribunal dated the 26th October 1995 acknowledging receipt of the proceedings, confirming he had no objection to the date fixed for the hearing and that he did not intend to appear.

At the conclusion of the hearing the Tribunal made the Order sought and further Ordered that the respondent pay the costs of and incidental to the application and enquiry fixed in the sum of £1,175.00 inclusive.

The facts are set out in paragraphs 1 to 4 hereunder.

1. The respondent who was not a solicitor was at the material times employed as a clerk by Messrs. Emsleys, solicitors at 35 Austhorpe Road, Crossgate, Leeds, LS15 8BA. The respondent was dismissed from his employment as a result of the matters leading to the application.
2. The respondent was employed by Messrs. Emsleys as a Financial Services Manager.
3. On the 11th March 1992 Mr. Robert Copeland of the Law Society Monitoring Unit visited Emsleys on a routine monitoring visit to check compliance with the provisions of the Financial Services Act and the relevant regulations. The firm was carrying out discrete investment business mainly involving the arrangement of life policies for conveyancing clients and, occasionally, the acquisition of single premium Insurance Bonds. All such discrete investment business was handled by the respondent.
4. In the course of his visit Mr. Copeland asked to see a sample of files. It became apparent to the respondent that Mr. Copeland was seeking to ascertain that the firm had the requisite permission from clients to retain commissions received in excess of £20 pursuant to Rule 10(1) Solicitors Practice Rules 1990. In the course of the Monitoring Unit Visit the respondent forged the signatures of five of the firm's clients on purported agreements to retain commission. Subsequently the respondent admitted having signed the said agreements himself without the knowledge or consent of the clients concerned.

The Submissions of the Applicant

5. The facts spoke for themselves. The forgery of clients' signatures was a most serious matter and the action had been carried out whilst a representative of the Law Society was upon the employers premises. An Order made pursuant to Section 43 was entirely justified in those circumstances.

The Submissions of the Respondent


6. In his letter of the 26th October 1995 the respondent said he did not wish or intend to be employed in any connection by a legal practice or by a solicitor at any time and did not oppose the Order being made.
7. He asked the Tribunal to take into account the remarks made by him in a letter addressed to the Solicitors Complaints Bureau by way of mitigation.

8. The respondent said that he had always carried out his duties in a professional and ethical manner and had given a professional and honest service to clients. There had been "grave errors" where neither the respondent nor the partners in the firm were absolutely clear concerning the interpretation of certain Rules and Guidelines.
9. It had become clear during discussions with the representatives of the Law Society's Monitoring Unit that a certain form was required to be completed by clients and retained on the relevant file. The respondent had not previously appreciated that fact. When a request was made for a sight of some sample files, the respondent panicked thinking that if the form was not present on the file then he and the firm would be in trouble. He said it was ironic that with hindsight he had come to believe that that would not have been the case at all and the Monitoring Unit would probably have pointed out the fact that the form was required in all future cases.
10. At the time the respondent was undergoing a traumatic divorce causing considerable stress, anxiety and emotional upheaval.
11. About then he had also been a victim of a mugging by three youths in Bradford when returning to his car after a night out at the cinema.
12. As a result of one moment's panic the respondent had lost his job, his self-esteem and his pride. He had been divorced and had lost his wife and children through no fault of his own.
13. In that letter the respondent had also apologised for delay in making a response owing to the recent death of his son in a road accident.
14. In his letter to the Tribunal of the 26th October 1995 the respondent said that he was hoping to emigrate with effect from the middle of 1996 to a country where he had relatives. He asked for sympathy in respect of costs as he had no finance or savings.

The Tribunal FOUND the allegation to have been substantiated, indeed it was not contested. Although in his own particular personal circumstances the Tribunal had considerable sympathy for the respondent, an Order made pursuant to Section 43 of the Solicitors Act 1974 was justified and an Order was made that the respondent should pay the costs of and incidental to the application and enquiry. In making such an Order the Tribunal was mindful of the view taken by the Law Society in connection with the enforcement of such an Order where a respondent was in serious financial straits.

DATED this 5th day of February 1996

on behalf of the Tribunal


A.G. Gibson
Chairman

