

IN THE MATTER OF CHRISTOPHER ROBERT HAMILTON, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.C. Chesterton (in the Chair)
Mr. J.R.C. Clitheroe
Dame Simone Prendergast

Date Of Hearing: 28th November 1995

FINDINGS

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

An application was duly made on the 22nd August 1995 by Roger Field solicitor of 31 Wolverhampton Street, Dudley, West Midlands, on behalf of the Law Society 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 Christopher Robert Hamilton (formerly Christopher Robert Hamilton-Sinclair) of Near Arundel, Sussex 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 Application was heard at the Courtroom, No.60 Carey Street, London, WC2 on the 28th November 1995 when Roger Field solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant. The respondent did not appear and was not represented. The applicant had received a letter from the respondent dated 6th September 1995 in which he acknowledged receipt of all the documents served upon him and further confirmed that he did not intend to challenge the proceedings.

At the conclusion of the hearing the Tribunal ORDERED that as from the 28th November 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 may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Christopher Robert Hamilton of Near Arundel, Sussex a person who is or was a clerk to a solicitor and the Tribunal further Ordered that he do pay the costs of and incidental to the application and enquiry fixed in the sum of £710 inclusive.

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. Bennett Oakley & Partners solicitors of 13 Mill Road, Burgess Hill, West Sussex (hereinafter called "the firm").
2. The respondent was employed by the firm in connection with their practice as solicitors between 1983 and 1994. He was responsible, under the supervision of a partner, for the conduct of professional business of clients of the firm and his duties related to probate matters.
3. On the 5th May 1995 at the Crown Court at Lewes the respondent was tried and convicted upon indictment of four counts of theft and after three matters of theft were taken into consideration he was sentenced to two years imprisonment on each count concurrent.
4. On the 7th June 1995 the Adjudication and Appeals Committee of the Solicitors Complaints Bureau appointed by the Council of the Law Society resolved that an application should be made to the Solicitors Disciplinary Tribunal for an Order under Section 43(2) of the Solicitors Act 1974 in respect of the respondent on the grounds that he, having been a clerk to a solicitor but not being a solicitor, had been convicted of a criminal offence which disclosed such dishonesty that in the opinion of the Law Society it would be undesirable that he should be employed by a solicitor in connection with his/her practice.

The Submissions of the Applicant

5. The background facts were these. In October 1991 one of the clients of the firm died. The principal of the firm was an executor and the respondent dealt with the estate. Under the terms of the will, the residue of the estate was to go to the deceased's daughter. The daughter beneficiary had however also died. The respondent's wife impersonated the deceased's daughter and in an arrangement with the respondent monies were paid out by the firm into a fictitious account opened by the respondent's wife. Those monies should have gone to the estate of the deceased beneficiary. A minimum amount of £118,000 was stolen in this way.
6. The sentencing remarks of the Judge were predictably harsh. He said that the respondent had breached the trust which the firm reposed in him in dealing with estates. The Judge stated that people held it particularly sacred that such matters

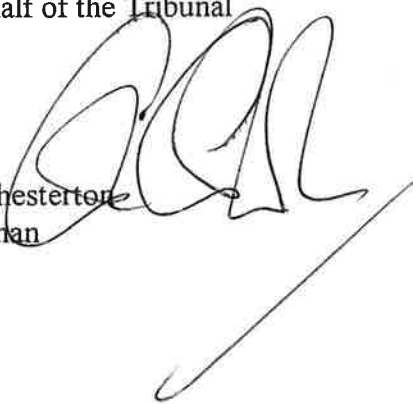
should be dealt with honestly and properly. The Judge considered that to be an aggravating feature when sentencing the respondent.

The Tribunal had no hesitation in making the Order sought and notwithstanding the respondent's bankruptcy they felt it was appropriate to award the applicant his costs fixed in the sum of £710.00 inclusive.

DATED this 11th day of January

on behalf of the Tribunal

J.C. Chesterton
Chairman



Final Order made
on 12th
day of January 1996

