

IN THE MATTER OF DAVID ALFONSO AIROLL, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the Chair)
Mr. D E Fordham
Lady Bonham Carter

Date Of Hearing: 17th October 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 Peter Harland Cadman solicitor of 2 Putney Hill, Putney, London, SW15 on the 24th October 1995 that an order be made by the Tribunal directing that as from a date specified in the order no solicitor should, except with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society should think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor David Alfonso Airoll of Ilford, Essex a person who was or had been a clerk to a solicitor within the meaning of the Solicitors Act 1974 or that such Order might be made as the Tribunal should think right.

The allegation was that in the opinion of the Law Society it would be undesirable for the respondent to be employed by a solicitor in connection with his practice as a solicitor in that he improperly withdrew £1,941.60 from the client account of Messrs. Hughes Watton in his own favour.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 17th October 1996 when Peter Harland Cadman solicitor and partner in the firm of Messrs.

Russell-Cooke Potter & Chapman of 2 Putney Hill, Putney, London, SW15 appeared for the applicant and the respondent did not appear and was not represented.

The matter had previously been before the Tribunal on the 9th July 1996 when it learned that there was good reason to believe that the respondent remained resident in the Ilford area and was aware of the proceedings. The Tribunal agreed that service might be effected by the insertion of an appropriate notice in a newspaper called the Ilford Recorder.

At the commencement of the hearing the Tribunal were satisfied that the applicant had made appropriate arrangements for the publication of the notice which indicated that the hearing had been fixed for the 17th October 1996.

The evidence before the Tribunal included the report of the Investigation Accountant of the Law Society.

At the conclusion of the hearing the Tribunal ORDERED that as from the 17th October 1996 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 practise as a solicitor David Alfonso Airoll of Ilford, Essex a person who was or had been a clerk to a solicitor and the Tribunal further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £1,315.87.

The facts are set out in paragraphs 1 to 6 hereunder.

1. The respondent who was not a solicitor had been employed as a solicitor's clerk and book keeper by Messrs. Hughes Watton solicitors of 69 Ecclestone Square, London, SW1. The respondent had been employed in that capacity by the firm and its predecessors since approximately August 1988. The employing firm had informed the Law Society that the respondent had left their employment following their discovery of an irregularity by the firm's reporting accountant. He left on the 3rd February 1995.
2. The Law Society's Investigation Accountant inspected the firm's books of account commencing on the 17th July 1995 and the aforementioned report which was before the Tribunal was dated the 10th August 1995.
3. The Investigation Accountant's report revealed that the respondent had acknowledged a shortfall of clients' funds totalling £2,291.60 and had agreed to make recompense to his employers. He authorised his employers to withhold £941.64 due to him as outstanding salary in part reduction of the debt and proposed to pay the balance by instalments. In the meantime the partners had replaced the shortage themselves.
4. The shortfall related to two matters. In the first the firm had acted for the respondent in connection with an abortive property transaction. On the 25th August 1994 the relevant account in the clients' ledger showed a credit balance of £2,000 when it was charged with a client bank account payment of £1,941.60 made payable to the respondent. The receipt of £2,000, although evidenced by a stamped client bank account paying in slip, was not supported by a corresponding lodgement in client bank account.

5. The firm had acted for a client in a debt recovery matter. On the 9th November 1994 and the 17th January 1995 respectively £150 and £200 in cash was received on behalf of the client and passed to the respondent to pay into client account. No trace of any lodgements in respect of those receipts was to be found in the firm's client bank account.
6. On the 30th August 1995 the Adjudication and Appeals Committee of the Solicitors Complaints Bureau resolved to make application to the Tribunal that an order be made in respect of the respondent pursuant to section 43 of the Solicitors Act 1974.

The Submissions of the Applicant

7. In the circumstances it was right that an order controlling the employment of the respondent within the solicitors' profession should be made.

The Tribunal FOUND that allegation to have been substantiated. It made the order sought and further ordered the respondent to pay costs in a fixed sum.

DATED this 11th day of November 1996

on behalf of the Tribunal



A H Isaacs
Chairman

