

IN THE MATTER OF DOROTHY KIRKPATRICK, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A Gaynor-Smith (in the Chair)
Mr. A H Isaacs
Mr. G Saunders

Date Of Hearing: 27th February 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 6AB on the 7th November 1995 that an order be made by the Tribunal directing that as from a date specified in such order no solicitor should except with the permission of the Law Society for such a period and subject to such conditions as the Law Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Mrs Dorothy Kirkpatrick of Fleckney, Leicestershire 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 the respondent had been guilty of conduct of such a nature that in the opinion of the Law Society it would be undesirable for her to be employed by a solicitor in connection with his or her practice as a solicitor namely that she had misappropriated clients' funds during the course of her employment by a solicitor.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 27th February 1996 when Peter Harland Cadman solicitor and partner in the firm of Messrs.

Russell-Cooke, Potter & Chapman of 2 Putney Hill, London SW15 6AB appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included evidence of service of the proceedings. Personal service having been achieved at her address, the enquiry agent reported that she was resident at that address. The respondent was currently the subject of a police investigation and she was bailed to that address.

At the conclusion of the hearing the Tribunal ORDERED that the respondent should be subject to an order made pursuant to Section 43 of the Solicitors Act 1974 effective from the 27th February 1996 and they further ordered that she should pay fixed costs in the sum of £516.08p.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The respondent, who was not a solicitor, was employed as a legal secretary and personal assistant by Michael Hill Partnership solicitors of Top Hat Terrace, 119 London Road, Leicester, LE2 0QT. The respondent had been employed in that capacity by that firm and its predecessors for approximately seventeen years.
2. On the 29th March 1995 the Investigation Accountant of the Solicitors Complaints Bureau commenced an inspection of the firm's accounts and his report, dated the 20th April 1995, was before the Tribunal. The report revealed that the respondent had acted as Mr Hill's personal assistant, particularly in relation to probate files. Mr Hill had dismissed the respondent on the 12th November 1993 following her admission that she had attempted fraudulently to divert moneys that were due to the firm. After further investigation it had become apparent that the respondent had also succeeded in stealing a considerable amount of money from the firm's clients. The matter had been reported to the police.
3. After comparing the firm's minimum liability to clients with cash available, a minimum cash shortage of £28,498.63p was identified. The shortage was caused solely by the misappropriation of clients' funds by the respondent. The respondent had in respect of three probate matters taken £13,744.39, £12,717.89 and £2,036.35p the total of which equalled the shortfall on the firm's client account. In two cases money deposited had been withdrawn by way of a cheque made payable to the respondent upon closure of the account. In the third case a National Savings Warrant had been sent to the respondent.
4. Those matters were the subject of a police investigation but the respondent had not been charged.
5. On the 30th August 1995 the Adjudication and Appeals Committee of the Solicitors Complaints Bureau resolved that application should be made to the Tribunal for an order pursuant to Section 43 (2) of the Solicitors Act 1974.

The submissions of the applicant

6. Taking account of the respondent's misappropriation of funds from clients of the firm by which she was employed, it was right that her future employment within the solicitors' profession should be controlled.

The Tribunal FOUND the allegation to have been substantiated. They made the order sought and further ordered the respondent to pay the costs of and incidental to the application and enquiry in a fixed sum.

DATED this 4th day of April 1996

on behalf of the Tribunal

Ashwin Gaynor-Smith

A Gaynor-Smith
Chairman

*Findings filed with the
Law Society on the 10th
day of April 19 96*