

IN THE MATTER OF ANDREW GORDON HAYWOOD, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. K.I.B. Yeaman (in the Chair)
Mr. D.W. Faull
Mr. M.C. Baughan

Date Of Hearing: 26th March 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 10th January 1996 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, Andrew Gordon Haywood of Whitestone, Nuneaton, CV11 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, with or without the connivance of the solicitor to whom he was or 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 Law Society it would be undesirable for him to be employed by a solicitor in connection with his practice, in that he had misappropriated funds belonging to clients of his employers and used those funds for his own purposes.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 26th March 1996 when Geoffrey Williams solicitor and partner in the firm of Messrs. Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent did not appear and was not represented. On the 23rd January 1996 Messrs. Glaziers solicitors of Birmingham had written to the Tribunal on behalf of the respondent. The salient points are set out below under the heading "The Submissions of the Respondent".

At the conclusion of the hearing the Tribunal ORDERED that as from the 26th March 1996 an order pursuant to Section 43 of the Solicitors Act 1974 should be made in respect of the respondent and further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £4,134.62 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, and until the 15th June 1995, employed as a conveyancing clerk by Messrs. Tustain Jones & Co. solicitors of Phoenix House, 11-15 Coventry Street, Nuneaton, Warwickshire.
2. Messrs. Tustain Jones & Co. discovered that the respondent had behaved improperly in relation to mortgage funds held in the firm's client account. The respondent was dismissed on the 15th June 1995 and his conduct reported on the 16th June to the Solicitors Complaints Bureau (the Bureau).
3. Accordingly and upon notice duly given an inspection of the firm's books of account was carried out by the Investigation Accountant of the Law Society. The Tribunal had before it a copy of the Investigation Accountant's report dated 31st October 1995.
4. The report revealed that whilst the respondent was on holiday the partners in the firm discovered that he had fraudulently obtained a second unsecured mortgage on the purchase of his own property and had failed to redeem a mortgage on the sale of a client's property. Following interview the respondent admitted that he had instigated improper withdrawals from client bank account from which he had personally benefited to a minimum of £109,554.10, having identified a minimum cash shortage of £109,554.10 on client bank account. That sum had been rectified in full by the Solicitors Indemnity Fund.

The Submissions of the Applicant

5. The respondent had misappropriated for his own use substantial sums of clients' monies and it was right that an order pursuant to section 43 of the Solicitors Act 1974 should be made in respect of the respondent.

The Submissions of the Respondent (contained in the before-mentioned letter from Messrs. Glaziers dated 23rd January 1996)

6. It was factually correct that the respondent had benefitted by a minimum of £109,554.10. However even though that sum of money had been misappropriated much of the benefit had not been personal to the respondent. He utilised a substantial proportion of that money in supporting financially a local football club and a further

substantial proportion had been used in small scale property speculation which in fact resulted in profits for other innocent third parties who had invested sums of money in the same speculations.

7. The respondent did not wish to minimise his criminal acts but wished the Tribunal to be aware that he had not simply stolen large amounts of cash and spent them on a high lifestyle. That was indeed far from the truth of the situation and would form part of the respondent's mitigation before the Crown Court when the criminal proceedings had been ultimately disposed of.

The Tribunal FOUND the allegation to have been substantiated. Clearly it was right that a solicitor's clerk who had behaved in this way should be subject to the control of the Law Society with regard to his future employment within the solicitors' profession. The Tribunal made the Order sought and further ordered the respondent to pay the costs of and incidental to the application and enquiry, to include the costs of the Law Society's Investigation Accountant, in a fixed sum.

DATED this 14th day of May 1996

on behalf of the Tribunal



K.I.B. Yeaman
Chairman

Findings filed with the
Law Society on the 21st
day of May 1996