

IN THE MATTER OF ERIC SAMWELL, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J R C Clitheroe (in the Chair)
Mr. K I B Yeaman
Mr. G Saunders

Date Of Hearing: 24th September 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 April 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 practise as a solicitor Eric Samwell of

Harlow, Essex 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 occasioned or been a party to with or without the connivance of the solicitor to whom he was clerk acts or defaults in relation to that solicitor's practice of such a nature that it would be undesirable for him to be employed by a solicitor in connection with his practice in that he created a false document, namely a purported grant of letters of administration and presented that document to a building society.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 24th September 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. He had indicated by letter that he did not intend to attend.

The evidence before the Tribunal included the admission of the respondent contained in a letter addressed to the applicant dated the 9th July 1996 (referred to hereinafter as the respondent's letter).

At the conclusion of the hearing the Tribunal ORDERED that as from the 24th September 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 Eric Samwell of Harlow ,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 £1,034 inclusive.

The facts are set out in paragraphs 1 and 2 hereunder.

1. The respondent who was not a solicitor was until about the 30th June 1992 employed as a clerk by Messrs. Cornish & Co., solicitors of Ilford, London. During the course of his employment the respondent represented Mr. P in seeking a Grant of Letters of Administration in the estate of a deceased person who had died on the 20th November 1990. The respondent created a false document purporting to be the Letters of Administration and produced that document to Cheltenham and Gloucester Building Society to close an account with that Society on the 26th June 1992. The sum of £46,130.78 was transferred to the client account of Messrs. Cornish & Co. The respondent had not made any misappropriation of those moneys and a part had been used properly to settle the fee of a planning consultant.
2. When the partners in the firm of Messrs. Cornish & Co. became aware that the purported Letters of Administration were not authentic they made the position known to all concerned parties and reported the matter to the Law Society. The applicant made no criticism of the respondent's employers.

The Submissions of the Applicant

3. It was believed that the respondent was 69 years of age and was unlikely again to seek employment within the legal profession. Why the respondent acted as he did could not be explained. He had admitted that he had forged a document but he had then used the document to secure monies which he had apparently handled entirely honestly.
4. The Tribunal was invited to make an Order relating to the respondent pursuant to section 43 of the Solicitors Act 1974.

The Submissions of the Respondent (contained in the respondent's letter)

5. The respondent did not oppose the application. He did not intend to obtain employment within the legal profession or to undertake any work connected with the law. The respondent had not been able to obtain any other employment because of his age. The respondent was in receipt of a state pension and a small private pension out of which he had to discharge mortgage repayments and the maintenance charges for his leasehold flat. He had only a very small equity in the flat.

The Tribunal FOUND the allegations to have been substantiated. The Tribunal made the Order sought and ordered the respondent to pay fixed costs. The respondent appeared to have no financial motive for taking the action which he did. He was clearly far from being a wealthy man and the Tribunal expressed the hope that the Law Society would take the respondent's unfortunate personal circumstances into account when seeking payment of costs.

DATED this 11th day of October 1996

on behalf of the Tribunal



J R C Clitheroe
Chairman

