

IN THE MATTER OF MARCIA ROSE SWABY, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. G B Marsh (in the Chair)

Mrs. E Stanley

Mr. G Saunders

Date Of Hearing: 3rd December 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 Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 29th July 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 Marcia Rose Swaby of London, SE11 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 had been convicted of a criminal offence which disclosed such dishonesty that in the opinion of the Law Society it would undesirable that she should be employed by a solicitor in connection with his or her practice.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 3rd December 1996 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 and the respondent did not appear and was not represented.

The evidence before the Tribunal included evidence as to due service of the proceedings upon the respondent.

At the conclusion of the hearing the Tribunal ORDERED that as from the 3rd December 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 practice as a solicitor Marcia Rose Swaby of London, SE11 a person who was or had been a clerk to a solicitor and the Tribunal further ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £864.00 inclusive.

The facts are set out in paragraphs 1 to 3 hereunder.

1. The respondent who was not a solicitor was employed by Messrs. Lewis Silkin solicitors of Windsor House, 50 Victoria Street, London, SW1H 0NW. She was employed by the firm in connection with their practice as solicitors from the 26th April 1993 until March 1994 as a secretary working under the supervision of a partner. In addition to her secretarial duties the respondent was authorised to handle cheques.
2. At the Crown Court at Southwark on the 30th June 1995 the respondent was upon her own confession convicted upon indictment of two counts of conspiracy to steal. On the 9th October 1995 she was sentenced to a probation order for two years on each count concurrent.
3. The events leading to the respondent being charged concerned two cheques which had been properly requisitioned by partners in the firm of Lewis Silkin in respect of which the respondent interfered with the proper issue. She altered records and the cheques were forged and used for her own benefit and the benefit of another. The sum involved was £35,000.

The Submissions of the Applicant

4. The dishonesty perpetrated by the respondent had been at the top end of the scale. It was appropriate in the circumstances that an order pursuant to section 43 of the Solicitors Act 1974 should be made in respect of the respondent. The respondent had stood trial with two co-defendants who were not employees of the firm of Lewis Silkin & Co. The respondent had been convicted upon indictment of conspiracy to steal on two counts. The Tribunal was invited to consider the sentencing remarks of His Honour Judge Mota Singh QC in the Crown Court at Southwark when he said of the respondent that she:

"was employed by a firm of solicitors, you were in a position of trust. You stole money from your solicitors, sums of money, substantial sums of money to the total value of £35,000 money which has been lost forever."

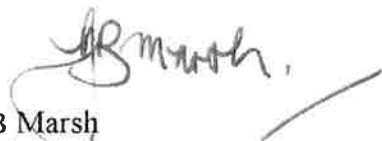
The Learned Judge accepted that it was a co-defendant who instigated the commission of the offence. He went onto explain that the respondent had escaped a custodial

sentence because there were young children involved who stood to be affected if she was sent to prison.

The Tribunal was satisfied that the respondent had been employed as clerk to a solicitor. The Tribunal FOUND the allegation to have been substantiated. The respondent had been guilty of the most serious dishonesty in connection with her employment by a firm of solicitors and it was right that her future employment within the solicitors' profession should be the subject of control. The Tribunal made the order sought and ordered the respondent to pay the costs of and incidental to the application and enquiry in a fixed sum.

DATED this 8th day of January 1997

on behalf of the Tribunal


G B Marsh
Chairman

Findings filed with the
... 13th
... 8 January 1997