

IN THE MATTER OF NICHOLAS NORMAN CLAYTON, Solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J C Chesterton (in the Chair)
Mr. J W Roome
Mr. K J Griffin

Date Of Hearing: 17th April 1997

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 16th October 1996 that an Order be made by the Tribunal directing that as from a date specified in the order no solicitor should except with permission from 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 Nicholas Norman Clayton of

Chesterfield, S40 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 convicted of a criminal offence which disclosed such dishonesty that in the opinion of the Law Society would be undesirable for him to be employed by a solicitor in connection with his practice.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 17th April 1997 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 evidence before the Tribunal included a certificate of conviction.

At the conclusion of the hearing the Tribunal ORDERED that as from the 17th April 1997 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 Nicholas Norman Clayton of Alfreton, Derbyshire (formerly of Chesterfield) 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 £599.78.

The facts are set out in paragraph 1 and 2 hereunder:-

1. The respondent who was not a solicitor had been employed as a Chief Cashier by Jones & Middleton solicitors of 24 Gluman Gate, Chesterfield. The respondent had been employed in that capacity by the firm and its predecessors since approximately 1973. On the 23rd September 1994 at the Crown Court at Derby the respondent was tried and upon his own confession convicted upon indictment of theft and was sentenced to twelve months imprisonment suspended for twelve months.
2. On the 19th June 1996 the Adjudication and Appeals Committee of the Solicitors Complaints Bureau resolved that an application be made to the Tribunal that an application be made to the Tribunal for an order pursuant to Section 43 (2) of the Solicitors Act 1974 in respect of the respondent.

The submissions of the applicant

3. The Tribunal was invited to take note of the transcript of the sentencing remarks of Mr Recorder Gorman Q.C. in the Crown Court at Derby, in which he pointed out that the respondent had been regarded as dependable and trustworthy and had been in a position of trust. The respondent was said to have "borrowed" £9,500 whereby the respondent exploited a faulty system of accounting to gratify some greed. He repaid that sum with interest. He went on to "borrow" further the sums increased and then, inevitably the defalcation was discovered by auditors. The respondent was given credit for having pleaded guilty and for having made substantial recompense. A twelve month custodial sentence was imposed upon the respondent, suspended for twelve months.

The Findings of the Tribunal

5. The Tribunal Found the allegation to have been substantiated. Clearly it was right that the future employment of the respondent within the solicitors' profession should be regulated and the Tribunal made the order sought further ordering the respondent to pay the applicant's costs in a fixed sum.

DATED this 27th day of June 1997

on behalf of the Tribunal

J C Chesterton
Chairman


