

IN THE MATTER OF WENDY HIRST, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J N Barnecutt (in the Chair)
Mrs. E Stanley
Mr. M C Baughan

Date Of Hearing: 8th May 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 on the 27th November 1996 that an order be made by the Tribunal directing that as from a date specified in the order no solicitor should except with the permission of 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 Wendy Hirst of Moorton, Leeds 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 practice as a solicitor, namely:

- (i) that she utilised clients' funds for her own purposes;
- (ii) that she misappropriated clients' funds.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 8th May 1997 when Peter Harland Cadman solicitor and partner in the firm of 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 Tribunal was satisfied as to service as affidavits as to service upon the respondent were before them.

At the conclusion of the hearing the Tribunal ORDERED that as from the 8th May 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 Wendy Hirst of , Moortown, Leeds 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 £955.10 inclusive.

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

1. The respondent, who was not a solicitor, was employed as a clerk by Rafiq & Co. solicitors of 291 Roundhay Road, Leeds. Her employment was terminated in October 1993. Upon due notice to Messrs. Rafiq & Co. the Investigation Accountant of the Law Society carried out an inspection of the firm's books of account. A copy of the Investigation Accountant's Report dated the 9th December 1994 was before the Tribunal.
2. Following the respondent's departure from the firm Mr C, a client, had complained that the firm had failed to account for a total of £6,000. The client had deposited £2,000 in cash with the respondent in June 1993 for which he had a signed receipt. He added that he had given the respondent a further £4,000 on a subsequent date. No evidence was seen to suggest that the funds had been lodged in client bank account. The matter had not been reported to the police.

The Submissions of the Applicant

3. The taking of clients' money spoke for itself. A total of £6,000 received by the respondent from a client had never reached client account. There had however been no loss to the client as the principal of the firm had replaced the missing funds.
4. In the circumstances it was right that a section 43 order should be made in respect of the respondent.
5. The respondent made no submissions

The Tribunal's Findings

The Tribunal FOUND the allegations to have been substantiated. In the circumstances it was right that the respondent's future employment within the solicitors' profession should be controlled. The Tribunal 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 15th day of July 1997

on behalf of the Tribunal



J N Barnecutt
Chairman

Findings filed with the
Law Society on the 23rd
day of July 1997