

IN THE MATTER OF TRACEY STARENCZAK, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the Chair)
Mr. J.C. Chesterton
Mrs. C. Pickering

Date Of Hearing: 27th 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 21st February 1997 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 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, Tracey Starenczak of
Kent, 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 with disclosed such dishonesty 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, namely -

- (a) 4 offences of theft
- (b) procuring the execution of a valuable security by deception
- (c) 2 instances of false accounting
- (d) making a false instrument

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 27th May 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 the admissions of the respondent (contained in the pre-trial review questionnaire returned to the Tribunal's Clerk and received on 24th March 1997)

At the conclusion of the hearing the Tribunal ORDERED that as from 27th 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 Tracey Starenczak of Maidstone, Kent 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 and application and enquiry, fixed in the sum of £815.07 inclusive.

The facts are set out in paragraphs 1 to 4 hereunder.

1. The respondent, who was not a solicitor, was employed as a cashier/book-keeper by Messrs. Smallpiece & Merriman, solicitors of Guildford, Surrey. The respondent had been employed by that firm since 1980 and had been appointed cashier/book-keeper in 1984.
2. The Law Society's Investigation Accountant inspected the firm's books of account and produced a Report dated 1st May 1996 which revealed a misuse of clients' funds in respect of a total amount of £177,231.93 - all attributable to the respondent.
3. On 15th April 1996 the respondent appeared at Guildford Crown Court where she pleaded guilty to the offences set out in the allegation and was sentenced to a total of thirty months imprisonment.
4. On 27th November 1996 the Compliance & Supervision Committee of the Office for the Supervision of Solicitors resolved to seek an Order pursuant to Section 43(2) of the Solicitors' Act 1974 in respect of the respondent.

The submissions of the applicant

5. The Tribunal's attention was drawn to the sentencing remarks made in the Guildford Crown Court. It had been owing to the ill-health of one of the partners in the employing firm that the respondent had been given a free rein over client account to include the use of client account cheque book. She had, amongst other things, been guilty of forgery.
6. The respondent made no submissions.

The Findings of the Tribunal

The Tribunal FOUND the allegation to have been substantiated. The respondent had been guilty of the most serious breach of the trust which her employers vested in her.

It was entirely right that the respondent's future employment within the solicitors' profession should be subject to the control of the Law Society. The Tribunal made the Order sought and further ordered the respondent to pay the costs of and incidental to the application and enquiry.

DATED this 1st day of July 1997

on behalf of the Tribunal

A.G. Gibson
Chairman



Enclosure filed with the
Law Society on the 10th
day of July 19