

IN THE MATTER OF ANDREW FULLER, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D.W. Faull (in the Chair)
Mrs. E. Stanley
Lady Maxwell-Hyslop

Date Of Hearing: 22nd July 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 Geoffrey Williams, solicitor of 36 West Bute Street, Cardiff on the 26th 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 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 Andrew Fuller of Tunbridge Wells, Kent TN11 1JL a person who is or was 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 in the opinion of the Law Society occasioned or been a party to, with or without the connivance of the solicitor to whom he was or had been a clerk, acts or defaults in relation to that solicitor's practice which involved conduct on his part of such a nature that in the opinion of the Law Society it would be undesirable for him to be employed by a solicitor in connection with his or her practice in that he misappropriated funds belonging to clients of his employers and made or caused to be made false and misleading accounting entries with a view to the concealment of the said misappropriations.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on the 22nd July 1997 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.

The evidence before the Tribunal included the Report of the Investigation Accountant dated 19th March 1996 and a letter from the respondent dated 1st October 1996.

At the conclusion of the hearing the Tribunal ORDERED that as from the 22nd day of July 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 Andrew Fuller of Tunbridge Wells, Kent TN1 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 £2,755.20.

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

1. Between 1989 and July 1995 the respondent, who was not a solicitor, was employed as a clerk in the probate and trust department of Messrs. Wedlake Saint, solicitors of 14 John Street, London SW1N 2EB.
2. Following a letter complaining about the respondent's conduct to the Solicitors Complaints Bureau, upon notice duly given to the partners, an inspection of the books of account of Messrs. Wedlake Saint was carried out by the Investigation Accountant of the Law Society. The Tribunal had before it a copy of the Investigation Accountant's Report which was dated 19th March 1996.
3. The Report revealed a minimum cash shortage on client account of £127,212.65 relating to six clients alone.
4. The minimum cash shortage was caused entirely by the improper withdrawal from client bank account, by the respondent, of funds which were subsequently paid into various bank and building society accounts held in the names of the respondent and/or his wife. Monies had been taken by the respondent, for example, where his employer firm had been instructed by the executor of an estate, where the firm acted for a client in connection with her tax affairs and investments generally and where the respondent dealt directly with a client, in particular with the management of her investments in connection with a discretionary trust.

The submissions of the applicant

5. The firm employing the respondent was not criticised. They had been diligent in reporting the matter and dealing with the same with their insurers. They themselves had been unable to replace the cash shortage.
6. It was understood that a police enquiry had been set in train, but the applicant was unable to report the stage reached therein.
7. It was clear that the respondent had been guilty of very serious dishonesty over a long period of time and that the control effected by an Order made pursuant to Section 43

of the Solicitors Act 1974 was more than justified. It was right that the respondent should pay the costs of the investigation and enquiry, to include the costs of the Investigation Accountant of the Law Society.

The submissions of the respondent (contained in his before-mentioned letter of 1st October 1996 - addressed to the Office for the Supervision of Solicitors)

8. "Further to your letters of the 12th and 19th September and our telephone conversation -

I resigned. I was not dismissed. A copy of the partners' letter accepting my resignation was filed with Mr. M. Aitken at Wansbroughs Willey Hargrave (who is acting for the Solicitors' Indemnity Fund) some months ago. I can supply you with a copy if required.

All files in my possession were returned to Wedlake Saint via the police last year. None were destroyed by me.

I alone am trustee of the F.M. H settlement. National Westminster Bank's records should confirm this.

Mrs. Fuller was not involved in any way in my misconduct (which I accept took place). She had no knowledge that any funds were misappropriated.

This information has been provided so that you have correct details and to ensure consistency between the information held by you and by the police.

Yours faithfully


Signed: Andrew Fuller"

The Findings of the Tribunal

The Tribunal FOUND the allegation to have been substantiated. The respondent had abused the trust placed in him by his employers. He had been guilty of a cynical and calculated theft of clients' funds which would not be tolerated. It was right that his future employment within the solicitors' profession should be controlled by the Law Society. The Tribunal made the Order sought and further ordered the respondent to pay the applicant's costs, to include the costs of the Investigation Accountant of the Law Society.

DATED this 8th day of September 1997

on behalf of the Tribunal


D.W. Faull
Chairman

*Findings filed with the
Law Society on the 17th
day of September 1997*