

IN THE MATTER OF ANDREW CHRISTOPHER HEAP, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J N Barnecutt (in the Chair)
Mrs. E Stanley
Dame S Pendergast

Date Of Hearing: 11th September 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 Roger Field solicitor of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands on the 7th April 1997 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 the Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Andrew Christopher Heap of Taunton, Somerset, TA4 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 occasioned such acts or defaults and had been guilty of such conduct as to justify an Order being made in respect of him in the terms of Section 43(2) of the Solicitors Act 1974.

The evidence before the Tribunal included a letter addressed by the respondent to the applicant acknowledging receipt of the applicant's letter dated 17th April 1997 and confirming that no matters in the applicant's statement were disputed and all of the facts were admitted.

At the conclusion of the hearing the Tribunal ORDERED that as from the 11th September 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 employ or remunerate in connection with the practice of a solicitor Andrew Christopher Heap of Taunton, Somerset 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 £742.00 together with the costs of the Investigation Accountant of the Law Society of £964.00.

The facts are set out in paragraphs 1 to 6 hereunder:-

1. The respondent, who was not a solicitor, was employed by Lorimer Longhurst & Lees solicitors of Devonshire House, 89 Regent Street, Cambridge. He was employed by that firm in connection with their practice from January 1990 until May 1996. He was responsible under the supervision of a partner for the conduct of the professional business of clients of the firm and his duties related to litigation matters.
2. During his employment the respondent had misappropriated and/or misapplied funds held or received by the firm for and on behalf of their clients. In the course of such misappropriation or misapplication of client's funds the respondent committed acts which resulted in breaches of the Solicitors Accounts Rules 1991.
3. Following notice duly given to the firm, the Investigation Accountant of the Office for the Supervision of Solicitors carried out an inspection of the firm's book of account. The Investigation Accountant's Report dated the 25th October 1996 was before the Tribunal.
4. A cash shortage of £372.36p was revealed in the report. The firm had acted for a client in connection with litigation and the respondent had dealt with the matter. On the 29th December 1995 at the instigation of the respondent the relevant account in the clients' ledger was charged with a cash payment of £150.00 noted as "part refund to client." A further cash payment of "222.36p was charged to the account on the 19th February 1996 and noted as "cash to client". The client had not received those funds and the respondent admitted their misappropriation.
5. A cash shortage of £410.00 had been rectified prior to the Investigation Accountant's inspection. The shortage had arisen because the firm had acted for a client in connection with her matrimonial affairs and the respondent had dealt with the matter. The respondent had acknowledged receipt of cash in the sum of £410.00 from the client paid on account of costs. The relevant account in the client's ledger and client bank account showed no record of that sum having been received. The respondent admitted misappropriating funds.
6. On the 6th November 1996 the relevant Committee of the Office for the Supervision of Solicitors resolved that an application be made to the Tribunal for an Order pursuant to Section 43(1)(b) of the Solicitors Act 1974.

The submissions of the applicant

7. The respondent had stolen clients' funds. It was right that the respondent's future employment within the solicitors' profession should be subject to control.

The submissions of the respondent

8. The Tribunal had before it copies of letters written by the respondent clearly admitting those matters alleged against him. He indicated that the monies taken had been used to purchase drugs. He had apologised and had expressed himself to be greatly ashamed. He expressed his intention to repay the money.
9. The respondent had made a written admission to the applicant.

The Findings of the Tribunal

The Tribunal FOUND the allegation to have been substantiated. The respondent must be given credit for his admission. Nevertheless it was right that a clerk who had wrongly taken clients' money should not be permitted to be employed within the solicitors' profession without being subject to control. The Tribunal made the Order sought and Ordered the respondent to pay the applicant's costs and the costs of the Investigation Accountant of the Law Society.

DATED this 3rd day of October 1997

on behalf of the Tribunal



J N Barnecutt
Chairman

*Findings filed with the
Law Society on the 7th
day of October 1997*