

IN THE MATTER OF ANDREA PATRICIA JEANETTE FRASER, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the Chair)
Mrs. E Stanley
Mrs. C Pickering

Date Of Hearing: 25th 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 Pal Singh Sanghera of Refuge House, 148-150 The Parade, Leamington Spa, Warwickshire, solicitor, on the 28th April 1997 that an order be made by the Tribunal under section 43(2) of the Solicitors Act 1974 in relation to Andrea Patricia Jeanette Fraser of London, W10 a person who was or had been a clerk to a solicitor.

The allegation was that twenty three cheques and telegraphic transfers were charged at the respondent's instigation to four unconnected client accounts leaving a minimum cash shortage on that account of £23,508 which sum was used by the respondent for her own purposes.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 25th September 1997 when Pal Singh Sanghera solicitor and partner in the firm of Messrs. Ian Burr & Co., of Refuge House, 148-150 The Parade, Leamington Spa, Warwickshire 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 correspondence addressed to her former employers, to the applicant and to the Tribunal.

At the conclusion of the hearing the Tribunal ORDERED that as from the 25th 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 in the permission, employ or remunerate in connection with the practice as a solicitor Andrea Patricia Jeanette Fraser of

London, SW10 (formerly of

London, W10), 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 £1,102.15 inclusive.

The facts are set out in paragraphs 1 to 7 hereunder.

1. The respondent, who was not a solicitor, was at all material times a clerk employed or otherwise associated with Messrs. Moss & Coleman, solicitors of 170-180 High Street, Hornchurch, Essex as a litigation executive. She was summarily dismissed on the 29th April 1996.
2. On the afternoon of Friday 26th April 1996 the cashier to Messrs. Moss & Coleman became aware of facsimile communications to the respondent from the managing agents of the flat where the respondent lived. In particular the cashier noted that the name of the landlord quoted in the communication was the same as the recipient of several payments made out of client bank account in a client matter being handled by the respondent. The respondent was not in the office that day but the partners in the firm carried out an investigation into the client matters handled by the respondent. They identified other payments which they suspected had been for her personal benefit.
3. The respondent was interviewed upon her return to the office on the 29th April 1996 when she admitted theft not only from the firm's client bank account but also from the firm's office bank account. She signed an admission indicating that she had authorised drawings on three client accounts amounting in total to £22,792.
4. The firm reported the matter to the Office for the Supervision of Solicitors (then the Solicitors Complaints Bureau) and an inspection by the Law Society's Investigation Accountant of the firm's books of account was arranged. A comparison of the total cash held on client bank account as at the 30th June 1996 revealed a minimum cash shortage of £23,508. The firm rectified the shortage.
5. Between the 15th March 1994 and the 20th April 1996 twenty three cheques and telegraphic transfers varying in amount from £376.41 to £3,250 and totalling £24,265.84 were charged, apparently at the respondent's instigation, to four unconnected client ledger accounts. There was partial rectification on the 3rd May 1996 by office to client bank account transfer of £757.84 leaving the minimum cash shortage of £23,508. In all cases the improper withdrawals were utilised by the respondent for her personal purposes. In addition the respondent admitted having made unsubstantiated claims for travelling expenses.

6. The respondent made partial payment to the firm in respect of the unauthorised withdrawals in the sum of £3,000. No proposal for further repayment had been made.
7. On the 22nd January 1997 the Compliance and Supervision 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 of the Solicitors Act 1974.

The Submissions of the Applicant

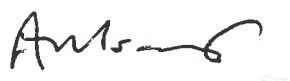
8. The facts of the matter spoke for themselves. The respondent had been convicted of a criminal offence and a custodial sentence had been imposed upon her. However it was understood that she was at the time of the hearing receiving treatment for her poor mental health.
9. In the circumstances it was right that the respondent should not be employed within the solicitors' profession without being subject to the control of the Law Society.

The Findings of the Tribunal

The Tribunal FOUND the allegation to have been substantiated. The Tribunal agreed with the applicant that it was right that an order controlling the future employment of the respondent within the solicitors' profession should be made and she was further ordered to pay the costs of the incidental to the application and enquiry in a fixed sum.

DATED this 10th day of November 1997

on behalf of the Tribunal



A H Isaacs
Chairman

*Findings filed with the
Law Society on the 12th
day of November 1997*