

**CASE NO.**

**VOLUME**

**PAGE**

**Cite as: Homburg v. S. Marque Inc., 1997 NSCA 195**

RICHARD HOMBURG, FRANK  
MATHESON, RON NELSON,  
OCEAN REALTY CONSULTANTS  
LIMITED, STAT ENTERPRISES  
LIMITED, NEWEDGE TECHNOLOGIES  
INCORPORATED and DOVER CAPITAL  
CORPORATION

S-MARQUE INC.

(Respondent)

- and -

(Appellants)

C.A. No. 141800

Halifax, N.S.

CROMWELL, J.A.  
(orally)

APPEAL HEARD:

December 2, 1997

JUDGMENT DELIVERED:

December 2, 1997

WRITTEN RELEASE OF ORAL:

December 4, 1997

SUBJECT:

**Barristers and Solicitors - Conflict of Interest and Duty - Removal of Counsel**

SUMMARY:

The solicitor was counsel of record for the plaintiff (respondent on the appeal) in an action in the Supreme Court in Bankruptcy. He was then appointed Registrar in Bankruptcy and the defendants (appellants on the appeal) brought an application before the Supreme Court to have him removed as counsel of record. The Chambers judge dismissed the application.

ISSUE:

May the Registrar in Bankruptcy serve as counsel in a matter before the Supreme Court in Bankruptcy?

RESULT:

The Court of Appeal allowed the appeal and declared that the solicitor could not act as Registrar in Bankruptcy and as counsel in matters before the Supreme Court in Bankruptcy. The Court had jurisdiction to intervene where the reasonable perception of the integrity of the administration of justice is adversely affected by counsel continuing to act. The Registrar has both judicial and administrative responsibilities in relation to matters before the Supreme Court in

Bankruptcy and a reasonable, fair minded and informed person would inevitably conclude that the Registrar, when acting as counsel in a matter before the Court, stood in a position of special influence.

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