

IN THE MATTER OF ROBERT NAPIER STOBER, former solicitor

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr. A. H. Isaacs (in the chair)
Mr. R. Nicholas
Mr. D. Gilbertson

Date of Hearing: 17th September 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Mark Barnett, solicitor employed by The Law Society at The Solicitors Regulation Authority, 8 Dorner Place, Leamington Spa, CV32 5AE on 30th May 2008 that Robert Napier Stober of Little London, Tadley, Hampshire, a former solicitor, be required the allegations contained in the statement which accompanied this application and that such Order be made as the Tribunal should think fit.

The allegation against the Respondent was that on 17th May 2007 at Winchester Crown Court he was convicted upon indictment of four counts of conspiracy to defraud and sentenced (on 19th July 2007) to six months imprisonment concurrent on each count.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 17th September 2008 when Mark Barnett appeared as the Applicant and the Respondent did not attend and was not represented.

At the conclusion of the hearing the Tribunal made the following Order:

The Tribunal Ordered that the Respondent, Robert Napier Stober, a former solicitor of Little London, Tadley, Hampshire, not be restored to the Roll without the consent of the Tribunal and they further Ordered that he do pay the costs of and incidental to the application and enquiry fixed in the sum of £884.85.

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

1. The Respondent was born on 9th December 1938. He was admitted as a solicitor on 30th July 1965. On 24th January 2005 his practising certificate (for the year 2003/04) was terminated and on 20th June 2005 his name was removed from the roll of solicitors. It has not been restored.
2. At all times material to this application the Respondent practised as a partner in the firm of Clarke & Son, whose head office was at Manor House, Winchester Road, Basingstoke, Hampshire, RG21 8UG.
3. The Applicant sought a direction under section 47(2)(g) of the Solicitors Act 1974 prohibiting the restoration of the Respondent's name to the roll of solicitors except by order of the Tribunal.
4. Alternatively, the Applicant requested the Tribunal to may make such order as it thinks right.
5. The Applicant relied upon the following in support of the application:
 - (a) Certificate of conviction
 - (b) Schedule of indictments, pleas and verdicts
 - (c) Sentencing remarks of HHJ Hooton
6. The schedule and sentencing remarks showed that the four counts of which the Defendant had been found guilty were committed whilst he was a practising solicitor and when acting as such (for one of the other defendants), the total period in question being 29th May 1996 to 28 February 2002. The Applicant alleged that by virtue of the conviction the Respondent had been guilty of professional misconduct. The misconduct forming the basis of the convictions was serious.

The Respondent's Submissions

7. The Respondent did not attend the hearing and was not represented. The Applicant placed before the Tribunal a letter received from the Respondent which was undated but was received on 5th September 2008. This read "Thank you for your letter of 12th August. You are welcome to proceed upon the documents without proving them and without producing witnesses. I have no objection to the quantum of your costs and accordingly I agree them. Please note however that I cannot pay them without seeking the consent of the Crown Prosecution Service and/or the High Court. Yours truly, R N Stober."

The Applicant's Submissions

8. The Applicant explained that proceedings had been served on the Respondent and he had been written to and he had confirmed in his letter, which was stamped as having been received on 5th September 2008, that he had received correspondence from the Applicant and was content for the Tribunal to proceed in his absence.

9. The Applicant explained that he was seeking a regulatory Order to prevent the restoration of the Respondent's name to the Roll without the consent of the Tribunal this being the only order which may be made in respect of a former solicitor.
10. The allegation was a serious one and concerned a criminal conviction which involved four counts of conspiracy to which the Respondent had been sentenced to six months imprisonment concurrently. The Rule 5 Statement postdated the removal of the Respondent's name from the Roll but the underlying issues related to the period during which he was practising as a solicitor, namely February 1999 to May 2006 when he was a partner at Clarke & Sons, solicitors.
11. The Rule 5 Statement attached to it a copy of the certificate of conviction, the schedule of indictments, pleas and verdicts and the Judge's sentencing remarks.

The Findings of the Tribunal

12. The Tribunal noted that the offences related to the application for a mortgage being secured on a property where there had been a failure to declare a pre-existing mortgage (which had been secured against another property) a failure to declare that a mortgagor was acting as a nominee purchaser and a failure to declare that the balance of the purchase price was not being provided by the mortgagor. These failures related to events between 29th May 1996 and 15th August 1996. The Respondent was also found guilty in respect of a purchase of a property where the value of the property had been misrepresented and the Vendor misled as to the identity of the true purchasers. A further offence took place between 1st January 1999 and 14th March 1999 and related to an application for a mortgage where there was a failure to declare that the mortgagor was nominee for a co-defendant and would not be responsible for providing the deposit or mortgage payments. In another case the Respondent was found guilty of involvement in an application for a mortgage secured against a property where the true level of the mortgagor's income was misrepresented, the fact that he was nominee concealed and where the mortgagor did not disclose that he was not providing the deposit for the purchase.
13. The Tribunal took note of the Judge's sentencing remarks in respect of the Respondent: *"This is for you a more disastrous day than anybody else, because there you are, a man with glowing references, written about in the most affectionate and praiseworthy terms by your colleagues and associates, who found yourself acting for C as his solicitor during a period when these applications were being made. And you were in a position of trust. You are in a position of trust as a solicitor not only to your clients but to the general public; and you failed that trust in a remarkable way by what you did".* The Judge went on to explain: *"I fully accept as Mr P has told me, that you have expressed true remorse for what happened. I fully accept that as far as your family is concerned, your sentences will have a devastating affect on them, quite apart from what it does to you; and I fully accept that you are now sixty eight years of age and have not been in good health, and have an affect at least partly if not wholly as a result of these investigations, already suffered a heart attack".*
14. The Tribunal's function is to protect the professions reputation for an integrity and concludes on the basis of the Judge's sentencing remarks that although the Respondent had not been duped into committing the offences he had compromised his

independence and had been persuaded by his clients to assist his client or others to defraud lenders.

15. The conviction itself is justification for the making of an Order controlling any restoration of the Respondent's name to the Roll and the Tribunal found the case proved it accordingly made an Order that Ordered the Respondent is not to be restored to the Roll without the consent of the Tribunal, under section 47(2)(g) of The Solicitors Act 1974 they further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £884.85.

Dated this 12th day of December 2008

On behalf of the Tribunal

A H Isaacs
Chairman