

IN THE MATTER OF FLEUR CRANAGE,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. E. Richards (in the chair)
Mrs K. Todner
Mr. D. Gilbertson

Date of Hearing: 14th May 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Herts SG14 1BY on 4th August 2008 that Fleur Cranage, a solicitors clerk, might be required to answer the allegations contained in the statement that accompanied the application and that the Tribunal should make an Order under Section 43 of the Solicitors Act 1974 (as amended) directing that as from a date to be specified in such Order no solicitor shall, except in accordance with permission in writing granted by The Law Society for such a period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate her in connection with the practice as a solicitor.

The allegation against the Respondent, Fleur Cranage, was that she, having been employed by a solicitor but not herself being a solicitor had, in the opinion of The Law Society occasioned or been party to, with or without the connivance of the solicitor by whom she had been employed, an act or default in relation to the solicitors' practice, which had involved conduct on her part of such a nature that, in the opinion of the Society, it would be undesirable for her to be employed or remunerated by a solicitor or Registered European Lawyer in connection with his or her practice or by an incorporated solicitors' practice. The

conduct complained of was that she had dishonestly acted towards her employers and her clients in a deceitful and misleading manner and in doing so had made a secret profit for herself.

The allegation was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 14th May 2009 when Stephen John Battersby appeared as the Applicant. The Respondent, who was present, was represented by Jonathan Goodwin.

The evidence before the Tribunal included the admissions of the Respondent.

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

The Tribunal Orders that as from 14th day of May 2009 no solicitor, Registered European Lawyer or incorporated solicitors' practice shall, except in accordance with permission in writing granted by The Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Fleur Cranage, a person who is or was a clerk to a solicitor and the Tribunal further Order that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,500, such costs to be paid within 28 days.

The facts are set out in paragraphs 1 - 9 hereunder:

1. The Respondent was born in 1972.
2. At the material times, the Respondent had been employed by Thomson & Cook Solicitors (T&C) of 100 Market Street, Stalybridge, Cheshire SK15 2AB where she had been a conveyancing fee earner. She was a member of the Institute of Legal Executives and not a solicitor, although she had hoped to qualify as such. Her employment had been terminated on 6th February 2008 after the matters giving rise to the allegation against her had come to light.
3. The work carried out by the Respondent had been mainly domestic conveyancing and therefore she had needed to make the usual searches on behalf of her clients. During December of 2007 it had been noted by the Accounts Department of T&C that the Respondent was not producing invoices in support of the search fees which she was charging to her clients. She had been asked for these during December 2007 and January 2008, but they had not been forthcoming and the matter had therefore been drawn to the attention of the partners.
4. The matter had been reported to the partners on 24th January 2008 and they had immediately made an examination of the Respondent's files and information contained on her computer. This had led them to suspect that the search provider - FQ Direct - that she had been using was not a genuine provider.
5. When she had reported for work on the following morning, the Respondent had been asked to explain the situation. Initially she had prevaricated but subsequently had admitted to the partners that FQ Direct was a business which she had set up herself, that searches had been obtained from a genuine third party provider (searchmove.co.uk) and that FQ Direct had charged each client more than the

Respondent had paid to the third party provider, thus resulting in a profit for the Respondent.

6. The matter had been reported by the partners of T&C to the Solicitors Regulation Authority (SRA) in a letter of 20th February 2008. They had obtained from searchmove.co.uk a schedule of searches provided by them. This had revealed that the activities complained of had spanned the period from 16th November 2007 to 23rd January 2008. The partners in the firm had been totally unaware of the fact that the Respondent had effectively been making a secret profit and when they discovered what had been happening they had immediately suspended her from her employment. She had been dismissed for gross misconduct on 6th February 2008.
7. The partners of T&C had eventually calculated that the profit made by the Respondent out of her venture was £3,683.28. They have undertaken the task of refunding the relevant amounts to the clients concerned.
8. On 13th March 2008 the SRA had written to the Respondent seeking her explanation for her conduct. She had made responses on 27th March 2008 and on 15th May 2008. She had maintained that she had been entitled to run her own business and to make a profit from it and that she had been under no obligation to inform her employers of what she had been doing as the business had mainly been carried on outside office hours. She had believed that the service she had been offering to clients through her business had been better than that offered by T&C's normal suppliers. She had set up FQ Direct in October 2007 and had commenced providing searches through the firm in November. With the benefit of hindsight she had accepted that she should have informed her employers of the situation, but there had been no intent on her part to defraud them and indeed, she had offered to reimburse to T&C the profits which she had made.
9. On 13th June 2008 the conduct of the Respondent had been considered by an adjudicator who had determined to refer it to the Tribunal.

The submissions of the Applicant

10. The Applicant explained that the case was serious but that dishonesty was not being alleged. He referred to the facts of the case and noted that had the Respondent continued her activities, a secret profit of some £14,000 might have been made over a year.
11. Mr Battersby stressed that in failing to explain her role in the searches to her employers or to her clients, the Respondent had shown a lack of integrity and good faith. If, as the Respondent maintained, she was providing clients with a better service, the Respondent should have sought her employer's permission to use the particular search company directly. This would have saved money for her clients and avoided any secret profit.
12. The Applicant confirmed that costs had been agreed at £3,500.

The submissions on behalf of the Respondent

13. Mr Goodwin explained that the Respondent consented to the making of the Order. He stressed that she had acted with the best of intentions but that her actions had been misplaced and naive. The Respondent had accepted that she had set up a business making a modest but undisclosed profit. She had not meant to conceal her activities. She had believed that she had satisfied the requirements of Rule 21 of the Solicitors Code of Conduct. However, the Respondent now realised that she had made a mistake from which severe consequences could flow.
14. Mr Goodwin explained that the Respondent was a fellow of the Institute of Legal Executives and that she had also completed her LPC. The Respondent realised that her wish to qualify as a solicitor would be hampered by an Order under Section 43 of the Solicitors Act 1974. Mr Goodwin referred the Tribunal to the various references on behalf of the Respondent. He submitted that the Respondent had a great deal to offer to the Profession. She apologised for her significant error of judgement.

The decision of the Tribunal

15. Having considered all of the evidence and the helpful submissions by the Applicant and on behalf of the Respondent, the Tribunal were satisfied that an Order under Section 43 of the Solicitors Act 1974 as amended was appropriate in the circumstances. The Tribunal had noted that the allegation of dishonesty had not been pursued and that the Respondent had consented to the making of the Order. Although the tribunal had a discretion not to make such an Order it did not consider it appropriate to exercise that discretion in the particular circumstances. The Tribunal considered that the Respondent had shown a lack of integrity by her actions. She had made a serious misjudgement and the Tribunal did not accept that she had been acting in the best interests of her clients.
14. However the Tribunal had noted that she had been a relatively junior fee earner and the Tribunal gave her credit for admitting her actions. The Tribunal did not consider that the Respondent should be excluded from membership of the Profession on a permanent basis and suggested that she seek employment within the Profession for a reasonable period of time before applying for the revocation of the Order.

Dated this 9th day of December 2009

On behalf of the Tribunal

Mr E Richards
Chairman