

IN THE MATTER OF DEBORAH O'HARA,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M Hartley (in the chair)
Miss N Lucking
Mr D E Marlow

Date of Hearing: 2nd July 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was made on behalf of the Law Society by George Marriott, a partner in the firm of Golvins of 4 Davy Avenue, Knowlhill, Milton Keynes, MK5 8NL on 5th March 2009 that an Order under Section 43 of the Solicitors Act 1974 (as amended) might be made by the Tribunal directing that from a date to be specified in such Order, no solicitor, Registered European Lawyer or incorporated solicitors practice shall employ or remunerate Ms Deborah O'Hara (the Respondent), who was employed or remunerated by Ross Coates Solicitors of Unit 15, IP-City Centre, 1 Bath Street, Ipswich, Suffolk IP2 8SD, except in accordance with permission granted by the Law Society, via the Solicitors Regulation Authority, or that such other Order might be made as the Tribunal should think right.

The allegations against the Respondent were that she:-

1. Mised her employer
2. Fabricated documentation with the intention of deceiving her employer.

3. Deliberately withheld correspondence from her employer.
4. Fabricated documentation with the intention of deceiving a third party.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 2nd July 2009 when George Marriott appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the relevant documentation exhibited to the Applicant's statement. The Respondent had not communicated with either the Solicitors Regulation Authority or the Solicitors Disciplinary Tribunal.

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

The Tribunal Orders that as from 2nd day of July 2009 no solicitor, Registered European Lawyer or incorporated solicitor's 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 DEBORAH O'HARA 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 £4,700.00.

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

1. The Respondent had been employed by Ross Coates Solicitors (formerly CBA Law) ("the Firm") at the Firm's head office at Unit 15 IP- City Centre, 1 Bath Street, Ipswich, Suffolk IP2 8SD as HR Manager and Operational Director.
2. The Respondent had been authorised to make visa and work permit applications as a result of her registration with the Office of the Immigration Services Commissioner.
3. By virtue of her position in the Firm, the Respondent had had access to the fullest range of confidential information regarding the Firm and its employees including personnel files, banking and computer systems and the Firm's accounts.
4. On 31st March 2008 the Firm, via its managing partner RC had contacted the SRA to inform them that they had suspended the Respondent pending an internal investigation regarding dishonest behaviour.
5. As part of its investigation the Firm had made a successful application to the High Court for a Search Order against the Respondent in order to ascertain what documentation the Respondent had kept at her residential address and also to gain access to the Respondent's personal computer.
6. The Respondent had been requested to attend a disciplinary hearing. She had failed to attend and was due to be summarily dismissed from her employment for gross misconduct when she had resigned with immediate effect.

7. On 24th April 2008 the SRA had written to the Firm requesting details of the allegations and these had been provided via the Firm's instructed solicitors.
8. The misconduct of the Respondent had involved misleading her employer by saying that an application for a work permit for another employee had been successful when in fact it had been refused on 13th November 2007. In addition the Respondent had fabricated documentation relating to the application namely letters of 20th August 2007, 12th November 2007 and 16th January 2007, all supposedly from the Home Office.
9. The Respondent had also deliberately withheld correspondence from her employer relating to Hays Recruitment including outstanding invoices and a letter before action. In addition, the Respondent had fabricated documentation, namely emails dated 6th March 2006 and 6th March 2007, with the intention of deceiving a third party as to the amount of recruitment fees to be charged.

The Submissions of the Applicant

10. Mr Marriott explained to the Tribunal that although the Respondent had not communicated with either the SRA or the Tribunal, she was aware of the proceedings as she had been properly served and notified. He referred the Tribunal to the relevant documentation relating to the allegations. Mr Marriott submitted that while it was difficult to ascertain the Respondent's motives and there had been no explanation from her, the allegations had been proved by the documentation. In particular, Mr Marriott referred to the Respondent's undated letter sent with a package received by her employer on 29th March 2008.
11. Turning to costs, Mr Marriott asked for summary assessment and produced a schedule showing total costs of £5,211.00. However, because of the shorter length of the hearing he asked for costs to be reduced by £500.00.

The Decision of the Tribunal

12. Having considered all the evidence and the submissions of the Applicant, the Tribunal was satisfied that the allegations had been proved. It was also satisfied that the Respondent had been properly served and was therefore aware of the hearing. The Tribunal made an Order under Section 43 of the Solicitors Act 1974 as amended and assessed the Applicant's costs at £4,700.00 and made an Order for that amount.

Dated this 18th day of September 2009
On behalf of the Tribunal

W M Hartley
Chairman