

IN THE MATTER OF BRIAN KENNETH ASHLEY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. E. Richards (in the chair)
Miss T. Cullen
Mrs S. Gordon

Date of Hearing: 13th October 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Regulation Authority by Linda Louise Rudgyard, solicitor, employed by the Law Society at the Solicitors Regulation Authority of 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 11th March 2009 that Brian Kenneth Ashley, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such Order be made as the Tribunal should think right.

The allegation against the Respondent was that he had breached Rule 1.06 of the Solicitors Code of Conduct 2007 in that he had behaved in a way that is likely to diminish the trust the public places in him or the profession by reason of the fact that he was convicted on 19th March 2008 upon indictment of 31 offences contrary to the Protection of the Children Act 1978.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 13th October 2009 when Peter Cadman, solicitor of Russell-Cooke of 8 Bedford Row, London, WC1R 4BX appeared on behalf of the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal

The evidence before the Tribunal included the Rule 5 Statement of the Applicant together with accompanying bundle which included a certified copy certificate of conviction from the Manchester Crown Court dated 19th March 2008 and His Honour Judge Gilbert QC's sentencing remarks on 13th May 2008. In the Applicant's bundle there was also a letter from the Respondent in mitigation referred by the SRA on 11th August 2008.

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

The Tribunal Orders that the respondent, Brian Kenneth Aahley, solicitor, be Struck off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £600.

The facts are set out in paragraphs 1 to 4 hereunder:

1. The Respondent was admitted as a solicitor in December 1989 and his name remains upon the Roll of Solicitors. He was born in February 1956.
2. The Respondent was convicted on 19th March 2008 in the Crown Court at Manchester upon indictment and upon his own confession of 29 counts of making an indecent photograph of a child and 2 counts of distributing an indecent photograph of a child contrary to the Protection of Children Act 1978. He was sentenced on 13th May 2008 to a total of 8 months imprisonment, disqualified from working with children indefinitely, made subject to a Sexual Offences Prevention Order until further order and made subject to the Sexual Offences Register for a period of 10 years.
3. There has been no appeal. The Respondent served a period of several months imprisonment and was released from custody in September 2008.
4. On 22nd and 31st July 2008 the SRA case worker wrote to the Respondent seeking his explanation. The Respondent replied on 11th August 2008 indicating that he had pleaded guilty to the charges before the Crown Court and putting forward various matters in mitigation. He told the SRA case worker that all of the images were unsolicited. He did not recall distributing them but did accept that the emails were sent from his computer. He had been open and honest in his dealings with the police and the probation service and accepted responsibility for the offences. He had been depressed after the failure of his practice in 2001 and had not paid as much attention as he should have done to his emails.

The submissions of the Applicant

5. The Applicant indicated that the Respondent admitted the allegations.
6. In relation to costs there was a schedule before the Tribunal in the sum of £1,593.04, however these could be reduced to £1,312.04 given by Mr Cadman.

The Tribunals findings and its reasons

7. The Tribunal found the matter to have been proved, indeed it had not been contested.
8. The Tribunal considered the matter to be serious and one which would appal the public. The Respondent had damaged the reputation of the profession, membership of which conferred significant benefits and responsibilities upon him.
9. In these circumstances the Tribunal considered that the only appropriate sanction would be to strike off the Respondent.
10. The Tribunal would order costs in the sum of £600.00. The Tribunal was in receipt of a letter from Mr Ashley indicating that his only source of income was job seekers allowance. In those circumstances the Tribunal had to take account of the recent decision of the administrative court in D'Souza v The Law Society [2009] EWHC 2193 (Admin). In the light of the order made today by the Tribunal and the lack of the ability of the Respondent to work in the profession they had accordingly reduced the costs to £600.00.
11. The Tribunal ORDERS that the respondent, BRIAN KENNETH ASHLEY, solicitor, be STRUCK OFF the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £600.00.

Dated this 23rd day of December 2009
On behalf of the Tribunal

E. Richards
Chairman