

IN THE MATTER OF OMO LOURITA OMUVWIE-MOMOH, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr N Pearson (in the chair)
Mr R J C Potter
Lady Bonham Carter

Date of Hearing: 14th January 2010

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Regulation Authority (“the SRA”) by David Elwin Barton of 13-17 Lower Stone Street, Maidstone, Kent ME15 6JX on 8 May 2009 that Omo Omuvwie-Momoh, solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations against the Respondent are that:-

1. She has failed to act with integrity;
2. She has allowed her independence to be compromised;
3. She has failed to act in the best interest of each client;
4. She has behaved in a way that is likely to diminish the trust the public places in her or the profession;

in each case contrary to Rule 1 of the Solicitors Code of Conduct 2007. In addition the respondent has in each case been dishonest.

5. In breach of the Solicitors Indemnity Insurance Rules 2008 she failed to maintain qualifying insurance.

The application was heard at the Courtroom, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7SN on 14 January 2010 when David Elwin Barton appeared as the Applicant and the Respondent did not appear and was not represented.

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

The Tribunal Orders that the Respondent, Omo Lourita Omuvwie-Momoh, solicitor be struck off the Roll of Solicitors and it further orders that she do pay the costs of an incidental to this application and enquiry fixed in the sum of £7,578.75.

The Evidence before the Tribunal

The evidence before the Tribunal consisted of the Rule 5 statement of the Applicant together with accompanying bundle, a notice inserted in the Law Society Gazette dated 20 October 2009 and a statement from Peter Broadhurst a process server of Cerberus Security Services Limited, 3 Churchgates, Church Lane, Berkhamsted, HP4 2UB proving substituted service of the papers in the matter according to the Tribunal's directions of 29 September 2009.

Preliminary Matter

In the Applicant's submission the papers had now been served upon the Respondent in accordance with the Order for substituted service made on 29 September 2009. Nothing had been heard from the Respondent who was believed to be in Nigeria and the Applicant asked the Tribunal in those circumstances to allow him to proceed in the Respondent's absence. The Tribunal agreed to hear the case in the Respondent's absence.

The Facts as set out in Paragraphs 1 – 11 hereunder:-

1. The Respondent was born in September 1964 and was admitted as a Solicitor in September 2004. Her name remains on the Roll of Solicitors.
2. At all material times the Respondent was carrying on practice on her own account as Landmarq Solicitors of 7a High Road, Romford, Essex RM6 6PU. On 26 November 2008 the Authority resolved to intervene into her practice and effected the intervention on 28 November. Fiona Simpson of Vizards Wyeth was appointed as the Authority's agent.
3. The Respondent practised as Landmarq Solicitors from 1 September 2007 until 26 November 2008 when the Authority resolved to intervene into her practice on the ground that she had abandoned it.
4. The allegations were based on the following:-

- (i) the Respondent's participation in 5 particular conveyancing transactions;
 - (ii) the abandonment of her practice;
 - (iii) her failure to comply with a court order;
 - (iv) her failure to maintain professional indemnity insurance.
5. By letter dated 14 November 2008 another firm of solicitors ('E LLP') informed the SRA that on behalf of their client Bank ('the Bank') they had been instructed to review five property transactions in which their client had advanced mortgage loans to five borrowers to assist with either the remortgage of their existing property, or the purchase of a new property.
6. A tabular summary of the transactions conducted by the Respondent is set out below.

Property	Clients for whom Respondent acted	Date Certificate of Title	Amount of Mortgage Advance and Date sent to Respondent's client account	Recipients of Mortgage Advance
Ilford	The Bank and Mr O A	18.06.08	£267,965 on 19.06.08	£171,000 to DD Properties and £14,000 to Solicitors on 20.06.08
Woodfield Green Essex	The Bank and Mr S B	04.08.08	£389,965 on 06.08.08	£359,000 to F Ltd on 07.08.08
London	The Bank and Mr A J	05.08.8	£399,965 on 06.08.08	£366,100 to F Ltd on 07.08.08
London	The Bank and Mr A S	04.08.08	£370,965 on 07.08.08	£343,000 to F Ltd on 07.08.08
Romford	The Bank and Mrs P P	11.09.08	£311,965 received into client account on 11.09.08	£285,000 to F Ltd on 22.09.08

7. In each transaction the Respondent acted for the lender and the borrower. She signed the Certificates of Title, in relation to each transaction which incorporated the Certificate of Title appearing as the Appendix to Rule 3 of the Solicitors Code of Conduct 2007. By so certifying the Respondent stated as follows:
- (i) that she would complete the mortgage;
 - (ii) that she would deliver to the Land Registry the documents necessary to register the mortgage in favour of the lender;
 - (iii) that she would not use the mortgage advance until satisfied that, prior to or contemporaneously with the transfer of the property to the mortgagor, there would be discharged any existing mortgage on the property.

8. As evidenced by a letter from E LLP to the SRA dated 14 November 2008 and the affidavit and statements of one of its employees the Respondent failed to register any of the mortgages at HM Land Registry, and paid the mortgage advance monies to unconnected third parties. In each case the property was occupied and owned by persons other than the borrowers and mortgages in favour of other lenders were registered against the titles. The transactions all had the characteristics of mortgage fraud. The copy client account bank statement showed the five receipts into client account of the amounts specified in the table and the corresponding payments to the third parties specified in E LLP's letter.
9. On behalf of the Bank, E LLP obtained an asset freezing order dated 6 November 2008 and it was served personally on the Respondent on 8 November. It was endorsed with a penal notice and it required the Respondent to provide the specified information and evidence. The Respondent was obliged within 72 hours of service of the order and to the best of her ability to inform E LLP of the whereabouts of the money received by her in relation to the five specified conveyancing transactions, and within 5 days to swear and serve an affidavit setting out the information. The Respondent did not comply with the order.
10. The Authority attended the Respondent's practice address of 7a High Road, Romford, Essex. There were no papers at the Respondent's practice relating to the five transactions and the Respondent's whereabouts were unknown.
11. The Respondent failed to effect indemnity insurance during the period 1 October to 28 November 2008.

The Submissions of the Applicant

It was the Applicant's submission that, from the evidence submitted, an irresistible conclusion of dishonesty could be drawn. The transactions all had the hallmarks of mortgage fraud and in addition the Respondent had abandoned her practice, failed to comply with a Court Order and failed to obtain professional indemnity insurance.

12. The Applicant applied for costs in the matter in the sum of £7,578.75.

The Findings of the Tribunal

13. The Tribunal had listened very carefully to what the Applicant had to say about all of the circumstances surrounding this case and had given careful consideration to the evidence presented to it. The Tribunal found that each of the allegations against the Respondent was proved on the facts presented to it. It was also satisfied that the tests for dishonesty as expressed by Lord Hutton in Twinsectra v Yardley and Others [2002] UKHL 12 were satisfied. The Tribunal found that in dealing with the mortgage monies in the manner that she had the Respondent's conduct was dishonest by the standards of reasonable and honest people. The Tribunal was also satisfied so that it was sure that the Respondent did not have an honest belief that she could deal with the mortgage monies in such way and therefore she knew that what she was doing was dishonest by those same standards.
14. The Tribunal would award the Applicant's costs in full.

The Order of the Tribunal

15. The Tribunal ordered that the Respondent, Omo Lourita Omuvwie-Momoh, solicitor, be struck off the Roll of Solicitors and it further ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,578.75.

Signed this 29th day of March 2010
On behalf of the Tribunal

N Pearson
Chairman