

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF PETER PROCOPI, solicitor (The Respondent)

Upon the application of Ian Newton Jones
on behalf of the Solicitors Regulation Authority

Miss J. Devonish (in the chair)
Mrs J Martineau
Mr M. R. Hallam

Date of Hearing: 15 November 2010

FINDINGS & DECISION

Appearances

The Applicant, Ian Newton Jones, solicitor, of The Law Society at the Solicitors Regulation Authority, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE, appeared on behalf of the Solicitors Regulation Authority (“SRA”).

The Respondent did not appear and was not represented.

The Tribunal had before it a letter from the Respondent’s solicitors, Achillea & Co, dated 12 November 2010, from which it was clear that neither the Respondent nor his solicitors would attend the hearing.

The Application, supported by a Rule 5 Statement, was made on 5 August 2010.

Allegations

The allegation against the Respondent was that he had acted in breach of Rules 1.01, 1.02 and 1.06 of the Solicitors’ Code of Conduct 2007 (“SCC”), by virtue of his conviction and imprisonment.

Factual Background

1. The Respondent, born in 1954, was admitted as a solicitor on 15 April 1981. His name remained on the Roll of Solicitors. His last known address was 99 Park Road, New Barnet, EN4 9QX.
2. At the material times the Respondent was employed as a consultant with YVA solicitors, YVA House, 811 High Road, London N12 8JT.
3. At the Crown Court at St Albans on 15 May 2009 the Respondent was convicted of two counts of acting with intent to prejudice Her Majesty The Queen and the Public Revenue with intent to defraud Her Majesty The Queen and two counts of making false statement to prejudice Her Majesty The Queen and the Public Revenue with intent to defraud Her Majesty The Queen. He was sentenced to a total of nine months imprisonment, six months for each of the first two counts to run concurrently and a further three months for each of the second two counts to run concurrently. The Respondent's appeal was refused by the Court of Appeal on 3 November 2009.

Findings of Fact and Law

4. The Tribunal found it was proved that the Respondent had been convicted and imprisoned as alleged. The Respondent had appealed against his conviction on 27 May 2009, which appeal was dismissed by the Court of Appeal on 3 November 2009. The Tribunal was entitled to rely on the conviction and noted the sentence imposed by the Crown Court, and the Judge's sentencing remarks.
5. The Tribunal found that the offences were clearly offences of dishonesty. Accordingly, the Tribunal was satisfied that the Respondent was in breach of Rules 1.01, 1.02 and 1.06 of SCC.

Mitigation

6. The Tribunal noted the letter from the Respondent's solicitors dated 12 November 2010. Although that letter stated that the Respondent did not propose to advance any mitigation, it went on to ask the Tribunal to take into account: the date of the alleged offences; the Respondent's previous professional record, the fact that he was gainfully employed throughout the period in question and no complaint concerning his actions as a conveyancing solicitor gave rise to the allegations made before the Tribunal. It was further advanced that the conviction for offences of dishonesty was in relation solely to matters concerning the Respondent's personal taxation affairs. The Tribunal was referred to the case of Bolton -v- The Law Society [1994] 1 WLR 512CA and the principles set out in that case concerning whether a solicitor should be struck off or suspended. On behalf of the Respondent it was submitted that the Tribunal should consider imposing a lengthy period of suspension as opposed to immediate striking off.

Previous Disciplinary Sanctions

7. There were no recorded matters before the Tribunal.

Application for Costs

8. The Applicant requested an order that the Respondent should pay the Applicant's costs of these proceedings in the sum of £1,277.47. It was noted that in the Respondent's solicitors' letter of 12 November 2010 it was confirmed that they had received a schedule of costs and had confirmed that the costs were agreed. The Tribunal also was shown an exchange of emails on 11 November 2010 between the Applicant and the Respondent's solicitors which confirmed that instructions had been taken and the costs were agreed.

Sanction and Reasons

9. The Tribunal had been referred to the sentencing remarks made by His Honour Judge Plumstead at St Albans Crown Court on 18 May 2009. The Tribunal had particular regard to the statements in the judge's sentencing remark that:

“These were acts of deliberate dishonesty, no other description will do.”

“... You had every opportunity to do it honestly....”

“Your evidence was frankly incredible....”

“You were already a bad solicitor. You had already been rebuked for bad practice in conveyancing, and on this occasion your conveyancing activities for the crooks with which you were surrounded at the time were so poor that they assisted them in their crooked schemes. That is no doubt why they chose you. They chose you because you were not up to your job and did not apply to it the rigorous standards which the public are entitled to expect.”

10. On reading the sentencing remarks, the Tribunal was satisfied that the Respondent's decision to place himself in the position of engaging in criminal activity with known criminals over a prolonged period to engage in dishonest acts, made him the kind of person who should not be in the solicitor's profession.
11. The Respondent had chosen not to appear before the Tribunal. The Tribunal did have available a faxed copy of the letter from his solicitors dated 12 November 2010 in which they stated he did not intend to advance any mitigation. They went on to say that he was gainfully employed throughout the period in question and no complaint concerning his actions as a conveyancing solicitor had given rise to the allegations before the Tribunal. However, the Judgment of H J Plumstead on 18 May 2009 stated that he was already a bad solicitor and had been rebuked for bad practice in conveyancing. The Tribunal was satisfied that the latter, rather than the former, was a more accurate statement of the Respondent's position.
12. The Respondent's solicitors had in their letter referred to the case of Bolton -v- The Law Society. The Tribunal considered this case. In that instance, the solicitor in question had been naive and foolish. That was not so in this case. The Respondent had been said by the trial judge to have been deliberately dishonest. Accordingly, this could not be regarded as a case which was exceptional, such that the Respondent

would avoid striking off. This was the normal and correct order where a solicitor had been convicted of an offence of dishonesty, and it would be the order in this case.

Decision as to Costs

13. The Tribunal considered that it would be appropriate for the Respondent to be ordered to pay the Applicant's costs. No information had been given about the Respondent's means, save that in his solicitor's letter of 12 November 2010 it was stated "our client.... has not worked as a solicitor in gainful employment since the date of conviction..." No information was given concerning any other form of employment the Respondent may have.
14. The Tribunal was aware that the costs schedule put forward by the Applicant had been agreed. That agreement had been on the basis that the hearing was likely to take 1 hour 30 minutes. That had not in fact been the case. Nevertheless, the Tribunal decided that the costs claimed were extremely modest and should be awarded in full in the sum of £1,277.47.

Order

15. The Tribunal Ordered that the Respondent, Peter Procopi, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,277.47

Dated this 10th day of December 2010
On behalf of the Tribunal

Miss J. Devonish
Chairman