

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF JOANNE KAREN WALLER, solicitor's clerk (The Respondent)
A person (not being a solicitor) employed or remunerated by a solicitor

Upon the application of Sara Dickerson
on behalf of the Solicitors Regulation Authority

Mr J P Davies (in the chair)
Mr R Prigg
Lady Bonham Carter

Date of Hearing: 11th January 2011

FINDINGS & DECISION

Appearances

Ms Sara Dickerson, the Applicant, employed as a Barrister 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 application was made on 3 September 2010.

Preliminary matter

The Tribunal considered whether it should proceed in the absence of the Respondent or any representative of the Respondent.

The Applicant informed the Tribunal about communications with the Respondent. The Rule 8 Statement and application had been served at the Respondent's address in Liverpool and the Respondent had returned the pre-listing questionnaire to the Tribunal. A Civil

Evidence Act Notice had been served by special delivery by way of a letter of 7 December 2010. There had been no response to that. However, the address used was believed to be an effective address for the Respondent, who should have been be aware of the proceedings.

The Tribunal was satisfied that the Respondent had had notice of the proceedings, including the hearing date. The Tribunal therefore determined to proceed with the matter in the absence of the Respondent.

Allegations

The application under s.43 (2) of the Solicitors Act 1974 (as amended) was made on the basis of an allegation that the Respondent had submitted applications to the Land Registry to register the interest of RD against numerous flats, under the full knowledge that the interests of those flats lay with Mr PJM and ABF Ltd ("ABF").

Factual background

1. The Respondent was born in 1979. At all material times the Respondent worked at 1 Law Solicitors, 57 Hamilton Square, Birkenhead, Merseyside, CH41 5AS, as the head of the conveyancing department from June 2006. The Respondent had twelve years conveyancing experience of both commercial and domestic conveyancing gained at reputable firms with specialist conveyancing departments.
2. By letter dated 17 September 2008, a complaint was made by MSB Solicitors to the SRA concerning the actions of the firm, 1 Law Solicitors. The matter was thereafter investigated by the SRA, and by 1 Law Solicitors. On 1 February 2010 an Adjudicator of the SRA resolved to refer the conduct of the Respondent to the Tribunal.

Findings as to fact and law

3. The Tribunal was informed that the Respondent had admitted the allegation. The Tribunal noted that the Respondent had prepared a statement, which was not signed or dated, in which she had given an explanation for the transaction in issue.
4. The Tribunal was satisfied that the Respondent had acted, in the course of her employment at 1 Law Solicitors, in relation to transactions concerning property at G Street, Ashton-in-Makerfield. The property at G Street included eight leasehold flats.
5. In about August or September 2007 a Mr IR purchased the flats from C Limited. The Respondent was instructed by both Mr IR and a Mr PJM, with regard to the purchase of the flats by Mr PJM from Mr IR. The purchase by Mr PJM was funded by bridging finance from ABF, which was represented by MSB Solicitors. Both Mr IR and Mr PJM were existing clients of the firm for which the Respondent worked. Completion of Mr PJM's purchasers from Mr IR took place on 26 October 2007. Although searches were maintained against the properties so that the interests of Mr PJM and ABF could be registered, the properties were not registered to show the interests of Mr PJM and/or ABF. In about June 2008 the Respondent forwarded documentation relating to the registration of the flats to MSB Solicitors. Before that firm could effect any registration, it was notified by the Land Registry that an

application had been submitted by the Respondent to register the properties to a company, R Developments, a company owned and/or operated by Mr IR. The application for registration submitted by the Respondent's firm was on the basis of a transfer from Mr IR to R Developments on 27 August 2008. A charge in favour of an institutional lender had been obtained over the properties by R Developments. MSB Solicitors registered a unilateral notice to protect the interests of ABF and Mr PJM.

6. The Tribunal had some concern about whether the transfer to Mr PJM in October 2007 and the transfer to R Developments in August 2008 had been transfers of the same interest. There was a lack of clarity in the documentation as to whether the interests in issue were freehold or leasehold. In particular, if Mr PJM had acquired the leasehold title and the freehold title had been retained by Mr IR, there would have been no difficulty in a subsequent transfer of the freehold from Mr IR to R Developments. However, the Applicant's case was that the Respondent had applied to register on behalf of R Developments the same interest which had previously been transferred to Mr PJM with the benefit of finance from ABF.
7. There had been no allegation against the Respondent of dishonesty.
8. On the basis of the Respondent's own admission, the Tribunal found so that it was sure that the Respondent had submitted applications to the Land Registry to register the interests of R Developments against the flats, knowing that the interests in those flats lay with Mr PJM and ABF.

Mitigation

9. The Respondent was not present and no mitigation was submitted. It was noted in any event that the Tribunal needed to consider simply whether an Order should be made pursuant to s.43(2) of the Solicitors Act 1974 (as amended) in the circumstances which it had found.

Costs application

10. The Applicant applied for costs in the sum of £1,294.
11. The Tribunal had no information concerning the Respondent's means.

Previous Disciplinary sanctions

12. None

Sanction and reasons

13. The Tribunal was satisfied in all of the circumstances that it was appropriate to make an Order under s.43(2) of the Solicitors Act (as amended). The case was a proper one to have been brought, the allegation had been admitted and had been proved. The Tribunal did not need to explore whether anyone had been deceived, whether there had been any issues of incompetence or whether there had been any conflict of interest. This was an appropriate case in which an Order should be made in the light of the Respondent's actions in relation to the transactions in question.

Decision as to costs

14. The Tribunal considered that the costs sought by the Applicant were reasonable and the Respondent should be Ordered to pay those costs.

Order

15. The Tribunal Ordered that as from 11 day of January 2011 except in accordance with The Law Society permission:

- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Joanne Karen Waller
- (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Joanne Karen Waller;
- (iii) no recognised body shall employ or remunerate the said Joanne Karen Waller;
- (iv) no manager or employee of a recognised body shall employ or remunerate the said Joanne Karen Waller in connection with the business of that body;
- (v) no recognised body or manager or employee of such a body shall permit the said Joanne Karen Waller to be a manager of the body;
- (vi) no recognised body or manager or employee of such a body shall permit the said Joanne Karen Waller to have an interest in the body;

And the Tribunal further Ordered that the said Joanne Karen Waller do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,294.

Dated this 18th day of February 2011
On behalf of the Tribunal

J P Davies
Chairman