

IN THE MATTER OF DAVID KELLEY, SOLICITOR'S CLERK

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A H Isaacs (in the Chair)
Mrs E Stanley
Mr. G saunders

Date Of Hearing: 14th June 1995

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Carlton Maurice Edwards solicitor of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex on the 17th March 1995 that an Order be made by the Tribunal directing that as from a date to be specified in such Order no solicitor should except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society might think fit to specify in the permission employ or remunerate in connection with the practice as a solicitor David Kelley of Hockley, Essex a person who was or had been a clerk to a solicitor or that such other Order might be made as the Tribunal should think right. The allegation was that the respondent had been convicted of conspiracy to defraud and sentenced to eighteen months imprisonment.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 14th June 1995 when Carlton Maurice Edwards solicitor and partner in the firm of Messrs Marsh Ferriman and Cheale of Southfield House, 11 Liverpool Gardens, Worthing, West Sussex appeared for the applicant and the respondent did not appear and was not represented. The respondent had however addressed a letter to the Clerk to the Tribunal dated the 10th May 1995 which is referred to hereunder.

The evidence before the Tribunal included a certificate of conviction.

At the conclusion of the hearing the Tribunal ORDERED that as from the 14th June 1995 no solicitor should except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor David Kelley of Hockley, Essex a person who was or had been a clerk to a solicitor and the Tribunal further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £510.51p.

The facts are set out in paragraphs 1 to 3 hereunder:-

1. The respondent was employed as a conveyancing clerk by Messrs Meadows & Moran solicitors at their office at Station Chambers, 153-159 South Street, Romford, Essex. The employment ran from 1989 to 1991.
2. On the 24th November 1993 the respondent was convicted before the Snaresbrook Crown Court of conspiracy to defraud and sentenced to eighteen months imprisonment. The offence had arisen when the respondent had conspired with others to defraud such persons that might be induced to lend money on security of mortgages of real property.
3. On the 9th November 1994 the Adjudication and Appeals Committee of the Bureau resolved that application be made to the Tribunal for an Order pursuant to Section 43 (2) of the Solicitors Act 1974 in respect of the respondent.

The submissions of the Applicant

4. It was right that an Order restricting the employment of the respondent within the solicitors profession be made. The offences arose when a building company was having difficulty in selling blocks of flats they had built and as a result arranged for friends, relatives and other contacts to obtain mortgages stating that they were buying the flats. As soon as the purchase of the flat had been completed and the builders had received the proceeds of the mortgage the borrower defaulted. The builders in question also owned an estate agency and the purchasers of all the flats were recommended to the respondent either directly by the builder or through the medium of their estate agency. The respondent had received payments totalling £900. and it was on the basis of these payments that the respondent had been charged.

The submissions of the respondent (contained in his beforementioned letter of the 10th May 1995)

5. In his letter the respondent said "whilst I still maintain my innocence I regret that I have no funds whatsoever to attend or employ someone to attend on my behalf at the hearing.

I have not been able to secure employment in the law, and as I am now 51 years of age I do not see any likelihood of getting employment. This whole business has shattered

my life completely..... Finally I very much regret that I will not be attending at the hearing to defend myself, but I have been through so much over the last 4 years, I just could not take any more. "

Yours faithfully,

signed D G Kelley.

The Tribunal FIND the allegation to have been substantiated. The respondent was implicated in a mortgage fraud whilst in the employ of a firm of solicitors during the course of undertaking work in the name of that firm. The respondent had paid his debt to society by serving the custodial term imposed upon him, but it was right that his employment within the solicitors profession should be controlled. The Tribunal made the Order sought and further Ordered that the respondent pay the costs of and incidental to the application and enquiry in a fixed sum.

DATED this 25th day of July 1995

on behalf of the Tribunal



A H Isaacs
Chairman

Findings filed with the
Law Society on the 28th
day of JULY 1995

