

IN THE MATTER OF INGRID NORTH, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.C. Chesterton (in the Chair)
Mr. J.R.C. Clitheroe
Dame Simone Prendergast

Date Of Hearing: 28th November 1995

FINDINGS

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

An application was duly made on the 13th June 1995 by Roger Field on behalf of the Law Society 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 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 Ingrid North of Walthamstow, London, E17 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 application was heard at the Courtroom, No.60 Carey Street, London, WC2 on the 28th November 1995 when the said Roger Field solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant. The respondent was represented by Mr. J.W. Murdoch solicitor of Murdoch's solicitors of 45 High Street, Wanstead, London, E11 2AA.

The evidence before the Tribunal included the admissions that she mislead her firm falsely representing to them that she had merely asked for her expenses from a client and not a fee for services rendered. (The further facts upon which the applicant had sought to rely in support

of the application were not proceeded with.) Upon the above basis of the admissions the applicant's application was not contested by Mr. Murdoch.

At the conclusion of the hearing the Tribunal ORDERED that as from the 28th day of November 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 Ingrid North of [redacted], Walthamstow, London, E17 [redacted] a person who was or had been a clerk to a solicitor and the Tribunal further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £650.00 inclusive such costs not to be enforced without the leave of the Tribunal.

The facts are set out in paragraphs 1 to 7 hereunder.

1. The respondent who was not a solicitor, was a clerk to Daykin Carr (hereinafter called "the firm") solicitors of 155 Hoe Street, Walthamstow, London, E17 3AL until the 16th February 1994. She was not paid since she was undertaking a work experience placement in connection with a course run by the Institute of Legal Executives. She was responsible, under the supervision of a partner, for the conduct of the professional business of clients of the firm.
2. The firm wrote to the Solicitors Complaints Bureau (the Bureau) on the 16th February 1994. WC represented at that time by Ellis & Fairbairn ("E & F") solicitors of London had complained to the firm that the respondent had represented to him that the firm had recommended him to see her with a view to her acting for him in relation to an immigration matter.
3. WC claimed that the respondent had seen him at home, had completed an application form and had accompanied him to the Home Office. He believed the respondent was an assistant solicitor with the firm. Although the respondent had told the firm that she had only requested expenses from WC, documentation held by E & F revealed that she had asked for a sum of £300 of which £90 had been paid leaving a balance of £210.
4. The Bureau wrote to the respondent on the 2nd June 1994 and invited her comments on the matter from the firm. She replied by letter of the 5th June 1994 denying impropriety as alleged or at all. She described her involvement with a Refugee Advice project and the immigration work she performed whilst not working for the firm. The firm did not engage in immigration work and persons who approached the firm in this area were referred by her to a firm of solicitors in East Ham.
5. On the 18th March 1993 the respondent had received a call from WC who had claimed he had an urgent immigration problem and needed to discuss it urgently. She had seen him on the 19th March 1993 at about 6.00 p.m. ascertained the facts and advised him to go with his wife to the Home Office. On the 21st March 1993 WC and his wife had arrived at the respondent's home and had urged her to accompany them to the Home Office. She had been busy and mentioned a firm of solicitors in East Ham. WC, had in effect, pleaded with her and offered her £300. After some discussion she agreed to his request to attend the Home Office on the 22nd March 1993 for the purposes of putting in the relevant information. WC had given her £90 at the Home Office and said her would see her during May to deal with the matter at which time he would hand over "the balance". She had not heard further from WC or his wife until January 1994 when

she had received phone calls from them. The Bureau wrote to the firm with copies of the respondent's letter of 5th June 1994 and the firm replied by letter of 27th September 1994. They had not authorised her to recommend a firm of solicitors in East Ham for immigration work and they suggested the Bureau seek WC's version of events. The Bureau wrote to E & F in this respect on the 15th November 1994.

6. E & F replied to the Bureau by letter of 21st December 1994 which enclosed a statement (unsigned) by WC. It differed in material respects from the account of events given by the respondent. When he had seen the respondent at her home on the 16th March 1993 he had formed the impression that she was a solicitor and was told that her fee for acting for him would be £300 of which £100 would be required as a deposit. On the 19th March 1993 WC had seen the respondent at her home when the matter was discussed. On the 21st March 1993 WC had made arrangements to attend the Home Office on the following day. £90 had been paid to the respondent who had agreed to accept the balance of £210 later. When WC subsequently received a deportation order he had contacted the respondent who pointed to the sum of £210 owing payment of which was a pre-requisite to her doing any more work. At that point WC had instructed E & F.
7. On the 29th March 1995 the Adjudication and Appeals Committee of the Bureau appointed by the Council of the Law Society resolved an application should be made to the Solicitors Disciplinary Tribunal for an Order under Section 43(2) of the Solicitors Act 1974 in respect of the respondent on the grounds that she having been a clerk to a solicitor but not being a solicitor had in the opinion of the Society, occasioned or been a party to , with or without the connivance of the solicitor to whom she was or had been a clerk, an act or default in relation to that solicitor's practice which involved such conduct on her part of such a nature that in the opinion of the Law Society it would be undesirable for her to be employed by a solicitor in connection with his/her practice.

The Submissions of the Applicant

8. The only ground upon which the applicant was now seeking to rely (and upon which the respondent was prepared to consent to an Order being made) was that of misleading the firm by falsely representing the firm to them that she had merely asked for her expenses from WC and not a fee for services rendered. In the light of subsequent enquiries which the applicant had made, he had felt that it was not right for him to continue to rely upon other matters in his statement. Ms Osbaldeston, a principal of the firm, confirmed that she first became apprised of the situation when the firm received a letter from Messrs. E & F on the 26th January 1994 with respect to WC's complaint against the respondent. On the following day Ms Osbaldeston interviewed the respondent and showed her the letter from E & F. The respondent told her that she had indeed advised WC about an immigration matter but in a voluntary capacity. She had attended the immigration department at Croydon on his behalf and had asked him to pay her travelling expenses only. She agreed to bring in any documents she was holding relating to WC. The respondent told Ms Osbaldeston that she had been approached by WC at her home and gave further explanation.
9. On 28th January 1994 Ms Osbaldeston relayed this information to E & F and was informed by them in turn that WC had documents showing that the respondent had

demanded payment from him. E & F then sent to Ms Osbaldeston copies of demands for payment which were in the respondent's writing.

10. On the 16th February 1994 the firm terminated the respondent's position with their firm.
11. It was the applicant's contention that the respondent had told Ms Osbaldeston that she had charged WC for travel expenses only. It subsequently emerged that what she had told her principal was untrue. She had not merely asked for expenses. She had asked for a fee of £300 as evidenced in documents supplied by E & F via WC - some £90 changing hands on the day.
12. The untruth that the respondent told Ms Osbaldeston when asked about matters touched on professional business and was unquestionably designed to mislead. This was clearly an act or default which gave rise to the Tribunal being able to exercise its discretionary powers under Section 43. To lie to an employer must be treated as a serious matter and which the respondent had now come to accept.

The Submissions of the Respondent

13. The respondent was retained by the firm for approximately eighteen months and at the outset she voluntarily disclosed her links with the Refugee Advice project. The firm did not appear to find her voluntary work with the project inappropriate to her duties to the firm. It was accepted that on the 28th January she told a lie to Ms Osbaldeston. It could be explained by the fact that she considered that her dealings with WC were nothing to do with her employment by the firm. This was an error of judgement on her part and was clearly wrong but it was perhaps understandable in context.
14. It was apparent from Ms Osbaldeston's statement that during the lengthy period of time the respondent was with the firm, they had no complaints against her nor found anything adverse in her character. She had discharged her duties conscientiously.
15. The respondent's financial circumstances were desperate. The applicant had agreed to charge only half of his costs in the light of the fact that the case had not proceeded on a contested basis and that only one out of the three limbs had been proceeded with.

The Tribunal felt it was appropriate to make the Order sought (indeed the matter proceeded on the basis of the respondent's consent to an Order being made). It was clearly unacceptable for a Clerk to lie to his or her solicitor employer upon a matter affecting the firm so closely.

DATED this 11th day of January 1996

on behalf of the Tribunal

J.C. Chesterton
Chairman


