

IN THE MATTER OF MAX KINGSLEY
(otherwise known as MOSHE KESHET), solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J.R.C. Clitheroe (in the Chair)
Mr. A.G. Gibson
Mr. K.J. Griffin

Date Of Hearing: 4th June 1996

FINDINGS

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

An application was duly made on behalf of the Law Society by Andrew Christopher Graham Hopper, solicitor of P.O. Box 7, Pontyclun, Mid. Glamorgan 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 Max Kingsley, otherwise known as Moshe Keshet, of London NW3 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 occasioned or been a party to an act of default in relation to a practice of a solicitor to whom he was or had been a clerk which involved conduct on his part of such a nature that it would be undesirable for him to be employed by a solicitor in connection with his practice in that he -

- (i) persistently held himself out as a solicitor and
- (ii) made untrue statements to lending institutions

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 4th June 1996 when Geoffrey Williams, solicitor and partner in the firm of Messrs. Cartwrights Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included exhibit "MK1" (a letter sent by recorded delivery mail requiring advice of delivery on 18th March 1996 giving notice to admit under the Civil Evidence Act 1968).

Although the Post Office had not returned a duly signed card indicating receipt, no documents had been returned either to the Tribunal's office or to Mr. Hopper.

At the conclusion of the hearing the Tribunal ORDERED that as from the 4th June 1996 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 Max Kingsley, otherwise known as Moshe Keshet, of London NW3 a person who was or had been a clerk to a solicitor and the Tribunal further Ordered that he pay the costs of and incidental to the application and enquiry, fixed in the sum of £3,176.97 inclusive.

The facts are set out in paragraphs 1 to 17 hereunder.

1. The respondent, who was not a solicitor, had been employed as a clerk by a succession of solicitors, most recently Avery Midgen & Co. of 640A Finchley Road, Golders Green, London NW1 and later Jaque Simmons & Co. at the same address.
2. When employed by Avery Midgen & Co. the respondent publicised his services partly in English and partly in Hebrew. In English he was identified as M. Kingsley, in Hebrew as Moshe Keshet. There was at the material time a member of the Israeli Bar practising in Israel by the name of Moshe Keshet but he was not the respondent.
3. On 1st April 1987 upon the complaint of the Law Society the respondent was convicted at Wells Street Magistrates Court of an offence under Section 21 of the Solicitors' Act 1974 (as amended), namely that on 3rd July 1986 at Thames Magistrates Court being an unqualified person he wilfully pretended to the then Stipendiary Magistrate to be qualified or recognised by law as qualified to act as a solicitor. The respondent was fined £200 and ordered to pay costs of £100.
4. On or about 2nd August 1987 (the form was undated but was received on 3rd August 1987) the respondent applied to the Canadian Imperial Bank of Commerce for a mortgage advance to be secured on his property at Mill Hill, London NW7.
5. On the application form signed by the respondent, after the usual declarations as to the accuracy of the statements made therein, the respondent declared his occupation to be a "solicitor", that he had been employed by Baskin Ross, solicitors of Finchley Road, NW11 for three years and that his income was £50,000 per annum. Those statements were all untrue. In addition to the fact that the respondent was not a solicitor, he had first been employed by Baskin Ross in April 1987, four months previously, and his income did not exceed £40,000 per annum.

6. On 6th July 1988 the respondent made application to the National Bank of Canada for a mortgage advance on another property at Mill Hill. He gave his occupation as a "solicitor" and declared his employer to be Baskin Ross & Co. and this time declared his annual income to be £65,000. On this occasion he declared that he had been employed by the firm for two years.
7. On 11th July 1988 (5 days later) the respondent made an application to the Canadian Imperial Bank of Commerce for a further advance secured on the first property at Mill Hill. Again he declared his occupation to be that of a solicitor employed by Baskin Ross. Although his application was consistent with that made to the National Bank of Canada in declaring his income to be £65,000 per annum, it was inconsistent with it in that in this application form he declared that his employment with the firm had been of four years duration.
8. The amount sought from the National Bank of Canada was £180,000, the amount sought from the Canadian Imperial Bank of Commerce was £36,000. In the application forms the respondent declared that in the case of each of the two properties it was only he and his immediate family who intended to be in residence. Both applications declared the respondent's address to be that of the property intended to be offered by way of security. In neither application form was disclosure made of the other contemporaneous loan sought.
9. Submitted in support of the application to the National Bank of Canada was what purported to be a reference signed by Baskin Ross & Co. and on their headed paper. This purported to confirm that the respondent was a solicitor employed by the firm, that his annual income was £65,000 and that his position was permanent. The reference was forged.
10. These circumstances were not discovered until some years later as a consequence of enquiries made of Baskin Ross & Co. by solicitors instructed by the National Bank of Canada.
11. Those solicitors had been instructed to undertake possession proceedings and subsequently proceedings for a money judgement against the respondent. Following a mortgagee's sale of the repossessed (second) property a money judgement was obtained for a figure in excess of £99,000 - unsuccessfully appealed by the respondent in March 1992.
12. In or about December 1988 the respondent applied to the Norwich and Peterborough Building Society for an advance to be secured on the first Mill Hill property. In response to requirements from the Building Society, two documents were supplied; one purported to be replies by Baskin Ross & Co. to a Building Society questionnaire and the other was a formal employer's reference. Both documents were forged.
13. In the questionnaire answers were given to the effect that the respondent had been employed by the firm for three years, that the respondent was a "solicitor I.S." (which may or may not have been intended to convey the impression that the respondent was an Israeli solicitor) that his basic salary was £80,000 per annum, that he was in receipt of commission of approximately £20,000 in addition and that his total gross income for the previous twelve months had been £100,000. The reference also purported to

confirm that the respondent had worked for the firm for the previous three years in his capacity of solicitor with a salary of £80,000 per annum.

14. The forged reference continued that -

"In our opinion he is a most reliable and responsible employee who would not take on any commitment he could not meet".

15. These circumstances were discovered by the respondent's employer as a result of contact being made with him by the Norwich and Peterborough Building Society.

16. The respondent was confronted by Mr. Baskin. The respondent provided a statement of admission.

17. On 22nd November 1995 the Law Society resolved to make application 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

18. Despite the lapse of time since conviction, the Tribunal was invited to have regard to the conviction of the respondent under the terms of Section 7(3) of the Rehabilitation of Offenders Act 1974. (The Tribunal confirmed that it would take note of the conviction being indicative of a course of conduct undertaken by the respondent)

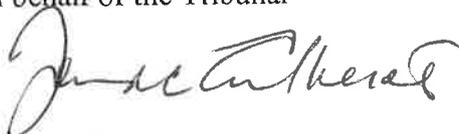
19. With regard to the applications made for mortgage loans supported by untruths and forgeries perpetrated by the respondent, his behaviour had been at the highest end of the scale of seriousness. It was right that his employment within the solicitors' profession should be regulated.

20. The Law Society had not brought the matter before the Tribunal immediately after the conviction as there had apparently been a breakdown of communication between the section of the Law Society prosecuting the respondent and the section which should have dealt with an application for an Order pursuant to Section 43 of the Solicitors Act 1974.

The Tribunal FOUND the allegations to have been substantiated. The Tribunal take the view that the respondent's dishonesty was very grave indeed and had no hesitation in making the Order sought and awarding costs in a fixed sum.

DATED this 9th day of August 1996

on behalf of the Tribunal



J.R.C. Clitheroe
Chairman

