

IN THE MATTER OF TERENCE RONALD SOMMERS, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. G B Marsh (in the Chair)

Mr. A G Ground

Mr. K J Griffin

Date Of Hearing: 12th November 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 Terence Ronald Sommers of Fordingbridge, Hampshire, 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 a criminal offence which disclosed such dishonesty that it would be undesirable for him to be employed by a solicitor in connection with his practice, or alternatively that he had occasioned or had been a party to an act or default in relation to a solicitor's practice 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 had been found guilty of criminal contempt of court and sentenced to a term of one month's imprisonment.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on the 12th November 1996 when Andrew Christopher Graham Hopper solicitor of P O Box 7 Pontyclun, Mid Glamorgan appeared for the applicant and the respondent appeared in person.

The evidence before the Tribunal included the acceptance of the respondent that it was right that the Order sought be made. The complaints made against the respondent in respect of the Industrial Tribunal were not aired before the Tribunal.

At the conclusion of the hearing the Tribunal ORDERED that as from the 12th November 1996, no solicitor should except in accordance with the 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 Terence Ronald Sommers of Fordingbridge, Hampshire 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 to be taxed if not agreed.

The facts are set out in paragraphs 1 to 6 hereunder:-

1. The respondent who was not a solicitor had been employed by a succession of solicitors; in particular, until February 1994, by Peach Grey & Co. of Southampton. The respondent was employed as a law clerk, handling criminal cases. Thereafter, until February 1995, when he resigned, the respondent was retained on a self-employed basis and later employed by Barry Culshaw, Solicitors of Southampton.
2. On the 6th February 1994 the respondent's employment with Peach Grey & Co. came to an end in acrimonious circumstances. Industrial Tribunal proceedings were commenced by the respondent. During those proceedings Peach Grey & Co. disclosed a series of statements which they had obtained from clients of the firm, whose affairs had been dealt with by the respondent, which made serious allegations against the respondent.
3. By the time of the disclosure of the witness statements to the respondent, two of the witnesses had already recanted and given statements confirming that their previous statements were untrue, and a third was subsequently to do the same. Two witnesses maintained their original account: both of them had a number of convictions for offences of dishonesty.
4. The respondent maintained and continued to maintain, and his then solicitors, Messrs Dibbens Baehr of Bournemouth, also believed that the statements of those two witnesses were untrue. Certain steps were then taken by the respondent in accordance with those beliefs. The actions of the respondent subsequently became the subject of proceedings for contempt.
5. On the 10th February 1995 following four days of evidence and submissions, the Queen's Bench Divisional Court of the High Court of Justice found that the respondent had been guilty of contempt of court in intentionally interfering with the due administration of justice before the Southampton Industrial Tribunal, in that he, on or about 24th July 1994 at HM Prison Ford, acting by Mr William Castle, sought to persuade Mr Peter Westwood, a witness or potential witness in pending proceedings before the Industrial Tribunal, to withdraw his statements, by which he meant withdraw from giving evidence and that he, Mr Castle, was going to withdraw his statement on the basis of "favours for favours" and that he, Westwood, should do the same, that £500 paid by Mr Westwood to the respondent could be given back and that it would be better for Mr Westwood if he did withdraw his statement.

6. The Court ordered that the respondent be committed to Her Majesty's prison at Pentonville for a period of one month.

The submission of the applicant

7. In the submission of the applicant it was right that an order pursuant to Section 43 of the Solicitors Act 1974 should be made in respect of the respondent, a solicitor's clerk who had been held in contempt and sentenced to one month in prison. The applicant had attended the High Court hearing. He had not believed that the respondent would be found to have been in contempt.

The submissions of the respondent

8. The respondent did not seek to go behind findings of the Court and he accepted that the Order must be made: he had however found the High Court finding painful and difficult to accept.
9. The respondent had been involved in the law for some thirty years. He had been a police officer who had received a commendation and after leaving the police service had worked for firms of solicitors first in Northampton and later in Southampton as a criminal law clerk. The respondent enjoyed the practice of criminal law. He had been approached by the firm of Messrs Peach Grey & Co. to join them. They were police prosecutors and he was keen to work for them.
10. The respondent had been advised upon his resignation from employment from Peach Grey & Co., that he had been constructively dismissed. There had been a dispute about his pension contributions and in due course the respondent applied to the Industrial Tribunal alleging unfair dismissal by Peach Grey & Co.
11. It appeared that certain statements had been made against him and then withdrawn. Other people had been approached and made false statements. It had then been alleged that the respondent had sought to interfere with the witnesses who were due to appear before an Industrial Tribunal.
12. The respondent as a former police officer had to accept the conviction of contempt of court and the horror of going to prison.
13. After serving his short sentence the respondent had been employed by another firm of solicitors in Southampton but a great deal of pressure had been exerted on that firm and the respondent had resigned in order not to prejudice the well being of the firm. This was the first time in his life that he had been unemployed.
14. The respondent had passed the limbs of the accreditation to qualify to attend at police stations and had only to pass the examination. He pursued that examination and passed it. Within weeks an application had been made to the Legal Aid Board to suspend the accreditation on the grounds that he was unworthy. The accreditation was then suspended.
15. The respondent was aware that he would have to appear before the Disciplinary Tribunal and he wished to be entirely fair to any prospective employer. He had applied for many jobs and as well as having these matters hanging over his head he was, as he described himself, "on the wrong side of fifty".

16. The respondent - in order to earn a living - had purchased an old car, a ladder and a bucket and had set up in business as a window cleaner. He told the Tribunal that he would continue to work in that way for as long as he had to .
17. The respondent's livelihood had been taken away from him. He had not been able to pay the costs of the High Court and had voluntarily had to declare himself bankrupt. He had lost his share in the equity in his house and had cashed in endowment policies. Indeed he had lost everything. His main creditor had been his former employers, Messrs. Peach, Grey & Co. The respondent had never previously been in debt and found the situation very hard indeed.
18. The respondent wished he had been forceful in making it clear to people who had wanted to help him what steps they could or could not take. The matters of which complaint was made were third party dealings and the respondent had not directly been responsible for what had happened. After thirty years in the law, it was not until he left Messrs Peach Grey & Co. that allegations of this nature had been made.
19. The respondent had been heartened by and grateful for the great support given to him by his wife, family and friends and a number of professional people in Southampton.

The Tribunal's Findings

The Tribunal FIND the allegations to have been substantiated. The Tribunal appreciated the respondent's appearance before them and admired his strength in accepting what had happened and the inevitable outcome before this Tribunal. The Tribunal accepted that the respondent had served the law in the capacity of a police officer and also as a criminal law clerk for a long period of time without a stain on his character. Nevertheless, the Tribunal could not go behind the Order of the High Court and must (as the respondent accepted) make the formal Order which has been sought. In the exceptional circumstances of this particular case it is hoped that the Law Society will give particularly careful consideration to any application by a reputable firm of solicitors that the respondent might again be employed within the solicitors' profession. The Tribunal hope also that very careful consideration will be given to the determination of the suspension of his accreditation as a person qualified to attend at police stations. The Tribunal made the order sought and ordered that the respondent should pay the costs of the application itself, the Tribunal making it plain that the respondent should not pay any part of the costs of the wider enquiry.

DATED this 2nd day of January 1997

on behalf of the Tribunal



G B Marsh

Chairman