

IN THE MATTER OF RACHEL WHITELEY, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.H. Isaacs (in the Chair)
Mr. J.W. Roome
Mr. M.C. Baughan

Date Of Hearing: 6th March 1997

FINDINGS

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

An application was duly made on behalf of the Law Society by Geoffrey Williams, solicitor of 36 West Bute Street, Cardiff on 30th September 1996 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 Rachel Whiteley of Chelmsford, 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, having been a clerk to a solicitor but not being a solicitor, had in the opinion of the Law Society occasioned or been a party to with or without the connivance of the solicitors to whom she was or had been a clerk acts or defaults in relation to those solicitors' practices which involved conduct on her part of such a nature that in the opinion of the Society it would be undesirable for her to be employed by a solicitor in connection with his or her practice in that she had -

- (a) made false statements about her qualifications to prospective employers;

- (b) dishonestly misappropriated monies belonging to her employers.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 6th March 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 the admission of the respondent contained in correspondence addressed to the Office for the Supervision of Solicitors. The applicant told the Tribunal that the respondent had confirmed on the telephone on 24th February 1997 that she would not attend the Tribunal hearing and that she admitted the allegations.

At the conclusion of the hearing the Tribunal ORDERED that as from 6th March 1997 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 Rachel Whiteley of Chelmer Village, Chelmsford, Essex CM2 (formerly of Chelmsford, Essex CM1) a person who was or had been a clerk to a solicitor and the Tribunal further Ordered her to pay the costs of and incidental to the application and enquiry, fixed in the sum of £910.62 inclusive.

The facts are set out in paragraphs 1 to 6 hereunder.

1. The respondent was not a solicitor. She was at all material times employed as a litigation clerk by Messrs. Wragge & Co. solicitors of Birmingham between September 1994 and August 1995 and between 29th August 1995 and 7th November 1995 by Messrs. Wollastons, solicitors of Chelmsford.
2. The respondent had been employed as a litigation clerk by Messrs. Wragge & Co. The respondent had falsely represented to that firm, both in a written curriculum vitae and orally, that she had passed examinations set by and become a Fellow of The Institute of Legal Executives. That was untrue.
3. Further, whilst in the employ of Messrs. Wragge & Co., the respondent misappropriated monies belonging to her employers and obtained payments of salary and sick pay to which she was not entitled.
4. The respondent submitted a job application form dated 14th August 1995 to Messrs. Wollastons. The statements in the form to the effect that the respondent had passed examinations set by the Institute of Legal Executives were untrue. Neither had the respondent passed the Common Professional Examination, as she stated in the form.
5. Having employed the respondent on the basis of the misrepresentations and having subsequently discovered the truth, Messrs. Wollastons summarily dismissed the respondent on 7th November 1995.
6. On 29th May 1996 the Adjudication & Appeals Committee of the Solicitors Complaints Bureau (subsequently the Office for the Supervision of Solicitors) resolved to seek an Order of the Tribunal pursuant to Section 43 of the Solicitors Act 1974.

The submissions of the applicant

7. The allegation made against the respondent related to her employment with two firms of solicitors. She had falsely represented in a curriculum vitae prepared by her that she had passed examinations of the Institute of Legal Executives. She had not passed any examinations at all. In addition, whilst working in the employment of Messrs. Wragge & Co. she misappropriated certain monies and made a false claim for sick pay. The Tribunal was informed that she had re-paid those monies.
8. She had also, in making an application for a job with Messrs. Wollastons, untruthfully stated that she had obtained a distinction in the Common Professional Examination.
9. When correspondence was addressed to her by the Solicitors Complaints Bureau the respondent wrote a very frank letter in reply. It was clear that the respondent had recognised her dishonesty and had faced the consequences of it. She had undertaken counselling. Dishonesty had been disclosed relating to her employment with solicitors and it was right that an Order pursuant to Section 43 of the Solicitors Act 1974 should be made in respect of her.

The submissions of the respondent

10. In her letter of 21st February 1996 addressed to the Solicitors Complaints Bureau the respondent said she could only admit to her dishonesty in respect of both firms of solicitors. She had formally apologised in writing to Messrs. Wollastons and in a meeting with Messrs. Wragge & Co. Her behaviour whilst in employment with both firms was completely out of character and of a nature which she was having to deal with and try to put behind her.
11. She had recently received counselling to help her overcome her problems, which appeared to be related to stress and anxiety following an accident during her late teenage years, and the subsequent loss of her right eye.
12. The respondent said that the counselling she received greatly helped her.
13. The respondent had apologised to those who had suffered as a consequence of her actions. She said she was not trying to make excuses for the things she had done wrong and she was prepared to accept the result of her actions.

The Tribunal FOUND the allegation to have been substantiated and in the circumstances it was right that her future employment within the solicitors' profession should be controlled. They made the Order sought and further ordered the respondent to pay the applicant's costs in a fixed sum.

DATED this 7th day of April 1997

on behalf of the Tribunal



A.H. Isaacs
Chairman

<p><i>Findings filed with the Law Society on the 11th day of April 1997</i></p>
