

IN THE MATTER OF THERESA VIOLET KANE, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. A G Ground (in the Chair)  
Mr. R B Bamford  
Mrs. C Pickering

Date Of Hearing: 1st May 1997

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## FINDINGS

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

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An application was duly made on behalf of the Law Society by Geoffrey Williams, solicitor of 36 West Bute Street, Cardiff on the 8th January 1997 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 Theresa Violet Kane 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 solicitor to whom she was or had been a clerk acts or defaults in relation to that solicitor's practice which involved 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 or her practice in that she had:-

- (a) made or caused to be made false and misleading entries in the books of account of her employers;
- (b) used for her own purposes monies belonging to her employers' clients and held in her employers' client account;
- (c) failed to divulge material information to clients of her employers.

The application was heard at the Court Room, No.60 Carey Street, London, WC2 on the 1st May 1997 when Geoffrey Williams solicitor and partner in the firm of 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 admissions of the respondent and her acceptance contained in a letter of the 11th June 1996 written to the Solicitors Complaints Bureau by Messrs. Nigel Porthead Mynard solicitors who represented the respondent, that the Order sought should be made in respect of her.

At the conclusion of the hearing the Tribunal ORDERED that as from the 1st May 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 Theresa Violet Kane of Chelmsford, Essex 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 £2,109.11 (to include the costs of the Investigation Accountant of the Law Society).

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

1. The respondent, who was not a solicitor, was employed as a conveyancing manager by Messrs. Mason & Co. solicitors of Chelmsford between September 1989 and April 1996, when she was dismissed from her employment.
2. Upon notice duly given to Messrs. Mason & Co., an inspection of their firm's books of account was carried out by the Investigation Accountant of the Law Society. The inspection began on the 28th March 1996 and the Investigation Accountant's report dated the 2nd May 1996 was before the Tribunal.
3. During the course of discussions with a partner in the firm the Investigation Accountant ascertained that the respondent had been employed as the conveyancing manager of Mason & Co. During the period between 1st January 1995 and the end of March 1996 the firm had received a total of at least seventy nine referrals from a firm of estate agents in respect of property transactions. The respondent had effected the transactions and had maintained a long standing relationship with the proprietors of the estate agents.
4. In March 1996 matters relating to those referrals began to give cause for concern.

5. The books of account of the firm contained a number of false and misleading entries made at the instigation of the respondent. In view of that the Investigation Accountant did not consider it practicable to begin to calculate the firm's liabilities to clients. However a minimum cash shortage of £67,304.82 was established caused entirely by the respondent's misuse of funds received on behalf of five clients alone. All had been referred to the firm by the estate agents who were believed to have been a party to deceptions whereby in each case the seller and buyer of a property had agreed to enter the transaction having been told a different purchase price. The greater sum was obtained from the purchaser and the lesser sum was paid to the vendor leaving a "profit" in the hands of the respondent. It appeared that the respondent had not disclosed relevant information to building society clients. It further appeared that the whole of the "profit" element was not retained by the respondent herself, but passed to the agents, who made gifts to the respondent.
6. On the 28th August 1996 the Law Society resolved that an application should be made to the Tribunal for an order pursuant to section 43(1)(b) of the Solicitors Act 1974 in respect of the respondent.

#### **The Submissions of the Applicant**

7. In essence the respondent had made a secret profit by acting in highly suspicious conveyancing transactions.
8. The respondent had indicated in a statement made following the Investigation Accountant's inspection that she had been paid a bonus and her judgment had been clouded as a result of stress.

#### **The Submissions of the Respondent (contained in her statement dated 19th April 1996)**

9. The respondent had known the members of the estate agency for a long time and they had offered to assist her in building up the almost non-existent conveyancing department of Mason & Co. The relationship between them worked satisfactorily for a long time but in early 1995 the respondent became aware that a company had been set up as a vehicle for property deals. The respondent had acted on a number of occasions on mainly "back to back" transactions where the company bought a property at one price and immediately sold it on at a higher price. That type of transaction was stressful because the company would not necessarily want to buy the property until it knew that its own purchaser was committed. Because of the extra stress one of the gentlemen involved in the estate agency would pay the respondent a bonus of some £200 in addition to the legal costs paid to Mason & Co. In her statement the respondent went into some detail of the number of conveyancing transactions and in due course of pressure being put upon her by the members of the estate agency. The respondent had succumbed to producing documents for the vendors to sign at one price and the purchaser to sign at another. Where necessary the figures on the documents had been changed and initialled by the respondent.
10. The respondent regretted her involvement although she had not realised at the time the full effect of her actions especially in relation to the mortgagees. She realised that

what she was doing was wrong but she believed that the purchasers were getting what they wanted as were the vendors while Messrs. Mason & Co. was getting the work that it needed.

11. Because of the freedom given to the respondent by the employing firm, the partners would not have known what was going on. They would simply have signed cheques for which the respondent asked.
12. In a subsequent letter addressed to the Solicitors Complaints Bureau (received 22nd July 1996) the respondent said her main reason for agreeing to assist in the transactions after much pressure by the estate agents was to keep the level of introductions up from them to enable the firm of Mason & Co. to continue. She was responsible for a range of tasks and was given considerable responsibility. She said she had become totally responsible for finding the funds to cover the wages and all other outgoings and the strain of that clouded her judgment as to what was right and wrong.
13. The respondent did not believe that anyone was suffering from the transactions.
14. The respondent was fifty years of age and believed she would be unable to work again. She was receiving treatment from her doctor for chronic depression and stress with no prospects of the substantial pension which she had anticipated she would receive at sixty. She had a substantial mortgage on a house which worth less than the sum owing. Her husband was self employed and was not certain of his inflow of work. The strain of his trying to cope with all household bills alone was telling on him. The respondent would have to maintain her son who had just left university until he found employment.
15. The respondent did not feel that she had benefitted personally and wished that she could turn the clock back and not be so stupid again.

### **The Tribunal's Findings**

The Tribunal FOUND the allegation to have been substantiated. The Tribunal understands the pressure to which the respondent was subjected but the fact was that she had acted dishonestly and it was particularly serious that she had drawn a set of documents one for a purchaser and one for a vendor disclosing different terms and had made unauthorised alterations. In those circumstances the Tribunal considered it right that an order pursuant to section 43 of the Solicitors Act 1974 should be made in respect of the respondent and they ordered her to pay the costs of the application and enquiry to include the costs of the Investigation Accountant of the Law Society as it was quite clear that the breaches found by the Investigation Accountant related to the activities of the respondent.

DATED this 30th day of June 1997

on behalf of the Tribunal



A G Ground  
Chairman

