

IN THE MATTER OF WENDY DEBORAH ALEXANDER, solicitors clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.H. Isaacs (in the Chair)
Mr. A.G. Ground
Mrs. C. Pickering

Date Of Hearing: 10th June 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 the 21st January 1997 that an Order be made by the Tribunal directing that as from a date specified in the order no solicitor should, except with permission from the Law Society for such a period and subject to such conditions as the Law Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Wendy Deborah Alexander of , Barnes, London SW13 , 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.

The application was heard at the Court Room No. 60 Carey Street, London WC2 on 10th June 1997 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 applicant told the Tribunal that he had been in correspondence with the respondent and had received acknowledgement of letters.

The evidence before the Tribunal included the fact that the respondent had been sent notices pursuant to the Tribunal's own rules and the Civil Evidence Acts and no counter notices had been served by her.

At the conclusion of the hearing the Tribunal ORDERED that as from the 10th June 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 Wendy Deborah Alexander of _____, Barnes, London SW13 _____ a person who was or had been a clerk to a solicitor and the Tribunal further Ordered that she pay the costs of and incidental to the application and enquiry to be taxed if not agreed.

The facts are set out in paragraph 1 to 24 hereunder:-

1. Between September 1987 and April 1992 the respondent was employed by Messrs. Rigby Golding & Co. ("the firm"), solicitors of Sunbury Cross, Sunbury-on-Thames, Middlesex TW16 7AU. On the latter date the respondent resigned from her employment whilst at the time being suspended by the firm.
2. The respondent was employed as a secretary to Miss Susan Webster, a partner of the firm. The respondent was able to deal with routine conveyancing work and also carried out book-keeping duties.
3. The respondent co-habited with Terrence Coker who was engaged in the motor trade.
4. Mr. & Mrs. D lived near the respondent and Mr. Coker at Hanworth. They were appreciably older than the respondent and Mr. Coker and the two couples became very friendly. The relationship became similar to that of parents and children. The friendship started before the respondent became employed by the firm.
5. Mr. & Mrs. D decided that they wished to sell their house and move away. They were anxious to find a suitable property and release some capital for their old age. They instructed the firm. Miss Webster had the conduct of the matter. The respondent dealt with the file in a secretarial capacity and conducted much of the necessary liaison with Mr. & Mrs. D.
6. Mr. & Mrs. D had decided to purchase a property in Hull at a price of £57,500. Again, Miss Webster had the conduct of the matter and the respondent assisted. By a letter to the vendor's solicitors dated 30th March 1990, the firm raised certain queries subject to which a draft Contract and draft Transfer could be approved.

7. There had been certain conveyancing difficulties with the proposed purchase, but they were not insurmountable. However, the respondent advised Mr. & Mrs. D not to proceed with the purchase. The respondent was not authorised by the firm to give such or any advice to Mr. & Mrs. D. However, the advice was accepted and the firm instructed not to proceed. The firm returned the papers to the vendor's solicitors under cover of a letter dated 10th April 1990.
8. The sale transaction of Mr. & Mrs. D's house proceeded smoothly. Completion took place on 25th May 1990 and the firm paid the sum of £80,633.95 to Mr. & Mrs. D's bank account.
9. It followed that at completion of the sale Mr. & Mrs. D had nowhere to live. The respondent and Mr. Coker jointly owned (but did not occupy) a property at Watton, Norfolk. This property was on the market for sale. Discussions took place between the respondent and Mr. Coker and Mr. & Mrs. D. Initially it was suggested that Mr. & Mrs. D could live at Watton whilst they found a property to buy.
10. Subsequently, the discussions took a different turn. Mr. & Mrs. D were making gifts to the respondent and Mr. Coker in their Wills. It was suggested to them, by either the respondent or by Mr. Coker or both, that some payment could be made at that stage with a view to Mr. & Mrs. D remaining at the Watton house. Mr. Coker initially suggested that Mr. & Mrs. D should acquire a one half share in the property. No such transaction ever took place.
11. On 25th May 1990, upon completion of their sale, Mr. & Mrs. D took up occupation of the Watton house with the consent of the respondent and Mr. Coker.
12. On 2nd June 1990 Mr. & Mrs. D paid the respondent £37,544. This payment related directly to the occupation of the Watton house.
13. In August 1990 Mr. & Mrs. D signed a form of agreement prepared by or on behalf of the respondent and/or Mr. Coker. This provided that Mr. & Mrs. D could live in the Watton house for as long as they wished free of rent. This was not a conveyance of a legal estate. Mr. & Mrs. D believed that they had obtained the security which they had been seeking.
14. Unbeknown to Mr. & Mrs. D the respondent and Mr. Coker were in financial difficulties which had begun some time previously. They had been making unsuccessful investments in the property market.
15. Further, the respondent and Mr. Coker had not divulged to Mr. & Mrs. D the fact that the Watton house was heavily mortgaged. There was a first charge in favour of National Westminster Home Loans Limited dated 18th August 1986. By February 1992 the redemption figure was £34,687.52. There was a second charge in favour of Nationwide Credit Corporation Limited dated 9th June 1988. By October 1991 the redemption figure was £30,700.43 which included arrears of £6,848.52.

16. In 1992 both the respondent and Mr. Coker entered into voluntary arrangements with their creditors. In so doing they confirmed that the amounts outstanding on the said mortgages exceeded their estimated value of the Watton house.
17. In 1993 a mortgagee obtained possession of the Watton house as a result of mortgage arrears. Mr. & Mrs. D had to be re-housed by the local authority.
18. Mr. & Mrs. D took proceedings against the respondent and Mr. Coker to recover the amount they had paid. They obtained a Judgment by default which remained unsatisfied.
19. Mr. & Mrs. D took proceedings against the firm for professional negligence. Their claim was dismissed by both the County Court and the Court of Appeal.
20. The Tribunal had before it copies of the Judgments of the respective Courts.
21. Arrangements made between the respondent, Mr. Coker and Mr. & Mrs. D took place unbeknown to the firm. The respondent failed to disclose to her employers her involvement with the firm's clients.
22. The firm only found out about the respondent's dealings with Mr. & Mrs. D when she consulted the firm in 1992 in connection with injunction proceedings issued by Mr. & Mrs. D against the respondent and Mr. Coker restraining them from using or threatening to use violence on them.
23. Mr. & Mrs. D complained to the Solicitors Complaints Bureau by a "Help Form" dated 27th March 1995.
24. The appropriate committee of the Law Society resolved to seek an Order of the Tribunal pursuant to Section 43(2) of the Solicitors Act 1974 in respect of the respondent on the 6th March 1996.

The submissions of the applicant

25. In the submission of the applicant he had to satisfy to the Tribunal that there had been acts or defaults on the part of the respondent which related to the solicitors' practice by which the respondent was employed. The applicant submitted that the activities of the respondent were sufficiently closely related to the firm's practice as to justify a restriction being placed on the employment of the respondent within the solicitors' profession
26. The involvement of the respondent in relation to the conveyancing transactions and the advice or persuasion by the respondent that Mr. & Mrs. D should withdraw from the proposed purchase of the house in Hull were related to the firm's practice.
27. The judgments in the Court at first instance and on appeal in the civil action brought against the firm by Mr. & Mrs. D were accepted by the Tribunal as showing that the respondent was party to a fraud perpetrated against Mr. & Mrs. D in connection with the Watton house.

28. It was clear that the fraud had been planned and had not been opportunistic.
29. Mr. & Mrs. D had been deprived of a considerable sum of money by the fraud of the respondent and Mr. Coker. They had been successful in civil proceedings brought against them, but the Judgment obtained was worthless because of the respondent's and Mr. Coker's impecuniosity. Because the Court found that the firm was not liable for the fraudulent activities of the respondent, no claim lay against the firm. Mr. & Mrs. D had little or no prospect of recouping their losses.
30. In the circumstances, it was right that an Order restricting the respondent's future employment within the solicitors' profession should be made.

The submissions of the respondent

31. The Tribunal had before it a copy of the letter of 21st April 1997 addressed by the respondent to the applicant, an extract from which is set out below -

**"Re: Office for the Supervision of Solicitors -v- Myself
Solicitors Disciplinary Tribunal - 10th June 1997**

I confirm I have received the letter from the Tribunal notifying me of the date of the substantive hearing and have acknowledged receipt to the Clerk.

As requested in your letter, I set out below the points in your statement which I dispute, using the same numbering.

11. I did not advise Mr. and Mrs. D to withdraw from their purchase at any time, the decision was entirely their own. Please see page 4, paragraph 3, lines 4 to 27 of my letter to Mr. D.J. Middleton, SCB dated 20th October 1995.
13. I do not think that the penultimate sentence is correct. Please see page 5 last paragraph and page 6 of my letter to Mr. D.J. Middleton, SCB dated 20th October 1995.
17. We had been intending to sell the Norfolk property and it had been on the market for a short time prior to Mr. and Mrs. D's occupation.
18. Mr. and Mrs. D were aware of the position. When we discussed selling the property to them at the price it had been on the market (please see page 6, paragraph 1, lines 4 & 5 of my letter to Mr. D.J. Middleton, SCB dated 20th October 1995). We told them at this stage that we would require this sum to enable us to redeem the monies secured on the property.
23. Mr. and Mrs. D were close friends of ours long before they became clients of Rigby Golding. I was not aware that I was obliged to disclose my private arrangements to my employers.

I should also like to mention the following points -

- (a) Mr. and Mrs. D moved into the Norfolk property in May 1990. We were not aware of any problem until they issued proceedings against us in January 1992.
- (b) I was at all times a secretary and not a clerk. If I had been made aware of the regulations to which I was required to comply on entry to my occupation I would have honoured these without question. It is only since the issue of these proceedings that I have been treated as a clerk and the regulations have been made known to me. I would never have intentionally jeopardised my future in the profession and am extremely sorry that what was an arrangement between close friends, has resulted in these proceedings."

32. A second letter from the respondent dated 9th May 1997 contained the following statement -

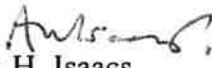
"I confirm that I have no further observations to make save that the Court Findings were made in the absence of my defence, as I was unable to fund the same."

The Findings of the Tribunal

The Tribunal accepted the Findings in the civil action brought by Mr. & Mrs. D that the firm was not liable to them for the fraud perpetrated against them but this did not, in the opinion of the Tribunal, mean that the acts of the respondent were not related to the firm's practice or did not involve conduct such that it would be undesirable for the respondent, without the Law Society's permission, to be employed by a solicitor.

DATED this 8th day of August 1997

on behalf of the Tribunal


A.H. Isaacs
Chairman

Findings filed with the
Law Society on the 20th
day of August 1997