

IN THE MATTER OF ANN MARIE TROCHYMENKO, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. R.B. Bamford (in the Chair)
Mrs. E. Stanley
Mr. K.J. Griffin

Date Of Hearing: 8th July 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 10th March 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 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 Ann Marie Trochymenko of Cheadle, Cheshire 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 been convicted of a criminal offence which disclosed such dishonesty that in the opinion of the Law Society it would be undesirable for her to be employed by a solicitor in connection with his practice.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on 8th July 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 appeared in person.

The evidence before the Tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that as from the 8th July 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 Ann Marie Trochymenko of Cheadle, Cheshire SK8 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 £962.97.

The facts are set out in paragraphs 1 to 5 hereunder.

1. The respondent, who was not a solicitor, was, between 1992 and January 1995, employed as a clerk by C.J. Malone, solicitors of 72 Broad Street, Salford and 13 Halifax Road, Todmorden, Lancashire. such employment was terminated by C.J. Malone as a result of matters which led to the respondent's conviction.
2. On 29th April 1996 the respondent appeared in the Manchester Crown Court and upon her own confession was convicted upon indictment of conspiracy to defraud.
3. On 18th September 1996 the respondent appeared in the same Court and was sentenced to six months imprisonment for the offence.
4. The conviction arose out of the respondent's activities whilst employed as a solicitor's clerk.
5. On 23rd October 1996 the Professional Regulation Casework Sub-Committee (A) of the Office for the Supervision of Solicitors resolved that application be made to the Tribunal for an Order under Section 43(2) of the Solicitors Act 1974 in respect of the respondent on the grounds that she, having been a clerk to a solicitor but not being a solicitor, had been convicted of a criminal offence which disclosed such dishonesty that in the opinion of the Law Society it would be undesirable that she should be employed by a solicitor in connection with his/her practice.

The submissions of the applicant

6. The respondent had been convicted of the offence of conspiracy to defraud and had served her custodial sentence.
7. The Tribunal was referred to the sentencing remarks of His Honour Judge Humphries in the Crown Court at Manchester when he said -

"The basic conspiracy was to defraud insurance companies by making false claims for damages, claims for damages after road traffic accidents. In some cases claims were put in when no accident had occurred. In some cases claims were put in for car expenses which had not been incurred. In some cases claims were put in for physiotherapy to plaintiffs that had not been given. In some cases claims were put in for medical examinations which had not taken place. Many false documents were created. Often there was the forging of signatures."

8. The respondent was co-defendant with three others and the Learned Judge went on to say -

"Anne-Marie Trochymenko, your part was smaller than those two, yet I believe you were an intelligent woman and chose to act dishonestly. You knowingly and willingly helped in the fraud and must take the consequences."

9. He recognised that her part was mainly administrative, writing out notes and making telephone calls to insurance companies, but she knew what was going on. He accepted that she had no real financial reward. She had lost her job, but she deserved to.
10. The respondent would say that she had been punished enough, but in the submission of the applicant an Order made pursuant to Section 43 of the Solicitors Act 1974 was not punitive, but regulatory. In the circumstances of this matter it was right that the respondent's future employment within the solicitors' profession should be controlled.

The submissions of the respondent

11. The respondent accepted that the Order sought should be made. She assured the Tribunal that she had not taken lightly the events which had been placed before them. She had received a "black mark" against her and had been punished; she very much regretted what had happened and apologised both to the Tribunal and to the solicitors' profession, and particularly to the firm which had engaged her.

The Tribunal FOUND the allegation to have been substantiated, indeed it was not contested. The Tribunal gave the respondent credit for attending before them and for making an apology. Nevertheless, the Tribunal could not overlook the fact that she had been convicted of a criminal offence involving dishonesty whilst engaged by a firm of solicitors in connection with that firm's ordinary business. It was right that her future employment within the solicitors' profession should be regulated and they made the Order sought. They further ordered that she should pay the applicant's fixed costs.

DATED this 1st day of September 1997

on behalf of the Tribunal



R.B. Bamford
Chairman

Findings filed with the
Law Society on the
day of 19