

IN THE MATTER OF LAWRENCE DAVID WINTER, former solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D J Leverton (in the chair)
Mr A Gaynor-Smith
Mr G Fisher

Date of Hearing: 7th May 2002

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Office for the Supervision of Solicitors ("OSS") by Peter Harland Cadman solicitor and partner in the firm of Messrs Russell Cooke Potter and Chapman of 8 Bedford Row, London, WC1R 4BX on the 2nd October 2001 that Lawrence David Winter a solicitor of Brighton, Sussex might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:-

- (a) That he took unfair advantage of his lay client.
- (b) That he misappropriated monies deposited with him by his lay client.
- (c) That he improperly failed to complete share transfers.
- (d) That, in litigation and elsewhere, he claimed beneficial ownership to a company which he did not in fact own.
- (e) That he swore affidavits during the course of civil litigation that he knew or ought to have known were false and/or misleading.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Peter Harland Cadman solicitor and partner in the firm of Messrs Russell Cooke Potter and Chapman of 8 Bedford Row, London, WC1R 4BX appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included a copy of the “Evening Argos” containing an advertisement relating to the proceedings in accordance with the Tribunal’s requirement at an interlocutory hearing showing which took place on the 18th March 2002 and the oral evidence of Mrs Shepherd, Mr Shepherd, Mr Jepson, Mrs Tasker and Mr Chalk.

At the conclusion of the hearing the Tribunal ordered that the Respondent Lawrence David Winter a former solicitor be prohibited from having his name restored to the Roll of Solicitors except by order of the Tribunal and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £8,137.07.

The facts are set out in paragraphs 1 to 12 hereunder:-

1. The Respondent born in 1947 was admitted as a Solicitor in 1973. The Respondent voluntarily removed his name from the Roll of Solicitors on 28th July 1999.
2. At all material times the Respondent had carried on in practice on his own account under the style of Davies & Co at 31 Marlborough Place, Brighton, Sussex. At the time of the disciplinary hearing the Respondent’s whereabouts were unknown.
3. During 1995 Mrs S retained the Respondent as her solicitor for work which included the following:-
 - (i) To conduct legal conveyancing work with regard to the lease of premises which she and her husband had found from which Mr and Mrs S intended to run an indoor market.
 - (ii) To form a limited company for the benefit of Mrs S to conduct her market trade (D. P. Ltd).
4. The Respondent agreed with Mrs S that cash deposits and payments could be deposited by Mrs S with the Respondent.
5. Mrs S in due course requested the Respondent to provide a schedule of cash payments made by her to the Respondent. The Respondent refused to provide such schedule. The Respondent had never accounted to Mrs S for the money received by him in cash. In evidence Mrs S told the Tribunal that the sum of money involved was in the region of £75,000.00.
6. The Respondent thereafter commenced litigation against Mrs S on the basis that the Respondent was beneficially entitled to D. P. Ltd and was the controller of that company. The Respondent evicted Mrs S from the premises.
7. Litigation then took place in Lewes County Court commenced by the Respondent. The Respondent’s claim in its totality was rejected and a costs order was made against him. The Tribunal had before it copies of the papers relating to this litigation.
8. D. P. Ltd was formed by a firm of company formation agents. Mrs S instructed the Respondent that the shares in the company should be transferred into the name of her and her family. The Respondent did not comply with those instructions and in due course he transferred the shares into his own name and that of his wife.

9. The Respondent maintained throughout the civil proceedings that he was beneficially entitled to D. P. Ltd. The Respondent swore affidavits (copies of which were before the Tribunal) to that effect.
10. The Tribunal had before it written statements of Mr S, Mr C, Mr J and Mrs T all of whom attended the disciplinary hearing and gave oral evidence. Those statements confirmed that the account of events give by the Respondent in the affidavits and in the civil litigation generally was false and misleading. The litigation brought by the Respondent was dismissed with a personal costs order against him.
11. Further enquiries were made of Messrs Clifford Chance, solicitors for the landlords of the market premises. In a letter addressed to that firm by the Respondent dated 12th January 1995 the Respondent said:-

“By way of explanation, Mrs S is the main promoter of the company D. P. Ltd”.

12. The matter was referred for an enquiry and report and the OSS raised various matters with the Respondent who replied by letter of 26th August 1999. That letter was before the Tribunal. The Respondent denied the allegations made.

The Submissions of the Applicant

13. The Tribunal was invited to find that the allegations made against the Respondent had been substantiated.

The Submissions of the Respondent

14. The Respondent had taken no part in the proceedings. The Tribunal had, however, noted the contents of a letter addressed by the Respondent to the OSS dated the 26th August 1999 in which he strenuously denied the allegations.

The Findings of the Tribunal

The Tribunal find the allegations to have substantiated. The Respondent’s behaviour appeared to have been extraordinary and, in the absence of any proper explanation, disgraceful. However the Respondent had already voluntarily removed his name from the Roll and in such circumstances the Tribunal considered it right to order that the Respondent’s name should not in the future be restored to the Roll of Solicitors without an order to that effect made by the Tribunal. The Tribunal further considered it right to order the Respondent to pay the costs of and incidental to the application and enquiry in a fixed sum.

DATED this 22nd day of August 2002

on behalf of the Tribunal

D J Leverton
Chairman