

IN THE MATTER OF KATHRYN ANN HENNESSEY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A.G. Gibson (in the chair)
Mrs. K. Todner
Mr. M.C. Baughan

Date of Hearing: 15th October 2002

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application had been duly made on behalf of the Office for the Supervision of Solicitors ("OSS") by Margaret Eleanor Bromley, solicitor then of Bush House, 72 Prince Street, Bristol, BS99 7JZ on 3rd July 2002 that Kathryn Ann Hennessey of Great Boughton, Chester, solicitor, 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 against the Respondent were that she had been guilty of conduct unbefitting a solicitor in that she:-

- (i) On 21st November 2001 received a conditional discharge in respect of a criminal charge of doing an act tending and intended to pervert the course of public justice;
- (ii) Had acted in a way which compromised or impaired or was likely to compromise or impair her good repute or the good repute of the solicitors' profession and her duty to the Court.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 15th October 2002 when Margaret Eleanor Bromley of TLT, solicitors, One Redcliff Street, Bristol, BS99 7JZ appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the admissions of the Respondent contained in her letter to the Tribunal dated 1st October 2002 together with copies of correspondence between the OSS and the Paul Rooney Partnership handed in by the Applicant at the hearing.

At the conclusion of the hearing the Tribunal ordered that the Respondent Kathryn Ann Hennessey of Great Boughton, Chester, solicitor, be struck off the Roll of Solicitors and they further ordered that she do pay the costs of and incidental to the application and enquiry to be subject to detailed assessment unless agreed.

The facts are set out in paragraphs 1 to 10 hereunder.

1. The Respondent, born in 1966, was admitted as a solicitor in 1999 and her name remained upon the Roll of Solicitors. At all material times, the Respondent was employed as an assistant solicitor by the Paul Rooney Partnership in Liverpool. She left their employment in December 2000 and was not currently working as a solicitor.
2. Shortly after her arrival at the firm the partner in charge of the department left. She found herself with a substantial workload with what she considered to be inadequate supervision.
3. One of the personal injury files of which the Respondent had conduct was coming up for trial. The deadline for exchanging witness statements was approaching. The Respondent was unable to contact the client and there was no witness statement on the file.
4. The Respondent put together a witness statement from the details on the file and the particulars of claim. She sent the statement to the client for signature but he did not reply. The Respondent decided that she would sign the statement on the client's behalf and serve it on the defendant. She signed the witness statement in the client's name.
5. Subsequently, the client contacted the Respondent and came in. The witness statement was amended and the client signed it. That statement was then served on the other side and the Court.
6. The client's case came on for trial in the Liverpool County Court before His Honour Judge Marshall Evans. One of the documents produced to the Court was the statement purporting to be signed by the client. In evidence at the hearing, the client stated that he had not signed the statement and had in fact refused to sign it. The Judge ordered that an investigation be undertaken and this was carried out by Merseyside Police.
7. As soon as the Police started making enquiries within the firm, the Respondent admitted having signed the statement.

8. The Respondent was charged with doing an act tending and intended to pervert the course of public justice and on 21 November 2001 before Liverpool Crown Court she pleaded guilty and was made subject to a conditional discharge order for one year.
9. On 15th November 2001 the Respondent wrote to the OSS informing them that she was being prosecuted and that the hearing was scheduled for 21st November 2001.
10. The Respondent wrote again on 27th November following the hearing informing the OSS that she had been conditionally discharged and had been ordered to pay £200 towards the prosecution costs.

The Submissions of the Applicant

11. The Applicant had been qualified for approximately 9 months when she started work at the Paul Rooney Partnership.
12. She had found herself up against a time deadline without a witness statement. It was accepted by the Applicant that the Respondent had not gained personally from her actions other than avoiding an adverse court finding in a case with which she was dealing.
13. The Respondent had described her actions in correspondence as being due to lack of experience and stupidity. It was submitted, however, that actions such as those of the Respondent damaged the reputation of the profession.
14. The public had to have confidence that any solicitor, however inexperienced and newly qualified, would act in accordance with the law.
15. The Applicant put the matter as a dishonesty conviction arising from lack of experience and as a serious error of judgment on the part of the Respondent.
16. The Tribunal was referred to the correspondence between the OSS and the Paul Rooney Partnership. The Paul Rooney Partnership did not accept the picture painted by the Respondent of a lack of supervision within the firm.

The Submissions of the Respondent

17. The submissions of the Respondent were contained in her letter of 1st October 2002 in which she wrote:-

“Please excuse my attendance at the hearing of this matter. I am not defending these proceedings and therefore feel that my attendance will not assist matters.

I am at present attending a part-time college course and also work part-time, three days a week, at a rate of £35.00 a day. I have not worked as a solicitor since November 2001.

This matter has been very difficult for both myself and my family. I have been punished by the criminal court and paid a contribution of £200.00

towards the costs of the prosecution. At no point did I intend to gain personally. I acted out of ignorance and stupidity in a very difficult situation which is reflected in the sentence passed by the Crown Court.”

The Findings of the Tribunal

18. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
19. The Tribunal accepted that the Respondent had been young and inexperienced at the time of the conduct which had led to her conviction. That of itself, however, could not excuse a qualified solicitor from acting in a way which deceived another party in litigation and indeed the Court. The Respondent’s then employers had flatly denied the allegations which she had made regarding overwork and lack of supervision. Their letter had been disclosed to the Respondent but she had chosen not to attend the hearing to put forward further mitigation. The Tribunal had to consider the protection of the public and the view the public would take of a solicitor who had been convicted of doing an act tending and intended to pervert the course of public justice. The Court had imposed only a conditional discharge upon the Respondent and the Tribunal had given very careful consideration as to whether a lesser penalty than the ultimate sanction would be appropriate. In all the circumstances, however, the Tribunal considered that a conviction involving deception on the part of a solicitor required that solicitor to be struck off the Roll of Solicitors except in cases where there was the most exceptional mitigation. The mitigation put forward by the Respondent in correspondence was not, in the opinion of the Tribunal, of that exceptional nature. The Tribunal, therefore, ordered that the Respondent Kathryn Ann Hennessey of Great Boughton, Chester, solicitor, be struck off the Roll of Solicitors and they further ordered that she do pay the costs of and incidental to the application and enquiry to be subject to detailed assessment unless agreed.

DATED this 29th day of November 2002
on behalf of the Tribunal

A.G. Gibson
Chairman