

IN THE MATTER OF BRIAN ERNEST EDWARD BURRETT, former solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr S N Jones (in the chair)
Mrs E Stanley
Mr D Gilbertson

Date of Hearing: 20th May 2004

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 (the OSS) which subsequently became known as the Law Society's Consumer Complaints Service by Sarah Jane Lakeman solicitor employed by the Law Society at the OSS at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE on 13th February 2004 that Brian Ernest Edward Burrett solicitor of Tindon End, Wimbish, Essex, 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 allegation was that the Respondent had been guilty of conduct unbecoming a solicitor in that on 11th May 1999 he was tried and convicted upon indictment of four charges of corruption and was sentenced to nine months imprisonment on 25th June 1999.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Sarah Lakeman appeared as the Applicant and the Respondent did not appear and was not represented. The evidence before the Tribunal included the Respondent's notification that he admitted the allegation provided direct to the Tribunal on 13th April 2004. In a letter to the Tribunal dated 13th May Mr Burrett confirmed that he would not be attending the hearing.

At the conclusion of the hearing the Tribunal made the following order:-

The Tribunal order that the respondent, Brian Ernest Edward Burrett of Tindon End, Wimbish, Essex, former solicitor, be prohibited from having his name restored to the Roll of Solicitors except by Order of the Tribunal and they further order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,014.50

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The Respondent, born in 1939, was admitted as a solicitor in 1963. He last held a Practising Certificate for the year 1996/1997. His name was automatically removed from the Roll of Solicitors on 12th October 2002 as the Law Society had not received confirmation that he wished to remain on the Roll.
2. At the material times the Respondent was a partner in the firm of Budd Martin Burrett solicitors of Chelmsford, Essex. He resigned from that partnership in 1997.
3. The Respondent also had business interests and was the director of the Construct Reason Group, a group of companies involved in the building industry.
4. At all material times the Respondent had a business relationship with Mr GS, the head of the property division of UDT Bank. As a result of the Respondent's relationship with Mr GS, the Construct Reason Group benefited from loans from UDT Bank. The Respondent paid Mr GS money to induce him or reward him for facilitating the provision of those loans.
5. On 11th May 1999 the Respondent was tried and convicted upon indictment on four counts of corruption and was sentenced to a total of nine months' imprisonment. The sentence was notified on 25th June 1999.

The Submissions of the Applicant

6. The Respondent had been found guilty of criminal offences involving dishonesty.
7. It was in the public interest that any application by the Respondent to be restored to the Roll of Solicitors should be dealt with by the Disciplinary Tribunal.
8. The Tribunal was invited to note the sentencing remarks of His Honour Judge Inman at Middlesex Guildhall on 25th June 1999.

The Submissions of the Respondent

9. The Respondent was not present at the hearing.

The Decision of the Tribunal

10. The Tribunal found the allegation to have been substantiated, indeed it was not contested.
11. The Tribunal adopt the sentencing remarks of His Honour Judge Inman when he said “I am bound to say that both your activities [*the Respondent and GS were tried together*] could well be described, even by a neutral political observer, as the unacceptable face of capitalism. There can be little doubt that corrupt activities of this kind must be taken seriously by the Courts and as has been said in a case in the Court of Appeal by a senior Appeal Judge, this kind of conduct is damaging to commercial life and those who indulge in it must expect to be imprisoned immediately, although they are usually men of previous good character. Also what was said by another very experienced Judge in the Court of Appeal in relation to a corruption case, ‘Corruption in all forms has become widespread. The Courts must do what they can to stop the spread of corruption in public and commercial life. The giving and accepting of bribes will not be tolerated in this country.’”
12. For a solicitor to be found guilty of corruption seriously damages the good reputation of the solicitors’ profession. It is right that the name of the Respondent should not be restored to the Roll unless the Respondent can make a successful application to this Tribunal for restoration.
13. The Tribunal at the hearing expressed concern at the length of time which had elapsed between the date of the conviction and the date upon which the Tribunal was charged with dealing with this matter. It appeared that the conviction of Mr Burrett, who was then a solicitor, had not been notified to the Law Society. That was regrettable. It was hoped that steps would be taken to ensure that those responsible for reporting any solicitor who has been convicted of a serious criminal offence be reported to the Law Society without delay.
14. It was right that the Respondent should also pay the costs of the Law Society in connection with the application and enquiry. The Tribunal fixed those costs in the sum of £1,014.50.
15. The Tribunal noted that Mr Burrett, together with others, had previously appeared before the Tribunal when it was found that:-
 - (1) In the circumstances set out in that affidavit and upon the occasion specified in paragraph 8 thereof the eight Respondents (including Mr Burrett) and each of them were in breach of Rule 2 of the Solicitors Practice Rules 1936-1972, in that they and each one of them, each of them being a solicitor and/or being two or more solicitors practising in partnership or association and/or being partners in the same firm carrying on practice at the relevant offices concerned, did act for both vendor and purchaser on a transfer (or transfers) of land for value at arm’s length;
 - (2) Further, or alternatively, in the circumstances set out in that affidavit and upon the occasions specified in paragraph 8 thereof the eight Respondents (including Mr Burrett) and each one of them were guilty of conduct

unbefitting a solicitor in that they and each of them, each one of them being a solicitor:-

- (a) failed to ensure that prospective purchasers of properties offered for sale by Alan Reason Homes Limited who expressed an intention of instructing the firm of Budd, Martin, Burrett to act as solicitors upon their behalf in relation to the proposed purchase, were in each and in every case advised by Budd, Martin, Burrett of the fact that Brian Ernest Edward Burrett (the first Respondent) and Richard Haig Martin (the second Respondent) both being partners in the said firm of Budd, Martin, Burrett were at the same time directors of Alan Reason Homes Limited and of their selling agents, Ducon Properties Limited, and held upon their own behalf or in trust for themselves and/or others a substantial interest in each of the said Companies;
- (b) failed to bring the aforesaid conflict of interest to the notice of prospective purchasers who expressed the intention of using the services of Budd, Martin Burrett;
- (c) failed to advise such prospective purchasers of their right in the circumstances aforesaid to seek to avail themselves of independent legal advice;
- (d) failed to recommend to such prospective purchasers that it would be in the interests of the purchaser or purchasers, as the case might be, to seek independent legal advice;
- (e) were in breach of Rule 2 of the Solicitors Practice Rules 1936 to 1972, as aforesaid.

The Tribunal having found these allegations substantiated against the Respondent Mr Burrett imposed a penalty of £300 upon him. He was also ordered to pay five-fourteenths of the Law Society's costs in conducting the application before the Tribunal on that occasion.

16. The Tribunal's decision was dated 21st June 1978.
17. The Tribunal on the same date found the following allegation also to have been substantiated against the Respondent Mr Burrett:-
 - (1) In the circumstances and upon the occasions specified in the Report of the Investigation Accountant and in the affidavit submitted in support of the application the Respondents (including Mr Burrett) and each one of them had been guilty of breaches of the Solicitors Accounts Rules 1967 and 1975 in that, notwithstanding the provisions of Rule 8(2) of the said Rules, they and each of them caused or permitted to be drawn out of Client Account money not permitted to be so drawn by Rule 7 of the said Rules.
18. Although the Tribunal found that allegation to have been substantiated against the Respondent Mr Burrett and four of the other Respondents on that occasion, the Tribunal did not consider in the circumstances that it was necessary to impose any

penalty but ordered that the costs of the accountant employed by the Law Society to inspect the firm's books of account in 1975 (but not including his costs in relation to the hearing) be paid by the Respondents, the Respondent to pay two-fifteenths of the Law Society's costs.

Dated this 3rd day of August 2004
on behalf of the Tribunal

S N Jones
Chairman