

IN THE MATTER OF ANTHONY DAVID SAUNDERS,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A. H. Isaacs (in the chair)
Mr A G Ground
Mrs S Gordon

Date of Hearing: 23rd November 2004

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 QC of 2A Churchill Way, Cardiff CF10 2DW on 19th April 2004 that an order be made by the Tribunal directing that as from the date to be specified in such order no solicitor should except in accordance with the 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 Anthony David Saunders of Artizan Road, Northampton a person who was or had been employed or remunerated by a solicitor or that such other order might be made as the Tribunal should think right.

The allegation was that the Respondent had committed acts or defaults which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed or remunerated by solicitors in connection with their practices.

The application was heard at the Court Room 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 23rd November 2004 when Geoffrey Williams QC appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included confirmation by an enquiry agent that the Respondent remained at the address to which documents had been sent. Documents sent to

the Respondent at that address had not been returned. The Applicant sought to prove his case on the documents.

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

The Tribunal Orders that as from 23rd day of November 2004 no solicitor shall, except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Anthony David Saunders of Artizan Road, Northampton, a person who is or was a clerk to a solicitor and the Tribunal further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,218.25.

The facts are set out in paragraphs 1 to 3 hereunder:-

1. Between 29th August 1997 and 5th February 1999 and between 17th May 1999 and 10th December 2001 the Respondent who was not a solicitor was employed as a conveyancing executive by Messrs Hewitson, Becke & Shaw Solicitors (“the firm”) at 7 Spencer Parade, Northampton NN1 5AB. On the latter date the Respondent was dismissed.
2. The acts and defaults complained of arose during the second period of the firm’s employment of the Respondent and his conduct in certain conveyancing transactions.
3. On the evidence before the Tribunal, in 19 exemplified cases, it found that, in the Respondent’s dealings with certain mortgage brokers, their fees had been understated in completion statements and the legal costs correspondingly overstated. The Respondent arranged for payment to be made which resulted in a sharing of fees with the mortgage brokers in breach of Rule 7 of the Solicitors Practice Rules. Both the firm and its clients had been misled. There was also evidence of unacceptable lapses in the standard of work reasonably to be expected of the Respondent as an experienced conveyancing clerk.

The Submissions of the Applicant

4. The payments which the Respondent authorised to be made (whether authorised by the clients or not) contravened Rule 7 of the Solicitors Practice Rules 1990 and amounted to unauthorised fee sharing. The payments were disguised by misleading completion statements and the reduced bills. The Respondent had been guilty of misleading both clients and the firm. The Respondent’s conduct called for any future employment by the Respondent within the solicitors’ profession to be subject to control.
5. The Respondent did not make any submissions.

The Tribunal’s Findings

6. The Tribunal found the allegation to have been substantiated.

The Tribunal's decision and reasons

7. The Tribunal made the Order sought by the Applicant. The Respondent's behaviour had fallen below that expected of an un-admitted clerk employed in a solicitor's office. The Tribunal considered it was in the best interests of the public that the employment of the Respondent within the solicitors' profession be the subject of a measure of control.

DATED this 20th day of January 2005
on behalf of the Tribunal

A H Isaacs
Chairman