

IN THE MATTER OF SIMON JAMES SHAW,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D J Leverton (in the chair)
Mr P Haworth
Mr D E Marlow

Date of Hearing: 9th December 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 Jonathan Richard Goodwin, solicitor advocate of 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 2nd August 2004 that an order be made by the Tribunal directing that as from the date specified in the Order no solicitor should except with the permission of the Law Society for such a period and subject to such conditions as the Law Society might think fit to specify in the permission employ or remunerate in connection with the practice as a solicitor Simon James Shaw of M Young Legal Associates Limited, 60 Fountain Street, Manchester, M2 2FE, a person who was or had been clerk to a solicitor within the meaning of the Solicitors Act 1974 or that such order might be made as the Tribunal should think right.

The allegation against the Respondent was that he had been guilty of conduct of such a nature that in the opinion of the Law Society it would be undesirable to be employed by a solicitor in connection with his or her practice as a solicitor, namely:-

The Respondent is an unadmitted person, who was employed by DWF Solicitors between 3rd September 2001 and 8th November 2002. The Respondent held himself out to be a solicitor in his curriculum vitae, and throughout the recruitment process. The Respondent was offered, and accepted, the position of an assistant solicitor at the firm of DWF Solicitors. The

Respondent continued to hold himself out as a solicitor to his employers and/or his clients during the course of his employment. In acting as he did, the Respondent acted in a way which was misleading and/or deceitful.

The application was heard at the Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7NS when Jonathan Goodwin appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included an affidavit of personal service by a process server.

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

The Tribunal orders that as from 9th day of December 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 Simon James Shaw of 60 Fountain Street, Manchester, M2 2FE 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 £2,470.69 inclusive.

The facts are set out in paragraphs 1 to 6 hereunder:-

1. The Law Society was notified by DWF Solicitors by letter of 18th November 2002 that the Respondent sought and obtained employment with that firm by representing himself to be a solicitor when he was not and never had been, and he continued to maintain that deception during his employment. The firm had dismissed the Respondent.
2. A number of letters had been written to the Respondent but he did not reply.
3. Messrs Hill Dickinson Solicitors in Liverpool confirmed that the Respondent had been a trainee solicitor at their firm. He had completed all parts of his professional skills course but had not undertaken the accounts course. He had not completed that course by September 2000. Hill Dickinson insisted that he sat the accounts examination on 26th February 2001. They understood that he had taken the examination. When no result was received they ascertained from the College of Law that the Respondent had not taken the examination. He finally took the examination on 4th June and passed. The Respondent resigned from that firm on 4th June 2001 and contacted the firm in August 2001 asking them to complete his admission form. The firm was not prepared to certify that he was suitable to be admitted as a solicitor. The firm in a letter to the Law Society together with the form relating to admission with its letter of 19th August 2002 in which it said "while the firm confirms that Simon's record as a trainee solicitor was satisfactory we were concerned that after expiry of his training contract in September 2000 he told a number of untruths to two clients and to the firm. In the circumstances it was considered appropriate that he should seek alternative employment."

The Submissions of the Applicant

4. The Respondent had untruthfully held himself out as a solicitor to a firm of solicitors who offered employment to him. It was right that a person giving this false impression intentionally should have his ability to work within the solicitors' profession made subject to the controls of the Law Society.

The Submissions of the Respondent

5. The Respondent made no submissions.
6. The Tribunal found the allegation to have been substantiated. The Respondent had not been frank with his employers and, indeed, had represented himself to be a solicitor when he was not. That was a serious matter. The Tribunal made the Order pursuant to Section 43 sought by the Applicant and ordered the Respondent to pay costs in a fixed sum.

Dated this 18th day of February 2005
On behalf of the Tribunal

D J Leverton
Chairman