

IN THE MATTER OF SUSAN BARRY DAVIES, a former solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Mr R J C Potter
Mrs C Pickering

Date of Hearing: 2nd June 2005

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 and partner in the firm of Jonathan Goodwin Solicitor Advocate 17E Telford Court, Dunkirk Lea, Chester Gates, Chester CH1 6LT on the 18th of January 2005 that Susan Barry Davies of Horsham, West Sussex, a former solicitor, might be required to answer the allegations set out 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 she was convicted upon indictment of one offence of conspiracy to defraud on the 29th October 2001 in respect of matters which took place in 1993 at a time when her name was on the Roll of Solicitors.

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

The evidence before the Tribunal included an admission by the Respondent and a letter addressed to the Clerk to the Tribunal by the Respondent dated the 6th of February 2005.

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

The Tribunal Orders that the Respondent, Susan Barry Davies of Horsham, West Sussex, former solicitor, be prohibited from having her name restored to the Roll of Solicitors except by Order of the Tribunal and it further orders that she do pay costs of and incidental to this application and enquiry fixed in the sum of £2,221.62.

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

1. The Respondent, born in 1949, was admitted as a solicitor in 1975.
2. The Respondent's name was removed automatically from the Roll of Solicitors on or about the 16th of August 1999 when the Respondent did not make the appropriate payment to enable her name to remain on the Roll.
3. At the time when the Respondent was convicted her name was on the Roll of Solicitors, although it was not known whether or not she was in practice as a solicitor at the time. The Respondent last held a Practising Certificate for the practice year 1991 to 1992 such certificate terminating on the 11th January 1993 following the Respondent's failure to submit a renewal application.
4. On the 29th October 2001 the Respondent appeared at Southwark Crown Court and was convicted upon indictment of one count of conspiracy to defraud. On 26th November 2001 the Respondent was sentenced to a period of three years imprisonment. In or about July 2002 the Respondent was made the subject of a compensation and confiscation order in the sum of £89,058, or in default to serve 12 months imprisonment consecutive to the term of custody which the Respondent was liable to serve for the substantive offence.
5. The Respondent's application for leave to appeal against sentence was dismissed by the Court of Appeal on 28th June 2002.
6. The facts leading to the charge preferred against the Respondent were that in or about 1992 the Respondent was introduced to HJ, a Korean businessman who wished to purchase a golf club in Surrey. HJ experienced difficulties in obtaining finance through normal channels and enlisted the Respondent's help to arrange funding. The Respondent introduced HJ to a property developer, AK, who offered to syndicate a loan to him. AK required £425,000.00 as a security deposit from HJ. On 15th March 1993 HJ instructed his Solicitors to transfer that sum into the Respondent's bank account upon her undertaking 'to hold those funds until such time as the formal loan documentation is completed'. The monies received were then utilised by the Respondent and AK for their own purposes. There had never been a loan agreement and HK lost his money.

The Submissions of the Applicant

7. The Tribunal was invited to take into account the sentencing remarks of His Honour Judge Robbins and in particular when he said:

“You were concerned in an advanced fee fraud, a conspiracy that defrauded £425,000.00 from a man, which was transferred out of your bank account in its entirety within weeks and never recovered. This was, as it is said in the pre-sentence report, and I entirely agree, a gross breach of trust by you. In all the circumstances, the sentence of this Court is one of three years imprisonment.”

8. The Tribunal was invited to make an order pursuant to s47 (2)(g) of the Solicitors Act 1974 prohibiting the restoration of the Respondent to the Roll save by order of the Tribunal.
9. The Applicant sought The Law Society’s costs in connection with the application.

The Submissions of the Respondent

10. The Respondent returned the Tribunal’s questionnaire confirming that she admitted the allegations.
11. In her beforementioned letter of the 6th of February 2005 the Respondent said she had no intention of ever applying to The Law Society for membership or restoration to the Roll.
12. The Respondent had been released from prison 2 years ago and had been claiming jobseeker’s allowance whilst looking for employment. Her efforts had been unsuccessful owing to her age. She had become ill and was changing to full time incapacity benefit as she had become unable to work.
13. The Respondent had a substantial confiscation order against her for £89,000 with a 1 year sentence for failure to pay. She was in receipt of legal aid for her solicitor to negotiate on that matter.
14. Since her bankruptcy the Respondent had no assets and would not be able to pay any costs that she was ordered to pay.
15. The Respondent suggested that the continuance of the application against her was a waste of public time and money and an unnecessary further stress upon her health.

The Findings of the Tribunal

16. The Tribunal found the allegation against the Respondent to have been substantiated, indeed it was not contested.

The Tribunal’s sanction and its reasons

17. The Tribunal noted that the Respondent was no longer on the Roll of Solicitors. It would be difficult to conceive of a more serious example of misconduct on the part of a solicitor than entering a conspiracy to defraud a client. That behaviour breached

every fundamental principle underlying the solicitors' profession and served seriously to damage its good reputation. The Tribunal ordered that the Respondent should not be restored to the Roll of Solicitors without an order of this Tribunal. The Respondent will be aware that given her history the likelihood of the Tribunal agreeing to her restoration to the Roll in the future was remote.

Dated this 4th day of July 2005
On behalf of the Tribunal

A H Isaacs
Chairman