

IN THE MATTER OF ARLENE MCNAUGHT, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr P Kempster (in the chair)  
Mr P Haworth  
Mr J Jackson

Date of Hearing: 7th July 2005

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Stuart Roger Turner, solicitor and partner in the firm of Lonsdales Solicitors of 5 Fishergate Court, Fishergate, Preston, PR1 8QF on 31st January 2005 that Arlene McNaught of Leyland, Preston, 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 each, any or all of the following circumstances, namely:-

- 1) That the Respondent misled her employers by claiming that her training contract application for twelve months' good service whilst employed at previous solicitors had been approved by the Law Society when it had not;
- 2) That the Respondent misled her employers into believing she was entitled to be admitted as a solicitor at a time when she was not;

- 3) That the Respondent misled her employers by stating that she had applied to be admitted to the Roll of Solicitors when she had not and at a time when she was not so entitled to apply;
- 4) That the Respondent held herself or allowed herself to be held out as a solicitor from September 2001 when she was not a solicitor;
- 5) That the Respondent misled her employers into believing she was a qualified solicitor by applying for renewal of a Practising Certificate;
- 6) That the Respondent was complicit in the creation of a false instrument;
- 7) That the Respondent allowed a false instrument to be relied upon by the Law Society to ensure her admission to the solicitors' profession.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 7th July 2005 when Stuart Roger Turner 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 dated 19th February 2005.

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

The Tribunal orders that the Respondent, Arlene McNaught, of Leyland, Preston, Lancashire, solicitor, be struck off the Roll of Solicitors and it further orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,759.98.

**The facts are set out in paragraphs 1 to 13 hereunder:-**

1. The Respondent, born in 1977, was admitted as a solicitor in 2003 and her name remained on the Roll of Solicitors.
2. At all material times the Respondent was employed by Backhouse Jones Solicitors, The Print Works, Hays Road, Clitheroe, Lancashire, BB7 9WD.
3. The Respondent's former firm Backhouse Jones Solicitors by letter dated 15th April 2003 to the Law Society wrote a comprehensive and detailed report about the conduct of the Respondent whilst in their employment. The account was supported by documentation.
4. In summary, the Respondent joined Backhouse Jones on 25th September 2000 as a trainee solicitor having previously worked for CR Solicitors. The Respondent had given the partners of Backhouse Jones a version of events at interview as to why she wished to transfer her articles. She also told the partners that she had commenced her training contract the year before but "due to an administrative error" her training contract had not been registered. When CR Solicitors were asked about this later their

explanation was that the Training Contract had not been registered because the Respondent did not do what she told them she had done.

5. The Respondent led the partners of Backhouse Jones to believe that she had successfully obtained whilst at her previous employers twelve months good service under a TC8 Application. She had not. However, on the basis of that information the partners employed her in the belief that she would only have to carry out one year's training before she was entitled to be admitted to the Roll. CR Solicitors when questioned later confirmed that they had never signed an Application on the Respondent's behalf. The Respondent herself stated in correspondence that the appropriate form, TC8, for twelve months' good service to be taken into account, had never been forwarded to the Law Society. She also stated that she did lead the partners of Backhouse Jones into believing that her TC8 Application had been approved.
6. The consequence was that the Respondent commenced employment with Backhouse Jones Solicitors as a trainee solicitor in September 2000 and the partners believed that she would be entitled to be admitted into the solicitors' profession in September 2001.
7. In the letter from Backhouse Jones of 15th April 2003 the partners stated that:-
 

“In September 2001, Mr Backhouse asked if she (the Respondent) had applied for her admittance on to the Roll. Initially she indicated that she had not applied but was to do so imminently. She then explained that she had forms from the Law Society and that she was completing them. Over a period of time Mr Backhouse continued to remind Arlene [the Respondent] with regard to this. He specifically asked if we needed to sign the Application. Arlene indicated that she would check. Mr Backhouse again reminded her about the Application and she indicated that it had been sent. She indicated that Mr Jones had signed the form. Mr Backhouse took Arlene at her word. It was therefore assumed that she was about to be admitted to the Roll.”
8. Backhouse Jones asserted that they were misled into believing that the Respondent had applied to be admitted to the solicitors' profession on the basis that she had obtained a successful TC8 Application and had completed one year's training. The training contract for the Respondent at Backhouse Jones was registered with the Law Society. The letter to Backhouse Jones confirming that registration of the contract stated it would end on 24th September 2002. The Respondent admitted in correspondence that she did mislead Backhouse Jones into believing she was entitled to be admitted to the solicitors' profession in September 2001.
9. The partners asserted that they were misled into believing that the Respondent was entitled to be admitted as a solicitor in September 2001 rather than September 2002 to such an extent that they arranged a celebratory dinner for the Respondent where she was presented with her business cards. The Respondent allowed the celebratory dinner to go ahead and at no stage made any attempt to correct the partners' mistaken belief that she was entitled to be admitted as a solicitor from September 2001.

10. From September 2001 the Respondent was treated as a solicitor by her employers. She allowed Backhouse Jones Solicitors to hold her out as a solicitor from September 2001 and allowed them to charge clients at a qualified solicitor's rate rather than at a trainee solicitor's rate. She also allowed the partners to pay her at a qualified solicitor's rate rather than as a trainee solicitor. To all intents and purposes the Respondent was treated as a qualified member of staff and paid the appropriate salary. When this was put to the Respondent she submitted that she never held herself out to be a solicitor with any client but admitted that she did so with other fee earners and partners.
11. In October 2002 Backhouse Jones Solicitors received from the Law Society a Practising Certificate Renewal Application. Their accounts manager queried with the Respondent why her name was not included on the Application. The partners asserted that the accounts manager was told by the Respondent that her renewal application had been received at her home address. The accounts manager also stated that the Respondent indicated to her that she would take all the application forms and the office cheque, add hers to it with a covering letter explaining the anomaly and send them all off together. However, by January 2003 no application to renew any of the firm's Practising Certificates had been received by the Law Society. The partners found a letter prepared by the Respondent written to the Law Society on 25th October 2002 stating that she was enclosing her renewal application for a Practising Certificate. The Respondent subsequently admitted that she never applied to the Law Society to renew a Practising Certificate. She admitted that she allowed Backhouse Jones Solicitors to believe she was entitled to a Practising Certificate.
12. The Respondent's registered training contract did not expire until September 2002. Any application for admission could not have been made until after that date. The Law Society's record showed that the Respondent was admitted to the Roll on 17th February 2003. The Law Society relied upon Form AD1 dated 29th November 2002. That form contained the purported signature of Mr Ian K Jones, partner of Backhouse Jones. Mr Jones had confirmed that he never signed such a form and the signature was not his. The Respondent explained that she did not sign the form but indicated that it may have been signed by someone she confided in.
13. On 7th April 2004 an Adjudicator of the Law Society decided amongst other things that the alleged misconduct was sufficiently serious to be referred to the Tribunal for determination. The Adjudicator stated "The conduct involves a number of allegations of dishonesty, deceit and forgery which I consider are matters that can only be dealt with effectively by the Tribunal." The Adjudicator therefore decided to refer the conduct of the Respondent to the Tribunal and to limit the period of review to seven days. The Respondent did not apply for a review.

### **The Submissions of the Applicant**

14. It had been made clear to the Respondent by the Applicant in correspondence which was before the Tribunal that dishonesty was alleged and he had sent the Respondent copies of the cases of Twinsectra -v- Yardley and Bolton -v- The Law Society upon which he relied. The Respondent had replied making admissions to all the allegations and confirming that she was aware of the consequences of the admission.

15. The Applicant was not alleging that the cheque taken by the Respondent with the Practising Certificate Renewal Application had been cashed by her.
16. The lie which formed the basis of the Respondent's misconduct had continued to grow throughout the relevant period. She had allowed others to hold her out and to charge her out as a qualified solicitor.
17. Although she denied forging the signature on the Form AD1 she did say that "I believe that the person I trusted and confided in sent the form" and in the submission of the Applicant the Respondent had therefore been complicit in the creation of a false instrument (allegation 6).
18. The Respondent had agreed the Applicant's costs in the sum of £2,759.98 but had asked for time to pay and had given to the Applicant details of her financial circumstances, which were before the Tribunal.

### **The Findings of the Tribunal**

19. The Tribunal found the allegations substantiated, indeed they were not contested.
20. This was a very sad case but a case of admitted dishonesty over a prolonged period. The Respondent had betrayed the trust put in her by the partners of her firm. The documents made reference to certain difficult personal circumstances but that could never excuse deliberate dishonest conduct of this nature. The Respondent had not only deceived the partners in her firms but by that deception had caused them unwittingly to hold out to clients as a qualified solicitor someone who was still a trainee solicitor. The Respondent had said that she did not intend to return to practice as a solicitor. Given the seriousness of the admitted allegations the Tribunal considered it right that she no longer be allowed to remain as a member of the profession.
21. The Tribunal noted that costs had been agreed but noted also the Respondent's comments about her financial circumstances and the need for time to pay. That was a matter for the Law Society and the Applicant had agreed to draw the matter to their attention.
22. The Tribunal ordered that the Respondent, Arlene McNaught, of Leyland, Preston, Lancashire, solicitor, be struck off the Roll of Solicitors and it further ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,759.98.

Dated this 2nd day of September 2005

On behalf of the Tribunal

Mr P Kempster  
Chairman