

IN THE MATTER OF ROBERT STEVENS,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr L N Gilford (in the chair)
Mr W M Hartley
Lady Maxwell-Hyslop

Date of Hearing: 4th July 2006

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Jayne Willetts, solicitor advocate of Hammonds, Rutland House, 148 Edmund Street, Birmingham, B3 2JR that an order be made by the Tribunal directing that as from a date to be specified in such order no solicitor should, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society might think to specify in the permission, employ or remunerate in connection with the practice as a solicitor Robert Stevens of Christchurch, Dorset, a person who was or had been a clerk to a solicitor or that such other order might be made as the Tribunal should think fit.

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 for him to be employed by a solicitor in connection with his practice as a solicitor, the particulars of which were:-

- 1) That he deliberately misled clients of the firm as to the true position in connection with conveyancing that he was carrying out on their behalf;
- 2) That he deliberately misled his employers and their staff as to the true position in connection with conveyancing that he was carrying out on behalf of the firm's clients;

- 3) That he forged the signature of another fee earner on a Certificate of Title submitted to a lender in connection with the release of mortgage monies on behalf of a client;
- 4) That he deliberately misled clients of the firm by signing a document indicating that he was qualified as a solicitor or a legal executive;
- 5) That he failed to respond to correspondence from the Law Society.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 4th July 2006 when Jayne Willetts appeared as the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant submitted proof of service of the proceedings upon the Respondent and the Tribunal was satisfied that the Respondent had been duly served and that the matter should proceed in his absence.

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

The Tribunal Orders that as from 4th day of July 2006 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such 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, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Robert Stevens of Christchurch, Dorset, a person who is or was a clerk to a solicitor, and the Tribunal further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,995.03.

The facts are set out in paragraphs 1 to 22 hereunder:-

1. The Respondent, who was not a solicitor, was employed as a paralegal by Coles Miller Solicitors of 260/266 Charminster Road, Bournemouth, Dorset, BH8 9RS.
2. Coles Miller employed the Respondent between 1st December 2003 and 13th August 2004 when he tendered his resignation. The Respondent worked in the conveyancing department and was supervised by Ms K, the conveyancing partner.
3. The Law Society received a letter dated 16th August 2004 from Coles Miller confirming that a problem had arisen on 5th August 2004 in relation to a conveyancing matter that the Respondent had been dealing with. Attached to the letter was an internal memorandum dated 9th August 2004 from Ms K and her draft statement.
4. Ms K confirmed in her statement the matters set out below.
5. The Respondent had been acting on behalf of a Mrs K in connection with the purchase of a property. Another fee earner at the same firm (Mrs C) was acting on behalf of the vendor of the same property.

6. On 27th July 2004 it had been agreed between the Respondent and Mrs C that completion of the transaction would take place on 4th August 2004. Both vendor and purchaser were advised that completion would take place on 4th August.
7. On 4th August the Respondent informed Mrs C that the mortgage monies had not arrived from the lender and that therefore he could not complete the transaction. Mrs C kept checking with the Respondent during the day and he said that he was chasing the lender to release the mortgage monies. Completion did not take place that day.
8. On the evening of 4th August Ms K examined the file and discovered that the Report on Title had not been sent to the lender, despite what the Respondent had said to Mrs C and the client. In addition Ms K discovered four instances where the Respondent had not carried out his work correctly. In particular, the mortgage conditions were in the wrong name; no letter of authority had been obtained for the firm to act on both sides of the transaction, there was no declaration of occupation signed by Mrs K and none of the usual pre contract enquiries had been made.
9. In addition, the Respondent had on this particular file disregarded the standing instruction to refer each of his files to Ms K as his supervising partner when he raised enquiries, before he saw the client and before he exchanged contracts. Ms K then put the file back on the Respondent's desk that evening so that she could consider how best to deal with the matter.
10. The next day, 5th August, Mrs C advised Ms K that the Respondent had confirmed that Ms K had already checked the file (which was incorrect) and that the mortgage monies were available to exchange and complete.
11. Ms K then checked the file again on 5th August and found that the Report on Title had been faxed to the lender that morning. It had been signed off by RK, another fee earner at Coles Miller. Ms K doubted that RK had signed the Report on Title so she compared it with a specimen of RK's signature and it did not look like her signature.
12. Later the same day Ms K had a meeting with the Respondent to discuss her concerns about the file. The Respondent did not give a satisfactory answer to any of the questions put to him. Ms K also put to him the question of Ms K's signature but he did not provide an answer.
13. Ms K admitted that she had already seen the file the previous evening so was acquainted with the file and was aware that the Report on Title had only been sent off that day. The Respondent then admitted that it was true. He said that he had been out of control and could not really explain what happened. He did not know where all the time went to in any day. Ms K discussed with him his workload and asked him whether he had too many files to deal with. He said that that was not the case.
14. She also discussed with him another file for Mr and Mrs D where he had told the client that he was ready to exchange contracts when he was not. The file was in a mess. The clients were upset and were telephoning daily to ascertain the reason for the problem.
15. She agreed with him a programme of work and supervision in relation to his files and told him that he would be subject to internal disciplinary proceedings.

16. On 6th August Ms K had a further meeting with the Respondent who said it was the worst day of his life but no further explanation was forthcoming.
17. Subsequently on 6th August the Respondent requested Ms K to see clients, Mr and Mrs B, to witness their signature on a mortgage deed. Ms K found that the Respondent had originally witnessed their signatures and had contrary to the lender's instructions signed in the box that required a solicitor/legal executive to confirm that they had explained the nature of the mortgage deed to the clients.
18. Following the events described above the matter was referred to the employment partner at Coles Miller so that the appropriate disciplinary procedure could be arranged. However, before this took place the Respondent tendered his resignation on 13th August with immediate effect.
19. As stated above Coles Miller reported the matter to the Law Society by its letter dated 16th August 2004. An explanation was sought from the Respondent by way of a letter to him from the Law Society dated 17th September 2004. No response was received. A reminder was sent on 7th October requiring a response within seven days. No such response was received and a report was prepared for the Adjudicator.
20. The Adjudicator decided on 30th November 2004 to refer the conduct of the Respondent to the Tribunal. The Respondent was informed of the Adjudicator's decision under cover of a letter dated 1st December 2004.
21. The draft statement of Ms K enclosed with the letter from Coles Miller had been signed and a copy was before the Tribunal. A signed statement from RK was also before the Tribunal in which she confirmed that the signature on the certificate of title was not her signature and she attached a specimen of her signature.
22. The Law Society had not received a response from the Respondent. Letters addressed to him by the Law Society had not been returned in the post.

The Submissions of the Applicant

23. The Respondent had not responded to correspondence either during the investigation or the proceedings and the Applicant, who had served a notice to admit documents and a Civil Evidence Act notice on the Respondent, sought to rely on the documentation.
24. She submitted that it was right that a regulatory order give the Law Society control over any future employment of the Respondent in legal work.
25. The Applicant sought her costs in accordance with the schedule which she submitted to the Tribunal.

The Findings of the Tribunal

26. The Tribunal considered carefully the documentation. The Applicant had served the appropriate notices and there had been no response from the Respondent. The Tribunal was satisfied on the documentation before it that it was right to make the order sought. The Respondent's conduct was a matter of serious concern and it was right that the Law Society have regulatory control over any future employment he might seek within the legal profession.
27. It was also right that the Respondent pay the Applicant's costs.
28. The Tribunal made the following order:-

The Tribunal Orders that as from 4th day of July 2006 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such 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, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Robert Stevens of Christchurch, Dorset, a person who is or was a clerk to a solicitor, and the Tribunal further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,995.03.

Dated this 12th day of September 2006
On behalf of the Tribunal

L N Gilford
Chairman