

IN THE MATTER OF CHRISTOPHER HOLMES, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr L N Gilford (in the chair)
Mr A G Gibson
Mr G Fisher

Date of Hearing: 10th May 2007

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

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 7 Fishergate Court, Fishergate, Preston, PR1 8QF on 30th August 2006 that Christopher Holmes, formerly of Chichester, West Sussex, 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 allegation was that the Respondent had been guilty of conduct unbecoming a solicitor in that on 13th December 2004 at Camberwell Green Magistrates Court he was convicted, after a trial, of three counts of social security fraud contrary to Section 112(1)(b) of the Social Security Administration Act 1992.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 10th May 2007 when Stuart Roger Turner appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included a Certificate of Conviction.

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

The Tribunal Orders that the Respondent Christopher Holmes c/o Nicole Smith PO Box 504, Los Gatos, California, solicitor, be struck off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,500.

The facts are set out in paragraphs 1 to 17 hereunder:-

1. The Respondent, born in 1956, was admitted to the Roll of Solicitors in 1981. His name was removed from the Roll on 16th June 2003 and restored to the Roll on 6th March 2006.
2. On 13th December 2004 the Respondent was convicted of three counts of social security fraud contrary to Section 112(1)(b) of the Social Security Administration Act 1992, and on 31st January 2005 he was sentenced to three months' imprisonment on each count suspended for two years and ordered to pay £500 costs.
3. The Respondent had, since 14th January 2003, been awarded housing benefit and council tax benefit in respect of a property based upon the receipt by him of job seekers allowance. In his application form for the benefit he stated that he paid rent for his accommodation at the property to a limited company of the same address as the property.
4. The council tax section of the relevant local authority conducted a Land Registry check on the property which revealed that the Respondent was the registered owner of the property and had been since 5th July 2001.

The Submissions of the Applicant

5. The Respondent had been convicted of three counts of social security fraud and had received concurrent prison sentences (suspended) in respect of each count. These were offences of dishonesty.

The Submissions of the Respondent

6. The Respondent had sent a statement by email to the Law Society dated 14th February 2006 and a letter dated 11th April 2006. Their contents are summarised below.
7. The Respondent had enjoyed an academic career until in April 2000 he decided to leave academia and returned to general legal practice. He accepted a job as "litigation associate". He continued in that employment until his employer merged his practice with another.
8. Some months after the merger the accountant for the new firm informed the Respondent that the senior partner had instructed him that he was to be classified for payment of his salary as a "consultant" and that an offshore company (work in which the merged firm specialised) was to be set up "on the Respondent's behalf" by the partner and the firm's accountants. The Respondent had objected to this change in

status from employee, but was reluctantly obliged to accept it in order to keep his employment.

9. Subsequently, the Respondent sold his home in Sussex and wanted to buy a house in London. The senior partner had clients who owned an offshore company, which had the house he wanted to buy as an “asset”. Finance was arranged through the firm. As the house was empty, the senior partner suggested that the Respondent live there as a tenant on an “AST”.
10. The Respondent did not know that the house was registered offshore and under the name of a couple who were directors of a company. The Respondent’s employer and his accountants set up an onshore company to pay the Respondent’s income tax and national insurance in the UK. The Respondent’s mortgage application described him as an “employee”, which was how he regarded himself. The Respondent’s employers would not give him a contract of employment or a consultancy contract.
11. The employer undertook the conveyancing relating to the Respondent’s house purchase, later notifying him that the property had been conveyed into an offshore trust in the name of an offshore company.
12. The employer would not give the Respondent the deeds to the property. Instead the Respondent continued as “tenant” and his employer subsequently renewed the lease on an annual basis. The Respondent paid the mortgage each month.
13. In May 2002, being owed a bonus which the firm refused to pay, the Respondent left the firm and continued working as a consultant in his own right whilst seeking new employment. The Respondent had fulfilled his professional duty to report his concerns about the activities of his former employers to the Law Society and assisted with its investigation.
14. In August 2002 the Respondent took up new employment as a solicitor in London. In December 2002 that employment came to an end. The Respondent exercised his entitlement to claim social security benefits whilst looking for new work. London Borough of Southwark Housing Benefits Section informed him that, subject to checks being carried out, he was entitled to claim housing benefit. The Respondent had consulted the Southwark Housing Benefits Advice Centre and told them of his situation as a “tenant” of the house and the arrangement made by his former employer. The housing benefit application forms required a declaration to his status. The Respondent set this out as “tenant under an AST”. He also included a further statement about the complicated nature of the arrangements. At the time the Respondent was under severe stress owing to family problems. He believed he had set out sufficient details of the property arrangements, but he had not.
15. The Respondent had informed an assessor from London Borough of Southwark Housing of his situation and the complicated arrangement his former employer had forced on him. He did not check on the ownership of the property at HM Land Registry.
16. The Respondent received five payments of housing benefit and this was then suspended.

17. Counsel advised the Respondent that he had extremely good grounds for a new trial and possibly reversing the conviction but the Respondent was diagnosed with and treated for stress and later for post traumatic stress disorder. He was not medically fit to give evidence at a retrial. This led to the Respondent's accepting a suspended sentence.
18. The day before his trial the Respondent received from the Land Registry the original transfers for his house in Sussex and the purchase of the new property. The signatures on the documents were forged and were not his. The Magistrates refused to consider this evidence.
19. Since his conviction the Respondent had been living abroad and receiving treatment, medication and counselling. He had now recovered and was about to get married. He had been supported financially by his elderly parents, but was now fit to work. He hoped to be able to secure work in the law and re-establish his career.
20. The Respondent sincerely regretted what had happened and he would not reoffend or break the law again.

The Tribunal's Findings

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

The Tribunal's Decision and its Reasons

22. The Tribunal had taken into account the Respondent's explanations. However the Tribunal was not persuaded that it should go behind the conviction, which the Respondent had admitted in correspondence. It was necessary both for the protection of the public and for the maintenance of the good reputation of the solicitors' profession to demonstrate that a solicitor who had been convicted of a criminal offence involving dishonesty could not remain a member of that profession. The Tribunal recognises that this might well be hard on an individual, but the collective good reputation of the solicitors' profession was of paramount importance. The Tribunal ordered that the Respondent be struck off the Roll of Solicitors.
23. The Applicant informed the Tribunal that he sought the costs of and incidental to the application and enquiry in the sum of £1,500. The Tribunal considered that level of cost to be entirely reasonable and in order to save the expenditure of further time and money it ordered the Respondent to pay the Applicant's costs fixed in the sum of £1,500.

DATED this 26th day of June 2007
on behalf of the Tribunal

L N Gilford
Chairman