

IN THE MATTER OF ANTHONY WILLIAM ELLIOTT, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A N Spooner (in the chair)
Mr A Gaynor-Smith
Mr P Wyatt

Date of Hearing: 12th July 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 Paul Robert Milton, solicitor employed by the Law Society at 8 Victoria Court, Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 2nd February 2007 that Anthony William Elliott, solicitor might be required to answer the allegation contained in the statement which accompanied the application and that such order might be made as the Tribunal should think fit.

The allegation was that the Respondent had been guilty of conduct unbecoming a solicitor in that:-

- (i) He has been convicted of seven offences contrary to Sections 1(1)(a) and 6 of the Protection of Children Act 1978 of taking indecent photographs of children;
- (ii) He has been convicted of four offences contrary to Section 1(1) of the Criminal Attempts Act 1981 of attempting to take indecent photographs of children;
- (iii) He has been convicted of three offences contrary to Section 160(1)(2A) and (3) of the Criminal Justice Act 1988 of possessing indecent photographs of children.
- (iv) He has been convicted of one offence contrary to Section 1(1)(a) and 6 of the Protection of Children Act 1978 of making indecent photographs of a child.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NY on 12th July 2007 when Paul Robert Milton appeared as the Applicant and the Respondent was represented by John Jones of Counsel.

The evidence before the Tribunal included the admissions of the Respondent and written testimonials were handed up at the hearing, as was a confidential report prepared by the National Probation Service.

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

The Tribunal Orders that the Respondent Anthony William Elliott 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 £644.

The facts are set out in paragraphs 1 to 4 hereunder:-

1. The Respondent, born in 1953, was admitted as a solicitor in 1976. His name remained on the Roll of Solicitors. The Respondent practised as a partner at the firm of Lawrence Graham LLP of Strand, London. He specialised in commercial property law.
2. On 6th September 2006 the Respondent pleaded guilty at the City of Westminster Magistrates' Court to the following offences:-

Seven offences contrary to Sections 1(1)(a) and 6 of the Protection of Children Act 1978 of taking indecent photographs of children; 4 offences contrary to Section 1(1) of the Criminal Attempts Act 1981 of attempting to take indecent photographs of children; three offences contrary to Section 160(1)(2A) and (3) of the Criminal Justice Act 1988 of possessing indecent photographs of children; and one offence contrary to Section 1(1)(a) and 6 of the Protection of Children Act 1978 of making indecent photographs of a child.

3. All of the subject material fell into the least serious "Level 1" category save for one item which was classified at "Level 2".
4. On 27th September 2006 the Respondent was sentenced at the City of Westminster Magistrates' Court for the above offences and was made the subject of a 36 month community rehabilitation order. He was required to remain on the Sex Offenders Register for a period of five years.

The Submissions of the Applicant

5. In being convicted for these offences the Respondent had fallen below the standard to be expected of members of the solicitors' profession. In particular, the Respondent as a solicitor was an officer of the court and his offences involved children. Such matters would serve seriously to damage the confidence of the public in the integrity of solicitors. The Tribunal was reminded of the decision in the case of "Bolton" where it was said that the reputation of the solicitors' profession was more important than the fortunes of an individual member.

The Submissions of the Respondent

6. At the request of the Magistrates' Court the Respondent's representative had destroyed all of the images concerned. The Respondent had owned a professionally made film in which teenagers appeared in the nude and simulated sexual intercourse. He had bought it on the internet. He had watched it from time to time. He had no other such films.
7. The other matters related to his visiting Trafalgar Square and/or Covent Garden with a video camera, where he had taken pictures of the general scene and had also taken pictures of young girls aged between 10 and 14. That was not an offence by itself. The Respondent sought titillation at home by viewing the scenes, for example where girls climbed onto the lions in Trafalgar Square to expose their underwear. The Respondent had immature tastes but that was the limit. Those offences which had been charged as "attempts" had been where he had failed to photograph the girls' underwear.
8. It was accepted that the Respondent's behaviour might attract criticism but it could not be said to have been of the most serious nature.
9. The Respondent had just turned 54 years of age. He was not in a relationship and had never been in a relationship. He was a self-contained person who lived alone.
10. The Respondent was ashamed of his conduct and apologised for it. He was of no risk to any child and to take matters further than he had would have been abhorrent to him.
11. The Respondent in his professional life was a successful and competent commercial conveyancer. He was supported by his firm and by a major client.
12. The Respondent had sought to protect the good reputation of the solicitors' profession by ensuring the avoidance of publicity. He accepted that he would be punished by publicity of the disciplinary hearing in the Law Society's Gazette.
13. The level of indecency was very low and rather unusual and the Respondent would not again offend.
14. The Respondent hoped to be permitted to continue in practice. He had hitherto led a blameless life. Initially he believed that what he was doing was not illegal but he had come to accept that he had been wrong.
15. It was hoped that the Tribunal would be able to meet the Respondent's low level of misconduct by the imposition of a financial penalty. The Respondent accepted that he should be responsible for the Applicant's costs and he had agreed the figure.

The Findings of the Tribunal

16. The Tribunal found the allegations to have been substantiated, indeed they were not contested.

The Tribunal's Decision and its Reasons

17. The Tribunal gave very careful thought to the appropriate sanction to be imposed upon the Respondent. The Tribunal acknowledged that the Respondent had pleaded guilty to criminal offences and had received an appropriate punishment from the Magistrates' Court.
18. The Tribunal considered this to be a sad case. The Respondent had given long and valued service as a solicitor. The Tribunal had taken into account the written references written in support of the Respondent which spoke highly of his professional competence and integrity.
19. The Tribunal had had the opportunity of reading a confidential pre-sentence report prepared by the National Probation Service and had taken full note of it.
20. The Tribunal does not consider that the Respondent would be a danger to the public whilst acting as a solicitor, in particular as the field of law in which he had considerable expertise was not one in which he would come into contact with children. However, the Tribunal was deeply concerned about the public's perception of the solicitors' profession. The Tribunal has borne in mind the important judgement in the case of Bolton, in which it was clearly stated that the reputation of the solicitors' profession was a matter more important than the fortunes of an individual. The Tribunal recognises that whilst it is extremely hard on the individual in this case, the Tribunal must fulfil its duty to protect the good reputation of the profession and the public's perception of it. It was noteworthy that the author of the pre-sentence report had explained to the Respondent that children and/or adults were likely to be deeply distressed when they learnt that intimate photographs had been taken of them without their consent and subsequently used to facilitate another's sexual pleasure. The Tribunal concluded that allowing a member of the solicitors' profession to continue as a member of that profession having admitted the offences which the Respondent had admitted would serve seriously to damage the good reputation of the solicitors' profession in the eyes of the public. For this reason the Tribunal concluded that it was both appropriate and proportionate to order that the Respondent be struck off the Roll of Solicitors. The Tribunal so ordered and further ordered him to pay the costs of and incidental to the application and enquiry in the agreed fixed sum.

DATED this 2nd day of March 2008
on behalf of the Tribunal

A N Spooner
Chairman