

IN THE MATTER OF HELEN LOUISE DAIN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. S. N. Jones (in the chair)
Miss N. Lucking
Mr. J. Jackson

Date of Hearing: 6th December 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 Robert Simon Roscoe solicitor and partner in the firm of Victor Lissack, Roscoe & Coleman of 70 Marylebone Lane, London W1U 2PQ on 10th September 2007 that Helen Louise Dain of Wombourne, Wolverhampton, West Midlands 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 might think right.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely:-

- a) That she failed to act in the best interests of her clients in breach of Practice Rule 1(c) of the Solicitors Practice Rules 1990.
- b) That her conduct was likely to compromise or impair her good repute as a solicitor or that of the solicitors' profession in breach of Rule 1(d) of the Solicitors Practice Rules 1990.
- c) That she improperly withdrew client money from client account in breach of Rule 22 of the Solicitors Accounts Rules 1998 and that in doing so her conduct was dishonest.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 6th December 2007 when Robert Roscoe appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included a letter addressed by the Respondent to the Applicant dated 25th November 2007 and an email addressed to the Tribunal dated 2nd December 2007. Both of these communications are set out under the heading "The Submissions of the Respondent".

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

The Tribunal Orders that the Respondent, Helen Louise Dain of Wombourne, Wolverhampton, West Midlands, 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 £9,136.00.

The facts are set out in paragraphs 1 - 9 hereunder:-

1. The Respondent, born in 1963, was admitted as a solicitor in 1987.
2. At the material time the Respondent was a salaried partner with a firm of solicitors in Stourbridge. She was suspended by the firm on 15th May 2006 as a result of the matters summarised below coming to light. She resigned on 31st May 2006. Following notification to The Law Society that the Respondent had misappropriated client monies an Investigation Manager of The Law Society attended the Respondent's former employers on 24th June 2006 to conduct a preliminary investigation. Subsequently a Senior Investigation Officer attended the firm on 30th November 2006. The Senior Investigation Officer's report dated 17th April 2007 was before the Tribunal. That report revealed the following matters set out in paragraphs 3 to 7 below.
3. The Respondent joined the firm in February 2004. She was appointed a salaried partner and head of residential conveyancing for the firm. The Respondent had previously had a business relationship with an internet referral company, and it was agreed by the firm that the Respondent could continue to accept such referrals. The firm understood that the introductory fees for such referrals were paid by the lay client but this was not the case.
4. In March 2006 members of the Respondent's support staff reported to the firm's practice manager their concern that a Land Registry fee on one client matter was about to be used for another client. The Respondent's explanation that this was a genuine mistake was accepted.
5. On 12th May 2006 Barclays Bank contacted the Respondent's senior partner about three cheques received on behalf of a conveyancing client. The three cheques comprised a printed firm's cheque payable to the client in respect of a small amount of interest due to him, a printed firm's cheque for £1,650.00, originally made payable (in typescript) to the Inland Revenue and signed by the Respondent but altered by hand and signed by the Respondent to make it payable to the client and a personal cheque

for £1,657.09 payable to the client drawn on the Respondent's personal account and signed by her. Although initially the Respondent denied having made a personal payment to the client she subsequently admitted that she had and that she had done so because she had been pressured by the client to return money that she had mistakenly paid to an estate agent.

6. Subsequent enquiries revealed that the Respondent was responsible for a shortfall on client account of £37,590.02.
7. The firm and the Senior Investigation Officer were satisfied that the deficit had arisen as a result of the Respondent making unauthorised payments to the internet referral company by arranging for the firm's cashiers to issue cheques on client matters and then manually crossing out the name of the original payee and writing in the name of the referral company and counter-signing the amendment. A total amount of £52,808.01 had been paid to the referral company and the Respondent had altered forty five cheques in making such payments.
8. The Respondent had misled clients and her colleagues in concealing her payments to the internet referral company by using one client's funds to make good payments in respect of another client.
9. On 1st June 2007, in her letter to the Solicitors Regulation Authority, the Respondent accepted culpability.

The Submissions of the Applicant

10. The Respondent had admitted the allegations and had admitted that she had been dishonest. It was accepted that the action by the Respondent had been caused by a number of stressful factors both in her professional and personal life.
11. The Respondent had been notified of the Applicant's costs and had agreed to pay them.

The Submissions of the Respondent

12. The Respondent's beforementioned letter of 25th November 2007 addressed to the Applicant:-

"Thankyou for your letter dated 6th November 2007.

As I have always stated to the Law Society I have no intention whatsoever to ever practice law again and except (sic) the consequences of my actions. I just wish I had sought help at the time.

I can confirm that I agree your cost estimate.

I await to hear from you."

13. The Respondent's Beforementioned Email of 2nd December 2007:-

"Thankyou for your letter dated 6th November 2007.

I have been in touch with the solicitor instructed on behalf of the Law Society and have agreed the amount of his costs with him.

As I stated in previous correspondence with yourselves I have no intention whatsoever to return to practice in anyway in Law and have not done so since the date of resignation from my previous firm in May 2006. I deeply regret my actions and the problems they have caused.

I am aware that as a result of those actions I will be struck of (sic) at the hearing on 6th December 2007.

I ask that my attendance at the hearing be excused."

The Findings of the Tribunal

14. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
15. The Tribunal gave the Respondent credit for her admissions, her acceptance of her liability for costs and the quantum of the same.
16. The Respondent herself accepted that she had been dishonest. Solicitors are required to act at all times at the highest standards of probity, integrity and trustworthiness. Additionally client funds are sacrosanct and a solicitor is required to exercise a proper stewardship over them. The Respondent had fallen down very badly when it came to these important requirements. A solicitor has to be a person that members of the public can trust to the ends of the earth and the Respondent's behaviour made it plain that she could not be so trusted. Such behaviour on the part of a solicitor will not be tolerated by the solicitors' profession or by this Tribunal. The Tribunal Ordered that the Respondent be Struck Off the Roll of Solicitors and they further Ordered that she pay the Applicant's costs fixed in the sum agreed between the parties.

Dated this 5th day of February 2008
On behalf of the Tribunal

S. N. Jones
Chairman