

IN THE MATTER OF NEIL CLOUTMAN, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr D J Leverton (in the chair)
Mr L N Gilford
Mr S Howe

Date of Hearing: 27th May 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society on 27th September 2007 that Neil Cloutman of Newport, Gwent, a solicitor, might be required to answer the allegation contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think right.

The allegation against the Respondent Neil Cloutman is that he has been guilty of conduct unbecoming a solicitor namely that on 19th April 2007 he was convicted of two counts of making a false instrument and on 16th May 2007 was sentenced to a period of 18 months imprisonment suspended for a period of two years.

The evidence before the Tribunal included an extract of an inspection report commenced on 10th May 2005 by a Forensic Investigation Officer of The Law Society on the books of account and other documents of Tudor Rose, a forged copy of an Enduring Power of Attorney, a Trust Deed, a copy of the Certificate of Conviction and a copy of Judge Ticehurst's sentencing remarks. The Respondent did not appear before the Tribunal nor make any written submissions. Because it had not been possible to personally serve the Respondent, an application for substituted service by way of email at the email address with which the Respondent corresponds with Grant Thornton, was granted on 14th February 2008.

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

That the Respondent Neil Cloutman of Newport, Gwent, solicitor, be Struck Off the Roll of Solicitors and further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,300.00 inclusive of VAT.

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

1. The Respondent practised in partnership under the name of Tudor Rose solicitors of Monk Street, Abergavenny, Gwent NP7 5NP.
2. The last known address of the Respondent is Newport, Gwent. The Respondent was admitted as a solicitor on 3rd April 2000 (his date of birth is 11th June 1954) and his name remains upon the Roll of Solicitors.
3. On 10th May 2005 an inspection of the books of accounts and other documents of Tudor Rose was commenced by a Forensic Investigation Officer of The Law Society. An extract from that report was before the Tribunal.
4. The Respondent acted for Mrs RH, the widow of Mr JCH who had left approximately £1.5million to his wife. Mrs H had two sons, PH and MH.
5. The Respondent began to act for MH and was aware that MH was having financial difficulties. He subsequently began to act for Mrs H.
6. The investigation by the Forensic Investigation Unit identified a number of transactions entered into by the Respondent on behalf of Mrs RH, Mr MH and Mrs KH (MH's wife) which raised serious concerns regarding the Respondent's conduct of Mrs RH's affairs and which resulted in:-
 1. The purchase of a property in the joint names of Mrs RH and Mrs KH and the later transfer of that property to the sole name of Mrs KH.
 2. The preparation of an Enduring Power of Attorney appointing Mr Neil Cloutman as Mrs RH's attorney and the existence of a forged copy of that document.
 3. The sale of Mrs RH's UK shareholdings and failure to use the proceeds of that sale for her benefit.
 4. The purchase of a property in the name of H (UK) Developments Limited, a limited company in which Mrs RH had no beneficial interest.
 5. The Backdating of a document, being a Trust Deed purportedly signed on 1st February 2002 but having not been prepared until 2004.
7. In the course of their investigation the Forensic Investigation Officers found on the Respondent's files a Trust Deed dated 1st February 2002. In the course of interview Mr Cloutman accepted that the Trust Deed was dated earlier than it was actually created. He later accepted that the document was created and signed in 2004 but purported to be signed in February 2002.

8. The Respondent was subsequently charged with two offences of preparing a false instrument to which he pleaded guilty.
9. The Respondent was sentenced by Judge Ticehurst on 16th May 2007. The Tribunal was referred to the Learned Judge's sentencing remarks in which his Honour observed "solicitors such as you undermine the public confidence in the profession, when you bend the rules, ignore professional duties and, putting it bluntly, are quite prepared to assist dishonest individuals in the furtherance of their criminal activities".

The Submissions of the Applicant

10. The Applicant referred to the documents in support of the application drawing the attention of the Tribunal to the Certificate of Conviction and the Judge's sentencing remarks in particular. The Applicant explained that the papers, including a costs' schedule, had been served by email following the order for substituted service by the Tribunal on 14th February 2008.

The Submissions of the Respondent

11. The Respondent was not present, nor had he made any written submissions to the Tribunal.

The Findings of Tribunal

12. The Tribunal was satisfied that all documents had been duly served and found the uncontested allegation to be substantiated.

The Mitigation of the Respondent

13. The Respondent had offered no mitigation.

The Tribunal's Decision

14. The Tribunal found the case proved. It noted that there were no records of any previous matters against the Respondent. However, given the seriousness of the matters, culminating in a conviction and a sentence of imprisonment, the Tribunal considered that there was no alternative but to order that the Respondent be Struck Off the Roll. This order was necessary both to uphold the integrity and reputation of the profession and to protect the public. Further, the Tribunal considered the costs' schedule reducing, by agreement, those times for preparation and for advocacy and fixing costs in the sum of £2,300.00 inclusive of VAT.

Dated this 13th day of August 2008
On behalf of the Tribunal

D J Leverton
Chairman