

IN THE MATTER OF NEIL JOHN HARRISON, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J P Davies (in the chair)
Mr N Pearson
Mrs S Gordon

Date of Hearing: 10th April 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Lorraine Patricia Trench, a solicitor employed by The Law Society at the Solicitors Regulation Authority, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 21st January 2008 that Neil John Harrison, solicitor of Midsomer Norton, Somerset, 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 against the Respondent was that he had been guilty of conduct unbecoming a solicitor in that on 8th November 2006 he was convicted at Exeter Crown Court of possessing an indecent photograph or pseudo-photograph of a child for distribution.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 10th April 2008 when Lorraine Patricia Trench, solicitor, appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the admission of the Respondent.

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

The Tribunal Orders that the Respondent, Neil John Harrison of Midsomer Norton, Somerset, 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 £1,529.50.

The facts are set out in paragraphs 1-3 hereunder:

1. The Respondent, born in 1956, was admitted as a solicitor in 1980. The Respondent had not held a practising certificate since the end of 2006.
2. The Respondent had been tried at Exeter Crown Court in connection with eleven counts of downloading and one count of possession of indecent images of children under the age of 16. On 8th November 2006 the jury returned its verdict that the Respondent was not guilty to each of the eleven counts of downloading but was guilty to having possessed an indecent image or images of a child under the age of 16. A copy of the Certificate of Conviction was before the Tribunal. The Respondent was fined £400 and was required to sign on the Sex Offenders' Register for five years. A copy of the Learned Judge's sentencing remarks was before the Tribunal.
3. In response to a letter from the Solicitors Regulation Unit the Respondent wrote on 22nd December 2006 that he was innocent of all charges and stated that an appeal had been lodged against his conviction. On 3rd December 2007 the Respondent's appeal against his conviction and sentence was dismissed by the Court of Appeal and a copy of the judgment of the Court of Appeal was before the Tribunal.

The Submissions of the Applicant

4. The Respondent's solicitors had said in their letter of 9th April 2008 to the Tribunal that there had been no suggestion of distribution of images by the Respondent. Although the wording of the conviction included the word 'distribution' it was right to say that the actual conviction of the Respondent related to possession only. Nevertheless the Learned Judge had stated in his sentencing remarks:

"....the jury were required to be satisfied that you had made at least one of those images, and that you were aware that there were indecent images on your computer."

The jury had been so satisfied.

5. The Tribunal was referred to the judgment of the Court of Appeal which went into some detail regarding the words 'making' and 'possession'.
6. The Court of Appeal had said:

"But we are in no doubt that, in the context of the summing up as a whole the jury knew what they had to be sure not only about and that the appellant knew about automatic 'pop up' activity when he accessed adult pornographic sites, but that he knew that in accessing certain sites there was a likelihood that these 'pop ups' would be illegal images."

7. It had been submitted on behalf of the Respondent that the fact that a financial penalty had been imposed by way of sentence in the Crown Court indicated that this was a relatively minor matter. The Respondent had however been convicted of an offence which would damage the reputation of the profession and had been required to sign on the Sex Offender's Register for five years.
8. The essential issue was the need to maintain among members of the public a well founded confidence that any solicitor whom they instructed would be a person of unquestionable integrity, probity and trust. The conviction showed that the Respondent had fallen below those standards. The conviction damaged the reputation both of the Respondent and of the profession in the eyes of the public and amongst the profession itself.
9. The Applicant sought the costs of The Law Society in the fixed sum of £1,529. 50. A schedule of costs had been served on the Respondent to which he had made no reply.

The Submissions on behalf of the Respondent

10. The Submissions on behalf of the Respondent were contained in a letter from the Respondent's solicitors dated 9th April 2008.
11. The Respondent's absence from the hearing was explained. No discourtesy was intended towards the Tribunal. The Tribunal was asked to take into account the following factors:
 - (i) the Respondent was now 51 years of age and had been in practice since 1980;
 - (ii) the Respondent accepted that he had been convicted of one offence involving possession of an indecent image. In the light of the conviction the Respondent would bow to the judgment of the Tribunal but asked for some leniency in any disposal. It was clear from the verdict of the jury that they were making reference to one image only, there was no suggestion of distribution involved and it was simple possession.
 - (iii) the Respondent had not held a practising certificate since the end of 2006;
 - (iv) the Respondent was an undischarged bankrupt;
 - (v) the penalty imposed by the Court was a financial penalty which recognised the fact that the conviction as found by the jury was at the lowest end of offences of this kind. The Court made no Order for costs which was significant;
 - (vi) details of the Respondent's current financial circumstances were set out and the Tribunal was asked to take his financial position and the fact that he was an undischarged bankrupt into account when considering any Order for costs.

The Findings of the Tribunal

12. The Respondent had admitted the allegation. The Tribunal was satisfied that the allegation was substantiated and that the admitted conviction amounted to conduct unbecoming a solicitor.

Previous appearance of the Respondent before the Tribunal

13. On 6th July 1999 the following allegation was substantiated against the Respondent and another namely that he had been guilty of conduct unbecoming a solicitor in that he had failed promptly to file an Accountant's Report in accordance with Section 34 of the Solicitors Act 1974 and the Rules made thereunder.

14. The Tribunal in 1999 stated:

The Tribunal wished to make it plain that compliance with the regulatory requirements of the solicitors' profession is extremely important. The Respondents appeared not to have recognised that nor indeed had they recognised how important it was to respond to letters addressed to them by their own professional body. In reality their failures had served to prevent The Law Society from fulfilling its regulatory duties and ensuring that the interests of the public were protected. That was unacceptable. In all the circumstances the Tribunal considered it right to impose a fine of £1,500 upon each of the Respondents and further Ordered them to pay the Applicant's costs in an agreed fixed sum."

Hearing of 10th April 2008

15. The Tribunal had considered carefully and at length the appropriate sanction in this matter. The Tribunal had taken into account the points made available to it by way of mitigation including those contained in the letter from the Respondent's solicitors dated 9th April 2008. The Tribunal accepted the submission on behalf of the Respondent that the sentence imposed on him indicated that his conviction was for an offence at the lower end of the scale for offences of this kind. Such an offence was however of a very serious nature. Solicitors were Officers of the Court and were expected by the public to uphold the highest standards. The Tribunal had a duty to maintain the reputation of the profession and thereby to maintain the public's confidence in the profession. The Tribunal was satisfied that in this case the public's interest in upholding the standards of the profession meant that the appropriate sanction was to strike the Respondent's name off the Roll of Solicitors.
16. In relation to costs the Tribunal had noted the submissions on behalf of the Respondent. The Respondent had not made any response to the Applicant's schedule. The Tribunal noted that the Respondent was in a parlous financial position and that The Law Society was aware of his circumstances. The Tribunal also noted that the Applicant had made some reduction in the costs in relation to correspondence. In the circumstances the Tribunal considered that it was right to order the Respondent to pay the Applicant's costs in the sum sought. Decisions on enforcement would be a matter for The Law Society.

17. The Tribunal Ordered that that the Respondent, Neil John Harrison of Midsomer Norton, Somerset, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,529.50.

Dated this 16th day of May 2008
On behalf of the Tribunal

J P Davies
Chairman