

IN THE MATTER OF SHARON BASELEY,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M Hartley (in the chair)
Mr P Kempster
Mr D E Marlow

Date of Hearing: 6th January 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society (Solicitors Regulation Authority) by Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Hertfordshire, SG14 1BY on 18th April 2008 that an order be made by the Tribunal directing that as from a date to be specified in such order no solicitor should except in accordance with permission in writing granted by The Law Society (SRA) for such period and subject to such conditions as the Society might think fit to specify in the permission employ or remunerate in connection with the practice as a solicitor Sharon Baseley of Catesby Grange, Daventry, Northamptonshire, a person who was or had been a clerk to a solicitor or that such other order might be made as the Tribunal should think right.

The allegation against the Respondent was that she, having been employed by a solicitor but not herself being a solicitor had, in the opinion of The Law Society (Solicitors Regulation Authority), occasioned or been party to, with or without the connivance of the solicitor by whom she was employed, an act or default in relation to the Solicitors' Practice, which involved conduct on her part of such a nature that, in the opinion of the Society (SRA), it would be undesirable for her to be employed or remunerated by a solicitor or registered European lawyer in connection with his or her practice or by an incorporated solicitors'

practice. The conduct complained of was that she stole monies belonging to the firm by which she was employed.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 6th January 2009 when Stephen John Battersby appeared as the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant invited the Tribunal to proceed with the matter in the absence of the Respondent. He referred the Tribunal to the Memorandum of Adjournment of 14th October 2008. A letter dated 17th November 2008 from the Respondent's criminal solicitor to the Applicant had stated that the Respondent had not been charged with any offence and had been released from her bail, being reported for summons. There was therefore no indication as to when, if at all, any decision with regard to criminal proceedings might be made. The Applicant had contacted the Respondent without response. The Applicant submitted that it was not right that uncertainty continue in relation to the proceedings before the Tribunal as the public should have protection. After considering the Applicant's submissions and the documents the Tribunal was satisfied that it was right to proceed with the hearing in the interests of the public.

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

The Tribunal Orders that as from 6th day of January 2009 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Sharon Baseley of Catesby Grange, Daventry, Northamptonshire, a person who is or was a clerk to a solicitor and the Tribunal further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,337.99.

The facts are set out in paragraphs 1 – 7 hereunder:-

1. The Respondent was born in 1971. At the material time she was employed by Astons Solicitors of Daventry, Northamptonshire. At the time that she commenced her employment in 2001 RA was the sole principal of the firm but he was subsequently joined by his son EA who became a partner in 2005. The Respondent remained with the firm until she was summarily dismissed on 17th November 2006 for gross misconduct.
2. The Respondent was highly thought of by her employers who found her to be "extremely loyal, hardworking and conscientious". She was responsible for the day to day running of the office including financial matters such as payment of staff salaries, ordering and purchasing of office supplies and payment of invoices. When EA became a partner on 1st October 2005, the Respondent was given the title of practice manager of the firm and awarded a salary increase. On average she would spend two days per week carrying out secretarial work and three days on financial and administrative tasks. She had access to internet banking facilities, cheque books and bank cards both for the firm's office account and the private account of RA. The PIN number for these two cards was the same and she alone of the staff was aware of it.

3. In October 2006 the partners were investigating what they suspected to be unauthorised removals of monies from the firm's office account and from the personal account of RA. These enquiries led them to believe that the Respondent had been misappropriating monies and they instituted a disciplinary procedure against her which led to her being suspended from her employment on 27th October 2006 and resulted in her dismissal on 17th November.
4. The firm gave the Respondent a written summary of the allegations against her of which they were then aware. They invited her written response which she duly produced. They then reached a decision which was set out in their written findings. All these documents were before the Tribunal.
5. The Respondent denied acting in any way improperly and claimed that all the withdrawals that she had made were properly required for the purposes of the firm rather than, as alleged by the partners, being dishonest misappropriation by her.
6. The allegations which the partners made against the Respondent included the following:-
 - (a) On 27th September 2006 she had transferred £338.83 to her own bank account for what were described as 'office items' – there was no evidence that she had purchased office items to this value from her own resources.
 - (b) The following day (28th September 2006) she had paid herself the sum of £1541.29 representing her salary for the month of September. The amount actually due to her was £1202.46 and therefore the amount of £338.83 had been added to the salary due for what was described as "refund of petty cash inclusive of software bought on dabs and office sundry's". There was no record of such purchases.
 - (c) The Respondent, as well as making to herself a payment of salary on 28th September 2006 made a further such payment on 11th October 2006. She claimed that she had just discovered that she had not cashed a pay cheque issued in July 2004 and had discussed this with RA who had authorised her to make the withdrawals. He denied having done this.
 - (d) At a time when RA could be shown to have been on holiday during July and August of 2004, the Respondent had made withdrawals from a bank cash machine from the firm's account and RA's personal account using bank card and pin number. These totalled £850.00 and were made without authority.
7. The partners reported the matter both to the SRA and to the police.

The Submissions of the Applicant

8. The Tribunal would be concerned at the delay between the first reporting of the matter to the SRA and the institution of proceedings. The explanation for this was that the police requested the SRA to put their enquiry on hold to allow them to arrest and interview the Respondent.

9. While the partners had made a number of allegations against the Respondent the Applicant had confined his allegations to three discrete matters capable of being proved on the documentation. The Applicant had served the appropriate notices on the Respondent in July 2008. The Applicant had received a telephone call from the Respondent in which she had indicated that she probably would not attend the proceedings or engage with them.
10. The Respondent had been a respected and trusted employee who had abused the trust placed in her. The firm had no complaints at all about the way the Respondent had dealt with client money. The money she had taken belonged to the firm itself.
11. In relation to the sum of £338.83 taken twice by the Respondent the firm had said that she was not entitled to take any such sum.
12. In relation to the second payment of salary on 11th October 2006 RA had made enquiries and had found that the Respondent had been paid for July 2004 on another cheque.
13. In relation to RA's cash card only he and the Respondent knew the PIN number. He had been on holiday in Venezuela at a time when five amounts had been withdrawn from the bank's cash machine. RA's evidence was clear. He had not made the withdrawals and therefore only the Respondent could have done. She had not had his authority.
14. While these allegations were very much the tip of the iceberg the Tribunal did not need to be satisfied of more. The taking of even a small sum to which the Respondent was not entitled would be a breach of trust.
15. The Applicant sought his costs as set out in two schedules served on the Respondent in a total sum of £6,337.99.

The Findings of the Tribunal

16. The Tribunal considered carefully the documentation before it including the explanations given by the Respondent both in interview with her employers and in writing. The Respondent had chosen not to appear at the Tribunal to allow her evidence to be tested. The Applicant had served the appropriate Notices on the Respondent without receiving Counter Notices. The Respondent's evidence was contradicted by the evidence from the firm put forward by the Applicant. The Tribunal accepted the evidence placed before it by the Applicant. The Tribunal was satisfied that the Respondent had breached the trust placed in her by her employers and that this was not just a matter, as asserted by the Respondent, of muddle and error. The Tribunal was satisfied that in the instances alleged by the Applicant the Respondent had misappropriated money belonging to the firm having taken those monies without the authority of her employers. In all the circumstances the Tribunal was satisfied that it was right to make the order sought which would permit The Law Society to regulate any future employment by the Respondent within the profession. The Tribunal would also order the Respondent to pay the Applicant's costs.

17. The Tribunal Ordered that as from 6th day of January 2009 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Sharon Baseley of Catesby Grange, Daventry, Northamptonshire, a person who is or was a clerk to a solicitor and the Tribunal further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,337.99.

Dated this 7th day of April 2009
On behalf of the Tribunal

W M Hartley
Chairman