

IN THE MATTER OF OLADIPO BOLARINWA AYOOLA, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Miss T Cullen (in the chair)
Mr D Potts
Mr D Gilbertson

Date of Hearing: 9th January 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Solicitors Regulation Authority by Lorraine Patricia Trench, solicitor, on 8th July 2008 that Oladipo Bolarinwa Ayoola of 3 Maida Road, Belvedere, Kent DA17 6JP 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 allegations against the Respondent were that:-

1. He did not act with integrity and behaved in a way which was likely to diminish the trust the public places in him or the profession in that he attended the Asylum and Immigration Tribunal ("the AIT") as a representative of Oladipo Ayoola Solicitors, when his firm was not registered with the Solicitors Regulation Authority contrary to Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007.
2. He failed to act in the best interests of his client in attending the AIT contrary to Rule 1.04 of the Solicitors Code of Conduct 2007.

3. He failed to respond to correspondence from the Solicitors Regulation Authority contrary to Rule 20.03 of the Solicitors Code of Conduct 2007.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 9th January 2009 when Lorraine Patricia Trench appeared as the Applicant. The Respondent did not attend and was not represented.

The evidence before the Tribunal included the submissions of the Applicant. Nothing was received in response to the allegations from the Respondent .

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

The Tribunal Orders that the Respondent, Oladipo Bolarinwa Ayoola of 3 Maida Road, Belvedere, Kent, DA17 6JP, 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 £1,400.00.

The facts are set out in paragraphs 1 – 13 hereunder:-

1. The Respondent was born in 1959 and was admitted as a solicitor in 1999. His name remains on the Roll of Solicitors. The Respondent was not currently practising as a solicitor, his last practising certificate for the practice year 2006/2007 having been terminated on 12th December 2007.

Allegation 1.

2. The Respondent had attended the AIT on 31st July 2007 as the representative of Mr A. The Respondent completed the AIT Section 84 supervision form which was handed to the Court clerk prior to the commencement of the hearing. The Respondent completed the form with the name of the organisation he represented, as Oladipo Ayoola Solicitors. The address given on the form was 3 Maida Road, Belvedere, Kent, DA17 6JP. The Respondent also signed and dated the form.
3. The Respondent's Practising Certificate application form for the practice year 2006/2007 was supported by a covering letter dated 23rd November 2006. In his covering letter, the Respondent stated that he was not practising as a solicitor of the Supreme Court of England and Wales. The Respondent further stated that he had previously held a practising certificate but had not practised during the 12 month period immediately preceding the start date of his new practising certificate.
4. The Respondent signed the declaration confirming that he had taken reasonable steps to ensure that the information provided in the form was correct and complete. The Respondent did not provide a main practising address on the application form however, the address provided in his covering letter was that of 3 Maida Road, Belvedere, Kent DA17 6JP.
5. In response to enquiries made with the AIT, the Ministry of Justice confirmed that the Respondent had attended the hearing as the representative of Mr A.

Allegation 2.

6. The Respondent completed the AIT Section 84 form confirming that he was authorised to practise by a designated professional body or supervised by such a person; and that he was registered with or authorised by an EEA Body responsible for regulation of the provision of legal advice in that EEA state, or employed or supervised by the person registered in line with Section 84(2)(d), (e) and (f) of the Immigration and Asylum Act 1999.
7. Whilst the Respondent held a practising certificate for the practice year 2006/2007, the Respondent had not informed the SRA that he was practising with Oladipo Ayoola Solicitors or that he had set up this firm. The SRA's records showed that the Respondent was not practising with any firm of solicitors, nor had he ever practised with a firm since his admission to the Roll in 1999.
8. As the firm of Oladipo Ayoola Solicitors was never registered with the SRA, there was no record to show that the Respondent had qualifying indemnity insurance to cover the provision of legal services.

Allegation 3.

9. The Law Society's Legal Complaints Service received information from the Office of the Immigration Services Commissioner (OISC) that the Respondent had attended the AIT on 31st July 2007 to appear as a representative for Mr A in an immigration appeal hearing. The Respondent had completed an AIT Section 84 form, which showed that the name of his organisation was "Oladipo Ayoola Solicitors".
10. The Solicitors Regulation Authority (SRA) wrote to the Respondent on 5th September 2007 seeking his explanation. It was brought to the Respondent's attention in that letter that the SRA did not have any record of a current practising address and that the firm of Oladipo Ayoola Solicitors was not registered, and therefore not currently regulated by the SRA.
11. In the absence of any reply from the Respondent, the Solicitors Regulation Authority wrote to him again on 21st September 2007. The Respondent again failed to reply to this letter.
12. A further letter was sent to the Respondent on 17th December 2007 in which it was explained that the matter would be referred for formal adjudication. The Respondent did not provide any reply to this letter.
13. On 22nd January 2008, an Adjudicator at the SRA decided to refer the conduct of the Respondent to the Solicitors Disciplinary Tribunal and the Respondent was notified of this decision by way of letter dated 28th January 2008.

The Submissions of the Applicant

14. The Applicant asked the Tribunal to find that the Civil Evidence Act Notice which had been sent on 28th July 2008 had been properly served on the Respondent at his last known address and that he had failed to respond to that or to the proceedings.

The Applicant further provided an Experian credit search which indicated that the Respondent was still on the Electoral Roll and the address that had been provided was his current address. The Civil Evidence Act Notice had been dated 23rd July 2008 and a Notice advising the Respondent of the hearing date had been dated 21st November 2008 and those had not been returned either to the SRA or to the Tribunal and consequently the Tribunal was invited to find that good service had been effected on the Respondent of notice of the hearing. The Tribunal was asked to deal with the allegations in the Respondent's absence.

The decision of the Tribunal as to proceeding in the Respondent's absence

15. The Tribunal carefully considered the service of the Civil Evidence Act Notice and the hearing notice and was satisfied that it could proceed in the Respondent's absence.

The further Submissions of the Applicant

16. The first allegation concerned the Respondent attending before the AIT as a representative of Oladipo Ayoola Solicitors and it was submitted that that breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 in that the Respondent had failed to act with integrity because he had led members of the public to believe that his firm was able to provide such advice as a firm registered with the SRA despite the fact that he had never practised within a firm since having been admitted to the Roll of Solicitors in 1999.
17. It was submitted that the public needed to be confident that members of the profession were acting with integrity, probity and trustworthiness and consequently the Respondent should never have represented the client, and as an immigration client he was particularly vulnerable. The Respondent had demonstrated a total disregard for the client's best interests and more so because he had no professional indemnity insurance.
18. The Respondent had failed to respond to correspondence from the SRA and so it could not fulfil its regulatory role. Such a disregard for his professional obligations meant that the costs to the profession increased.

The Findings of the Tribunal

19. The Tribunal was concerned to note the seriousness of the allegations particularly in a case such as this where the client was appearing before the AIT in his immigration case. The Tribunal noted that such clients were particularly vulnerable to poor advice and representation and it was imperative that those that held themselves out to be solicitors maintained the good reputation of the profession. In this particular instance the Respondent was someone who had flouted his professional obligations by claiming to be a solicitor with a firm that was not registered with the SRA. Further the Respondent was someone who had misled the AIT by completing the Section 84 form indicating that he was properly supervised or that he was authorised to practise by a designated professional body when that was clearly not the case. It was essential that such firms had professional indemnity insurance to ensure that any liability that arose would be covered by the insurance but in this case the Respondent had not obtained any insurance. Furthermore the SRA had attempted on numerous occasions

to carry out its proper regulatory function and had written to the Respondent at his last known address but he had failed to reply.

20. The Tribunal regarded this as a serious matter and felt that the appropriate course of action in this case, having found all the allegations proved against the Respondent, would be to strike off the Respondent.
21. The Tribunal was particularly concerned that the Respondent should represent a vulnerable client before the AIT in what appeared to be a complex immigration case. The Tribunal had before it the determination of the AIT in respect of a hearing that took place on 31st July 2007. This was a case involving an appellant who had been born on 10th February 1978 having been born in Nigeria. The Application concerned an appeal against a decision dated 5th January 2005 to refuse entry clearance as a working holidaymaker under the immigration rules. The matter before the AIT was a complex one and one which had a long history. The AIT had regard to issues of the appellant's credibility and the evidence placed before the AIT. It was imperative that the client was properly represented before the AIT and it was also imperative that the Respondent's client retained confidence in the profession. It was clear that the Respondent had attempted to impose a degree of credibility of his own on his client by in effect holding himself out to be a solicitor who was qualified to practise before the AIT, when he was not so qualified.
22. In light of the above the Tribunal ordered that the Respondent be struck off the Roll of Solicitors and further ordered him to pay costs in the sum of £1,400.00.

Dated this 13th day of March 2009
On behalf of the Tribunal

T Cullen
Chairman