

IN THE MATTER OF SHAHZAD MOHAMMAD AKHTAR CHAUDHRY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr R Nicholas (in the chair)
Mr I R Woolfe
Mr M G Taylor CBE DL

Date of Hearing: 2nd April 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Peter Harland Cadman solicitor and partner in the firm of Russell Cooke LLP of 8 Bedford Row, London WC1R 4BX on 8th July 2008 that Shahzad Mohammad Akhtar Chaudhry solicitor (now of South Woodford, London E18 1LT) 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 fit.

The allegations against the Respondent were:

- (a) That he provided advice that a false application for asylum should be made.
- (b) That he provided advice that false information should be provided in interviews with the Home Office.
- (c) That he created a false account of events to be used as a basis for an application to the Home Office and/or an interview with the Home Office.
- (d) That he provided advice that public funding could be used for an application when he knew that such an application would be on a false basis.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 2nd April 2009 when Peter Harland Cadman appeared as the Applicant and the Respondent was represented by David T Morgan solicitor and consultant to the firm of Radcliffes Le Brasseur of 5 Great College Street, Westminster, London SW1P 3SJ.

The evidence before the Tribunal included the admissions of the Respondent. The Respondent gave oral evidence. A bundle of references in support of the Respondent was handed to the Tribunal at the hearing.

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

The Tribunal Orders that the Respondent, Shahzad Mohammad Akhtar Chaudhry of South Woodford, London, E18 1LT, 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 £5,200.00.

The facts set out in paragraphs 1 – 12 hereunder:

1. The Respondent, born in 1976 was admitted as a solicitor in 2001 and his name remained on the Roll of Solicitors. At all material times he was a partner at GMG Law LLP in Plaistow, London.
2. On 1st June 2006 two reporters attended the Respondent's office where they met the Respondent. The meeting with the Respondent was recorded and a copy of the relevant transcript was before the Tribunal.
3. The meeting gave rise to a story in the News of the World on Sunday 4th June 2006. A copy of the newspaper report was before the Tribunal.
4. The meeting on 1st June was split into three parts:-
 - (i) An initial meeting that included the two reporters and the Respondent.
 - (ii) A separate meeting between the Respondent and the male reporter only.
 - (iii) A final part of the meeting involving the two reporters and the Respondent.
5. During the initial meeting with both reporters and the Respondent the female reporter gave an account of events including the following:
 - (i) That she was an illegal entrant arriving "2 weeks ago."
 - (ii) That her husband never beat her.
6. The Respondent provided advice including the following:-

"On the basis of what you have told me you have two to three problems. First is that there has been no cruelty in your married life in your case on the basis of which you could have decided to leave the country. Secondly your problem

is only confined to Karachi. Pakistan is a big place and you can relocate to places such as Lahore, Islamabad or any other place in Pakistan where this family could not have threatened you or harassed you or reach you giving an opportunity to start a new life. And number 3 you have come into this country illegally. Now these things create problems.”

7. During the separate meeting between the Respondent and the male reporter, the reporter stated “I know that she has got no right to be here” and the Respondent confirmed “She is an overstayer.”

8. In discussion with the male reporter:

(i) The Respondent stated....

“truthfully what she has told me, my advice would be, you are an overstay in this country, head back. Now if she is going to modify what she has told me and what she wants to say, in respect of the problems she has had in Pakistan, the only case she has got going on is, as much as she has had problems with the husband and the in-laws is how much problem she has had, which means we can then touch upon very sensitive areas like possible abuse.”

(ii) The Respondent further stated:

“Now for you to try and describe the kind of activity this husband’s been abusing her to, we’re going to run on a case Shah and Islam....it’s a case that was a Pakistani woman that was abused by her husband....so we are going to model this lady’s....what I will be discussing with her is pretty much mirrored to a couple of cases I have had in the past where women have seriously suffered abuse and the type of abuse they have suffered....”

(iii) The reporter stated:

“She has to make up a story about abuse, that she was abused by her husband, that is the story she can stay, that’s the strongest case?”

In answer to this the Respondent stated:

“It doesn’t necessarily mean she can stay, it means she can present this to the.....Home Office.”

(iv) The Respondent stated that the female would:

“Have to give a detailed statement, possibly undergo a medical, to show depending on what abuse she is outlining she has suffered. What would the abuse in the form of, unwanted sex, unprotected sex, possible sharing of partners, trying to force her onto friends, using objects.”

(v) The Respondent suggested the purchase of a porn film in order for the male reporter to demonstrate to the female reporter the type of sexual abuse the female reporter might wish to describe to the Home Office.

(vi) The Respondent stated:

“The next problem she has, why did she not go to the police?...if you establish it that the husband is very well connected and his pharmaceutical firm is connected throughout Pakistan....and all of a sudden it shows that he is very well connected with the police and that vets to the phone calls at home, interference, do you understand now we are talking about how this case develops...”

(vii) The Respondent also stated:

“Relocation is also a problem, so somewhere along the line we have to demonstrate that she did go to the police and obviously got escorted back home by the police and knocked by her husband even more. Somewhere along the line she has left her marital home two months ago, went to her mum and dad’s house, got harassed there, then went to live in Lahore somewhere, what places she has visited and start again.”

9. The Respondent then informed the male reporter that he would give the client:

“a pen and paper, give her ten minutes for a quick run through, she can make notes on it....and then she can obviously learn it before she comes in, because what happens with me personally I will be taking on the case, because again, I am only doing, I don’t do this professionally in the sense that I am only doing it because of the obvious circumstances of this young lady I know she is completely stuck.”

10. The final part of the meeting was between the two reporters and the Respondent. The Respondent dictated a false account of events to the female reporter. In addition during the course of that final part of the meeting:

(i) The male reporter and the Respondent confirmed that the cost of the matter could be dealt with under legal aid.

(ii) The Respondent advised that she could say she came two weeks ago.

(iii) The Respondent suggested that the dates of the client’s marriage proposal and marriage were altered.

(iv) The Respondent suggested that the husband’s family were connected with the army.

(v) The Respondent suggested that all dates should be brought forward.

(vi) The Respondent suggested that when the matter was reported to the police they just laughed.

- (vii) The Respondent suggested that the husband's brother raped the female reporter whilst the brother was drunk.
 - (viii) The Respondent suggested that the more obscene the husband could be to her and "the more of an animal" the better it was for her application.
11. The Law Society wrote to the Respondent on 26th September 2006 concerning this matter. A copy of correspondence between The Law Society and the Respondent's solicitors was before the Tribunal. No dispute was taken with the accuracy of the transcript of the interview.
 12. On behalf of the Respondent a psychiatric report dated 22nd February 2007 had been produced from a consultant forensic psychiatrist. The report included the following:

"The dizziness and vertigo associated with labyrinthitis can be extremely disorientating for the individual so suffering and can lead to marked difficulties in concentration and attention. In my opinion, it would be very difficult for a professional, such as a solicitor, to properly conduct his business whilst suffering from acute labyrinthitis of any severity, as his or her ability to concentrate on the matters at hand, and interact with clients, would be markedly affected. This may help to explain Mr Chaudhry's patchy recollection of the incident.

Regarding the presence of specific mental disorders at the material time. Mr Chaudhry was likely to have been suffering from some mild depressive symptoms relating to his marital difficulties and the stresses at work. However, I was unable to obtain clear evidence that Mr Chaudhry was suffering from a specific mental illness at the time of the alleged incident.

At the time that I assessed Mr Chaudhry I formed the opinion that he was suffering from a moderate depressive illness. This diagnosis appears supported by his general practitioner who has commenced him on a course of antidepressant medication since 14th July 2006. He describes certain characteristic symptoms of depression such as poor sleep, lack of concentration, decreased libido, decreased interest and anhedonia, that is, the inability to enjoy things. There is also some thinking of an obsessional ruminative quality which is in keeping with the diagnosis of depression. In my opinion he should consider restarting prescribed antidepressant medication. He might also benefit from some psychotherapy, such as Cognitive Behavioural Therapy. This may be available from his general practice and is something he could discuss with his general practitioner."

The Submissions of the Applicant

13. This matter had been prepared by the Applicant on the basis of a contested hearing but the Respondent had now admitted the allegations.
14. The newspaper story which was before the Tribunal had brought this conduct into the public domain. The Tribunal was asked to note in particular the headline to the article.

15. The Respondent had provided advice to the reporters to make up a story. The female reporter had been given a notepad. His advice had been improper. The reference by the Respondent to abuse was clearly a false story. The female reporter had not gone to the police and the Respondent's reference to this was also part of the false story.
16. The whole basis of events dictated by the Respondent to the reporters in the final part of the meeting was a false account of events. The Respondent had confirmed that the matter could be dealt with under legal aid even though it was clear he was aware that the factual basis of the application was being fabricated. The Respondent was concocting a version of events that he knew was untrue and that he was advising should be used as a basis for an application to the Home Office for which he would be paid either privately or from public funding.
17. The Applicant relied on the totality of the recorded interview. The Respondent had openly, brazenly and deliberately given improper advice.
18. Nothing within the interviews suggested that the Respondent was not following the conversations, indeed he appeared to be controlling the interview.
19. The Applicant sought his costs in the agreed sum of £5,200.

Oral evidence of the Respondent

20. The Respondent confirmed his written statement dated 2nd April 2009 save that he now admitted the allegations although he maintained he was unwell at the time of the interview.
21. Unfortunately he could not remember the interview. After the interview he had been served with a copy of the transcript and he could not separate what he could recall and what he had read. He accepted that the interview had taken place but had a very dim memory of it.
22. Prior to the interview the Respondent had been in hospital and the Tribunal was referred to the medical report.
23. The Respondent accepted that he had spoken inappropriate words at the interview but these did not reflect the person he really was. The Tribunal was referred to the references which showed that people still held him in positive regard. The references had given him positive feedback as to the person he really was.
24. Not a day went by when the Respondent did not realise the privilege of being a solicitor now that that position was in jeopardy.
25. The Tribunal was asked to judge the Respondent not on the basis of one hour when he was ill but on his career in which he had made a contribution to the profession in which he wished to continue.
26. The Respondent had not attempted to practise as a solicitor, although he could have done so, because of how bad he felt about his appearance before the Tribunal. The

only positives before him were people's good opinion of him and the fact that he had been reconciled with his family.

27. The Tribunal was referred to the Respondent's statement setting out his ill health at the relevant time and how he had been on the day of the interview. He had not even been dressed appropriately for meeting clients. He had taken no fees for the interview.
28. At the time the Respondent's firm had had huge debts which had contributed to his ill health.
29. The Respondent wished he could turn back the clock. He had not been financially motivated. He had had no shortage of clients. There would have been other tests to apply in order to obtain legal aid. The Respondent did not know why these events had occurred nor why he had agreed to see the reporters.
30. He conceded that his advice had been improper and that there was nothing to indicate in the transcript that he could not follow the conversation. He also conceded that a solicitor could not be a party to an application for legal aid on a false factual basis.
31. The Respondent explained the physical condition from which he had been suffering at the time, namely labyrinthitis. The Respondent had been walking into things, not sleeping and suffering from side effects. He had also been on a cocktail of medication.
32. The Respondent accepted that the conversation with reporters had been wrong, inappropriate and improper. If faced with the same situation again he would escort the reporters to the door and not continue. He had never given such advice in the past and never would in the future.
33. The Respondent currently had no practising certificate. His last certificate had expired and had been unconditional.

The Submissions on behalf of the Respondent

34. While it was accepted that the medical report was written in February 2007 and that it was almost impossible to assess the Respondent's state of mind six months earlier the medical report did set out most of the mitigating factors on behalf of the Respondent. The report confirmed the Respondent's hospital attendance. The Respondent's own statement confirmed his physical and mental state immediately prior to the interview.
35. The Respondent felt ashamed and felt that the man who had given advice to the reporters was not the man the Respondent was. This was born out by the testimonials in support of the Respondent which showed that the interview had been completely out of character with the Respondent's normal reputation. The writers of the testimonials had been fully aware of the circumstances of the Respondent's appearance.
36. This matter had been hanging over the Respondent for two and a half years and he had not worked as a solicitor during that time. While he was deeply ashamed he wished to return to practise within the profession. The Tribunal was asked to accept the Respondent's statement of remorse. He had not been himself at the time. The

Respondent was not claiming that he had been mentally ill but he had been in a stressed state of mind, dizzy and was taking a cocktail of medication. He had not intended to go into his office and indeed was not properly dressed to do so. The Respondent was otherwise a man of good character.

The Findings of the Tribunal

37. The Respondent had admitted the allegations and the Tribunal found them to have been substantiated.
38. These were serious matters which were fundamental to the integrity of the profession and its reputation in the public mind. The allegations were admitted a short time before the hearing.
39. Medical evidence had been provided but did not show evidence of either a mental or physical condition sufficient to render the Respondent likely to behave in an irrational manner or to behave so out of character as to give advice which was grossly improper. The transcript of the interview did not indicate that the Respondent had been unable to follow the conversation and there was no medical evidence to suggest that that was the case. The Tribunal had not found the Respondent's evidence persuasive and was satisfied that the Respondent had been aware of what he was doing during the interview.
40. The Tribunal had taken full account of the impressive references provided but this was a case involving conscious impropriety intending to mislead the immigration authorities and the Legal Services Commission. In all the circumstances the Tribunal considered that the appropriate penalty was to strike the Respondent off the Roll of Solicitors and to Order him to pay the Applicant's agreed costs.
41. The Tribunal Ordered that the respondent, Shahzad Mohammed Akhtar Chaudhry of South Woodford, London, E18 1LT 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 £5,200.

Dated this 10th day of July 2009

On behalf of the Tribunal

R Nicholas
Chairman