

IN THE MATTER OF ANTHONY SCOTLAND GRASSICK WALKER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs K Todner (in the chair)
Mr A Gaynor-Smith
M. J Jackson

Date of Hearing: 7th May 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 Jonathan Richard Goodwin, solicitor advocate of 17E Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 26th August 2008 that Anthony Scotland Grassick Walker might be required to answer the allegations set out 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:

- (i) he failed to produce all records and documentation to a representative of the Solicitors Regulation Authority ("the SRA") contrary to Rule 20.06 of the Solicitors Code of Conduct 2007 ("SCC") and/or Rule 34 of the Solicitors Accounts Rules 1998 ("the 1998 Rules");
- (ii) he failed to reply to correspondence from the SRA and/or to cooperate with the SRA contrary to Rule 20.03 of the SCC;
- (iii) he carried on practice as a solicitor under the style of Anthony Walker Legal Services contrary to s.3 of the Solicitors Separate Business Code 1994 and/or Rule 21.02 of the SCC;
- (iv) he misappropriated clients funds and/or failed to account to a client;

- (v) he held himself out as being VAT registered and charged clients VAT when he was not so registered contrary to Rule 1 of the Solicitors Practice Rules 1990 ("SPR") and/or Rule 1 of the SCC. This was an allegation of dishonesty;
- (vi) he failed to comply with a judgment of the Central London County Court dated 31st January 2008, contrary to Rule 1 of the SCC;
- (vii) contrary to Rule 5.01(1)(c) of the SCC and/or Rules 4.1 and 5.1 of the Solicitors Indemnity Insurance Rules 2006 he practised whilst uninsured;

The further allegations contained in a supplementary statement dated 23rd February 2009 were that:

- (viii) he practised uncertificated and/or held himself out as a solicitor when not entitled to do so;
- (ix) he failed to reply to correspondence from the SRA.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 7th May 2009 when Jonathan Richard Goodwin appeared as the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant gave the Tribunal details of the steps he had taken to ensure the Respondent had been properly served. The Tribunal had made an Order on 22nd January 2009 for substituted service and the Applicant confirmed this had taken place as requested, although the notice in the newspaper local to the Respondent's last known address had not been printed by the newspaper for some reason. However the Applicant indicated that as advertisements had been placed in The Times and The Law Society Gazette, the Respondent had been properly served by substituted service.

The Tribunal confirmed they were satisfied that substituted service had taken place and that the matter should proceed in the absence of the Respondent.

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

The Tribunal Orders that the Respondent, Anthony Scotland Grassick Walker, 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 £19,827.56.

The facts are set out in paragraphs 1-29 hereunder:

1. The Respondent, born in 1957, was admitted as a solicitor in 1985.
2. At relevant times the Respondent purported to carry on practice under the style of Anthony Walker Legal Services from offices at 1st Floor, Holborn Gate, 330 High Holborn, London. The Respondent was also an associate at H L Miller between March and November 2007. It is understood that Anthony Walker Legal Services was not registered with the SRA, notwithstanding the Respondent undertook services which may only be provided through a solicitor's practice.

3. On 9th January 2008 an Investigation Officer ("IO") attended at the Respondent's office and copies of his Reports dated 1st February 2008 and 30th April 2008 were before the Tribunal.

Allegations (i) and (ii)

4. The IO ascertained that the Respondent had been carrying on business as Anthony Walker Legal Services from serviced offices managed by Regus. Further, records held by The Law Society indicated that the Respondent was an associate with H L Miller & Co Solicitors, until 1st November 2007.
5. The IO met the Respondent at The Law Society in Chancery Lane, London on 9th January 2008. The Respondent was provided with a standard letter advising the Respondent of the Investigation and the required information to enable the investigation to commence. The Respondent indicated that he considered the letter to be irrelevant because he had "retired from practice", that he wished to consider the letter in detail and would be seeking legal advice. The Respondent then left the meeting.
6. By letter dated 10th January 2008 the IO wrote to the Respondent indicating that he was required to provide a substantive response and the information requested by close of business on 18th January 2008.
7. The Respondent failed to reply to the IO's letter and failed to provide any books of account, documentation or records as requested. As a consequence the investigation was terminated.
8. By letter dated 14th February 2008 the SRA wrote to the Respondent enclosing a copy of the Report and seeking his explanation. The Respondent failed to reply or provide an explanation, had failed to cooperate with the SRA and/or its representatives and failed to produce his books of account, records and documentation.

Allegations (iii) and (v)

9. Anthony Walker Legal Services was not registered as a solicitor's practice with the SRA. The SRA's records indicated that the Respondent was an associate with H L Miller & Co Solicitors until 1st November 2007 and that his practising certificate terminated on 12th December 2007.
10. The Respondent rendered invoices in respect of "Anthony Walker Legal Services" in relation to work undertaken by him and on behalf of his client Mrs F and her associated companies. The invoices covered the period January to July 2007 and quoted a VAT number purporting that Anthony Walker Legal Services was registered with HM Revenue & Customs for VAT purposes. However, HM Revenue and Customs confirmed to the SRA that neither the Respondent nor Anthony Walker Legal Services was registered for VAT, that they had no record of the VAT number quoted on the invoices and that it was invalid.

11. In relation to the invoices dated 22nd January 2007, 19th February 2007, 22nd March 2007, 22nd April 2007 and 22nd May 2007 the Respondent claimed VAT in circumstances where he knew that he was not entitled to do so.
12. Notwithstanding the Respondent was not VAT registered and therefore unable to properly claim VAT, the clients, to whom the Respondent made a claim for VAT, were not United Kingdom or European Community residents and were zero rated for VAT purposes in any event.
13. The IO was unable to find any evidence to suggest that the sum of £3,062.50 charged by way of VAT on five of the invoices referred to above and representing the total amount paid by the client to the Respondent as VAT, had been refunded to the client or passed to HM Revenue and Customs.

Allegation (iv)

14. On 17th September 2007 Ms SP of H L Miller & Co spoke to Mrs F. The attendance note records a number of issues of concern including that the client had paid £38,500 to the Respondent in respect of costs and Counsel's fees and yet Counsel's fees remained unpaid.
15. On 17th September 2007 Ms SP sent an email to the Respondent setting out certain of the concerns to include the assertion by the client as to the payment of £38,500. The Respondent replied on the same day answering some of these concerns.
16. Ms SP sent a further email to the Respondent on 21st September 2007 in which concern was raised inter alia that the client had paid £100,661 to the Respondent.
17. On 19th February 2008 the IO met with Mrs F and ascertained from a review of the client matter file that an email was sent to the client on 17th May 2007 by the Respondent and in which he confirmed receipt of funds in respect of his costs and Counsel's fees. The Respondent confirmed that he was holding £10,000 in respect of Counsel's fees and he requested a further £11,000.
18. Mrs F provided Ms SP with a detailed breakdown of funds sent to the Respondent between March and October 2007. The Respondent sent an email to Ms SP on 29th October 2007 in which he attached his own schedule.
19. The IO used those documents together with the client file papers and copy bank statements provided by Mrs F to prepare a reconstructed ledger recording the movement of funds, details of which showed a balance of £8,746.65 of client money still being retained by the Respondent. A copy of the ledger was provided to the Respondent by letter dated 5th March 2008 but to which he failed to provide any comment.
20. Based on the information set out in the second Report of the IO, the sum of £8,746.65 remained unaccounted for by the Respondent, in addition to that improperly charged to the client as VAT in the sum of £3,062.50 giving a total of £11,809.15.

21. The IO ascertained that the Respondent did not place funds received from the client in a solicitors client bank account but in a private bank account and further that having considered an extract of H L Miller & Co's client bank account statement, it was possible to identify credits from the Respondent and that the bank account was a private bank account.

Allegation (vi)

22. The partners of H L Miller & Co became aware of the problems relating to the Respondent in or around September 2007 and entered into correspondence with the Respondent in an attempt to ascertain the accounting position.
23. It was necessary for H L Miller & Co to commence proceedings against the Respondent on behalf of their client and which resulted in a judgment being entered against the Respondent in the sum of £39,528.73 at the Central London County Court on 31st January 2008. The Respondent had failed to satisfy same.

Allegation (vii)

24. During the course of the enquiry it was ascertained that H L Miller & Co had not included the Respondent within its professional indemnity insurance for the year 2006-2007.
25. It was ascertained that this was considered at the time of the renewal in August 2007 but the following month various issues arose whereby the partners of H L Miller & Co considered that the arrangement with the Respondent should not continue. The IO considered records held by the SRA which revealed that the Respondent did not have professional indemnity insurance relating to him as an individual or Anthony Walker Legal Services.

Allegations (viii) and (ix)

26. The Respondent's last practising certificate terminated on 12th December 2007.
27. By letter dated 24th December 2007 the Respondent wrote to LS on RADAssociates notepaper and described himself as "Anthony Walker Solicitor for and on behalf of RADesign Associates Ltd". He described himself in the letters as "...I am employed as in-house solicitor for RADesign Associates Ltd."
28. The Respondent was not entitled to practice as a solicitor, given his practising certificate had terminated on 12th December 2007.
29. By letter dated 16th July 2008 the SRA wrote to the Respondent seeking his explanation. The Respondent failed to reply. A reminder letter was sent on 19th August 2008. The Respondent failed to reply or provide an explanation.

The Submissions of the Applicant

30. The Respondent did not attend and had not responded to the Tribunal. The Applicant contended the Respondent had practised as a solicitor under the style of Anthony

Walker Legal Services when the firm was not registered as a solicitor's practice with the SRA. The Respondent had provided services that could only be provided through a solicitor's practice. The Applicant confirmed that the Respondent had attended various court hearings on behalf of a client and that as Anthony Walker Legal Services was not registered as a solicitor's practice with the SRA, he should not have provided these services. The Applicant further advised the Tribunal that it was understood the Respondent was adjudicated bankrupt on 24th April 2008.

31. Concerning the VAT payments, the Applicant submitted that the Respondent had claimed VAT in circumstances when he knew he was not entitled to do so and accordingly, he had taken a conscious decision to act improperly. The Applicant submitted the Respondent had acted dishonestly and referred the Tribunal to the test laid down in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12. The Tribunal had to consider firstly whether the Respondent had acted dishonestly by the standards of ordinary and reasonable people and secondly, whether the Respondent was aware that by those same standards his conduct had been dishonest. The Applicant submitted that this test was satisfied, particularly in view of the fact that the Respondent had not refunded the VAT to the client or passed this amount to HM Revenue and Customs.
32. The Applicant provided the Tribunal with a copy of the ledgers and bank statements which showed that the sum of £8,746.65 of client money was still being retained by the Respondent. This had been unaccounted for.
33. The Applicant further submitted that as the Respondent's practising certificate had been terminated on 12th December 2007, he had practised uncertified when not entitled to do so.
34. The Applicant also submitted an application for his costs in the total sum of £19,827.56.

The Findings of the Tribunal

35. The Tribunal considered carefully the documentation and submissions of the Applicant. In the absence of any evidence or submissions put forward by the Respondent, the Tribunal was satisfied from the documentation available to it that all the allegations were substantiated.
36. There was no mitigation before the Tribunal on behalf of the Respondent. It appeared to the Tribunal that the Respondent had fallen far below the accepted standards of the profession. Indeed, the Tribunal was satisfied that the test set out in the case of Twinsectra v Yardley was satisfied. HM Revenue and Customs had confirmed that the VAT number quoted on the invoices from the Respondent's company, Anthony Walker Legal Services, was an invalid number and that they had no record of either the Respondent or his company being registered for VAT. However, despite this, the Respondent had clearly taken the sum of £3,062.50 from a client charged as VAT when he must have known he was not registered for VAT. The Tribunal was satisfied that an ordinary honest and reasonable member of the public would regard this as dishonest behaviour. Further as the Respondent had not paid the VAT claimed to HM Revenue and Customs, had not refunded the client and had used an invalid VAT

number, the Tribunal was satisfied that he must have known that his conduct was dishonest by those standards.

37. The Tribunal was particularly concerned that the sum of £8,746.65 had not been accounted for by the Respondent and that he had not placed these funds in the client bank account. Furthermore, the Respondent had not complied with the regulatory requirements imposed on a solicitor by carrying on in practice under the style of Anthony Walker Legal Services when this firm was not registered as a solicitor's practice with the SRA. He had also failed to comply with a judgment of the Central London County Court and had practised uncertified after his practising certificate had been terminated. Furthermore, he had failed to reply to correspondence from his regulating authority and had displayed a complete disregard for any of the regulatory requirements imposed on solicitors.
38. The Tribunal found that the Respondent had brought the profession into disrepute, and he had abused his position of trust as a solicitor by failing to account for client monies and by charging clients VAT when he was clearly not entitled to do so.
39. The Tribunal felt that the public interest was paramount and the public must be protected at all costs. The Respondent had fallen far below the accepted standards of the profession and it was right that he no longer be a member of the profession.
40. The Tribunal Ordered that that the Respondent, Anthony Scotland Grassick Walker, 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 £19,827.56.

DATED this 11th day of August 2009
on behalf of the Tribunal

Mrs K Todner
Chairman