

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

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A G Gibson (in the chair)
Mr R B Bamford
Mrs N Chavda

Date of Hearing: 4th June 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 Graham John Miles solicitor and partner of Morgan Cole Solicitors, Bradley Court, Park Place, Cardiff CF10 3DP on 24th October 2008 that Ulfat Kazmi a solicitor's clerk might be required to answer the allegations contained in the statement which accompanied the application and that an Order might be made by the Tribunal directing that as from a date to be specified in such Order no solicitor shall, except in accordance with permission in writing granted by The Law Society for such period and subject to such conditions as The Law Society may think fit to specify in the permission, employ or remunerate the Respondent in connection with the practice, or that such Order might be made as the Tribunal should think right.

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

The application was heard at The Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7NS on 4th June 2009 when Graham John Miles, solicitor and partner of Morgan Cole Solicitors, Bradley Court, Park Place, Cardiff CF10 3DP appeared for 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. The Clerk confirmed that notice of the hearing had been served upon the Respondent by special delivery on 12th March 2009. The Applicant referred the Tribunal to his telephone attendance note of 2nd June 2009 with the Respondent and submitted that the Respondent had voluntarily waived her right to attend the hearing.

After considering the Applicant's submissions and the documents the Tribunal were satisfied that it was right to proceed with the hearing in the absence of the Respondent in the interests of the public.

The Applicant indicated to the Tribunal that since the Respondent denied the allegation the matter would be proved in her absence. He had served a Section 2 Civil Evidence Act 1995 Notice on 25th November 2008 and no counternotice had been received.

Evidence before the Tribunal

The evidence before the Tribunal included the Applicant's Rule 5 statement dated 24th October 2008 with accompanying bundle. In addition, there was the sworn oral evidence and statement of Mrs Afshan Ejaz Nawaz dated 19th May 2009, a partner in the firm of Renaissance Solicitors, 413 Hoe Street, Walthamstow, London E17 9AP at all material times.

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

The Tribunal Orders that as from 4th day of June 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 shareholder of an incorporated solicitor's practice Ulfat Kazmi, a person who is or was a clerk to a solicitor and the Tribunal further Orders that she do pay the costs of an incidental to this application and enquiry fixed in the sum of £3,500.

The facts are set out in paragraphs 1-9 hereunder

1. At all material times the Respondent, who is not a solicitor, was employed by Renaissance Solicitors at 413 Hoe Street, Walthamstow, London E17 9AP as a legal assistant.
2. The last known address of the Respondent is *[Removed for public access]*.
3. A Forensic Investigation Report was prepared by the Solicitors Regulation Authority (SRA) and is dated 8th October 2007. The following facts arise from the report:-
 - (i) The Respondent commenced employment with Renaissance Solicitors on 24th April 2004 as a typist/receptionist and was subsequently promoted to the position of legal assistant to Ms Suzan Ince. Throughout the period of the Respondent's employment the partners were Mrs Afshan Nawaz and Ms Susan Ince.

- (ii) As a result of the Respondent's deteriorating attendance record she was given two weeks notice of termination of her employment and was due to leave Renaissance Solicitors on 20th January 2006.
- (iii) Five cheques including stubs, had been removed from the client bank account cheque book. Mrs Afshan Nawaz informed the Investigation Officer that the cheques must have been removed in the lunch time period during the Respondent's two week notice period, as this would have been the only time when the cheque books were not in the safe or with the partners.
- (iv) The cheques that were removed were written and cashed as follows;

<u>Cheque</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Cashed</u>
100678	18/01/06	Ulfat Kazmi	£400.00	24/01/06
100690	24/01/06	Ulfat Kazmi	£1,600.00	27/01/06
100689	03/02/06	Ulfat Kazmi	£1,600.00	08/02/06
100688	02/02/06	Ulfat Kazmi	£800.00	15/02/06
100716	13/02/06	Ulfat Kazmi	£2,000.00	16/02/06
			<u>£6,400.00</u>	

- (v) The loss was discovered on 23rd March 2006 when the firm notified the police and Barclays Bank. Mrs Nawaz informed the Investigation Officer that the bank had assured the partners that the signatures were not those of any of the partners and did not relate to a client payment. The bank reimbursed the sum of £6,400 on 27th March 2007 and the bank then instructed Matthew Arnold Baldwin Solicitors to recover the money from the Respondent through civil litigation.
4. In a letter dated 22nd October 2007, the SRA wrote to the Respondent setting out the allegations and invited a response within fourteen days. The Respondent replied by letter dated 23rd October 2007 in which she stated that her bank cards had been missing while she was working at Renaissance Solicitors and that her bank was informed of this.
 5. By letter dated 15th February 2008, the SRA wrote to the Respondent enclosing a copy of the Forensic Investigation Report of the Investigation Officer stating that the matter was to be referred for formal adjudication, indicating that if the Respondent wished to make any representations, she must do so within fourteen days.
 6. By letter dated 13th March 2008, the Respondent wrote to the SRA enclosing copies of letters dated 2nd March 2007 and 29th June 2007, from Mr George Gross, a solicitor and partner in the firm of Moss & Co Solicitors of 17 Lower Clapton Road, London E5 ONS. The correspondence addressed to the Respondent indicated that the Respondent was arrested and interviewed at Chingford Police Station on 12th February 2008. Further that the Respondent told her solicitor that she had no idea how the stolen cheques ended up being paid in to her account but that she had asked some of her colleagues to take money out for her using her PIN number and that one of her

colleagues might have stolen her Halifax cards and used the Respondent's account to perpetrate a fraud. The letters also indicate the Respondent told her solicitor that she reported to the police in March 2006 that her Halifax bank cards had been stolen.

7. By further letter dated 28th March 2008, the Respondent wrote to the SRA enclosing a copy of a statement of her account number D/38904482-3 with Halifax PLC. The Respondent stated in her letter that she reported her Halifax PLC card lost on 27th February 2006. The accompanying statement of account confirms that the bank card was cancelled on 27th February 2006.
8. By letter dated 29th April 2008, the SRA sent to the Respondent a copy of the decision of the Adjudicator, that the matter would be referred to the Tribunal.
9. The five cheques drawn on the client account of Renaissance solicitors were each made payable to the Respondent. The Respondent had denied writing the cheques in her own name and cashing the same and asserted that her bank cards were stolen or lost while working at Renaissance Solicitors.

The Submissions of the Applicant

10. The Applicant submitted that the Respondent's explanation is inconsistent with the facts as she did not report that her bank card was missing until 27th February 2006, which is more than one month after she left Renaissance Solicitors and after the date on which the last of the five cheques was cashed.
11. The Applicant also submitted that the evidence established that the Respondent wrote the cheques, inserting her own name and that she cashed them for her own use. In this respect she had acted dishonestly and the test in the case of Twinsectra Ltd v Yardley [2002] UKHL 12 was met in this case. The Applicant submitted that the test was in two parts. The first part was an objective test in that it must be established that the defendant's conduct was dishonest by the standards of reasonable and honest people; the conduct must also satisfy the subjective test i.e. that she herself realised that by those standards her conduct was dishonest.
12. In evidence Mrs Nawaz said that none of the signatures on the five cheques were hers, either being poor forgeries or dissimilar to her handwriting. Mrs Nawaz also said that she was familiar with the hand writing on the cheques and it was that of the Respondent. The Applicant submitted that if the Tribunal were satisfied as to the facts alleged, then it was not a great distance to dishonesty and she must have realised that what she was doing was dishonest.
13. The Applicant asked for costs in the sum of £8,515.60.

The Tribunal's Findings and reasons

14. The Tribunal had considered carefully all the documents before it and the submissions of the Applicant as well as the explanatory letters from the Respondent to the SRA contained within the Applicant's bundle. The Tribunal noted that the Respondent had chosen not to give evidence. The Tribunal considered the evidence of Mrs Nawaz,

who had stated that the writing on each of the cheques was that of the Respondent and that the signatures on each of the cheques were forgeries.

15. The Tribunal found the allegations to have been substantiated. It was right that the profession and the public should be protected from the behaviour of the Respondent.
16. The Tribunal made a partial cost order fixed in the sum of £3,500.
17. The Tribunal Ordered that as from 4th June 2009 no solicitor, Registered European Lawyer of incorporated solicitor's practice shall, except in accordance with permission in writing granted by The Law Society for such a period and subject to such conditions as The Law 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 Ulfat Kazmi, a solicitor's clerk, 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 £3,500.

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

Mr A G Gibson
Chairman