

IN THE MATTER OF VICTORIA ANNE DONAJGRODZKA, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H B Holmes (in the chair)
Mr N Pearson
Mr M G Taylor CBE, DL

Date of Hearing: 18th June 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made by Saba Yousif, a solicitor employed by the Solicitors Regulation Authority of 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE on 10th December 2008 that Victoria Anne Donajgrodzka 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.

1. The allegations were that the Respondent:
 - (i) failed to keep accounts properly written up for the purposes of Rule 32 of the Solicitors Accounts Rules 1998;
 - (ii) withdrew money from client account in breach of Rule 22 of the Solicitors Accounts Rules 1998;
 - (iii) improperly utilised client monies for her own purposes;
 - (iv) misled her client by making an inaccurate statement in breach of Rule 1 of the Solicitors Code of Conduct 2007.
2. behaved dishonestly in relation to the matters in allegations 1 (ii), (iii) and (iv).

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farrington Street, London, EC4M 7NS on 18th June 2009 when Paul Milton, solicitor, employed by the Solicitors Regulation Authority ("the SRA") appeared on behalf of the Applicant and the Respondent appeared in person.

The evidence before the Tribunal

The evidence before the Tribunal included the admissions of the Respondent both as to the facts and the allegations.

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

The Tribunal Orders that the Respondent, Victoria Donajgrodzka, solicitor, be Struck Off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,701.

The facts are set out in paragraphs 1-8 hereunder:

1. The Respondent, born in 1969, was admitted as a solicitor in 1993. Her name remained on the Roll of Solicitors.
2. At all material times the Respondent was a sole practitioner practising under the style of Employment Integration at Old Barn, Churchlands Business Park, Ufton Road, Harbury, Leamington Spa, Warwickshire, CV33 9GX. The SRA intervened into that practice on 17th June 2008.
3. A Forensic Investigation Officer of the SRA ("the FIO") commenced an inspection of the Respondent's firm's books of account on 10th June 2008. The FIO's Report dated 12th June 2008 was before the Tribunal.
4. The firm's books of account had not been written up since May 2007.
5. The FIO reported that a minimum cash shortage of £70,740.17 existed as at 11 June 2008 which was caused by improper transfers from client to office account made at the Respondent's instigation to meet office expenses which included the purchase of a computer for £4,008.16 and the purchase of a motor vehicle for £14,000.
6. In the case of the Respondent's client, Mr L, £52,429.25 had been received into the firm's client account on his behalf on 20th May 2008. The Respondent transferred £45,520 to office account and utilised that money to pay for office expenses at a time when she was in financial difficulty.
7. On 21st November 2007, £37,300 was received by the firm on behalf of a group of clients. On 30th November 2007, £13,500 was transferred from client account to office account. The Respondent indicated to the FIO that this money had been repaid.
8. On 11th June 2008 the Respondent informed the FIO that she would rectify the shortage of client funds as her mother had agreed to lend her the money.

The Submissions of the Applicant

9. The Respondent had admitted the allegations including the allegation that she had been dishonest on the basis that the two part test in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12 had been satisfied.
10. The Tribunal was reminded of the case of Bolton -v- The Law Society [1994] 1 WLR 512CA in which the then Master of the Rolls pointed out that the good reputation of the solicitor's profession was its most valuable asset and the protection of that good reputation was more important than the fortunes of an individual member.
11. The Applicant sought the costs of and incidental to the application and enquiry. The Respondent had been adjudicated bankrupt but she did not dispute either the quantum of or her liability for the costs which were placed at £4,701 inclusive.

The Submissions of the Respondent in mitigation

12. The Respondent had admitted the allegations and that included an admission that she had been dishonest as she agreed that the two-part test in Twinsectra v Yardley had been met. She was anxious to make it clear to the Tribunal that she had no intention permanently to deprive her clients of the money which she had utilised.
13. Having qualified as a solicitor in 1993 the Respondent set up her own legal practice in 2001 working from home after she had her first child. She undertook employment law work and also worked as a lecturer for several training organisations in London. After four years the business had grown to such an extent that it moved into rented premises in November 2005. At this time the firm employed three people. The firm's overheads increased putting a strain on cash flow and a personal strain on the Respondent who managed all aspects of the business alone and had a full client caseload. In seven years of practice the Respondent helped many people with their employment difficulties. The firm had grown rapidly, eventually employing up to ten members of staff, and the firm enjoyed a good reputation.
14. The Respondent found herself gradually getting into debt. She felt deeply responsible to her staff and also to her family who thought she was doing well. She also felt an enormous responsibility towards her clients.
15. New work had been incoming. The Respondent had been over-burdened with client work, administrative work and financial anxiety. This had adversely affected her judgement. She had taken on more staff to assist existing staff who were overburdened.
16. Some work was undertaken on a "no win, no fee" basis, including a large and time-consuming case involving a teacher, which was heard by an Employment Tribunal in October 2007. Pressure of work prevented the Respondent from doing the advocacy herself and counsel was instructed at great expense. Losing the case was a massive financial blow. The Respondent had been persuaded to take over a high profile case also on a "no win, no fee" basis involving an immense amount of preparation in a short space of time. One of the clients had a legal expenses insurance policy and the Respondent believed the insurer would be liable for substantial costs.

17. The Respondent believed that she could reverse the firm's fortunes through a new insurance scheme which was sold to her, but this did not prove to be as successful as she had hoped.
18. The Respondent's firm had been very well thought of and the Respondent helped a lot of clients with their difficulties. The Respondent could not believe that the firm could fail with so much goodwill. This gave her a "blind spot". The Respondent had come to recognise that managing the firm, having two children, one of whom was born in 2004, and the fear of letting her family down had put her under unacceptable pressure so that she did not manage cash flow or ask for help when she needed it. The Respondent could only think that she acted out of desperation to avoid letting everyone down. The Respondent deeply regretted using clients' money without their permission and she found it hard to forgive herself for the pain she had caused people and the fact that she had let herself and the profession down. She always intended to repay the clients. She repaid the money used in December 2007 very quickly after using it. The Respondent had confided in a member of staff who had provided financial assistance.
19. By May 2008 the Respondent was mentally "falling apart" and did not see her breakdown coming.
20. The Respondent had used Mr L's money to buy a car. She got into a horrendous situation with her car. When the firm's prospects were much better she leased a Jaguar car and for the first couple of years could afford the payments and it served a good purpose in giving her confidence. She had a sense of not being taken very seriously as a business woman, but having a car like this represented the success of the firm and gave her the respect of male directors and senior executives.
21. The Respondent's family did not know of the firm's problems. They had assumed that she could maintain her lifestyle and when the lease on the initial vehicle ran out, she replaced it with another Jaguar. That second car was due to be returned (or purchased for approximately £10,000) at the end of May 2008 and the Respondent was in desperate straits in terms of replacing it. She could not get any sort of finance for a vehicle and realised that she would have to buy a vehicle for cash. She felt trapped. She saw a second hand car in a local garage, an old Mercedes, and agreed to buy it, hoping against hope that the insurance money from one of her large cases would be paid to the firm in time for her to pay for it. In the end she used part of Mr L's money to buy it. She genuinely believed she was not in her right mind at the time. It was just a week later that she had a breakdown and she could not recall much of what happened in the two weeks between late May and early June. Her accountant had pointed out that to keep the Jaguar would have cost far less than to buy this car.
22. Using Mr L's money to buy a car sounded, and was, deplorable, but it was done out of utter desperation and mental imbalance and it was one of the major factors in the Respondent's breakdown on 6th June. She collected the new car and driving it home seriously contemplated suicide. Eventually she telephoned her mother but could not express what was happening so her mother drove from Manchester, deeply alarmed by the Respondent's incoherence. From there, everything unravelled and the Respondent's family supported her through the investigation and the intervention. The Respondent's professional staff and her accountant had contacted the SRA.

23. The Respondent had been declared bankrupt in July and had since agreed to be bound by a bankruptcy restrictions order for a period of eleven years.
24. It was a big thing for the Respondent to qualify as a lawyer - even to go to University. She had felt a great sense of responsibility for being successful and had now lost her career, damaged her health and hurt her family and others. She had resolved to relinquish her career as a solicitor permanently.
26. The Respondent had been making good progress in terms of recovering her health. From being suicidal and agoraphobic she could now go out and go into shops by herself. Local publicity represented a setback for the Respondent and she had a dread of further press interest for the sake of her children, her husband and herself. The situation in which the Respondent found herself continued to cause her pain.

The Findings of the Tribunal

27. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested. The Tribunal gave the Respondent credit for her admissions and credit for appearing before the Tribunal at the hearing which could not have been easy for her. The Tribunal has taken into account the sad and difficult circumstances in which the Respondent now found herself. The Tribunal recognised that the Respondent had been subject to considerable pressures while in practice. It was, however, a fundamental requirement that a solicitor be totally honest and trustworthy in handling clients' monies. A client was entitled to be sure that placing his money into the hands of a solicitor means with certainty that such monies are not placed elsewhere and possibly in jeopardy. A client was entitled to be sure that a solicitor would exercise proper stewardship over his funds. The Tribunal recognised that whilst it was sometimes very hard on an individual, it must fulfil its duty to protect the public and maintain the good reputation of the solicitor's profession which in circumstances such as these requires the imposition of the ultimate sanction. The Tribunal concluded that it was both appropriate and proportionate to order that the Respondent be struck off the Roll of Solicitors. The Respondent had very properly accepted responsibility for the SRA's costs and had agreed the quantum. The Tribunal therefore summarily fixed the costs and Ordered that the Respondent should pay them. The Tribunal recognised that the Respondent was bankrupt but the award of the SRA's costs was appropriate in principle and it would be a matter for the SRA to decide how and whether to enforce such Order.

DATED this 28th day of July 2009
on behalf of the Tribunal

N Pearson on behalf of
A H B Holmes
Chairman