

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF ADEYINKA MAFE, solicitor (Respondent)

Upon the application of Jonathan Richard Goodwin
on behalf of the Solicitors Regulation Authority

Mr. W. M. Hartley (in the chair)
Mr. R. Prigg
Mr. G. Fisher

Date of Hearing: 6th May 2010

FINDINGS & DECISION

Appearances

Mr Jonathan Richard Goodwin of Jonathan Goodwin Solicitor Advocate, 17e Telford Court, Dunkirk Lea, Chester Gates, Chester CH1 6LT for the Applicant

The Respondent did not appear and was not represented.

The application was dated 6th November 2009.

Allegations

The allegations against the Respondent were that:

- (1) Contrary to Rule 1.02, 1.04 and 1.06 of the Solicitors Code of Conduct 2007 ("SCC"), he abandoned his practice.
- (2) Contrary to Rule 1.02, 1.04, 1.05 and 1.06 of the SCC, he failed to act in the best interests of client(s).
- (3) Contrary to Rule 1.02, 1.04, 1.05 and 1.06 of the SCC, he failed to act in accordance with his lender clients' instructions.

- (4) Contrary to Rule 1.02 and 1.06 of the SCC, he held himself out as practising in partnership when he was not. (For the avoidance of doubt, this was an allegation of dishonesty).
- (5) Contrary to Rule 1.02, 1.06 and/or 10.05, he failed to comply with undertakings contained in Certificates of Title, dated 23rd March 2009, 2nd April 2009 and 7th April 2009.
- (6) Contrary to Rule 1.02 and 1.06, he improperly paid away funds held on behalf of mortgagee clients, and/or failed to utilise same towards the purchase of the relevant properties. (For the avoidance of doubt, this was an allegation of dishonesty).

Factual Background

1. In the absence of the Respondent the Tribunal noted an Order for substituted service had been made by the Tribunal on 9th February 2010 and in fact service had been effected as Ordered by way of advertisements in The Times on 12th February 2010 and the Law Society Gazette on 18th February 2010. The Tribunal was satisfied that the Respondent had been properly served and given notice of the hearing, and therefore granted the Applicant leave to proceed in the Respondent's absence.
2. The Respondent, born in 1972, was admitted as a Solicitor on the 17th July 2006. At all material times the Respondent carried on practice on his own account under the style of MIB Solicitors, at 339 Hertford Road, Edmonton, London N9 7ET
3. The practice was formed on 2nd July 2007. On 14th January 2009, the Respondent purported to practice in partnership with a Mr O Ikhide. It was contended that that arrangement was a sham, and that at all times the Respondent carried on practice on his own account.
4. The Respondent's practice was intervened on 19th May 2009.
5. On 17th April 2009, DLA Piper wrote to the Legal Complaints Service ("LCS"), on behalf of their client, Abbey National plc ("Abbey"), expressing concern that some or all of their clients' five mortgage advances paid to MIB Solicitors had not been utilised towards the purchase of the relevant properties, but rather had been dispersed elsewhere. The sum of £1,651,365.00 had been paid by way of advances in respect of five transactions during March and April 2009. They indicated the practice appeared to have been abandoned during mid April 2009. In respect of each transaction, the Respondent signed Certificates of title, dated from 23rd March 2009 to 7th April 2009.
6. On 7th April 2009, a payment of £723,000.00 was made with reference to "Samanti", and two days later on 9th April 2009, a payment was made in the sum of £695,000.00, with reference "Yinka".
7. The Respondent's notepaper showed himself and Mr O Ikhide as partners in the practice. However, when the matter was raised with Mr Ikhide, he confirmed on 14th May 2009 that he was not involved with the firm in "any shape or form", and that he had never worked for MIB Solicitors as a partner, nor as an employee, and whilst he had been offered a position in the practice by the Respondent, he declined the offer.

8. The Tribunal reviewed all the following documents submitted by the Applicant which included:-
 - (i) Rule 5 Statement, together with enclosures
 - (ii) Statement of Costs dated 6th May 2010
9. The Respondent had not submitted any documents for the Tribunal to review.

Witnesses

10. No person gave oral evidence.

Findings as to Fact and Law

11. In absence of any submissions from the Respondent, the Tribunal found all the allegations to have been substantiated on the basis of the documentary evidence provided by the Applicant. The Applicant had referred the Tribunal to the case of Twinsectra Limited v Yardley & Others [2002] UKHL 12 in relation to the consideration of whether the Respondent had acted dishonestly. The Applicant submitted that the Tribunal had to consider whether the Respondent's conduct would be considered dishonest by honest people, and secondly whether the Respondent himself must have been aware that his conduct would be considered dishonest. The Applicant had submitted both tests were satisfied in view of the fact that Mr Ikhide's name had been used by the Respondent on his notepaper, representing Mr Ikhide to be a partner of the practice, without Mr Ikhide's knowledge or permission. Secondly, the payment of £695,000 which had a reference "Yinka" appeared to be the Respondent himself as it could be seen that if the letters "Ade" were removed from the Respondent's first name, this left "Yinka".
12. The Tribunal were satisfied that the tests referred to in the case of Twinsectra V Yardley were satisfied and that the Respondent had acted dishonestly.

Costs Application

13. The Applicant provided the Tribunal with a Schedule of Costs which indicated his total costs came to a figure of £10,178.62. He requested an Order for those costs in full.

Previous Disciplinary Sanctions Before the Tribunal

14. None.

Sanction and Reasons

15. The Tribunal were of the view that this was one of the worst cases of dishonesty that the Tribunal had dealt with. There had been blatant dishonesty by the Respondent, who appeared to have misappropriated £695,000 for his own benefit. Members of the public must be in no doubt that any funds which they place in the hands of a solicitor will be handled by that solicitor with the utmost integrity and trustworthiness. The

use of client funds for a solicitor's own purposes was a very serious matter indeed, and there was no doubt the Respondent had brought the reputation of the profession into disrepute, and that clients had suffered as a result of his dishonesty. The Respondent was not fit to be a solicitor and the Tribunal ordered that he be struck off the Roll of Solicitors.

Decision as to Costs

16. The Tribunal made an Order that the Respondent pay the Applicant's costs in full in the sum of £10,178.62. The Tribunal had taken into account the cases of Merrick v The Law Society [2007] EWHC 2997 (Admin) and D'Souza v The Law Society [2009] EWHC 2193 (Admin) on the question of the Respondent's means. However, the Respondent had not provided the Tribunal with any details of his financial position and accordingly the Tribunal ordered the costs be paid in full.
17. The Tribunal ordered that the respondent, ADEYINKA MAFE, 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 £10,178.62

Dated the 23rd day of June 2010
On behalf of the Tribunal

W M Hartley
Chairman