

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF HASSAN VAHIB, (the Respondent)
A person (not being a solicitor) employed or remunerated by a solicitor

Upon the application of David Barton
on behalf of the Solicitors Regulation Authority

Mr J P Davies (in the chair)
Mr R Prigg
Lady Bonham Carter

Date of Hearing: 11th January 2011

FINDINGS & DECISION

Appearances

David Barton, solicitor, of 13-17 Lower Stone Street, Maidstone, Kent ME15 6JX, the Applicant, appeared on behalf of the Solicitors Regulation Authority (“SRA”).

The Respondent did not appear and was not represented.

The application, under Section 43 of the Solicitors Act 1974 (as amended) was made on 31 August 2010.

Preliminary Matter

This matter was linked to, but not consolidated with, matter 10610-2010, which matter was heard at the same time, and before the same Tribunal.

The Tribunal considered whether to proceed with the matter in the absence of the Respondent.

The Tribunal was told that the Respondent appeared now to be resident permanently in the Turkish Republic of Northern Cyprus (“TRNC”). The Applicant informed the Tribunal that

the Respondent had been served with the proceedings and with notice of the hearing. The Applicant had been in email contact with the Respondent. In particular, the Applicant informed the Tribunal that on 10 January 2011 he had received an email from the Respondent and had later spoken to the Respondent on the telephone.

The Applicant produced to the Tribunal a print-off of the email sent by the Respondent on 11 January, which refers to the matter number and states:-

“Further to our telephone [sic] discussion concerning the forthcoming I wish to confirm that whilst I reserve my rights to respond, if necessary, to the issues raised in the submission (reports etc.) regarding the above case, nevertheless I write to confirm that I will not be objecting to the terms set out in your application on behalf of the Solicitors Regulation authority that an Order under Section 43 of the Solicitors Act 1973 (as amended) be made by the Tribunal.

I am no longer residing in the UK but I am contactable via my email should you need to contact me.”

The Applicant further informed the Tribunal that the matter had been listed for hearing in December 2010 but the matter had been postponed due to difficulties caused by the bad weather at that time. In a telephone conversation between the Applicant and Respondent on 22 December 2010 the Respondent had indicated that he would consent to an Order in the terms sought.

The Applicant told the Tribunal that he had informed the Respondent that the email would be produced to the Tribunal and that the Applicant regarded it as the Respondent’s submission to the making of an Order under Section 43. The Applicant had also informed the Respondent that he would seek a Costs Order against him.

In the light of the information given, the Tribunal was satisfied that the Respondent had had proper notice of the proceedings and of the hearing, and had indicated that he was content for the matter to proceed in his absence. In those circumstances the Tribunal decided to proceed with the hearing.

Allegations

The Respondent occasioned or had been a party to acts or defaults the particulars of which were as follows:

1. He permitted money that was not client money to pass into and out of the firm’s client account;
2. He failed to produce to an Officer employed by the SRA bills of costs pursuant to which he purported to charge £22,780 in fees;
3. He received fees from Mr A of £7,000 and failed to properly carry out his client’s instructions, to keep Mr A informed and to respond to communications;
4. He failed to reply to communications from the SRA.

Factual Background

1. At all material times the Respondent, an unadmitted person, was employed by Vahib & Co at Alco House, 435 Green Lanes, London N4 1HA, as that firms' practice manager. The sole principal of the practice was the Respondent's then wife, Isin Vahib, against whom proceedings 10610-2010 were heard simultaneously with this matter.
2. On 4 August 2009 a Forensic Investigation Officer ("FIO") employed by the SRA commenced an inspection of the books of account and other documents of Vahib & Co. The FIO's Report dated 5 November 2009 was relied on by the Applicant.

Findings of Fact and Law

3. The Respondent had not challenged the allegations or content of the FIO's Report and, indeed, appeared from the correspondence to have admitted the allegations. In any event, the Tribunal was satisfied, so that it was sure, that the allegations had been proved.
4. During 2008 the Respondent had been involved with a company, A-N Ltd (TRNC), which was an investment company dealing with prospective property developments in Cyprus. The Respondent permitted and directed the receipt of funds with relation to that company into the client account of Vahib & Co and the subsequent payment out of that money. The company was not a client of the firm, nor were the monies received or paid out linked to an underlying legal transaction. Although the operation of the firm's client account was the responsibility of the firm's principal, it was the Respondent who had given the directions concerning receipt of funds and payment out in this matter. The Respondent had thus caused the solicitor's client account to be operated in breach of Rule 15(2) of the Solicitors Accounts Rules 1998 ("SAR").
5. The Respondent had, during the FIO's investigation, suggested that some of the funds in the A-N Ltd (TRNC) matter had been dispersed to pay bills rendered by Vahib & Co totalling £22,780, but he did not produce copies of the bills on request.
6. The Respondent had received fees from a Mr A on account of costs to fund the institution of proceedings in TRNC against a property developer. The Respondent had failed to communicate properly with the client in respect to that matter and to take any effective steps in the proposed litigation. This had led to a complaint against Vahib & Co. The Respondent had failed to reply to correspondence from the SRA concerning this complaint.
7. Further, the Tribunal was satisfied that a complaint had been made with regard to the conduct of proceedings on behalf of a Mr & Mrs K. The SRA Adjudicator decided on 4 January 2010 that an inadequate professional service had been provided.
8. The Respondent had failed to provide information and documents to the SRA when requested in connection with these matters.

Previous Sanctions

9. There were no previous sanctions against the Respondent in this matter. Previous sanctions against Isin Vahib, relating in part to this Respondent's conduct, had been made in matter number 10165/2008, heard on 17 November 2009.

Mitigation

10. No mitigation was offered.

Costs Application

11. The Applicant sought a costs Order against the Respondent in the sum of £6,192.45. Further costs had been sought in matter 10610/2010, the Applicant having apportioned the overall costs between the two matters.
12. The Respondent had been notified that costs would be sought against him and of the amount. No representations were made by the Respondent on this issue.

Sanction and Reasons

13. The Tribunal had considered the FIO's Report in this matter and found all the factual matters proved.
14. The Respondent had been engaged in activities which caused breaches of SAR, and the Code of Conduct, and led to complaints from clients. The Tribunal noted that there had been no previous disciplinary sanctions against the Respondent, but there had been a previous sanction against the Respondent's wife with some of the conduct involved being that of this Respondent, in particular with regard to inappropriate dealings with the firm's client account.
15. The Respondent's conduct was such as to make it appropriate for the Tribunal to make an Order under S.43(2) in this matter.

Decision as to Costs

16. The Tribunal considered the costs sought by the Applicant to be reasonable and it was appropriate to Order the Respondent to pay the Applicant's costs summarily assessed at £6,192.45.

Order

17. The Tribunal Ordered that as from 11th day of January 2011 except in accordance with Law Society permission:-
 - (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor HASSAN VAHIB
 - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Hassan Vahib

- (iii) no recognised body shall employ or remunerate the said Hassan Vahib
- (iv) no manager or employee of a recognised body shall employ or remunerate the said Hassan Vahib in connection with the business of that body;
- (v) no recognised body or manager or employee of such a body shall permit the said Hassan Vahib to be a manager of the body;
- (vi) no recognised body or manager or employee of such a body shall permit the said Hassan Vahib to have an interest in the body;

And the Tribunal further Ordered that the said Hassan Vahib do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,192.45

Dated this 7th day of March 2011
On behalf of the Tribunal

J P Davies
Chairman