

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10655-2010

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SHABIR AHMED KHATTAK

First Respondent

and

KHURRAM MUGHAL

Second Respondent

Before:

Mr A N Spooner (in the chair)

Mr R Hegarty

Mrs L McMahon-Hathway

Date of Hearing: 24th May 2011

Appearances

David Barton, Solicitor Advocate of 13-17 Lower Stone Street, Maidstone Kent ME15 6JX appeared for the Applicant.

Neither Respondent was present. Both had submitted correspondence to the Tribunal for consideration. For reasons set out below, the hearing proceeded with regard to the Second Respondent. The case against the First Respondent was adjourned.

JUDGMENT

Allegations

1. The Applicant applied for an Order under s.43 of the Solicitors Act 1974 (as amended) in the following terms:
 - 1.1 That no solicitor shall employ or remunerate Khurram Mughal ("the Respondent") in connection with his practice as a solicitor;
 - 1.2 That no employee of a solicitor shall employ or remunerate the Respondent in connection with the solicitor's practice;
 - 1.3 That no recognised body shall employ or remunerate the Respondent;
 - 1.4 That no manager or employee of a recognised body shall employ or remunerate the Respondent in connection with the business of that body except in each case in accordance with permission granted by The Law Society;
 - 1.5 That no recognised body or manager or employee of such a body shall, except in accordance with Law Society permission permit the Respondent to be a manager of the body;
 - 1.6 That no recognised body or manager or employee of such a body shall, except in accordance with Law Society permission, permit the Respondent to have an interest in the body.

Or that such other Order might be made as the Tribunal should think right.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondents, which included:

Applicant:

- Application in Form 2 dated 4 November 2010;
- Rule 8 Statement dated 4 November 2010 with Exhibit "DEB 1";
- Application in Form 1 dated 4 November 2010;
- Rule 5 Statement dated 4 November 2010 with Exhibit "DEB 1".

First Respondent:

- Letter from Lewis Hymanson Small LLP dated 23 May 2011;

Second Respondent:

- Letter from Second Respondent (undated);
- Two letters in similar terms from Second Respondent dated 18 May 2011.
- Bundle of references

Preliminary Matter

3. This matter was listed for a substantive hearing of the allegations against both the First and Second Respondents.
4. Having heard submissions from Mr Barton and considered the letter from the First Respondent's solicitors of 23 May 2011, and having noted the terms of a proposed Regulatory Settlement Agreement between the Solicitors Regulation Authority ("SRA") and the First Respondent, the Tribunal agreed to adjourn the substantive hearing of the allegations against the First Respondent.
5. The Tribunal noted that in his letters to the Tribunal of 18 May, and in the undated letter submitted to the Tribunal recently, the Second Respondent had made it clear that he was aware of the proceedings and did not propose to appear. The Second Respondent had further indicated that he would not object to an Order being made against him, should that be the Tribunal's decision, and had made submissions about various issues in the letters. He had also provided a bundle of seven references.

Factual Background

6. The Second Respondent was at all material times employed or remunerated by Shabir Ahmed Khattak of Khattak Solicitors, 279 Bury New Road, Whitefield, Manchester, M45 7SE and other solicitors. He was employed or remunerated as an Accredited Police Station Representative. The First Respondent in the proceedings was married to the Second Respondent's sister.
7. On 29 January 2009 the Respondent was arrested by officers from West Yorkshire Police and detained at Bradford Police Station. The Post Office and Loan Shark Investigation Team of Birmingham City Council Regulatory Services had been conducting an investigation and the Second Respondent was arrested on suspicion of participation in money laundering. A search warrant had been executed at the Second Respondent's home address as well as a Post Office of which he was said to be Postmaster.
8. The Second Respondent was interviewed under caution by Miss Rupinder Sangha of Birmingham City Council in the presence of Police Constable Anthony Baker and the Second Respondent's solicitor, Mr Khattak, the First Respondent. A transcript of the interview was provided to the Tribunal.

9. In the course of the interview, the Second Respondent was asked the following questions about his occupations:

Officer "Do you have any other income? Do you have any other jobs?"
 KM "Well I'm looking to do this technical qualification"

Officer "Do you do anything at the moment? Do you earn any other income at the moment"

KM "Not really, no"

Officer "So your postmaster salary.... family?"

KM "Sorry jewellery. We do jewellery, yeah, yeah."

10. The Second Respondent did not disclose he was an Accredited Police Station Representative.
11. At the conclusion of the interview the Second Respondent was released on bail until 6 May 2009. No charges were brought against him.
12. On 26 March 2009 Superintendent Scofield of Greater Manchester Police made a discretionary decision to refuse the Second Respondent admittance as an Accredited Legal Representative to Bury Police Station in accordance with relevant provisions of the Codes of Practice to the Police and Criminal Evidence Act 1984.
13. By letter dated 4 February 2010 the SRA wrote to the Second Respondent to ask him to explain his failure to state properly his occupation in the course of the interview, and he replied on 17 February 2010.
14. Further letters were exchanged between the Second Respondent and the SRA. On 11 May 2010 an Adjudicator decided to refer his conduct to the Tribunal.

Witnesses

15. None.

Findings as to Fact and Law

16. Under s.43 of the Solicitors Act 1974, as amended, the Tribunal had to consider whether the Second Respondent had:

"occasioned or been a party to, with or without the connivance of a solicitor, an act or default in relation to a legal practice which involved conduct on his part of such a nature that, in the opinion of the SRA, it would be undesirable for him to be involved in a legal practice".

17. The discrete issue on which the SRA relied in bringing this matter was that the Second Respondent had given inaccurate and incomplete information during the course of an interview conducted as part of an investigation into money laundering.
18. The Tribunal took into account the Second Respondent's written submissions.
19. The Tribunal noted that the Second Respondent stated that he did not believe there had been sufficient cause to arrest him in the first place. He was the designated sub-postmaster of a Post Office which was run by other members of his family. He had had no direct involvement with the business. No charges were brought against any member of the family, or anyone else, in relation to the alleged money laundering.
20. Further, the Second Respondent submitted that his response was an omission rather than a positive assertion. The question asked was one of many asked in the course of the interview and the Second Respondent submitted that he had not considered the consequences of his answer as he felt it was irrelevant.
21. The Second Respondent further submitted that his mindset at the time of the interview was not ideal. He had been in custody for over 17 hours with no nourishment. His wife had given birth a few weeks before and was suffering from post-natal depression. He was physically and mentally drained and cold. He had expected that no case would proceed against him. The Respondent told the Tribunal in his letter that he had informed the Legal Services Commission of his arrest and he had been suspended. He had honoured the terms of his suspension. The Investigating Officers had been informed that the Second Respondent worked as an Accredited Police Station Representative before the bail back date.
22. The Second Respondent had suffered professional embarrassment and a loss of income as he had been unable to work as an Accredited Police Station Representative.
23. The Tribunal determined that the Second Respondent's conduct in failing to disclose that he was an Accredited Police Station Representative in the course of the interview on 30 January 2009 (following his arrest on 29 January 2009) was an act or default in relation to a legal practice which involved conduct on his part of such a nature that it would be undesirable for him to be involved in a legal practice.
24. The Tribunal found that the Second Respondent had failed to provide accurate or complete information in the course of the interview. It took into account the circumstances he had described. However, he should have answered the questions concerning his income/occupation and his failure to do so amounted to conduct which was sufficiently serious to justify the making of an Order.

Previous Disciplinary Matters

25. None.

Mitigation

26. The Tribunal considered the representations made in the Second Respondent's letters of 18 May 2011 and the bundle of references provided. These included six

professional references and one letter from an individual to a firm which had engaged the Second Respondent concerning the Second Respondent's assistance.

Sanction

27. Having found that the Second Respondent had provided inaccurate and incomplete information in the course of a police interview, the Tribunal was satisfied that an Order should be made pursuant to s.43 of the Solicitors Act 1974 (as amended). It had taken into account the references and the Second Respondent's explanation. It had also noted the Second Respondent's indication in writing that he would consent to an Order being made against him if the Tribunal considered it appropriate to make the Order. The Tribunal was aware that it had power to make an Order where the conduct had been foolish, reckless or involved an error of judgement. The Tribunal was further aware that an Order under s.43 was in the nature of a regulatory Order and would not in itself prevent the Second Respondent from undertaking work for solicitors' firms, although he would require the permission of the SRA to do so. In all of these circumstances it was appropriate for an Order to be made.

Costs

28. Mr Barton informed the Tribunal that he had agreed with the Second Respondent that the Second Respondent would pay the Applicant's costs of the proceedings of £1,000 plus VAT. The appropriate figure, given that VAT rates had changed during the course of the proceedings, was a total of £1,181.25.
29. The Tribunal considered the costs to be reasonable and that it was appropriate to Order the Second Respondent to pay the costs.

Statement of Full Order

30. The Tribunal Ordered that as from 24th day of May 2011 except in accordance with Law Society permission:-
- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Khurram Mughal;
 - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Khurram Mughal;
 - (iii) no recognised body shall employ or remunerate the said Khurram Mughal;
 - (iv) no manager or employee of a recognised body shall employ or remunerate the said Khurram Mughal in connection with the business of that body;
 - (v) no recognised body or manager or employee of such a body shall permit the said Khurram Mughal to be a manager of the body;
 - (vi) no recognised body or manager or employee of such a body shall permit the said Khurram Mughal to have an interest in the body;

And the Tribunal further Ordered that the said Khurram Mughal do pay the agreed costs of and incidental to this application and enquiry fixed in the sum of £1,181.25.

Dated this 29th day of June 2011
On behalf of the Tribunal

A N Spooner
Chairman