

IN THE MATTER OF KAMLESH JIVAN BHALSOD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Mr R J C Potter
Mr D E Marlow

Date of Hearing: 4th May 2004

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Office for the Supervision of Solicitors (the OSS by Linda Louise Rudgyard Solicitor Advocate employed by the OSS at Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE that Kamlesh Jivan Bhalsod of Morden, Surrey, solicitor 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 think right.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following respects namely that he had:

- (a) drawn monies from client account otherwise than as permitted by Rule 22(1);
- (b) utilised clients' funds for his own purposes;
- (c) failed to maintain properly written up books of account contrary to Rule 32 of the Solicitors Account Rules 1998;

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Linda Louise Rudgyard appeared as the Applicant. The Respondent did not appear and was not represented.

At the opening of the hearing the Applicant told the Tribunal that the matter had been considered by the Tribunal on 9th March 2004 when an Order for substituted service was made. It had not proved possible to effect personal service of the documents upon the Respondent within 14 days. Substituted service had been effected by the publication of notices in The Law Society's Gazette on 8th April 2004 and in the The Times newspaper on 30th March 2004.

Although personal service had not been effected the Enquiry Agent had made an Affidavit in which he expressed the belief that the Respondent had collected a set of papers. The Respondent was aware of the proceedings (as set out in his letter of 5th January 2004 referred to in the Tribunal's Memorandum of Adjournment dated 24th March 2004 relating to the 9th March hearing). In light of the above the Applicant invited the Tribunal to deal with the matter on the basis that service on the Respondent had been duly effected.

The Tribunal was satisfied that the Respondent had been duly served with the proceedings. The Tribunal was satisfied that it would be right to hear the substantive case in the absence of the Respondent as was permitted by the Tribunal's statutory rules of procedure.

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

The Tribunal Order that the Respondent, Kamlesh Jivan Bhalsod of Morden, Surrey, solicitor, be struck off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,141.11.

The evidence before the Tribunal consisted of the Rule 4 Statement dated 7th November 2003 and documents exhibited thereto.

The facts are set out in paragraphs 1-26 hereunder.

1. The Respondent, born in 1964, was admitted as a solicitor in 1989. At the material times he practised as a sole principal under the style of Bhalsod & Co at Suite 38 Temple Chambers, 3-7 Temple Avenue, London EC4Y OHP. The Law Society intervened into that practice on 11th March 2003.
2. Upon notice duly given to the Respondent an inspection of his books of account was carried out by the Monitoring and Investigation Unit ("MIU") of the OSS. The MIU began its inspection on 4th March 2003 and prepared a Report dated 7th March 2003 which was before the Tribunal.
3. The MIU Report revealed the following matters.
4. When the MIU Officer attended the Respondent's firm's offices the Respondent was not at the office. The Officer was informed that the Respondent had been admitted to hospital the previous day and was undergoing tests in respect of his heart. A Financial Investigator with Surrey police had contacted the MIU Officer and informed him that the Respondent had contacted the police and had asked to attend at Epsom

Police Station as he wanted to make a statement. The MIU Officer attended the police station and in an interview with the Respondent on 4th March 2002 at Epsom Police Station the Respondent said that he had been using client funds to pay monies to the head of a crime family who was making threats to kill him unless the payments were made. He said he had paid about £350,000 in total. When asked how payments had been made the Respondent said "I am ashamed to say I resorted to my firm's client account". He confirmed that he had acted in breach of the Solicitor's Accounts Rules but pleaded mitigating circumstances.

5. The Respondent said that he wished to cooperate with The Law Society and agreed to attend his office at Temple Chambers the following day at 9.00 am.
6. Two MIU Officers attended at the Respondent's offices and met with the Respondent who informed them that he had received a phone call that morning and had been told to provide a further £60,000 by six o'clock that day. It had been made clear to him that if the monies were not paid he would be in danger.
7. The Respondent provided certain accounting information, principally client account bank statements, client account cheque book and client account paying in book. The Respondent also obtained a number of missing client account bank statements from the bank.
8. The Respondent maintained accounting records on his laptop computer which was currently held by Surrey police: he was not able to produce any hard copies of the accounting records. He said he might have hard copies at home.
9. The Respondent identified the payments. A rough list was prepared by the MIU Officer, 14 of those payments totalled £418,000. The Respondent also identified amounts withdrawn on the relevant cheque stub. These cheque-stub amounts totalled £512,900.
10. Of the payments listed by reference to client bank statements 12 of the 14 amounts were shown on the client account bank statements as being cash payments which were withdrawn from client bank account between 19th December 2002 and 24th February 2003 and varied in amount between £2,000 and £60,000 and totalled £368,000.
11. The Respondent was also asked to identify what amounts he should be holding in the firm's client bank account together with the relevant client matter files. The Respondent wrote the amount he believed he held for those clients on a yellow sticker which he attached to the client files.
12. With the agreement of the Respondent, because of the security issues, the MIU Officers removed the records and files referred to above from his offices.
13. The Respondent said that he would be leaving his office by no later than three o'clock that afternoon but agreed to attend at The Law Society offices at 113 Chancery Lane after leaving his office.

14. The Respondent subsequently spoke to one of the MIU Officers later in the day and said that he had received a visit from the persons concerned and that he had left London and would not be available to attend at Chancery Lane.
15. In a further phone call to one of the Officers the Respondent said that he should no longer be contacted on his mobile phone as the persons concerned had obtained access to his phone book and were calling clients. The Respondent said he was going to buy a new mobile phone and would advise the Officers of the number. He also said that he was going to get his laptop computer back from the Surrey police and would attend at Chancery Lane the next morning 6th March at 9.00 a.m.
16. On 6th March 2003 the Respondent phoned The Law Society's Forensic Investigations Department at Leamington Spa to say that he had been unable to obtain his laptop and would not attend at Chancery Lane. He also said that the MIU Officers should be vigilant as he had spoken to some "unpleasant people" the day before, had given them the Officers' details, and the Officers had been seen leaving the building with documents.
17. The MIU Officers' Report went on to report that the Respondent's books of account were not in compliance with the Solicitors Accounts Rules and that it had not been possible to establish the Respondent's liabilities to clients.
18. In the discussion with the Respondent at his offices he had informed the MIU Officers that he had allocated the cash withdrawals to client matters. Nine of the cash withdrawals had a client name written on the cheque stub. Of the last five cash payments, one cheque stub had 'cash' written on it and four had 'funds to client'. No client name was written on the cheque stubs.
19. In respect of cash payments allocated to client matters by the Respondent three payments of cash on 30th December 2002, 6th January 2003 and 17th January 2003 each of £60,000 had the client name "AT" on the cheque stub.

Mr AT

20. The Respondent acted for Mr AT in respect of the purchase and sub-sale of a number of properties situated in Bolton and Chorley.
21. On 16th January 2003 £194,490 was credited to the firm's client bank account from Aziz Saunders, solicitors, acting for the ultimate purchasers.
22. In the client matter file there was a rough calculation, believed to have been prepared by the Respondent showing the receipt of £194,490 with a number of amounts deducted to arrive at a balance of £23,778.76.
23. One amount shown was £32,000, but underneath it appeared to show an amount of £60,000. In order to arrive at the final amount of £23,778.76 the amount deducted would have had to be £60,000 and not £32,000.
24. A review of the client matter file confirmed the payments of £42,000, £59,831.24, £2,500 and £23,778.76.

25. There was no evidence on the file to show that there were any instructions in respect of any payments to be made in cash. In addition no signed receipts were seen for any of the cash payments.
26. There would only have been a balance remaining of £60,000 whereas there were three payments allocated to this client by the Respondent totalling £180,000.

The Submissions of the Applicant

27. The facts spoke for themselves.
28. The Applicant was able to report to the Tribunal that claims on The Law Society's Compensation Fund amounted to £669,378. The Law Society was holding some £299,000 leaving a difference (shortage) of £370,000.
29. Claims by the Respondent that he had been subject to serious threats provided no excuse for deliberate breach of the Solicitor's Accounts Rules. The Respondent had delayed in taking the proper course which was to go to the police.
30. The Respondent had offered explanation and apology for his actions. In the submission of the Applicant the Respondent had acted with regard to clients' money with dishonesty as defined in the "Twinsectra", case namely that he knew that what he was doing was wrong and would be regarded by others as being wrong.
31. On 5th January 2004 the Respondent had said that his mental and physical health was such that he did not expect to survive for any great length of time. He had also in his letter of 25th June 2003 accepted without reservation whatever sanction the Tribunal imposed upon him and he would not seek to challenge such decision. He had in earlier correspondence expressed his apologies and repeated those, in particular for the disrepute brought to the profession. The Applicant had heard nothing further.

The Submissions of the Respondent

32. The Respondent did not make any specific submissions but the Tribunal has taken into account the contents of his letters of 25th June 2003 and 5th January 2004 referred to above and a statement made by him dated 19th March 2003 which was no evidence.

The Findings of the Tribunal

33. The Tribunal found all of the allegations to have been substantiated.
34. The Tribunal was in no doubt that the Respondent had improperly and deliberately taken clients' money for his own purposes, had done so on a number of occasions and that those were dishonest acts. There were no mitigating circumstances strong enough to provide a defence to a solicitor taking clients' money for his own purposes. The good reputation of the solicitors' profession is damaged by the Respondent's behaviour. Members of the public are entitled to believe that any member of the solicitors' profession with whom he has dealings is a person of the utmost integrity, probity and trustworthiness and that such solicitor will at all times exercise proper stewardship over clients' moneys with which he has been entrusted. In view of the

Respondent's behaviour it was right that he should be struck off the Roll of Solicitors and the Tribunal so ordered, further ordering him to pay the costs of and incidental to the application and enquiry (to include the costs of The Law Society's Monitoring and Investigation Unit Officers), all of such costs to be subject to a detailed assessment if not agreed between the parties.

DATED this 21st day of June 2004

on behalf of the Tribunal

A H Isaacs
Chairman