

IN THE MATTER OF SHAZAD KHAN, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A H Isaacs (in the chair)  
Mr A Gaynor-Smith  
Mrs C Pickering

Date of Hearing: 22nd June 2004

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by George Marriott, solicitor of Gorvins Solicitors, 4 Davy Avenue, Knowlhill, Milton Keynes, MK5 8NL on the 17<sup>th</sup> February 2004 that an Order be made by the Tribunal directing that as from a date to be specified in such Order no solicitor should except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Shazad Khan of Noonsun Street, Rochdale, a person who was or had been a clerk to a solicitor or that such other Order might be made as the Tribunal should think right.

The allegation was that the Respondent's conduct had been of such a nature that in the opinion of the Law Society it would undesirable for him to be employed by a solicitor in connection with his practice as a solicitor except in accordance with permission granted by the Law Society pursuant to S 43(2) of the Solicitors Act 1974 because he:-

- (1) whilst employed or engaged by a solicitor did acts, which compromised or impaired or were likely to compromise or impair:

- a. the solicitors independence or integrity;
  - b. the duty of the solicitor to act in the best interests of the client;
  - c. the good repute of the solicitors profession contrary to Rule 1 of the Solicitors Practice Rule 1990.
- (2) made false allegations against a solicitor.
  - (3) falsified accounting records.
  - (4) withheld money from client bank account.
  - (5) dishonestly utilised client money for his own purposes.
  - (6) offered an inducement to an employee of the Office, not to report the breaches of the Solicitors Accounts Rules.

The application was heard at the Court Room, Third Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on the 22<sup>nd</sup> June 2004 when George Marriott, the Applicant appeared and the Respondent did not appear and was not represented.

Civil Evidence Act notices had been served on the Respondent and no counter notice had been received.

**At the conclusion of the hearing the Tribunal made the following order:**

That as from 22<sup>nd</sup> day of June 2004 no solicitor shall, except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Shazad Khan of Noonsun Street, Rochdale, a person who is or was a clerk to a solicitor and the Tribunal further order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,500 inclusive.

**The facts are set out in paragraphs 1 to 9 hereunder:-**

1. An Investigating Officer (IO) of the Law Society commenced an inspection of the books of account and other documents of Sewa Singh Solicitor, practising as Singh & Company from 15 Water Street, Rochdale, Lancashire on the 23<sup>rd</sup> October 2001. The IO's report dated 27<sup>th</sup> March 2002 was before the Tribunal. The Report revealed the following matters.
2. A list of client matter balances as at 26<sup>th</sup> September 2001, which appeared to show a total of £153,207.19 for which a like amount of cash appeared to be held in client account. The IO subsequently ascertained that the true client liabilities were £163,473.69 and there was a shortage of £10,266.50, which had existed since March 2000. Each subsequent reconciliation date had been altered to conceal the true position.
3. The Respondent was the firm's cashier and bookkeeper. His first explanation had been that he had received instructions from his employer to make the books "look

clean” and the shortage had arisen because of his mistake and because his employer took cash received from clients.

4. Subsequently, the Respondent changed his story and agreed that he had falsified the accounting records of his own volition to conceal his errors and theft of client funds. His employer was unaware of this.
5. The Respondent admitted to the IO that he received amounts totalling £5,778.50 in cash from or on behalf of clients which he had improperly withheld from client bank account. He said he was able specifically to identify the eleven matters to which £3,222.50 of this shortage related. Whilst he admitted that he had misused the balance of £2,556.00 he was unable to identify the specific matters to which these funds related. The eleven identified cases of misuse of clients’ money occurred between 16<sup>th</sup> February 1998 and 22<sup>nd</sup> June 2001 and ranged in value from £45.00 to £1,000.00.
6. On 30<sup>th</sup> November 2001 the IO asked the Respondent the following questions and received the replies noted below in respect of each element of the shortage of £5,778.50.
 

Question:	Did you receive the cash and fail to bank it?
Answer:	Yes
Question:	Did you use the money for your own private purposes?
Answer:	Yes
Question:	Did you have any right or authority to use this money other than to lodge it in the client bank account?
Answer:	No
7. The IO had not been able to verify that all cash improperly withheld from client bank account had been identified.
8. On 14<sup>th</sup> June 2001 and 20<sup>th</sup> July 2001 £40.00 and £5,000.00 respectively were paid from client bank account on two separate matters in excess of the funds held on those matters. The shortage caused by the second overpayment was reduced to £4,766.00 prior to 26<sup>th</sup> September 2001 by the receipt of funds from the client. The overpayments resulted in a shortage on client account.
9. The IO was greeted on arrival on the 25<sup>th</sup> October 2001 at the firm by the Respondent who said he had started to investigate the shortage. He then became distressed and said that he had found so far that all errors had been his. The Respondent told the IO that the disclosure of his errors to his principal would cause disgrace to his family and he produced a knife from his pocket with which he said he would kill himself if the IO told his principal. The Respondent asked the IO if there any way in which he could avoid reporting the shortage and the Respondent said that he would give the IO anything including his BMW motor vehicle if he did not report it. When at a meeting with the principal (and the salaried partner at the firm) the IO had reported that the list of matter balances had deliberately been altered to conceal a shortage of client funds and that the Respondent had offered the IO “anything” including his BMW motor vehicle not to report this finding. At the meeting the Respondent agreed that was the case but said that “the bribe just came out in panic”.

### **The Submissions of the Applicant**

10. The Respondent had made admissions to the IO and had not denied the matters alleged against him nor had taken any part in the proceedings before the Tribunal. In all of the circumstances it was right that an order should be made pursuant to s.43 of the Solicitors Act 1974 in respect of the Respondent.

### **The Tribunal's Decision**

11. The Tribunal found the facts in support of the allegations to be proved and also found the allegations made against the Respondent to have been substantiated. It was a serious matter when a solicitor's clerk charged with the proper handling of clients' money and proper recording of transactions involving clients' money in a firm of solicitors has dishonestly taken money with which his employers entrusted him and further had sought to conceal his wrongdoing by making alterations in the firms' records. The Respondent had been guilty of dishonesty and a serious breach of trust in that respect. He further had compounded his dishonest course of conduct by endeavouring further to conceal his actions by attempting to persuade a Law Society's Investigation Officer not to make a disclosure. The Tribunal made the order sought and further ordered that the Respondent should pay the costs of and incidental to the application and enquiry in a fixed sum.

DATED this 3<sup>rd</sup> day of August 2004  
on behalf of the Tribunal

A H Isaacs  
Chairman