

IN THE MATTER OF ZAHIR AHMED AZIZ, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr L N Gilford (in the chair)  
Mr A Gaynor-Smith  
Mr M G Taylor CBE

Date of Hearing: 16th January 2007

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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 Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Hertfordshire, SG14 1BY on 21<sup>st</sup> May 2004 that Zahir Ahmed Aziz, solicitor of Aziz Solicitors, 4<sup>th</sup> Floor, Hilton House, 26-28 Hilton House, Manchester, M1 2EH (now of 31 Bluestone Drive, Heaton Mersey, Stockport, SK4 3PX) might be required to answer the allegations contained in the statement which accompanied the application and that the Tribunal might make such Order as it thought fit.

The application was originally made in respect of Mr Aziz and his former partner Alan Jonathan Saunders. Some allegations were made against both Respondents, some against Mr Saunders alone and some against Mr Aziz alone. At a hearing on 5<sup>th</sup> June 2006 the Tribunal ordered that the case against Mr Aziz be adjourned and severed from that of Mr Saunders and the case against Mr Saunders was heard on that occasion. As this Finding is concerned only with the allegations against Mr Aziz, only the allegations relevant to him are referred to hereunder.

The allegations against Mr Aziz ("the Respondent") were that he had been guilty of conduct unbefitting a solicitor in each of the following particulars:

- (i) contrary to Rule 32 of the of the Solicitors Accounts Rules 1998 did fail properly to record dealings with clients' money received, held or paid by him;
- (ii) contrary to Rule 22(1)(e) of the Solicitors Accounts Rules 1998 did make payments from client account without having the written instructions of the client or without confirming in writing by the client that such instructions had been given by other means;
- (iii) did fail to comply with Practice Rule 15 in that at the outset of acting clients were not given in writing the necessary costs information, nor were they given information about complaints procedures;
- (iv) did act for the buyer and seller in a conveyancing transaction without having the written consent of both parties;
- (v) in a case in which he proposed to act for the lender and borrower on the grant of an institutional mortgage of land did fail to notify the lender client in advance that he proposed to act for seller, buyer and lender in the same transaction;
- (vi) did continue to act in a situation of potential conflict;
- (vii) did fail to follow instructions of lender clients in that he failed to notify them of material factors in conveyancing transactions;
- (viii) did fail to protect the interests of a lender client in a conveyancing transaction;
- (ix) did make use for the purposes of litigation a statement which was false in a material particular.

By a supplementary statement dated 22<sup>nd</sup> December 2004 it was further alleged against the Respondent:

- (x) that he failed to comply, or failed to comply within a reasonable time, with an undertaking.

By a second supplementary statement dated 22<sup>nd</sup> December 2004 it was further alleged against the Respondent that he had been guilty of conduct unbecoming a solicitor in each of the following particulars:

- (xi) that he failed to exercise proper supervision over unadmitted members of staff;
- (xii) that he failed to ensure that instructions of lender clients were followed and that material information was provided to lender clients.

By a third supplementary statement dated 16<sup>th</sup> May 2006 further evidence to support the existing allegations against the Respondent was put before the Tribunal. The statement alleged dishonesty against the Respondent in relation to allegations (iv), (v), (vi), (vii), (viii), (ix), (xii).

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 16<sup>th</sup> January 2007 when Stephen John Battersby appeared as the Applicant and the Respondent did not appear and was not represented.

Although the Respondent was not present, correspondence from his wife made clear that he was aware of the hearing. Although there was a reference to ill-health there was no medical evidence of any inability to attend. The Tribunal on 5<sup>th</sup> June 2006 had given the Respondent an opportunity of putting medical evidence forward if he was unfit to attend the substantive hearing but he had not done so. No adjournment had been sought by the Respondent indeed the correspondence from his wife invited a particular outcome. The Tribunal was satisfied that the Respondent was aware of the hearing and that it was right for the matter to proceed.

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

The Tribunal Orders that the Respondent, Zahir Ahmed Aziz of Heaton Mersey, Stockport, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay one half of the costs of and incidental to this application and enquiry up to and including the 4<sup>th</sup> June 2006 and the whole of the costs from 6<sup>th</sup> June 2006 to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Officer of the Law Society.

**The facts are set out in paragraphs 1-38 hereunder:**

1. The Respondent, born in 1957, was admitted as a solicitor in 1983 and his name remained on the Roll of Solicitors.

Allegations (i) – (ix)

2. At all material times the Respondent was in practice together with Alan Jonathan Saunders in partnership as Aziz Saunders, solicitors at 26-28 Hilton Street, Manchester.
3. The partnership commenced in 1998. At all material times the practising certificate of Mr Aziz was subject to conditions.
4. On 30<sup>th</sup> January 2001 a Forensic Investigation Officer of The Law Society ("the FIO") commenced an inspection of the books of account and other documents of Aziz Saunders. A copy of the resulting Report dated 31<sup>st</sup> January 2002 was before the Tribunal. The Report noted the matters set out below at paragraphs 5 - 14.

Allegation (i)

5. There were occasions when dealings with clients' money received held or paid had not been correctly recorded. Some ledgers had incorrect names on them, others had incorrect matter descriptions and in another matter there should have been a separate ledger but there was not.

Allegation (ii)

6. In certain matters payments had been made from the ledger of a client to third parties. There was no evidence on the relevant files of written instructions from the client nor any written confirmation from the firm to the client that such instructions had been received orally or otherwise.

Allegation (iii)

7. The FIO examined over 30 client matter files none of which contained any client care letters as required by Practice Rule 15.

Allegation (viii)

8. The Respondent acted for KA in the purchase of a house which transaction was completed in November 2000. The Respondent acted in the same transaction for the lender client, The Mortgage Business, who wrote to him on 17<sup>th</sup> August 2000 with their instructions in the matter. These included following the guidelines laid down by the Council of Mortgage Lenders. Contrary to those instructions the Respondent failed to notify The Mortgage Business, who were lending £30,000 against the property, that he did not have control over all the purchase money. Only £35,000 was paid over by him on completion, £5,000 seemingly having been paid directly by the purchaser to the vendor.

Allegations (ii), (iv) and (v)

9. In the sale of a property for £150,000 the Respondent acted for the seller Mr B, the purchaser C Homes and the lender HSBC. There was no evidence on the file that he had obtained the written consent of the purchaser and the seller to act for both of them nor had he notified HSBC that he was acting for both other parties. £35,000 of the purchase price had been paid direct between the parties. Written notification of this was made to the lenders on 1<sup>st</sup> May 2001, completion having taken place on 8<sup>th</sup> December 2000. Three payments of £10,000, £15,000 and £4,953.80 had been made from the proceeds of sale to other parties without written instructions from the client.

Allegations (i), (ii), (vi) and (viii)

10. The Respondent acted for Mr TM in the purchase of a property from the Nationwide Building Society for £19,500. Completion took place on 10<sup>th</sup> November 2000 but at this date there were insufficient funds on the ledger of Mr TM to pay the completion monies which came instead from another ledger in the name of Mr NH relating to a different property. There was no indication on the file as to why this was done. Correspondence on the file showed that the Respondent was also instructed to act for HSBC in connection with a loan facility which they were providing to Mr TM against the security of the property. No charge was registered in favour of the bank before the property was sold on 21<sup>st</sup> December 2000 to Messrs S and S for £21,000. £19,460 of the sale proceeds was paid to Jennings Homes (Manchester) Limited, a company in the control of the Respondent. The ledger examined by the FIO was described as relating to the purchase of the property whereas in fact it related to the sale of the property. There was nothing on the file relating to the payment made to Jennings

Homes (Manchester) Limited and no indication that the Respondent had taken any steps to address the potential conflict created thereby.

Allegations (i) and (ii)

11. The Respondent acted in the sale of a property. Completion was on 3<sup>rd</sup> October 2000. The name on the ledger was that of Mr NH. The actual vendor was Mr AG, the property having been registered in his name on 10<sup>th</sup> March 1998. The deposit of £1,000 was paid on 8<sup>th</sup> September 2000 but was posted to the ledger of a different client, Mr VH, relating to yet another property. Purchase monies of £19,510.68 were paid out of the ledger on 10<sup>th</sup> November 2000 and used for Mr TM's purchase (paragraph 10 above) but there was nothing on the file to indicate that Mr AG had agreed to this being done.

Allegations (i) and (ii)

12. The Respondent acted for Mr TB in the purchase of a property, the address of which was wrongly described on the ledger. The ledger was in the name of Mr TM. The deposit monies in connection with the transaction were received from Mr TB on 19<sup>th</sup> May 1999 and were paid out on 3<sup>rd</sup> June with completion taking place on 30<sup>th</sup> June. The balance of the purchase monies appeared to have come from a Mr SH. The property was sold on almost immediately to Mr D and Mrs K for £18,000. There was correspondence on the file indicating that the Respondent had acted for them also but there was no separate ledger for them. The proceeds of sale were distributed to various parties other than the vendor, Mr TB. There was nothing on the file to indicate why this had been done.

Allegation (vii)

13. The Respondent acted for both parties in the sale of a property from HS Limited to Miss TK for £32,500 on 11<sup>th</sup> September 2000. He also acted for a lender client, C&G, who had provided a mortgage advance of £29,250 in connection with the transaction and was instructed by them to act in accordance with the Council of Mortgage Lenders Conditions. Despite this he failed to notify C&G of three material features:
- (i) that the property had been purchased by HS Limited on 14<sup>th</sup> June 2000 for £18,000 (within the previous six months);
  - (ii) that out of the proceeds of sale £2,000 was paid to Miss K, a director of HS Limited, thus effectively making the purchase price £30,500;
  - (iii) that he acted for vendor and purchaser as well as the lender.

Allegations (i) and (vi)

14. The Respondent acted for Mr B in connection with the sale of his property. The purchaser of the property was the Respondent's company Jennings Homes (Manchester) Limited who were represented in the transaction by other solicitors. The purchase price was £50,000 which was partly funded by the proceeds of sale of

the property referred to at paragraph 10 above. The bulk of the balance was provided by a loan from Lloyds TSB of £30,000. There was no reference on the file with regard to the £19,460 received from the said sale and its availability to fund the purchase. There was nothing to indicate that the Respondent had taken any steps to address the potential conflict of interest which existed in view of the fact that his company was purchasing a property from a client.

15. In a letter dated 15<sup>th</sup> April 2002 from the Respondent's then representative he accepted responsibility for the conduct of the conveyancing transaction but did not accept that he acted improperly.

Allegation (ix)

16. The Respondent acted for Mr C in civil litigation against his former solicitors B & Son alleging breach of retainer and negligence. Proceedings were issued in February 1998 with the benefit of legal aid and the claim was defended.
17. Mr C had problems in pursuing the claim because on 11<sup>th</sup> February 1999 he was declared bankrupt which meant that his right of action vested in the Trustee in Bankruptcy. However on 21<sup>st</sup> May 2001 the Trustee entered into a Deed of Assignment which had the effect of assigning the right of action back to Mr C. A full copy of this deed was before the Tribunal. Clause 3.3 provided for the assignee to pay to the Trustee a sum equal to 85% of monies recovered as a result of the actions which the assignee was bringing.
18. Because the action against B & Son had not been promptly pursued it became subject on 26<sup>th</sup> April 2001 to an automatic stay as provided for by the Civil Procedure Rules.
19. By an application dated 12<sup>th</sup> December 2002 Mr C applied to have the stay lifted. This application was signed by the Respondent who also made a witness statement in connection with it, which like the application itself was dated 12<sup>th</sup> December 2002.
20. The Respondent exhibited to his statement what was described in paragraph 7g thereof as a true copy of the Deed of Assignment. In fact the copy of the deed which was attached to the statement had part of clause 3.3 deleted thus effectively concealing the fact that the Trustee was entitled to 85% of monies recovered.
21. The solicitors acting for the SIF believed that a whole page of the deed was missing and wrote to the Respondent on 30<sup>th</sup> January 2003 requesting a copy of this page. The Respondent wrote back on 6<sup>th</sup> February attaching a complete copy of the Deed of Assignment. The SIF Solicitors wrote to the Respondent on 11<sup>th</sup> February 2003 querying which was the correct version of the deed. The Respondent replied on 24<sup>th</sup> February 2003 giving the explanation that clause 3.3 had been deleted purposely because it was privileged information and that the subsequent disclosure to the solicitors had been inadvertent.
22. When the application to lift the stay was heard before District Judge Freeman in the Manchester District Registry of the High Court on 12<sup>th</sup> March 2003 the Judge dismissed it. A transcript of his comments prepared by the solicitors acting for the

SIF was before the Tribunal. The District Judge was very critical of the Respondent for deleting clause 3.3 from the deed as originally served. The District Judge said that the conduct of the Respondent in this regard should be referred to The Law Society.

23. On 8<sup>th</sup> September 2003 the solicitors acting for the SIF wrote a formal letter of complaint to the OSS. On 20<sup>th</sup> October 2003 the OSS wrote to the Respondent seeking his explanation for what occurred. The explanation came in a letter of 14<sup>th</sup> November 2003 in which the Respondent said that the deletion of the offending clause had been carried out not by him but by his then trainee Mr BH who had consulted the Respondent's partner before taking this action.

Allegation (x)

24. At the material time the Respondent was a partner in the firm of Conveyancing Store Direct ("CSD") with Alan Saunders. The Respondent acted for Mr A in connection with his purchase of a property. On 26<sup>th</sup> August 2003 the Respondent wrote to the lenders PSL and gave an undertaking that their charge would be registered as a first, free and clear mortgage. Completion took place on 14<sup>th</sup> October 2003.
25. PSL became aware after completion that there were adverse entries on the Register and indeed these were still shown on 20<sup>th</sup> May 2004. Correspondence ensued between them, their solicitors and CSD which failed to resolve the matter.
26. On 5<sup>th</sup> August 2004 the solicitors acting for PSL wrote to The Law Society complaining about the matter. The Law Society wrote to the Respondent seeking his explanation on 13<sup>th</sup> and 28<sup>th</sup> September 2004 but no explanation had been received.

Allegations (xi) and (xii)

27. Between August 1997 and March 1999 the Respondent and Alan Saunders were partners in the firm of Aziz Saunders & Bhatti. Direct responsibility for the transactions referred at paragraphs 29-33 below lay with the Respondent although he claimed that the work was carried out by an unadmitted clerk at the firm SW and partly by another unadmitted person WR.
28. In 1999 the Greater Manchester Police carried out an investigation into mortgage fraud known as Operation Hook. This culminated in convictions for offences of conspiracy to defraud for defendants called Moneeb Hidrey, James Coll and Miriam Sharker. On 22<sup>nd</sup> September 2003 Her Honour Judge Riaux sitting at Bolton Crown Court passed sentence on the defendants and Moneeb Hidrey received four years imprisonment, James Coll three years and Miriam Sharker 18 months suspended for two years. The certificates of convictions and Judge's sentencing comments were before the Tribunal.
29. Fourteen of the suspect conveyancing transactions which were later included in the indictment of the defendants had been dealt with by the Respondent's firm.
30. Most of the transactions involved residential properties in the Manchester area which had been purchased from a firm called Highfield Securities Ltd with the benefit of fraudulently obtained mortgages either in the name of fictitious applicants or of

applicants known to Moneeb Hidrey. The purpose of the scheme from Hidrey's point of view was to enable him to get control of properties which he could then rent out. Most of the mortgages were defaulted upon and the properties eventually repossessed by the lender clients who had to bear the loss.

31. A typical scenario was for Moneeb Hidrey to locate a property which was on sale through Highfield Securities Ltd. He would then find a buyer for the property at a higher price and the transaction would proceed by way of a sale to Highfield Securities Ltd at the lower price and an onward sale to the final purchaser with the benefit of a mortgage fraudulently obtained through James Coll, a mortgage introducer. Hidrey thereby obtained the difference between the lower price paid for the first transaction and the higher price for the second as well as acquiring the benefit of a property to rent out.
32. As stated above, fourteen of the transactions which completed were handled by the Respondent's firm and investigations revealed:
  - the firm had acted for the lender clients as well as the purchasers;
  - the firm had not complied with standing instructions of lender clients;
  - There had been frequent back to back transactions which were not reported to the lender clients;
  - Completions had been carried out without proper searches having been conducted;
  - There was no evidence on many of the files that the firm had had direct contact with the clients or taken proper proof of identity;
  - Completions had been carried out in some cases when insufficient funds were held;
  - Transfers had not been lodged with the Land Registry promptly following completion in many cases;
  - In some cases the property had been purchased in one name and registered in another;
  - In some cases the eventual purchase price was different from that set out in the mortgage instructions and report on title.
33. The statement of the Officer in the case, DC Christopher Harrison, was before the Tribunal. The police carried out lengthy interviews with the Respondent who was not ultimately charged with any criminal offence. He denied knowledge of any wrongdoing and said that the transactions had been carried out in the main by SW who had since been dismissed from the firm.



### Further transactions

34. Following an intervention into Mr Saunders' firm (the Respondent having left in May 2004), the intervention agents, HD & Co, wrote to The Law Society on 1<sup>st</sup> November 2005 expressing their concerns about four conveyancing transactions in which the firm had been involved. Three of these had been dealt with by the Respondent (the fourth arose after his departure).

### The three transactions

35. In 2003 the Respondent's firm acted in connection with two separate transactions involving a residential property. On 21<sup>st</sup> March it was sold to Mr AR by his parents Mr HUR and Ms TNK at a price stated on the TR1 as £100,000. Aziz Saunders represented the vendors. The Respondent witnessed their signatures on form TR1. He also acted for the purchaser as Conveyancing Store Direct in whose name Forms Stamps L(A) 451 and AP1 were completed. On 12<sup>th</sup> September 2003 the property changed hands again, being sold by Mr HUR AR to R&F Enterprises Ltd at a price of £280,000. HSBC provided a mortgage of £175,000. In this second transaction the Respondent acted for vendor, purchase and lender. He signed the Report on Title on 28<sup>th</sup> August 2003 for a stated completion on 29<sup>th</sup> August 2003. The mortgage deed was dated and completed on 28<sup>th</sup> August 2003, some 15 days before the purchase itself was completed:

- There was no report made to the lender client that the Respondent or his firm was acting for vendor, purchaser and lender;
- There was no report to the lender that the vendor had owned the property for less than six months;
- At the 12<sup>th</sup> September 2003 completion date, the purchaser client's ledger was in credit by £200,000. £175,000 was the mortgage advance. £25,000 appeared to be from the purchaser. There was a shortfall of £80,000 on the agreed purchase price;
- There was no report to the lender client that the Respondent's firm did not have control of all the purchase monies;
- The completion statement in the matters sent on 1<sup>st</sup> September and 11<sup>th</sup> September 2003 indicated that £55,000 had been received from the client and that £50,391 (inclusive of search and other fees) was required to complete;
- On 23<sup>rd</sup> September 2003 the Respondent wrote to the purchaser requesting £25,000 plus costs "to enable us to complete this matter";
- On 14<sup>th</sup> October 2003 the Respondent wrote to the purchaser confirming that the balance of purchase monies had not been received;
- On 21<sup>st</sup> October 2003 credit of £23,000 was received as "chq fr cl" being the last credit to the account and making a total of money received of £223,000. There was no indication as to how any balance of £57,000 was paid.

36. The Respondent represented the purchaser in a purchase of a property. On 1<sup>st</sup> August 2003 the property was sold to Ms SN by her brother MNA at a price of £100,000. The purchaser was assisted by a mortgage of £60,000 from HSBC but there was no indication as to where the balance of the purchase price came from. Before he left the firm in May 2004 the Respondent had failed to remove one of the two existing charges on the property (from CT PLC in the sum of £17,000) or to register the charge in favour of HSBC despite undertaking to do so.
37. In the third case completion had occurred on or about 28<sup>th</sup> November 2003. The Respondent acted for the vendors, Mr and Mrs D, and the purchaser, Mr MY as well as being appointed to register a first charge on behalf of PM Limited who advanced £63,750 (gross) towards the purchase price of £75,000. The purchaser's ledger recorded the receipt of the net mortgage monies of £62,757.50 and the payment out of £8,005.71 to discharge a proportion of a grant owing to the local authority which was the vendor's liability.
- A further £53,800 was paid out to another firm of solicitors, L & Co who were not involved in this transaction but in a completely different matter;
  - There was no report to the lender that the Respondent's firm was acting for vendor, purchaser and lender;
  - There was no report to the lender that the firm did not have control over all the purchase monies;
  - The matter was completed without the firm being in possession of an executed transfer and mortgage deed as noted in a memo of 2<sup>nd</sup> February 2004 and a memo and letter both dated 13<sup>th</sup> April 2004;
  - The charge, which should have been created in favour of PM Limited, was never registered and they instructed solicitors who wrote to the Respondent. This was after the Respondent had left the firm and it therefore fell to Alan Saunders to deal with the matter. A subsequent exchange of memoranda between Mr Saunders and the Respondent was before the Tribunal.
38. There was no evidence on any of the three files referred to above that the Respondent had carried out the correct procedures for identifying clients, nor were there any Rule 15 letters on any of the files.

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

39. The gravamen of this case was the disregard shown by the Respondent for the Rules of Practice in relation to conveyancing to the extent that mortgage fraud was not only made possible but as shown by the second supplementary statement had actually been perpetrated. Although the Respondent had not been prosecuted, four others had been.
40. What had cemented the view of The Law Society that not only had the Respondent been involved but he must have known that what he was doing was wrong was the fact that even after the inspection of the FIO in 2001 and his arrest in September and

then October 2001 under Operation Hook, the Respondent had carried on in the same way. Two years after those events he had been engaged in further conveyancing transactions where the same features were present as shown in the third supplementary statement. The Applicant took issue with correspondence from the Respondent's wife which said that he retired in early 2003. The paperwork showed that he was involved in late 2003 and possibly into 2004.

41. The inspection by the FIO showed a combination of Accounts Rules breaches and breaches of obligations to lender clients. There had been a widespread failure properly to record dealings with clients' money, there had been payments from clients' money to unrelated matters without the clients' written instructions, no proper Rule 15 letters at the outset of acting, acting for buyer and seller without the written consent of both and failure to notify lender clients of relevant matters including cases where the Respondent did not have control of all the purchase monies.
42. There were also two cases in which a company in which the Respondent was involved was a party. There had been a clear admission by the Respondent to the FIO that Jennings Homes (Manchester) Limited was in effect his company. There was a very high risk of conflict of interest.
43. Allegation (ix) was a discrete allegation where the Respondent had been criticised by Judge Freeman in the County Court for exhibiting to his witness statement a document which had been edited. The Tribunal was referred to the full copy of the document including clause 3.3 and the copy exhibited to the court where most of that paragraph was omitted. The Respondent had told the other side in the litigation that he had omitted the clause deliberately because he considered it privileged.
44. The Tribunal was referred to the comments of Judge Freeman as recorded by the other party's solicitor:

"It has been pointed out that copy attached to the statement of Mr Aziz of 12<sup>th</sup> December 2002 has a somewhat significant paragraph missing. Clause 3.3 is missing. That clause reserved to the trustee 85% of the damages. The omission of that clause came to light after last hearing. The Claimant's solicitors say clause 3.3 privileged. It is extraordinary for solicitors to say the clause is privileged. I am astonished solicitors could say that part of the document was privileged when they disclosed the whole document. They cannot claim privilege was over part. Statement by Mr Aziz was wrong. He says the omission was deliberate and therefore he must have known it was wrong."

The Judge had requested that the matter be reported to The Law Society.

45. The Respondent had said in a letter of 14<sup>th</sup> November 2003 to The Law Society that the deletion of the offending clause had been carried out by his then trainee whom the Respondent said had consulted the Respondent's partner. The Respondent however had to take responsibility for the fact that a statement signed by him exhibiting a misleading document had been used in court proceedings.

46. Operation Hook had been a large mortgage fraud enquiry carried out by the police. Her Honour Judge Ruaux had described the matter as:

"a serious and sophisticated fraud involving the obtaining of mortgages by deception, 34 different properties were involved, the total amount of the loans applied for was £1,200,023, not all those loans of course were successful but many were. A small minority of the loans were repaid, or are still being repaid, the vast majority were not paid properly and the properties were repossessed and sold by the building societies, who suffered substantial losses after the sale of those properties."

47. Highfield Securities Ltd (paragraph 30 above) was owned by one of the defendants Moneeb Hidrey who had demonstrable links with the Respondent. Fourteen of the 34 properties referred to by the Judge were dealt with by the Respondent.
48. The Tribunal was referred to the schedule prepared by Detective Constable Harrison which set out suspect features of the matters dealt with by the Respondent. All of the fourteen transactions except for two where the files had not been recovered had at least two and usually more of the suspect features.
49. The Respondent had said that the transactions were mostly carried out by SW. SW had been arrested but no proceedings had been taken against her. She had been working in the Respondent's office and under his supervision. Allegation (xi) was an allegation of failure to supervise. This had been substantiated against Mr Saunders. The Respondent had even more responsibility in this regard as they were his transactions and the correspondence bore his reference.
50. The final supplementary statement showed that the Respondent was still conducting himself in 2003 in a manner which he must by then have realised was quite wrong. The Tribunal was referred to the three transactions set out in the third supplementary statement. The Tribunal was asked to note that the Respondent had witnessed Form TR1 in relation to the first matter which had been sold again within six months at a hugely different price and the Respondent had signed the Report on Title in respect of that second transaction. Over a month after the completion the Respondent had still not received the balance of the purchase monies, indeed the full amount was never received by him. The letter of 23<sup>rd</sup> September 2003 pressing for the purchase monies bore the Respondent's own reference and in the submission of the Applicant he was dealing with this matter personally.
51. There had been a combination of offences over a period of time. No honest solicitor would have acted as the Respondent had done in all of these transactions.
52. Allegation (x) was a simple breach of undertaking in respect of which no dishonesty was alleged. The Respondent had failed to comply with the undertaking within a reasonable time.
53. The Applicant had served the appropriate Notices to Admit and Civil Evidence Act Notices in respect of the documentation. The Applicant sought his costs. Mr Saunders had been ordered to pay half of the costs up to the hearing on 5<sup>th</sup> June 2006.

Mr Saunders was in some difficulty due to his bankruptcy and those costs had not yet been agreed or assessed. The Applicant sought half of the costs up to 5<sup>th</sup> June excluding certain costs which did not relate to the Respondent, together with all of the subsequent costs.

### **The Findings of the Tribunal**

54. The Tribunal considered carefully the documentation and in particular representations made at various times by or on behalf of the Respondent. The Tribunal noted that the Applicant had served the appropriate notices in respect of the documentation. The Tribunal was satisfied that the facts upon which the allegations were based were made out and that the allegations were substantiated. In relation to allegations (iv), (v), (vi), (vii), (viii), (ix) and (xii) the Applicant had in his third supplementary statement alleged dishonesty on the part of the Respondent. The allegation of dishonesty related to the conveyancing transaction and the edited document exhibited to the witness statement. In relation to the latter the Respondent had blamed a trainee. The witness statement had however been that of the Respondent and he was responsible for it. Further he had stated that the clause had been deliberately omitted as it was considered to be privileged. In relation to the conveyancing transactions the Tribunal noted that the Respondent had not been charged with any criminal offence in relation to the conveyancing transactions. He had however shown a complete disregard for the conveyancing procedures which were required of solicitors in order to protect clients including lender clients. He had compounded this by continuing to behave in a similar way despite the inspection and his awareness of Operation Hook. The Tribunal considered the test for dishonesty set out in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12. Looking at the number and nature of the transactions undertaken by the Respondent and the length of time during which he had carried them out, the Tribunal was satisfied to the high standard required, that the Respondent's conduct in relation to the conveyancing transactions was dishonest. The Tribunal was also satisfied that the Respondent had deliberately misled the court (allegation (ix) and had thereby behaved dishonestly.

### Three previous appearances of the Respondent before the Tribunal

55. At a hearing on 3<sup>rd</sup> July 1990 the following allegations were substantiated against the Respondent namely that he had:
- (a) failed to comply with the Solicitors Accounts Rules 1986 in that he:
    - (i) notwithstanding the provisions of Rule 11 of the said Rules failed to keep properly written up such books and documents of account as were required by such Rule;
    - (ii) notwithstanding the provisions of Rule 8 of the said Rules drew out of a client account money other than that permitted by Rule 7 of the said Rules further or alternatively notwithstanding the provisions of Rule 3 of the said Rules failed to pay into a client account client's money held or received by him;

- (b) failed to comply with the provisions of Section 34 of the Solicitors Act 1974 in that he had not delivered to The Law Society an Accountant's Report in respect of any accounting periods subsequent to 31<sup>st</sup> May 1986;
- (c) been guilty of conduct unbefitting a solicitor in that he:
  - (i) utilised money held and received by him on behalf of a certain client or certain clients for the purposes of a person other than such client or clients;
  - (ii) utilised money held and received by him on behalf of a certain client or certain clients for his own purposes.

The Tribunal on that occasion said as follows:

"A solicitor is responsible for the proper maintenance of books of account and compliance with the Solicitors Accounts Rules. It is his own responsibility and it cannot be delegated to an accountant. The solicitor must be sure that everything is in order and it is inappropriate to adopt a laissez faire attitude....."

The First Respondent appeared to have let errors and deficiencies run on without making any real effort to put such errors right. It is for that reason that the Tribunal wishes to make a recommendation to The Law Society that should the First Respondent wish to return to practice as a solicitor then he should be required to file Accountant's Certificates with The Law Society on a six monthly basis."

The Respondent was ordered to pay a fine of £2,500 together with costs.

56. At a hearing on 28<sup>th</sup> November 1991 the following allegations were substantiated against the Respondent namely that he had been guilty of conduct unbefitting a solicitor in that he:
- (a) failed to perform an undertaking given by him in the course of his practice as a solicitor to JM Financial Services;
  - (b) negligently made statements in a letter to other solicitors which were untrue.

57. The Tribunal on that occasion said that:

"The Tribunal were concerned to learn that this was not the first professional offence committed by the Respondent in the recent past. On the previous occasion, which was just over twelve months ago, that division of the Tribunal looked sufficiently seriously upon the conduct of the Respondent to award a fine which almost represented the maximum possible. Had that division of the Tribunal known at the time of these present matters - in particular the very serious breach of undertaking - then they may well have taken a different view of the penalty then imposed. The Tribunal can only judge this serious breach of undertaking in the light of the Respondent's recent past history of

professional misconduct and have taken the view that they cannot and indeed should not show the leniency urged upon them by the Respondent's Counsel."

The Tribunal ordered that the Respondent be suspended from practice for a period of twelve months and that he pay the Applicant's costs.

58. At a hearing on 6<sup>th</sup> October 1998 the following allegations were substantiated against the Respondent namely that he had:

- (i) been guilty of conduct unbecoming a solicitor in that he unreasonably delayed in the payment of fees to Counsel in non legal aid cases and or to take all practical steps to ensure payment of fees properly due to Counsel in legally aided cases;
- (ii) been guilty of conduct unbecoming a solicitor in that he made false statements to a bank in the course of a conveyancing transaction.

The Tribunal on that occasion said as follows:

"The Tribunal having found two allegations to have been substantiated against the Respondent took the view that although the breaches on the face of it were serious, the Respondent had to a certain extent been a victim of unfortunate circumstances. The Tribunal imposed a financial penalty upon the Respondent in the sum of £2,500 in respect of the first allegation, namely his failure to pay or secure payment of Counsel's fees without undue delay.

The Tribunal have taken the view that the Respondent did not seek deliberately to deceive National Westminster Bank in connection with the proposed sale price negotiated for the sale of his wife's property. The Tribunal imposed a fine of £1,000 upon the Respondent in connection with the second allegation. The Tribunal further ordered that the Respondent should pay the costs of the application and enquiry fixed in the sum of £6,286.25.

The Tribunal pointed out to the Respondent that they were dealing with him on a third occasion and it would be extremely regrettable if the Respondent were to appear before the Tribunal again. If he did so, it was highly likely that the division of the Tribunal finding any further misconduct on his part would be unlikely to consider that the interests of the good reputation of the solicitors' profession would be served in any way other than by a striking off order. The Tribunal also pointed out that the imposition of a fine upon the Respondent did not absolve him of his continuing obligation to try to get the outstanding Counsel's fees in legally aided matters discharged."

The Tribunal recommended that the Respondent should be permitted to practise only in approved employment or in approved partnership.

59. The Tribunal on 16<sup>th</sup> January 2007 noted that the Respondent was appearing before the Tribunal for the fourth time and also noted the comments of the Tribunal in 1998.

Not only was the Respondent appearing before the Disciplinary Tribunal of his profession for a fourth time, the allegations which had been substantiated against him on the present occasion were of the most serious kind, namely dishonesty. The Respondent's disciplinary history was of course a matter of great concern but the Tribunal was satisfied that the allegations before the Tribunal on the present occasion were of themselves so serious that the appropriate penalty was a striking off Order. Allegations of dishonesty had been substantiated against the Respondent. His conduct of conveyancing had allowed others to perpetrate criminal actions. He had severely damaged the reputation of the profession. It was right and the protection of the public required that he no longer be able to practise as a solicitor. The suggestion put forward on his behalf in correspondence from his wife that the Tribunal impose a period of suspension did not reflect the appropriate penalty in such a serious case.

60. In relation to costs the Tribunal was satisfied that it was right that the Respondent pay half the Applicant's costs up to 4<sup>th</sup> June 2006 excluding those costs which the Applicant had said did not relate to the Respondent and excluding the costs of the hearing on 5<sup>th</sup> June which had dealt with Mr Saunders' matter. It was right that the Respondent pay the whole of the Applicant's costs from 6<sup>th</sup> June 2006. Mr Saunders' costs had not yet been assessed or agreed and it would therefore not be appropriate for the Tribunal to make a fixed costs order against the Respondent.
61. The Tribunal Ordered that the Respondent, Zahir Ahmed Aziz of Heaton Mersey, Stockport, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay one half of the costs of and incidental to this application and enquiry up to and including the 4<sup>th</sup> June 2006 and the whole of the costs from 6<sup>th</sup> June 2006 to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Officer of the Law Society.

DATED this 8<sup>th</sup> day of March 2007  
on behalf of the Tribunal

L N Gilford  
Chairman