

IN THE MATTER OF ZAHEDA PARVEEN AZIZ (now known as Zahida Parveen Hanif), solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr S N Jones (in the chair)
Mr A G Gibson
Mrs S Gordon

Date of Hearing: 20th January 2005

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Robert Simon Roscoe, solicitor in the firm Victor Lissack, Roscoe & Coleman of 70 Marylebone Lane, London W1U, 2PQ on 13th July 2004 that Zaheda Parveen Aziz of Harborne, Birmingham, West Midlands, 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 should think right.

At the opening of the hearing Mr Roscoe explained to the Tribunal that the Respondent had asked for other matters to be taken into account. To accommodate this request Mr Roscoe had prepared a Supplementary Statement containing further allegations dated 18th January 2005. In the circumstances the Tribunal consented to abridge time for the service of the Supplementary Statement.

The allegations set out below are those contained on the original and supplement any statements.

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

- (i) in breach of Rule 22(1) of the Solicitors Accounts Rules 1998 the Respondent improperly withdrew client money from her designated client account.
- (ii) in breach of Rule 22(5) Solicitors Accounts Rules 1998 the Respondent made payments from her client account in excess of the funds held for the specific clients concerned.
- (iii) in breach of Rule 7 Solicitors Accounts Rules 1998 the Respondent failed upon discovery to replace a cash shortage in her clients bank account which had been notified to her.
- iv) in breach of Rule 15 Solicitors Accounts Rules 1998 the Respondent failed to deal properly with monies received from or on behalf of clients.
- (v) in breach of Practice Rule 13 Solicitors Practice Rules 1990 the Respondent did fail to supervise properly, or at all, non-qualified staff engaged on the Respondents' business in relation to work carried out on behalf of immigration clients.
- vi) in breach of Rules 4 and 5 of the Solicitors Indemnity Insurance Rules 2001 the Respondent did fail to take out and maintain qualifying insurance under the Solicitors Indemnity Insurance Rules 2001 during any indemnity period on or after 1st September 2001.
- vii) in breach of Rules 4 and 5 of the Solicitors Indemnity Insurance Rules 2001 after having failed to take out and maintain qualifying insurance under the Solicitors Indemnity Insurance Rules 2001 the Respondent failed to apply to enter the Assigned Risks Pool to provide cover for any indemnity period on or after 1st September 2001.
- viii) the Respondent failed to deliver or delayed in delivering to the Law Society by 31st December 2002 her Accountant's Report 2002 for her financial year ending 30th June 2002 in breach of Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998.
- ix) the Respondent failed to deliver or delayed in delivering to the Law Society by 31st December 2003 her Accountant's Report 2003 for her financial year ending 30th June 2003 in breach of Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998.
- x) the Respondent failed to deliver or delayed in delivering to the Law Society by 31st December 2004 her Accountant's Report 2004 for her financial year ending 30th June 2004 in breach of Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998.

- xi) that having disposed of her practice in January 2002 she failed to deliver to the Law Society a final Accountant's Report for her financial year ending 30th June 2004 in breach of Section 34 of the Solicitors Act 1974 and Rule 35 of the Solicitors Accounts Rules 1998.
- xii) that she failed to deal promptly and substantively with correspondence from the Law Society.

The Application was heard at the Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7NS when Robert Simon Roscoe appeared as the Applicant and the Respondent was represented by Paul Mitchell of Counsel.

The evidence before the Tribunal included the admissions of the Respondent both as to the facts and the allegations.

The Tribunal was invited to note that the Respondent wished to be known by her maiden name of Hanif.

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

The Tribunal Orders that the Respondent Zahida Parveen Aziz (now known as Zahida Parveen Hanif) of Harborne, Birmingham, West Midlands, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 20th day of January 2005 and they further Order that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,871.32.

The facts are set out in paragraphs 1 to 16 hereunder

1. The Respondent, born in 1968, was admitted as a Solicitor in 1997. Her name remained on the Roll of Solicitors.
2. At the material times the Respondent practised on her own account, or as a partner on the following dates at the following practices:
 - i) 13th September 2000 to 6th January 2002 on her own account as PK Legal, solicitors of 1st Floor, 218 Edgware Road, London W2 1DH and subsequently of 244b Edgware Road, London W2 1DS.
 - ii) 7th January 2002 to 14th January 2002 as a partner in Zoi and Co., solicitors of 244b Edgware Road, London W2 1DS.
 - iii) 7th January 2002 to 14th January 2002 as a partner in Lancaster Bailey, solicitors of 244b Edgware Road, London W2 1DS.
3. Following notice duly given an Investigation Officer ("the IO") of the Law Society began an inspection of the Respondent's books of account and documents. The Inspection date was 31st December 2001. The IO produced a

written Report dated 22nd April 2002 which was before the Tribunal. The Report revealed the following matters.

4. The Respondent maintained client and office bank accounts at Barclays Bank, Pall Mall and the Royal Bank of Scotland, Edgbaston. Both the office accounts were frozen on 14th January 2002 when the Respondent was adjudicated bankrupt.
5. The books of account were not in compliance with the Solicitors Accounts Rules 1998, in the following respects:-
 - i) a list of liabilities to clients at 31st December 2001 was produced for inspection and when compared with cash held on the Respondent's client bank account there was cash shortage of £12,582.07.
 - ii) the Respondent agreed the cash shortage and assured the IO that it would be rectified. Rectification had not taken place.
 - iii) the books of account contained over-transfers and over-payments in respect of forty-one client matters ranging in value between £0.25 and £1,030.00, resulting in debit balances on clients' ledgers.
 - iv) in attempting to correct 15 debit balances on client account (totalling £3,724.10) in existence at 30th June 2001, the Respondent transferred funds of the same amount, from client to office bank account thereby doubling the existing debit balances. The errors had not been rectified at the time of the IO's inspection.
6. During 2001 and 2002 the Respondent employed Mr M as an unadmitted immigration consultant, but he had been dismissed for suspected dishonesty.
7. The Respondent cited five matters for which Mr K M had conduct where monies received from the firm's clients, in respect of fees or on account of fees, had not been paid into the firm's client bank account. One client had paid £1,000 to Mrs K M in connection with each of two immigration matters, another client had paid £800 to Mr K M also relating to an immigration matter. Three other clients had paid cash sums of £1,000, £700 and a further £700 to Mr K M who had provided a receipt on one occasion. The money had not been paid in to client account. It was assumed that Mr K M had pocketed the money. He had already been made the subject of an Order under S.43 of the Solicitors Act 1974.
8. The Respondent confirmed that monies received from the clients with whom Mr K. M. dealt should have been paid into a client account and held in such account. She recognized that she had failed to exercise proper supervision over Mr K. M. and over the client matters for which he was responsible.
9. The Respondent had not obtained qualifying indemnity insurance for her firm for the period 1st September 2001 to 7th January 2002. She had failed to make

- application to join the Assigned Risks Pool for the period. The Respondent confirmed that she was familiar with the Solicitors Indemnity Insurance Rules 2000 and aware of the need to have adequate professional indemnity insurance in place by 1st September 2001. The Respondent had been unable to afford the insurance premium.
10. The Respondent asked that the further matters were dealt with by the Tribunal on 20th January 2005. These were addressed in the Applicant's Supplementary Statement and submissions below.
 11. The Respondent disposed of her practice in January 2002. No Accountant's Reports had been received by the Law Society for the periods ending on 30th June 2002, 2003 or 2004.
 12. The Respondent should also have filed a Final Report up to the date when she ceased to practise. She had not done so.
 13. The Law Society wrote to the Respondent on 15th January 2003 to advise her that the Accountant's Report for the period ending 30th June 2002 was outstanding and asked her to provide it. The Respondent was also informed that although her practice had amalgamated with another on 6th January 2002 she should deliver Accountant's Reports to The Law Society until the date she ceased to hold client monies. No prompt and substantial response had been received from the Respondent. Further letters sent on 13th October 2003, 8th December 2003, and 28th January 2004 were unanswered.
 14. The Law Society wrote to the Respondent on 20th January 2004 to advise her that the Accountant's Report for the period ending 30th June 2003 was outstanding and asked her to provide it. She was again informed that although her practice had amalgamated with another on 6th January 2002 she should deliver Accountant's Reports to the Law Society until the date she ceased to hold client monies. No prompt and substantial response had been received from the Respondent. Further letters sent on 16th March, 29th March, and 28th April 2004, were not acknowledged.
 15. The Law Society wrote to the Respondent on 7th January 2005 to advise her that her Accountant's Report for the period ending 30th June 2004 was outstanding and asked her to provide it. The Law Society repeated that although her practice had amalgamated with another on 6th January 2002 she should deliver Accountant's Reports to The Law Society until the date she ceased to hold client monies. She was reminded that Accountant's Reports for 2002, 2003, and 2004 were outstanding.
 16. On 16th June 2004, the matter was considered by the Adjudicator of The Law Society who directed the Respondent to deliver her Accountant's Reports for 2002 and 2003 to The Law Society within 56 days, failing which her conduct would be referred to the Solicitors' Disciplinary Tribunal.

The Submissions of the Applicant

17. The Respondent had admitted all of the matters alleged against her. It was right to say that when the accounting deficiencies were pointed out to her by the IO she accepted them without demur. She indicated that she would rectify the deficiencies but her own financial circumstances had prevented her from doing so. She had been adjudicated bankrupt.
18. The Applicant did not put the matter on the basis of dishonesty save on the part of Mr K M. However, where Mr K M had not paid client money into client account the Respondent (as principal) was strictly liable for the resulting breaches of the Solicitors Accounts Rules.
19. The Respondent's practice had been poorly managed and inadequate control had been in place. Mr K M was an immigration consultant and the IO ascertained that Mr K M had run a practice within the Respondent's practice. Mr K M had played "fast and loose" with clients and he had been guilty of dishonesty.
20. The Law Society had informed the Applicant that the Tribunal had made an Order pursuant to Section 43 of the Solicitors Act 1974 against Mr K M in November of 2004.
21. It was accepted that it was the Respondent's financial position which prevented her from obtaining indemnity insurance or from joining the Assigned Risks Pool.
22. The Respondent herself had drawn the Applicant's attention to the fact that she had a number of outstanding Accountant's Reports. She had also failed to deal with letters written to her by The Law Society in connection with such matters.
23. The Applicant accepted that the Respondent had recently been in contact with The Law Society about those matters.
24. The Respondent had also asked that a complaint made in respect of a conveyancing transaction undertaken by her should be considered by the Tribunal. Following investigation the Applicant ascertained that the Law Society had investigated that matter but had closed its file. The Applicant was aware of no other complaints against the Respondent.

The Submissions of the Respondent

25. The Respondent accepted the seriousness of the allegations made against her which she admitted.
26. The Tribunal was invited to take into account that the Respondent had not been dishonest and, indeed, had made honest attempts to deal with some of the problems. The Respondent had been entirely transparent in all of her dealings with The Law Society and the IO. Where debit balances had occurred on client account, the sums involved had been of a relatively small amount. There had

- been no losses caused to any member of the public. There was no likelihood that the Respondent would again re-offend.
27. As soon as Mr K M's activities came to the attention of the Respondent she dismissed him. She had acted entirely properly in that regard.
 28. The Respondent had been entirely competent when undertaking solicitors' professional work but she had not been competent in the areas of office management and book-keeping. She had tried to buy in book-keeping expertise but had been badly let down.
 29. In due course the Respondent tried to resolve her difficulties by selling her practice to another solicitor. That solicitor agreed to accept responsibility for staff wages, the practice's debts and responsibilities. The Respondent thereby stood by her employees and her clients.
 30. The solicitor to whom she sold her practice did not fulfil his part of the agreement.
 31. No claims had been made against the Respondent or the Law Society's Compensation Fund. Because the practice of the solicitor acting in succession to the Respondent had been intervened into by the Law Society it was difficult to establish whether or not any person had suffered loss. It might well have been that their monies, for example, had been paid out in advance of the receipt of monies, but those monies might actually have been received subsequently and any deficiency on the client ledger thereby corrected.
 30. The Respondent was genuinely contrite and had been very stressed by her failings. She no longer wished to practise as a sole principal. It was felt that with adequate supervision she would be able to practise competently as a solicitor. No client had complained about the legal services provided by the Respondent. There was little likelihood that the Respondent would ever again offend.
 31. It was recognized that any sanction imposed by the Tribunal would not primarily be aimed at punishment but would be imposed to uphold the public's confidence in the solicitors' profession and further, to protect the public interest. In the submission of the Respondent any member of the public, knowing all of the personal circumstances of the Respondent would not lose confidence in the solicitors' profession because she had breached the Rules of practice.
 32. Any practising certificate issued to the Respondent would continue to be subject to strict conditions as to the way in which she might practise.
 33. The Tribunal was invited to bear in mind that at the time when she sold her practice she had been led to believe by the accountants that her book-keeping and accounts were in order.

34. The Tribunal was invited also to take into account the witness statement provided by the Respondent dated 8th January 2005 which set out details of her background including not only her professional history but also the difficult personal circumstances in which she found herself towards the end of 1999 until the end of 2001.
35. The Respondent hoped to return to work when her youngest child became old enough to attend kindergarten. She would not wish to work without supervision or in any capacity requiring her to be responsible for the preparation of an annual Accountant's Report, obtaining indemnity insurance or supervising other solicitors. She hoped she might obtain employment with a local authority. She recognized that any future practising certificate issued to her would be subject to conditions.

The Tribunal's Findings

36. The Tribunal find all of the allegations to have been substantiated, indeed they were not contested.

Previous Findings

37. At a hearing on 7th August 2003 the Tribunal found substantiated against the Respondent allegations that she had been guilty of conduct unbecoming a solicitor in each of the following particular, namely that she had:
- i) Failed to discharge an undertaking, thereby acting in breach of Principle 1802 of the Guide to the Professional Conduct of Solicitors.
 - ii) She had failed to reply to correspondence from the Office for the Supervision of Solicitors thereby acting in breach of Principle 30.04 of The Guide to the Professional Conduct of Solicitors.
38. On that occasion the Tribunal said:

“The Tribunal find the allegations to have been substantiated, indeed they were admitted by the Respondent. The Tribunal has noted the upsetting personal difficulties encountered by the Respondent. It notes the particular circumstances of this matter and recognizes that the Respondent has placed before it mitigation of some strength. However, the conveyancing process in England and Wales relies very heavily indeed upon the certain and punctual compliance with undertakings by solicitors. If there ever were to be any doubt that a solicitor's undertaking could not be relied upon with absolute certainty the conveyancing process in this country would become a far more laborious and costly matter than it now is. It is for this reason that the Tribunal regards the failure to comply with an undertaking given as in the circumstances of this case is a serious matter. Further, it is well known that the Tribunal regards a failure on the part of a solicitor to reply to letters addressed to him or her by his or her own professional body also to be a serious matter as that failure and lack

of co-operation prevents The Law Society from fulfilling its duty as the regulator of the profession and puts other members of the profession who fund the regulatory process to greater expense than otherwise would have been required.

The Tribunal has taken into account the mitigating circumstances and concludes that it is right that the Respondent should have a £2,000 sanction imposed upon her and it further ordered that she should pay the costs of and incidental to the application and enquiry. As she was not present at the hearing to consider the quantum of such costs, the Tribunal ordered that the Applicant's costs be awarded to the Applicant subject to a detailed assessment if not agreed between the parties."

The Decision of the Tribunal and its Reasons

39. The Tribunal recognized that the previous matters dealt with by the Tribunal in August 2003 were based on facts that were contemporaneous with those supporting the allegations before the Tribunal in January 2005.
40. The Tribunal gave the Respondent credit for her admissions, contrition and co-operation with the Law Society. None the less the matters alleged against the Respondent and admitted by her were very serious. There had been a complete failure on the part of the Respondent to comply with important regulatory aspects of practice as a solicitor. Punctilious compliance with the Solicitors Accounts Rules is a prerequisite to practice as a solicitor. The failure of the Respondent properly to supervise Mr K M inevitably played a part in his being able to misappropriate cheques and cash sums paid to him in respect of and on account fees, thereby damaging the reputation of the solicitors' profession.
41. There is no doubt that in order to protect the public it is essential that solicitors have professional indemnity insurance cover.
42. It is also of fundamental importance that a solicitor complies with a requirement to file Annual Accountant's Reports with the Law Society. Failure to do so prevents the Law Society from carrying out its regulatory duties and afford the public and a solicitor's clients the protection expected.
43. The Tribunal recognized that at material times the Respondent had considerable difficulties in her private life and she was prevented from dealing with some of the matters by her disastrous financial situation and ultimately her bankruptcy.
44. The Tribunal accepted that none of the matters alleged against the Respondent went to her ability or competency to undertake legal work on the part of clients. Nevertheless it was the Tribunal's view that the Respondent should not be permitted to practise until she can demonstrate that she has been able to work in

a position of trust where she uses her legal knowledge satisfactorily over a period of time and that she has undertaken courses and training to ensure that she is fully up-to-date with all of the rules and regulations relating to the professional practice of a solicitor and is fully aware of the requirements of the Solicitors Accounts Rules.

45. Although unable to bind another division of the Tribunal which may consider the matter in future it was considered that the Tribunal would be unlikely to end the indefinite term of the suspension imposed upon the Respondent unless it could be satisfied on these matters as well as being satisfied in every other respect that the Respondent was fit to practise as a solicitor and was a proper person to whom a practising certificate might be granted.
46. The Tribunal in all of the circumstances considered it both right and proportionate to order that the Respondent be suspended from practice for an indefinite period of time and it also considered it both right and proportionate that she should pay the costs of and incidental to the application and enquiry. The Tribunal fixed the sum in accordance with the Respondent's agreement to pay the sum of £3,871.32 sought by the Applicant.

DATED this 15th day of March 2005
on behalf of the Tribunal

Chairman
S N Jones