

IN THE MATTER OF ARACHCHIGE RANJITH PANAMULLE, solicitor

AND

IN THE MATTER OF THE SOLICITORS ACT 1974

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

Date of Hearing: 20th January 2005

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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 Stuart Roger Turner, solicitor of Lonsdales Solicitors, 342 Lytham Road, Blackpool, Lancashire, FY4 1DW on 7th July 2004 that Arachchige Ranjith Panamulle of Old Marylebone Road, London, NW1, 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.

On 10th December 2004 the Applicant made a supplementary statement containing further allegations. The allegations set out below are those contained in the original and supplementary statements. The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in each, any or all of the following circumstances, namely:-

- 1) that contrary to Rule 32 of the Solicitors Accounts Rules 1998 the Respondent failed to maintain client ledger accounts;
- 2) that the Respondent overcharged the Legal Aid Board (now known as the Legal Services Commission) for work done;
- 3) that the Respondent failed to and/or failed properly to supervise a solicitor's office;

- 4) that the Respondent failed to provide adequate client care information to clients;
- 5) that the Respondent failed properly to account for client account money received, contrary to Rule 14(1) and Rule 15(1) Solicitors Accounts Rules 1998;
- 6) that the Respondent failed to send to a client a bill of costs before the withdrawal of the firm's fees, contrary to Rule 19(2) Solicitors Accounts Rules 1998;
- 7) that the Respondent allowed a client account to become overdrawn by withdrawing from it fees of an amount in excess of that held in the client account, contrary to Rule 22(5) Solicitors Accounts Rules 1998;
- 8) that the Respondent failed, at all times, to keep, establish and maintain proper accounting systems and records, contrary to Rules 1(f) and (g) and 32(1) and (2) Solicitors Accounts Rules 1998.

The application was heard at the Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7NS when Stuart Roger Turner appeared as the Applicant and the Respondent was represented by Philip Noble of Counsel instructed by Messrs James Pyke & Co.

The Applicant made it clear that he alleged that the Respondent had been dishonest in connection with allegation 2 (that the Respondent overcharged the Legal Aid Board).

The evidence before the Tribunal included the admission by the Respondent of the facts but he denied dishonesty on the basis that he had made a genuine mistake.

**The facts are set out in paragraphs 1 to 27 hereunder:-**

1. The Respondent, born in 1961, was admitted as a solicitor in October 1997. At the times material to allegations 1 and 2 the Respondent practised as a sole practitioner under the style of Panamulle Solicitors at Kilburn High Road, London, then at Bell Street, London NW1 and later at 302 Lloyd's Court, Goodman's Yard, London E1. With regard to allegations 3 to 8 inclusive, the Respondent practised in partnership with a Miss SFW in the firm of Cosmos Solicitors.
2. An Investigation Officer of the Law Society, the IO, attended at the Respondent's office at Kilburn High Road to inspect his books of account, notice having been duly given. The inspection began on 12th March 2001. The inspection was terminated. The IO made a written Report dated 26th September 2002 (signed by the Law Society's Head of Forensic Investigations) which was before the Tribunal.
3. The Report revealed that the IO conducted a final interview with the Respondent on 27th August 2002 by which time he was practising at Bell Street, London NW1.
4. The IO's Report revealed that the Respondent dealt in the main with immigration work but that following his failure to obtain a Legal Aid franchise during 1999 he had decided to run down his practice and he had not taken any new clients since January 2000. At the commencement of the inspection the Respondent employed one legal representative.

5. From January 2001 the Respondent had acted in a supervisory capacity for an immigration advisory service called Bernard Mendies & Co from an office at Bell Street, London NW1.
6. The Respondent maintained bank accounts at Barclays Bank plc Brixton. As at 28th June 2002 his client account had a credit balance of £205.59 and his office account had a credit balance of £212.38 at 31st July 2000. The Respondent alone could operate those accounts.
7. The Respondent's books of account were not in compliance with the Solicitors Accounts Rules as no client ledger accounts had been maintained.
8. In view of this failure the IO was not able to ascertain whether funds which had been lodged in office bank account in respect of professional disbursements had been paid.
9. The Respondent's Accountant's Report for his financial year ending on 31st December 2000 had not been delivered to the Law Society until 28th June 2002. The IO went on to report upon concerns he had regarding certain of the Respondent's legal aid files.
10. A review of various client matter files showed attendance notes indicating that more than one client had been advised on the same day by a representative of the firm during Home Office visits. The IO was concerned about visits which took place on 6th August, 17th August and 19th August 1999. He set out the following details in his report.

6 August 1999

11. The relevant client matter files showed references 686, 687, 688 as matters where all three clients attended the Home Office in Croydon on 6th August 1999 and that they were advised by the same freelance legal representative employed by the Respondent.
12. All clients were Kosovan and the Respondent told the IO that the representative could speak Russian.
13. A review of the hours claimed showed the following position:-

<u>File</u>	<u>Waiting/travel</u>	<u>Advice/interview</u>	<u>Total</u>
686	8 hrs 05 mins	1hr 20 mins	9 hrs 25 mins
687	2 hrs	1 hr 20 mins	3 hrs 20 mins
688	2 hrs	1hr 50 mins	<u>3 hrs 50 mins</u>
			<u>16 hrs 35 mins</u>

14. The attendance note found on each of the three files indicated that the representative left the Respondent's office at 9.00 am and that the first interview was at 12.25 pm and the final interview at 5.30 pm.
15. The total time claimed of 16 hours 35 minutes would indicate that the representative was working from 9.00 am until 1.35 am.

17th August 1999

16. The relevant client matter files showed references 891, 889, 886, 887, 888 and 879 as matters where all six clients attended the Home Office in Croydon on 17th August 1999 and that they were advised by the freelance representative.
17. A review of the hours claimed showed the following position:-

<u>File</u>	<u>Waiting/travel</u>	<u>Advice/interview</u>	<u>Total</u>
891	1 hr	58 mins	1 hr 58 mins
889	1 hr	58 mins	1 hr 58 mins
886	1 hr	51 mins	1 hr 51 mins
887	1 hr	50 mins	1 hr 50 mins
888	1 hr	50 mins	1 hr 50 mins
879	1 hr	52 mins	<u>1 hr 52 mins</u>
			<u>11 hrs 19 mins</u>

18. The attendance note found on each of the six files indicated that the representative left the Respondent's office at 12.05 pm and that the first interview was at 3.00 pm and the final interview at 3.30 pm.
19. The total time claimed of 11 hrs 19 mins would indicate that the representative was working from 12.05 pm until 11.24 pm.

19th August 1999

20. The relevant client matter files showed references 893, 895, 897, 894, 896 as matters where all five clients attended the Home Office in Croydon on 19th August 1999 and that they were advised by the freelance representative.
21. A review of the hours claimed showed the following position:-

<u>File</u>	<u>Waiting/travel</u>	<u>Advice/interview</u>	<u>Total</u>
893	1 hr 15 mins	53 mins	2 hrs 08 mins
895	1 hr 15 mins	1 hr 20 mins	2 hrs 35 mins
897	1 hr 15 mins	53 mins	2 hrs 08 mins
894	1 hr 15mins	1 hr 20 mins	2 hrs 35 mins
896	1 hr 15 mins	52	<u>2 hrs 07 mins</u>
			<u>11 hrs 33 mins</u>

22. The attendance note found on each of the five files indicated that the representative left the Respondent's office at 12.00 noon and that the first interview was at 1.50 pm and the final interview at 2.15 pm.
23. The total time claimed of 11 hrs 33 mins would indicate that the representative was working from 12.00 noon until 11.33 pm.
24. The Respondent told the IO that clients could be at the Home Office in Croydon until 9.30 pm.
25. On 26th and 27th January 2004 a Law Society Officer (the LSO) visited the firm of Cosmos Solicitors and carried out an Assigned Risks Pool monitoring visit.

26. The LSO's written report dated 17th March 2004 was before the Tribunal.
27. The LSO's report dealt in particular with the following matters:-
- (i) The Respondent was responsible for the supervision of the firm as his partner, Miss SFW, at the time of the monitoring visit did not have three years post qualification experience. The Respondent told the LSO that he attended Cosmos Solicitors every day by 9.00 am and spent a few hours there before going to his own offices in the afternoon.
  - (ii) At the time of the monitoring visit the firm had ten client files. Six were selected for examination. In all six, inadequate client care information was provided to the clients. The client care letters stated that the retainers were on an agreed fee basis but there were no details as to what the agreed fee was. There were no details provided in relation to disbursements, hourly charge rates or overall costs estimates.
  - (iii) In four of the files, Mr K, Mr A, Mr P and Mr V, the client matter ledgers showed entries of details of client monies which had been received when the firm's client account had not been opened. The firm was formed on the 10th November 2003. The firm's client account was opened the week commencing 19th January 2004.
  - (iv) In the matter of Mr P an invoice for costs of £300 dated 15th December 2003 had not been sent to the client prior to the withdrawal of the firm's fees on that date.
  - (v) In the matter of Mr V the client matter ledger showed the firm transferred fees of £200 from client to office account on the 12th January 2004 at a time when the matter ledger showed a credit of £100.
  - (vi) In the matters of Mr K, Mr A, Mr P and Mr V entries in the client ledgers were incorrect as they were made at a time when the firm's client bank account had not been opened.

### **The Submissions of the Applicant in Connection with the Allegation of Dishonesty**

28. Following an inaccurate record of time spent by a representative engaged by the Respondent to attend at the Home Office with immigration clients the Respondent overcharged the Legal Services Commission, claiming more hours of work than had been undertaken. There was no record on the file that the representative had spent time with the clients after accompanying them to Home Office interviews.
29. The Applicant put the allegation of overcharging the Legal Aid Board as a matter of dishonesty. The Tribunal when considering the question of dishonesty was invited to apply the "combined test" set out by Lord Hutton in Twinsectra Ltd -v- Yardley and Others (2002) UKHL 12, namely that in order to make a finding of dishonesty it must be established that the Respondent's conduct was dishonest by the ordinary standards

of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest.

30. It was not necessary to establish that the Respondent deliberately acted dishonestly or that he acted with conscious impropriety.
31. As sole principal the Respondent signed claims made on the Legal Aid Fund and he should have made sure before he certified the claim to be true and accurate that that was indeed the case. The Respondent must have known that more than one client was represented on the dates in question. At best the figures given amounted to guesswork and that was simply not good enough. When certifying that the hours claimed was correct he was drawing money from the public purse. To draw such monies in those circumstances met the combined test for dishonesty set out in *Twinsectra -v- Yardley*.

### **The Submissions of the Respondent in connection with the allegation of dishonesty**

32. The Respondent's case was that he made a genuine mistake and that could not be classified as dishonesty. People make mistakes for a number of reasons. If the Respondent had been aware that six hours of work had been carried out and he inflated that figure to twelve hours then that would amount to dishonesty. That supposition was readily accepted by the Respondent.
33. The fact was that the Respondent proved himself to be ill-equipped to manage any office. The Respondent had a background of enormous difficulties. Immigration cases did require the expenditure of a great deal of time. Even when a representative attended at the Home Office with an immigration client it was usual to give that client further advice taking some 40 to 50 minutes. The procedure had to be explained and an interpreter had to be used. Advice was given prior to the interview and advice was given after the interview. Advice was given as to the documents and the procedure that would have to be followed. It was not unusual for the representative to remain at the Home Office offices as late as 10 pm. The Respondent had not deliberately made false claims. He was convinced that he had not overclaimed time but he recognised that there had been mistakes.
34. There had been an occasion when a file had been assessed twice and the Respondent had been paid twice. Despite the fact there was only a remote possibility that the payer would discover this, when the Respondent received the overpayment of £573 he immediately sent it back.
35. Some of the client files where the clients had been dealt with on the same day had become separated. The Respondent had not on individual files checked the overall claim relating to a number of clients on one day.
36. It was for the Applicant to establish his allegation of dishonesty to the criminal standard. In the submission of the Respondent he had not established his case even to the civil standard.

### **The Tribunal's Finding on the question of dishonesty**

37. The Tribunal accepted that while the Respondent may have overcharged this was not dishonest. It was accepted that a great deal of time was spent with clients on days when they attended Home Office interviews and attendance notes cataloguing such time had not been placed on the files and it was the Respondent's disorganisation rather than any dishonesty on the Respondent's part.
38. Against this background the Tribunal could not be sure on the high standard of proof required that the Respondent acted dishonestly by the ordinary standards of reasonable and honest people and that by those standards the respondent at the time knew or ought to have known that he was acting dishonestly. The Tribunal therefore concluded that the Respondent had not behaved dishonestly.

### **The Submissions of the Applicant in relation to the allegations**

39. The Respondent did not dispute the facts upon which the Applicant relied. A solicitor had a responsibility for full compliance with the Solicitors Accounts Rules and in particular had to comply with the requirement to maintain client ledger accounts.
40. It was clear that the Respondent was the only solicitor qualified to supervise the practice of Cosmos Solicitors and that being the case he could not supervise two different offices. He continued to have his own office at the same time that he was the partner of Miss SFW. That being the case both practices did not have at least one solicitor who was qualified to supervise the practice for every part of the working week as was required.
41. The Respondent admitted the facts and the allegations on the basis that he had not been dishonest.

### **The Submissions of the Respondent in relation to the allegations.**

42. The Respondent admitted the failure to maintain client ledger accounts. He did not appreciate that there was an absolute rule that such ledger accounts had to be maintained. He held very little client money and he had accepted the advice of his accountants as to how to proceed. The Respondent had come to recognise that he acted foolishly in failing to maintain a simple procedure. With regard to professional disbursements the Respondent understood that he could pay his interim and/or final costs into office account regardless of whether or not the payment included client money in the form of professional disbursements because he paid the disbursements (particularly to translators) either before receipt or immediately on receipt. There had been no outstanding Counsel's fees or any other fees, for example fees for medical reports. There had been no complaints in this regard.
43. The Respondent's mistakes in charging in immigration client matters where claims were made to the Legal Services Commission arose because he did not have a computerised file management system. The representative had clearly stated at the end of his notes that time had been apportioned between the client files. When the Respondent reconsidered the claims made he had come to agree that there had been an element of overcharge but the overpayment which he received was of a modest order. The Respondent also pointed out that any claim for £500 or more made to the Legal

Services Commission was accompanied by the file. Although the Home Office closed its front door at 4 pm the officials continued working with those applicants in the building as late as 10 pm. It would not have been unusual for the Respondent to be in his office at such a late hour.

44. The Respondent accepted that he was the supervising partner of Cosmos Solicitors from 10th November 2003 until 20th May 2004. It was true that at that time he had his own practice. He considered that he was able to be the supervising partner at Cosmos Solicitors because both practices had very few clients. At his own firm the Respondent had only one or two clients per week and his partner had only 10 client files.
45. The Respondent accepted that Cosmos Solicitors' original client care letter did not contain adequate client care information and after he realised that he asked his partner to send a proper client care letter containing all necessary information. The Respondent's partner had confirmed to him that she had given all costs information through a Turkish interpreter.
46. The Respondent did not sign any client or office cheques nor was he responsible for the banking of the accounts system at Cosmos.
47. The Respondent decided to withdraw his involvement from Cosmos Solicitors as he was not able to get along with his partner who had her own ideas as to her practice.
48. The Respondent's background was that he had been born in Sri Lanka in 1961. He was a married man with children. The Respondent qualified as an attorney at law in Sri Lanka in 1986 and was called to the Bar there in 1987. He came from an impoverished family with a working class background. To succeed in becoming a lawyer had been a great achievement.
49. Between 1987 and 1989 the Respondent practised mainly at the Metropolitan Bar in Colombo Magistrates Court and undertook human rights litigation in the Court of Appeal. In July 1989 his colleague who shared quarters with him was assassinated. The Respondent escaped and went into hiding. In August 1989 a fellow member of the Respondent's chambers was also assassinated. With the assistance of Amnesty International the Respondent fled in September 1989 without even saying goodbye to his parents. The Respondent claimed political asylum in the UK. He was unemployed for six months and lived on Income Support.
50. In May 1989 the Respondent's father died but he could not attend his funeral. In September 1990 the Respondent learned that the police had abducted his girlfriend as a result of her association with him. The Respondent complained to Amnesty International and the Bar Association in Sri Lanka and she was eventually released. Because they were not married the Home Office would not permit the Respondent's girlfriend to join him. In November of 1990 the Respondent's brother was abducted and there was still no news of his whereabouts. In June 1991 the Respondent's younger brother died under suspicious circumstances and in the same month the Respondent's mother took poison trying to commit suicide. In August 1991 the UK Government recognised the Respondent as a refugee.
51. The Respondent married his girlfriend in Bangkok in October 1992 and she joined him in London in March of 1993.



52. The Respondent started to work as a salad chef in a small restaurant in South London and his wife worked as a cleaner. They survived on a modest income.
53. In October 1990 the Respondent passed the Solicitors Examination. He worked as a trainee and as an assistant at various practices and was admitted as a solicitor in October 1997. In December 1997 he started his own practice with a supervising partner. His intention had been to work in the immigration and welfare benefit fields only.
54. When the IO attended the Respondent's Kilburn offices he had one employee, a secretary. He also engaged a freelance assistant, a gentleman who was working for the Respondent's supervising partner. The Respondent continued to undertake immigration work, believing that a condition placed on his Practising Certificate had not taken effect. He had not taken on any new legally aided clients from the end of 2001. The Law Society had placed conditions on the Respondent's Practising Certificate but he understood that they had not taken effect.
55. Throughout his professional life the Respondent had acted in the best interest of his clients. None of his clients had complained to the Law Society or to the Legal Services Commission. There had been no claims on the Law Society's Compensation Fund nor had any claim been made upon the Respondent's indemnity insurer.

#### **The Submissions on the Question of Costs**

56. The Applicant sought the costs of the application and enquiry in full.
57. It was argued on behalf of the Respondent that his wife was earning but until the Respondent was able to obtain a job he was not earning any income. He had substantial debt, a large part of which related to his borrowing to set himself up in practice. The Respondent was under some financial pressure. In view of the fact that the Applicant's allegation that the Respondent had behaved dishonestly had not been established and in view of the Respondent's financial position it would be appropriate to order that the Respondent pay a proportion of the Applicant's costs and it was considered that the figure of £5,000 would represent a fair proportion of the Applicant's costs.

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

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

#### **The Tribunal's Decision and its Reasons**

59. The Tribunal found that the Respondent had failed in a number of administrative areas and had failed to recognise the importance of punctilious compliance with the Solicitors Accounts Rules. The Tribunal noted the Respondent's assurances that he is fully capable of undertaking professional work and acting in the best interests of his clients and further notes that there was no evidence that any client had made complaint about him. The Tribunal gave the Respondent credit for his considerable achievements and the very difficult circumstances leading to his coming to the United Kingdom and qualifying as a solicitor.

60. The Tribunal found that the Respondent did not have a full and proper knowledge of all of the administrative and accounting requirements which a solicitor in private practice must discharge. He has not recognised the requirement that a solicitor with less than three years' experience be fully and properly supervised and that any solicitor's office which is open to the public must in every case fulfil the minimum supervision requirements laid down by the Law Society.
61. The Tribunal recognises that its first duty is to protect the public and it must secondly act in a way that preserves the good reputation of the solicitors' profession. Given the various failings on the part of the Respondent the Tribunal concluded that it would be right and proportionate to order that the Respondent be suspended from practice as a solicitor for an indefinite period of time.
62. Whilst not wishing to bind any future division of the Tribunal dealing with an application by the Respondent for such indefinite period of suspension to be terminated, the Tribunal considered that it would be unlikely that any such application would be favourably considered unless the Respondent could demonstrate a far greater awareness and understanding of the obligations of a solicitor in practice to comply fully with the Solicitors Accounts Rules and the other Rules of professional conduct than he has shown thus far in his career.
63. The Tribunal gave consideration to the submissions of both parties with regard to the question of costs. It concluded that the work undertaken on behalf of the Law Society was not significantly increased by the fact that the Law Society put part of the case against the Respondent as one involving dishonesty. The allegation of dishonesty had been properly raised where it appeared, and indeed it was admitted, that an overclaim had been made on public funds. The Tribunal considered it right that the Respondent should meet the entire costs of the application and ordered that they be subject to a detailed assessment unless agreed between the parties, and such costs were to include the costs of the Investigation Accountant of the Law Society (referred to as the IO in these Findings).

Dated this 22<sup>nd</sup> day of March 2005  
On behalf of the Tribunal

S N Jones  
Chairman