

IN THE MATTER OF SANGAR KUMAR (a solicitor's clerk)  
and YOUSHAMATEE DEVI SEEKUNTO,  
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

---

Mr. P. Kempster (in the chair)  
Mr. R. J. C. Potter  
Mr. D. Gilbertson

Date of Hearing: 2nd August 2005

---

## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

## **AND ORDER FOR COSTS MADE IN FAVOUR OF MR KUMAR AGAINST THE LAW SOCIETY**

---

An application was duly made on behalf of The Law Society by Peter Harland Cadman solicitor and partner in the firm of Russell-Cooke Solicitors of 8 Bedford Row, London, WC1R 4BX on 5<sup>th</sup> January 2005 that an Order be made by the Tribunal directing that as from the date specified in the Order no solicitor, Registered European lawyer or incorporated solicitors practice should (except in accordance with permission in writing granted by The Law Society for such period and subject to such conditions as The Law Society might think fit to specify in the permission) employ or remunerate Sangara Kumar of Hayes, Middlesex, in connection with his/her practice as a Solicitor, Registered European lawyer or Member, Director or Shareowner of an incorporated solicitors practice.

AND

An application was duly made on behalf of The Law Society by Peter Harland Cadman as above on 5<sup>th</sup> January 2005 that an Order be made by the Tribunal directing that, as from the date specified in the Order no solicitor Registered European Lawyer or incorporated solicitors practice shall (except in accordance with the permission in writing granted by The Law Society for such period and subject to such conditions as The Law Society might think fit to specify in the permission) employ or remunerate Mrs Youshamatee Devi Seekunto of Hayes, Middlesex, in connection with his/her practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitors practice.

The allegation against Mr Kumar was that he had been guilty of conduct of such a nature that in the opinion of The Law Society it would be undesirable for him to be employed by a solicitor in connection with his practice as a solicitor, namely that he failed to report to his employer, Mr Ratnam, that he suspected Mr Ratnam's partner Mr Nirmalanandan of forging Mr Ratnam's signature.

The allegation against Mrs Seekunto (also known as Mrs Devi) was that she had been guilty of conduct of such a nature that in the opinion of The Law Society it would be undesirable for her to be employed by a solicitor in connection with his practice as a solicitor namely:-

- (a) that she failed to report to her employer Mr Ratnam that his partner Mr Nirmalanandan was forging Mr Ratnam's signature and;
- (b) that she failed to report to her employer Mr Ratnam that a secret commission had improperly been paid.

The applications were heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Peter Harland Cadman appeared as the Applicant. Mr Kumar was represented by Mr Riza of Queen's Counsel. Mrs Seekunto did not appear and was not represented.

The evidence before the Tribunal included the oral evidence of Mr Shaw (The Law Society's Investigation Officer), Mr Ratnam and Mr Kumar.

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

The Tribunal Orders that as from 2nd day of August 2005 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Youshamatee Devi Seekunto of Hayes, Middlesex, a person who is or was a clerk to a solicitor and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,300.

The background facts

1. Mr Ratnam practised in partnership with Mr Nirmalanandan in the firm of Gratian & Co at Southall Middlesex from April 1997 until Mr Nirmalanandan's unexpected death on 30<sup>th</sup> September 2001. When they entered into partnership, Mr Nirmalanandan had not been qualified as a solicitor for three years and could not practise alone and it had been for that reason they entered into partnership. Mr Ratnam had a firm a short distance away. He had not taken part in the day-to-day management of Gratian & Co.
2. Following Mr Nirmalanandan's sudden death and during the process of winding down the practice of Gratian & Co a number of matters had been discovered concerning the conduct of Mr Nirmalanandan which had been reported to The Law Society by Mr Ratnam. The Law Society's Investigating Officer ("IO"), Mr Shaw, carried out an inspection of Gratian & Co which began on 26<sup>th</sup> October 2001.
3. The firm's bank mandate required the signatures of both partners on client account cheques in amounts of £2,500.00 or over. After Mr Nirmalanandan's death Mr Ratnam had been the only authorised signatory in respect of both client and office bank accounts.
4. The books of account of Gratian & Co were not in compliance with the Solicitors' Accounts Rules as they contained numerous false entries and improper payments made at the instigation of Mr Nirmalanandan.
5. The IO established that there was on client account a minimum cash shortage of £371,551.67. In a letter dated 29<sup>th</sup> October 2001, Mr Ratnam informed the firm's insurers, St Paul International Insurance Company Limited, that there appeared to be a shortage on client bank account as a result of the dishonest conduct of Mr Nirmalanandan.
6. The St Paul's policy had been due for renewal on 31<sup>st</sup> August 2001, but Mr Nirmalanandan failed to renew it. The matter had been referred to the Assigned Risks Pool.
7. The minimum cash shortage identified by Mr Shaw was made up of moneys improperly dealt with in conveyancing transactions.
8. In a purchase of property by clients there had been a mortgage advance of £180,000 by Cheltenham & Gloucester plc. Mr Nirmalanandan also acted for the vendor, who had a mortgage of approximately £176,000.00. The purchase and sale had not completed and the vendor's mortgage had not been redeemed.
9. On 21<sup>st</sup> September 2001 the mortgage advance (£180,000.00) was lodged in client bank account but was not recorded in the purchaser's client ledger. The vendor's client ledger could not be found.
10. Mr Nirmalanandan dealt with a re-mortgage transaction. There had been an advance of £148,500 from Cheltenham & Gloucester plc. The original Abbey National plc mortgage advance had been £120,000. This had not been redeemed. The £148,500

had been credited to the client account. £500 had been paid out to Mr K who was unrelated to the matter.

11. Further improper payments totalling £142,100 had been made from client account to Mr K who was unrelated to the purchase of a restaurant where Mr Nirmalanandan acted for the purchaser and their mortgagee, National Westminster Bank plc. The stated purchase price was £600,000. The mortgage advance was £400,000. On completion the actual consideration was £250,000. This was not communicated to the mortgage lender.
12. The relevant account in the clients' ledger recorded the following transactions:

<u>Date</u>	<u>Description</u>	<u>Debit</u> £	<u>Credit</u> £	<u>Balance</u> £
09/05/01	Money received from you [actually Nat West plc]		400,000.00	400,000.00
11/05/01	Paid to Mr K	120,000.00*		280,000.00
17/05/01	Paid to vendor's solicitors	250,000.00		30,000.00
31/05/01	Paid to Inland Revenue	2,500.00		27,500.00
31/05/01	Paid for Celebraties [sic]	22,100.00*		5,400.00

The payments marked \* did not relate to the transaction and were improper.

13. Mr Shaw made enquiry of Gratian & Co's Bankers as to the bank mandate. The Bank confirmed that the payment threshold that required that the signature of both partners was in fact £2,000.00 and not £2,500.00.

#### **The facts relating to Mrs Seekunto**

14. Mr Shaw had referred to Mrs Seekunto as Mrs Devi as that was how she was generally addressed.
15. Mr Shaw interviewed Mrs Devi on 29<sup>th</sup> October 2001.
16. Mrs Devi said that she had been employed by Gratian & Co since March 2000 and that at first she was engaged to perform general office work. She said that to her knowledge a scheme of 'teeming and lading' client account receipts and payments had been practised since July 2000 when she began to maintain the day-to-day transactions in the firm's accounts. Mrs Devi explained that some, but not all, client account receipts and payments were posted to clients' ledgers to which they did not relate and she added that she had done this at the direction of Mr Nirmalanandan.
17. Mrs Devi also informed Mr Shaw that she had been aware of Mr K's "commission" in an amount of £120,000.00 paid from client bank in the restaurant transaction.
18. Mrs Devi said that it had been Mr Nirmalanandan's usual practice to pre-sign both client and office bank account cheques and leave them with her when he went on holiday.

19. Mrs Devi stated that she was aware that both Mr Nirmalanandan and Mr Ratnam should sign client account cheques of £2,500.00 or more but that Mr Nirmalanandan's usual practice was to sign both names i.e his own and Mr Ratnam's. Mrs Devi stated that Mr Ratnam was not aware of this happening.

The Evidence relating to Mr Kumar

20. Mr Shaw interviewed Mr Kumar on 7<sup>th</sup> November 2001.
21. Mr Kumar stated that he had known Mr Nirmalanandan for ten years and that he had known Mr Ratnam for ten or perhaps twelve years. Mr Kumar said that he had worked at Gratian & Co since the end of April 1997 (i.e. since the firm had been formed) and that his job title was that of Practice Manager. He added that in addition to the management of the office he had also conduct of immigration and civil Legally Aided matters supervised by Mr Nirmalanandan.
22. Mr Kumar said that he had been aware that both Mr Nirmalanandan and Mr Ratnam should sign client account cheques jointly for amounts of £2,500.00 or more. Mr Shaw asked Mr Kumar if he had been aware that Mr Nirmalanandan had signed both names, i.e his own and that of Mr Ratnam.
23. In his report Mr Shaw recorded that Mr Kumar responded by saying that about five or six months previously he had suspected this but only on one occasion. Mr Kumar added that when he had queried this, Mr Nirmalanandan had explained that Mr Ratnam had already signed this particular cheque and accordingly Mr Kumar felt that he could not accuse Mr Nirmalanandan of forging Mr Ratnam's signature.
24. Mr Shaw asked Mr Kumar when he had informed Mr Ratnam of this and Mr Kumar responded that it had been on Monday 1<sup>st</sup> October 2001, the day after Mr Nirmalanandan's death. Mr Shaw asked Mr Kumar why he had not informed Mr Ratnam of this matter sooner and Mr Kumar explained that he was only 50% sure there might be something wrong and as this was only a suspicion he had not informed Mr Ratnam until after Mr Nirmalanandan's death.
25. In his oral evidence Mr Shaw told the Tribunal that his report (and his contemporaneous notes) were not verbatim. His feeling was that what Mr Kumar meant was that on the particular occasion to which he referred he had been concerned about the signing of a cheque but he had not reported the matter to Mr Ratnam because he had not been absolutely sure that Mr Nirmalanandan had behaved inappropriately.
26. Mr Ratnam was present when Mr Shaw interviewed Mr Kumar on 7<sup>th</sup> November 2001. After Mr Kumar had left the room Mr Shaw asked Mr Ratnam if what Mr Kumar had said regarding his being suspicious on only one occasion, that Mr Nirmalanandan had forged Mr Ratnam's signature on a client account cheque, was Mr Ratnam's understanding of the position. Mr Ratnam said that he thought that Mr Kumar was not telling the truth and he stated that on 2<sup>nd</sup> October 2001 Mr Kumar had told him that he had been aware that Mr Nirmalanandan had been forging his signature on client account cheques.

27. Mr Ratnam said that later he spoke with Mr Kumar again about this matter and Mr Kumar had said that he had been aware of Mr Nirmalanandan forging his signature on client account cheques for about six months. Mr Ratnam said that he had asked Mr Kumar why he had not told him of this sooner and in response Mr Kumar had apologised for not having done so. In his oral evidence, Mr Ratnam confirmed that to have been the position.
28. Mr Ratnam said that his suspicions had not been aroused because he understood from Mr Nirmalanandan that he had made arrangements with the Bank for monies to be transferred electronically and such transactions were controlled by Mr Nirmalanandan who had a security number the use of which enabled him to do so.
29. Following an interview with Mr Kumar and his discussion with Mr Ratnam about the state of Mr Kumar's knowledge in connection with the forging of Mr Ratnam's signature on client account cheques by Mr Nirmalanandan, Mr Shaw again spoke with Mrs Devi on 9<sup>th</sup> November 2001. He asked Mrs Devi if Mr Kumar had been aware that it had been Mr Nirmalanandan's usual practice to sign both his name and that of Mr Ratnam on client account cheques. Mrs Devi responded by saying that of course Mr Kumar had been aware of this and that he had been so aware prior to her joining the firm in March 2000. She added that he knew about all of this as he was, after all, the Office Manager.
30. Mr Kumar's evidence was contained in his statement (undated) filed with the Tribunal shortly before the hearing and he gave oral evidence. Mr Kumar said that the occasion when he suspected Mr Nirmalanandan might have forged a signature took place about six months before Mr Nirmalanandan's death. It had been Mr Nirmalanandan's practice to take a couple of files out of the office to obtain Mr Ratnam's signature. The position of Mr Kumar's room within the office was such that he could see people coming and going. On the occasion in question Mr Nirmalanandan was behaving in a routine way and took some files out of the office with him in order to get the signature from Mr Ratnam. He returned to the office very quickly and Mr Kumar recalled saying to him "Nim (the way by which Mr Nirmalanandan was generally addressed) that is quick". Mr Nirmalanandan had replied that he already had a cheque signed by Mr Ratnam. Mr Kumar had not given the matter any more thought at the time, but when some six months later he learned about Mr Nirmalanandan's activities it brought to mind the occasion when he thought he had been very quick in getting Mr Ratnam's signature on a cheque, and came to realise that that was probably an occasion when Mr Nirmalanandan had forged Mr Ratnam's signature. He had not realised that at the time and had not therefore given any consideration to reporting the matter to Mr Ratnam.
31. Mr Kumar explained that he was the Office Manager. He had no responsibility for or exposure to the firm's accounts. He was not responsible for book keeping. He had no need of any cheques drawn on client account because the client work which he undertook was legally aided.
32. Mr Kumar had always believed that Mr Nirmalanandan was an honest and upright solicitor. This was evidenced by the fact that Mr Kumar had lent a substantial sum of money to him for practice purposes.

33. There had been bad feeling between Mr Kumar and Mrs Seekunto which might have provided an explanation for what she had said about Mr Kumar. Mr Kumar said that what Mrs Seekunto said was not true.

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

34. Mrs Seekunto had taken little or no part in the disciplinary proceedings and had not appeared at the hearing. She had made clear admissions to Mr Shaw and in the light of those admissions it was right that an Order pursuant to Section 43 of the Solicitors Act 1974 be made in respect of her.
35. The Tribunal was invited to conclude from the evidence before it that Mr Kumar had been aware that Mr Nirmalanandan had been forging Mr Ratnam's signature and it was incumbent upon a member of staff at the firm in which Mr Ratnam was one of two partners to report to him that such forgery was going on. Mr Kumar's failure to do was a serious matter and so rendered it appropriate that an Order pursuant to Section 43 be made in respect of him.

#### **The Submissions made on behalf of Mr Kumar**

36. The Tribunal had before it evidence which conflicted. It would be for the Tribunal to make findings of fact. In doing so the Tribunal was reminded that there had been bad feeling between Mr Kumar and Mrs Seekunto. Mr Ratnam and Mr Kumar had been in litigation and there was considerable bad feeling between them. The Tribunal should consider first that the evidence of Mrs Seekunto was untested and secondly that both the evidence of Mrs Seekunto and Mr Ratnam was tainted by the sour relationship they had with Mr Kumar. Mr Kumar was a straightforward and truthful witness.

#### **The Tribunal's Findings**

37. With regard to Mrs Seekunto, the Tribunal accepted that she had made clear and unequivocal admissions of her knowledge of the wrongdoing of Mr Nirmalanandan and she had failed to report to Mr Ratnam those matters of which she was aware.
38. Such behaviour on the part of a solicitor's employee rendered it appropriate that her future employment within the solicitors' profession (and those also regulated by The Law Society) should be subject to control.
39. The Tribunal had given careful consideration to the evidence relating to Mr Kumar's position. The Tribunal placed strong reliance on Mr Shaw's explanation that it was his view that Mr Kumar had upon being told of the forged signatures related that knowledge to the single incident which had occurred some six months earlier when he remarked that Mr Nirmalanandan had obtained Mr Ratnam's signature very quickly.
40. In concluding that this was what had happened, the Tribunal had further to conclude that Mr Kumar did not suspect Mr Nirmalanandan of forging Mr Ratnam's signature until after Mr Nirmalanandan's death when his nefarious activities came to light. The Tribunal therefore found the allegation against Mr Kumar not to have been substantiated.

41. The Tribunal made the following Order in respect of Mrs Seekunto:

The Tribunal ORDERED that as from 2nd day of August 2005 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Youshamatee Devi Seekunto of Hayes, Middlesex, a person who is or was a clerk to a solicitor and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,300.

42. The Tribunal considered it right that Mrs Seekunto should pay the costs in the fixed sum sought by the Applicant. The figure was a reasonable one and it was right that further time and costs should not be expended in connection with a detailed assessment.
43. With regard to Mr Kumar's position he had succeeded in his defence of the allegation made against him and it was right that The Law Society should pay his costs of and incidental to his defence of the allegation.
44. The Tribunal therefore orders that The Law Society do pay the costs of and incidental to Mr Kumar's defence of the allegations made against him such costs to be subject to a detailed assessment if not agreed between the parties.

Dated this 16<sup>th</sup> day of September 2005  
on behalf of the Tribunal

P Kempster  
Chairman