

IN THE MATTER OF MULKH RAJ MEHTA, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J R C Clitheroe (in the chair)
Mrs K Todner
Mrs V Murray-Chandra

Date of Hearing: 15th September 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 Michael Robin Havard, solicitor and partner in Morgan Cole Solicitors, Bradley Court, Park Place, Cardiff, CF10 3DP on 31st January 2005 that Mulkh Raj Mehta 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.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Robin Havard appeared as the Applicant. The Respondent did not appear and was not represented.

The evidence before the Tribunal included evidence as to due service of all of the papers relating to the proceedings before the Tribunal.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in that:-

- 1) He acted as a solicitor whilst not so qualified to act under Section 1 of the Solicitors Act 1974;
- 2) He practised as a solicitor at a time when he was suspended indefinitely from practising as a solicitor;

- 3) He acted in a deceitful manner and contrary to his position as a solicitor;
- 4) He failed to reply to correspondence from the Law Society.

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

The Tribunal orders that the Respondent, Mulkh Raj Mehta of Temple Row, Birmingham, solicitor, be struck off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,821.81.

The Tribunal noted that the address at which the Applicant's enquiry agent had been able to serve the papers was at Fancourt Avenue, Penn, Wolverhampton, West Midlands. The Tribunal arranged for the Order and these Findings to be sent to that address.

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

1. The Respondent, born in 1963, was admitted as a solicitor in 1992. By order of the Tribunal dated 25th April 2002 the Respondent was indefinitely suspended from practising as a solicitor. He had remained suspended since that date.
2. Two Forensic Investigation Officers of the Law Society attended at the offices of Vijay Kumar Momi, practising as VKM Solicitors at Aspect Court, 4 Temple Row, Birmingham B2 5HG on 3rd November 2003. Their report dated 10th March 2004 was before the Tribunal.
3. When the Respondent became aware that Mr Momi intended to take a vacation, the Respondent offered his services to Mr Momi to cover for him in his absence. Mr Momi accepted that offer. He was aware of the Respondent's continuing suspension from practice. Mr Momi was away on holiday from 27th October 2003 to 2nd November 2003.
4. In Mr Momi's absence the Respondent acted on behalf of Mr Momi's clients in the purchase of properties. He attended to exchange of contracts and pre-completion work, including signing certificates of title and making requests for advances to mortgagees.
5. In one matter it was clear that someone other than Mr Momi had signed the certificate of title submitted to HSBC as "Vijay Momi". Mr Momi was away: Mr Momi's sister who worked in Mr Momi's office denied that she had signed it.
6. When the Law Society's Forensic Investigation Officer (the FIO) commenced his inspection on 3rd November 2003, the Respondent introduced himself as Suktev Raj.
7. The Respondent informed the FIO that Mr G (a local solicitor) had attended the office on two occasions to provide supervision, that he had overseen correspondence and that he had spent between one to two hours at the office on each occasion. It was subsequently confirmed, and accepted by the Respondent, that Mr G had not attended

the offices nor received any contact from anyone at Mr Momi's office during Mr Momi's absence.

8. The Respondent indicated to the FIO that Miss Momi had signed all outgoing correspondence but Miss Momi indicated that she had not signed any such correspondence and had not signed any documents during Mr Momi's absence.
9. By letter of 6th January 2004 the FIO wrote to the Respondent seeking an explanation as to why he gave misleading statements at his meeting on 3rd November 2003. On 5th February 2004 the FIO wrote again to the Respondent requesting a response by 11th February 2004. The Respondent did not reply to those letters.

The Submissions of the Applicant

10. The Respondent had undertaken legal work in Mr Momi's firm, where Mr Momi was a sole practitioner, in Mr Momi's absence on holiday. In particular he had taken part in conveyancing transactions. It was accepted that the Respondent would be entitled to be employed by a solicitor with the Law Society's prior permission. At the time when the Respondent worked in Mr Momi's firm he had been granted permission and indeed did work as clerk for a firm of solicitors in London. The Law Society had given consent to such employment under section 41 of the Solicitors Act 1974. That permission had been granted subject to very stringent conditions.
11. No permission had been granted to Mr Momi to employ the Respondent as a clerk.

The Findings of the Tribunal

12. The Tribunal find the allegations to have been substantiated.

Previous appearances of the Respondent before the Tribunal

13. At a hearing on 18th January 1996 the following allegations were found to have been substantiated against the Respondent and another namely that they had:-
 - (i) contrary to Rule 8 of the Solicitors' Accounts Rules 1986 and Rule 8 of the Solicitors' Accounts Rules 1991 drawn money out of client account other than as permitted by Rule 7 of the said Rules;
 - (ii) utilised clients' funds for the purposes of other clients;
 - (iii) utilised clients' funds for their own purposes.
14. The Tribunal on that occasion accepted that the Respondents had not acted dishonestly and that the major overpayment being the main part of the shortfall on client account had occurred as an error. The Tribunal said that solicitors, however busy or under whatever pressure of work, had at all times to ensure that clients' funds were dealt with meticulously and it was fundamental that they ensure that their

bookkeeping and accounts were kept up to date. The Tribunal imposed a fine of £500.00 upon each of the Respondents together with costs.

15. At a hearing on 25th April 2002 the following allegations were found to have been substantiated against the Respondent. The allegations were that he had been guilty of conduct unbefitting a solicitor in each of the following particulars, namely:-

- (a) he acted in breach of the provisions of the Solicitors Accounts Rules 1998 in the following respects:-
 - (i) The Respondent failed to keep accounts properly written up for the purpose of Rule 1 of the aforesaid Rules;
 - (ii) he drew from clients' account monies other than in accordance with the provisions of Rule 22 of the aforesaid Rules and improperly utilised the same for his own benefit;
 - (iii) he allowed the client account to become overdrawn other than in accordance with Rule 22 of the aforesaid Rules;
 - (iv) he failed to pay client money into a client account contrary to the provisions of Rule 15 of the aforesaid Rules;
 - (v) he failed in his duty promptly to remedy breaches in the Rules upon discovery contrary to the provisions of Rule 7 aforesaid.
- (b) That the Respondent utilised clients' funds for his own purposes.
- (c) That the Respondent misappropriated clients' funds.
- (d) That the Respondent failed to exercise proper supervision over his employees.

16. In its Findings dated 19th July 2002 the Tribunal said:-

“The Tribunal was concerned that allegations of a serious nature had been substantiated against the Respondent and that this was the second time he had appeared before the Tribunal to face allegations involving misuse of clients' funds. The Tribunal had found on the allegations before it that the Respondent had recklessly failed to supervise and control the accounting functions of his practice. The Tribunal had regard to the protection of the public and had come to the conclusion that the Respondent should face a period of indefinite suspension.

In relation to the transaction involving Mr S the Tribunal had found that the Respondent had wrongly utilised clients' money to assist another client to complete conveyancing transactions. When the client paid him the balance of money the Respondent had wrongly placed this in his office account. As previously stated the Tribunal had not been satisfied with the Respondent's explanation and this supported the Tribunal in its conclusion that the Respondent was not presently fit to practise as a solicitor.

The decision of the Tribunal did not necessarily close the door to the Respondent continuing to be employed within the legal profession as he could, subject to the consent of the Law Society, be employed by another solicitor. The Tribunal considered however, having regard to the serious breaches of the Solicitors' Accounts Rules which had been substantiated against the Respondent and the substantial misuse of clients' money whilst under his control, that the Respondent himself should not be able to practise as a solicitor until he had satisfied another Tribunal that he had re-established his ability and competence again to act as a qualified solicitor. Members of the public must be able to feel confident that when they place their money in the control of a solicitor it will be safeguarded with scrupulous care.

The Tribunal granted the request made on behalf of the Respondent that the filing of the Tribunal's order be suspended for fourteen days.

The Tribunal ordered that the Respondent Mulkh Raj Mehta of 20 Allington Close, Greenford, Middlesex, UB6 8PH (formerly of 69a Church Street, Bilston, West Midlands, WB14 0AX) solicitor be suspended from practice as a solicitor for an indefinite period to commence on 25th April 2002 and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £3,500."

The Tribunal's Decision

17. The Tribunal found that Mr Mehta had undertaken conveyancing work at Mr Momi's office in the absence of Mr Momi. Because he was suspended from practice as a solicitor indefinitely Mr Mehta was not permitted to be employed or remunerated in a solicitor's practice without the consent of the Law Society first obtained. Mr Mehta could have been in no doubt as to the restrictions upon him as he was at the material time working at a firm of solicitors in London, such firm having been granted permission by the Law Society to employ him albeit on strict conditions. Mr Mehta clearly had deliberately chosen to ignore the fact that Mr Momi might not employ or remunerate him without the consent of the Law Society first obtained and in so doing ensured that Mr Momi himself was in breach of section 42 of the Solicitors Act 1974, a breach which would have serious consequences upon Mr Momi. The Tribunal concluded that it would be right in view of the Respondent's history and the seriousness of the allegations before the Tribunal on this occasion to strike him off the Roll of Solicitors. It was also right that the Respondent pay the costs of and incidental to the application and enquiry. The Tribunal accepted that the sum sought by the Applicant, namely £6,821.81 was entirely reasonable and in order to save time and further cost ordered the Respondent to pay fixed costs in that sum.

Dated this 17th day of October 2005
On behalf of the Tribunal

J R C Clitheroe
Chairman