

IN THE MATTER OF NADIA SHAH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr S N Jones (in the chair)
Mr A G Gibson
Mrs V Murray-Chandra

Date of Hearing: 2nd October 2006

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by David Elwyn Barton of David Barton Solicitor Advocate, 5 Romney Place, Maidstone, Kent, ME15 6LE on 24th October 2005 that Nadia Shah, solicitor, c/o Angela Davies Solicitors, Reynard Crag, Reynard Crag Lane, High Birstwith, Harrogate, HG3 2JQ might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations against the Respondent were that she was guilty of conduct unbecoming a solicitor in each of the following particulars:

- (a) She attempted to sell a client's property to her own sister in preference to another prospective buyer who had offered a higher price, and in so doing she acted contrary to Rule 1 of the Solicitors Practice Rules 1990 in a manner likely to compromise or impair:

the solicitor's independence or integrity

the good repute of the solicitor's profession

the solicitor's proper standard of work

the solicitor's duty to act in the best interest of her client;

- (b) In the course of acting in the aforesaid transaction she used her position as a solicitor to take unfair advantage for her sister contrary to Principle 17.01 of the Guide to the Professional Conduct of Solicitors in that she instructed the selling estate agent to reject a higher offer from other buyers;
- (c) She misled the Public Guardianship Office by failing properly to disclose that the buyer of the property was her sister and by stating that the offer to purchase was the result of a 6 to 8 week marketing exercise by the estate agents, and in so doing she acted contrary to Rule 1 of the Solicitors Practice Rules 1990 in a manner likely to compromise or impair:

the solicitor's independence or integrity

the good repute of the solicitors' profession

the solicitor's proper standard of work.

It was alleged in respect of each allegation that the Respondent was dishonest.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when David Elwyn Barton appeared as the Applicant. The Respondent did not attend the hearing and was not represented.

The evidence before the Tribunal included the admissions of the Respondent.

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

The Tribunal Orders that the Respondent Nadia Shah of Heald Green, Cheadle, Cheshire, (formerly c/o Angela Davies, Reynard Crag, Reynard Crag Lane, High Birtswith, Harrogate, HG3 2JQ) solicitor, be struck off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £23,097.56.

The facts are set out in paragraphs 1 to 8 hereunder:-

1. The Respondent, born in 1970, was admitted as a solicitor in 1998. At all material times the Respondent was an assistant solicitor in the Trust and Estates Department of the firm of Gorvins Solicitors at its offices in Stockport, Cheshire.
2. In August 2003 Andrew Cusworth, a partner in the firm of Gorvins and head of its Trusts and Estates Department, was appointed receiver in respect of a client named Mrs JL who was a patient of the Court of Protection. It fell to Mr Cusworth to sell Mrs JL's home in Cheadle Hulme ("the property") following her admission to a residential care home. Mr Cusworth assigned day-to-day conduct of the file to the Respondent.
3. The Respondent attempted to sell the property to her own sister, Mrs Maliha Kazmi, at an undervalue, namely £190,000. The Respondent's actions came to light in early November 2003 when solicitors for prospective purchasers, a Mr and Mrs P, wrote to

Mr Cusworth seeking explanation of the Respondent's refusal of Mr and Mrs P's offer for the property at a price known to be higher than any previous offer. Investigation by Gorvins led to the immediate suspension from employment of the Respondent and ultimately to the sale of the property to Mr and Mrs P for £275,000.

4. Gorvins' investigation revealed:
 - (a) The Respondent, contrary to the Trusts and Estate Department's usual practice, had sought only one valuation for the property and this on a "drive by" basis. The recommended marketing price range arising from this valuation was £220-235,000 (letter of 2nd July 2003 from Ms K Ince of Bradford & Bingley).
 - (b) The Respondent by letter dated 10th September 2003 advised the Court of Protection that estate agents had been marketing the property for six to eight weeks and had received a firm offer for £190,000 and that such offer in the professional opinion of the agents was a fair offer. The content of the letter was untrue.
 - (c) The Respondent on 16th September 2003, and before the property had been marketed, signed a contract with the agents with an asking price of £190,000 for the property. The buyer's name was Mrs Kazmi, the Respondent's sister. By letter dated 18th September 2003 the Respondent confirmed to the Public Guardianship Office that the offer put forward for the property was from an individual who was not in any way connected with the firm of Gorvins. The content of this letter was untrue.
 - (d) Mr and Mrs P had contacted the Respondent to enquire about the property having heard from friends that it was to be marketed and that Gorvins were the solicitors acting for the owner. On 24th September 2003 Mr and Mrs P offered £210,000 for the property. The Respondent refused this offer on the ground that an offer had already been accepted. It was however on 25th September 2003 when a Memorandum of Sale of the property to Mrs Kazmi at £190,000 was drawn up.
5. The Respondent was suspended from employment on 6th November 2003 at which time she denied knowing Mrs Kazmi. She was dismissed by Gorvins on 24th November 2003. The matter was reported to the Office for the Supervision of Solicitors ("OSS") which began its own investigation.
6. The Respondent in the course of the OSS investigation sought to inculcate Mr Cusworth by alleging that he had known that Mrs Kazmi was her sister. The Respondent in May 2004 sent to the OSS in support of this allegation a letter on Gorvins notepaper dated 9th October 2003. This letter was purportedly from Mr Cusworth to Mrs Kazmi and it could be inferred from it that Mr Cusworth was aware of the relationship between Mrs Kazmi and the Respondent. Mr Cusworth, who himself became the subject of an investigation by the OSS as a consequence, denied that he had known the relationship before 6th November 2003 and then only by reason of a search by a firm of genealogists instructed by Gorvins as part of its

investigation. The Respondent admitted the truth of Mr Cusworth's denial on 27th September 2006, a matter of only days before this disciplinary hearing.

7. Similarly the Respondent alleged to the OSS that Mr Cusworth had known of the content of her letter dated 18th September 2003 to the Public Guardianship Office. The Respondent said that the letter had gone to Mr Cusworth for his approval before she had sent it to the Public Guardianship Office. The lie in this was however apparent from the outset because Gorvins demonstrated that the letter had been faxed to the Public Guardianship Office within two minutes of its creation as a document on the hard drive of its IT system. Mr Cusworth in any event had been in France at the time when the Respondent alleged he had approved the letter.
8. The Respondent had also sought to avoid accepting responsibility for her conduct by asserting that a higher offer for the property from a Mr Hussain had been accepted by her and that Mr Hussain had withdrawn it because he had been "messed around" by the estate agents. The agents denied that a Mr Hussain had ever made an offer on the property and it was implicit in the Respondent's admission of all the allegations and the evidence against her that her assertion was not true.

The Tribunal's Decision and its Reasons

9. The Respondent by email to the Applicant on 27th September 2006 confirmed that she accepted all the allegations made against her and agreed all the evidence put forward by the Applicant in support of those allegations. The Tribunal accordingly found all the allegations proved on the Respondent's own admissions. The Tribunal considered that the evidence against the Respondent was in any event overwhelming and had she not made these admissions the Tribunal would have had no hesitation in finding all the allegations proved against her to a very high standard. The letter of 9th October 2003 purportedly from Mr Cusworth of Gorvins to the Respondent's sister was riddled with inaccuracies (for example, the firm's name was spelt incorrectly in the signature to the letter) and also with inconsistencies as regards Gorvins' house style (for example, the typescript was not aligned or justified, the wrong signature had been used and the word "partner" did not appear under Mr Cusworth's name) to the extent that it was inconceivable that this was a letter created and sent by Gorvins. Similarly the letter of 18th September 2003 which the Respondent at first alleged had been approved by Mr Cusworth was despatched within two minutes of creation and furthermore its creation was at a time when Mr Cusworth could demonstrate that he had been out of the country attending a wedding.
10. The Tribunal found this to be a deplorable case. The Respondent took advantage of a vulnerable client to prefer a member of her own family. This was a conscious, deliberate and dishonest act to divert a property from a purchaser who had offered £220,000 to her sister for £190,000. The Respondent had lied to the estate agents, to the Public Guardianship Office, to her colleagues and the partner to whom she was responsible and to the OSS. While it could not be said with certainty that the Respondent was the creator of the letter of 9th October 2003, nevertheless she must have known its contents were a lie at the time of sending it to the OSS. The Respondent had shown no remorse for her conduct, which but for the prompt investigation by her employers, could have resulted in substantial loss for her client, and she caused significant distress and expense to Mr Cusworth by trying to transfer

blame for her conduct to him. These were aggravating factors in a case involving serious dishonesty. All in all, the Respondent had acted disgracefully and the Tribunal ordered that she be struck off the Roll of Solicitors. The Tribunal further ordered that the Respondent pay costs of the application and enquiry fixed in the sum of £23,097.56.

11. The Tribunal had regard to the content of the Respondent's e-mail to the Applicant dated 27th September 2006. The Respondent's request to pay costs of £10,000 over a period of ten years was refused. The Respondent could have saved a great deal of time and effort by many concerned in this matter had she accepted her guilt at an earlier stage. She must now meet the full costs of her conduct.

Dated this 27th day of October 2006
On behalf of the Tribunal

S N Jones
Chairman