

IN THE MATTER OF ADEOYE ORIADE ADEJUWONLO ADEBOWALE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M. Hartley (in the chair)

Mr D Potts

Mrs N Chavda

Date of Hearing: 4th January 2007

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Iain George Miller, solicitor, formerly of Wright Son & Pepper, solicitors, but subsequently of Bevan Brittan, solicitors, of Fleet Place House, 2 Fleet Place, Holborn Viaduct, London, EC4M 7RF on 28th February 2006 that Adeoye Oriade Adejuwonlo Adebowale of Sheepbridge, Huddersfield, a solicitor, might be required to answer the allegations contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think right.

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

1. He provided legal services to members of the public contrary to:
 - (a) the Solicitors Separate Business Code 1994; and/or
 - (b) the Solicitors Incorporated Practice Rules 1998; and/or
 - (c) the Solicitors Indemnity Rules.
2. He failed to ensure that the notepaper of his practice, Adebawale & Co, was not misleading in any way contrary to the Solicitors Publicity Code 1990.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 4th January 2007 when Iain George Miller appeared as the Applicant and the Respondent did not appear and was not represented.

At the opening of the hearing the Applicant reminded the Tribunal that there had been difficulties with regard to service of the proceedings but confirmed that the Respondent had been served with all documents.

The Applicant produced an additional bundle of correspondence at the hearing from which the Tribunal was invited to note that the Respondent had sought further and better particulars of the allegations and the Applicant had responded to such request. The Tribunal ruled that the Applicant had given appropriate further and better particulars and had gone to some lengths to explain the nature of the allegations to the Respondent.

The evidence before the Tribunal included the documents which had been served upon the Respondent who had during the course of correspondence with the Applicant and the Tribunal confirmed that he had practised through a limited company as was alleged. The Tribunal had before it a wealth of correspondence addressed both to the Applicant and to the Tribunal by the Respondent, all of which has been taken into account and has been summarised under the heading "The submissions of the Respondent".

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

The Tribunal Orders that the Respondent, Adeoye Oriade Adejuwonlo Adebawale of Sheepbridge, Huddersfield, 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 £5,800.

The facts are set out in paragraphs 1-10 hereunder:

1. The Respondent, born in November 1964, was admitted to the Roll on 16th September 2002. The Respondent's name remained on the Roll.
2. At all material times the Respondent practised through a company called Adebawale & Co (Litigation Specialists) Ltd from Suite 117, Wellington Building, 28-32 Wellington Road, St John's Wood, London NW8 9SP.
3. Shadbolt & Co's clients had received a letter dated 13th March 2003 from Adebawale & Co (Litigation Specialists) Ltd describing that company as "Member of The Law Society of England and Wales; Member of the International Bar Association; Member (Assoc) American Bar Association; Registered in England & Wales Company No. 4607286". Shadbolt & Co explained to The Law Society in its letter of 6th May 2003 that it had been corresponding with the Respondent at Adebawale & Co (Litigation Specialists) Ltd and they understood that he was a practising solicitor who held a current practising certificate. Upon enquiry The Law Society had confirmed that Adebawale & Co (Litigation Specialists) Ltd was not a member of The Law Society of England and Wales.

The submissions of the Applicant

4. The Respondent was regulated as a solicitor in the manner in which he could provide services to members of the public. Such regulation was in the public interest. The Respondent's letter of 13th March 2003 raised the following difficulties. He practised through a limited liability company called Adebowale & Co (Litigation Specialists) Ltd which was not a solicitor's practice recognised by The Law Society pursuant to the Solicitors Incorporated Practice Rules 1988. This meant that the company did not have in place appropriate regulations under the Incorporated Practice Rules. In addition, the nature of the practice meant that any liability for negligence would be primarily the responsibility of the company (which was not a solicitor's practice) and therefore it could not have in place appropriate indemnity insurance. The Respondent had not provided details of his indemnity insurance when requested by The Law Society to do so.
5. The practice of the Respondent through Adebowale & Co (Litigation Specialists) Ltd, which was not a solicitor's practice, was also a breach of the Solicitors Separate Business Code.
6. In the before mentioned letter of 13th March 2003 it was indicated that Adebowale & Co (Litigation Specialists) Ltd was a member of The Law Society of England & Wales. That was misleading. That company was not a member of The Law Society and was entirely unregulated.
7. The Respondent had adopted a very combative approach to The Law Society and in the disciplinary proceedings. It was his position that he had done nothing wrong. He did not assert that he had misunderstood or had misinterpreted the relative Rules and Code of Practice.
8. The central thrust of allegation 1 was that the Respondent's practice through Adebowale & Co (Litigation Specialists) Ltd was an impermissible arrangement for the provision of legal services to members of the public-. In particular, Section 3 of the Solicitors Separate Business Code provided:

"subject to the exceptions in Sections 4 and 5, a solicitor must not have a separate business which provides any of the following services..... (a) the conduct of any matter which could proceed before any court, tribunal or enquiry, whether or not proceedings are commenced."

The exceptions did not apply in the Respondent's case and it was therefore impermissible for him to carry on business through his company as evidenced by the Respondent's letter of 13th March 2003.
9. The carrying on of a solicitor's practice business through a limited company was impermissible unless there was compliance with the Solicitors Incorporated Practice Rules 1988. The Respondent had not complied with the totality of those Rules.
10. In relation to insurance there were two elements. First, the Respondent had not provided evidence that he had indemnity insurance at all at the relevant time. Rule 4 of the Solicitors Indemnity Insurance Rules 2002 provided:

"A firm is required to take out and maintain qualifying insurance under these Rules if it carries on a practice during any indemnity period beginning on or

after the 1st September 2002, provided that a person (being either a solicitor or registered European Lawyer) shall not be required to take out and maintain qualifying insurance under these Rules in respect of work done as an employee or whilst otherwise directly engaged in the practice of another firm (including without limitation as appointed person), where that firm is required by these Rules to take out and maintain qualifying insurance."

The second element was that his practising through the limited company would mean that the primary liability would be that of the limited company, which was not a recognised body, and therefore did not have in place appropriate indemnity insurance.

The submissions of the Respondent

11. The Respondent did not consider that the allegations against him were clear.
12. Mr Adebawale had worked previously for three limited liability companies which provided legal services to members of the public for profit. He argued that there was no objection to him similarly providing legal services through the vehicle of a limited liability company.
13. The Respondent pointed out that Sir David Clementi's final report on the regulation of legal services in England and Wales specifically acknowledged (and contained examples of) legal services which were unregulated and lawful under the Legal Services Act 1992.
14. It was the Respondent's position that his own legitimately formed limited liability company was no different from others which provided legal services to the public from those by which he had previously been employed. He sought from the Applicant a definition of "legal services".
15. The Respondent had made a request for further and better particulars of the allegations contained in the Applicant's Rule 4(2) Statement.
16. Section 21 of The Solicitor's Act 1974 only prohibited or reserved to a law firm or solicitor's practice three legal services namely conveyancing, advocacy or conduct or litigation before ordinary courts (not employment or immigration tribunals, etc) and probate matters. The Respondent had not provided any of those three exclusive legal services.
17. The Respondent had referred to memberships of The Law Society and the Bar Association. He was a member of The Law Society of England and Wales and held a practising certificate. He did not indicate on his company's notepaper that it was regulated by these professional organisations.
18. The Respondent had used the same notepaper for his covering letter when applying for a practising certificate for the year 2002/2003.
19. The Respondent's practising certificate had been terminated by The Law Society leading to the destruction of his marriage following financial hardship. He had been

homeless three times (including in the United Kingdom); his young daughters aged 8 and 4 had grown up without having a father figure or knowing him.

The Findings of the Tribunal

20. The Tribunal found the allegations to have been substantiated.

The Tribunal's decision and its reasons

21. Being a solicitor brings with it both benefits and burdens. Many solicitors would regard it as a benefit to earn their livelihood from practice as a solicitor of the Supreme Court of Judicature. Practice as a solicitor is regulated by The Law Society in order to ensure that members of the public seeking advice and assistance from solicitors are protected and to ensure that the good reputation of the solicitors' profession is not brought into question. Ordinary members of the public who are not solicitors are not subject to regulation by The Law Society and members of the public who seek assistance from non-solicitors do not have the protection afforded to members of the public who seek assistance from members of the solicitors' profession. The Solicitors Separate Business Code 1994 and The Solicitors Incorporated Practice Rules 1998 bind members of the solicitors' profession, as do the Solicitors' Indemnity Rules. Whilst it is open to solicitors to practise as such via a limited company, they may not do so unless that company is a body recognised by and regulated by The Law Society. Compliance with the Incorporated Practice Rules is required.
22. Adebowale & Co (Litigation Specialists) Ltd was not a solicitors' incorporated practice recognised by The Law Society. It could not truthfully be described as "a member of The Law Society", which was asserted on the very face of the notepaper of that company. On its face, that was plainly misleading and ran contrary to the Solicitors Publicity Code 1990.
23. It appeared from the correspondence placed before the Tribunal that the Respondent simply did not grasp that the burdens of compliance with all regulatory requirements imposed upon him as a solicitor were considerable and could not be evaded by an attempt to provide legal services through an unregulated company. To do so seriously damaged the good reputation of the solicitors' profession and put members of the public at risk. The reality was that the Respondent had sought to put himself beyond regulation.
24. The Respondent's actions coupled with his failure to accept that what he had done was improper and wrong led the Tribunal to conclude that he was not fit to remain on the Roll of Solicitors. The Tribunal Ordered that the Respondent be struck off the Roll of Solicitors.
25. The Tribunal considered the Applicant's application for costs in the figure of £5,800. The Tribunal accepted that the Respondent had been combative and unhelpful and had taken up no small amount of the Applicant's time. The Tribunal considered that the figure of £5,800, inclusive, was entirely reasonable and therefore Ordered the Respondent to pay the Applicant's costs fixed in the sum sought.

DATED this 9th day of February 2007
on behalf of the Tribunal

W M Hartley
Chairman