

IN THE MATTER OF DILESH KATECHIA, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr S N Jones (in the chair)

Mr J N Barnecutt

Ms A Arya

Date of Hearing: 14th November 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 Stuart Roger Turner, solicitor advocate of Lonsdales Solicitors, 342 Lytham Road, Blackpool, Lancashire, FY4 1DW on 24th March 2006 that Dilesh Katechia of Ilford, Essex, 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.

The allegation against the Respondent was that he had been guilty of conduct unbefitting a solicitor in that contrary to Rule 22 of the Solicitors Accounts Rules he consciously, deliberately and improperly withdrew, for either his own and/or a third party's benefit, money from his firm's client bank account, to which neither he nor they were entitled, and in so doing was dishonest.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 14th November 2006 when Stuart Roger Turner appeared as the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant gave details as to due service of the relevant documentation on the Respondent.

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

The Tribunal Orders that the Respondent Dilesh Katechia of Ilford, Essex, 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 £7,494.53.

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

1. The Respondent, born in 1973, was admitted as a solicitor in 2000.
2. At all material times the Respondent carried on practice in partnership at DHK Jacob and Co Solicitors, 730 Romford Road, London, E12 6BT.
3. An inspection of the books of account and certain other documents of the firm DHK Jacob & Co Solicitors by a Forensic Investigation Officer of the Law Society was commenced on 15th November 2004. The inspection began following notification by the Respondent's partner, Mr C, that the Respondent had been acting dishonestly in removing funds from client account. The Report noted the matters set out below.
4. There was a shortfall on client account of £732,000. As a result of investigations by the Respondent's partner ("Mr C") unauthorised transfers from client account were discovered. He confronted the Respondent at a meeting on 5th November 2004. The Respondent admitted misappropriating funds and was dismissed. A total of 10 unauthorised telegraphic transfers and an incorrect bank draft were identified.
5. Between 28th April 2004 and 12th October 2004 the client bank account had been charged with 10 telegraphic transfers ranging in amounts from £12,000 to £100,000 and totalling £582,000. These were made payable to eight payees for whom no current client matter ledger was maintained. The Report set out the circumstances of the misappropriation of each of the unauthorised telegraphic transfer payments. The earlier telegraphic transfer payments had been allocated to client ledger accounts in order to disguise the misappropriation of client funds. Later payments had not been allocated to client ledger accounts.
6. The Report also set out the circumstances of the unauthorised bank draft. A bank draft for £150,000 in favour of Declan O'Donaghue was drawn on client bank account on 28th May 2004 at the instigation of the Respondent. Payment was posted to a client matter ledger which appeared to have nothing to do with Declan O'Donaghue. On 28th May 2004 the receipt of a mortgage advance of £170,930 had been posted on the matter ledger ensuring the appearance that sufficient funds were held to support the payment of the bank draft of £150,000. That receipt of £170,930 on the matter ledger was reversed on 7th June 2004.
7. On 1st June 2004 a mortgage advance of £149,955 was received and correctly recorded on the matter ledger. The previous mortgage was not redeemed until 18th June 2004 by which time the £150,000 correctly due to this matter had been misappropriated by way of the bank draft in that amount resulting in a shortage on

this matter of the same amount. The client matter file disclosed neither a reference to the payment of £150,00 nor the receipt of a mortgage advance of £170,930.

8. On 3rd February 2005 the Law Society wrote to the Respondent and his partner Mr C separately enclosing a copy of the Forensic Investigation Report of 4th January and sought their explanation concerning the matters raised within it. The Respondent failed to reply and Mr C replied on 17th March 2005.

The Submissions of the Applicant

9. A Civil Evidence Act Notice had been served on the Respondent on 20th June 2006 to which there had been no reply. The Applicant had also written to the Respondent on 2nd November 2006.
10. The Respondent was currently on police bail but no proceedings had been commenced against him.
11. The firm's insurers' solicitors had indicated that judgement had been obtained against the Respondent, Mr O'Donaghue and another two of the payees referred to at paragraph 5 above. The Respondent had submitted to a Judgement.
12. The Respondent had returned the pre-listing questionnaire to the Tribunal with partial admissions. The allegation of dishonesty was based upon those partial admissions and upon the evidence presented by the Respondent's partner to the Forensic Investigation Officer.
13. The Applicant sought his costs in the sum of £7,494.53 as set out in his schedule of costs.

The Findings of the Tribunal

14. The Tribunal considered carefully the documentation before it. There was clear evidence of misappropriation of client funds by the Respondent. The Respondent in the pre-listing questionnaire had admitted the matter in part without specifying what was admitted. Nonetheless on the evidence before it the Tribunal was satisfied to the high standard required that the allegation, which was one of dishonesty, was substantiated. This was a very serious matter. The Respondent had breached the trust placed in the profession by members of the public. No mitigation had been put forward by the Respondent for his actions and the Tribunal was satisfied that in order to protect the public the appropriate penalty was to strike the Respondent's name off the Roll of Solicitors. It was also right that the Respondent be ordered to pay the Applicant's costs in the sum sought.

15. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent Dilesh Katechia of Ilford, Essex, 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 £7,494.53.

Dated this 12th day of January 2007

On behalf of the Tribunal

S N Jones
Chairman