

IN THE MATTER OF ATHER RAFIQUE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J N Barnecutt (in the chair)
Mrs E Stanley
Mrs V Murray-Chandra

Date of Hearing: 14th September 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 Jonathan Richard Goodwin of Jonathan Goodwin Solicitor Advocate, 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 21st April 2006 that Ather Rafique of Walthamstow, London, E17, 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 he had been guilty of conduct unbecoming a solicitor in each of the following particulars, namely:-

- (i) He created a document that was false and misleading dated 27th April 2005 for the purpose of being admitted to the Roll of Solicitors;
- (ii) He created a document that was false and misleading dated 15th June 2005 for the purpose of being admitted to the Roll of Solicitors;
- (iii) He created a document that was false and misleading dated 4th April 2005 for the purposes of being admitted to the Roll of Solicitors;

- (iv) That contrary to section 84 of the Solicitors Act 1974 (as amended) he failed to give notice of change in his place of business within the required time period, or at all.

The Applicant specified for the avoidance of doubt that allegations (i), (ii) and (iii) were allegations of dishonesty.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 14th September 2006 when Jonathan Richard Goodwin appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent including his admission of dishonesty in relation to allegations (i) to (iii).

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

The Tribunal Orders that the Respondent Ather Rafique of Walthamstow, London, E17, solicitor, be struck off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,000.

The facts are set out in paragraphs 1 to 17 hereunder:-

1. The Respondent, born in 1976, was admitted as a solicitor in 2005 and his name remained on the Roll of Solicitors.
2. The Respondent was admitted as an advocate of the Punjab Bar Council in August 2000. Pursuant to Regulation 11(1) of the Qualified Lawyers Transfer Regulations 1990, he was required to pass the Professional Conduct and Accounts Head of the Qualified Lawyers Transfer Test. Further, pursuant to Regulation 11(2) of the said Regulations the Respondent was required to complete a 19 month period of legal practice experience. The Respondent had been given a reduction from the normal period of 2 years based on his previous work experience.

Allegations (i) and (ii)

3. By letter dated 27th April 2005 the Respondent wrote to the Law Society enclosing a work experience letter purportedly from Amjad Malik Solicitors dated 27th April 2005.
4. By letter dated 15th June 2005 the Respondent wrote to the Law Society making application for admission as a solicitor and for a Practising Certificate. He enclosed various documentation to include a further work experience letter purportedly from Amjad Malik solicitors dated 15th June 2005.
5. In due course the Respondent's Practising Certificate, following his admission to the Roll of Solicitors, was sent to the firm of Amjad Malik Solicitors as had been the request. However, by letter dated 5th August 2005 Amjad Malik Solicitors wrote to the Law Society indicating that they did not employ the Respondent and returned the Practising Certificate.

6. A member of staff at the Law Society contacted Amjad Malik in an attempt to obtain an alternative address to which the Practising Certificate could be sent and was informed that the Respondent had not worked for the firm since July 2004.
7. By letter dated 28th September 2005 the Law Society wrote to Mr A Malik seeking confirmation as to whether various letters said to have been written by him were genuine.
8. By letter dated 29th September 2005 Mr Malik replied and said:-

“We confirm that our office has no record of writing letters dated 27th April 2005 and 15th June 2005 and the signatures do not match either and no permission was sought to issue such letters.

Furthermore, we write to confirm that Ather Rafique was offered work experience placement on 14th April 2004 and he worked at our practice for experience from 14th April 2004 - 21st July 2004.”

9. By letters dated 30th September 2005 and 6th October 2005 the Law Society wrote to the Respondent seeking his explanation.
10. By a letter dated 12th October 2005 the Respondent provided a detailed explanation. He accepted that he had created the false documentation. He wrote:-

“In April 2005 in my second attempt I passed the Professional Conduct and Accounts test. At this time, I wanted to ask Mr Malik for writing another experience letter to Law Society but could not dare because of Mr Malik’s strict attitude with me. ... However, Mr Malik continued cautioning and scolding me time and again to work with perfection. This type of behaviour led me to believe that Mr Malik would refuse to give me an experience letter at that moment. On the other hand, as I had completed the required experience period, I wanted to be enrolled as a solicitor as early as possible and leave Amjad Malik Solicitors and apply for a job somewhere else. Therefore I myself drafted letters dated 27th April 2005 and 15th June 2005 and sent to the Law Society without the permission of Mr Malik. However, I confirm that the contents of those letters are correct.”

Allegation (iii)

11. As part of the enquiry the Law Society found a letter dated 12th September 2004 from the Hull Witness Service. A further letter dated 4th April 2005 purportedly from the same organisation was on file.
12. Given there appeared to be a difference in the signature, and the typeface used on the letter of 4th April 2005 was similar to that used in the letters purportedly from Mr Malik dated 27th April 2005 and 15th June 2005, the Law Society wrote to Mr R of the Hull Witness Service by letter dated 1st December 2005 seeking confirmation as to the authenticity of the letter dated 4th April 2005.

13. By letter dated 7th December 2005 Mr R confirmed that letters dated 12th September 2004 and 10th October 2005 were genuine, but in relation to the letter dated 4th April 2005 said that he had no memory or record of having sent the same and did not believe that the signature was his.
14. By letter dated 15th December 2005 the Law Society wrote to the Respondent seeking his explanation.
15. By letter dated 28th December 2005 the Respondent replied and said:-

“I understand that the last paragraph of Mr R’s letter confirms the contents of the letter of 4th April 2005 which I drafted on his behalf.”

Allegation (iv)

16. The Respondent qualified as a solicitor on 15th July 2005 and left his then employment on 31st July 2005 to seek alternative employment. The Respondent failed to give notice to the Law Society of any change in his place of business within the required 14 days or at all. The Respondent stated in correspondence that he was not aware of the provisions of Section 84 of the Solicitors Act 1974 (as amended).
17. In addition to his letter of 12th October 2005 the Respondent provided further representations in letters dated 30th November 2005, 29th January 2006 and 24th May 2006.

The Submissions of the Applicant

18. The Respondent had admitted the allegations and had accepted that he had acted dishonestly in relation to allegations (i) to (iii). The Tribunal was referred in particular to the Respondent’s letter to the Applicant dated 24th May 2006. The Respondent had admitted that he should not have written the letters. The Tribunal was referred to the Judgement of the then Master of the Rolls Sir Thomas Bingham in the case of Bolton -v- The Law Society 1994 1 WLR 512.
19. In the submission of the Applicant the Respondent had taken a conscious decision to act improperly which for a solicitor equated with dishonesty. The Respondent had written the false letters in order to gain admission as a solicitor which was an aggravating factor. In his letter of 12th October 2005 the Respondent had written:-

“I made mistakes and plead guilty.”
20. Irrespective of whether the contents of the letters were true, it was the drafting of the letters which was the offending conduct. It was also debatable as to whether the contents were true given that the Respondent had said that Mr Malik would not have given him a work experience letter at that particular time.
21. Although the Respondent had admitted dishonesty the Tribunal was invited to consider the case of Twinsectra -v- Yardley and Others [2002] UKHL 12. The

Applicant submitted that the public would regard the Respondent's conduct as wrong, i.e. dishonest and the Respondent had known at the time that it was wrong, i.e. dishonest.

22. The Applicant accepted that allegation (iv) was of a less serious nature but said that allegations (i) to (iii) represented dishonesty of the most serious kind. To the Respondent's credit he had admitted these matters at an early stage and was present.
23. The Respondent had agreed the Applicant's costs.

The Submissions of the Respondent

24. The Respondent referred the Tribunal to his first letter to the Law Society dated 12th October 2005 enclosing all relevant documentation about his professional experience.
25. The Respondent said that he had worked at Amjad Malik Solicitors from September 2003 to July 2005 but in a letter dated 21st June 2004 regarding his work experience Mr Malik had only referred to experience commencing on 1st April 2004. He had also referred only to part time work. This differed from a letter from Mr Malik to the Respondent dated 14th April 2004 referring to full time work and a further letter dated 21st July 2004 referring to work experience from 14th April to 21st July 2004. The actual position was as set out in the Respondent's letter of 12th October 2005, namely September 2003 to July 2005.
26. The Respondent referred to his previous professional experience in Pakistan as an advocate of the Punjabi Bar Council. He confirmed that he had attended the Hull Witness Service as confirmed by Mr R in his letter of 7th December 2005.
27. The Respondent said that due to the attitude of Mr Malik the Respondent was unable to get Mr Malik's consent to a letter to the Law Society. The Respondent's parents had been ailing and had been asking him to go to Pakistan for marriage. The Respondent had been forced therefore to write the letter as someone under duress.
28. The Practising Certificate had been sent to Mr Malik while the Respondent was in Pakistan. The Respondent had had a long friendship with Mr Malik.
29. The Respondent said that given his background and his voluntary work he should not be penalized. He deserved enrolment as a solicitor but due to bad luck he had acted in a particular way. He was a young man with a family and responsibilities and was now without a job. He had been working in the law for 10 years and had made only the one mistake.
30. The Tribunal was asked on compassionate grounds not to impose a heavy penalty which the Respondent could not bear.
31. The Respondent confirmed that he had asked Mr Malik for a letter but the reply had not been favourable.

The Decision of the Tribunal

32. The Respondent had admitted the allegations and the Tribunal found them to have been substantiated. The Tribunal was satisfied that applying the tests in the case of Twinsectra -v- Yardley the Respondent's conduct had been dishonest and indeed the Respondent had admitted that dishonesty.
33. The Tribunal had considered carefully the correspondence from the Respondent and his submissions to the Tribunal. It was unclear exactly what work the Respondent had been doing for Mr Malik, on what basis and for how long, but there was no doubt that the Respondent had drafted the letters of 27th April 2005, 15th June 2005 and 4th April 2005 and that he sought to mislead the Law Society as to who had written the letters. These were very serious matters involving forgery in order to gain admission as a solicitor. They were created with the intention of misleading.
34. The Respondent had sought leniency on the grounds of his youth, his responsibilities, his background and his voluntary work. He had also stated that he had made only one mistake although in fact he had forged letters on three separate occasions. It was the Tribunal's duty to maintain the high standards of the profession. In the case of Bolton -v- Law Society Sir Thomas Bingham had said:-

“It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and trustworthiness.

...

Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed on him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the Tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors.

...

It is important that there should be full understanding of the reasons why the Tribunal makes orders which might otherwise seem harsh.

...

The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission.”

35. In the light of that Judgement and given the Respondent's blatant acts of dishonesty the Tribunal was satisfied that he should not remain a member of the profession. The Tribunal made the following Order:-

The Tribunal Orders that the Respondent Ather Rafique of Walthamstow, London, E17, solicitor, be struck off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,000.

Dated this 22nd day of November 2006
on behalf of the Tribunal

J N Barnecutt
Chairman