

IN THE MATTER OF VICTOR IKECHUKWU JIBUIKE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A H B Holmes (in the chair)  
Mrs K Todner  
Mr M C Baughan

Date of Hearing: 22nd April 2008

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of The Law Society by Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72-74 Fore Street, Hertford, Herts, SG14 1BY on 23<sup>rd</sup> November 2007 that Victor Ikechukwa Jibuike then c/o his solicitors, Murdochs Solicitors, but later of Thornton Heath, Surrey, 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 allegations against the Respondent were that he had been guilty of conduct unbefitting a solicitor in each of the following particulars:

- (i) he dishonestly withheld from his employers moneys received from clients;
- (ii) he acted with a lack of frankness and good faith towards his employers.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 22<sup>nd</sup> April 2008 when Stephen John Battersby appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included the oral evidence of Mr Malone and Mr Uddin.

At the commencement of the hearing the Applicant said that the Respondent had been represented by Messrs Murdochs, solicitors, but they had written to the Applicant on 21<sup>st</sup> April 2008 to indicate that they were no longer instructed, that the Respondent would not be attending but that Messrs Murdochs had advised him of the consequences of lack of representation and the failure to attend at all.

The Tribunal directed that the substantive hearing should proceed in the absence of the Respondent.

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

The Tribunal Orders that the Respondent, Victor Ikechukwu Jibuike of Thornton Heath, Surrey, 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 £6,000.00.

**The facts are set out in paragraphs 1 to 11 hereunder:**

1. The Respondent, born in 1967, was admitted as a solicitor in 1995 and his name remained on the Roll of Solicitors.
2. At the material time he was employed as an assistant solicitor by the firm of Powell and Co at 77 Woolwich New Road, London, SE18 6ED. His employment with the firm commenced on 6<sup>th</sup> November 2000 and he left the firm for reasons unconnected with the matters before the Tribunal on 9<sup>th</sup> November 2005.
3. After the departure of the Respondent from Powell and Co the two partners of the firm, Mr CM and Mrs RP discovered that he had acted for clients in 31 matters of which the firm had previously been unaware. The partners reported the matter to The Law Society (now the Solicitors Regulation Authority) in March 2006.
4. On 27<sup>th</sup> March 2006 an Investigation Officer of The Law Society, Mr Uddin, commenced an inspection at the premises of Powell and Co. His Report dated 1<sup>st</sup> February 2007 was before the Tribunal. The Report was based on representations made to Mr Uddin by the partners of the firm and by the Respondent as well as documents inspected.
5. A schedule of the matters involved was appended to the Report. Mr M calculated that the Respondent had received some £8,725 from clients which he retained. The Respondent himself agreed that he had retained moneys in connection with the cases but only £7,025.
6. Payments made by clients to the Respondent were either in cash or by cheque made payable personally to him. None of the cases had been entered into the firm's computerised accounting or time recording systems nor had the relevant files and paperwork been maintained within the firm's filing system. All the correspondence sent out in connection with the 31 cases was prepared by the Respondent and not, as would usually have been the case, by a secretary. In connection with some of the matters, disbursements would have been paid but these had not been discharged from the firm's bank accounts and Mr M therefore assumed that they either had been paid by the client or by the Respondent.

7. Mr Uddin sought the explanation of the Respondent for the matters complained of. The Respondent claimed that it was accepted practice within the firm for fee earners to do legal work and keep the fees themselves for what he described as 'one off jobs'. This explanation applied to all but two of the cases referred to in the schedule. This being so, the Respondent did not agree that he had misappropriated moneys in connection with these matters. The Respondent claimed that he had declared his income from these matters to the Inland Revenue, although he had not produced any evidence of this.
8. The Respondent conceded that although he had acted in a personal capacity rather than as employee of Powell and Co in 29 of the 31 matters, the letters going out had been written on the firm's letterhead. He also admitted that had a client made a complaint or lodged a negligence claim, this would have been against the firm rather than him personally, despite the fact that he claimed to be acting in a personal capacity.
9. In two of the matters considered in the Report (those of Mr DG and Mr TW) the Respondent claimed that he had been acting on behalf of the firm rather than in his own personal capacity as in the other matters. Despite this, neither of the cases were recorded within any of the firm's system. For example, no ledgers or files were opened, and the moneys which the Respondent had received (£3,000 in the case of Mr DG and £1,000 in the case of Mr TW) had been retained by him rather than being paid to his employers. One of the bills to Mr DG bore a false invoice number as well as not being recorded in the firm's books of account. A statement provided by Mr DG was before the Tribunal. Since the matters had been investigated, the Respondent had accounted to his former employers for the £4,000 involved in these two cases.
10. In the case of Mr TL. Mr M alleged that the Respondent had received moneys totalling £3,100 from the client which had neither been banked nor recorded in any client ledger account. The Respondent claimed that this was a case in which he had acted in a personal capacity but that he had only received about £2,000 which had been paid into his personal bank account. A similar situation had arisen in the case of Mr and Mrs D in which the Respondent had received £450 by way of a cheque which he had paid into his personal bank account. As in the matters of Mr DG and Mr TW referred to above, since the investigation commenced the Respondent had accounted to his former employers for the £2,000 which he admitted receiving from Mr TL.
11. The Respondent was written to by the SRA on 27<sup>th</sup> February 2007 when his explanation for his conduct was sought. The initial response was contained in a letter from his solicitors of 20<sup>th</sup> April 2007. In this letter, contrary to what the Respondent had told Mr Uddin, it was stated that he acted for Mr DG and Mr TW on a private basis rather than through the firm. It was denied that his conduct had been dishonest. In a further letter of 30<sup>th</sup> April 2007 the Respondent's solicitors said that the Respondent was making arrangements to return the moneys which he had retained in connection with the files of Mr DG, Mr TW and Mr TL. This, however, was being undertaken without prejudice to his position. It was stated on his behalf that on 28 other matters he had acted on behalf of Powell and Co, but, in accordance with what they said was accepted practice within the firm, had charged and retained the fees personally. He did not hold any of these files.

### **The Submissions of the Applicant**

12. The Applicant was alleging dishonesty against the Respondent. He had taken cases on using the firm's notepaper for clients who had paid him money, none of which had gone through the books of the firm. Some matters had been minor but others were substantial including lengthy proceedings.
13. It had taken some time before the Investigation Officer was able to establish contact with the Respondent and it was this which had caused the delay in producing the Report.
14. The figure asserted by the Respondent at paragraph 5 above was not unsubstantial.
15. In the matters of DG and TW and the matter of Mr TL, it was suggested by the Applicant that had matters not come to light the Respondent would not have accounted to his former employers for the sums received in these three cases, especially as the firm would have had no knowledge of the matters in any event. His conduct had to be viewed as dishonest.
16. The partners in the firm had been investigated and The Law Society Adjudicator had rightly said that there was no case for them to answer.

### The oral evidence of Mr Malone

17. Mr Malone confirmed that the contents of his statement and supporting exhibits dated 4<sup>th</sup> March 2008 were correct. Mr Malone was one of the two partners in the firm.
18. The Respondent had carried out mainly housing work and had been with the firm for five years. After he left the firm for other reasons, clients had contacted the firm but there had been no record of their matters.
19. It was not true that there was an accepted practice within the firm as asserted by the Respondent for staff to keep fees. There were about ten solicitors in the firm. The Respondent was paid a basic salary plus a bonus scheme.
20. The figure put forward by Mr Malone was limited to those matters where he was able to find out what had been paid. Whilst some amounts had subsequently been paid back the firm had not been aware of the matters before the Respondent left the firm.

### The oral evidence of Mr Uddin

21. Mr Uddin confirmed that he carried out the investigation and prepared the Report and that its contents were correct and represented the findings he had made.
22. The first Appendix to the Report was a list of cases prepared by Mr Uddin as a result of the investigation and the interviewing of the Respondent. The second Appendix was a statement of one of the clients together with receipts of money paid to the Respondent.
23. The third Appendix was an invoice to Mr G with a false number, Appendix 5 was a Counsel's fee note and Appendix 6 a further invoice.

### **The Findings of the Tribunal**

24. In the absence of the Respondent the Tribunal had considered carefully the allegations, the documentation including written representations made at an earlier stage on behalf of the Respondent, the oral evidence and the submissions of the Applicant.
25. The Tribunal having heard the oral evidence of Mr Malone did not accept the assertion made by the Respondent to Mr Uddin and repeated in representations made by his then solicitors that it was accepted practice within the firm for fee earners to keep fees for themselves. Mr Malone in oral evidence which the Tribunal accepted had said that this was not the case. The Respondent had by his own admission retained the funds paid to him by clients, had not put the cases through the firm's systems yet had written letters to the clients on the firm's letterhead. The Tribunal applying the objective and subjective test set out in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12 found that the Respondent, in acting in the way described above and in concealing the matters from his firm, had behaved dishonestly by the standards of reasonable and honest people. The Tribunal, having accepted the evidence of Mr Malone, was satisfied so that it was sure that the Respondent did not have an honest belief that he was authorised to take moneys in the way he did from the clients and that therefore he knew that what he was doing was dishonest by those same standards.
26. The Respondent had not attended and there was no mitigation before the Tribunal. Having found the Respondent to have acted dishonestly the Tribunal had a duty to protect the public and the reputation of the profession by striking the Respondent's name off the Roll.
27. The Applicant had supplied a costs schedule to the Respondent's former solicitor and sought his costs from the Tribunal in a slightly reduced sum. The Tribunal considered it right that the Respondent be ordered to pay the costs in the reduced fixed sum.
28. The Tribunal Ordered that that the Respondent, Victor Ikechukwu Jibuike of Thornton Heath, Surrey, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,000.00.

Dated this 15th day of August 2008

On behalf of the Tribunal

A H B Holmes  
Chairman