

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10681-2010

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SURESH LADWA

Respondent

Before:

Mr. R. Nicholas (in the chair)

Mr A G Gibson

Mr. G. Fisher

Date of Hearing: 24th May 2011

Appearances

Mark Barnett, solicitor of Solicitors Regulation Authority, Ipsley Court, Berrington Close, Redditch, Worcestershire B98 0TD for the Applicant.

The Respondent did not appear and was not represented.

JUDGMENT

Allegation

1. The allegation against the Respondent, Suresh Ladwa, on behalf of the Solicitors Regulation Authority, was that he had, in the opinion of the Law Society, occasioned or been a party to an act or default in relation to a legal practice which involved conduct on his part of such a nature that, in the opinion of the Society, it would be undesirable for him to be involved in a legal practice in one or more of the ways mentioned in Section 43(1)(A) of the Solicitors Act 1974 as amended by the Legal Services Act 2007 in that he:-
 - 1.1 did legal work without the knowledge or authority of his employer;
 - 1.2 did legal work not in accordance with his employer's proper practices and procedures;
 - 1.3 failed to act in clients' best interests;
 - 1.4 misled clients.

2. The Applicant sought an order pursuant to Section 43(2) of the Solicitors Act 1974 (as amended) that except in accordance with Law Society permission:-
 - (i) no solicitor shall employ or remunerate him in connection with his practice as a solicitor;
 - (ii) no employee of a solicitor shall employ or remunerate him in connection with the solicitor's practice;
 - (iii) no recognised body shall employ or remunerate him;
 - (iv) no manager or employee of a recognised body shall employ or remunerate him in connection with the business of that body;
 - (v) no recognised body or manager or employee of such a body shall permit him to be a manager of the body;
 - (vi) no recognised body or manager or employee of such a body shall permit him to have an interest in the body;

Documents

3. The Tribunal reviewed all the documents submitted by the Applicant and the Respondents, which included:

Applicant:

- The application for an Order under Section 43(2) of the Solicitors Act 1974 (as amended) dated 10 December 2010.
- Rule 8 (5) Statement dated 10 December 2010 with exhibit.
- Witness statement of James Timothy Norton dated 10 May 2011 with exhibit under cover of Notice dated 10 May 2011.
- Previous Findings dated 30 May 2006.

Respondent:

- None.

Preliminary Matter

4. The Respondent did not appear and was not represented. Mr Barnett informed the Tribunal that he had had no communication from the Respondent. The proceedings had been served on 14 February 2011. Mr Barnett had written to him at his home address on 13 January, 9 February and twice on 10 May and most recently on 19 May 2011 making clear in that letter that the hearing was due to take place today. The Tribunal had written to the Respondent on 14 January 2011 and that letter had not been returned. Mr Barnett asked the Tribunal to proceed in the absence of the Respondent. He also brought to the attention of the Tribunal the fact that the statement of Mr J T Norton a partner in the firm had been served on the Respondent on 10 May 2011. The form of notice with the statement had been filed and served fourteen rather than twenty one days before the date fixed for the hearing as was prescribed in Rule 14(2) of the Solicitors (Disciplinary Proceedings) Rules 2007. The reason for the timescale was difficulty in getting documents needed for the statement. Mr Barnett submitted that in the circumstances of the Respondent's non engagement with the proceedings there would be no unfairness to him for the statement and exhibit to be admitted in evidence and he asked the Tribunal to exercise its discretion to permit that admission or to abridge the time required under Rule 14(2).
5. The Tribunal carefully considered Mr Barnett's submission and determined that Mr Norton's statement and exhibit would be admitted into evidence. The Tribunal also determined that it was satisfied that notice of the hearing had been served on the Respondent in accordance with the Rules and that it would exercise its power under Rule 16(2) to hear and determine the application notwithstanding that the Respondent had failed to attend in person and was not represented at the hearing.

Factual Background

6. The Respondent, who was not a solicitor, was employed by Hadgkiss Hughes & Beale (the firm) of Acocks Green, Birmingham (the firm) from 1996 until his dismissal on 8 May 2009.
7. In January 2004 following a complaint made by a client, Mr C, for whom the Respondent had acted in an immigration matter, the firm imposed specific controls on the work the Respondent could do and the manner in which he could do such work:-
 - that he was only to do property related work and not under any circumstances to accept instructions to act in litigation work;
 - that all matters in which he was instructed to act would require the proper opening of a file and the creation of a client ledger account and a record on the firm's computer system;
 - that he was not to remove any file from the office without the written permission of one of the firm's partners;

- that all of his incoming post was to be checked by a partner.

8. By letter dated 27 May 2009 the firm wrote to the Solicitors Regulation Authority (“SRA”). The firm advised:-

“As a result of a disciplinary investigation it has been necessary to terminate his [the Respondent’s] employment summarily on grounds of gross misconduct.”

The firm went on to explain that they had received a number of complaints from clients, which had been received within a relatively short period of time and shared similarities in that:-

- they related to litigation work;
- clients had been assured by the Respondent that he was dealing with their case and had been given detailed information about the action taken to date when, in fact, the Respondent had done nothing at all;
- in each case the Respondent’s false representations had been ongoing for some time;
- clients had become frustrated that the Respondent was not returning their telephone calls or otherwise responding to them;
- upon investigation, no files had been opened for these clients nor could the firm find any correspondence or other papers associated with their matters.

9. The firm stated further:-

“Upon receiving each complaint we commenced an investigation under our internal complaints procedure, and when questioned Mr Ladwa denied that he had accepted instructions from the clients or that the conversations which they had alleged had taken place. However, at a recent meeting in connection with the disciplinary proceedings he admitted to us that the clients were telling the truth, and that he had led them to believe that he was dealing with their cases, when he had in fact done nothing at all. It is clear, therefore, that he deliberately misled the clients and us. Mr Ladwa could offer no explanation for his actions other than to say that he found it difficult to say “No” to clients who asked for his help.”

10. The firm considered that the Respondent’s actions had exposed them to “significant risk”.

11. By letter dated 18 August 2009 the SRA sought further information from the firm.

12. Mr K, a partner in the firm, responded substantively on 25 November 2009. In his letter, Mr K provided further information about, inter alia, the Respondent’s employment at the firm, the supervisory arrangements that were in place to monitor his work and the client complaints. He expressed the concern that “had the clients

concerned not contacted one of the partners the complaints would not yet have come to light.”

13. Mr K stated further that it had taken the clients a long time to complain, which he opined was a reflection of their level of trust in the Respondent.
14. Mr K said that the firm was investigating another complaint made by a client who had instructed the Respondent in a personal injury claim and that again there was no open file or other record of the matter held by the firm.
15. The first of those complaints which the firm received was from a Mr T in June 2007. Mr T told the firm that he and his wife were seeking possession of a property in Redditch which they owned. Mr T complained that in July 2005 the Respondent had accepted instructions to seek a possession order of the property in order to evict the sitting tenant. However there appeared to be no progress in the matter. The Respondent had acted for Mr and Mrs T in the purchase of the property and there was a file relating to that transaction. Apart from that no physical file papers could be located. Mr T provided copies of emails he said that he had sent to the Respondent regarding the lengthy delay in obtaining a possession order.
16. Another complaint was received on behalf of a Mr and Mrs L who had given the Respondent instructions to apply for possession of their rented property in Redditch during 2006. Again it appeared that the Respondent had not opened a file in accordance with office procedures and had not undertaken any steps including commencing court proceedings notwithstanding that he appeared to have advised Mr and Mrs L otherwise.
17. A further complaint was received on behalf of Mr and Mrs CL. This stated that Mr and Mrs CL had instructed the Respondent to obtain possession of their tenanted property in Moseley, Birmingham in October 2006. Despite the Respondent assuring them over a period of years that he had been undertaking the possession proceedings, no possession proceedings had in fact been commenced by him and again no file had been opened.
18. A number of matters were also raised by Mr R. He stated that he had instructed the Respondent to act in connection with a personal injury claim and a boundary dispute. The Respondent had on numerous occasions informed Mr R that progress was being made with respect to both matters. In fact no action had been taken. Again no file had been opened on the firm’s accounts system.
19. In April 2009 telephone calls were received at the firm from Mr B. These were followed up by an undated letter in which Mr B set out his complaint.

“With regard to our telephone conversations over the last 2/3 weeks, please find the following information regarding my case.

My accident occurred [sic] in Feb 2001... As we were in the process of moving house at the time it was only natural that Mr Ladwa would fight my claim for compensation as we had discussed the accident whilst at your offices.

Over the following months and years the case had gone on with many phone calls to Mr Ladwa. He would let me know how the case was progressing with

regard to my medical injuries/papers being forwarded to the M.I.B and how this could take a long time as this was not a straightforward case due to the other vehicle being stolen. Over the years Mr Ladwa informed me he had declined many offers of compensation saying, and I quote him “ridiculous and to go away”. This brings us to the present day with Mr Ladwa no longer working with you.

I’m clearly not alone in this matter and i’ve [sic] been told that my case is one of many that you are trying to resolve within your company. The final conversation I had with Mr Ladwa was towards the end of March 2009. His phone call was to inform me that he was £500 away from settling the claim and said it was worth hanging on for a few more weeks as I had already waited this long, either way he said I would have my due compensation by the end of April 2009, this figure was currently £4,750.

I feel i [sic] have been clearly mislead [sic] and misrepresented in the worst case possible... I have never had any written correspondence from Mr Ladwa as i [sic] have always spoke [sic] to him direct and never with his secretary.

Also i [sic] have never written or signed and [sic] documentation to terminate this case with your company.

I hope this letter enables you to clarify the unbelievable position [sic] I have been left in. The last company you could think of would be a solicitors (sic) to leave a client in this position. I hope this matter is resolved as quickly as possible with the absolute minimum of inconvenience [sic] to myself and the compensation due to me is forwarded to myself immediately.”

The exhibit to Mr Norton’s statement contained emails in respect of settlement negotiations concerning claims from Mr B and Mr R. The emails were from solicitors representing the firm’s professional indemnity insurers. They showed that Mr B’s claim against the firm had been settled for £8,500 and Mr R’s for £3,750.

20. By letter dated 1 December 2009 the SRA wrote to the Respondent seeking his explanation for the allegations and issues arising from the firm’s correspondence. No reply was received.
21. By letter dated 10 March 2010 the SRA wrote to the Respondent informing him that the matter was being referred to an Adjudicator for a formal decision to be made. There was no response to that letter either.
22. On 27 April 2010 an Adjudicator decided that the Respondent’s conduct should be referred to the Solicitors Disciplinary Tribunal pursuant to Section 43 of the Solicitors Act 1974 (as amended).
23. By letter dated 29 April 2010 the Respondent was informed of this decision.

Witnesses

24. None.

Findings of Fact and Law

25. **The allegation against the Respondent, Suresh Ladwa, on behalf of the Solicitors Regulation Authority, was that he had, in the opinion of the Law Society, occasioned or been a party to an act or default in relation to a legal practice which involved conduct on his part of such a nature that, in the opinion of the Society, it would be undesirable for him to be involved in a legal practice in one or more of the ways mentioned in Section 43(1)(A) of the Solicitors Act 1974 as amended by the Legal Services Act 2007 in that he:-**

- 1.1 did legal work without the knowledge or authority of his employer;**
- 1.2 did legal work not in accordance with his employer's proper practices and procedures;**
- 1.3 failed to act in clients' best interests;**
- 1.4 misled clients.**

25.1 It was submitted on behalf of the Applicant that the facts showed that there had been a detriment to clients as a result of the Respondent's misconduct which had damaged the reputation of the legal profession in the eyes of the public and the evidence showed that losses had occurred. In all the circumstances Mr Barnett submitted that it was both necessary and appropriate for the Tribunal to make the order sought.

25.2 The Tribunal carefully considered the submissions on behalf of the Applicant and the evidence. The firm had given the Respondent very clear instructions as to how he should work and what he could and could not do. He had completely ignored them.

25.3 The Tribunal found that the Respondent had accepted instructions from clients without advising his employers. The matters were outside the scope of the specific controls which the firm had imposed on him in January 2004 and he therefore had no authority to undertake the work. (Allegation 1.1)

25.4 The Tribunal found that the Respondent had conducted the matters without regard for his employer's proper practices and procedures. He had not opened files for the matters or otherwise complied with his employer's requirements. (Allegation 1.2).

25.5 The Tribunal found that the Respondent had failed to take appropriate action regarding his client's matters as a result of which they had suffered detriment. (Allegation 1.3)

25.6 The Tribunal found that the Respondent had persistently lied to clients.

25.7. It found the details of Mr B's experience at the hands of the Respondent particularly concerning, that case having been exemplified before the Tribunal. (Allegation 1.4)

25.8 The Tribunal found all aspects of the allegation to have been proved.

Previous Disciplinary Matters

26. The Respondent had been before the Tribunal in 2006 (matter number 9341/2005). It

had been found proved that he had acted in a matter personally without the knowledge or authorisation of the partners of his employer firm, the same as in this matter, when he took instructions to deal with an immigration matter on behalf of Mr C and in so doing failed to open a file in accordance with the firm's proper procedures, retained a file at home without proper authority and used his employer's letterhead without authority. The Tribunal had found that allegation to have been substantiated but in the particular circumstances had made an order for a contribution towards costs but had not felt it necessary to make an order under Section 43.

Sanction

27. The Tribunal was very concerned by the Respondent's persistent course of conduct which had been to the detriment of clients and the profession and determined that it would make the order sought under Section 43(2).

Costs

28. The Applicant sought an order for costs in the sum of £2,004.44. Mr Barnett informed the Tribunal that he had served notice on the Respondent of the costs sought. He had received no reply. He submitted that there was no information that indicated the Tribunal should not make an order for costs and asked the Tribunal to leave it to the discretion of the Applicant to enforce a costs order as appropriate. The Tribunal determined that an order for costs fixed in the amount sought should be made.

Statement of Full Order

29. The Tribunal Ordered that as from 24th day of May 2011 except in accordance with Law Society permission:-
- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Suresh Ladwa of 68 College Road, Moseley, Birmingham, B13 9LP;
 - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Suresh Ladwa;
 - (iii) no recognised body shall employ or remunerate the said Suresh Ladwa;
 - (iv) no manager or employee of a recognised body shall employ or remunerate the said Suresh Ladwa in connection with the business of that body;
 - (v) no recognised body or manager or employee of such a body shall permit the said Suresh Ladwa to be a manager of the body;
 - (vi) no recognised body or manager or employee of such a body shall permit the said Suresh Ladwa to have an interest in the body;
- And the Tribunal further Ordered that the said Suresh Ladwa do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,004.44.

Dated this 20th day of June 2011

On behalf of the Tribunal

R. Nicholas
Chairman