

IN THE MATTER OF VERA PALRAM AILOO and
ANANDANARAYANAN VENGADASSALAM, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr R B Bamford (in the chair)
Mrs E Stanley
Mr S Howe

Date of Hearing: 8th September 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors' Regulation Authority (SRA) by Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill of 72 – 74 Fore Street, Hertford, Herts, SG14 1BY on 5th February 2009 that Vera Palram Ailoo and Anandanarayanan Vengadassalam, both solicitors of Raja Solicitors, First Floor, 502 High Road, Wembley, Middlesex, HA9 7BH 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 Respondents were that:-

- (1) They failed to keep their books of account properly written up contrary to Rule 32 Solicitors Accounts Rules 1998 ("SAR").
- (2) They gave costs information to clients in conveyancing transactions which were inaccurate and misleading contrary to Rules 1 and 15 of the Solicitors Practice Rules 1990 ("SPR") and the Solicitors' Costs Information and Client Care Code 1999.

The further allegations against the First Respondent, Mr Vera Palram Ailoo only were that:-

- (3) He permitted use to be made of his client account in circumstances where there was no proper underlying transaction contrary to note ix to Rule 15 SAR 1998 and Rule 1 SPR 1990.
- (4) He failed to take proper and adequate precautions to guard against the possibility of money laundering contrary to Rule 1 SPR 1990.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 8th September 2009 when Stephen Battersby appeared as the Applicant and the Respondents both appeared and were represented by Mr Trevette.

The evidence before the Tribunal included the admissions of the Respondents, a witness statement from both Respondents and a number of references for both Respondents.

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

The Tribunal Orders that the Respondent Vera Palram Ailoo of Raja Solicitors First Floor, 502 High Road, Wembley, Middlesex, HA9 7BH, solicitor, do pay a fine of £3,000.00, such penalty to be forfeit to Her Majesty the Queen.

The Tribunal Order that the Respondent, Anandanarayanan Vengadassalam of Raja Solicitors, First Floor, 502 High Road, Wembley, Middlesex, HA9 7BH, solicitor, do pay a fine of £2,000.00.

The Tribunal Orders the Respondents do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,803.84. Costs are to be paid jointly and severally by all Respondents.

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

1. The First Respondent was born in 1949 and admitted a solicitor on the 15th January 2002. The Second Respondent was born in 1974 and admitted as a solicitor on 15th July 2003.
2. On 16th January 2007 an Investigation Officer (“IO”) of the SRA commenced an investigation of the books of account and other documents of the Respondents at their practising address. The investigation report dated 14th April 2008 was before the Tribunal.

Allegation 1

3. The situation as at 31st December 2006 was that the books of account had not been written-up properly. The firm’s dealings with office money relating to client matters were not recorded on the office side of the relevant account within the client’s ledger. Although the Respondents had taken some steps to rectify the situation after it was drawn to their attention in February 2007, the records were still incomplete at 9th April

2008 in that the firm's bills of costs were not always recorded and the account balance on the office side was not shown.

4. The Respondents were unable to produce a proper record of the invoices raised by the firm during 2006. This was because no central bill file had been maintained, but by April 2008 the situation had been rectified and the Respondents were able to provide files which contained copy bills and completion statements for the period from January 2007 until 31st March 2008.

Allegation 2

5. The IO's analysis of conveyancing transactions carried out by the Respondents revealed that they had incorrectly described certain items in initial letters, invoices and completion statements as 'disbursements' when this was not the case. They charged £30.00 for a disbursement in respect of a telegraphic transfer fee. In fact, their bank only charged them £20.00 for this service and therefore on each occasion they made a secret profit of £10.00. Over the course of the 12 month period commencing 1st January 2006 the total gained was £5,580.00.
6. The Respondents on many occasions charged as a disbursement 'administration costs' or 'disbursements'. Typically, this amount would be £155.00 and the total of these charges for the 12 months commencing 1st January 2006 was £52,561.22.
7. Included within the list of disbursements on a number of files in the client care letter and completion statement was an item 'Stamp Duty Form'. The Respondents explained that this related to work carried out in preparing the form for the Inland Revenue. Clearly, therefore, this charge ought to have been part of their profit costs rather than being stated to be a disbursement. The total charges raised under this heading for the year commencing 1st January 2006 were £16,221.24.

Allegations 3 and 4 against the First Respondent only

8. In December 2006 and February 2007 the First Respondent had been instrumental in causing three large sums of money to be received into and paid out from the firm's client account in circumstances where there was, in reality, no underlying transaction. Each of the three matters was described as a 'debt recovery case', but a common feature was that the purported debtor was perfectly happy to pay the sum said to be owed. The First Respondent carried out no real work and all that happened was that the firm's client account was used to receive and pay out funds on behalf of two clients on three occasions.
9. The first matter involved a loan of £402,650.00. The initial instructions were given by the client Mr A on 20th December 2006 and the following day £400,000 (representing the monies owed to Mr A less the costs of the solicitors on the other side) was received into client account. On the same day, £397,032.50 was transferred to a bank account held by Mr A, the First Respondent having retained £2,967.50 for costs.
10. On 17th January 2007 the same Mr A again instructed the First Respondent to act for him in recovering a debt of £405,960 from the same borrower. Again, the requisite monies were very swiftly paid into the firm's client account Friday 19th January 2007.

On the next working day (Monday 22nd January) the firm transferred £402,992.50 to Mr A after deducting costs.

11. On or about 20th December 2006 the firm was instructed by Mr S to recover a loan of £300,000.00. The firm's attendance note showed that the debtor, Mr B, was willing to pay the loan through his solicitor. Once again, therefore, there was no real work for the First Respondent to carry out and on 20th December 2006, the very day that they were requested from the other solicitors, the funds arrived in the firm's client account.

The Submissions of the Applicant

12. The Applicant confirmed that both of the Respondents had recently been declared bankrupt. He submitted the First Respondent had acted naively but not dishonestly. He had followed full identification procedures and indeed, had verified the funds had come from a bank account, However, it was submitted that pursuant to the Law Society's Guidance on Money Laundering published on 18th January 2005, he should have made a report to NCIS and he should have refused to continue acting on behalf of Mr A. It was clear there was no underlying transaction and that he had allowed the firm's client account to be used as a conduit for monies.
13. The Applicant provided a schedule of his costs which were claimed in the sum of £9,803.84.

The Submissions of the Respondents

14. Mr Trevette, on behalf of both Respondents confirmed that they accepted their failings and admitted the allegations. Both Respondents had been working with Raja & Co Solicitors and in 2004, there had been a Practice Standards Unit visit. The Tribunal were handed a copy of the report from the Practice Standards Unit which indicated that at that time some of the costs information given to clients had not been identified as wrong. Accordingly, the Respondents, believing they had been given a clean bill of health by the Law Society purchased the practice of Raja Solicitors for £150,000.00. They took comfort in the fact that there had been a Practice Standards Unit visit and indeed, since then there had been other Practice Standard Unit visits. However, it was only when the investigation in January 2007 commenced that the errors came to light. The Respondents took steps to rectify the position immediately, they arranged for the firm's book keeper to receive training on the Solicitors' Accounts Rules and the firm's accounts were computerised. In relation to the allegation regarding secret profits, the firm made refunds to some clients and new client care letters were produced.
15. The Respondents had intended to pay back money to all the clients where wrong costs information had been given to them but last year, they were unable to obtain professional indemnity insurance and ended up in the Assigned Risks Pool. The property market plunged, and as a result, last week the Respondents were forced to declare themselves bankrupt. They notified the SRA that the partnership had dissolved and the practice had closed. Under normal circumstances there would have been an intervention of the practice but the Respondents had properly closed down the practice so no intervention was necessary.

16. Both of the Respondents were hugely embarrassed to be before the Tribunal today and had tried to deal with their failings. The First Respondent recognised in hindsight that the transactions referred to in relation to allegation 3 and 4 were such that it was not proper for him to act as a solicitor and he should have been more vigilant. However, it was stressed that there was no evidence of money laundering in any of the cases referred to and those were the only three cases where this had happened.
17. The First Respondent was 60 years of age and his practising certificate had been suspended. He had adult children and had previously enjoyed a successful career in Malaysia where he had planned to return but settled here due to his family.
18. The Second Respondent was much younger. His practising certificate had also been suspended and he intended to apply for it to be reinstated so that he could gain employment.
19. The Tribunal were referred to the references provided for both Respondents and were asked to take into account the Respondents witness statements. Both Respondents were decent men. They had run a decent solicitors' practice and they were hugely ashamed to be here today. Indeed, Mr Trevette confirmed that the First Respondent had found it very difficult to discuss the case with him this morning and had been ashamed of the embarrassment caused within his community.
20. In relation to the question of costs, the Respondents accepted that these appeared to be reasonable but referred the Tribunal to the case of *Merrick v The Law Society* [2007] EWHC 2997 (Admin) in relation to the Respondents' ability to pay them. The Respondents had no money, they already had huge debts and the closure of their practice had been expensive. They were in a very difficult situation and the Tribunal was asked to take this into account.

The Tribunals Findings

21. The Tribunal had listened carefully to the submissions of the parties and had taken into account all the documents provided. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
22. This was a sad case and the Tribunal noted that the breaches relating to the accounts only concerned office accounts and there had been no risk or losses to client monies. In relation to allegation 2, it was clear that the deductions made had been incorrectly described as disbursements and the Tribunal noted clients were fully informed of the amount to be deducted and had not suffered any loss.
23. Nevertheless, the obligation to maintain accounting records in accordance with the Solicitors Accounts Rules was there to allow the Authority to monitor proper stewardship of client monies. Breaches of the Solicitors Accounts Rules were always serious and the profession could not run without strict adherence to them. While the instances before the Tribunal had little if any direct effect on clients and the Respondents had tried to correct them they were nevertheless breaches which were admitted by the Respondents.

24. The First Respondent admitted his naivety which gave rise to the problems in relation to allegations 3 and 4 but the Tribunal stressed again that solicitors were expected to take a correct view of their clients' transactions and the Law Society's Guidance on money laundering was there to protect not only clients but solicitors as well.
25. However, the Tribunal were mindful that there had been no allegation of dishonesty. The Respondents had tried very hard to put things right as soon as they became aware of the breaches and they had obviously suffered financially as a result of the recession. The Tribunal did not consider this case to be at the top end of the scale and took into account the good references provided. The Tribunal had also taken into account that neither Respondent had appeared before the Tribunal previously. In the circumstances, the Tribunal considered the appropriate penalty was to fine the First Respondent £3,000.00 and the Second Respondent £2,000.00.
26. In relation to the question of costs, the Tribunal had considered the financial circumstances of both Respondents and had sympathy with the position they had found themselves in. The Tribunal had taken into account the case of Merrick v The Law Society but as the Tribunal were not making an Order depriving the Respondents of their livelihood, the case could be distinguished. Accordingly, the Tribunal ordered both Respondents should pay the costs in full in the sum of £9,803.84 but expected the SRA to take a view on enforcement given both Respondents' circumstances.
27. The Tribunal made the following Orders:-

The Tribunal Orders that the Respondent Vera Palram Ailoo of Raja Solicitors First Floor, 502 High Road, Wembley, Middlesex, HA9 7BH, solicitor, do pay a fine of £3,000.00, such penalty to be forfeit to Her Majesty the Queen.

The Tribunal Order that the Respondent, Anandanarayanan Vengadassalam of Raja Solicitors, First Floor, 502 High Road, Wembley, Middlesex, HA9 7BH, solicitor, do pay a fine of £2,000.00.

The Tribunal Orders the Respondents do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,803.84. Costs are to be paid jointly and severally by all Respondents.

Dated this 21st day of December 2009

On behalf of the Tribunal

R B Bamford
Chairman