

IN THE MATTER OF GURMINDER KAUR BHANGRA, AMIRTHALINGHAM
THIRUMALAISAMY, DEVAKI RAJAKUMAR, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. J. P. Davies (in the chair)
Mr A G Gibson
Mr. J. Jackson

Date of Hearing: 10th 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 Jonathan Richard Goodwin, Solicitor Advocate of 17e Telford Court, Dunkirk Lea, Chester Gates, Chester CH1 6LT on 25th July 2008 that:-

Gurminder Kaur Bhangra of 296 Green Lane, Ilford, IG1 1YD solicitor and;
Amirthalingham Thirumalaisamy of 34 Skeffinton Road, London, E6 2NB solicitor and;
Devaki Rajakumar of Flat 3, Hutton Court, 83 Tramway Avenue, London, N9 8PQ solicitor
might be required to answer the allegations contained in the statement which accompanied
the application and that such Order may be made as the Tribunal should think fit.

The allegations against the Respondents were that:-

1. Contrary to Rule 6 of the Solicitors Accounts Rules 1998 (‘the 1998 Rules’) they failed to ensure compliance with the Rules;
2. They failed to keep accounting records properly written up contrary to Rule 32 of the 1998 Rules;
3. They failed to produce all records and documentation of the firm to the representative appointed by the Solicitors Regulation Authority (“SRA”); [withdrawn against Ms Rajakumar]

4. They failed and/or delayed in the delivery of an Accountants Report for the period ending 31st December 2005, due for delivery on or before 30th September 2006, contrary to Section 34 of the Solicitors Act 1974 (as amended) and the Rules made there under;
5. They failed and/or delayed in the delivery of an Accountants Report for the period ending 31st December 2006, due for delivery on or before 30th June 2007, contrary to Section 34 of the Solicitors Act 1974 (as amended) and the Rules made there under; [withdrawn against Ms Rajakumar]

The additional allegations against Gurminder Kaur Bhangra and Amirthalingham Thirumalaisamy were

6. They failed to comply with an Order of Romford County Court dated 21st August 2007, contrary to Rule 1.01, 1.06 and/or 11.02 of the Solicitors Code of Conduct 2007 (“SCC”).
7. They failed and/or delayed in replying to correspondence from the Solicitors Regulation Authority (“SRA”) contrary to Rule 20.03 of the SCC.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 10th September 2009 when Jonathan Goodwin appeared as the Applicant, Ms Bhangra and Mr Thirumalaisamy did not appear and was not represented, and Ms Rajakumar did appear and was represented by Katrina Wingfield.

The evidence before the Tribunal included the admissions of Ms Rajakumar to allegations 1, 2, and 4 and a chronology provided to the Tribunal by Ms Rajakumar together with some references in relation to her character.

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

The Tribunal Orders that the Respondent, GURMINDER KAUR BHANGRA of 296 Green Lane, Ilford, IG1 1YD, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to Her Majesty the Queen.

The Tribunal Orders that the Respondent, AMIRTHALINGHAM THIRUMALAISAMY of 34 Skeffinton Road, London, E6 2NB, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to Her Majesty the Queen.

The Tribunal Orders that the Respondent DEVAKI RAJAKUMAR of Flat 3, Hutton Court, 83 Tramway Avenue, London, N9 8PQ solicitor, be REPRIMANDED.

The Tribunal further Orders that the costs of and incidental to this application and enquiry be fixed in the sum of £17,700.00. Devaki Rajakumar is to pay a contribution of £1,000 towards such costs and the other Respondents are to be jointly and severally liable for the remainder.

The acts are set out in paragraphs 1 - 15 hereunder:-

1. The First Respondent Gurminder Kaur Bhangra was born in 1971 and was admitted as a solicitor on 15th December 2000. Her name remained on the Roll of Solicitors.
2. The Second Respondent Amirthalingham Thirumalaisamy was born in 1975 and was admitted as a solicitor on 15th September 1005. His name remained on the Roll of Solicitors.
3. The Third Respondent Devaki Rajakumar was born in 1974 and was admitted as a solicitor on 3rd March 2003. Her name remained on the Roll of Solicitors.
4. The Respondents carried on practice in partnership under the style of Alexis Associates from offices at 14 Becontree Avenue, Dagenham, Essex, RM 2UB and subsequently 119a Ilford Lane, Ilford, Essex, IG1 2RN. Ms Bhangra practiced in partnership between December 2004 – 19th September 2006, as a sole principal from 20th September 2006 – 1st October 2006 and from 2nd October 2006 practiced in partnership with Mr Thirumalaisamy.
5. Mr Thirumalaisamy was a partner at Alexis Associates between 2nd October 2006 and the date of the SRA's intervention on 10th January 2008. Ms Rajakumar was a partner at Alexis Associates between 9th February 2005 and September/October 2006.

Allegations 1 – 5

6. An inspection of the books of account of the firm was carried out by the Forensic Investigation Unit of the Law Society and their report dated 5th June 2007 was before the Tribunal.
7. The books of account were not in compliance with the Solicitors Accounts Rules. At the commencement of the inspection on 12th March 2007 no books of account were presented to the Investigation Officer (“IO”) as at 28th February 2007, being the designated date at which liabilities to clients were to be compared to cash available.
8. At a meeting on 12th March 2007 Ms Bhangra indicated that as a result of two burglaries at the firm's premises she had been unable to recreate the firm accounting records and to reconcile the clients ledger. She indicated that whilst she was in the process of reconstituting the accounting records, she had been the victim of a third theft when some of the reconstituted accounting records had been stolen from her motorcar. Ms Bhangra indicated she was in the process of re-writing the clients ledger from copy bank statements and such accounting records and client matter files that were in her possession. Consequently, the IO suspended the inspection to give Ms Bhangra time to reconstitute the accounts. The inspection resumed on 26th March 2007, when Ms Bhangra was still unable to present the IO with a reconciliation of the clients' ledger as at 28th February 2007.
9. At a meeting on 28th March 2007 Ms Bhangra did provide the IO with copies of reconstituted client bank account reconciliations as at 28th February 2007. A review of those documents by the IO identified that a number of transactions had not been recorded in individual client ledger accounts. There was a cash shortage disclosed by

the books as at 28th February 2007 in the sum of £14,478.63. Ms Bhangra agreed the books of account were not in compliance with the Solicitors Accounts Rules.

10. In view of the inadequacy of the accounting records it was not considered practicable for the IO to attempt to compute the total liabilities to clients as at 28th February 2007, and he was unable to express an opinion as to whether or not sufficient funds were held in client bank account to meet liabilities to clients as at the date.
11. By letters dated 11th July and 20th July 2007 the SRA wrote to the Respondents seeking their explanations in relation to the matters contained in the Report. Ms Bhangra replied by letters dated 24th July, 8th August and 30th October 2007. Mr Thirumalaisamy did not respond and by letter dated 30th October 2007 Ms Bhangra indicated Mr Thirumalaisamy was abroad and had been since 20th August 2007 as a result of his mother's illness. Ms Rajakumar replied by letter dated 24th July 2007.
12. On 8th January 2008 the SRA resolved to intervene into the practice of Alexis Associates in the light of the breaches to the 1998 Rules. The intervention related only to Ms Bhangra and Mr Thirumalaisamy as Ms Rajakumar had left the practice in October 2006.
13. On 29th August 2006 an Adjudicator granted Ms Bhangra an extension of time to 30th October 2006 to deliver the Accountants Report for the 12 month period ending 31st December 2005. Despite further extensions being granted the reports for the periods ending 31st December 2005 and 31st December 2006 were not delivered until 21st January 2008.

Allegations 6 and 7

14. Alexis Associates represented Mrs H in relation to matrimonial proceedings. Mrs H's former husband Mr J was represented by B & Co Solicitors. On 7th March 2006 an order was made at Romford County Court that Alexis Associates Solicitors should pay the costs of a hearing that had been held on 13th December 2005, such costs to be assessed if not agreed. On 21st August 2007 Romford County Court issued a Default Cost Certificate in the sum of £1,021.25, directing Alexis Associates Solicitors to pay that amount to B & Co on behalf of Mr J within 14 days. The sum had not been paid. The partners in Alexis Associates at the time of the Default Cost Certificate dated 21st August 2007 were Ms Bhangra and Mr Thirumalaisamy.
15. By letter dated 5th December 2007 the SRA wrote to Ms Bhangra and Mr Thirumalaisamy seeking their explanation. They failed to reply or provide explanation. Consequently reminder letters were sent on 27th December 2007 to which there was no response. Further letters were sent and attempts were made to contact Ms Bhangra and Mr Thirumalaisamy by telephone but there was no reply.

The Submissions of the Applicant

16. The Applicant confirmed Ms Bhangra and Mr Thirumalaisamy did not have practising certificates at the moment but were still on the Roll of Solicitors. Ms Rajakumar did have a practising certificate but was currently not employed.

17. The Applicant referred the Tribunal to the hearing of 13th February 2009 and confirmed substituted service had taken place as ordered by the Tribunal on that date. The Tribunal was satisfied that Ms Bhangra and Mr Thirumalaisamy had been served by substituted service.
18. The Applicant confirmed Ms Rajakumar had admitted allegations 1, 2 and 4, and that applied for leave to withdraw allegations 3 and 5 against her. The Tribunal granted leave.
19. The Applicant submitted it was important for documents and accounting records to be maintained within a solicitors practice and for Accountants Reports to be delivered on time in order to comply with the regulations. He confirmed that following the intervention of the practice on 10th January 2008, the books of accounts showed a cash shortage of £14,478.63 on client account although it was not believed that there had been any claims on the compensation fund.
20. The Applicant did not assert dishonesty against any of the Respondents however, the breaches were serious as they prevented the Authority from ensuring proper records were kept. The Applicant submitted the allegations were established on the documents before the Tribunal and indeed, Ms Bhangra herself had accepted the books of account were not in compliance with the Solicitors Accounts Rules when discussing the matter with the IO.
21. The Applicant requested an Order for his costs and provided the Tribunal with a schedule of costs confirming the total amount claimed was £19,723.38. He was not aware of the financial circumstances of Ms Bhangra or Mr Thirumalaisamy and referred the Tribunal to the cases of Merrick v – The Law Society [2007] EWHC 2997 and the case of D'Souza v The Law Society [2009] EWHC 2193 (admin) in relation to the consideration of the Respondents' means. The Applicant confirmed that a significant proportion of the costs had related to the adverts for substituted service which did not relate to Ms Rajakumar.

The Submissions of the Third Respondent Ms Rajakumar

22. Ms Wingfield on behalf of Ms Rajakumar confirmed allegations 1, 2 and 4 were admitted. Ms Rajakumar had left Alexis Associates by the end of October 2006 before the intervention. She had previously been a salaried partner with another firm and Ms Bhangra had encouraged her to leave that firm and join Alexis Associates. Ms Rajakumar had trusted Ms Bhangra and saw her as a good friend. When she joined the practice, Ms Rajakumar was undergoing fertility treatment and relied on Ms Bhangra quite a lot.
23. Ms Rajakumar first became aware of the failure to provide the Accountant's Report when she received a telephone call from the SRA in August 2006. At the time Ms Bhangra was on holiday and Ms Rajakumar had no involvement in the accounts and was not even a signatory on client account. She immediately resigned from the practice although she did spend time trying to sort out her outstanding client matters.
24. Ms Rajakumar accepted responsibility as a partner for the failure to properly maintain accounts and reminded the Tribunal that as the Accountant's Report was indeed filed,

albeit late, there must have been some records available for the Accountants to have prepared those reports.

25. Ms Rajakumar had co-operated throughout the proceedings, she had not been interviewed by the IO at the time of the inspection and after she left the practice, she expressed her concerns to the SRA. The Tribunal were provided with a copy of the letter dated 1st December 2006 sent by Ms Rajakumar to the SRA which set out her concerns. She had sought a waiver from the SRA in relation to provision of the Accountants' Report but received no reply.
26. The Tribunal were referred to the references provided concerning Ms Rajakumar's character. She was currently on maternity leave until January 2010 after which she intended to seek employment. She had made early admissions and the Tribunal were reminded that the events referred to had taken place three years ago when she was under a lot of personal pressure. She was naive, newly qualified and relied on Ms Bhangra. She had been made redundant from her last job in February 2009. She had been the main bread winner in the family and in May 2009 had given birth to twin boys. Regrettably she had been victim to a fire at her home and was now living in a bed and breakfast. The Tribunal were urged not to treat Ms Rajakumar harshly, and in light of the fact that she had raised her concerns with the SRA, the Tribunal were urged to consider a reprimand would be the appropriate sanction.
27. Ms Rajakumar had agreed with the Applicant that her liability for costs would be capped at £1,000.00, which amount she intended to pay on instalments.

The Tribunal's Findings

28. The Tribunal had listened carefully to the submissions of the parties and had considered all of the documentary evidence. In relation to Ms Bhangra and Mr Thirumalaisamy, the Tribunal found the allegations to have been substantiated. In relation to Ms Rajakumar, the Tribunal found allegations 1, 2 and 4 to have been substantiated, indeed they were admitted.
29. The Tribunal noted there appeared to be no shortfall in client funds and any shortage identified had been made up by the Respondents. There had been no claim on the compensation fund and no allegation of dishonesty.
30. Nevertheless, there had been serious regulatory breaches and this was a case which demonstrated the importance of ensuring accounting records in particular were backed up regularly so that they could be easily reconstituted if necessary in circumstances where theft, or indeed any other damage had been caused to them.
31. It was important for all solicitors to comply with the Solicitors Accounts Rules as this ensured not only the proper safeguarding of client funds, but also enabled the Authority to be able to perform its regulatory functions.
32. In relation to Ms Bhangra and Mr Thirumalaisamy, by failing to comply with the Order of Romford County Court dated 21st August 2007, they had brought the profession into disrepute. Furthermore, by failing to reply to correspondence from the SRA they had not co-operated with their regulatory body and this was not acceptable conduct.

33. Having considered the overall position, the Tribunal had sympathy for the position Ms Rajakumar found herself in. However, if any solicitor allowed themselves to become a partner in a practice, they had to appreciate that they had responsibilities as a partner and must ensure compliance with those responsibilities. The Tribunal considered the appropriate sanction in relation to Ms Rajakumar was to reprimand her.
34. In relation to Ms Bhangra and Mr Thirumalaisamy, they had not participated in these proceedings despite efforts being made to trace them. Furthermore, it was unacceptable for them as officers of the Court, not to comply with a Court Order.
35. In their absence, the Tribunal considered the appropriate sanction was to fine each of them £5,000.00.
36. Concerning the question of costs, the Tribunal had not been provided with details of any means from Ms Bhangra or Mr Thirumalaisamy. The Tribunal assessed the costs in the sum of £17,700.00 and ordered Ms Rajakumar to pay £1,000 contribution to those, as agreed with the Applicant, and for the remainder to be paid by Ms Bhangra and Mr Thirumalaisamy jointly and severally.
37. The Tribunal made the following Orders:-

The Tribunal Ordered that the Respondent, GURMINDER KAUR BHANGRA of 296 Green Lane, Ilford, IG1 1YD, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to Her Majesty the Queen.

The Tribunal Ordered that the Respondent, AMIRTHALINGHAM THIRUMALAISAMY of 34 Skeffinton Road, London, E6 2NB, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to Her Majesty the Queen.

The Tribunal Ordered that the Respondent DEVAKI RAJAKUMAR of Flat 3, Hutton Court, 83 Tramway Avenue, London, N9 8PQ solicitor, be REPRIMANDED.

The Tribunal further Ordered that the costs of and incidental to this application and enquiry be fixed in the sum of £17,700.00. Devaki Rajakumar is to pay a contribution of £1,000 towards such costs and the other Respondents are to be jointly and severally liable for the remainder.

Dated this 26th day of January 2010
On behalf of the Tribunal

J P Davies
Chairman