

IN THE MATTER OF ADISHETU ONOGUKHIAN MOMOH ABU, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A H Isaacs (in the chair)  
Miss N Lucking  
Mr M C Baughan

Date of Hearing: 2nd June 2009

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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 Peter Harland Cadman, solicitor and partner in the firm of Russell Cooke LLP Solicitors, 8 Bedford Row, London, WC1R 4BX on 12<sup>th</sup> August 2008 that Adishetu Onogukhian Momoh Abu of 10 Ankerdine Crescent, Shooters Hill, London, SE18 3LQ, 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:

- (a) She made an application to be admitted as a solicitor and to be granted a practising certificate when the application was not frank and open;
- (b) She remained and worked as a solicitor in the United Kingdom illegally and/or contrary to her immigration status.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 2<sup>nd</sup> June when Peter Cadman appeared as the Applicant and the Respondent appeared and was represented by Robert Foreman.

The evidence before the Tribunal included the admissions of the Respondent and two chronologies provided by the Applicant and Respondent respectively.

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

Having regard to the submissions on behalf of the Respondent and mitigation the Tribunal makes no Order on the admitted allegations and Orders that the Respondent Adishetu Onogukhian Momoh Abu of 10 Ankerdine Crescent, Shooters Hill, London, SE18 3LQ solicitor, do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,853.50.

**The facts are set out in paragraphs 1- 10 hereunder:-**

1. The respondent, born in 1974, was admitted as a solicitor on 1<sup>st</sup> November 2002 and her name remained on the Roll of Solicitors. She was presently employed as a solicitor at Law For All, 191 The Vale, Acton, London, W3 7QS.
2. The Respondent entered the United Kingdom on 15<sup>th</sup> May 1993 as her father was an employee of the Nigerian Ministry of External Affairs and was working in the Nigerian High Commission. The Respondent at that stage was exempt from immigration control when she entered the United Kingdom.
3. On 28<sup>th</sup> January 1999 the Respondent applied for further leave to remain in the United Kingdom as a student. Permission was granted on 3<sup>rd</sup> July 1999 to allow her to remain until 30<sup>th</sup> September 1999. A further extension was granted with her leave to expire on 31<sup>st</sup> October 2000. At that stage permission to remain in the United Kingdom had expired and the Respondent should have left the United Kingdom forthwith as she had not lodged any further application to remain.
4. The Respondent had no right to remain or work in the United Kingdom as from 31<sup>st</sup> October 2000. The next contact the Respondent made with the Home Office was her application for leave to remain on the basis of her length of residency in the United Kingdom: that application was made on 9<sup>th</sup> August 2007. That application was originally considered by the Home Office who, on 29<sup>th</sup> November 2007, refused the application.
5. The Respondent appealed against that decision and her appeal was successful by the decision of Immigration Judge Cockrill of 13<sup>th</sup> February 2008. A copy of that decision was before the Tribunal. The Respondent had therefore been in the United Kingdom illegally for approximately seven years and four months.
6. During the period that the Respondent was illegally in the United Kingdom she lodged an application for admission as a solicitor and for a practising certificate on 16<sup>th</sup> September 2002. She was asked questions about her character and suitability for admission as follows:-
  1. Have you been convicted of any offence in any court of the UK or elsewhere (other than a motoring offence not resulting in disqualification)? No

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| 2.  | Have you been adjudged bankrupt in any court of the UK or elsewhere?   | No |
| 2a. | Do you have to obtain a discharge?   | No |
| 3.  | Are you currently subject to investigation by the Office for the Supervision of Solicitors or any other regulatory body? | No |
| 4.  | Are there any other matters relating to your character and suitability to become a solicitor which should be considered? | No |

7. At that stage the Respondent was and must have known that she was remaining in the United Kingdom illegally. This was confirmed by the Respondent's statement of 16<sup>th</sup> January 2008 (which was before the Tribunal) for the purpose of the appeal which stated:

"In March 2002 or thereabouts by which time I had become suspicious that there was probably something wrong. I telephoned the Home Office myself where I was advised there was no outstanding application for me."

Furthermore Paragraph 22 of the Appeal Judgment of Judge Cockrill which stated:

"...the Appellant said how from July 2003 she had realised there was a problem over her immigration status.... She had not told her employer that she had not got any right to be in the country. She felt that the only outcome, if she disclosed that truth, would be that she would be told to leave."

8. The Respondent sought legal advice from a solicitor and a letter was written to Chief Adegbotolu dated 4<sup>th</sup> July 2003.
9. The Respondent was aware of her immigration status at the time she applied for admission as a solicitor. It was a relevant factor as to her character and suitability for admission as a solicitor, especially as at the same time she was applying for a practising certificate to allow her to work for Law for All in Brentford.
10. Thereafter until her immigration status was rectified by the Judgment of Immigration Judge Cockrill she had no right to remain or work in the United Kingdom. However, she had continued to work as a solicitor from the date of her admission on 1<sup>st</sup> November 2002 until the date of that decision on 13<sup>th</sup> February 2008.

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

11. The Applicant confirmed the allegations had been admitted and that the allegation of dishonesty was withdrawn.
12. The Applicant confirmed that the Respondent's application for leave to remain in the United Kingdom was eventually granted by Immigration Judge Cockrill on 13<sup>th</sup>

February 2008 on the basis that the Respondent had been in the country for 14 years, all her family were here and it would have breached her Human Rights to be deported.

13. The Respondent in her witness statement before the Tribunal had stated that an elderly gentleman known as Chief F A Adegbotolu who was a respected Protocol Official at the Nigerian High Commission, had been instructed by her father to lodge a further application for her to be granted leave to remain in the United Kingdom in 2000. However it appeared the application had not been lodged although the Respondent only became aware of this sometime in March 2002. Her siblings had all been granted leave to remain but their applications had not been dealt with by the Chief. The Respondent had telephoned the Home Office in March 2002 but then did not submit her application for leave to remain until 9<sup>th</sup> August 2007. These were the only two contacts the Respondent had with the Home Office and the Applicant submitted that whilst he accepted she may have relied upon the Chief to lodge her application, it was clear from her witness statement that she became aware in March 2002 that this had not been done and therefore she should have done something about it. As a result of taking no action until August 2007, the Respondent was effectively illegally in the United Kingdom for approximately seven years and four months. Therefore when completing the declaration and applying for a practising certificate, the Applicant submitted she should have advised The Law Society of the situation.
14. The Applicant also sought an Order for his costs which had been agreed with the Respondent in the sum of £3,853.50.

### **The Submissions of the Respondent**

15. The Respondent confirmed the allegations were admitted but asked the Tribunal to bear in mind a number of factors when deciding how to deal with the Respondent. The Tribunal was asked to take into account the witness statement of the Respondent which was before the Tribunal, and which gave a full and detailed history to the background of this case. The chronology of events was as follows:-

1993	The Respondent arrived in the UK aged 17 years old with her family with exempt immigration status.
January 1999	The Respondent's father was posted back to Nigeria in 1998, and Chief Adegbotolu ("the Chief") applied on the family's behalf for an extension of exempt status. The Respondent was unaware of this. She was granted leave to remain until 30 <sup>th</sup> September 1999.
Autumn 1999	The Respondent returned her passport to the Chief to apply for a further extension. This was granted until October 2000.
October 2000	The Respondent returned her passport to the Chief for a further immigration application. He advised her to enter into a training contract and that she would be granted indefinite leave to remain.

Summer 2001	The Respondent was advised by the Chief that her application had been submitted but he had not heard from the Home Office.
2001-2003	The Respondent regularly chased up the Chief and attended the Home Office over 20 times. On obtaining legal advice she was told to pursue her application with the Chief. Eventually the Respondent was informed by the High Commission that there was no record of her application. Her father told her to trust the Chief.
2004	The rest of the Respondent's family were granted indefinite leave to remain.
June 2006	The Respondent's father made further enquiries on her behalf and advised her to wait until May 2007 by which time she would be granted indefinite leave to remain on the basis of being in the UK continuously for 14 years.
May 2007	The Respondent applied for indefinite leave to remain based on 14 years continuous residence in UK.
November 2007	Her application was refused on incorrect evidence that she left the country twice.
13 February 2008	Her appeal was successful.

16. It was clear from the evidence that the Respondent would have been granted indefinite leave to remain in the United Kingdom in any event if her original application had followed its normal course. The rest of her family were all granted indefinite leave to remain and there was no evidence to show the Respondent would not have also been granted indefinite leave to remain. Indeed, ultimately Immigration Judge Cockrill granted such leave and confirmed, the following in his judgment:

"There is really no good reason why the appellant should not have been in precisely the same position as her sisters who were able to obtain extensions and then gained indefinite leave to remain on the basis of ten years' lawful residence."

Secondly, the Respondent had been badly let down by the Chief and Judge Cockrill accepted this by stating in his judgment:

"In my judgment she was deserving of an extension of stay and it is deeply unfortunate that she was so badly let down by this third party. It has led to a lot of stress and anxiety.

Whether the appellant ought to have appreciated that the chief had let her down a good deal sooner than she apparently did does not matter very much. I do accept that she tried her best to approach the chief and to get a sensible answer from him but was given inaccurate information."

17. The matter had been further complicated by the fact that the Home Office lost the Respondent's initial application and then subsequently wrong evidence had been placed on her file indicating that she had left the UK twice when this had not been the case. This was the reason why her application was refused.
18. The Respondent had been led to believe she had been acting correctly throughout. Indeed the Chief advised her several times that the application had been submitted and she should wait to hear from the Home Office. She was told that the Home Office had a backlog and outstanding applications were not always easy to locate. The Respondent was further advised by immigration lawyers that she should pursue matters with the Chief which is what she did. She realised now with hindsight that she should have done more but at the time she relied upon the Chief who had provided her with an application number to chase up so there was no reason for her to doubt the manner in which he was dealing with her application.
19. The Respondent's family all lived in the UK and had no ties with any other country. Their home was in London and indeed, within 14 months of their father leaving London, he had a stroke and returned to the UK once he recovered. The entire family now lived permanently in the UK. The Respondent's own life was in the UK, all her resources and energies had been directed to qualifying as a solicitor and to leave that life and uproot from her family would have been inconceivable.
20. The Tribunal was reminded that the Respondent was very young when she came to the UK and had had no previous knowledge of any immigration issues. She had been sheltered by her family and had relied completely on them.
21. Prior to the Respondent's admission to the Roll, she had been told by the Chief that she could work and study in the UK, she had discussed her training contract with him and he had assured her there would be no problem and that her exempt status would automatically be extended on submission of an application. In October 2000 she was told by the Chief that everything was fine and she could continue working. She was told that indefinite leave to remain would be granted and that no further applications would be needed.
22. The Chief was adamant that an application had been made and that any delay in the processing of that application was due to a backlog at the Home Office. The Respondent believed her immigration status would automatically be extended and she certainly did not have her immigration status in her mind when she applied to be admitted to the Roll. She now realised with hindsight that perhaps she should have mentioned this.
23. In relation to allegation (b), the Respondent had repeatedly been advised by other lawyers, her family and the High Commission that she should pursue the Chief with regard to any progress concerning her application for indefinite leave to remain in the UK. She had gained comfort from the fact that the rest of her family had been granted indefinite leave to remain and when it appeared that there may be problems, she awaited the return of her father so that he could sort matters out for her. Ultimately her father advised her to wait 14 years and then submit an application. The Respondent had used her best endeavours to try and sort out the position and indeed,

Immigration Judge Cockrill accepted she had done her best but had been given inaccurate information. He had stated in his Judgment:

"I emphasise that I accept entirely the account given by the appellant as to her back ground."

He also stated:

"I am satisfied having heard not only the appellant but her two sisters and in the light of the documentation supplied that the appellant has not left the United Kingdom at all since May 1993..... I make plain that I found both the appellant and her two sisters' straightforward, reliable and truthful witnesses."

24. The Tribunal was referred to a number of character references which were attached to the Respondent's witness statement which also showed the level of support which had been given to the Respondent.
25. Mr Foreman submitted on behalf of the Respondent that she had not been working illegally as her application had been lost, she had every reason to believe that the application had been made and there had been no finding by Immigration Judge Cockrill that the Respondent had worked or stayed illegally in the United Kingdom. She had gone to the Nigerian High Commission herself to try and resolve the position but was simply told to find her application which she tried to do, however, there was no record of it. She had trusted the Chief and regrettably, he had now passed away so the Respondent had been unable to call him to give evidence before the Tribunal today.
26. The position was simply that the Respondent had thought her application would turn up and that she was doing the right thing. She recognised she had made an error and could have done more with hindsight but, she was young, she relied on other people and ultimately made the wrong decision. The Tribunal was asked to take account of the Respondent's family upbringing, and her culture. These were very extraordinary circumstances and it would be unjust to apply a heavy sanction to the Respondent. There had been no complaint of her ability as a solicitor and indeed, she had dedicated her life to working for a legal charity providing assistance to people who were on low incomes.
27. She had been contrite throughout the proceedings and had suffered a great deal already. She asked the Tribunal to exercise compassion.
28. The Respondent also confirmed that the Applicant's costs had been agreed in the sum of £3,853.50.

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

29. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
30. The Tribunal shared the view of Immigration Judge Cockrill that the Respondent in this case had not been shown to be dishonest and indeed the allegation of dishonesty

had been very properly withdrawn. The Tribunal was concerned that this had not been done at an earlier stage and did not criticise the Respondent for not admitting the allegations at the outset.

31. The Tribunal accepted the strength of the arguments presented by the Respondent's representative and did not consider that in these particular circumstances this case was to be viewed as a serious one.
32. It was clear to the Tribunal that the Respondent had been young, inexperienced in matters relating to the Home Office having spent her entire life relying upon her father and his close and trusted adviser, the Chief, who she believed was continuing to deal with matters on her behalf. She had clearly tried to resolve the situation to the best of her ability once it became known to her that there were difficulties, and the Tribunal accepted completely her submissions.
33. In the circumstances the Tribunal decided that the appropriate and proportionate penalty was that there should be no Order on the allegations and that the Respondent should be Ordered to pay the Applicant's costs in the sum of £3,853.50.
34. Having regard to the submissions on behalf of the Respondent and mitigation the Tribunal made no Order on the admitted allegations and Ordered that the Respondent Adishetu Onogukhian Momoh Abu of 10 Ankerdine Crescent, Shooters Hill, London, SE18 3LQ, solicitor, do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,853.50.

Dated this 4<sup>th</sup> day of December 2009  
On behalf of the Tribunal

A H Isaacs  
Chairman