

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF MICHAEL JAMES MILLS
and CHAKRADHAR EDIGA, solicitors (Respondents)

- AND -

Upon the application of Margaret Eleanor Bromley
On behalf of the Solicitors Regulation Authority

Mr A G Gibson (in the chair)
Mr D Glass
Mr M Hallam

Date of Hearing: 1st June 2010

FINDINGS AND DECISION

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

Appearances

Ms Margaret Eleanor Bromley, solicitor of Bevan Brittan Solicitors, Kings Orchard, 1 Queen Street, Bristol, BS2 OHQ appeared for the Solicitors Regulation Authority ("SRA").

Both Respondents appeared in person.

The Applicant's application to the Tribunal had been dated 10th August 2009.

Allegations

The allegations made against the Respondents, Mr Michael James Mills and Mr Chakradhar Ediga were that:

1. They had failed to comply with the Solicitors Accounts Rules 1998 in that:

- (i) monies had been withdrawn from client account in breach of Rule 22(1);
 - (ii) they failed to ensure compliance with the Rules by everyone working in the practice in breach of Rule 6;
 - (iii) they failed to remedy breaches of the Rules promptly upon discovery in breach of Rule 7.
2. Contrary to Rule 5.01 of the Solicitors Code of Conduct 2007 and contrary to Rule 13 of the Solicitors Practice Rules 1990 they failed adequately to supervise Mr Uddin.
 3. They employed or remunerated in connection with their practice as solicitors, a former solicitor whom they knew had been struck off the Roll of Solicitors without the prior written permission of the SRA, in breach of s.41(1) of the Solicitors Act 1974.
 4. They failed to deliver an Accountant's Report for the accounting period 1st April 2007 to 31st March 2008 within the timeframe required by the Rules in breach of s.34 of the Solicitors Act 1974.

Factual Background

Both Respondents admitted the facts and the allegations.

The Respondents' Backgrounds

1. The First Respondent, Michael James Mills, born in 1956, was admitted as a solicitor in 1981.
2. The Second Respondent, Chakradhar Ediga, born in 1975, was admitted as a solicitor in 2004.
3. The names of both Respondents remained on the Roll of Solicitors. At all material times the Respondents practised in partnership under the style of FLP Solicitors with offices at 1a Birmingham Road, Cowes, Isle of Wight PO31 7BH and 21 Hessel Street, London, E1 2LR.
4. The First Respondent was the senior and equity partner and was based on the Isle Wight; the Second Respondent, a salaried partner, was based at the London office. The partnership terminated on 2nd May 2008. At the date of the hearing the Second Respondent held a practising certificate but was unemployed. The First Respondent did not hold a practising certificate.

The admitted facts

5. On 15th April 2008 an inspection of the books of account and other records of FLP Solicitors was commenced by a Senior Forensic Investigation Officer ("the FIO") of the SRA. The FIO's Reports of 21st and 28th April 2008 were before the Tribunal.

6. On 14th April 2008 the First Respondent had contacted the SRA's Fraud and Confidential Intelligence Bureau to report the misappropriation of clients' funds of about £3m by Mr Misba Uddin, an independent financial advisor who shared offices with FLP in London. He also acted as office manager for the London office and was that office's sole operator of the CHAPS terminal for the payment of funds electronically. The misappropriation of client funds occurred at the London office.
7. The FIO noted a minimum cash shortage of £5,104,462.76 where 16 CHAPS payments between 18th January 2008 and 20th March 2008 had been made directly by Mr Uddin to himself or companies connected with him where no funds were held in the client account in respect of those payments but the money had been held on behalf of other clients. The payments ranged from £497,930 to £2,342,370.39.
8. Mr Uddin had submitted a number of certificates of title to mortgage lenders where the signature of the First Respondent had been forged. The First Respondent said that it had appeared that Mr Uddin persuaded trainees in the London office to sign the certificates.
9. In the week commencing 7th April 2008 the First Respondent was contacted by NatWest Bank informing him that there was a problem with one of the firm's accounts. The First Respondent went to the local bank branch on the Isle of Wight and obtained copies of current statements whereupon he discovered that money had been taken from client account. The bank and the police were notified. The First Respondent notified the SRA of the breaches of the Rules on 14th April 2008.
10. When the FIO met the Respondents on 15th April 2008 he asked the First Respondent if he had notified his insurers of the misappropriation of client funds. The First Respondent said that he had not notified them yet, although later that day he informed the FIO that he had now done so. The Respondents were not in a position to replace the shortage but £7,317.50 had been paid from NatWest office account into NatWest client account in April 2008 in order to clear an overdrawn balance.
11. The Respondents' indemnity insurance limit was £2million. Some individual clients' claims had been settled. Lending institutions' claims had not.
12. Mr Uddin had become involved in the London office when prior to his involvement with the Respondents' firm, he leased part of the Hessel Street premises to another firm of solicitors, Newlands, for whom he worked as a paralegal. Mr Uddin also operated his business as a financial adviser from the same premises and was able to refer mortgage work from his business to Newlands. The First Respondent had known Newlands because they occasionally referred litigation matters to the Isle of Wight office. Early in 2007 Mr Uddin had fallen out with Newlands and he was looking to form an association with other solicitors. As a consequence, the First Respondent was approached to set up the London office, with the premises being leased by Mr Uddin. Mr Uddin also found the staff for the London office who mainly came from Newlands, as did the Second Respondent who had been qualified for the requisite three year period that enabled him to supervise the London office. The practice started at the London office in May 2007. The First Respondent had visited the London office less than once a fortnight.

13. Mr Uddin continued to do some paralegal work at the London office and he was effectively the office manager. The main business of the London office was conveyancing. The Isle of Wight practice was primarily a family law practice.
14. The plan had been for Mr Uddin eventually to become a partner in the firm if new Rules were to allow this.
15. Mr Uddin was allowed to set up the NatWest account at the London office because he had a good relationship with a manager at NatWest.
16. Computerised accounts were installed on the Second Respondent's computer and the postings were done by a clerk from the accountant's office on a regular basis. The accountant had full access to bank statements.
17. Mr Uddin was allowed to be the sole operator of the CHAPS terminal for the payment of funds electronically. Most of the conveyancing transactions utilised CHAPS payments.
18. In October 2007, while at Court on behalf of Mr Uddin who was being sued by Mr P, Counsel had told the First Respondent that Mr P was entitled to stop a cheque for £8,300 "given the fraud by Mr Uddin". Furthermore, it had come to light in January 2008 that Mr Uddin was signing client account cheques when he was not authorised to do so. It had been put to the First Respondent by the FIO that he had been in possession of information which suggested possible impropriety on the part of Mr Uddin. The First Respondent had responded that in the case of Mr P some very strange statements had been made which Mr Uddin claimed were completely untrue and Mr Uddin had been perceived as a victim.
19. The NatWest client account bank statements for the period 14th January to 10th March 2008 revealed several CHAPS payments where the payee was either Mr Uddin or one of his companies.
20. Mr Uddin ran the office account and made payments of which the First Respondent had been unaware, for example in connection with advertising.
21. The Second Respondent did not have access to banking and was not a cheque signatory. His main role had been to supervise the London office. He did have access to the computerised accounts system. He had reported to the First Respondent.
22. Although the First Respondent had informed Mr Uddin that his signing cheques was a breach of the Rules and he must not do so, it was the Applicant's case that Mr Uddin had been given a free rein in setting up the firm including, amongst other things, the handling of clients' money. Mr Uddin had been able to intercept mail and create letters in the name of the First Respondent. He had forged the First Respondent's signature on certificates of title. He had supplied false information to the bookkeeper.
23. Mr Uddin's control of the CHAPS terminal enabled him to misappropriate in the region of £5m from the firm's client account.

Breaches of s.41: Employing a former solicitor who had been struck off the Roll of solicitors.

24. Mr Llewellyn had been struck off the Roll of Solicitors on 18th February 1999. He had been employed by Newlands and became employed by the Respondents from May 2007 when the London office opened. A letter of 8th February 2008 purporting to have been signed by the First Respondent and addressed to the SRA stated that Mr Llewellyn was not so employed. At a meeting with the FIO on 23rd April 2008, the First Respondent confirmed that Mr Llewellyn was employed at the London office as a fee earner. He had no knowledge of the correspondence with the SRA and had been unaware that Mr Llewellyn had been struck off until shortly after Mr Uddin's misappropriation of client funds.
25. The First Respondent knew that Mr Llewellyn had been a solicitor but did not give close consideration to the fact that he had not maintained a practising certificate. He had not considered any need to seek permission to employ Mr Llewellyn.

Breach of s.34: Delivery of Accountant's Report

26. Separate accounting records had been maintained for each office. The firm's accounting year ended on 31st March 2008 and its Accountant's Report was due to be delivered by 30th September 2008. It had not been delivered. The First Respondent reported that he had had a misunderstanding with his accountant.

Findings as to fact and law

27. The Tribunal found all of the allegations to have been substantiated, indeed all were admitted by both of the Respondents.

Mitigation

The First Respondent

28. The First Respondent was the sole equity partner. The Second Respondent was a salaried partner and therefore an employee.
29. The First Respondent had conducted a family law practice on the Isle of Wight. He had been approached by Mr Uddin who wanted someone to take on the office at Hessel Street, London. At that time it was operating as Newlands Solicitors but Mr Uddin said that he and the other staff wished to leave Newlands. All the office staff, including Mr Llewellyn, were at that time working for Newlands. The Second Respondent was known to Mr Uddin as he had worked at Newlands and the Second Respondent was introduced in that way.
30. The First Respondent had effectively taken over an existing office and did not check on the staff. He accepted with hindsight that this was foolish but he had known Mr Uddin and Mr Llewellyn for several years as he had undertaken agency work for them. The First Respondent was not aware that Mr Llewellyn had been struck off, although he did know that he had been a solicitor at one time.

31. The First Respondent had come to accept that he should have realised that Mr Uddin was untrustworthy in the light of what Counsel had said to him in 2007. At the time he accepted an assurance that this was simply "sour grapes" and the First Respondent did not believe Mr P's account as he believed it too fantastic to be true.
32. The Second Respondent had brought to the First Respondent's attention the fact that Mr Uddin was signing client account cheques in January 2008. The First Respondent told Mr Uddin he could not do so. It was only after the problems came to light that the First Respondent saw cheques signed by Mr Uddin and found out about documents which had been signed in his name of which he had had no knowledge.
33. The First Respondent had been criticised for taking seven days to bring matters to the attention of the SRA. Initially he was in a state of shock. He was told that it was quite impossible that Mr Uddin could have stolen money and that there must be some mistake. Everyone at the firm believed that Mr Uddin was a man of some substance and that he had a good deal of property and wealth in the UK. The Second Respondent was abroad in India at the time, and upon being notified of the difficulties he agreed to return to the UK straightaway. The First Respondent had already made the report to the SRA by the time of the Second Respondent's return. At a subsequent meeting with the Second Respondent the First Respondent learned that Mr Llewellyn had been struck off.
34. The Tribunal was invited to have due regard to the First Respondent's hitherto unblemished professional history and the testimonials put in in his support, all of which attested to his competence and probity.

The Second Respondent

35. The Second Respondent had been a salaried partner and therefore an employee at the material times. He was not a signatory to the firm's bank accounts. It was his duty to check the monthly bank statements, which allowing for mail delivery meant that a period of 5 weeks could have elapsed before a transaction could be scrutinized. The bookkeeper updated the accounts within a week of the receipt of the bank statements. It was only after Mr Uddin misappropriated the funds and had left the UK that the Second Respondent understood that Mr Uddin had processed most of the fraudulent transactions just after the bank statement print date so they would not immediately be apparent.
36. There was a procedure in place whereby the firm tracked incoming and outgoing post. The post and DX deliveries were passed to the Second Respondent which he checked before passing to the relevant person.
37. The Second Respondent had been known to Mr Uddin and Mr Llewellyn as he had worked at Newlands and that was how he became involved with FLP Solicitors. The Second Respondent knew Mr Llewellyn as a conveyancer but he did not know about his professional history. The Second Respondent had handled only immigration work.

38. The Second Respondent had believed that Mr P, who sued Mr Uddin, was a man who could not be trusted and he had told the First Respondent this.
39. The Second Respondent had brought to the First Respondent's attention the fact that Mr Uddin was signing client account cheques in January 2008. The First Respondent had spoken to Mr Uddin about this.
40. After that Mr Uddin's attitude changed dramatically and he started to act in an authoritative manner and he tried to control the firm. The staff ceased to cooperate with the Second Respondent and referred matters to Mr Uddin instead. The Second Respondent's authority had been under-mined and he was unhappy at the firm and decided to leave.
41. The Second Respondent was in India on holiday when he received a text message from the First Respondent reporting the misappropriation of client monies. The Second Respondent agreed to return to the UK immediately.
42. The Second Respondent had learned about Mr Uddin's forgery of the First Respondent's signature shortly after the misappropriation of monies came to light, together with the fact that he had forged letters and also that Mr Llewellyn had been struck off the Roll.
43. The Second Respondent stated that he had always supervised and managed the firm with competence and had properly delivered professional services to the clients and monitored the staff, clients' matters and administered the firm diligently on a day-to-day basis.

Sanction and Reasons

44. The Tribunal noted, and gave the Respondents credit for, the fact that they admitted the facts and the allegations. The Tribunal noted that the First Respondent was the sole equity partner in the firm and that the Second Respondent was a salaried partner, who was charged with supervision of the London office.
45. The First Respondent had made the decision to acquire a "ready-made" London practice at a time when his own practice was on the Isle of Wight. The Second Respondent had not been known to him prior to his taking him on as a salaried partner who had the qualifications to manage his firm's new London office. It was The First Respondent's own position that he visited the London office about once every two weeks.
46. It transpired that not only did The First Respondent take on a struck off solicitor as an employee but the person charged with a great deal of the London office's administrative work was a crook.
47. Both of the Respondents had presided over a massive loss of client money. Not only had the First Respondent failed to carry out any due diligence, he had set up a London operation a considerable distance from his Isle of Wight practice, over which he exercised no control, having put in place a relatively inexperienced solicitor. Indeed

the way in which things were arranged and managed amounted to no less than an invitation for a crook to carry out his criminal and nefarious activities.

48. The rules and regulations relating to practice as a solicitor were in place to protect the public. The Respondents disregarded those rules.
49. The Tribunal considered that the First Respondent was more culpable than the Second Respondent as the more experienced solicitor, but the Second Respondent was to be criticised for manifestly failing to recognise his own failures, in particular having said in his statement: "I always supervised and managed the firm with competence." This was exactly what he had singularly failed to do. The Second Respondent had failed to recognise that Mr Uddin's criminal activities had taken place while that individual was subject to his supervision.
50. Whilst it had not been suggested that either of the Respondents had behaved dishonestly, their lackadaisical approach to management, supervision and control could only seriously damage the good reputation of the solicitors' profession and, more seriously, they had failed to protect members of the public and their money.
51. The Tribunal concluded that the serious failures on the part of the Respondents could be met only by a period of suspension from practice and the periods of suspension imposed reflected the respective Respondents' levels of culpability.

Costs

52. The Applicant sought the costs of and incidental to the application and enquiry. She had notified the Respondents of the quantum and had passed details of her costs calculations to the Tribunal.
53. The Tribunal considered that it would be both proportionate and appropriate summarily to fix the Applicant's costs and it did so in the sum of £18,000.00. The Tribunal heard representations from both of the Respondents, both of whom enjoyed a somewhat parlous financial position, the First Respondent having the expectation that he was to be adjudicated bankrupt.
54. Whilst the Tribunal noted that neither of the Respondents could easily meet the costs, both of them were of an age where they could seek other employment, the First Respondent in particular had indicated that he derived a small income by assisting his wife in her business and hoped in due course that he would be paid a salary upon being appointed to a position in education.
55. The Tribunal ordered each Respondent to pay a proportion of the costs which represented his level of culpability and that the responsibility for such costs should be several. The Tribunal, in making its order for costs, was also aware that the SRA would be willing to negotiate payment by instalments.
56. The Tribunal therefore made the following Orders:

The Tribunal Ordered that the Respondent, MICHAEL JAMES MILLS of FLP Solicitors, 1a Birmingham Road, Cowes, Isle of Wight, PO31 7BH, solicitor, be

suspended from practice as a solicitor for the period of five years to commence on the 1st day of June 2010 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £12,000.00.

The Tribunal Ordered that the Respondent, CHAKRADHAR EDIGA of 13 Marchside Close, Hounslow, TW5 9BX, solicitor, be suspended from practice as a solicitor for the period of three years to commence on the 1st day of June 2010 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 29th day of June 2010
On behalf of the Tribunal

A G Gibson
Chairman