

IN THE MATTER OF LATEEF ABOLADE KAREEM and  
AYODELE OLAKUNLE NATHAN-MARSH, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. R. Nicholas (in the chair)  
Mrs E. Stanley  
Mr. M. C. Baughan

Date of Hearing: 23rd February 2010

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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 Solicitors Regulation Authority (“SRA”) by Michael Robin Havard, solicitor of Morgan Cole, Bradley Court, Park Place, Cardiff CF10 3DP on 10<sup>th</sup> July 2009 that Latif Abolade Kareem, a solicitor, of Flat 238, Andoversford Court, Bibury Close, London SE15 6AE and Ayodele Olakunle Nathan-Marsh, a registered foreign lawyer of 22 Bagwicks Close, Luton, Bedfordshire LU3 3NG 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 First and Second Respondents, Latif Abolade Kareem and Ayodele Olakunle Nathan-Marsh, were that:

1. they conducted themselves in a manner that was likely to compromise their integrity, contrary to Rule 1.02 of the Solicitors Code of Conduct 2007;
2. they acted in a way that was likely to diminish the trust the public places in them and/or the profession contrary to Rule 1.06 of the Solicitors Code of Conduct 2007.

As against the First Respondent

3. he held himself out as a partner without fulfilling any of the duties or responsibilities expected of a partner;
4. he acted recklessly.

As against the Second Respondent

5. he operated the client account of the firm and withdrew money from client account without specific authority to do so in breach of Rule 23 of the Solicitors Accounts Rules 1998;
6. he managed the affairs of the firm Macauley-Blackmann, solicitors, even though his registration as a registered foreign lawyer had been suspended following an order of bankruptcy being made against him and despite his resignation as a partner;
7. he acted dishonestly or, in the alternative, recklessly.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 23<sup>rd</sup> February 2010 when Michael Robin Havard appeared as the Applicant and the First Respondent appeared and was represented by Mr Ashitey Ollennu, of Counsel. The Second Respondent appeared and was not represented.

### **The Evidence before the Tribunal**

The evidence before the Tribunal included the Rule 5 statement of the Applicant together with accompanying bundle which included a Forensic Investigation Report dated 7<sup>th</sup> July 2008, the statement of the First Respondent dated 22<sup>nd</sup> February 2010 together with the sworn oral evidence of the First Respondent and the sworn oral evidence of the Second Respondent. Also before the Tribunal was a testimonial on behalf of the First Respondent, given in the form of a statement from Mr Olabowei Wilson Diriwari of Messrs Wilsons solicitors.

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

The Tribunal Order that the Respondent, LATEEF ABOLADE KAREEM of Flat 38, Andoversford Court, Bibury Close, London, SE15 6AE, solicitor, be suspended from practice as a solicitor for the period of three months to commence on the 23<sup>rd</sup> day of February 2010 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,250.00.

The Tribunal Order that the Respondent, AYODELE OLAKUNLE NATHAN-MARSH of 24 Montague Avenue, Luton, Bedfordshire, LU4 9JG, registered foreign lawyer, be suspended from practice as a registered foreign lawyer for the period of two years to commence on the 23<sup>rd</sup> day of February 2010 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,250.00.

### **The Facts as set out in paragraphs 1-19 hereunder:-**

#### Background

1. At all material times, the Respondents purported to practise in a solicitors' firm

carrying on business under the style of Macauley-Blackmann, Solicitors, First Floor, 148 Sundon Park Road, Luton LU3 3AH (“the firm”). The firm ceased trading on 31<sup>st</sup> October 2008.

2. The First Respondent, Lateef Abolade Kareem, was born in April 1966 and admitted to the Roll in July 2004. The First Respondent held the position of an assistant solicitor at the firm from 18<sup>th</sup> November 2004. He was invited to become a partner in June or July 2007.
3. The Second Respondent, Ayodele Olakunle Nathan-Marsh, was born on 17<sup>th</sup> November 1961 and is a Registered Foreign Lawyer. The Second Respondent became a partner in the firm on 1<sup>st</sup> September 2001.
4. Having received authority to do so, on 30<sup>th</sup> May 2008, and various dates thereafter, initially Mr A. Becconsall, a Forensic Investigation Manager with the SRA and subsequently Mr Zair Akram, a Senior Investigation Officer (“the SIO”), attended the offices of the Respondents’ firm in order to carry out an investigation. A Forensic Investigation Report (“FIR”) was produced dated 7<sup>th</sup> July 2008.
5. On 3<sup>rd</sup> April 2007, a few months before the First Respondent was invited by the Second Respondent to become a partner in Macauley-Blackmann, the Second Respondent was made the subject of a Bankruptcy Order in the Luton County Court.
6. By letter dated 26<sup>th</sup> April 2007 the Second Respondent wrote to the SRA indicating that he had resigned as a partner at Macauley-Blackmann, Solicitors “...due to personal problems”, but no mention was made in that letter of the fact that he had been adjudicated bankrupt.
7. It was not clear precisely when the Second Respondent approached the First Respondent to invite him to become a partner. Without any further enquiries apparently being undertaken by the First Respondent regarding the Second Respondent’s financial status, the First Respondent agreed to become a partner.
8. The SRA said that it was accepted by the First Respondent, when interviewed by the SIO on 12<sup>th</sup> June 2008 that, once he became a partner, the following features applied to the arrangement:
  - (a) he made no capital contribution towards, nor paid money into, the partnership;
  - (b) he continued in a fee-earning role;
  - (c) he continued to work on a commission basis and therefore his remuneration was unrelated to the profitability of the firm;
  - (d) the Second Respondent remained the sole signatory on the firm’s client and office bank accounts;
  - (e) the Second Respondent was responsible for the payment of the firm’s liabilities such as bills and staff;

- (f) in effect, the Second Respondent remained in control of Macauley-Blackmann, Solicitors.
9. At the start of the investigation SRA records showed that a Ms AOA was a partner in the firm. She had informed the Law Society that she had been appointed a partner with effect from 1<sup>st</sup> October 2005 but worked from a separate office. She told the SIO that as no work had been forthcoming she had closed that office and severed her relationship with the firm and had not renewed her practising certificate. She stated that she had not informed the Law Society that she had ceased to be a partner.
  10. By applications for the years 2006-2007 and 2007-2008 signed by the Second and First Respondents respectively, Ms AOA's Practising Certificate was renewed, the applications holding her out to be a partner within the firm.
  11. The application for the year 2007-2008 was dated 29<sup>th</sup> October 2007 and was signed by the First Respondent showing Ms AOA as a partner some five months after an email of 21<sup>st</sup> May 2008 to the SRA from Ms AOA indicating her lack of involvement in the firm.

#### The Second Respondent's Role

12. Whilst it was acknowledged by the Second Respondent that he was adjudicated bankrupt in April 2007, he stated in a letter to the SRA that he had resigned as a partner "... due to personal problems".
13. Despite the fact that, by his own resignation, the Second Respondent was no longer a partner in Macauley-Blackmann, Solicitors, and despite being a bankrupt, he maintained an overall control of the practice both in terms of its finances and its management. Even though the Second Respondent controlled the activities of the practice, his role within the firm was described to the SRA as one of a fee-earner.

#### Correspondence with the SRA

14. By letter dated 23<sup>rd</sup> July 2008 the SRA wrote to the First and Second Respondents enclosing a copy of the FIR of 7<sup>th</sup> July 2008 and requesting a response. By letter of 8<sup>th</sup> August 2008 the First Respondent provided his response. By letter of 7<sup>th</sup> August 2008 the Second Respondent provided a response.
15. By letter of 22<sup>nd</sup> October 2008 the First Respondent provided a further response to the SRA. By email of 31<sup>st</sup> October 2008 the First Respondent confirmed to the SRA that the firm, Macauley-Blackmann, was closing with immediate effect. By email of 10<sup>th</sup> November 2008 the SRA requested the First Respondent for further details of the closure but no reply was forthcoming. On 22<sup>nd</sup> December 2008 the First Respondent telephoned the SRA with details of the closure.
16. By letter of 10<sup>th</sup> December 2008 the SRA wrote to the First and Second Respondents indicating that the matter had been referred for Adjudication.
17. By memorandum of 5<sup>th</sup> January 2009 the Second Respondent provided a further, late, response to the letter of the SRA of 15<sup>th</sup> October 2008.

18. The First Respondent sent a further response dated 6<sup>th</sup> January 2009.
19. By letter of 10<sup>th</sup> February 2009 the SRA sent to the First and Second Respondents a copy of the Decision of the Adjudicator dated 31<sup>st</sup> December 2008 referring the conduct of the First and Second Respondents to the Tribunal.

### **The Sworn Oral Evidence of the First Respondent**

20. The First Respondent denied all of the allegations and relied upon the contents of his statement dated 22<sup>nd</sup> February 2010. In that statement he said that he was misled by the Second Respondent with regard to the true position of the firm when he was invited to become a partner in July 2007. At no time did he know of the Second Respondent's financial problems and he denied stating that he told him he had financial difficulties. At the time he was made a partner, in July 2007, there were still two partners, even without Mr Nathan-Marsh, the Second Respondent. He did not therefore knowingly enter into a sham arrangement and he was responsible for all those matters that partners were usually responsible for. He refuted the suggestion that he held himself out as a partner without fulfilling any of the duties of a partner. His duties were to deal with his area of the law, immigration, but he was still paid in accordance with a percentage arrangement. He also denied that he had been reckless. He had been working at the firm for over three years when he had been asked to become a partner and he had had no need to enquire further as to the state of the firm. It appeared to him at the time that there were no investigations by the SRA and no adverse matters with the Law Society. There was nothing about the Second Respondent or the firm that would have put him on notice to make further or more extensive enquiries.
21. In his sworn oral evidence the First Respondent expanded upon some of the matters in his statement. He told the Tribunal that he had a lot of respect for the Second Respondent and had never known that he had been made bankrupt. He had known that the firm's accounts were in order and knew that there was no problem with any clients or with the accounts. At the time he had been asked to become a partner he had thought that there were three other partners including Mr Nathan-Marsh, the Second Respondent. Although it had been said that he had informed the SIO that his role had not changed he had carried out supervisory duties so that statement was not correct. He was also assigning cases to caseworkers.
22. The First Respondent confirmed that it was his signature upon the bulk practising certificate application to the SRA but said that the application was filled in by the office manager. He had had no intention of misleading anyone and had only signed the form.
23. In cross-examination by the Applicant the First Respondent was asked whether he had looked at the practising certificate form that he had signed. He confirmed that he had seen the names on the form before he had signed it. He was asked when he had become aware that the Second Respondent was no longer a partner and he responded that that was in September 2007 when the Law Society investigators had arrived. He confirmed that he had had no idea that Mr Nathan-Marsh, the Second Respondent, had financial problems.
24. The First Respondent was asked by the Applicant how he knew that there were no

irregularities with the accounts or with clients and the First Respondent said that this was because nobody had claimed. When it was put to him by the Applicant that he had admitted that he had subsequently allowed the Second Respondent to run the accounts when he knew he was bankrupt, the First Respondent responded that it was not easy to close the client account.

25. It was also put to the First Respondent that Ms AOA had been a partner in 2005 to which he responded that that was the case as far as he knew but he had just been a caseworker then. He was asked whether Ms AOA was still a partner when he became one in July 2007 and he responded that she was supposed to be and as far as he was aware at that stage there were three partners including the Second Respondent. Ms AOA was running a part of the practice in another location and it was put to the First Respondent that as a partner he had not visited her office and had no involvement in her practice and he had replied that that was correct. He had admitted signing for the renewal of her practising certificate but denied completing the form himself. At that stage he had thought that a practising certificate application or renewal was an individual thing and he did not realise that bulk applications were possible.
26. The First Respondent agreed that when the Second Respondent and another partner had resigned he had become the main partner but it had not been for another year that he had started to sort out the bank accounts.
27. Under questioning by the Second Respondent, the First Respondent had described problems with the London office of the firm and how he had been overseeing the staff and administration of the London office. Due to a police investigation, on which no further action had been taken, many of the office files had been removed and it had made it impossible for the firm to continue. He had therefore had to close the office.
28. The First Respondent confirmed that he had seen the accounts and had had a supervisory role in the firm.

### **The Sworn Oral Evidence of the Second Respondent**

29. The Second Respondent wished to point out that there were discrepancies as to dates and background material in the statements of both the SRA and the First Respondent.
30. His bankruptcy had come about due to financial problems and he was not prepared to fight the case and had allowed his bankruptcy to go ahead. He had spoken to his original partner and told him that he would resign and it was a genuine resignation. He was trying to hide the fact of his bankruptcy due to embarrassment and he knew he could not continue to hold a post as a registered foreign lawyer. He had put this in writing to the bank and other people but did not feel he needed to say he was bankrupt as he had already resigned. This had happened in April 2007. In order to help with clients he had remained in the office working on reduced hours. It was a small office and everyone knew that he was handling office cases and that remained the position until July 2007. The First Respondent had been invited to be a partner before he had allowed his bankruptcy to proceed. He had certainly not notified the Law Society of the First Respondent's appointment as a partner.
31. The First Respondent was correct in saying that he had never informed him of his financial problems.

32. The Second Respondent had set up the firm as a multi-national one, together with a Mr BAO (“the original partner”) and Ms AOA had come to the firm through a mutual friend. The information that she had given to the SRA was not totally correct when she said that she had had no dealings with the firm since 2005. Email and other correspondence from her which was before the Tribunal showed that this was not the case. The Second Respondent suggested that due to the existence of proceedings against the partners of Macauley-Blackmann she would have been the first listed defendant and had wanted to distance herself for that reason. The effect of this was when he had resigned in April 2007 he had thought that he still had two partners in place. There had therefore been no reason for him to enter into any arrangement with the First Respondent to be a partner for that reason alone.
33. The Second Respondent admitted that he did sign cheques on the client account as only he and his original partner had been signatories. When he had become bankrupt the office account had been frozen but the client account had been left open. He had had to get his trustee in bankruptcy to confirm he had no interest in the business account. By this time the SRA monitoring visit had begun and that was the first time that the First Respondent had acted in his capacity as a partner. Following the resignation of the original partner in September 2007 the First Respondent had then become the sole partner and shortly after that the London office had suffered problems. The Second Respondent had therefore returned to the Luton office and the First Respondent had had to take control at the London office and eventually had had to close it. In cross-examination by the Applicant the Second Respondent was asked why it had taken him over three weeks to inform the SRA of his resignation as a partner. The Second Respondent replied that he was not aware of the procedures and had had to make enquiries by speaking to the ethics department of the SRA. He had not mentioned his bankruptcy as he was embarrassed to do so and it was in any event a personal bankruptcy and not as a partner.
34. He was asked by the Applicant when he had told the SRA that he had in fact been made bankrupt and in response the Second Respondent said he did not remember and that maybe he had told the SIO. He denied knowing that notifying the SRA of his bankruptcy would have an effect on his ability to practise or that he wanted to carry on running the firm.
35. It was also put to the Second Respondent that the office manager had said that he owned and ran the firm. In response the Second Respondent explained that she was answering specific questions from the SIO and he was coming at it from a different perspective. He was not trying to maintain control of the firm.
36. It was also put to the Second Respondent that his original partner had resigned in September 2007 and the First Respondent had been asked to become a partner in June or July 2007. He responded that he had thought that the First Respondent had originally been asked at an earlier date. He also accepted that he had not told the First Respondent of his resignation or his bankruptcy. He had discussed the partnership with the First Respondent a long time before his bankruptcy had occurred. His firm position was that he had made an offer of partnership to the First Respondent before the bankruptcy.
37. In cross-examination by Counsel for the First Respondent, the Second Respondent confirmed that in his view Ms AOA was trying to distance herself from the firm,

although she was getting correspondence at the firm in 2008. He did not believe she had been truthful.

38. Counsel for the First Respondent also asked the Second Respondent whether there had been any collusion between him and the First Respondent that he should be a front for the firm and the Second Respondent denied this. He said that on the contrary sometimes there had not been agreement and he had felt that the First Respondent was reluctant to take advice, for instance on the London office as it had taken a month to shut it down. The Second Respondent was making decisions on his own.
39. In questioning from the Tribunal the Second Respondent admitted that he was running the client account after his resignation. He had been in the process of handing everything over but because he had become the sole signatory after the resignation of his original partner he had not realised the import of his actions.

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

40. The Applicant acknowledged that the First Respondent was contesting all of the allegations made against him. The Second Respondent was admitting all of the allegations but contesting allegation 7 insofar as dishonesty was alleged. His admissions on allegations 5 and 6 were qualified.
41. In the submission of the Applicant the Second Respondent knew that the making of the Bankruptcy Order would lead to the suspension of the Second Respondent's registration as a foreign lawyer. He knew that this would have an impact on his ability to practise and to control and manage the firm. In that case his actions were dishonest. If not, then he should have recognised the risk and his actions were reckless.
42. The Second Respondent's statements to the SRA and to the bank following his bankruptcy were misleading as he should have told them he was bankrupt and not just that he was having "financial problems". The breach of Rule 23 by the Second Respondent followed from the fact that as a suspended registered foreign lawyer he had no authority to deal with client account and in the Applicant's submission the Rules were there for the protection of the public and to ensure that client funds were protected.
43. In relation to the First Respondent it was the Applicant's submission that he did not perform the duties and responsibilities expected of a partner. In addition, taking into account all of the circumstances known to the First Respondent when agreeing to enter into partnership, he should have undertaken far more extensive enquiries into the legitimacy of the partnership proposal. It was the Applicant's submission that in failing to do so he acted recklessly.
44. Insofar as the dishonesty allegation against the Second Respondent was concerned the Applicant referred to the case of Twinsectra Ltd v Yardley & Others [2002] UKHL 12. In that case a combined test was established whereby before there could be a finding of dishonesty it must be established that the defendant's conduct was dishonest by the ordinary standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest. In relation to the behaviour of the Second Respondent in the Applicant's submission there was an

overwhelming inference that the Second Respondent had been aware that what he was doing was dishonest. In the Applicant's submission the Second Respondent should not escape a finding of dishonesty because he set his own standards of honesty and did not regard as dishonest what he knew would offend the normally accepted standards of honest conduct following the principles in *Twinsectra*.

### **Submissions of the First Respondent**

45. In the First Respondent's submission it was wrong to rely upon Ms AOA's statements. It was clear she was an unreliable source and had her own reasons for not telling the truth. In addition it was clear from the evidence before the Tribunal that she contradicted herself. When the First Respondent purported to become a partner in July 2007, the other partners were the Second Respondent's original partner and ALO. There were therefore three partners.
46. It had been put to the First Respondent that he had been reckless. However at the time he had taken on his partnership there had been no issue with the firm's accounts and nothing else to warn him there was anything wrong with regard to the firm. He had been associated with the firm since 2003 and nothing had put him on notice that he needed to make enquiries. In July 2007 the Second Respondent no longer had any capacity as a partner but the other two partners did and there could be no issue of recklessness.
47. It was also alleged that the First Respondent had not carried out any duties of a partner. However, in his submission being a partner did not mean he had to have hands on day-to-day control. He had certain obligations and rights and in fact the evidence had been that the First Respondent was carrying out the duties of a partner. His duties had changed when he was made a partner and he had led the firm's response to the monitoring visit in September 2007. He was not just a silent partner, he was required to do certain things such as supervision.
48. There had been no collusion between the First and Second Respondents and in summary the Tribunal were invited to dismiss the allegations against the First Respondent.

### **Submissions of the Second Respondent**

49. The Second Respondent had tried to outline the correct sequence of events. He accepted that he had operated the client account when he had no authority to do so and accepted that he had managed the Luton office of the firm. The Tribunal was asked to consider the reasons that he had returned to the firm after his resignation and that primarily he was trying to protect the interests of clients; it was hard to watch a firm that he had built up from scratch disintegrate over nine months.
50. The Second Respondent said that he had not been dishonest and there was no evidence of dishonesty on his part.

### **The Decision of the Tribunal**

51. The Tribunal found allegations 1, 2 and 4 proved against the First Respondent and allegation 3 not proved.

52. The Tribunal found allegations 1, 2, 3, 4 and 5 proved against the Second Respondent, indeed they had not been contested, save that the Tribunal found that the Second Respondent had not acted dishonestly but had acted recklessly.

### **Costs Application by the Applicant**

53. Costs in the sum of £5,250.00 against each Respondent had now been agreed.

### **Mitigation of the First Respondent**

54. The First Respondent had submitted a character reference from Mr Wilson of Messrs Wilsons solicitors, Ilford. He had had serious health and financial difficulties and had not been working although Mr Wilson had recently applied to the SRA for permission for him to work under a restriction. He had found all of the matters the subject of today's proceedings a salutary lesson. However it was important to note that nobody had actually lost trust in him and whilst the allegations before the Tribunal today were serious, it may feel that it could deal with him in a way that he would allow him not lose his ability to work as a solicitor.

### **Mitigation of the Second Respondent**

55. The Second Respondent was not practising and had financial difficulties leading to his bankruptcy. However there was no doubt that he was a good administrator and that he could handle his accounts properly. The allegations the subject matter of today's proceedings would not be repeated.

### **The Tribunal's Findings**

56. The First Respondent had denied all of the allegations made against him. However, it was clear that he had been the sole partner of the firm at one stage and had allowed the Second Respondent to operate the client account. Whilst it might not be said that he had been reckless in taking on the partnership whilst making so little enquiries as to the state of it in the first place, allowing the Second Respondent to behave in such a manner was of itself reckless. The fourth allegation had therefore been proven to the satisfaction of the Tribunal. However, it was clear from the evidence presented that the First Respondent had carried out some of the duties of a partner and as the third allegation had been phrased as "without fulfilling any of the duties or responsibilities" this allegation was found not to have been proved.
57. Allegations 1 and 2 had been found to be proved against the First Respondent as stewardship of the public's money was of paramount importance and he had known at the time that the Second Respondent was operating the client account when he was not entitled to do so, so that there was a corresponding risk with clients' money. Similarly, allegation 2 had been proved as he had allowed the Second Respondent control of the client account and the running of parts of the firm when he knew he was not entitled to do so.
58. The Second Respondent had admitted all of the allegations made against him save for dishonesty in allegation 7. The Tribunal was not satisfied that both limbs of the test in *Twinsectra* had been satisfied in this regard. There was no evidence of any collusion or strategy on the part of the Second Respondent. It was the Tribunal's decision that

dishonesty had not been shown beyond a reasonable doubt although the case had come very close to it. However in that regard the Tribunal did find that the Second Respondent had acted recklessly.

**The Orders of the Tribunal**

59. The Tribunal Ordered that the Respondent, LATEEF ABOLADE KAREEM of Flat 38, Andoversford Court, Bibury Close, London, SE15 6AE, solicitor, be suspended from practice as a solicitor for the period of three months to commence on the 23rd day of February 2010 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,250.00.
60. The Tribunal Ordered that the Respondent, AYODELE OLAKUNLE NATHAN-MARSH of 24 Montague Avenue, Luton, Bedfordshire, LU4 9JG, registered foreign lawyer, be suspended from practice as a registered foreign lawyer for the period of two years to commence on the 23rd day of February 2010 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,250.00.

Dated this 19<sup>th</sup> day of May 2010  
On behalf of the Tribunal

R Nicholas  
Chairman