

IN THE MATTER OF MOHSIN PATEL, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr W M Hartley (in the chair)
Mr N Pearson
Mrs C Pickering

Date of Hearing: 8th December 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 by Jonathan Richard Goodwin, Solicitor Advocate, of 17E Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 27th April 2009 that Mohsin Patel of Equitas Solicitors Ltd, Ground Floor, Muirfield Buildings, Fairways Office Park, Olivers Place, Preston, Lancashire, PR2 9WT might be required to answer the allegations contained in the statement which accompanied the application and that such Order shall be made as the Tribunal should think right.

The allegations against the Respondent were that:-

1. Contrary to Rule 9 of the Solicitors Practice Rules 1990 ("SPR") he, in respect of personal injury claims, entered into an arrangement or acted in association with persons (not being solicitors) whose business or a part of his business was to make, support or prosecute, whether by action or otherwise, claims arising as a result of personal injury and who, in the course of such business solicited or received contingency fees in respect of such claims.

2. Contrary to Rule 1(c) of the SPR, he failed to act in the clients best interests, in that he failed adequately, or at all, to advise clients of the fee payable to the referral companies, and which was deducted from the clients damages, and/or by entering into a referral arrangement which allowed for a contingency fee to be charged.
3. [Withdrawn].

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 8th December 2009 when Jonathan Richard Goodwin appeared as the Applicant and the Respondent appeared and was represented by Mr Michael Ozon.

The evidence before the Tribunal included the admissions of the Respondent to allegations 1 and 2, a witness statement and Outline Submissions from the Respondent together with a character reference.

At the commencement of the hearing the Applicant sought leave to withdraw allegation 3 in the light of explanations and discussions that had taken place between the parties. The Tribunal granted leave for the Applicant to withdraw allegation 3.

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

The Tribunal Order that the Respondent, Mohsin Patel of Equitas Solicitors Ltd, Ground Floor, Muirfield Buildings, Fairways Office Park, Olivers Place, Preston, Lancashire, PR2 9WT, solicitor, do pay a fine of £750.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,000.

The facts are set out in paragraphs 1 to 9 hereunder:-

1. The Respondent, born in 1977, was admitted as a solicitor on 1st October 2002 and his name remained on the Roll of Solicitors.
2. At all relevant times the Respondent carried on practice under the style of Equitas Solicitors, and with effect from March 2007 Equitas Solicitors Ltd from offices at Ground Floor, Muirfield Buildings, Fairways Office Park, Olivers Place, Preston, Lancashire, PR2 9WT.
3. A Forensic Investigation Report dated 29th January 2008 was prepared following an inspection of the Respondent's practice, a copy of which was before the Tribunal.
4. The Respondent's firm was established in 2005 and had received 1560 referrals of personal injury work from a total of 9 referrers since the introduction of the Compensation Act 2006. The practice had agreements with only 5 of the introducers. The Investigation Officers reviewed a number of client matter files that had been referred to the firm.

5. The matter of IS detailed a deduction from the client's damages albeit upon the authority of the client dated 10th May 2007.
6. The Respondent failed to advise clients of the fee payable to the referral companies which would be deducted from clients' damages. He entered into referral agreements which allowed referral companies to charge a contingency fee.
7. The Respondent indicated that he had stopped making deductions from any new claims received after 1st July 2007 following the introduction of the Solicitors Code of Conduct.
8. The Tribunal were provided with information of the number of referrals the Respondent received prior to 1st July 2007 and details of deductions from clients' damages.
9. The Respondent conceded that he did not think any deduction from clients' damages was in the client's best interest but that he was competing with larger firms.

The Submissions of the Applicant

10. The Applicant confirmed allegations 1 and 2 had been admitted. Whilst this case was not at the top category of seriousness, it was clearly one where the Respondent had not acted in the best interest of his clients. The Respondent had accepted that he recognised deductions from client damages were not in their best interests but he had continued to make those deductions in order to compete with other firms. The Applicant confirmed the Respondent had agreed to pay his costs in the sum of £8,000.

The Submissions of the Respondent

11. Mr Ozon on behalf of the Respondent reminded the Tribunal that there had been a fundamental problem with Rule 9 of the SPR and the Respondent had made admissions as he accepted there had been a prima facie breach. The problem was that once the client received damages, it was unlikely they would pay the referral company and indeed, the problem had arisen as a result of legislation which had caused difficulties.
12. The Respondent had not intended to offend the Rule. This was not the first case and certainly would not be the last case before the Tribunal where there had been breaches of Rule 9. The Respondent had conducted himself in accordance with what was known at the time in a field where practice was dictated by referral companies.
13. The first contact would usually take place between the client and the Claims Management Company (referral company) and often the client did not know which solicitor was instructed at the outset. Clients were more comfortable with case management companies especially where there were language problems and where they found solicitors difficult to approach. If clients had approached

the Respondent direct, then he would not be before the Tribunal as he would not have deducted any fees. In some cases deduction of fees could be justified, for example where translations or other services were provided.

14. The Tribunal were reminded there had been policy issues relating to Rule 9 and the Tribunal were asked to take into account that many members of the profession had been affected by this. Indeed the Respondent had suffered already, conditions had been placed on his practising certificate in September 2008 when this was not necessary as he was not a risk to clients. He had changed his policies immediately on realising he had breached Rule 9. The Respondent had hundreds of satisfied clients where there had been no issue and only in one case did the client not want money to be paid to the Claims Management Company. In that case the Respondent had paid the money direct to the client and let the client resolve the issue with the Claims Management Company direct.
15. The Tribunal were referred to the case of Mohammed Hassan Giva [9726/2007] which came before the Tribunal on 19th December 2007. There were similar breaches in that case although they were rather more serious in that Mr Giva had dealt with over 7,300 cases whereas the Respondent had only dealt with 500. The Tribunal were invited to reprimand the Respondent as he had been a victim of circumstances.

The Findings of the Tribunal

16. The Tribunal had listened carefully to both parties and had considered all the documents before it. The Tribunal found allegations 1 and 2 to have been substantiated, indeed these were admitted by the Respondent.
17. Any breach of the Solicitors Practice Rules 1990 was serious and could not be regarded as trivial. By making unlawful deductions from clients' damages, the Respondent had caused clients to suffer and had brought the profession into disrepute. However, the Tribunal did give credit to the Respondent for rectifying the position immediately on becoming aware of the breaches and noted he had co-operated fully with the SRA throughout. The Tribunal also noted from his client care letters that in fact he did inform clients at the outset that the deduction they had agreed with Claims Management Companies was not in their best interests and he asked them to sign an authority form confirming whether they were happy for these deductions to be made. It appeared that he did try to act in his clients best interests although he now accepted he had not done so.
18. The Tribunal were impressed with the very good character reference provided and in all the circumstances considered the appropriate sanction was to fine the Respondent £750.00. The Tribunal also ordered that the costs, agreed at £8,000, be paid by the Respondent.
19. The Tribunal Ordered that the Respondent, Mohsin Patel of Equitas Solicitors Ltd, Ground Floor, Muirfield Buildings, Fairways Office Park, Olivers Place, Preston, Lancashire, PR2 9WT, solicitor, do pay a fine of £750.00, such penalty

to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,000.

Dated this 14th day of May 2010
On behalf of the Tribunal

W M Hartley
Chairman