

IN THE MATTER OF GEORGE SHIAKALLIS, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H Isaacs (in the chair)
Miss T Cullen
Mrs V Murray-Chandra

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 (“SRA”) by George Marriott a partner in the firm of Gorrins of 4 Davy Avenue, Knowlhill, Milton Keynes, MK5 8NL on 29th April 2009 that George Shiakallis of LGS Solicitors Ltd of 2nd Floor, Southpoint House, 321 Chase Road, Southgate, London N14 6JT trading as Lawson George Solicitors, 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.

At the commencement of the hearing the Applicant indicated that in the light of limited admissions made by the Respondent in relation to allegation 2 he sought to withdraw allegation 1. The Respondent agreed and the Tribunal consented to that course. The Applicant further pointed out that he accepted that allegations 3 and 4 simply arose as a consequence of allegation 2 and were not separate allegations in their own right.

Consequently, the allegations against the Respondent were that he:-

1. Withdrawn.
2. Provided misleading and inaccurate statements to the SRA or the Court.
3. Failed to act with integrity up to 30th June 2007, contrary to Rule 1(a) of the Solicitors' Practice Rules 1990.
4. Failed to act with integrity since 1st July 2007, contrary to Rule 1.02 of the Solicitors' Code of Conduct.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 8th December 2009 when George Marriott appeared as the Applicant and the Respondent was represented by James Moreton, solicitor, of Bankside Law, Thames House, 58 Southwark Bridge Road, London SE1 0AS.

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

The Tribunal Orders that the Respondent George Shiakallis of LGS Solicitors, 2nd Floor, Southpoint House, 321 Chase Road, Southgate, London, N14 6JT solicitor, do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.

The evidence before the Tribunal

The evidence before the Tribunal included the admission of the Respondent that his attendance at a restaurant in July 2003 and stating in his letter addressed to the SRA that his only involvement in the transaction before the Tribunal was "to witness the two signatures on the agreement in question" was misleading. He denied that he knew that his statement was misleading for reasons explained in greater detail below. The Respondent gave oral evidence.

The agreed facts are set out in paragraphs 1 - 17 hereunder:-

1. The Respondent, born in 1971, was admitted as a solicitor in 2002. His name remained on the Roll. At the material time he was a co-director of LGS Solicitors Limited at 2nd Floor, Southpoint House, 321 Chase Road, Southgate, London N14 6JT trading as Lawson George Solicitors.
2. Mr C had been a client of the Respondent in respect of matters not relevant to these proceedings, all of which matters had been closed and about which no complaint had been made.
3. Mr C had decided to sell his business ("the business"). MM, who was an unqualified clerk in the Respondent's firm, had learned of this and had indicated that he would be interested in acquiring it.
4. At some date not specified but probably in the summer of 2003, MM realised that he would not be able to finance the purchase of Mr C's business and he approached the

Respondent's father, who lived in Cyprus, for some financial assistance. Mr C, MM and the Respondent's father were known to each other as members of the same community.

5. The transaction was agreed on the footing that the Respondent's father would, as requested by Mr C, contribute in Cyprus the equivalent of £60,000 in exchange for a half interest in the company which was to acquire the business from Mr C and such payment was made directly to Mr C who also was to receive approximately £30,000, to include a consultancy fee, direct from the purchaser company. The purchaser of Mr C's business is referred to as "Euro". The business did not prosper and it subsequently went into liquidation before, so Mr C claimed, he had received the whole of the consideration due to him.
6. Mr C instructed solicitors with whom the Respondent and his firm had had a very poor relationship and they had at once demanded all files relating to the completed matters which the Respondent's firm had handled for Mr C and also the file relating to Mr C's transaction with MM (which had involved the Respondent's father as an investor in Euro.) Mr C and his solicitors at this point were seeking to recover the shortfall from the Respondent and his firm which Mr C claimed was due to him in respect of his business sale to Euro.
7. Mr C through his solicitors alleged that the firm had been negligent in advice given to him and that such advice had been given by the Respondent. The Respondent was invited to refer the matter to his insurers but the insurers declined to accept liability, relying on the Respondent's consistent assertion that he had had no involvement as a solicitor in the transaction, had no file which could be handed over to Mr C's solicitors and therefore had no responsibility to Mr C for any shortfall arising from the transaction. The claim by Mr C against the Respondent's insurers did not succeed and other attempts to obtain redress by proceedings to obtain evidence which would support such a claim also failed.
8. These remedies being unavailable to Mr C or his solicitors, a complaint was made to the Law Society. This resulted in lengthy correspondence between the SRA and the Respondent initially on the footing that the Respondent should give an explanation to the SRA sufficient to satisfy, in the SRA's view, the complaint made by Mr C's solicitors on his behalf.
9. The complaint had been that the Respondent had been involved in the transaction as a solicitor, that he had a conflict of interest and that he had delayed or failed to hand over files when called on to do so.
10. Mr C's complaint was made in July 2004 but the SRA did not formulate its letter requiring explanations to be given by the Respondent until some 8 months later in a lengthy letter written on 16 March 2005.
11. The Respondent in his oral evidence indicated that he had taken counsel's advice in relation to his response to this and certain other matters and his reply to the Law Society was delivered later than he would have wished, namely on 16th May 2005. It was clear in its denial of any professional involvement of the Respondent in the Euro

transaction but was more guarded in relation to other matters including the Respondent's knowledge of the arrangements between MM and Mr C.

12. The complaint by Mr C's solicitors to the Law Society proceeded at the same time as other action was taken by Mr C to try to secure recoupment of the amount he claimed had not been paid to him with the Euro transaction. Those other proceedings were ultimately dismissed as showing no cause of action though, as the Respondent himself pointed out, the actual ground for dismissing the claim made by Mr C was based on a technical failure to plead his case properly.
13. These proceedings having failed with Mr C, being liable for costs (which he did not meet), he resumed his complaint to the Law Society.
14. There was further correspondence and disclosure to the Law Society of witness statements made by the Respondent in the earlier and then current proceedings. A careful comparison of what the Respondent had said in his replies to the Law Society and in the legal proceedings, gave rise to what the Applicant said was a series of inconsistencies such that the SRA concluded that the evidence given by the Respondent was not to be believed and that his explanations should not be accepted.
15. It was the Applicant's case that in his response to the SRA dated 16th May 2005 the Respondent had stated:-

“Neither this firm or (the Respondent) can comment on the “true intentions of the parties.” There was no occasion on or before 17th September 2003 (or indeed subsequently) when any conversation took place with (the Respondent) or (the Respondent's partner) regarding this transaction, let alone the true intentions of the parties. They (the Respondent and his partner) had a general awareness that MM was involved... there was no meeting in either July 2003 or at any other time which was attended by (the Respondent)...”

16. In a witness statement in the case brought by Mr C against Euro and the Respondent's firm to which the Respondent attested on 4th September 2007 the Respondent had said:-

“Because of the involvement with my father and because of the fact that MM was proposing to purchase the business, I had substantial knowledge of what was going on at the time. In fact MM asked me if I would join him in a meeting with the claimant to discuss the acquisition of the business and such meeting took place at a restaurant known as “Karpasis” referred to in paragraph 8 of the Particulars of Claim. At the meeting the claimant said that he wanted to become an airline pilot and that was why he wanted to get out of the business.”

17. In his oral evidence the Respondent accepted that he had not made reference to the discussion at the restaurant when responding to the SRA. He said that he had had no intention to mislead the SRA. He had intended to convey to the SRA that there was no solicitor and client relationship between him, his firm and Mr C and that there had been no formal meeting at which Mr C had given, or the Respondent had accepted, instructions. He had regarded the discussion at the restaurant as an informal matter and considered the discussion to have been unremarkable as the parties involved in

the proposed transaction and the financing of it were well known to the Respondent including his own father. He had accepted that in omitting reference to the restaurant discussion he had not made the extent of his involvement absolutely clear and had inadvertently misled the SRA.

The Submissions of the Applicant

18. The Applicant had already indicated his position with regard to the allegations, namely that it was no longer asserted that the Respondent was Mr C's solicitor in connection with the purchase of his business by Euro. He had also indicated that allegations 3 and 4 added nothing.
19. The Respondent had admitted allegation 2 and the basis on which he made that admission was clear.
20. A solicitor has a clear duty to respond in the fullest possible way to his professional regulator. The Respondent had given responses to enquiries made by the SRA that were not entirely consistent. In the letter addressed to the SRA that had been settled by counsel the Respondent had stated that his knowledge of the transaction was very limited. In subsequent letters he indicated that he had a substantial knowledge and in his statement before the County Court he mentioned a restaurant meeting. It was the case of the SRA that the Respondent's statements had been contradictory. It was the Applicant's case that the Respondent should not have stated to the SRA that he had only a general knowledge of the transactions when he had told the County Court that he had a very precise knowledge.
21. For a solicitor to mislead his professional regulator was a matter for concern and was unacceptable.

The Submissions of the Respondent

22. The First Respondent had been pursued by a disgruntled party in the transaction who had been represented by solicitors with whom the Respondent and his firm did not enjoy a good relationship, and, indeed, there had been animosity between the two firms.
23. The Respondent had taken counsel's advice generally in connection with the dispute between the two firms of solicitors and counsel had also drafted his letter of response to the SRA. The Respondent had accepted that there had been the informal restaurant discussion about the transaction and that he should perhaps have sought to include or mention that discussion when checking counsel's draft.
24. The Respondent had intended to give a full and frank account to the SRA. He had explained the apparent discrepancy by the fact that the initial restaurant meeting had been very casual. He had joined the others present as a friend to listen to Mr C's proposal and to tell him what he thought. He had been unable to recall any discussion as to sale and purchase price. It was later than MM had entered negotiations with Mr C. The Respondent had not been involved in the transaction, in particular as a solicitor or in any other way and he had signed the agreement as a witness simply

because the vendor and the purchaser were in his office at the time and he was the only person available to act as a witness.

25. There had been no question of the Respondent acting as a solicitor in the transaction because of the involvement of his father. The Respondent had had a general awareness of the proposed transaction because he knew the parties. He had not however had the detailed knowledge that a solicitor who acted in the transaction would have had. None of the parties to the transaction had taken legal advice because they were friends who trusted each other.
26. When complaint was made to the SRA it had accepted what Mr C had to say and simply did not let the matter go. It was only at the hearing that the SRA had accepted that the Respondent had not acted where he had a conflict of interest or at all.
27. The letter drafted by counsel by way of response to the SRA's enquiry gave a lot of detail. The Respondent did of course have knowledge of all sorts of things that might have had a remote connection with the transaction and the parties but he had no duty to reveal such matters to the Law Society. The Respondent had admitted that he did not tell the SRA that he had attended a meeting or discussion in the restaurant but he had not directed his mind to that as he had not been there in his capacity as a solicitor.
28. The Respondent's position was that he had never acted for Mr C. His view had been that the restaurant discussion was a non material meeting. He had come to accept that he should have mentioned it in order to give the fullest possible picture.
29. It was noteworthy that the SRA's letter had been addressed to the Respondent some eight months after Mr C's complaint had been made. The Respondent had replied on 16th May 2005 and then there was a gap until 24th June 2008 when the SRA was still pursuing the complaint on the same incorrect basis.
30. The Tribunal was invited to find that the Respondent was a good and credible witness and to find that the meeting was not a solicitor's meeting in his mind but an informal dinner. A further factor to be taken into account was that the letter addressed to the SRA had been drafted by someone else.
31. The Respondent should be given credit for accepting that he failed to give the fullest possible details relating to his knowledge to the SRA but the failure to mention the restaurant discussion was not material to the SRA's investigation and the relevance or importance of mentioning that matter had not been immediately apparent to the Respondent in the context in which he was giving his response.

The Findings of the Tribunal

32. The Tribunal having seen and heard the Respondent giving oral evidence was satisfied that he was a credible witness.
33. The SRA repeated allegations that the Respondent had been retained by Mr C in relation to the transaction as a consequence of which the Respondent owed duties to Mr C including a duty not to involve himself in a matter where he had a conflict of interest. At the outset of the hearing the Applicant indicated that he was not alleging

that there had been any retainer of the Respondent by Mr C and in the absence of a retainer it was manifest that there could be no conflict of interest. It appeared to the Tribunal that this could and should have been conceded by the SRA at a much earlier stage and would have been if proper weight had been attached to the failure by Mr C to establish in any court proceedings that he had indeed retained the Respondent to act for him. The Tribunal accepted that the Respondent had knowledge of the transaction and that MM, his clerk was the purchaser of Mr C's business with financial assistance from the Respondent's father.

34. The Tribunal did not consider that there was evidence to support the more serious claims against the Respondent (about which so much heat had been generated in the correspondence between the Respondent and the SRA). The case before the Tribunal therefore rested only on the assertion by the Applicant that the Respondent had breached a duty to give a full, frank and proper explanation of his involvement in the transaction and that in giving his explanations he had misled the SRA.
35. The limited concession made by the Respondent was that his denial of any meeting with Mr C was misleading as it was misunderstood. The Respondent's admission related to discussion over a meal which, acknowledging that the Respondent was not retained by Mr C to advise on the matter, arguably could not be relevant to any misconduct of the Respondent. The Respondent had asserted on a number of occasions that his awareness of the transaction was limited, though later he did accept that his knowledge was more substantial whilst maintaining throughout that such knowledge of the transaction did not indicate involvement in it, certainly not involvement in a professional capacity.
36. Whilst the Tribunal accepts that a solicitor has a duty to be full and frank in his dealings with his professional body, such frankness does not in the Tribunal's view necessarily extend to matters which are not immediately relevant to an allegation of professional misconduct. Once the conclusion was reached that it could not be alleged that the Respondent was acting in a professional capacity, it appears to the Tribunal that it should have been realised that the allegation of knowledge of the transaction (as opposed to professional involvement in it) gave rise only to a very low level of breach. The breach in the Tribunal's view in this case was not sufficiently material to justify a finding adverse to the Respondent, though his admitted failure did justify a payment of the SRA's costs.

Dated this 5th day of March 2010
On behalf of the Tribunal

A H Isaacs
Chairman