

IN THE MATTER OF HARBHINDER SINGH, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H B Holmes (in the chair)
Mrs E Stanley
Mr J Jackson

Date of Hearing: 19th November 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 Peter Harland Cadman, solicitor and partner of Russell-Cooke LLP, 8 Bedford Row, London, WC1R 4BX, on 17th April 2009 that Harbhinder Singh, solicitor of Sandwell Solicitors, Suite 3, Sandwell Business Development Centre, Oldbury Road, Smethwick, West Midlands, B66 1NN, 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 fit.

The allegations against the Respondent were:

- (a) that in matrimonial proceedings involving children he improperly attended the matrimonial home with a child of the family contrary to Rule 1.02 of the Solicitors Code of Conduct 2007;
- (b) that in matrimonial and childcare proceedings whilst representing a husband he improperly attended on the estranged wife in the absence of her legal representative contrary to Rule 10.04 of the Solicitors Code of Conduct 2007;
- (c) that he failed to reply promptly or at all to correspondence from the Solicitors Regulation Authority.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS, on 19th November 2009 when Peter Harland Cadman appeared as the Applicant. The Respondent did not appear and was not represented.

The evidence before the Tribunal

The evidence before the Tribunal included a bundle of documents relating to the personal service of the proceedings upon the Respondent, including the statement of Natalie Arnold who attended the Tribunal and gave oral evidence.

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

The Tribunal Orders that the Respondent, Harbhinder Singh of Sandwell Solicitors, Suite 3, Sandwell Business Development Centre, Oldbury Road, Smethwick, West Midlands, B66 1NN, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 19th day of November 2009 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.

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

1. The Respondent, born in 1973, was admitted as a solicitor in 2004. His name remained on the Roll.
2. At all material times the Respondent practised as a sole practitioner under the style of Sandwell Solicitors at Suite 3, Sandwell Business Development Centre, Oldbury Road, Smethwick, West Midlands, B66 1NN.
3. Tyndallwoods Solicitors were retained to represent Mrs PS on 3rd July 2008 in matrimonial proceedings with regard to her husband, Mr GS, and two children of the family, MS (date of birth 27th March 1995) and AS (date of birth 18th August 2004). Ms Arnold, a trainee legal executive, had conduct of the matter. The Respondent represented Mr GS.
4. Following separation of Mrs PS and Mr GS, both children remained residing with Mrs PS in the former matrimonial home but from the end of June 2008 MS resided with his father.
5. In July 2008 Mrs PS alleged that Mr GS had removed AS from her care. The police were not prepared to take any action.
6. On 8th August 2008 Tyndallwoods issued an urgent ex parte application for Orders under the Children Act and Non-molestation/Occupation Orders under the Family Law Act. Ex parte Orders were granted by the court and the matter was listed for a further hearing on 14th August.
7. At the court hearing on 14th August 2008 both parties were represented by Counsel. Mrs PS's application for an order that AS be returned to her was successful. Mr GS wished to contest the orders and pursue an interim residence order himself.

8. Following the court hearing Tyndallwoods attempted to engage in correspondence with the Respondent of Sandwell Solicitors, but did not receive any reply from him.
9. On 12th September Tyndallwoods received a telephone call from Mrs PS saying that AS was poorly and therefore she did not intend to send him for contact with Mr GS the following day. A telephone message was left at Sandwell Solicitors informing them of this. Later that afternoon the Respondent telephoned Tyndallwoods indicating that he had been to the home of Tyndallwoods' client with MS and he did not think AS was poorly and saying that Mrs PS should produce a medical report.
10. The Respondent justified his attendance at Mrs PS's home with MS on the basis that he was instructed by his client who had parental responsibility. He claimed to have introduced himself as Mr GS's solicitor but Mrs PS had disputed that and asserted that it was only when she questioned him that he admitted he was from Sandwell Solicitors.

The submissions of the Applicant

11. In the context of highly contested matrimonial and childcare proceedings it was totally inappropriate for the Respondent in any circumstances to have attended the matrimonial home. His conduct was aggravated by the facts that not only was the child MS only 13 years old but that child also was subject to court orders; the proceedings were highly contested and a solicitor should not have attended the matrimonial home when his purpose seemed to have been to put himself in the position of a witness of fact. The Respondent should not have attended and put himself in a position where Mrs PS did not have the benefit of her own solicitor in attendance.
12. The SRA wrote to the Respondent asking for his detailed response. The Respondent did not reply.

The Findings of the Tribunal

13. The Tribunal found the allegations to have been substantiated. It was the most fundamental breach of a solicitor's professional obligations to have direct contact with the client of another solicitor without the knowledge or consent of that other solicitor. Not only was that a most serious breach, but, additionally, the Respondent had put himself in a position where he was potentially to become a witness in proceedings in which he was the legal representative of one of the parties. The Respondent simply should not have involved himself at this personal level and should have maintained his complete independence. When the SRA wrote to the Respondent seeking an explanation, he did not respond. A solicitor has a duty to respond fully and promptly to enquiry made of him by his professional regulator.
14. The Respondent has taken no part in the disciplinary proceedings.
15. The Tribunal concluded that the Respondent had no regard for the obligations of practice as a solicitor and sought not to engage either with his professional regulator or with his professional disciplinary body.

16. The Tribunal was deeply concerned that the Respondent was content to derive the benefits and status of being a solicitor without having any regard to the professional rules and regulations relating to solicitors, or his professional regulator or to the regulatory process.
17. In these particular circumstances the Tribunal concluded that it was both appropriate and proportionate that the Respondent be suspended from practice. Whilst not wishing to bind a future division of the Tribunal, this Tribunal wished to make it very plain indeed that any application by the Respondent for the indefinite period of suspension to be brought to an end would not be likely to receive favourable consideration unless he could demonstrate his understanding of and commitment to acting with the integrity, probity and trustworthiness required of a solicitor and recognise the importance to the public of the proper regulation of the profession.
18. The Applicant sought the costs of and incidental to the application and enquiry. Having heard his application and without being provided by the Respondent with any details of his financial standing, the Tribunal considered it right that the Respondent should pay the costs of and incidental to the application and enquiry, which costs the Tribunal fixed in the sum of £5,000.

Dated this 16th day of January 2010
On behalf of the Tribunal

A H B Holmes
Chairman