

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF MICHAEL RYAN, (The Respondent)

Upon the application of Peter Harland Cadman
on behalf of the Solicitors Regulation Authority

Mr R B Bamford (in the chair)
Mr M Fanning
Mr G Fisher

Date of Hearing: 22nd July 2010

FINDINGS & DECISION

Appearances

Mr Matt Bosworth appeared on behalf of Peter Harland Cadman of Russell-Cooke LLP, 8 Bedford Row, London, WC1R 4BX for the Applicant.

The Respondent appeared in person.

The application was dated 21st May 2010.

Allegations

1. As at 31st December 2008 the Respondent failed to keep his firm's accounting records properly written up at all times contrary to Rule 32 Solicitors Accounts Rules 1998.
2. The Respondent allowed client accounts to be overdrawn, contrary to Rule 22(8) Solicitors Accounts Rules 1998.
3. The Respondent failed to undertake reconciliations at least once every five weeks, contrary to Rule 32(7) Solicitors Accounts Rules 1998.

4. The Respondent failed to remedy the breaches of the Solicitors Accounts Rules promptly upon discovery contrary to Rule 7 of the Solicitors Accounts Rules 1998.
5. The Respondent failed to include in the firm's bills of costs details as to disbursements contrary to Rule 32(8) Solicitors Accounts Rules 1998.
6. The Respondent transferred funds from client account without the client's written instructions contrary to Rule 22(1) Solicitors Accounts Rules 1998.
7. The Respondent failed to provide accurate cost information contrary to Rule 1 and 2 of the Solicitors Code of Conduct 2007.
8. The Respondent failed to ensure that clients were provided with client care letters contrary to Rule 2 of the Solicitors Code of Conduct 2007.
9. The Respondent gave misleading costs information in respect of fees charged to clients contrary to Rule 2 of the Solicitors Code of Conduct 2007.
10. The Respondent failed to act in his clients' best interests contrary to Rule 1 of the Solicitors Code of Conduct 2007.

The Respondent admitted all the allegations.

Factual Background

1. The Respondent, born in 1947, was admitted as a solicitor on 1st April 1980 and his name remained on the Roll of Solicitors. He held a current practising certificate subject to conditions.
2. At all material times the Respondent practised as a sole practitioner under the style of Michael Ryan Solicitors, First Floor, Cheapside Chambers, 43 Cheapside, Bradford, West Yorkshire, BD1 4HP.
3. An inspection by the Solicitors Regulation Authority ("SRA") of the Respondent's practice took place on 31st December 2008, and a report was produced dated 6th May 2009.
4. The Report identified a number of issues and in June 2009 the Respondent was asked to provide a copy of the most recent reconciliation statements, confirmation of what changes had been effected by the Respondent to his practice's policies and systems since the date of inspection and also requesting an explanation as to issues of client care and his practice's charging policy.
5. The Respondent wrote to the SRA on 22nd June 2009 attaching a copy of the current client care letters used in respect of conveyancing retainers and a copy of his practice's most recent reconciliation as at 31st May 2009. The Respondent admitted:
 - (i) His client, Mr P, had not been sent a client care letter in respect of his instruction (allegation 8);

- (ii) That telegraphic transfer fees were not recorded upon his bill of costs (with the caveat that the client had prior notification of the charge) (allegation 5);
 - (iii) He admitted his accounts were not reconciled within the five week period allowed by the Solicitors Accounts Rules 1998 (allegation 3);
6. The Respondent admitted that there had been a cash shortage on client accounts totalling £9,434.67 (allegations 1 and 2) and that he had addressed the client account cash shortage by transferring funds from the office bank account into the client bank account. He agreed that there were a total of 93 "paper transfers" from office to client bank account which had not been processed through the bank account and which had remained unreconciled since between 3rd August 2007 and 18th December 2008. The Respondent agreed that he stated that he had not transferred the funds at the bank because "I was that far behind I didn't know they were mistakes".
7. The Respondent agreed that the disbursements in relation to the telegraphic transfer, stamp duty and land transaction fees has not been shown upon the bill of costs and that the system utilised by his practice had been changed following the forensic investigation.
8. In relation to allegation 6, the Respondent admitted transfers from client account had been made without the client's authority and gave the following reasons:
- (i) In the matter involving Mrs R her authority was received orally but because of the urgency written authority was not received prior to the transfer. Written authority was subsequently obtained;
 - (ii) In the matter of C the Respondent stated that he was instructed to pay a shortfall on that client account from the estate executors of a client named M whose estate had the same executors and beneficiaries as in the C matter. The written authority was subsequently obtained by the Respondent;
 - (iii) In the matter of G the Respondent admitted that the transfer of £45,000 authority was an error on his part and should have been posted to the account of Mr TR.
9. The Respondent provided up to date client care letters.

The Tribunal reviewed all the documents submitted by the Applicant which included:

- Rule 5 Statement together with all enclosures

The Tribunal reviewed all the documents submitted by the Respondent which included:

- A bundle of documents supplied by the Respondent which also contained character references.

Witnesses

No witnesses gave oral evidence.

Findings as to Fact and Law

10. The Tribunal found all the allegations were proved, indeed they were admitted by the Respondent.

Mitigation

11. The Respondent provided the Tribunal with details of his personal circumstances, which particularly related to his mother's ill health. As a result of looking after his mother, the Respondent had fallen behind and whilst he intended to catch up with matters, it became harder and harder. His mother had required constant care and the Respondent was her only child and relative.
12. The Respondent accepted that the inspection by the SRA was a good thing and that it had been helpful to him. His accounts were now all up to date and had been balanced up to 1st July 2010. The Respondent guaranteed there would be no further problems with his accounts and confirmed that he was currently required to file six monthly Accountant Reports. He had invested in a new accounts package, a new computer system and all his client care letters were up-to-date.
13. The Respondent now appreciated that no matter how well and how long he had known a client, he must send client care letters and obtain proper authorities from clients before transferring funds. He referred the Tribunal to the references provided and also to the certificate which confirmed he had attended a course on Solicitors Accounts Rules. He apologised for his conduct and accepted he had failed to meet the standards expected of solicitors.

Costs Application

14. The Applicant confirmed costs had been agreed with the Respondent in the sum of £2,596.

Previous sanctions

15. The Respondent had previously appeared before the Tribunal on 3rd April 2003.

Sanction and Reasons

16. The Tribunal had listened carefully to the submissions of both parties and had considered all the documents in detail. The breaches were serious, not only for the profession but also to the public. In cases such as these the Tribunal had taken a very serious and strong line, in some cases preventing the Respondent from practising. However, in this case the Tribunal took into account the Respondent's mitigation and the references provided. The Tribunal was mindful of the work carried out by the Respondent to update his practice and procedures and the fact that he was already required to file six monthly accountant's reports.
17. Nevertheless, as a result of the Respondent's conduct, whilst no clients had suffered, there had been a breach of the regulations and the Tribunal also noted this was the

Respondent's second appearance before the Tribunal. In all the circumstances, the Tribunal considered it appropriate to fine the Respondent £10,000.

Decision as to costs

18. The Tribunal Ordered the Respondent to pay the Applicant's costs in the sum of £2,596 as agreed between the parties.

Order

19. The Tribunal Ordered that the Respondent, Michael Ryan of First Floor, Cheapside Chambers, 43 Cheapside, Bradford, West Yorkshire, BD1 4HP, solicitor, do pay a fine of £10,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,596.00.

Dated this 15th day of October 2010

On behalf of the Tribunal

R B Bamford
Chairman