

IN THE MATTER OF AKBAR ALI MALIK, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mrs K. Todner (in the chair)  
Mr. D. J. Leverton  
Mr. M. G. Taylor CBE

Date of Hearing: 12th November 2007

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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 Law Society by David Elwyn Barton solicitor of 5 Romney Place, Maidstone, Kent ME15 6LE on 5<sup>th</sup> March 2007 that Akbar Ali Malik solicitor of 233 Bethnal Green Road, London E2 6AB 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 were that the Respondent had been guilty of conduct unbecoming a solicitor in each of the following respects, namely:-

- (a) He gave an explanation to the Society during an investigation into a complaint that was false and misleading;
- (b) He unreasonably delayed in answering correspondence from the Society.

The application was heard at The Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when David Elwyn Barton appeared as the Applicant and the Respondent was represented by David Morgan solicitor, consultant with the firm of Radcliffes Le Brasseur of 5 Great College Street, Westminster, London SW1P 3SJ.

The evidence before the Tribunal included the oral evidence of Miss Davies, Mr Berrieman, Ms Mallik and of the Respondent. The Applicant handed up two bundles of documents and a letter dated 4<sup>th</sup> May. The Respondent handed up a bundle of original certificates of posting and written testimonials. The Respondent denied the allegations.

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

The Tribunal ORDERS that the Respondent, AKBAR ALI MALIK of 233 Bethnal Green Road, London, E2 6AB, solicitor, be suspended from practice as a solicitor for the period of six months to commence on the 13th day of November 2007 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,078.37.

**The background is set out in paragraphs 1 – 5 hereunder:**

1. The Respondent born in 1956, had been admitted as a solicitor on 1<sup>st</sup> February 2002. His name remained on the Roll of solicitors. The Respondent had practised as a solicitor under the style of Malik Law Chambers at 233 Bethnal Green Road, London E2 6AB.
2. On 10<sup>th</sup> July 2003 Mr S sent a complaint to The Law Society. It had been preceded by a complaint dated 23<sup>rd</sup> June 2003 to Malik Law Chambers but this had been returned to Mr S without answer.
3. Mr S stated that he had instructed Malik Law Chambers on 6<sup>th</sup> October 2001, having first consulted with Mr A after which his case was passed to the Respondent. On 6 October 2001 Mr S paid £600 on account of costs to "Malik". Mr S was a former member of the Gurkha Regiment and sought advice with regard to his claim to indefinite leave to remain in the UK. Mr S had received a letter from Malik Law Chambers dated 11<sup>th</sup> June 2002 informing him that he might collect his certificate.
4. The Law Society wrote to the Respondent on 18<sup>th</sup> August and 8<sup>th</sup> September 2003 asking for his explanation. The Law Society's representative had not received a reply.
5. On 12<sup>th</sup> September 2003 the Society received a letter apparently signed by Dr C Christodoulides, a partner in Malik Law Chambers. The letter stated that Mr S had been a client of "Malik Associates" and not "Malik Law Chambers". Malik Law Chambers then apparently traded out of the same premises as had Malik Associates. The two organisations were unconnected. The explanation advanced was that Malik Law Chambers was not responsible for professional issues arising out of the complaint or its investigation.

**The Evidence before the Tribunal**

6. The Law Society's caseworker had not received any reply from the Respondent himself. The Law Society's representative addressed further letters to the Respondent on 16<sup>th</sup> September 2003, 23<sup>rd</sup> February 2004 and 16<sup>th</sup> March 2004. She did not receive a response.

7. Miss Davies of The Law Society explained that The Law Society maintained a computerised log of movements on a file, including a record of incoming and outgoing letters. Receipt of two letters written by Dr Christodoulides had been recorded on that system. Where it was the Applicant's case that the Respondent had not replied to letters addressed to him, no response by the Respondent had been recorded on the computerised log.
8. The Respondent said that he had written letters to The Law Society. He had responded to The Law Society's letter of 18<sup>th</sup> August 2003 on 21 August 2003, to The Law Society's letters of 8<sup>th</sup> and 16<sup>th</sup> September 2003 on 12<sup>th</sup> and 18<sup>th</sup> September 2003 respectively. The Respondent's letter of 19<sup>th</sup> March 2004 was a reply to The Law Society's letter of 16<sup>th</sup> March 2004. He replied to The Law Society's letter of 2<sup>nd</sup> March 2005 on 17<sup>th</sup> March 2005. The Respondent produced copies of the letters written by him. They had not been written on the practice's letterhead because the Respondent regarded them as letters personal to him.
9. The Respondent also produced a bundle of original Post Office certificates of posting indicating that letters had been posted to the named Law Society representative at The Law Society's offices at Leamington Spa on 21<sup>st</sup> August 2003, 12<sup>th</sup> September 2003, 18<sup>th</sup> September 2003, 8<sup>th</sup> March 2004 and 19<sup>th</sup> March 2004, all of which were dates of letters written by the Respondent and on two occasions by Dr Christodoulides.
10. The Respondent said that he did not ignore correspondence addressed to him by The Law Society. He did not know why The Law Society had not logged the receipt of his letters. It was not reasonable to assume that no such letters had been delivered to The Law Society.
11. On 19<sup>th</sup> March 2004 Dr Christodoulides wrote on behalf of the partners and the Respondent.
12. The Law Society wrote again to the Respondent on 2nd March 2005. On 21<sup>st</sup> March 2005 the Society received a letter from the Respondent answering the questions posed by the Society in its letter to him of 18<sup>th</sup> August 2003. The Respondent explained that Mr S had instructed "Malik Associates" to handle his immigration matter and not "Malik Law Chambers". Malik Associates had ceased trading around April 2002. He acknowledged that "Malik Law Chambers" operated from the same address as Malik Associates.
13. On 8<sup>th</sup> April 2005 the Society wrote to the Respondent seeking his comments on two matters, namely the assertion that he had not been instructed by Mr S and the statement that the firm "Malik Law Chambers" had no connection with "Malik Associates".
14. On 18<sup>th</sup> April 2005 the Respondent wrote in answer stating that

"...this firm [Malik Law Chambers] has no connection to the Immigration Consultancy, Malik Associates. That consultancy was trading from 233 Bethnal Green Road. It has since closed down. We moved into the same premises in the last week of April/1<sup>st</sup> week of May [2002]."

15. In a statement apparently prepared by the police on 15<sup>th</sup> December 2004 in connection with a criminal investigation the Respondent had said that he was a solicitor working as a consultant at Malik Law Chambers. He said that he had been with the company since 1995. He stated that he was the supervising partner. The statement was unsigned. It was the Respondent's evidence that he could not recall providing evidence to the police to form the basis of the statement. He would not have signed it as it was manifestly incorrect on a number of points.
16. According to correspondence from Malik Law Chambers submitted to the Society in 2002 the practice operated out of 233 Bethnal Green Road. A letter from the Respondent at Malik Law Chambers dated 22<sup>nd</sup> December 2001 was apparently sent from 239 Bethnal Green Road. On 20 March 2002 and on 13<sup>th</sup> May 2002 Malik Law Chambers wrote again from 239 Bethnal Green Road. That address had been used again in subsequent letters.
17. In the letter of 20<sup>th</sup> March 2002 it was said on behalf of Malik Law Chambers that the Respondent had joined the practice as an associate solicitor from 1<sup>st</sup> February that year.
18. On 12<sup>th</sup> July 2002 the practice wrote again to The Law Society to notify it that with effect from 10<sup>th</sup> July 2002 he had retired from the partnership but remained as an associate/consultant.
19. On an example of the practice's notepaper dated 11<sup>th</sup> June 2002 the Respondent was described as "Principal", apparently distinct from the named partners. According to the Society's records he remained a partner.
20. The attention of the Tribunal was drawn to the similarity of the Internet Websites of Malik Associates and Malik Law Chambers. There were pages entitled "Malik Associates Incorporated with Malik Law Chambers, solicitors and Immigration Law Consultants". The pages set out the Respondent's publications, describing him as having been a practising lawyer since 1980. It was recorded that Malik Associates practised from 233 Bethnal Green Road.
21. A page extracted from the website of Malik Law Chambers on the same day described the Respondent in the same manner, and the text of both Websites was almost identical. The address of Malik Law Chambers was recorded as 233 Bethnal Green Road.
22. Further pages extracted from the website of Malik Law Chambers and Malik Law Associates (on 11<sup>th</sup> December 2006) described the Respondent as Malik Law Chambers's chief executive officer and indicated that Malik Associates, Immigration Law Consultants, was also in existence and practised from the same address.
23. The Respondent accepted that the Websites might well have been confusing. The Malik Associates Website had been updated last in the year 2000. It was not a current Website.

24. Mr Berrieman, an investigator at the Office of the Immigration Service Commissioner, OISC, the body that regulates immigration law practitioners that are not regulated by The Bar or The Law Society, produced an application for registration with OISC signed by the Respondent on behalf of Malik Associates stating that its address was 233 Bethnal Green Road. In the body of the application the Respondent was described as "advisor" and "principal".
25. The Respondent told the Tribunal that he had signed the application form at the request of a member of Malik Associates, Mr A. The Respondent had intended to become an advisor at that firm, but had changed his mind. He had not himself entered the description "principal".
26. Ms Mallik explained in her evidence that "Malik" was a common name. She spelled the name with two L's which was different from the Respondent spelling it with one "L". She was not related to the Respondent. By the time of her giving evidence to the Tribunal, she had been admitted as a solicitor and was employed by Malik Law Chambers, having previously worked at that firm in the capacity of a caseworker and a trainee solicitor.
27. Prior to her employment at Malik Law Chambers she had been a director of UK Immigration Law Consultancy Ltd, trading as Malik Associates. Both of these firms had traded from the same address.
28. Ms Mallik had known the Respondent for just over 10 years in a professional capacity. She had co-authored with him the book "British Immigration Law: A simple Guide for Business People". The Respondent was well known in the UK Asian Community. He presented radio programmes aimed at members of that community.
29. When Malik Associates was established in 2000, the directors "head-hunted" the Respondent and offered him a position as chief executive officer of UK Immigration Law Consultancy Ltd because of his reputation and also because he was an experienced practitioner of immigration law.
30. The Respondent had agreed to accept that position, but he would not join until he had completed his book on Islamic Law.
31. Malik Associates had instructed their web-host provider to place the Respondent's profile on the Malik Associates website to attract potential clients and the company agreed to sell the Respondent's books on their website.
32. When the Respondent had completed his book on Islamic Law in September 2001, he decided not to join Malik Associates. He established the solicitors' practice, Malik Law Chambers, with his partner, Dr Christodoulides at 239 Bethnal Green Road which was only a short walking distance from the office of Malik Associates at 233 Bethnal Green Road.

33. It transpired that Malik Associates was seriously affected by its competitor, Malik Law Chambers solicitors, and it closed. Malik Law Chambers moved from 239 Bethnal Green Road to the more spacious offices at 233 Bethnal Green Road in May 2002. At a later stage a few staff members who had been working at Malik Associates (including Ms Mallik) accepted employment offered by Malik Law Chambers.

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

34. The Law Society maintained a computerised system upon which post received was recorded. None of the letters which the Respondent said he had sent to The Law Society had been logged. In contrast two letters sent by Dr Christodoulides had been logged. The Tribunal was invited to conclude that the Respondent had not replied to letters addressed to him by The Law Society promptly.
35. In the letter written by the Respondent to The Law Society dated 18<sup>th</sup> April 2005 in which he said that Malik Law Chambers had no connection with Malik Associates, there were two false and misleading statements. The first was that Malik Law Chambers had no connection with Malik Associates. The second was that Malik Law Chambers moved into the same premises that Malik Associates had previously occupied. There was a connection between the two businesses and it appeared that they both operated out of the same premises at all material times.
36. The statement prepared by the police, the evidence from the OISC and the websites for the two businesses that were very similar to each other, were consistent with the two businesses operating out of the same premises with the Respondent participating in various ways in both of them at the same time.
37. The Respondent's statement to The Law Society that Malik Law Chambers had no connection with Malik Associates was false and misleading. It appeared to have been an attempt to avoid responsibility for any consequences arising out of Mr S's complaint. The documents clearly demonstrated that the Respondent was closely involved in both businesses. The Respondent featured prominently in the websites relating to both businesses. A client would not sensibly be able to distinguish between Malik Associates and Malik Law Chambers by looking at their respective Websites.
38. Mr S gave instructions on 6<sup>th</sup> October 2001 and he had said that he instructed Malik Law Chambers. His letter of complaint had been addressed to Malik Law Chambers and had been returned to him with a reference number on it which had been tippexed out. Mr S had produced two letters to The Law Society. One from Malik Associates dated 13<sup>th</sup> October 2001 and another from Malik Law Chambers dated 11<sup>th</sup> June 2002. There could be little doubt that Mr S instructed Malik Law Chambers. In any event the two organisations were inextricably linked. Any notion of separation was a fiction.

39. As a general statement of principle, both The Law Society and the public were entitled to expect transparency when they deal with solicitors. There was little doubt that the close relationship between the two organisations at the very least created confusion. The Respondent's movements in and out of those businesses would have perpetuated that confusion.

### **The Submissions of the Respondent**

40. The Respondent had answered the allegations and had placed supporting evidence before the Tribunal. The Tribunal was in the circumstances invited to find neither of the allegations to have been substantiated.

### **The Tribunal's Findings of Fact and its relationship to the Allegations**

41. The Tribunal accepted the Respondent's evidence that he had responded fully and promptly to letters addressed to him by The Law Society. His oral evidence was supported by copies of his letters and original Post Office certificates of posting. The Law Society was not able to prove that it had not received the letters written by the Respondent; it could demonstrate only that the receipt of them had not been logged on its computerised system. The Tribunal therefore found allegation (b) not to have been substantiated.
42. The Respondent and Ms Mallik had given a full explanation to the Tribunal of the relationship that existed between Malik Associates and Malik Law Chambers and how it came about that from letter headings it appeared that they operated from either the same premises or premises that enjoyed close proximity. Malik Associates had been trading before the Respondent was invited to join that firm. He had initially accepted that invitation, postponing his joining until he had finished writing a book. The Tribunal noted that Malik Associates offered books by the Respondent for sale on its Website.
43. When the Respondent finished his book, he changed his mind. He did not join Malik Associates but set up a solicitors' practice. That practice prospered to the detriment of Malik Associates, which subsequently closed.
44. Malik Law Chambers in due course employed staff from the former firm of Malik Associates. Ms Mallik, a director of the company trading as Malik Associates, and the co-author with the Respondent of a book, had become a caseworker, then a trainee and later a solicitor at Malik Law Chambers. The Respondent's letter to The Law Society dated 18<sup>th</sup> April 2005 stated that Malik Law Chambers had no connection with Malik Associates. In view of the history of these two firms which had been placed before the Tribunal, the Respondent's relationship with Ms Mallik and other members of staff of Malik Associates, and his acceptance of a job with Malik Associates, the Tribunal found that the Respondent clearly misled The Law Society by making that bold assertion without making sure that The Law Society was fully apprised of all the relevant facts. The Tribunal found allegation (a) to have been substantiated.

### **The Respondent's Mitigation**

45. The Respondent had practised in England and Wales for twelve years. He had been registered as a foreign lawyer in November 1995. Prior to that he was a barrister qualified in the Republic of Ireland.
46. The Respondent's reputation stood high within the British Asian community. He was the author of at least two books including one co-authored with Ms Mallik. The Respondent was 51 years of age and had a family and children. The Tribunal's decision would affect the Respondent's practice as a lawyer and his whole way of life, his career and his standing in the community. He would find it very difficult if his source of income was denied to him.
47. The Tribunal was invited to take into account the Respondent's Asian background and the cultural differences between a person from that background and a person born and brought up in the United Kingdom. The Respondent's mother tongue was Urdu. The fact that English was not his first language might well have affected the way in which he explained his position and his giving evidence before the Tribunal at the hearing. The Tribunal was invited to note that it may have been difficult on occasions to understand his English. The Tribunal was invited to take into account the fact that the Respondent was clearly a respected member of his community and the Tribunal was invited to give due weight to the written testimonials in support of the Respondent all of which attested to his competence and integrity.
48. At the time of the hearing the Respondent was employed as a consultant.
49. In all of the circumstances of this case the Tribunal was invited not to impose a sanction that would interfere with the Respondent's ability to practise.

### **The Tribunal's Decision and its Reasons**

50. The Tribunal found allegation (a) to have been substantiated. The Tribunal found the Respondent's evidence to be unconvincing and unreliable. He had exhibited an inability to be open and frank as to his position as was demonstrated in his signing of a form making application for registration to the OISC stating that he was both an advisor and a principal with a firm that he, on his evidence today, never did join. His bold assertion to The Law Society that there had been no connection between Malik Associates and Malik Law Chambers did not display the frankness and transparency in dealing with his own professional body that was expected of a member of the solicitors' profession. The Tribunal takes a very serious view of the Respondent's behaviour in this connection.
51. With regard to allegation (b) the Respondent's evidence was unconvincing, in particular it was very surprising that no mention had been made of the letters which he said he had written to The Law Society until he had produced copies in these proceedings. He had produced corroborative evidence in the form of certificates of posting. It was surprising and no proper reason had been given why he did not produce the evidence which he had placed before the Tribunal to The Law Society's Adjudicator or why he had not produced it in the disciplinary proceedings at an earlier stage. However The Law Society was not able to prove to the requisite very high

standard of proof that it had not received the letters which the Respondent said he had sent and for this reason the Tribunal has found allegation (b) not to have been substantiated.

52. The Applicant sought the costs of and incidental to the application and enquiry in the sum of £9078.37. The Tribunal noted that the Respondent's representative did not quarrel either with the submission that the Respondent should pay all of the costs or with the quantum.
53. The Tribunal concluded that having found allegation (a) substantiated against the Respondent in relation to serious misconduct on the part of the Respondent it was both appropriate and proportionate that the Respondent be suspended from practice for a period of six months. It was also right that the Respondent should bear the Applicant's costs. The figure sought by the Applicant had not been disputed and the Tribunal therefore ordered the Respondent to pay the Applicant's costs in the sum of £9,078.37.

Dated this 8<sup>th</sup> day of January 2008  
On behalf of the Tribunal

K. Todner  
Chairman