



The Insurers received a notification from Chloe, on behalf of Messrs Mark & Partners. Chloe, a partner in the firm, notified the two letters of demand that she received from her firm's clients alleging breach of stakeholders' duty by her former partner, Mark. Her story reads as follows:

From the start of Mark & Partners' establishment, there had been signs of trouble. Mark, the managing partner, had asked Chloe to join the law firm as a salaried partner. Upon Chloe's acceptance of the partnership, she drafted an agreement of the same to be executed between Mark and herself. However, Mark consistently avoided signing the agreement with the excuse of, there not being a need for one. Although there is no formal partnership agreement, Chloe was still portrayed as a partner on the firm's letterhead.

After running into professional legal troubles, Mark ceased practice a year later. Chloe only knew this when she received a letter from Bar Council informing her that she

is now the sole proprietor of Mark & Partners. Since the letter, Mark did not show up at the law firm but had contacted Chloe via telephone to inform her that he will return to practice soon.

It should be highlighted at this juncture that Mark acted as the only signatory to both the Office and Clients' Accounts of the firm. Whilst he has ceased practice, Mark continued to control the funds of the law firm. Chloe, who did not have any extensive knowledge about the funds held in the Clients' Account or the details to it, disclosed that all accounting documents and bank statements are kept in a room of the firm which is locked. Only Mark and his sister had access to that room.

Chloe suggested to Mark that she should open a new Clients' Account under her signatory, but said that Mark threatened her against it. When queried on the reason she continued the law practice under such circumstances, she asserted that she "as the sole proprietor of the firm, she had no choice, and had existing files to handle". Chloe

also alleged that she had written a formal complaint to Bar Council on Mark's conduct but claims that she lost copies of those documents.

Chloe continued to run the firm for a further six months without the knowledge that Mark has been embezzling monies from the firm's Clients' Account. It was only when the Bar Council informed her that Mark has been struck off the rolls for misconduct in a previous firm and receiving the letter of demands from her clients, that Chloe realised the severity of the situation.

With clients threatening legal action against Chloe and her firm, it was only then she decided to lodge a police report to protect herself against Mark's misconduct. Due to the mismanagement of clients' funds, Chloe is unable to renew her practising certificate as she could not pass the obligatory Accountant's Report, as well as having disciplinary proceedings against her lodged by former clients.

## Word to the Wise

1

"Get it in writing" – These are words commonly uttered by lawyers, for good reason. The formation of a legal firm is not a handshake business. Complications revolving around a "he said, she said" dispute can be resolved if there is a written contract.



2

Ambiguous partnerships agreements make risk management difficult. It is critical that all employment contracts are in writing for the extent of liability to be ascertained and in many cases, limited.



3

It is expected for every legal practice to have good documentation. With proper documentation process, client and stakeholders' requirements will be met effectively and any defects are likely to be found quickly. Correspondences that affect any part of your professional practice must be retained and easily identifiable when needed.



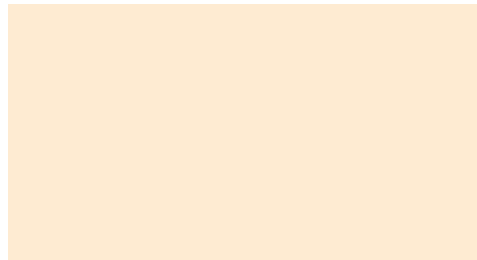
4

All partners are jointly and severally liable for partnership debts. Before deciding to venture into a partnership, decide that your potential partner is someone who you can trust. Ask questions if you feel that there is something amiss.



5

Your firm's Clients' Account can only be controlled by a partner or a legal assistant expressly authorised by a partner of your firm. Partners who have left the firm should not be given any authority over the Clients' Account.



6

Any mismanagement or acts against the Solicitors' Account Rules 1990 beyond your prevention must be reported to Bar Council and/or a police report must be made. Do not wait for repercussions before deciding to act on it – remember – prevention is always better than cure!

