A FAMILY AFFAIR – KEEP IT SEPARATE!

Messrs King & Partners was established in 2007 by Anna King and her partner, Henry. In 2009, Anna decided to further her studies in Australia, leaving the firm under the care of Henry and their accounts clerk, Teri.

As part of checks and balances, Anna delegated her husband and sister to watch over the finances of the firm. Teri, who is in charge of managing disbursements and payments to or on behalf of the clients will then instruct Anna's sister to issue the cheques as the chequebooks are in the latter's safekeeping. Anna's husband acts as the sole signatory of the cheques for both Office and Clients' Accounts. This is bizzare as Henry, who is a partner of the firm, is not made one of the signatory to either of the firm's accounts.

When Anna returned in 2010, she had an unfortunate surprise welcome from a client. This client had threatened to bring legal action against the law firm if they fail to release the stakeholding money owed to him, further stating that prior cheques issued to him have been declined by the bank on several occassions.

Puzzled, Anna investigated the matter and found discrepancies in the firm's Clients' Account. When questioned, Teri affirmed that she did all the necessities to issue the cheque for disbursement but it was the bank that stopped the payment to the client. Unsatisfied by Teri's vague explanation, Anna paid a visit to the bank to speak to the person-in-charge whom Teri said she dealt with. However, Anna was informed by the bank manager that there was no such person at the bank.

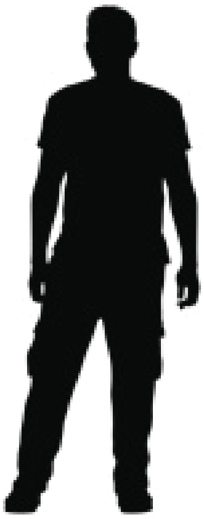
Running out of loopholes and lies, Teri confessed to Anna that it was she who had stopped the payment to the client due to insufficient funds in the Clients' Account. Teri had forged the signature to stop payment by using Anna's husband's signature in pre-signed cheques and photocopying the same to send to the bank. Teri also admitted that she misappropriated money from the Clients' Account resulting in insufficient funds in that account. The following day, Teri did not show up for work and she could no longer be contacted via telephone. In addition, Anna does not know of Teri's whereabouts or any of her personal information as it was not provided to her during Teri's employment.

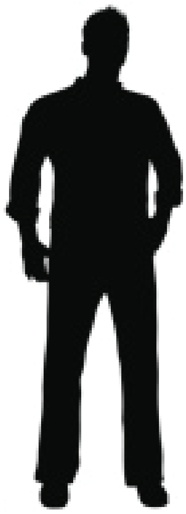
It was only then that Anna lodged a police report and notified the Insurers of this matter. A loss adjuster was appointed by the Insurers to ascertain the total damage caused by Teri's embezzlement. When Anna's sister was interviewed by the loss adjuster, she admitted that blank cheques have been issued to Teri when she was unsure to whom the cheques were payable to. Anna's sister also mentioned that she did not check on the sum requested by Teri or parties to be paid because she trusted Teri.

The Insurers repudiated King & Partners' coverage on the grounds of the partners' gross negligence in handling the firm's Clients' Account. In addition to this, by allowing a non-partner and non-employee of the firm to manage the firm's accounts, Anna and Henry are in breach of the Legal Profession Act and the Solicitors' Account Rules.[1]

1 Rule 8.01 of Rules and Ruling of the Bar Council Malaysia.

Word to the Wise





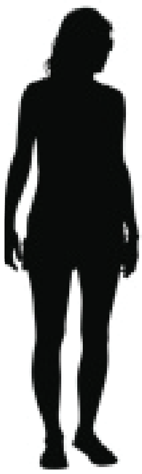
1 Employers must properly supervise their employees. Lack of supervised authority given to the employee is a recipe for disaster. It is advisable to have weekly staff or division meetings in order to keep track of employees' conduct and progress.

2 Trust should not dictate when it comes to financial matters. Lawyers are often stakeholders' of large sums of money. It is imperative for partners to cross-check details of payments and disbursements made from the law firm's bank accounts.

3 Signatories to Clients' Account must be a lawyer who is either a sole proprietor or a partner of a law firm.[2] This capacity cannot be entrusted to any other persons. There are no exceptions granted, even to the partners' family members. If a legal assistant is a signatory to the Client Account, this must be expressly authorised by all partners of the law firm.

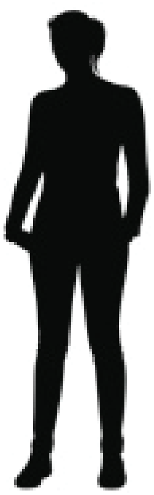
4 Prevention is still better than cure – as best practice, it is highly encouraged to have more than one signatory to the Clients' Account (provided that it is not a sole proprietorship) in order to prevent the possibility of dishonesty of a partner in a law firm.

5 In regards to payments made from the Clients' Account, a comprehensive guideline detailing delegation of duties, with emphasis on verification of payment by another partner as a safeguard, should be formulated.

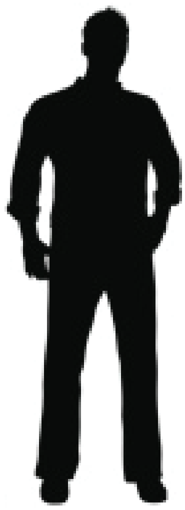


6 Cheques should never be pre-signed and left incomplete. To embezzlers and fraudsters, blank cheques and pre-signed cheques are bait in a trap but in this case, the innocent party falls into it.

7 Employees' personal information is vital in an organisation. This should be updated every six months and filed in safekeeping. In times of distress, this information is vital in order to mitigate the problem.



8 All partners in a firm, are jointly and severally liable under the Partnership Act 1961. This does not exclude partners who are not signatories to the firm's financial accounts. Always be aware of your firm's activities, particularly financial ones. Be wary of suspicious transactions and do not leave financial decisions solely onto another partner or employee's responsibility.



2 Rule 7A of Solicitors' Account Rules 1990.