

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL**Case No:****IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)****AND IN THE MATTER OF:****SOLICITORS REGULATION AUTHORITY LIMITED**Applicant**and****TINA THERESA SHIEBERT**Respondent

**STATEMENT PURSUANT TO RULE 12 (2) OF THE
SOLICITORS (DISCIPLINARY PROCEEDINGS RULES) 2019**

I, Emma [REDACTED] Priest, am a Solicitor employed by the Solicitors Regulation Authority Limited of The Cube, 199 Wharfside Street, Birmingham, B1 1RN. I make this Statement on behalf of the Applicant, the Solicitors Regulation Authority Limited ("SRA").

The allegations

1. The allegations against the Respondent, Ms Tina Theresa Shiebert, made by the SRA are that while in practice as a partner at Forbes Hall LLP, trading as Dickins Shiebert Solicitors, whose office was at Matthew House, 45 - 47 High Street, Potters Bar, Hertfordshire, EN6 5AW (the Firm):

1.1 On 24 September 2021 she sent a letter to third parties which was apt to mislead them as to the extent of their rights over land for the purposes of inducing them to enter into a Deed of Variation under which those rights would be forfeited and therefore breached any or all of:

- 1.1.1 Principle 2 of the SRA Principles 2019;
- 1.1.2 Principle 4 of the SRA Principles 2019;
- 1.1.3 Principle 5 of the SRA Principles 2019; and

1.1.4 Paragraph 1.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

The facts and matters relied upon in support of this allegation are set out in paragraphs 24 to 47 below.

Appendices and Documents

2. I attached to this Statement Appendix 1, an Anonymisation Schedule.
3. I also attach to this Statement Appendix 2, a Schedule of the Principles, Rules and Outcomes relied upon in this Statement.
4. I also attach to this statement a bundle of documents, marked “ECP1” to which I refer in this statement. Unless otherwise stated, the page references (“ECP1 []”), (which appear at the bottom of the page in the corner) in this statement relate to documents contained in that bundle.

Professional Details

5. The Respondent, who was born on 10 February 1961, is a solicitor having been admitted to the Roll of Solicitors on 1 October 1986.
6. From 1 May 2021 until 31 December 2022 the Respondent was a non-member partner at Forbes Hall LLP trading as Dickins Shiebert (SRA number 497577). Forbes Hall LLP and Dickins Shiebert de-merged on 31 December 2022.
7. The Respondent has also been the owner and director of Dickins Shiebert (SRA number 482559) since 1 May 2021, where she is the Compliance Officer for Legal Practice (COLP) and Compliance Officer for Finance and Administration (COFA).
8. The Respondent has current Practising Certificate for the year 2023-2024 free from conditions.

The facts and matters relied upon in support of the allegations

Background

9. On 10 July 1995 Clients A and B became the freehold owner of the Land **[ECP 1 25 to 30]** registered at HM Land Registry as Title 1. On the Land was a large Edwardian House comprising of six flats [the Manor]. Clients A and B subsequently granted leases for five of the six flats, one of which was the Property to tenants. Each of those leases was identically worded. Clients A and B retained sole ownership of the sixth flat.
10. On 14 February 2002 Client B transferred Other Land and Buildings (within land registered at HM Land Registry under Titles 2 and 3) to herself and her adult daughter **[ECP1 38 to 42]**. Title 2 includes the Paddock.
11. The Charges Register to Title 2 stated:
*“the part of the land affected thereby (tinted pink) is subject for the term of 99 years from 1 January 1982 to such rights to use the land for recreational purposes as are granted by leases of properties in [the Manor] **[ECP1 35 at paragraph 3 with the plan at ECP137]***

*“The land is subject to the rights granted by a Lease of [the Property]” **[ECP 1 35 at paragraph 6]***
12. On 1 March 2002 Clients A and B granted a 125 year lease over the Property **[ECP1 43 to 70]** (the Lease) to the original leaseholders. A copy of the lease signed by Clients A and B appears at **ECP1 43 to 70**, and a copy of the Counterpart lease signed by the original leaseholders appears at **ECP1 109 to 135**.
13. The Lease stated that Clients A and B were registered at HM Land Registry as Proprietor with Absolute Title of the Land (Title 1) and that Client B was registered at HM Land Registry with Absolute Title in respect of Title 2 **[ECP1 44 at paragraphs (1) and (2) B20]**.
14. In addition to ownership of the Property, the Lease also granted the original leaseholders the right *“to use for recreational purposes only the grounds edged green on Plan B annexed hereto” **[ECP1 61]***.

15. On 28 September 2005 Clients A and B became joint owners of the land within Title 2 **[ECP1 31 to 37]**.
16. In 2010 and 2011 four of the flats in the Manor extended their leases. Under the terms of the extended leases, the tenants were formally granted access to a carpark which had been constructed in 2005¹, but no longer enjoyed the right to use the Paddock **[ECP1 180 at paragraph 7]**. However, the tenants of the Property continued to hold under the terms of the lease which Clients A and B had granted on 1 March 2002 and therefore continued to enjoy that right.
17. By way of example, a copy of the lease dated 24 January 2011 in respect of Flat 3 is attached at **ECP1 71 to 105]**. This shows that the flat has the right to use three car parking spaces **[ECP1 65 at paragraph 5 with the plans at ECP1 100 to 101]**. It also excludes the right for the tenants to use the Paddock.
18. On 19 November 2014, Persons A and B purchased the leasehold interest in the Property **[ECP1 475 to 480]**.
19. In her witness statement of 5 July 2023 **[ECP1 179 to 240]** Person A states that the lease for the Property was not extended as it was for a much longer period than the other flats. She also states that as the previous leaseholder declined to extend the lease and give up his rights over the Paddock without receiving payment for it, the freeholders did not legally formalise his right to the two additional car parking spaces **[ECP1 180 at paragraph 7]**.
20. Person A also states that between 2014 and 2020 Clients A and B organised someone to come in and “*do whatever was necessary*” to maintain the Paddock **[ECP1 180 at paragraph 8]**.
21. Persons A and B put the Property on the market for sale in 2021. On 5 November 2021 a sale was agreed vis estate agents **[ECP1 139 to 140]**.
22. The Respondent was instructed by Clients C, D, E and F in connection with the new lease of the Property. During the course of her instructions, the Respondent wrote to Persons A and B, the current leaseholders of the Property, referring to historic issues concerning the lease and maintenance of surrounding recreational areas **[ECP1 106 to 107]**.

¹ And which had been paid for by the tenants of the leased flats

23. Persons A and B were represented by Rainer Hughes Solicitors, who raised concerns with correspondence sent by the Respondent to Persons A and B on 24 September 2021.

Allegation 1 – On 24 September 2021 she sent a letter to third parties which was apt to mislead them as to the extent of their rights over land for the purposes of inducing them to enter into a Deed of Variation under which those rights would be forfeited

24. Paragraphs 9 to 23 above are repeated.

25. On 20 September 2021 the Respondent spoke with Client E, wherein the latter advised her that she wanted to “*address the discrepancy*” on the lease plan for the Property, since one of the other tenants had told her that the Property was on the market and “*it would be a good opportunity to tidy things up*” [ECP1 136]. During the conversation the Respondent stated that “*the lease plan to [the Property] did not include the Paddock or, any of the communal areas within the green edging. However, the lack of green edging on the lease plan was clearly an error and it was intended that the lessee of [the Property] would have rights over it*” [ECP1 136].

26. On 24 September 2021 the Respondent wrote to Persons A and B advising that she was instructed by Clients C, D, E and F, the new freehold owners of the Manor, and landlords of the Property [ECP1 106 to 107 together with attachments at 108 to 135] (the Letter).

27. In that Letter, the Respondent states that the existing lease to the Property was “*defective and needs to be varied to rectify the same*” [ECP1 106].

28. She also says that:

“the [Property] benefits from the right “to use for recreational purposes only the grounds edged green on Plan B annexed hereto” – please refer to the First Schedule on Page 15. The green edging on the plan is around an area that was not (and is not) within the freehold titles and therefore, the rights granted are not effective and indeed, there are no rights for the benefit of [the Property] to use the garden grounds, even though you have an obligation to pay towards the cost of the upkeep of the open areas.

Attached is a copy of the plan that has been used for all other Leases of apartments at [the Manor], which correctly identifies the areas edged in green which the tenants at [the

Manor] are, subject to the payment of a service charge, entitled to enjoy” [ECP1 106 to 107].

29. The Respondent attached a copy of the Counterpart Lease dated 1 March 2002 for the Property [ECP1 109 to 135], which included at page ECP1 113 a copy of ‘Plan B’. This plan indicated that both a Coach House and land attached thereto annexed to the Manor (‘the Coach House’) and the Paddock were included within the grounds which Persons A and B had the right to use for recreational purposes in accordance with Clause 1 and the First Schedule to their lease.

30. The Respondent also attached a different copy plan to her Letter [ECP1 108] (the New Plan). This differed from ‘Plan B’ in that both the Coach House and the Paddock were shown as falling outside the area which Persons A and B had the right to use for recreational purposes² [ECP1 70].

31. By way of clarification, it is noted that the L to Persons A and B refers to “*previous correspondence*” [ECP1 106]. In her witness statement of 5 July 2023 [ECP1 179 to 240] Person A states that “*In September 2020 [Client B] sent [the tenant in the Property] an email stating there were issues with the lease of our flat. [The tenant] responded to the email asking for more information, however despite him sending several emails, no reply was forthcoming*” [ECP1 181 at paragraph 9].

32. In her letter dated 12 October 2021 to Rainer Hughes the Respondent said that:

“The previous correspondence to which we referred, was correspondence that we had been advised had taken place between [Client A and Client B] and your clients and their tenant some while ago, we believe shortly after your clients had purchased the flat and questions were raised with regard to the Lease Plans. Unfortunately we do not have copies of any written correspondence or attendance notes regarding verbal discussions.

The land that we are referring to, the Coach House land does not belong to our clients”.
[ECP1 156].

33. The Letter, read in conjunction with the plans which were enclosed with it, was apt to mislead Clients A and B as to their rights under the Lease by which they held the Property

² Please note that the words ‘Disputed Area’ on the New Plan were added by Person A following their decision to instruct solicitors to advise on the issue – please see B140 [14]

because it suggested that they did not have the right to use the Paddock for recreational purposes. In particular:

33.1. Whilst the statement that ‘the Lease of Flat 4 is defective’ was factually true (because Plan B indicated that the Coach House was included in the area which tenants of the Property could use for recreational purposes when it was not) the Letter did not go on to explain the nature of that defect. In the absence of such an explanation, neither Client A nor Client B had any reason to know that the defect was limited to the error on Plan B with respect to the Coach House and did not extend to the Paddock (which was also excluded from the New Plan).

33.2. The statement (with respect to the New Plan) that it ‘has been used for all other Leases of apartments at (the Manor), which correctly identifies the areas edged in green which the tenants at (the Manor) are ... entitled to enjoy’ was untruthful. The area edged in green on the New Plan excluded the Paddock which Persons A and B, as tenants of the Property, were still entitled to enjoy under the terms of their lease.

33.3. Following on from this, the reference to the New Plan having been ‘...used for all other Leases...’ at the Manor suggested that there had been an error in the drafting of Plan B which did not infect the other leases (which was untrue).

34. In any case, the comparison which the Respondent drew between the New Plan and Plan B was inherently misleading because the New Plan had been drawn in the specific circumstances of the extension of the other leases and the formal grant of easements for parking.

35. Moreover, the Letter was intended by the Respondent to mislead Persons A and B as to the extent of their rights under their lease. This is apparent from her subsequent correspondence with Client E, which makes it plain that her objective was to induce them to enter into a Deed of Variation in the belief that they were simply rectifying a drawing error by the draftsman of Plan B when, in fact, they were giving away their right to use the Paddock for no consideration.

35.1. On 24 September 2021, the Respondent sent a copy of the Letter to Client E **[ECP1 137 to 138]** and went on to say:

“... you will see that I have avoided reference to [the Paddock] but instead have tried another tack. The fact is, one of the Lease plans is incorrect in that the green edging has been incorrectly drawn and therefore, they do not have any rights to use the open areas, even though they are obliged to contribute towards the cost of maintenance. Of course, it is more complex than that but knowing that they want to sell without any complications, I would be hopeful that they could be persuaded to correct the Lease to avoid any difficulties with the sale”. [ECP1 137].

35.2. Similarly, in an email to Client E dated 13 October 2021 [ECP1 243 to 244] the Respondent said:

“You will see that I have steered away (at least at present) from making any reference to [the Paddock] since, if we can persuade [Persons A and B] to enter a Deed of Variation to include an estate plan that is the same as the plans used in the other Leases, then the problem is solved. That said, [Person A and Person B’s] Solicitor has referred to some allotment land, which may be a reference to [the Paddock].

I think it wise at this stage to keep our cards close to our chest on all matters relating to [the Manor] until it has been resolved”. [ECP1 244]

35.3. In an email to Client E dated 4 February 2022 [ECP1 142 to 143] the Respondent stated:

“The position is, that you cannot force [Persons A and B] to amend the Lease to exclude the Paddock but, it would be in everyone’s interest for the Lease Plan to be corrected, either with or without the Paddock.

As you know, our initial enquiry was only to point out that the Lease Plan was not accurate, including an area that did not form part of the estate at the time that the Lease was granted. It was the owners of [the Property] who brought up the issue of the Paddock that we are of course now addressing.

As I say in my letter to Rainer Hughes, if they have the rights to use the Paddock then they will need to pay for it to be put back into repair. ... I am of course hoping that the cost of maintaining the Paddock together with rights to use the parking area will be sufficient for the lessees to agree for the Lease to be amended so that it falls in line with the Leases of the other apartments” [ECP1 143]

36. In her letter to the SRA dated 3 March 2023, the Respondent said that *“this is or has become a complex matter with what now appears to have a very considerable background / history which I was not aware of when I sent my letter to [Persons A and B]”* [ECP1 175].
37. The Respondent has stated that she did not deliberately avoid referencing the Paddock in the letter of 24 September 2021 because she wanted them to sign their rights to the Paddock away [ECP1 175].
38. However, in her letter to the SRA dated 30 March 2023 [ECP1 177 to 178] she also said *“with the benefit of hindsight and having considered matters in depth in responding to your queries, a further explanation of the plan that I enclosed with my letter to [Persons A and B] would perhaps have been appropriate to make it clear that the plan to a Deed of Variation would be based on the Land Registry compliant plan that had been used for all of the other leases on the estate”* [ECP1 177].

Principle 2 – Public Trust

39. The public would expect that correspondence made by a solicitor in connection with her practice to be strictly true and accurate and to include all relevant information that the recipient would need to know.
40. By sending a letter to Persons A and B which she knew or ought to have known may be relied on by them, potentially to their detriment, which was less than full and wholly frank in terms of the details it contained, the Respondent necessarily diminished the trust the public placed in her and in the provision of legal services. She therefore breached Principle 2 of the SRA Principles (2019).

Principle 4 - Honesty

41. The Applicant relies upon the test for dishonesty stated by the Supreme Court in *Ivey v Genting Casinos [2017] UKSC 67*, which applies to all forms of legal proceedings, namely that the person has acted dishonestly by the ordinary standards of reasonable and honest people:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of

mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

42. An honest solicitor would not send correspondence that deliberately excluded reference to crucial evidence, namely the recipients’ right to use the Paddock for recreational purposes when trying to get them to vary their Lease.

43. When she sent the Letter the Respondent knew and / or believed that:

43.1 Her clients wanted Persons A and B to no longer have the right to use the Paddock for recreational purposes;

43.2 The Property had the right *“to use for recreational purposes only the grounds edged green on Plan B annexed hereto”* [ECP1 61];

43.3 The Lease or Plan thereto was only defective in that it included the Coach House, which was not owned by the freeholders of the Land;

43.4 *“the lack of green edging on the lease plan was clearly an error and it was intended that the lessee of [the Property] would have rights over it”* [ECP1 136] but this was not clarified in her letter;

43.5 Her letter to Persons A and B was not specific about how the Lease or its Plan was allegedly defective;

43.6 She had deliberately *“avoided any reference to [the Paddock] but instead, have tried another tack”* [ECP1 137]; and

43.7 That Persons A and / or B might enter into a Deed of Variation in reliance on her Letter, forgoing their right to use the Paddock for recreational purposes to which they were entitled.

44. In these circumstances, the Respondent’s conduct in sending the Letter to Persons A and B which intentionally excluded reference to the Paddock, and was therefore less than full and wholly frank, was dishonest by the objective standards of ordinary decent people. She therefore failed to act with honesty and therefore breached Principle 4 of the SRA Principles (2019).

Principle 5 - Integrity

45. Solicitors must act with integrity. In *Wingate v Solicitors Regulation Authority v Malins* [2018] EWCA Civ 366, [ECP1 298 to 333], it was said that:

“In professional codes of conduct, the term ‘integrity’ is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members

Integrity connotes adherence to the ethical standards of one’s own profession. It involves more than mere honesty. To take one example, a solicitor conducting negotiations or a barrister making submissions to a judge or arbitrator will take particular care not to mislead. Such a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse.

The duty to act with integrity applies not only to what professional persons say, but also to what they do” [ECP1 323 to 324 at paragraphs 97, 100 and 101].

46. A solicitor of integrity would not send correspondence that deliberately excluded reference to crucial information, namely the recipients’ right to use the Paddock for recreational purposes, in order to induce an unrepresented third to agree to a variation of their Lease. A solicitor of integrity should ensure that all correspondence sent from them was clear and contained all relevant information. By sending the Letter which contained incomplete and potentially misleading information, as “*another tack*”, the Respondent lacked integrity and therefore breached Principle 5 of the SRA Principles (2019).

Rule 1.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs

47. By making statements to Persons A and B in her Letter which she knew or ought to have known were not strictly true and accurate, the Respondent gave misleading information to Persons A and B which she knew they would or might rely on, to their detriment. In doing so she therefore breached Rule 1.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

The SRA’s investigation

48. On 29 November 2023 an Investigation Officer employed by the SRA (the Investigation Officer) sent a Notice Recommending Referral to the SDT (the Notice) **[ECP1 5 to 23 together with appendices at ECP1 25 to 372]** to the Respondent.
49. The Respondent provided her response to the Notice (the Response) **[ECP1 377 to 427 together with enclosures at 428 to 469]** by emails dated 11 January 2024 **[374 to 376]**.

50. In her Response, the Respondent denied the allegations against her.

51. The Respondent also stated that she *“had nothing to gain by making any statement that was misleading or dishonest and I do not consider that I did make any such statements but acted to negotiate the variation of the lease which was defective”* [ECP1 378 at paragraph A(iii)].

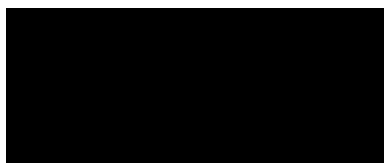
52. The Respondent also denies that her letter of 24 September 2021 was misleading, or, if it was inaccurate or mistaken in any that it was not intended to mislead [ECP1 10].

53. The Respondent has stated that she assumed that Persons A and B would be represented, as they had been in all previous dealings with the Respondent’s Firm [ECP1 11 at paragraph 7 (i)]. The Respondent also referred to discrepancies between the various plans attached [ECP1 388 and 392] and states that she tried to clarify any misunderstanding with Rainer Hughes but the latter was not prepared to engage constructively [ECP1 393].

54. The Respondent also stated that as she included a copy of the counterpart lease for the Property along with the Plan, it would have been evident that the right to use the Paddock would be removed under the Deed of Variation [ECP1 394], that *“as far as [she] was concerned there would be discussion and negotiation about the lease and hopefully [Persons A and B] would agree to amend it”* [ECP1 397] and that she was entitled to adopt a tactical approach with respect to the Paddock, which *“in itself does not represent an intention to mislead or misrepresent the position to the other parties”* [ECP1 398].

55. On 14 March 2024 an Authorised Officer of the SRA decided to refer the conduct of the Respondent to the Tribunal [ECP1 470 to 474].

I believe the contents of this statement are true.



Emma [REDACTED] Priest

Dated 14 June 2024

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY

Applicant

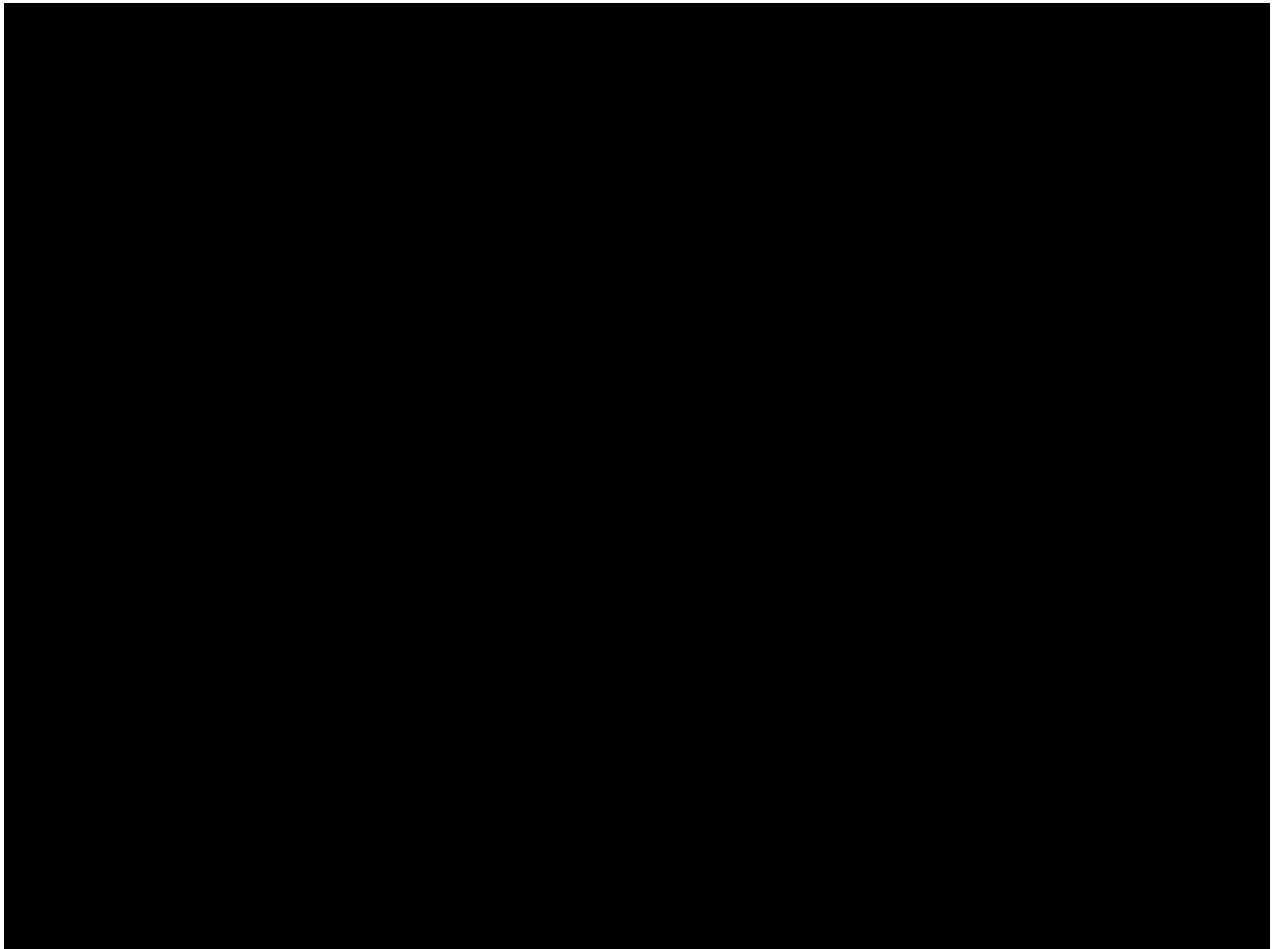
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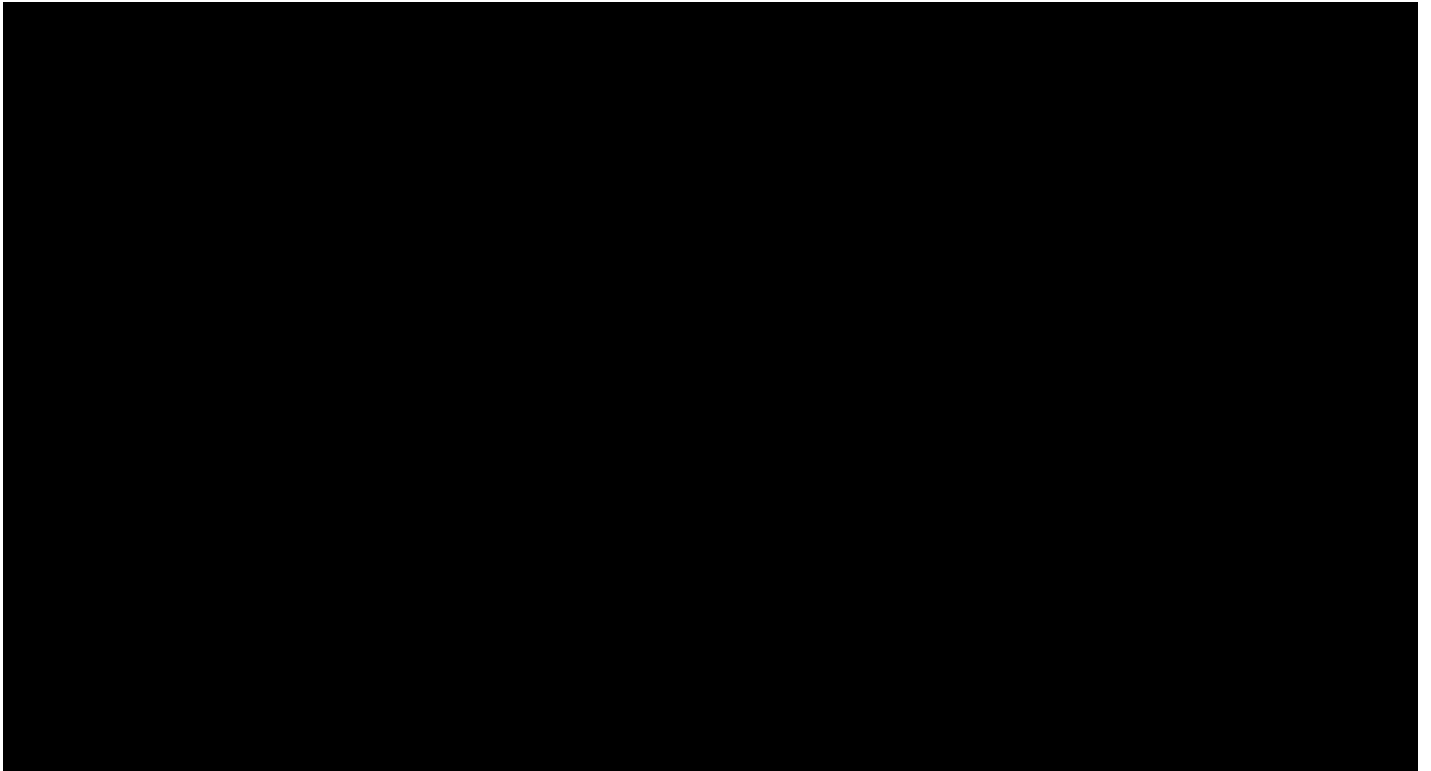
TINA THERESA SHIEBERT

Respondent

**APPENDIX 1 TO STATEMENT PURSUANT TO RULE 12 (2) SOLICITORS
(DISCIPLINARY PROCEEDINGS RULES) 2019**

Anonymity Schedule





IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY

Applicant

and

TINA THERESA SHIEBERT

Respondent

APPENDIX 2 TO STATEMENT PURSUANT TO RULE 12 (2) SOLICITORS
(DISCIPLINARY PROCEEDINGS RULES) 2019
Relevant Rules and Regulations

SRA Principles (2019)

Principle 2 states that: *"You must act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons".*

Principle 4 states that: *"You must act with integrity".*

Principle 5 states that: *"You must act with honesty".*

SRA Code of Conduct for Solicitors, RELs and RFLs

Paragraph 1.4 states that: *"You do not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client)."*

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

Case No:

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

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and

TINA THERESA SHIEBERT

Respondent

APPENDIX 3 TO STATEMENT PURSUANT TO RULE 12 (2) SOLICITORS
(DISCIPLINARY PROCEEDINGS RULES) 2019

“BUNDLE ECP1”
