No. 10059-2008

IN THE MATTER OF EDIGHEJI WILSON ORIE,
[RESPONDENT 2] and *[RESPONDENT 3]*, solicitors
and ZOE ORIE, solicitor's clerk

- AND -

IN THE MATTER OF THE SOLICITORS' ACT 1974

Mr J C Chesterton (in the chair)
Mr W M Hartley
Mr S Marquez

Date of Hearing: 30th & 31st July 2009

FINDINGS

of the Solicitors' Disciplinary Tribunal
Constituted under the Solicitors' Act 1974

An application was duly made on behalf of the Solicitors Regulation Authority ("SRA") by Jayne Willetts, solicitor advocate and partner in the firm of Townshends LLP, Cornwall House, 31 Lionel Street, Birmingham, B3 1AP on 24th July 2008 that Edigheji Wilson Orie of Plumstead, London, SE18, solicitor, and *[Respondent 2]* of London, SE6, solicitor, and *[Respondent 3]* of Erith, Kent, solicitor, 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.

On the same date Ms Willetts applied on behalf of The Law Society that an Order pursuant to s. 43 of the Solicitors Act 1974 (as amended) be made by the Tribunal directing that as from a date to be specified in such Order no solicitor, recognised body or Registered European Lawyer should employ or remunerate Zoe Orie of, Plumstead, London, SE18 1JX a person who was or had been employed or remunerated by Orie & Co of Plumstead High Street, Plumstead, SE18 1JX except in accordance with permission in writing granted by The Law Society for such a period as the permission might specify or that such other Order might be made as the Tribunal should think right.

On 6th May 2009 the Applicant provided a supplementary statement containing a further allegation against Mrs Zoe Orie and on the same date the Applicant made a supplementary statement containing a further allegation against Mr Edigheji Wilson Orie.

The allegations set out below are those contained in the original and two supplementary statements.

The allegations were as follows:

Against the First, Second and Third Respondents - Edigheji Wilson Orie, *[Respondent 2]* and *[Respondent 3]*

Allegation 1

(i) client account reconciliations were not carried out as required every five weeks - Rule 32(7);

(ii) improper transfers were made between client ledgers - Rule 30(1);

(iii) a suspense client ledger was improperly used - Rule 32(16);

(iv) a designated deposit account was not included within the client bank reconciliation - Rule 32(3);

(v) office account money was held within client account - Rule 15(2);

(vi) accounting records were not kept properly written up to show dealings with client money and office money relating to client matters and records were not maintained showing the current balance for each client ledger account - Rule 32(1) and Rule 32(5);

(vii) dealings with office account were not recorded on each client ledger - Rule 32(4);

(viii) they failed to keep their accounting records for at least six years - Rule 32(9);

(ix) bank charges were incorrectly paid from the client bank account - Rule 22(1);

(x) they have failed to rectify the breaches of the Solicitors Accounts Rules promptly on discovery - Rule 7.

Allegation 2

They failed to inform clients of the required costs information and made a secret profit by charging clients a telegraphic transfer fee in excess of that which the First, Second and Third Respondents were being charged by the bank contrary to Practice Rules 1(c) and (d) and 15 of the Solicitors Practice Rules 1990 ("the SPR").

Allegation 3

They failed to inform clients of the required costs information and made a secret profit by charging clients a disbursement for postage, stationery, telephone and photocopying expenses contrary to Practice Rules 1(c) and (d) and 15 of the SPR 1990;

Against the First Respondent, Mr Orie

Allegation 4

He provided inaccurate information on a proposal form for his firm's indemnity insurance for 2006/2007 contrary to Practice Rule 1(a) and (d) of the SPR 1990.

Allegation 5

He had failed to submit VAT returns to HM Customs & Excise from 2005 onwards contrary to Practice Rule 1(d) of the SPR 1990;

Allegation 6

He had acted for clients in conveyancing transactions that exhibited the characteristics of fraudulent transactions contrary to Practice Rule 1(a), (c), (d) and (e);

Allegation 7

He acted in two conveyancing transactions for vendors (1) where he was the purchaser and (2) where his wife was the purchaser and where there existed a conflict of interest contrary to Practice Rule 1(a), (b), (c), (d) and (e) of the SPR 1990;

Allegation 8

He was a party to a conveyancing transaction that exhibited the characteristics of a fraudulent transaction contrary to Practice Rule 1(a) and (d) of the SPR 1990 which for the avoidance of doubt is an allegation of dishonesty.

Allegation 9

He failed to disclose material information to his mortgagee Halifax plc namely that the purchase price paid by him for Plot 483 RA Quay was not as stated contrary to Practice Rule 1(a) and (d) of the SPR 1990.

Against the Fourth Respondent, Mrs Orie

Allegation 10

She had acted for clients in conveyancing transactions that exhibited the characteristics of fraudulent transactions.

Allegation 11

She was a party to a conveyancing transaction that exhibited the characteristics of a fraudulent transaction which for the avoidance of doubt is an allegation of dishonesty.

Allegation 12

She failed to disclosed material information to her mortgagee Birmingham Midshires/Halifax plc namely that the purchase price paid by her for Plot 487 RA Quay was not as stated.

Allegation 13

She signed a transfer document ("TR1") wrongly stating that the purchase price paid by her for Plot 487 RA Quay was £299,995 which for the avoidance of doubt is an allegation of dishonesty.

Against the First Respondent - Mr Orie

Allegation 14

He provided inaccurate information to the Birmingham Midshires in connection with an application for a mortgage in breach of Practice Rule 1(a) and (d) of the SPR.

Against the Fourth Respondent, Mrs Orie

Allegation 15

She provided inaccurate information to the Birmingham Midshires in connection with an application for a mortgage.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 30th and 31st July 2009 when Jayne Willetts appeared as the Applicant, the Second and Third Respondents, *[Respondent 2]* and *[Respondent 3]*, were represented by Mr Harding of Counsel and Mr Orie represented himself and the Fourth Respondent, his wife.

The evidence before the Tribunal

The evidence before the Tribunal included the admissions of the Respondents noted below. Mr Ferrari, the SRA's Forensic Investigation Officer, gave oral evidence. Mr Orie gave oral evidence.

Mr Orie admitted allegation 1, (i)-(x) inclusive (Solicitors Accounts Rules), allegations 2 and 3 (secret profits), allegation 4 (Professional Indemnity Insurance proposal form) and allegation 5 (VAT returns). Mr Orie denied allegations 6, 7, 8 and 9 (conveyancing transactions) and the allegation of dishonesty in relation to allegation 8 and allegation 14.

[Respondent 2] admitted all of the allegations against him as did *[Respondent 3]*. Mrs Orie denied allegations 10-13 including the allegations of dishonesty in relation to allegations 11 and 13. She also denied allegation 15.

At the conclusion of the hearing the Tribunal made the following Orders:

The Tribunal Orders that the Respondent, Edigheji Wilson Orie of London, SE18, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £25,000.00 on a several basis.

The Tribunal Orders that the Respondent, *[Respondent 2]*, of London SE6, solicitor, do pay a fine of £2,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00 on a several basis.

The Tribunal Orders that the Respondent, *[Respondent 3]* of Erith, Kent, solicitor, do pay a fine of £2,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00 on a several basis.

The Tribunal Order that as from 31st July 2009, no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Zoe Orie of London, SE18 a person who is or was a clerk to a solicitor and the Tribunal further Order that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00 on a several basis.

The facts are set out in paragraphs 1 - 54 hereunder:

1. The facts were agreed save for some minor points where there was a dispute. In the main it related to the interpretation of the facts.

The Respondents' background

2. Mr Orie, born in 1963, was admitted as a solicitor in 2000. *[Respondent 2]*, born in 1967, was admitted as a solicitor in 2005, *[Respondent 3]*, born in 1965, was admitted as a solicitor in 2003. The names of all three solicitor Respondents remained on the Roll. Mrs Orie was an unadmitted clerk working in the firm of Orie & Co.

3. The solicitor Respondents practised in partnership as Orie & Co at 297a Plumstead High Street, Plumstead, London, SE18 1JX. The First Respondent had practised as a sole principal of Orie & Co from 29 June 2007. At the date of the hearing he had closed that practice.

4. *[Respondent 2]*'s period of salaried partnership in Orie & Co was between December 2005 and June 2007 when he resigned. He was on the date of the hearing practising with another firm.

5. *[Respondent 3]* was a partner in Orie & Co from about December 2005 until he resigned on 25th May 2007. At the date of the hearing he was not practising as a solicitor but was employed by a local authority.

6. The Fourth Respondent was described on the firm's professional stationery as the practice manager. She had completed the Legal Practice Course on 1st July 2006 and was student member of The Law Society from 28th October 2002 to 31st December 2006. She was the wife of the First Respondent.

7. On 13th February 2007 an Investigation Officer of the SRA ("IO") commenced an inspection at the Respondents' practice. The IO prepared a Report dated 16th August 2007 which was before the Tribunal. That Report recorded a number of breaches of the Solicitors Accounts Rules ("SAR").

SAR breaches

8. The most recent client bank reconciliation available at the date of the inspection was that as at 31st December 2006.

9. A client ledger account had been set up as at 31st October 2004 in the name of Mr Orie and Mrs Orie. The opening balance was a "brought forward" balance. As at 31st January 2007 there was a credit balance of £1,998.73. There had been numerous inter ledger transfers to and from this account together with client account payments and receipts. In particular the IO noted that on 2nd and 28th February 2005, 43 client ledger balances were transferred to this ledger account and the money subsequently utilised for inter ledger transfers to accounts of unconnected clients. Mr Orie had told the IO that his bookkeeper had used the ledger as a "dustbin" or suspense ledger.

10. There was also a designated client bank account in the name of Mr and Mrs Orie. The balance as at 31st January 2007 was £92,906.22. It had originally been set up on 8th October 2004 to hold funds relating to their house purchase. Subsequently numerous transfers were made to and from this account so that it was used as a general client account. The account was not included in the firm's client bank account reconciliation and there was no client ledger account maintained for the funds on this account.

11. On several occasions Mr and Mrs Orie's personal funds together with office account money were transferred to the firm's general client account and then transmitted to Mr Orie's account bank in Nigeria or a money transfer firm. The IO reported that the office account had been credited with £10,000 and £21,000 from the Legal Services Commission on 6th February and 6th March 2006. On 9th February and 6th March transfers of £11,000 and £20,550 had been made from office to client account. On 10th February and 6th March payments of £11,000 and £20,535 had been made from client account to Mr Orie's Nigerian bank.

12. Bank charges had been incorrectly taken from client bank account.

13. Individual ledger accounts had not been maintained for all client matters and in several instances transactions in respect of separate client matters had been mixed together on a single ledger account.

14. It had not been possible, owing to the accounting deficiencies to calculate the total liabilities to clients as at 31st January 2007. However the IO ascertained that there was a minimum cash shortage of £15,062.25 at that date as a client's completion

moneys had been wrongly paid into office account. The client ledger did not record the receipt of these monies so that a debit balance was created on the ledger of £10,990 when payment was made on completion. The debit balance appeared to have been rectified when a transfer from the ledger of an unconnected client was made. In fact notification had been achieved approximately eleven months after the shortage first arose.

Charges for telegraphic transfers and "disbursements"

15. The IO identified that the firm charged its clients £25 as a telegraphic transfer fee which was treated as a disbursement. The firm's bank charged £15 for effecting a telegraphic transfer of funds. This resulted in a profit to the firm of £10 per transfer. VAT should have been charged on this. Completion statements provided to clients included the item "Bank CHAPS charges £50."

16. The firm also charged its clients £52 for "disbursements" which covered postage, stationery, telephone and photocopying expenses. Those expenses were not disbursements payable to third parties and should properly have been charged as profit costs and been subject to VAT.

Indemnity insurance proposal

17. Mr Orie had completed a proposal form for indemnity insurance for 2006/2007. He stated therein that the firm's gross fees for the year ending 31st March 2006 were £85,000. The firm's accounts for the same period record gross fees of £208,619.

18. Mr Orie also stated on the proposal form that residential and commercial conveyancing accounted for 3% of the total gross fee income for the firm. A later review by Mr Orie at the request of the IO established that accounted for about 40% of the fee income.

19. Mr Orie had also stated on the proposal form that no fee earner in the practice had in the previous ten years been subject to an investigation or an intervention by The Law Society (including the OSS and CCS) when there was an ongoing investigation following a complaint by a client, Mr D.

20. Subsequent to the IO's inspection Mr Orie had written to his indemnity insurers advising them of the inaccuracies on the proposal form.

VAT returns

21. Mr Orie had not completed VAT returns for the firm since it was registered in 2005.

22. The IO identified twenty conveyancing transactions which bore the characteristics of property fraud as exemplified in The Law Society's Green Warning Card on Property Fraud dated July 2002.

23. Orie & Co had acted for sub-sellers who had purchased properties from a developer and had simultaneously sold on to individual buyers at a higher price. All of the

ultimate purchasers and their mortgagees were represented by the same firm, E Edwards Son & Noice, their Mr Ciaravala having conduct of those matters.

24. The IO reported that Mr and Mrs Orie handled the twenty conveyancing transactions in which they acted for a number of companies to include PP Ltd (registered in Uganda) and two UK registered companies, P.34 P Ltd and P UK Ltd, who were the intermediate purchasers and sellers. After deduction of Orie & Co's charges the moneys received on completion were sent to G Limited (UK registered) - not to the client company. The director and shareholder of G Limited was Mr WN who acted as attorney for PP Limited. He was also the ultimate purchaser of a property.

25. The IO analysed four of the twenty transactions.

26. In the twenty transactions Orie & Co did not receive the full sale proceeds from the ultimate purchaser. In particular in one of the transactions Mr Orie was the ultimate purchaser and in another Mrs Orie was the ultimate purchaser. In other respects those transactions were a reflection of how the other transactions had been conducted and the following is an analysis of the transactions.

Mr Orie's purchase

27. In the transaction in which Mr Orie was the ultimate purchaser Mr Orie's client, PJC Ltd, purchased a flat in the block from the developer for £230,000.

28. Mr Orie acted for PJC in its subsequent sale of the property to himself for £299,995. Mr Ciarvella of Edward Son & Noice acted for Mr Orie and for Mr Orie's mortgagee, Birmingham Midshires.

29. The completion statement prepared by its solicitors, Winckworth Sherwood, stated that the balance to complete PJC Ltd's purchase was £229,137. There was no reference to any discount granted to PJC Ltd.

30. E Edwards, Son & Noice held the Birmingham Midshires mortgage advance of £254,946. This was the only money held by E. Edwards, Son & Noice on behalf of Mr Orie. At no point were there sufficient funds to enable him to meet the purchase price of £299,995 due to PJC Ltd.

31. Mr Orie had produced a completion statement showing a balance due on the sub-sale to his client, PJC of £270,132.50. The statement recorded a 10% deposit paid by Mr Orie to PJC Ltd of £29,999.50. There was nothing on the file to evidence the payment of such deposit. It had been Mr Orie's explanation that this deposit was the discount passed on from the developer to PJC Ltd. There was nothing on the file to support that assertion.

32. The money which changed hands did not reflect the contracts into which the parties entered. Had a deposit been paid direct to PJC Ltd, that company was still owed £15,000 by Mr Orie on completion. If the deposit had not in fact been paid direct, PJC Ltd was some £45,000 short on completion.

33. The contract documents provided that PJC Ltd was buying a property for £230,000 and selling on the same day for £299,995 at a profit therefore of £69,995. The sum actually received by PJC Ltd on completion was £21,240.64.

34. Subsequently Birmingham Midshires repossessed the property and sold it for £214,000 on 29th February 2008.

Mrs Orie's purchase

35. The circumstances of Mrs Orie's purchase of a flat in the block from the developer mirrored Mr Orie's transaction.

36. Mr Orie acted for PP Ltd who purchased the property for £238,845 and he acted in the sub-sale to Mrs Orie for £299,995.

37. Mrs Orie signed the contract for the purchase. It was recorded in the memorandum of exchange that Mrs Orie was acting on behalf of PP Ltd.

38. Winckworth Sherwood acted for the developer and E Edward, Son & Noice acted for Mrs Orie.

39. The completion statement produced by Mr Orie showed a balance due from Mrs Orie of £270,132.50 to PP Ltd.

40. E Edward, Son & Noice paid £238,404.11 direct to the developer's solicitors (the amount of mortgage advance to Mrs Orie). Mr Orie accepted that there had never been sufficient completion monies available.

41. The completion statement produced by Mr Orie recorded a deposit of £29,999.50 which had been paid direct but there was no evidence in the file to support this.

42. Had the deposit been paid direct to PP Ltd the balance due to it on completion from Mrs Orie was £25,500. If the deposit had not been paid direct, the approximate sum due to PP Ltd on completion was £55,000.

43. Mrs Orie had signed a transfer document stating at clause 9 that the transferor (PP Ltd) had received from the transferee (Mrs Orie) for the property the sum of £299,995. That was not the sum that had been paid.

44. In the event the property was repossessed by Mrs Orie's mortgagee and sold on 3rd January 2008 for £220,000.

45. It was Mr Orie's evidence that in all of the twenty transactions, including those in which he and Mrs Orie had personally been involved, the developer had granted a discount on the asking price of each property as an incentive to buy. This was reflected in the way in which the transactions were structured and the sums of money that changed hands.

46. Mrs Orie had obtained an offer of a mortgage advance from Birmingham Midshires in connection with her purchase of the property having submitted to that lender an application form both in handwriting and a typed version.

47. In the handwritten version Mrs Orie had stated that the source of the deposit for the transaction was from her own savings. In the typed version of the application that statement was repeated.

48. The application form of Birmingham Midshires which Mrs Orie had signed confirmed declarations that what she said was true, and confirmed that she understood that making false, misleading or an inaccurate declaration was a criminal offence which would have consequences.

49. Mr Orie had signed the declaration on the application form on 9th March 2005.

50. Similarly Mrs Orie had made a handwritten application to Birmingham Midshires which had been followed up with a typed version.

51. In the handwritten version of the application form Mrs Orie said:

    (a) that she was self-employed at Orie & Co and that her occupation was that of a solicitor;

    (b) that she self-certified her income at £80,000 per annum;

    (c) that the source of the deposit for the transaction was "equity in present property";

    (d) that the property would be her primary residence.

52. In signing the form Mrs Orie made the same declarations that Mr Orie had made.

53. Mrs Orie had signed the declaration on the application form on 31st March 2005.

54. In the typed version of the application form Mrs Orie stated:

    (a) that she was self-employed earning £80,000 per annum;

    (b) that the property was going to be her main residence now or in the future;

    (c) that the source of the deposit for the purchase was "Applicant's own savings".

The Submissions of the Applicant

55. There had been a number of breaches of the SAR. The breaches of Rule 32(1) and (5) were serious as records were not kept for individual clients. Individual ledger accounts were not maintained for all client matters. Transactions for separate client matters were mixed on a single client ledger. Ledgers existed for one client recording transactions in several matters and there were also ledgers that contained entries for different clients. By way of example there was a client ledger for Mr TJ that

contained entries for a property purchase; a personal injury claim and a debt recovery matter. On the same ledger there were entries for a Mrs EJ relating to a property purchase and a credit entry of £17,500 for another client, Mr AK.

56. The breach of SAR 32(4) occurred because the office side of the client ledger accounts was not maintained accurately. For example bills of costs had been entered on unconnected clients' ledgers.

57. Client ledger accounts and reconciliations prior to October 2004 were not available. It was not possible to confirm that the brought forward balances as at that date were accurate. That was a breach of SAR 32(a).

58. Client money had been used to discharge bank charges.

59. Because of the state of the accounts it had been impossible to calculate the total liabilities to clients. A minimum cash shortage of £15,062.25 had been established. This related to client moneys for a completion that had been paid into office account in July 2006. The shortage was replaced but not until June 2007, eleven months after the shortage arose.

60. Mr Orie had laid the blame for the breaches of the SAR at the door of his former bookkeeper. A new bookkeeper had been retained who used the bank reconciliation as at 31st August 2006 as a starting point. However Mr Orie agreed that many of those client ledger balances could not be relied upon.

61. In the submission of the Applicant the accounting records were so inadequate that it was impossible to place reliance upon them.

62. Pursuant to Rule 6 of the SAR Mr Orie, *[Respondent 2]* and *[Respondent 3]* were responsible for compliance with those Rules as principals in the practice of Orie & Co.

63. The partners were absolutely liable for compliance and could not delegate responsibility to others.

64. Solicitors were the custodians of client money and were unable to fulfil that duty where their accounting records were totally inadequate.

65. It was a well known principle within the solicitors' profession that client account moneys were sacrosanct. It was conceded that there had not been misappropriation of client moneys but the firm's cavalier approach to record keeping meant that clients' moneys could have been put at risk.

66. The solicitor Respondents accepted that the firm had been charging clients, as a disbursement, a telegraphic transfer fee of £25 when the bank was charging the firm £15. The firm was thereby making a profit of £10 on each transfer fee. Additionally the firm charged clients £52 as a further "disbursement" to cover postage, stationery, telephone and photocopying expenses.

67. Disbursements are defined by Rule 2(2)(k) of the SAR as:

> "As sum spent or to be spent by a solicitor on behalf of a client or controlled trust (including any VAT element)".

Disbursements are payments to third parties on behalf of clients that are then recoverable from the client, not a recovery of a firm's overheads.

68. The rationale behind charging clients separately for these items was to reduce the profit cost figure when providing estimates to clients for conveyancing transactions.

69. These sums charged as "disbursements" were not payments to third parties but were disguised profit costs which should have been described as such and been subject to VAT.

70. It was conceded that clients had not been misled in terms of the overall cost. However a secret profit had been made by the Respondents in the sense that clients had not been made aware of the fact that the firm would retain money referred to as "disbursements".

71. The proposal form for professional indemnity insurance signed by Mr Orie and dated 5th September 2006 stated that the gross fees for the firm to 31st March 2006 were £85,000 when they were £208,619.

72. Even if the accounts had not been finalised when Mr Orie completed the proposal form he should as sole equity partner have been aware of the gross turnover in April 2006 when the financial year to 31st March had come to an end. It was accepted that partners were not always aware of the profit earned by a practice until accounts were prepared. It was not credible that a sole equity partner was not aware of the gross fees of his business. He would be reckless not to make sure that he was aware.

73. There were two other incorrect statements on the proposal form.

74. Mrs Orie had not delivered quarterly VAT returns for the period 1st April 2005 to 31st October 2006. His failure served as an example of the financial disarray at the practice.

75. The conveyancing transactions in which Mr Orie and Mrs Orie acted were all sub-sales or "back to back" transactions and related to flats in the same block of a new development. The developer was represented by the same solicitors.

76. Orie & Co represented the purchaser/sub-vendor and Mr Orie or Mrs Orie was acting and the ultimate purchasers and their mortgage lenders were all represented by the same solicitors.

77. In fifteen of the twenty transactions the purchaser/sub-vendor was a company registered in Uganda, namely PP Ltd. In the other five transactions the purchaser/sub-vendor was a UK registered company, PJC UK Ltd (2) or G Limited (1) or P34 P Ltd (2).

78. In all cases the moneys received by Orie & Co were paid to G Ltd rather than the actual client company. The director and shareholder of G Ltd was Mr WN who acted under a power of attorney for PP Ltd and who had purchased a property from P34 P Ltd on a sub-sale. In one instance a director and shareholder of PP Ltd, Ms AT, purchased a property from her own company PP Ltd at a price that was uplifted by £87,000.

79. The solicitor who had represented all of the sub-purchases had been before the Tribunal to answer allegations of property mortgage fraud and the allegations had been found to have been substantiated.

80. The transactions exhibited the hallmarks of fraud as set out in The Law Society Guidance Note relevant at the time. In particular there had been a misrepresentation of the purchase price; the deposit had been stated to have been paid direct; the client had bought several properties from the same person; there had been changes in the purchase price, and the client had resold at a substantial profit.

81. Solicitors were under a professional duty to adhere to the guidance published by their professional body.

82. In none of the twenty conveyancing transactions did Orie & Co received the full amount of the sub-sale price.

83. The situation was particularly serious where Mr Orie and Mrs Orie were personally a party in a transaction.

84. Mr Orie contended on behalf of himself and Mrs Orie that the developer offered his investor clients a discount and that his clients were then able to pass on this discount to the ultimate buyer.

85. Mr Orie had not produced documentary evidence to support his discount argument. No evidence was found on the client files. Mr Orie had produced fliers from the same developer and another offering incentives to buy but they did not relate to the properties that were the subject of the twenty transactions Mr Orie had processed. Two fliers that related to the block of flats that was the subject of the transactions did not refer to discounted prices. Two property reservation forms that referred to contract discount did not relate to those twenty transactions. Those documents did not support Mr Orie's argument.

86. Mr Orie had explained that he was not obliged to chase up the ultimate purchasers' solicitors to make payment in full because such payment was not required by his clients. That demonstrated a lack of understanding of the conveyancing process. Mr Orie permitted twenty transactions to proceed where the documentation evidenced a sale price that was never paid. His conduct induced mortgage lenders to lend without being fully aware of material facts. Incorrect sale prices were used for the purposes of Stamp Duty Land Tax returns and upon registration at the Land Registry.

87. Even if, as Mr Orie asserted, the developer's discount covered the deposit to be paid the moneys that actually changed hands could not be explained.

88. The discount argument could not provide a defence to allegations of being involved in conveyancing transactions that bear the hallmarks of fraud or a defence to the allegation of dishonesty in relation to the personal involvement of Mr and Mrs Orie in two of the transactions.

89. It was alleged that both Mr Orie and Mrs Orie provided inaccurate information to Birmingham Midshires on their mortgage application forms.

90. In the case of Mr Orie it was alleged that he made one inaccurate representation in stating that the source of the deposit for the purchase was his own savings. He did not provide any funds in connection with his purchase. In the case of Mrs Orie it was alleged that she made four inaccurate representations in stating that she was self-employed at Orie & Co, that she was a solicitor, that she had an income of £80,000 per annum, that the source of her deposit in the transaction was equity in her present property and that the new property would be her primary residence. None of these statements was correct. Mrs Orie did not provide any funds in connection with her purchase.

91. It was Mr Orie's and Mrs Orie's case that they did not complete the mortgage application forms personally and that they were sent the signature page as a separate document. They had not seen the completed form before its submission to Birmingham Midshires.

92. It was pointed out that Mr Orie signed the handwritten form on 9th March 2005 and Mrs Orie signed the handwritten form on 31st March 2005. The signature page contained two warnings to the Applicant that to provide false or inaccurate information might constitute a criminal offence and required them to sign to state that they had understood the warnings. It was not accepted that in the light of such warnings Mr Orie or Mrs Orie would sign a document that he or she had not first considered and approved.

93. Mr Orie faced an allegation of dishonesty in relation to allegation 8. Mrs Orie faced allegations of dishonesty in relation to allegations 11 and 13.

94. The Tribunal was invited to adopt the test for dishonesty contained in Twinsectra Ltd v Yardley and Others [2002] UKHL 12 as endorsed in Bryant & Bench v The Law Society Society [2007] EWHC 3042 (Admin).

95. It was a two limbed test. First, the objective test was that the conduct must be dishonest by the standards of reasonable and honest people. Secondly the subjective test was that the Respondent himself realised that by those standards his conduct was dishonest.

96. The conduct of Mr Orie and Mrs Orie in contracting to buy a property at a fixed price, signing a transfer document to confirm the price paid, not discharging the purchase price in full and then registering title at the Land Registry on the basis of payment of the fixed price, would be regarded by ordinary people as being dishonest conduct.

97. Both Mr Orie and Mrs Orie admitted that at no time were there sufficient funds to pay for the properties they had contracted to buy.

98. It followed that when Mr Orie and Mrs Orie signed the contract, the transfer and the mortgage deed they did so knowing that they did not have the funds to complete the purchase and that the prices to be paid for the properties were not as stated in the documentation.

99. In considering the Respondent's own view of their conduct, it was relevant to take into account the inaccurate statements made to their mortgage lender, Birmingham Midshires. Without the inaccurate representations made to the mortgage lender it would not have been possible for the Respondents to obtain a mortgage. The inaccurate statements were all part of a premeditated plan to obtain funding from the mortgage lender for transactions where no funding had been put in place by Mr Orie or Mrs Orie.

100. The Tribunal was invited to draw the inference that both Mr and Mrs Orie knew that what they were doing was wrong.

101. If the Tribunal did not make a finding of dishonesty against Mr Orie in relation to allegation 8, it was invited to make a finding that Mr Orie acted recklessly and to find allegation 8 substantiated in any event. That allegation could be found to be substantiated without a finding that Mr Orie had been dishonest.

102. Mrs Orie was not a solicitor. An order pursuant to s. 43(1)(b) of the Solicitors Act 1974 was sought in respect of her. The Tribunal was required to answer two questions:

(i) has Mrs Orie occasioned an act or default which involved conduct on her part of such a nature that it would be undesirable for her to be employed or remunerated by a solicitor in connection with his practice? and

(ii) if so, was that act or default occasioned in relation to a solicitor's practice while employed or remunerated by that practice?

103. An order under s.43(1)(b) could be imposed because of foolishness, recklessness or errors of judgement if the consequence was that it was undesirable for the individual concerned to work in a solicitor's practice.

104. S.43 was a regulatory provision designed to afford safeguards to the public and the profession by the exercise of control over those employed by solicitors. It was not a punishment.

105. Mr Orie had been dishonest. Following the test in Twinsectra a solicitor was required to fulfil a vital role in the integrity of the conveyancing process. Fraud could not be perpetrated without the involvement of a dishonest or reckless solicitor. The solicitor acts as the "gatekeeper" to ensure that the conveyancing process is conducted to the highest standards in order to maintain the reputation of the profession.

106. The Tribunal might have been prepared to give Mr and Mrs Orie the benefit of the doubt but for the fact that they were personally involved as parties to suspicious transactions. They took advantage of the schemes of their own clients for their own personal benefit.

107. The Tribunal was invited to find on the evidence that allegations 6-9 inclusive; allegation 14 and the allegation of dishonesty were substantiated against Mr Orie. Further the Tribunal was invited to find on the evidence that allegations 10-13 were substantiated against Mrs Orie as well as the allegation of dishonesty.

The Submissions of Mr and Mrs Orie

108. Mr and Mrs Orie admitted the allegations against them save that they denied that either of them had been dishonest.

109. Mr and Mrs Orie had done the best they could to uphold their own and the integrity of the profession. At worst they had been naive and too trusting and probably, with hindsight, reckless but not dishonest.

110. Mr Orie had always been a busy criminal and immigration law solicitor. The firm held Legal Services Commission franchises in immigration and crime. Mr Orie did undertake some conveyancing work. Although he was an experienced conveyancer, he was not experienced in the circumstances which arose in the twenty transactions upon which the IO had reported. He had not had experience of the purchase of many properties in a new development.

111. Mr Orie had not been desperate for work when he was approached by the directors of G UK Ltd to act for the company. Mr Orie had been recommended to the company by the builders. It was not new for the Respondent to be recommended to buyers by builders, but he always made clear to the buyers that the firm was independent from and in no way connected to the builders.

112. Mr and Mrs Orie had close ties with the community and had a reputation for honesty and fairness. They did not seek out the conveyancing business which was the subject of the allegations, it had come to the firm and in time the situation had gone beyond them.

113. There had been no collusion between the other solicitors involved in the transactions or with the client that they represented. The only profit to the firm was the collection of its fees.

114. Mr and Mrs Orie had relied on their own solicitor, the mortgage broker and the mortgage lenders to do their own due diligence where they had personal involvement. They also had done their due diligence to the extent that they believed they were required to do so. In all cases the clients had been identified and copies of required identification and proof of address had been taken. The folder for established clients was inspected by Mr Ferrari. That included company searches. The volume of the conveyancing work had overtaken Mr and Mrs Orie and the firm generally.

115. The solicitor who had acted for all of the ultimate purchases, including Mr Orie and Mrs Orie, Antonio Ciaravella, had appeared before the Tribunal on 24th February 2009. The Tribunal was invited to give due weight to the written Findings dated 15th May 2009 which recorded Mr Ciaravella's submissions that the developer's solicitors had been very much aware of what was going on and they liaised with E Edward Son & Noice and were aware that there was a sub-purchase. They were both respectable

firms. Mr Ciaravella had said that at the time there had been complete euphoria in the country and in the market generally and he had been caught up in it and he believed that the risk taking approach was endemic from top to bottom and referred to retrospective comments by certain politicians regarding the risks that had been taken. Her accepted that solicitors tended to get involved at the end of the process but said that banks, mortgage brokers, surveyors and accountants were all fully aware of what was happening at the time and it was clear that banks generally had turned a blind eye to the risky practices involving discounts and incentives. By way of example Northern Rock had on more than one occasion said that provided a national builder was involved they had little requirement for input on incentives.

116. It was Mr and Mrs Orie's position that had there been anything untoward, the developer's and the ultimate purchaser's solicitors would have brought it to their attention. It was apparent that those solicitors had also been the victims of the prevailing situation of the market.

117. The transactions were all open and transparent. Mr and Mrs Orie rested on the assurance that each firm of solicitors had undertaken their checks. They themselves had spoken to professional ethics at The Law Society and had visited the sales centre of the developer whose representative had confirmed the incentives given to the investor. Mr Orie had seen the advertised prices and had inspected the properties. There had been no collusion. Mr and Mrs Orie were local to the area in which the developer's block was situated. Mr Orie had been aware of The Law Society's Green Card and he had paid heed to it. He had come to accept that he should have had doubts about the transactions. He and Mrs Orie had made errors of judgement and had been naive. They had not recognised any problem. They deeply regretted having caused embarrassment to the profession and sincerely wished that things had been different.

118. The Tribunal was invited to take into account the market in which the transactions were undertaken five years previously. The market had since changed drastically. Mr and Mrs Orie accepted that they might have been reckless in their dealings with the transactions, but not dishonest. They had never knowingly lied or misled anyone.

119. Mr and Mrs Orie accepted that the two-part test to be applied by the Tribunal when considering the question of dishonesty was that contained in Twinsectra v Yardley as endorsed in Bryant and Bench. The Tribunal was invited to reach the conclusion that neither Mr Orie nor Mrs Orie would be considered by ordinary people to have been dishonest and they did not believe that they were dishonest by the those same standards.

The Submissions of Mr Ahgo and Mr Ibebule

120. These two Respondents were salaried partners in the firm of Orie & Co. Mr Orie ran the firm and they played no part in the management of the firm or the keeping of its books. They accepted that they were liable in their capacity as partners for the breaches which had been alleged against them but neither of them was personally culpable for the breaches.

The Findings of the Tribunal

121. The Tribunal found all of the allegations against all of the Respondents to have been substantiated.

122. In respect of Mr Orie the Tribunal found that he had been dishonest in connection with allegation 8, namely that he was a party to a conveyancing transaction that exhibited the characteristics of a fraudulent transaction contrary to Practice Rule 1(a) and (d) of the Solicitors Practice Rules 1990. The Tribunal found Mrs Orie to have been dishonest in connection with allegations 11 and 13, namely that she was a party to a conveyancing transaction that exhibited the characteristics of a fraudulent transaction and that she signed a transfer document wrongly stating that the purchase price paid by her in the purchase of a property by way of sub-sale by the purchaser from the developer was £299,995 when she did not pay such price.

123. The Tribunal reached the conclusion that Mr and Mrs Orie had been dishonest having applied the two-part test in Twinsectra Ltd v Yardley and Others [2002] UKHL 12.

124. The Tribunal found that in being a party in a conveyancing transaction which exhibited the characteristics of a fraudulent transaction as set out in The Law Society's Green Card Warning on Property Fraud and in which transaction he did not have sufficient funds to purchase the property at the price stated in the contract, the First Respondent's conduct was dishonest by the standards of reasonable and honest people. Having heard and seen Mr Orie give evidence and heard his explanation for his participation as an ultimate purchaser in the transaction and his assertions that he had relied upon the good reputation of other solicitors and the fact that they would have undertaken appropriate due diligence, the Tribunal was satisfied so that it was sure that Mr Orie did not have an honest belief that in completing that conveyancing transaction as ultimate purchaser without having sufficient funds available, he knew that what he was doing was dishonest by those same standards.

125. The Tribunal applied the same reasoning to the case of Mrs Orie in connection with allegation 11.

126. With regard to allegation 13 the Tribunal found that Mrs Orie had signed a transfer document in the same transaction which stated that the purchase price she paid for the property as an ultimate purchaser was £299,995 when the only money she had available to complete the purchase was the net mortgage advance from Birmingham Midshires of £238,404.11. If it were accepted that a deposit had been paid direct, the balance due was £270,132 and that exceeded the sum available to her. In these circumstances the Tribunal was satisfied so that it was sure that such action would be considered by ordinary honest people to be dishonest and that Mrs Orie did not have an honest belief that she could properly sign a transfer that stated that the sum which she had paid for the property was a greater sum than she had paid and that she knew that what she was doing was dishonest by those same standards.

127. In reaching its decision on dishonesty, the Tribunal also considered the fact that Mr Orie had made an application for indemnity insurance giving inaccurate information. In addition both Mr Orie and Mrs Orie had given inaccurate information in their mortgage application forms. Had it been accepted that Mr Orie and Mrs Orie had

been sent just the signature sheet by their mortgage broker, the Tribunal took the view that in such circumstances they neither knew nor cared whether the contents of the form were accurate and their action seriously damaged their credibility.

Mitigation and representations on costs

The mitigation of Mr and Mrs Orie

128. Mr Orie accepted that it was the responsibility of the partners in the practice to ensure that books of account were maintained in compliance with SAR. It was reasonable that the partners be entitled to rely on the expertise of professional accountants. Mr Orie had every reason to believe that the bookkeeper he engaged was experienced and competent. The firm's books were vetted by its Reporting Accountants. The Accountant's reports were unqualified. The defects in the firm's bookkeeping and reconciliations came to light only during the IO's investigation. Mr Orie had relied on his bookkeeper promptly to rectify any errors.

129. As soon as Mr Orie became aware of the problems he took steps to instruct new accountants. The new accountants had produced all outstanding reconciliations.

130. Inter-ledger transfers made on the 2nd and 28th February 2005 in the client account ledger in Mr and Mrs Orie's name had been made by the previous bookkeeper without their authorisation.

131. The bookkeeper had stated that the ledger was a "dustbin" (suspense) ledger and he made the transfers in order to clear his system as the monies had sat on their various ledgers for some time.

132. It was wrong that the designated account was not included in the reconciliations by the bookkeeper. The position had been rectified.

133. The only funds transferred to Platinum Bank related to Mr and Mrs Orie's own moneys. No client moneys had been wrongly withdrawn. In hindsight Mr Orie had come to accept this should not have happened.

134. It was accepted that the IO, who had conducted and reported upon his investigation thoroughly and fairly, found the books to have been in disarray. The IO himself had commented that the partners own completion statement were more reliable than the books.

135. Earlier reconciliations and other accounting records had been stored in files which had been subject to water damage. The firm's computerised accounts system had been started and opening balances had been entered from the records available.

136. The firm's bankers had on a number of occasions been asked not to take charges from client account. The bank had acknowledged the error as being the fault of the bank's system.

137. The shortage of £15,062.25 was transferred from the office account to the client account in two batches of £9,062.25 on 20th June 2007 and £6,000 on 21st June 2007.

It was unfortunate that this shortage was not discovered at the time of completion by *[Respondent 2]* who had conduct of the conveyancing matter. At the material time Mr Orie had been attending his father's funeral in Nigeria.

138. It was noteworthy that the firm had had two Standard Unit Monitoring Visits from The Law Society which did not point out the bookkeeping and reconciliation problems. The firm had been given the "all clear".

139. With regard to the firm making a "secret profit" Mr Orie had accepted the Applicant's case but the clients were informed of costs information in the client care letters and the charges were clearly stated. Mr Orie had misunderstood the term "disbursement" and what could be charged to the client other than as incorporated as a general overhead. Mr Orie accepted that these charges were incorrect, although there had been no intention to mislead or overcharge the client. It was an honest mistake. The charge was not disguised at all and had been clearly stated in the client bill. The client paid exactly what he expected to pay. The error was one of "labelling". Mr Orie regretted this error and sought to rectify the situation.

140. Mr Orie had completed the firm's indemnity insurance proposal form. He had not in any way intended to mislead or deceive the insurance company. The firm's bookkeeper who prepared the firm's accounts rounded up the account in January 2007 shortly before lodging the tax returns. The bookkeeper had provided Mrs Orie with the £85,000 figure based speculatively on the fees for the previous year. The actual growth in the business had come as a surprise to Mr Orie who had been aware of an increase in work but had not felt that income would have increased correspondingly because of high overheads and the limited billable profit costs on property transactions.

141. The 3% declared relating to the conveyancing was the anticipated gross income in conveyancing for the year 2006/2007. The 40% figure was based on a review of income from the past year for conveyancing that was not available until May 2007. In retrospect and having spoken to his insurance brokers, Mr Orie accepted that the figure he should have provided was that of the gross fees for conveyancing in the past year and not the year to be covered.

142. With regard to the question about investigations, Mr Orie understood it to ask whether a fee earner currently with Orie & Co had practised, in the past, in a firm where there was an investigation or intervention.

143. The insurers were notified of the discrepancies in a letter dated 25th May 2007. The indemnity cover had not been affected.

144. Mr Orie had because of oversight not made VAT returns. He had now submitted the VAT return to date.

145. With regard to the twenty conveyancing transactions Mr Orie took every reasonable precaution before undertaking this conveyancing work. Such sub-sales transactions were not of themselves fraudulent or dishonest. He had sought confirmation from The Law Society's Ethics Department.

146. Orie & Co's clients were investors in real property. The purchase prices were set by the clients whose business was to source and reserve new builds at a discount offered by the developer. Investors had been given a discount as an incentive to enable them to market the properties. The properties were then sold on to buyers to whom they could pass on the discounts.

147. The ultimate buyers' lenders instructed surveyors to value the properties and the lenders relied on those valuations.

148. Stamp duty and Land Registry fees had been properly paid on the transactions.

149. In each instance Orie & Co took all reasonable steps to obtain proof of identification from the client and carried out company searches in the case of incorporated clients.

150. There had been no suggestion from any source that any of the transactions identified in the IO's Report were fraudulent or anything other than legitimate purchases and sales.

151. The completion monies had been forwarded directly to Winkworth Sherwood for the developer by Edward Son & Noice, the ultimate buyer's solicitors, for administrative convenience, to ensure timely completion and to avoid the double payment of CHAPS fees.

152. It was accepted that specific reference had not been made to the developer's discount but Orie & Co made full and complete disclosure of all the developer's documents clearly showing the price at which the sub-vendor bought and its sale price to the ultimate buyer's solicitors, Edward Son & Noice.

153. Mr Orie had not in these transactions acted for both buyer and seller.

154. In one case there had been a typographical error in the figures. The balances of the purchase prices were not paid to Orie & Co because they formed part of the discount that the sub-vendor client received from the developer and subsequently passed on to the ultimate buyer.

155. The initial purchase had been subject to a discount by the developer which covered the deposit.

156. Mr Orie had relied on his own solicitors to notify the lender and deal with any queries that arose.

157. In the transactions in which Mr and Mrs Orie were the ultimate buyers, Orie & Co acted for the sub-vendor. The properties' original sale prices were subject to a discount. The properties were sold in accordance with the sub-vendor clients' instructions. Mr Orie relied on his own solicitors to notify the lender and deal with any queries that arose. Full disclosure had been made to the solicitors for Birmingham Midshires.

158. It was not accepted that Orie & Co did not pursue or advise the sub-vendor client to pursue the balance of the purchase price because it was acting in conflict of interest

and therefore failed to act in the best interest of the client. The balance of the purchase price formed part of the discount that was passed down. It was apparent that in all the files inspected by the IO the balance was not paid to Orie & Co.

159. Mr Orie was proud to be a solicitor. Mrs Orie had studied and had hoped to be admitted as a solicitor. Mr Orie had made sure that all that was wrong at Orie & Co had been put right. He had closed the firm and had done so in an orderly way so that no client had suffered and all clients' money had been properly accounted for.

160. Mr and Mrs Orie had four young children. Both had gained their livelihood from the firm of Orie & Co. They were in serious financial difficulty.

161. The Tribunal was invited to give due weight to the written references put in, in support of Mr and Mrs Orie, all of which attested to their competence and integrity. Mr and Mrs Orie faced a difficult and uncertain future. They had apologised for and regretted the errors they had made.

162. The Tribunal was invited to impose lenient sanctions and to take the position of Mr and Mrs Orie into account when considering the question of costs.

The Submissions of *[Respondent 2]* and *[Respondent 3]*

163. *[Respondent 2]* and *[Respondent 3]* had become partners in the firm of Orie & Co shortly after they had joined the firm when Mr Orie's previous partnership had come to an end. Mr Orie had remained the sole equity partner and *[Respondent 2]* and *[Respondent 3]*'s partnership had been on the basis that they would receive 60% of the fees they generated. They did not know the reason why Mr Orie and his previous partner had parted company. Their names had gone on the firm's letterhead as partners on 1st December 2005. At the time when they became partners *[Respondent 2]* and *[Respondent 3]* had been relatively inexperienced. It was their case that they had not played a full role in the management and administration of the firm.

164. ***[Respondent 2]* and *[Respondent 3]*'s mitigation**

The Law Society had carried out a monitoring visit to Orie & Co in April 2006. A number of issues had been raised during the visit and recommendations made. At that time The Law Society had seen and passed the accounts reconciliations and *[Respondent 2]* and *[Respondent 3]* did not consider that accounts breaches could easily have been spotted by them and irregularities had not at that time been drawn to their attention.

165. The Tribunal was invited to give *[Respondent 2]* and *[Respondent 3]* credit for the fact that they had made admissions early and had come to make admissions with regard to the secret profit allegation when the nature of that allegation had been made clear to them. They had, however, always accepted the facts put forward by the Applicant. They had been reluctant to accept the secret profit allegation because their interpretation had been that they were deceiving clients. The fact was that the nature of some of the charges made by the firm had been mis-described. The clients however had always paid exactly what they had expected to pay.

166. *[Respondent 2]* and *[Respondent 3]* had very properly accepted their strict liability as partners for breaches of the Solicitors Accounts Rules and latterly for the firm's incorrect description of charges as disbursements. Had these two gentlemen been solicitors employed by the firm, they would have had no liability at all. The way in which the firm's charges had been set out and notified to clients had been in place before *[Respondent 2]* and *[Respondent 3]* joined the firm.

167. Mr Orie had accepted that he had been entirely responsible for the administration of the firm and bookkeeping but this did not release *[Respondent 2]* and *[Respondent 3]* from their collective responsibility.

168. The Tribunal was invited to consider that their falling from grace amounted to sins of omission and not sins of commission.

169. At the material time both were inexperienced. *[Respondent 2]* had known Mr Orie for many years having studied together for the Nigerian equivalent of 'A' level examinations in Nigeria and they had been friends.

170. *[Respondent 2]* had complete respect for and trust in Mr Orie whom he knew to be a religious man. He had joined the firm of Orie & Co without a shred of concern. It had been an established firm and Mr Orie's firm.

171. *[Respondent 2]* and *[Respondent 3]* had no experience as partners and their trust for Mr Orie led them to assume that everything at the firm was in order.

172. It was not edifying to seek to apportion blame but the respective levels of culpability of the Respondents were relevant both to sanction and costs.

173. *[Respondent 2]* and *[Respondent 3]* did not seek to go behind Mr Orie's explanation of the financial irregularities. He blamed his bookkeeper but the bookkeeper did not necessarily accept that explanation.

174. *[Respondent 2]* and *[Respondent 3]* had come to learn that the firm that they had joined was tainted with dishonest practices.

175. The files relating to the twenty conveyancing transactions had nothing to do with *[Respondent 2]* or *[Respondent 3]*. They had expected the IO had found their files to be in good order and he had considered completion statements on the files to be reliable even if the bookkeeping was not. The errors and inadequacy of the bookkeeping system had not been brought to their attention. It appeared that the problems with the accounts went back to a period before *[Respondent 2]* and *[Respondent 3]* had joined the firm, as had the incorrect description of disbursements in clients' bills.

176. *[Respondent 2]* and *[Respondent 3]* accepted that they had to bear some responsibility as they had not checked the position with regard to the accounting of the firm prior to becoming partners in the firm.

177. When they learned of the irregularities they were deeply shocked and both had resigned long before the publication of the IO's Report.

178. These two Respondents had learned a bitter lesson and would no longer accept anything on trust. Their trust in Mr Orie had been misplaced.

179. *[Respondent 2]* had been able to obtain indemnity insurance only after approaching ten different insurers and because of his unfortunate history had to pay an extremely high premium.

180. Both of these Respondents had suffered a worrying time. They both had been eager to get back into the practise of the law. They both accepted that they should not have accepted a partnership in view of their lack of experience.

181. Many historic documents had been destroyed by water damage. These two Respondents had learned a painful lesson.

182. The Tribunal was invited to give due weight to the written references that were handed up, all of which spoke highly of their competence as solicitors and their probity.

183. Both these Respondents had already paid a high price and the Tribunal was invited to deal with them in a lenient way.

184. *[Respondent 2]* had already attended a management course and *[Respondent 3]* was studying for a Master of Science in management.

185. *[Respondent 3]* had gone back to working in the public sector, namely in the housing department of a local authority. He did however wish to return to the practise of law.

186. The Tribunal was invited to give credit to these two Respondents for having taken pro-active steps to render them better able to face future professional challenges.

187. It had come as an utter shock to both of them to find themselves part of a firm that had not met the high standards that they thought it had.

188. The Tribunal was invited to recognise the part that these Respondents played in what had happened and to mark their level of culpability by a sanction and a costs order that was proportionate. It was suggested that an appropriate apportionment of costs would be to split the Applicant's costs as to 75% to be paid by Mr and Mrs Orie and 25% to be paid by these two Respondents but 25% only which related to the aspects of the allegations in which they were involved.

The sanctions and the Tribunal's reasons

189. The Tribunal had found Mr Orie and Mrs Orie to have been dishonest having applied the two-part test. The actions of Mr Orie could only bring the solicitors profession seriously into disrepute and it would be right that the public be protected from a solicitor who was prepared to act as he did. The Tribunal concluded that it was both appropriate and proportionate to order that Mr Orie be struck off the Roll of Solicitors.

190. The Tribunal had also, for the reasons set out above, found that Mrs Orie had behaved dishonestly. The Tribunal concluded that it was both appropriate and proportionate to order that she be made subject to an order pursuant to s.43 of the Solicitors Act 1974. It was right that her future employment within the solicitors' profession be regulated in order to protect the profession and members of the public.

191. The Tribunal recognised that the level of culpability of *[Respondent 2]* and *[Respondent 3]* was less than that of Mr Orie and Mrs Orie and indeed allegations of dishonesty had not been made against them. They were, however, partners in the firm and were held out as such to those dealing with the firm. As partners in a firm of solicitors as they both very properly recognised they were liable for full compliance with the Solicitors Accounts Rules. There had been a number of serious breaches of those Rules and although they claimed to have no knowledge and to have relied upon Mr Orie to ensure compliance, that was on their part an abdication of the responsibility that partnership brings. The Tribunal did not find that to be an acceptable attitude to be adopted by a member of the solicitors' profession. The Tribunal concluded that it was both proportionate and appropriate to impose a financial sanction of £2,000 upon *[Respondent 2]* and *[Respondent 3]*.

192. The Tribunal had been provided with a schedule of costs by the Applicant who sought the costs of and incidental to the application and enquiry. The Tribunal gave careful consideration to such costs and decided that it would summarily fix the Applicant's costs in the sum of £40,000. It was right that the Respondents should pay the Applicant's costs and the Tribunal costs orders reflected the respective culpabilities of the Respondents, namely Mr Orie should pay £25,000, and each of the other Respondents should pay £5,000. Each of the four costs orders were to be on a several basis.

Dated this 8th day of December 2009
On behalf of the Tribunal

J C Chesterton
Chairman