

IN THE MATTER OF:

*[RESPONDENTS 1], [RESPONDENT 2], [RESPONDENT 3], [RESPONDENT 4], [RESPONDENT 5], [RESPONDENT 6], [RESPONDENT 7], [RESPONDENT 8], [RESPONDENT 9], [RESPONDENT 10], [RESPONDENT 11], [RESPONDENT 12], [RESPONDENT 13], [RESPONDENT 14], [RESPONDENT 15], [RESPONDENT 16], [RESPONDENT 17], [RESPONDENT 18], [RESPONDENT 19], [RESPONDENT 20], [RESPONDENT 21], [RESPONDENT 22], and DAVID COLEMAN, solicitors*

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Miss T Cullen (in the chair)  
Mrs J Martineau  
Mr M C Baughan

Date of Hearing: 27th October 2009

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## FINDINGS

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Solicitors Regulation Authority ("SRA") by Stuart Roger Turner, solicitor and partner in the Firm of Lonsdales Solicitors of 7 Fishergate Court, Fishergate, Preston PR1 8QF on 23<sup>rd</sup> July 2008 that *[Respondent 1], [Respondent 2], [Respondent 3], [Respondent 4], [Respondent 5], [Respondent 6], [Respondent 7], [Respondent 8], [Respondent 9], [Respondent 10], [Respondent 11], [Respondent 12], [Respondent 13], [Respondent 14], [Respondent 15], [Respondent 16], [Respondent 17], [Respondent 18], [Respondent 19], [Respondent 20], [Respondent 21] and [Respondent 22]*, solicitors of Spalding, Lincolnshire and David Coleman, solicitor of Pinchbeck 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.

Prior to the substantive hearing all allegations against the Sixteenth to Twenty First Respondents had been withdrawn at the SRA's request and with the permission of the Tribunal. The Sixteenth to Twenty First Respondents were or had been the salaried partners

in Roythornes and as such had had a limited role in the Firm but with strict liability for Accounts Rules breaches. The SRA had entered into a Regulatory Settlement Agreement with those Respondents.

The allegations against the equity partners (First to fifteenth Respondents) and the former equity partner (Twenty-Second Respondent) were that they had each been guilty of professional misconduct in that:

1. The Firm and therefore the partners, had entered into agreements with third parties for the referral of clients which had breached Rules 1 and 3 of the Solicitors Practice Rules 1990 ("SPR") and the Solicitors Introduction and Referral Code 1990 ("the Code");
2. The partners had failed to conduct six monthly reviews and so had failed to comply with the requirements of s.2(10) of the Code in relation to their agreements with the third parties;
3. Post the revised Code in March 2004, the agreements with the third parties had not contained undertakings or an agreement that the third parties would comply with the provisions of the Code as required by s.2A(2) of the Code;
4. Post March 2004, the partners had acted in breach of s.2A(3) of the Code as they had not notified their clients of their agreement with and the payment of fees to a third party;
5. Post March 2004, the partners had not ensured that the third party disclosed the payments made by the Firm to the client in accordance with s.2A(4) of the Code;
6. The partners had entered into a fee sharing arrangement with a third party in contravention of Rule 7 SPR.

The allegations relating to Accounts Rules breaches as against all the Respondents were that they had each been guilty of professional misconduct in that:

7. Contrary to Rule 22(1) and Rule 30(1) of the Solicitors Accounts Rules 1998 ("the SAR") money had been used from one client account without authorisation to pay settlements to other clients and to recoup unrecoverable costs; and money had been transferred between client accounts without proper reason;
8. The Respondents had failed to deal with a cheque received on account of disbursements in a timely manner;
9. Contrary to Rule 32(1) of the SAR the Respondents had failed to open client ledger cards and had failed to record transactions on the ledger cards for clients;
10. The Respondents had allowed their client account to be used in transactions which had no underlying legal basis;

The allegations against David Coleman, the Twenty-Third Respondent, were that he had been guilty of professional misconduct in that:

11. He had acted contrary to Rule 1(a), (c) and (e) of the SPR;
12. He had acted for clients where there had been a conflict between the interests of his clients and between the interests of himself and those of his clients.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 30<sup>th</sup> October when Stuart Roger Turner appeared on behalf of the Applicant. Alistair McGregor QC represented the Third Respondent, [*Respondent 3*], who was also present. Richard Price QC represented the First, Second, Fourth to Fifteenth and Twenty-Second Respondents. The Twenty-Third Respondent was neither present nor represented.

The evidence before the Tribunal included skeleton submissions on behalf of the First to Fifteenth Respondents and Twenty-Second Respondents and on behalf of the Third Respondent. Some of the Respondents had served further statements to deal with the various matters raised by David Coleman, the Twenty-Third Respondent, in his witness statement of 5<sup>th</sup> May 2009.

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

The Tribunal Orders that the Respondent, [*Respondent 1*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Orders that the Respondent, [*Respondent 2*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-

- (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
- (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 3*] of Peterborough, solicitor, do pay a fine of £3,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 4*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 5*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-

- (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
- (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 6*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 7*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 8*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and

2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 9*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 10*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 11*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and

2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 12*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 13*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 14*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 15*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that she do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, [*Respondent 22*] of Peterborough, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

The Tribunal Order that the Respondent, David Coleman of Pinchbeck, Lincolnshire, solicitor, be Struck Off the Roll of Solicitors and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society subject to the following directions:-



1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>ths</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

**The facts are set out in paragraphs 1 – 25 hereunder:**

1. All the Respondents were or had been either equity or salaried partners in Roythorne & Co of Spalding ("the Firm"), except the Twenty-Second Respondent who had been an equity partner until 1<sup>st</sup> April 2005. He had been a consultant solicitor at the material time.
2. An SRA Practice Standards Advisor had visited Roythorne & Co on 16<sup>th</sup> and 17<sup>th</sup> January 2006. He had identified concerns that the partners of the Firm had entered into an agreement with a company called Associa Limited (previously the NFU Services) and had not complied with their obligations under the Solicitors Introduction and Referral Code 1990 as well as under Rules 3 and 7 of the SPR.
3. A Report had been prepared and sent to the Second Respondent on 20<sup>th</sup> January 2006. The salient facts were that:
  - (i) on 23<sup>rd</sup> September 1999 the partners had entered into an agreement with Associa Limited;
  - (ii) the agreement had set out the terms of the firm's appointment to the NFU Panel;
  - (iii) the Firm had agreed to make a contribution of 10% of profit costs on matters introduced to them by the NFU that had converted into chargeable work (a fee sharing arrangement, contrary to Rule 7 of the SPR);
  - (iv) there had been no evidence on the files of disclosure of the agreement between the Firm and the NFU by either the Firm or the introducer; as required by s.2A(3) of the Code in respect of the solicitor and s.2A(4) of the Code in respect of the introducer;
  - (v) the agreement with the NFU had not contained the required undertakings so as to comply with s.2A(2) of the Code;
  - (vi) there had been no evidence that there had been a review of the agreements at least every six months as required by s.2(10) of the Code.

4. The Law Society had written to the Second Respondent on 22<sup>nd</sup> August 2006 seeking the partners' comments. The First Respondent had replied on behalf of all the partners on 28<sup>th</sup> September 2006 with the exception of Mr Coleman, who had left the firm. The First Respondent had accepted full responsibility for any breach of the Code and of Rule 7 of the SPR.
5. On 4<sup>th</sup> April 2007 the First Respondent, on behalf of the partners, had set out their representations on the Report drafted for consideration by the Adjudicator.
6. On 27<sup>th</sup> April 2007, an Adjudicator of The Law Society had referred the Respondents' conduct to the Tribunal and that decision had been appealed by the Respondents on 24<sup>th</sup> May 2007. On 9<sup>th</sup> August 2007, the Adjudication Panel Appeal Session had resolved to dismiss the appeal.

Ultimate/Paraiso and Abbey Legal Helpline

7. Miss Seagar, Investigation Officer of The Law Society, had been the author of a Report signed by Mr M J Calvert, Head of Forensic Investigations, on the books of account and other documents of the Respondents' firm.
8. The Respondents, except for David Coleman, had notified The Law Society on 4<sup>th</sup> September 2006 of breaches of the Solicitors Accounts Rules they had discovered. They had attributed the breaches to David Coleman. An SRA inspection had commenced on 4<sup>th</sup> October 2006 and had been completed on 4<sup>th</sup> May 2007. The issues had centred on the firm's relationship with Ultimate Insurance Solutions Limited ("Ultimate") and its owners, Paraiso and the provision of a 24 hour legal helpline for Abbey National Legal Protection.
9. In or about March 2001, the Firm had entered into a written agreement with Ultimate for the introduction of personal injury claims. 80% of the work carried out by the PI department had been referred to the Firm by Ultimate. The FI Officer had identified breaches of the SAR Rule 3 SPR and the SIRC as follows:
  - (i) fees had been paid to Ultimate prior to March 2004 for work received. The partners had stated that those had not been referral fees but rather had been to commensurate with the amount of work done by Ultimate in processing the claims. The amount paid by the Firm, however, had been reliant upon the number of cases received. Also, after October 2001, fees paid to Ultimate had been calculated on a sliding scale dependent upon the number of cases taken. The fees had ranged from between £100 and £250 per case. In a fax dated 12<sup>th</sup> February 2003 Mr Coleman had stated that the file fee paid had been considered to be a disbursement and that the Firm had not been in breach of the Code;
  - (ii) following the Practice Standard Unit (PSU) visit Mr Coleman had written to Ultimate stating that the Firm had managed to ignore the Code until then;
  - (iii) the Investigation Officer had been informed that in the 12 months to July 2006 a total of £203,111 had been paid to Ultimate in respect of referral fees. She had found no evidence of six monthly reviews of the arrangements with

Ultimate being conducted. She had found no evidence that agreements had been obtained from Ultimate that they would comply with the terms of the SIRC and the undertaking required after March 2004 until January 2007.

10. It had been found that the books of account contained false and misleading entries which had been made at the instigation of David Coleman.
11. Money had been used from the Ultimate client account without authorisation to pay settlements to other clients and to recoup other recoverable costs resulting from the pursuit of personal injury matters, in breach of Rule 22(1) and Rule 30(1) SAR.
12. Money had been transferred between client accounts without proper reason, in breach of Rule 22(1) and Rule 30(1) SAR.
13. The Respondents had failed to deal with a cheque received on account of disbursements, in breach of Rule 15(1).
14. The Respondents had failed to open client ledger cards for the matters of R, T, J and S and had failed to record transactions on the ledger cards for B, R and M in breach of Rule 32(1).
15. The Respondents said that Mr Coleman had accepted the above identified breaches and had stated that the failures had been as a result of his actions.
16. The owners of Ultimate had also owned a company called Paraiso. A number of payments had been made to Paraiso from the Ultimate account. The Respondents said that Mr Coleman had conceded that no work had been done by Paraiso in exchange for the money paid. The Respondents had also conceded that they had been allowing their client account to be used as a banking facility by the owners of Ultimate and Paraiso. The total amount paid between February 2004 and January 2005 had been £20,100.
17. The Firm had become involved in the running of Abbey National Legal Protection Helpline ("Abbey Help"). The Firm had run the helpline on behalf of Ultimate. At the outset no payment had been received but the Firm had anticipated that the fees generated by the work from the helpline would pay for the helpline itself. However, at a later stage Ultimate had paid to the Firm £400,000 for the upkeep of the helpline, paid in monthly instalments of £33,333.33. Of that, £150,000 was to be paid back to Ultimate in additional file fees for the personal injury files opened in 2005 and 2006. Mr Coleman had stated that the agreement to repay £150,000 had not been a true agreement.

Matters against the Twenty-Third Respondent, David Coleman, alone

18. Mr S had been a client of the Firm who had not been referred to them by Ultimate. However, Mr Coleman had paid him £5,000 from the Ultimate client account ledger.
19. Mr W's claim had been referred to the Firm by Ultimate. Mr Coleman had advised Ultimate that he would be looking to negotiate settlement of Mr W's claim for £2,000. Mr Coleman had ultimately settled the claim for £1,200 and the balance of monies

paid by Ultimate towards the settlement some £800 had been repaid to them. In his reply Mr Coleman had failed to conceive that there had been a potential conflict of interest and had felt that the client had been happy to accept £1,200.

20. There had been a delay of some five months in informing his clients, Mr and Mrs M that Ultimate had offered to settle matters for £1,500. In his response, Mr Coleman had felt that steps should have been taken sooner but had denied that that had fallen below a proper standard of work.
21. Mr Coleman had acted for Mr R in a personal injury matter. His claim had not been pursued. However on 30<sup>th</sup> November 2005 Mr R had been paid a set sum from the Ultimate client account in settlement of the claim. The matter had been referred via the Abbey Helpline and not by Ultimate. Mr Coleman had accepted that he had breached Rule 1 in respect of the matter.
22. A matter had been opened for Mrs S in September 2005. No action had been taken to progress it. However, on 7<sup>th</sup> February 2006, £500 had been paid to Mrs S in settlement of her claim. Despite the fact that Mrs S had no connection with Ultimate, Mr Coleman had written to Ultimate stating that he had settled the claim.
23. Mr Coleman had acted for Mrs W in a personal injury matter. Despite the fact that the client had not been referred by Ultimate, the settlement money had been paid into and out of the Ultimate client account. Mr Coleman had written to Ultimate stating that the claim had been settled. Mr Coleman had told the Investigation Officer that he had written a letter so that there had been something on the file reflecting why a payment had been made from the Ultimate ledger. In his response, dated 7<sup>th</sup> September 2007, Mr Coleman had stated that he had not acted dishonestly, the letter had not been sent to Ultimate.
24. A file had been opened for Mr T and Miss J in August 2002. However there had been no contact with them until 9<sup>th</sup> June 2004 when they had been sent a cheque for £500 in settlement of the claim. The payment had been from the Ultimate client account despite the fact that the clients had had no connection with Ultimate.
25. On 16<sup>th</sup> January 2008 the First to Twenty-Second Respondents' conduct had been referred to the Tribunal. On 25<sup>th</sup> January 2008 David Coleman, the Twenty-Third Respondent, had been referred to the Tribunal.

### **The submissions of the Applicant**

26. The Applicant reminded the Tribunal that the matter had first come before it on 5<sup>th</sup> May 2009 for a substantive hearing. However, on that day, shortly before the hearing commenced, David Coleman had handed to the Tribunal and to the parties a 24 page witness statement. Consequently it had been necessary to adjourn the hearing because David Coleman's witness statement had contained a number of allegations which had resulted in the need for further instructions and further evidence from the remaining Respondents.
27. The Applicant sought leave to amend allegation 8 with the consent of the parties. The Tribunal allowed the amended. The Tribunal noted that Mr Coleman was neither

present nor represented. The Tribunal was satisfied that he had had proper notice of the hearing and was prepared to proceed with the allegations in his absence.

28. The Applicant referred to the Civil Evidence Act Notices served and confirmed that in the absence of any counter-notices he was not proposing to call any live evidence. All the allegations had been admitted by the relevant Respondents. The Applicant took the Tribunal through the allegations and the relevant facts.
29. Dealing with allegations 1-6, the Applicant explained that it was accepted that agreements with the third parties involved had been negotiated by individual partners. However, he submitted that as a result of the agreements all the equity partners had benefited. Turning to allegations 7-10, he submitted that every partner was personally responsible for complying with the Rules relating to solicitors' accounts.
30. Finally, in relation to allegations 11 and 12 against David Coleman only, the Applicant submitted that in addition to the breaches of the Solicitors Accounts Rules caused by Mr Coleman, his individual conduct had amounted to a breach of Rule 1 of the Solicitors Practice Rules in that he had compromised his independence and integrity; he had failed to act in the best interests of his clients and he had compromised his proper standard of work through delay, acting where there had been a conflict between two clients and by poor service.
31. The Applicant sought an order for costs to be subject to a detailed assessment if not agreed.

**Submissions on behalf of the equity partners  
(Respondents First, Second, Four - Fifteen and Twenty-Two)**

32. Richard Price QC referred the Tribunal to his detailed written submissions together with Appendices A-F. He confirmed that the First Respondent had accepted full responsibility for all matters relating to Associa/NFU. At all material times the First Respondent, [*Respondent 1*], had been the partner dealing with the arrangements between the Firm and Associa/NFU.
33. The Third Respondent, [*Respondent 3*], had accepted responsibility for matters relating to the firm's personal injuries department. It had been [*Respondent 3*]'s responsibility to ensure compliance with the Solicitors Introduction and Referral Code in the personal injuries department and to supervise the conduct of David Coleman.
34. However, the remaining equity partners in the Firm had relied upon both [*Respondent 1*] and [*Respondent 3*] in relation to those respective areas of responsibility and had been, at all material times, unaware of any breaches or other irregularities until those had been raised by the SRA or had been discovered during internal investigations by the Firm into the conduct of David Coleman. Those internal investigations had led to David Coleman's resignation. Leading Counsel referred the Tribunal to the detailed witness statements served by the Respondents, both before and after the service by David Coleman of his detailed witness statement. Leading Counsel stressed that in the absence of any cross-examination those witness statements stood unchallenged before the Tribunal.

35. Leading Counsel referred to the history and development of the firm, its areas of work, approach to clients, standards and ethos. He submitted that it was a well established, decent and hardworking Firm with strong links to the farming community. Leading Counsel took the Tribunal through the background of the Associa/NFU matters, including the establishment and operation of the Legal Panel and the involvement of Professor Martin Read.
36. In mitigation, Leading Counsel stressed that [*Respondent 1*] at all material times had genuinely believed that the provisions of the 1990 Code and the 1990 Rules had not been engaged by the operation and funding of the NFU Legal Panel Scheme. Although it was now accepted that [*Respondent 1*] had been wrong in that belief, any acts of non-compliance had been the result of a genuine mistake or misunderstanding for which [*Respondent 1*] apologised to the Tribunal. Moreover, there was no evidence that any client of the Firm had suffered any financial disadvantage or other prejudice as a result of the operation of the Associa Legal Panel by the firm.
37. Leading Counsel stressed that in relation to allegation 10 none of the equity partners in the Firm had been aware of the existence of Paraiso or of any of the transactions linked to it. He submitted that all the transactions had been agreed to and implemented by David Coleman, at the request of Ultimate, without the knowledge or consent of any of the equity partners. However, the equity partners had accepted responsibility for not having in place sufficiently rigorous systems to prevent such abuse. Leading Counsel explained all the steps that had been taken by the equity partners following the discovery of David Coleman's failings.
38. Leading Counsel referred to Appendix E to his submissions, which detailed 22 client complaints arising from David Coleman's cases that had resulted in the Firm making total payments of some £100,000.
39. Leading Counsel detailed the comprehensive and effective steps taken by the Firm to ensure compliance including the appointment of [*Respondent 21*], a salaried partner, as compliance partner from August 2007. He stressed that the Firm was well established, of good repute and well regarded by clients and others within the profession and beyond. There had been a heavy burden on the equity partners involved in dealing with all the matters in terms of management time and cost and in monies expended on compensation as well as the heavy burden on them all personally.
40. In response to a question from the Tribunal, Leading Counsel detailed both the original and the revised system of cheque requisitions. The Thirteenth Respondent, [*Respondent 13*], in his second witness statement of 23<sup>rd</sup> September 2009, gave detailed evidence as to, inter alia, cheque requisitions.
41. The Third Respondent, [*Respondent 3*], relied on his two witness statements dated 20<sup>th</sup> April 2009 and 24<sup>th</sup> September 2009 detailing his knowledge of the relevant matters and rebutting aspects of the witness of statement of David Coleman dated 5<sup>th</sup> May 2009.

### **Submissions on behalf of the Third Respondent, [Respondent 3]**

42. Alastair McGregor QC referred the Tribunal to his written submissions dated 26<sup>th</sup> October 2009. He explained that the Third Respondent adopted the written submissions of Richard Price QC. Ultimately Leading Counsel submitted that a matter of trust had been involved. [Respondent 3] had fully accepted that he had been ultimately responsible for the personal injuries department of the Firm. He had trusted Mr Coleman but it had transpired that Mr Coleman had routinely hidden case mismanagement from his partners, had lied to them and to clients, had suppressed letters of complaint, had manufactured attendance notes and had disobeyed instructions given to him both by [Respondent 3] and [Respondent 2], the Second Respondent, with respect to SIRC compliance.
43. Leading Counsel submitted that, in his witness statement, David Coleman had sought to blame [Respondent 3] by making false allegations. However, he noted that David Coleman had failed to submit any additional evidence or even to appear at the substantive hearing to cross-examine witnesses or to give evidence.

### **Submissions in relation to costs**

44. Richard Price QC asked the Tribunal to take into account the levels of responsibility submitting that David Coleman bore the greatest responsibility both for the breaches and for the high level of costs. He explained that the additional costs to the Respondents in dealing with David Coleman's last minute witness statement amounted to some £72,000. David Coleman had failed to play any further part in the proceedings following the adjourned hearing of 5<sup>th</sup> May 2009. Leading Counsel submitted that David Coleman should be responsible for all the thrown away costs.

### **The decision of the Tribunal as to penalty and costs**

45. Having considered all the evidence and the very helpful submissions by the Applicant and on behalf of the Respondents, the Tribunal considered that it was necessary to strike off David Coleman from the Roll of Solicitors. This was in order to protect the public and to maintain the integrity of the profession. The Tribunal found that David Coleman had been lacking in probity and that his conduct had been very far below that expected of a solicitor. He had exhibited a flagrant disregard of the Rules and procedures that govern a profession ultimately for the protection of the public.
46. The Tribunal noted that the First Respondent and the Third Respondent had both accepted their responsibilities for certain areas of concern, particularly in [Respondent 3]'s case, a lack of effective supervision that had enabled some breaches to continue for longer. The Tribunal had been concerned by what it considered to be lax systems for cheque requisitions. It noted that those systems had now been revised and tightened. All equity partners were responsible for Solicitors Accounts Rules breaches. In all the circumstances the Tribunal considered that financial penalties were appropriate; a penalty of £3,000 against the Third Respondent and penalties of £1,000 against the other Respondents.
47. As to costs, the Tribunal Ordered that unless otherwise agreed between the parties there should be a detailed assessment to include the costs of the Investigation

Accountant of The Law Society and that costs were to be payable by the Respondents subject to the following directions:

1. That costs thrown away as a result of the adjournment of the hearing scheduled to take place on the 5<sup>th</sup> May 2009 and the associated costs of the preparation of the evidence in rebuttal be borne by the 23<sup>rd</sup> Respondent David Coleman; and
2. The balance of the Applicant's costs to be borne in the following proportions:-
  - (i) as to 1/17<sup>th</sup> by the 23<sup>rd</sup> Respondent and
  - (ii) as to 16/17<sup>th</sup> by the 1<sup>st</sup> to the 15<sup>th</sup> and the 22<sup>nd</sup> Respondents on a joint and several basis.

Dated this 9<sup>th</sup> day of April 2010  
On behalf of the Tribunal

Miss T Cullen  
Chairman