On 19 November 2012, Ms Afolabi appealed against the Tribunal's decision on sanction and costs. The appeal was dismissed by Lord Justice Moore-Bick and Mr Justice Cranston. Aminat Adedoyin Afolabi v Solicitors Regulation Authority [2012] EWHC 3502 (Admin.)

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 10069-2008

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

AMINAT ADEDOYIN AFOLABI Respondent

Before:

Mr K W Duncan (in the chair)
Ms A Banks
Mr D E Marlow

Date of Hearing: 12th January 2012

Appearances

Mr Giles Wheeler, Counsel of Fountain Court Chambers instructed by Russell-Cooke Solicitors, 8 Bedford Row, London, WC1R 4BX for the Applicant.

Mr Ivan Krolick, Counsel of Lamb Building instructed by Alpha Rocks Solicitors, 8 Arlington Parade, London, SW2 1RH for the Respondent

---

JUDGMENT

Allegations

1. The allegations against the Respondent were:

Contained in a Rule 5 Statement dated 21 July 2008

1.1 That the Respondent gave evidence to an Employment Tribunal that the Employment Tribunal considered not to be honest (Allegation I).

Contained in an amended Rule 7 statement dated 13 December 2011

1.2 That she has been convicted of criminal offences (Allegation M).

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent which included:

- Agreed bundle of documents;
- Bundle of inter-partes correspondence;
- Transcript of Respondent's evidence from hearing on 17 and 18 June 2010;
- Applicant's bundle of Opening Submissions and Authorities;
- Skeleton Argument on behalf of the Respondent;
- Bundle of references and testimonials on behalf of the Respondent;
- Applicant's schedule of costs for the hearing on 9 December 2011;
- Applicant's schedule of costs for the hearing on 12 January 2012;
- Respondent's statement of costs for hearing on 12 January 2012.

Preliminary Matters

3. Mr Wheeler, on behalf of the Applicant, invited the Tribunal to consent to the amendment of allegation M contained in the amended Rule 7 Statement dated 13 December 2011. Mr Krolick, on behalf of the Respondent, confirmed that there was no dispute in relation to the amendment of the allegation. The Tribunal consented to the amendment of allegation M in accordance with Rule 11 (4) (e) of The Solicitors (Disciplinary Proceedings) Rules 2007 (SDPR). Mr Krolick confirmed that the Respondent admitted the amended allegation.

Factual Background

4. The Respondent was born on 10 June 1958 and admitted as a solicitor on 16 April 2007. Her name remained on the Roll of Solicitors.

5. The firm of Ann Francis & Co ("the firm") was established on 1 July 2005. The Solicitors Regulation Authority (SRA) commenced an inspection at the firm on 26 March 2007 which resulted in a Forensic Investigation Report ("FIR") dated 21

August 2007. At the time that the firm was established, the Respondent held the position of practice manager. In September 2005, the Respondent commenced a training contract with the firm and she was subsequently admitted as a solicitor on 16 April 2007 and became a partner at the firm on the same date. There was an intervention at the firm on 15 October 2007 which was unsuccessfully challenged.

6. The original allegations that were contained in the Rule 5 Statement dated 21 July 2008 were heard by a previous Tribunal on 17 and 18 June 2010 with the Findings and Decision given on 14 September 2010. The Respondent had appealed the decision of the previous Tribunal to the Administrative Court. In a Judgment dated 15 July 2011, Holman J:

- dismissed the Respondent's appeal against the findings that allegations A and B had been proven and upheld the Tribunal's findings;
- allowed her appeal against the finding on allegation I which was remitted to a differently constituted panel of the Tribunal for rehearing;
- allowed her appeal against penalty which was to be re-determined by the Tribunal in the light of its findings on allegation I and taking into account the existing findings on allegations A and B and any further findings on other allegations;

Allegation I

7. The firm was involved in an Employment Tribunal (ET) matter following a claim brought against them by GO who was a former solicitor. During an application before the ET, the Respondent gave evidence which the Chairman of the ET found not to be honest.

Allegation M

8. The Respondent appeared at the Inner London Crown Court between 8 June 2009 and 26 June 2009 to face criminal charges to which she pleaded not guilty. On 26 June 2009, the Respondent was convicted by a jury and a Certificate of Conviction was produced for 3 offences of money-laundering and 1 offence of acquiring, using and having possession of criminal property contrary to the Proceeds of Crime Act 2002.

9. On 14 July 2009, the Respondent was sentenced to a term of 18 months imprisonment. The Respondent appealed the decision of the Inner London Crown Court to the Court of Appeal. On 17 December 2009, the Criminal Division of the Court of Appeal ordered that the convictions on two counts be quashed. The offences of which the Respondent remained convicted were one count of entering into or being concerned in a money laundering arrangement contrary to section 328 of the Proceeds of Crime Act 2002 ("POCA") and one count of acquiring criminal property contrary to section 329 of the same Act.

Witnesses

10. The Respondent gave oral evidence to the Tribunal. She was examined by Mr Krolick and cross examined by Mr Wheeler. Her evidence is referred to below.

Findings of Fact and Law

11. **Allegation 1.1. That she gave evidence to an Employment Tribunal that the Employment Tribunal considered not to be honest (Allegation I)**.

11.1 The Tribunal was told by Mr Wheeler that the hearing before the ET related to an application by the firm to review a Judgment in default which had been entered against it on 23 November 2006. The hearing had taken place on 2 February 2007. The firm had been represented at the hearing by Ms S who, at the time, was a solicitor dealing with the firm's criminal cases. The Respondent had attended at the hearing and given oral evidence.

11.2 Mr Wheeler reminded the Tribunal that the findings made by the ET were to the civil standard and were admissible pursuant to Rule 15(4) of the SDPR as proof of the facts found by the ET but were not conclusive proof of the relevant facts. He invited the Tribunal to reach its own conclusion that the Respondent had given false evidence to the ET.

11.3 Mr Wheeler told the Tribunal that the relevant test of dishonesty was based on the decision in Twinsectra Ltd v Yardley and Others [2002] 2 AC 164 which was set out in the case of Bryant v The Law Society (2009) 1WL 163 namely:
(1) whether the Respondent had acted dishonestly by the ordinary standards of reasonable and honest people and
(2) whether the Respondent was aware that by those standards she was acting dishonestly.

11.4 The basis for the firm's application was that a letter dated 23 October 2006, by which the firm had sought an extension of time to respond to the ET proceedings, had been sent by the firm to the ET. There was no record of the ET having received that letter. The Respondent had given evidence on oath to the ET in which she had stated that someone from the Tribunal had phoned and spoken to her after the Tribunal "had received" the letter of 23 October 2006 and had asked for Ms S. There had been a second call and Ms S had returned one of the calls. The Respondent had not been able to produce a telephone attendance note and the ET had no record of the telephone calls. In addition, Ms S had not given evidence that she had returned a call to the ET as suggested by the Respondent. The Chairman of the ET had concluded that he was "satisfied the Tribunal never received the letter of 23 October 2006 and that there were no discussions with the Tribunal on the phone about it". He had added that he considered that the Respondent "was not honest in her evidence before the Tribunal...".

11.5 Mr Wheeler referred the Tribunal to the Respondent's initial response to the Rule 5 Statement which had been dated 6 March 2009 and which Mr Wheeler claimed had been dismissive and unspecific. The Tribunal were also referred to the Respondent's statement dated 15 November 2011 in which she had accepted that the evidence that she had given to the ET was false. Mr Wheeler told the Tribunal that the Respondent

had claimed that she had been mistaken in believing that the two telephone calls were from the ET when in fact they were from ACAS. She had "foolishly" believed that the ET and ACAS were one and the same thing. She had only discovered the true position after she had given her evidence.

11.6 The Tribunal was asked to consider the evidence given by the Respondent at the previous Tribunal hearing in June 2010. Mr Wheeler stated that in her earlier evidence, the Respondent had admitted that the evidence that she had given to the ET "wasn't right". She had stated "It was ACAS who contacted us, not Tribunal. So I don't know the difference between ACAS and Tribunal, so it was a mistaken belief..." Mr Wheeler also referred the Tribunal to an email sent by the Respondent to Ms S a few days after the ET hearing in which she had again admitted to having made a mistake in her evidence which she had not corrected. She had stated "In my evidence I said there were two calls from employment tribunal, in fact it was from ACAS, which I mixed up with the employment tribunal, that was why I kept quite (sic), when the Chairman asked me, whether I was not mixing with up with ACAS...". Mr Wheeler told the Tribunal that the Respondent had made the same admission to the Forensic Investigation Officers ("FIO") during interview on 30 May 2007.

11.7 In summary, Mr Wheeler told the Tribunal that the Respondent had accepted on two occasions that she had known that the evidence she had given to the ET was wrong at the time that she was giving it. The Chairman of the ET had specifically asked her whether she was confusing ACAS and the ET and this had triggered her realisation that the evidence that she had given had been wrong but she had remained silent. Mr Wheeler submitted that the Respondent must have known that she was being dishonest in failing to correct her evidence. In answer to a question from the Panel, Mr Wheeler stated that there was no indication in the ET Judgment that the Respondent had nodded when the Chairman had asked her if she was confusing ACAS with the Employment Tribunal. Mr Wheeler submitted that the Chairman's conclusion that the Respondent had been dishonest was consistent with her remaining silent in answer to the Chairman's question.

11.8 In evidence, the Respondent confirmed that she had been truthful in her evidence to the ET. She stated that it was Ms S who had told her that she had sent the letter dated 23 October 2006 to the ET but Ms S had said nothing to the ET Chairman during the hearing about sending the letter. The Respondent stated that her evidence to the ET had been that two calls had been received from the ET and that she had given the attendance notes to Ms S. The Respondent stated that she had honestly believed that the calls had come from the ET and she had not known the difference between the ET and ACAS. The ET Chairman had not explained the difference to her when he had asked whether she was getting the two mixed up. It was the first time that she had appeared at the ET and she had not had any dealings with the ET before.

11.9 The Respondent believed that the ET Chairman had been unaware that she was not the person who was supposed to have sent the letter of 23 October. She stated that she had been the only person to give evidence and the Chairman had not been told that it was Ms S who had claimed to have sent the letter. She told the Tribunal that the ET Chairman had not given any detail as to why he found that she had not been honest in her evidence. She confirmed that at the time that she had given her evidence to the ET, she had strongly believed that Ms S had written the letter of 23

October. She acknowledged that she now knew the difference between the ET and ACAS.

11.10 In cross examination, the Respondent confirmed that she had studied Employment Law as part of her degree but she had still not understood the difference between the ET and ACAS. She had obtained the lowest pass mark in her exam. Mr Wheeler suggested that it was far-fetched for the Respondent to deny knowing the difference between the two organisations.

11.11 The Respondent confirmed that there had been discussions between Ms S and herself in advance of the ET hearing. She denied that she had only attended at the hearing in order to protect the firm and stated that she had not intended to give evidence. It was Ms S who had suggested that she give evidence and it was Ms S who had reminded the Respondent that she had taken two telephone calls. The Respondent accepted that the calls had been from ACAS rather than the ET but she denied having given false evidence during the ET hearing. She said that at the time of the ET hearing she had been shocked when the Chairman had suggested that she was getting the ET and ACAS mixed up. She had been unsure and had not wanted to say anything further in case she made a mistake. It was only after the hearing that Ms S had told her the difference between the two organizations. She had not realised her mistake until then.

11.12 In continuing cross examination, the Respondent admitted to having given an incorrect answer in the previous Tribunal hearing in June 2010. She had been asked whether she had realised that the evidence that she had given to the ET had been wrong and she had confirmed that she did know this and admitted that she had not corrected her evidence at the time. She now stated that she had given an incorrect answer to that question during the previous Tribunal hearing. She had been overwhelmed by everything at the time.

11.13 In his submissions to the Tribunal, Mr Krolick stated that the entirety of the case against the Respondent with regard to this matter was that she had mixed up the ET and ACAS and had then not corrected her mistake during her evidence. Mr Krolick stated that the ET Chairman had believed that the Respondent had not been honest in her evidence but the Judgment did not make clear what it was that the Chairman had found to have been dishonest. Mr Krolick referred the Tribunal to the ET Judgment itself in which the Chairman had stated that he was satisfied that the ET had never received the letter of 23 October. Mr Krolick suggested that the Chairman must have thought that it was the Respondent who had written the disputed letter and he submitted that it was clear from the wording of the Judgment that the Chairman had come to the conclusion that the letter had never been sent and so whatever evidence had been given about that letter was not truthful. He pointed out that the Chairman had never been told who it was who had sent the letter and he had decided the case on the basis of the person who had given evidence which was the Respondent.

11.14 Mr Krolick suggested that the Applicant should have checked the notes of evidence from the ET hearing and spoken with Ms S to ascertain the true position. He submitted that the ET Chairman had come to the conclusion that the Respondent had been dishonest on the basis that the firm had not sent the letter of 23 October and not due to any mistake regarding the difference between the ET and ACAS. Mr Krolick told the Tribunal that silence of itself could not be dishonest and could not amount to

perjury which in effect was what the Applicant needed to prove against the Respondent in order to substantiate the allegation against her.

11.15 In his closing submissions to the Tribunal, Mr Wheeler stated that the Respondent had not given any evidence to the ET regarding the disputed letter of 23 October. Her evidence had related to the two telephone calls only. He told the Tribunal that there was no evidence that the Respondent had sent the letter and it was untenable to suggest that the ET Chairman had found dishonesty on this issue. The ET Judgment had referred to the evidence given by the Respondent which related only to the telephone calls and he suggested that the Chairman could only have found dishonesty relating to that issue.

11.16 Mr Wheeler stated that it was inconceivable to suggest that the Respondent did not know the difference between the ET and ACAS, particularly as she had studied Employment Law. Mr Wheeler told the Tribunal that in his submission, the Respondent had known the difference between the ET and ACAS all along but even if she had only realised that she had made a mistake when she had been giving her evidence to the ET, the fact that she had remained silent was "plainly wrong". He denied that the absence of Ms S from the proceedings was relevant. He stated that Ms S could not say anything that would assist in determining when it was that the Respondent had realised that her evidence had been wrong.

11.17 The Tribunal determined the allegation to its usual higher standard of proof, that is beyond reasonable doubt. The Tribunal was not clear as to what had happened during the ET hearing. The Chairman's decision was open to some debate. There was scope to suggest that the Chairman was relying on the disputed letter of 23 October in reaching his conclusion that the Respondent had given dishonest evidence. The Chairman may not have understood who had written the letter. The Tribunal considered that it was unfortunate that it had not had sight of the ET application or heard from Ms S.

11.18 The Tribunal considered that the Respondent's silence, when her mistake had been pointed out to her, could have indicated an acceptance of what the Chairman had said and did not necessarily show that she had been dishonest. Having listened to the Respondent's evidence and considered the submissions made by both parties, the Tribunal did not find the allegation substantiated against the Respondent.

12. **Allegation 1.2. That she has been convicted of criminal offences (Allegation M).**

12.1 Mr Wheeler referred the Tribunal to the Certificate of Conviction and reminded the Tribunal of the statutory basis for the offences by referring the Tribunal to Sections 328 and 329 of POCA. The conviction under section 328 of POCA arose from the sale by a company controlled by the Respondent's husband of a property referred to as 25 Danbrook Road. The Respondent's husband had subsequently been convicted for fraudulent activities and received a substantial prison sentence. The property at 25 Danbrook Road had been purchased using funds derived from Mr Afolabi's criminal activity. The Tribunal was referred to the Judge's sentencing remarks in which he had stated:-

> "I am perfectly satisfied that you [the Respondent] knew that he [Mr Afolabi] was buying the property and that he was buying it with money, which he had derived from his criminal activity" .

The Respondent had received a payment of £15,000 from the proceeds of sale of the property and such receipt constituted an offence under section 328 of POCA.

12.2 The conviction under section 329 of POCA had arisen from a series of transfers of money made to the Respondent from her husband. The Judge had concluded that the jury must have been satisfied that about £44,000 of the money transferred to the Respondent had been transfers of criminal property and had stated:

> " I am satisfied that those were transferred to you and you had the use of that money knowing that it must have been derived from your husband's criminal conduct..."

12.3 Mr Wheeler asked the Tribunal to consider the fact that the Respondent had at least suspected that the transactions had involved the proceeds of crime and she had personally benefited from the transactions. Mr Wheeler reminded the Tribunal that in sentencing, the Judge had stated that the Respondent knew that her husband was deriving a substantial income from fraud. It was suggested by Mr Wheeler that no responsible solicitor could have become involved in such transactions. He asked the Tribunal to consider the warnings that were given to the profession regarding the risks of becoming involved in money laundering which had gone unheeded by the Respondent.

12.4 Mr Wheeler reminded the Tribunal that the Respondent had relied upon the fact that she was a solicitor in her mitigation during the criminal proceedings. The sentencing Judge had stated:-

> "It was pointed out to me that you are someone of good character, you have qualified as a solicitor, you have no previous convictions, and I must take that into account in your favour."

12.5 The Respondent had been convicted and imprisoned for serious offences and in his written submissions to the Tribunal, Mr Wheeler referred to the observations made by Sir Thomas Bingham MR in Bolton v The Law Society [1994] 1WLR 512 in which he had said:-

> "But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need and it would be unjust, to punish him again. In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence.... The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth."

12.6 The Tribunal determined the allegation to its usual higher standard of proof, that is beyond reasonable doubt. The Tribunal was satisfied that the allegation was substantiated on the facts and documents and indeed the Respondent had admitted the allegation.

Previous Disciplinary Matters

13. None.

Mitigation

Allegations A and B

14. Mr Krolick told the Tribunal that three individuals had been concerned in the operation of the firm. These were the Respondent, Mr H and Mr O and they had all faced the Tribunal at the hearing in June 2010. Mr Krolick stated that it was Mr H who had run the firm. The Respondent had not been a qualified solicitor at the time that the firm was established. The Tribunal was told that the Findings and Decision from the previous hearing in June 2010 had been incorrect to state that Mr H had played no part in the firm. This had been a mistake.

15. Mr Krolick acknowledged that the firm had effectively been a "sham". The involvement of Mr O had given a "semblance of proper administration" to the firm and enabled it to obtain lender panel status. Mr Krolick conceded that the Respondent had been found to have been "behind it all" but he submitted that she could not have done what she did at the firm without the involvement of Mr H.

16. The Tribunal was reminded that Mr H had faced additional financial and conveyancing allegations which had been substantiated against him. A fine of £10,000 had been imposed against Mr H but the Respondent had been treated differently and had been struck off the Roll.

17. Mr Krolick told the Tribunal that the firm had already been under investigation prior to the Respondent's admission to the Roll. He stated that the Applicant had been aware of the allegations that had been made against the Respondent when she was still a trainee solicitor. He suggested that if these allegations were serious enough to merit striking from the Roll then the Law Society would have been unlikely to have admitted the Respondent until the criticisms made against her had been resolved. He submitted that it would not be sensible, fair or reasonable to impose a strike off against the Respondent in relation to these allegations when Mr H had not been similarly treated.

Allegation M

18. Mr Krolick told the Tribunal that following a partially successful appeal, the Respondent had remained convicted of two counts and had now served her sentence. During the appeal, one of the issues raised was that the trial Judge had failed to direct the jury as to the meaning of the word "knowing" and Mr Krolick referred the Tribunal to the definitions of "knowledge" and "suspicion" in the cases of R v Saik (2006) UKHL 18 and Da Silva (2006) 2 Cr App R 517. He told the Tribunal that the

offences had not required guilty knowledge on the part of the Respondent. She had not participated in the transactions and the case against her had been one of "suspicion" only.

19. In addition, Mr Krolick submitted that the Respondent's convictions had not related to her conduct as a solicitor. This distinguished her case from the conduct that had been considered in the case of Bolton. He was unsure if the Respondent had been under an obligation to report her suspicions of money laundering as she had not been professionally involved in the transactions.

20. Mr Krolick stated that even a conviction for money laundering did not necessarily result in a strike off and he referred to the case of Taylor (10501-2010) which had been heard at the Tribunal in September 2010. He acknowledged that it was difficult to compare one case with another but pointed out that in the case of Taylor, dishonesty had not been alleged and the penalty had been a twelve month period of suspension. He asked the Tribunal to treat this Respondent in the same way and not to consider a sentence that was harsher than a suspension.

21. The Tribunal was told that at the current time, the Respondent's assets were subject to a confiscation order and she was trying to sell properties to meet her liabilities. Mr Krolick suggested that it would be difficult for the Respondent to "get back" due to her age and the fact that she had been "cursed" by the activities of her husband. He stated that there had been no criticism of the Respondent as a solicitor.

22. In his reply to the Respondent's mitigation, Mr Wheeler stated that the assertion that Mr H had been involved at the firm from the outset was not entirely correct. He referred the Tribunal to the Findings and Decision from the original hearing and stated that it was the Respondent who had set up the firm and she had done so without the involvement of Mr H. In addition, she had been responsible for the appointment of Mr O as a partner. The firm had been under her control throughout.

23. Mr Wheeler acknowledged that the SRA had been aware of the allegations against the Respondent prior to her admission but stated that there had been no knowledge of the criminal allegations at the time of her admission to the Roll. He reminded the Tribunal that the allegations had not been proved against the Respondent at the time that she had obtained a practising certificate.

24. In relation to the criminal conviction, Mr Wheeler acknowledged that the Respondent's conduct had taken place at a time that she was not a solicitor. However, he stated that it was Mr H who had carried out some of the conveyancing work in relation to the transactions and the Respondent had been in control of the firm at that time. He submitted that the Respondent's conduct could not be seen in isolation from her role as a solicitor.

25. Mr Wheeler suggested that the Taylor case was less serious. He referred to the "minimal" nature of the Respondent's conduct in that case which had been limited to the making of a "back of an envelope" note together with the fact that the she had not received a custodial sentence and had not benefitted personally from her crime. He submitted that in the present case, the Respondent had benefited considerably and this made the offences proportionately more serious.

Sanction

26. The Tribunal had to re-determine the sanction imposed on the Respondent at the original hearing in the light of its findings on allegation I and taking into account the existing findings on allegations A and B and any further findings on other allegations.

27. Mr Wheeler asked the Tribunal to take into account the fact that allegations A and B were breaches of substantial seriousness. The firm had carried on whilst the Respondent was unqualified and in flagrant disregard of the Rules. Clients had been misled as to the true nature of the firm which had served to undermine the public's confidence in the profession.

28. The Tribunal distinguished the case of Taylor which it did not consider was a true comparison with the case against the Respondent. All of the allegations that had been substantiated against the Respondent were serious. In particular, the public could have not confidence in a solicitor who had been given an eighteen month prison sentence for what were serious criminal offences. In considering the appropriate sanction in this case, the Tribunal was mindful of the observations made in the case of Bolton v Law Society and decided that the only appropriate order in this case was that the Respondent should be struck off the Roll of Solicitors and so ordered.

Costs

29. The Judgment of Holman J required the Tribunal to re-determine the decision and order of the Tribunal recorded in paragraph 105 of the Findings and Decision dated 14 September 2010. This had required the Respondent to pay one third of the costs relating to the previous allegations. The Applicant made a claim for costs in relation to the hearing in the sum of £11,456.40 and also asked the Tribunal to assess its costs for the hearing on 9 December 2011 which were £13,466.10. The Respondent made a claim for the costs of the hearing in the sum of £12,190.00.

30. In Mr Wheelers submission, there was no reason to change the costs order that had been made at the original hearing in June 2010. Mr Krolick stated that it would not be right to leave the previous costs order undisturbed because it had reflected a finding in relation to allegation I which had been wrongly made against the Respondent.

31. Mr Krolick pointed out that the Applicant's costs for the hearing on 9 December 2011 were higher than for the hearing today. Mr Wheeler explained that the hearing on 9 December 2011 had dealt with a number of issues of substantive law and significant legal questions which, in the end, had not been pursued by the Respondent. Mr Krolick accepted this explanation. He told the Tribunal that he would like the costs to be subject to detailed assessment as he did not have instructions from his solicitors in relation to the matter.

32. In relation to allegation I, Mr Krolick suggested that costs should "follow the event" in the usual way. He did not accept the argument that it was reasonable and in the

public interest for the issue to have been explored. In his view, the proceedings in relation to allegation I should never have been brought. He stated that an explanation had been given which suggested honesty on the Respondent's part and the issue should not have been pursued further. He suggested that there had been other ways in which to investigate the matter, by obtaining the notes of evidence from the ET hearing for example or by speaking to Ms S.

33. Mr Wheeler told the Tribunal that the starting point in investigating allegation I had been the ET Judgment which had referred to the Chairman's finding in relation to the evidence given by the Respondent. He submitted that it was entirely appropriate for the proceedings in relation to allegation I to have been brought. He reminded the Tribunal that the allegation had been found proved at the previous hearing and the Judgment from the Administrative Court had made no mention of the allegation having been inappropriate. He referred the Tribunal to the case of Baxendale Walker v The Law Society (2008) 1WLR 426 as authority for the proposition that the Respondent should be ordered to pay the costs of the proceedings in full. He stated that there had been serious findings of misconduct overall. Alternatively, if the Tribunal was not minded to proceed as he had suggested, then he submitted that there should be no order for costs in relation to allegation I and the Respondent should pay the balance of the Applicant's costs.

34. In answer to a question from the Chair, Mr Wheeler considered that one third of the Applicant's costs related to allegation I and two thirds related to the other allegations but he asked the Tribunal to look at the totality of the work involved in bringing the proceedings before the Tribunal. He pointed out that allegation M had not been dealt with by the Tribunal before. Mr Krolick suggested that 50% of the Applicant's costs should relate to allegation I.

35. The Tribunal considered the submissions made by both parties. In the Tribunal's view, the proceedings had been properly brought by the Applicant. It had been correct for the Applicant, as a responsible regulator, to investigate the matters arising from the ET Judgment and to include allegation I within the proceedings.

36. The Tribunal considered that the original costs order contained within the previous Findings and Decision dated 14 September 2010 should be reinstated and so ordered. In addition, the Tribunal ordered that the costs which the Respondent had been ordered to pay to the Applicant in respect of the hearing on 9 December 2011 should be referred to a detailed assessment if not agreed. The Tribunal decided that the Respondent should pay one half of the Applicant's costs in relation to today's hearing which should also be referred to detailed assessment if not agreed.

Statement of Full Order

37. 1. The Tribunal Ordered that the Respondent, Aminat Adedoyin Afolabi, solicitor, be Struck Off the Roll of Solicitors.

2. The Order for costs set out in paragraph 105 of the Tribunal's Findings and Decision dated 14 September 2010 be reinstated.

3. The costs (one half) which the Respondent was ordered to pay to the Applicant in respect of the hearing on 9 December 2011 be referred to a detailed assessment if not agreed.

4. The Respondent pay to the Applicant one half of the Applicant's costs of and incidental to today's hearing (12 January 2012) to be referred to detailed assessment if not agreed.

Dated this 30th day of January 2012
On behalf of the Tribunal

K W Duncan
Chairman