

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF OLASUNKANMI MOYINOLUWA BOLAJI (First Respondent)

and SOKUNLE OLUKOREDE SONUGA (Second Respondent)

Upon the application of David Elwyn Barton
on behalf of the Solicitors Regulation Authority

Mr J N Barnecutt (in the chair)
Mr I R Woolfe
Mr M G Taylor CBE DL

Date of Hearing: 26th - 28th April 2010

FINDINGS & DECISION

Appearances

Mr David Elwyn Barton, solicitor, of 13-17 Lower Stone Street, Maidstone, Kent ME15 6JX for the Applicant.

Both Respondents appeared in person and represented themselves.

The application to the Tribunal on behalf of the Solicitors Regulation Authority (“SRA”) was made on 18th November 2008.

Allegations

The allegations against both Respondents were that:-

1. Contrary to the provisions of Rules 1(a) and (d) of the Solicitors Practice Rules 1990 they had:
 - (a) compromised or impaired their independence or integrity;

- (b) compromised or impaired the good repute of both themselves and the solicitors' profession.

The particulars were that they acted in or otherwise facilitated conveyancing transactions which had the characteristics of mortgage fraud. They did so deliberately knowing what those characteristics were, or alternatively they deliberately closed their eyes to them, or further alternatively they failed to be sufficiently alert to them. It was alleged that they were dishonest, or alternatively that they were grossly reckless.

2. Contrary to the provisions of Rule 1(c) of the Solicitors Practice Rules 1990 they compromised or impaired their duty to act in the best interests of their clients.

The particulars were that during the course of acting for lender clients in conveyancing transactions they failed to report material facts or to otherwise ensure such clients were so advised. It was further alleged that they did so deliberately and were thereby dishonest, or alternatively were grossly reckless.

3. Contrary to the provisions of Rules 1(a) and (d) of the said Practice Rules they gave explanations to the Authority that were false and misleading. It was further alleged they did so deliberately and were thereby dishonest.
4. Contrary to Rules 1(a) and (d) of the said Practice Rules they created or caused to be created documents which on their face purported to show that they acted for persons in connection with purchases of properties whereas they did not so act. It was further alleged they acted deliberately and were thereby dishonest.

The further allegations against the First Respondent (Olasunkanmi Moyinoluwa Bolaji) only were that:

5. Contrary to Rule 22 of the Solicitors Accounts Rules 1998 he had drawn money from client account in circumstances other than permitted by the said Rule. In so doing the First Respondent was also dishonest.
6. He incorrectly described items in bills as disbursements when they contained an element of profit, and thereby made a secret profit.
7. He made a false and misleading statement to his professional indemnity insurers. He was also dishonest, or alternatively he was grossly reckless.
8. He failed to disclose to Legal and Insurance Services Limited that the firm was not registered with the Law Society for general insurance purposes.

The further allegation against the Second Respondent (Sokunle Olukorede Sonuga) only was that:-

9. Contrary to Rules 1(a) and (d) of the said Practice Rules he attempted to persuade Miss

Rolfe and Mrs Anderson not to make disclosure of misconduct to the Authority. It was further alleged that he was dishonest.

Preliminary Application by the Respondents

The Respondents had submitted an application dated 16th April 2010 for the witness statements of Sally Joanne Marcelle Rolfe and Janet Anderson to be struck out by the Tribunal because, as the statements had been prepared by Investigating Officers of the Solicitors Regulation Authority, they did not contain any Statement of Truth and had not been prepared in the format prescribed by the Civil Procedure Rules. The Respondents submitted that the witness statements could not be the intended words of the witnesses.

The Tribunal was informed that both Sally Joan Marcelle Rolfe and Janet Anderson were to give oral evidence to the Tribunal and could therefore be cross examined by the Respondents.

The Solicitors (Disciplinary Proceedings) Rules 2007 state at Rule 21 that, subject to the provision of the Rules, the Tribunal may regulate its own procedure and may dispense with any requirements in respect of notices, statements, witnesses, service or time in any case where it appeared to the Tribunal to be just so to do. The Tribunal was of the view that as both witnesses were attending in person to give evidence, the Respondents would be able to cross examine them on any matters. Accordingly the Respondents' application was dismissed.

Factual Background

1. The First Respondent born in 1965, was admitted as a solicitor on 1st March 2005. His name remained on the Roll of Solicitors.
2. The Second Respondent born in 1972, was admitted as a solicitor on 1st March 2006. His name remained on the Roll of Solicitors.
3. At all material times the Respondents were carrying on practice under the style of OMBC Solicitors from offices at Suite 3, 14 Tiller Road, Dockland, London E14 8PX. The firm was intervened on 17th April 2008.

Allegation 1

4. Investigation Officers ("IOs") from the SRA inspected 43 conveyancing files produced by the Respondents pursuant to a notice served under Section 44B of the Solicitors Act 1974. They were all purchase transactions where the firm acted for buyer and lender, but there were indicators that the buyers had not been seen by the Respondents, and that they may not have been genuine clients. On 17 of those files, there were no, or minimal, details on the "Client Details" form, client care letters were dated close to completion dates, there was little correspondence to clients and there were bad copies of client identification documents.
5. In order to ascertain whether the firm had actually seen the clients, and genuinely acted

for them, the IO wrote to the First Respondent on 19th July 2007 and asked the First Respondent to confirm that each individual client attended his office to give instructions, that each individual client provided proof of identity (and if not who did provide it), and the nature and quantity of communications passing between his office and each client. The response dated 13th September 2007 stated that each client attended the office, provided proof of identity and identified communications passing between the clients and the firm.

6. Seventeen transactions were purchases and in each case the lender was GMAC RFC for whom the firm acted. On 14th November 2007 the IO wrote to the seventeen clients on those transactions and he received five responses. Two responses were from Miss Sally Joan Marcelle Rolfe and Ms CS who both stated that they had not seen a solicitor or provided any funds for their transactions.
7. The IOs interviewed three “clients” namely Ms CS, Miss Rolfe and Mrs Anderson who was Miss Rolfe’s mother. Ms CS told the IOs that she had never been to the solicitors’ office or paid any money in connection with her purchase. She stated that she had been introduced to the transaction by an individual named “Sacha Gabbidon”. Miss Rolfe stated that she had not had any contact at any stage with the firm. She stated that she met a person called “Sacha” at her home. Her mother was also interviewed.
8. Neither Miss Rolfe nor Mrs Anderson had met any solicitor or staff member of OMBC Solicitors until after completion of their transactions; neither attended the offices of OMBC Solicitors; neither provided any funds for their transactions; neither received any bills from OMBC Solicitors; they received payments of £150 and £285 respectively drawn on the client account of OMBC which the Second Respondent personally delivered; Miss Rolfe was told by the Second Respondent that his firm had only made a small amount of money with others making large sums of money; both were asked by the Second Respondent not to inform the Authority about what had happened.
9. The firm acted for the lenders GMAC RFC in the seventeen transactions which were characterised by incentives given to purchasers, funds received from third parties, and sellers not having owned the properties for six months. As well as amounting to a breach of the CML Lenders Handbook (Section 5.1.1.), these characteristics feature in The Law Society Green Card warning on property and mortgage fraud. Furthermore, the so called purchases in the cases of Rolfe and Anderson were in fact part of back to back sub sales in which Miss Rolfe and Mrs Anderson were sub purchasers at increased prices.
10. The IOs reviewed the firm’s bank credit advice slips, which revealed that on a number of transactions, payments were made by third parties. In relation to Mrs Anderson’s purchase the firm received third party payments totalling £45,836.50. For Miss Rolfe’s there was a payment of £20,996.50 and for Ms CS there was a payment of £3,667.00. The funds were used in connection with the purchases (the clients themselves paid nothing).
11. The First Respondent was asked by the IO on 19th July whether he had reported any such

payments from third parties to his lender clients. In his response he stated that in relation to Mrs Anderson the money was from proceeds of a long business investment and that in relation to Miss Rolfe she confirmed it came from a personal source. The response also stated that Mrs Anderson's matter was conducted by the Second Respondent who was supervised by the First Respondent. Miss Rolfe's matter was conducted by the First Respondent.

12. Miss Rolfe's matter file review revealed that the property was being purchased for £199,950. The firm charged profit costs of £986.50 and the completion statement confirmed the lender provided a mortgage advance of £182,325.00 leaving an amount required to complete of £20,996.50. There was a receipt into client account of the mortgage advance of £182,325.00, together with funds from Mr Kareem of £20,996.50 totalling £203,321.50. The purchase price of £199,950 was then paid to solicitors acting for the vendor SND Investments. On the matter file there was a completion statement showing that SND Investments was buying the property from Bovis at a discounted price of £169,175.50. SND Investments was a "middle man" in a back to back transaction in which Miss Rolfe was the end buyer. The manner in which the transaction was thus conducted enabled a profit to be generated for the original buyer/sub seller (SND). Exactly the same scenario was followed in relation to Mrs Anderson's purchase which generated a profit of £51,922.50.
13. There was no evidence on the file that the firm's lender client had been informed that there was a sub sale, or that SND Investments had not owned the property for 6 months, or that there was a significant price increase. The completion statements on the matter files relating to the sub purchases showed full details of the price differences. The evidence from Mrs Anderson and Miss Rolfe demonstrated that their names were used to enable others to purchase and mortgage the properties. In conducting these transactions the Respondents facilitated the perpetration of mortgage fraud.

Allegation 2

14. The Respondents failed to act in the best interests of lender clients in the following respects:-
 - They failed to personally see the purchaser/borrower clients in person to check their identity (or to have it otherwise checked in an acceptable manner).
 - They failed to report the sub sale, or that the seller had not owned the property for 6 months.
 - They failed to report the increase in price or that a proportion of the lender's money would be received by the sub buyer/seller as profit, and they failed to disclose the receipt of third party payments.
 - They submitted a false and misleading Certificate of Title and they failed to promptly register the purchases and mortgages at HM Land Registry.

Allegation 3

15. The Respondents gave the following false explanations to the Authority:-
- That the client attended their office to give identification and proof of address and that the client provided proof of identity.
 - That there were communications between the Respondents and Miss Rolfe and Mrs Anderson.
 - That Miss Rolfe contacted Mr Sonuga to say money was coming from her.
 - That Mrs Anderson had given them the information that she had bought properties with Mr Kareem, that money was due to her from “Lateef” and that she had told a caseworker the funds were from her own savings.
 - That the firm had acted for Miss Rolfe and Mrs Anderson.

Allegation 4

16. The following false and misleading documents were created in order to show that the firm was acting for Miss Rolfe and Mrs Anderson:-
- The client care letters dated 21st December 2006 to Miss Rolfe and dated 19th December 2006 to Mrs Anderson.
 - The bill dated 29th December 2006 marked as “delivered to” Mrs Anderson, when it was not.
 - The bill dated 27th December 2006 marked as “delivered to” Miss Rolfe, when it was not.
 - The client ledgers in the names of Anderson and Rolfe.

Allegation 5 against the First Respondent only

17. In relation to the Anderson and Rolfe transactions money was withdrawn purporting to be in respect of sums required for the payment of disbursements, and for the payment of the solicitor’s costs. Such withdrawals could only be justified if “properly” due, and as the firm did not genuinely act for these clients it followed that the withdrawals were not for sums “properly” due. The firm did not act for Anderson and Rolfe; their names, addresses and details were used as part of the mortgage frauds and thus discharging these items from client account was improper. As they were integral parts of the fraud (in effect the taking of money for costs could be properly regarded as receiving a direct

benefit), they were dishonest. The firm took its costs from money advanced by the lender.

Allegation 6 against the First Respondent only

18. Bills were reviewed on a number of matters. These contained the heading “disbursements”, but only a single figure for the total disbursements was given with no breakdown indicating by list the disbursements actually incurred. These included a charge for indemnity insurance, telephone/fax, and bank transfer fees which were in excess of the amount actually charged by the bank.

Allegation 7 against the First Respondent only

19. The First Respondent stated to his professional indemnity insurers that 3% of the firm’s work comprised residential conveyancing, whereas the true figure was much higher.

Allegation 8 against the First Respondent only

20. The firm obtained Local Search Indemnity Insurance from Legal and Insurance Services Ltd (LIS) when it was not registered with The Law Society for general insurance purposes or authorised by the FSA to carry out insurance mediation. A letter from LIS dated 22nd December 2006 to the firm stated that if the firm was not authorised by the FSA, or registered with The Law Society for such purposes, the firm must notify LIS. The First Respondent failed to do so, and SRA records showed that the firm only applied “by phone” on 26th September 2007 to be registered by the FSA.

Allegation 9 against the Second Respondent only

21. The Second Respondent paid Miss Rolfe and Mrs Anderson £150 and £285 respectively and asked them not to inform the Authority what had happened.

Documents reviewed

22. The Tribunal reviewed all the documents submitted by the Applicant which included:-

- (1) Rule 5 Statement together with all enclosures.
- (2) The Applicant’s bundles headed “File 1” and “File 2”.

The Tribunal reviewed all the documents submitted by the Respondents which included:-

- (1) Replies to Rule 5 Statement dated 1st April 2010 together with all enclosures.
- (2) References in relation to the First Respondent.
- (3) References in relation to the Second Respondent.

Witnesses

The following persons gave oral evidence:-

Sally Joanne Marcelle Rolfe

Janet Anderson

Michael Ernest Davies (Senior Forensic Investigation Officer with the SRA)

Simon John Hill (previously employed by the SRA)

The First Respondent, Olasunkanmi Moyinoluwa Bolaji

The Second Respondent, Sokunle Olukorede Sonuga

Findings as to Fact and Law

Allegations 1 and 2

23. The Tribunal had been provided with details of a number of transactions in which the Respondents purportedly acted for clients who were purchasing properties with the assistance of a mortgage from GMAC RFC. In each of those transactions there appeared to be a sale from Bovis Homes Limited (“Bovis”) to SND Investments Limited (“SND”) and then immediately to the clients of OMBC Solicitors by way of sub-sale. SND were represented by Triune Solicitors.
24. The Tribunal heard evidence from Sally Rolfe confirming that she had been receiving income support for approximately 15 years and was on income support at the time the relevant transaction took place. She gave evidence that she was approached by a person called “Sacha” towards the end of 2006 to buy a property, to which she agreed. She was a single mother living in rented accommodation and he told her he would make her money by putting tenants in the property as he was a property manager. Miss Rolfe knew him on a social basis and thought it would be a “step up for my kids”.
25. She confirmed Sacha took copies of her passport and bank statements at a shop nearby and returned the documents to her within 10 minutes. She stated that all the documents she signed for Sacha were signed in the back of his car, in the dark at about 8pm. She did not read the documents and did not know what she had signed. She did not remember signing a client care letter or a mortgage application form and she did not recognise the paperwork regarding the transaction put to her. She accepted that she gave a file of papers to the IOs on 12th December 2008 which may have contained a client care letter but she could not say what date she received that letter and did not understand what was happening. She trusted Sacha and accepted that she had been naive.

26. Miss Rolfe confirmed that she did not know OMBC Solicitors, she did not ask them to act for her, she had not received any phone calls or letters from them and had not had any meetings with them other than the date when the Second Respondent came to her house and offered her money. She confirmed that she had received a bundle of documents in a “Bovis” box but could not say on what date, although she believed it was before 5th March 2008. She did not look at the bundle of documents until she received a letter from the Land Registry. Nobody informed her that she had a mortgage or a property and it was after she received the letter from the Land Registry that she rang the mortgage company to find out what was happening. She was informed that there was a mortgage in her name, payments had been made and the address given for her was Sacha’s address. As a result of this transaction, she was now in debt, had mortgage companies after her to repay £60,000 and this related to a property she had never stepped foot in. She confirmed that she never received any money relating to the property.
27. Janet Anderson gave evidence to the Tribunal that she had never instructed solicitors in her life and had certainly not instructed OMBC Solicitors. She said that she never received any documents from OMBC Solicitors, she had not signed the Stamp Duty Land Transaction form (“SDLT”), she had not completed this form, she had not seen any mortgage offer letter or client care letter. She confirmed that she had met a man called Sacha who said he could get her a mortgage to which she agreed as she thought it would improve her circumstances. She had been on incapacity benefit for approximately 2 ½ years. She confirmed that Sacha took copies of her passport and driving licence whilst she was at Sally’s house, which he photocopied at a shop nearby and returned to her within 10 minutes. In fact the passport that he photocopied was out of date as she did not have a current passport and he informed her that he would reimburse her if she applied for a new current passport. She did so but he never reimbursed her.
28. Mrs Anderson stated that Sacha came to see her at her address in Brighton some time in January/February 2007 and asked her to sign some forms in the back of his car. She ran across the road late at night, got in the back of his car and signed the forms which he said he needed her to sign in order to authorise him to do what he had to do.
29. Mrs Anderson confirmed that she received documents from the Land Registry but did not understand them. She had never had bankruptcy proceedings against her and had never lived at any of the addresses referred to on the bankruptcy search with her name on. She could not recall discussing any bankruptcy proceedings with OMBC Solicitors and had never before seen the Statutory Declaration which was apparently sent to her dated 28th December 2006.
30. The Tribunal also heard evidence from Michael Davies a Senior Investigation Officer with the SRA who stated that Miss Rolfe’s house was run down, not well kept and had broken windows. He confirmed that the files he had considered contained very little correspondence to clients and very few documents. He accepted that clients’ addresses were recorded, although he would also normally expect to see clients’ telephone numbers, email addresses and other details.

31. The Tribunal also heard evidence from Simon Hill who had previously worked for the SRA. On cross examination Mr Hill accepted that GMAC RFC's conditions permitted a 5% incentive.
32. The Tribunal heard evidence from the First Respondent in which he accepted that many files did not contain any written confirmation of instructions from clients. He accepted that the signature on two separate Transfer forms for transactions relating to two separate clients were identical and appeared to have been witnessed by Triune Solicitors. However the First Respondent denied seeing any letters from Triune Solicitors confirming that they acted for SND, even though those letters had been taken from the First Respondent's conveyancing file. He could not explain why Triune Solicitors were sending OMBC Solicitors Replies to Requisitions and maintained throughout his evidence that he thought Triune Solicitors acted for Bovis, although he could not explain why he had thought this. He claimed he did not know what part SND played in the transaction and stated that he had given a Certificate of Title to the lender certifying that the seller had owned the property for not less than six months because he believed this to be correct as Bovis were the registered owners of the property. However, he accepted the SDLT form referred to the seller as SND but claimed the SDLT form had been incorrectly completed in error. The First Respondent denied any knowledge of a sub-sale or of any deal between Bovis and SND. He did however accept that any sub-sale should have been reported to the lender. He was unable to explain how a number of documents from Triune Solicitors referring to their client as SND came to be on his file.
33. The First Respondent stated that he did not inform the lender of an incentive because the terms of the mortgage offer permitted an incentive of 5% of the purchase price and he stated that this provision over-rode his duty to inform the lender, although he stated that he did inform the lender of the incentive on the telephone but accepted that this had not been recorded on the file. The First Respondent claimed that he had never met Sacha or the broker, "Dele Macauley" and that he did not know them and did not know if they knew each other.
34. In relation to monies received from third parties, the First Respondent claimed he did not know until after completion that monies had been received from Mr Kareem on the Rolfe matter. The Certificate of Title had been signed before those monies were received. He also stated that on another transaction he had been told by the client that the money was the client's money and therefore he had no suspicion and was not aware that the money had come from a third party. The First Respondent accepted that completion monies had been sent to Triune Solicitors on transactions but maintained that he believed Triune Solicitors were acting for Bovis.
35. The Tribunal heard evidence from the Second Respondent who stated that Miss Rolfe and Mrs Anderson had visited OMBC's offices together and that Mrs Anderson had completed the SDLT form at the office and had seen the Second Respondent personally. He could not remember the details of any conversation with Mrs Anderson about funding or about costs. He said he knew she would get a mortgage and claimed that until the mortgage offer came in, he would not have known whether she would go ahead with the

purchase. He could not remember if Miss Rolfe and Mrs Anderson had told him to complete urgently and could not remember if he had known that the deposit on Miss Rolfe's transaction had been paid by a third party, Mr Kareem.

36. The Second Respondent maintained throughout his evidence that he believed Triune Solicitors represented Bovis who were the registered owners of the properties involved. He claimed that he did not understand how a sub-sale worked but yet claimed that he understood mortgage fraud. He could not explain how SND had come into the picture although he accepted that when he had sent Requisitions on Title, he had referred to the seller as SND. He claimed Triune Solicitors told him to ignore any reference to SND on their documents and that this had been clarified prior to completion on the transactions. He accepted that he had referred to SND as the sellers in some of the transactions but denied knowing that his clients were purchasing from SND even though he accepted completion monies had been sent to Triune Solicitors.
37. The Second Respondent claimed that when the file for Miss Rolfe's transaction was returned to OMBC Solicitors by the SRA Officers, there were documents on the file which had not been on the file when it was given to them. He said those documents must have been given to the IOs by Miss Rolfe. He claimed that documents from Triune Solicitors referring to SND as their client had been sent in error to OMBC Solicitors and that he had been told by Triune Solicitors to ignore them. He accepted that some documents on the transactions referred to Bovis as the seller, and some documents referred to SND as the seller and that "it was confusing". He also said that "forms were sometimes completed in a hurry".
38. The Tribunal had listened very carefully to all the evidence and had considered all the documents before it. The Tribunal accepted the evidence of Miss Rolfe who they found to be an honest, credible and impressive witness. She had some memory lapses, which were only natural after such a long period of time but the Tribunal accepted that she was telling the truth and accepted her evidence. The Tribunal also accepted the evidence of Janet Anderson although it was mindful that her memory had not been particularly clear and that she had been somewhat confused in her evidence. However, the Tribunal generally found her to be a truthful witness and accepted her evidence. The Tribunal accepted that neither of these two witnesses had ever instructed OMBC solicitors to deal with any property transactions on their behalf. As such, they were not genuine clients of the firm.
39. The Tribunal accepted the evidence of Mr Davies and Mr Hill and rejected any suggestion that they had placed additional documents on files. It was clear to the Tribunal from the documents provided that the files contained few attendance notes or correspondence and indeed, the Tribunal noted that none of the files contained any Report on Title, there were no results of searches carried out and it appeared that no standard conveyancing enquiries had been made. The First Respondent had said in his evidence that often transactions were completed very quickly as a result of pressure from the developer and that clients did not want to lose their deposits. The First Respondent accepted that he signed all the Certificates of Title and the Tribunal was particularly

concerned to note that on three transactions the client care letter was dated 29th January 2007 and completion took place on 1st February 2007. On the Anderson transaction, which the First Respondent dealt with himself, the Tribunal noted the client care letter was dated 19th December 2006, the Certificate of Title to the lender was dated the same day, 19th December 2006, and completion took place 10 days later on 29th December 2006.

40. There were transactions where the Certificate of Title pre-dated the date that the client care letter had been signed, Requisitions on Title pre-dated client care letters and a number of mortgage deeds appeared to have been witnessed by the same person. On one particular matter a client care letter was sent out dated 29th January 2007 and enclosed a completion statement stating completion would take place on 1st February 2007. On three transactions the original buyer appeared to drop out of the transaction and then became a witness on various documents in the same transaction.
41. The First Respondent stated that he had not informed the lender of incentives as they were less than 5% of the purchase price which was allowed under the lender's conditions. However, the Tribunal noted from those conditions that there was still a duty to inform the lender and there was no provision which stated that the lender did not need to be informed if the incentive was less than 5% of the purchase price. Indeed the mortgage offers made it clear that the lender must be informed of any incentive. The Tribunal was of the view that the Respondents had a clear duty to inform the lender and failed to do so.
42. Both Respondents in their evidence denied that there had been any sub-sale and denied that SND played any part in the transaction. They both maintained that the seller was Bovis Homes, who they claimed was represented by Triune Solicitors. It was blatantly obvious to the Tribunal on the documentation before it that Triune Solicitors represented SND and there was clear evidence of a sub-sale taking place. Bovis Homes were selling properties to SND who were immediately selling them to clients of OMBC Solicitors. There was an abundance of documentary evidence to clarify this which included numerous documents from Triune Solicitors referring to SND as their client, completion statements clearly referring to a sale from Bovis to SND Investments, contracts from Bovis to SND, SDLT forms referring to the sellers as SND Investments and Replies to Requisitions on Title from Triune Solicitors. Furthermore, all completion monies appeared to have been sent to Triune Solicitors and the Tribunal found it quite incredible that both Respondents denied any knowledge of sub-sales when there could be no doubt whatsoever on the documents that there had been a sub-sale, there had been an uplift in price and the ultimate purchasers were not genuine.
43. The First Respondent claimed that he had no knowledge of monies being received from third parties yet there were documents from the bank confirming exactly who had paid monies into client account and it was clear the monies had not come from a client.
44. The Tribunal found the evidence of the First Respondent to be inconsistent and not truthful. He did not answer questions that were put to him, he avoided questions and the

answers that he gave were evasive and vague. The Tribunal also found the Second Respondent's evidence to be unconvincing, unreliable and evasive.

45. It was clear to the Tribunal that these transactions bore all the hallmarks of mortgage fraud and indeed, the Tribunal was concerned to note that on three transactions the client purchaser's signature appeared to have been witnessed by the vendor's solicitors.
46. The Tribunal was mindful that the lender also had to take some responsibility for the manner in which these transactions had been conducted, particularly as it appeared that mortgage offers were being sent out one day, Certificates of Title were being received the following day and the lenders were releasing monies the following day. Clearly the lenders themselves should have been alerted by the speed of the transactions.
47. In relation to the question of dishonesty the First Respondent had referred the Tribunal to the case of Bryant & Bench v The Law Society [2007] EWHC 3043 on the test to be applied when considering whether the Respondents had been dishonest. This test was also referred to in the case of Twinsectra Limited v Yardley and Others [2002] UKHL 12 which the Tribunal also considered. Essentially, the Tribunal had to consider whether the Respondents' conduct was dishonest by the ordinary standards of reasonable and honest people, and whether the Respondents themselves realised that by those standards their conduct was dishonest. The Tribunal had absolutely no doubt that both these tests were satisfied and that both Respondents had acted dishonestly. They had acted in transactions where they had not had genuine clients, they had failed to inform lenders of third party payments made on purchase transactions, they had failed to inform lenders that the seller had owned the property for less than six months or that a sub-sale was involved, and they had failed to inform the lender of a significant increase in price on a number of transactions. Furthermore, the First Respondent had submitted false and misleading Certificates of Title. Any reasonable and honest person would regard the Respondents' conduct as dishonest and by acting for clients who were not genuine clients, the Respondents must have known that their conduct was dishonest. The transactions all had one purpose and that was to fraudulently allow SND to make a profit at clients' expense. Obvious hallmarks of mortgage fraud were blatant and the Respondents acted dishonestly by allowing those transactions to proceed, knowing profit would be generated at their clients' expense. The Tribunal found allegations 1 and 2 proved including the allegations of dishonesty.

Allegation 3

48. This allegation was based on explanations given by the Respondent to the Authority that Miss Rolfe and Mrs Anderson had attended their offices to provide identification documents, that the firm had acted for these two clients and that communication had taken place between the clients and the Respondents, particularly in relation to funds received by OMBC Solicitors.
49. The Tribunal accepted the evidence of Miss Rolfe and Mrs Anderson. The First Respondent claimed in his evidence that his understanding was that Mrs Anderson was in

a property business relationship with someone else, i.e. Mr Kareem. The Tribunal found this notion quite astounding particularly as Mrs Anderson had confirmed that she was receiving state benefits.

50. The Second Respondent claimed that Miss Rolfe and Mrs Anderson visited the offices of OMBC Solicitors together but he could not remember the details of any conversation about funding or costs, or any instructions to complete urgently. The Tribunal rejected the evidence of both Respondents for the reasons given above and accepted the evidence of Miss Rolfe and Mrs Anderson.
51. On the question of dishonesty, the Tribunal was satisfied that by informing the Authority that the clients had attended their offices, when they clearly had not instructed the Respondents, both Respondents had acted dishonestly. Their conduct would be regarded as dishonest by an honest and reasonable person and the Tribunal was satisfied that they themselves must have been aware that by giving such false explanations they were acting dishonestly. The Tribunal found allegation 3 was proved including the allegation of dishonesty.

Allegation 4

52. The Applicant alleged that the client care letters dated 21st December 2006 to Miss Rolfe and 19th December 2006 to Mrs Anderson were false as were the bills and client ledgers on those files.
53. The Tribunal had already found that there had not been any genuine relationship between OMBC Solicitors and Miss Rolfe and Mrs Anderson. The Tribunal had accepted the evidence of Miss Rolfe and Mrs Anderson in that they said they had never instructed OMBC Solicitors, had not received any letters from them and had not spoken to them prior to the Second Respondent's visit to Miss Rolfe's home.
54. The Tribunal rejected the submission that a signature on a client care letter alone was sufficient evidence of the existence of a solicitor/client relationship and accordingly found allegation 4 to have been substantiated. The First Respondent had accepted that there was no attendance note on the file of Miss Rolfe attending the office and he accepted that he had not met or spoken to her and that his explanation to the Authority was based on what the Second Respondent had told him. He claimed that the client care letter was evidence of confirmation of instructions from the clients but this was rejected by the Tribunal.
55. In relation to the question of dishonesty, the Tribunal was satisfied that an honest and reasonable member of the public would regard the creation of these documents to be dishonest when there was no genuine solicitor/client relationship. The Tribunal was also satisfied that the Respondents must have known that by those standards their conduct was dishonest. Indeed, as a result of the Respondents' conduct both Miss Rolfe and Mrs Anderson had suffered financially and were now in debt to the mortgage companies.

Allegation 5

56. This allegation was against the First Respondent only. The First Respondent claimed that he had not known that any funds had been paid by Mr Kareem until the IOs informed him of this. At the end of the transaction on Miss Rolfe's file the sum of £300 remained and should have been repaid to either the lender or to Mr Kareem who were the only providers of money. The Tribunal rejected the First Respondent's explanation that he had not known that any funds had been paid by Mr Kareem as there was clearly a letter on the file from the Bank to OMBC Solicitors dated 27th December 2006 informing them that payment had come from "Mr Lateef Kareem." The First Respondent claimed that letter had not been on the conveyancing file and must have been put there later. This was rejected by the Tribunal. In relation to the transaction concerning Mrs Anderson, the First Respondent was unable to explain why any payment had been made to Mrs Anderson when she had not paid any money to OMBC Solicitors.
57. As neither Miss Rolfe nor Mrs Anderson had paid any money into client account, they were not entitled to receive any payments from OMBC Solicitors and any surplus should clearly have been returned to either the lender or the third party. Accordingly the Tribunal found this allegation proved.
58. In relation to the question of dishonesty, again, the Tribunal considered whether an honest and reasonable member of the public would have regarded the Respondents' conduct as dishonest. The Respondents had deducted costs from the monies received in circumstances where there was no genuine client/solicitor relationship and accordingly, the Tribunal was satisfied that the Respondents' conduct would be regarded as dishonest by an honest and reasonable member of the public. Furthermore, as the First Respondent himself must have known that he was not entitled to take costs from that money, he must have known that his conduct would be regarded as dishonest by those same standards.

Allegation 6

59. This allegation was against the First Respondent only and he claimed that he believed the bank had charged fees of £40.00 for telegraphic transfers however, he did not provide the Tribunal with any evidence to support this. Furthermore the Tribunal noted that the disbursements referred to included charges for telephone/fax and indemnity insurance contributions which were not disbursements. Accordingly, the Tribunal found this allegation proved.

Allegation 7

60. This allegation was against the First Respondent only. In his evidence, he submitted that he had given a forecast on the form. However, the Tribunal noted that the First Respondent had stated that only 3% of his income was derived from residential conveyancing in the year 2005/2006 and that for the year 2006/2007 only 3% of his income was attributable to residential conveyancing. The IO had analysed the firm's bill of costs and for both these years bills resulting from conveyancing were in excess of 90%

of the firm's income. Accordingly the Tribunal found this allegation to have been substantiated.

61. On the question of dishonesty, the Tribunal was satisfied that by giving this information to the professional indemnity insurer, the First Respondent had managed to secure a lower insurance premium and that this would be regarded as dishonest by the standards of honest and reasonable people. Furthermore the Tribunal was satisfied that the Respondent must have known that in making such a false statement he would secure a lower insurance premium and must have known that his conduct would be regarded as dishonest by reasonable and honest people.

Allegation 8

62. The First Respondent had not challenged or disputed the facts relied upon by the Applicant in relation to this allegation. The Tribunal had seen documentary evidence that the firm had obtained local search indemnity insurance from LIS and accordingly found this allegation proved.

Allegation 9

63. This allegation was against the Second Respondent only. The Tribunal had heard evidence from Miss Rolfe that she had received a telephone call from OMBC Solicitors saying "outstanding monies" were owing to her and that the Second Respondent needed to see her to give her the money personally. He asked if she would be home as he was coming from a long way. He visited her at her home. She said he gave her a cheque for £150.00 on that occasion and told her what was happening with the SRA and asked her not to speak to the SRA and to let him know if they contacted her. He left his mobile telephone number with her and indeed, Miss Rolfe identified the Second Respondent in the Tribunal as the person who visited her.
64. The Tribunal also heard evidence from Mrs Anderson that she was at Miss Rolfe's home when a man came to see Miss Rolfe and gave her a cheque. He informed Mrs Anderson that he also had a cheque for her and that if he had known Mrs Anderson would be at Miss Rolfe's house, he would have brought the cheque with him. Mrs Anderson confirmed he had come from "quite a way". He had asked them if they had been in touch with "RS or something" and he had asked them not to speak to them and had said he would be "disbarred". Mrs Anderson confirmed that a cheque was posted to Miss Rolfe's house a couple of days later for Mrs Anderson which she cashed. Whilst in court Mrs Anderson said she was not 100% certain that she would recognise the man who came to Miss Rolfe's house, and then subsequently said she did recognise him as the Second Respondent.
65. The First Respondent had submitted that Miss Rolfe and Mrs Anderson were not telling the truth and would say anything to anyone now, due to the position that they were in. The Second Respondent denied any discussion with Miss Rolfe and Mrs Anderson about not disclosing information to the Authority. He claimed he had been to see them in

person due to a postal strike and because he was in the area anyway so agreed to drop in. He gave evidence that Miss Rolfe's living circumstances did not strike him as odd nor did the fact that she was still living at her old address which was in a poor state despite having just bought a property. He said it was not obvious to him that she could not have purchased an investment property.

66. The Tribunal accepted the evidence of Miss Rolfe and Mrs Anderson and rejected the evidence of the Second Respondent. The Tribunal had already explained their view of the Second Respondent's evidence and found this allegation proved.
67. In relation to the question of dishonesty, the Tribunal was satisfied that by asking Miss Rolfe and Mrs Anderson not to inform the Authority what had happened at the same time as giving them cheques would be regarded as dishonest by an honest and reasonable member of the public. Furthermore, the Tribunal was satisfied that the Second Respondent must have known that his conduct would be regarded as dishonest in those circumstances.

Mitigation

68. The First Respondent submitted that he had not intended to do anything wrong and referred the Tribunal to the references provided. He stated that he had lost everything he had worked for and his house had been repossessed. He asked the Tribunal to have mercy and pity on him and asked the Tribunal not to strike him off the Roll of Solicitors so that he could have a lease of life and try to find other things to do.
69. The Second Respondent submitted that some of the transactions had taken place less than a year after he had been admitted as a solicitor and whilst he accepted he had a responsibility, he had not had much experience and was not familiar with such practices. He submitted that they had been taken advantage of and that they had been jobless for two years which was adequate punishment for the allegations. He indicated that he would be prepared to offer any assistance to the Authority in ensuring members of the profession were properly protected from being used unwittingly and to maintain the good name of The Law Society.

Costs application

70. The Applicant requested an Order for his costs in the total sum of £32,611.49. He confirmed that the costs of the forensic investigation came to £16,295.00.
71. The First Respondent submitted that he had lost everything he had worked for in his life and had been unemployed for two years. The bailiffs came to his house every day and he had not been able to apply for state benefits as he had not made enough National Insurance contributions. He reminded the Tribunal that he had never stolen any client money despite the fact that he had £6m going through his client account.
72. The Second Respondent submitted that he was already in debt in the sum of £155,000

which included the costs of the intervention, which had been challenged, but the challenge had failed so the costs had increased. He had no income, no capital and did not own any property.

Previous disciplinary proceedings before the Tribunal

None.

Sanctions and Reasons

73. The Tribunal had considered carefully the Respondents mitigation and the references provided. However, the Tribunal had found all the allegations proved, including the allegations of dishonesty which were very serious matters. The Tribunal had a duty to protect the public, as well as to maintain the good reputation of the profession. There had been blatant mortgage fraud which had taken place as a result of the Respondents' conduct and clients had suffered financially as a result. The Tribunal took into account the case of Bolton v The Law Society [1994] CA in which Sir Thomas Bingham MR had stated:-

“Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal.... The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the Tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors.”

74. The Tribunal was satisfied that the conduct of both Respondents had caused serious damage to the reputation of the profession and that the public needed to be protected from them. They were not fit to be solicitors and accordingly the Tribunal Ordered that they both be struck off the Roll of Solicitors.

Decision as to costs

75. On the question of costs, the Tribunal fixed the Applicant's costs in the sum of £30,000 to be paid by both Respondents with joint and several liability. The Tribunal took into account the cases of William Arthur Merrick v The Law Society [2007] EWHC 2997 (Admin) and Frank Emilian D'Souza v The Law Society [2009] EWHC 2193 (Admin) in relation to the Respondents' means. Neither Respondent had provided the Tribunal with any documentary evidence of their capital, assets, debts, income or expenditure for consideration. Nevertheless the Tribunal ordered that the Order for costs was not to be enforced without permission of the Tribunal.

Orders

76. The Tribunal Ordered that the Respondent, OLASUNKANMI MOYINOLUWA

BOLAJI, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he be jointly and severally liable with the second respondent to pay the costs of and incidental to this application and enquiry fixed in the sum of £30,000.00, such Order for costs not to be enforced without the permission of the Tribunal.

The Tribunal Ordered that the Respondent, SOKUNLE OLUKOREDE SONUGA, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he be jointly and severally liable with the first respondent to pay the costs of and incidental to this application and enquiry fixed in the sum of £30,000.00, such Order for costs not to be enforced without the permission of the Tribunal.

Dated this 2nd day of August 2010
On behalf of the Tribunal

J N Barnecutt
Chairman