

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10198-2009

Case No. 10342-2009

Case No. 10687-2010

By Judgment of Lord Justice Elias and Mr Justice Singh dated 2 December 2012, the Second Respondent Kofi Agyeman appealed unsuccessfully against the findings of the Solicitors Disciplinary Tribunal on 6 June 2011 (as set out in the Tribunal's Findings and Decision dated 2 September 2011) in respect of certain facts, that the allegations were proved, and sanction. The appeal against the costs order was successful and that issue alone was remitted to the Tribunal for rehearing.

Agyeman v Solicitors Regulation Authority [2012] EWHC 3472

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

PETER LANKAI HESSE-LAMPTEY

First Respondent

and

KOFI AGYEMAN

Second Respondent

Before:

Mr J. C. Chesterton (in the chair)

Mrs E. Stanley

Mr M. C. Baughan

Date of Hearing: 6 June 2011

Appearances

Peter Cadman, Solicitor, of Russell-Cooke LLP, 8 Bedford Row, London, WC1R 4BX for the Applicant.

The Respondents did not appear and were not represented.

JUDGMENT

Allegations

1. The allegations against the First Respondent, Mr Hesse-Lampzey, on behalf of the Solicitors Regulation Authority (“SRA”) were contained in the Rule 5 Statement dated 12 February 2009 and in Supplementary Statements. The allegations in the original Rule 5 Statement were that:
 - 1.1 He failed to keep his client informed of the progress of professional matters;
 - 1.2 He provided information to the Legal Complaints Service that was misleading;
 - 1.3 He failed to honour an agreed conciliated outcome of the complaint;
 - 1.4 He failed to reply to correspondence from the Legal Complaints Service and Solicitors Regulation Authority promptly or at all;
 - 1.5 He failed to comply with professional undertakings promptly or at all;
 - 1.6 He failed to reply to correspondence from solicitors to whom he had given an undertaking;
 - 1.7 His books of account were not properly written up;
 - 1.8 He utilised clients’ funds for the benefit of other clients;
 - 1.9 He transferred monies from client account to office account contrary to the Solicitors Accounts Rules (“SAR”);
 - 1.10 He utilised clients’ funds for his own purposes;
 - 1.11 He improperly utilised funds received from a mortgage lender;
 - 1.12 He failed to provide his lender client with relevant information;
 - 1.13 He provided misleading information to a lender client;
 - 1.14 He permitted his firm and his client account to be utilised in transactions redolent of mortgage fraud;
 - 1.15 He failed to produce promptly and/or fully and/or at all, records and information during the Law Society forensic inspection;
 - 1.16 He wrote a letter to a solicitor that was misleading.

The allegations against the First Respondent, Mr Hesse-Lampzey, in the Supplementary Statement dated 4 August 2009 were that:

- 1.17 His books of accounts were not properly written up;
- 1.18 He failed to produce accounting records on request;

- 1.19 He failed to provide explanations for payments into and out of client account upon request;
- 1.20 He was responsible for unreasonable delay in professional matters;
- 1.21 He failed to provide relevant information to his lender clients;
- 1.22 He acted or continued to act in circumstances where there was conflict of interest between two clients.

The allegations against the First Respondent, Mr Hesse-Lampsey, in the Second Supplementary Statement dated 20 April 2010 were that:

- 1.23 He was responsible for unreasonable delay;
 - 1.24 He failed to comply with directions made by an Adjudicator on 20 October 2009.
2. The allegations against the Second Respondent, Mr Agyeman, contained in the Rule 5 Statement dated 30 September 2009 were that:
 - 2.1 His books of account were not properly written up;
 - 2.2 He utilised clients' funds for the benefit of other clients;
 - 2.3 He transferred monies from client account to office account contrary to the SAR;
 - 2.4 He utilised clients' funds for his own purposes;
 - 2.5 He failed to produce promptly and/or fully and/or at all, records and information during the Law Society forensic inspection.

The allegations against the Second Respondent, Mr Agyeman, on behalf of the SRA were contained in a Rule 5 Statement dated 16 December 2009.

- 2.6 Books of accounts were not written up contrary to SAR Rule 32;
- 2.7 Monies were transferred from client account to office account contrary to SAR Rule 22;
- 2.8 He failed to keep proper records to enable him to deal adequately with monies held in client account;
- 2.9 He failed to deal properly with monies held in client account;
- 2.10 In conveyancing transactions he did not comply fully with money laundering regulations;
- 2.11 Withdrawn with the permission of the Tribunal.

3. The allegation against the Second Respondent, Mr Agyeman, contained in the Supplementary Statement dated 20 April 2010 being 1.24 against the First Respondent was withdrawn with the permission of the Tribunal.

Documents

4. The Tribunal reviewed all the documents submitted by the Applicant and the Respondents, which included:

Applicant:

- Various Rule 5 and Supplementary Statements, and appended documentation, referred to above.

First Respondent:

- Witness statement dated 6 March 2011;
- Accountant's Report Form on Cephass Solicitors dated 29 September 2009.

Second Respondent:

- Letters to the Tribunal dated 10 June 2010, 15 June 2010 and 29 June 2010;
- Witness statement dated 24 March 2011 and a further undated witness statement.

Preliminary Matter

5. The Respondents were not present at the hearing. However, the Tribunal was satisfied that both Respondents were aware of the hearing and had chosen not to attend. The Tribunal noted that the First Respondent had written to inform the Tribunal that he would not be attending. Earlier correspondence from the Second Respondent suggested that he was aware of the date. In addition, Mr Cadman's colleague had telephoned the Second Respondent on the morning of the hearing and had spoken with him. The Second Respondent confirmed that he would not be attending.
6. In the circumstances, the Tribunal concluded that it would be appropriate to proceed with the hearing in the absence of the Respondents.

Factual Background

7. The allegations against the First Respondent concerned his conduct when practising as a partner at Cephass Solicitors, 1068 London Road, Thornton Heath, Surrey, CR7 7ND.
8. The allegations against the Second Respondent concerned his conduct as a partner with the First Respondent at Cephass Solicitors, and also his conduct when a partner with Mr Kwasi Boakye Yiadom at Dolphine Solicitors, Unit 150, Camberwell Business Centre, 99-102 Lomond Grove, London SE5 7HN.

9. The Tribunal dealt separately with allegations against Mr Yiadom arising out of his partnership with the Second Respondent.
10. The First Respondent, who was born in 1957, was admitted as a solicitor on 1 July 1999. At the time of the hearing, his name remained on the Roll of Solicitors.
11. At all material times, the First Respondent was a partner in the firm Cephass Solicitors.
12. The Second Respondent, who was born in 1962, was admitted as a solicitor on 15 August 2005. At the time of the hearing, he did not have a current practising certificate but his name remained on the Roll of Solicitors.
13. Allegations 2.1 to 2.5 against the Second Respondent arose from his conduct at Dolphine Solicitors. Allegations 2.7 to 2.11 arose from his conduct at Cephass Solicitors.

In respect of Cephass Solicitors

14. Mr D, the First Respondent's client, complained to the Law Society by letter of 16 October 2006. Mr D had instructed Cephass Solicitors on or about 30 January 2006 to pursue an application for leave to remain in the United Kingdom as a student having arrived as a visitor in September 2005. As part of the First Respondent's retainer, an application had to be lodged with the Home Office within an appropriate time limit. An Application was lodged with the Home Office but rejected as it was submitted on an incorrect form. The First Respondent failed to inform his client of this development.
15. When the matter was considered by the Legal Complaints Service, the First Respondent omitted any reference to that rejection by the Home Office of the original application.
16. Mr D's complaint was dealt with as a matter of inadequate professional services. An agreed conciliation was confirmed to the First Respondent by letter of 2 August 2007. The agreement was:
 - 16.1 The First Respondent to pay Mr D the sum of £1,500 in compensation;
 - 16.2 The sum of £1,500 to be paid in three instalments of £500 each.
17. The First Respondent failed to honour that agreement and the matter was considered by an Adjudicator on 31 January 2008. The Adjudicator directed that:
 - 17.1 Cephass Solicitors to pay Mr D compensation of £1,500 for his college fees;
 - 17.2 Cephass Solicitors to pay Mr D general compensation of £1,000;
 - 17.3 Cephass Solicitors to pay Mr D a cost refund of £600.00.These directions were to be complied with within seven days. Non-compliance would result in the matter being referred without further notice to the Tribunal.

18. The First Respondent did not make the payments directed. The matter was then considered as a conduct matter and in due course referred to an Adjudicator who referred the conduct of the First Respondent to the Tribunal.
19. The First Respondent did not reply promptly or at all to correspondence from the Legal Complaints Service or the SRA.
20. On 5 December 2007 Field Cunningham & Co complained to the SRA about the conduct of the First Respondent. During the course of a conveyancing transaction the First Respondent gave undertakings in a letter of 26 April 2007. In particular the First Respondent undertook to register the first and only legal charge over the property.
21. The transaction proceeded to completion on 27 April 2007 but the undertakings were not honoured by the First Respondent. The purchaser's solicitors wrote to the First Respondent on 10 July, 4 September, 20 September, 18 October and 29 October 2007. This correspondence did not give rise to the undertaking being honoured nor was the correspondence answered by the First Respondent.
22. As a result Field Cunningham complained to the Law Society by letter of 5 September 2008. Messrs Gordons were instructed on behalf of the SRA and wrote to Cephas Solicitors. In due course the file was produced under a Section 44(b) Solicitors Act Order.
23. The undertakings given by the First Respondent were not honoured.
24. On 26 March 2008 Kola Fitzpatrick & Co Solicitors lodged a complaint against the First Respondent in relation to two separate conveyancing transactions and the Respondent's failure to honour professional undertakings.
25. In both matters the First Respondent gave professional undertakings. Those undertakings were not honoured. Kola Fitzpatrick wrote repeatedly to the First Respondent by letters dated 14 February, 28 February, 5 March, 10 March and 18 March 2008.
26. After the matter had been reported to the Law Society correspondence was forwarded to the First Respondent on 3 July and 7 August. The First Respondent did not reply.
27. The First Respondent had not honoured his professional undertakings.
28. Upon due notice to the First and Second Respondents an inspection of the books of account of Cephas Solicitors was commenced by the SRA on 12 June 2007. A forensic investigation report dated 29 February 2007 was prepared following the inspection.
29. The books of account were not properly written up as at 12 June 2007. No postings to the clients' ledgers and no client bank account reconciliations had been carried out since June 2006. Analysis of the records even at June 2006 showed that the reconciliations could not be accurate even as at that date and the Respondents confirmed that they were not complete. By 14 November 2007 the situation had not improved and the books of accounts were still not properly written up.

30. In a conveyancing transaction on behalf of a client, monies were paid out of client account prior to receipt of monies from the lender, Infinity Mortgages. Further, the amount of receipt was less than the money that had already been paid out creating a shortfall of £39,649.26. In another transaction completion monies were remitted to the seller's solicitors some six weeks prior to a mortgage advance being received.
31. There were a series of round sum transfers from client account to office account. The transfers occurred between 7 November 2006 and 9 May 2007. On five occasions the transfers resulted in the firm's overdraft being brought within the firm's overdraft limit. The Respondents were unable to provide justification for any of these round sum transfers.
32. Improper payments were made from client account. Between 5 May 2007 and 5 November 2007, seven direct debit payments were made from the firm's client account in respect of the firm's business rates.
33. The First Respondent was instructed in the matter of Ms AD. In this transaction the vendor was not legally represented. However, the First Respondent represented both the purchaser and the lender. On 16 November 2005 the lender advanced the sum of £152,000 which should have been used either to pay the vendor or for the redemption of the vendor's existing mortgage in accordance with any specific authority from the vendor. However on 21 November 2005 the First Respondent remitted £50,000 to Mr O by cheque and on 22 November 2005 remitted £95,000 by cheque to Miss D. There was no evidence of any payment being made either directly to the vendor or to redeem his mortgage.
34. The First Respondent failed to register the transaction at the Land Registry and failed to protect the legitimate interest of his lender client. The First Respondent failed to answer correspondence from his lender client which eventually had to issue proceedings against the First Respondent for the delivery up of its file of papers.
35. On 10 August 2008 the First Respondent eventually redeemed the vendor's mortgage some 20 months after the date of completion. The redemption was by way of a payment of £133,871.60 from client account. The First Respondent did not produce any evidence of the existence of monies to the credit of the purchaser to fund this payment.
36. On 18 August 2007 the First Respondent wrote to its lender client enclosing the file (as ordered by the Court).
37. It was alleged that the First Respondent's use of the mortgage advance from his lender client was improper and dishonest.
38. The First Respondent acted in conveyancing transactions both for the purchasers and lenders. Even though the only monies used for the purchases were the mortgage advances, the First Respondent signed Certificates of Title giving incorrect higher purchase prices.
39. Payments by cheque from the mortgage advances were made by the First Respondent to the purchasers in their capacity as directors of the vendor company in the total sum

of £92,000. The First Respondent also transferred funds from the advance by way of an inter-office transfer to a company of which one of the purchasers was a director.

40. At no stage did the First Respondent notify the lender of the reduction in the purchase prices.
41. Although the actual purchase price was £217,000, the First Respondent forwarded a Certificate of Title to his lender client certifying the price as £230,000. Further, the First Respondent did not protect the lender client's interest by his failure to renew the priority searches.
42. During the course of the inspection repeated attempts were made to secure production of relevant papers, information and records. The Respondents failed to comply fully and/or promptly with these requests.
43. It was alleged that the conduct of the First Respondent with regard to the financial transactions and conveyancing transactions was not only a serious allegation of professional misconduct but it was also presented as dishonest.
44. The First Respondent was instructed by Miss O'D in the re-mortgage of her flat. The lenders, First County Trust Limited, were represented by T Munn & Co.
45. The First Respondent by letter of 4 October 2007 in his replies to Requisition on Title gave undertakings to redeem or discharge the existing mortgages in favour of Abbey National and Southern Pacific Personal Loans Limited and to send to the purchasers Notice of Discharge or release.
46. The transaction was completed on 20 November 2007.
47. T Munn & Co did not receive a form of discharge and wrote to the First Respondent on 27 November, 6 December, 17 December 2007 and 15 January 2008. The First Respondent replied on 17 January 2008 stating:

“The DS1s will follow shortly”.
48. Nothing was received from the First Respondent and further letters were sent on 5 February and 25 February 2008.
49. Miss O'D subsequently sold her property in auction with a proposed completion date of 11 March 2008. T Munn & Co became aware of this and wrote to the Respondent on 14 March 2008. There was further correspondence from the First Respondent of 18 March and 1 April 2008. T Munn & Co wrote to the Respondent on 22 April, 28 April and 1 May 2008.
50. The First Respondent replied by letter of 2 May 2008 stating:

“We are dealing with further enquiries from the Land Registry regarding the registration of the Deed of Variation and we hope to resolve the matters raised within the next 10 working days”.

At that stage, however, there were no outstanding queries in that regard raised by the Land Registry. The letter to the solicitors was misleading.

51. T Munn & Co wrote further to the First Respondent on 6 May, 20 May and 31 May and 3 June 2008. They attempted to collect the Title documents by courier on 9 June and 13 June 2008 without success. Further correspondence was sent to the First Respondent on 11 June and 17 June 2008.
52. First County Trust Limited contacted the First Respondent on 23 June 2008. At that stage the charge in favour of Abbey National had still not been discharged, in breach of the undertaking given by the First Respondent.
53. T Munn & Co reported the matter to the OSS on 10 June 2008.
54. On 2 September 2008 the First Respondent redeemed the mortgage of Southern Pacific Personal Loans Limited. However, the Abbey National mortgage had not been discharged at that stage.
55. The SRA rang Cephas Solicitors on 10 September 2008. The First Respondent failed to reply promptly or at all to correspondence from the SRA.
56. The First Respondent was retained to act on a client's behalf in connection with the sale of property at Melfort Road. On 8 January 2007 the First Respondent gave the following undertaking:

“We undertake to discharge the outstanding Ground Rent and Service Charge upon completion of the transaction”.
57. By letter of 20 April 2007 the First Respondent forwarded undated replies to Requisition of Title. These included undertakings as follows:
 - 57.1 That all mortgages and other charges will be discharged on or before completion;
 - 57.2 In respect of any second or subsequent charges confirmation of receipt of discharge or form DS1 to be handed over on completion.
58. Completion took place on 20 April 2007. On 15 June 2007 an additional charge in favour of Birmingham Midshires was discharged in the sum of £121.08. However, there still remained two charges on the property in favour of Future Mortgages Limited and HSBC.
59. The solicitors acting for the purchasers wrote to the First Respondent with regard to the discharge of the charges by letters of 15 June, 20 July, 13 August, 16 August and 2 October 2007. The charges had not been discharged despite the undertakings given by the First Respondent. He wrote to his client on 2 October 2007 asking for the money to pay the outstanding charges against the property as the matter was likely to be reported to the Law Society.
60. The solicitors for the purchasers wrote further to the First Respondent on 18 October 2007. The First Respondent replied by letter dated 8 November 2007 stating:

“We understand from our client that she has arranged funds for the payment of the amount owed to HSBC Bank (this was the position at the time of the completion of the transaction) and will confirm the payment next week”.

They wrote again to the First Respondent on 8 November, 29 November, 14 December and 7 January. The First Respondent replied on 11 January 2008 stating:

“We have been making serious efforts to get our client to make payments for the removal of the charges”.

61. The solicitors for the purchasers reported the matter to the Law Society on 20 February 2008. The SRA wrote to the First Respondent on 18 March 2008 and 3 April 2008.
62. There were two further Forensic Investigation inspections giving rise to reports dated 16 January 2009 (mistakenly dated 16 January 2008) and 19 March 2009. The first report was prepared following an inspection of the books of account which commenced on 28 October 2008.
63. The books of accounts were not up-to-date at the commencement of the inspection. The last reconciliation was for the month ending September 2008 and the last reconciliation in which reconciled client funds were compared to client liabilities was June 2008.
64. The First Respondent was asked to produce a list of liabilities to clients. At the date of the report none of the details of liabilities to clients had been supplied. From the books of account it was impossible to ascertain whether there were sufficient funds in client account to meet liabilities to clients.
65. The First Respondent was also asked to provide copy documents by letter dated 20 November 2008. The First Respondent was unable to do so because he had been unable to access the premises and promised a response the week commencing 8 December 2008. However, the following documents were not produced:
 - List of client liabilities for each reconciliation period from June 2007 to September 2008;
 - Bills issued by the practice in August and September 2008;
 - Client ledger accounts for each bill issued in August and September 2008;
 - Client care letters for each conveyancing matter billed in August and September 2008.
66. The First Respondent was asked for an explanation with regard to six payments from client account and one receipt of funds into client account, but as at the date of the report no explanation had been provided.
67. A further inspection commenced on 10 March 2009. The books of accounts were not up-to-date and were not available for inspection. The First Respondent asserted that

all of the books of accounts were with his book-keeper. From such documentation that was available it was calculated that there was a minimum shortage in client account of £58,776.96.

68. The firm appeared to have a computerised book-keeping system that was maintained by the book-keeper but the First Respondent was unable to use it. The First Respondent confirmed that he also maintained manual records but few were available for inspection and those that were produced were incomplete and did not comply with the SAR.
69. During the course of this inspection there was a review of a number of conveyancing files. These exhibited the following pattern of behaviour including:
 - (a) Lenders not being notified of reductions in purchase price;
 - (b) Lenders not being notified that the full amount of the purchase price had not been within the control of the Respondent and included “gifted deposits”;
 - (c) There had been delays in registration of purchases;
 - (d) Lenders had not been notified of the relevant facts including; that the vendor had not been the registered proprietor for at least six months; that the purchaser was a director of the vendor limited company; that the First Respondent was unable to complete the transaction which led to problems identified by HM Land Registry;
 - (e) The First Respondent acted in conveyancing matters where there was a conflict of interest between his lay-client and the lender client.
70. Cephas Solicitors were instructed to act in a conveyancing transaction on behalf of purchaser AW in the purchase of Wedgwood House. The firm was also instructed to act for the lender Halifax Building Society. The Certificate of Title dated 19 June 2006 was signed by the First Respondent.
71. A completion statement was prepared by the First Respondent, confirming that a further balance was required in the sum of £20,335 to complete the transaction in addition to the mortgage advance. On 21 June 2006 the sum of £175,000 was transferred from the client account of Cephas to the vendor’s solicitors to complete.
72. Despite the undertakings and obligations on the First Respondent under CMLH the First Respondent failed to register the Halifax Building Society’s mortgage at HM Land Registry.
73. The lender clients wrote to Cephas Solicitors on 14 May 2008 and on 11 June 2008, but the First Respondent did not reply. The lenders then instructed solicitors to represent their interests. These solicitors wrote to Cephas Solicitors on 15 August 2008, 23 October 2008, 4 November 2008, 11 November 2008, 12 November 2008, 18 November 2008 and 26 November 2008.
74. An assurance was given that the file would be forwarded to the lenders’ solicitors. Despite this assurance the file was not forwarded.

75. By letter dated 4 December 2008 Cephas wrote to the lender's solicitors as follows:
- “We have not completed the requisition raised by the Land Registry ... we will send the relevant documents for the registration when we receive them from the Land Registry ... the current proprietor has failed to return the original of the legal charge”.
76. The solicitors for the lenders wrote a further letter to the First Respondent dated 23 December 2008. They then lodged a formal complaint with the Legal Complaints Service.
77. After correspondence between the Legal Complaints Service and the Respondents the matter was considered by an Adjudicator on 20 October 2009. The Adjudicator directed the partners of Cephas at the time of the adjudication to pay the sum of £6,053.21 to the lenders' solicitors for and on behalf of the lender. The Second Respondent was no longer a partner at that time. The Adjudicator also ordered the partners to carry out such direction within seven days of the date of the letter enclosing the direction and stated that non-compliance with the direction would result in the matter being referred, without further notice, to the SRA for consideration of an application to the Tribunal. The First Respondent did not comply with the Adjudicator's direction.

In respect of Dolphine Solicitors

78. By due notice to the Second Respondent and his partner, Mr Yiadom, an inspection was commenced at the offices of Dolphine Solicitors on 16 November 2009. On 15 December 2009 there was a taped interview with the Second Respondent. The inspection gave rise to a report dated 25 February 2010.
79. At the initial interview on 17 November 2009 the Second Respondent stated that the books of account were up-to-date and the last client account reconciliation had taken place in December 2008. However, the client account reconciliations had not been in accordance with SAR 32(7) as no comparison had been made between the books of accounts and liability to clients. There had been no proper client account reconciliation since the firm was established in 2008.
80. The firm was also unable to produce any list of its liabilities to clients for any period because although the firm had a file opening book the closure of client matters was not recorded. Further ledger accounts were maintained by the fee earner concerned on the individual client files and which were not under the control of the central accounting system. By way of example, if a fee earner left the firm and took a client matter with him, he/she would take the whole file including the client ledger. In such circumstances the firm would not therefore have any ledger account for that particular client.
81. On 8 December 2009 the Second Respondent transferred the balance in his client account to office account. This transfer was in breach of the SAR as there was no justification for the transfer.
82. The firm acted for a client in the sale of a property at Erwood Road. The firm failed to deal properly with this file; indeed the file was unable to be produced at the time of

the inspection as its whereabouts were unknown. The firm had attempted to transfer the balance of monies held on client account to Mortgage Express. However, because the firm was unable to provide Mortgage Express with any reference number Mortgage Express returned the money on a number of occasions.

83. The Second Respondent confirmed that he was familiar with the Law Society's/SRA's warning card on money laundering. He acted for a Nigerian national on the purchase of a property at Ravendale Avenue. However, from interview and inspection of the file the following was established:
- 83.1 There was a lack of clarity as to who had instructed the Second Respondent;
- 83.2 The Second Respondent confirmed that he took instructions from the purchaser's son rather than the purchaser throughout the transaction;
- 83.3 Despite the firm's policy on proof of identity requiring original documentation, the only document on file as to identity was a photocopy of an expired passport certified by AAP of the Lagos State Judiciary. The certification did not give AAP's status.
- 83.4 Of the purchase price of £580,000, £201,992 had been provided by the lay client. However, the remainder came from banks in Nigeria and other parties.
- 83.5 Enhanced due diligence had not been undertaken in respect of the client who was a politically exposed person as defined in Regulation 14(5)(a)(i) of the Money Laundering Regulations.
84. This transaction was therefore carried out in breach of the Money Laundering Regulations.
85. On 3 August 2010 the Panel of Adjudicators Sub-Committee of the SRA resolved to intervene in the practice of Dolphine solicitors.

Witnesses

86. Mr Cadman called four financial investigators from the SRA to give evidence. The witnesses were
- Adam Howells;
 - Stephen Middleton-Cassini;
 - Cary Whitmarsh; and
 - Alan Johnston.
87. The first three witnesses gave evidence in relation to their investigation of Cephass Solicitors. Mr Johnston gave evidence in relation to his investigation of Dolphine Solicitors.

Findings of Fact and Law

- 88. Allegation 1.1: The First Respondent failed to keep his client informed of the progress of professional matters.**

88.1 The Tribunal found this allegation proved. The Home Office notified the First Respondent by letter dated 15 August 2006 that Mr D had been refused leave to remain. This meant that Mr D was obliged to make immediate arrangements to leave the United Kingdom. The First Respondent failed to pass on the letter or the information to Mr D, his client.

89. Allegation 1.2: The First Respondent provided information to the Legal Complaints Service that was misleading.

89.1 The Tribunal was not satisfied that this matter was proved. In the circumstances of this case the failure to make reference to the original rejection of the application on an incorrect form was insufficient to amount to misleading information.

90. Allegation 1.3 The First Respondent failed to honour an agreed conciliated outcome of the complaint.

90.1 The Tribunal found this allegation proved. The evidence showed that the First Respondent had failed to honour the agreed conciliated outcome of Mr D's complaint.

91. Allegation 1.4: The First Respondent failed to reply to correspondence from the Legal Complaints Service and Solicitors Regulation Authority promptly or at all.

91.1 The Tribunal found this allegation proved. There were numerous failures by the First Respondent to reply to correspondence.

92. Allegation 1.5: The First Respondent failed to comply with professional undertakings promptly or at all.

Allegation 1.6: The First Respondent failed to reply to correspondence from solicitors to whom he had given an undertaking.

92.1 The Tribunal found both of these allegations proved. The evidence showed that there had been breaches of a number of professional undertakings, despite the efforts of the solicitors to whom undertakings had been given to encourage or ensure compliance. Specifically, the Tribunal found that the First Respondent had failed to comply with professional undertakings given to Field Cunningham & Co, Kola Fitzpatrick & Co, T Munn & Co and FC Solicitors.

93. Allegation 1.7 (against the First Respondent) and allegation 2.7 (against the Second Respondent): The books of account were not properly written up.

93.1 The Tribunal found this allegation proved against both Respondents. The Forensic Investigation Report evidenced the failure of the Respondents to ensure that the books of account were properly written up.

94. Allegation 1.8 (against the First Respondent) and allegation 2.2 (against the Second Respondent): The First and Second Respondents utilised clients' funds for the benefit of other clients.

94.1 In relation to the First Respondent, the Tribunal found Allegation 1.8 proved on the basis of the transactions involving Infinity Mortgages. The remission of monies to the

sellers' solicitors six weeks prior to the receipt of the mortgage advance showed that the client funds were being used for the benefit of other clients.

94.2 In relation to the Second Respondent, there was insufficient evidence to show his involvement in the transactions. Therefore, the Tribunal found allegation 2.2 not proved against the Second Respondent.

95. Allegation 1.9 (against the First Respondent) and allegation 2.3 (against the Second Respondent). The First and Second Respondents transferred monies from client account to office account contrary to the SAR.

Allegation 1.10 (against the First Respondent) and allegation 2.4 (against the Second Respondent). The First Respondent and Second Respondents utilised clients' funds for his own purposes.

95.1 In relation to the First Respondent, the Tribunal found allegations 1.9 and 1.10 proved. The evidence showed that the First Respondent had made the transfers from client account to office account and that some or all of the funds had been used to pay the firm's business rates.

95.2 The evidence did not show that the Second Respondent was involved in these transactions. Therefore, the Tribunal found allegations 2.3 and 2.4 not proved against the Second Respondent.

96. Allegation 1.11. The First Respondent improperly utilised funds received from a mortgage lender;

96.1 The Tribunal found this allegation proved on the basis of the transaction involving Ms AD. Having received the mortgage advance, the First Respondent utilised the funds for improper purposes in issuing cheques to Mr O and Ms D.

96.2 The Tribunal considered whether the First Respondent's conduct was dishonest. The Tribunal applied the combined test in Twinsectra Ltd v Yardley and Others [2002] UKHL 12 and concluded that it was satisfied to the high standard required that the Respondent had been dishonest in acting as he had done.

97. Allegation 1.12. The First Respondent failed to provide his lender client with relevant information;

Allegation 1.13. He provided misleading information to a lender client;

Allegation 1.14. He permitted his firm and his client account to be utilised in transactions redolent of mortgage fraud;

97.1 The Tribunal found these allegations proved. The First Respondent did not provide accurate information regarding the purchase price of properties. However, the Tribunal was not satisfied to the high standard required that his conduct had been dishonest in relation to these transactions. The Tribunal therefore found the allegations proved, but without dishonesty.

98. Allegation 1.15 (against the First Respondent) and allegation 2.6 (against the Second Respondent). The First and Second Respondents failed to produce promptly and/or fully and/or at all, records and information during the Law Society forensic inspection.

98.1 The Tribunal found this allegation proved against the First Respondent and Second Respondent.

99. Allegation 1.16. That the First Respondent wrote a letter to a solicitor that was misleading.

99.1 The Tribunal found this allegation proved. The evidence showed that the letter written by the First Respondent to T Munn & Co dated 2 May 2008 was misleading.

100. Allegation 1.17. The First Respondent's books of accounts were not properly written up.

Allegation 1.18. He failed to produce accounting records on request.

Allegation 1.19. He failed to provide explanations for payments into and out of client account upon request.

100.1 The Tribunal found these allegations proved on the basis of the Forensic Investigation Report of 16 January 2009 (mistakenly dated 16 January 2008). The Tribunal was particularly concerned to note that the First Respondent continued to breach the SAR despite a previous inspection.

101. Allegation 1.20. The First Respondent was responsible for unreasonable delay in professional matters.

Allegation 1.21. He failed to provide relevant information to his lender clients.

Allegation 1.22 He acted or continued to act in circumstances where there was conflict of interest between two clients.

101.1 The Tribunal found these allegations proved on the basis of the Forensic Investigation Report dated 19 March 2009.

102. Allegation 1.23. The First Respondent was responsible for unreasonable delay.

102.1 The Tribunal found this allegation proved in relation to the failure of the First Respondent to register the mortgage of Halifax Building Society with the Land Registry with regard to the purchase of Wedgwood House.

103. Allegation 1.24. That the First and Second Respondents failed to comply with directions made by an Adjudicator on 20 October 2009.

103.1 It was clear that the First Respondent had failed to comply with the directions made by the Adjudicator in relation to the payment of £6,053.21. This allegation was proved against the First Respondent and withdrawn against the Second Respondent.

104. Allegation 2.7. Books of accounts were not written up contrary to SAR Rule 32. (Second Respondent only)

Allegation 2.8. Monies were transferred from client account to office account contrary to SAR Rule 22. (Second Respondent only)

104.1 The Tribunal found these allegations proved against the Second Respondent on the basis of the Forensic Investigation Report dated 25 February 2010.

105. Allegation 2.9. The Second Respondent failed to keep proper records to enable them to deal adequately with monies held in client account.

Allegation 2.10. The Second Respondent failed to deal properly with monies held in client account.

105.1 The Tribunal found these allegations proved in relation to the sale of Erwood Road. The failure to keep proper records meant that Mortgage Express were obliged to return money on a number of occasions because it had not been made clear to them to which transaction the money related.

106. Allegation 2.11. In conveyancing transactions the Second Respondent did not comply fully with money laundering regulations.

106.1 The Tribunal found this allegation proved in relation to the Second Respondent's failure to comply fully with the money laundering regulations with regard to the purchase of Ravendale Avenue.

Previous Disciplinary Matters

107. There were no previous disciplinary findings against either the First or the Second Respondent.

Mitigation

108. Neither the First Respondent nor the Second Respondent attended the hearing. The Tribunal read carefully all the documentation they had submitted to the SRA and to the Tribunal.

Sanction

109. The Tribunal had found that the First Respondent had acted dishonestly, had breached a number of professional undertakings and had failed to comply with directions made by an Adjudicator. The Tribunal considered that this amounted to very serious misconduct which put the public at significant risk and undermined the reputation of the profession. The Tribunal concluded that the sanction which was appropriate in the circumstances was that the First Respondent be struck off the Roll of Solicitors.

110. With regard to the Second Respondent, there was no allegation that he had acted dishonestly. However, the Tribunal bore in mind the observations made in Bolton v The Law Society [1994] 1 WLR 512. The Second Respondent had abdicated his responsibility when at Cephas Solicitors, and had then established Dolphine Solicitors

along similar shambolic lines. He ran the firms without any control and without any effective financial stewardship. Nonetheless, the Tribunal did not feel that the Second Respondent's actions were necessarily incompatible with him practising as a solicitor at some point in the future. The Tribunal concluded that an indefinite suspension from practice was necessary in his case to protect the public, but it left open the possibility of him applying, in due course, for the suspension to be removed. If he were ever to be successful in such an application, the Tribunal would encourage the Law Society to impose suitable conditions on his Practising Certificate so that he could only work in approved employment. Any application for the removal of the suspension would, in the opinion of the Tribunal, need to be accompanied by credible evidence that the Respondent had learned from his mistakes and that he would be able to practise safely and effectively.

Costs

111. Mr Cadman produced a Schedule of Costs which was divided into solicitors' costs, Forensic Investigation costs (Cephas Solicitors), Forensic Investigation costs (Dolphine Solicitors), and witness attendance costs.
112. With regard to solicitors' costs, the total amount, including VAT, was £38,181.21. Having made appropriate adjustments for the costs which had been ordered previously against others involved in this case but not before the Tribunal at the time of the two Respondents, the Tribunal concluded that the amount of solicitors' costs which should be paid by the two Respondents was £30,000. The Tribunal considered that it was appropriate for those costs to be divided equally between the two Respondents.
113. The Forensic Investigation costs relating to Cephas Solicitors amounted to £28,118.66. The Tribunal took into account the respective involvement of the two Respondents and concluded that the First Respondent should bear two-thirds of the costs (£18,745.77) and that the Second Respondent should bear one-third of the costs (£9,372.89).
114. The Forensic Investigation costs relating to Dolphine Solicitors amounted to £14,927.35. The Tribunal noted that one third of those costs had been ordered against the Second Respondent's partner, Mr Yiadom. Therefore, the Tribunal considered it appropriate that the Second Respondent should bear the outstanding costs of that investigation (£9,951.57).
115. The Schedule of Costs indicated that witness attendance had cost £4,211.35. These costs related to the attendance of the four Forensic Investigation Officers from the SRA. The Tribunal considered that the total amount claimed was excessive, particularly as each witness had been released after they had completed their evidence but had chosen to remain at the hearing. The Tribunal considered that an appropriate amount to award with regard to witness costs would be £3,000. This comprised £750 with regard to each of the four witnesses. Three of the witnesses had given evidence in relation to Cephas Solicitors, and the Tribunal considered that these costs ought properly to be apportioned between the two Respondents in the same way in which the Forensic Investigation Costs had been apportioned. Therefore, the First Respondent should pay £1,500 towards the witness costs and the Second Respondent £750. With regard to Dolphine Solicitors, one witness had given evidence of his

investigation into that firm, and the Tribunal considered that it was appropriate for the Second Respondent to bear the £750 costs for that witness. Therefore, the total witness costs ordered against each Respondent was £1,500.

116. This gave a total amount of costs against the First Respondent of £35,245.77 and total costs against the Second Respondent in the sum of £35,824.46.
117. The Respondents had supplied no evidence of means and had chosen not to attend. In the absence of any representation from the Respondents as to ability to pay the costs orders made, the Tribunal made a forthwith costs order.

Statement of Full Order

117. The Tribunal Ordered that the Respondent, Peter Lankai Hesse-Lampsey, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £35,245.77.
118. The Tribunal Ordered that the Respondent, Kofi Agyeman, solicitor, be Suspended from practice as a solicitor for an indefinite period to commence on the 7th day of June 2011 and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £35,824.46.

Dated this 2nd day of September 2011
On behalf of the Tribunal

J. C. Chesterton
Chairman