SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 10290-2009

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

RAJESH SHAH Respondent

Before:

Mr E. Nally (in the chair)
Mr K. W. Duncan
Mrs N. Chavda

Date of Hearing: 16th to 18th December 2014

Appearances

Jonathan Goodwin, Solicitor Advocate of 17E Telford Court, Dunkirk Lea, Chester Gates, Chester CH1 6LT for the Applicant

The Respondent appeared in person on 16 December 2014 assisted by Mr Philip Allman, Pupil Barrister. On 17 and 18 December 2014 Mr Michael Shaw, Counsel of 2 King's Bench Walk, Temple, London EC4Y 7DE appeared for the Respondent instructed by direct access, acting pro bono.

JUDGMENT

Allegations

1. The allegations against the Respondent in a Rule 5 Statement dated 10 July 2009 were that:

1.1 He acted contrary to Rule 1 (a), (c), (d) and (e) of the Solicitors Practice Rules 1990 ("SPR"), in that he failed to disclose material information to lender clients.

1.2 He acted contrary to Rule 1 (a), (c), (d) and (e) of the SPR, in that he failed to act in his lender clients' best interests.

1.3 Contrary to Rule 1 (a), (c), (d) and (e) of the SPR and/or Rule 22 of the Solicitors Accounts Rules 1998 ("SAR"), he improperly released funds to his borrower client.

1.4 He failed and/or delayed in complying with undertakings given in Certificates of Title to lender clients.

1.5 He acted contrary to Rule1 (a), (d) and (e) of the SPR, by virtue of his acting in transactions that were suspicious, bearing the hallmarks of money laundering and potential mortgage fraud.

1.6 Contrary to Rule 1.04 of the Solicitors Code Conduct ("SCC"), he failed to act in the best interest of a client.

1.7 He acted for two or more clients, when a conflict or potential conflict of interests existed between those clients, and/or he preferred the interests of one client over another, contrary to Rule 1.04 and/or Rule 3 of the SCC.

1.8 He failed to deal properly with the complaint of a client, contrary to Rule 2.05 of the SCC.

In respect of allegations 1.1 to 1.7, the case was put on the basis that the Respondent was dishonest with regard to those allegations. In the alternative he was reckless. The issue of dishonesty would be a matter for the Tribunal to decide and it would be open to the Tribunal in relation to allegations 1.1 to 1.7 to find any or all of the allegations proved absent a finding of dishonesty.

2. The allegations against the Respondent in a Rule 7 Statement dated 24 May 2010 were that:

2.1 Contrary to Rule 1 SPR and/or Rule 1.02 and 1.04 of the SCC he failed to act in the best interests of the lender clients.

2.2 He failed and/or delayed in complying with undertakings given in Certificates of Title to lender clients.

Documents

3. The Tribunal reviewed all the documents including:

Applicant

- Rule 5 Statement dated10 July 2009 with exhibit JRG1
- Rule 7 Statement dated 24 May 2010 with exhibit JRG1
- Judgment in the case of Bolton v Law Society [1994] 1 WLR 512
- Report of judgment in the case of Weston v Law Society [1998] Times 15th July
- Judgment in the case of Beller v Law Society [2009] EWHC 2200 (Admin)
- Extract from Annex 1A of the Solicitors Practice Rules 1990 relating to Certificate of Title

Respondent

- Note to the Tribunal regarding the Respondent dated 15 December 2014
- Note to the Tribunal in relation to an application to commence the hearing on Wednesday 16 [17] December 2014 prepared by Mr Michael Shaw Counsel
- Note to the Tribunal re allegations set out in Rule 5 and Rule 7 Statements prepared by Mr Shaw dated 16 December 2014
- Respondent's Personal Financial Statement dated 17 December 2014

Common documents:

- Email exchanges between the parties and the Tribunal in the days immediately preceding the hearing
- Memoranda of Case Management Hearings

Preliminary Issues

4. This matter had been set down for trial on two previous occasions but adjourned because of concerns that to hold the substantive hearing might muddy the waters of justice as commented upon in R v SDT ex parte Gallagher [1991] as the Respondent was subject to the possibility of being charged with a view to criminal proceedings arising out of the same subject matter as was before the Tribunal. He had been on police bail for several years, had been released from that bail but was advised by the police that the possibility of being charged remained. Before the hearing, Mr Shaw of Counsel submitted a note indicating that on the first day the Respondent would apply further to adjourn it on the basis that he could not at present, given the ongoing police investigation, have a fair hearing or would be severely prejudiced by having to give evidence in his own defence. For the Applicant, Mr Goodwin opposed the application to adjourn. The Chairman requested from both parties an up-to-date position on the criminal proceedings before the hearing. On 15 December 2014, Mr Shaw submitted a note setting out his understanding of the state of the police investigation in which he was not representing the Respondent. Mr Shaw apologised for not being able to attend the first day of the hearing and asked for it to be put back by 24 hours to enable him to expand upon his report. The Tribunal decided to convene on the first day of the

hearing as planned to consider the application for an adjournment and to discuss the issues.

5. The commencement of the hearing was delayed to enable the Applicant to make a further attempt to obtain clarification from the police about the status of the enquiry concerning the Respondent. Mr Goodwin explained that this matter had been the subject of at least 12 Case Management Hearings ("CMHs") since the Rule 5 Statement has been issued in 2009. Until September 2013, the Applicant had adopted a position of neutrality regarding the ongoing police enquiries but at the hearing on 10 September 2013 had submitted that enough was enough. Directions had been given on that day for the case to be listed. Mr Goodwin also submitted that one factor which had in the past influenced the Respondent's approach, was the potential involvement of his former client Mr AA in any criminal proceedings. Mr Goodwin understood from a google search that AA fled the country sometime in 2012, which might render any ongoing investigation concerning him redundant and the possibility of a potential co-defendant being removed. He further submitted that it would be in the public interest that these proceedings should be dealt with. While he opposed the application to adjourn, Mr Goodwin explained that he would feel uncomfortable opening the case against the Respondent in the absence of his Counsel because in order to give effective mitigation in respect of the admitted allegations, Mr Shaw needed to be present for the opening of the Applicant's case. Mr Goodwin reminded the Tribunal that all the allegations were admitted by the Respondent save that of dishonesty.

6. The Tribunal asked for clarification of the Respondent's position in respect of admissions. Mr Goodwin pointed out that the Respondent used words such as "largely" agreed regarding the facts and references were made to "negligence". Having checked with Mr Shaw some time ago, Mr Goodwin could confirm that save for the allegation of dishonesty the allegations were admitted including the rule breaches with lack of integrity. The Tribunal pointed out that if it proceeded to test the dishonesty allegation it was clear that the Respondent was advised not to offer witness evidence and felt in difficulty regarding potential witnesses (as they were in the same position). Mr Goodwin pointed out that the Respondent had known the case against him since 2009 and his own Counsel had said that it was a document-dependent case. The Tribunal queried what the position might be if it were to proceed and hear the allegations save that of dishonesty and while in no way seeking to direct Mr Goodwin, expressed its concern about the need for a fair trial and that this matter had been hanging over the Respondent for a long time; the Tribunal did not want to be in a position of adjourning and re-adjourning constantly without the prospect of concluding the matter. The Tribunal was well aware that the delays had not been the responsibility of either party and that this was set out repeatedly in the Memoranda of the CMHs. Similarly the Respondent's Counsel had had not in any way criticised the Applicant for bringing the allegations including the allegations of dishonesty.

7. Mr Goodwin pointed out that if the matter proceeded absent dishonesty and the ultimate sanction was imposed, the Respondent could seek restoration to the Roll. If he had been struck off based on allegations absent dishonesty he would have a greater prospect of restoration. It was this distinction which gave rise to the Applicant's anxiety about proceeding without the dishonesty allegations.

8. The Respondent confirmed that the Tribunal had understood correctly his position regarding admissions and his stance regarding not giving evidence. The Respondent also confirmed that he was presently working as an employed solicitor subject to restrictions. Mr Goodwin informed the Tribunal of the nature of those restrictions in detail including that the Respondent could not undertake conveyancing and hold or receive client money.

9. The Tribunal adjourned the matter until noon the following day in order for the Applicant to continue its enquiries of the police, for Mr Goodwin to take instructions on the allegations, to permit the attendance of Mr Shaw and to accommodate Tribunal commitments.

10. Upon the Tribunal resuming on 17 December 2014 with Mr Shaw present, Mr Goodwin reported that in spite of the best efforts of the Applicant it had not been possible to obtain final information regarding the ongoing police enquiries but the parties had agreed on a proposed approach which might allow the matter to proceed in any event. Mr Goodwin submitted that in what he believed to be the almost unique circumstances of this case upon which he elaborated, the Applicant was prepared not to pursue the dishonesty allegations. (A full statement of the Applicant's reasons for taking this stance is set out in the General Submissions section of the opening of the Applicant's case under Findings of fact and law below.) A note dated 16 December 2014, prepared by Mr Shaw was handed up in which it was stated:

> "The Respondent as he made clear in his response dated 22 October 2012 accepts responsibility both individually and on behalf of the employees of his firm for the negligent acts and omissions as set out in the rule 5(2) and 7(1) statements, namely 2a) –j) [in this judgment described as allegations 1.1 to 1.8 and 2.1 to 2.2.]
>
> He has and will accept that the above breaches of the Rules, what he denies was that he, or (in so far as he can tell) any of his staff were dishonest in their dealings.
>
> He accepts notwithstanding his personal mitigation that these are serious failings and that he as principal must ultimately take responsibility for them."

Mr Goodwin submitted that it was accepted that even if it had been possible to say that police enquiries were at an end, because of the advice given to him by his Counsel the Respondent might not be in a position to deal with the dishonesty allegations. The Respondent appreciated that the Tribunal would consider sanctions at the upper end of the spectrum of gravity. Mr Shaw proposed offering limited personal mitigation and explained the context in which the misconduct had occurred.

11. The Tribunal expressed some concern at the proposition that allegations of dishonesty might be left to lie on the file as this might involve the application being part heard and issues of double jeopardy might also arise.

12. Mr Goodwin clarified the Applicant's position, including that should the Respondent be struck off, the Applicant would wish to make clear that allegations of dishonesty had been brought and not withdrawn should the Respondent subsequently make an

application for restoration to the Roll. Mr Goodwin accepted that if the Tribunal chose to impose a lesser sanction in respect of the admitted allegations (other than an indefinite suspension) then his contentions would not be relevant. The Applicant's concerns arose out of the distinction between the very high hurdle faced by someone seeking restoration following strike off for conduct involving dishonesty as illustrated in the Tribunal case of Geoffrey Stuart Black (application numbers 8764/2003 29 July 2003 and 9603/2006 18 January 2007) and strike off absent any findings of dishonesty.

13. Mr Shaw submitted that there were various possible outcomes if the case continued; the Respondent might not be prosecuted and so the evidence of dishonesty would not be tested; he might be prosecuted and acquitted, or prosecuted and convicted. In the last scenario Mr Shaw submitted that it was inconceivable that the Respondent would seek to come back onto the Roll. Mr Shaw also submitted that he understood that Mr Goodwin was not seeking "two bites of the cherry" if he did not pursue the dishonesty allegations within these proceedings. He understood that the Tribunal might be concerned that the Applicant might seek a second set of proceedings before the Tribunal based on dishonesty.

14. The Tribunal considered the submissions which had been made. In the interests of achieving finality and in the interests of justice the Tribunal gave permission for the Applicant not to pursue the allegations of dishonesty while at the same time not withdrawing the allegations but also not leaving them to lie on file. This approach would enable finality to be achieved in this hearing. However it was to be made clear in the Applicant's opening that the proceedings were being conducted on that basis.

Factual Background

15. The Respondent was born in 1968 and admitted as a solicitor in 1998 and his name remained on the Roll of Solicitors. At all relevant times the Respondent carried on practice as Shah Solicitors, Shah Solicitors LLP and Shah Solicitors Ltd ("the firm") from offices in Harrow Middlesex, Bedford and Northwood.

16. The Forensic Investigation Department of the Applicant carried out an inspection of the Respondent's books of account and other documents. The Forensic Investigation ("FI") Report prepared as a result of the inspection was dated 5 June 2008.

17. The Respondent's books of accounts were in compliance with the SARs but matters of concern were found and set out in the FI Report.

18. The Respondent was instructed by a Mr AA in connection with a number of property transactions, two of which were exemplified in the FI Report relating to Flats 1 and 2 HP Place, London.

19. The Respondent signed Certificates of Title which contains the standard clause:

> "We, the conveyancers named above, give the Certificate of Title set out in the Appendix to Rule 6(3) of the Solicitors Practice Rules 1990."

Rule 6 of the SPR set out the responsibilities and obligations of solicitors when acting for borrower and lender in conveyancing transactions and contained undertakings to include that the solicitor would complete the mortgage, arrange for the transfer of the property, effect any other registrations necessary to protect the mortgagee's interest, and inform the mortgagee of any matters that would render the Certificate untrue or inaccurate. Further the solicitors certified that they had investigated the title to the property and "are not aware of any other financial charges secured on the property... the mortgagor will have a good and marketable title to the property... free from prior mortgages or charges".

20. Lloyds TSB Plc trading as Cheltenham & Gloucester ("C&G") had obtained a Court Order dated 28 January 2008 against the Respondent and a former partner in the firm not subject to these proceedings, relating to disclosure of his file of papers for the flats in question.

21. By letter dated 31 January 2008, the Respondent replied to AG LLP who was acting for Lloyds TSB indicating that the firm had disclosed its file to them. The client account bank statements were enclosed with the letter and showed that the mortgage monies were paid direct to AA.

Flat 1 HP Place

22. The Respondent was instructed by AA and C&G in relation to the purported purchase of Flat 1. Instructions were received by the Respondent from C&G on 10 August 2006 agreeing to lend £1 million to AA based on a purchase price of £1,675,000.

23. The Respondent signed the Certificate of Title on 18 August 2006.

24. From a review of the client ledger it was ascertained that £1 million was lodged in the firm's client bank account on 21 August 2006.

25. On 23 August 2006, £900,000 was transferred from the ledger for this transaction to a ledger related to AA's purchase of Flat 2. On 22 September 2006, the remaining £100,000 was transferred to the client ledger relating to Flat 2. AA was loaned a further £1 million towards the purchase of Flat 2 by C&G for whom the Respondent was also instructed to act. From a review of the client bank account statements it was noted by Miss Taylor the Investigation Officer ("IO") that on 23 August 2006, £1,800,000 was sent direct to AA. Consequently none of the monies received from C&G were used in the property transaction relating to Flat 1.

26. A review of the official copy of the Register of Title revealed that the proprietor of Flat 1 as at 9 October 2006 was Ms NP and the price to have been paid as at 26 September 2006 was £1.4 million.

27. The interest of C&G in the property was never registered.

28. On 9 October 2006, the Respondent signed a Certificate of Title for HSBC respect of a remortgage of Flat 1. The Respondent was instructed by HSBC to register their charge against the property. The mortgage monies in relation to this property and

several other properties that HSBC were lending against were sent directly from the lender to AA.

29. On 10 November 2006, the Respondent received instructions from a third lender Mortgage Express, in relation to a mortgage on Flat 1. Mortgage Express agreed to lend £969,096 to AA based on a purchase price of £1.55 million. The Certificate of Title was signed by the Respondent on 14 November 2006.

30. On 17 November 2006, the sum of £969,696 was received into client account from Mortgage Express. The ledger indicated that on the same day, the sum of £900,000 was paid directly to AA.

31. The remainder of the money was transferred to another client ledger on 29 November 2006.

32. Following the failure of their interests in the property being registered, C&G and Mortgage Express contacted the Respondent's firm. Following correspondence from C&G, the Respondent wrote to them on 20 February 2007 indicating that their interest had not been registered because the firm was awaiting a Trust Deed. By letter dated 23 February 2007, the Respondent wrote to C&G and said that the trustee was NP who was to hold Flat 1 on trust for AA; the firm had not informed C&G of the trust because they did not envisage any problems with the arrangements; C&G's charge would be registered following NPs return to the UK in mid-March 2007 and C&G had a first charge on the property.

33. The IO noted that the client matter file contained no Trust Deeds.

34. By May 2007, C&G's charge had still not been registered. On 30 May 2007, C&G's mortgage totalling £1,000,612.41 was redeemed. The redemption was funded by remortgaging Flat 3, at another property in P Street, also owned by AA and from an inter-ledger transfer from AA's general client ledger account.

35. Mortgage Express's representatives OLS wrote to the Respondent's firm on 21 August 2007 indicating that their client's charge had not been registered against the title for Flat 1 and requesting that the problem be rectified.

36. By letter dated 4 September 2007, the Respondent wrote to OLS indicating that they were unable to complete the registration as they were awaiting a trust document. It was not clear whether that related to the same trust document which had been awaited since February 2007 but in any event no trust deed or documentation was found on the client matter file.

37. It was ascertained that Mortgage Express's interest was registered on 10 October 2007, the same date on which AA's interest was also registered in the property. The client file contained a TR1 which showed NP as the transferor and AA as the transferee. The form stated that the "transfer is not for money or anything which has monetary value, natural love and affection."

Flat 2, HP Place

38. The Respondent was instructed by AA and again by C&G in relation to this property. In the instructions to the firm dated 16 August 2006, C&G agreed to lend £1 million based on a purchase price of £1.5 million.

39. The Certificate of Title was signed by the Respondent on 18 August 2006.

40. On 23 August 2006, C&G transferred £1 million to the firm's client account. On the same day, the sum of £1,800,000 was sent direct to AA and on 22 September 2006 a further £200,000 was sent direct to AA from the firm's client bank account leaving a nil balance on the client matter ledger.

41. On 12 October 2006, the Respondent signed a Certificate of Title for HSBC in respect of the remortgage of Flat 2.

42. As with the remortgage of Flat 1, the Respondent's firm was instructed by HSBC to register their charge against the property.

43. Subsequent to the Respondent signing the HSBC Certificate of Title and C&G's involvement with the property, on 10 November 2006 a third lender Mortgage Express, instructed the firm to act in a mortgage transaction in relation to Flat 2. Mortgage Express agreed to advance to AA £875,313 based on a valuation of £1.5 million.

44. On 14 December 2006, the Respondent signed a Certificate of Title for Mortgage Express.

45. The client ledger indicated that on 17 November 2006, the sum of £875,313 was received into client account from Mortgage Express. The mortgage monies were disbursed as follows: £800,000 was sent to AA on 17 November 2006; £69,696 was transferred to the client ledger relating to Flat 1 on 29 November 2006, with the balance of £145,009 subsequently been transferred to AA's general ledger.

46. In a letter of 6 December 2007, the Respondent confirmed to Mortgage Express that the purpose of the loan was to "Facilitate the purchase of a property" but the monies were paid direct to AA rather than to the Seller.

47. The IO noted that the client matter file contained an official copy of the registered title dated 14 December 2006 which showed that the proprietor was NP and the price said to have been paid as at 26 September 2006 was £1.3 million.

48. The client matter file contained an undated TR1 form indicating that the property was transferred from NP to AA "Not for money or anything which has monetary value, natural love and affection."

49. On 5 September 2007, C&G wrote to Respondent indicating that they had conducted a search of the title at the Land Registry which showed that a unilateral notice was registered on 23 August 2007 in favour of Mortgage Express and a similar notice had been registered against Flat 1. C&G gave a deadline for redemption failing which they

would refer the matter to one of their panel Solicitors to consider a claim against the firm.

50. The Respondent replied by letter of 10 September 2007 indicating that AA was remortgaging another property and on completion would redeem the mortgage for Flat 2. A redemption statement dated the same date from C&G for Flat 2 totalled £1,000,386.57. On 20 September 2007, the Respondent sent C&G a personal cheque from AA to redeem the mortgage on Flat 2 in the required amount. However it was not clear whether the cheque was received by C&G because on 11 October 2007 they wrote to the Respondent indicating that they had not received the redemption monies and were therefore to instruct panel solicitors to act on their behalf. The client file indicated that the Respondent wrote to C&G on 12 October 2007 indicating that the redemption monies had been sent in but in subsequent correspondence from the Respondent and AG acting for C&G, it appeared that the mortgage remained outstanding and the Respondent was seeking to register a second charge against Flat 2 in respect of C&G's interest.

51. By letter dated 6 February 2008, AG wrote to the Respondent stating that it was known that the Respondent asserted that the advance was paid directly to AA and not used in the purchase of the property but it was pointed out that he held C&G's advance in the sum of £1 million on trust not to use it for any other purpose save completion of their legal mortgage and that the Respondent had acted in breach of trust.

HSBC – various properties

52. The FI Report identified that HSBC had extended a total lending facility to AA of £7.03 million in October 2006 and October 2007 for the purpose of purchasing seven properties and for the remortgage of three others.

53. On the Certificates of Title for HSBC in respect of Flats 1 and 2 HP Place, which the Respondent signed, the mortgage advance sections were blank and the price stated in transfer field was marked "n/a".

54. The IO ascertained that there was no evidence that the two loans from HSBC totalling £7.03 million passed through the firm's client bank account.

55. In a statement dated 7 January 2008, the Respondent indicated that as HSBC had forwarded no monies to the firm in accordance with the Certificate of Title, the firm were unable to register the charges.

56. On 31 December 2007, HSBC obtained a freezing injunction against AA and Shah Solicitors LLP. The injunction prevented AA from removing any of his assets in England and Wales up to the value of £7.5 million and required the firm to deliver up a number of files relating to him.

57. AA prepared a statement dated 4 January 2008 in which he stated, inter-alia, that he had a business relationship with HSBC from 2003 to the end of December 2007; that HSBC would often lend money to him without any security because of the long-standing relationship; the facility of £6 million was a loan and not a mortgage to be

secured on any property; and he had met all financial commitments to HSBC and all other lenders. Notwithstanding AA appeared to suggest that the lending facility was not to be secured on the properties, letters to him in October 2006 and 2007 set out the properties on which HSBC expected a legal charge to be registered.

58. By letter dated 23 June 2008, the Applicant wrote to the Respondent seeking his explanation. By letter dated 10 July 2008, M&Co Solicitors (acting for the Respondent in the criminal matter) wrote to Applicant enclosing a copy of counsel's advice which indicated that the Respondent was subject to a criminal prosecution and that it would be inappropriate for him to answer any questions by the Applicant until the conclusion of the criminal proceedings. However the Respondent provided a partial response to the issues raised by letter dated 22 July 2008.

Further transactions

59. The Compensation Fund received applications from at least four lender clients in respect of a minimum of 17 mortgage transactions in which the Respondent acted. In 14 of those matters AA was the borrower and in another three transactions the Respondent acted for Mr M an employee of AA. In relation to these transactions lenders had provided in excess of £30 million to AA and/or his associates over a period of three months. At the time of the issue of the Rule 5 Statement it was understood that all mortgages were in default.

60. By letter dated 15 January 2009, the Applicant wrote to the Respondent seeking his explanation in respect of the property transactions. The Respondent replied by letter dated 2 February 2009 in which he conceded negligence and/or carelessness in respect of the transactions. He denied a conspiracy with AA to defraud the lenders.

Allegations 1.6, 1.7 and 1.8

61. By letter dated 28 May 2008, C&C Solicitors wrote to the Law Society in connection with the Respondent's conduct. They acted for B Ltd in relation to circumstances surrounding its proposed purchase of 49 P Court, London.

62. In or around late 2007, Dr B agreed with AA to purchase the shares in a company P Property Ltd. The company was the registered proprietor of 49 P Court. The sum to be paid to Dr B was not challenged but it was asserted by the solicitors that the purchase price was agreed at £4.5 million albeit the contract stated that the purchase price was £5.4 million.

63. The deposit paid by Dr B was £1.2 million and he was to obtain a mortgage of £3.3 million, both of which amounted to £4.5 million being consistent with the amount that he claimed was the purchase price.

64. Dr B instructed the Respondent to act on his behalf in connection with the transaction. The proposed seller was AA. It was unclear exactly when Dr B instructed the Respondent, the contract having been exchanged in December 2007 with the Respondent's letter of engagement being sent to Dr B on 23 January 2008.

65. The Respondent maintained that he was not instructed until after exchange of contracts and that an agreement had been reached between Dr B and AA and that his offices were used to exchange contracts but he was not instructed until January 2008 when the client care letter was sent. However the mortgagee's solicitors wrote to the Respondent on 19 December 2007 referring to the proposed loan to B Ltd "for whom we understand you act..."

66. A ledger card was opened in respect of Dr B on December 2007. The Respondent stated that he did not act for AA in relation to this particular transaction and that AA was not represented by any legal adviser in respect of the sale of shares to Dr B.

67. The ledger card indicated that a deposit of £1.2 million was paid to AA on 17 December 2007 by way of an inter-ledger transfer to a ledger relating to one of AA's matters.

68. As a consequence of AA's arrest and detention in custody, the transaction for the purchase of the shares did not complete and Dr B had been unable to complete the transaction or secure the return of his deposit of £1.2 million.

69. Dr B instructed C&C Solicitors who wrote to the Respondent on 26 February 2008, 10 March 2008 and 28 May 2008 in respect of the transaction. On 12 March an unadmitted practice manager of the firm contacted C&C Solicitors in response to the letter of 10 March 2008 requesting a copy of the earlier letter. The Respondent had been detained in custody and on his release he maintained that he dealt with the letter from C&C although no documentary evidence had been provided by the Respondent demonstrating that he gave a substantive response to the letters received on behalf of Dr B.

Allegations 2.1 and 2.2

Wave Lending Ltd – 26 P Place London

70. By letter dated 5 May 2009, SJB Solicitors acting on behalf of Wave Lending Ltd ("Wave") wrote to the Compensation Fund of the Applicant applying for a grant.

71. In late August or early September 2007, Wave was approached by AA to obtain a mortgage advance of £1,950,000 to assist with the purchase of 26 P Place for a purchase price of £2,600,000. The loan was approved.

72. The Respondent was instructed to act for both AA and Wave.

73. On 19 October 2007, the Respondent signed a Certificate of Title relating to 26 P Place confirming the price in the sum of £2,600,000 and that all conditions of the mortgage offer had been fully satisfied.

74. The mortgage advance was not used by the Respondent for the purchase of 26 P Place but was used to purchase a different property.

75. Wave commenced proceedings in the High Court against the Respondent's firm.

76. In the schedule of properties the subject of applications to the Compensation Fund, 26 P Place was identified as a property the subject of the mortgage application by a borrower Mr M. The lender was Bank of Scotland trading as Birmingham Midshires. Mr M was held out as the purchaser of the property but AA entered into the contract to purchase the property through a company. The purchase did not complete and the property remained registered in the name of the proposed seller. T Solicitors applied to the Compensation Fund on behalf of the Bank of Scotland.

77. The Respondent dealt with the transaction in respect of 26 P Place on behalf of the borrower and the lender. He was instructed on behalf of Bank of Scotland on 18 October 2007 around the time that he was instructed by AA and Wave in respect of the transaction relating to the same property. The Respondent signed the Certificate of Title in relation to the Wave loan on 19 October 2007, which according to SJB Solicitors was the same day as he signed the Certificate of Title for Bank of Scotland.

Mortgage Express - Court and Gordon Place

78. By letter dated 28 January 2009, DLAP Solicitors wrote to the Legal Complaint Service ("LCS") on behalf of their client Mortgage Express. The Respondent acted on behalf of AA and the lender in respect of three transactions:

- Flat 7, 49 P Court, Certificate of Title dated 4 September 2007, completion date 12 September 2007, mortgage advance £215,300;

- Flat, 20 G Place, Certificate of Title dated 18 October 2007, completion date 22 October 2007, mortgage advance £216,000

- Flat 9, 20 G Place, Certificate of Title dated 18 October 2007, completion date 22 October 2007, mortgage advance £231,500.

Birmingham Midshires –L Road and Ground Floor and First Floor Flats, 10 B Road London

79. By letter dated 23 September 2008, RP Solicitors wrote to the Applicant on behalf of their client Bank of Scotland, Birmingham Midshires. The Respondent acted for Mrs NB in respect of the purchase of three properties; First Floor Flat 2 L Road, Ground Floor Flat 10 B Road and First Floor Flat 10 B Road. In each transaction the lender provided a mortgage to Mrs NB. The Respondent was instructed to act on the lender's behalf.

80. The Respondent signed Certificates of Title dated 7 January 2008 in respect of each property. The total amount lent to Mrs NB for the properties was £461,695.

81. By letter dated 1 June 2009, the Applicant wrote the Respondent seeking his explanation following a claim by RP Solicitors on behalf of Mrs NB on the Compensation Fund. He replied dated 8 to July 2009. The Respondent indicated that Mr NB on behalf of Mrs NB had collected the client files from his office in February 2008 while he was in custody and was therefore unable to finalise post completion formalities. The Respondent also said that Mrs NB was not the registered proprietor of any of the properties but indicated that the mortgages had been discharged.

82. The Respondent provided copies of the ledger cards and the relevant office copy entries which showed that the leases to all three properties had been registered since 2004/2005 and had had the same proprietor since registration. Notwithstanding that the properties had been registered for a number of years, the Respondent completed the Certificate of Title for each property indicating that the title number to each was "FR" (first registration). When asked to explain why he had acted in that way, the Respondent said he was unable to comment without reference to the files but insisted that he had complied with his obligation.

Norwich & Peterborough Building Society ("N&P") 2 S House and 67 A Gate

83. By letter dated 3 December 2007, the N&P wrote to the LCS making a complaint about the Respondent's conduct. The Respondent acted for AA and N&P in two transactions; one relating to each of the above properties. He completed and signed Certificates of Title in respect of each transaction on 22 September 2006.

84. Advances in the sums of £1,300,000 in respect of Flat 2 S House and £700,000 in respect of 67 A Gate were advanced to the Respondent on 26 September 2006 in reliance upon the Certificates of Title which he had signed.

85. In due course it was necessary for N&P to apply to the High Court for a freezing order against AA. Following the hearing of the application on 14 December 2007, the Respondent contacted Mr SM of the N&P who indicated that AA had arranged to borrow the money required to repay the N&P's advance. Funds to repay the advance and costs to N&P were received from the Respondent on 17 December 2007.

86. By letter dated 29 September 2008, the Respondent indicated that he had conduct of the files. He indicated that whilst his firm was awaiting the transfer documents from AA, his lender clients were updated by the caseworker dealing with the registration and AA had notified N&P that he was redeeming both mortgages in full so he had requested redemption statement.

87. On redemption of 67 A Gate, the Respondent conceded that he gave the file to AA and by mistake gave him the file for 2 S House.

88. The Respondent provided further representations by letter dated 3 June 2009 in which enclosed a copy of the firm's ledgers informing the Applicant that the firm had no record whether the search fees had been paid by AA who was an established client of the firm and who settled fees and disbursements once an invoice had been raised.

89. The Respondent confirmed that the firm had sent to AA on 27 September 2006, £2 million for the two loans which were repaid to N&P on 4 and 17 December 2007.

Witnesses

90. There were no witnesses. As all the allegations with which the Applicant was proceeding, were admitted, it was agreed that it was not necessary to call the IO to prove the FI Report.

Findings of Fact and Law

91. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(The submissions recorded below include those made orally at the hearing and those in the documents.)

92. General submissions for the Applicant

92.1 For the Applicant, Mr Goodwin repeated the points he had made before the opening of the substantive hearing in respect of the allegations of dishonesty made in respect of allegations 1.1 to 1.7; dishonesty had it been pursued was not an essential ingredient of any of the allegations and they could have been found proved without dishonesty. All the allegations as pleaded were admitted by the Respondent. In the very particular and unique circumstances of this case and recognising the desirability of achieving an appropriate outcome and the fact there was strong public interest in bringing the proceedings to a conclusion, the Applicant had recognised and the Tribunal had given leave that it would be proportionate not to pursue the dishonesty allegations and the Applicant did not intend to pursue those dishonesty allegations as particularised within these proceedings and the Applicant did not intend to pursue them in the future in relation to the matters as particularised in these proceedings. Clearly should there be circumstances that altered the material before the Tribunal that would be a different position but based on the proceedings today and the documents before the Tribunal the Applicant did not intend to pursue the dishonesty allegations today or in the future. The Tribunal was not being asked that they should lie on the file. This position had been adopted on the basis that the allegations of dishonesty were accepted to have been properly and justifiably made and that the Respondent's Counsel accepted that, albeit they were denied. The Applicant's reason for proceeding in this way was because of the reasons advanced and because of the unique nature of the case and not because of any developments regarding the evidence or change of circumstances leading the Applicant to withdraw the allegations. To the Respondent's credit he made wide ranging admissions to all the allegations and accepted that the allegations and admissions were very serious and represented a departure from the high standards expected of solicitors ("complete integrity, probity and trustworthiness" prescribed in the case of Bolton v Law Society [1994] 1 WLR 512). Against that background the Applicant accepted the admissions that the Respondent made.

92.2. Mr Goodwin submitted that there were common factors in all the transactions relating to AA and the Respondent; the Respondent was instructed for both borrower and lender client and had duties to both. Multiple mortgage arrangements featured on the Green Card warning about property fraud and even if there had not been property fraud these transactions bore the hallmarks of fraud. The solicitor involved was the facilitator; he triggered the release of the mortgage advances by signing the Certificate of Title. The Respondent was in a position to facilitate the activities of AA. The Respondent was obliged to, but failed to carry out his core and fundamental obligations to ensure that the transactions were not fraudulent or suspicious. The

Respondent might say that the lenders had been foolish to lend when funds were readily available but the key point was the Respondent's involvement and his conduct. The lender clients relied on his Certificates of Title and released the money based on those Certificates. The lender clients were entitled to rely on them and they were dependent on the Respondent. Mr Goodwin submitted that these were serious matters individually and collectively and represented a wholesale abdication of professional obligation; a breach of core and fundamental obligations. The Respondent accepted that he was the only person responsible and he had himself transferred money which belonged to lender clients which was then used for the benefit of AA.

92.3 Mr Goodwin submitted that in all the CMHs, the Respondent had confirmed that any lapse of time during the proceedings was no fault of the Applicant and Mr Goodwin had made the point that it was not the Respondent's fault. However Mr Goodwin submitted that it was important for the Tribunal in considering the allegations that the lapse of time should not be allowed to mitigate the seriousness of the transactions and conduct which went back to 2007.

93. **Allegation 1.1 - He acted contrary to Rule 1 (a), (c), (d) and (e) of the Solicitors Practice Rules 1990 ("SPR"), in that he failed to disclose material information to lender clients.**

Allegation 1.2 - He acted contrary to Rule 1 (a), (c), (d) and (e) of the SPR, in that he failed to act in his lender clients' best interests.

Allegation 1.3 - Contrary to Rule 1 (a), (c), (d) and (e) of the SPR and/or Rule 22 of the Solicitors Accounts Rules 1998 ("SAR"), he improperly released funds to his borrower client.

Allegation 1.4 - He failed and/or delayed in complying with undertakings given in Certificates of Title to lender clients.

Allegation 1.5 - He acted contrary to Rule1 (a), (d) and (e) of the SPR, by virtue of his acting in transactions that were suspicious, bearing the hallmarks of money laundering and potential mortgage fraud.

These allegations were dealt with together as they arose out of the same facts

93.1 Mr Goodwin submitted that it was important to look at what Respondent had done; individually and collectively the allegations were very serious. Allegation 1.3 alone regarding breach of undertaking constituted very serious misconduct and this applied to each of the allegations. Lenders had advanced millions of pounds and whatever the rights and wrongs of their lending decisions, the Respondent was the trigger, the linchpin in their decision to lend. The Certificates of Title triggered the release of significant amounts of money to him. He breached their trust because he used the monies in each transaction for purposes other than that for which it had been provided. Allegations 1.1, 1.2, 1.3 and 1.5 (and allegation 2.1) involved an allegation of lack of integrity which the Respondent accepted. While lack of integrity fell short of dishonest conduct, Mr Goodwin referred to the Tribunal to the definition of integrity in the case of Hoodless and Blackwell v FSA:

> "...that a person lacks integrity if he/she acts in a way which, although falling short of dishonesty, lacks moral soundness, rectitude and steady adherence to an ethical code."

This applied even if it was not established that he or she had been dishonest. Mr Goodwin submitted that the Respondent was in breach of the core and fundamental duties of a solicitor and this went to the heart of the serious nature of this case. In the case of Bolton which was referred to in the Tribunal's own Guidance Note on Sanctions, it was stated by Sir Thomas Bingham:

> "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."

and in respect of the purpose of sanctions, it had been said in that case:

> "...the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth..."

93.2 Mr Goodwin submitted in respect of allegation 1.3, relating to the improper releasing of funds to the borrower client AA, that this was someone who had fled the jurisdiction and had a fraud conviction. He was a dubious character. Extremely serious and heavy obligations were placed upon solicitors to safeguard clients' funds whether those clients were lay or professional. This was highlighted in the case of Weston v Law Society [1998] Times 15th July and again referred to in the Guidance Note on Sanctions which referred to the onerous obligation placed on solicitors to ensure that the Solicitors Accounts Rules, which existed to afford the public maximum protection against the improper and unauthorised use of their money were observed because of the importance attached to affording protection and assuring the public that such protection was afforded,

93.3 In respect of allegation 1.4, concerning failure and/or delay complying with undertakings given in Certificates of Title to the lender clients, Mr Goodwin referred the Tribunal to Annex 1A to Rule 6.3 of the SPR 1990 which were in force at the material time concerning Certificates of Title. The wording began:

> "We:
>
> (a) undertake, prior to use of the mortgage advance, to obtain in the form required by you the execution of a mortgage and a guarantee as appropriate by the persons whose identities have been checked in accordance with paragraph (1) above as those of the Borrower, any other person in whom the estate is vested and any guarantor;..."

The undertaking was a promise from the solicitor and the person to whom it was given was entitled to rely upon it. It was set out:

"(e) [We] will not part with the mortgage advance (and will return it to you if required) if it shall come to our notice prior to completion that the Property will at completion be occupied in whole or in part otherwise than in accordance with your instructions.

(f)[We] will not accept instructions, except with your consent in writing, to prepare any lease or tenancy agreement relating to the Property or any part of it prior to dispatch of the Charge Certificate to you;

(g)[We] will not use the mortgage advance until satisfied that, prior to or contemporaneously with the transfer of the Property to the mortgagor, there will be discharged (A) any existing mortgage on property the subject of an associated sale of which we are aware and (B) any other mortgages made by a lender identified by you secured against a property located in England or Wales where you have given either an account number or numbers or a property address;

(h)[We] will notify you in writing if any matter comes to our attention before completion which would render the certificate given above untrue or inaccurate and, in those circumstances, will defer completion pending your authority to proceed and will return the mortgage advance to you if required;

(i)[We] confirm that we have complied or will comply, with your instructions in all other respects to the extent that they do not extend beyond the limitations contained in paragraph (3)(c) of rule 6 of the Solicitors Practice Rules 1990."

93.4 Mr Goodwin submitted that these were important matters upon which the lender client was entitled to rely. He also referred the Tribunal to the case of Beller v Law Society [2009] EWHC 2200 (Admin) during which it had been said:

"It is clear, in my view, that by far the most serious part of the matters that were before the Tribunal related to the sum of £2.2 million which had been paid into the appellant's client account to be held to the order of the trust, and that the appellant had released some money without the assent of the trust and merely upon being told by his client, Mr [SY], that it was all right to pay him the money. It seems to me that unless there were wholly exceptional circumstances, such conduct alone would compel any responsible Disciplinary Tribunal to regard that, in itself, as sufficient to remove a solicitor from the Roll. It was the grossest breach of an undertaking involving a very substantial amount of money. It is no excuse, and no mitigation, to pay out to one client such an enormous sum of money on being told by that client that it was all right to pay, when there has been a breach of an undertaking to another client. The whole point of the undertaking to the other client was that the client had to have the solicitor's word that the money would only be transferred upon his consent. By breaching that undertaking and not being in a position to perform that undertaking, there was, in my view, such a serious breach of the rules, and the potential of such damage to the profession, that unless there were wholly extraordinary circumstances, that was sufficient, of itself, for striking off the Roll.

> We have investigated, because it was not clear from the circumstances set out in the decision, whether there were mitigating circumstances. It is not necessary for me to set out the facts as they have more clearly emerged before us. It is sufficient to say that there were, unfortunately, no mitigating circumstances that could explain such serious breaches of an undertaking.
>
> The other matter that is very serious concern, and which is relied upon as mitigation, is that the appellant said he could trust Mr [SY]. It is now obvious from the matter relating to the £2.2 million, that Mr [SY] is a man who is dishonest. It is also obvious, from the circumstances in which Mr [SY] removed securities that had been placed with the appellant, totalling some £15 million, that Mr [SY] committed a further and grave act of dishonesty in taking them. Those acts of dishonesty by Mr [SY] are relied upon by the appellant in saying that, until those two matters occurred, he had no idea that Mr [SY] was dishonest, and no reason not to trust him. But a solicitor who gives to other people an undertaking must always act on the assumption that the persons to whom he gives an undertaking must be protected, and that he cannot rely upon the apparent trustworthiness of his client to see him right. He has to stand behind his undertakings himself and any attempt to say, "Well I trusted my client, and therefore I could do what he asked me to do", would totally undermine, in a grave manner, the high standing in which the solicitor's profession is held.
>
> Furthermore, it seems to me that the Law Society were entitled to take a view that it is very important that solicitors realise, on pain of having their name removed from the Roll, that they must take great care in dealing with clients, particularly if they are sole practitioners, where clients asked them to do things which are not strictly in accordance with the rules. It would have been quite open to the Tribunal to regard this case as a case where there were further aggravating matters which plainly called for a deterrent sentence."

Mr Goodwin also referred the Tribunal to the comments of the court in the Beller case about what was described in that case as "very substantial personal mitigation" including:

> "All that, of course, is most unfortunate, but all of that mitigation cannot in any way mitigate a penalty that was inevitable for the grave failings committed by this solicitor. As I have already said, it is no defence to say that he was duped; he was plainly duped, but a solicitor who gives an undertaking must not put himself in a position where he is unable to perform the fundamental obligations he owes to others. Being duped by your own client is no excuse."

Mr Goodwin submitted that the Respondent had given multiple and separate undertakings in Certificates of Title to lender clients who advanced significant sums of money. It was also relevant if the Respondent said that he had been duped by AA that a solicitor was the person of intelligence, qualifications and status and should be alert to the possibility of being duped and as set out in Beller that it was no excuse.

93.5 Mr Goodwin referred to the Tribunal to the FI Report. He took the Tribunal through the facts of the transactions relating to Flats 1 and 2 HP Place in which the Respondent signed Certificates of Title containing the undertakings already referred to, to lender clients and which undertakings he admitted he had breached. The letter dated 6 February 2008 from AG Solicitors acting for C&G set out that the Respondent had failed to use the loan advanced for the purpose of completing AA's mortgage and by his own admission instead paid the monies away to AA. The Respondent accepted that what AG asserted was right. In the Certificate of Title it was set out:

> "We, the conveyancers named above, give the Certificate of Title set out in the Appendix to Rule 6(3) of the Solicitors Practice Rules 1990 as if the same were set out in full subject to the limitations contained in it."

Rule 6(3) governed the position where the solicitor acted for the lender and borrower. The funds were to be held on trust pending completion and there was no basis or reasonable explanation for the Respondent paying the money to the client and if he said that it was because he was told by the client to do so then he came within the terms of Beller. He should have queried his borrower client's instructions with the lender client but he did not do so. Mr Goodwin submitted that he relied on the entirety of the FI Report but would concentrate in his submissions on the serious aspects. C&G's money was not used to acquire property and its interests were not registered.

93.6 A freezing order was obtained against AA and Shah Solicitors LLP by HSBC dated 7 January 2008. Mr Goodwin referred the Tribunal to the Certificate of Title given to HSBC in respect of Flat 1 on 9 October 2006. HSBC's interest was not registered and it was not told that C&G also had a charge awaiting registration on the property. HSBC was the Respondent's client and under his core duties he should have told them of the true position and the involvement of the other lender. Mr Goodwin also referred the Tribunal to the Certificate of Title given in the same terms to Mortgage Express in respect of the same property on 14 November 2006. Again monies, in this case £900,000 were paid direct to AA on 17 November 2006 in breach of trust because the money remained the lender's until completion. There was no indication that Mortgage Express was informed of the charge(s) pending in favour of C&G and/or HSBC. For a period of approximately six months, Flat 1 had at least two separate mortgages totalling £1,969,696 with two lenders on a property valued at £1.55 million. Mr Goodwin submitted that this was conduct of the most serious type lacking integrity, breaching the SAR and the core obligations of the solicitor to lender clients even absent dishonesty.

93.7 Mr Goodwin also took the Tribunal through the facts relating to Flat 2 HP Place, with the undertaking the Respondent gave on 18 August 2006 to C&G and the undertaking which had been given on 12 October 2006 to HSBC, both having the identical wording. These transactions were very close in time and so the Respondent was aware of his involvement with each lender client. The undertakings he gave involved registering the lender's charge but there was no indication that this was done for HSBC or that HSBC was informed that C&G had a charge awaiting registration. In response to an enquiry from the Tribunal, Mr Goodwin stated that one or two charges across the range of properties might have been registered over a period but the bulk were not registered causing significant loss and litigation. There was then a third Certificate of Title given to Mortgage Express on 14 December 2006. In respect of

Flat 2, the Respondent failed to advise Mortgage Express of the interest of C&G and/or HSBC in the property. Mr Goodwin referred the Tribunal to the FI Report where it described the advance coming into the client ledger on 17 November 2006 and £800,000 of it being sent direct to AA the same day with an inter-ledger transfer of £69,696 made on 29 November 2006 from the client ledger relate to Flat 1 leaving a balance of £145,009 which was subsequently eliminated by transferred to AA's general ledger. The Mortgage Express charge was not registered until 10 October 2007, 10 months after the mortgage money had been loaned to AA.

93.8 Mr Goodwin submitted that C&G wrote to Shah Solicitors on 16 February 2007 setting out their concerns. A search of the titles to Flats 1 and 2 at the Land Registry showed that Ms NP was the registered proprietor of each property and registered as such after AA apparently bought them. They asked to be told why AA was not registered as the proprietor of each property, why C&G's mortgages over both properties were not registered and for confirmation that the firm would immediately rectify the position. There were references in the FI Report and the documents to purported trust arrangements but no trust documents were seen by the IO on the files. Mr Goodwin submitted that the Respondent was in breach of the rules and his core obligations and was facilitating the activities of AA by precipitating and receiving money from lender clients. In his letter of 6 December 2007 to Mortgage Express in respect of Flat 2 the Respondent confirmed that the total loan amount was £1 million and that the purpose of the loan was to facilitate purchase of a property but this was not the purpose for which it had been used. For at least six months, Flat 2 had at least two separate mortgages totalling £1,875,313 from two different lenders on a property that was valued at £1.4 million in October 2006.

93.9 In respect of AA's arrangements with HSBC, the Applicant recognised that AA had a lending facility but the Security schedule in respect of the loans attached to the facility letter of 9 October 2006 showed that HSBC expected to have a first legal charge against both Flat 1 and Flat 2 amongst other properties. It referred to "First Legal Mortgage" over various properties including Flats 1 and 2. Mr Goodwin referred the Tribunal to the detailed FI Report in respect of these arrangements and the Certificate of Title given on 9 October 2006 to HSBC in respect of Flat 1 and that on 12 October 2006 for Flat 2 both using the wording already set out. The IO ascertained that there was no evidence that the two loans from HSBC totalling £7.03 million went through the Respondent's firm's client bank account. On 21 December 2007, DG Solicitors acting for HSBC wrote to the Respondent's firm in relation to the failure to register charges over various properties. It was alleged that the Respondent had breached section 10.3 of HSBC's instructions that stated that solicitors were under a responsibility to register their interest and that the Respondent had breached the duty of care owed to HSBC. In a statement dated 7 January 2008, the Responded indicated that as HSBC had forwarded no monies to the firm in accordance with the Certificate Title, the firm was unable to register the charges but Mr Goodwin submitted that while he may not have the money he signed the Certificates of Title and gave the undertakings. If he was in doubt he could have clarified the position with AA or the lender clients and the multiple loans should have caused concern to a reasonable and prudent solicitor but he proceeded regardless.

93.10 In summary Mr Goodwin submitted in relation to allegations 1.1, 1.2, 1.3 1.4 and 1.5, the Respondent failed to disclose material information to the various lenders and/or failed to act in their best interests because he failed to register legal charges in favour of the lender clients in respect of properties purchased by AA; he forwarded monies directly to AA in circumstances where the monies were purportedly for the purchase of properties; he failed to advise lender clients that the properties Flat 1 and Flat 2 HP Place to be purchased by AA were to be held on trust for him by NP; he failed to advise lender clients that AA had already obtained mortgages on properties for which they were providing funds and he delayed in registering the charges in the case of Flats 1 and 2. By paying away monies advanced by lenders to AA he was in breach of the SAR and also in breach of trust, regardless of whether the recipient of his undertaking was a solicitor or a lender client.

93.11 It was also submitted that the Respondent acted in transactions that bore the hallmarks of mortgage fraud. He was or should have been aware of the guidance given to the profession by warning cards in relation to money-laundering and mortgage fraud. The transactions bore the hallmarks identified in the warning cards and were at the least potentially fraudulent. The transactions relating to Flats 1 and 2 were classic examples involving multiple loans; money paid away and even if not in reality mortgage frauds should have given the Respondent cause for concern

93.12 Mr Goodwin took the Tribunal through the claims which had been made on Compensation Fund which are referred to in the background to this judgment. In 14 of the mortgage transactions the involvement of AA was a common denominator. The other three involved M who had a connection with or was an employee of AA. These matters all followed a similar pattern to the transactions for Flats 1 and 2. The common features of those transactions were that the Respondent signed the Certificates of Title in each matter; the lenders understood they were obtaining a first legal charge; legal charges were either never registered, or registered many months after completion; in four of the transactions AA never owned the property and in another three matters AA was not the registered owner at the time the remortgage money was released; in two of the matters the proposed purchases did not complete, but the mortgage monies were drawn down in any event and in six transactions properties were registered in the names of companies in which AA was an officer/director rather than the borrower. It was contended that the Respondent failed to make proper enquiries in relation to the title of the properties and accordingly failed to act in the best interests of his lender clients, acted in breach of undertakings provided in the Certificate of Title and acted contrary to Rule 1 of the SPR and/or Rules 1 and 22 of the SAR by improperly releasing to his borrower client, completion/remortgage monies, contrary to their best interests and instructions. The Respondent accepted as correct the schedule of properties which had been sent to him by the Compensation Fund with a letter dated 15 January 2009. Mr Goodwin explained that in excess of £13 million had been lent to AA or his associates over a period of only three months and all those mortgages were subsequently in default. There had been significant claims on the Compensation Fund but no payments had been made because all other avenues of restitution had first to be explored. Litigation had taken place and one action had been compromised.

93.13 In respect of the subject matter of these claims, although he had been advised after being spoken to by the police not to provide detailed explanations, the Respondent had written to the Applicant on 2 February 2009 conceding negligence and carelessness in carrying out transactions on behalf of AA but he denied conspiracy to defraud.

93.14 The Tribunal considered the submissions for the Applicant, the evidence and the admissions made by the Respondent. The admissions made were all unequivocal. A pattern of conduct was established with telling references to the documentation. The Tribunal noted particularly that the rate of transactions and loans was quite startling in terms of the proximity to each other of loans taken from the different lenders. The Tribunal accepted Mr Goodwin's broad submissions of a common theme. AA was a key player in the various transactions and the Respondent was the common denominator regarding the movement of money. The Tribunal found the facts set out in the Rule 5 Statement and the FI Report proved and found allegations 1.1, 1.2, 1.3, 1.4 and 1.5 proved to the required standard on the evidence that is beyond reasonable doubt; indeed they were admitted.

94. **Allegation 1.6 - Contrary to Rule 1.04 of the Solicitors Code Conduct ("SCC"), he failed to act in the best interest of a client.**

Allegation 1.7 - He acted for two or more clients, when a conflict or potential conflict of interests existed between those clients, and/or he preferred the interests of one client over another, contrary to Rule 1.04 and/or Rule 3 of the SCC.

Allegation 1.8 - He failed to deal properly with the complaint of a client, contrary to Rule 2.05 of the SCC.

These allegations were considered together as they arose out of the same facts.

94.1 For the Applicant, Mr Goodwin submitted that these allegations related to a transaction involving Dr B in which the Respondent had preferred the interests of others over that of this client. Dr B agreed with AA to purchase shares in a company which was the registered proprietor of a property 49 P Court. The purchase price which was variously quoted as £4.5 million in the contract and £5.4 million in a letter from C&C, Dr B's later solicitors was not material. Dr B paid a deposit of £1.2 million and was to obtain a mortgage for the balance. He instructed the Respondent to act for him. AA the proposed seller was unrepresented and the Respondent acted only for Dr B. Mr Goodwin relied on the facts set out in the Rule 5 Statement set out in the background to this judgment. A ledger card was set up on 6 December 2007 and the deposit of £1.2 million was paid to AA by way of an inter-ledger transfer to the matter for AA. The Respondent conceded that the money was ultimately paid to AA. The contract for exchange stipulated that the deposit money were to be held by the "Vendors Solicitors as agent". However Mr Goodwin submitted that the seller AA had no solicitor. There was no indication that Dr B had been informed by the Respondent that the money had been paid directly to AA or the risks involved in such a course of action and the Respondent accepted that. Guidance had been provided to the profession in annex 25 A of the Guide to Professional

Conduct of Solicitors, in respect of solicitors dealing with sellers who were unrepresented and the Guidance stated in respect of a deposit:

> "A deposit may be direct to the seller, but this cannot be recommended since it is equivalent to parting with a portion of the purchase price... If a Solicitor is obliged to pay the deposit to an unqualified agent, he or she should inform the clients of the risks involved and obtain specific instructions... An alternative is for the deposit to be paid to the buyer's Solicitor as Stakeholder..."

Whilst not binding this provided useful guidance as to what the Respondent should have done, acting in the best interests of his client. The Respondent conceded that he provided no advice to Dr B in respect of the transaction at all. As a result of the Respondent's arrest the transaction did not complete and Dr B could not obtain the return of his deposit. It was accepted by the Respondent that the reality was that he failed to act in the best interests of Dr B his then client and in dealing with the deposit money he preferred the interests of AA to those of Dr B. This was misconduct of the most serious type and went to the heart of the solicitor client relationship; and was a breach of the duty to act in the best interests of the client, and of the solicitor's core duties.

94.2 The Tribunal considered the submissions for the Applicant, the evidence and the admissions made by the Respondent. The Tribunal's comments in respect of allegations 1.1 to 1.5 were also relevant to these allegations. The Tribunal found the facts set out in the Rule 5 Statement and the FI Report proved and found allegations 1.6, 1.7 and 1.8 proved to the required standard on the evidence that is beyond reasonable doubt; indeed they were admitted.

95. **Allegation 2.1 - Contrary to Rule 1 SPR and/or Rule 1.02 and 1.04 of the SCC he failed to act in the best interests of the lender clients.**

Allegation 2.2 - He failed and/or delayed in complying with undertakings given in Certificates of Title to lender clients.

95.1 For the Applicant, Mr Goodwin referred the Tribunal to the Rule 7 Statement and the facts relating to the transaction regarding 26 P Place where the lender was Wave Lending Ltd. the transaction took place in late August and early September 2007. The Respondent acted both for AA and Wave. AA arranged for a loan of £1.95 million against a purchase price of £2.6 million. On 19 October 2007, the Respondent signed a Certificate of Title relating to P Place confirming the price in the sum of £2.6 million and that all conditions of the mortgage offer had been fully satisfied. In reliance upon the Certificate of Title, Wave transferred the sum of £1,950,000 to the Respondent's client account on 23 October 2007. The mortgage advance was not used by the Respondent for the purchase of 26 P Place but was used to purchase a different property. Mr Goodwin also relied on the full particulars as to the utilisation of the advance which were set out in SJB's letter dated 5 May 2009 attached to which was a copy of amended particulars of claim dated 1 April 2009 together with the amended defence of the second Defendant (the Respondent's firm) dated 14 April 2009. On 16 June 2009, K Solicitors wrote to the Applicant on behalf of their client the Professional Indemnity Insurers of the Respondent's firm. K referred to the litigation pursued by Wave and the circumstances that led to the action being concluded with

judgment being entered on behalf of the claimant in the sum of £622,887.23 together with interest. The third recital of the order dated 9 June 2009 read:

> "And upon the Second Defendant admitting the claimant's claim in deceit and on the basis that [the Respondent] made each of the representations pleaded in the Re-Amended Particulars of Claim recklessly, not caring whether they were true or false".

Mr Goodwin submitted that in acting as he did the Respondent failed to act in the best interests of his lender client and failed to comply with the undertaking in the Certificate of Title.

95.2 Mr Goodwin also relied on the facts set out in the Rule 5 Statement in support of the allegation that the Respondent was involved in a number of mortgage transactions which bore the hallmarks of mortgage fraud (see allegation 1.5). This property 26 P Place was included on the Schedule referred to in the letter sent by the Applicant on 15 January 2009 to the Respondent seeking an explanation arising out of applications made to the Compensation Fund by various mortgage lenders. The property was identified as being the subject of the mortgage application by Mr M to Bank of Scotland Birmingham Midshires. The facts relating to the transaction are set out in the background to this judgment. Notwithstanding that M was held out as the purchaser of the property, AA entered into the contract to purchase it through a company. The Respondent was instructed in respect of 26 P Place by the lender Bank of Scotland Birmingham Midshires on 18 October 2007 which was around the time he was instructed by AA and Wave relating to the same property. According to SJB Solicitors, the Respondent signed the Certificate of Title in relation to the loan from Wave on 19 October 2007. The Certificate of Title signed by the Respondent concerning the Birmingham Midshires loan to M was also dated 19 October 2007. Given that he was acting for the Bank of Scotland Birmingham Midshires and Wave in relation to two separate loans but in respect of the same property, the Respondent was under an obligation to have informed his lender clients of those facts. It was submitted that he preferred the interests of AA to those of his lender clients.

95.3 Mr Goodwin also drew the attention of the Tribunal to a letter from DLAP Solicitors to the LCS dated 28 January 2009 relating to advances made by Mortgage Express in respect of properties at P Court and G Place. The facts were similar to those in other transactions. The Respondent failed to register his lender client's charge and in doing so failed to act in the best interests of that client. The Respondent asserted that he was unable to complete the conveyancing formalities because the lender client withdrew its instructions. However the instructions were not withdrawn until at least seven months after completion. He also failed to comply with undertakings contained in the Certificate of Title.

95.4 Mr Goodwin also relied on a further claim made by Bank of Scotland Birmingham Midshires in respect of three mortgage advances obtained for Mrs NB, the facts of which are set out in the background to this judgment. The Respondent did not deal with post completion formalities in that he failed to effect registration of the lender client's charges. He failed to comply with the undertakings in each of the Certificates of Title dated 7 January 2008. The Respondent accepted that the facts were correct and gave rise to the admitted allegations.

95.5 Finally Mr Goodwin relied on transactions in respect of 2 S House and 67 A Gate, in respect of which the N&P Building Society wrote to the LCS on 3 December 2007. Again the facts are set out in the background to this judgment. The Respondent completed and signed Certificates Title in respect of each transaction on 22 September 2006. The Respondent failed to deal with post completion formalities and to register his client's charges in respect of the properties and failed to comply with the undertakings contained in the Certificates of Title by releasing the advance monies to AA on 27 September 2006 at a time when he knew that the properties were not registered in AA's name and so that the titles were not good and marketable. The Respondent also failed to notify N&P that the Certificate of Titles he completed were inaccurate, misleading and untrue, and further that he failed to make searches required by his undertakings in the Certificate of Title without giving a full explanation to his lender client.

95.6 The Tribunal considered the submissions for the Applicant, the evidence and the admissions made by the Respondent. The Tribunal's comments in respect of allegations 1.1 to 1.5 were also relevant to these allegations. The Tribunal found the facts set out in the Rule 7 Statement proved and found allegations 2.1 and 2.2 proved to the required standard on the evidence that is beyond reasonable doubt; indeed they were admitted.

Previous Disciplinary Matters

96. None

Mitigation

97. For the Respondent, Mr Shaw submitted that his conduct had occurred several years ago and he accepted his guilt but he had been advised not to participate in the proceedings for the reasons which had been explained. Mr Shaw submitted that the transactions could be divided into two main sets: there was a series of property conveyancing transactions and then there was the transaction involving Dr B, which was the subject of allegations 1.6 to 1.8. Mr Shaw wished to explain the background in that Dr B and AA were partners in a firm with a long-standing professional relationship. They were the directors of a company and approached the Respondent to witness the conveyance of the sale of shares in the company which would effect the transfer of 49 P Court from Dr B to AA. This was not a conveyance as such but the sale of shares. The ledger was opened on 6 December 2007 and recorded payment of the deposit. It was a fact that the money was paid from the ledger to fund the purchase of another property. The Respondent was not acting for AA in the transaction. Mr Goodwin had referred to the Guide to the Professional Conduct of Solicitors; it did not specify circumstances where the seller was unrepresented. This was not like an arm's length transaction. Deposit money could be paid to an unrepresented seller but it was not a recommended course of action. The Respondent had an obligation to give Dr B advice that it would be imprudent for him to pay the deposit to AA and he should have done so but Mr Shaw submitted that this transaction was in a rather different category from the others.

98. Mr Shaw submitted that the gravamen of the allegations lay in the conveyancing transactions involving AA. He submitted that AA was a fairly sophisticated criminal who had created a false edifice of a successful property investor. He had acquired a quite extensive property portfolio before he had instructed the Respondent. The Respondent did not rely on it as a defence but at the time lenders were "throwing money" at borrowers. The solicitor clearly had a duty to maintain standards that the lender could rely on but this background indicated his state of mind which was not dishonest. AA had developed the reputation of being a successful property investor with lenders. Mr Shaw submitted that his relationship with HSBC was informative. It had lent £7.03 million directly to AA for residential properties and £25 million for the commercial purchase of property for conversion to flats. HSBC obtained a second charge across AA's property portfolio through the Respondent's legal services in respect of the £7.03 million loan. This was informative regarding the Respondent's state of mind in respect of the assertions which AA made to him and it explained why his actions were not dishonest; he believed that AA had a complex portfolio of property transactions and could satisfy the loans which he obtained. AA had a relationship with several lending institutions who would lend to him on an unsecured basis. Mr Shaw submitted that there was not a single pattern of behaviour. AA was a sophisticated operator. By way of example Mr Shaw referred to Flats 1 and 2 HP Place. AA owned a number of flats in the block. He bought one with a first mortgage for a relatively small portion of the equity. He then approached multiple lenders for remortgages of that property in order to buy other flats. There were four or five applications and the expectation was that one or two would be successful but nearly all of them were. As a result AA had multiple mortgage applications at the same time. It was accepted that in respect of these two flats there were concurrent mortgages in excess of the equity but the position had been resolved and the mortgages paid off. Clearly the position was serious. The position was different regarding each property; in respect of 26 P Court, the lender obtained a charge but it was for a different property. Mr Shaw submitted that the Respondent did not undertake all the transactions personally but accepted responsibility for the members of staff involved and AA was his client. A number of the transactions took place when the Respondent was out of the jurisdiction but the Respondent was not blaming others or hiding behind that fact. AA told different people different things at different times. AA was running a property portfolio on the back of fraudulent transactions. At the time all this occurred the Respondent was running three firms as sole partner in different locations. There were 75 to 80 property transactions a month. AA was a demanding and busy client with a lot of property transactions running. All the properties eventually had charges placed on them. No compensation had been paid to any lenders but Mr Shaw accepted that this was possibly more by luck because depending on the market there could have been large losses. He accepted that litigation costs had been incurred but there had been no shortfall to the lenders. The Respondent's indemnity insurers had also paid out. The Respondent should not have accepted his assertions; the case of Beller made that clear however when properties were liquidated, money was not dissipated overseas and was there to pay creditors. AA had invested the money in property but fraudulently.

99. Mr Shaw emphasised that the Respondent was not found by the police to have been involved in the matters that they were initially investigating including money-laundering and they discontinued proceedings against him. The CPS could not show that the Respondent benefited other than by standard rate fees for the transactions. He

ran three successful practices. He dealt predominantly with criminal work and possibly should have realised what was happening. There had been no dishonesty but there had been naiveté; he had taken his eye off the ball, believing what AA told him and trusting his assertions because of what he knew of AA's relationship with lenders. He had lost his liberty for a time and has lost his entire practice and for six years this matter had been hanging over him. Mr Shaw was representing the Respondent pro bono because he knew him. When Mr Shaw asked him why this situation had occurred, the Respondent said that during the material period he had suffered the death of three close family members in a matter of months; he was running three practices with 60 staff as a sole partner and overextended himself in terms of supervision; he had fallen for AA's facade with devastating consequences. It was to his credit that he had accepted all the allegations from the beginning. In a statement of 15 June 2010 he did that save in respect of the allegation of dishonesty which he had never and still did not accept.

100. In terms of sanction, these were serious breaches with a number of allegations the majority of which arose out of the failure to properly protect the interests of lender clients in the conveyancing of properties, aside from the transaction involving Dr B. The reason for the Respondent's repeated failure was his misplaced belief that AA operated a lawful business and his assurances that these particular conveyances were approved by the lender clients. This was not a defence as Beller showed and Respondent was paying a heavy price for giving undertakings which should not have been given unless he was prepared to stand behind them. However Mr Shaw distinguished that case from situation of the Respondent. That solicitor had been before the Tribunal before for a breach relating to the same client and the case related to repeated breaches of later undertakings. Mr Shaw referred to the Tribunal's Guidance Note on Sanctions and the section "Misappropriation of client money falling short of Dishonesty"; he accepted that this case fell at the top end of the sanctions spectrum but the Tribunal had heard some of the background to how the breaches occurred that and his personal mitigation including that the matter had been hanging over him six years. It was not suggested that the lapse of time had made the breaches less serious but the Respondent had the opportunity to practice reasonably successfully with stringent restrictions and with no difficulties. Strike off could occur without dishonesty and might be appropriate but that was not to say that the Tribunal should strike the Respondent off. Mr Shaw agreed that the case of Weston was important in terms of how the public was protected and that for a Respondent to be punished. He submitted that a lengthy period of suspension would be an appropriate punishment for a 46-year-old along with practising certificate restrictions, such as not to undertake conveyancing or hold client money and requirement to be employed under supervision after the period of suspension had elapsed. This would enable the Tribunal to be confident that it had discharged its public duty to prevent the conduct happening again and to punish someone for breaches which were out of character. Mr Shaw explained that no evidence of good character has been submitted because most solicitors could provide people to speak highly of them but this was less important to the objective of protecting the reputation of the profession and deterring offenders. The Respondent had learned his lesson and would not carry out such conduct again.

Sanction

101. The Tribunal had regard to its Guidance Note on Sanctions and the mitigation offered for the Respondent. It also had regard to the guidance on the Tribunal's approach to sanction set out in the case of Fuglers and Others v SRA [2014] EWHC 179 now incorporated in the Guidance Note, as well as the case of Bolton on the purpose of sanction and Weston in that even misappropriation absent dishonesty could merit striking off. The Tribunal considered the matter carefully; there was a range of allegations which both individually and collectively were very serious in its judgement. The Applicant had not pursued the allegation of dishonesty for the reasons cited by Mr Goodwin in his opening and the Tribunal's reflections therefore excluded consideration of dishonesty. Nonetheless the Tribunal was faced with an extremely serious position in any event, a position acknowledged by the Respondent's Counsel in his submissions and described as such by Mr Goodwin. All the allegations had been admitted by the Respondent and the Tribunal had found the Applicant's case proved to the required standard beyond all reasonable doubt in relation to all the admitted allegations. The Tribunal did not consider it fruitful to analyse it individual allegations. Both sides acknowledged they were very serious. The Respondent had across a range of allegations compromised his independence, his integrity, his duty to act in the best interests of his client, seriously damaged the good repute of himself as a solicitor and of the solicitor's profession and failed to deliver a proper standard of work. The pattern of the allegations within the Rule 5 and Rule 7 Statements was similar in many respects; lender clients had instructed the Respondent's firm and relied upon the Respondent and his firm to protect their interests in high value property transactions. One of the transactions was slightly different but the pattern even of that transaction was not dissimilar in many respects. At the heart of this matter was the Respondent as a solicitor whose professional reputation, standing and status influenced lender clients into instructing the Respondent in the belief that they would have their interests protected. He failed abysmally to do that. The Tribunal had heard that he signed Certificates of Title containing standard undertakings which were wilfully and recklessly breached. The Tribunal noted particularly the close timetabling of the Certificates of Title given to lenders in respect of the same property. The transactions took place over a period of a few months and on any analysis a solicitor behaving correctly would be on notice that something was wrong. He failed in most cases to progress registration of the lenders' charges. He also released significant sums of lender clients' money to AA for unexplained purposes in some cases and in others apparently to provide funds for other transactions which had no relationship to the purpose for which the funds were advanced. The breach of trust was gross and this was central to the public and indeed the profession's needs and expectations of the conveyancing system. Undertakings backed by the good name of the profession were central to the transfer of money in residential conveyancing transactions. Breaches of undertaking went to the heart of undermining that process and to the heart of the public's trust in the profession. This conduct was cavalier, reckless and incomprehensible. The Tribunal had borne in mind the definition of integrity in the case of Hoodless:

> "...that a person lacks integrity if he/she acts in a way which, although falling short of dishonesty, lacks moral soundness, rectitude and steady adherence to an ethical code."

The Tribunal considered that the Respondent fell squarely within the definition. In assessing the seriousness of the misconduct, the Tribunal found that the Respondent was fully culpable, he had acted in breach of a position of trust and he had direct control of the situation because he signed the Certificates of Title which triggered the release of the advances. It was no excuse that he was very busy and working across three entities; he was their controlling mind and through his Counsel he conceded his responsibility where support staff undertook the transactions. At the time he was a solicitor of around 14 years' experience and should have been well aware of the responsibilities of a solicitor. It was difficult to discern his precise motivation for the conduct; there was no evidence that he made a financial profit apart from professional fees but he appeared to have been swayed and his independence was compromised by keeping an apparently wealthy and important client happy. In the absence of his direct evidence which he had not given on the advice of his counsel, the Tribunal could not identify clearly what his motivation was. His actions were not spontaneous; there were numerous transactions involving high-value properties over a number of months. There could be no proper justification for the actions of the Respondent. They fell well below the standards of reasonable and reputable solicitors. The Tribunal went on to consider the harm which had been caused; there had been a dramatic impact upon the reputation of the legal profession in the eyes of the public who would take a dim view of a solicitor controlling money in this way and creating such a financial mess. The Respondent had damaged the reputation of the profession in the eyes of the public. It was difficult to conceive; absent dishonesty how much further away from the standard of "complete integrity, probity and trustworthiness" demanded in Bolton a solicitor could have fallen. In addition to the reputational damage, the Respondent's conduct had led to lenders having to repossess a number of properties in order to sell them, considerable litigation, at least one claim upon the indemnity insurers of the firm and a considerable number of potential claims against the Compensation Fund as a default position. All of this was reasonably foreseeable as a result of the misconduct. Any mitigation of loss which the lender clients might achieve reflected no credit whatsoever on the Respondent and would be a matter of chance and a factor of the housing market at the time. As to aggravating factors, the conduct had taken place over a period of time and was repeated and deliberate. The Tribunal was concerned to see correspondence with the lenders where the Respondent appeared to be fobbing them off by reference to trust documents of which there was no evidence. This was at the very least unsatisfactory. In terms of mitigating factors the Tribunal did not consider that any real distinction could be made between this Respondent's case and Beller. The Respondent might well have been duped by his client but his breaches of a solicitor's core duties had enabled this to happen. He was an experienced solicitor whose role and responsibility was to make appropriate and prudent enquiries and there was nothing in the evidence before the Tribunal to indicate that level of prudence, just some fairly straightforward correspondence with AA and lenders. The Respondent had not made good the losses; it had been left to clients to do this. As the Tribunal had not been able to hear from the Respondent it had to work from his Counsel's submissions on his behalf. The Respondent had made open and frank admissions at a relatively early stage and should be given appropriate credit for that but taken into context he was faced with the overwhelming weight of evidence. Whatever the outcome in terms of sanction, a final resolution of this case would be in the interest of the Respondent. The Tribunal considered that the public and the profession deserved to have protection from a solicitor who acted in this manner. The Tribunal considered whether an indefinite suspension would be appropriate and in this

regard took particular note of the Respondent's personal mitigation but it did not consider that the personal mitigation put forward for the Respondent was truly compelling and exceptional such as would make strike off unjust. It was therefore appropriate to apply the ultimate sanction available to the Tribunal and order that the Respondent be struck off the Roll of Solicitors.

Costs

102. For the Applicant Mr Goodwin submitted that the Respondent had submitted a Personal Financial Statement which showed that means were limited; he had no property, paid no rent as the property in which he lived was in the name of his wife and made an offer of contribution to the costs of the case in the sum of £25,000 to be payable within 24 months of this hearing and he was content for that to be reflected in the order. Mr Goodwin submitted that the costs in the case were not significant having regard to its overall nature but they were higher than those which the Respondent offered to pay and the Applicant was prepared to accept that offer because of the Respondent's financial position. The Tribunal had already asked for and received confirmation that the Respondent had been made aware of his entitlement to make representations about his means. Mr Shaw submitted that while the amount of money involved was substantial, the Respondent was prepared to agree to these costs arrangements; he was not in a position to make instalment payments because he was making plans for an alternative source of income which he could not yet put in place and it was not realistic at present for him to offer a monthly payment. The Respondent believed that he would be able to pay an amount which crystallised in two years time. The Tribunal considered the Respondent's Personal Financial Statement and having regard to the financial circumstances which it disclosed made an order for costs in the terms proposed.

Statement of Full Order

103. The Tribunal Ordered that the Respondent Rajesh Shah, solicitor, be struck off the Roll of Solicitors and it further Ordered that he do pay an agreed contribution towards the costs of and incidental to this application and enquiry fixed in the sum of £25,000, such costs to be paid on or before the 17th day of December 2016.

DATED this 9th day of January 2015
On behalf of the Tribunal

E. Nally
Chairman