

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10331/2009

Case No. 10361/2009

Case No. 10392/2009

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

ABBOT UZOMA OZUZU

(Case No. 10361/2009)

First Respondent

and

EZENNIA DENTON OGBUEHI

(Case No. 10331/2009)

(Case No. 10361/2009)

(Case No. 10392/2009)

Second Respondent

and

*[THIRD RESPONDENT - NAME REDACTED]* (Case No. 10361/2009)

Third Respondent

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Before:

Mr. I. R. Woolfe (in the chair)

Mrs J Martineau

Mr. M. C. Baughan

Date of Hearing: 16th February 2011

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## **Appearances**

Ian Ryan, solicitor (of Finers Stephens Innocent, 179 Great Portland Street, London, W1W 5LS) for the Applicant.

Abbott Uzoma Ozuzu and Ezennia Denton Ogbuehi did not appear and were not represented. *[THIRD RESPONDENT]* appeared.

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## **JUDGMENT**

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## **Allegations**

1. The Applicant applied to the Tribunal for evidential reasons for leave in case 10361/2009 to withdraw from the Rule 5 Statement dated 23 October 2009 allegation (ii) (referred to below as allegation 2.2) against Mr Ozuzu and Mr Ogbuehi, to amend allegation (iv) (referred to below as allegation 3.1) against Mr Ozuzu and to withdraw allegation (viii) (referred to below as allegation 4.1) against Mr Ogbuehi. The Tribunal consented. In case 10392/2009 allegation (ii) (referred to below as allegation 4.4) in the Rule 5 Statement dated 24 November 2009 had been withdrawn with the leave of the Tribunal on 16 November 2010.
2. The allegations against Mr Ozuzu and Mr Ogbuehi as amended were as follows:
  - 2.1 That they failed to keep the books of account properly written up as required by Rule 32 of the Solicitors Accounts Rules 1998 (the 1998 Rules);
  - 2.2 [Withdrawn]
  - 2.3 That they provided clients with misleading costs information contrary to the Solicitors' Costs Information and Client Care Code 1999.
3. The allegations against Mr Ozuzu alone were:
  - 3.1 That he sent a misleading letter to an Investigation Officer of the Solicitors Regulation Authority (SRA).
  - 3.2 That he failed to disclose material information to the firm's professional indemnity insurers.
  - 3.3 That he continued to practise uncertificated following the suspension of his practising certificate due to his bankruptcy, in breach of Rule 20 of the Solicitors Code of Conduct (SCC) 2007;
  - 3.4 That he failed to make satisfactory arrangements for the effective management of the practice following the suspension of his practising certificate, in breach of Rule 5 of SCC 2007.
4. The allegations against Mr Ogbuehi alone as amended were:
  - 4.1 [Withdrawn]
  - 4.2 That Mr Ogbuehi had been guilty of professional misconduct in the following particulars: that on 24 April 2009 at New Ilford Police Station he was cautioned for the offence of assault by beating.
  - 4.3 That he failed to disclose material information to the Assigned Risk Pool ("ARP") in breach of the Solicitors Indemnity Insurance Rules ("SIIR") 2007.
  - 4.4 [Withdrawn]

5. In respect of allegation 3.2 against Mr Ozuzu alone, it was alleged that he behaved dishonestly or was grossly reckless as to his responsibilities when completing and signing the insurance form.
6. In respect of allegation 4.3 against Mr Ogbuehi alone it was alleged that he had acted dishonestly or was grossly reckless when failing to disclose material information to the ARP.
7. The allegation against [*THIRD RESPONDENT*] alone was that:
  - 7.1 Having been involved in a legal practice but not being a solicitor, he had, in the opinion of the SRA occasioned or been party to, with or without the connivance of a solicitor, an act or default in relation to a legal practice which involved conduct on his part of such a nature that in the opinion of the SRA it would be undesirable for him to be involved in a legal practice. In particular, that he allowed himself to be described as a Legal Executive and as holding a Masters Degree in law, when he knew that he had neither qualification.

### **Documents**

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

Applicant:

In case 10361/2009:

- Rule 5 Statement dated 23 October 2009, with exhibits;
- Witness statement of Kirsten Baker of the SRA dated 14 January 2011;
- Notice to accompany Statement of Evidence dated 25 November 2009, attaching statements by Helen Katherine Carr, Natalie Clare Prew and Mark Lloyd Pritchard, all dated 24 November 2009;
- Extract from the Guide to the Professional Conduct of Solicitors 1999 8<sup>th</sup> Edition regarding the term “Legal Executive”;
- Informal bundle of correspondence from Abbott Denton Solicitors;
- Schedule of Costs headed 10361-2009 but covering the three consolidated matters: 10331-2009, 10361-2009 and 10392-2009.

In case 10331/2009:

- Rule 5 Statement dated 22 September 2009 with exhibit;
- Notice to admit documents dated 23 August 2010 with attached extract from a police officer’s notebook.

In case no 10392/2009:

- Rule 5 Statement dated 24 November 2009 with exhibits;
- Statement of Jennifer Cutler of the SRA dated 26 July 2010 with exhibits;
- Notice to admit documents dated 17 May 2010 with attached Extract from Solicitors Indemnity Insurance Rules 2007 and Solicitors Code of Conduct 2007.

The Respondents

In case no 10361/2009:

- Medical Report in respect of Mr Ogbuehi dated 11 October 2010;
- Medical Report in respect of Mr Ogbuehi dated 14 February 2011;
- Letter from Mr Ozuzu's wife dated 6 January 2011;
- Witness statement of *[THIRD RESPONDENT]* dated 22 October 2010;
- Abbott Denton headed notepaper (blank), handed up by *[THIRD RESPONDENT]*.

In case no 10331/2009

- No documents were submitted by the Second Respondent.

In case no 10392/2009

- No documents were submitted by the Second Respondent.

### **Preliminary Matters**

9. The Tribunal considered how to proceed in the absence of Mr Ozuzu and Mr Ogbuehi. The Applicant informed the Tribunal that Mr Ozuzu had never engaged throughout the process, save that letters had been received on his behalf from his wife indicating that he was in West Africa undertaking a course of study and would be out of the country for some months and now wished the matter to be put off until September or October 2011. The Applicant had been inclined to seek the Tribunal's leave to proceed on the basis that this seemed an unreasonable approach by Mr Ozuzu. Mr Ozuzu was aware of the hearing date. Mr Ogbuehi was also apparently abroad. A medical certificate had been submitted dated 14 February 2011. In the changed circumstances the Applicant expressed some concern about proceeding against Mr Ozuzu and Mr Ogbuehi. He would be content to seek the Tribunal's leave to sever the allegation against *[THIRD RESPONDENT]*, who was here today and had attended on several previous occasions. However, he understood that *[THIRD RESPONDENT]* wished to address the Tribunal on that point.
10. *[THIRD RESPONDENT]* informed the Tribunal that he regarded Mr Ogbuehi and Mr Ozuzu as witnesses in the allegation against him, and he wished to have the opportunity to question them about how the firm had been arranged, and the

preparation of letterhead etc. He regarded them as crucial and therefore sought an adjournment of the substantive proceedings.

11. The issue of protection of the public was canvassed. Mr Ozuzu had not been in possession of a practising certificate since his firm was intervened in and he was not in the country. Mr Ogbuehi's firm continued in existence but he was abroad. He could resume practice on his return. *[THIRD RESPONDENT]* was not presently working in the law. Apart from *[THIRD RESPONDENT]*, who was making his application today, formal applications to adjourn had not been received from either Mr Ogbuehi or Mr Ozuzu in respect of this substantive hearing.
12. The Tribunal carefully considered the circumstances and the submissions made. It was clear from the papers that both Mr Ozuzu and Mr Ogbuehi were aware of today's proceedings. They had not submitted any formal application for an adjournment. In respect of Mr Ogbuehi he had previously submitted a medical certificate dated 11 October 2010 which expressly stated that he was not advised to travel for approximately four weeks while receiving treatment. This latest medical certificate made no such statement. The Tribunal considered this relevant in the context of the case of *Brabazon-Drenning -v- United Kingdom Central Council for Nursing, Midwifery and Health Visiting*, which provided some guidance in respect of medical certificate evidence. Substantive proceedings scheduled for 8 November 2010 had been adjourned, having regard to the earlier medical evidence in respect of Mr Ogbuehi.
13. Directions had been given on 8 November 2010 at which time Mr Ozuzu had been seeking an adjournment until August 2011. In matter 10361/2009 Mr Ozuzu, and in all three matters Mr Ogbuehi, had failed to comply with directions to serve statements by 6 December 2010 and the substantive hearing had been fixed for 16 and 17 February. There was no evidence in respect of Mr Ozuzu or Mr Ogbuehi that they were not in a position to prepare for today's trial. In view of all these factors the Tribunal considered that it was appropriate to proceed with the allegations against Mr Ozuzu and Mr Ogbuehi.
14. In respect of *[THIRD RESPONDENT]* the Tribunal did not consider that he would be disadvantaged by being unable to cross-examine Mr Ozuzu and Mr Ogbuehi. As they were not present there would be no oral evidence to contradict any evidence which *[THIRD RESPONDENT]* might give and the Tribunal considered it fair and appropriate to proceed and hear the allegation against *[THIRD RESPONDENT]*. Accordingly his application for an adjournment was denied.
15. Upon resuming, *[THIRD RESPONDENT]* informed the Tribunal that he wished to renew his application to adjourn as he wished to obtain a statement from the former practice manager who had arranged for the business cards, the subject of the allegation against him, to be printed. He emphasised the seriousness of the allegations against him. In response to an inquiry from the Chairman he stated that he had not made arrangements to obtain a statement from the former practice manager earlier as he had expected today's matter to be adjourned. He also mentioned that all the firm's files had been seized by the Law Society so he was at a great disadvantage in making contact with members of the firm. He also relied on the difficulty of contacting Mr Ogbuehi and Mr Ozuzu abroad in order to obtain contact details.

16. The Tribunal carefully considered [*THIRD RESPONDENT*]'s renewed application. It took the view that he could have raised this matter at previous hearings and noted that there was no mention of his desire to obtain a statement from the former practice manager in earlier Memoranda of Directions and Adjournment. It was felt that he could have contacted the firm Dentons to get relevant contact addresses. Accordingly the application to adjourn was denied.
17. In respect of Mr Ozuzu and Mr Ogbuehi, the Tribunal decided to exercise its discretion under Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 and proceed to hear the matter in their absence.

### **Factual Background**

18. Mr Abbot Uzoma Ozuzu was born in 1951 and admitted as a solicitor in 2000, and his name remained on the Roll. Mr Ezennia Denton Ogbuehi was born in 1968 and admitted as a solicitor in 2005. His name also remained on the Roll. [*THIRD RESPONDENT*] was born in 1944.

### The Firm

19. From 22 August 2006 Mr Ozuzu and Mr Ogbuehi carried on in partnership under the style of Abbott Denton Solicitors (the firm) at 7-9 Woolwich New Road, London, SE18 6EX and employed [*THIRD RESPONDENT*] as an unadmitted clerk.
20. The partnership was dissolved on 31 August 2007 when Mr Ogbuehi resigned from the firm and began to practise on his own account under the style of Denton Solicitors. Mr Ozuzu continued to practise on his own account as Abbott Ozuzu Solicitors.
21. Upon due notice to Mr Ozuzu and Mr Ogbuehi, an Investigation Officer of the SRA carried out an inspection of the firm's books of account and produced a report dated 19 September 2008 (the first report).
22. The matters the subject of the first report were considered by an Authorised Officer of the SRA on 29 April 2009 when a decision was made to refer the Respondents' conduct to the Solicitors Disciplinary Tribunal (SDT).
23. An Investigation Officer of the SRA carried out a further inspection at the firm of Abbot Ozuzu Solicitors on 23 July 2009 and prepared a report dated 28 July 2009 (the second report). The second report was considered by an Adjudication Panel on 4 August 2009 when a further decision was made, inter alia, to intervene into Abbot Ozuzu Solicitors. The intervention was effected on 5 August 2009.

### Allegation 2.1

24. The first report identified a number of breaches of the 1998 Rules. In particular, the Investigation Officer noted that the books of account were not kept properly written up.

- “6. There was insufficient narrative shown by the entries on some of the client ledgers to identify/and or provide adequate information about the nature of the transactions.
7. The balances on the client ledgers could not be relied upon. A review of the client ledgers revealed that the firm were not routinely recording the following items on the client ledgers: disbursements, money received from clients, money received from mortgage lenders, purchase money sent to buyers’ solicitors and refunds given to clients.
8. Attached to the client account reconciliation dated 14 May 2007 was a document entitled “Aggregate Client Ledger Balances” which according to Mr Ozuzu was a list of all clients on whose behalf the firm held money at the close of business on 14 May 2007 and the amount held at that date. ...The Investigation Officers reviewed the list of Aggregate Client Ledger Balances as at 14 May 2007 and compared the same to the balances on the relevant individual client ledgers as at the same date. It was noted that the two did not correlate. For example, the client ledger of Mr SF showed that £191,988.00 was held in the client account. However, the list of Aggregate Client Ledger Balances identified that £188,000.00 was held in the client account.
9. In addition, the firm were using manual client ledgers for some clients’ matters and computerised client ledgers for others. In some cases, the firm were maintaining both manual and computerised ledgers and the two did not always correlate...”.
25. As a result of the inadequacies of the books, the Investigation Officer could not give an opinion as to whether the funds held on the client bank account were adequate to meet the firm’s liabilities to clients.
26. The Investigation Officer noted that an earlier inspection commenced on 12 October 2006 and completed by way of an on-site certificate dated 25 October 2006, had identified other breaches of the 1998 Rules which had not been remedied at the date of the first inspection.

### Allegation 2.2

27. [Withdrawn]

### Allegation 2.3

28. The Investigation Officer also identified that costs information provided by the firm was misleading in a number of different respects:
- Bills contained inadequate detail.
- “18. Mr Vale requested sight of the firm’s central bills file. The firm provided a folder containing what appeared to be receipts. ...Mr Vale noted the following:
- The receipts stated the name of the client and “re: your matter”;

- The narrative on the receipts stated “legal fee”;
  - There were sections at the foot of the receipts headed “total paid” and “outstanding balance”;
  - The majority of the receipts did not show disbursements; and
  - None of the receipts had the “outstanding balance” section completed.
19. Mr Ozuzu explained that the firm used the documents as both receipts and bills. He stated that clients were given this document as a receipt for the amount of money the firm received from them and as a bill.
20. Mr Vale asked Mr Ozuzu if he accepted that a client was entitled to know what work had been done on his/her behalf. Mr Ozuzu stated that details were in their client care letters and added “In future we will see what we can do”.
- Information provided in respect of agreed fees was inadequate.
- “21. Rule 19(5) of the SAR provides that “An “agreed fee” is one that is fixed - not a fee that can be varied upwards, nor a fee that is dependent on the transaction being completed”. Abbot Denton Solicitors are instructed by the majority of their clients on an agreed fee basis. Mr Vale’s review of the firm’s client care letters revealed the following:
- The letters failed to explain that an agreed fee cannot be varied upwards and is not dependent on the transaction being completed; and
  - Some of the letters stated that if the matter became complicated the firm would revert to their hourly rate and/or increase the agreed fee.”
- Client care letters did not contain details of likely disbursements.
- “28. It was noted in conveyancing matters that the firm’s client care letters did not include details of the likely disbursements that would be incurred on the clients’ behalf. On 10 July 2007, Mr Ozuzu confirmed to the Investigation Officers Mr Vale and Mrs Baker that the firm did not provide specific figures in respect of likely disbursements. Mrs Baker asked Mr Ozuzu why this was the case. He stated “[the] problem is we don’t know what we could encounter”.
- Client care letters contained insufficient information in respect of telegraphic transfers.
- “29. On 16 May 2007, Mr Ozuzu informed Mrs Featherstone, [an Investigation Officer], that the bank charged the firm a fee of £23.00

per telegraphic transfer. However, Mr Vale observed that on some matters the firm had charged clients a telegraphic transfer fee of £25.00. For example, in the matter of Mr and Mrs A, the completion statement included a charge of £50.00 described as “Chaps”. ...The client care letter dated 22 June 2006 did not provide the clients with details of this charge or any other disbursements. On 10 July 2007, Mrs Baker asked Mr Ozuzu to explain the charge of £50.00 given that he had previously stated that the bank charged the firm a fee of £23.00 per telegraphic transfer. Mr Ozuzu stated that he had thought that the bank charged £25.00 and the £50.00 charge in this case meant that there had been two transfers.

30. Mrs Baker asked Mr Ozuzu to confirm whether the bank had charged the firm a fee of £23.00 or £25.00 per telegraphic transfer in this case. Mr Ozuzu confirmed that the fee was £23.00. Mrs Baker asked Mr Ozuzu what had happened to the difference between the actual fee the firm had been charged by the bank in this case (£46.00 on the basis that two transfers had been made at a charge of £23.00 each) and the fee charged to the client (£50.00 as per the completion statement). Mr Ozuzu stated that he had refunded the clients. He indicated that refunds had been given to clients on other matters. Mrs Baker asked Mr Ozuzu whether he had any evidence that refunds had been made to clients in respect of over-payments for telegraphic transfer fees. Mr Ozuzu said that he could check. At the time of writing this Report, no evidence has been received from Mr Ozuzu to demonstrate that refunds have been made to clients.”

- Completion statements contained insufficient detail to identify particular disbursements.

“31. It was noted that the completion statements in a number of conveyancing matters included an item described as “Disbursement” ranging from £25.00 to £100.00 in amount. ...On 17 October 2007, Mrs Baker asked Mr Ozuzu to explain this. Mr Ozuzu stated “we charge disbursements for photocopying and all those other things we do.” Mr Ozuzu confirmed that this was in fact money due to the firm. He stated that the firm explained this to clients verbally but that details were not included in the firm’s client care letters.

#### Allegation 3.1 against Mr Ozuzu alone

29. During the inspection, the Investigation Officer raised a number of matters with [THIRD RESPONDENT]. Subsequently, copies of letters to clients were received from Mr Ozuzu, purporting to answer the Investigation Officer’s questions.
30. However, on closer examination, and for the reasons set out in the report, the Investigation Officer became suspicious that these letters had been created after the event in an attempt to mislead him into believing that they had actually been sent to the clients concerned.

31. The covering letter to the Investigation Officer of 27 July 2007 was in Mr Ozuzu's name, and appeared to have been signed by him.

Allegation 3.2 against Mr Ozuzu alone

32. The Investigation Officer also identified a number of omissions from the firm's professional indemnity insurance (PII) proposal form, the most important of which were the failure to disclose an Inadequate Professional Services award:

“53. This [“Practising Certificates”] section of the proposal form asked a number of questions which are set out below in italics, together with the responses given on the form by Mr Ozuzu and his comments to Mr Vale during the interview:

54. “In the last 10 years has any fee earner in the practice:

- (i) had an award for inadequate professional service made against him or her by the CCS (formerly OSS)?”

The answer given on the proposal form to the above question was “no”. However, the SRA's records show that awards for inadequate professional service (IPS) were made against Abbot & Co on 30 May 2006 and on 1 August 2006. Mr Ozuzu stated “These matters were referred to the SDT so they weren't completed.” Mr Vale pointed out that the SDT deals with conduct matters but here, there had been two IPS awards. Mr Ozuzu stated “I thought both of them were going to the SDT and the matter had not ended.”

There was no disclosure of the referral to the SDT.

“57. This [“Material Information”] section of the proposal form asked:- “Is there any other material information that may be relevant to this form.” The answer given was “no”. On 18 October 2007, Mr Vale asked Mr Ozuzu whether he should have disclosed in this section of the proposal form the fact that his conduct had been referred to the Solicitors Disciplinary Tribunal on 1 August 2006. Mr Ozuzu stated that he did not know that this was material.”

The form was completed and signed by Mr Ozuzu.

Allegations 3.3 and 3.4 against Mr Ozuzu alone

33. Mr Ozuzu's practising certificate was suspended and he was informed of the suspension in a letter from the SRA dated 21 May 2009.

“2. On 23 July 2009 Mr R Sage, Senior Investigation Officer, and Mr S Grehan, Investigation Officer, attended the firm's offices, without prior notice having been given. On their arrival they were advised that Mr Ozuzu was in Nigeria and that no solicitor was present at the firm. *[THIRD RESPONDENT]*, an unadmitted clerk, who described himself as a caseworker, said he was the most senior member of staff currently in the office and that the firm was being supervised by two solicitors [from other firms]. He said that [one of them] had attended the office on the previous day [22 July 2009] but that he was currently attending court.”

- “8. SRA records show that Mr Ozuzu’s practising certificate for 2008-2009 was suspended on 21 May 2009 following notification from The Insolvency Service that a bankruptcy order had been made against him on 28 April 2009. [THIRD RESPONDENT] said that Mr Ozuzu had not practised since that time and that it was for this reason that other solicitors had been supervising the staff.
9. Attached to this report is a copy of a letter dated 6 July 2009 addressed to a Mr AG of the Legal Services Commission. It is clear that this letter was written by Mr Ozuzu, or on his behalf in the first person. It is also noted that the pre-printed sidebar to the letter states that Mr Ozuzu is the sole principal of the firm. As such the letter represents that Mr Ozuzu was the sole principal of the firm even though he does not have in force a current practising certificate.”
34. Unsuccessful attempts were made to contact the two solicitors said to be supervising the practice in Mr Ozuzu’s absence. The SRA has obtained evidence suggesting that he continued to practise following the suspension of his practising certificate. Mr Ozuzu also informed the Investigation Officer in interview that if he was away he would sign off blank cheques, usually only for office account.

Allegation 4.1 against Mr Ogbuehi alone

35. [Withdrawn]

Allegation 4.2 against Mr Ogbuehi alone

36. At the material time Mr Ogbuehi was practising on his own account under the style of Denton solicitors. He appeared at New Ilford police station on 24 April 2009 when he accepted a caution for assaulting BH by beating on 27 March 2009.
37. Mr Ogbuehi was written to by the Solicitors Regulation Authority for an explanation on 10 June 2009 and replied by letter dated 24 June 2009. In that letter Mr Ogbuehi had explained as follows:

“Please note that I did not assault Mr BH by beating him.

Mr H’s employer [...] owes me about £115.00 resulting from over-payment I made to them for office supplies. Mr H failed to account for this over-payment to his employer, and for several months he kept on misleading my secretary and me about repaying the money. [The employer] is next door to Denton solicitors, and until July 2008, we had a common landlord.

Further, Mr H abandoned a used vehicle on my carport for over 6 months. He refused to remove the vehicle and in spite of my protestations he left that car there while I had to pay monies for metered parking. He only removed the car after this incident.

Therefore, on 27/03/09 I went over to him to collect my money and instead of paying me or give his usual excuses, he said rude things about me and my profession. I tried to grab his shirt but he moved away...

The police attended my office subsequently and after narrating the incidence took me to the station because Mr H alleged that I stole his laptop as well....

On returning to the station, I was given the option of allowing the matter to go to the Crown Prosecution Service or accept a police caution. I reluctantly accepted the latter simply because I was due to go away on holiday and did not want any lingering distraction from my work. I also queried the police about the word 'beating' as the video evidence corroborated my recollection of the incidence. The officer explained that they do not have any other word for it and played down the significance.

I did not beat Mr H. I could not have beaten him. Besides professional etiquettes, Mr H is probably a lot younger than I am and fitter as well..."

#### Allegation 4.3 against Mr Ogbuehi alone

38. At the material time Mr Ogbuehi practised on his own account under the style of Denton solicitors. Mr Ogbuehi commenced practising as Denton Solicitors on 1 September 2007 and, having failed to secure qualifying indemnity insurance, entered the ARP. An Investigation Officer of the SRA conducted an ARP monitoring visit at the firm between 2 and 4 June 2008 and produced a report dated 29 July 2008.
39. The Investigation Officer noted that Mr Ogbuehi had applied for indemnity insurance from AON (as agents for QBE) for the practice year 2007/2008 and estimated his gross fee income for that year at £250,000. The proposal for m was signed and dated 1 September 2007. Mr Ogbuehi was refused insurance by AON. When Mr Ogbuehi applied to join the ARP, on the application form signed and dated 8 October 2007, he estimated his gross fee income for 2006/2007 at £5,000, for the month of September 2007. On the application form signed and dated 10 October 2007 he estimated his gross fee income for 2007/2008 at £20,000. Mr Ogbuehi applied to join the ARP six weeks after he commenced trading and was therefore required to submit applications in respect of both periods. Denton solicitors were without indemnity insurance for a six week period. No allegation was made in this respect.
40. The Investigation Officer then inspected the firm's central record of bills and noted that bills totalling £69,852.55 had been delivered for the 2007/2008 indemnity period up to 3 June 2008. Mr Ogbuehi did not notify the ARP Manager at the point that fees for the 2007/2008 indemnity period exceeded the estimate provided on 10 October 2007.
41. The Investigation Officer had reviewed Mr Ogbuehi's AON proposal form for the 2007/2008 indemnity period dated 1 September 2007. On it the Respondent stated that he was the sole equity partner at the firm and that in addition there was one full-time, and one part-time solicitor, and there were two "other staff", one being full-time and the other was part-time. The Investigation Officer asked him how he had arrived at the estimated gross fees of £20,000 for the ARP proposal form dated 10 October 2007. The staffing structure on both the ARP proposal forms was stated to be one principal and no other fee earning staff with two non fee-earners. The firm's gross fees for the period were stated to be £20,000. A copy of the firm's projected cash

flow, income and expenditure accounts and balance sheet for the year to 31 August 2008 were also attached to the proposal form.

42. The Investigation Officer reported that Mr Ogbuehi said that initially he thought that the practice would do well, but once he was refused insurance by AON, he had to revise his business plan to take account of how much money he would have to pay for insurance. He said that he had to be “more realistic” with his revised business plan.
43. The total ARP premium for the 2007/2008 indemnity year including IPT and finance charges was £7,269.57 (based on the estimated gross fees of £20,000). The Investigation Officer reported that Mr Ogbuehi told the Investigation Officer that this was very expensive and was more than he had budgeted for as he had anticipated that insurance could be obtained for the whole year for about two thousand pounds.

Allegation 4.4 against Mr Ogbuehi alone

44. [Withdrawn]

Allegation 7.1 against [THIRD RESPONDENT] alone

45. [THIRD RESPONDENT]’s business card described him as a Senior Legal Executive and indicated that he had a Masters in Law by virtue of the letters LLM appearing after his name. He was also described as a Senior Legal Executive on the firm’s headed notepaper. [THIRD RESPONDENT] admitted that he had neither of these qualifications.
46. Mr Ozuzu had signed a letter of offer of employment addressed to [THIRD RESPONDENT] and dated 4 September 2006. It included:

“I write to offer you the position of Senior Legal Executive.... It is a condition of this offer that: (a) your references are satisfactory to the firm; (b) you supply certificates to prove that your qualifications are as stated in your application... If all these conditions are satisfied, you will commence work on 4 September 2006...”

On that letter [THIRD RESPONDENT] was described as a Senior Legal Executive in the list of firm members. His acceptance of the post was indicated by the statement “I accept employment in the terms set out above”, his signature and the date 4 September 2006. On a certificate of service for the Administrative Court of the High Court [THIRD RESPONDENT] had signed his name under the typed words: “[REDACTED]”, and against position or office held: “Senior Legal Executive”. His full name and position were typed in. There was other notepaper from the firm Abbott Denton Solicitors describing [THIRD RESPONDENT] as Legal Assistant. The matters were raised during the course of the investigation:

- “41. Mr Vale asked [THIRD RESPONDENT] when he passed his Masters exam. [THIRD RESPONDENT] replied, “That course, I confess, hasn’t been fully completed”. [THIRD RESPONDENT] stated that “E”, who had produced the business cards had made a mistake. [THIRD RESPONDENT] confirmed that he did not possess a Masters in Law and accepted that the qualifications on his business card were incorrect. Mr Vale asked Mr Ogbuehi whether he knew

that *[THIRD RESPONDENT]* did not possess a Masters in Law. Mr Ogbuehi replied “no, this is the first I’ve heard of it. He should have corrected it”. Mr Vale stated that Mr Ozuzu had informed him and Mrs Featherstone that *[THIRD RESPONDENT]* had a Masters in Law. *[THIRD RESPONDENT]* stated “....don’t blame him, I should have corrected it.”

### Witnesses

47. There were no witnesses but *[THIRD RESPONDENT]* gave sworn evidence. He relied on his witness statement dated 22 October 2010. He had worked as a clerk for Mr Ozuzu from around 1992. When the firm Abbott Denton was established Mr Ogbuehi wished to streamline the new firm, and it was at this point that he had been given the offer of employment. In working for solicitors firms he had always held the role of clerk. His duties had not changed when he was described as a Senior Legal Executive, neither had his remuneration. He had not been involved in the decision-making about the change of job title and was not the only person at the firm described as a legal executive after the streamlining took place. He had given instructions that when the business cards with the mistaken information were given out, the erroneous entries should be deleted. *[THIRD RESPONDENT]* testified that he knew little about the requirements for Ilex but understood that they mainly related to conveyancing, which type of work he did not undertake. With the benefit of hindsight he might have asked to have the description of his role changed on the notepaper and business cards. Mr Ogbuehi had told the Investigation Officer Mr Vale that he would take full responsibility for the mis-description of *[THIRD RESPONDENT]*’s status.

### Findings as to Fact and Law

48. In the absence of Mr Ozuzu and Mr Ogbuehi the Tribunal treated all allegations against them as contested. Mr Ryan had served Civil Evidence Act Notices which had elicited no response from the Respondents.
49. **Allegation 2.1 against Mr Ozuzu and Mr Ogbuehi. That they failed to keep the books of account properly written up as required by Rule 32 of the Solicitors Accounts Rules 1998 (the 1998 Rules)**
- 49.1 Mr Ryan submitted that it was a serious matter that the state of the accounts was such that it was not practicable to calculate the total liabilities to clients.
- 49.2 The Tribunal found this allegation to have been proved against both Respondents.
50. **Allegation 2.3 against Mr Ozuzu and Mr Ogbuehi. That they provided clients with misleading costs information contrary to the Solicitors’ Costs Information and Client Care Code 1999**
- 50.1 Mr Ryan submitted that the information provided to clients about costs was deeply inadequate and that Mr Ozuzu’s explanation that the firm did not know what they could encounter completely missed the point of client care letters.
- 50.2 The Tribunal found this allegation to have been proved against both Respondents.
51. **Allegation 3.1 against Mr Ozuzu. That he sent a misleading letter to an Investigation Officer of the Solicitors Regulation Authority (SRA).**

- 51.1 Mr Ryan submitted that the letter signed by Mr Ozuzu of 27 July 2007 to Mr Vale at the SRA was misleading. A letter of 3 June 2007 purportedly sent to a client Mr B was not on the firm's file when Mr Vale reviewed it, and that remained the case to the present, with continuity of safekeeping of the file having been proved by witness evidence. While it could not be proved that the attachments to Mr Ozuzu's letter had been created or signed by him it was submitted that he had sent it with gross recklessness.
- 51.2 The Tribunal found this allegation to have been proved.
52. **Allegation 3.2 against Mr Ozuzu. That he failed to disclose material information to the firm's professional indemnity insurers.**
- 52.1 This allegation was coupled with an allegation of dishonesty. Mr Ryan submitted that incorrect answers had been given in response to key questions in the insurance proposal form. Matters concealed were relevant to the insurers' decision about the provision of insurance and to the amount of the premium. He submitted that in addition to the two awards for Inadequate Professional Service (IPS), which had been made in May and August 2006, the form having been signed in September of that year, Mr Ozuzu had also failed to disclose material information in that he had not advised the insurer that his conduct had been referred to the SDT.
- 52.2 The Tribunal had carefully considered the twin test for dishonesty in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12. Mr Ozuzu had lied on his proposal form in respect of the two IPS awards and concealed material information. The matters which he had not disclosed were crucial to the insurers' decision about granting insurance and at what price. Mr Ozuzu had not denied that he knew of the awards or the referral and the Tribunal was satisfied that what he had done was dishonest and that he had done it knowingly. Accordingly the Tribunal found this allegation proven and that the conduct of Mr Ozuzu had been dishonest.
53. **Allegation 3.3 against Mr Ozuzu. That he continued to practise uncertificated following the suspension of his practising certificate due to his bankruptcy, in breach of Rule 20 of the Solicitors Code of Conduct (SCC) 2007**
- 53.1 The Tribunal found this allegation to have been proved on the evidence.
54. **Allegation 3.4 against Mr Ozuzu. That he failed to make satisfactory arrangements for the effective management of the practice following the suspension of his practising certificate, in breach of Rule 5 of SCC 2007.**
- 54.1 Mr Ryan submitted that it was clear from the evidence that the practice was on the verge of chaos following the suspension of Mr Ozuzu's practising certificate.
- 54.2 The Tribunal found this allegation to have been proved on the evidence.
55. **Allegation 4.2 against Mr Ogbuehi. That he had been guilty of professional misconduct in the following particulars: that on 24 April 2009 at New Ilford Police Station he was cautioned for the offence of assault by beating.**

- 55.1 Mr Ryan referred the Tribunal to the evidence. Mr Ryan informed the Tribunal that no allegation was made with regard to the laptop mentioned in the police officer's notebook. The matter for which Mr Ogbuehi had been cautioned was the lowest form of common assault. There was no evidence that any actual beating had been involved but Mr Ogbuehi had accepted commission of the offence by accepting the caution. He had not appeared today and offered no evidence. The Tribunal considered this matter on the basis of the evidence and found the allegation to have been proved.
56. **Allegation 4.3 against Mr Ogbuehi. That he failed to disclose material information to the Assigned Risk Pool ("ARP") in breach of the Solicitors Indemnity Insurance Rules ("SIIR") 2007.**
- 56.1 Mr Ryan submitted that Mr Ogbuehi's failure to provide a realistic fee estimate on the ARP application form breached the requirement to provide information required by the ARP Manager for the purpose of setting a premium (Rule 10.6 SIIR 2007), and processing an application (Rule 10.8 SIIR 2007). Mr Ryan did not proceed with the allegation in so far as it related to failure to notify the ARP Manager when the 2007/2008 fee estimate was exceeded as Mr Ryan could not establish a duty on the solicitor to do that.
- 56.2 Mr Ryan reminded the Tribunal that Mr Ogbuehi had been required to estimate his gross fees because he was in the first year of a new practice and was not able to submit to prospective insurers details of earlier fee income.
- 56.3 The Tribunal carefully considered the evidence, including the requirements of the SIIR, Mr Ogbuehi's projected income and expenditure accounts for the year ending 31 August 2008 and the balance sheet for the same period, which the Respondent had submitted to the ARP. The Tribunal was not satisfied that the estimate of £20,000 was honestly arrived at, notwithstanding Mr Ogbuehi's claim that it arose out of a revised business plan. Mr Ogbuehi had not provided a satisfactory explanation to the Investigation Officer. The Tribunal considered that the discrepancy between the estimate given to AON and the estimate to the ARP was so wide as to undermine the credibility of Mr Ogbuehi's case and it noted that, notwithstanding the low estimate, his fee income had remained at quite a high level during the particular year. The Tribunal did not consider that his actions could be described as reckless, having regard to the fact that he had submitted documentation in support of the estimate. Rather it took the view that he had behaved in a way which was in the context of the Twinsectra test objectively dishonest, and that in submitting a fictitious fee estimate supported by detailed documents he had knowingly acted with dishonesty. Mr Ogbuehi had sought to transfer the risk of his practice from himself to his insurers in order to arrive at a lower than merited premium.
57. **Allegation 4.4 against Mr Ogbuehi**
- 57.1 [Withdrawn]
58. **Allegation 7.1 against [THIRD RESPONDENT]. That he, having been involved in a legal practice but not being a solicitor, had, in the opinion of the SRA occasioned or been party to, with or without the connivance of a solicitor, an act or default in relation to a legal practice which involved conduct on his part of such a nature that in the opinion of the SRA it would be undesirable for him to**

**be involved in a legal practice. In particular, that he allowed himself to be described as a Legal Executive and as holding a Masters Degree in law, when he knew that he had neither qualification.**

- 58.1 This allegation related to a possible making of a s.43 Order against *[THIRD RESPONDENT]*. The SRA took the view that he had allowed the firm's notepaper to show him as a Senior Legal Executive and as possessing a Master's Degree in Law, and that as he admitted he had neither of these qualifications he must have known that the description of him was misleading. The Tribunal had considered *[THIRD RESPONDENT]*'s witness statement and had the benefit of hearing his witness evidence. It was not satisfied that at the relevant time he understood the implications of the term "Legal Executive" being attached to him. It was not considered that he had acted with any conscious impropriety regarding either aspect of this allegation. The Tribunal had noted his sworn evidence that he had attempted to have the business cards altered before distribution. No evidence had been provided to indicate that this was not the case. The Tribunal had also noted that Mr Ogbuehi had accepted responsibility for the mis-description of *[THIRD RESPONDENT]* on the headed notepaper.
- 58.2 In all the circumstances the Tribunal did not consider that what had occurred was sufficient grounds to persuade it to make a s.43 Order against *[THIRD RESPONDENT]*.

### **Previous Disciplinary Matters**

59. Mr Ozuzu had received a sanction from the Tribunal in 2008 under Case No. 9681-2007. He had been ordered to pay a fine.
60. There were no previous matters before the Tribunal relating to Mr Ogbuehi.

### **Mitigation**

61. Neither Mr Ozuzu or Mr Ogbuehi were present and no mitigation was submitted.

### **Sanction**

62. In respect of Mr Ozuzu and Mr Ogbuehi serious offences of dishonesty had been found proved against each of them, and all the other allegations had also been found proved where appropriate as amended. The Tribunal considered that this was not an exceptional case and that Mr Ozuzu and Mr Ogbuehi should be struck off the Roll of Solicitors.

### **Costs**

63. Mr Ryan submitted a costs schedule across all three consolidated matters in the total amount of £44,417.54 and the Tribunal determined the matter of costs across the consolidated matters as follows. The Tribunal made an allowance for costs attributable to the work involving *[THIRD RESPONDENT]*, against whom no order had been made. It also took into account the number of allegations against Mr Ozuzu and Mr Ogbuehi. It determined that Mr Ozuzu should pay an amount of £15,000. Mr Ogbuehi was a Respondent to all three consolidated matters. Accordingly there should

be a costs award of £17,000. In respect of each Respondent the cost order against him was not to be enforced without leave of the Tribunal.

**Statement of Full Order**

64. The Tribunal Ordered that the Respondent, Abbot Uzoma Ozuzu of , Woolwich, London, SE18, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £15,000.00, such costs not to be enforced without leave of the Tribunal.
65. The Tribunal Ordered that the Respondent, Ezennia Denton Ogbuehi of c/o Denton Solicitors, 113 George Lane, South Woodford, London, E18 1AB, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £17,000.00, such costs not to be enforced without leave of the Tribunal.

Dated this 25<sup>th</sup> day of March 2011

On behalf of the Tribunal

I. R. Woolfe  
Chairman