

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF ADEKUNLE FAGBENLE, Registered Foreign Lawyer and
ELIZABETH FRANCISCA VOLNEY, Solicitor (The Respondents)

Upon the application of Katrina Elizabeth Wingfield
on behalf of the Solicitors Regulation Authority

Mr. A. G. Gibson (in the chair)
Mr. C. Murray
Mrs N. Chavda

Date of Hearing: 29th July 2010

FINDINGS & DECISION

Appearances

Ms Katrina Elizabeth Wingfield of Penningtons Solicitors, Abacus House, 33 Gutter Lane, London EC2V 8AR for the Applicant.

The Respondents appeared and were not represented.

Application Date

The Rule 5 statement was dated 4th November 2009 with a supplementary Rule 7 statement dated 18th June 2010.

Allegations

The allegations against the Respondents, Adekunle Fagbenle and Elizabeth Francisca Volney are that:

1. They have acted in breach of the Solicitors Accounts Rules 1998 (“SAR”) more particularly:

- (a) Rule 22
 - (b) Rule 7
 - (c) Rule 32 (1)
 - (d) Rule 32 note xiii
 - (e) Rule 32 (7)
 - (f) Rule 25
 - (g) Rule 34
2. They acted in breach of Rule 9.02 of the Solicitors' Code of Conduct 2007 ("SCC").
 3. They failed to fulfil an undertaking, given on or about 13th October 2008, to discharge an existing charge registered against the property 28 Omega Court, in breach of Rule 10.05 (1) (b) of the SCC.
 4. They were parties to a conveyancing transaction mainly the sale and purchase of 28 Omega Court, which bore the hallmarks of a fraud against the lender, the Royal Bank of Scotland, in breach of Rules 1.02 and 1.06 of SCC.
 5. They failed to fulfil an undertaking, given on or about 10th March 2008, to discharge two existing charges registered against the property 15 Loxley House, in breach of Rules 10.05 (1) (B) and 10.05 (2) of SCC.
 6. By failing to redeem outstanding charges on the sale of 15 Loxley House they breached Rule 1.02 and 1.06 of SCC.
 7. It was further alleged that the Second Respondent acted in breach of Rule 3.01 of SCC.

It was also alleged in relation to allegations 3-6 that the Respondents acted dishonestly or, in the alternative, recklessly.

Factual Background

1. Adekunle Fagbenle, The First Respondent, is a Registered Foreign Lawyer. He was born in May 1969 and was registered in February 2007. His name remains on the register. Elizabeth Francisca Volney, the Second Respondent, was born in February 1976 and was admitted to the Roll in July 2005. Her name remains on the Roll.
2. The First and Second Respondents practise under the title of Global Lawyer LLP of 58 Acacia Road, London NW8 6AG.
3. On 4th August 2008, an Investigating Officer of the SRA ("the IO") commenced an inspection of the books of account and other documents of the firm Global Lawyer

LLP. At that time both the Respondents were members of the LLP together with one LA, a solicitor, who subsequently resigned from the practice, on 31st October 2008.

4. The Second Respondent informed the IO that the firm was formed as an LLP in July 2007, that she held a 20% interest and the First Respondent held an 80% interest.
5. The IO found that the books of account were not in compliance with the SAR for a number of reasons, in particular:
 - (i) The firm transferred £22,000 on 25th February 2008 from client bank account into office bank account under reference FAG1/3. The client ledger FAG1/3 was opened in the name of the Respondent and annotated “commercial purchase”. There were no entries on the ledger. On that same date two withdrawals totalling £22,000 had been made from the office bank account and were described in the office cash book as “LOAN OUT”. The First Respondent confirmed that the monies were loans to him but said there was an error in the computer system. The Second Respondent in subsequent correspondence informed the IO that the error had been corrected following the sale of a property owned by the First Respondent, by the balance of proceeds of sale remaining on the client ledger, totalling £21,574.74, on 17th March 2008 together with an office to client transfer of £426.54 on 9th May 2008.
 - (ii) The firm failed to remit monies representing Stamp Duty Land Tax (“SDLT”), which had been transferred from client bank account to office bank account for a period in excess of 3 months. The firm had been instructed in connection with a property transaction in August 2007. Completion took place on 3rd December 2007. On 4th December 2007 the sum of £25,740 was transferred from client bank account to office account and a cheque drawn for SDLT. This cheque was presented at the bank on 26th March 2008. On 18th March 2008 the sum of £26,400 had been deposited into office bank account, described as “receipt from Mr Adekunle Fagb 519361 funding”.
 - (iii) The firm acted on behalf of the First Respondent in respect of two property sales. In relation to the sale of 15 Loxley House, after certain payments were made, the sum of £21,574.74 remained on the client ledger for that matter. In addition the IO noted that the First Respondent had paid monies into client account to discharge freight charges and rental payable by him.
 - (iv) The firm operated both Sterling and US Dollar bank accounts but failed to maintain separate books of account. All transactions involving US Dollars were recorded in the client ledger in Sterling by dividing the Dollar amount by two.
 - (v) In addition the firm had failed to undertake reconciliations or to record accurately dealings with client and office money relating to client matters in the office cash account and on the office side of the appropriate ledger.

6. The Second Respondent indicated that the computer accounts package they had purchased was seriously flawed. The IO requested copies of the manual ledgers utilised prior to introduction of the system but these were not provided.
7. The IO noted that the firm did not account to clients for a sum in lieu of interest calculated in accordance with Rule 25 SAR. They specifically stated in their terms of business that they would not do so save where agreed in writing. The firm subsequently amended their terms of business.
8. In addition the IO noted that the firm had entered into a number of agreements with introducers for the referral of conveyancing work for which the firm paid a fee of either £50 or £60. On examination the IO noted that these agreements did not comply with Rule 9.02, in particular:
 - (i) The agreements did not require that the introducer comply with Rule 9.
 - (ii) They did not contain an undertaking by the introducer that clients referred were not acquired as a result of marketing or publicity which if done by a person regulated by the SRA would be in breach of the Rules.
 - (iii) They did not require the introducer to give the client all relevant information prior to the referral confirming financial arrangements.

The IO also noted that the information provided to the client by the firm did not include details of the referral fee or state that advice given would be independent and that information given by the clients would not be released without consent. At interview the Second Respondent undertook to revise the agreements.

9. Letters were written to the Respondent by a caseworker at the SRA on 10th December 2008 requesting an explanation. An extension of time was requested, and granted in respect of a detailed explanation. A detailed response was submitted by the Second Respondent on behalf of the firm, dated 6th January 2008 (sic) with attached documents. Further correspondence was sent by the caseworker and a further response received dated 16th March 2008 (sic).
10. On 21st August 2009 a complaint was made to The Law Society (SRA) by "A" Solicitors and Commissioners for Oaths, regarding Global Lawyer LLP, in connection with a property transaction relating to 28 Omega Court, The Gateway, Watford
11. A acted for the Second Respondent who had instructed them in connection with her purchase of 28 Omega Court from the First Respondent, who had instructed Global Lawyer LLP. The purchase price of the property was £218,000 and the Second Respondent obtained a mortgage from the Royal Bank of Scotland in the sum of £188,000.
12. A experienced a number of difficulties in connection with the transaction, in particular they did not receive evidence that the existing charge, registered against

the property in favour of Northern Rock, had been discharged. An undertaking in this regard had been given in replies to the standard form of requisitions.

13. Contracts were exchanged on 22nd October 2008 with a completion date of 31st October 2008. The contract stated that a deposit of £30,000 was “already received”, and that the balance payable was £188,000. A valuation report for the Royal Bank of Scotland shows that the market value was £218,000, a reduction since the property was purchased in 2004 for £235,000.
14. Replies to requisitions on title were forwarded to A under cover of a letter dated 13th October 2008.
15. A letter (undated) from the Second Respondent to A indicated that she has paid the deposit direct. This also confirmed that the transaction was urgent as the property was about to be repossessed. A letter dated 13th October 2008 signed by the First Respondent confirmed receipt of the deposit, that the purchase price was £218,000 and that the balance due on completion was £188,000.
16. A completion statement showed stamp duty required in the sum of £2,180 but an attendance note dated 20th October 2008 suggested that the Second Respondent would send completion monies less the stamp duty and registration fees.
17. Completion took place on 31st October 2008 when A forwarded £188,000 to Global Lawyer LLP. However, various aspects of completion did not occur on that date. A made a number of written requests of their client, the Second Respondent, for monies to pay stamp duty. The Land Transaction Return was forwarded to HM Revenue & Customs without a cheque on 17th February 2009. Thereafter the Second Respondent indicated she would redeem the mortgage to the Royal Bank of Scotland and pay the stamp duty. The transfer form, TR1, appears to have been forwarded by Global Lawyer LLP to A on 11th March 2009.
18. A wrote to Global Lawyer LLP on 30th April 2009 indicating that it was their belief that there was a tax fraud. The Second Respondent wrote to A on 21st May 2009 in response indicating that she had paid the stamp duty direct. The monies were apparently cleared on 6th May 2009.
19. An application to register the transfer was rejected because amongst other things no DS1 was submitted in relation to the mortgage to Northern Rock Plc. On 16th June 2009 A wrote to Global Lawyer LLP referring to the failure to comply with the undertaking to provide END/DS1 in respect of that charge. That same day the Second Respondent met with Mrs DN of A. A follow up request for the END/DS1 was sent on 24th June 2009, and again on 1st, 3rd and 14th July 2009. On 27th July 2009 A wrote to Global Lawyer LLP indicating that they would report the breach of undertaking to The Law Society. Global Lawyer LLP replied stating that there was no need to redeem the mortgage as the First Respondent was reverting to ownership. In that letter it was suggested that the reason for rescinding the contract was that there had been a “misunderstanding on the purchase price”. This was despite a signed confirmation from the First Respondent of the purchase price and the valuation. A replied on 5th August 2009 and by letter of 10th August 2009 Global

Lawyer LLP sought to be released from the undertaking.

20. On 30th March 2010 A made a further complaint regarding a breach of undertaking, as against Global Lawyer LLP. Again they had acted for the Second Respondent in the purchase of a property from the First Respondent, who was represented by Global Lawyer LLP. The property was 15 Loxley House, Hirst Crescent, Wembley. The initial purchase price was £205,000 but this was reduced to £200,000. Contracts were exchanged on 22nd January 2008 with a view to completion on 21st February 2008 but, due to a delay in arranging mortgage finance, completion was rearranged for 14th March 2008.
21. Correspondence from Global Lawyer LLP bore the reference LV/FAG1/2. An attendance note on the file of A dated 21st January 2008 referred to a payment of £10,250 being made direct to the vendor. This deposit was referred to on the contract. A letter from Global Lawyer LLP to A dated 10th March 2008 referred to the reduced price of £200,000, and to an increased deposit having been paid direct. Attached to that letter were the replies to requisitions on title which included an undertaking to redeem two mortgages in favour of Bank of Scotland. Also attached was a letter signed by the First Respondent referring to an additional sum of £9,750 being paid by way of deposit “for the purpose of assisting me with mortgage arrears”. A completion statement showed a balance to complete of £180,000 which sum was advanced by Scottish Widows.
22. An attendance note showed that the Second Respondent informed her solicitors that she would send sufficient funds to complete apart from the stamp duty.
23. On 9th June 2008 Scottish Widows wrote to A enquiring as to the position. Thereafter stamp duty was paid and an application made to the Land Registry on 30th June 2008. On 1st July 2008 a requisition was raised by the Land Registry requesting either a DS1 or an END in relation to the Bank of Scotland charges and a CN1 regarding the removal of an equitable charge dated 12th March 2008. Attempts were made by A to obtain the necessary documents from Global Lawyer LLP over the following months. In September Global Lawyer LLP forwarded to A a copy court order which appeared to set aside a final charging order dated 1st May 2008 and related to commission on a property at 15 Omega Court. The First Respondent was the Defendant to those proceedings.
24. The matter remained unresolved and on 27th July 2009 A informed Global Lawyer LLP that they would report the breach of undertaking to The Law Society. A copy of the register of title as at 22nd September 2009 did not show an equitable charge registered against the property. On 5th March 2010 Global Lawyer LLP wrote to A indicating that the matter would be concluded imminently, “as per our undertaking”. A further ultimatum was given by A by letter of 12th March 2010 to which Global Lawyer LLP replied on 15th March 2010. On 29th March 2010 Global Lawyer LLP stated that they were in the process of drafting DS1.
25. The caseworker at the SRA wrote to the Respondents requesting an explanation on 13th May 2010. Letters in response were received from the First Respondent dated 25th May and the Second Respondent dated 26th May 2010 together with enclosures,

which included a copy of counsel's opinion dated 31st October 2008. It appeared that the First Respondent became aware of a caution registered against the title 15 Loxley House on the day of completion of the sale to the Second Respondent. In addition it was suggested that because of the caution the firm felt unable to comply with its undertaking to discharge the two mortgages to the Bank of Scotland.

26. The Respondents also enclosed a copy of the client ledger in relation to the sale of 15 Loxley House from which it appeared that the Second Respondent was both the supervising partner and the fee earner in relation to the transaction at Global Lawyer LLP, acting for the Vendor, the First Respondent. From the ledger it could be seen that on completion on 14th March 2008 £180,000 was received into client account. On 17th March 2008 the sum of £45,365.08 was paid to "Head Master Investments" and the sum of £113,036.18 was paid to the First Respondent leaving a balance (after deduction of some small bank charges) of £21,574.74 which sum was transferred to office account on 9th May 2008 leaving a nil balance on client account.
27. The Tribunal reviewed all of the documents submitted by both parties which included:-
- (a) The Rule 5 statement dated 4th November 2009 with accompanying bundle.
 - (b) The supplementary Rule 7 statement dated 18th June 2010 with accompanying bundle.
 - (c) The opening submissions of the Applicant dated 28th July 2010.
 - (d) A chronology prepared by the Applicant.
 - (e) An official copy of the register of title of Flat 28 Omega Court showing the entries on the register on 28th July 2010.
 - (f) An official copy of the register of title of Flat 15 Loxley House showing the entries on the register of title on 9th July 2010.
 - (g) The witness statement of the First Respondent Adekunle Fagbenle dated 22nd July 2010.
 - (h) The witness statement of the Second Respondent Elizabeth Volney dated 22nd July 2010 together with 21 exhibits.

Witnesses

28. The following persons gave oral evidence:-

The First Respondent Adekunle Fagbenle and the Second Respondent Elizabeth Volney.

Findings as to Fact and Law

Allegation 1 – breach of the Solicitors Account Rules 1998.

29. This allegation related to breaches of the SAR discovered by the IO during his inspection during August 2008. The Respondents both said that most of the issues raised in the forensic report had already been corrected prior to the investigation or the arrival of the IO at the practice. Furthermore there was no repetition of these issues in the conduct of the practice and they were clearly isolated incidents. The firm had invested in a highly sophisticated and expensive accounting system recommended by The Law Society. The system however did not strictly function in full compliance with the SARs as promoted and endorsed by the manufacturers and The Law Society, and as such the firm unwittingly breached some of the accounts rules. The purchase of such an accounting system was a clear statement of intention that they wanted to comply with the accounting rules. They had since reverted to the use of Excel spreadsheets for all accounting and reconciliations. It was regrettable when the investigator requested the firm was unable to provide the hand written ledgers which pre-dated the accounting system. It appeared that those particular earlier hand written ledgers must have been misplaced.
30. The Respondents both admitted this allegation and the Tribunal found it to have been substantiated on the facts.

Allegation 2 – that they acted in breach of Rule 9.02 of the Solicitors Code of Conduct 2007.

31. This allegation related to the firm entering into a number of agreements with introducers for the referral of conveyancing work for which the firm paid a fee of either £50 or £60. These agreements did not require the introducer to comply with Rule 9 and they did not contain an undertaking by the introducer or require the introducer to give the client all relevant information. The Respondents told the Tribunal that once the textual omissions were pointed out by the IO the firm had immediately made the requisite corrections. The omission was not made with any malice or intentional disregard of the Rules and was only used with 5 individuals which amounted to less than 20% of their business. Since the beginning of 2010 Global Lawyer LLP had not engaged in any referral arrangements and no longer had any relationship with those referrers or indeed any other referrers.
32. The Respondents both admitted this allegation and the Tribunal found it to have been substantiated on the facts.

Allegations 3 – failure to fulfil an undertaking given on or about 13th October 2008 relating to 28 Omega Court in breach of Rule 10.05 (1) (b) of the SCC

33. In the Applicant's submission there was evidence to show that a contract had been entered into for the sale of Omega Court by the First Respondent to the Second Respondent at a purchase price of £218,000. The valuation report showed that the property was valued at £218,000 and the contract showed that £30,000 had already been received directly by the seller from the buyer. There was also a note dated 13th

October 2008 from the First Respondent at page 21 of the exhibits to the Rule 7 statement which confirmed that the purchase price was £218,000. Whilst it was the Respondents' contention that there had been no breach of undertaking with regard to the Northern Rock mortgage since the transaction had been unwound due to a misunderstanding concerning the purchase price, it was clear from the evidence that in fact no mistake had been made. The position was that Northern Rock still had a charge over 28 Omega Court and that RBS, who had provided the mortgage advance for the purchase by the Second Respondent, had not been repaid until March of 2009, the monies having been kept for four months with no security.

34. The Respondents told the Tribunal that the need for the undertaking no longer existed as 28 Omega Court remained in the ownership of the First Respondent. The First Respondent said that there had been a misunderstanding over the sale price of the Property and the transaction had taken place in his absence abroad. In particular it was not his signature on the note dated 13th October 2008 which confirmed the purchase price of £218,000 and he had signed the transfer form when the price had been blank. He had decided not to go ahead once he had realised the mistake over the price as he needed to get £280,000 for the property, and he had returned the deposit monies to the Second Respondent over a period of time. On the basis of the rescission of the contract he felt that his obligation to A Solicitors had been fulfilled. The Second Respondent agreed that she had signed the letter confirming the price in the First Respondent's name and had prepared the letter confirming the purchase price. Whilst she and the First Respondent had subsequently married they were not living together at that stage.
35. The Respondents both denied this allegation but the Tribunal found it to have been substantiated on the facts.

Allegation 4 – that the Respondents were parties to a conveyancing transaction namely the sale and purchase of 28 Omega Court, which bore the hallmarks of a fraud against the lender the Royal Bank of Scotland in breach of Rules 1.02 and 1.06 of SCC.

36. It was the Applicants contention that as a result of the Applicants completing the transaction on 28 Omega Court and subsequently "rescinding" it the First Respondent had the use of the monies raised by way of mortgage by the Second Respondent, totalling £188,000, for a period of approximately 4 months during which period the underlying transaction was not registered and that this bore the hallmarks of fraud against the lender.
37. The Respondents told the Tribunal that there had been no intent to defraud but this had been a case of mistake. The overriding objective had been to ensure that interest was paid to the lender. The Second Respondent had said in her statement that she failed to understand how she could have acted in a fraudulent manner when she paid the required Stamp Duty, made mortgage payments as requested and fully redeemed the balance on that mortgage not cheating anyone in the process. She had sought advice from her solicitors every step of the way and as they were unsure as to what to do she had subsequently contacted the Land Registry and The Law Society for advice. In response to questioning, the First Respondent told the

Tribunal that he didn't know whether paying interest in the case was cheaper than borrowing unsecured funds.

38. Both of the Respondents denied this allegation which was found to be substantiated on the facts by the Tribunal.

Allegation 5 – they failed to fulfil an undertaking, given on or about 10th March 2008 to discharge to existing charges registered against the property 15 Loxley House in breach of Rules 10.05 (1) (B) and 10.05 (2) of the SCC.

Allegation 6 – by failing to redeem outstanding charges on the sale of 15 Loxley House they breached Rule 1.02 and 1.06 of SCC.

39. This matter involved the purchase of a property by the Second Respondent from the First Respondent who was represented by Global Lawyer LLP. In the Applicant's submission an undertaking had been given to redeem two mortgages secured on the property by Global in reply to requisitions. Contracts were exchanged on 22nd January 2008. The deposit was paid direct in two tranches of £10,250 and £9,750 with completion on 14th March 2008. However stamp duty was not paid until June 2008 and the Land Registry raised requisitions in relation to two pre-existing mortgages with the Bank of Scotland and an equitable charge. The Second Respondent appeared to have been the supervising partner of Global Lawyer in relation to the matter and the evidence showed that upon receipt of completion monies, provided by a mortgage taken out by the Second Respondent with Scottish Widows, the firm paid away everything but £21,574.74 and there were therefore no monies available to redeem the Bank of Scotland charges. The funds had been distributed on 17th March 2008 as to £45,365.08 to Head Master Investments, £113,036.18 to the First respondent and £24 in bank charges. Whilst the Respondents would say that matters had been delayed because a judgement had been entered by Your Move which was nothing to do with 15 Loxley House but encumbered it, the Applicant had presented evidence that the equitable charge had been removed on 28th October 2008.
40. The First Respondent told the Tribunal that on the day of completion he had heard about the equitable charge against the property. Whilst he had not been in the country on that date he had spoken with the Second Respondent and decided that it had to be dealt with. As a result matters had been delayed until 2010 and the funds shown paid to Head Master Investments on the ledger were invested in a "commercial paper" involving a loan to Mega Machines. He had invested the money in his own name knowing he had an obligation to redeem the mortgage but also mindful of the fact that interest needed to be paid to the mortgagee. His sole focus at that stage had been to pay the interest and although the Applicant had said the equitable charge was removed on 28th October 2008 he was unaware of that, and as far as he was concerned the matters had been finalised very recently. One of the two mortgages to the Bank of Scotland had not been repaid due to his need to liquidate the commercial paper. He admitted that he had held on to the mortgage funds from Scottish Widows which were unsecured for a period of 2 years.
41. The Second Respondent told the Tribunal that one of the Bank of Scotland charges

had been redeemed in March 2010 and that the delay with the other charge was due to the existence of the dispute over the equitable charge with Your Move. Advice had been taken from counsel that the correct course of action was that matters surrounding the equitable charge be brought to a speedy conclusion before dealing with the undertakings. Such advice was before the Tribunal.

42. The Respondents had made partial admissions to this allegation in so far as the undertaking in respect of one charge had been fulfilled.
43. The Tribunal found the allegation to have been substantiated in total. It was clear from the evidence provided that the first charge on the property had not been discharged until March of 2010 and the second charge still remained upon the property according to the Land Registry entries provided by the Applicant. It was clear that in the interim the First Respondent had used the mortgage monies advanced by the Scottish Widows Bank Plc for his own purposes in buying “commercial paper” relating to Mega Machines.

Dishonesty or recklessness in relation to allegations 3 – 6

44. The Applicant referred the Tribunal to the cases of Twinsectra Ltd –v– Yardley & Others [2002] UKHL 12 and Bultitude –v– The Law Society [2004] EWCA civ 1853. Both of the Respondents denied dishonesty or recklessness in relation to the two conveyancing transactions and told the Tribunal that they relied on the points already made in relation to the transactions. In the Omega Court case there had been no breach of undertaking as the transaction had been reversed and in the Loxley House transaction they had been in a very difficult position given counsel’s advice. Whilst the Loxley House matter remained unsettled the mortgages had been paid and it was hoped to sort the matter out once the situation with the equitable charge had been rectified. Efforts had been made to correct all mistakes and any breach of the Rules had been done unknowingly.
45. The Tribunal had given careful consideration to all of the evidence surrounding this part of the allegation as well as the submissions of both the Applicant and the Respondents. However the Tribunal found that in all the circumstances of these two conveyancing cases the conduct of both of the Respondents conduct was dishonest by the standards of reasonable and honest people and the Tribunal was satisfied so that it was sure that the Respondents did not have an honest belief that they were entitled to act in such a way and therefore knew that what they were doing was dishonest by those same standards. Therefore the twin test laid out in the case of Twinsectra was satisfied and the Tribunal found that both of the Respondents had acted dishonestly.

Allegation 7 – that the Second Respondent acted in breach of Rule 3.01 of the SCC.

46. The allegation concerned the Second Respondent acting where there was a conflict of interest. In the Applicant’s submission the Second Respondent was both the purchaser and the supervising solicitor acting for the vendor in the two conveyancing cases.

47. This allegation was denied by the Second Respondent. In her submission she had acted in full compliance with the Conflict of Interest Rules and referred to pages of the Applicant's bundle which clearly indicated that she was not in control of the conveyancing matters. She also said that in their case management and accounting systems a supervisor was required to sign into the system for all caseworkers that were being supervised. It was for that reason that her name or initials would appear in all files and ledgers. It was also clear to the solicitors acting for her in the purchases that she was the supervisor of Global Lawyer LLP and no objections had been raised.
48. The Respondent denied this allegation but the Tribunal found it to have been substantiated on the evidence and facts presented to it. It was clear from the evidence provided that the Second Respondent was at best supervising a conveyancing matter for a vendor when she herself was the purchaser. This constituted a clear conflict of interest.

Mitigation

49. No specific mitigation was offered by either of the Respondents who referred the Tribunal to their previous evidence.

Costs Application

50. The Applicant requested fixed costs in the sum of £28,756.73 in relation to both Respondents.

Previous Disciplinary Sanctions before the Tribunal

51. None.

Sanction and Reasons

52. The Tribunal having found dishonesty against both Respondents and having found all of the allegations against both of the Respondents proved, decided that the appropriate sanction would be to remove the name of the First Respondent from the Register of Foreign Lawyers and to Strike off the Second Respondent. The Applicant also asked that a Section 43 Order be made against the First Respondent in order to correct a lacuna in Section 41 in relation to Registered Foreign Lawyers. The Tribunal also made the Order under Section 43.

Decision as to Costs

53. Since neither of the Respondents had made any representations as to their ability to pay costs the Tribunal would Order costs in the full amount requested by the Applicant of £28,756.73.

Orders

54. The Tribunal ORDER that as from 29th July 2010:-

That Adekunle Fagbenle be removed from the Register of Foreign Lawyers and that:-

- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor;
- (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice;
- (iii) no recognised body shall employ or remunerate;
- (iv) no manager or employee of a recognised body shall employ or remunerate in connection with the business of that body ADEKUNLE FAGBENLE who is or was employed or remunerated by Global Lawyer LLP of 58 Acacia Road, London NW8 6AG, except in accordance with Law Society permission.
- (v) no recognised body or manager or employee of such body shall, except in accordance with Law Society permission, permit ADEKUNLE FAGBENLE to be a manager of the body;
- (vi) no recognised body or manager or employee of such a body shall, except in accordance with Law Society permission permit ADEKUNLE FAGBENLE to have an interest in the body and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £28,756.73, such liability to be joint and several with the Second named Respondent.

55. The Tribunal ORDER that the respondent, ELIZABETH FRANCISCA VOLNEY of Global Lawyer LLP, 58 Acacia Road, London, NW8 6AG, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £28,756.73, liability to be joint and several with the First Respondent.

Dated this 29th day of September 2010
on behalf of the Tribunal

A G Gibson
In the Chair