No. 10497-2010

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF ENDY OKOYE, solicitor (First Respondent),
and DAVID LARYEA, solicitor (Second Respondent)

Upon the application of Margaret Bromley
on behalf of the Solicitors Regulation Authority

Mr. L. N. Gilford (in the chair)
Ms A. Banks
Mrs L. Barnett

Date of Hearing: 18th January 2011

FINDINGS & DECISION

Appearances

The Applicant, Margaret Bromley, solicitor, of Bevan Brittan LLP, Kings Orchard, 1 Queen Street, Bristol, BS2 0HQ, appeared on behalf of the Solicitors Regulation Authority ("SRA").

Neither Respondent attended, nor were they represented.

The application and Rule 5 Statement were made on 31 March 2010. In addition, there were two Rule 7 Statements, both of which made fresh allegations, made on 26 July and 30 November 2010.

Preliminary Matter

The Tribunal considered whether to proceed in the absence of both Respondents.

So far as the First Respondent was concerned, it was noted that he had played no active role in these proceedings. Indeed, in the course of hearings on 5 May and 9 September 2010, different divisions of the Tribunal had considered the issue of service of the proceedings on the First Respondent. On 5 May 2010 it had been directed that there be substituted service on the First Respondent by way of advertisement in the Law Society's Gazette. The Applicant

was also required to ensure a copy of the advertisement was sent to the First Respondent's last known email address. At the hearing on 9 September 2010 it had been directed that a hearing which had been fixed for 5 October should be adjourned and relisted and the new date should be re-advertised to the First Respondent in the Law Society's Gazette.

The Applicant did not have an up to date and effective address for the First Respondent. By the time the proceedings had been issued the First Respondent's practice had closed, and he did not hold a practising certificate.

The Applicant had placed advertisements in the Law Society Gazette on 19 August 2010 (at which point the substantive hearing had been listed for 5 October), and again on 21 October giving the present hearing date. In addition, the Applicant informed the Tribunal that she had emailed various letters to the First Respondent at the email address available for him, but had received no response. Those letters included service of notices to admit, sent on 20 June and 15 December 2010.

So far as the Second Respondent was concerned, it was clear that he had been served with the Rule 5 Statement and the second Rule 7 Statement. Indeed, the Second Respondent had sent to the Tribunal on 14 January 2011 his statements and submissions referring to both of those documents. The statement submitted did not, however, deal with the first supplemental statement.

The Applicant informed the Tribunal that at the hearing on 9 September 2010 the Second Respondent had been represented by Counsel, to whom a copy of the first supplemental statement had been given.

It was noted that the Second Respondent had signed to acknowledge receipt of various documents, which included the letter in July 2010 serving the first supplemental statement. The Second Respondent had been served with notices to admit on 20 June and 15 December 2010.

It was clear from the Second Respondent's letter of 14 January 2010, which referred to the hearing date, that he was aware of the proceedings and the hearing. His letter stated that he would not be able to attend the hearing and had been unable to instruct someone to represent him at the hearing.

The Applicant submitted that the Second Respondent had not applied for an adjournment and appeared to be agreeing that the matter could proceed in his absence, on the basis of the admissions made in his statements. The public interest should be served by considering the matter today and dealing with it. It was noted that the Rule 5 Statement dealt with matters going back to 2007 and before, and further delay was not desirable.

The Tribunal was content that service had been effected on both of the Respondents. So far as the First Respondent was concerned, the Applicant had done all that could be done to draw these proceedings to his attention. This being the case, the Tribunal was content to proceed with the substantive hearing.

Allegations

In the Rule 5 Statement made on 31 March 2010 the allegations made against the First and Second Respondents were that:

1. They failed to keep books of account properly written up contrary to Rule 32 of the Solicitors Accounts Rules 1998 ("SARs");

2. They failed to transfer money from client to office account in respect of fees, VAT and disbursements within 14 days of the bill being delivered, in breach of Rule 19(1)(c) of the SARs;

3. They transferred money from the client to office account other than in accordance with Rule 22 of the SARs;

4. They withdrew money from the general client account in relation to particular clients in excess of the amount held on behalf of the particular client in breach of rule 22(5) of the SARs.

5. Contrary to Rule 15(3) of the SARs, they failed to return client money promptly, as soon as there was no longer any reason to retain it;

6. They acted contrary to Rule 1.02 and 1.06 of the Solicitors Code of Conduct 2007 ("the Code") in that they submitted a bill of costs to the Crown Court for a sum in excess of that which they were entitled to claim from their client;

7. Contrary to the Solicitors Practice Rules 1990 ("SPRs") Rule 1(a), (c) and (d), and after 1 July 2007 rule 1.02, 1.04 and 1.06 of the Code, they charged clients as a disbursement;

    7.1 telegraphic transfer fees in excess of the sums charged to their firm by the banks for such fees; and

    7.2 arbitrary sums for "Telephone calls and copying" and "postage" without proper justification as to how such costs could have actually been incurred.;

    7.3 arbitrary sums for indemnity insurance contributions without proper justification as to how such costs could have actually been incurred.

8. Contrary to Rule 1(c) of the SPRs and/or Rule 6(3) of the SPRs and, in respect of matters occurring after July 2007, contrary to Rule 1.04 and/or Rule 3.16-3.22 of the Code, they failed to disclose material facts to mortgagee clients.

In the first Rule 7 Statement, made on 26 July 2010, the additional allegations made against the First and Second Respondents were that:

9. They failed to comply within the time specified with the Directions of an Adjudicator made on 21 December 2009.

10. They failed to reply promptly or substantively to correspondence from the SRA and the Legal Complaints Service ("LCS") in breach of Rule 20.05 of the Code.

In the second Rule 7 Statement, made on 30 November 2010, the further allegation against the Second Respondent alone was that:

11. In breach of Rule 1 of the Code he had failed to behave with integrity and he had behaved in a way that was likely to diminish the trust the public placed in him or the profession in that in a proposal for an IVA dated 15 February 2010 he held himself out as a practising solicitor when he did not have a Practising Certificate.

Factual Background

1. The First Respondent was born in 1967 and was admitted as a solicitor in 2000. His name remained on the Roll of Solicitors. The Second Respondent was born in 1969 and was admitted as a solicitor in 2000 and his name remained on the Roll of Solicitors.

2. At all material times the Respondents practised in partnership under the style of Marshall & Mason Solicitors at Suite 5, 63 Broadway, Stratford, London E15 3BQ. The firm was intervened into on 23 October 2009 and the Respondents were not currently practising and did not have practising certificates.

3. On 17 March 2008 an inspection of the books of account and other records of Marshall & Mason was commenced by a Forensic Investigation Officer ("FIO"), of the SRA. The FIO's report is dated 9 July 2009 and was relied on by the Applicant.

4. On 30 October 2008 the accountant's report for the Respondents' firm for the period 1 May 2007 to 30 April 2008 was submitted to the SRA. The reporting accountant qualified the report as there were debit balances throughout the period which were not rectified by the end of the audit and matters had been completed without money from the lenders, thus using other clients' monies to complete (in relation to conveyancing matters).

Findings as to Fact and Law

5. The First Respondent had made no formal admissions or denials in response to the allegations against him. The Second Respondent had made some admissions in the documents recently submitted to the Tribunal, but in so far as these concern breaches of the Solicitors Accounts Rules ("SAR") in relation to conveyancing matters, the Second Respondent accepted liability as a partner in the firm rather than as the person carrying out the transactions in issue.

<u>Allegation 1</u>

6. This allegation was admitted by the Second Respondent in a letter to the Tribunal dated 14 January 2011, in which he also referred to a letter from Marshall & Mason to the SRA, emailed on 10 February 2009 (from the First Respondent's email address) in which it was acknowledged that the firm's books of accounts were not maintained or as regularly maintained as they ought to have been and that they may not necessarily

have been in compliance with the SAR. The Tribunal could take it, therefore, that there was in effect an admission by both Respondents.

7. In any event, the Tribunal was satisfied so that it was sure that the findings of the FIO's Report in this regard were correct. Amongst other matters the FIO had found that as at the date of inspection in March 2008 that a client account reconciliation for the month ending to 30 January 2008 showed debit balances on six separate client account ledgers totalling over £15,000. A client bank reconciliation dated 30 March 2008 also showed debit balances, in this case totalling almost £25,000. The FIO had not seen evidence on the ledgers, cheque book stubs, paying-in books and the like of chits and notes to explain the movement of funds. The firm's central file of ledgers did not contain ledgers relating to matters dealt with by the Second Respondent. The FIO had established that the current balances on some matters could not be relied upon as the ledgers did not record all payments in and out of the client account, a number of examples of this being recorded in his report. The ledgers also did not contain costs entries where costs were charged, and again the Tribunal noted several examples of this. There had been delays in posting entries to the ledgers with examples being given showing delays of between six weeks and four months. There were instances where an item had been posted but incorrectly labelled. In one instance a payment of £281.21 was posted on 21 July 2008, approximately nine months after it was received.

8. As at 16 May 2008 no ledgers showed any money going into or out of client account for the month of April 2008. However, the bank statements for that period showed a total of over £5.5 million was paid into client account and £5.665 million was transferred out of client account during that month. In a number of instances there were discrepancies between what was shown on the bill and what was entered on the ledger, with the amounts in question varying from £8.75 to £1,726.25.

9. The Tribunal was satisfied that the breach of Rule 32 of SAR had been established and, indeed, there were wide ranging examples of the Respondents' failure to keep the books of account properly written up.

Allegation 2

10. The Respondents had on numerous occasions failed to transfer the full amount for fees, VAT and disbursements from client account to office account when a bill was rendered. Of 130 ledgers reviewed by the FIO, there were 56 occasions where the Respondents had failed to transfer costs promptly and in accordance with Rule 19(1)(c) of SAR. It appeared that the Respondents arranged for the transfer of the amount billed for fees, but not the amount billed for VAT and disbursements. By way of example only, the Tribunal noted that in the matter of RL, costs were billed on 3 October 2007 in the sum of £948 inclusive of fees, VAT and disbursements. On 10 October 2007 £780 was transferred from client to office account in respect of the firm's fees. A further £154 was transferred on 21 December 2007 leaving a balance outstanding of £168 whilst the sum of £168 remained in client account.

11. The Respondents had made substantial admissions concerning the operation of their client account, and in any event the Tribunal was satisfied that this allegation had been proved.

Allegation 3

12. The Tribunal noted that the FIO's Report dealt with six matters where transfers from client account to office accounts were made other than in accordance with Rule 22. In matters including those of SPO and EI, over transfers had been made. This allegation was therefore proved.

Allegation 4

13. The Tribunal was satisfied that in a number of conveyancing matters, four of which were set out in the Rule 5 Statement and FIO's Report, the Respondents had permitted client account to become overdrawn, such that at the date completion was due, there were not sufficient funds available on the relevant client account and funds were, in effect, "borrowed" from other clients. The Respondents accepted that transfers had been made in error. The explanation offered by the Respondents was that the First Respondent had, for example, overlooked the return of mortgage funds to the lender and had gone on to complete a purchase without mortgage funds being available. By way of further example, in the matter of WB concerning a mortgage, the ledger became overdrawn on 28 April 2008 by a total of £246,106.50 when five payments were made from client account including redemption monies totalling £193,157.99, a payment to the client of £19,736.32 and payment of the Respondent's costs of £1,330.00. The ledger became overdrawn by a further £259.50 when three further payments were made from client account on 29 April, 7 May and 23 May 2008. The funds were replaced seven weeks later, on 20 June 2008, when the mortgage advance was received into client account. The failure to maintain the clients' ledger accounts had contributed to this breach.

Allegation 5

14. The Respondents had largely admitted this allegation in that they had not investigated ledger accounts where residual funds were held. The FIO's Report identified 98 ledgers where funds were still held on client account where the matter had concluded months or years previously. The most significant example was that of a client LC, for whom £2,533.60 had been held on client account as at 22 March 2008, two years and one month after completion.

Allegation 6

15. The Second Respondent had acted for Mr M in his successful defence of a criminal prosecution, which had finally been disposed of at the Crown Court. Whilst acting for Mr M the Second Respondent had entered into four fixed fee agreements, the first being on 18 October 2005, the second on 25 October 2005, the third on 25 November 2005 and the final agreement was dated 9 June 2006. These fixed fee agreements set out the work to be covered at each stage and the amount to be charged. The total sum required to be paid by the client, and actually paid, under the four agreements, was £5,700 including VAT on the fourth agreement.

16. Mr M's trial began on 26 March 2007 and he was found not guilty on the first day of the trial when the prosecution offered no evidence. An Order was made for payment

of Mr M's costs from Central Funds. The Second Respondent instructed costs draftsmen to draw up a bill of costs which was submitted on 9 July 2007 in the total sum, on the bill, of £8,509.65. The amount actually awarded by the Court was £8,781.85 due to a discrepancy in the VAT calculation, with the higher amount using the correct VAT calculation. The firm then raised a bill for the balance between the sums paid by the client and the amount awarded by Central Funds.

17. In submitting the bill to the Crown Court, the Second Respondent had signed a declaration, which amongst other things, stated "the costs claimed herein do not exceed the costs which the receiving party is required to pay me/my firm". Further, the Respondents had had no right to claim for the costs draftsman's fees.

18. The Tribunal was satisfied that this allegation had been proved. Moreover, it considered that in misleading the Court's Taxation Officer, the Respondent had failed to fulfil his duties as an Officer of the Court.

Allegation 7

19. On consideration of the FIO's Report and the explanation given by the Respondents in their email of 10 February 2009, the Tribunal found that on a number of files the Respondents had charged as disbursements items which were not true disbursements and/or had charged more than the cost to the firm. The firm was charged £10 by its bank for each telegraphic transfer. The FIO had identified a number of matters in which clients had been billed amounts of £50 or £70 for these transfers. Further, on some bills clients were charged an item described as "contribution to SIF" in the sum of £50 plus VAT. The SIF ceased to provide indemnity insurance to solicitors in 2004 so any reference to a contribution to SIF was misleading. Further, any such contribution to insurance charges should not be a disbursement but is part of the firm's general overheads. On a number of matters the Respondents had charged arbitrary amounts for telephone calls, photocopying, postage and the like, usually put at £30 plus VAT. In their email of 10 February 2009 the Respondents accepted that such an item would be a charge and not a disbursement. The Tribunal was satisfied that in rendering bills in this way, containing misleading and inaccurate information, the Respondents had been in breach of Rule 1(a), (c) and (d) and Rule 15 of the SPR and, from July 2007, of Rule 1 of the Code.

Allegation 8

20. The Tribunal was satisfied that the Respondents had failed to disclose material facts to lender clients in respect of several matters where the conveyancing had been dealt with by the First Respondent. For example, in the matter of Mr M and Mr S, the First Respondent was instructed in July 2007 in relation to the purchase of a flat. The purchase was completed on 20 September 2007 by way of a mortgage advance from an institutional lender, WBBS, of £242,500 with the clients paying the balance of the purchase price of £42,500. Immediately after completion of the purchase Mr M and Mr S instructed the First Respondent in connection with a remortgage. On 30 October 2007 a second institutional lender, BM, made a mortgage advance of £271,965 based on a property valuation of £320,000. The First Respondent did not inform BM that the property had been owned by Mr M and Mr S for less than one month, nor of the increase in value of the property. It is a requirement when acting

for a mortgage lender under the Council of Mortgage Lenders provisions that prospective Mortgagees should be told of any material information, such as the property being owned by the proposed mortgagors for less than six months. The failure to inform mortgage lenders in this, and the other instances provided in the FIO's Report, amounted to a breach of Rule 1(c) of the SPRs and/or Rule 6(3) of the SPRs and, after July 2007, breached rule 1.04 and/or Rule 3.16 to 3.22 of the Code.

Allegation 9

21. On 21 December 2009 an SRA Adjudicator made findings against the Respondents' firm to the effect that the services provided by the solicitors were inadequate in that they failed to deal properly with the apportionment of ground rent and service charges upon completion of Miss Y's purchase of her property and they failed to give notice, or proper notice, of the assignment of the lease to the freeholder and the management company. The Adjudicator directed that the Respondents should pay Miss Y the sum of £1,017.54 in compensation and must carry out that direction within seven days of the date of the letter enclosing the decision. The decision letter was sent on 23 December 2009 but payment had not been made to date.

22. The Tribunal was satisfied that the Respondents had failed to make payment within the time specified by the Adjudicator and that it would be appropriate for the Adjudicator's Order to be treated for purposes of enforcement as an Order of the High Court.

Allegation 10

23. This allegation, which was also proved, arose from the Respondent's dealings in respect of the same complaint by Miss Y. The LCS had sent letters to the Respondents on 23 December 2009, 7 January and 19 January 2010. The Respondents had also been sent a letter from the SRA dated 17 March 2010. They had failed to reply to either letter.

24. The Tribunal noted that the letters had been sent to the last known address of the First Respondent and to the current address of the Second Respondent. The Tribunal also noted that the letter to the First Respondent of 17 March 2010 had also been forwarded by email. In the circumstances, the Tribunal was satisfied that the Respondents had been sent the letters and had failed to reply to them, and were thereby in breach of Rule 20.05 of the Code.

Allegation 11

25. This allegation, which was made against the Second Respondent only, was found to be proved. The Tribunal took into account both what was said in the Rule 7 Statement of 30 November 2010 and appended documents and documents submitted to the Tribunal by the Second Respondent under cover of a letter of 14 January 2011.

26. The Tribunal was satisfied that the firm of Marshall & Mason was intervened in by the SRA on 23 October 2009. As a result of the intervention, the practising certificates of the partners in that firm were automatically suspended, pursuant to Section 15(1)(a) Solicitors Act 1974. On 28 October 2009 the SRA wrote to the

Second Respondent confirming the suspension of his practising certificate and notifying him that he would need to complete the application form REG3 when he next applied for a practising certificate.

27. On 15 February 2010 the Second Respondent completed a proposal for an Individual Voluntary Arrangement ("IVA"), a document submitted to the Court. That document, which had been signed by the Second Respondent, contained a Declaration of Truth. On several occasions in the document the Second Respondent had made statements from which it appeared that he was a practising solicitor. The allegation had not been put on the basis that the Second Respondent had practised as a solicitor when he did not have a practising certificate, simply that he had held himself out as a practising solicitor.

28. The Tribunal noted the statements in the IVA proposal which included: "I have set up my own practice working as a sole practitioner...."; "I wish to continue my self-employment as a solicitor"; "....these are all required to enable me to continue practising as a solicitor"; and "I expect that during the course of my IVA I will continue my self-employment as a solicitor....".

29. In the documents submitted to the Tribunal, the Second Respondent had sought to argue that he had ceased to be a partner in the firm of Marshall & Mason prior to the intervention and therefore that his practising certificate should not have been suspended and he should have been entitled to continue practising. The Second Respondent had produced to the Tribunal three copy letters, all apparently dated 5 October 2009, on the headed notepaper of Marshall & Mason solicitors. One letter was addressed to the SRA, one to the Law Society and the third was to the First Respondent. Each letter purported to confirm the Second Respondent's resignation as a partner in Marshall & Mason. There was no evidence that these letters had been received by the SRA and/or Law Society. The Tribunal had significant concerns about the veracity of those letters. The Second Respondent was not here to give evidence about whether they had been sent and no Civil Evidence Act notice or Notice to Admit had been served. No evidence had been provided concerning those letters being sent or received. The Tribunal also noted with concern that in a letter to the SRA dated 9 October 2009, i.e. only four days after the purported letters had been written, the Second Respondent had stated at paragraph 5.6: "More significantly, Mr Okoye and I are considering the possibility of closing our firm by the end of this month". Further, in a letter of 16 October 2009 from the Second Respondent to the SRA, at paragraph 10 it was stated, "Going forwards, there is a realistic possibility (subject to agreement at the forthcoming partners' meeting) that the firm may be closed and the partnership terminated."

30. The Tribunal found it incredible that the Second Respondent would have written in those terms had he in fact resigned from the partnership on 5 October 2009, ie before the intervention took place.

31. Further, a copy letter produced by the Second Respondent dated 1 November 2009 to the SRA had not been traced by the SRA. This purported letter inaccurately referred to a letter of 26 October when the correct date of the letter from the SRA was 28 October. That letter, after referring to the purported letters of 5 October 2009, concludes, "I..... wait to hear from you on this matter". However, there was no

response by the SRA, the letter having not been received by them, nor was there any "follow-up" by the Second Respondent.

32. In all of the circumstances the Tribunal was satisfied that the Second Respondent's practising certificate had been suspended on 23 October 2009 and he had been aware of that. The IVA proposal, made in February 2010, was therefore inaccurate and misleading in so far as it gave the impression that the Second Respondent was a practising solicitor. The Second Respondent's last practising certificate covered the year 2008/2009. The Second Respondent had produced one page of a REG3 form, headed for the practising year 2008/2009, in which it appeared the Second Respondent was giving notice of intention to apply for a practising certificate to commence on 1 April 2010. In any event, the Tribunal was satisfied that the Respondent did not hold a practising certificate at the time of the IVA proposal. In presenting misleading statements in a Court document the Second Respondent was clearly in breach of Rule 1 of the Code in that he had failed to behave with integrity and he had behaved in a way that was likely to diminish the trust the public placed in him or the profession.

Mitigation

33. No mitigation was presented on behalf of the First Respondent, but the Tribunal had available and considered all of the documents appended to the Rule 5 Statement, which included some correspondence from the First Respondent.

34. The Tribunal noted the Second Respondent's contention that he had not been involved in the conveyancing transactions which had led to breaches of SAR. The Tribunal also noted the explanations of the breaches which had occurred, given in the Second Respondent's letter to the SRA of 16 October 2009 and the letter of 8 February 2009 to the SRA. The Tribunal further noted the comments and explanations contained in the Second Respondent's documents submitted to the Tribunal on 14 January 2011.

Costs Application

35. The Applicant applied for the costs of the proceedings and enquiry in the sum of £60,171.27.

36. It was suggested that the costs of the advertisement in the Law Society Gazette of the proceedings should be attributable to the First Respondent only.

37. Nothing was known about the First Respondent's financial circumstances. It was known that the Second Respondent was subject to an IVA, based on the information the Second Respondent had given to the Court in February 2010. The Applicant understood that the Second Respondent may be in breach of the terms of the IVA, which may therefore not continue.

38. The Applicant submitted that the costs were high in this instance as it had been a complicated case, giving rise to lots of issues covered in the FIO's Report. There had been other matters dealt with in the investigation which had been redacted or not pursued. Given the state of the Respondent's accounting records, the investigation had taken a long time in order to establish what the position was. The Respondents

had also asked for questions to be put in writing, rather than holding a meeting to discuss certain issues, and they had responded in writing.

Previous Disciplinary Sanctions before the Tribunal

39. None.

Sanction and Reasons

40. Both Respondents were responsible for the breaches of the SAR which had been found, as both were partners in the firm at all relevant times. It may be that with regard to the conveyancing matters the First Respondent was more culpable than the Second Respondent. However, both partners had a clear responsibility to maintain the books of account properly, treat client money carefully and in accordance with the SAR and to ensure matters were properly billed and paid promptly, where the funds were available in client account.

41. The breaches of the SAR were themselves very serious and widespread. It had not been alleged that the Respondents had been dishonest with regard to the maintenance of the accounts. However, the accounts had been significantly mismanaged. The Respondents had failed to exercise the necessary stewardship of client money. They appeared not to have understood many of their responsibilities under the SAR, eg in carrying out transfers of costs from client account in "chunks" rather than as a whole. There had been numerous disparities between the costs recorded in the bill and the postings to office ledger. Money had been withdrawn from client account in excess of the sums held. There had been no satisfactory explanation for the numerous and repeated breaches of SAR.

42. Those breaches alone could well have led to the most severe sanction.

43. In addition, the Tribunal was very concerned about the Second Respondent's role in overcharging in the matter of Mr M. In submitting to the Court's Taxing Officer a bill which he knew to be in excess of the sum his client was liable to pay to him, the Second Respondent had misled the Court. As Officers of the Court, the Respondents were both responsible for a serious breach of Rule 1.02 and Rule 1.06 of the Code, although in this instance the Second Respondent was probably more directly culpable.

44. In failing to disclose material facts to mortgagee clients, on several occasions, the Respondents were further in breach of the professional standards expected of solicitors.

45. The failure to comply with the Adjudicator's Decision and to co-operate with the SRA were further significant breaches of the standards expected of solicitors.

46. With regard to the Second Respondent's statement to the Court in order to obtain an IVA, the Tribunal considered the Second Respondent had been misleading. It was very concerned that the Second Respondent had produced to the Tribunal some documents which, in the absence of evidence from the Second Respondent, did not appear to be genuine.

47. Although direct culpability for certain of the breaches could be thought to lie with one or other of the former partners in the firm, nevertheless both were responsible as partners for the breaches which had occurred. The Second Respondent alone was responsible for the breach of Rule 1 of the Code in relation to his IVA proposal.

48. The SAR and SPR/Code breaches were so serious, so widespread and continued over such a significant period that the only appropriate sanction the Tribunal could apply in this case was to strike off both Respondents.

Decision as to Costs

49. The Tribunal had been provided with some limited information concerning the Second Respondent's means, i.e. that he was subject to an IVA. It had no information concerning the First Respondent's means. There was therefore no reason not to make a costs order against the First Respondent which should be payable immediately. The Tribunal considered it appropriate to make a costs award against the Second Respondent. It would be for the SRA to determine whether and how such order could be enforced.

50. The Tribunal was concerned at the level of costs sought by the Applicant, particularly with regard to the costs of the forensic investigation. A significant amount of time appeared to have been spent by more than one Investigation Officer. Some of the expenses, in particular car hire, accommodation and meals, seemed excessive, and were not properly explained. Overall, the Tribunal was concerned that the investigation costs were excessive, as it appeared more time had been spent than needed, by more staff than usual, and some of the expenses were unclear. Overall, the Tribunal considered it appropriate to order costs in the total sum of £40,000, of which £21,000 should be apportioned to the Applicant and £19,000 for the costs of investigation. In both cases the figures given include VAT and disbursements.

Other

51. The Tribunal considered it appropriate to order that the Adjudicator's Decision of 21 December 2009 should be enforced as an Order of the High Court.

Orders

52. The Tribunal Ordered that the Respondent, Endy Okoye, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he be jointly and severally liable with the Second Respondent to pay the costs of and incidental to this application and enquiry fixed in the sum of £40,000.00.

    The Tribunal further Ordered, pursuant to paragraph 5(2) of Schedule 1A of the Solicitors Act 1974, that the Direction of the Adjudicator dated 21st December 2009 be treated for the purposes of enforcement as if it were contained in an Order of the High Court.

53. The Tribunal Ordered that the Respondent, David Laryea, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he be jointly and severally liable with the

First Respondent to pay the costs of and incidental to this application and enquiry fixed in the sum of £40,000.00.

The Tribunal further Ordered, pursuant to paragraph 5(2) of Schedule 1A of the Solicitors Act 1974, that the Direction of the Adjudicator dated 21st December 2009 be treated for the purposes of enforcement as if it were contained in an Order of the High Court.

Dated this 4th day of March 2011
On behalf of the Tribunal

L. N. Gilford
Chairman