

On 26 October 2012, Mr Sharma appealed against the Tribunal's decision on costs. The appeal was dismissed by Lord Justice Elias and Mr Justice Singh. Sharma v Solicitors Regulation Authority [2012] All ER (D) 289 (Oct)

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10669-2010

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

AMEET KUMAR SHARMA

First Respondent

[RESPONDENT 2]

Second Respondent

[RESPONDENT 3]

Third Respondent

[RESPONDENT 4]

Fourth Respondent

Before:

Ms A Banks (in the chair)

Mr D Potts

Mr M C Baughan

Date of Hearing: 16th June 2011

Appearances

Ms Jayne Willetts, solicitor of Jayne Willetts & Co., Cornwall House, 31 Lionel Street, Birmingham B3 1AP for the Applicant.

Mr James Fletcher of Counsel for the First Respondent, Mr Ameet Kumar Sharma.
Ms Susanna Heley of RadcliffesLeBrasseur, 5 Great College Street, London SW1P 3SJ for the Second and Third Respondents.

The Fourth Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegations made against the Respondents were that:

Against the First Respondent only, Mr Ameet Kumar Sharma

- 1.1 He acted in or otherwise facilitated conveyancing transactions which exhibited the characteristics of mortgage fraud contrary to Rules 1(a) and 1(d) of the Solicitors Practice Rules 1990 ("SPR 1990"). It was alleged he had acted dishonestly.
- 1.2 He made inaccurate representations to lender clients contrary to Rules 1(a), 1(c), 1(d) and 1(e) of the SPR 1990. It was alleged he had acted dishonestly.
- 1.3 He acted where there was a conflict of interests between his clients (Mr T and Mr P) contrary to Rule 16D(2) of the Solicitors' Practice (Conflict) Amendment Rule 2004.

Allegations against all four Respondents

- 1.4 Monies withdrawn from client account for a particular client exceeded the monies held due to a cash shortage of £168,136.01 contrary to Rule 22(5) of the Solicitors Accounts Rules 1998 ("SAR 1998").
- 1.5 Private loans were made from one client to another without the prior written authority of both clients contrary to Rule 30(2) of the SAR 1998.

Allegation against the Second Respondent and the Fourth Respondent only

- 1.6 They failed to deal with the SRA in an open, prompt and co-operative way contrary to Rule 20.05 (1) of the Solicitors Code of Conduct 2007.

By a supplementary statement dated 21 April 2011, further additional allegations made against the First Respondent, Mr Ameet Kumar Sharma only were that:

- 1.7 He acted in or otherwise facilitated conveyancing transactions which exhibited the characteristics of mortgage fraud contrary to Rules 1(a), 1(c) and 1(d) of the SPR 1990 and contrary to Rules 1.02, 1.04 and 1.06 of the Solicitors Code of Conduct 2007 ("SCC 2007"). It was alleged he had acted dishonestly.
- 1.8 He made inaccurate representations to lender clients contrary to Rules 1(a), 1(c), 1(d) and 1(e) of the SPR 1990 and contrary to Rules 1.02, 1.04, 1.05 and 1.06 of the SCC 2007. It was alleged he had acted dishonestly.

The First Respondent, Mr Ameet Kumar Sharma, admitted allegations 1.1, 1.2, 1.3, 1.4, 1.5, 1.7 and 1.8 including the allegation of dishonesty.

The Second Respondent, admitted allegations 1.4, 1.5 and 1.6.

The Third Respondent, admitted allegations 1.4, 1.5 and 1.6.

Documents

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

Applicant

- Application and Rule 5 Statement dated 19 November 2010 together with all enclosures.
- Supplementary statement dated 21 April 2011 together with all enclosures.
- Applicant's Schedule of Costs dated 14 June 2011.

The First Respondent, Mr Ameet Kumar Sharma

- Witness statement of Mr Ameet Kumar Sharma dated 9 June 2011 together with exhibits.
- Email exchange between Mr Sharma and RESPONDENT 2 dated 18 April 2007.
- Income and Expenditure Schedule for Mr Sharma dated 16 June 2011.
- Asset and liability statement for Mr Sharma dated 16 June 2011.

The Second Respondent

- Undated witness statement of RESPONDENT 2 together with attached exhibits.
- Character references for RESPONDENT 2.

The Third Respondent

- Undated witness statement of RESPONDENT 3 together with attached exhibits.
- Character references for RESPONDENT 3.

The Fourth Respondent

- Letter addressed to Jayne Willetts from RESPONDENT 4 received on 31 May 2011 together with attachments.

Factual Background

3. The First Respondent, Mr Ameet Kumar Sharma ("Mr Sharma"), born in 1978, was admitted as a solicitor on 3 November 2003. He did not hold a current practising certificate.
4. The Second Respondent, born in 1966, was admitted as a solicitor on 29 May 2000. She held a current practising certificate.
5. The Third Respondent, born in 1974, was admitted as a solicitor on 3 March 2003. She held a current practising certificate.
6. The Fourth Respondent, born in 1961, was admitted as a solicitor on 1 April 2003. He did not hold a current practising certificate.

7. At the material time, RESPONDENT 2, RESPONDENT 3 and RESPONDENT 4 all practised as members of Sterling Partnership LLP (“Sterling”) of Merchants House, 5 – 7 Southwark Street, London SE1 1RQ. The firm closed on 30 September 2009.
8. Mr Sharma was a Consultant to the firm from 3 October 2006 until 25 July 2007 specialising in conveyancing work. However Sterling indicated that Mr Sharma was employed from July 2006 until 26 April 2007. Mr Sharma was remunerated on a “Consultant’s commission basis i.e. a percentage of the profit revenue he generated”. He was permitted by Sterling to authorise inter-ledger transfers.
9. An inspection was commenced at Sterling on 11 February 2008. As a result a Forensic Investigation Report (“FI Report”) dated 30 October 2009 was prepared.
10. RESPONDENT 3 explained to the Forensic Investigation Officer (“FIO”) that a cash shortage had been identified on client account as at 1 October 2007 of £168,136.01 after an investigation of certain ledger accounts relating to Mr Sharma’s matters. The shortage was replaced by a payment of £168,140 on 6 December 2007.

Allegations 1.1 and 1.2

11. Mr Sharma conducted 165 conveyancing transactions for four principal clients namely Mr P, Mrs P, Mr O and Mr M. Mr P and Mr M were directors and shareholders of a company (“the company”) during the period October 2006 and February 2007.
12. The FIO conducted file reviews on 25 of these transactions and identified that these were “back to back” transactions. The company would negotiate discounts on individual properties with the developer-seller on the basis of multiple purchases. It would then sell on the properties to end buyers at the stated “gross” price (before application of any discount) with the assistance of a mortgage advance. Mr Sharma was normally acting on behalf of the end buyer and lender although in some cases he acted in the middle of the back-to-back and J Solicitors acted for the end buyer.
13. The FIO identified that many of the transactions were not at arm’s length such as where one of the directors of the company was buying from his own company or where third party buyers had their balance to complete funded by one of the directors of the company.
14. The FIO identified evidence of mortgage fraud where Mr Sharma had acted for the middle purchaser/vendor or the end buyer/lender as follows:-
 - Remitting net proceeds of sale to someone other than the seller;
 - Client reselling property at a substantial profit for which there was no evidence of an explanation;
 - Incomplete (undated) contract documentation.

- Exchanged contracts for the purchase of the property in the name of Mr AM when Mr Sharma was acting for Mr F the buyer and his lender GMAC.
 - Misrepresented to the lender that the balance of the purchase price was being provided from the buyer's own resources, and in one case stated this was without recourse to further borrowing.
 - Failed to return mortgage advance to lender within five working days when completion was delayed.
 - Misrepresented to the lender that he was unaware of any discounts or incentives being received by his client.
 - Used mortgage monies received from the client lender for this transaction to fund balances required for completion on other associated transactions.
15. In all of the transactions considered by the FIO the transactions were not at arm's length because Mr Sharma was acting for the company and associated clients all of whom were known to each other.
16. Mr Sharma admitted in his letter dated 14 February 2010 to the SRA that all clients were connected, that he was aware of the nature of the transactions and that he knew what his clients were doing was wrong. He stated that Mr P and Mr M had exerted undue influence upon him to persuade him to act for end buyers and lenders.

Allegations 1.3 – 1.5

17. Mr T, a property developer with a pre-existing relationship with Mr Sharma alleged that Mr Sharma had approached him in January 2007 on behalf of Mr P and associates to request a bridging loan for three weeks. Funds of £675,000 were made available in four tranches. The FIO identified that from the total loan of £675,000, £572,260 was used for the benefit of Mr P and associates. Sterling was holding monies on client account on behalf of Mr T and/or his associated companies.
18. Mr T issued proceedings on 3 August 2007 against Mr Sharma and against Sterling claiming damages for professional negligence. Mr T alleged that he was a client of the firm and that he had agreed to the loan but only on the basis that he provided his specific authority for the loan. The FIO identified that inter ledger transfers had been made from ledgers in the name of Mr T to ledgers in the name of Mr P and his associates. Prior written authority for these private loans had not been obtained from Mr T and/or Mr P. Further Mr Sharma acted for both Mr T and Mr P where there was a conflict of interest between those clients. As a result of the inter-ledger transfer for the company and associated clients, a cash shortage on client account of £168,136.01 arose. Mr Sharma was suspended following the claim by Mr T and subsequently tendered his resignation.

Allegation 1.6

19. The caseworker forwarded a copy of the FI Report to RESPONDENT 2 by letter dated 15 December 2009 and sought her explanation and comments. A copy of the report was sent by email dated 8 January 2010. RESPONDENT 2 replied by email dated 12 January 2010 stating that she was working abroad and would not be able to respond until mid February. She also updated her address details. There was a further exchange of emails with the caseworker on 12 & 15 January 2010 when RESPONDENT 2 confirmed that she was working as a barrister in Nigeria and had been qualified as such for the past 22 years.
20. A further copy of the FI Report was sent to RESPONDENT 2 on 4 February 2010 and a reply sought by 18 February. A reminder was sent on 2 March 2010 requesting a reply by 5 March 2010. There was no response.
21. The caseworker forwarded a copy of the FI Report to RESPONDENT 4 by letter dated 15 December 2009 and sought his explanation and comments. A reminder was sent on 12 January 2010. There was no response.

Allegations 1.7 and 1.8

22. Mr Sharma was employed by Stephen Isaacs Solicitors of Suite 12, Swan Court, 9 Tanner Street, London SE1 3LE as a Consultant from 1 May 2007 to 30 September 2008.
23. An inspection was commenced at Stephen Isaacs Solicitors on 22 April 2008. As a result a Forensic Investigation Report (“the second FI Report”) dated 30 March 2010 was prepared.
24. The Investigation Officer (“IO”) identified that whilst employed at Stephen Isaacs Solicitors Mr Sharma acted in conveyancing transactions for the same group of clients including Mr P, Mrs P and Mr M, for whom he had acted for in conveyancing transactions whilst he was employed as a Consultant with his previous practice, Sterling Partnership LLP.
25. The IO identified Mr Sharma had acted for these clients on at least 45 conveyancing transactions whilst at Stephen Isaacs Solicitors and that these were “back to back” transactions. On 17 of these transactions the company was the middle buyer/party. It would negotiate discounts on individual properties with the developer-seller on the basis of multiple purchases. It would then sell on the properties to end buyers at the stated “gross” price (before application of any discount) with the assistance of a mortgage advance. Mr Sharma acted for the end buyer and for the mortgage lender in all 45 transactions.
26. The IO reviewed 12 of the 45 files and identified characteristics of mortgage fraud such as the mortgage advance being remitted direct to the client; alleged direct deposits; and the balance of purchase monies being paid by the vendor or third party as opposed to the end buyer. He established there was evidence of mortgage fraud as follows:
 - Mortgage advance remitted to third party.

- No documents or explanation on file.
 - Deposit alleged to be paid direct.
 - Payments from mortgage advance made to third party.
 - Failure to provide evidence of the alleged direct deposit on request by the mortgage lender.
 - Registration of property in name of Mr P when mortgage advance offered in the name of Mrs P.
 - Misrepresented to the lender that the deposit was being paid by the borrower.
 - Failed to inform the lender that the monies equivalent to the balance to complete were received from vendor or from a third party.
 - Misrepresented to the lender that there was no relationship between Mr M and the company, and that the transaction was being conducted at arm's length.
27. A caseworker forwarded a copy of the second FI Report to Mr Sharma by letter dated 1 February 2011 and sought his explanation and comments. Mr Sharma replied by a letter dated 13 February 2010 (actually sent in 2011) and stated that all the problems began at Sterling Solicitors and followed him to Stephen Isaacs Solicitors. He further indicated that he had written in great detail regarding the matters that had arisen at Sterling Solicitors and referred the caseworker to that file.

Witnesses

28. The following witnesses gave evidence:
- The Second Respondent
 - The Third Respondent

Findings as to Fact and Law

Allegations against Mr Ameet Kumar Sharma

29. **Allegation 1.1. He acted in or otherwise facilitated conveyancing transactions which exhibited the characteristics of mortgage fraud contrary to Rules 1(a) and 1(d) of the Solicitors Practice Rules 1990 ("SPR 1990"). It was alleged he had acted dishonestly.**
- 29.1 Mr Sharma admitted this allegation including the allegation of dishonesty and accordingly the Tribunal found it proved.

30. **Allegation 1.2. He made inaccurate representations to lender clients contrary to Rules 1(a), 1(c), 1(d) and 1(e) of the SPR 1990. It was alleged he had acted dishonestly.**

30.1 Mr Sharma admitted this allegation including the allegation of dishonesty and accordingly the Tribunal found it proved.

31. **Allegation 1.3. He acted where there was a conflict of interests between his clients (Mr T and Mr P) contrary to Rule 16D(2) of the Solicitors' Practice (Conflict) Amendment Rule 2004.**

31.1 Mr Sharma admitted this allegation and accordingly the Tribunal found the allegation proved.

Allegations against all four Respondents

32. **Allegation 1.4. Monies withdrawn from client account for a particular client exceeded the monies held due to a cash shortage of £168,136.01 contrary to Rule 22(5) of the Solicitors Accounts Rules 1998 ("SARs 1998").**

32.1 Mr Sharma, RESPONDENT 2 and RESPONDENT 3 admitted this allegation and accordingly the Tribunal found the allegation proved against Mr Sharma, RESPONDENT 2 and RESPONDENT 3.

32.2 In relation to RESPONDENT 4, the Tribunal noted the cash shortage had arisen as a result of inter ledger transfers that took place on or around 26 January 2007. RESPONDENT 4 had stated in his letter to Ms Willetts received by her on 31 March 2011 that the day to day management of Sterling Partnership UK was entirely in the hands and was the responsibility of RESPONDENT 2 and RESPONDENT 3. He stated he never received any remuneration or reward during his period of absence although his name may have remained in the records as a nominal partner. The Applicant had referred the Tribunal to the case of *Weston v The Law Society*, 29th June 1998, CO/225/1998 in which it had been held:

“The Solicitors Accounts Rules existed both to afford the public maximum protection against the improper and unauthorised use of their money and to assure them of that protection. Solicitors were accordingly under a heavy obligation, quite distinct from their duty to act honestly, to ensure observance of the rules”

RESPONDENT 4 was a member of Sterling Partnership LLP between 15 July 2006 and 30 August 2007 and accordingly, as a partner of the practice, he was responsible for compliance with the Solicitors Accounts Rules. Accordingly the Tribunal found this allegation proved against RESPONDENT 4.

33. **Allegation 1.5. Private loans were made from one client to another without the prior written authority of both clients contrary to Rule 30(2) of the SARs 1998.**

- 33.1 Mr Sharma, RESPONDENT 2 and RESPONDENT 3 admitted this allegation and accordingly the Tribunal found it proved against Mr Sharma, RESPONDENT 2 and RESPONDENT 3.
- 33.2 In relation to RESPONDENT 4 the Tribunal noted the date of the private loan was again on or around 26 January 2007 when RESPONDENT 4 was a member of the practice. As a partner of the practice RESPONDENT 4 had responsibility to ensure compliance with the Solicitors Accounts Rules and accordingly the Tribunal found this allegation proved against RESPONDENT 4.

Allegation against RESPONDENT 2 and RESPONDENT 4

34. **Allegation 1.6. They failed to deal with the SRA in an open, prompt and cooperative way contrary to Rule 20.05 (1) of the Solicitors Code of Conduct 2007.**
- 34.1 This allegation was pursued only against the Second Respondent, RESPONDENT 2 and the Fourth Respondent, RESPONDENT 4.
- 34.2 RESPONDENT 2 admitted the allegation, albeit on a limited basis, and the Tribunal found the allegation proved against RESPONDENT 2.
- 34.3 In relation to RESPONDENT 4, the Tribunal had been provided with copies of the letters dated 15 December 2009 and 12 January 2010 sent to him by the SRA. The Tribunal had not received any representations from RESPONDENT 4 and had not been provided with any evidence that he had dealt with those letters. Accordingly, the Tribunal found this allegation was proved against the RESPONDENT 4.

Further allegations against Mr Ameet Kumar Sharma

35. **Allegation 1.7. He acted in or otherwise facilitated conveyancing transactions which exhibited the characteristics of mortgage fraud contrary to Rules 1(a), 1(c) and 1(d) of the SPR 1990 and contrary to Rules 1.02, 1.04 and 1.06 of the Solicitors Code of Conduct 2007 (“SCC 2007”). It was alleged he had acted dishonestly.**
- 35.1 Mr Sharma admitted this allegation, including the allegation of dishonesty and accordingly the Tribunal found this allegation proved against Mr Sharma.
36. **Allegation 1.8. He made inaccurate representations to lender clients contrary to Rules 1(a), 1(c), 1(d) and 1(e) of the SPR 1990 and contrary to Rules 1.02, 1.04, 1.05 and 1.06 of the SCC 2007. It was alleged he had acted dishonestly.**
- 36.1 Mr Sharma admitted this allegation, including the allegation of dishonesty and accordingly the Tribunal found this allegation proved against Mr Sharma.

Previous Disciplinary Matters

37. The Fourth Respondent, RESPONDENT 4 had one previous appearance before the Tribunal which related to a hearing that took place on 15 January 2009 and 27 March 2009.

Mitigation of the First Respondent, Mr Ameet Kumar Sharma

38. Mr Fletcher, on behalf of Mr Sharma submitted this was a sad case of too much power, too soon and too much authority, too young. Mr Sharma was young in age and in professional experience, and the Tribunal was referred to his witness statement which gave a full and open account of how Mr Sharma came to be embroiled in such a scheme. Mr Fletcher submitted the Tribunal could exercise its discretion and not strike Mr Sharma from the Roll. He submitted that there were exceptional features which would allow the Tribunal to let Mr Sharma, who loved the law and wanted to stay in the profession, continue to do so through the most stringent conditions.
39. Mr Fletcher referred the Tribunal to the case of SRA v Sharma (2010) EWHC 2022 (Admin) in which the court had accepted that where dishonesty was proved, in exceptional cases, it was not necessary to strike a solicitor off the Roll.
40. Mr Sharma had entered the profession with the highest intentions and indeed, had served the profession well before this conduct. He knew he had fallen well below the standards he wished to uphold and the Tribunal was reminded that in February 2010 he gave a full and frank admission to the Authority, accepting responsibility in full. Mr Fletcher submitted these were unique events, which all related to one set of clients, and which would never be repeated. Mr Sharma did not deny there were a number of transactions over a period of time but essentially, they were all the same type of transaction. Mr Sharma had now matured and grown up and it was extremely unlikely he would breach the rules again.
41. The Tribunal was referred to the character references provided, which were attached to Mr Sharma's witness statement. These described him as a competent solicitor with integrity. Mr Sharma had only been a solicitor for three years at the time these events took place and the problems had arisen as a result of his involvement with these specific clients. There were no problems with any other clients. The Tribunal was referred to a further reference provided from Jude Fletcher, which had been given knowing Mr Sharma's history, specifically was for the Tribunal. Mr Fletcher stated he had found Mr Sharma to be trustworthy and honest and he would consider employing Mr Sharma as a solicitor in the future. It was submitted Mr Sharma loved the law, he wanted to be involved in the legal profession, he had now matured and had gained the trust of a member of the profession who would employ him in the future. He was a young, gifted lawyer with potential for partnership and had found himself before the Tribunal because he had been given a lot of authority for someone with his experience, which he could not and did not handle properly. The relationship with these particular clients was so close that it had a snowball effect and Mr Sharma had been unable to extricate himself. He had initially said he did not want to become involved in a dishonest scheme but a video capturing his behaviour in a nightclub, was used as blackmail to make him do as the client wished.

42. Mr Sharma accepted he had become too close to the clients and it was submitted that the video was a unique exceptional factor in this case. Without that factor Mr Sharma would not have done what he did, and indeed, in his letter to the SRA dated 14 February 2010 he had stated:

“Although the DVD was never again mentioned, it quite simply bought my silence. If I did not complete these transactions, my personal life would never be the same as there was no doubt Mr [M] would carry out his threat.”

Mr Sharma did not want to become involved in such a scheme but felt he had to do it to protect his marriage. The dishonest scheme was not his idea but a reaction to a very real threat which caused the dishonesty to start in a unique way. Mr Sharma accepted the intensity of the work was such that he could not get out and indeed his actions led to his own health deteriorating, him suffering from depression, having a breakdown, hurting his family, friends and colleagues and eventually had a dramatic effect on his marriage. Since then Mr Sharma had tried to pick himself up. These incidents took place two years ago.

43. The Tribunal was referred to a transcript from a case dealt with by Her Honour Judge Walden-Smith in the Central London County Court in which Mr Sharma had been a claimant. During the course of those proceedings, Her Honour Judge Walden-Smith had referred to Mr Sharma as “a straightforward and honest witness”. The Tribunal was asked to take the exceptional step of not striking Mr Sharma from the Roll of Solicitors and to consider any aspects of supervision or any restrictions that could be placed on his practising certificate in order to enable him to prove to the public and the profession that he could be trusted to uphold the proper values of the office of solicitor.

Mitigation of the Second and Third Respondents

44. RESPONDENT 2 confirmed on oath that she had not had any knowledge of the issues referred to in Mr Sharma’s witness statement and as soon as the facts came to light, she restricted his access to the accounts, and suspended him although he subsequently resigned. RESPONDENT 2 accepted that the burden on partners of a practice was very high and that solicitors were in a trusted position with client funds. She had not given Mr Sharma access to the client account without knowing that he had already dealt with a client account at his previous firm. She had no reason to doubt his honesty and indeed, had no reason to believe he would act dishonestly. RESPONDENT 2 confirmed that in February 2007 RESPONDENT 3 had been on maternity leave and was taken ill suddenly. At the same time RESPONDENT 2 was due to attend several important meetings in Nigeria and RESPONDENT 4 was in Ghana at the time. Mr Sharma had kindly agreed to step in while she was away, although she was never away for more than 10 days at any one time. She had remote access to the server which meant she could access the firm’s electronic files remotely and view letters and the work being carried out. She was able to supervise the office in this way.
45. RESPONDENT 3 in her evidence confirmed she was admitted to hospital in February 2007 and first became aware of the problems regarding Mr Sharma when she received a telephone call from RESPONDENT 2 while she was on maternity leave.

RESPONDENT 3 had been going through a difficult time and RESPONDENT 2 tried not to involve her simply telling her that everything was under control. When RESPONDENT 3 returned to work, at the end of the summer 2007, she realised the extent of Mr Sharma's conduct. RESPONDENT 3 accepted that client money should be treated with the utmost care, solicitors must act above board and in line with the Solicitors Accounts Rules and clients should never be concerned that their funds were at risk in any way.

46. Ms Heley, on behalf of RESPONDENT 2 and RESPONDENT 3, confirmed that both Respondents took the Solicitors Accounts Rules very seriously and admitted the breaches as they were partners of the practice and accepted they had strict liability as a result. There had been no personal misconduct by either RESPONDENT 2 or RESPONDENT 3, and the Tribunal was referred to the case of *Hazelhurst, Murphy, Garrett and Brown v The Solicitors Regulation Authority* [2011] EWHC 462 (Admin). In that case the partners of the practice were found to be strictly liable for SAR 1998 breaches however, in that case, the High Court found that the Tribunal had not taken enough account of the fact that the Respondents had self reported the conduct, they had taken steps to ensure the problem would not occur again and they had ensured no client suffered any loss. In that case the High Court was satisfied that a sanction of a reprimand was appropriate to reflect the nature and circumstances of the breaches, and the conduct of the Respondents. Ms Heley reminded the Tribunal that today's case was similar to the case of *Hazelhurst, Murphy, Garrett and Brown* although the conduct in that case had been more serious than the case before the Tribunal today. The Tribunal was reminded that in this case, there was one solicitor who had conducted some dishonest acts, these were discovered quite promptly and indeed, Mr Sharma was only with the practice for nine months before he resigned. RESPONDENT 2 and RESPONDENT 3 immediately reported his conduct to the SRA and to the police, they carried out a full investigation of every file which involved a consolidation of all accounts over a six month period, and when they found a shortfall that was immediately replaced. Their insurers had subsequently decided there was no misconduct by either RESPONDENT 2 or RESPONDENT 3 and they had refunded the shortfall which RESPONDENT 2 paid from her own funds.
47. These events had been a devastating blow to both these Respondents and had caused the firm to close at the end of September 2009 as it was unable to recover. Even with the benefit of hindsight, Ms Heley submitted it was difficult to see what could have been done by these Respondents to prevent these circumstances from happening again. The Tribunal was referred to the comments of the Forensic Investigation Officer in his report which he ended by stating:

“It is not known whether any performance issues were identified by the firm in relation to Mr Sharma but his comments appear to indicate an intention to conceal at least the matter involving Mr [T] from his supervising partner at that time.”

This was also echoed by Mr Sharma's own witness statement in which he had accepted he did not tell RESPONDENT 2 or RESPONDENT 3 what was going on, and, further, Mr Sharma admitted in his witness statement that he had betrayed the trust placed in him by these two Respondents. He had stepped in at a time when the

firm was suffering from absent partners but by then, events were already taking place and the loan involving Mr T had already been taken.

48. It was submitted RESPONDENT 2 and RESPONDENT 3 had not ignored their obligations under the SAR 1998, RESPONDENT 2 received weekly reports from her accountant and had taken every step possible to protect client funds. It was submitted she could not have planned for deliberate deception. RESPONDENT 3 had been absent from the office due to difficulties with her health and for three of the six months while the dishonest conduct was taking place, she had not been in the office at all.
49. In relation to allegation 1.6 which was against RESPONDENT 2 and related to her dealing with the SRA, it was submitted she had fully co-operated with the SRA having self reported matters to them. When the Authority had written to RESPONDENT 2 on 15 December 2009, she had been in Nigeria full time and was unable to open the attachment. She requested a hard copy and, on 12 January 2010 when the SRA had raised a specific question with her, she responded promptly within three days. There was no evidence that RESPONDENT 2 had anything other than the best of intentions when dealing with the SRA. A letter from the SRA had been sent to her at her sister's address but unfortunately had been put to one side for her to collect when she returned from Nigeria. By the time she had picked up the letter, the Tribunal proceedings had already started. The Tribunal was referred to a number of character references provided for both RESPONDENT 2 and RESPONDENT 3.

Mitigation of the Fourth Respondent

50. Ms Willetts had provided the Tribunal with a letter which she received from RESPONDENT 4 on 31 May 2011. He had requested a number of matters to be taken into account by the Tribunal. He had confirmed in that letter that in October 2005 he had established a firm in Ghana with his wife with a view to starting a small business and then migrating to Ghana eventually. From 2006 he had spent a lot of time in Ghana stabilising the business and as a result of this the day to day management of Sterling Partnership (UK) was entirely in the hands and was the responsibility of RESPONDENT 2 AND RESPONDENT 3. He confirmed he had never received any remuneration or reward during his period of absence although his name may have remained in the records as a nominal partner. He confirmed that he had known little about the solicitor who had confessed to misapplying client monies, other than what he had been told by RESPONDENT 2 in an email sent to him while he was in Ghana.

Sanction

51. The Tribunal had considered carefully all the documents provided, including the character references, the evidence given and the submissions of all parties.

The First Respondent, Mr Ameet Kumar Sharma

52. Mr Sharma had accepted all the allegations made against him and indeed had accepted that he had acted dishonestly. The Tribunal was particularly concerned that Mr Sharma had clearly placed his personal life before his professional duties and that

he had conducted these transactions knowing what he was doing and knowing that those transactions were wrong. He had repeated the actions even after moving firms and indeed, these clients had followed him to his new firm where the conveyancing transactions which exhibited characteristics of mortgage fraud continued. As a result of his conduct, Mr Sharma had placed his employers in extremely difficult circumstances, they had been caused a great deal of stress, they had suffered financial pressure, their reputations had been affected and indeed Sterling Partnership Solicitors LLP had closed down due to his conduct. Mr Sharma had made reference in his witness statement to being blackmailed by these particular clients however, he had not produced any evidence of that blackmail before the Tribunal and, even if the Tribunal were to accept he had been blackmailed, this was still no excuse for Mr Sharma's behaviour.

53. The Tribunal had been referred to the case of *SRA v Sharma* 2010 EWHL 2022 (Admin) and asked to consider whether there were exceptional circumstances in this case, such that it was not necessary to remove Mr Sharma from the Roll of Solicitors. The Tribunal had considered the case carefully and in particular noted the comments of Mr Justice Coulson who had stated:-

“(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the roll, see Bolton and Salisbury. That is the normal and necessary penalty in cases of dishonesty, see Bultitude.

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances, see Salisbury.

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself; whether it was momentary, such as Burrowes, or other a lengthy period of time, such as Bultitude; whether it was a benefit to the solicitor (Burrowes) and whether it had an adverse effect on others”

54. The Tribunal in this case was satisfied that these were not exceptional circumstances, indeed, the facts of this case were not even remotely near what the Tribunal would regard as exceptional circumstances. Mr Sharma's conduct had taken place over a number of months, and he had been involved in a large number of transactions at both firms. These were not circumstances such that would justify the Tribunal not removing him from the Roll. Accordingly, the Tribunal made an Order that Mr Sharma be struck off the Roll of Solicitors.

The Second Respondent, the Third Respondent, and the Fourth Respondent

55. The Tribunal reminded the parties that client funds were sacrosanct and the purpose of the Solicitors Accounts Rules was to ensure the proper protection of those funds. RESPONDENT 2 and RESPONDENT 3 had quite rightly accepted in their evidence that client money should be treated with utmost care and that the burden on solicitors was extremely high in taking care of these funds. The Tribunal had taken into account the fact that RESPONDENT 2 had self reported Mr Sharma's conduct to the SRA, she had conducted a full investigation of the files and the firm's accounts promptly, having identified the shortfall she had repaid this in full to ensure no clients suffered and indeed, when her own accountant was unable to identify the problems on

the ledgers she instructed new accountants and worked with them to try and consolidate the accounts.

56. It was clear to the Tribunal that these Respondents had been victims of Mr Sharma's deception and, having taken into account the case of *Hazelhurst, Murphy, Garrett and Brown v The Solicitors Regulation Authority*, the Tribunal was satisfied RESPONDENT 2 and RESPONDENT 3 should be reprimanded.
57. In relation to RESPONDENT 4, whilst he was in a similar position to RESPONDENT 2 and RESPONDENT 3, the Tribunal noted he had appeared before the Tribunal on a previous occasion when he had failed to comply with the decision of an Adjudicator and he had failed to deal promptly and substantively with correspondence from the SRA. This placed RESPONDENT 4 in a different position from RESPONDENT 2 and RESPONDENT 3 and whilst he had been reprimanded on his previous appearance before the Tribunal, the Tribunal was satisfied on this occasion a fine of £1,000 was the appropriate sanction in relation to him.

Costs

58. The Applicant requested an Order for her costs and provided the Tribunal with a schedule indicating the costs came to a total of £70,094.64. She accepted those costs would need to be reduced to take account of the fact that the hearing had not lasted two days as anticipated.
59. Mr Fletcher on behalf of Mr Sharma provided the Tribunal with Schedules giving details of Mr Sharma's income and expenditure, and his assets and liabilities. Mr Sharma did not have any savings and little equity in the properties he owned. He did own a dry cleaning business with this brother but the income from that business was variable. Any Order for costs would impact on Mr Sharma's children and their upbringing. It was submitted the costs schedule did contain matters which were not relevant to Mr Sharma and he should not be held responsible for those. Whilst he accepted a large amount of the costs were directly attributable to him, he submitted it was reasonable and proportionate for all the Respondents to be equally liable for all the costs as they had all been party to the proceedings.
60. Ms Heley confirmed RESPONDENT 2 was currently working in Nigeria and had reasonably limited means. RESPONDENT 3 did not have any income and had not received any income for some time. She relied on her husband and had no means to pay any costs. Ms Heley submitted the Tribunal should take into account moral culpability and responsibility for the conduct. She submitted RESPONDENT 2 and RESPONDENT 3 had very little moral culpability in this case and their only failing had been to trust Mr Sharma who had not been mature enough to deal with that trust. The Tribunal was reminded no client lost money as a result.
61. The Tribunal having considered all the documents provided and the circumstances of this case assessed the Applicant's costs in the total sum of £64,337. The Tribunal was satisfied Mr Sharma was the most culpable Respondent and as he had caused the majority of the costs to be incurred due to his conduct, the Tribunal considered he should pay the bulk of those costs. He had provided details of his financial circumstances and the Tribunal noted he was the owner of three properties and

received rent from two of those properties. In addition he was a partner in a dry cleaning business and had other sources of income from his parents and spouse. The Tribunal had not been provided with any evidence of current valuations of the properties referred to or with accounts from the dry cleaning business. The Tribunal was satisfied in all the circumstances that Mr Sharma had the means to pay the costs and Ordered he make a contribution to the Applicant's costs in the total sum of £49,337.

62. In relation to RESPONDENT 2, the Tribunal noted she was currently working in Nigeria and had reasonably limited means. Accordingly, the Tribunal ordered she pay a contribution of £5,000 towards the Applicant's costs.
63. In relation to RESPONDENT 3, the Tribunal was mindful of the case of *SRA v Davis and McGlinchy* [2011] EWHC 232 (Admin) in which Mr Justice Mitting had stated:-

“If a solicitor wishes to contend that he is impecunious and cannot meet an order for costs, or that its size should be confined, it will be up to him to put before the Tribunal sufficient information to persuade the Tribunal that he lacks the means to meet an order for costs in the sum at which they would otherwise arrive.”

RESPONDENT 3 had stated in her witness statement that she had not received any salary during the last twelve months of the firm's existence and that she had not worked for almost two years. RESPONDENT 3 had confirmed on oath that this was her current financial position. She also confirmed she had no independent means and relied entirely on her husband for support. Accordingly, the Tribunal was satisfied she was unable to pay any Order for costs and therefore ordered she make a contribution of £5,000 towards the Applicant's costs, such costs not to be enforced without leave of the Tribunal.

64. In relation to RESPONDENT 4, he had not made any submissions on costs but appeared to own a business in Ghana. Accordingly, the Tribunal ordered RESPONDENT 4 make a contribution of £5,000 towards the Applicant's costs.

Statement of Full Order

65. The Tribunal Ordered that the Respondent, AMEET KUMAR SHARMA of London, N1, 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 £49,337.00.
66. The Tribunal Ordered that RESPONDENT 2 of Lagos, Nigeria (formerly of, London, NW7), solicitor, be REPRIMANDED and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.
67. The Tribunal Ordered that RESPONDENT 3 of Maida Vale, London, W9, solicitor, be REPRIMANDED and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00 such costs not to be enforced without leave of the Tribunal.

68. The Tribunal Ordered that RESPONDENT 4, of Accra-Ghana (formerly of London, SE28), solicitor, do pay a FINE of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

Dated this 29th day of July 2011

On behalf of the Tribunal

A Banks
Chairman