# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 10710-2011

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY Applicant

and

LAURENCE IAN WARD First Respondent

and

COLETTE MARIA FARRELL Second Respondent

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Before:

Mr L N Gilford (in the chair)
Mr R B Bamford
Mrs V Murray-Chandra

Date of Hearing: 7th December 2011

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**Appearances**

Robin Havard, solicitor, of Morgan Cole LLP, Bradley Court, Park Place, Cardiff CF10 3DP for the Applicant.

The First Respondent did not appear but was represented by Peter Cadman, solicitor, of Russell-Cooke Solicitors, 8 Bedford Row, London WC1R 4BX.

The Second Respondent did not appear and was not represented.

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# JUDGMENT

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**Allegations**

The allegations against the First Respondent, Laurence Ian Ward were:

1. He conducted himself in a manner which was likely to compromise his integrity contrary to Rule 1(a) of the Solicitors' Practice Rules 1990 and/or, where such conduct occurred after 1 July 2007, in breach of Rule 1.02 of the Solicitors Code of Conduct 2007.

2. He permitted money to be paid into, and out of, client account when there was no requirement or legitimate purpose for such money to be paid into client account contrary to Rule 15 of the Solicitors Accounts Rules 1998.

3. He conducted himself in a manner which was likely to compromise or impair his duty to act in the best interests of clients contrary to Rule 1(c) of the Solicitors' Practice Rules 1990 and/or, where such conduct related to a period after 1 July 2007, Rule 1.04 of the Solicitors Code of Conduct 2007.

4. He conducted himself in a manner which was likely to compromise or impair the good repute of the solicitors' profession contrary to Rule 1(d) of the Solicitors Practice Rules 1990 and/or, where such conduct related to a period after 1 July 2007, Rule 1.06 of the Solicitors Code of Conduct 2007.

5. He failed to disclose all relevant information to a client, namely the lender, in certain conveyancing transactions which was material to the lender's business.

6. He failed to comply with the requirements of Rule 6 of the Solicitors' Practice Rules 1990 and/or, where such conduct related to a period after 1 July 2007, Rule 3 of the Solicitors Code of Conduct 2007.

7. He acted and/or permitted a member of his staff to act in conveyancing transactions where there was a conflict of interest or the significant risk of a conflict of interest contrary to Rule 3 of the Solicitors Code of Conduct 2007.

8. He failed to maintain an adequate level of supervision of unqualified staff engaged in carrying out work on behalf of the Firm in breach of Rule 13 of the Solicitors' Practice Rules 1990 and/or, where such conduct related to a period after 1 July 2007, Rule 5 of the Solicitors Code of Conduct 2007.

The allegation against the Second Respondent, Colette Maria Farrell was:

9. Having been employed or remunerated by solicitors but not being a solicitor, she had in the opinion of the Solicitors Regulation Authority ("SRA"), occasioned or been party to, with or without the connivance of the solicitors by whom she was or had been employed or remunerated, acts or defaults in relation to the solicitors' practice which involved conduct on her part of such a nature that, in the opinion of the SRA, it would be undesirable for her to be employed or remunerated by solicitors in connection with their practices. It was also alleged the Second Respondent had acted dishonestly.

The further allegations against the First Respondent, Laurence Ian Ward were;

10. He withdrew monies from client account when not permitted to do so contrary to Rule 22 (1) of the Solicitors' Accounts Rules 1998.

11. He improperly made material alterations to client account cheques and thereafter he attempted to mislead and/or deceive the SRA by failing to inform them of those alterations.

12. He presented to the SRA copy documents, namely cheques, which he had altered and which he knew to be incorrect.

13. He acted dishonestly.

The First Respondent, Laurence Ian Ward, admitted allegations 11, 12 and 13 in a letter dated 31 October 2011 from his solicitor, Mr Cadman, to Mr Havard.

The Second Respondent, Colette Maria Farrell, in her letter dated 14 June 2011 to Mr Havard, and in her subsequent email to Mr Havard dated 5 December 2011, agreed that a Section 43 Order should be made against her as requested by the Applicant.

**Documents**

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

Applicant:

- Application dated 14 February 2011 together with attached Rule 5 Statement and exhibits
- Supplementary Statement dated 30 August 2011 together with all exhibits
- Schedule of Costs - Rule 5 Statement
- Schedule of Costs - Rule 7 Statement
- Schedule of SRA breakdown of costs
- Bundle of correspondence and emails between the Applicant and the Second Respondent dated from 23 May 2011 to 5 December 2011

The First Respondent, Laurence Ian Ward:

- Letter dated 31 October 2011 from Mr Cadman to Mr Havard
- Letter dated 1 December 2011 from Mr Cadman to the Tribunal
- Letter dated 1 December 2011 from Kay Johnson Gee Chartered Accountants to the First Respondent

The Second Respondent, Colette Maria Farrell:

- Letter dated 14 June 2011 from the Second Respondent to Mr Havard
- Email from Mr Havard to the Second Respondent dated 5 December 2011
- Email dated 5 December 2011 from the Second Respondent to Mr Havard

**Application to Proceed against The First Respondent, Laurence Ian Ward, on Allegations 11, 12 and 13 only**

15. Mr Havard, on behalf of the Applicant, made an application that allegations 1 to 8 and allegation 10 against the First Respondent, Laurence Ian Ward, be left to lie on file in view of the fact that Mr Ward had accepted allegations 11, 12 and 13, which were far more serious and included an allegation of dishonesty. He proposed the Tribunal make an Order in relation to the admitted allegations only.

16. Mr Cadman, on behalf of the First Respondent, Laurence Ian Ward, confirmed that the First Respondent admitted that he had acted dishonestly and accepted it was inevitable that the Tribunal would make an Order to strike him off the Roll of Solicitors. He agreed with the Applicant's proposal that allegations 1 to 8 contained in the Rule 5 Statement dated 14 February 2011, and allegation 10 contained in the Supplementary Statement dated 30 August 2011, should be left to lie on file.

17. The Tribunal having heard the submissions of both parties granted the application for allegations 1 to 8 contained in the Rule 5 Statement dated 14 February 2011, and allegation 10 contained in the Supplementary Statement dated 30 August 2011, which were against the First Respondent only, be left to lie on file.

**The Applicant's application to proceed in the absence of the Second Respondent, Colette Maria Farrell**

18. Mr Havard, on behalf of the Applicant, referred the Tribunal to a bundle of documents containing various letters and emails which had passed between him and the Second Respondent, Colette Maria Farrell. In particular, he referred the Tribunal to a letter from Ms Farrell dated 14 June 2011 in which she agreed to a Section 43 Order being made against her. However, in that letter she did not deal with the issue of dishonesty which was alleged against her. Mr Havard had written to Ms Farrell on 27 June 2011 stating dishonesty was alleged. In an email to her dated 5 December 2011, Mr Havard had again made it clear that dishonesty was alleged against Ms Farrell in the course of various conveyancing transactions. She had replied on the same day indicating again that she agreed to a Section 43 Order being made against her and providing details of her financial circumstances.

19. Mr Havard confirmed Civil Evidence Act Notices had been served on the Second Respondent on 9 August 2011 and no Counter Notice had been received in response. He referred the Tribunal to the case of R v Hayward [2001] EWCA Crim 168 which set out the principles the Tribunal must consider when deciding whether to proceed in the absence of a defendant. Those principles included the following:

- A defendant had a right to be present at his trial and a right to be legally represented, however those rights could be waived if the defendant deliberately and voluntarily absented himself or withdrew instructions from those representing him.
- The Tribunal must exercise with great care its discretion to proceed in the defendant's absence, particularly if the defendant is unrepresented

- In exercising that discretion, the Tribunal had to take into account fairness to the defence and also fairness to the prosecution. The Tribunal must have regard to all the circumstances of the case including in particular:

  (i) The nature and circumstances of the defendant's behaviour in absenting himself from the trial, and whether his behaviour was deliberate, voluntary and such as plainly waived his right to appeal;
  (ii) Whether an adjournment might result in the defendant attending voluntarily;
  (iii) The likely length of such an adjournment;
  (iv) Whether the defendant, although absent, wishes to be legally represented, or has by his conduct waived his right to representation;
  (v) Whether an absent defendant's legal representatives are able to receive instructions from him during the trial;
  (vi) The extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;
  (viii) The seriousness of the offence which affects the defendant, and the public;
  (ix) The general public interest and the particular interests of victims that a trial should take place within a reasonable time of the events to which it relates.

20. Mr Havard submitted that the Second Respondent had voluntarily absented herself knowing that a hearing would take place today. It had been made clear to her that an allegation of dishonesty would be pursued against her. In her email of 5 December 2011 she had stated she would not be able to attend the hearing and had asked Mr Havard to email the outcome to her. In all the circumstances, and having regard to the principles set out in the case of R v Hayward, Mr Havard requested leave to proceed in the Second Respondent's absence.

21. The Tribunal having considered carefully the principles set out in the case of R v Hayward, and the correspondence from the Second Respondent to which the Tribunal had been referred, was satisfied that the Second Respondent was aware of date of the substantive hearing, she had chosen to voluntarily absent herself from the proceedings, she had not made any application for an adjournment and that, given the serious nature of the allegations, it was in the public interest that the matter should be dealt with as quickly as possible. In the circumstances, the Tribunal granted leave for the matter to proceed in the Second Respondent's absence.

**Factual Background**

22. The First Respondent, Laurence Ian Ward, was born on 12 September 1955 and admitted to the Roll of Solicitors on 15 October 1979. At the material time, the First Respondent was practising in partnership as Ward & Co of Altrincham and Prescott, 30 Railway Street, Altrincham, Cheshire, WA14 2RE ("the Firm"). The Firm closed down on 30 September 2009 and the First Respondent subsequently became an employee of CS Conveyancing, 1 Garnett Street, Stockport, Cheshire, SK1 3AR.

23. The Second Respondent, Colette Maria Farrell, was an admitted clerk and at the material time she was employed as a clerk at the Firm.

24. A Forensic Investigation Officer ("FIO") from the SRA attended the offices of the Firm on 22 April 2009 to carry out an investigation and subsequently produced a report dated 18 November 2009. The main issues of concern were transactions in which CHL Mortgages ("CHL") was the lender client, and property transactions in which the Second Respondent arranged for bridging loans to be made available to clients.

Allegation 9 (The Second Respondent, Colette Maria Farrell)
Miss RS - 13 Q Street

25. The purchaser, Miss RS, was the daughter of the Second Respondent who acted not only on her behalf but also for the lender, CHL. Miss RS purchased the property in May 2005 for £115,000. However, on 24 August 2007, CHL advanced funds of £144,000 on the basis that Miss RS was purchasing the property for a price of £160,000. CHL was unaware that the purchaser was the Second Respondent's daughter and also unaware that she already owned the property, with the advance being used for a re-mortgage. In a letter from the Second Respondent to CHL dated 26 August 2007, the Second Respondent stated:

> "It appears that Miss [RS] already owns this property ……. therefore the transaction is deemed to be a remortgage".

26. However, in a letter dated 11 September 2008, CHL stated that they had never received the letter dated 26 August 2007. CHL also confirmed that the Certificate of Title indicated the transaction related to a purchase, as an amount was included in the Certificate of Title relating to the price stated in the Deed of Transfer.

27. In an earlier letter to the First Respondent dated 13 September 2009, CHL indicated that the application and offer was on the basis of a purchase with the vendor being named as a Mr D (despite the fact that Miss RS was the owner of the property). The mortgage account number quoted in the letter dated 26 August 2007 from the Second Respondent to CHL was in fact a number allocated to a different property, namely 9 B Street and that mortgage account number only came into existence on 25 September 2007. Therefore it could not have been known to the Second Respondent when she appeared to have written to CHL on 26 August 2007.

28. In a letter dated 13 September 2009, many months after the mortgage advance had been made, CHL stated their concern that the Second Respondent was the mother of the purchaser, Miss RS, expressly raising the issue of a conflict of interest.

29. The transactions recorded on the client ledger, for which no proper explanation was provided, showed the mortgage funds from CHL on 24 August 2007 being used in part to make a payment to the Second Respondent's daughter, Miss RS, of £10,000 on 29 August 2007 and then a payment to CFP Solicitors of £152,000 on 6 September 2007 for a property purchase, although it was not possible to establish which property had been purchased.

Miss RS - Purchase of 16 B Street

30. The Second Respondent acted on her own behalf as seller, selling the property to her daughter, Miss RS, for whom she also acted together with the lender, CHL. The transaction completed on 13 September 2007. On 10 September 2007, CHL instructed the Second Respondent to act in accordance with the CML Lenders Handbook in respect of the mortgage offer of £144,000. A Certificate of Title was signed by the First Respondent and submitted to CHL on the same day. The client ledger recorded the receipt of £144,000 from CHL on 13 September 2007.

31. In their letter to the First Respondent dated 13 February 2009, CHL stated that they understood the seller to be a Mr A as opposed to the Second Respondent, and they expressed their concern that they had discovered it was the Second Respondent who was the seller and her daughter was the buyer. CHL also stated that the First Respondent's Firm was to be removed from CHL's panel of solicitors with immediate effect. There was no evidence found on the file that CHL had been advised of:

- The connection between buyer and seller;
- The connection between the seller and the Firm, namely that she was employed by the Firm;
- That the Firm acted for both buyer and seller;
- That the stated purchase price in accordance with Land Registry records of £160,000 had been paid by Miss RS to her mother, the Second Respondent, on completion.

32. The client ledger did not record a payment of £160,000 on 13 September 2007 to the Second Respondent. Following receipt of the mortgage advance of £144,000 from CHL on the same day, there were payments recorded on 13 September 2007 and 19 September 2007 to DPH of £16,750 and £149,995 respectively. The FIO was unable to establish which property had been purchased for the combined figure of £166,745.

Miss RS - Purchase of 9 B Street

33. In another transaction the Second Respondent acted for her daughter as buyer of the above property with a mortgage advance from CHL for whom the Second Respondent also acted. Again it was a transaction in which Miss RS purchased the property from her mother, the Second Respondent who had purchased the property on 14 September 2007 for £149,995. Completion of the purchase by Miss RS from her mother, the Second Respondent, took place on 29 September 2007, some two weeks later.

34. In the mortgage instructions from CHL dated 21 September 2007 it was stipulated that the Firm was to act in accordance with the CML Lenders Handbook in respect of the mortgage advance of £143,500. An unqualified Certificate of Title was signed by the First Respondent on 26 September 2007 and the client ledger recorded the receipt of £143,500 from CHL on 28 September 2007 for the purchase of the property.

35. In a letter from CHL to the First Respondent dated 13 February 2009, CHL stated that they had been informed the seller was a Mrs J as opposed to the Second Respondent. There was no evidence on file that the Firm had advised CHL of:

- The connection between buyer and seller;
- The connection between the seller and the Firm i.e. the Second Respondent;
- That the Firm acted for both buyer and seller;
- The fact that the seller had only owned the property for some 14 days;
- The purchase price was not paid to the seller on completion.

36. The client ledger appeared to show that the mortgage advance was not used to purchase the property but rather was part used to redeem the mortgage in the sum of £128,964.34 in relation to a different property, namely 13 Q Street.

Miss RS - Purchase of 77 H Lane

37. In another purchase transaction, the Second Respondent acted on behalf of Miss RS (who was the buyer) as well as the Firm's lender client, CHL and the Seller, Mr CO with completion taking place on 29 September 2007. Mr CO was also a member of the Second Respondent's family. In his letter to the FIO dated 1 July 2009, the First Respondent stated that CHL were aware of the connection. However there was no evidence to this effect on the client file and this was in direct contradiction to the concerns raised by CHL in their letter to the First Respondent dated 13 February 2009.

38. The client ledger did not indicate that the purchase price of the property was paid to the seller on completion. Having obtained the mortgage advance on 24 September 2007 of £162,000, there was a payment to the Second Respondent of £135,826.47 but there was no evidence of which property this related to.

Miss RS - Purchase of 120 D Lane

39. The Second Respondent acted on behalf of herself as the seller of the above property to her daughter, Miss RS for whom she also acted as well as the Firm's lender client, CHL. The transaction bore the same characteristics and irregularities as the other transactions outlined above. Despite the Second Respondent only having owned the property for some two and a half months, the First Respondent submitted an unqualified Certificate of Title to CHL which included a certification that the seller had owned or been the registered owner of the property for not less than six months, and also that the Firm was not acting on behalf of the seller. The client ledger illustrated that the mortgage advance from CHL appeared to have been utilised to redeem a mortgage with TMB although the FIO was not able to identify the property to which the payment to TMB related.

Bridging Finance

40. It was discovered that on five conveyancing client matters, inter-client loans were being made to enable the purchaser client to be put in funds to facilitate completion of their purchase and repayment would be through an immediate re-mortgage. There was no indication that the Second Respondent insisted on the client taking independent legal advice.

41. The Second Respondent acted for herself in the purchase of 310 L Road. The client ledger recorded the purchase of 13 or 14 properties and the monies held on this ledger account were utilised for the provision of bridging finance to nine separate clients totalling £906,000.

42. The Second Respondent acted for herself in a number of property transactions where one client ledger opened on 28 September 2009 showed the movement of funds throughout the nine month period to July 2007. The majority of transactions on this client ledger represented inter client loans from the Second Respondent to a variety of the Firm's other clients. The funds originated from the Second Respondent's father and were then utilised by the Second Respondent as loans to the Firm's clients.

43. Bridging Loan Agreements and internal Transfer Authority Forms illustrated that loan agreements were entered into in respect of 20 out of 30 loans recorded on the ledger with bridging finance actually provided for some 30 clients from funds held on this ledger account totalling approximately £2,750,000. Although the Bridging Loan Agreements referred to private bridging facilities from a third party, the third party was in fact not shown as a client of the Firm nor that he was related to the Second Respondent who had conduct of the matter. There was no evidence that any clients were told to take independent legal advice otherwise bridging finance could not be provided.

Acting for Buyer and Seller

44. A sample of 12 further client matter files, involving transactions that the Second Respondent had conduct of, were also examined by the FIO. It was discovered that there was no written authority or consent from both parties for the Firm to act for both buyer and seller. There was no evidence of the written consent of both parties to show that the risks of a conflict of interest arising between the seller and the buyer had been fully explained to, and understood by, the parties. Furthermore, the buyer client of the Firm was in the business of purchasing properties from clients who were in financial difficulty and then renting the property back to the seller.

Allegations 11 to 13 (The First Respondent, Laurence Ian Ward)

45. Following the closure of the Firm on 30 September 2009, a further forensic investigation report dated 19 May 2011 was prepared by a Senior Investigation Officer ("SIO") of the SRA. The investigation focused on two payments from client account, following the closure of the practice for £13,425.69 and £1,137.50 respectively.

46. The First Respondent maintained a client ledger entitled "M" from which it could be seen that a total of 149 transactions took place between 18 April 2005 and 6 July 2009 leaving a credit balance as that 6 July 2009 of £13,425.69. The First Respondent stated he acted on behalf of M, a brokerage, and then MSC in relation to business advice and conveyancing matters. However, the First Respondent indicated that he was requested by the client to hold onto funds on their behalf and send them on at their request for reasons unrelated to any work being conducted by the First Respondent for them. The First Respondent indicated that he thought this was because the clients:

> "... couldn't hold monies, they would give me instructions, simple as that".

47. On 7 December 2010 the SIO asked the First Respondent about a payment of £13,425.69 made out of the M client account on 11 November 2009. The First Respondent stated he had paid it to MSC as:

> "I needed to get shut of the money and remove the funds from client bank account to close the practice".

At the same meeting, the First Respondent was asked to produce the client matter file in respect of the ledger, the correspondence in relation to payment of the cheque, and also a copy of the cheque itself.

48. At the next visit by the SIO on 18 January 2011, the First Respondent stated that there was no file, and no correspondence was produced in relation to the cheque. However, the First Respondent provided a letter from his bank dated 10 January 2010 (believed to have been incorrectly dated as 2010 instead of 2011), together with six copy cheques including the M cheque of £13,425.69. The payee of that cheque was shown as "Trust Re MSC". The SIO requested the originals of all six cheques and the First Respondent agreed that he would request them from the bank.

49. On 2 February 2011, the First Respondent provided three copy cheques but not the M cheque in the sum of £13,425.69. One of the copy cheques, for £1,137.50, was different to the copy cheque produced by the First Respondent on 18 January 2011. On 24 January 2011, the SIO wrote to the Firm's reporting accountants requesting copies of any client account cheques they possessed. They replied on 3 February 2011 attaching fourteen copy cheques including the M cheque for £13,425.69, which now showed the payee to be "L Ward Re MSC" and not "Trust Re MSC".

50. Following a further request by the SIO dated 8 February 2011, the First Respondent replied on 10 February 2011 enclosing a copy of the M cheque, this time the payee was shown as "L Ward Re MSC", indicating that he could provide a full explanation and would provide the original cheque when received. When the First Respondent indicated that it would take some 6 to 8 weeks for the bank to produce the original cheques, the SIO requested the First Respondent to provide an explanation. The First Respondent replied stating his solicitor would provide a full explanation and this led to a meeting on 10 May 2011 with the First Respondent, his solicitor, the SIO and another Senior Investigation Officer. At that meeting, six of the seven original cheques were produced including the M cheque dated 6 November 2009 showing the payee as "L Ward Re MSC". At the same meeting, the First Respondent produced an

email from the client dated 10 February 2011 which purported to confirm his instructions to the First Respondent. However no proper reason was given for such a request, the email of 10 February 2011 post dated the cheque by some 14 months and it did not explain why the initial copy cheque provided by the First Respondent to the SRA showed the payee as "Trust Re MSC".

51. Whilst the First Respondent was requested to provide contact details for the client, and also details of the withdrawals authorised from the account, no further information was forthcoming. Although the First Respondent said that he had notified his reporting accountants of the fact that he had made the M cheque out to himself, the reporting accountants had no recollection of such a communication from the First Respondent.

52. On another matter, the First Respondent acted on behalf of Mr P in relation to the sale of a property in Liverpool. On completion on 21 May 2009, a retention of £2,000 was held back for future work. On 17 November 2009, the First Respondent submitted an account for additional work leaving a balance of £1,137.50. The client ledger showed a cheque payment of £1,137.50 being made on 11 November 2009. On 2 February 2011, when the First Respondent had provided three copy cheques, one of those cheques was for £1,137.50 and showed the payee as "W[P] – PS Cch". However at the meeting on 10 May 2011, the original cheque was produced and the First Respondent confirmed that this sum was drawn for cash which he had authorised at the request of Mr P. However, he could not remember who collected the cash and nor was he able to produce a receipt or other evidence of payment. He produced an undated letter from a Mr PJ which endeavoured to provide some sort of explanation for what had occurred. The First Respondent accepted that he had altered the copy cheque.

**Witnesses**

53. No witnesses gave evidence.

**Findings of Fact and Law**

54. The Tribunal had considered carefully all the documents provided, and the submissions of the Applicant and Mr Cadman on behalf of the First Respondent, Laurence Ian Ward. The Tribunal confirmed that all allegations had to be proved beyond reasonable doubt and that the Tribunal would be using the criminal standard of proof when considering each allegation.

55. **Allegation 9. Having been employed or remunerated by solicitors but not being a solicitor, the Second Respondent, Colette Maria Farrell, had in the opinion of the Solicitors Regulation Authority ("SRA"), occasioned or been party to, with or without the connivance of the solicitors by whom she was or had been employed or remunerated, acts or defaults in relation to the solicitors' practice which involved conduct on her part of such a nature that, in the opinion of the SRA, it would be undesirable for her to be employed or remunerated by solicitors in connection with their practices. It was also alleged the Second Respondent had acted dishonestly**.

55.1 This allegation was against the Second Respondent, Colette Maria Farrell, only and included an allegation of dishonesty. The Tribunal noted in the Second Respondent's letter dated 14 June 2011 and in her email to Mr Havard dated 5 December 2011, the Second Respondent had agreed to a Section 43 Order being made against her. In her letter of 14 June 2011, she stated that she felt:

> "…….my errors were a totally error [sic] of misjudgment [sic] probably through lack of training and understand [sic] of procedures, and for this I do apologise."

55.2 It was clear to the Tribunal on the evidence before it that the lender client, CHL, had not been informed on a number of transactions that Miss RS was the Second Respondent's daughter and that this would have been material information that may have affected the lender's decision to provide funds. Indeed, CHL in their letter of 13 February 2009 expressed their concern on this very issue.

55.3 It was also clear to the Tribunal that the Second Respondent had acted in a number of transactions where there was a clear conflict of interest and where there were material irregularities which exhibited the hallmarks of mortgage fraud. The lender had not been informed of the true identity of parties to transactions, and monies received from the lender were utilised for unauthorised purposes. The Tribunal was further concerned that the Second Respondent had conducted a number of transactions where she had acted for both buyer and seller, and where the buyer client was purchasing properties from vulnerable clients who were in financial difficulties, but yet there appeared to be no written authority or consent from both parties for the Second Respondent to act for both of them. In such circumstances, the Tribunal was satisfied that the Second Respondent had been involved in conduct which would make it undesirable for her to be employed within a legal practice.

55.4 The Tribunal had been referred to the case of Twinsectra Ltd v Yardley & Others [2002] UKHL 12 which set out the test to be applied when considering the issue of dishonesty. Firstly, the Tribunal had to consider whether the Second Respondent's conduct was dishonest by the ordinary standards of reasonable and honest people. Secondly, the Tribunal had to consider whether the Second Respondent herself realised that by those standards her conduct was dishonest.

55.5 The Tribunal was satisfied that by the ordinary standards of reasonable and honest people, the Second Respondent's numerous failures to inform the lender that Miss RS was the Second Respondent's daughter, and by the Second Respondent utilising lender's funds for purposes for which they were not supplied on several occasions, and in particular, by the Second Respondent allegedly sending a letter dated 26 August 2007 to CHL, which they did not receive, and which contained a mortgage account number that did not come into existence until 25 September 2007 would be regarded as dishonest conduct. The Tribunal was satisfied that by drafting the letter dated 26 August 2007 to CHL, which contained a mortgage number that was not in existence at the time of that letter the Second Respondent must have known that by those standards her conduct was dishonest. Furthermore, by misleading CHL as to the true identity of parties involved in a number of transactions, by not revealing the true nature of some of those transactions, and by using the funds provided by CHL for

purposes for which they had not been supplied in several instances, the Second Respondent had exhibited a systematic course of conduct which indicated she must have known that by those standards her conduct was dishonest. The Tribunal was satisfied the Second Respondent had acted dishonestly.

56. **Allegation 11. The First Respondent, Laurence Ian Ward, improperly made material alterations to client account cheques and thereafter he attempted to mislead and/or deceive the SRA by failing to inform them of those alterations.**

**Allegation 12. The First Respondent presented to the SRA copy documents, namely cheques, which he had altered and which he knew to be incorrect.**

**Allegation 13. The First Respondent acted dishonestly.**

56.1 Allegations 11, 12 and 13 were against the First Respondent, Laurence Ian Ward only. The First Respondent had admitted all these allegations through his representative, Mr Cadman and accordingly, the Tribunal found allegations 11, 12 and 13 proved.

**Previous Disciplinary Matters**

57. The First Respondent, Laurence Ian Ward, had appeared before the Tribunal previously on 24 September 2002 and 22 November 2007.

58. The Second Respondent, Colette Maria Farrell had no previous appearances.

**Mitigation of the First Respondent, Laurence Ian Ward**

59. Mr Cadman, on behalf of the First Respondent, submitted the First Respondent's behaviour had been out of character and indicated there were some ill health issues. However, Mr Cadman also stated that the First Respondent had accepted that, as he had admitted dishonesty and in view of the authorities, it was inevitable that the First Respondent would be struck off the Roll of Solicitors.

**Mitigation of the Second Respondent, Colette Maria Farrell**

60. The Second Respondent in her letter of 14 June 2011 to Mr Havard had stated that this matter had made her fully aware that she was not capable of working in a law firm or a law environment again and that she would not apply nor did she have any intention of applying for any employment in this field. In her email to Mr Havard dated 5 December 2011 she confirmed she had not made any application to a firm of solicitors for employment since leaving Ward & Co and nor had she carried out any work in a firm of solicitors and did not intend to do so. She had worked in temporary positions as a receptionist/administration clerk and her finances were very tight.

**Sanction**

61. The Tribunal had considered carefully the submissions made by all parties, both in writing and orally. Dealing firstly with the First Respondent, Laurence Ian Ward, he had admitted he had acted dishonestly, having made material alterations to client account cheques, then presenting documents which he knew to be incorrect to the

SRA and as a result attempting to mislead and/or deceive the SRA. These were serious matters and went to the very core of a solicitor's position of trust. The Tribunal was mindful of the case of Bolton v The Law Society [1994] CA in which Sir Thomas Bingham MR had stated:

> "Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal ……. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors".

62. The Tribunal was also mindful of the case of The Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin) in which Mr Justice Coulson confirmed that where a solicitor was found to have acted dishonestly, only an exceptional case would justify a sentence of anything other than a strike off the roll. In the case of the First Respondent, the Tribunal did not find that there were any exceptional circumstances and accordingly Ordered the First Respondent be struck off the Roll of Solicitors.

63. In relation to the Second Respondent, Colette Maria Farrell, the Tribunal had found she had acted dishonestly. Her conduct meant that she had not acted in the best interests of her lender client and she had preferred the interests of members of her family over and above the interests of clients of the Firm. The transactions in which she had been involved exhibited the hallmarks of mortgage fraud and by concealing the true identity of parties to the transactions, the Second Respondent had prevented the lender client from making decisions based on material facts. An Order under Section 43 of the Solicitors Act 1974 (as amended) was a regulatory provision designed to afford safeguards and exercise control over those employed by solicitors where appropriate. The fundamental principle involved was to maintain the good repute of the solicitor's profession and to protect the interests of both the public and the profession. The Tribunal had no hesitation in making the Order sought, under Section 43 of the Act, as it was clear to the Tribunal that the Second Respondent was not fit to work in a legal practice and would be a danger to the public and the profession if she did so.

**Costs**

64. The Applicant requested an Order for his costs and provided the Tribunal with a Schedule of Costs relating to the Rule 5 Statement (allegations 1 to 9) in the sum of £39,571.97 and a Schedule of Costs relating to the Rule 7 Statement (allegations 10 to 13) in the sum of £4,780.82. He submitted it was in the profession's interest that both Respondents should pay the Applicant's costs.

65. Mr Cadman, on behalf of the First Respondent, referred the Tribunal to a letter dated 1 December 2011 from Kay Johnson Gee Chartered Accountants who were the First Respondent's accountants. The letter indicated the First Respondent intended to enter into an IVA and contained a list of the First Respondent's debts. Whilst Mr Cadman accepted there were no details of assets in the letter, he submitted the First Respondent's accountants would not be suggesting he enter into an IVA if he had any

assets. He submitted the Tribunal must look at the First Respondent's financial means, particularly as his livelihood had been taken away from him and he had no prospect of a future income in light of his large debts.

66. In relation to the Schedules of Costs, Mr Cadman pointed out that there was no breakdown of the SRA costs of £28,000 and that the Tribunal should bear in mind the First Respondent had made full and early admissions. He requested there should be no Order for costs against the First Respondent, particularly in relation to the allegations which had been left to lie on file, and that if the Tribunal was of the view that an Order for costs should be made, then these should be reduced to take into account the First Respondent's financial circumstances.

67. The Applicant noted the First Respondent had provided a letter from his accountants suggesting that he intended to enter into an IVA but there were no details of any of the First Respondent's assets, and the letter appeared to only provide one side of the story. The Applicant submitted it was appropriate for the Tribunal to have full information on all the First Respondent's assets if the letter was to be considered and that these could have been provided by the First Respondent. In the absence of such full and detailed information, the Applicant submitted the Tribunal could not reach any conclusion regarding the First Respondent's financial circumstances.

68. The Applicant submitted it was inappropriate for no Order for costs to be made against the First Respondent on the allegations that had been left to lie on file. Whilst it was clear that more serious conduct had been alleged against the Second Respondent on the conveyancing matters, the allegations against the First Respondent had been properly brought, as he had ultimate responsibility for the Second Respondent, although the Tribunal had not been asked to make any decision on that issue. The Applicant requested the Tribunal to apportion costs between the two Respondents in relation to allegations 1 to 9. It was accepted that the Second Respondent was more culpable than the First Respondent in relation to those allegations. The Applicant requested the Tribunal make the costs Order against the First Respondent as requested and, if necessary the SRA could also become a creditor and seek to negotiate with the First Respondent's accountants with all the other creditors to recover their costs.

69. In relation to the Second Respondent, the Tribunal was referred to her email to Mr Havard dated 5 December 2011, in which she stated she would be willing to make either a small payment in a lump sum for costs, which she would borrow from a family member, or she would pay a monthly instalment if that would be acceptable. She had indicated in her email that she had gained employment in temporary positions and was currently working as a receptionist carrying out some typing and administration work on a temporary basis. The Applicant had requested evidence of her financial circumstances from her but this was not provided.

70. The Tribunal had considered carefully the submissions of the Applicant, Mr Cadman and the Second Respondent's email of 5 December 2011. Dealing firstly with the First Respondent, the Tribunal was mindful that an Order had been made removing him from the Roll of Solicitors and that he had been deprived of his livelihood as a result. The Tribunal took into account the case of William Arthur Merrick v The Law Society [2007] EWHC 2997 (Admin) in which Mr Justice Gross had stated:

> " …… when an Order is made, effectively depriving a solicitor of his livelihood, the question necessarily arises as to how any Order for costs would be paid……. if an Order for costs is being considered, the right course is to inquire into the means of the solicitor before coming to a decision on the question of costs."

71. The Tribunal noted that the letter provided by the First Respondent's accountants indicated they had been engaged to "assist you in the preparation of your Proposal for an IVA" and the list of liabilities in their letter appeared to be based on information provided to them by the First Respondent. It was not at all clear whether the accountants had been provided with documentary evidence of those creditors, there was no information regarding the First Respondent's assets and the First Respondent had not provided the Tribunal with any documentary evidence of his income, liabilities, capital or assets. Furthermore, there was no document containing a Statement of Truth from the First Respondent to verify any of the information given. Indeed, Mr Cadman on the First Respondent's behalf had asked the Tribunal to draw inferences and make assumptions based on the letter provided by the First Respondent's accountants.

72. Mr Justice Mitting in the case of SRA v Davis and McGlinchey [2011] EWHC 232 (Admin) 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…….. the SRA must be afforded a reasonable opportunity to test the evidence relied upon by the solicitor, and in an appropriate case to call evidence itself on the question of the solicitor's means……"

73. The Applicant had submitted the Tribunal could not reach a decision on the First Respondent's financial circumstances in the absence of such full and detailed information. The Tribunal accepted this submission and was not prepared to make the assumptions requested by Mr Cadman. The First Respondent had not provided sufficient evidence of his full financial circumstances and as such, the Tribunal could not reach the conclusion that he was unable to meet any Order for costs. The Tribunal was satisfied that an Order for costs should be made against the First Respondent.

74. In relation to the Second Respondent, it was clear from her email of 5 December 2011 that she was working, albeit on a temporary basis, and that she did have some income. She had indicated in her letter that she was willing to make a small payment in a lump sum for the costs or a monthly payment if that could be agreed. She had not provided the Tribunal with any information regarding her liabilities, capital or assets, despite this being requested by Mr Havard. In the circumstances, the Tribunal was satisfied that an Order for costs should be made against the Second Respondent.

75. The Tribunal had considered the Costs Schedules provided by the Applicant and was of the view that the costs were slightly high, particularly given that the hearing had taken much less time than had been anticipated. The Tribunal assessed the costs

relating to allegations 1 to 9 in the total sum of £39,000 and Ordered the First Respondent to pay £9,000 towards these, and the Second Respondent to pay £30,000. The Tribunal assessed the costs relating to allegations 10 to 13, which were against the First Respondent only, in the total sum of £4,500 and Ordered the First Respondent to pay these. Accordingly, the total costs to be paid by the First Respondent, Laurence Ian Ward, were £13,500 and the total costs to be paid by the Second Respondent, Colette Maria Farrell were £30,000.

**Statement of Full Orders**

76. The Tribunal Ordered that the Respondent, LAURENCE IAN WARD, 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 £13,500.00.

77. The Tribunal Ordered that as from 7th December 2011 except in accordance with Law Society permission:-

(i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Colette Maria Farrell;
(ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Colette Maria Farrell;
(iii) no recognised body shall employ or remunerate the said Colette Maria Farrell;
(iv) no manager or employee of a recognised body shall employ or remunerate the said Colette Maria Farrell in connection with the business of that body;
(v) no recognised body or manager or employee of such a body shall permit the said Colette Maria Farrell to be a manager of the body;
(vi) no recognised body or manager or employee of such a body shall permit the said Colette Maria Farrell to have an interest in the body;

And the Tribunal further Ordered that the said Colette Maria Farrell do pay the costs of and incidental to this application and enquiry fixed in the sum of £30,000.00.

Dated this 5th day of January 2012
On behalf of the Tribunal

L N Gilford
Chairman